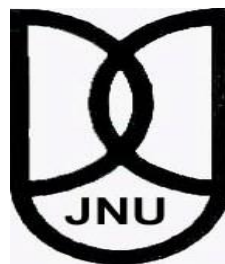


United Nations Military Observer Group in India and Pakistan

Dissertation submitted to Jawaharlal Nehru University in partial fulfillment of the requirements for the award of the degree of

MASTER OF PHILOSOPHY

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Date: 26 July 2017

DECLARATION

I declare that the dissertation entitled “**United Nations Military Observer Group in India and Pakistan**” submitted by me in partial fulfilment of the requirements for the award of the degree of **Master of Philosophy** of Jawaharlal Nehru University is my own work. The dissertation has not been submitted for any other degree of this University or any other university.

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List of Abbreviations

ACFVs:	Alleged ceasefire Line Violations
AGPL:	Actual Ground Position Line
CFL:	Ceasefire Line
CMO:	Chief Military Observer
ECOSOC:	United Nations Economic and Social Council
J&K:	Jammu and Kashmir
LoC:	Line of Control
NWFP:	North West Frontier Provinces
PoK:	Pakistan Occupied Kashmir
POW:	Prisoner of War
UN:	United Nations
UNCIP:	United Nations Commission of India and Pakistan
UNMOGIP:	United Nations Military Observer Group of India and Pakistan
UNRIP:	United Nations Representative for India and Pakistan
UNIPOM:	United Nations India Pakistan Observation Mission
UNTSO:	United Nations Truce Supervision Organization
UNSCOB:	United Nations Special Committee on the Balkans
UNSC:	United Nations Security Council
UNHQ:	United Nations Headquarters
US:	United States
USSR:	Union of Soviet Socialist Republic

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Chapter 1

Introduction

The United Nations Military Observer Group in India and Pakistan (UNMOGIP) has been established in 1949, and it continues to exist even today. It is one of the oldest peacekeeping missions of the United Nations. The focus of this study is to investigate why and how UNMOGIP lasted so long. It intends to analyse the changes in the role and functions of this mission over the years. It would look into different factors and would investigate the reasons that created hurdles in finding a solution to the crisis, contributing to prolonging the peacekeeping mission.

Background

Both the League of Nations and the United Nations were based on the principle of collective security to maintain international peace and security. The collective security became an alternative to the balance of power to manage conflict in the twentieth century. Under a collective security arrangement, an aggressor against any one state is considered an aggressor against all other states, and all the peace-loving states act together to repel the aggressor. So, it believed in the collective response to suppress the aggressor to restore world peace.

Under the collective security system of the League of Nations, the territorial integrity of member states was protected under Article X of the League Covenant. States were required to submit to the League disputes that threatened international peace. It had the alternative to employ economic and military sanctions against nations that resorted to war. Under the covenant, the League had placed upon it certain responsibilities in connection with the carrying out the peace settlements. This connection was not, in the early years of the League, regarded as an unmixed evil. However, the League of Nations could not put into operation the collective security system, and it could not deal effectively with conflicts in various parts of the world (Claude 1984).

The humanity got a new setback with the emergence of Second World War in 1939 which was more destructive and threatening than all the previous wars. It shook the world powers of the time who felt the need to create a stronger collective security system to ensure international peace. This led to the creation of the United Nations with much more elaborate provisions for a collective security system in the UN Charter. The U.N. Charter gave enforcement powers to this organization under Chapter VII.

A decision by the Security Council can only have the effect of a recommendation when the United Nations Security Council (UNSC) is engaged in the performance of its functions under Chapter VI, i.e. when it is seeking to achieve the peaceful settlement of disputes. While the decision of UN Security Council concerning enforcement action under Chapter VII is binding upon members of UN, including those not represented in the UN Security Council. Such decisions can't be taken without the concurrence of all the permanent members of the United Nations Security Council (Goodrich 1947). Although the UN Charter provisions are comparatively more clear and refined than that of the League of Nations, there are major gaps. One of the gaps is that there are fewer details of how the United Nations could use force for collective enforcement. The resources capacities required for it was left for the future to develop - "a future that shows no signs of arriving" (Claude 1984).

When the United Nations came into effect, the Charter provisions related to the collective security system could not be operationalised as multiple challenges evolved. The Cold War politics created big impediments as big powers couldn't reach consensus in taking steps to operationalise the collective security. The international system was polarised into two blocs, and Cold War between them with zero sum game dominated their interaction. Consequently, all the conflict situations that came before the Security Council were gleaned through the prism of Cold War because of which they could not come to an agreement as to who were the aggressors and victims in the conflict-situations. The rivalries during the Cold War between two blocs left no conflict without the involvement of the great powers, and this obstructed the United Nations from taking strong action in any of the major conflicts of the time nor could it reach any decision due to the exercise of the veto power by the great powers. Claude described that the Cold War "had the general effect of making the United Nations a cockpit of rivalry, an arena for East-West competition, a battlefield rather than a

peace conference” (Guertner et al.1992:9)

In this complex web of Cold War politics and the deadlock in the UN Security Council, many member states held the view that it is their moral responsibility to do something instead of standing by helplessly. They initiated passing of the ceasefire agreement at the UN Security Council and started the practice of sending UN observers to observe the situation on the grounds in the conflict areas and to oversee the compliance of cease-fire resolutions. It also started setting up commissions to investigate the conflicts and find ways to resolve them. It was mostly nonaligned countries as well as some medium powers like Canada which played an active role in the commissions and observer groups as they were easier to trust as neutral parties. From these practices gradually evolved the innovative concept of peacekeeping, where the soldiers are sent not for fighting but to maintain peace. The peacekeeping system evolved through the practical necessity of the situation, and it is not mentioned in the UN Charter.

In 1948, just three years after the birth of United Nations, the United Nations Security Council authorised the first peacekeeping operation in the Middle East to monitor the Armistice Agreement between Israel and its Arab neighbours and came to be known as UN Truce Supervision Organisation (UNTSO). The second peacekeeping operation is the UN Military Observer Group in India and Pakistan (UNMOGIP) established in 1949 to manage the crisis between India and Pakistan over Kashmir question.

The initial peacekeeping missions were guided by the three basic principles such as the consent of the parties, impartiality on the part of peacekeepers and no use of force by peacekeepers. These three principles are interlinked to each other to give a concrete shape to the UN peacekeeping forces (Bellamy et al. 2010). The peacekeeping operations guided by these three principles came to be known as traditional peacekeeping operations. Traditional peacekeeping is intended to assist in the creation and maintenance of conditions conducive to long-term conflict resolution by the parties themselves, often in conjunction with international mediation. In practice, this means non-coercive, consent-based activities, usually to support a peace process or interim ceasefire, to help prevent the resumption or escalation of violence, and to establish a stable peace. This study focuses on the performance of the United

Nations Military Observer Group in India and Pakistan (UNMOGIP).

Literature Review

The relevant literature on the subject of this study can roughly be divided into three important themes i.e. the evolution of peacekeeping missions in general, second is the historical background of Kashmir Question and the third theme of the review is on the mandate, role and the activities of UN Military Observer Group in India and Pakistan (UNMOGIP).

Evolution of UN Peacekeeping Operations:

The main preoccupation of an independent sovereign state is the protection of its security. In the course of history, mechanism of protecting the state security has undergone a dramatic change from self-help system to balance of power through alliance system to the collective security system. The destructiveness of the World War I and II shocked the leaders. The destructiveness of the wars in the twentieth century is due to the sophistication of the weapons of war through the advancement of science and technology. Under these circumstances, the leaders felt the need to find an alternative to the balance of power system to manage conflict. This led to the adoption of the collective security system as bases of both, the League of Nations as well as the United Nations (Saksena 1974: 5). Claude has narrated effectively how the concept of collective security was championed by President Woodrow Wilson and how it became the basis of the Covenant of the League of Nations (Claude 1984:8). Claude (1984) defined the collective security as a belief that aggression by any state against any other would be effectively resisted by the combined action of the other members.

Woodrow Wilson visualised the new system as one in which all nations – big or small would cooperate in the common cause of guaranteeing security and justice to all, rather than engage in competitive alliances (Saksena 1974:8). For effective operation of the idea of the collective security system, Claude elaborated on the complex network of requirements, which he categorised into subjective and objective requirements. The subjective requirements include the acceptance of indivisibility of

peace and rejection of isolationist idea of localized wars; loyalty to world community, which does not mean the need to abandon the national loyalty but to harmonize the national interest with that of the global interest; acceptance to provide certainty of collective action to frustrate aggression; willingness to accept commitment to sacrifice their freedom of action or inaction in the most crucial situation; and anonymity of aggressor and victim (Claude 1984:250-256). The objective requirements are multipolar world of diffused power, collective security designed not for Coalition of warfare but a plan for organizing international police, collective security based upon assumption of disarmament, not monopolization of power by international community; and universality of economic vulnerability where restraining function can be exercised by organization of deprivation and squeeze by organized boycott; and requirement of legal and structural apparatus capable of giving institutional expression (Claude 1984:256-261).

Claude has also highlighted that many provisions in the Covenant of the League of Nations were the indicative of the fact that the community of states formally accepted the idea of collective security as a foundational base to manage conflicts in the world. It was transformative change at the theoretical level of managing the international conflict, but at a practical level, the Covenant was far from a perfect design for collective security. It neither imposed adequate restrictions on the potential aggressors nor did it exact sufficient commitments for enforcement action from the member states (Claude 1984:263). With the establishment of the League, the collective security concept was in Article 10 of the League's Covenant which emphasised the obligation of every member-state "to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League." The provisions of the Covenant were far from Wilson's ideal of the collective security system. The operations were to be organised on an ad-hoc basis and "military operations would probably not be under the control of the League or be truly international forces" (Diehl 2008:31). In fact, no provision was made to determine how the states would collaborate to give effect to a collective response to aggression. The failure of the League to operationalise the collective security system did not lead to lose of faith in the idea of the collective security system.

The leaders of the world at the end of the Second World War created the United

Nations with much more elaborate provisions in the UN Charter for a collective security system. The U.N. Charter gave enforcement powers to the breach of the international peace by imposing obligations under Chapter VII of the UN Charter. However, unity among the states could not be maintained in the post-war period. The bipolarisation of international politics and the Cold War between the western and eastern blocs prevented operationalisation of the collective security system. The rivalries during the Cold War between two poles (USSR and US) left no conflict without the involvement of the great powers, and this obstructed the United Nations from taking strong action in any of the major conflicts. Veto with the permanent members became an instrument to settle political objectives rather than being used to ensure collective security. When faced with a crisis in Iran or Turkey, for example, the Security Council was stifled by the veto of one of the superpowers (Diehl 2008:39). Thus at the formative stage itself, the United Nations could not operationalise the Charter provisions relating to collective security, and institutional infrastructure of collective security system remained defunct. In such situation of deadlock and helplessness, the new innovative idea of peacekeeping operations germinated.

It was in 1947 the General Assembly reacted to a complaint from the Greek Government that its Yugoslav neighbour was actively assisting communist rebels engaged in a civil war against the government. The United Nations dispatched an observation mission, United Nations Special Committee on the Balkans (UNSCOB) to report on cross-border movements (Bellamy et al. 2010). This intervention is widely considered as the genesis of the UN peacekeeping. The following year the Security Council also began to be engaged in two of the world's most pressing crisis, the Palestinian conflict and the struggle over Kashmir. Established to support a Truce Commission for Palestine and UN Truce Supervision Organisation (UNTSO) are often cited as the organisation's first peacekeeping operation (Goulding 1993). While it has maintained a presence in the Middle East through all the years of turmoil, it has rarely been able to fulfil its mandate on account of variable levels of cooperation from the belligerents and its own limited capabilities (Higgins, 1969).

The peacekeeping operation has not been mentioned in the UN Charter. The Secretary General Dag Hammarskjold justified the peacekeeping operation by stating that this practice is based on 'Chapter Six and Half' of the UN Charter. It indicated

that peacekeeping evolved in the grey area of the peaceful settlement of the disputes in Chapter VI, and the collective enforcement provisions in Chapter VII of the UN Charter (Roberts and Kingsburry 2008).

Traditional peacekeeping operations do not enforce the peace, but they do buy time. They couldn't resolve the crisis, but it can't be denied that their presence was a better option than no peacekeeping missions. Moreover, they can help to contain sporadic incidents that are not meant to initiate a large-scale war. The deficiencies in the machinery of peacekeeping merely highlight the fact that such forces cannot be self-sustaining. Traditional peacekeeping is intended to assist in the creation and maintenance of conditions conducive to long-term conflict resolution by the parties themselves, often in conjunction with international mediation. In practice, this means non-coercive, consent-based activities, usually to support a peace process or interim ceasefire, to help prevent the resumption or escalation of violence, and to establish a stable peace. It is therefore what Alan James described as 'an activity of a secondary kind' (James 1990:1).

There has been an increase in the number of UN operations after the end of the Cold War as the UN was placed centre-stage in efforts to resolve even the intrastate conflicts (Thakur and Schnabel 2001). In the post-Cold War period, the peacekeeping operations were deployed in challenging internal conflict situations and entrusted with multiple functions such as restoring law and order, stabilisation of the situation, disarming the belligerents, organising and supervising elections, delivering humanitarian aid, protecting civilians and UN personnel, guaranteeing freedom of movement. To carry out these multiple functions, the operations in addition to the military, involves growing number of civilian police, civilian experts on political affairs, the rule of law, human rights, public information and gender. These kinds of peacekeeping operations are known as multidimensional or complex peacekeeping operations (Bellamy et al...2010; Rikhye et al. 1974) argue that peacekeeping missions focus to resolve international conflicts with the help of international society without the involvement of superpowers. Some authors attempt to conceptualise and test peacekeeping as a form of third party-mediation.

Historical Background of Kashmir Question

The conflict of Kashmir is a result of what Singh (1995) called 'a tragedy of errors.'

The background of the conflict is both well-known and hugely complex. Geographically the state of Jammu and Kashmir consisted of three regions: Jammu, Kashmir, and Ladakh, each with its own distinct religion, identity and politics. According to the Indian Independence Act-1947, Kashmir was free to accede to India or Pakistan. The Maharaja, suffering from the ‘feudal virus’ of indecisiveness, missed the 15 August deadline given to the state to effect an accession to one or other of the new dominions (Singh 1994: 41–2). This provoked suspicion of his intentions which, in turn, unleashed uncontrollable forces that divided the state before the Maharaja finally acceded to India.

Soon after Partition of India and Pakistan as two independent states, pro-Pakistan Muslims in the Poonch Jagir in western Jammu staged an anti-maharaja uprising that took ‘the form of an armed rebellion’ (Brecher, 1953: 25). Around mid-September, pro-Indian Hindus and Sikhs in eastern Jammu attacked and killed many Muslims, with the Maharaja, according to Mahatma Gandhi, personally involved (Alexander, 1948: 66–7). Both actions quickly escalated to the point where they had effectively divided J&K. After mobilisation against the Maharajah of Kashmir in the 1930s and 1940s, an invasion of Kashmir by Pashtun tribesmen backed by Pakistan took place in 1947. The exploitative nature of Maharaja’s regime was there before India’s independence. The ruler of Kashmir, Maharaja Hari Singh, requested India for assistance to counter this invasion. India agreed to assist the Maharaja on the condition of accession which Maharaja agreed. Though Maharaja signed the Instrument of Accession on 26 October 1947 with India, Pakistan said that this accession was based on fraud and violence, so it is not logically acceptable and legitimate (Hiro 2015). According to the 1948 Indian White Paper, India accepted accession as provisional till plebiscite (Khan 1965).

India and Pakistan were at war in 1947–49 over Kashmir and the princely state was divided between them along the Cease-fire Line, which later came to be known as the Line of Control (LoC) (Staniland 2013:55). The circumstances surrounding J&K’s accession to India became a source of profound controversy and dissension. Many believe (mostly in Kashmir Valley) that the accession was contingent on a plebiscite that was never held (Whitehead 2007). There is thus a vast chasm between Indian and Pakistani version of the history of the state. In Pakistan, Kashmir is often seen as having been wrested away by Indian force, while India sees Pakistan as an

external aggressor seeking to take Kashmir by force (Staniland 2013:57).

India's governor-general, Lord Mountbatten, first formally proposed a plebiscite to resolve J&K's contentious status while accepting the accession to India of Sir Hari Singh, the Maharaja of Jammu and Kashmir, on 26 October 1947 (Keesing 1947: 893). The statement of India's first Prime Minister is important in this case, where he said, "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. We have repeatedly made our views public that the question of accession in any disputed territory or State must be decided in accordance with the wishes of the people and we adhere to this view" (White Paper on J&K: 46).

Being a firm believer of internationalism, Jawaharlal Nehru held the view that United Nations could negotiate amicably in resolving the issue. It was Jawaharlal Nehru who approached the UN Security Council with Kashmir issue on January 1st, 1948 complaining against Pakistan, under Article 35 of Chapter VI of the UN Charter (Pacific Settlement of Disputes). India argued at UN that Pakistan was backing its tribals to attack Kashmir which amounts to aggression (Khan 1965). In the United Nations, India claimed that all the territories of the Princely State of Jammu and Kashmir legally belonged to it by virtue of the treaty of accession signed by the Hindu King of the Kingdom with the Indian Union (Pir and Shiekh 2013). Two weeks later, Pakistan filed a counter complaint. It alleged that India had persistently attempted to undo the partition scheme; launched a pre-planned, wide-scale genocide of Muslims in East Punjab and Punjab's princely states; and secured Kashmir accession by fraud and violence. It referred to Delhi's non-payment of Pakistan's share of the cash balances. Nehru believed that none of the superpowers would act against Indian interests. As foreign minister, Nehru had pursued a policy of non-alignment and sent his sister Vijay Lakshmi Pandit as ambassador to the Soviet Union on the eve of independence to balance the appointment of cabinet minister Asaf Ali as the Indian Ambassador to Washington six months earlier. He was, therefore, confident of not falling afoul of the United States or the Soviet Union at the UN Security Council (Hiro 2015). However, things took an ugly turn as the United States backed Pakistan's stand as it was not happy with Nehru's nonalignment policy.

Since Kashmir had acceded to it, India wanted the UN to help clear the northern

parts of what is said was an illegal occupation by groups loyal to Pakistan (Hodson 1969). Through January and February, the UN Security Council held several meetings on Kashmir. Pakistan, represented by Sir Zafrullah Khan, was able to present a better case than India (Guha 2007). The problem of Kashmir was portrayed as part of the unfinished business of partition which was a symbolic defeat for India.

The Security Council, instead of acting directly to rein in the Pakistanis, established a United Nations Commission for India and Pakistan (UNCIP) on 20 January 1948 with a brief to look into the behaviour of the parties to the dispute (UN Security Council Resolution (1948), S/RES/39, January 20). The job of United Nations Commission for India and Pakistan (UNCIP) was to assist in reaching an accord over the dispute. Following Jinnah's death, Liaquat Ali Khan on Kashmir opted for the "harder diplomatic" track by downgrading the military option that his government was finding too expensive to continue – a policy he had failed to sell to Jinnah earlier. Nehru's administration was also feeling the adverse effect of the drain caused by the war in Kashmir. With winter snows freezing the battle lines, the two neighbours decided to silence their guns by agreeing to a truce brokered by the UN Commission for India and Pakistan. Despite unpublicised disapproval by the top military brass of the general headquarters in Rawalpindi, the cease-fire went into effect on January 1, 1949. It was decided that a free and impartial plebiscite would be held under UN supervision (Hiro 2015). The main problems to find a basis of agreement between the two countries were the disbandment of the Azad Kashmir forces, the question of the administration of the Northern areas, and withdrawal of the Pakistani army and bulk of the Indian troops (Dawson 1994:31).

The job of UN Commission for India and Pakistan (UNCIP) was to observe and report, not to interpose itself between the Indian and Pakistani armies to actively prevent conflict (Khan 1965). The deployment of the UN's mission was made with the consent of the two parties i.e. India and Pakistan and was based on strict principles of impartiality and non-interference. On 18 July 1949, the Karachi Agreement decreed that the cease-fire line would be the Line of Control, along which UN Commission for India and Pakistan (UNCIP) would station observers as it deemed necessary in order to observe and report and, in company with local Pakistani and Indian commanders, investigate alleged breaches (Khan 1965). The role of the UN observers was to supervise and report ceasefire violations.

