

# Round Table Session Report

## “The Genesis of Kashmir Issue”



**Organized by**

**Center for Global and Strategic Studies, Islamabad at**

**Islamabad Club, Islamabad on**

**3<sup>rd</sup> September 2019**

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## **Brief of the Event**

On 3rd September 2019, Center for Global & Strategic Studies (CGSS), Islamabad organized a Roundtable Session on “The Genesis of Kashmir Issue”. The session commenced with the opening remarks by Major General Syed Khalid Amir Jaffery HI (M), (Retd) – President CGSS who thanked all the worthy participants and stressed the importance of such discussion in aiding the process of policymaking. The agenda of the session was to highlight the historical background and facts of the Kashmir conflict and how we can move forward with these facts.

Presently, the efforts made by the government of Pakistan were acknowledged by the participants but they all agreed on the point that much more exertions need to be done. It was discussed that Pakistan needs such a policy that covers the legal, political, diplomatic and military aspects while dealing with the Kashmir conflict. We have focused on diplomatic solutions to the conflict till now but India has not reciprocated any offer by Pakistan to come on the dialogue table.

India has very shrewdly planned the revocation of article 370. The purpose behind this action is to change the demographics of the valley and turn it into a state of the Indian union territory. The international community’s response has been slightly warm on the prevailing scenario in occupied Kashmir till now. This is because the international community has economic, political and strategic interests in India. So far the steps that have taken by the government are satisfactory but clarity in the direction of the policy is required to achieve any concrete result.

The policy options which were discussed by the participants included further enhancing our diplomatic efforts with precision. If pushed towards war we should not hesitate in responding with the full force. The world must provide Kashmiris with humanitarian assistance and aid under the respective United Nations resolutions. The people of occupied Kashmir are looking towards us for assistance in providing them with the chance to exercise their right to self-determination. It’s time that we act in a way to formulate an effective policy regarding the resolution of this conflict.

## **INTRODUCTION OF SPEAKERS:**

The session was presided by president CGSS-Major General Syed Khalid Amir Jaffery, HI (M), (Retd) and attended by the following Dignitaries:

### **Dr. Muhammad Khan**



Dr. Muhammad Khan is the former Head of the International Relations Department, at National Defence University (NDU), Islamabad. He completed his Ph.D. in International Relations from the University of Karachi in 2002. He has been on the Panel of Federal Public Service Commission of Pakistan from 2007 to 2015. Dr. Khan is also Chairman of the Research and Policy Forum, being established by AJK Government, the first-ever Think Tank of AJK Government. Dr. Khan has military background (retired as Brigadier from Pakistan Army), thus he has vast experience of Administration, Security, Management and Human Resource Development. Besides, his vast experience of instruction, teaching, and research in Security Studies, International Relations, Defence Studies, Strategic Studies, Peace and Conflict Studies, Social Sciences and Humanities.

### **Lieutenant General Naeem Khalid Lodhi HI (M), (Retd)**



Lieutenant General Naeem Khalid Lodhi HI (M), (Retd), Former Federal Defence Minister of Pakistan has also served as the Federal Defence Secretary of Pakistan. He has served on various command and staff and instructional assignments during his career in the Army. He has also remained Corps Commander in Bahawalpur.

## **Ambassador Abdul Basit**



Ambassador Abdul Basit is the Former High Commissioner of Pakistan to India and former President of the Islamabad Policy Research Institute. He joined the Foreign Service of Pakistan in 1982. In the recent past, he has served as the High Commissioner of Pakistan to India from 2014 to 2017 and Pakistan's Ambassador to Germany from 2012 to 2014. He has also functioned in various diplomatic capacities while being posted at Moscow, New York, Sana'a, Geneva and London at Pakistan Missions. Ambassador Basit has also worked as the Foreign Office Spokesman from 2009 to 2012. Ambassador Basit holds a Master's degree in International Relations from Quaid-i-Azam University Islamabad.

## **Mr. Ashfaq Ahmed Gondal**



Former Federal Secretary of Information and Broadcasting, Mr. Ashfaq Ahmed Gondal is an LLB graduate. He retired as the Federal Secretary to the Government of Pakistan. He served as the Secretary in the Ministry of Information and Broad Casting. He remained Chairman Pakistan Television Cooperation/ Pakistan Broadcasting Corporation and Director General of Radio Pakistan.

