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Objectives of the IJKS

- To assess and examine the needs and requirements of research in Kashmir studies and dynamics of Pakistan.
- To publish articles related to Kashmir conflict, international affairs, political studies, diplomacy and public advocacy, security paradigm, defense and strategic studies, law-based approaches, peace and conflict studies, governance and economy, self-determination and other solidarity rights.
- To coordinate research programs of various universities and other research bodies in and outside Pakistan and cooperate in the academic activities and scholarly pursuits of all official and nonofficial institutions engaged in this field;
- To seek, acquire and preserve source material (private papers, newspapers, rare books, documents and pamphlets, etc.) relevant to the above fields;
- To arrange interviews with important persons who can recall significant incidents relating to the fields mentioned above and to preserve a record of such conversations for current and further use by Historians, Social Scientists and scholars of various fields;
- To publish biannual Journals of high academic quality
- To sponsor and commission scholarly works by independent academic researchers;
- To devise and adopt ways and means to further the objectives of the forum as a body responsible for research in above-mentioned areas;
- To cooperate with international research organizations, and study Kashmir Issue in wider context of its neighbouring countries.

The question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations.

(UN Security Council Resolution
05 January 1949.)

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(Dr. Sania Muneer)
Editor in Chief



From Response to Responsibility: Post-August 5 Condition of IOJK and International Community

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The IJKS

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From Response to Responsibility: Post-August 5th Condition of IOJK and International Community

Sardar M. A. Waqar Khan Arif

Abstract

The legal status of Jammu & Kashmir has been significantly altered as India stripped it of its special status. The revocation of Article 370 sent shockwaves throughout the international community. Various states have repeatedly condemned the gross human rights violations in Kashmir, while China has urged Pakistan and India to ease tensions. In the backdrop, the valley has been arrested in force and fear since 1947. The Indian security forces as an occupying entity in Jammu & Kashmir have often clashed with civilians who have been picked up from their homes, forcefully relocated, or imprisoned without following the due process of law. The agreements agreed upon between Pakistan and India to solve the Kashmir dispute i.e., Simla Agreement and Lahore Declaration have been disregarded by India. The constitutional relationship of Jammu & Kashmir with India has also been overhauled arbitrarily. Legally, as per Section 7 of the Indian Independence Act (1947), the instrument of accession was to be solely ratified by the people of the disputed state through a referendum; however, to date, no referendum has taken place through the United Nations Security Council (UNSC) has repeatedly passed resolutions on the subject. To secure the rights of the people of Kashmir, there is an immediate need to take extraordinary measures by the international

community; as the annihilation of the people of Jammu & Kashmir by Indian forces must be stopped before it is too late. In this context, this paper argues that the UN must take emergency measures to save the lives of the Kashmiri people and to help them attain the right to self-determination for the people of Jammu & Kashmir as promised under the UN Resolutions. Analyzing the authenticity of post-August 5, legislation regarding Jammu & Kashmir, India has been identified as an occupying power and it must comply with the provisions of International Law. Finally, it is concluded that the international community must take steps for ensuring the promotion of basic rights of people Jammu & Kashmir and towards the fulfillment of all obligations as promised by the UNSC.

Keywords: Legislation in Jammu & Kashmir, Occupation, UN Resolution, Human Rights Violation, International Community.

Introduction

The state of Jammu and Kashmir, with an 80% Muslim population, was one of the princely states before the Partition of India in 1947. Geographically, it consisted of five regions, namely Kashmir Valley and Poonch with 90% Muslim majority, Jammu with 59% Hindu majority, Gilgit region predominantly Muslim, Ladakh overwhelmingly Buddhist, and Baltistan a Muslim majority.¹ In 1946, the Cabinet Mission Plan issued a statement that “paramountcy can neither be retained by the British Crown nor transferred to the new government” (paragraph 14). Under article 7 of the Indian Independence Act, 1947, the paramountcy was disposed of providing, “the suzerainty of His Majesty over the Indian States lapses”.² Under the said Act, two new dominions; Pakistan and India were established in August 1947. All the princely states were given a choice of accession to either of these new dominions.³ The state of

¹ James D. Howley, “Alive and Kicking: The Kashmir Dispute Forty Years Later,” *PSILR*, Vol. 9 No.1 (1991).

² Indian Independence Act, (1947).

³ Matthew J. Webb, “Escaping History or Merely Rewriting It? The Significance of Kashmir’s Accession to its Political Future,” *Contemporary South Asia*, (2012).

Jammu & Kashmir did not accede to either dominion, though it was claimed by India that the Instrument of Accession was signed by Maharaja Hari Singh but no documentary proof is available in this regard. Due to uncertainty in the region, a revolt began in Jammu and Poonch especially when Muslims were asked to leave their homes. In this respect, while reporting one such incident of revolt, Ian Stephens, former editor of the prestigious newspaper *The Statesman*, writes that: "... about half a million or so had almost totally disintegrated in the Autumn of 1947. About 200,000 simply vanished, being presumably butchered or killed by epidemics and exposure while seeking to get away; the rest had fled into Pakistani Punjab."⁴

As a result, the Maharajah requested India for military aid. In return, he was required to sign an instrument of accession of the State of Jammu & Kashmir. The Maharaja tried to accede for autonomy, however, the legal validity of accession is debatable and contested by various Scholars.⁵ On January 01, 1948, India took the matter to the UN for the solution. Subsequently, the UN formed the United Nations Commission of India and Pakistan (UNCIP) and issued various resolutions on the subject. In all those resolutions right of self-determination of the people of the State of Jammu & Kashmir was well recognized. These UN resolutions called for an UN-administered plebiscite.

The political discourse and power dynamics in Kashmir have changed after the abrogation of Article 370 by the Indian Government. The curfew was imposed effectively throughout the valley. There was an indefinite communications blackout with no possibility of using the internet or telecommunications.⁶ Restrictions were imposed on the locals and their rights were breached including

⁴ Ian Stephen, "Horned Moon," London: Chatto and Windus, (1953), p. 138.

⁵ Fozia N. Lone, "The Creation Story of Kashmiri People: The Right to Self-Determination," *The Denning Law Journal*, (2009), pp. 1-26.

⁶ Jefferson Gettleman and Suhasini Raj, India Revokes Kashmir's Special Status, Raising Fears of Unrest, (New York Times, 5th August, 2019), Online available at: <https://www.nytimes.com/2019/08/05/world/asia/india-pakistan-kashmir-jammu.html> (Last accessed: December 30, 2020).

freedom of movement and freedom of assembly. There were further infringements of civil, political, economic, social, and cultural rights. It is important to note that the presence of the military in large numbers is enough evidence for proving that IOJK is the highest militarized region around the globe.⁷ The valley witnessed coercive measures, killings, debilitating pellet injuries, unlawful detention and torture, sexual violence, enforced disappearances, etc. Members of civil society and international humanitarian agencies have documented and campaigned against some of the gravest forms of human rights violation in Kashmir.⁸ Such violations have been highlighted in the UN's report of July 2019. Indeed, the prolonged nature of occupation reflects an alarming situation in Kashmir.⁹ The indefinite curfew imposed in Kashmir in aftermath of Article 370 is an extension of a de-facto State of Emergency, with the consequence of placing more restrictions and shackles on Kashmiri people's basic rights; and the Indian Government's actions and orders seek to 'normalize' this very status quo.¹⁰

To understand the overall scenario of Kashmir's renewed occupation, this paper is divided into seven sections. The first section is introductory whereas the second highlights gross human rights violations in IOJK. Section three provides an analysis of post-5th August legislation and its effects; section four addresses prolonged occupation and obligations of occupying powers under international law; section five addresses responsibilities of the international community; and section six discusses a summary of the recent report about human rights in Jammu & Kashmir from August 2020 to January 2021. The final section is the concluding one.

⁷<https://www.moneycontrol.com/news/india/boxed-inside-kashmir-valley-with-130-security-civilian-ratio-4303011.html> (Last accessed: December 30, 2020).

⁸https://www.ohchr.org/Documents/Countries/PK/KashmirUpdateReport_8July2019.pdf(Last accessed: December 30, 2020).

⁹ Report of Amnesty International titled: "Impunity must end in Jammu and Kashmir", (April, 2001).

¹⁰ Report titled: 120 Days: 5th August to 5th December, published by Association of Parents of Disappeared persons (ADPD), (2019), p. 10.