Things continued with many ups and downs in the passing years. By late 1954, indeed, India had lost interest in a plebiscite for J&K. Its political control of Indian J&K, and particularly of the important Kashmir Valley, improved in August 1953 following the dismissal and arrest of Sheikh Abdullah and his replacement by the unwaveringly pro-Indian Kashmiri, Bakshi Ghulam Mohammad. Nehru allowed, if not encouraged, this to happen as he not only had a new surrogate but also because he could no longer tolerate Abdullah's talk of independence for J&K (Singh 1994: 156-57). For a short time after Abdullah's dismissal, aware of Kashmiris' disgruntlement and in a period of 'high-mindedness' (Rizvi 1992: 58) he almost came to an agreement with Pakistan's Prime Minister, Muhammad Ali Bogra, for a plebiscite under a mutually acceptable administrator (Snedden 2006:24). Pakistan's decision around 1953 to join various US-led alliances also caused Nehru's 'high-mindedness' to evaporate. He concluded that the provision of US military aid to Pakistan had 'altered the whole context of the Kashmir issue' and dragged the subcontinent into the Cold War (Lamb 1991: 229).

UN Military Observer Group in India and Pakistan (UNMOGIP)

With the cease-fire holding along the Line of Control, the Security Council passed Resolution 90, which terminated UN Commission on India and Pakistan (UNCIP) and instead appointed a UN Special Representative to assist the two nations in demilitarising Kashmir as a prelude to finding a permanent solution to the territorial dispute. The job of demilitarisation was delegated more clearly to this UN Military Observer Group in India and Pakistan. Both sides continued to argue that they should own territory on the "other" side of the Line of Control. Thus, there was the transformation of UN Commission for India and Pakistan (UNCIP) into UN Military Observer Group in India and Pakistan (UNMOGIP). The legal basis of UN Military Observer Group in India and Pakistan (UNMOGIP) watching over the Ceasefire Line can be traced back to Paragraph 17 of the UN Security Council Resolution of 21st April 1948 which stated, "The Commission should establish in Jammu and Kashmir such Observers as it may require of any of the proceedings in pursuance of the measures indicated to supervise the observance of ceasefire order"(Dawson 1994:9).

The intention of the Council that the representative "should deal only with the question of the demilitarisation of the state of Jammu and Kashmir, the UN

Representative for India and Pakistan (UNRIP) was “therefore not concerned with the existing arrangements for the supervision of the ceasefire, the responsibility for which the Council had placed on the Military Observer group” (Dawson 1994: 48). Other important functions of UNMOGIP was the supervision of the requirements of the Karachi agreement that the quantum of forces within the state of Jammu and Kashmir didn't exceed the number of forces actually employed by each side at the time when the ceasefire was accepted on 1st January 1949. In this connection, both armies periodically submitted to UNMOGIP's headquarter a list of units and their locations within the mission's area of responsibility. As soon as a new disposition of forces was received from the appropriate army, it was checked at UNMOGIP headquarter against the previous one to determine whether the forces reported were within the quantum of forces allowable, and to ascertain whether there had been a change in their distribution (Dawson 1994: 70).

There have been 272 alleged breaches of the ceasefire which were investigated from the end of January 1949, when the UN Observers first arrived on the subcontinent. But were mainly found to be baseless or exaggerated. After the Indo-Pak (India-Pakistan) war of 1965, the engagement with Kashmir continued at a very nominal level till the third India-Pakistan war of 1971. The signing of the Shimla Agreement in 1972 between India and Pakistan at the end of 1971 war has a major impact on UN's role in this dispute. One of the important provisions of this agreement is that both the countries agreed to a bilateral framework to solve the Kashmir imbroglio. It amounts to keeping the third party, including the United Nations, out of the dispute. With the signing of the Shimla peace accord between India and Pakistan in 1972, which laid stress on bilateral solutions to the Kashmir issue, the UN involvement in Kashmir was, in reality, dead (Brown 1993:162). The “cease-fire line” which was originally established in 1949 was converted into Line of Control (LoC), which from an Indian perspective turned the temporary border in the disputed territory of Kashmir into a de facto “permanent border between” India and Pakistan. Pakistan was forced to accept the change in the wake of its defeat in the 1971 war. India contended that with the formation of Line of Control, the mandate of the UNMOGIP had expired (Tremblay and Julian 1998). India claimed all the issues between India and Pakistan would be resolved bilaterally and thus alleging that job of UNMOGIP is redundant (Hilal and Suwirta 2014)

However, Pakistan insisted that the UNMOGIP continue monitoring the Line of Control (LoC) as it was a disputed border; and that the “LoC” was, in fact, the original ceasefire line. India wanted the UNMOGIP to leave, as it did not want to accept any sort of international intervention in the Kashmir conflict. Since 1972, India has not reported to the UNMOGIP, whereas Pakistan has continued to report Indian violations of the LoC to this observer group. While the movement of the UNMOGIP is unrestricted in Pakistan Administered Kashmir, the Observer Group is nowhere in sight beyond their office premises at Sonawari locality of Srinagar. With its limited mandate, the group has played virtually no role in the conflict after 1972 (Wani and Suwarta 2016). Dawson (1994) and Tremblay and Schfield (1988) are of the view that after the 1970s India started believing in bilateral resolutions rather than involving the third party. The question of plebiscite got either back seat intentionally, or the emergence of new issues overshadowed this question. Indeed, India may have been worried that Pakistan was preparing to pursue a ‘military solution’ to the Kashmir dispute with the help of foreign powers (Qasim 1992: 75). After that, India abandoned the idea of holding a plebiscite, as did its pro-Indian supporters in the Kashmir Valley. Following the 1971 India–Pakistan War, India was able to formalise this position through its 1972 Shimla Agreement with Pakistan. By stating that all India–Pakistan differences would be resolved bilaterally, the UN resolutions calling for a plebiscite became ‘obsolete’ (Snedden 2006: 24).

A significant reason why the people’s plebiscite has never been held, therefore, was India’s and Pakistan’s inability to agree on who would administer J&K and maintain law and order there during the poll. Both the UN resolution of 21 April 1948 and, the two later UNCIP resolutions of 13 August 1948 and 5 January 1949 after the presence of the Pakistan Army in J&K sought the demilitarisation of J&K (UN Security Council Resolution (1948), S/RES/47, April 21). They called on Pakistan to withdraw all of its forces and to use its ‘best endeavour’ to secure the withdrawal of Pakistani nationals who did not normally reside in J&K, and for India to withdraw the bulk of its forces from its side of the ceasefire line.

Under the UN’s truce agreement, this demilitarisation was one of the first acts required before a plebiscite could be held. For its part, Pakistan could not abide a situation of potential Indian administrative and/or military control and therefore dominance throughout J&K. Similarly, the Indian government, whose desire for a

plebiscite waned at the same pace as its popularity decreased in J&K, would not compromise in any meaningful way on this issue (Das 1950). Despite its best efforts, the United Nations was unable to broker a compromise (Snedden 2006: 26). Thus, the continuance of this observer mission UN Military Observer Group in India and Pakistan and caused irresolution of the main Kashmir question.

There were some escalations along Kashmir's ceasefire line during October and November 1971. There were an increasing number of complaints by both sides alleging shelling across the border. Violations of air space and the strengthening of defences along the ceasefire line in Kashmir. As in 1965, once the war had broken out there was little UNMOGIP could even attempt to achieve, with the Karachi agreement effectively suspended and limitations placed on the observer's movements both for strategic reasons and for their own safety (Dawson 1994: 264).

On 23rd December General Tassara met acting Commander-in-Chief of Pakistan Army who said he did not wish the UN to be active on the ceasefire line and Karachi agreement as it would give the impression to the army and the population that Pakistan had accepted the withdrawal only in the ceasefire line area and not the border area. The General also agreed that meanwhile, observers should remain away from the forward area (Dawson 1994: 269). On 7th January, Pakistan authorities asked for UNMOGIP to resume its normal functions within the framework of Karachi agreement, but UN headquarter now expressed reservations, maintaining that UNMOGIP could as yet only act on the basis of resolution 307. At UN headquarter the permanent UN representative of India stated that in his government's view, UNMOGIP missionary had no function to perform in the present situation and that problems relating to a ceasefire, including ACFVs were being dealt bilaterally by flag meetings. However, Pakistan resisted it (Dawson 1994:273).

India's position had been set out by foreign minister Swaran Singh in the Lok Sabha on 17th May 1972, and was communicated in a note verbal, addressed to the Secretary General. He was informed that a new line, instead of ceasefire line, had come into existence on 17th December 1971. He was also informed that UNMOGIP no longer had any function to perform. Any problems relating to the observance should be considered bilaterally at flag meetings between local commanders without the involvement of UNMOGIP (Dawson 1994:275). However, the position of UN

was that UNMOGIP was deployed in Kashmir by Security Council resolution. If either party wished the mission to be withdrawn, it should so notify the Secretary-General, who would promptly inform the Security Council which alone had the authority to take a decision. On 21st December 1971, however, the council had specifically called for withdrawals to the “ceasefire line supervised by UNMOGIP” (Dawson 1994:272). The tussle between the two nuclear powers continues unabated. Thus, India withdrew the support to UNMOGIP after the signing of the Shimla agreement of 1972, while Pakistan not only continued to support existence of UNMOGIP but also frequently lodged complaints against ceasefire line violations by India up till now.

Literature Gap:

There has been a lot of literature on peacekeeping in general. However, there is no literature which deals in particular with the reasons for prolonged existence of the UN peacekeeping operations like UN Military Observer Group in India and Pakistan. Most of the literature on UNMOGIP focuses little attention on the changing dynamics of domestic politics and bilateral relations between India and Pakistan and how these contributed to prolonging of this operation. This study would attempt to address that literature gap.

Definition, Rationale, and Scope of the Study:

The major term that is used in this proposal is traditional peacekeeping operation. Different authors have defined this term in various ways. The definition of Diehl will be used for this study. Diehl has defined traditional peacekeeping as "the imposition of neutral and lightly armed interposition forces following a cessation of armed hostilities, and with the permission of the state on whose territory those forces are deployed, in order to discourage a renewal of military conflict and promote an environment under which the underlying dispute can be resolved” (Diehl 1994:13).

UNMOGIP has lasted more than seven decades. In-depth study of this mission is essential to understand the ups and downs which contributed directly or indirectly

in making this mission as long lasting and no prospect of resolving the issue in near future. Most of the works on this operation has not focused on effects of domestic politics within India and Pakistan plus bilateral relations between India and Pakistan made this issue unresolvable. This study attempts to focus on factors that contribute to prolonging this operation. The study of this nature is significant as it will contribute to the understanding of why this mission has become an enduring UN peacekeeping operation. The study will also try to fill the gap regarding the reasons and impediments which this peacekeeping mission is facing.

The scope of this study covers from 1949 i.e. when the operation was started till 2017, as it is still exist at the Kashmir sector of the border between India and Pakistan.

Research Questions

1. Why did India take the Kashmir issue to the United Nations?
2. Under what circumstance did the United Nations authorise the establishment of the UNMOGIP?
3. How politics of permanent five (P5) members did impact the UN Military Observer Group in India and Pakistan?
4. Why and how did the mandate of UNMOGIP change over the period of time?
5. Why did India shift its approach towards UNMOGIP after 1972?
6. How has the relationship between UNMOGIP and the host countries impacted the performance of the mission?
7. Did UNMOGIP contribute towards maintaining status quo of the conflict rather than facilitated finding a solution?
8. What are the major factors that act as impediments to finish the unfinished work of UNMOGIP?

Hypothesis:

1. The frequent wars between India and Pakistan prevented the resolution of Kashmir crisis and impacted UNMOGIP.
2. The non-cooperative posture of India as a host of UNMOGIP damages India's international image.
3. The tactics of proxy war and the cross-border terrorism in recent years enhance the significance of the presence of UNMOGIP.

Research Methods

The study would adopt qualitative research method as it is more of descriptive and narrative. However, statistical data would be used to show increase and decrease of troops deployed in the UNMOGIP, increase and decrease of financial and other sources for the operations.

This research draws from both primary and secondary sources. The primary sources include UN documents in the form of debates, reports, and resolutions and the Government documents and debates. The secondary sources include books and articles in academic journals, relevant internet sources, and reports of various agencies.

Outline of the Chapters

The thesis consists of five chapters. The first chapter introduces the concept and traces the background of the study. It also consists of research design such as literature review, rationale, scope, research questions, hypotheses and research methods.

The second chapter is on 'Historical Background of Kashmir Question'. The first part of the chapter traces the history of Kashmir since 7th Century leading to current deadlocks between two nuclear nations of India and Pakistan. It analyses the developments in ancient Kashmir followed by establishment of Muslim rule with the rule of Shah Mir Dynasty and dealt with the commencement of social and political

struggle due to Mughal intervention in the region. The second part of the chapter focuses on Afghan and Sikh rule in Kashmir region, analysing comparatively and the impact on the welfare development of the people. The variation in the level of exploitation ranged from Afghan rule to Sikh rule and the emergence of the treaty of friendship. The political implications of the treaty has shaped most part of the State's political history. The third part of the chapter scrutinizes the study on Dogra rule overcoming all the prevailing power and concerted its rule through the support of Britishers, while signing the treaty of Lahore. The last part of the chapter analyses the role of Dogra king on the eve of independence and how it impacted the political inclination in the formation of the state of Jammu and Kashmir.

The third chapter is on 'Deployment of Military Observer Group between India and Pakistan and its Development'. It is intended to give an overview of the role of United Nations Military Observer Group in maintaining peace and stability in the South Asian Region of India and Pakistan. The chapter begins with a brief explanation for reasons and consequences that led to the intervention of United Nations and formulation of special committee, United Nations Military Observer Group between India and Pakistan among the nations of South Asian region. It also discussed the reasons for its establishment, commission, functions and outcome. It further understands the need to shift from mere commission to military advisory. The chapter then discusses the establishment of UNMOGIP along with its composition and deployment with further analyses on the organizational structure and the roles and function of the observer groups. Through its establishment, the Karachi Agreement was formed demarcating the ceasefire line between India and Pakistan. The next part deals with the relationship of UNMOGIP with the Government of India and Pakistan in the wake of its developments. It will scrutinize social and political development impacting peace endangerment in the region. The violation of the ceasefire line in the later part of the section scrutinizes the role of UNMOGIP in supervising the ceasefire line between India and Pakistan and the consequences of 1965 war. It discussed the role of Secretary General of United Nations for the establishment of timely UNIPOM to deal with 1965 war between India and Pakistan. It emphasized on the Tashkent Agreement and the role of UNMOGIP in implementing it. The last part of the chapter critically analyses the proceeding activities and challenges of UNMOGIP, its problems, shortages in funding, lack of cooperation, difficulties in communication.

The fourth chapter focuses on the detailed study of ‘United Nations Military Observer Group in India and Pakistan in Post-1972’. The first part of the chapter highlights the intense development of crisis in the region of East Pakistan after the establishment of Partial Parliamentary democracy and shift from the martial rule of Pakistan. The exploitative and discriminatory tendencies of West Pakistan towards East lead to liberation movement on the cultural and language differences. It will also deal with the reason of the production of refugees crossing the border of India and further scrutinize the minimal role of UNMOGIP in India and Pakistan. It also deals with the failure of UNMOGIP to maintain peace and Security and directed to 1971 war between India and Pakistan. The second part of the chapter analyses the Simla Agreement of 1972 to develop ceasefire between India and Pakistan and to concretely demarcate the line along the border of India and Pakistan. The third part of the chapter scrutinizes the impact of Simla Agreement on Kashmir issue. Later part discusses the continued violations of ceasefire line despite presence of UNMOGIP. Finally, it will deal with the current status of UNMOGIP in India and Pakistan following the varied interpretation by both the regions according to their status in international arena.

The fifth chapter is the ‘Conclusion’ and it basically summarises major findings of the study. It summarises the role of United Nations Military Observer Group in dealing with the border of India and Pakistan and enumerates the major findings of the study. This chapter also indicates how answers to the research questions have been answered and also tests the validity of how the hypotheses has been substantiated, modified or nullified.

Chapter 2

Historical Background of Kashmir Question

Introduction

In 1947, when the Britishers left India, Jammu and Kashmir was one of the largest of 562 so-called princely states. These were nominally self-governing units, ranging in size from tiny principalities to sprawling fiefs, ruled by Hindu, Muslim, and Sikh feudal potentates with pretensions to royal status (Bose 2003: 14). Taken together, the princely states covered half of the land mass of the Indian subcontinent. The British Raj devised a unique political concept of 'indirect rule' to administer these princely states. Their rulers, a colourful assortment of maharajas and nawabs, were permitted to administer their holdings as personal and dynastic fiefdoms in exchange for acknowledging the "paramountcy" of British power, while the British directly controlled and administered the rest of the subcontinent (Bose 2003: 15). In most of the cases, a British officer, known as the resident was stationed in the capital of the princely state to overlook the interests of the Raj, but by and large, rulers were left on their own.

On 18th July 1947, the British government finally passed the Indian Independence Act, stating that independence would be effected on 15th of August 1947, a year earlier than anticipated. With this, the fate of princely states loomed in uncertainty. In a 'Memorandum on States' Treaties and Paramountcy,' it was stated that the paramountcy, which the princely states had enjoyed with the British Crown, would lapse at independence because the existing treaty relations could not be transferred to any successor (Schofield 2000: 28). The rulers were thus left free to decide the fate of their subjects. They could enter into any particular political agreement or accede to any of the two dominions or remain independent.

The state of Jammu and Kashmir, which included the areas Kashmir Valley, Jammu, Ladakh, Baltistan, Gilgit, Hunza and Nagar, was unique in social and political aspects than other princely states. A Muslim Majority state ruled by a Hindu Maharaja, it was geographically contiguous to both India and Pakistan. The reluctance

of Maharaja to clearly take a position made the situation more complex. After the partition of Indian sub-continent, the state of Jammu and Kashmir remained 'independent' for a brief of two months. In October, after large numbers of tribesmen from Pakistan's North-West Frontier invaded the state, he finally agreed to join India (Schofield 2000: 3). Calling partition incomplete without Jammu and Kashmir, Pakistan immediately contested the decision of Maharaja. A ceasefire supervised by United Nations in 1949 resulting in the partition of the state. For over seven decades since then, India and Pakistan have contested over Jammu and Kashmir both on the battlefield and at the negotiating table. In terms of territorial control, one-third of the erstwhile princely state is administered by Pakistan, covering the towns of Mirpur, Muzaffarabad and Northern Areas.

The Indian-administrated Jammu and Kashmir which accounts for two third of the total area is divided into three units: Jammu, Kashmir and Ladakh. Each of these administrative units roughly corresponds to the geographical division (Zutshi 2003: 8). Apart from sharing a border with Punjab and Himachal Pradesh, Jammu and Kashmir shares an international border with China. By virtue of its central position in Asia, Kashmir stands on the old Central Asian trade route, and the Kashmir valley had since ancient times been the halting place of the caravans travelling between the plains of India and Central Asia (Bamzai 1973: 1). It was due to its geographical position that the British colonial power showed greater interest in the political sphere of the state. Britishers feared that the Russian advance into the central Asia might be a threat to the northern Sikh empire. Hence we find a number of British nationals penetrating deep into the Kashmir and adjoining areas to see the chances for extension of the British sphere of influence there (Josef 1966: 8). The state's commanding geo-strategic position in the politics of South Asia has thus become a bone of contention between India and Pakistan, threatening peace in the region.

The problem of Jammu and Kashmir is unfathomable unless one is acquainted with historical developments of the state. This chapter outlines the historical trajectories that led to the current impasse between the two nuclear nations of India and Pakistan. The first part of the chapter discusses some of the significant development in ancient Kashmir followed by political and social struggle during the Mughal intervention in the state. The next part deals with the Afghan and Sikh rule in the state. The last part of the chapter sheds some light on the recent history, directly

related to the current conflict. It includes the rule by Dogras of Jammu and the events leading to the subsequent partition of the princely state.

Ancient Kashmir

To understand the nature of the present conflict in Kashmir, it is necessary to dwell on its past. However, very less reliable accounts of history are available, particularly before seventh century AD. The history of Kashmir prior to this period has been sketched by Kalhana, whose father, Lord Champaka, held a ministerial post under King Harsha (Dasgupta 1969: 18). Although he traced the history from the Maurya period (273-232 B.C). Kalhana's narration becomes more precise and trustworthy as he dealt with nearer his time (Dasgupta 1969: 19). Kalhana talks about the degeneration of Vedic Brahmanism prior to the advent of Asoka the Great in Kashmir. The great Mauryan emperor Ashoka is recorded to have ruled Kashmir, and Kalhan rightly mentions that the king was a follower of Buddhism. Ashoka founded the old city of Srinagar called as " Pandrethan ", (Puranadhisthan) and also build many vihars and temples and repaired the old shrine. Many Buddhist scholars, missionaries, and intellectuals permanently settled in the valley. In the course of time, many people embraced Buddhism here. The scholars also, accept the theory that the valley was ruled by Indo-Greek Kings for over two hundred years before the start of "Turushka" (Kushan) rule in the state. The contact with the Greeks is responsible for the beautiful architectural and sculptural style of old Kashmir temples, and the coinage of later Kashmir Kings has also been influenced by this contact (Bamzai 1962: 36).