## **Ambassador Amjad Majid Abbasi**



A third-generation soldier turned diplomat, Ambassador Amjad Majid Abbasi graduated from the prestigious Pakistan Military Academy (PMA) Kakul in 1975 and joined his ancestral 2<sup>nd</sup> Punjab Regiment as a Second Lieutenant. He was inducted in the Civil Services in 1981 and sent to the Foreign Service of Pakistan. On completion of training in the Civil Service Academy Lahore and later in the Pakistan Foreign Service Academy Islamabad, he was deputed to the American University Cairo wherefrom he completed his language training. His first diplomatic assignment was at Tunis and later to Dubai, Brunei, and Tajikistan. He served as the Minister in the years 2004-08 at the Embassy of Pakistan in Ankara. His last diplomatic assignment was at Yangon (Myanmar) where he was sent as the Ambassador extraordinary and plenipotentiary of Pakistan to the Union of the Republic of Myanmar.

## **Prof. Dr. Raja Qaiser Ahmed**



Dr. Raja Qaiser Ahmed is an Assistant Professor in the School of Politics and International Relations, Quaid-i-Azam University Islamabad. He has done his Ph.D. in International Relations from Quaid-i-Azam University Islamabad, Pakistan. He has published number of national and international publications and has contributed to the content for various books as well.

**Opening Remarks by Major General Syed Khalid Amir Jaffery, HI (M), (Retd) - President, Center for Global & Strategic Studies (CGSS)**



Major General Syed Amir Khalid Jaffery HI (M), (Retd), President CGSS hosted the session. On behalf of the Centre for Global & Strategic Studies, he inaugurated the session by extending a warm welcome to the honorable speakers and participants of the event. He thanked all the guests for their participation.

Gen Jaffery started his opening remarks by stressing upon the severity of the current situation in the Jammu and Kashmir valley. He briefly discussed the possible options that Pakistan has in these circumstances. Pakistan should not just sit back and let India carry on its atrocities on the Kashmiri people. Another option is to accept LOC as the international border. By doing so the 70 years-long struggle of the Kashmiri people will go down the drain. All the sacrifices made by them would have been for nothing.

Quaid e Azam has said that Kashmir is Pakistan's jugular vein. This was in the context of the water sources that are present in the valley which is essential for Pakistan. There are so many options in front of Pakistan, provided we have the will to resolve the conflict.

He further mentioned that he has been a critic of the government whenever they lacked in performing adequately but in the current scenario the Pakistani government has managed to highlight the Kashmir struggle in the international arena. He then announced the session to be formally open for discussion after a short presentation by Dr. Muhammad Khan on Kashmir.



## **Speaker 1**

### **Dr. Muhammad Khan**



The session formally commenced with a presentation from Dr. Muhammad Khan. The topic of the presentation was “Kashmir Dispute: Genesis, UN Resolutions Indian Commitments, Legal Position, and Contemporary Challenges”. Dr. Khan started off his presentation with the main arguments. First, the unilateral Indian Abrogation of Article 370 and 35A is against its own constitution, the constitution of IOK and above all, a negation of UNSC Resolutions.

Second, recognizing LOC as a permanent border would not resolve Kashmir dispute nor it would bring peace between India and Pakistan. The two states have been fighting for this land for 70 years now, Pakistan and especially the people of Kashmir will never accept this option. Third, Legally, Pakistan stands at a higher position than India to Pursue

the Kashmir dispute at UNSC, ICJ and United Nations Commission on Human Rights. This point is very significant for Pakistan as it is in a better position if it approaches any international organization like the United Nations, International Court of Justice, Human Rights Council, etc.

Moving on, Dr. Khan demonstrated that to understand the genesis of the Kashmir conflict we need to understand the nature of the instrument of accession. It was this document on the bases of which India took the conflict to the United Nations. Dr. Khan has quoted two prominent British writes, who have covered the history of Kashmir in an unbiased manner. Dr. Khan had derived from the writings of these two writers that no Instrument of Accession signed between Maharaja Hari Singh and the Indian Government on October 27, 1947, before 0800 hrs. The timings are very relevant in this case because around the same time about 10 Indian aircrafts had already landed in Srinagar airport loaded with men and equipment. Time calculation between Delhi and Jammu during the visit of V. P. Menon and Mehar Chand Mahajan does not fits into the signing of the Accession Treaty on 26 October and before it. Maharaja only asked for military assistance from the Indian government, not for an accession treaty and this is available on several documents.