Gross Human Rights Violations in IOJK

Gross human rights violations are committed in Jammu & Kashmir. It is the responsibility of the international community to protect civilians and to take special measures to stop these violations in Jammu & Kashmir. Violations that occurred have been listed below:

i. Reported Killings in IOJK

In 2019, more than 300 people were killed including members of armed forces and civilians. As per available reports, at least more than two hundred people were killed during the first six months of 2020 in Jammu & Kashmir. As a result of the outbreak of violence, many civilians were killed. Gross human rights violations were committed in this respect.¹¹

Table No. 1: Jammu & Kashmir Statistics from August 5, 2019, to June 30, 2020

Sr. No.	Human Rights Violations	Total Number
1	Total killed	352
2	Freedom fighters killed	196
3	Civilians killed	75
4	Indian occupying forces Killed	81
5	Total arrested	16,000-17,000
6	PSA detainees	662
7	Total cordon and search operations (CASO)	128
8	Houses damaged	800
9	Internet snapped	From August 5, internet

¹¹ Report titled: "Six Monthly Review of Human Rights Situation in Indian administered Jammu & Kashmir (January to June 2020), published by Jammu Kashmir Coalition of Civil Society & Association of Parents of Disappeared Persons, (July 1, 2020), p. 6.

		was completely suspended for 175 days, later only 2G service was restored and after February 15, 2Ginternet was again suspended at least 60 times.
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Source: Report titled: Kashmir's Statehood Abrogated: Legal Fact-finding Report, jointly published by Institute of Policy Studies (IPS), Islamabad Legal Forum for Oppressed Voices of Kashmir (LFOVK), 4th August, (2020), p5.

ii. Destruction of Property and Search Operations

In line with human rights violations, collateral damage was reported in Jammu & Kashmir. It includes firing at houses, destruction of vehicles and animal shelters. During the last months of 2019 and at the beginning of 2020, Cordon and Search Operations (CASO) continued in J&K. Even during the COVID-19 pandemic various such operations were reported. in Pulwama, Kulgham, Shopian, and Anantnag districts of Jammu & Kashmir. Violent attacks and encounters had been recorded in the southern part of Kashmir, Baramulla, Kupwara, and north. These, among a few other districts, remained the worst affected areas in Kashmir.¹²

iii. Arrest and Detentions in IOJK

Under the following laws arrests and detention of the people in Jammu & Kashmir have been taking place:

Arrest and Detentions under Public Safety Act (PSA): In terms of arbitrary detentions, many cases were reported. Such detentions include arbitrary and administrative arrests in a widespread manner. The people targeted were civilians, politicians, civil society groups and children. During detention, it has been found that gross human rights violations were committed, and acts

¹² Report titled: "Six Monthly Review of Human Rights Situation in Indian administered Jammu & Kashmir (January to June 2020), published by Jammu Kashmir Coalition of Civil Society & Association of Parents of Disappeared Persons, (July 1, 2020), p. 610.

of violence, torture and inhuman treatment were recorded. Many of the victims have experienced cruel and degrading treatment during detention.¹³

It is important to note that politicians and administrators were arrested under PSA in terms of preventive detention. Although preventive detention is allowed by various laws, it has certain limitations/requirements to be fulfilled. Under international law, an arbitrary and administrative arrest is prohibited. Such detentions were carried out under the Public Safety Act (PSA), 1978, especially during the post-5th August era. According to one report, more than 3000 people were arrested under PSA.¹⁴ Numerous reports also claim that even children have been detained under the PSA.¹⁵ Before August 5, 2019 at least 144 children were arrested and also released on August 5, as indicated by the Department of State Police.¹⁶

i. Arrests and Detentions under UAPA

Arrests have also been made under the Unlawful Activities Prevention Act (UAPA). This law is a tool to curb dissenting and opposing views. As per provisions of UAPA, anyone can be arrested and declared a terrorist. It also empowers National Investigation Agency (NIA) and other similar agencies to investigate cases. An example in this regard is of two Kashmiri journalists who were investigated under UAPA and the Jammu & Kashmir police filed cases against them: Under section 13 of UAPA and section 5 of IPC they were taken into custody. Such acts amount to the violation of freedom of expression and press.¹⁷

¹³ Report of Amnesty International titled: Tyranny of a Lawless Law, (2019).

¹⁴ Report titled: 120 Days: 5th August to 5th December, published by Association of Parents of Disappeared persons (ADPD), (2019), p. 15.

¹⁵ Devjot Ghoshal and Alasdair Pal, Thousands detained in Indian Kashmir crackdown, official data reveals, Online available at: <https://in.reuters.com/article/india-kashmir-children/nine-year-old-among-nearly-150-children-briefly-held-in-kashmir-court-probe-idINKBN1WG472> (Last accessed: December 30, 2020).

¹⁶ Adil Akzher and Anathakrishna G, 144 minors were detained, Jammu & Kashmir admits to top court, Online available at: <https://indianexpress.com/article/india/144-minors-were-detained-jk-admits-to-top-court-6046447/> (Accessed: January 1, 2021).

¹⁷ Report titled: "Six Monthly Review of Human Rights Situation in Indian administered Jammu & Kashmir (January to June 2020), published by Jammu Kashmir Coalition of Civil Society & Association of Parents of Disappeared Persons, (July 1, 2020), p. 11.

ii. Presence of Military troops and Use of Excessive Force in IOJK

Under international law, the only necessary force can be used. However, excessive force has always been used against civilians in Jammu & Kashmir. In Budgam and Nasrullapura, forces including J&K police and Central Reserve Police Force (CRPF) have attacked civilians and raided villages.¹⁸ The presence of military troops in large numbers is also questionable in this respect.

iii. Internet Siege and Communication Blockade in IOJK

It is important to note that the internet blockade was started in August 2019 for 175 days and the curfew in Kashmir is the largest communication blockade in the world. Access to the internet and other technological sources was denied. A huge internet siege has been reported in J&K under which digital access and internet access have been completely denied at all levels.¹⁹

iv. Problems for Livelihood, Health, and Education

The livelihood of the people has been affected due to curfew and shutdown. More than 500,000 people have lost their jobs due to shutdowns; the consequences of which are very severe.²⁰ In terms of education, schools, colleges, and universities were locked because of the curfew. Many students were unable to attend college, school, or university. There is a huge academic loss marked by the shutdown. Similarly, in the health sector, people have suffered a lot. No facilities were being provided to the patients in the hospitals. As per Kashmir's 2019 mental health report, often young and teenagers have suffered, who were subjected to torture and abuse, in the form

¹⁸ Report titled: "Six Monthly Review of Human Rights Situation in Indian administered Jammu & Kashmir p14.

¹⁹ Report titled: Kashmir Internet Siege, published by Jammu Kashmir Coalition of Civil Society, 05-08-2019.

²⁰ Kashmir Chambers of Commerce and Industry (KCCI) estimates

of acute reaction to stress and post-traumatic stress disorder (PTSD).²¹

The right to access to justice has also been denied and a number of cases remained pending.²² Because of the lockdown, freedom of expression, speech, social participation, and assembly were restricted. It has left a devastating impact on the lives of people. The above-mentioned cases of gross human rights violations are significant for consideration by the international community. It is the need of the hour to protect Kashmiris and their rights.

Analysing Post-August 5, 2019 Legislation

The President of India introduced Order C.O 272 on August 5, 2019, in parliament unilaterally. Article 370 and 35-A of the Indian Constitution were amended. Following changes made in the Constitution of the Republic of India are important for consideration:

- a. All references to the ‘Government of Jammu & Kashmir’ would henceforth be construed as references to the ‘Governor of Jammu & Kashmir’;
- b. All references to the ‘Constituent Assembly of Jammu & Kashmir’ shall be construed as references to the ‘Legislative Assembly of Jammu & Kashmir. The Constitutional Order 1954 (Applicable to Jammu & Kashmir) was superseded with immediate effect.

This Act of the Indian Government has changed legal and political dimensions of J&K.²³ The abrogation of Article 370 and 35A has serious legal consequences as new legislation empowers Lieutenant General and limits the autonomy of Jammu & Kashmir. Section 96

²¹ Musthujab Makkolath. *Imprisoned Resistance: 5th August and its aftermath* October (2019).

²² Jammu & Kashmir Bar Association estimates

²³ Report titled: *Kashmir: A case of Prolonged Occupation*, published by Legal Forum for the Oppressed Voices of Kashmir, p. 11.

of the Jammu & Kashmir Reorganization Act 2019 ordered the application of 37 central laws envisaged in the Concurrent List to the newly formed Union Territories (UTs). The order notifies changes in the Jammu & Kashmir Civil Services Decentralization and Recruitment Act (hereafter, Civil Services Act), which defines domicile for employment in the region. With the abrogation of Article 370, a total of 106 central laws are effective in the Union Territory of Jammu and Kashmir. These include the Prevention of Corruption Act, the National Commission for Minorities Act, and the Land Acquisition Act.