The Kushans ruled over the entire north-west India and Central Asia. Kanishka was the most authoritative sovereign of this dynasty. Buddhism being the state religion during the Kushans' reign, Kashmir became the focus of Buddhist activities. The missionaries from Kashmir carried the message of Buddhism to Tibet and China. The Kushans were deeply religious and built thousands of Viharas, stupas, monasteries and sacred cupolas, the relics of which are still a great source of inspiration to the travellers (Dasgupta 1969: 18). It was the Gonandas in about 178 A.D who ruled after Kushans. This period was characterised by the revival of

Brahmanism. After Kanishka, weak local rulers continued to govern the state till the arrival of Mahir-Gul, the notorious Hun invader. Kalhan correctly referred to him as a savage, cruel king. The Gonanda dynasty gave Kashmir only two notable rulers viz. Meghvahan and Pravansein. The first was a pious and a strong ruler with Buddhist leanings and second a conqueror who laid the foundation of Praverseinpura (modern city of Srinagar). Praversein ruled for almost 60 years.

The Gonanda dynasty was dethroned by Karkota dynasty (some historians call it Vikramaditya dynasty). It was at the time of the first king of Karkota dynasty, Durlabvardhan that the great Chinese pilgrim, Hien-Tsang visited Kashmir and entered the valley via Varahmulla (modern day Baramulla), where he found a huge stone gate. He spent two years in Srinagar from 631 to 633 A.D. He mentioned that the populace of Kashmir at that time followed both Hinduism and Buddhism. Among all the rulers of Karkota dynasty, it was Lalitaditya Muktapid (724- 761 A. D.) who is celebrated the most. He invaded and conquered many countries in Asia and India and even defeated the Turks He is also celebrated for his contribution to art and architecture. Among other achievements, he built the famous sun temple in Martand, ruins of which still stand on Mattan Karewa. After his death, it is mostly the weak rulers except for his grandson Jayatida, who ruled the valley.

It was round about in 855-56 A. D., Karkota rule ended, and a new Utpal Dynasty assumed power in Kashmir. About a century after Lalitaditya, Avantivarman (AD. 855-83) encouraged scholarship, and created a great many buildings, including two temples, one dedicated to Vishnu, of whom he was himself the worshipper, and the other to the God Shiva. It seems Kashmir attained an unprecedented amount of cultural predominance with the outburst of literary activity during his reign. With the death of Avantivarman in 884 AD, Hindu rule in Kashmir, for all practical purposes, came to an end (Dasgupta, 1969: 19).

The beginning of Muslim rule in Kashmir makes interesting reading to analyse the root of present day scenario. A certain king by the name of Sahadeva (1301-1320) gave refuge to a Buddhist Prince, Rinchen, from Ladakh, and also to a Muslim, Shah Mir, from the Swat Valley in Dardistan. Sahadeva fled the country during the invasion of the Tartars in 1319 led by Zulquadar Khan, also known as Dulcha, and Rinchen became the king, marrying the daughter of the Prime Minister of Sahadeva,

Ram Chandra. Unsuccessful in his attempt to embrace Hinduism, Rinchen in sheer disgust took to Islam. On his death in 1323 his wife, Kota Rani, invited Udyanadeva, brother of Sahadeva, to occupy the throne, and married him. In 1338-39 Udyanadeva died and Shah Mir, who was patiently waiting, usurped the throne in 1339, deposing Kota Rani. It was the rule of Shah Mir which paved the way for the establishment of Muslim rule in Kashmir.

Shah Mir thus became the first ruler of Shah Miri-dynasty, and he ascended the throne under the title of Sultan Shamas-ud-din. His dynasty ruled the state for almost 222 years. It is this period when Islam was firmly established in Kashmir. Among many rulers of Shah-Miri dynasty, two rulers deserve special mention: Sultan Shihabud-din and Sultan Zain-ul-Abdin. The former ascended the throne in 1354 and continued to rule till 1371. He is known for his conquest of Kabul, Ghazni, Qandhar, Pakhali, Swat and Multan. Shihabud-din also annexed the territories of Dardistan and Gilgit. One of his successors was Sultan Qutab-ud-din. His reign makes the arrival of Sufi Saint Shah Hamdan. Shah Hamdan along with 700 other Syeds (Priest Class) arrived from the Iranian city of Hamdan. These Syeds established their centres of missionary activities and thus are largely responsible for the spread of Islam in Kashmir.

Next in line to rule was Sultan Zain-ul-Abidin. The rule of Zain-ul-Abidin (1422-1472), remembered as Budshah (great Sultan) in the popular folk narrative, was considered as the golden age of Kashmir's political history. Apart from extending the empire to Western Tibet, Ladakh, and Balti region, Kulu and Ohind (Hazara), he maintained cordial and friendly relations with rulers of other countries. One of the most outstanding features of his rule was the just and liberal treatment of the Hindus, who were not only allowed complete freedom of worship but also allowed those Hindus who had forcibly been converted, to return to their former religion. The Sultan banned cow slaughter and permitted the repair and rebuilding of the temples at government expenses. He granted lands to learned Brahmins, endowed temples and for Hindu pilgrims, visiting holy places in the valley, he opened a royal kitchen at Rainawari, known even now as Jogi Lanker. Jiziya was almost abolished, and the Sultan participated in Hindu festivals and entertained Brahmins and Sadhus on auspicious days. He appointed Hindu ministers. The Sultan was not only a great patron of men of letters but also established a translation department where important

works were translated from Sanskrit into Persian and Arabic (Zutshi 2003: 52). The period was also marked by relative peace and stability, but less academic and scholarly attention has been paid during this period of Kashmir's history.

Mughal Intervention and Kabul's Rule

The last Shahmiri ruler, Sultan Habib Shah, a weakling was deposed by his commander. He was succeeded by Gazi Chak, a prominent military general of the time. The Chak rule came to an end in 1587, when Akbar, the great Moghul Emperor of India, conquered Kashmir. It is widely accepted within the contemporary literature that the army of last Chak ruler, proved to be of little mental to the Mughal army and on October 14, 1586, they entered the city of Srinagar. This marked the end of indigenous rule and inception of a series of prolonged foreign rule. Although, Mughal intervened proved fruitful on counts of establishing law and order but at the same time reduced Kashmir to a vassal state. The indigenous royalty was replaced by a hierarchy of officers in bureaucratic machinery. Mughals became more interested in the aesthetic beauty of the valley than the subjects of the state. Kashmiri people had been described to such an extent that even Aurangzeb had to admit in a letter to Prince Mauzzam that to be a Kashmiri was one of the disqualification in the country (Khan 1983: 47). During the single reign of Aurangzeb, Kashmir was ruled by fourteen different governors. However, the central authority of Mughals didn't last for long. The Mughals remained in power here, from 1587 to 1752 and in this period undoubtedly the people enjoyed peace and order.

The watershed in Kashmir's history is not the beginning of Muslim rule, as is generally regarded in the rest of the subcontinent but is the changeover from Kashmiri rule to non-Kashmiri rule. Kashmir remained a part of the Mughal emperor for 106 years. It was indeed a glorious period of Indian history, and Kashmir did make progress, in certain respects. But Kashmiris did not feel a sense of pride in the Mughal rule as they did in the Kashmiri rule of both Muslim and non-Muslim rulers. This reflects the secular tinge of Kashmiris. The Mughal rule was treated as an alien rule. Mughals weren't that much interested in the political and social domain of Kashmir. They were more interested in the territorial and aesthetic aspects. All

Mughal rulers from Akbar to Aurangzeb visited Kashmir, but the objectives of visits were more recreational rather than political. The subjects didn't feel of accepting this Mughal regime as legitimate. There is a popular belief that it was the ban on army service imposed on Kashmiris by the Mughals that demoralised a martial race. According to Lieutenant Newal, it is possible that long series of acts of systematic tyranny and spirit breaking oppression may have its effect in changing the character of this once brave and warlike race' (Puri 2011:146).

Kashmir was soon reduced to a fragmented political system with almost no central authority. It was in the midst of such chaotic conditions that two influential local leaders Mir Qasim Kant and Khwaja Zahir Didamari invited Ahmad Shah Abdali of Afghanistan to invade Kashmir and establish his rule (Walter 1967: 162). Replacing Delhi as a central authority, Kabul unleashed a repressive rule on Kashmiris. Much like their predecessors, Pathans were least interested in the welfare of its subject. Kabul was also oppressive towards the minority Hindu population. They started to levy Jaziya (a form of religious tax) on Hindu subjects. The majority of the population was greatly disillusioned by the Afghan rule. Kashmir remained a dependency of Kabul rulers till 1819, roughly a period of 67 years. Qandhar and Kabul proved far worse than the rule from Delhi and Agra. The first Afghan chief to rule Kashmir was Abdullah Khan Isk Aquasi (1753-54). He lined up all the rich Kashmiris and ordered them to part with their wealth or face death. He extracted one crore rupees from the local merchants. It is said that some traders committed suicide because of his torture. Walter R. Lawrence writes: 'When we pass from the Mughal period to the period of the Shahani Durani, we pass to a time of brutal tyranny, unrelieved by good works, chivalry and honour. Men with interest were appointed as governors who wrung as much money as they could out of the wretched people of the valley. Amir Khan Jawan Sher was perhaps the best of Pathan rulers, for at least he built the Amira Kadal bridged and the palace of Shergarhi, but on the other hand, he showed petty spite in destroying the Mughal gardens on the Dal '. G.M.D.Sofi attributes the end of the rule of Afghans to their stupidity, greed and exactions. Walter R. Lawrence writes: 'As the Mughal Empire began to decay, the Subahs in Kashmir became independent and high-handed, and in the reign of the emperor Muhamad Shah, the Hindus were greatly oppressed by Abdul Gani and Mulla Sharf-ud-din. However, Pathan governors were known for their savagery and inhuman treatment of

Kashmiris in general, and Pandits in particular. So, in the long run, Kashmiris had to suffer whether it was Mughals or Afghans' (Lawrence 1895). This was the irony and bad luck of Kashmiris that they invited Afghans to remove Mughals for a stable and firm administration. However, these Afghans were more barbarous and tyrant.

Sikh Rule

The discontent and disillusion under Kabul's rule sowed the seeds of the rebellion. It was Birbal Dhar (a Pandit nobleman) who asked for help from Ranjit Singh and provided him with valuable information about the strength and deployment of Jabbar Khan's (last Afghan governor) forces (Wani 1993: 15). Three prominent Muslims, Abdul Qadoos Gojwari, Mallick Zulfiqar and Malik Kamgar helped Pandit Birbal Dhar in his escape from the valley. In 1819, 30,000 soldiers of Maharaja Ranjit Singh attacked Kashmir and defeated the Pathans, and the state became a part of Ranjit Singh's empire.

On receipt of the news, Maharaja Ranjit Singh bestowed honours in Dhar family, and Lahore was illuminated for three days. On Sikh rule, Walter Lawrence (1895) writes, "it must have been an intense relief to all classes in Kashmir to see the downfall of the evil rule of Pathan, and to none was the relief greater than to the peasants who had been cruel fleeced by the rapacious sardars of Kabul. It did not mean to suggest that the Sikh rule was benign or good, but it was, at any rate, better than that of the Pathans" (Lawrence 1895: 57). Ranel Tayler who visited Kashmir in 1846 also presented a similar account of the Sikh rule in Kashmir. He writes, "The town presents a very miserable appearance. The houses made of wood are tumbling in every direction. The streets are filthy for want of drainage, none of the bazars looked well filled and prosperous" (Bamzai 1962: 62). Sikh rule lasted for only 27 years, and during this period 10 Governors administered the country one after another, out of whom the last two were Muslims.

The nineteenth century also witnessed the rise of British power in India. The Britishers expanded the domain of their power by annexing new territories. Kashmir, now under the Sikh rule was also of great interest to the Britisher owing to its strategic position. In 1809, a decade before he captured Kashmir, Maharaja Ranjit

Singh had already signed a 'treaty of friendship' with the Britishers in Amritsar. Under this treaty, Britishers would abstain from interfering in territories north of Sutlej and Maharaja would respect the territories south of Sutlej. It was after this treaty Ranjit Singh turned his attention towards expanding his rule to the northern territories of Multan and Kashmir.

It was Gulab Singh who secured the principality of Jammu as a Jagir from Maharaja Ranjit Singh. This principality was awarded for his loyal services to the crown. A person of great flair for diplomacy, Gulab Singh started to consolidate Jammu region. Meanwhile, Maharaja Ranjit Singh died in 1839 and was succeeded by weak, imbecile and inefficient rulers (Bazaz 1941: 17). The Sikh empire soon started to descend into chaos. Britishers, who were keeping a keen eye on the political situation started to intervene. As a result, the Anglo-Sikh war on 10th February 1846 at the battle of Sabroan decided in favour of the British East India Company, through some treacheries and conspiracy besides this battle victory (Bazaz 1941: 28).

The political events that followed the Anglo-Sikh war shaped to a greater extent the political geography of the state. As per the agreement, when the Sikhs failed to pay the whole of battle indemnity immediately, Company ceded some of its territories (which included the territory of Hazara and Kashmir). Even before the actual battle, the 'treaty of friendship' signed on 25 April 1809, was jeopardised when Company viewed with concern the growing political confusion in the Sikh rule. Not only could such instability endanger the delicate frontier between India and Afghanistan, but the Company felt that the threat particularly keenly in the context of its balance of power strategies that saw a stable frontier in the northwestern India as the only guarantee against the ever looming Russian advance (Bayly 1993: 126). On 16 March 1846, a treaty conjured into existence the princely state of Jammu and Kashmir in the northern reaches of the Indian subcontinent (Rai 2004: 18). The political implications of this treaty have shaped most part of the state's political history.

Dogra Rule

After the death in 1839 of Maharaja Ranjit Singh, the builder of the powerful Sikh kingdom, the court in Lahore spiralled into a period of fractional infighting (Rai 2004: 20). The contestation for power between the new Maharaja, Kharak Singh and the nobility particularly the Dogras was out in the open. One such example was the assassination of Dhain Singh (wazir) by loyalists of the Sandhawalia fraction. Different power centres of the Lahore court starting to part ways. One among them was Gulab Singh.

Long before Gulab Singh rose to prominence, many Dogra chieftains had consolidated hold in the Jammu region. The most outstanding of these, Ranjit Dev, who ruled Jammu as its Raja from 1750 to 1781, was the brother of Gulab's great-grandfather Surat Singh (Rai, 2004: 22). With the fall of Mughal Empire, Ranjit consolidated territory around Jammu. He even entered into an agreement with the Afghans under Ahmed Shah Abdali to protect his territory. With the waning powers of Afghans and rising military might of Sikhs, Jammu was under constant attack. Ranjit Singh had to contend with attacks from the Sikh confederacies, but it was his son, Brij Raj Dev that Jammu felt the full brunt of the expanding power of the Sikhs and was forced into a tributary relationship (Charak 1985: 118).

The political landscape at the time of Gulab Singh's birth was, however, different. The Sikh Empire, which covered most of the territories north of Sutlej was by then under the ruler of a strong leader. By 1809 the seventeen-year-old Gulab Singh decided that his best chances lay with the Sikhs. After getting recruited in the Sikh army, he soon rose to a prominent position. What got Gulab Singh attention of the crown were his battleship capabilities. With such patronage, he jumped rank hierarchies. A French traveller, Victor Jacquemont described his rise as 'the greatest lord in Punjab', second only to the Maharaja (cited in Rai 2004).

In 1819 Gulab Singh led a successful expedition to crush the revolt in the Jammu hills led by Main Dido. He was also part of the second Sikh expedition to Kashmir. All these successes earned him the position of Jagirdar with lands assigned to him both in Jammu region and Punjab. Finally, in 1822 he was made Raja of Jammu with the signal honour of having his Sikh overlord travel personally to Akhnur to preside over the coronation (Rai 2004: 24). His brothers were also given

prestigious positions and Jagirs. In fact, his brother was conferred with the title of Raja-e-Rajan (King of Kings) by Ranjit Singh.

This power settlement, however, didn't last for long. Following the death of Ranjit Singh, Gulab Singh was increasingly marginalised at Lahore. The death of Hira Singh (wazir of Lahore court), made Gulab Singh the only surviving member of powerful Dogras in Lahore court. He also made a fruitless attempt to build an alliance with the East India Company. When the Sikhs were finally defeated, the company realised that a complete subjugation of the Sikh kingdom would require greater military thrust and more abundant financial resources than it could muster (Harding, 1891: 70). The kingdom also included difficult and mountainous terrains like Kashmir, also in the proximity of the Russian Empire. The most expedient way of achieving the goal was to by breaking up the territorial integrity of Ranjit Singh's domains (Harding 1891: 123).

The redrawing of boundaries and shifting loyalties culminated into the 'Treaty of Lahore' signed on 16 March 1846. The only fully consenting parties in this creation were the English East India Company and Gulab Singh, Raja of Jammu (Rai 2004: 18). The accession of Gulab Singh was made conditional by the Company to various articles of agreement. Kashmir finally was sold to Gulab Singh for a cash payment of seventy-five lakhs of Nanakshahi rupees.

Article IV of the Treaty made obligatory upon Maharaja 'not to make any alteration in the territories of the State without the due concurrence of the British government'. Article V puts a bar on Maharaja to 'submit any dispute that might arise between the state of Jammu and Kashmir and any other neighbouring state to the British arbitration whose decision was binding and final on Maharaja as well as his male heirs'. As per the Article, VII Maharaja was also not permitted to employ or retain in his service any British or European or American subject without the consent of the government of India. Not every clause was projected towards Raja. In the case of external attacks or enemies, Britishers promised aid and assistance to the Maharaja for defending and protecting his territories (Article IX). With a token of one horse, twelve perfect shawl goats of approved breed (six male and six female) and three pairs of cashmere shawl to be presented annually the Maharaja acknowledged and recognised the supremacy and suzerainty of the British government.

In social terms, as with its territorial composition, the identities of the subjects of the new state were characterised by the patchwork quality (Rai 2004: 36). It would have been difficult for Dogra regime to rule on its own. Soon, they started to co-opt some other elites by bestowing upon them governmental and administrative services. The new state soon was identified as Kashmir, although the rulers were from Jammu.

It is widely asserted that the caste that mostly benefited from the regime was Kashmiri Pandits. However Kashmir Pandits were not purely a homogeneous caste, instead were further divided into 'Gors' and 'Karkun' subcastes. The relationship between them was hierarchical in nature, with Karkuns functioning as patrons of the others (Rai 2004: 36). Walter Lawrence (1992) estimated that in 1889 the total population of Kashmir was about 814,214, the majority being Muslims (93%). Hindus comprised approximately 5 to 6 percent whereas Sikhs were about 0.5% of the total population. Although in the majority, Muslims also were highly fragmented in a different category such as Shaikhs, Mughals, Gujjar, Bakarwals, and so on.

The new Maharaja never intended to destroy the social and power hierarchies in Kashmir. However, to extend control to the new regions, he diverted the power of localised authority. Maharaja became to an all-powerful sovereign. After almost a decade after signing the treaty, Gulab Singh consolidated the Dogra kingdom. After his death, his son Ranbir Singh acceded to the throne. When the power shifted from East India Company to the British crown in 1858, the Dogra state continued to share a different relationship than other princely states in India. On the other hand, the relationship to its own subject was mostly alienated. The socio-economic conditions of the Kashmiri people in general and Muslims, in particular, were greatly degraded. The institution of Jagirdari continued to flourish and was greatly responsible for the backwardness of the state.

Among all other forms of oppression, the institution of Beggar (forced labour) was most inhumane. Many who were forced into this system never returned to their villages. Although it was officially abolished on the recommendation of Sri Walter Lawrence in 1893, it continued in practice for long after that. During the second decade of the twentieth century, it was substituted by Kar-i-Sarkar (labour requisitioned for state purpose). The prospects of education were equally bad during the Dogra regime. The majority of the population remained uneducated during this

period. The cause of the backwardness in education was the 'conservative outlook of their religious leaders, the unsympathetic attitude of non-Muslims towards the Muslim students in the government schools and the discriminatory policies of the Dogra administration' (Khan 2002: 45).

The discrimination was also apparent in state machinery and bureaucracy. Given the low education standards of the Muslim majority, not many were formally qualified to be part of the machinery. Even those who managed to rise the hierarchy were discriminated on the basis of religion and caste. The state was also biased towards a particular form of scholarship. In 1878 the monthly salary of a Sanskrit teacher was fixed at sixty rupees, whereas for an Arabic teacher it was rupees forty-five and for a Persian teacher rupee twenty, even though Persian was the official language of the state (Shubnum 2010: 21).

One of first public outrage against the continued discrimination of the Dogra rule was the labour rising of 1865 in Srinagar. It was organised by the shawl weaving community of the city. Taking out a procession towards Zaldagar Maidan, the protesters shouted slogans against the regime. Nonetheless, the protests were suppressed by Kripa Ram, the then governor of Kashmir. Though the period 1850-1925 witnessed many uprisings, such as the labour rising of silk factory (1924), it was on the early 1930's mass-based political mobilisation became part of the struggle against the regime. Much of the credit for such mobilisation can be attributed to the popularity of Shaikh Mohammad Abdullah.