Even if we accept that any such accession document was signed by the maharaja. There are various clauses of the supposed shown document which indicate that India has no right over the land of Jammu and Kashmir under the following clauses:

Clause-V: The terms of this Instrument of Accession shall not be varied by any amendment of the Act or of the Indian independence Act, 1947 unless such amendment is accepted by maharaja and by an Instrument supplementary to this Instrument.

Clause VI: Nothing in this Instrument shall empower the Dominion Legislature to make any law for this State authorizing the compulsory acquisition of land for any purpose.

Clause-VII: Nothing in this Instrument shall be deemed to commit any way to acceptance of any future constitution of India or to fetter my discretion to enter into an arrangement with the Government of India under any such future constitution.

Clause VIII: Nothing in this Instrument affects the continuance of the sovereignty in and over this State, or save as provided by or under this Instrument, the exercise of any

powers, authority, and rights now enjoyed as the Ruler of this State or the validity of any law at present in this State.

Moving further he discussed the two key UN resolutions of March 30, 1951, and January 24, 1957. There are quite a few UN resolutions on the Kashmir conflict but the two mention here specifically bind India, Pakistan and the assemblies of IOK and AJK from taking any one-sided decision regarding Kashmir. These resolutions also form the basis of plebiscite in Jammu and Kashmir. According to these resolutions, the final disposition of the state of Jammu and Kashmir will be made according to the will of the people expressed through the democratic method of the free and fair plebiscite.

These resolutions were passed at a critical time when the India government was trying to get a bill passed in the favor of India by the constituent assembly of Indian occupied Kashmir, declaring IOK as an integral part of India. Both these resolutions are valid even today. Thus there was no requirement of Pakistan to ask for a special session by the UN on Kashmir. It was the duty of the UN to keep a check on the implementation of their resolutions.

What India wants to do is to engineer the demographics of the valley to its favor and there have been constant warnings by Indians regarding such a move. But unfortunately, we never took any such warning or indications seriously. All this did not happen over-night, the process started at least back in the 1980s. The impetus would be the election of 2014 and when Modi came in power the process of creating a rift among the people of the valley on the ethnic lines had started.

Dr. Khan described that India has generated the narrative of being a Jammu not a Kashmiri. Even the educated class of the valley has fallen to this narrative. In 2014 almost all Jammu seats were won by BJP. Overall, India has been trying to prove that Jammu is a Hindu majority province & its people have a different identity. The Indian government has the plan of rehabilitating the Indian pundits in the valley.

Mehboba Mufti is raising her voice against this act of the Indian government. Apart from that, the Indian government has planned to make special “Sanik” colonies where houses

will be allotted to soldiers and officers from the Indian army who have served in Jammu and Kashmir.

After a pause of almost 50 years, the Kashmir dispute was debated at UNSC on August 16, 2019. Pakistan and China approached UNSC against India's unilateral step. UNSC debated it in a closed-door meeting with no formal outcome, condemnation of Indian action and demand for restoration of pre-Aug 5, 2019 status. No formal mention of Indian excesses nor its violations of UN resolutions on the status of the disputed nature of the state. This debate did not even ask India to lift the curfew and give the people access to basic needs such as food and medicine.

Kashmir was never a bilateral issue. It has always been an international issue as India itself took it to the United Nations on 5<sup>th</sup> January 1948. So to consider this debate as some type of success will be a naive move on our part.



Despite all the human rights violations happening in Kashmir, Modi was present in the G7 summit. There had not held any debate regarding the situation in Kashmir. Modi categorically declared Kashmir as a bilateral issue when questioned about the mediation offer by President Trump. Even OIC's response was also tepid. Every forum has termed this as a bilateral issue. Kashmiri people have always been the principal party in this dispute and after India took the matter to the UN, it is also now a part of the conflict resolution. Other than that China is also a part of this conflict as 9000 square miles of the area include in China. The Shimla agreement also declares this in Paragraph one of it, that the principle and purpose of the Charter of the United Nations shall govern the relations between the two countries.

Nevertheless, leaving aside the perspective of international law and UN resolutions on Kashmir dispute, Shimla Agreement stand scrapped after India took unilateral step of doing away the special status of the state by abrogating Article 370 on August 5, 2019. It is India which has violated the Shimla Agreement, by altering the situation in Indian occupied Jammu and Kashmir unilaterally.