Jammu & Kashmir Reorganization (Adaptation of State Laws) Bill 2019

It states that Jammu & Kashmir will be split into two union territories namely, Jammu & Kashmir and Laddakh. These would have their own legislative assemblies. However, the Indian parliament may extend federal/central laws to Jammu & Kashmir subject to article 93.²⁴ It is important to note that jurisdiction of other subjects has been extended, such as the Indian Penal Code and CrPC. Another development is specific to the right to information that replaced the previous Information Act of 2009. In Jammu & Kashmir, various organizations have highlighted that such territories do not have human rights commissions and there are chances of violations of human rights a large scale. This alarming situation is highlighted by Commonwealth Human Rights Initiative²⁵ and United Nations Human Rights Commission (UNHRC). Gross human rights violations may be committed even to children and women without oversight and monitoring.²⁶

²⁴ The Jammu & Kashmir Reorganization Bill, No. XXIX (2019)

²⁵ Venkatesh Nayak, "MHA confirms restrictions in Jammu & Kashmir are only in the mind: RTI reveals it has no papers about shutdown orders even as Kerala High Court says internet access is a fundamental right," CHRI, 6 October, (2019). Online available at:

<https://www.humanrightsinitiative.org/blog/mha-confirms-restrictions-in-jk-are-only-in-the-mind-rti-reveals-it-has-no-papers-about-shutdown-orders-even-as-kerala-high-court-says-internet-access-is-a-fundamental-right> (Accessed: January 1, 2021).

²⁶ Prashasti Awasthi, "Awasthi, Centre To Wind Up Human Rights And Information Commission In Jammu And Kashmir," *The Logical Indian*, October 25, (2019), <https://thelogicalindian.com/news/jammu-kashmir-human-rights-shutdown> (Accessed: January 1, 2021).

Domicile Certificate (Procedures) Rules, 2020

The Ministry of Home Affairs has introduced a new domicile rule under Section 96 of the Jammu & Kashmir Reorganization Act, 2019.²⁷ The focus is on the permanent residence of people in the territory. The citizenship directions of the Indian government will be followed for the issuance of Domicile Certificate (DC).²⁸ The new law covers four key areas, i.e. (i) who is eligible for DC and what rights entail; (ii) who will be competent authority to issue the DC; (iii) the time frame of its issuance, and (iv) the penalty awarded to the concerned official who fails to issue it within the time frame allotted.²⁹ As per new legislation, anyone can apply for a Domicile Certificate, such as migrants, central employees, members of Indian armed forces personnel. Even they can buy or sell land and apply for employment.³⁰ It is important to note that before the legislation of new laws, there were specific/limited seats reserved for central government employees.³¹ The people in Jammu & Kashmir are required to convert their Permanent Residence to a new Domicile Certificate. However, outside Jammu & Kashmir, people have easier way to apply for citizenship in union territories. There is a requirement of proving residence for 15 years or education of 7 years. The children of people who have served for 10 years in the region may also apply. The concerned Tehsildar has been empowered to furnish Domicile Certificate within 15 days; otherwise, he is required to face a penalty amounting to 50,000 rupees.³² As per Section 60 of the Jammu & Kashmir Reorganization Act 2020, the seats have been increased.³³

²⁷ Hamid Rather, "Kashmir 'Pushed' to Pre-Hari Singh Era Due to New Domicile Rules?" *The Quint*, April 21, (2020), <https://www.thequint.com/voices/blogs/jammu-kashmir-abrogation-article-370-new-domicile-rules-pre-raja-hari-singh-era-rights> (Accessed: December 25, 2020).

²⁸ "What does the Domicile Law Mean for Kashmir?," AlJazeera, June 13, (2020), <https://www.aljazeera.com/programmes/thestream/2020/06/domicile-law-kashmir-200610143308394.html> (Accessed: January 1, 2021).

²⁹ Shakir Mir, "Jammu & Kashmir Govt's New Domicile Certificate Rules a Move to Undercut Resistance from Kashmiri Officials?," *The Wire*, 19 May, (2020), <https://thewire.in/law/kashmir-domicile-certificate-rules> (Accessed: January 1, 2021).

³⁰ Mudasir Ahmad and Pallavi Sareen, "New Domicile Law Opens Jammu & Kashmir State Jobs for Outsiders, Lowest Grade Jobs Reserved for Locals," *The Wire*, 1 April, (2020), <https://thewire.in/government/jk-domicile-law-jobs-centre> (Accessed: December 30, 2020).

³¹ Jammu & Kashmir Grant of Domicile Certificate Procedure Rules, (2020).

³² Jammu & Kashmir Grant of Domicile Certificate Procedure Rules, (2020).

³³ Azaan Javaid, "Modi govt redefines Jammu & Kashmir domicile rule, extends it to those who have lived in UT for 15 yrs," *The Print*, April 1, 2020, <https://theprint.in/india/modi-govt-redefines-jk-domicile-rule-extends-it-to-those-who-have-lived-in-ut-for-15-yrs/392596> (Accessed: January 1, 2021).

In this context, such rules have been criticized and condemned by the international community, legal scholars, civil society, and individuals. With the demographic changes, the Muslim majority will be converted into a minority within Jammu & Kashmir which is in violation of the provisions of international law. Under article 7 of the Rome Statute, 1998, amounts to a crime of aggression. Under Article 8(2)(b)(viii) of the Act, such an attempt amounts to a war crime. It is also in violation of the Geneva Conventions of 1949.

Other New, Amended, and Repealed Laws Post August 5, 2019

The other amended laws post-August 2019 are as follows:

Jammu & Kashmir Education Investment Policy 2020

According to the new Education Policy 2020,

The government intends to give due preference to reputed players in the field of education willing to set up universities in Jammu & Kashmir. The government will facilitate allotment of land in union territories from the specified available land bank and will coordinate with the concerned departments for required approvals and clearances to facilitate the process of setting up educational institutes. Now private investors from outside J&K will be incentivized to set up educational institutions.³⁴

The other laws which were repealed due to abrogation include media laws and real estate laws.³⁵

³⁴ Report titled: "Six Monthly Review of Human Rights Situation in Indian administered Jammu & Kashmir (January to June 2020), published by Jammu Kashmir Coalition of Civil Society & Association of Parents of Disappeared Persons, (July 1, 2020), p. 15.

³⁵ Report titled: "Six Monthly Review of Human Rights Situation in Indian administered Jammu & Kashmir, p. 16.

Table No. 2: Pre-Abrogation and Post Abrogation of Article 370 and 35-A

S.No	Pre-Abrogation	Post-Abrogation
1	Special Powers exercised by Jammu & Kashmir Assembly	No Special Powers
2	Dual Citizenship	Single citizenship
3	Separate flag for Jammu & Kashmir	No two flags
4	Article 360 (Financial emergency) is not applicable	Center can Declare financial emergency under article 360
5	No reservations for minorities such as Sikhs and Hindus	Minorities will be eligible for 16% reservation
6	Indian citizens from other states cannot buy land in Jammu & Kashmir	People from other states can now purchase land in Jammu & Kashmir
7	Duration of Assembly is 6 years	5 years Duration
8	If a woman from Jammu & Kashmir marries out of state, she would lose the citizenship of that state	If a woman marries out of state or country, she will still retain all her rights and citizenship
9	Central laws will not directly apply	Central laws will directly apply
10	Police will be managed by Jammu & Kashmir administration	Police will be managed by Center

The next section is specific to the case of prolonged occupation as Jammu and Kashmir have been under Indian occupation since 1947. It provides an analysis of the definition and obligations of the occupying powers under international law.

Prolonged Occupation and Obligations of the Occupying Powers

As prolonged occupation exists in Jammu & Kashmir, this section highlights the phenomenon of prolonged occupation and the impression of violations of the provisions of international law. It also analyses the obligations of the occupying powers under international law.

i. Prolonged Occupation

There is no specific definition of occupation in international law. However, the relevant provisions of Hague Regulations and Additional Protocol-I of 1977 are discussed here. The legal basis of the term occupation can be derived from these provisions. The purpose of the Geneva Conventions of 1949, Additional Protocols of 1977, and provisions of Hague Regulations create balance among the occupying powers, the occupied people, and the Civilians. Article 42 of Hague Regulations provides that: “Territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised.”³⁶

Thus, the criteria developed by international law is that effective control must be established and exercised. From the definition, it can be deduced that occupation is a temporary phenomenon whereas in the case of Jammu & Kashmir prolonged occupation exists. Under provisions of the said laws even during the occupation, the occupying powers are required to follow the law in letter and spirit.

ii. Breach of the Provisions of International Law

The provisions reflect that occupation must be temporary in nature and in case of necessity it can take place. Occupation is permitted only as an exceptional case and it can be there for temporary purposes only. In the case of Jammu & Kashmir, people are

³⁶ Article 42 of Hague Regulations, (1907).

struggling for the exercise of their right to self-determination (RSD). The RSD is well recognized under international law and is a basic human right that cannot be snatched away in any context.

