

# Think Tanks' Conference: Kashmir's Future

## Conference Report

### **Abstract**

Centre for Aerospace and Security Studies (CASS) organized a one day conference entitled “Kashmir's Future”, on September 4, 2019, in Islamabad. The conference was organized to contemplate upon various policy options available for Pakistan after the unilateral revocation of Article 370 and scrapping of Article 35A by the Indian government. The conference aimed to create a national forum seeking expert inputs, providing different perspectives and recommending a way forward for the Kashmir issue.

In his opening remarks, Air Chief Marshal (Retd.) Kaleem Saadat, President CASS explained the purpose of the conference, described the gravity of the situation in Kashmir at length and laid out a



comprehensive list of questions on various policy options to deal with the aggravating situation in Kashmir. He also put forward succinct points for a future course of action.

The panellists provided an in-depth analysis of legal, diplomatic, military and political dynamics of the Kashmir situation. They underscored the importance of getting out of the traditional mode of thinking in order to overcome the challenges. The panellists emphasized upon the need to clearly understand the legal aspects and importance of using correct legal terminology to create a joint narrative. It was highlighted that Indian actions in Kashmir stood against the International Humanitarian Law and not the human right.

The discussions brought to fore the impending dangers of Indian plans of demographic changes in Kashmir and the need for Pakistan to intensify its diplomacy and ratchet up its messaging. Citing various international reports, the panellists cautioned against the risk of impending genocide and ethnic cleansing in Kashmir and asserted that while a diplomatic offensive was underway, Pakistan must consider all options, including military, should diplomacy fail to deliver the desired results.

The pros and cons of the military option were discussed at length. The participants highlighted the risks of raising the ante and going up the

escalation ladder, especially under the weak economic conditions of the country. However, it was argued that notwithstanding the economic challenges, Pakistan must prepare for a long haul over Kashmir and must be ready to make sacrifices.

It was also highlighted during the discussion that Pakistan's policies had been reactive, whereas India pursued strategic and long-term policies. It was agreed that there was a general lack of knowledge on the Kashmir issue, therefore, it was important to prioritize the issue and develop a deeper understanding of the changing dynamics. It was suggested that all think tanks and research centres must come together as a pressure group and provide an overview and strategic foresight on bilateral relations of India and Pakistan.

Participants of the conference also suggested that Pakistan must remain vigilant to guard against Indian attempts to embroil Pakistan in its internal issues. With the changing nature of warfare,



Pakistan must address the discontentment of people in GB, Baluchistan and AJK. It was unanimously proposed that Pakistan should adopt a whole of nation approach to highlight the plight of

people of Kashmir and galvanise international support. It must also use all elements of national power to deal with the current crisis.



## **Introduction**

The Centre for Aerospace and Security Studies (CASS) organized a one-day conference in Islamabad, entitled “Kashmir’s Future”, on September 4, 2019. The conference was organized to contemplate various policy options for Pakistan in view of the deteriorating situation in Indian Occupied Kashmir (IOK). Since August 5, 2019, after the unilateral revocation of Article 370, the scrapping of Article 35A, and the forced annexation of the disputed territory of Jammu and Kashmir, the IOK was under siege with growing atrocities committed by the

occupying Indian forces. While the government of Pakistan had initiated a massive diplomatic campaign to highlight the issue of Kashmir at all international forums, it was important to carve out a long term strategy involving all relevant stakeholders in Pakistan and find a definitive way forward.



The Think Tanks' Conference on Kashmir's Future aimed to create a national forum, seeking expert inputs from intellectual minds of the country, providing different perspectives and recommending a way forward for the Kashmir issue. In this regard, think tanks from Islamabad, Lahore and Karachi were invited to discuss the ongoing situation and available options to the government. Intellectuals and reputed experts from academia, defence services, government departments and media attended the discussion. The President of Azad Jammu and Kashmir, Sardar Masood Khan, graced the occasion as the chief guest.

## Remarks by the President CASS Air Chief Marshal Kaleem Saadat (Retd)



The conference proceedings commenced with remarks by the President of CASS, Air Chief Marshal Kaleem Saadat, who explained the purpose of the conference and laid out a comprehensive list of questions on various policy options to deal with the aggravating situation in Kashmir. While highlighting the challenges, he stated that Pakistan was in an unenviable position to tackle the situation and, unfortunately, with not too obvious options at hand. He explained the gravity of the situation in Kashmir at length and put forward succinct points affecting any future course of action. He touched upon the legal, diplomatic and political dynamics and put forward the following questions:

- Will the legal niceties come in the way of permanent Indian annexation of Kashmir?
- Will the difference between a separatist movement and freedom movement influence the debate?

