[Ashraf Jehangir Qazi](https://www.thenews.com.pk/writer/ashraf-jehangir-qazi)

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**Compromise or catastrophe?**

The writer is a former ambassador to the US, India and China and head of UN missions in Iraq and Sudan.

In memory of Zainul Abedin, whom I got to know without ever having met. I knew him for his humane global patriotism – the only kind that is true. I know him now as someone I shall not forget.

The only way to gain international support for the prevention of genocidal repression in Indian Occupied Kashmir and nuclear catastrophe in South Asia is for the international community to realize the extreme gravity of the current Kashmir situation.

India and Pakistan are neighbouring nuclear weapons states. They have irreconcilable positions and mutually exclusive narratives regarding Kashmir. They have gone to war over the dispute on more than one occasion. Today, despite the Pakistan government’s clear determination not to risk another war, India’s relentless campaign of brutal repression against the majority of the Kashmiri people is setting the scene for a major conflict and catastrophe.

India insists the former State of Jammu and Kashmir is an integral part of it. It refers to Azad Jammu and Kashmir as Pakistan Occupied Kashmir and insists on the right to “liberate” it. Pakistan regards Jammu and Kashmir as “disputed territory.” Its disposition is to be determined by a UN conducted plebiscite to ascertain the wishes of its people in accordance with still extant UN Security Council resolutions.

India claims that Pakistan did not fulfill the conditions for holding a plebiscite and later joined Western defence pacts thereby rendering the UN resolutions on Jammu and Kashmir irrelevant. Accordingly, India insists the former Maharaja of Kashmir’s accession to India after he fled an uprising of the Kashmiri people against him was valid.

The UN Security Council, however, refused to endorse India’s contention and reiterated the disputed status of Jammu and Kashmir. Nothing can derogate from the inalienable and internationally acknowledged right to self-determination of the people of Kashmir. Accordingly, the UNSG has urged the two parties to the Kashmir dispute to peacefully negotiate a settlement acceptable to the people of Kashmir. This reference to the people of Kashmir is a reiteration of their right of self-determination. Moreover, the UNSG also has discretion under Article 99 of the UN Charter to bring the matter to the attention of the UNSC if he perceives a threat to the peace. Accordingly, he needs to seriously consider doing so given the impending catastrophe.

The Kashmir dispute is not just a territorial dispute between India and Pakistan. It is even more a political and human rights issue concerning the people of the former State of Jammu and Kashmir. Accordingly, no agreement between India and Pakistan such as the Simla Agreement or the Lahore Declaration can be validly interpreted as derogating from the UN acknowledged and still unexercised rights of the people of Jammu and Kashmir. That would be a violation of the UN Charter.

There have been several attempts by India and Pakistan to negotiate a bilateral settlement of the Kashmir dispute. They have all foundered on India’s insistence that the whole of Jammu and Kashmir is its territory, the Kashmir dispute no longer exists, and India’s only purpose in agreeing to talks on Kashmir with Pakistan is to ask it to stop its interference in India’s internal affairs and cease its terrorist activities. As a result, all efforts at a negotiated settlement were vitiated from the outset. The only partial exception was the so-called back-channel talks of 2004-5 where a number of interim understandings were tentatively reached which may or may not have survived once they were made public.

One could argue that a negotiation stalemate need not threaten the peace between the two countries. In a longer-term context, a gradual and cumulative process of mutual cooperation and confidence and security building measures could, through their impact on public opinion in both countries, eventually bring about breakthroughs on core issues that previously eluded negotiated progress.

Whatever the merits of such arguments, they were all made irrelevant on August 5, 2019 when India split IOK into two Union Territories in flagrant violation of UN resolutions and the Simla Agreement which was rendered defunct thereby removing the basis for dialogue with Pakistan. Since the LOC derived from the Simla Agreement, it has also become moot.

An extended double lockdown, (one for security and the other in the name of the pandemic,) has been in place in the Valley for 18 months including a massive communications blackout, denial of basic services, separation of families, relocation of children, deadly night raids on homes, making laws and regulations to facilitate a demographic transformation in the Valley, etc.