Legal scholars, in their assessments, hold that India's prolonged occupation in IOJK amounts to violation of the provisions of International Humanitarian Law (IHL), International Law of Occupation (ILOC), International Criminal Law (ICL), and International Human Rights Law (IHRL). The actions of the military in IOJK amount to a breach of peremptory norms of international law. India has occupied Jammu & Kashmir merely on the basis of repression and control through systematic abuse of Kashmiri rights. These abuses include prolonged occupation, unlawful killings, restrictions on movement and assembly, forced disappearances, and arbitrary arrests.³⁷ All such acts are violations of provisions of international law.

Obligations of the Occupying Powers under International Law

Under international law, the occupying powers are required to follow the law in all cases. The occupying powers are required to take all measures in order to ensure and restore the maintenance of public order and safety in occupied territory.³⁸ The occupying power may modify certain laws in connection and make laws in conformity with the Geneva Conventions of 1949 in an occupied territory.³⁹ In all circumstances benefit of the occupied/local people and civilians is significant for consideration by the occupying power. The occupying powers do not have sovereign power over the territory, but it is administrative power. The occupying powers are required to administer an occupied territory subject to the provisions of international law. The other obligations and prohibitions on the occupying powers include: "the obligation to provide basic needs of protected population; the obligation to facilitate humanitarian aid by

³⁷ Report titled: "Kashmir" A Case of Prolonged Occupation, Published by Legal Forum for the Oppressed Voices of Kashmir, p. 14.

³⁸ Article 43 of The Hague Regulations, (1907).

³⁹ Article 64 of Geneva Convention-IV, (1949).

third actors; the strict prohibition on transferring your own population into the occupied territory; the strict prohibition on forcible transfer of the protected population, while allowing for temporary evacuation for military operations; the obligation to respect private property and the destruction of property is prohibited except where rendered absolutely necessary for military operations”.

The rules of IHL apply in terms of the protection of the rights of the civilians. GC-IV specifically relates to civilians. In certain circumstances, the provisions of IHL and IHRL apply in a parallel manner.⁴⁰ Any kind of destruction of property by the occupying power is prohibited unless for military operations. Holy places, schools, hospitals etc. cannot be targeted.⁴¹ The civilians have right to access to justice in all circumstances. The occupying powers are required to respect this right as established by Geneva Conventions on the occupied people.⁴² Under the provisions of IHL, transfer or deportation of people to other places is prohibited.⁴³ Children cannot be denied care and education and their status and institutions must be protected by the occupying power.⁴⁴ The occupying power is not allowed to make demographic changes in occupied territory by use of force or by relocating civilians to other places; however, post-August, 2019 the acts of the Indian government amount to a violation of these provisions of IHL. Medical supplies and basic necessities including food, clothing, and shelter cannot be denied and must be provided by occupying power to the civilians. The religious worship or visit to worship places cannot be prohibited.⁴⁵

As per article 1 of International Covenant on Civil and Political Rights (ICCPR), 1966 and International Covenant on Economic, Social, and Cultural Rights (ICESCR), 1966 the RSD of the Individuals is well recognized. The occupying powers are required

⁴⁰ Arts. 47–78 of Geneva Convention-IV, (1949) and Arts. 63, 69, 72–79 of Additional Protocol-I, (1977).

⁴¹ Article 53 of Geneva Convention-IV, (1949).

⁴² Articles 47, 54 and 64-75 of Geneva Convention-IV, (1949).

⁴³ Article 49 of Geneva Convention-IV, (1949) and Rule 130 of the 2005 ICRC customary IHL study

⁴⁴ Article 50 of Geneva Convention-IV, (1949).

⁴⁵ Articles 55 and 58 of Geneva Convention-IV, (1949). Article 69 of Additional Protocol-I, (1977).

to respect, promote, protect and fulfill the RSD of the people. In Jammu & Kashmir, the RSD of the people has been recognized in UN resolutions. The occupying powers in occupied territory have IHL as well as human rights obligations as marked by the International Court of Justice (ICJ) in its Advisory opinion concerning Palestine's territory;⁴⁶ Indian Government has same obligations regarding J&K. The European Union (EU) has also defined duties on EU member states regarding non-assistance in the occupation and non-recognition of annexation of territory. The member states have obligation to put an end to the occupation (if any) and in case of violation, sanctions can be imposed by another state through intervention.⁴⁷

The situation in IOJK is quite alarming and this prolonged occupation must be put to an end as India exercises effective control over there. The presence of military troops in large numbers (approximately 900, 000) and implementation of central laws without the consent of the locals and their representatives is in violation of the provisions of international law. It is argued that in this context, the international community must play an effective role in the solution.⁴⁸ Though India is not a party to Hague Regulations, it does not mean that obligations are not there. These obligations are widely accepted by State parties and even those who have not ratified, are bound by these obligations as such obligations have the force of Customary International Law (CIL).⁴⁹ The next section discusses the role and responsibilities of the international community for the resolution of the Kashmir dispute.

⁴⁶ Advisory Opinion Concerning Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, International Court of Justice (ICJ), 9 July, (2004).

⁴⁷ European Parliament, Directorate General for External Policies, Occupation/annexation of a Territory: Respect for International Humanitarian Law and Human Rights and Consistent EU Policy, (2015).

⁴⁸ Muhammad Oves Anwar, Sovereign Title, Occupation and War Crimes: An International Law Perspective on Kashmir, 16 October, (2019).

⁴⁹ Advisory Opinion Concerning Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, International Court of Justice (ICJ), 9 July, (2004).

Role and Responsibilities of International Community

Though the UN has played its role in the resolution of the Kashmir dispute through resolutions still the matter is unresolved. In this respect, this section explains the role of the international community and its responsibilities.

i. Role of International Community

The situation in IOJK is quite alarming. In this context, various international organizations have highlighted the issue. The Geneva Watch has published a report indicating that there is a possibility of genocide in IOJK. The UNHCR has highlighted grave breaches and violations in IOJK. The UN Secretary-General has also given statements and urged India to stop curfews and blockades in IOJK. Amnesty International has also highlighted and condemned gross human rights violations in IOJK.⁵⁰

As far as the abrogation of articles 370 and 35A are concerned, the spokesperson of the UN has stated that the latest restrictions imposed in IOJK are deeply concerning and "will exacerbate the human rights situation".⁵¹ However, UN Chief Antonio Guterres has asked Pakistan and India to maintain peace in the region and asked for maximum restraint.⁵² A joint communication was issued by the UN experts on arbitrary detention; enforced/involuntary disappearances; extrajudicial, summary or arbitrary executions; freedom of opinion and expression; freedom of peaceful assembly and of association; and human rights advocates regarding the restrictions imposed on August 20, 2019. The violations of right to life and other basic human rights have been condemned. Through

⁵⁰ Conference Report titled: "Kashmiri Freedom Struggle - A Full Spectrum Review after Illegal Indian Annexation on 5th Aug". Organized by Center for Global & Strategic Studies (CGSS), Islamabad in collaboration with University of the Punjab, Lahore on October 8, (2019).

⁵¹ <https://www.bbc.com/news/world-asia-india-49273999> (Accessed: January 2, 2021).

⁵² <https://www.tribuneindia.com/news/nation/un-chief-recalls-simla-agreement-appeals-to-india-pak-for-restraint/815426.html> (Accessed: December 30, 2020).

press release dated August 22, 2019, India was urged to end curfew and communication blockade in Jammu & Kashmir.⁵³

In this regard, the UN High Commissioner, Michelle Bachelet, has expressed deep concern on the situation of Jammu & Kashmir in her opening address on 9th September 2019 at the 42nd UN Human Rights Council in Geneva.⁵⁴ On 27th September 2019, Pakistan's Prime Minister Imran Khan, in his speech before the UN General Assembly in New York, castigated India for its crackdown on innocent Kashmiris.⁵⁵

ii. Responsibilities of International Community

Under the provisions of international law, it is well established that all people are born free and equal in their dignity and rights. The RSD and other rights are also protected. The international community has a responsibility in connection to the resolution of the Kashmir conflict/dispute. It is argued that the international community can play an effective role in the resolution of the Kashmir dispute by taking special and progressive measures. The responsibilities in this regard are as follows:

- i. It must play an effective role in the implementation of UN Resolutions on Kashmir.
- ii. It must play an effective role in the protection of people in Jammu & Kashmir who are under prolonged occupation.
- iii. Special efforts are needed by member states to take special measures in order to control the current situation.
- iv. The UN peacekeeping mission may be recommended in Jammu & Kashmir as in other countries.