The state of Pakistan is facing a challenging situation currently. The response of the international community is not up to the expectations of the Pakistani government. The most obvious reason for this is the interests that the major powers have in India. They have economic, political and strategic interests in India. Strong Indian diplomacy and political commitment have always given India an edge in making its voice heard on international forums which Pakistan lacks. Lack of study on Kashmir on part of Pakistan and the adoption of short term policies have always kept us on the back foot in raising our voice for Kashmir.

The way forward now is to create a strong resistance against this unilateral decision of the Indian government to strip away Kashmir from its identity. The Kashmiri people are being punished for their will of becoming a part of Pakistan. There is a need for mass mobilization in Kashmir. Awareness campaigns should drive and media needs to be vigilant. Enhancing the Diplomatic efforts by all diplomatic missions of Pakistan and lobbying for convincing the global community on Kashmir and the ongoing humanitarian crisis over there.

Dr. Khan concluded his presentation by saying that all is possible if there is a strong and united will from the Pakistani and Kashmiri leadership. Bringing a political resolve and commitment away from rhetoric by all mainstream political parties and the Government of Pakistan on Kashmir dispute. We all need to be united on this issue. This is the time to put aside our difference and work on finding a solution for the people of Kashmir.

## **Speaker 2**

### **Lieutenant General (Retd) Naeem Khalid Lodhi**



Lt. Gen Naeem Khalid Lodhi started his speech by informing the audience how India has acted in four areas comprising the legal, political, diplomatic and kinetic areas. Legally India has revoked the special status of Kashmir, politically they have gained support from within India. Diplomatically the international community is on their side and at the 4<sup>th</sup> level, they have increased their military presence in the valley. They have clamped down the Kashmiris, cut them off from the world, not letting their voices come out.

Whereas Gen Naeem stressed that there is a strong possibility that the young leadership of the Kashmiri movement has been eliminated or been taken far away from the area to take this movement at least 5 to 10 years back.

According to Gen. Naeem, Pakistan has acted in the diplomatic domain. Diplomacy is the vanguard in such an issue but it has its limits. It only creates an environment to do something more in the other domains. People are asking a question that what we can do now. Gen Naeem presented possible actions that can be taken in the other three domains. Legally UN resolution allows the world to help the people fighting for their right of self-determination by providing them medical facilities and other basic commodities. We need to make people aware of this option so that they can act upon it. The Red Cross or other such organizations should come forward and help the people of Kashmir.

Furthermore, he mentioned the political options for Pakistan. He suggested that the revocation of the Shimla agreement as India has violated the terms of the agreement on various occasions. Other than that we can conduct a partial plebiscite according to UN resolutions in the areas under our control. India has taken proper kinetic actions and we have done two things so far. Firstly, the army chief of Pakistan has visited the forward formations. Secondly, Pakistan has carried out a missile test. The thing which we can immediately and legitimately do is start the training of our youth and show it. So that we can tell the world that we are prepared and our nation stands with our forces.

Furthermore, if our intelligence agencies can confirm that Indians are planning to attack, we can retaliate and that would be a defensive attack. Our Prime Minister and Army Chief have categorically said that we will support the Kashmiris at any cost. As it has concentrated a huge force in a small area. This gives us a golden opportunity to put pressure on India in military terms. He concluded his speech by stating that we might be economically weak but our forces are ready at this time. The economy will not affect our fighting capability today but it will affect and weaken our forces tomorrow. We should plan our strategy properly to take advantage of India.



### **Speaker 3**

#### **Ambassador Abdul Basit**



Ambassador Abdul Basit started his speech by discussing the course of action adopted by previous governments regarding the Kashmir issue. He mentioned the four points agenda and the joint statement signed by government of Pakistan and India in 2004. He emphasized the present government to take solid steps to deal with the current scenario in Kashmir conflict. Ambassador Basit said that this move by BJP didn't come as a surprise.

Pakistan must avail of the support of international community. The timings of Indian's decision is remarkable. We have lost the institutional capacity to sustain our narrative on Kashmir. These informal consultations would also not have been possible if China had not written the letter to the UN on 14<sup>th</sup> August.

Ambassador Basit stressed on avoiding two things in the current situation. First, we should avoid any type of dialogue. Our position is so strong legally, politically and morally, now we need to assess how we can support the resistance in Kashmir. Kashmiri people have given huge sacrifices we should acknowledge those sacrifices. Kashmiri people want to be a part of Pakistan, the Indian governments have not been able to remove this passion from within them.