In February 1925, Hari Singh became the new Maharaja of the state. By the end of the second decade of the twentieth century, many Kashmiri Muslims were aware of the grave injustices inflicted by the Dogra regime. The new educated elite from different national universities particularly Aligarh Muslim University were now firmly convinced about the need for a formal political organisation which could not only articulate and super-head the movement but also aggregate the demands of Muslims, channelize their grievances and eventually seek redressal from the officialdom (Shubnum 2010: 31). In 1930, some of them formed the Reading Room Party.

The growing dissatisfaction with the rule became increasingly evident with time. On 13 July 1931, during the trial proceedings against Abdul Qadeer, huge mob

clashed with the Dogra troops in the premises of Srinagar central jail. Twenty-one protesters were killed in this incident. Since the events of July 13, the popularity of Shaikh Abdullah grew enormously. On November 12, 1931, Mr J. B. Glancy, a senior member of the Indian Political Services, was appointed to preside over the Commission of Enquiry for formulating the proposals to look into and remedy Muslim grievances. On March 12, 1932, the Maharaja on the recommendation of the Glancy Commission, announced the grant of rights to freedom of press and platform to the people of the state and the ban on the formation of political association was also being lifted (Shubnum 2010: 32). Even before this, the two major parties, Indian National Congress and Muslim League were keeping an eye on the political unfolding in the state. In one of its sessions (December 1918), Muslim League unanimously adopted a resolutions to ‘draw the attention of the Kashmir Durbar to the hardships suffered by the Muslims of Kashmir under the system of the collection of revenue in kind and appeals to the ruler to appoint a commission to investigate their complaints’ (Saraf 2005: 466). The League also requested to handover the ownership of Mosques to the local community.

The comfortable dominance of the Kashmiri Pandits in the state had been truly shaken for the first time after the publication of the Glancy Commission report (Rai 2004: 275). The report evidently in its conclusions affirmed the unfair neglect and biased exclusion of the majority Muslim community faced in the state bureaucracy and representative institutions. Both the communities (Pandits and Muslim) started to assert their minority status post. Kashmiri’s Muslims led by Shaikh Abdullah claimed that though they were a majority in terms of numbers, as the report states, they were clearly in the minority in terms of representation. Politics of minority soon became a recurring theme with each community appealing to diverse political forums. Simultaneously both Congress and Muslim league started to indulge more directly into the political affairs of the state. On 26th of December 1946, addressing a session of League Jinnah made the following observation:

I would ask the Congress what it is doing in Kashmir. The Arya Samajists, The Hindu Mahasabha and the Congress nationalists, as also the press, the subservient press of the Congress, why are they silent about the affairs of Kashmir state? Is it because Kashmir is a Hindu ruled state? Is it because the vast majority of the Indian subjects of Kashmir state are Muslims? I have no doubt about the real meaning of the

Congress solicitude for the people of the Indian states. Mr Subhash Chander Bose had said in one of his speeches that the Congress wants to make an alliance with the people of the Indian states. May I ask: Do they want to make an alliance only with those who are Hindus or also with the Muslims (Saraf 2005: 467).

Regardless of the fact that majority of the population was Muslim, the League managed to garner little supported by the masses, particularly in the Valley. Shaikh Abdullah accused Jinnah of interfering in the matters of local politics. In one of the statements, he said that if Jinnah did not stop interfering 'it will be difficult for him to go back in an honourable manner' (Raina 1990: 28). Abdullah in ideological terms was closer to Nehru. Both envisaged and propelled an idea of secularism based on Hindu-Muslim unity. There was a criticism of such form of nationalism especially from the leaders of the Ahmadiyya community like Ghulam Nabi Gilkar who believed the Congress was not committed to the plight of Muslims.

Independence

By the end of the Second World War, the colonialism had started to dismantle. It was becoming evident that the Britishers would not for long continue to rule the colonies. The intentions of the British government to transfer power were evident by the statement made by British Prime Minister Mr Clement Atlee in the House of Commons. The Cabinet Mission Memorandum of 12th May 1946 and the Indian Independence Act of 18th July 1947 leads to the conclusion that the suzerainty and Paramountcy of the British Crown over the Princely states lapsed on August 15, 1947, i.e., the appointed day of the transfer of power (Shubnum 2010: 32). The 'partition plan', as it was commonly referred to, also made objective plans for princely states, among which Jammu and Kashmir was one. Constitutionally and legally, Indian States were to be Sovereign and independent States on the termination of paramountcy, and they would be free to decide for themselves to adopt any course they wish. It was open to them to join the Hindustan Constituent Assembly or the Pakistan Constituent Assembly or decide to remain independent (Dasgupta 1969: 78).

By the time of actual transfer of power, most of the princely states had joined either one of the two dominions except the states of Junagarh, Hyderabad and Jammu

and Kashmir. Both Kashmir and Hyderabad posed peculiar challenges to the transfer scheme. Kashmir, a Muslim-majority state was ruled by a Hindu Maharaja whereas Hyderabad, a Hindu majority state ruled by a Muslim Nawab. Both Congress and League used different stands to justify the accession to India and Pakistan. Addressing a large gathering of Princes and their representatives in Delhi in late July 1947, however, Lord Mountbatten the last British viceroy of India was unequivocal that the third option, i.e., the independent option was merely a theoretical option. He further added that the accession should be based on geographical continuity and the wishes of their population or subjects (Noorani 1964: 22).

The criteria proposed though simple in principle was equally difficult to execute in the case of Jammu and Kashmir. Jammu and Kashmir shared geographical continuity with both India and Pakistan. On the other hand, the state was predominantly Muslim with a Hindu ruler. Both League and Congress attempted to persuade Maharajah, but he remained reluctant to both the offers. Another prominent reason, as discussed at the beginning of the chapter was the strategic importance of the territory of Jammu and Kashmir. Even within the state politics, two distinct centres of power emerged, one led by Shaikh Abdullah who enjoyed popularity among majority Muslim population and Maharaja who still was the legal sovereign of the state. The Congress leadership sided with Abdullah and were not happy with the attitude of Maharaja towards Shaikh. On May 21, 1947, in a National conference meeting, Kriplani, a Congressman, remarked that the Indian National Congress supported the movement for political reforms in Jammu and Kashmir launched by the National Conference.

One of the extraordinary features of the partition was the ambiguity over the date of independence. Lord Ismay felt the announcement was 'likely to confuse and worsen an already dangerous situation' (Singh 1991: 706). The Partition Plan of 3rd June 1947, established under the Indian Independence Act, envisaged two Boundary Commissions, consisting of four High Court judges each, two nominated by Congress and two by the Muslim League (Schofield 2000: 32). A British lawyer, Sir Cyril Radcliffe, was entrusted with the post of chairman. He arrived for the first time in India on 8 July 1947. The objective of Boundary Commission what later came to be known as the Radcliffe Award was to divide the provinces of Bengal in the east and Punjab in the west. This partition was to be undertaken in such a way that the Muslim

majority areas in remain Pakistan and those with Hindu majorities in India. There was, however, a loose provision that 'other factors' should be taken into account, without specifying what they might be (Schofield 2000: 33). The time given to the boundary commission was mere five weeks.

The state of Jammu and Kashmir presented a peculiar case. Since the state was adjoining British India, the partition of the sub-continent was relevant only within the existing routes and communication lines. Two major routes, one via Rawalpindi, Murree, Muzaffarabad, Baramula and thence to Srinagar and second via Sialkot, Jammu and the Banihal pass, passed through areas which were expected to be allocated to Pakistan. A third route, very less accessible passed via Gurdaspur, which comprised the four tehsils of Shakargarh, Batala, Gurdaspur and Pathankot. Under the 'notional' award provided in the first Schedule of the Indian Independence Act, all of the Gurdaspur district with 51.14 per cent Muslim majority population had been assigned to Pakistan (Schofield 2000: 35). Such a demarcation meant that all three routes would have fallen in territory belonging to Pakistan. However, in a press conference, Mountbatten suggested the Boundary Commission was unlikely to throw the whole Gurdaspur into Pakistan. In the final award, three out of the four tehsils, Batala, Gurdaspur and Pathankot were awarded to India. This was done as one of the memoranda suggests because 'the headwaters of the canals which irrigated the Amritsar district lies in the Gurdaspur district and it is important to keep as much as possible of these canals under one administration' (Schofield 2000: 35).

Although the future of the princely states was a separate issue from the division of the Punjab and Bengal, for which purpose the Boundary Commission was instituted, the departure from the notional award of territory created a sense of bitterness between the two nations. Lord Birdwood believed that had Gurdaspur been awarded to Pakistan, 'India could certainly never have fought a war in Kashmir' (Birdwood 1956: 74). The loss of territory created a sense of apprehension among Pakistanis about the intentions of both Indians and British. A suspicion of neither British nor India wanted Pakistan to survive was brewing within Pakistan. Kashmir, in such a scenario, would give India a technical and strategic advantage.

Distant from the politics of Boundary Commission, the Maharaja of Jammu and Kashmir faced the dilemma of joining either dominion. Some of his close

associates, including his Prime Minister, Ram Chandra Kak, a Kashmiri Brahmin entertained the idea of remaining independent. However, on the eve of Independence with pressure mounting from Delhi, Maharaja replaced his prime minister. Mountbatten saw the sacking of Kak as a positive sign of accession to one or the other domain. Contrary to this, Maharaja on 12th of August signed a standstill agreement with Pakistan. The objective of this agreement was to ensure that the services of trade, communication and travel remain as they were with the British India. However, India did not sign the agreement. It was argued that the matter needed to be negotiated by an official from the state to be sent to Delhi but no such official from the state was ever deputed for this purpose and no Standstill Agreement ever concluded between the Indian union and the state (Shubnum 2010: 75).

The fact that India did not sign the treaty aided the suspicion among Pakistanis that India was making different arrangement for Kashmir. As discussed in the previous section, Muslim league within the state of Jammu and Kashmir had popular support among the non-Kashmiri Muslim population. On the eve of Independence, Pakistani flags were hoisted in many such regions. To curtail this, Maharaja ordered the ban on all pro-Pakistan newspapers. One such region with strong Muslim League presence was Poonch. Poonch and the adjoining town of Mirpur were also the traditional recruiting ground for British Indian forces. In the spring of 1947, people of these two regions had mounted a 'no tax' campaign against the Maharaja. The Maharaja responded with aggression and ordered all Muslims in the district to hand over weapons. As the communal tensions escalated in other parts of the sub-continent people sought fresh weapons from North West Frontier. A contact between the Poonch resistance and tribesmen of the North West Frontier was established in this manner. The situation was no different on the eve of Independence either. The unrest slowly escalated into an organised revolt against the Dogras. The rebellion was increasingly gaining sympathy from the tribesmen of NWFP (North West Frontier Province) who were also sympathetic to the troubles in the Punjab. The communal massacres in the adjoining areas of Jammu further escalated the tension.

It was 21-22 October 1947 when tribesmen belonging to Mahsuds, Wazirs and Afridi tribes led the raid on Kashmir. They poured down in numbers estimated at between 2000 and 5000 strong initially, with a fleet of transport vehicles numbering about 300 lorries and captured Garhi and Domel and then arrived at Muzaffarabad

(Dasgupta 1969: 95). On 24th of October, they captured Mahura powerhouse and announced to reach Srinagar on the famous festive on Id which was on 26th October. The Raiders avowed aim was to relieve the distress of their co-religionists, but drugged by temporary success and elated at the prospects of loot and arson, they finished all that came their way, and the town of Baramulla was stripped of all its menfolk and wealth when they took possession of it (Dasgupta 1969: 95)

India charged Pakistan with direct involvement in the tribal raid (Menon 1957: 406). Pakistan however, denied the accusation and counter-accused India of abetting massacre in Jammu and Poonch. What exactly went on in the remote corners of the state of Jammu and Kashmir could never be described with certainty but the region suffered its share of disturbances was not open to doubt, and the most urgent task facing Maharaja's government in the state was not put off for a while by the Standstill Agreement device but the maintenance of the Maharaja's control over his own territories (Lamb 1997: 122). The account of Tribal invasion has been contested by many recent works. Cristopher Snedden (2012) presents a detailed account and different narratives of the invasion.

The tribal raid was the culmination of a series of acts which started with the economic blockade of Kashmir in September and which developed later into the organised resistance of the rebel Poonchis, to the accompaniment of border raids into Jammu from across Pakistan (Dasgupta 1969: 97). New Delhi received the first report of the raid on 24th October. The request for military assistance by Mr Mahajan, then Prime Minister of Kashmir was considered by Defence Committee of India, presided over by Lord Mountbatten, on 25 October. Mountbatten, however, was against any hasty decision without procuring the accession of Kashmir to India which, he added, should be subject to final ratification by the people through a plebiscite (Dasgupta 1969: 99). The decision was put on halt, but V P Menon proceeded to Srinagar the same day. After witnessing the impact of the raid on the ground, Menon advised Maharaja to proceed to Jammu along with family.

The official version of events was that when Maharaja reached Jammu on 26th, October. Menon woke him up and 'he was ready to accede at once' (Schofield 2000: 54). With a letter from Maharaja and Instrument of Accession Menon returned to Delhi. There was a long discussion at the end of which it was decided that the

accession of Jammu and Kashmir should be accepted, subject to the provision that a plebiscite would be held in the state when the law and order situation allowed (Schofield 2000: 54-56). It is clear that Maharaja acceded to India before Indian troops were sent to Srinagar (Schofield 2000: 58). Although the basis of Instrument of Accession has long been under scrutiny but in principle, Maharaja had agreed on to accession upon the terms outlined by Lord Mountbatten. Maharaja Hari Singh never spoke of not signing it in his later life. The events of late 1947 not only impacted the two new nations but also resonated within the internal developments in Kashmir. After being appointed as head of the emergency administration, Sheikh Abdullah became the Prime Minister in March 1948.

The appointment of Sheikh as the Prime Minister of the state was a culmination of a series of events. Since the formation of the National Conference, Sheikh had emerged as a popular face particularly in the Kashmir Valley. With 'Quit Kashmir' movement launched by Sheikh in March 1946, National Conference came in confrontation with the Maharaja. Abdullah declared (at the moment when the British Cabinet Mission was in India) that the sale by the British of the Vale of Kashmir to Gulab Singh in 1846 was an invalid act (Lamb, 1997: 94). Maharaja's immediate response was ordering the arrest of Sheikh Abdullah. His arrest led to mass protests leaving many injured and at least twenty killed. After putting Sheikh alongside many of his National Conference colleagues to trial, he was sentenced to three-year jail.

Another factor that led to the rise of Sheikh in Kashmir politics was his close friendship with Jawaharlal Nehru. In 1940 Nehru, accompanied by Abdul Ghaffar Khan (the "Frontier Gandhi"), toured Kashmir and in the process helped establish Sheikh Abdullah's wider political reputation (Lamb 1997: 95). Both the leaders shared a common vision of secular independent India although this position didn't remain unquestioned. Muslim conference with the wider support of Muslim League constantly advocated Kashmir's merger with Pakistan. With the state finally acceding to India, Sheikh was finally released from prison. Nehru by then was the Prime Minister of India and Sheikh was given the charge of Jammu and Kashmir. The subsequent developments in Kashmir and how the United Nations got involved in the Kashmir Question is the subject matter of the next chapter.

Chapter 3

United Nations Military Observer Group in India and Pakistan: Developments Prior to 1971

Introduction

As discussed in the preceding chapter revealed that the end of the British Indian Empire and the partition of Indian-sub-continent led to the creation of two separate independent states of India and Pakistan. The princely states were given the right to opt any of these two states. All the princely states except Kashmir were acceded either to India or Pakistan. As the partition of the dominion was completely based on the religious and communal ground, it sowed the seeds of the longest struggle and disputes between India and Pakistan causing, directly and indirectly, four wars between them.

As discussed in Chapter II, Kashmir faced with a peculiar situation where Hindu ruler and Muslim majority were left on their own to decide to join either of the two new states. India was of the view that the Pakistan was pressurising Kashmir through economic blockage to join it. On the other hand, Pakistan levelled the allegations that India was pressurising the Kashmir to join it. There was also perception as discussed in the earlier chapter that the Hindu ruler appeared in favour to join Hindu India while some of the Muslim population preferred to join Pakistan. The issue was further complicated when Sheikh Mohammad Abdullah, a leading political leader in Kashmir, favoured the accession to India. India apparently prepared to accept the possibilities of Kashmir accession to India, but it was reluctant to the option of an independent state (Dawson 1995:19).

Maharaja of Jammu and Kashmir offered a standstill agreement to India and Pakistan. Pakistan signed the agreement but the negotiation on India's side was never completed and India didn't sign it. This rose the suspicion of Indian designs in the minds of Pakistan. Pakistan supported tribesmen' invasion of Kashmir took place and

this development forced Maharaja to seek India's help and signed the instrument of accession to join Indian state and established an interim government (Schofield 2003:55-56).

The continuous intervention of Pakistan military in the region of Azad Kashmir and their assistance to the tribesmen initiated the war between India and Pakistan that broke out in the later part of 1947. Though Maharaja signed the Instrument of Accession (26 October 1947) with India but Pakistan said that this accession was based on fraud and violence, so it is not logically acceptable and legitimate (Hiro 2015:3). They claimed that Maharaja who was a Hindu ruler doesn't represent the wishes of general masses. According to the 1948 Indian White Paper, India accepted accession as provisional till plebiscite. This was the stand of both newly formed independent states.

This chapter starts with the discussion on the formation of the United Nations Commission in India and Pakistan (UNCIP), its functions and outcome. The second section discusses the establishment of United Nations Military Observer Group in India and Pakistan (UNMOGIP), discussing the organisational structure and roles and functions of the observer groups. The third section studies the developments between India and Pakistan and their interaction with UNMOGIP and also discusses the consequences of 1965 war on the role of UNMOGIP. It ends with the discussion on challenges UNMOGIP has encountered prior to 1971.

United Nations Commission in India and Pakistan

Pakistan's reluctant attitude to take action against the tribesmen's invasion in Kashmir, and India's refusal to withdraw their troops until the invader withdrew became the bone of contention between the two countries, leading to war of 1947 (Parakatil 1975:161). It compelled India to complain against Pakistan under Article 35 of the UN Charter. India complained of illegal assistance to the tribal invasion by Pakistan. As discussed in chapter II, the Indian government stated Kashmir as its integral part of the Union and therefore any aggression against its entity would be confronted. It requested the Security Council to prevent the Government of Pakistan along with its personnel, military and civilian from participation and assistance in the invasion of

Kashmir by tribals (Menon 1964: 35-36). It also calls upon Pakistan to desist any sort of fighting and to deny access to the invaders to use its territory for operating against Kashmir (Jawaharlal Nehru Speeches 1946-1949: 171). India's prime objective, however, was to prove it beyond doubt the involvement of Pakistan in helping the tribal invasion. One peculiar feature of the Indian case was that although great stress was laid on Pakistan's encouragement of the raid, Pakistan itself was not accused of being the aggressor.

Pakistan after two weeks made its own submission to the UN with the detail of its own view of the cause of the conflict. By denying any sort of direct involvement in the tribal invasion, they charged India for manipulating the instrument of accession of Kashmir in its favour through fraud and violence and contradicting people's will. It proposed the United Nations to arrange the cessation of hostilities, withdrawal of outside forces, and rehabilitation of the refugees who had fled since 15th August 1947 and establishment of an impartial administration in the state (Bhushan 1968:125). It clearly detailed the genocide against Muslims by the Maharaja (Ahad 2015: 13).

Mr. Ayyangar failed to educate the members of the Security Council about India's position on the crisis, the partition scheme of the Government of India. He emphasised morally on India's interest on holding Plebiscite. While Zafarullah Khan, the Pakistani representative, successfully presented Pakistan's position and could broaden the area of disputes from Kashmir issue to Indo-Pakistan conflict. Pakistan to a great extent was successful in casting Kashmir as an enlarged horizon of a larger Indo-Pak conflict. Pakistan started levelling substantial charges against India by evoking communal killings in Bengal and Punjab. As a result, Security Council agreed to change the title of the disputes from "Jammu and Kashmir problem" to "India-Pakistan Question". The Security Council initiated its determination towards the legality of the accession of Kashmir rather than looking skeptically at Pakistan's aggression and ended the fight between the two countries. The United Nations responded to the crisis by establishing the United Nations Commission in India and Pakistan (UNCIP) to investigate the problem and exercise a mediatory influence January (UN S/651,17.1.1948) and also established military observer group at the initial stage to assist the Commission and later to supervise the observance of the ceasefire agreement. It was the first substantive resolution passed on Kashmir.