⁵³ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24909&LangID=E>

⁵⁴ <https://news.un.org/en/story/2019/09/1045862> (Accessed: January 2, 2021).

⁵⁵ <https://www.nytimes.com/2019/09/27/world/asia/khan-modi-united-nations.html> (Accessed: December 30, 2020).

- v. To ensure that the people of Jammu and Kashmir be able to freely express their will about the resolution of the problem.
- vi. There is a need to take special steps for repealing draconian laws like PSA, 1978 and Armed Forces Special Powers Act, 1990 imposed in Jammu and Kashmir.
- vii. There is a need to take steps to demilitarize Jammu & Kashmir.
- viii. The international community must play its effective role in considering the aspirations of the people of Jammu & Kashmir through open communications and dialogue; for the enforcement of law in its true sense and for the domestication of the provisions of international law in India.
- ix. The ICJ and other similar forums may initiate cases against the occupying powers in IOJK who are committing grave breaches, crimes against humanity, and war crimes.
- x. Currently enforced laws are required to be reviewed and illegal safeguards provided under such laws must be checked and human rights violations be prevented in IOJK.
- xi. The will of Kashmiris may be taken into consideration. Anything contrary to the wishes of the people must not be implemented.
- xii. The Indian government cannot commit such gross human rights violations without them having to face any consequences.
- xiii. The numerous instances of alleged killings, tortures, rapes, and vandalism committed by the armed forces call for an investigation and those responsible for such actions assigned.

Contemporary Situation of Human Rights in Jammu & Kashmir: August 2020-January 2021

A report has highlighted the current situation of human rights in J&K that since August 4, 2019, systematic violations continue in J&K. The right to health, education, employment, and other human rights have been violated. The violation of 33 basic human rights has been identified in the August 2020 report.⁵⁶ Under Section 144 of CrPC, freedom of assembly is prohibited and detentions continue. Most of the people are under preventive detention. As far as employment is concerned, due to lockdown unemployment is 16.6 percent.⁵⁷ Women have suffered a lot and domestic violence has increased at length.⁵⁸ As per the report civilians' rights to life, liberty, and property are being violated. According to statistics developed by the South Asia terrorism portal (SATP) at least 15 civilians' fatalities are there since August 2020.⁵⁹ The other acts include Harassment of civilians by government forces and destruction of property.

Violations of Civil and Political Rights

Following civil and political rights have been taken away in J &K:

Arrests and detentions

The union minister of the state of Home Affairs, G. Kishan Reddy, has answered a question that 183 persons remained under detention in Jammu & Kashmir as of February 2021. Mr. Altaf Ahmed Wani (former member of the Legislative Assembly) was not allowed to

⁵⁶ Report titled: Human Rights in Jammu and Kashmir: Mid-Term Report August 2020-January 2021, published by The Forum for Human Rights in Jammu and Kashmir, (2021), p. 4.

⁵⁷ Centre for Monitoring the Indian Economy (CMIE), Unemployment rate in India, <https://unemploymentinindia.cmie.com/kommon/bin/sr.php?kall=wshowtab&tabno=0002>. (Accessed: February 15, 2012).

⁵⁸ Jammu & Kashmir Police website, 'Women Police Stations', <http://www.jkpolice.gov.in/Women-Police-Stations>. (Accessed: February 15, 2012).

⁵⁹ South Asia Terrorism Portal, 'Fatalities Data sheet- Jammu & Kashmir, 2020', <https://www.satp.org/datasheet-terrorist-attack/fatalities/india-jammukashmir>. (Accessed: February 13, 2012).

travel until March 2021.⁶⁰ At least 33 politicians were denied traveling and boarding.⁶¹

Ban on Gatherings

Though, as mentioned in the August 2019-July 2020 report, it is important to note that the Supreme Court laid out specific guidelines under which a Section 144 order could be imposed in its judgement in *Anuradha Bhasin v Union of India*, requiring that Section 144 orders be reasoned, published and invoked only in urgent cases of perceived danger. However, restrictions continue at different incidents. Freedom of assembly was restricted in institutions as well.⁶²

Mental Health and Healthcare System during Covid-19

The shortcomings in healthcare infrastructure have affected lives of the people.⁶³ In relation to suicides in Jammu & Kashmir, 390 cases have been reported in 2020. This number has increased to 284 in 2019.⁶⁴ Due to high levels of depression and anxiety, unemployment rate has also increased in J & K.⁶⁵ According to a study in the *Journal of Psychology and Psychotherapy* “Unemployment increases the psychological toll on families and can also increase stress and other negative effects of families which can exacerbate

⁶⁰ *The Wire*, ‘Former National Conference MLA Prevented From Boarding Flight To Dubai’, November 14, 2020, <https://thewire.in/rights/former-national-conference-mla-altifa-kuloo-prevented-flight-dubai>. (Accessed: February 13, 2012).

⁶¹ *The Free Press Journal*, ‘33 in list of Jammu & Kashmir leaders barred from flying abroad’, November 14, 2020, <https://www.freepressjournal.in/india/33-in-list-of-jk-leaders-bared-from-flying-abroad>. (Accessed: February 15, 2012).

⁶² *Greater Kashmir*, ‘10th, 12th exams: DM Baramulla imposes restrictions under section 144 CrPC around test centres’, September 19, 2020, <https://www.greaterkashmir.com/news/latest-news/10th-12th-exams-dm-baramulla-imposes-restrictions-undersection-144-crpc-around-test-centres/>. (Accessed: February 12, 2012).

⁶³ Report titled: Human Rights in Jammu and Kashmir: Mid-Term Report August 2020-January 2021, published by The Forum for Human Rights in Jammu and Kashmir, (2021), p. 31.

⁶⁴ Zeenish Imroz, ‘Crisis Teams can counter surging suicides in Kashmir, Psychiatrist says’, *The Kashmir Observer*, November 10, 2020, <https://kashmirobsver.net/2020/11/10/crisis-teams-can-counter-surging-suicides-in-kashmir-psychiatrist-says/>. (Accessed: February 12, 2012).

⁶⁵ Centre for Monitoring the Indian Economy (CMIE), Unemployment Rate in India, <https://unemploymentinindia.cmie.com/kommon/bin/sr.php?kall=wshowtab&tabno=0002>. (Accessed: February 12, 2012).

one's overall mental health".⁶⁶ The *Ayushman Bharat National Health Insurance*, an online health insurance scheme was introduced but majority was unable to avail it because of communications blockade.⁶⁷ The travel of the patients has been barred on various occasions in different capacities.⁶⁸ The healthcare system was disturbed due to Covid-19 and it has left shocking effects on the lives of people in relation to health.⁶⁹

Employment

The rate of unemployment in Jammu & Kashmir is almost twice the all-India rate. Restrictions were strictly imposed on various groups and workplace environment had been disturbed due to curfews. These groups include university employees, forest corporation employees, village defense committee members, teachers, engineers, home guards, hospital workers, daily wagers, and non-migrant Kashmiri pandits.⁷⁰

Media and Press

After the release of the new media policy in May 2020, the use of psychological scare tactics on media personnel through physical assault,⁷¹ summons and harassment under various charges, administrative seizure of assets during raids, sealing of newspaper

⁶⁶ Mushtaq Ahmad Bhat, Dr. Jyotsna Joshi, 'Impact of Unemployment on the Mental Health of Youth in the Kashmir Valley', *Journal of Psychology and Psychotherapy*, (2020) Volume 10, Issue 4, <https://www.longdom.org/open-access/impact-of-unemployment-on-the-mental-health-of-youth-in-the-kashmir-valley-53863.html>. (Accessed: February 12, 2012).

⁶⁷ Kamala Thiagarajan, 'Why Doctors And Medical Journals Are Fighting Over Health Care In Kashmir', NPR, August 30, 2019, <https://www.npr.org/sections/goatsandsoda/2019/08/30/755853835/why-doctors-and-medical-journals-are-fighting-over-health-care-in-kashmir>. (Accessed: February 13, 2012).

⁶⁸ Report titled: Human Rights in Jammu and Kashmir: Mid-Term Report August 2020-January 2021, published by The Forum for Human Rights in Jammu and Kashmir, (2021), p. 29.

⁶⁹ *Kashmir Times*, 'No health institution of Kashmir upgraded to IPHS Level: CAG', September 30, 2020, <http://www.kashmirtimes.com/newsdet.aspx?q=105243>. (Accessed: February 13, 2012).

⁷⁰ Report titled: Human Rights in Jammu and Kashmir: Mid-Term Report August 2020-January 2021, published by The Forum for Human Rights in Jammu and Kashmir, (2021), p. 38.