- Will the Indians be able to control the anger and grievances of the Kashmiris?
- Will the Kashmiris rise to the challenge of the occupation forces?
- How cruel will be the torture of Indian security forces?
- How can the women and children escape from the punishment?
- Do the Kashmiris have the will and the means, to continue the struggle that had been on-going for three generations?
- Can they stage another big attack against the occupying forces despite their numerical disparity?
- Will the Indian Supreme Court give its opinion on the final fate of Kashmir and declare the Presidential order changing Kashmir status, null and void?
- If the Indian Supreme Court decides the presidential action legal, what would India do? Will they claim Azad Kashmir and ultimately *Akhand Bharat*?
- Will diplomacy and protests yield results?

- Will the big powers censure India, considering they had themselves been guilty of illegal actions violating both the sovereignty of nations and international humanitarian law?

He further explained the challenges with references from history and expressed his concern over the risks of war due to potential inaction from the international community who, in his view, had their own vested interests. He also cautioned against the constant appeasement against Indian actions. His nuanced approach to unpack the challenges set the stage for further deliberations.

## **Panel Discussion**

### **Kashmir - The Legal Angle**

#### **Oves Anwar, Director Conflict Law Centre (CLC) at Research Society for International Law (RSIL)**

Mr Oves Anwar started his presentation by saying that think tanks and research organizations could not be successful by working in isolated silos but had to come together and prepare policy drafts by brainstorming, through conferences as organized by CASS. He emphasized the need to come out of traditional thinking in order to overcome the challenges.

He emphasized on the importance of using correct terminology and explained why the terminology applied in the Kashmir conflict needed better understanding. He stressed that



the messaging through different terminology needed to be clear and pristine. He said though the term 'Kashmir under occupation and annexation' had been widely used, its implications and true meanings had not been fully understood.

While emphasizing upon the use of correct terminology, he also clarified that Indian atrocities had wrongly been termed as 'human rights' abuses whereas the primary violations were under 'International Humanitarian Law'. Explaining further he said that according to the legal argument, the law of war ('jus ad bellum', & 'jus in bello') applied to Kashmir and therefore it was the International Humanitarian Law and not the Human Rights Law that would be applicable in the case of Kashmir. Explaining the implications of stances adopted by India and Pakistan on Kashmir, he said that India claimed Kashmir as its integral part, so any armed resistance would tantamount to terrorism. Whereas, on the other hand Pakistan maintained that Kashmir in line with UN resolutions, was a disputed territory, therefore, under international law, it was deemed an occupied territory which had been annexed.

Mr Anwar further went on to say that under international law, there were ways to legitimize the 'Kashmir struggle'. He then clarified that during periods of peace, the applicable legal framework would be the human rights law. In wartime, as there was no overarching executive or judicial structure to protect the rights of the populace, the international humanitarian law governed by the Geneva Convention was applicable.

He reiterated that occupation was a form of war. He referred to the legal memo prepared by him and his team members at the Research Society of International Law (RSIL), entitled 'The Status of Jammu & Kashmir under International Law - The Law of Occupation & Illegal Annexation'. In the document occupation was defined as per the Article 42 of Hague Regulations of 1907, which was a customary international law. Mr Anwar presented this definition concisely and defined occupation as 'a hostile army taking over a territory and establishing and exercising effective authority'. He again reaffirmed that India did not subscribe to Pakistan's definition of Kashmir being an occupied territory, rather they called it an 'integral part of India'.

Mr Anwar then moved on to refute India's argument, which relied on the "Instrument of Accession". He argued that an instrument of accession to cede territory could only be signed between two sovereigns, which was not the case of Kashmir's Instrument of Accession of 26th October, 1947. Moreover, he said that the

Instrument of Accession was subject to plebiscite in any case, as could be seen through Jawaharlal Nehru and Lord Mountbatten's



speeches. Mr Anwar then said that territory could not be acquired through annexation under international law. To emphasize his point in this case he gave the example of the illegal annexation of Golan Heights by Israel that, despite's Donald Trump's recognition, was still considered illegal under international law.

He then touched upon the applicability of the International Humanitarian Law to Kashmir. The source of this law being the fourth Geneva Convention, 1949, which was related to the Protection of Civilian Persons during Time of War. He said that being a signatory to this convention, it was binding upon India as an occupying power to ensure order in the occupied territory, which in this case was the state of Jammu & Kashmir. He then referred to Article 49 of the 4th Geneva Convention, which prohibited an occupying power from deporting or transferring parts of its population to the occupied territory. Mr Anwar finished his address by stating that Article 370 was a Geneva Convention compliant article, as it prohibited people from the rest of

India to buy properties in Kashmir. Abrogating the Article had made India a violator of the Geneva Convention under international law.