Since then 150 Indian laws have been extended to IOK and 164 state laws annulled. The registration of property transactions has been shifted to the revenue department from the judiciary. Several state commissions dealing with human rights, accountability, information, etc were closed. State departments were renamed with Hindu names in a Muslim majority state. New domicile laws were promulgated to facilitate taking land from Kashmiris for non-Kashmiri settlement. So-called 'strategic areas' have been identified for military infrastructure and settlement. Foreign media are banned from visiting the Valley. All these actions target the political and cultural identity of the majority community in IOK which constitutes a genocide process according to the Genocide Convention.

On August 11, 2019 Genocide Watch issued a Genocide Alert warning that many of the constituent elements of a genocide process in IOK were already “far advanced.” And not an official word from the UN or the US!

The Indian government knows it cannot politically and economically placate the overwhelming majority in the Kashmir Valley, nor permanently eliminate the indigenous resistance through conventional repression. Accordingly, it has embarked upon an accelerated, comprehensive and brutal campaign against the people of the Valley that shows every sign of escalating towards genocide.

India’s arrogant attitude towards Pakistan and its assumption that the Pakistan military has no real options against it threaten an existential catastrophe. The international community, despite its pro-forma remonstrations with India on human rights violations, is in danger of losing all leverage for compromise, moderation, peace and stability in the region.

The truth is that no government in Pakistan would survive if India succeeded in 'pacifying' the Kashmir Valley through genocidal repression while the people of Pakistan saw their government unable or unwilling to respond effectively. Moreover, the state of Pakistan would itself be imperiled.

What is to be done? I have suggested a multi-track settlement process which, very briefly, would: (i) seek a restoration of dialogue with India on Kashmir with an agreed modality for the participation of the Kashmiri resistance; (ii) press India to alleviate the abhorrent and execrable human rights situation in IOK; (iii) support the Kashmiri freedom struggle by all legal means (which excludes any and all acts of terror) for the implementation of the UN resolutions on Kashmir; (iv) address the issue of the Azadi (independence) option vis-à-vis the two options envisaged by UN resolutions with reference to Article 257 of the constitution of Pakistan which integrates the independence and Pakistan options; (v) intensify Pakistan’s diplomacy and lawfare for a settlement which protects the human and political rights of the Kashmiris and avoids catastrophic outcomes; (vi) awaken the international community and the UN to the dire need to halt Indian atrocities in IOK; and (vii) ensure Pakistan’s international image reinforces its arguments on behalf of a principled compromise settlement that is acceptable to Indian and Pakistani opinion and, above all, Kashmiri opinion.

Resistance, including armed resistance, against the forcible denial of an internationally recognized right of self-determination and other political and human rights is a recognized right. This includes the right to receive assistance, including armed assistance, for a legitimate freedom struggle. To equate such struggle and assistance with terrorism is utter nonsense. However, it is true acts of terror as such can never be condoned even as part of a freedom struggle.

Finally, any attempt to bring about a zero-sum genocide-based solution to the Kashmir dispute in a nuclear environment is a recipe for extinction. Although principled compromise is difficult for a brutally traumatized and utterly alienated people to accept, there are paths to a positive-sum outcome.

Despite Pakistani public opinion which shares the outrage and trauma of their Kashmiri brethren, implacable realities do incline the Pakistani state to seek a win-win compromise solution. Pakistan, however, cannot continue to pretend to its own people that it is doing its all for their brutalized Kashmiri brethren when that is so far clearly not the case.

Accordingly, it needs to be made clear that should India refuse to respond to Pakistan’s realistic, reasonable and responsible diplomacy for a peacefully negotiated principled compromise all bets will be off. Moreover, should the international community choose to continue being a do-nothing pleading bystander, it will be responsible for and complicit in a likely genocide and its inevitably catastrophic consequences.

To conclude, Kashmir is no longer just a rhetorical nuclear flashpoint. India’s arrogance, great power presumption and wretched bigotry have made the situation in IOK the most urgent and immediate global security threat. The international community has a duty to respond effectively. Otherwise, it will also pay a frightful price for its dereliction.

Email: ashrafjqazi@gmail.com