⁷¹ *Kashmir Times*, '3 Journalists Thrashed By Police Near Encounter Site In Pulwama', 16 September 2020, <http://www.kashmirtimes.com/newsdet.aspx?q=104836>. (Accessed: February 12, 2021).

offices, illegal detentions, withdrawing advertising and militant hit-lists of journalists alleged to be on the Indian government payroll.⁷²

Conclusion

From the above discussion and data analysis, it is concluded that human rights violations in Jammu & Kashmir continue to date. In the post-August 5 scenario, the acts of insurgency, preventive detention, illegal detention and arrests, denial of a speedy and fair trial, and ignoring the political, economic, and socio-cultural rights of the Kashmiris are all violations of the provisions of international law.

The PSA and UAPA are in full force in Jammu & Kashmir and under such laws gross human rights violations have been committed. Indeed, the occurrences of August 5, 2019, began a process of demographic changes in the valley. The arrests and detentions without any legal justification violate the norms of international law. While implementation of laws and changes in previous laws have affected the public at large; for instance, a new domicile policy will reduce the Muslim population within J&K. Similarly, land rights of the people are being violated.

The ban on connectivity and imposition of curfews has profound negative implications for public health, causing trauma and stress among the residents of J&K. The impunity of armed and other forces in the name of 'maintain law and order' must be stopped by the international community and the provisions of international law must be practiced in letter and spirit.

The RSD of the Kashmiri people has been recognized by the UN; however, the implementation of RSD is still a big challenge. The use

⁷² Azaan Javaid 'FIR against website for accusing Kashmir journalists & activists of being on 'Indian payroll', *The Print*, October 4, 2020, <https://theprint.in/india/fir-against-website-for-accusing-kashmir-journalists-activists-of-being-on-indianpayroll/516290/>; *Kashmir Times*, 'FIR Against URL Handler for Propaganda Posts: Police', October 4, 2020, <http://www.kashmirtimes.com/newsdet.aspx?q=105325>. (Accessed: February 13, 2021).

of excessive force and violations of human rights in Jammu & Kashmir have attracted the attention of the international community. The international community now more than ever must play an effective role in the resolution of the Kashmir dispute. Special measures may be taken for the implementation of RSD as recognized by the UN. The blatant abuse of power, the violent aggression, and extreme forms of abuse (physical, sexual, and emotional) unleashed on the Kashmiri people has caused deep and destructive trauma that may take generations to heal.



Impact of Ceasefire Violations by India on the Lives of the People of Azad Jammu and Kashmir: An Overview

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Impact of Ceasefire Violations by India on the Lives of the People of Azad Jammu and Kashmir: An Overview

Bushra Bannian
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Abstract

This paper is an attempt to identify and highlight the implications of ceasefire violations by India on the people of Azad Jammu & Kashmir. Not accepting Kashmir's right to self-determination and international mediation for the resolution of conflict, India has been continuously engaged in ceasefire violations and sabotaging military activities across the LoC. India has repeatedly floated baseless allegations against Pakistan to initiate ceasefire violations—from the Uri attack of 2016 to the deadly Pulwama attack in 2019. India has always propagated its false terrorism narrative against Pakistan and used this as a justification to escalate tensions across the LoC for the number of reasons including: (a) to divert international attention from Indian state-terrorism in IOK; (b) to damage the Kashmir cause and to inflict damage on AJ & K and Pakistan; (c) to gain sympathy and support for illegal occupation from the international community, and (d) for political advantage to cover the failures of the Indian government. This perilous Indian behaviour is indeed a threat to peace in South Asia and should be alarming for global powers. The paper aims to convey the demand of Kashmiris to global players who should force India to implement UN-backed resolutions that emphasize resolving the Kashmir issue

peacefully and according to the desire of its people. The major findings of the paper are: (a) under the pretext of combatting the so-called Pakistan-sponsored terrorism, India commits ceasefire violations; (b) the commitment of Pakistan to the Kashmir cause and firm stand of Pakistan's leadership regarding the rights of Kashmiris is commendable; (c) only with immediate and honest attention by the international community and United Nations, the human rights abuses against innocent Kashmiris and ceasefire violations by India can be controlled.

Keywords: Ceasefire Violation, LOC, Indian Occupied Kashmir (IOK), UN Resolutions, Terrorism

Introduction

The Azad Government of the state of Jammu & Kashmir was established on October 24, 1947. Azad Jammu & Kashmir (is the name of the territory, liberated by the local inhabitants with support of tribal people after a successful rebellion against the Maharaja Dynasty, and through the first Kashmir war between India and Pakistan. Jammu & Kashmir has an area of 13,297 kilometers squares, with a total population of 4.361 million.¹ AJ&K share its border with Gilgit Baltistan in its north, in its south, lies the Pakistani province of Punjab, while the Pakistani province Khyber Pakhtunkhwa lies in the west; and Indian Occupied territory of the erstwhile state of Jammu & Kashmir is located in the east.² AJ&K has its own flag, anthem, government, constitution, courts of law, etc.³ However, in order to protect the interests of the territory and the local population in light of the spirit of the resolutions of the United Nations Security Council (UNSC) and United Nations Commission for India and Pakistan (UNCIP), it is under the indirect

¹ Azad Jammu & Kashmir official portal online at <https://www.ajk.gov.pk/ajk-at-a-glance> (Accessed 08-01-2021).

² Azad Jammu & Kashmir official portal online at <https://www.ajk.gov.pk/ajk-at-a-glance> (Accessed 08-01-2021).

³ Azad Jammu & Kashmir official portal online at <https://www.ajk.gov.pk/ajk-at-a-glance> (Accessed 08-01-2021).

administrative control of Pakistan with the consent and popular demand of the native political representatives.

At the time of Pakistan's independence, the erstwhile state of Jammu & Kashmir was among the 562 princely states of which the future was yet to be decided.⁴ The popular opinion in this regard was that their future must be decided to keep in view the dynamics of territory and will of the people of the state. However, the then ruler Maharaja Hari Singh badly rejected this proposal. The continuous dreadful attitude of ruling Maharajas towards poor Kashmiris forced them to start a liberation struggle against Maharajas. The efforts of Kashmiris proved fruitful and a part of it was successfully liberated in October 1947 (now called Azad Jammu and Kashmir).⁵

However, due to the oppression and conspiracy of the then Maharaja, a large part remained occupied by India. Jammu & Kashmir (also referred to as Indian Occupied Kashmir) is still under unlawful occupation of India and is a flashpoint between the two nuclear powers.⁶ The Indian Occupied Kashmir (IOK) and Azad Jammu & Kashmir are separated by a boundary called Line of Control (LoC)⁷ that has remained highly volatile since its establishment. The Ceasefire Line (CFL) was established in 1949 under the Karachi agreement⁸ and it divides Jammu & Kashmir into IOK and AJK. Later, in Shimla Agreement, 1972, it was formally renamed as Line of Control (LoC). To ensure peace along the LoC it

⁴“Kashmir Conflict since Partition”, available online at <https://www.thedailystar.net/world/south-asia/news/kashmir-conflict-partition-1784887> (Accessed 08-01-2021) Read and compare with Ibrahim Khan, *The Kashmir Saga* (Lahore: Ripon Printing Press, 1965).

⁵ Khan, *The Kashmir Saga*.

⁶ Rashmi Sehgal, “Kashmir Conflict: Solutions and Demand for Self-determination”, *International Journal of Humanities and Social Science*, Vol. 1: 6 (2011).

⁷ Line of Control (LoC) is a 740 km (450 mile) line that divides the two parts of Kashmir between India and Pakistan.

⁸ See text of the ‘Agreement between Military Representatives of India and Pakistan Regarding the Establishment of a Ceasefire Line in the State of Jammu & Kashmir (Karachi Agreement)’

http://peacemaker.un.org/sites/peacemaker.un.org/files/IN%20PK_490729_%20Karachi%20Agreement.pdf.

In July 1972, India and Pakistan signed an agreement defining a Line of Control in Kashmir which, with minor deviations, followed the same course as the ceasefire line established by the Karachi Agreement in 1949. See also Dr. Shaheen Akhtar, “Living on The Frontlines: Perspective from the Neelum Valley” *Margalla Papers*, (2017) available online at https://ndu.edu.pk/issra/issra_pub/articles/margalla-paper/Margalla-Paper-2017/9-Living-on-the-Frontlines-Dr.Shaheen-Akhtar.pdf (Accessed 08-01-2021).

is supervised by United Nation Military Observer Group in India and Pakistan (UNMOGIP)⁹ whose function is to monitor the observance of ceasefire, and to investigate any ceasefire violation and report its findings to the Secretary-General.¹⁰

UNSC while playing its role to resolve the Kashmir dispute suggested that both states should enter into ceasefire agreement to protect the Kashmiris and to peacefully resolve the conflict thereby allowing the people of Kashmir to exercise their right of self-determination;¹¹ however, these principles established under UNSC and UNCIP never got respected and till date India has been committing human rights violations against innocent Kashmiris on both side of the LoC.¹² In addition to its unlawful attempt to change the status of Jammu & Kashmir, it has made life miserable by, deliberately targeting the innocent Kashmiris in violation of the ceasefire agreement.¹³ Hence due to the brutalities of India, people of AJ&K living in proximity to the LoC have been living in a crisis.

