

**Prime Minister's Office
South Block, Raisina Hill
New Delhi-110011**

October 11, 2017

Dear Prime Minister Narendra Modi,

For years the government of India has maintained that Pakistan did not fulfil the preconditions for a plebiscite in Jammu and Kashmir. It maintains that plebiscite was “conditional upon Pakistan fulfilling Parts (I) & (II) of the United Nation’s resolution of 13 August, 1948 which required Pakistan to withdraw its troops and to secure the withdrawal of both tribesmen and Pakistani nationals and that India would withdraw the bulk of its forces once the UN Commission confirms that the tribesmen and Pakistani nationals and Pakistani troops are being withdrawn.” The government of India believes that Pakistan never fulfilled these commitments and argues, because Pakistan did not withdraw its troops from the state, normal conditions under which a plebiscite could be held were never created.

Attached herewith is the image of India’s Ministry of External Affairs’ website which claims that the government of Pakistan did not fulfil the preconditions for a plebiscite in Kashmir.

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The Jammu and Kashmir Issue

April 01, 2003

Non-implementation of UN Resolutions by Pakistan

6. Despite India's completely legal and valid position on Jammu & Kashmir, in order to find a solution to the situation created by Pakistan's aggression, India had accepted the option of holding a plebiscite in J&K. It had, however, been made clear by the Indian leaders that holding of such a plebiscite would be conditional upon Pakistan fulfilling Parts (I) & (II) of the UNCIP resolutions of 13 August, 1948, which inter alia, required that all forces regular and irregular under the control of both sides shall cease fire; Pakistan would withdraw its troops, it would endeavour to secure withdrawal of tribesmen and Pak nationals and India will withdraw bulk of its forces once the UNCIP confirms that the tribesmen and Pak nationals have withdrawn and Pak troops are being withdrawn. India was also to ensure that the state government takes various measures to preserve peace, law and order. Indian acceptance of these UNCIP resolutions was also subject to several conditions and assurances given by UNCIP including that Pakistan would be excluded from all affairs of Jammu & Kashmir, "Azad J & K Government" would not be recognised, sovereignty of J & K government over the entire territory of the state shall not be brought into question, territory occupied by Pakistan shall not be consolidated, and Pakistani troops would be withdrawn completely. Pakistan never fulfilled these assurances.

Preconditions for Plebiscite Never Fulfilled by Pakistan

7. The Government of Pakistan wrecked any possibility of plebiscite being conducted by not implementing part II of the resolution, perhaps because it was fully aware of what the result of such an exercise would be. The Pakistani troops, which were to withdraw from the state, did not do so. As a result normal conditions under which a plebiscite could be held were never created.
8. India had accepted these resolutions, subject to assurances, (mentioned in para 6) and in the hope of having the matter resolved quickly. Pakistan, however, wrecked the implementation of the resolutions at that time by not fulfilling the preconditions. As V.K. Menon stated in the Security Council (763 Meeting, 23 January, 1957): "if an offer is made and it is not accepted at the time it is made, it cannot be held for generations over the heads of those who made it". With Pakistan's intransigence, and passage of time, the offer lapsed and was overtaken by events. In fact, the representative of India (M.C. Chagla) had stated in the Security Council as far back as 1964 (1088 meeting, 5 February 1964): "I wish to make it clear on behalf of my Government that under no circumstances can we agree to the holding of a plebiscite in Kashmir".

The claims that Pakistan did not fulfil the preconditions for a plebiscite are incorrect.

In October 1967, a United Nations mediatory report on Kashmir noted that in the provisions of part II of the 13 August 1948 resolution, the requirement for the withdrawal of all the Pakistani forces was related to the required withdrawal of the bulk of Indian forces in stages to be agreed upon by India and the UN Commission. The report stated that **such an agreement was not reached with India by the UN Commission or by several successor UN mediators.** "This failure of India and the UN Commission and the UN Representatives to reach such an agreement, provided in part II of the UN resolutions of August 13, became the reason for Pakistan's failure

to withdraw all of its forces from Kashmir, which, in turn, was held by India to be a reason for not accepting proposals leading to a plebiscite.”

This report also noted; “Pakistan, which had, as had India, made some withdrawals of its forces from Kashmir, would not withdraw all the remainder of its forces from Kashmir, which was provided for in A 1 of part II of the 13 August 1948 resolution, as long as India did not reach agreement with the UN Commission, or their successors, on related but not simultaneous withdrawals of “the bulk” of the Indian forces and “the stages” of the withdrawals of “the bulk” which stages of withdrawals by India in agreement with the Commission, were provided for in B 2 of part II of the 13 August 1948 resolution.”

The report also noted that Pakistan accepted and India rejected most of the basic proposals of the several UN mediators for resolving the deadlock in demilitarisation.

Therefore, I encourage your Administration to remove the above underlined statements from your government’ website.

Furthermore, the government of India not only refuses to hold a plebiscite, it considers Kashmir as an integral part of India. It neither wants to negotiate with Pakistan nor wants any third-party mediation to resolve the issue. The same report also emphasises that the UN resolutions on Kashmir are not only a bilateral agreement, but are also an international agreement and “any unilateral declaration by India or Pakistan on the permanent status of the State of Jammu and Kashmir cannot nullify the position and responsibility of the primary peace-keeping and executive body of the United Nations, namely, the Security Council.”

For complete report, kindly see **S-0868-0001-05-00001: Peace-Keeping Operations Files of the Secretary-General: U Thant- India/Pakistan**

Sincerely
Muhammad Abdul Qadeer
Strategic Studies
Institute, Islamabad (SSII)