Our next step should be the revival of the resistance. As mentioned by Gen. Lodhi we have a right by the UN to support the people fighting for their right of self-determination. We don't even need any new resolution to do this. It is a customary law. This can be done as soon as resistance rises from inside Kashmir. This will happen soon but what matters is the capacity of the people of Kashmir as well as Pakistan to keep the matter alive.

The movement is kept alive by the people. The revival of the resistance depends upon Pakistan and people of Pakistan. India is working on a long term plan with long term goals. It would not take any such step to jeopardize that. Our motive is not just the restoration of article 370, we need to resolve this matter permanently. We need to be clear about our

long term objectives. For that, we need to enhance our institutional capacity to counter India on all platforms.

**Speaker 4:**

**Mr. Ashfaq Ahmed Gondal**



Mr. Ashfaq Ahmed Gondal briefly gave his point of view regarding the current issue in Jammu and Kashmir and the reaction of the government of Pakistan. He also agreed to the point that India has been planning this for a long time. Whereas Pakistan needs a focused approach towards solving the problem. Indians have been pro-active after taking the step of revoking article 370. Their foreign minister has visited forty-two countries and even Prime Minister Modi has also been visiting various states. Currently, only china Iran and turkey have stood with us. He agreed to the point that immature handling of the problem by the government will harm the stance of Pakistan. Once the government develops a clear narrative then only an effective policy can be formulated.



### **Speaker 5:**

#### **Ambassador Amjad Majid Abbasi**



Ambassador Amjad started his speech by demonstrating that the foreign minister of Pakistan should strengthen Pakistan's narrative by capturing the support of the global community. Pakistan has to find a permanent and viable solution for the Kashmir conflict. We need to wake up and accept the ground facts. Of we are being pushed towards war we should not hesitate. UN has given us the time of 30 days. This means that the people of Kashmir will keep on suffering for these thirty days.

India is inflicting the worst type of atrocities on the people of Kashmir. It is the time to take appropriate actions.

## **Speaker 6**

### **Dr. Raja Qaiser Ahmed**



Dr. Raja Qaiser started his speech by sharing his views that for decades India has invested in a narrative to the world that Pakistan is a rogue nation and India should be given a free hand to deal with Pakistan on its own manner. He quoted three cases where despite having very firm legal grounds we have been castigated by the international community.

First the Kulbhushan Jadhav judgment, despite being a very clear case of espionage Pakistan could not get the desired judgment. Even in the aftermath of Pulwama, which was a direct incursion into Pakistan's mainland the international community didn't come to denounce India's act of aggression. Rather they waited to assess the situation and kept silent. Now over this current development in the Kashmir conflict, India has completely changed the niche and the nature of the conflict. They have changed the structure of Jammu and Kashmir forever but still, we could not manage to gather much response from the international community which could term India's action as illegal or establishes India's position as illegitimate.

Furthermore, he mentioned the scenario of planning in policy management that we should make our policies by imagining certain scenarios. This has always lacked in policy-making mechanism in Pakistan. Even now we need to prepare for uncertain situations like what will be doing if the Supreme Court of India annuls this decision. There is another theory in public policy and according to that, the political problems converge on a point on that it opens a window of opportunity. We must attain any window of opportunity in the Kashmir issue. Now by revoking article 370, India has presented us with a window of opportunity. Unfortunately our government has not utilized this opportunity. Modi has exposed our helplessness in addressing this issue blatantly on every forum for the last 7 decades.

Discussing the role of the international community in the Kashmir conflict Dr. Qaiser said that why are we surprised over the lethargic response by the international world. They have never supported our narrative on Kashmir. In fact, this might have been the first time that Russia has not overtly supported India in this issue as it has done in the past. The same is the case with America if they have not supported us they haven't even opposed us as they did in the past.

Talking in terms of strategy he discussed the element of surprise the adversary. This is what Modi has done with us. All the options that we have been discussing will not surprise Modi as they will be prepared for it. We need to think of a strong option that can surprise India. He made a suggestion that we need to make one prominent change while discussing the Kashmir issue. Instead of calling it a dispute we should call it conflict. The dispute is territorial in nature. Whereas Kashmir issue has its humanitarian, legal, and political aspects as well. Which makes it a conflict. The world is not interested in listening to territorial disputes anymore. Even the international organizations are of the view that territorial status should be maintained and avoid the formation of new status.

He concluded his speech by stating that we need to highlight the humanitarian aspect of this conflict. Instead of talking about Kashmir we need to talk about the miserable condition of the people of Kashmir. We have been churning out the same narrative for years which the world has rejected. We should update our narrative and represent it to the world.