AJ&K is known for its spectacular beauty, lush green valleys, snowy mountains, majestic waterfalls, and fertile lands. But today it is also known for a human rights debacle that people face daily due to unprovoked firing by Indian Army on the LoC. On one side, the people of IOJK have gone through severe human rights abuses by Indian army and on the other side, the innocent people of AJ&K are

⁹ Resolution adopted by the United Nations Commission for India and Pakistan on August 13, 1948 available online at <http://mofa.gov.pk/wp-content/uploads/2019/12/FMs-letter-along-with-factsheet-and-annexures-to-the-President-of-the-UNSC-and-UNSG-25-September-2019.pdf> (Accessed 16-01-2021) Read and compare with Security Council resolution 91, S/RES/91(1951) (30 March 1951) available at [https://undocs.org/S/RES/91\(1951\)](https://undocs.org/S/RES/91(1951)) (Accessed: 16-01-2021) see also Official website of United Nations Military Observer Group in India and Pakistan, available online at <https://unmogip.unmissions.org/mandate> (Accessed 08-01-2021).

¹⁰Resolution adopted by the United Nations Commission for India and Pakistan on August 13, 1948 available online at <http://mofa.gov.pk/wp-content/uploads/2019/12/FMs-letter-along-with-factsheet-and-annexures-to-the-President-of-the-UNSC-and-UNSG-25-September-2019.pdf> (Accessed 16-01-2021)

¹¹ Security Council resolution 47, S/RES/47(1948) (21 April 1948) available from [https://undocs.org/S/RES/47\(1948\)](https://undocs.org/S/RES/47(1948)), (Accessed: 16-01-2021).

¹² *Institute of Policy Studies, Islamabad*, (2019), "Kashmir: The Issue, Global Scenario and Policy Imperatives," available online at <https://www.ips.org.pk/kashmir-the-issue-global-scenario-and-policy-imperatives/> (Accessed 08-01-2021).

¹³ Indian Army deliberately targeting civilians along LoC, DG ISPR briefs diplomats, *The Nation*, (September 25, 2020) Available online at <https://nation.com.pk/25-Sep-2020/indian-army-deliberately-targeting-civilians-along-loc-dg-ispr-briefs-diplomats> (Accessed 16-01-2021).

the victims of Indian brutality. The ceasefire violations by Indian army have drastically affected each aspect of the lives of the people of AJK living near LoC.

The notion of cross border firing has been characterized by unpredictability, surprise, and lack of protection. These military tactics have been adopted across the border regions to inflict damage on the opposite country without indulging in open warfare.¹⁴ In all 10 districts of Azad Jammu & Kashmir, there are more than 12 constituencies near LoC which include sectors like Bhimber, Batal, Athmaqam, Kel, Bagh, Leepa, Shakargarh, Tata-pani, Hajira, Karela Harpal, Charwah, Nikyal and Khoirata etc. Since the establishment of the Ceasefire Line, these areas have become active flashpoints and highly volatile regions. The Indian hostility has severely affected the residents of these areas. The quality of life of these people has been affected in more than one dimension, their physical security, livelihood, socio-cultural life, educational development, psychological health, and well-being has been at the mercy of the unpredictable and fragile situation.¹⁵ Apart from human casualties, basic social activities like festivals and social gatherings have been curbed. People are alienated from their own agricultural land and are living under the shadow of death.

Escalation between India and Pakistan and Ceasefire Violations: An Overview

The tense relations between India and Pakistan can be traced back to 1947. The decision regarding the status of the princely state of Jammu & Kashmir was never made according to the will of its people that resulting in the Kashmir conflict which has not been

¹⁴ Nital Gupta, Shafiq Hackla, Virendar Bhagat, Satvir Singh, Farid Hussain, and Anil Gupta, "Cross-border firing and injury patterns," *Journal of Emergencies, Trauma, and Shock* Vol. 9:1 (2016): 17–21.

¹⁵Atia Anwer Zoon, "Voices Unheard, Stories Untold: The Plight of Women in Neelum Valley – AJK," *Kashmir Institute of International Relations*, (2013) available online at <https://content.kiir.org.pk/Content/Files/WOMEN-IN-NEELUM-VALLEY.pdf> (Accessed 08-01-2021) Read and compare with Christopher Snedden, *The Untold Story of the People of Azad Kashmir* (Oxford: Oxford University Press, 2012).

resolved to date. Hence, the history of dialogues and crises between the two nuclear states is as old as the Kashmir dispute itself.

The first war between India and Pakistan over Kashmir started in 1947.¹⁶ This alarmed a serious threat for human rights violations and global peace. To tackle the situation peacefully and amicably, the forum of the United Nations was approached, and the UN foresaw that the Kashmir dispute cannot be resolved without granting the right of self-determination to the people of Jammu and Kashmir. This led to several UN resolutions, more specifically United Nations Commission for India and Pakistan (UNCIP) resolutions of August 13, 1948, and January 5, 1949. These resolutions as well as subsequent United Nations Security Council (UNSC) resolutions acknowledge the right to self-determination of the people of Jammu & Kashmir to determine their own political future.¹⁷ This commission was introduced by UNSC under Resolution No 39 of 1948 to impartially investigate the issue and conduct the mediation between two countries.¹⁸ Additionally, UN also extended its services to protect the rights and interests of the Kashmiris. Hence, an environment of constructive dialogue between India and Pakistan was paved that resulted in Karachi Agreement in 1949 under which Ceasefire Line (now Line of Control) was established.¹⁹ The Ceasefire Line (CFL) is a duly-acknowledged line between India and Pakistan and both the countries have mutually agreed to preserve the sanctity of the CFL until the final settlement of the

¹⁶ Abby Pokraka, "History of Conflict in India and Pakistan," *Center for Arms Control and Non-Proliferation* (2019) available online at <https://armscontrolcenter.org/history-of-conflict-in-india-and-pakistan/#:~:text=October%201947%20%E2%80%93%20January%201949%3A%20The,ceasefir e%20was%20ar> (Accessed 08-01-2021) Read and compare with Khan, *The Kashmir Saga*.

¹⁷ Muhammad Tahir Tabassum, "Political Situation in Kashmir and Role of United Nations," *Studies of Changing Societies: Comparative and Interdisciplinary Focus*, Vol. 1:2 (2012).

¹⁸ Security Council Resolution 39, S/RES/39(1948) (20 January 1948) available [https://undocs.org/S/RES/39\(1948\)](https://undocs.org/S/RES/39(1948)) (Accessed: 16-01-2021).

¹⁹ Dr. Shaheen Akhtar, "Living on the Frontlines: Perspective from the Neelum Valley," *Margalla Papers* (2017) available online at https://ndu.edu.pk/issra/issra_pub/articles/margalla-paper/Margalla-Paper-2017/9-Living-on-the-Frontlines-Dr.Shaheen-Akhtar.pdf (Accessed 08-01-2021).

Kashmir issue.²⁰ The Line of Control runs from “Manawar in the south, north to Karen and from Karen east to the glacier area”²¹ and reflects the troop’s positions of December 1948. To monitor and supervise the CFL, a military observer group known as United Nations Military Observer Group in India and Pakistan (UNMOGIP), was appointed by the UNCIP resolution of 13th august 1948. In 1972, CFL was formally defined and renamed as Line of Control (LoC) under Shimla Agreement. The 740 km long LoC²² is one of the most intensive and volatile militarised quasi borders in the world with respect to the strength of troops, the intensity of conflict, and a number of latest and modern armed equipment. After the 1972 Shimla Agreement, India asserted that the mandate of UNMOGIP has lapsed; however, Pakistan rejected this viewpoint. Owing to the contradiction between India and Pakistan on the mandate of UNMOGIP, the Secretary-General took the position that the mission can only be terminated on the decision of the United Nations Security Council and stresses that since no resolution has been passed to withdraw the mission so it will continue to function. Thus, to date, the mission has remained in the area to “observe developments pertaining to the strict observance of the ceasefire” and report them to the Secretary-General.²³

After the Shimla Agreement of 1972, the LoC remained peaceful for almost a decade, however, the nuclear experiment by both countries sparked the tension, and the Kargil war further triggered the already stressed relations. Hence, late 1990s and early 2000s witnessed a rise in ceasefire violations.²⁴ To peacefully end the tensions on the LoC, both countries negotiated an agreement to practice cessation of hostilities and hence the ceasefire agreement of 2003 was signed.