## **India's Narrative and Future Plans for Kashmir: Options for Pakistan**

### **Ambassador Ashraf Jahangir Qazi**

Ambassador Ashraf Jahangir Qazi shared his views on the Indian narrative and discussed the way forward for Pakistan after the abrogation of Article 370. He emphasized on a definite outcome of this crisis to set the conditions for a constructive and peaceful engagement with India to meet the challenges of the 21st century, climate change. He said that the rising challenges and Pakistan's stability landscape, the plan of action should be tilted towards intensive diplomatic campaigns in accordance with the international law.



He reiterated that it was the need of the hour for Pakistan to critically understand the legal aspects of the Kashmir issue and play its cards

wisely. He said that the international law held both the authority and the responsibility to maintain order in an increasingly dangerous world. The report by Genocide Watch, a German non-governmental organization (NGO), had issued two warning alerts to India: one for “signs of the early stages of genocide in progress in the occupied territory of Kashmir,” and the other for the state of Assam, where millions of Muslims were being disenfranchised and expelled.

He said that August 5<sup>th</sup> incident provoked an extensive existential crisis for Jammu & Kashmir, and a political crisis for Pakistan. He raised a number of questions that needed to be addressed with regards to the current situation in Kashmir: Would India review its decision? What was the status of Shimla agreement and consequently, what was then the status of the Line of Control (LoC) and the relationship between India and Pakistan? And lastly, what were the options for IOK and Pakistan?

Ambassador Qazi argued that the stakes were too high for Modi, almost 90 per cent of the public opinion favoured the BJP’s mandate, however if he gave in to the pressure to review the decision, the massive Hindutva constituency would disown him. He said that India was facing an insolvable problem of resistance in IOK, which had escalated to a level where educated youth had taken the lead and were resisting suppression successfully. He highlighted that despite securing an overwhelming majority in the elections held in 2014 and

2019, the BJP failed to secure a seat in IOK, which signalled that the BJP had no political role in IOK. However, to justify their repressive actions, they flaunted IOK as more progressive compared to other parts of India.



Mr Qazi asserted that the abrogation of Article 370 had downgraded the status of Kashmir. He said that there were only two options for the people of IOK: first, becoming Indian puppets for a few pieces of silver to stay alive with their families relatively safe for a while; and second, supporting the pro-Azadi Pakistan option on the basis of the UN Resolution in Kashmir and Article 257 of the Constitution of Pakistan, which effectively converted the Pakistan option into the essence of Azadi, or the so-called third option. Elaborating further he said that Article 257 was a guarantee that in case the Kashmiris chose the Pakistan option, their relationship with the federal government would be exclusively in accordance with their wishes.

He provided an exhaustive list of options on how Pakistan should respond to India's narrative. He said that Pakistan must intensify its diplomacy and ratchet up its messaging. It must develop a national

consensus and improve its international image. It must get off the grey list of the Financial Action Task Force (FATF). It must openly acknowledge that liberating IOK was part and parcel of building a *Naya* Pakistan. It must prioritize independent and credible Kashmiri voices in the advocacy of the Kashmir cause and in communicating the nature and details of the current Kashmir crisis. They must never be called out on facts. He said that Pakistan could allow the fullest autonomy to Azad Jammu and Kashmir (AJK) and accord full de facto provincial status and rights to Gilgit-Baltistan pending a final resolution of the Kashmir dispute. Pakistan could also utilize Article 257 of its constitution which guaranteed that in case the Kashmiris chose the Pakistan option, their relationship with the federal government would be exclusively in accordance with their wishes.

In reference to the status of the Shimla Agreement, he said that the UN principles were supreme in any bilateral agreement. India's inability to solve the issue in a bilateral framework would strengthen Pakistan's position. In the long term, Pakistan should focus on strengthening its options. He stressed that despite all diplomacy, friendly pressures and Pakistan's unwavering support, at the end it was the Kashmir's voice that mattered the most.

## **Kashmir: A Predictive Analysis**

**Air Marshal Javid Ahmad (Retd.) Director, Centre for Aerospace and Security Studies (CASS).**



Air Marshal Javid Ahmad started his address by stating that the nature of Pakistan's policies since inception had always been reactive and short-sighted. During his address, he raised a number of points and identified the miscalculated steps taken in the last few months that went in favour of India and weakened Pakistan's case. He said that the Indian aggression along the LoC on 26th February was a violation of Pakistan's territorial sovereignty and should have been publicized nationally and internationally as an act of war. He opined that the capture of Wing Commander Abhinandan could have been used as a bargaining chip by showcasing his capture at the international level as a proof of an Indian act of war. He further stated that Indian propaganda, its strong diplomacy, and lobbying at an international level was not a big deal and could be handled by Pakistan. He highlighted that all major powers such as the US, France, the UK, and the Middle Eastern states were tied with India economically and

