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Kashmir Issues and UNO

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In News: German foreign minister calls for UN role to resolve Kashmir dispute.

What is Kashmir Dispute?

The Kashmir conflict is a territorial conflict over the Kashmir region, primarily between India and Pakistan, with China playing a third-party role. The conflict started after the partition of India in 1947 as both India and Pakistan claimed the entirety of the former princely state of Jammu and Kashmir. It is a dispute over the region that escalated into three wars between India and Pakistan and several other armed skirmishes. India controls approximately 55% of the land area of the region that includes Jammu, the Kashmir Valley, most of Ladakh, the Siachen Glacier, and 70% of its population; Pakistan controls approximately 30% of the land area that includes Azad Kashmir and Gilgit-Baltistan; and China controls the remaining 15% of the land area that includes the Aksai Chin region, the mostly uninhabited Trans-Karakoram Tract, and part of the Demchok sector.

Kashmir which remained highly disputed region of south Asia was always volatile since early 1930s. Earlier Muslim majority was fighting against Hindu minority rule (Maharaja Hari Singh). Later a Muslim elite emerged in the form of Sheikh Mohammed Abdullah, who in early 1950s along with Nehru eluded Kashmiri Muslims of almost Kashmir independence within Indian framework.

After defeating Pakistan in 1947 and UN mediated a ceasefire in 1948 Nehru retreated from his earlier promise of plebiscite in Kashmir so the deal b/w Sheikh and Nehru failed and Nehru even has to jail his close friend Sheikh. Since then fundamentalism against Indian state aroused in valley which caught fire in late 1980s with the help of Pakistan.

What is UN Resolution in this matter?

The year 2023 will mark the 75th anniversary of the First Indo-Pakistani War over Jammu and Kashmir (simplified as Kashmir from hereon in) and United Nations (UN) Security Council Resolution 47. This resolution stipulated that both India and Pakistan should withdraw their military forces and arrange for a plebiscite to be held in order to provide the people of Kashmir the choice of which state to join (S/RES/47). Ostensibly this resolution was an effort by the UN Security Council to put the right to self-determination into practice. The basis for this decision is at the heart of the UN Charter itself. Although the UN Charter famously calls for the 'equal rights and self-determination of peoples' in Article 1, Article 2 also clearly states 'nothing contained in the present [UN] Charter shall authorise the UN to intervene in matters that are essentially within the jurisdiction of any state' (1945, 3). As the peoples seeking self-determination are inherently within a state, the norm of self-determination typically finds itself in conflict with the norm of state territorial integrity. The situation becomes further confused when the people in question occupy a territory that is contested between two sovereign states, as is the case in Kashmir.

Self-Determination, Sovereign Territorial Integrity and the UN

One significant source of tension that exists within the theory and practice of international law is between the principle of self-determination and the norm of state sovereignty, especially when it concerns the state's territorial integrity. Broadly defined, self-determination is the philosophical and political principle that people should have the right to shape their own political, economic and/or cultural destiny. In contrast, the norm of sovereignty refers to

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the claim of a state, recognised by other states, to be the exclusive political authority within a specific territory. Whilst self-determination is often the foundation for a state, it becomes an issue when an aspirant people seek to separate from an established state, either attempting to establish their own separate state (secessionism) or to join another state (irredentism) (Taras and Ganguly 2006, 41–44). The norm of state sovereignty has two primary components.

The first is the principle of non-interference, or the expectation that states should be free to conduct their internal affairs without any outside interference. The second is the principle of territorial integrity, or that a state's borders are sacrosanct and thereby should not be altered without the consent of all relevant parties. In other words, the territorial integrity aspect of the norm does not recognise the right of people to engage in a unilateral secession, whilst the non-interference requirement ensures that international actors cannot legitimately compel the state to do so

What are all the suggestions regarding Dispute Resolution?

The dispute can be addressed from two sides, and we need to analyse which pays off better in order to determine whether Pakistan is in the equation or not

- With Pakistan: The Kashmir dispute is escalated by political instability in Pakistan. Needless to say that Pakistani foreign affairs is managed by its army rather than the government. The dispute over Kashmir is engraved in the hearts of its military because of the crushing defeat it has faced each time it tried to counter India. It is very much unlikely that they forget their defeats and join hands with India. As our PM had said, Talks are of no use when there is bombs and guns are exploding in the border.
- Addressing the people of Kashmir: Kashmir dispute is mired by separatist groups functioning there who claim independence for Kashmir. Not all people in Kashmir are satisfied with the development that Kashmir has seen. They are also highly affected by the misfiring that happens time to time and are not happy with the huge military presence in the valley. When these issues are resolved their confidence on the Indian government would be undoubted and the Hurriyat would face its end due to lack of support.

Nationalist Solution?

As Kashmir being integral part of India, there is no point in talking about its independence.

- First deal more effectively with anti-national elements. Severe Reprisal policy should be followed.
- Along with this go for more development.
- Also push for POK, a part of Kashmir we have forgot (even we tried to give it to Pakistan in Shimla(1972)-LOC).