The commission recommended Pakistan to secure the withdrawal of tribesmen and Pakistan nationals from the region and India to withdraw its forces to the minimum for maintenance of law and order (Schofield 2003: 82). It recommended the state of Jammu and Kashmir to form a cabinet coalition with all the political groups, to release the political prisoners and to provide political freedom. It further emphasised to nominate a plebiscite administrator to ensure the free and impartial will of the people.

The three-member commission was replaced by five-member commission in April 1948, including Alfredo Lozano from Columbia and Egbert Graeffe from Belgium along with double fold task to investigate the fact and to exercise any mediatory influence in the light of the complaints by the parties to the conflict (UN Document:1948B; Parakatil 1968:159). The mission was headed by Secretary-Generals representative Eric Colban. The major aim was the restoration of peace and order in the state of Jammu and Kashmir and to bring cessation to their on-going fighting between India and Pakistan (Bhushan1995: 133).

The government of Pakistan was recommended to secure their withdrawal of assistance from the tribesmen and to publicise the measures for a free, secure and impartial plebiscite. A resolution was passed at the United Nations Security Council on 21st April 1948 which indirectly acknowledged the illegality of tribal incursion. It urged Pakistan to initiate the consultation with the commission for the withdrawal of the troops at the minimal strength. The resolution recommended the stationing of the army should be based on the consultation of the commission and should not intimidate the local population (Bhushan 1968:123).

The Government of India was advised to reduce to the minimum strengthen of military required for the support of civil power in the maintenance of law and order. It also advised scrutinising every stage of peaceful development and cessation of fighting in the region of Kashmir (Behra 2006:30). It was proposed after the withdrawal of Indian Army, the task of pacification in the sub-continent should be increased to create more conducive atmosphere holding the plebiscite. The resolution made it clear that India should accept the plebiscite administration by inviting the representatives even from Muslim Conference and Azad Kashmir Government to function equitably and fully conduct the administration of the plebiscite (Bhushan

1968:125). It further asked India to prevent any kind of intimidation and to cooperate with the state government in all the regards i.e. freedom of speech, press, assembly, travel etc. including freedom of lawful entry and exit (Bhushan 1968:126). It further advised to affect the withdrawal of the Indian nationals from Kashmir who were not the citizens of the state, to release the political prisoners, to create a suitable environment for the migrants, to avoid any sort of victimisation and adequate protection to the minorities (Bhushan 1986: 134).

The UNCIP put up a ceasefire proposal for India and Pakistan, withdraw of their troops and to have the basic agreement on the plebiscite which India accepted, but Pakistan was reluctant to it. India was not ready to accept the suggestion of power transformation to the government of the state as it would be taken over by the tribesmen and Pakistani nationals. For India, it was essential to deploy army for defence. India argued that the resolution was provocative and impractical and empowering the plebiscite administrator, it would receive advice and assistance from Pakistan for pacification and manipulation in their favour (Bhushan 1968: 135).

Pakistan's main objection was the absence of detailed guarantees for a free plebiscite and withdrawal of Indian army from the state of Jammu and Kashmir. It objected Abdullah's government and advised to establish an impartial government. It was reluctant to perceive Indian army is marching in Azad Kashmir for the maintenance of law and order; rather it wanted to be invited to assist plebiscite administrator to conduct a free and impartial plebiscite. Pakistan was of the view that India would be satisfied with a de-facto division of Kashmir. It would further stabilise the situation, and it would then obstruct conducting a free plebiscite (Noorani1995:77).

UN resolution on 21st April 1948 favoured India, where Pakistan was required to withdraw its forces and all the tribalmen who made their way to the Kashmir. India was also asked to reduce the intensity of the troops but did not ask to vacate Kashmir. It also demanded for the plebiscite for the people of Kashmir to decide their future. Unfortunately, the resolution was not enforced.

The two countries reached a ceasefire agreement on 31st December 1948. UNCIP invited both the governments of India and Pakistan to send their military representatives to the meeting in Karachi to demarcate ceasefire line between India

and Pakistan. It also reached the line of Ceasefire Agreement. It was agreed that territory to be evacuated by one side as a result of the agreement must be free of the troops of that side within 30 days from the exchange of ratification, while no other vacation of the territories would be authorised without the agreement between local commanders (Dawson 1995:34). The agreement led to joint military meeting officially creating an agreement between the military representatives of India and Pakistan regarding the establishment of the Ceasefire line in the state of Jammu and Kashmir.

Para 17 of the resolution of 13th August 1948 of Security Council authorised to appoint the military observer if required by the commission, and accordingly the United Nations appointed the military observers to supervise the observance of the ceasefire order (Dawson 1995:133). At the recommendation of UNCIP, the Secretary-General appointed the Military Adviser to support the Commission on military aspects and provided for a group of military observers to assist him. The first team of unarmed military observers arrived in the mission area in January 1949 to supervise in the State of Jammu and Kashmir the ceasefire between India and Pakistan and to serve as the Military Adviser to UNCIP.

United Nations Military Observer Group in India and Pakistan (UNMOGIP)

On July 27, 1949, an agreement delineating the cease-fire line was signed between India and Pakistan, popularly known as the Karachi Agreement. The Karachi Agreement is formally called the Agreement between Military Representatives of India and Pakistan regarding the establishment of a Cease-Fire line in the State of Jammu and Kashmir and signed by Lt. Gen. S.M. Shrinagesh (India), Maj. Gen W.J Cawthorn (Pakistan) and Hernando Samper and M. Delvoie (UNCIP). The negotiation process and signing of the agreement did not include any representative of the disputed state. The agreement of Ceasefire line decided to demarcate one-inch map and then verify on the ground by the local commander on each side with the assistance of military observers. In case local commander cannot reach an agreement, the military advisor would give a final decision (Dawson 1975:36).

The agreement lacked views and rights of Kashmiris on deciding, negotiating and compromising on the region of Kashmir. The military representatives from India and Pakistan negotiated to demarcate the position of their control. S. K Sinha, member of Indian Delegation stated that under the guidance of Jawaharlal Nehru, the UN conceded the legality of Kashmir accession to India, where as Pakistan Delegation required to produce proof to the United Nations Commission for the actual position of their control over all the territories they claim (Bhushan 1969:123).

The Karachi Agreement specified that UNCIP would station observers and that the ceasefire line would be verified by local commanders on each side with the assistance of UN military observers. It also directed that any disagreements were to be referred to the UNCIP Military Adviser, who had final authority to take a decision. The first team of unarmed military observers, which eventually formed into the United Nations Military Observer Group in India and Pakistan (UNMOGIP), arrived in the mission area in January 1949 (UN website). The commission asked for twenty military observers to accompany by junior officer tried to make an observer group as homogenous as possible and making English a compulsory language. Eric Colban suggested around forty observers from Belgium, Canada, Mexico, Norway, Sweden and the United States of America. By 1st April 1949 around 35 observers arrived, which Delvoie believed was sufficient (Dawson 1995: 56; Parkatil 197:151). When General Nimmo arrived in 1950, 42 military observers came with him, and gradually it reduced.

Unfortunately, the tension increased between the parties and it again needed more number of observers. The observer's numbers reached to 62, but it again decreased to 44, when India requested to withdraw American Observers. The fluctuating number of observers throughout the decade remained for various reasons. Firstly, it was difficult for contributing countries to maintain their regular contribution; secondly, it was morally bad and unrepeated to have too many officers from one country. And sometimes the life for the military became monotonous and sometimes uncomfortable (Dawson 1995:57-62).

Officers assigned to UNMOGIP do not carry arms and ensure the security by moving unannounced across or in the vicinity of the immediate ceasefire line. They take due care of their personal safety and were not allowed to be accompanied by

Indian and Pakistani personnel. During the event of uncontrolled military operation, they are instructed to withdraw to a position from where they can communicate to the local authority. The colonel and brigadiers of the military observers of United Nations were required to travel both the capitals of India and Pakistan, negotiating and maintaining ceasefire simultaneously. Therefore, it was decided instead of making the observers to do dual work of negotiation and also military advisor on ceasefire line, “United Nations Military Observer Groups in India and Pakistan” was established to focus on military aspect.

On 30 March 1951, following the termination of UNCIP, the Security Council decided that UNMOGIP would continue to supervise the ceasefire in Jammu and Kashmir. UNMOGIP was assigned with functions to observe and report, investigate complaints of ceasefire violations and submit its finding to each party and to the Secretary-General (UN Document S/ 2017/Rev.1. 1951).

The headquarter of UNMOGIP was established at Rawalpindi on Pakistan Side and Kashmir on the Indian side. The two armies placed their transportation and communication to the military observer's groups. In order to maintain the closer contact with the commanders of both the countries, the military observers stationed in the disputed area or near military control centres. According to General Delvoie, the materialising presence of United Nations personnel in the remotest outpost has a moral effect on the troops of both India and Pakistan. Following the Karachi Agreement General Delovie, Brigadier Angle and General Nimmo incorporated field regulation manual for regulating the observers’ mission in the region. The detailed manual was distributed to the military observers as well as the commander in chief of both the armies of India and Pakistan. They were designed not only for Military observers but explicitly for the commander of both the countries. The military observers followed the activities, where both the parties are to be fully informed and act as a unique mediatory character (Dawson 1995: 64).

The Karachi Agreement concluded with demarcating the ceasefire line into three sectors from Manowar to Keran, Keran to Gurais and Gurais to the glacier of the east. The two major violations of the ceasefire agreement from both the sides and the informal talk among the two members was held under the private consultation of General Delvoie. Pakistan was keen to reach the ceasefire agreement at the earliest as

a result free and impartial plebiscite would be conducted in Jammu and Kashmir. The line was divided into 8 sectors covering the area of Manawar, Kotli, Punch, Uri, Tithwal, Keran, Gurais and Kargil. The ceasefire line was drawn on the map with the assistance of military observer along with the local commanders on both the sides (Dawson 1995:75). The local commander could not reach an agreement, while the military advisor had to take the final decision. The Chief military observer investigated all border incidents reported by both the armies of Pakistan and India.

Map 3:1 Demarcation of Ceasefire Line between India and Pakistan



Source: UN Map Number S/1430/Add.2 projecting CFL, Accessed on 15 June 2017, URL [https://commons.wikimedia.org/wiki/File:Highlighted_Page_3 - CFL as shown on UN Map to Karachi Agreement 1949.JPG](https://commons.wikimedia.org/wiki/File:Highlighted_Page_3_-_CFL_as_shown_on_UN_Map_to_Karachi_Agreement_1949.JPG)

General Delvoie deployed his military observer team firstly on Pakistan side at Kazbakar, Kotli, Hajira and Domel which was effective from 3rd February 1949, whereas it deployed its first military observer group on India side at Jammu, Naushera, Punch and Srinagar by 10th of February 1949. Later on, its team was deployed at Sialkot, Jhelum, Batrasi and Kamri on Pakistan Sides, while at Gurais, Uri and Akhnur on Indian sides. Though, the deployment of military observer groups

was withdrawal in Gilgit due to a shortage of the members. Around 35 military observer groups were appointed on both the sides of the field station (Menon 1964: 35-36; Parakatil 1975).

Later, General Nimmo successfully took the command of UNMOGIP and divided the headquarters into the varied sections, where operation section run by military observers and administrative section run by administrative and finance officers and a member of UN Secretariat. There were nine observes at headquarters, with its own task and duties, 31 at the field, two at the headquarter, 12 radio operators, and two in New Delhi in 1958 (Dawson 1995:58).

In order to maintain contact with the commander and their staff in disputed region, observer groups were stationed in the field near to military control centres, or usually brigadier or sector headquarter. Lack of roads forced the observers to reach the destination on foot. The mere presence of the UN personnel materialised the notion of ceasefire up to the remotest outpost and had the considerable moral effect on the troops (Dawson 1975:60).

According to the official report of UNHQ in New York of 1951 which describes the accommodation situation for the military observes. The accommodation for the observers was free of rent with minimal furniture, equipment or minimal quality of food. The visible conditions for the observers on both the sides were temporary, without any communication to outside world (Dawson 1995:96-97).

In order to avoid an unnecessary violation, it decided to adopt the policy of advance information for all the proposed guns, tanks and ammunitions. General Delovie allowed the two armies to settle minor incidents on the spot without referring them to the higher authorities. It required carrying out joint operation for negotiating the violation of cease-fire agreement (Parakatil 1975:159; Dawson1995:96-97).

The significant functions of UNMOGIP were to observe and report, investigate complaints of cease-fire violations and submit its findings to each party and the Secretary-General. The decision taken by Chief Military Officer (CMO) of the UN mission was supposed to notify to India and Pakistan armies on a classified basis. The significant task of UNMOGIP was the supervision of the Karachi Agreement and to keep a check on the quantum of forces within the state of Jammu

and Kashmir and make sure that it did not exceed the number of forces that were employed during Karachi Agreement.

The task of the military was to the investigation, gathering enhanced information, reporting completely, accurately and impartially as much as possible. It also include defining and clarifying the ceasefire line on the ground and reporting to the headquarter any planned military exercise or any planned firing or explosive within the vicinity of the line notified by the local commander, to facilitate the meeting on the ceasefire line and coordinate plans and solve the problems (Dawson 1995: 70-71).

The UN observers required to avoid any direct intervention or interference in the situation. The UN military observers were required to ease the tension on the border while holding good office and facilitate the return of prisoners, civilian and cattle. Further while investigating alleged firing by heavy weaponry; the observers were required to check the record of defended localities against the actual presence of these weapons or ammunitions for them. More importantly, neither civilian nor police was permitted to attend the joint investigation on the line, nor were they to be interrogated within the sight of the opposite side (Bhushan 1969:70).

The resolution 91 of 30 March 1951 also instructs the United Nation Representative to report the Security Council within their three months of arrival about the status of demilitarisation. It needs to call upon the parties to discuss the issues, and the role of demilitarisation and any form of arbitration carried out by an arbitrator, panel and to be appointed by the President of the International Court of Justice after consultation with the parties. Both India and Pakistan cooperated with UNMOGIP and gave assistance to enable it to carry out its mandated functions. Both India and Pakistan also lodged complaints against each other of violating the ceasefire.

Development in Jammu and Kashmir after the Establishment of UNMOGIP

An agreement of 1st December 1948 between the Azad Kashmir government (PoK) and Pakistan had allowed the Pakistan Army to take charge of operation of the Azad Kashmir forces and allow it to negotiate on their behalf (Dawson: 1995:97). There was another agreement signed at Karachi between the Government of Pakistan and the PoK regime on 28th April 1949 which recognises Pakistan control over the northern areas. On 3rd May 1949, Pakistan presented a paper to UNCIP claiming the territory as firmly under Azad control. Concerning the troop withdrawal, on one India refused to withdraw "the bulk" of its forces, as it had agreed to. Pakistan increased the strength of the Azad forces after 13th August 1948, yet insisted that the letter of that resolution should be followed. The other two sets of proposals failed to find agreement, where Delvoie submitted a statement in June projecting in his opinion that the withdrawal of Indian troops does not constitute the bulk of India's forces. On 27th June 1949, he discussed the problem at length with General Kalwant Singh, Chief of the General Staff, Indian Army, but could not reach a compromise (Parakatil 1975:159).

With the arrival of first commission in twelve months, the Azad Kashmir forces had been transformed from a loosely-knit guerrilla group into 32 disciplined and fully-armed battalions which, General Delvoie admitted, represented a formidable force. Furthermore, one of the assumptions Indian General made that once Indian troops had been withdrawn, it would be difficult to get them back again. In 1949, the honours in intransigence and insincerity were evenly divided (Noorani1995:196).

The revelation of the great significant document reveals the functional relationship between India and Pakistan. The Secretary-General's Representative Eric Colban wrote a confidential paper in August 1948 "to clarify matters in his own mind". He believed that the approach of the plebiscite problem on the part of India and of Pakistan has been different from the very beginning. India appealed to the Security Council and asked for its intervention in order to obtain an end to the incursions of tribesmen in the State of Jammu and Kashmir. India's declaration of willingness to hold a plebiscite was very reluctant since the very beginning and was

conditional on the assumption that the region had been restored and the invaders having been driven out (Gupta & Bhusan 1968:164-180) .

India found itself in the viscous circle and rather got caught into a circular predicament. On the one hand, India insisted that UNMOGIP has no prominent role in fulfilling the desires of bilateral discussion on the issues of Kashmir and on the other hand it projected itself as the one who took the matter to the Security Council in order to find the way out. India was keen in projecting bilateral discussion of the Kashmir issues in international arena following its own terms and conditions.

Recently the major revelations occurred in the international context cleared the actual interest of Indian Government for conducting Plebiscite in the state of Jammu and Kashmir in 1948. Indira Gandhi wrote a letter to Prime Minister Jawaharlal Nehru stating that ‘They say that only Sheikh Saheb is confident of winning the plebiscite. Personally, I feel that all this political talk will count for nothing if the economic situation can be dealt with. Because after all the people are concerned with only [one] thing - they want to settle their goods and to have food and salt’ (Nehru 1965: 171). The attitude of the government of India was to an extent emphasis on the development of the economic condition in order to influence the will and determination of the people in favour of Indian State. Therefore, their move on plebiscite was more on the farcical poll. The quest of self-sufficiency of the Indian government undermines the acknowledgement of the resolution adopted by the Security Council for resolving the Kashmir dispute.

A week after UNCIP resolution on Plebiscite, Nehru wrote to Sheik Abdullah reassuring that a plebiscite is an idealist approach that has a long way to go and even there is a possibility that the plebiscite might not occur. This was confidentially bonafide between Nehru and Sheikh. This projected the discrepancy and dishonesty of Indian Government for transparent, accountable and development Plebiscite for the Kashmiris to define, determine and recognise their view and motivation to express their free will (Gopal 1949: 198).

Since 1949, the complaints of continuous violations of the ceasefire escalated the tensions between India and Pakistan. A special record of complaints of Alleged Ceasefire Line Violations (ACFVS) was formed to record the violation of ceasefire line and to keep a check on them. Since 1949-1965, 1969 complaints were filed by

Pakistan, around 2274 complaints were filled by India, and 123 complaints were filled by UN (Dawson 1975:80) against alleged ceasefire violations. While analysing the violation, Pakistan violated 622 times, India 511 and 3389 by other in alleged ceasefire violations (Dawson 1975:80). According to Dawson, 27 complaints by Pakistan, 119 complaints by India and two complaints by UN was filled in alleged border violations since 1950-1965. Similarly, 17 violations by Pakistan, 11 violations by India and 126 violations by others were reported in alleged border violations, 1950-1965 (Dawson 1995: 80-81).

Looking through the prism of Karachi Agreement, the ceasefire violations resulted in crossing the ceasefire line automatically which led to minor military incidents, firing or explosive uses without warning military observers in the area of ceasefire line, new mining and wiring positions, reinforcing defensive position by constructing road, bridges and storehouses, smuggling the equipment like warfare stores, personnel into the state of Jammu and Kashmir, flying aircraft into other territory, reinforcing the defensive position for rest, administrative and improved positions (Dawson 1995: 94-96). The incidents of ceasefire complaints were branded as “Observers Complaints”, even if it is reported and witnessed by one part. The observer’s groups face the open firing from Pakistan in 1959 and from India in 1961 despite displaying the white flag.

In 1962, India’s war with China gave a new dimension to UNMOGIP to check the order of battle. As India had a strong military reinforcing position in Ladakh to counter China militarily and taking an advantage from it, it constructed new roads and airfields, to the extent of being in contravention of Karachi agreement. UNMOGIP kept the check on the threat against Pakistan forces in Northern Area (Parakatil 1974:170; Schofield 2003: 67). The manipulation of the resolution by both the government of India and Pakistan, tend to question the authenticity and objectiveness of United Nations resolution adopted by Security Council. India tends to aim at creating a permanent Frontier and converted the ceasefire line into the border.

Likewise, Pakistan too encouraged the cultivation right up to the line on the one side, while Indian discouraged it. It projected the inefficiency of the Security Council to maintain peace and order in the region. The failure of the effective establishment of the resolution leads to further development of disputes. India was

reluctant to quit as the bilateral discussion was not carried forward according to its desire. Pakistan, through the lens of United Nations Military Observer Group, tries to manipulate the disputed line of control accordingly, leading to 1965 war due to continuous violations of ceasefire.

In 1958 General Nimmo listed a number of activities by the police or by civilians would classify and be reported as ceasefire violations while firing in the vicinity of the line by an armed person of any category. It was agreed by both the parties and was concluded as the extension of Karachi agreement. By 1958, General Nimmo concluded that the police activity is the major contention for the violation of ceasefire line. Increasing activity along the line of Balakot/Tarkundi, Punch/Rawalakot sector, Tangdhar/Domel Sector during 1961-1965 led 1965 full fledged war between India and Pakistan. From early 1964, the increased in activity, General Nimmo concluded that both the sides have stepped up their activities in Southern and Western sectors causing raids, firing incidents and increased the number of complaints. In June 1964, Pakistan crossed the line of ceasefire in four different sectors and put two of India's unit headquarters in danger. In Tanghadhar/Domel sectors, Pakistan forces penetrated into 100 yards across the ceasefire line while killing Indian police, killing three wounding the other three. General Nimmo concerns the execution and aggressive planning of Pakistani troops that automatically cause retaliation by Indian resulted in 1965 war (Dawson 1995:105-114).