had vested interests. He raised concerns over the possibility of India using Kashmir to manipulate water flows, as it had done earlier. He cautioned that India would try to put claims over Gilgit Baltistan with the aim to sabotage CPEC. He emphasized that the BJP government had been facing a lot of internal issues lately, with a clear decline in its Gross Domestic Product (GDP) and the deceleration of the Indian economy. The BJP had won the elections by a large majority through the exploitation of religious sentiments and the promotion of Hindu supremacy, knowing that religion was the only card that could be played in their electoral game. Air Marshal Javaid cautioned that the coming months would be tough for Pakistan as India would do its best to embroil the former in internal issues, such as economic challenges and the looming risk of FATF black listing. Kashmir would then be out of mainstream media and India would try to brand Pakistan as a terror sponsoring state by carrying out a false flag operation, while continuing the killing of Kashmiri people as it had done for last seven decades. No international community, state or organization would take any action against the brutalities and grave violations of international humanitarian law and international law, since the UNSC and the UN themselves, as a peace providing organizations, had failed the victim states and their people in providing them justice against the strong oppressor.

Discussing the way forward and the strategy Pakistan should opt not only to bring an end to the Kashmiri people's worsening situation but also to give a befitting response to India, Air Marshal Javaid made valuable suggestions. He said that Pakistan must fully utilize all elements of its national power and come up with a coherent direct strategy to face the enemy. He suggested that Pakistan must prioritize its challenges and address pending issues like the legal status of Gilgit-Baltistan in light of the constitution of Pakistan, as India might try to target this area.



Moreover, India itself was facing a lot of internal issues which Pakistan could exploit at an international level. There were decades old insurgencies happening all over India: the extremist mind set of the BJP which was fuelling the masses with a fascist agenda against the Muslim population, corruption within the BJP government, and most important of all, their falling economy. Pakistan could use social media as a tool to propagate and spread the true picture of India.

The Air Marshal said that Pakistan had already wasted seven decades talking about the Kashmir issue, but now was the time that it must act to substantiate the Kashmiri struggle. Mr Javaid suggested that specific

departments, pertaining to Kashmir, must be set up at universities, government offices and think tanks. He added that Pakistan should provide its support to the Muslim population of India, which in the coming years would surpass the Hindu majority and might call for another independent state. He added that the Pakistani diaspora living all around the globe must ban Indian products to show their solidarity with the people of Kashmir by arranging peaceful protests, awareness campaigns and walks. He commended the closure of Pakistani airspace to India after the Balakot attack and declared it the most effective step, which cost India billions of dollars within the span of a few days.

The speaker exposed India's double-speak in terms of its claims of IOK being an internal matter and AJK being a bilateral issue. Mediation had always been a trap for Pakistan as it favoured Indian interests. Therefore, Pakistan must set its own terms & conditions for the desired results like it did on February 27th, through the successful execution of Operation Swift Retort by the Pakistan Air Force. In Air Marshal Javaid's opinion, that was the way a message should be conveyed to the enemy and thus a military option should always be on the table.

While concluding his speech, Air Marshal Javaid said that Pakistan must not fear India or its strong lobby in the international arena but must be ready for action and prepare itself for any consequences. He

said that the whole nation should come up with a new maximum approach, a strong coherent new narrative. He further added that it was the time to decide whether we wanted Kashmir to bleed slowly or help them whole heartedly in winning their freedom. He concluded his speech with a quote from Viktor E. Frankl, “An abnormal reaction to an abnormal situation was normal behaviour.”

## Discussion



The panel discussion was followed by an intense question and answer session. The participants, comprising of think tank representatives, academia, former diplomats, former and in-service military personnel and students from different universities, engaged in an animated debate and discussed various policy options set out by the expert panellists.

In the first round, Mr Khalid Banuri, the former Director General of the Arms Control and Disarmament Affairs department in the Strategic Plans Division, raised a set of questions on the role of customary

international law to broach the issue. Since India was not party to the Rome statute on the International Criminal Court (ICC) or to the Geneva Convention, several concerns including Kashmir's illegal occupation, the status of the Shimla Agreement and the lessons from Indian intervention in East Pakistan were brought out. In response to these legal aspects, Mr Oves stated that Kashmir was in a state of occupation and therefore, customary international law applied. However, the real argument was whether we could convince the world of this occupation. In the 1990s, the international community had been classifying Kashmir as a non-international armed conflict, which was a misreading of the situation. They must be convinced otherwise and entities like the International Committee of the Red Cross, Amnesty International, and the Human Rights Watch, should be reached out to and reasoned with, by showing them the historical account of the issue. International community needed to be told that it was not the Indian army fighting non-state actors, and it was not India's territory, rather it was an international conflict. Mr Oves talked about the Shimla Agreement which contained the bilateral clause that stated that the UN Charter and international law would apply to Kashmir. Therefore, Pakistan could raise the issue as a material breach under the Vienna convention of law of treaties, as it had strong arguments for crimes against humanity.

