

CHAPTER - V

PRISONERS OF WAR ISSUE

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It was agreed by both the sides that hostilities would continue until a truce was signed. But prisoners of war was the main obstacle in the path of truce. Truce delegation had discussed the same problem for eight months and still their differences were not narrowed down. United Nation's command favoured the return of all prisoners except those who would voliently resist repatriation. " The Chinese - North Koreans stand was that all prisoners without any exception must be return"<sup>1</sup>.

When in October, 1952, the seventh session of General Assembly, took up the Prisoners of War issue, Wazmen Austin of America, stated that many of the Prisoners of War under the UN command had threatened to resist by force any attempt to repatriate them. He said that " they were afraid of imprisonment and brutal treatment and execution in case they are returned and their fears were so true and real that it would be immoral to force ' their return'"<sup>2</sup>.

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1. UN General Assembly, Records (GAOR), Section 7, 1952-55, Documents A-2228.

2. Ibid.

Since the Geneva Convention, giving prisoners the right and the opportunity to go home did not in any way suggest forced repatriation, the US with twenty states co-sponsored a resolution which " called upon communist China and North Korea to accept an armistice which respected the rights of Prisoners War to be repatriated without any use of force "<sup>3</sup>. The Soviet Union instead proposed a resolution which suggested " the establishment of (eleven power commission) to take immediate steps for the unification of Korea to be affected by Korean's themselves under the above commission and the same commission would also deal with the repatriation of prisoners of wars deciding all questions by 2/3rd majority"<sup>4</sup>.

As discussions continued on the above proposals, the United States Government, through Chester Bowles, (American Ambassador in India), suggested unofficially to the Prime Minister to take initiative in further efforts to reach an armistice<sup>5</sup>.

So India alongwith the rest of its Afro-Asian group drafted a resolution which was submitted to the General

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3. GAOR Annexures, Section 7, 1952-53, Documents A/C 1/725.
  4. Ibid., Documents A/C 1/729, Rev. 1/Corr.1.
  5. Chester Bowles, Ambassador's Report, London, 1954, p.242.

Assembly on 17th November, 1952, by Indian delegate V.K. Krishna Menon<sup>6</sup>. This resolution, after certain amendments was adopted by the First Committee of the General Assembly on 1st December, 1952 by a vote of 53 to 8<sup>7</sup>. It was then passed by the General Assembly by a vote of 54 to 5<sup>8</sup>. The proposals put forward in the Indian resolution greatly emphasised the point of the solution of the problem of prisoners of war as it was the only point of disagreement.

It was the contention of the communists that 'prisoners of war' must be returned to their homeland even if, it called for the use of force in carrying out such an operation<sup>9</sup>. Their argument was mainly based on the Articles 118 and 7 of the Geneva Prisoners of War Convention 1949, which states:

"... Prisoners of war should be released immediately after hostilities had ceased and war prisoners could be in no case waive in full or partially the right secured to them by convention..."

Taking the straight forward meaning of the above article, Soviets argued that, it was not only the prisoners

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- 6. UN Documents A/C 1/723.
- 7. GAOR Committee 1, Session 1, Meeting 535, p.180.
- 8. GAOR Plen.Meeting 1951, Meeting 599.
- 9. GAOR Committee,1, Session 7, 1952-53, Meeting 514,p.37.

right to be released and repatriated, but it was obligatory to release and repatriate the prisoners of war at the end of hostilities. To be repatriated was a right which according to Article 7, could under no circumstances be waived in full or in part.

This interpretation suggested that the Geneva Convention favoured unconditional repatriation of all prisoners of war irrespective of their own wishes<sup>10</sup>.

US pointed out that Soviet Union has itself concluded many treaties admitting that " forced repatriation shall in no way be admissible"<sup>11</sup>.

Acheson argued " there was nothing in the Geneva Convention which would lead one to believe that a prisoner of war must be forced at the end of fighting, perhaps dying, to go back"<sup>12</sup>. He said that the " prisoners had the right to be repatriated but it was entirely up to them to use that right if they so wished"<sup>13</sup>.

The representatives of the " free world insisted that repatriation was to be voluntary or non-forcible"<sup>14</sup>

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10. Year Book of the UN 1952, p.193.

