**Kashmir Webinars and Beyond**

[Dr Syed Nazir Gilani](https://dailytimes.com.pk/writer/dr-syed-nazir-gilani/)

August 7, 2023

On the 4th and 5th of August, we saw an impressive surge in activities denouncing India’s actions in Jammu and Kashmir since the ill-fated date of 5 August 2019. Across Pakistan and global capitals, a unified voice resonated, echoing the term “IIOJK” (Indian Illegally Occupied Jammu and Kashmir), while expressing solidarity with the people of the region now known as IIOJK. However, it is time for us to candidly confront our past shortcomings and re-set the compass.

In our historical pursuit of justice for the people of Kashmir, we have unwittingly engaged in a series of meandering and misguided efforts. Regrettably, none of these endeavours has been able to influence substantial action in alignment with the UN’s template on Kashmir. We have fallen into the habit of repetitively referencing the implementation of UN Security Council Resolutions while overlooking the broader UN template that these resolutions have collectively formed. This template lays out the foundation and fundamental principles for the proposed plebiscite in Kashmir. Sadly, this vital work came to an abrupt halt following the resignation of the UN-appointed Plebiscite Administrator in September 1953, who had initially intended to hold a plebiscite by November 1, 1950.

An assembly of the world’s finest statesmen, representing nations including Australia, Argentina, Belgium, Britain, Canada, China, Colombia, Cuba, France, the Netherlands, Philippines, Russia, Syria, Ukraine, and the US, actively contributed to shaping the UN template on Kashmir. Renowned military strategists like General Ismay, General Schemes, Admiral Chester Nimitz of the US, and General McNaughton of Canada lent their expertise, envisioning a plebiscite with credible security measures under impartial supervision.

It was unfortunate that the trajectory of the Kashmir case stagnated after Admiral Nimitz’s resignation, without an earnest effort to replace him with an alternative figure, such as the President of the International Committee of the Red Cross, a Swiss national. This oversight became a point of contention, as appointing two US nationals to oversee demilitarization and plebiscite procedures failed to gain universal approval.

In our historical pursuit of justice, we have unwittingly engaged in a series of meandering and misguided efforts.

To thaw the frozen state of the Kashmir case, we must procure the necessary tools to ignite a transformative process. Indian journalist Aasha Khosa’s piece in The Voice on July 20, 2023, in a polite rebuke recalled the days of the Hurriyat Conference, underscoring the passage of time and the stagnation of once-vibrant initiatives like the Kashmir Awareness Bureau and Kashmir Centers worldwide.

The art of condemnation also has its jurisprudence in the UN template. During the 611th meeting of the UN Security Council on December 23, 1952, the Netherlands aptly noted that violating an established agreement reached on Kashmir would constitute a grave offence against the opposing party, the UN, and the right of the people of Jammu and Kashmir to self-determination. However, the phase of condemnation has now concluded, leaving us devoid of concrete actions post-August 4th and 5th.

While some entities in Azad Kashmir wield political and financial influence concerning Kashmir, they remain reluctant to rally moral courage and demand a recalibration of their approach to the UN template. It is imperative to scrutinize our obligations and implore the Government of Pakistan, both as a UN member nation and a stakeholder in the Kashmir dispute, to take action.

Pakistan’s “Complaint Against India” made in Document II, presented to the UN Security Council on January 15, 1948, warned that the state’s accession to the Indian Union would equate to signing its death warrant. Nevertheless, Pakistan’s inaction from 1965 to 1996, a span of 31 years, cast a shadow on its commitment to the Kashmir issue. Rumours of a deal on Kashmir and General Bajwa’s purported decision to distance from the matter for another 20 years further entrenched this state of non-action, amounting to 51 years of stagnation.

The Government of Azad Kashmir rightly laments its exclusion from the handling of the Kashmir case, even though it enjoys privileges associated with the matter. Non-transparent intra-agency arrangements have repeatedly fallen short on the Kashmir front, reflecting a lack of comprehensive understanding of the case’s jurisprudence. These arrangements, revolving around tenure, only lead to recurrent failures.

Pakistan’s call for India to reverse its August 5, 2023 action and initiate a dialogue is a constructive proposition. Dialogue remains the hallmark of civilized nations for dispute resolution. To facilitate an honourable exit for the Modi Government from the 2019 action, Pakistan could support the Kashmiri leadership’s non-hostile challenge in the Indian Supreme Court.

This non-hostile strategy involves aligning arguments in the Supreme Court with the UN template. Resolutions 91 (March 30, 1951) and 122 (January 24, 1957) of the UN Security Council underscore the imperative for India (and vice versa for Pakistan) to respect the State’s territorial integrity and adhere to the basic conditions and principles of the proposed plebiscite. Encouraging Azad Kashmir, Gilgit-Baltistan, refugees in Pakistan, and the Diaspora to rally behind this approach can invigorate support. Are we prepared to transcend mere condemnation on August 4th and 5th and embark on this proactive path? Our commitment must encompass the diverse communities within the UN’s Kashmir definition and reflect the core political elements delineated in the UN template.

India’s statement at the 230th meeting of the UN Security Council on 20 January 1948 eloquently conveyed its aspiration: “We hope to be able to convince the Security Council that once we have dealt with the Kashmir question, there will probably not be anything of substance which will divide India and Pakistan to the extent of endangering international peace and security”.

During the 533rd Security Council meeting on March 1, 1951, the Government of India acknowledged, that “There exists a prevailing inclination in some circles to perceive this as a mere conflict between India and Pakistan, dismissing the importance of the legitimate government of Kashmir’s perspective. This notion is erroneous. As previously mentioned, the jurisdiction of the Government of India over the affairs of Kashmir is confined to specific domains; beyond these realms, its influence is advisory in nature and devoid of the power to unilaterally enforce any determinations.”

This limited influence of the Government of India has been debated in the Report of The State Autonomy Committee, published in July 2000. This report has been adopted by the two houses of the Jammu and Kashmir Assembly. The fact that the Government of Jammu and Kashmir retains a residual sovereignty on all matters except in the areas of Defence, External Affairs and Communication, forms a challenge to India action of 5 August 2023 in the Supreme Court of India. The government of Pakistan could take a non-hostile recourse by invoking UN Security Council Resolutions 91 of 30 March 1951 and Resolution 122 of 24 January 1957.

*The writer is the President of JKCHR — an NGO in special consultative status with the UN.*