Adding to the question on the Shimla Agreement, Mr Qazi referred to an article by AJ Norani regarding the agreement. He further added that if the Articles 1, 2, 4 and 6 are observed, it could be seen that there had been a substantial change in the situation and the Shimla Agreement had been violated. He said that politically speaking, no treaty could bypass the UN charter. India's game plan to abolish bilateralism was first, to make it an internal matter, and then to prioritize terror. Referring to Article 99 of the UN charter, he said that if the UN Secretary General believed that a set of circumstances were threatening peace, he could unilaterally bring it to the UNSC. He further said that the weakness of the UNSC resolutions on Kashmir were the nature of its recommendations, which were not obligatory unless accepted by both parties.



Responding to a question by Ambassador Naila, whether the house was looking at short-term outcomes or examining the long-term strategy of India, the panellists stated that the core issue must first be distinguished. Gilgit Baltistan, Azad Jammu and Kashmir, and Article 257 could be talked about, but the core issue remains pertinent to the valley. India was under pressure to wrap up the problem as soon as

possible by overwhelming the resistance in Kashmir. Awareness was the key, as information was crucial for staying on top of the game. Kashmiris needed to take the lead as they were the direct victims, and if India went to the extent of a genocide, then the only option left for Pakistan would be to go against the wishes of the international community and resort to military option. Pakistan must take an active approach rather than dormant one, and the available options must be interpreted in accordance with Article 257 for constructive discussion. On the question of India potentially using the Israel-Palestine model and the possible challenge of refugees, it was stated that the expulsion of Kashmiris, whether through buying them or physically throwing them out would tantamount to genocide, like the demographic changes made in the west bank. It was a soft genocide but a genocide nonetheless.

Ms Salma Malik, assistant professor at Quaid-i-Azam University, pointed out the lack of knowledge on the Kashmir issue, discontentment of people in AJK, changing nature of warfare, and risks of hybrid warfare in GB, Baluchistan and AJK.

In the second round of discussions, responding to a question by Mr Ali Zia Jaffery from Lahore University on the risks of upping the ante and going up the escalation ladder especially under the weak economic conditions of the country, Mr Jahangir Qazi said that there were two

important things: commitment and timing. Despite the sacrifices made by both, Pakistan's position on Kashmir had remained the same substantially. So, when it



came to an existential scenario of genocide, there were certain things that could cost Pakistan, but the cost not be compared with national and personal self-esteem. He further added that the timing also played a role; if the situation escalated to genocide, Pakistan should be ready to make sacrifices.

Mr Rana Ather from Pakistan House commented that Pakistan's approach regarding Kashmir had been of a peaceful struggle and it resorted to soft instruments of diplomacy for the resolution of the issue. The act of retaliation was effective and Pakistan's response muted India after the Balakot incident. He added that Pakistan should not give up on its information operations and strategy as a sustainable option as the concern for human rights would remain. There were no quick solutions because of India's previous and current economic stature. Pakistan was constrained and it should not be oblivious to that. It was easy to talk about action, but the ground realities were quite opposite. It took 70 years to convince the world of the holocaust occurring in Kashmir, and now was the time. In terms of propaganda warfare, he added that Pakistan's diplomatic approach should be continued.

Pakistan should continue to raise their voices through different platforms and continue their narrative of peaceful protests and diplomacy. Pakistan was not, and never was, in a position to go offensive as compared to India.

Adding to the discussion, Mr Oves asserted that occupation could be peaceful when in retaliation. Was the Kashmir situation comparable with the unrest



in France, with the situation in Palestine, with Yemen where war crimes are taking place, or with the Rohingya crisis? That was how there was a lack of clarity in Pakistan's communication. At the international level, it had always mentioned Kashmir as a disputed territory and recently it declared it under occupation because of the unlawful annexation by India. Therefore, international humanitarian law applied immediately.