11. Ibid., Also GAOR Committee 1, Session 7, 1952-53, Meeting 514, p.37.

12. Ibid.

13. UN Documents A/C 1/734, Rev.2.

14. GAOR Annexes, Session 7, Agenda item No.16, p.29.

depending entirely on the wishes of the Prisoners of wars. They interpreted the words ' released and repatriated' of Article 118, as meaning that the " prisoners had to be released first and then repatriated if they so desired "15. They argued that the principle of voluntary repatriation was in accordance with the humanitarian principles on which the Geneva Convention was based. Article No.8 of the Conference of the Geneva reads as:

"... The Conference wishes to affirm before all nations, that its work having been inspired solely by humanitarian aims ..."

Again article 13 stated:

"... Prisoners of war must at all times be humanly treated... and at all times be protected against acts of violence or intimidation..."15

In the light of guidelines voluntary repatriation was justifiable.

Thus both blocs had totally opposite views; based on the same Geneva Convention and hence naturally they tried to search for a mediator, or some neutral nation to settle such problems.

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 15. Final Report of the Diplomatic Conference of Geneva 1949, Vol. I. p.362.

Now it was the responsibility of India as the leader of neutral bloc to find out a solution which would minimise the differences between rival blocs and to bring them on the common ground of reasoning.

India tried to interpret the Geneva Convention in such a way, which could be agreeable to both blocks. India expressed its view that though Article 118, stated " the prisoners at the end of the hostilities should be released and repatriated and that it was the prisoner's right which could not be waived according to Article 3. Under no circumstances could violence be used against the prisoner. And therefore, if followed that force could not obviously be used if a prisoner refused to go back to the country of his origin"<sup>16</sup>.

On the basis of this proposal the Indian resolution stated " Force shall not be used against the prisoners of war to prevent or effect their return to their homelands and no violence to their persons, to their dignity, or self-respect shall be permitted in any manner or for any purpose whatsoever"<sup>17</sup>.



16. Yearbook of the United Nations, 1952, p.196.

17. Ibid., p.202.

Soviet delegate feared that as the prisoners were in the custody of UN's forces, they would remain under threat. To overcome this fear India included in its resolution, the UN's responsibility would be over after it had transferred them to the custody of NAMRC consisting of the representatives of Czechoslovakia, Poland, Sweden and Switzerland<sup>18</sup>.

Thus the Indian resolution was so evenly worded that it met all the complaints of the Soviet bloc and also kept Americans happy and yet remained within the framework of the international law. India played a major role as a mediator and got itself established as a neutral country.

However, in the First Committee meeting of General Assembly on 24th November, 1952, the Soviet foreign Minister Andrei Vyshinsky declared that USSR was not satisfied with the Indian resolution and they rejected the Indian proposal.

In the light of the above Soviet declaration naturally Chou-En-Lai's formal reply which was received on 15th December, 1952 was negative one. He rejected the proposal calling it illegal and invalid since it was passed in the absence of any representatives of either the Chinese People's Government or the Government of North Korea.

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18. Yearbook of United Nations, 1952, p.202.

The year 1953 brought with it, two significant events which changed the international background of the Korean problem. Stalin died in March, 1953 and with his death, the Soviet influence on the Korean war also decreased was gradually taken place by an increasing influence of the people's Government of China. Prior to this the election of Eisenhower as President of United States in November, 1952 had also brought a change in the foreign policy of America, which affected the course of events in Korea. To end the Korean war, was one of the Eisenhower's basic pre-election slogans. And so there now seemed possibility of some agreements; and peaceful settlement.

The First sign of possible agreement was visible when the Communist Command responded in March, 1953, to the suggestion made in late February, 1953, " by the UN Command to exchange the sick and wounded prisoners"<sup>19</sup>. Accordingly on 20th April, 1953, the two sides began to exchange their sick and wounded prisoners.

On 26th April, 1953, a plenary session of the truce delegation was held at Panmunjom after a break of six months.

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19. Edgar O'Ballance, Korea, 1950-53, London, 1969, p.132.