Impact of 1965 War

The Security Council on 4TH September 1965 passed a resolution 209 (1965) asking both the Governments to cooperate fully with UNMOGIP in their duties of supervising the observance of the ceasefire. Two days later, the Council adopted resolution 210 (1965) requesting the Secretary-General "to exert every possible effort to give effect to the present resolution and to take all possible measures to strengthen the United Nations Military Observer Group in India and Pakistan. It also intended to keep the Council informed on the implementation of the resolutions and the situation in the area" (UN Documents 1948).

The Secretary-General of United Nations visited the subcontinent in pursuit of the mandate issued by the Security Council. The report stated that both sides had expressed their desire for a cessation of hostilities, but that each side had posed conditions which made the acceptance of a ceasefire very difficult for the other. In those circumstances, the Secretary-General suggested that the Security Council under the supervision of UNMOGIP would take various steps; firstly, it might order the two Governments, under the pursuant to Article 40 of the United Nations Charter, to desist from further military action; secondly, it might consider what assistance it could provide in ensuring the observance of the ceasefire through UNMOGIP and the withdrawal of all military personnel by both sides and thirdly, it could request the two Heads of the government to arrange a friendly meeting in order to discuss the situation, the problems underlying it, and to resolve the outstanding differences between the two countries (Schofield 2003: 98-100; Behra 2006: 138).

Due to the escalation of hostilities beyond the international borders between India and Pakistan, the Council adopted Resolution 211(1965) ensuring the immediate ceasefire on 22 September 1965. The Security Council requested the Secretary General to provide necessary assistance to ensure supervision of the ceasefire and withdrawal of armed personnel from both the regions under the established machinery of UNMOGIP (Parakatal 1975:172; Dawson 1995: 235). As a result, the number of military observers increased to the level of 102 from the same contributing countries. As the hostilities extended beyond the ceasefire line of Kashmir, Secretary General decided to set up an administrative assistance to UNMOGIP (Dawson 1995:237).

The primary function of UNMOGIP was to observe and report on breaches of the ceasefire as established by the Security Council. In cases of violations, the observers were ordered to persuade the local commanders to restore the ceasefire without any authority or power to order a cessation of firing. Ninety observers of UNMOGIP were assigned to UNIPOM. The mission was coordinated both administratively and operationally under the umbrella of UNMOGIP. Initially, the Chief Military Observer General Nimmo was replaced by a newly appointed Chief advisor of UNIPOM, Major-General B.F Macdonald in 1965. But later on General Nimmo was given additional responsibilities to become the oversight observer with regard to both the operation of UNMOGIP and UNIPOM (Oxford Handbook 2015: 225.).

Despite many efforts by Security Council, the ceasefire was not held by both the states. In the resolution 214 in 1965, called for urgent withdrawal of all their armed personnel and fully implement the preceding resolution. It continuously forced India and Pakistan to cooperate with the United Nations and cease all military activity. It demanded unconditional execution of the proposal agreed in principle by a representative of India and Pakistan. It asked to meet the representative in the friendly country in order to plan and schedule the withdrawal under the supervision of Brigadier-General Tulio Marambio appointed by the Secretary General of United Nations.

Subsequently, Prime Minister of India and President of Pakistan met in Taskent at the invitation of the Soviet Union and signed the agreement respecting ceasefire line and to initiate the plan for disengagement and withdrawal of troops. The ceasefire agreement after 1965 implemented in two stages and good offices of UNMOGIP and UNIPOM ensured the action agreed upon fully. First stage deals with implementation of the ceasefire along the ceasefire line and the second was the withdrawal of troops. With the withdrawal of the troops, UNIPOM (United Nations India-Pakistan Observation Mission) was terminated in 1966, and 59 additional observers were appointed for military observer groups.

UNMOG's Challenges

The fluctuating number of the military observers and incapability to demarcate the proper division task and duties among the observers from varied countries lack any ground realities and were merely focusing on the given orders. The unstable numbers of ceasefire violations created an issue for concreting the number of observers needed by General Nimmon. The poor communication, transportation and the interior situation of the region undermine the significance of the observers. Despite physical, the moral presence of military observer group along with the ceasefire line did not stop the continuously increasing number of ceasefire violations in the region, either by troops or by civilians or else by both. The lack of communication, transportation, accommodation, food, and health undermined the morale of the observers.

As explained, there were multiple facets of this observer group since its establishment, and the challenges were no exceptions. Its first and foremost challenge was the frequent breaches of the ceasefire line. However, it can't be denied that initially many issues which led to breaches were resolved by the group. When UN observers first arrived in January 1949, to the departure of General Delvoie at the beginning of that year, 272 alleged breaches of the ceasefire were investigated but were mainly found to be exaggerated or baseless (Dawson 1995:79). This establishes the fact that both countries were more concerned in dragging each other to this group and lodged complaints. To check veracity and correctness of these complaints was in itself a greater challenge, as this group didn't have any independent team of investigators.

The national interest of each country overrode the recommendations of the Observer Group. The McNaughton Proposal is an apt example. On 17 December 1949 the Security Council, acting on the suggestion of the delegates from Norway, asked its Canadian President, General A. G. L. McNaughton to meet informally with the two parties for the solution of the problem. He thereupon put forward his proposals to the two Governments on 22 December and reported to the Security Council on 29 December. In this report he suggested. Firstly, the withdrawal of the regular forces of Pakistan and the regular forces of India, not required for security, law and order, should be under-taken simultaneously. Next, the armed forces of the two halves of Kashmir were to be reduced by disbanding and disarming the Azad Kashmir forces on the one hand, and Kashmir State forces and militia on the other. Thirdly, the Northern Areas were to be brought within this scheme of demilitarisation, but there the civil administration should continue to be vested in the local authorities subject to the supervision of the United Nations. ((Dawson 1995:154).

India suggested two far reaching amendments to the proposals and thus rejected them by implication. It was her view that only the Azad Kashmir forces were to be disbanded and disarmed. She also held that the defence of the Northern Areas should revert to India and their civil administration to the Kashmir State Government. Pakistan accepted the proposals with minor modifications (S/1453, 6.2.1950). It was this attempt at equality which India resisted tenaciously

The major challenge faced by UNMOGIP is to demarcate the civilian incidents along the ceasefire line. It was reported out of 80 civilian incidents, 37 involved only civilian, 22 involved civilian and troops and 21 incidents involved only troops. The major problem of ceasefire violations on many occasions was the unsuitability of the line as an economic and administrative boundary. It caused human suffering and challenges forcing the civilian to climb a mountain for thousands of feet, in certain places, it cut across farming and grazing land, divide communities living in the same valley, blocked natural access used by the communities living in the same valley. It became impossible to meet some relief for the people whose interest lies in the immediate zone of the ceasefire.

As the main objective of UNMOGIP was to monitor the cease-fire line of Karachi Agreement of 1949 which no longer exist after the war of 1965. The failure of military observer group to facilitate the maintenance of ceasefire line between the regions and continuous firing and raids undermined the position of UNMOGIP. Therefore, the importance of UNMOGIP is diminishing, and government of India is free to delimit the UNMOGIP resolutions. Unlike Pakistan, they had a varied stand on the issue and were keen to host the United Nations Military Observer Group. This difference was broadened, leading to the deterioration of the relationship to the point of the armed conflict.

Conclusion

When Nehru has risked losing a plebiscite and the continuous intervention of Azad Kashmir forces in undermining the peace stability, he pretended to act on the Security Council's mandate to work for a plebiscite. He was very keen to inquire if the Commission had any ideas regarding the general lines on which a final solution can take place.

The proceeding of the complaints of India and Pakistan on Kashmir region lead to the formation of commission i.e. United Nation Commission between India and Pakistan to investigate and meditate the disputes. United Nations shifted the label of complaints from 'Jammu and Kashmir Problem' to "India-Pakistan Question", while Kashmir became the major bone of contention between India and Pakistan. The

commission was formed by five members with the major aim of the restoration of peace and order, withdrawal of assistance, and to cessation of the hostilities. It formulated a ceasefire proposal to conduct plebiscite and withdrawal of Indian forces from the state administration along with the non-interference of Azad Kashmir forces in the subcontinent of Jammu and Kashmir.

India was reluctant to withdraw before Plebiscite, on the other hand Pakistan had insecurity towards free plebiscite with the presence of Indian forces, barren the functioning of United Nations Commission for India and Pakistan. It further attempted to inculcate military observer in the region to validate the ceasefire along the line of control between India and Pakistan.

Joseph Korb member of the United Nations member group replied that they had no right to submit a solution on which the parties had not agreed on. The commission believed that the only possible solution is different from the one envisaged by the Security Council resolution and was reluctant whether it would work out or not (The UNCIP's First Interim Report, S/ I I00: 107).

In 1948, Alfredo Lozano, a member of UNCIP questioned Pakistan's foreign minister, Zafrullah Khan, about the consideration of the partition of Kashmir. On August 19, its chairman opined that their Resolution of UNCIP is open to discussion for a fair settlement (Dawson 1995: 93-98). The people of Jammu and Kashmir are unknown about the hanging ceasefire line between India and Pakistan and the sympathetic role of United Nations.

The development of UNMOGIP in the state of Jammu and Kashmir was based on the analyses of the political functioning of India and Pakistan. According to a study, India faced the dilemma either to make a formal withdrawal to its effect and gave the Secretary-General insistence that the mission cannot be carried forward. India wanted to conduct bilateral relations on Kashmir on its own terms and conditions. On the other hand, the attitude of India developed a sense of insecurity regarding the free and fair plebiscite among Pakistani administrations.

Despite the establishment of UNMOGIP, series of ceasefire violations occurred between India and Pakistan through the special record of complaint called Alleged Ceasefire Violations. It was formed to record the violation and keep the

check. Unfortunately, it faced open firing from Pakistan in 1959 and from India in 1961 despite of displaying white flag. Further the manipulation of resolutions by both the governments of India and Pakistan questioned the authenticity and objectiveness of United Nations' resolutions adopted by the Security Council. The failure of the establishment of the resolution lead to many disputes and resulted in India-Pakistan war of 1965.

In order to mediate the escalation of hostilities beyond the international border between India and Pakistan, the council adopted resolution 211 (1965) and tend to set up administrative assistance to UNMOGIP, United Nations Observation Mission between India and Pakistan (UNMOIP). It aimed to observe the breach of ceasefire and to restore ceasefire without any authority or power to order cessation of firing.

The fluctuating number of observers and incapability to demarcate the division of task and duties on the ground reality posed major challenges on the functioning of UNMOGIP. Poor communication, lack of transportation, increasing ceasefire violation, lack of any authenticate action, poor quality of accommodation, food and health undermine the morale and role of UNMOGIP in the sub-continent. With the process, the importance of UNMOGIP is diminishing along with broadened differences, and continuous deterioration of the relationship to the point of armed conflict.

Chapter 4

United Nations Military Observer Group in India and Pakistan in the post-1972

Introduction

The dispute over Kashmir issue dogged the relationship between India and Pakistan, and it became intractable as multiple developments took place at international and domestic levels. The Cold War politics was also a major contributing factor that obstructed its resolution. Both the superpowers of the day, the USA and the Soviet Union, looked through their own prism of Cold War rather than trying to resolve in an unbiased manner. The different perceptions regarding the issue and failure on part of India and Pakistan to reach a consensus on plebiscite made the dispute lingering without any acceptable solution (Gupta 1967: 55). As discussed in Chapter III, the stalemate led to another short war provoked by Pakistan on September 1, 1965, that lasted until September 22, 1965. The next major war between the two countries was fought in 1971.

The immediate cause of 1971 war could be trace to the election in Pakistan. General Yahya Khan, who succeeded General Ayub Khan as the ruler of Pakistan, held the first election since martial law had been declared in Pakistan in 1958. Sheikh Mujibur Rahman's Awami League, the main political party in East Pakistan won an overall majority of 55% of the seats but Yahya Khan and ruling Punjabi elite of West Pakistan refused to accept the democratic verdict of the people and martial law was retained (Misra 1973: 17). This made people of East Pakistan believe that they are being ruled by an exploitative regime of West Pakistan and started rising in revolt against the rule of the West Pakistan. On 26th March 1971, they declared independence and name their country as Bangladesh. The revolt led to the influx of refugees from East Pakistan into India, which reached a figure said to be approaching 10 million, imposed an intolerable strain on India and put its economic and social security at risk. Indira Gandhi, the then Indian Prime Minister, claimed that what had started as an internal problem for Pakistan, had become an internal problem for India

too (Misra 1973: 53). Although India tried to mobilise international public opinion on the plight of East Pakistani refugees, issue got caught up in geopolitics. The East Pakistan crisis led to the 1971 Indo-Pakistan war, the third war between the two countries, leading to the birth of Bangladesh.

This war ended with the signing of the Shimla agreement between Indira Gandhi and Zulfikar Ali Bhutto in 1972. Both the countries took a pledge to work cooperatively for durable peace. One of the basic guidelines of this agreement is the peaceful resolution of all issues through bilateral channels (Shimla Agreement 1972). This agreement changed the ceasefire line (CFL), established by the Karachi agreement signed on July 27th, 1949 into the Line of Control. Since the ceasefire line established after the Karachi agreement ceased to exist, so the government of India's stand shifted as that the job of UNMOGIP has become redundant. However, Pakistan has disagreed with this interpretation of India and regarded UNMOGIP as very much relevant and required.

This chapter starts with the analysis of the reasons for the development of East Pakistan crisis and how India projected the crisis with the continuous escalation of refugees. It also discusses the role of UN in dealing with East Pakistan crisis and the consequences which led to the 1971 war between India and Pakistan. It also analysed the content as well as varied interpretations of Simla agreement by India and Pakistan. The second section analyses the impact of Simla agreement on Kashmir Issue. It also discusses the continuous violations of ceasefire line and the role of UNMOGIP. The chapter ends with discussion on the current status of UNMOGIP.

East Pakistan Crisis and Impact on India-Pakistan relationship

As discussed in the earlier chapter, the birth of Pakistan was based on the grounds of religion. Pakistan emerged as one of the largest Muslim populations in the world. It was divided into two 'wings' i.e. East and West Pakistan. They were vastly different from each other and separated by 1,200 miles of Indian territories. West Pakistan with an area of 310,000 square miles, contained large areas of desert and barren mountainous regions. It was Urdu-speaking region along with a huge influence of West Asian region. While the East Pakistan contains only 55,000 square miles area

and is a densely populated fertile area. It was annually flooded by the Ganges and Brahmaputra rivers and their numerous tributaries. It was Bengali speaking region, rich in the culture and had a literature of its own.

The initial period of parliamentary democracy in East and West Pakistan was hardly successful. The political life degenerated rapidly into a squalid tangle of self-seeking and corruption. Economic tension along with political crisis was built up between the two wings of Pakistan. The continuous growing insecurity among the Bengali nationals, discrimination, racism leads to East Pakistan crisis and ultimately the formation of Bangladesh.

With the coming of General Yahya Khan's regime, it established a constitutional government to manage the socio-economic, political and constitutional problem of the country. Yahya Khan decided to hold general elections in the country on the one-man-one-vote basis. Awami party in East Pakistan won 167 seats out of 169 seats allotted to that provinces in the assembly of 313 members, emerged as the party with an absolute majority in the National Assembly. The Awami League contested election on six points programme for greater autonomy, adopted for the purpose of restoring the right of Bangalees of East Pakistan, who were denied their right to self-determine their economic, administrative, defence and foreign services. The party which secured the second highest was PPP (Pakistan People's Party) led by Zulfikar Ali Bhutto in the western wing of Pakistan. The two parties confined their victory in their respective regions, visualising the clear demarcation of East and West in the sub-continent. Further Mujibur Rehman proposed to establish two committees in East and West and to provide complete provincial autonomy to East government. As a result, it caused a threat to the integrity of the country. Mujibur Rehman wanted West Pakistan to withdraw martial law and transfer the power with the constitution that was framed by West Pakistan constituent assembly (Dawn 1971).

It occasioned the immediate cause of 1970-1971 crisis, where Sheikh Mujibur Rehman's Awami League, the main political party of East Pakistan, won an overall majority of 55% of the seats in Pakistan, but Yahya Khan and the ruling Punjabi elite of West Pakistan refused to accept the democratic verdict of the people, and Martial Law was retained (Misra 1973: 17-18). The West Pakistan rulers not only denied the opportunity to Mujibur Rehman and his party to form the government in Pakistan but

arrested him and other leaders of East Pakistan. This added fuel to the fire, and it strengthened the people's desire for independence. As a result, the movement of non-cooperation escalated. Further violation of human rights, planned murders, disappearance led to a chaotic situation in East Pakistan and the production of refugees (Misra 1973: 19). The refugees cross the border of India to seek shelter and survival. In turn, it impacted the social, economic and security of India and India was compelled to take every possible action to deal with the crisis.

India set up the 'provincial government of Bangladesh' in exile in April 1971 with its headquarter in Calcutta and organised its militant wing; Mukti Bahini-Mukhti Fauj, the Liberation army (Zaheer 1994; Matinuddin 1994). Understanding the legitimacy of its cause through the establishment of Bangladesh headquarters in India, the refugees migrated due to the harassment by anti-state element and Indian infiltrator, fear and unsettled condition of survival. The influx of refugees from East Pakistan into India reached a figure said to be approaching ten million, imposed an intolerable strain on India, and put its economic and social security at risk. The developments in East Pakistan effected India-Pakistan relations. The negotiation with Pakistan was very vital to halt the flow of refugees and to avoid war.

The situation of racial discrimination against East Pakistan by West Pakistan was first raised in the Social Committee of ECOSOC in July 1971, and at the 51st Plenary Session of ECOSOC the United Nations High Commissioner for Refugees (UNHCR) reported on the refugee problem. On 16th August 1971, a representative of the International Commission of Jurists requested the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities to investigate the situation in East Pakistan and to make recommendations to the Commission on Human Rights in order to take measures to protect human rights and fundamental freedoms in East Pakistan. The issue remained without any conclusion, and thus the matter was closed after some time.

The matter was also raised by India in September 1971, in the Special Committee on Colonialism, but the Committee decided that since the General Assembly had not classified East Pakistan as a colonial territory, thus it was not authorised to discuss the situation (Dawson 1995; Behra 2006). The United Nations attempted to extend the deployment of the observers on the border of East Pakistan.

Further Secretary General suggested having representatives of UN High Commission for refugees stationed along both sides of the border which the Secretary General felt would be a less formal step than an observer mission (Dawson 1995: 269). While India insisted that it won't be possible for a small group of observers to stem the flow of refugees all along the border, nor would it be possible to persuade the refugees already in India to return to the atrocities from which they have recently escaped. India and the leaders of freedom movement of East Pakistan revolution believed that the Observers were primarily intended to inhibit India from rendering assistance to the liberation movement (Misra 1973: 36-37). As a result, at a meeting of ECOSOC in July 1971, India rejected suggestion to post UN observers on either side of East Pakistan's border with India in order to assist the voluntary repatriation of the refugees and likewise rejected.

Further, the Third Committee of the General Assembly was held to handle the social, cultural and human rights items and decided to consider the humanitarian aspects of the East Pakistan situation. Although the Committee was not supposed to discuss the political aspects, the debate inevitably dealt with these aspects indirectly. The significant problem and the contention of the debate were on the desire of the people of East Pakistan to control their own affairs and elect their own people as their representatives irrespective of UNMOGIP observers (Bose 2004; Dawson 1995).

The draft resolution in the Third Committee of the General Assembly appealed Pakistan to intensify its conditions to promote the atmosphere of good neighbourliness and to encourage the refugees to return to their homes. The resolution was finally adopted by the General Assembly (UN Rev. 2790/XXVI, 6.12.1971).

Representatives of several countries mentioned the situation of East Pakistan in the general debate in the General Assembly. The gross violations of the human rights which occurred in the East Pakistan questioned the legitimacy of the international community. Ironically, the General Assembly adopted the Resolution several days after the full-scale war begun. Unfortunately, the events overtake the decision by the General Assembly in 1971.

The continuous influx of refugees in India created social, economic, political insecurity. India intended to intervene in the liberation movement of East Pakistan militarily. Military force was only used as a last resort. India and Pakistan launched

ground and air operation not only at the eastern border but also along the Ceasefire line of Control.