General Yasin Malik shared his thoughts and maintained that Pakistan and India were at war with each other with respect to Kashmir. There was a unilateral ceasefire in place which India refused to ratify formally. Ceasefire was not peace but war, and that should be understood. A common Kashmiri and the leadership of IOK, were never seen chanting about Azad Kashmir; they raised slogans of Pakistan while

Pakistan's own Prime Minister raised the flag of Azad Kashmir, which needed clarity. According to him, a visible transition was taking place, from the peaceful struggle of a decade to *Intifada*. In fact, Prime Minister Modi had laid the foundation of *Intifada*, which was a transit to armed struggle. Kashmiris had lived under pellet guns, under retaliation and they had had enough. The question was, would intifada create more problems for Pakistan than for India, and how was it going to be tackled?

Air Marshal Shahid Alvi (Retd) participating in discussion stated that Balakot should have been declared as an act of war, however, due to the



contrived compulsion of borders, economic strangulation and to maintain a "good boy" image Pakistan did not seek to declare Balakot an act of war and as a result 5<sup>th</sup> August took place. Modi upon assuming power made it very clear that he would work to isolate Pakistan. In Air Marshal's opinion Pakistan took his ambitions lightly. India worked to isolate Pakistan and malign its stature internationally, as per Air Marshal Shahid, Pakistan was being perceived as a fundamentalist state having a dysfunctional government and that image would remain the same until Pakistan became relevant to the

world like India in terms of economic viability. He further said that war was not exclusively the domain of rich countries only, even economically weak countries do adopt a military approach to safeguard their national interests. Explaining his point of view further, he said that he was not talking about war, rather the non-kinetic approach which Air Marshal Javaid had also talked about. He said that there had been a lot of talk about what Kashmiris could do, Pakistan should also see what it could do, and that was what mattered at the moment. India was talking about FATF strangulation but Air Marshal Shahid said that he did not buy this concern. He said that Pakistan should be providing help to Kashmir, whatever it took, before it was too late.

After an appraisal for Air Marshal Javaid's analysis, Director Kashmir Affairs (MOFA) Mr Shahras argued that the mind-set of Indian people was not clearly understood. One of the main perceptions in India was that historically, it had been far more conciliatory with Pakistan. Another perception in India, under the BJP government was that India had an intent of becoming a powerful state. In this scenario, any sign of conciliation, any offer of peace or talks from Pakistan would be considered a sign of weakness. Mentioning the use of specific words by India after the Uri incident, such as surgical strikes, pre-emptive strikes, and war on terror, Mr Shahras said that these were not mere innocent random words but these were used to create power disparity misperception. These created the perception that India was a

superpower and Pakistan a tiny state which could be taken care of. This power disparity misperception was the most dangerous thing threatening the peace and security of South Asia right now, because Indians could overestimate their power and could make a mistake. The current situation predicted that all that was started because overestimation was one main thing. This needed to be addressed and checked by Pakistan. This was not just about Kashmir. It was the way how the Indian government thought of itself.

In the third round of discussion, Ambassador (Retired) Fozia started the discussion by questioning whether it was Pakistan *or* Kashmir, or whether it was Pakistan *and* Kashmir. She further argued over economic viability, and Pakistan's commitment and resolve over Kashmir. Legalities associated with the humanitarian crisis in Kashmir should be addressed, which was the most immediate thing to do. What were the legalities to put in place humanitarian assistance? Bilateralism was dead. Mediation was a trap. She questioned that who was required under the UN to demilitarize the state of Jammu and Kashmir first? Could Pakistan do that?

Dr Rabia Akhtar from the University of Lahore argued that Pakistan's foreign policy was reactive and ad hoc. She proposed that all think tanks and research centres could come together as a pressure group and provided overview and strategic foresight of the bilateral relations

of India and Pakistan. She cautioned that under the circumstances Shimla was a casualty, next could be the Indus Water Treaty.



Air Marshal Masood, while agreeing with Air Marshal Javaid, said that there were far too many questions and fewer solutions. Pakistan was known to be short of answers on the abrogation of

Article 370. Reiterating the importance of grand strategy he emphasized that Pakistan should develop a national security framework to secure its people which according to him had not happened. He further added Pakistan should have a common purpose and declare its national interests. He said that going to war was not in Pakistan's national interests. General Tariq added that Modi had done what he could do. Kashmir had been internationalized, as never before since 1947. He said that the time of action had come. Pakistan should make it a headache for Modi and bring India to a defensive mode. The superior strategy was without war and Pakistan could do it using all international forums, through OIC and the Middle Eastern states, with full spectrum deterrence.