Various discussions were held, many proposals and counter-proposals were made and at least on 8th June, 1953, the Prisoners of War Agreement was signed, which was at last followed by the signing of the American Agreement on 27th July, 1953. The terms of the Agreement were greatly based on the Indian resolution which was adopted by the General Assembly on 3rd December, 1952.<sup>20</sup>

Opposing the Panmunjom Peace Negotiations, President Syngman Rhee had written to President Eisenhower saying that the Korean question could be settled only if aggression was fully punished and Korea was unified. Mere restoration of the status quo was not the answer. He argued that the collective security objectives clearly stated during the first year of war by both USA and UN as being "the establishment of a United, independent and democratic Korea". He accused America of changing its stand. It was very difficult to persuade Syngman Rhee. Finally, his support was gained by a mutual security pact with USA at the cost of material and assistance to build the Republic of Korean Army upto 20 divisions, and a 1,200 million economic aid<sup>21</sup>.

20. GAOR, Plen Meeting, 1951, Meeting 39.

21. Edgar O'Ballance, Korea 1950-53, Zondon, 1969, p. 89.

In exchange for this, South Korean President on 12th July, 1953, declared publicly that he would co-operate in the truce arrangements<sup>22</sup>.

The ceasefire talks ended on 27th July, 1953. This truce left the country divided. Thus the war achieved nothing concrete but the losses were tremendous both in money and kind. The destruction of human life, the amount of misery and suffering was beyond limits and the benefits on either side were nil. However, since the signing of the armistice war ceased.

The Armistice Agreement was finally signed at Panmunjom on 27th July, 1953 by Kim Il Sung (Marshal, Democratic People's Republic of Korea, Supreme Commander Korean People's Army). Pen Teh-huai (Commander Chinese People's Volunteers) and Mark W. Clark (General United States Army, Commander in Chief UN Command)<sup>23</sup>.

There were six articles included in the Agreement. Article first deals with Military Demarcation line and Demilitarised zone. Military Demarcation line was fixed up and both sides were asked to withdraw two kilometers from

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22. Ibid.

23. Yearbook of the UN, 1953, p.144.

this line so as to establish a demilitarized zone which would act as buffer zone<sup>24</sup>.

Second Article discussed concrete arrangements for cease fire. It was agreed by both sides to enforce a complete cessation of hostilities to be effective twelve hours after signing of the armistices. It was also decided to withdraw all military forces from demilitarized zone within seventy two hours of the signing of the armistice<sup>25</sup>.

Article third was fully devoted to our vital issue of the prisoners of wars. According to it within sixty days after the Armistice become effective both sides would directly repatriate all those prisoners of war who wished to return to the side to which they belong. Provisions was made for a Neutral Nations Repatriation Commission consisting of Sweden, Switzerland, Poland, Czechoslovakia and India which would deal with such prisoners of war, who were not directly repatriated and were handed over to it by the two sides<sup>26</sup>. In addition a committee for Repatriation of Prisoners of War was also established, which were to be composed of six officers, of whom three were to be appointed

24. Yearbook of the UN, p.48.

25. Ibid., p.136.

26. Ibid.

by each of the two sides<sup>27</sup>. The Committee was to be responsible for co-ordinating the specific plans of both the sides for the repatriation of the prisoners of war and for supervising the execution by both sides of all prisoners of this Armistice Agreement relating to the repatriation of prisoners of war<sup>28</sup>. Besides this, " Joint Red Cross Teams of the two sides were also set-up to assist in carrying out the provisions with regard to the prisoners of wars as stated in the Armistice"<sup>29</sup>. Article IV made certain recommendations to the Government of both the sides. And Article V dealt with miscellaneous provisions.

The above Armistice Agreement was very much based on the Indian draft resolution which was approved by the General Assembly on 3rd December, 1952<sup>30</sup>.

In this chapter it can be inferred that the role played by India, in Korean crisis was that of a leader of neutral bloc. It was this aspect which Nehru expected that India to know in international politics. India's non-aligned foreign policy which had little meaning before the Korean crisis, could revit the attention of super-powers

27. Ibid.

28. Yearbook of the Un. p.142, n.48.

29. Ibid.

30. GAOR Plen.Meetings Section 7, 1952, Meeting 399.

to the meaning of India's non-aligned foreign policy. Hence Korean issue in this direction, is an important step in developing India's Foreign Policy. Much criticism was levelled against Nehru's non-aligned foreign policy; and if the Korean Crisis' which made the world know, the meaning of to play, as a nation in international politics.

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