In an attempt to cease India–Pakistan war of 1971, General Assembly and the Security Council call for negotiation from both the sides. In the Security Council Ambassador Y. A. Malik of the Soviet Union vetoed two draft resolutions calling for immediate cease-fire and withdrawal of troops on the ground. It failed to focus on the need for a political settlement in East Pakistan. He emphasised that the council must focus and deconstruct the origin of the conflict that is the repression of the people of East Pakistan by Pakistan army. He criticised that the Security Council and the world community is not considering the domestic crisis in East Pakistan and its international consequences (Behra 2006: 140).

The resolution veto by the Soviet referred the matter to the General Assembly. The overwhelming vote reflected the disapproving attitude by most states to the secession of Bangladesh from Pakistan and India's armed intervention. Many of them were no doubt anxious to discourage dissident minorities in their own states from taking the same course. Certain states criticised the Security Council for not taking action at the earliest and threatened international peace and security (Misra 1973: 40).

The United States on December 12, requested that the Security Council has to be resumed due to India's 'defiance of world opinion' in not respecting the General Assembly's call for cease-fire and withdrawal of troops. Ambassador George H. Bush stated that Pakistan's use of force does not justify the actions of India in intervening militarily and jeopardising the territorial integrity and political independence of its neighbouring country (Misra 1973: 40-41; Behra 2006).

The draft resolutions at the second series of Council meetings, on the whole, showed greater attention to the need for a political settlement between Pakistan and the elected leaders of East Pakistan, but India's military success in Bangladesh made these proposals academic. After the surrender of the Pakistan forces in Bangladesh and a de-facto cease-fire in both Pakistan and Bangladesh, the Security Council adopted a resolution demanding strict observance of the ceasefire and withdrawal of troops under the supervision of United Nations Military Observer Group (Misra 1973:49). Consequently, India withdrew its troops and recognised the Bangla nation.

As a result, the inability of the United Nations to have any significant impact on the events in East Pakistan questioned the basic attitude of the international community towards East Pakistan crisis. The most serious omission of the United Nations was its failure to act upon the authenticated reports of massive killings and other gross violations of human rights committed by the Pakistan army in East Pakistan. The United Nations had been recognised merely in the abstract that respect for human rights is an essential condition for the maintenance of international peace and security. The Secretary-General through his own initiatives launched a humanitarian relief program. When the Security Council has finally seized the question in December, it refused to consider the origins of the situation but dealt only with the India-Pakistan conflict.

The Development of Simla Agreement of 1972

The India-Pakistan war in 1971 was terminated within 14 days of India's military intervention, leading to Pakistan's defeat. As a result, it changed the fundamental geopolitics of South Asia. The modifications in the position, name, locations of the ceasefire line of control lead to substantial change in the position of the army forces of India and Pakistan (Lamb 1991: 296). The 1971 war culminated the capture of 93,000 Pakistani prisoners and a unilateral declaration of a ceasefire by India after the ground forces had made minor intrusions into West Pakistan. The India Pakistan war of 1971 ended with the signing of Simla agreement between the Prime Ministers of India Mrs Indira Gandhi and Prime Minister of Pakistan Mr Zulfikar Ali Bhutto. The agreement laid the principle foundation for the establishment of durable, friendly and peaceful cooperation. More significantly, it bounded the two countries to settle their differences peacefully through bilateral negotiations, to build the foundation of a cooperative relationship with a special focus on people to people contact and finally to uphold the sacredness of Line of Control in Jammu and Kashmir through confidence building measures. The following provisions and articles were contained in the Simla agreement signed between India and Pakistan:

1. The government of India and Pakistan end their conflict and confrontation and promote friendly and harmonious relationship with the establishment of peace

and welfare of the people. The dispute would be settled through bilateral negotiation, and neither side should unilaterally alter the situation and prevent any third organization's assistance undermining the peace agreement. It needed to maintain peaceful co-existence, respect for each other's territorial integrity, sovereignty and political independence, non-interference in each other's internal affairs. It should avoid hostile propaganda against each other and promote the development of the friendly relationship.

2. The relation between the two countries needs to be normalised step by step. The primary step is to resume communication, postal, telegraphic, sea, land and other means. The secondary step is to promote travel facilities for the nationals of the other country. The third step would involve the trade and cooperation in economic fields, and finally the exchange in the field of science and culture has to be promoted.
3. In order to establish durable peace, the government of India and Pakistan need to withdraw from their sides of the International border. In Jammu and Kashmir, the line of control needed to be respected by both the sides without prejudice irrespective of mutual differences and legal interpretation. They need to demarcate the line of control to function peacefully and bilaterally.
4. The agreement has to be ratified by both the countries with the respective constitutional procedures and come into effect the day instrument of ratification is exchanged.
5. Both the governments will meet in the future to discuss the modalities and arrangement for establishing peace and normalisation of relation. It would further include the question of repatriation of prisoners of war and civilian internees, a final settlement of Jammu and Kashmir and the resumption of diplomatic relations (Shimla Agreement 1972).

The decisions taken during Simla agreement continue to affect the Indian subcontinent, and it significantly impacts the rationale, mind-sets and logic in relationship. The agreement had many positive implications as both countries came to a negotiating table. Both agreed to withdraw their forces to their side of the international border. Both decided to respect the Line of Control resulting from

ceasefire of December 1971. This agreement changed the ceasefire line (CFL) established by the Karachi agreement signed on July 27th, 1949 into the Line of Control.

The major itinerary at Simla was to deal with the repercussion of the 1971 war and guide the resilient peace between India and Pakistan. There were widespread concerns and anxiety in Pakistan over the prisoners of war under India's control. There were unanimous demands in the press and Pakistan's national assembly for their early deportation. With India, Bhutto reluctantly showed any great concern for the POWs' early return. In these circumstances, there was nothing immoral or illegal about using the POWs issue as leverage to ensure a just and durable peace. In this war and aftermath, the role of UNMOGIP was nowhere to be seen.

No body demanded war indemnity from Pakistan or to hold onto territory across the international border forever. However, the issues of repatriation of POWs, Bangladesh's insistence on the trial of war criminals, the climate of public opinion in Pakistan for their early return, the elimination of the army as a factor in the formulation of Pakistan's policies, and the withdrawal of Indian troops from Pakistani territory were the important issues. Some of these issues served as a device to pressurise Pakistan to accept a fair and just solution of the Kashmir problem.

There was a viewpoint that Bhutto was willing to forsake the Indian-held two-thirds of Kashmir and agree on the ceasefire line to be gradually becoming the border between the two countries. It was viewed that Indira Gandhi committed major blunder by not linking these points to the issue of POWs and the withdrawal of Indian troops from Pakistani territory (Mustafa 1972:35-52). The Simla agreement merely focused on bilateral agreement to establish friendly and peaceful cooperation. The International Herald Tribune jagged out that the 'Shimla conference seemingly could agree on none of the functional issues dividing the two sides.' It was obvious that Indian negotiators never seriously linked those issues with the Simla Accord (Mustafa 1972:35-52; International Herald Tribune 1972).

When D. P. Dhar went to Pakistan for a pre-summit dialogue with Pakistani leaders, he was more anxious with the subject of acknowledgment of Bangladesh by Pakistan than the core issue of finding a long lasting solution to the Kashmir problem. While India held all the cards at Simla, it was Bhutto who called all the shots. It was

then being propagated that the greatest merit out of Simla accord was that the two countries decided to repudiate the use of force against each other (Behra 2006: 146). The image of India seeking security guarantees from a weak Pakistan projected its vulnerability and weakness related to the Kashmir issue. But even that commitment was jettisoned when Bhutto talked of a 1,000-year war, and later when Pakistan breached the accord by launching cross-border terrorism in Jammu and Kashmir. In Simla agreement Kashmir was accepted as a 'dispute.' It gave equal status to Pakistan permitting it to retain land occupied by it in J&K, thus sowing the seeds of future Kargil war. Pakistan got all these advantageous deals in this agreement even when Kashmir was not the cause of the 1971 War. There was a view that Indira Gandhi got carried away by euphoria, trusted Bhutto and let down the country and its soldiers (Bhushan 1968; Behra 2006; Mustafa 1972).

Impact of Shimla Agreement on Kashmir Issue

The 1972 agreement emphasised that neither country would alter the LoC unilaterally irrespective of mutual differences and legal interpretations (Shimla Agreement 1972). Many claimed that this promise had seldom been kept by both parties because on and off there are skirmishes on the line of control. These skirmishes have made the life of civilian population on LoC very volatile.

This 1972 agreement defining a Line of Control in Kashmir which, with minor deviations, followed the same course as the ceasefire line established by the Karachi Agreement in 1949. India is of the view that with the establishment of line of control by the Simla agreement, the ceasefire line established by the Karachi agreement came to an end. Therefore, according to India, the job of UNMOGIP had become redundant. Pakistan disagreed to this interpretation and held a view that the delineation of the line of control didn't affect the real issues surrounding the Kashmir dispute. Pakistan continues to support UNMOGIP and lodges complaints with this observer group whenever required (Reddy 2013: 56). Thereafter, India refused to cooperate with UNMOGIP and ignored it by not having any dealing with it (Misra 1973:69).

Many claimed that UNMOGIP is just the wastage of financial resources because its productivity isn't worth. They demand its abolition. However, The Secretary-General of the United Nations maintained that the UNMOGIP should continue to function because no resolution has been passed to terminate it and they are still legitimate to monitor along the line of control. It can't be abolished by the unilateral decision of India or Pakistan (Behra 2006). The international community has ignored Pakistan's attempts to internationalise Kashmir issue through UNMOGIP.

Continuous Ceasefire Violations on the Line of Control and Role of UNMOGIP

Despite Simla agreement, the ceasefire violations escalated within a decade of the agreement. The military authorities of Pakistan continued to lodge complaints with UNMOGIP about the ceasefire violations. However, India did lodge complaints since January 1972 and had restricted the activities of the UN observers on the Indian side of the Line of Control.

The violation escalated since 1984, claiming the region of Siachen Glacier by both India and Pakistan. The region was about 46 miles long, and 5 miles wide and was claimed by the government of India and Pakistan. In April 1984, the Indian army, in its surprise airlift operation controlled the glaciers. It was heavily retailed by Pakistan by seizing the significant point in the Saltoro Range on the southern side of the glacier. The two opposing military positions emerged into heavy artillery and mortal exchange. The glacier for 14 years acted against the test and nature of human endurance (Wirsing 1991:94, Wirsing 1994:75-83).

Pakistan claimed Siachen Glacier as its territory on two grounds. Firstly, Pakistan authority provided license expedition to the international mountaineering group in that area and secondly, the depiction of the area as Pakistan territory in the international map (Wirsing 1998: 25-26). Further, it claims that the notion of Simla agreement has been limited along northeastward, running towards straight line trajectory extending all the way to the Karakoram pass. While India, on the other hand, claimed that the entire area lying westward of the Saltoro range is seized by Indian armed forces in 1984 and claimed it as an Actual Ground Position Line

(AGPL) through Simla agreement. Despite demarcation of line between India and Pakistan, these wedged and un-favored human endurance area created a tussle between these states.

The inability of Indian and Pakistani forces to sustain and control in all weather on the glacier has complicated the situation of Kashmir disputes to the worst. The role of UNMOGIP became minimal and redundant. It did not monitor and report the growing ceasefire violations. Further the complaints were filed by one side blindfolded and without any investigation taken forward by Military observer groups (Wirsing 1998:28).

The violation further emerged with the Kashmir uprising in 1989, where armed resistance against India rule emerged in Kashmir Valley. The rigging of 1987 state legislative elections by the state resulted in the emergence of militant wings. Pakistan provided moral, diplomatic and armed assistance to the movement, reiterating the rhetoric of UN supported reference and plebiscite. While, India accused Pakistan of supporting the insurgency by providing weapon and training to fighters, leading to cross border terrorism and violation of Simla agreement (Pakistan Defence 2014: 2).

The decade of 1990s initiated with the signing of various agreements such as advance notification of military exercise, preventing airspace violation, a joint declaration on prohibiting chemical weapons. Despite that, the tension arouses with the series of clashes on the LoC. 1990s also saw both India and Pakistan becoming nuclear powers by detonation of nuclear tests. In 1999 Prime Minister of India Atal Bihari Vajpayee met Prime Minister of Pakistan Nawaz Sharif at Lahore to sign the Lahore Declaration and to revive the commitment of Simla Agreement through Confidence Building Measures. Unfortunately, the diplomatic relations eroded and Kargil war, which is the fourth war between the two countries, broke out as a result. UNMOGIP during these events was invisible without any monitoring, reporting of the ceasefire violations (Gupta 1967:46; Schofield 2003: 44).

The emergence of 21st century witnesses the full-scale military launch by Indian government against an alleged training camp of terrorists, including Kashmiri militant groups in Pakistan. In July 2001, Prime Minister Atal Bihari Vajpayee and Pakistan President Parvez Musharaf signed meet for two-day summit in Agra in order

to agree on the core issue of Kashmir (Pakistan Defence 2014:2). In 2003, General Parvez Musharraf called for ceasefire on LoC in a speech at the UN General Assembly in order to cool the tension and cease the hostilities across defacto border. In 2004, both the nations held bilateral meetings with the initiation of the composite dialogue process (Schofield 2003).

Following the tragedy of Samjhuta express, a revive talk on anti-ballistic missiles, and nuclear weapons held through composite dialogue process. The Mumbai attack in 2009 hotted the relationship between the two nations. Since then, the two armies exchange fire on LoC in Kashmir, leading to rising of tension in the area. In 2013, India and Pakistan trade accusations of violation of ceasefire in Kashmir. Islamabad accused Indian troops of a cross-border raid that killed a soldier and India charged Pakistan of destroying home and survival at its side. Pakistan filed a complaint against India at UNMOGIP. While India was completely reluctant on the presence of UNMOGIP on its own soil and neither filed any complain since 1972 nor cooperates with it. Thus, the role of UNMOGIP was minimal on the ground, despite frequent violations on line of control by both the countries. and believed to be capable enough to deal with its own issue. The failure and illegitimacy of UNMOGIP failed to take any prominent step in the region to maintain peace and stability.

The Current Status of UNMOGIP

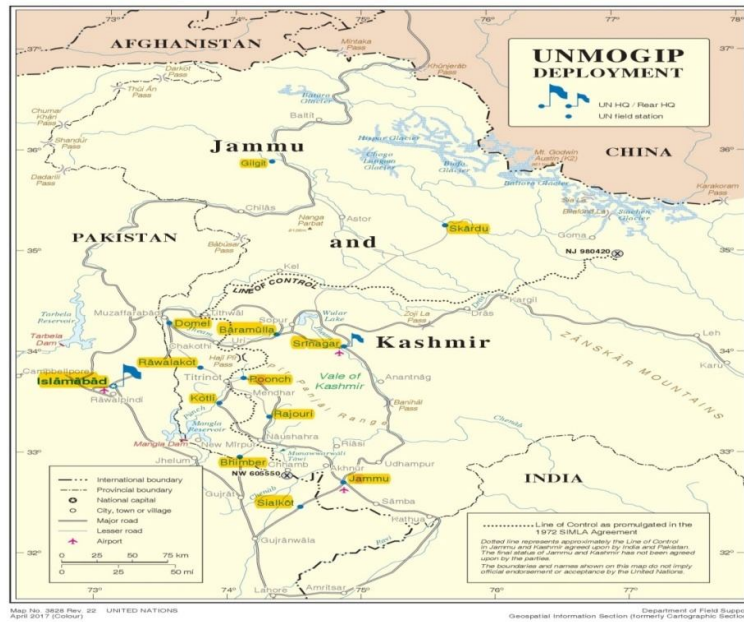
The prominent reason for the failure of UN in solving Kashmir dispute is that both India and Pakistan do not consider Kashmir as a disputed area. Instead, they both claim it is an integral part of their nations and are of the view that Kashmir is forcefully controlled by the opponent country. Also, due to immense pressure from the people, the governments of both the nations were reluctant to take any bold action to resolve the dispute.

Presently, the UNMOGIP is facing the challenges of its relevance and utility. Though, the official stand of government of India is that UNMOGIP is no more required because Kashmir issue is a bilateral issue. On the other hand, Pakistan still supports the presence of the mission.

Despite minimum role, UNMOGIP has maintained 44 military observers, 25 international civilian personnel and 47 local civilian staff at the Line of Control. The

United Nations Military Observer Group's headquarters is situated in Srinagar and Islamabad. While the UN military observers groups maintained its field station in the region of Gilgit, Sakardu, Domel, Rawalakot, Kotli, Bhiimber, Sialkot under the control of Pakistan administration of Jammu and Kashmir and in Jammu, Baramullah, Poonch, Rajouri under the control of Indian administration of Jammu and Kashmir.

Map:4:1 Deployment of UNMOGIP Personnel



Source: UN Map No 3828 Rev. 22, Department of Field Support, [Online Web] Accessed on 30 April 2017, URL <http://www.un.org/Depts/Cartographic/map/dpko/unmogip.pdf>

Despite their presence on the ground, there has been frequent violations on the line of control and UNMOGIP could not perform its responsibility. Several Indian and Pakistani civilians had been killed and many others injured as Pakistan targeted dozens of army outposts and villages, many numbers of times. Pakistan also levels allegations that Indian troops also violate ceasefire agreements and attacked innocents on LoC. These casualties were such a great concern for world community that UN chief Ban Ki-Moon has expressed readiness to engage with India and Pakistan in resolving the Kashmir issue if requested by both and asked them to resume talks to reach an agreement that would serve their security interests as well as that of the region (The Indian Express 2014).

Further, the formation of Modi government in India, it invited the head of government of all the neighbouring states to develop its friendly relations and to emancipate the disturbing neighbourhood. It attempts to create an environment to improve the Indo-Pakistan ties and to normalise bilateral talks. Modi's initiative to invite Pakistan for the oath taking ceremony was the positive gesture to develop the relationship on both sides of the border (Grare 2014: The Hindu). India attempted to adopt a patient attitude towards Pakistan and keep the border open for a better relationship. Pakistan, on the other hand, adopted opposing strategy (Grare 2014). Pakistani army does make a tempt to position its forces on the Western Front, while on the other hand, it curbs any temptation that enables the civilian government of Pakistan to enter into détente with India. The hardening of the position in Kashmir escalated the military buildup on both the sides of the LoC.

Even in 2017, the border skirmishes escalated and both accused each other of unprovoked firing and ceasefire violations. Following three months into the power, Modi called off the dialogue process when Kashmir Separatist leaders and Pakistan High Commission conducted a meeting despite being opposed by India. Despite of enthusiastic assurance to restore stable India-Pakistan relations, things gradually fall off from the track, and the violation of ceasefire escalated (Indian Defence Review 2016). The role of UNMOGIP is still minimal and invisible despite continuous violations of the ceasefire. India continued with its policy of not having anything to do with UNMOGIP, while Pakistan continued to file complaints to the military observer group without any productive outcome..

Though India didn't file any complaints since 1972, but it provided accommodation, transportation and other facilities to the observers (Miglani 2014: The Reuters). India was never comfortable with the presence of UN group monitoring its border and often believed that no external parties can have any role in resolving the disputes over Kashmir. India believes that Kashmir is its integral part and there is no need of a third party to intervene. In a bid to make its position known, the new government in India has asked the United Nations Military Observer Group to vacate its office from the premise of a government building. So, it depends upon the future developments between both the countries and role of international community in either making UNMOGIP more relevant of winding it off and save the resources being misused in such missions

Chapter 5

Conclusion

The League of Nations and the United Nations were based on the collective security system to maintain international peace and security. Under a collective security arrangement, an aggressor against any one state is considered an aggressor against all other states, which act together to repel the aggressor. So, it is expected of collective response to suppress the aggressor anywhere in the world to restore international peace and security. It was regarded as much more effective than the balance of power system, which was replaced by it.

However, objective and subjective requirements for effective functioning of the collective security system did not exist both after the First World War and the Second World War. In the post-Second World War, instead of peace loving countries being united together, there emerged bipolarisation of international community into two major Western and Eastern blocs. The Cold War between these two blocs prevented effective operationalisation of the collective security system. Thus, the United Nations remained deadlock as the major powers in the UN Security Council could not reach any decision. In this situation of UN standing helplessly with war breaking out in various parts of the world, the middle powers like Canada and India played major part in an attempt to do something to deal with the wars and conflicts in the world.

From these attempts developed a new mechanism of managing the conflict and that mechanism came to be known as peacekeeping operation. The peacekeeping operation was never thought of and not mentioned in the UN Charter. It developed through trial and error in the context of failure of collective security system. This mechanism has become the most visible form of United Nations dealing with the conflicts in the world.

One of the first peacekeeping operations deployed by the United Nations and still continuing to operation is the United Nations Military Observer Group in India and Pakistan (UNMOGIP). It was deployed in 1949 after the war between India and

Pakistan over Kashmir issue. To understand why and how UNMOGIP was started, one needs to understand the history of Kashmir.