## **Remarks by the Chief Guest: President Azad Jammu and Kashmir Sardar Masood Khan**

President Azad Jammu and Kashmir Sardar Masood Khan thanked the president of CASS for organizing this conference and appreciated the fact that CASS had managed to bring together major think tanks to carve out a comprehensive strategy. He stated that all must understand the dynamics of the situation and present recommendations to the government and state institutions. Kashmir had been under occupation since 1947. India tried to alter its disputed status unilaterally, but Pakistan rejected the move. India was bound by the International Humanitarian Law to maintain Kashmir's disputed status. He emphasized that we must be clear about Article 370. Gandhi and Nehru coerced Shaikh Abdullah, who was a popular and clever leader, into joining India. Between June and October 1947, the war of independence was fought in which Kashmiris fought Dogra forces. He stressed that the Article 35A recognized the rights of Kashmiri people and it predated 1947. Its repeal was a violation of the rule 130 of the IHL. He warned against the illicit transfer of population and the invasion on the occupied territory. He said that India was going to colonize Kashmir, and it had been condemned by the international community. Hindu nationalism and fascism targeted Muslims in India, AJK, IOK, GB and in Pakistan, and was therefore an existential threat to Pakistan. He emphasized that Pakistan was already in a state of

war. Where Pakistan's policy was reactive, India's policy was strategic and long-term, and directed against Muslims. India wanted to attain a Great Power status – not just a



regional power. It wanted to become a potential competitor to the US and China. He added that India would intensify aggression in Kashmir. There would be massive brutalization and internal displacement. A lot of people would become refugees and the international community would look away. The alliance between the Gulf countries and India was strong because of economic ties and therefore, the former would not indulge in the politics of the Kashmir issue. While speaking on the role of Indian Kashmiris he said that the IOK would show massive resistance and armed struggle, supported by customary international law, whether or not Pakistan supported it and predicted that with time, there would be decreased international focus.

Talking on an optimistic note, he mentioned that there were some good things that had come out of the scenario:

- Pakistan had shown national unity and solidarity with Jammu and Kashmir

- Pakistanis had realized that IOK was part of Pakistan and that war against IOK meant war against Pakistan
- The international community had condemned India and sided with Kashmir for the first time
- Social media and international media had crafted authentic viewpoints
- The government of Pakistan had taken a strong stance for Kashmir, unprecedented in recent decades
- The terminology used, reflected the aspirations of Pakistanis. Moreover, people all over the world had begun to talk about Kashmir and had started equating India's ideology with Nazi ideology
- There was no equivocation in Pakistan's stance

He further added that Pakistan must not waste the opportunity that had been created for Pakistan and Kashmir. He told Pakistan to go back to the drawing board and craft new strategies and rethink old ones. He urged the nation to go beyond managing public opinions. Pakistan

needed a new toolbox of policy to which five things must be added: national security, national unity, state defence, economic stability, and Kashmir.



He laid out a future course of action and said Pakistan should demonstrate ingenuity, understand the full extent and direction of India's policy, and analyse the crux of India's doctrine. He lamented that Pakistan's past policy had been contradictory since Pakistan stopped going to the UN Security Council in 1972 and still expected them to keep looking into the matter. Pakistan must understand India's war doctrine. India wanted to immobilize Pakistan below the threshold of retaliation. He said that it was being debated whether genocide was taking place or not, in his opinion, it had been happening since 1947. There was plenty of evidence of war crimes and crimes against humanity. He apologized to the people of Indian occupied Jammu and Kashmir for only showing solidarity but failing to save them. He added that he did not blame the current government for this, because this was a deficit that Pakistan had accumulated over decades. He concluded by saying that Pakistan should negotiate and fight from a position of strength. He saw an opportunity for Pakistan to become a great nation.

## **President CASS Concluding Remarks**

In his concluding remarks, President CASS thanked all the worthy panellists for their thoughtful input and praised all the participants for their active participation in the discussion. While summarizing the



discussions of the conference, he said that the question that would trouble Pakistan would be whether to go for a military option of any kind or just limit itself to diplomacy. He identified the pros and cons related to military options and laid out the points quoted below:

### **Pros:**

- “Military is the final lever available after diplomacy, litigation and advocacy fails. We maintain that if attacked, we will defend ourselves.
- All nations maintain military forces to safeguard their interest. What should we do when our vital interests are threatened?
- The threat of use of force must remain on the table especially if we are to give hope to the beleaguered Kashmiris.

- An absence of threat will embolden the enemy. Pakistan may be weak economically at the moment but has adequate war reserves to fight a limited war both geographically and intensity wise, the war reserves can be replenished subsequently.
- With a weak economy, India will suffer more as multi-nationals withdraw their personnel due to travel advisory.
- If the threat of use of force is not on the table, then Kashmir cause will suffer grievously. The support for Kashmiris has to go beyond diplomatic and political involvement.”

**Cons:**

- “War should be avoided if possible, particularly for a country with a weak economy.
- War can be started easily but may not end when and how we want.
- War between two nuclear-weapon states is too dangerous in terms of consequences.
- The world turns against the aggressor especially when it is the weaker party; Kargil is an example.