The multi-ethnicity and multi-religious characteristic of Kashmir evolved over the centuries. The history could be dated back since 7th century that laid the foundations of the region. The history of Kashmir is sketch through the regime of Kalhana which depicts the degeneration of Brahminism before the initiation of Ashoka's rule in these territories. Ashoka, the founder of the old city of Srinagar called 'Pandrethan', along with the spread of Buddhism built many temples. During the regime of Kushans, Buddhism became the state religion, spreading the teachings to China and Tibet. With the establishment of Gonanda dynasty, the region witnessed the emergence of Hinduism. As a result, the majority populace of Kashmir was dominated by Hinduism and Buddhism at that time. With the death of Avantivarman (the ruler of Utpal dynasty), Hinduism came to an end, and it marked the beginning of Muslim rule. The timely overthrowing of the ruler of Kashmir from Sahadeva to Buddhist Prince Rinchen to Udyanadev and finally the establishment of Shah Mir of Swat Valley from Dardistan lead to the establishment of Muslim rule in the region in 14th century.

Some of the Muslim rulers, such as Zain ul Abdin, were just and gave liberal treatment and freedom of worship to the Hindu population and other religions in Kashmir. Hereafter, some indigenous Kashmiri rule in Kashmir was established.

However, with the intervention of Mughal Empire Akbar, the rule of indigenous Kashmir rule ended with the beginning of foreign rule. Though Akbar's administration was fruitful but Kashmir was degraded into a vassal state. Mughals mostly focused on the aesthetic beauty of the valley than on its subjects. Though Mughal ruled for 106 years and made significant progress in certain aspects but the sense of Kashmiri pride both in Muslim and non-Muslims was missing.

It resulted in the secular tinge of Kashmiris and lack of Mughal legitimacy. The ban on army services on Kashmiri people by Mughal demoralised a martial race. Moreover, Mughals' visit to Kashmir was recreational rather than political. As a result, long series of systematic tyranny and oppression lead to the revolt of Kashmiris against this foreign rule.

In order to counter the Mughal domination, Kashmiris invited Ahmed Shah Abdali of Afghanistan to invade Kashmir and establish its rule. The Afghan rule in Kashmir was more torturous than the Mughal rule. It undermined the productivity and welfare of Kashmiris and was known for savage, tyrant, barbarous and inhumane treatment especially towards Kashmiri Pandits.

Kashmiris fate irrespective of religion whether Muslims or Non-Muslims was written with sufferings in the case of Mughal and Afghan rule as well. The suffering of Kashmiris led to a revolution against Afghans by the Sikh community of the region. The troops of Maharaja Ranjit Singh defeated Afghani Pathan and annexed the state of Kashmir as the part of his empire. Unfortunately, the Sikh rule of Maharaj Ranjit Singh did not initiate welfare and developmental functions in the state.

With the arrival of British in the nineteenth century and expanding their domain of power by annexing territories, Kashmir served as a significant strategic position to them. They signed the 'Treaty of Friendship' with Maharaja Ranjit Singh. Later, due to decaying position of Sikh empire, British kept a keen eye on the political situation in Kashmir, which resulted in Anglo-Sikh war in 1846. The growing political confusion was a major concern for the British, and it needed to establish stability in its North-West Frontier in India to balance its power strategies. Due to fractional infighting, the rule of Maharaja Ranjit Singh declined, and the tussle between Maharaja Karak Singh and Dogra rule escalated. Gulab Singh, the Dogra chieftain, consolidated its prominent position in Jammu region.

Gulab Singh became the most powerful ruler in Kashmir following the death of Hari Singh. Finally, Sikh kingdom was defeated, and Gulab Singh signed the 'Treaty of Lahore' with British to redraw the boundaries. As a result, Kashmir was sold to Gulab Singh with an obligatory treaty for not to make any alteration in the boundaries of the territory without consulting the British government. Any dispute and arbitration rise from the region needed to be submitted to British authority whose decision would be binding and final.

During the Dogra rule, division was created between Hindu and Muslim followers. Despite highly fragmented Muslim majority, the socio-economic conditions of the Kashmiris were degraded with the continuation of *Jagirdari* system. The Kashmiris witnessed all sorts of oppression along with degrading education,

discrimination in state machinery and bureaucracy on the basis of religion and caste. Due to grave injustice on Kashmiri Muslims, the outrage emerged in Kashmir revolting against the Dogra rule.

Under the leadership of Sheikh Abdullah, the protest grew enormously against the grievances of Muslims and the issue was further enquired by establishing Glancy commission. It granted freedom of press and ban on the formation of political associations was lifted. As a result, Muslim League and Indian National Congress became dominant players in Kashmir. On the one hand, Muslim League was trying to woo the Muslim population under its influence. On the other hand, Sheikh Abdullah was more inclined towards Nehru's idea of secularism. This was the situation on the eve of partition of Indian sub-continent in 1947.

The Partition Plan of Indian sub-continent gave the freedom to the princely states to decide to join either India or Pakistan. The idea of partition plan usually restricted with the geographical continuity and wishes of the people. Kashmir, with a Muslim majority and a Hindu ruler, were reluctant to join either of the two newly established countries. Instead, Maharaja signed a standstill agreement with Pakistan. The objective of this agreement was to ensure that the services of trade, communication and travel remain as they were with the British India.

However, India did not sign the standstill agreement with Maharaja and this raised the suspicion among Pakistanis that India was making different arrangements for Kashmir. In some places in Kashmir, people launched 'no tax' campaign against Maharaja, and slowly it led to organised revolt against the Dogra regime which was soon followed by the tribesmen invasion. India accused Pakistan of direct involvement in the tribal raid. The accusation and counter-accusation created instability in the region. Maharaja sought India's military support to deal with the situation and signed the Instrument of Accession to join Indian state. The continuous intervention of Pakistan military in the region of Azad Kashmir and their assistance to the tribesmen initiated the war that broke out in later part of 1947 between India and Pakistan. India took the matter to the United Nations.

India lodged a complaint against Pakistan for assisting tribesmen under Article 35 of the UN Charter. Pakistan reacted while accusing Maharaja of mass genocide of Muslims and proposed United Nations to consider the legitimacy of the instrument of

accession, to arrange cessation of hostilities, withdrawal of outside forces and rehabilitation of refugees. Understanding the situation of India and Pakistan through their complaint, United Nations shifted the core of dispute from 'Jammu and Kashmir problem' to 'India and Pakistan Question'. The United Nations established United Nations Commission for India and Pakistan (UNCIP) to investigate the problem and exercise a mediatory role.

The UNCIP recommended Pakistan to withdraw of its assistance to tribesmen and the cessation of fighting in the region of Kashmir. It recommended India to conduct Plebiscite, to cooperate with the state government in all regards, withdrawal of Indian army from Kashmir, to release political prisoners and to create a suitable environment. The reluctance of India in withdrawing the troops and being apprehensive of Pakistan's stand created obstacles in resolving the issue, while Pakistan on the other hand questioned the guarantee for free plebiscite and withdrawal of Indian army from the State of Jammu and Kashmir.

The rigid attitude of both the nations forced the commission to hold a joint meeting with the military representatives of India and Pakistan in order to establish ceasefire line between India and Pakistan. The delineating ceasefire line between India and Pakistan was contained in the Karachi Agreement signed between India and Pakistan in 1949. The negotiation process and signing of the agreement did not include any representative of the disputed area. The agreement indirectly acknowledged in the northern area of Kashmir under the control of Azad Kashmir. The United Nations established military observer group (UNMOGIP), at the initial stage to assist the Commission and later to supervise the observance of the ceasefire line agreed in the Karachi agreement.

The significant task of UNMOGIP was the supervision of the Karachi Agreement and to keep a check on the quantum of forces within the state of Jammu and Kashmir and make sure that their strength did not exceed the number of forces that were employed during Karachi Agreement. The task of the military was the investigation, gathering enhanced information, reporting completely, accurately and impartially as much as possible. It also included defining and clarifying the ceasefire line on the ground and reporting to the headquarter any planned military exercise or any planned firing or explosives within the vicinity of the line notified by the local

commander, to facilitate the meeting on the ceasefire line and coordinate plans and solve the problems (Dawson 1995: 70-71). It usually reported the situation and avoided any sort of direct intervention.

Following the termination of UNCIP on 30 March 1951, the Security Council decided that UNMOGIP would continue to supervise the ceasefire line in Jammu and Kashmir. It was assigned with functions to observe and report, investigate complaints of ceasefire violations and submit its findings to each party and to the Secretary-General (UN Document (1951)). The fluctuating number of military in the UNMOGIP throughout the decade remains for various reasons. Firstly, it was difficult for contributing countries to maintain their regular contribution; secondly, it was morally bad and unrepresented to have too many officers from one country. And sometimes the life for the military became monotonous and sometimes uncomfortable.

Despite establishment of UNMOGIP, the continuous ceasefire violations occurred on both sides of the region. Both the governments of India and Pakistan manipulated the resolution, questioned the legitimacy, authenticity and objectiveness of United Nations. India converted the ceasefire line into the permanent frontier border, while Pakistan preferred to perpetuate the crisis. India criticised UNMOGIP for projecting the disinclination towards the bilateral discussion. The manipulation of the line and continuous violations led to 1965 war between India and Pakistan.

With the wake of 1965 war, Security Council passed a resolution to exert every possible effort to strengthen United Nations Military Observer Group. In the pursuit of the mandate of UNMOGIP, both the sides expressed their desire for a cessation of the hostilities, while the condition of the ceasefire was not acceptable to any of them. Following the circumstances, the Security Council decided to take various steps under the supervision of UNMOGIP. It requested the two governments to desist from further military action, provide assurance to the observer of ceasefire maintenance and the withdrawal of personnel on both the sides and request two heads of the government to arrange friendly meetings in order to discuss the situation and the problem underlying it and to resolve the outstanding differences between the two. During the war, the hostilities extended beyond the ceasefire line of Kashmir and to

set up administrative assistance United Nations India-Pakistan Observation Mission (UNIPOM) was established for the immediate and sole purpose of supervising ceasefire line along the border.

The ceasefire agreement after 1965 war was implemented in two stages and good offices of UNMOGIP and UNIPOM were required to ensure action adherence to this agreement. First stage deals with implementation of the ceasefire along with ceasefire line and the second was withdrawal of the troops. With the withdrawal of the troops, UNIPOM was terminated in 1966, and 59 additional observers were appointed for Military observer groups.

Despite many efforts, the ceasefire was not held by any of the nations. Security Council continuously forced the government of India and Pakistan to cooperate with the United Nations and cease all military activity. Due to various challenges, the role of UNMOGIP remained undermined. It's decreasing its number of military officers, lack of serious attributes, failure to demarcate the task and duties destabilised the situation on ground realities.

The lack of communication, food, accommodation, health undermined the morale of the observers. Initially both the countries dragged United Nations into the situation and lodged the complaints against each other. The sole and most prominent challenge for the UNMOGIP was to check veracity and correctness of these complaints. Secondly, the national interest of the nations became more important than the recommendation and suggestions of the Observer groups. Besides these problems, major challenges developed from the unsuitability of the line of economic and administrative boundary.

In order to counter these challenges, a report was formulated by the delegates from Norway, General A.G Mc Naughton for the solution of the problem. Firstly, it led to the withdrawal of the regular forces by both the sides' simultaneously. And then the Northern Area needed to be brought under the scheme of demilitarisation.

Both India and Pakistan cooperated with UNMOGIP and gave assistance to enable it to carry out its mandated functions. Both India and Pakistan also lodged complaints against each other of violating the ceasefire line.

The dispute over Kashmir issue became intractable problem due to multiple factors. The different perceptions regarding the issue and failure on part of India and Pakistan to reach a consensus on plebiscite are definitely one of the most important factors. Another major factor contributing to making the issue difficult to solve was the Cold War politics. Both the superpowers looked at the issue through their own prism of Cold War rather than trying to resolve the crisis in an unbiased manner. Another factor which increased the tension between India and Pakistan has been the frequent wars between the two countries. They already fought two wars in 1948 and 1965. The consequence and subsequent development of the third war of 1971 had great impact on the role and functions of UNMOGIP.

The immediate cause of 1971 war was the general election in Pakistan that was held for the first time since the imposition of martial law in 1958. Sheikh Mujibur Rahman's Awami League, the main political party of the East Pakistan won an overall majority of 55% of the seats but Yahya Khan and ruling Punjabi elite of West Pakistan refused to accept the democratic verdict of the people and martial law was retained. It led to protest and later liberation movement of East Pakistan demanding freedom. The West Pakistan reaction led to violation of human rights, inhumane treatment, disappearance, murder in East Pakistan. These developments caused many of them seek refuge in India. As India was compelled to take the growing number of refugees, it imposed intolerable strain and put economic and social security risk. To halt the growing refugees, India intervened in the crisis in East Pakistan leading to the third war with Pakistan in 1971.

The United Nations considered the crisis as internal matter of Pakistan and refused to authorize any action. Instead, it intended to deploy the observers on the border line of East Pakistan. While the suggestion was rejected by India claiming that small group of observers would not be able to monitor the flow of a large number of refugees. India blamed the UN for being hesitant for rendering its assistance to liberation movement in East Pakistan. Despite the presence of UMOGIP, it could not prevent ceasefire violations.

In reaction to these developments, the UN Security Council remained deadlocked but the UN General Assembly passed two resolutions demanding the withdrawal of the troops and to deconstruct the origin of the conflict. The failure of

United Nations to deal with the crisis in East Pakistan undermined its effectiveness and legitimacy. This war ended with the signing of the Shimla agreement between Indira Gandhi and Zulfikar Ali Bhutto in 1972. One of the major agreements was that both the countries took a pledge to work cooperatively for durable peace. One of the basic guidelines of this agreement is the peaceful resolution of all issues through bilateral channels. This agreement changed the ceasefire line (CFL), established by the Karachi agreement into the Line of Control. According to India's interpretation of the Simla agreement, as the ceasefire line established by the Karachi agreement ceased to exist, the job of UNMOGIP has become redundant. Many in India held the view that UNMOGIP has outlived its utility. However, Pakistan has disagreed with this interpretation of India and holds the view of continue relevance of UNMOGIP.

As the legitimacy of an operation does not merely depend on the strength of international institution but also on the cooperation and acceptability of the host states, UNMOGIP faced with acute legitimacy crisis. Thereafter, India refused to cooperate with UNMOGIP and ignored it by not complaining any more of Pakistan's ceasefire violations and not having any dealing with it.

Following the decade of Simla agreement, the ceasefire violations escalated. India continue with its policy of not having anything to do with UNMOGIP, and did not file any complaints of Pakistan's violations of ceasefire, while Pakistan continued to file complaints against India to UNMOGIP. These complaints were one-sided and without any investigation taken by Military observer groups. The violation occurred with contesting the position of both the nations through Siachen glacier, the resistance of Kashmir uprising, the denotation of nuclear weapons and finally the war of Kargil in 1999.

In fact, in 1999 Prime Minister of India Atal Bihari Vajpayee meet Prime Minister of Pakistan Nawaz Sharif at Lahore to sign the Lahore Declaration and to revive the commitment of Simla Agreement. Unfortunately, the diplomatic relations eroded and Kargil war, which is the fourth war between the two countries, broke out as a result.

With the Modi government as a result of the last general elections in India, initially followed the passive and patient attitude and kept the border open for a

better relationship without making any unilateral concession to Pakistan. However, Pakistan projected its passion for reaching out a permanent solution to Kashmir issue.

However, by 2017, both the nations hardened their position. In the recent years witnessed the full-scale military launch by Indian government against an alleged training camp of terrorists, including militant Kashmir groups, in Pakistan. There are increased exchanges of firing at the Line of Control. Although Pakistan continued to lodge complaints to UNMOGIP against India's violation of the Line of Control, India refuses to deal with it even now.

Thus, the role of UNMOGIP was minimal on the ground, despite frequent violations of line of control by both the countries. In 2016, some of the UN officials claimed that the United Nations was playing role in addressing the recent escalated tension between India and Pakistan. The United Nations had to backtrack the assertion and reaffirmed that its mission was restricted to monitoring only Line of Control. Thus, it is obvious that non-cooperative attitude of India as a host state is the major factor that reduced the significance and effectiveness of the UNMOGIP.

This research has eight research questions to investigate. The first question is "Why did India take the Kashmir issue to the United Nations?" This has been answered in chapter III, where it has been stated Nehru expected the United Nations to condemn Pakistan's action and assist India to deal with Pakistan. However, as discussed in chapter III, India found the table turned against it in the United Nations.

The second question is "Under what circumstances did the United Nations authorise the establishment of the UNMOGIP?" This question has been also answered in Chapter III, where it has been discussed extensively that the circumstances led to its establishment. It also discussed how the situation of its operation has undergone change with the Simla Agreement.

The third research question is, "How politics of permanent five (P5) members did impact the UN Military Observer Group in India and Pakistan?" The politics of P5 in the situation leading to formation of the mission has been discussed in chapter III. However, after the deployment of mission, there has not been much of politics, as from 1972 onwards it has become defunct.

The fourth question is “Why and how did the mandate of UNMOGIP change over the period?” This again is answered in chapter III, as it has been discussed that with the end of the Commission, major responsibility of the United Nations in the crisis was mandated to the mission. However, there is not much change after 1972.

The fifth question on “Why is there a phenomenal shift in India’s approach towards UNMOGIP after 1972?” This has been discussed in chapter IV. It has been discussed that India had different interpretations of Simla Agreement from that of Pakistan. India’s understanding has been that with the Simla Agreement, ceasefire line has been changed to the line of control and so the UNMOGIP has become defunct. That is the reason why India’s approach to UNMOGIP changed after 1972.

The sixth research question is “How has the relation between UNMOGIP and the host countries impacted the performance of the mission?” This has been again answered in Chapter IV where, it has been discussed that in the perception of India, UNMOGIP’s mission had been completed with the signing of Simla Agreement between India and Pakistan in 1972. The core agreement in this has been that they had agreed to settle all the problems bilaterally. Further, the Simla Agreement converted ceasefire line into the line of control and so according to India, UNMOGIP’s completed its task and there is no ceasefire line to monitor. Thereafter, India had no dealing with the mission. Although, the mission continued to exist even till now, it has no effective role to play, mainly due to India’s uncooperative attitude towards it.

The seventh research question is “Did UNMOGIP contributed towards maintaining status quo of the conflict rather than facilitated finding a solution?” This has been answered in chapter IV as it shows that there is no prospect of finding the solution even after nearly seven decades of stalemate.

The last question is “What are the major factors that act as impediments to finish unfinished work of UNMOGIP?” It has been discussed in Chapter IV where it has been highlighted the current status of UNMOGIP and how various attempts made since the end of 1990s which failed and how various factors continue to impede the likelihood of finding an amicable solution to the Kashmir issue.

This research has three hypotheses. The first hypothesis is “The frequent wars between India and Pakistan prevented the resolution of Kashmir crisis and exit of the

UNMOGIP.” This hypothesis has been substantiated in both chapters III and IV, where it has been highlighted that four wars, i.e. 1948, 1965, 1971 and 1999 wars intensified the animosity between the two countries, increased the trust deficit, leading to finding the lasting solution difficult.

The second hypothesis dealt here in this study is “The non-cooperative posture of India as a host of UNMOGIP damages India’s international image”. It has been dealt in Chapter IV and this hypothesis is nullified as many of the countries in the United Nations understands India’s difficult situation of dealing with Pakistan and involvement of some great powers, backing Pakistan. So, India’s perception of UNMOGIP becoming defunct has not been internationally condemned.

The third hypothesis of the study is “The tactics of proxy war and the cross-border terrorism in recent years enhance the significance of the presence of UNMOGIP.” This hypothesis has been nullified in Chapter IV as increased violations of line of control through proxy wars and cross-border terrorism did not enhance the significance of UNMOGIP.

Overall, it could be safely concluded that this issue has become intractable. Unless there are drastic changes in international relations, specifically in geopolitics of South Asia, this crisis is likely to continue, including minimal role for the UNMOGIP. According to the norms of the UN peacekeeping operation, a host country can withdraw its consent to the deployment of the UN peacekeeping operation. If that happens, for example Egypt’s withdrawal of the consent of UNEF, the UN required to withdraw the deployment of the operation from the territory of that host state.

In the case of India, although it did not approve of continued presence and relevance of the UNMOGIP, India did not withdraw its consent of deployment of the UNMOGIP. As Pakistan is in favour of deployment of the UNMOGIP, demanding withdrawal of the mission would adversely affect India’s interests. This seems to be the reason why India’s non-cooperation did not result in demand for withdrawal. If and when India and Pakistan develop political will to resolve the issue of Kashmir, UNMOGIP may play a major role in the process. Till then, it appears that UNMOGIP continue to be deployed with minimal tasks to perform. This operation could be used

as an example for how the operation contributes in sustaining the conflict rather than resolution of the crisis.

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