- War doesn't solve anything, yet wars are fought.”

He further added that if Pakistan went for the military option, the most crucial partner on its side would be China, as China had an interest in Ladakh. The President highlighted the significance of the visit of Vice Chairman of the Chinese Military Commission and emphasized upon the importance of the bilateral discussion during this crucial visit.

In his conclusion, he added that the deliberations on Kashmir were a work in progress. He stated that CASS would continue this intellectual exercise in collaboration with other think tanks to suggest a meaningful way forward on the Kashmir issue.



## **A Way Forward**

Using the insight provided by the speakers and participants during the conference, the Centre for Aerospace and Security Studies compiled a categorized list of the key takeaways from the event, which are provided below:

### **General:**

- The abrogation of Article 370 was irreversible, as it was highly unlikely that the Indian Supreme Court would give a decision against the BJP government. However, Pakistan should not accept it as fait accompli. If Pakistan did not take a firm stand now, India would try to normalize this illegal annexation and would be emboldened to pressurize Pakistan by putting its claim on Azad Kashmir as well as Gilgit Baltistan.
- There were credible reports of ongoing clashes between Kashmiri people and the Indian forces despite the lockdown. It would intensify as soon as the government lifted the curfew. Pakistan must be ready and show its resolve and provide unstinting support to the Kashmiri people by using all elements of national power.

## Political

- Pakistan must develop a national consensus on the Kashmir policy with the backing of all political parties.
- There was need to understand the political dynamics of the Kashmir issue beyond textbook knowledge.
- Credible Kashmiri voices must be provided a platform for the advocacy of the Kashmir cause and in communicating the nature and details of the current Kashmir crisis.
- Pakistan must look into the possibility of giving autonomy to AJK, accord de facto provincial status and rights to Gilgit-Baltistan pending a final resolution of the Kashmir dispute.
- Pakistan must highlight Article 257 of the Constitution of Pakistan which guarantees that the option chosen by Kashmiris would be honoured even if they opted for independence.
- Universities, government offices and think tanks must set up Kashmir studies departments and cells.

## **Diplomatic**

- Pakistan must clearly enlist all options, including the possibility of the use of force if needed, at the United Nations General Assembly session and sideline meetings in September. Pakistan should clearly draw certain redlines to express its resolve and commitment to the Kashmir cause.
- Pakistan must highlight the risk of impending genocide in Kashmir, for which the Genocide Watch had already issued an alert.
- China and Pakistan must work in close synergy, as the former has its own concerns vis-a-vis Ladakh. Pakistan should continue to use Chinese support in finding space at various global forums.
- Pakistan must ratchet up diplomacy with countries like Turkey and Iran, along with so far neutral states like Saudi Arabia.
- It should pre-empt Indian propaganda against Pakistan and raise its concerns over Indian attempts to launch a false flag operation.
- The government should mobilize Pakistani diaspora living abroad.

## Legal

- Pakistan should approach UNSC under [Chapter VII Article 39](#) that dealt with “Threats to International Peace and Security.” It should build a case against Indian actions that have threatened international peace and security, that if not reversed, may lead to a conflict between two nuclear armed states.
- Pakistan should challenge the legality of the Instrument of Accession, the basis of Indian claims. Pakistan could build a case against India as an illegal occupier according to [Article 42 of the Hague Regulations, 1907](#), according to which “Territory is considered occupied when it is placed under the authority of the hostile army.” After establishing India as an occupier, Pakistan could raise this issue under customary international law.
- Pakistan must address the human rights issue under two distinct categories:
  - UNHCHR should be approached with reference to existing reports on the abuses, arbitrary arrests and disappearances of innocent Kashmiris conducted by the Indian forces

- Pakistan should build a case under the International Humanitarian Law and address India as an illegal occupier and term Indian actions as war crimes.
- [Article 49 of Geneva Convention \(IV\)](#) states: "The occupying power shall not deport or transfer parts of its own population into the territories it occupies." The abrogation of Article 370 made India a violator of the Geneva Convention under international law.
- Pakistan should take measures to expose the duplicity of Indian claims on Kashmir being an internal matter by highlighting the existing UNSC resolutions on Kashmir. [Security Council Resolution 47](#) passed in 1948 called for a "free and impartial plebiscite."

## **Military**

- Pakistan should be prepared to deal with an onslaught of hybrid warfare tactics in critical areas such as Gilgit Baltistan, Federally Administered Tribal Areas (FATA) and Baluchistan.
- Pakistan should consider all options, including military, should diplomacy fail to deliver desired results. The support for

Kashmiris must go beyond mere diplomatic and political involvement. The pros and cons of the military approach are already given in President CASS' closing remarks.