²⁰ Saeed Ahmed Rid, “India and Pakistan: Formalizing the 2003 Ceasefire Agreement,” *International Relations*, (8-02-2018) Available online at <https://www.e-ir.info/2018/02/08/india-and-pakistan-formalizing-the-2003-ceasefire-agreement/> (Accessed: 16-01-2021).

²¹ Akhtar, “Living on The Frontlines.

²² Akhtar, “Living on The Frontlines.

²³ United Nations Military Observer Group in India and Pakistan, official website of UN peacekeeping available online at <https://unmogip.unmissions.org/background> (Accessed 16-01-2021).

²⁴ Muhammad Faisal, “Ten Years of Ceasefire along the LoC: Recent Violations,” *Institute of Peace and Conflict Studies*, (Accessed: 20 -12 - 2013).

The 2003 agreement is an unwritten joint commitment that was communicated by the then Director-General of Military Operations (DGMO) of both countries. The ceasefire agreement pledges to uphold the legitimacy of the LoC and to maintain peace across the LoC.²⁵ However, the life of this accord proved to be short owing to Indian hostilities. After 2008 Mumbai attacks, India falsely alleged Pakistan to be behind the attacks and it set ground to divert public attention at home.²⁶ It thus engaged in ceasefire violations and used the plea of combatting the so-called Pakistan-sponsored terrorism as an excuse of its military activities across the LoC. This behavior on India's part continues till date. Be it Uri attack of 2016,²⁷ or 2018 terrorist attack on Indian army base²⁸ or deadly incident of Pulwama in 2019, India has always propagated its false terrorism narrative against Pakistan²⁹ and used this as a justification to escalate tensions across the LoC. It has a number of reasons: (a) to divert international attention from Indian state-terrorism in IOK; (b) to damage the Kashmir Cause and to inflict damage to AJK and Pakistan; (c) to gather sympathy from its own public, and (d) for political advantage to cover the flaws and failures of the Indian government. This perilous Indian behavior is indeed alarming for peace in the region.

Hence, despite a series of commitments to obey the ceasefire, LoC is subject to continuous ceasefire violations by the Indian army, and it is only increasing with time. In 2017, the number of ceasefire violations by India was about 1970; in 2018, it was more than 1000 times.³⁰ A surge in it was seen in 2019 when it was recorded more

²⁵ Rid, "India and Pakistan: Formalizing the 2003 Ceasefire Agreement".

²⁶ Sabir Shah, "History of False Flag Indian Operations Dates Back to 1971," *The News*, (February 27, 2019) Available online at <https://www.thenews.com.pk/print/437337-history-of-false-flag-indian-operations-dates-back-to-1971> (Accessed 16-01-2021).

²⁷ "Conflict between India and Pakistan," *Council on Foreign Relations*, (2021) Available online at <https://www.cfr.org/global-conflict-tracker/conflict/conflict-between-india-and-pakistan> (Accessed 08-01-2021).

²⁸ "Conflict between India and Pakistan," *Council on Foreign Relations*.

²⁹ Aamir Latif, "Pakistan Rejects Indian 'so-called Charge Sheet,'" *Asia Pacific* (26-08-2020) Available online at <https://www.aa.com.tr/en/asia-pacific/pakistan-rejects-indian-so-called-charge-sheet/1954367> (Accessed: 16-01-2021).

³⁰ Ministry of Foreign Affairs, Government of Pakistan available online at <http://mofa.gov.pk/ceasefire-violations-by-india-on-26-april-2018/> (Accessed: 10-01-2021).

than 3,000 times.³¹ In 2020, when the whole world was jolted by the pandemic, India continued to further the human rights crisis across the LoC and breached the ceasefire line more than 2900 times.³² Along with the violation of the ceasefire, the breaches of international law regulating the conduct of conflicts is also a common practice by Indian troops deployed across the LoC. Hence, the use of both small and heavy weapons to cause damage to the lives and properties of non-combatants living near LoC. India has now become an epicenter of extremism and its behavior is a threat not only to Kashmiris but to regional and global peace.

Kashmir Conflict and Line of Control under UN Resolutions

As discussed earlier, the efforts by the UN to resolve the Kashmir dispute can be traced back to 1948 when India brought the issue before UNSC. In response to which Pakistan requested the UNSC to “appoint a commission to secure a cease-fire, ensure the withdrawal of outside forces, and conduct a plebiscite to determine Kashmir's future.” UNSC acknowledged this and adopted resolution 39 (1948) by the virtue of which the United Nations Commission for India and Pakistan (UNCIP) was established with the task to investigate and mediate the dispute. Shortly thereafter, United Nations Security Council (UNSC) called for a plebiscite under resolution No 47 to determine the status of the territory. This unfortunately has never been implemented and its failure started a series of unsuccessful attempts to reach a peaceful solution. Meanwhile, in August 1948 a resolution was adopted by UNCIP, under which both India and Pakistan were directed to ensure immediate ceasefire, and to supervise the situation of the ceasefire, UNMOGIP was appointed. The team of these unarmed military observers which eventually formed the nucleus of the United Nations Military Observer Group in India and Pakistan (UNMOGIP) made its first visit to their

³¹ Tariq Naqash, “Indian Violations Claimed 59 Lives along LoC in 2019,” *Dawn News*, 01-01-2020 Available online at <https://www.dawn.com/news/1525564> (Accessed: 10-01-2021).

³² Tariq Naqash, “2020 Round up: 33 Civilians Martyred and more than 260 Injured by Indian Shelling,” *Dawn News*, 01-01-2021 Available online at <https://www.dawn.com/news/1599059> (Accessed: 10-01-2021).

mission in January 1949. In order to accomplish the task assigned to them, to monitor and observe the ceasefire between Pakistani and Indian forces deployed along LoC and submit impartial findings to Secretary-General, observers of UNMOGIP had been deployed on both sides of the LOC to monitor implementation of UNCIP resolution of 1949.³³ The UNMOGIP established its headquarters both in India and Pakistan.

However, the desired results were never attained; even after the UNSC resolution 209, UNSC resolution 210, UNSC resolution 211, and UNSC resolution 214, this could not be materialized.³⁴ The UNSC demanded that representatives of India and Pakistan meet with a representative of the Secretary-General under UNSC resolution 215 of 5 November 1965. Along with the failure to implement UN resolution vowing free and fair plebiscite for people of Jammu and Kashmir, the major and minor ceasefire violations also continued. The war of 1971 further sparked the tensions between India and Pakistan and the UN again came forward to resolve the matter on 21 December 1971 through UNSC resolution 307. This resolution demanded “a durable ceasefire and cessation of hostilities until withdrawals of all armed forces to the ceasefire line in Jammu and Kashmir. It also requested the Secretary-General to keep the Council informed “without delay” on developments related to the implementation of the resolution”.³⁵ Not only this but UNSC has had a series of subsequent resolutions like the resolutions 38, 39, 47, 51, 80, 91, 96, 98, 122, 123 and 126, etc.³⁶ aiming to seek a peaceful solution for the Kashmir issue and to protect the rights particularly the right to self-determination

³³ Report of the “OIC-IPHRC Fact-Finding Visit to the State of Azad Jammu & Kashmir to Assess Human Rights Situation in the Indian Occupied Kashmir” *Independent Permanent Human Rights Commission*, (2017) Available online at <http://www.na.gov.pk/uploads/content/OIC%20Report%20on%20Kashmir.pdf> (Accessed 16-01-2021).

³⁴ UN Documents for Jammu and Kashmir, *Security Council Report* available Online at <https://www.securitycouncilreport.org/un-documents/jammu-and-kashmir/> (Accessed: 16-01-2021).

³⁵ UN Documents for Jammu and Kashmir, *Security Council Report*.

³⁶ UN resolutions on Jammu and Kashmir, Ministry of Foreign Affairs, Government of Pakistan, available online at <http://mofa.gov.pk/un-resolutions-on-jammu-kashmir/> (Accessed: 16-01-2021).

of Kashmiris; however, all failed before any fruition due to Indian aggression.

India did not allow UN military observers to visit areas beyond their living/office compounds after Shimla Agreement, 1972.³⁷ In 2018, a 49-page report was published by the Office of the United Nations High Commissioner for Human Rights which claimed that it is the first-ever report “issued by the UN on the human rights situation in India—Controlled and Pakistan—Administered Kashmir.”³⁸ This report was titled *Report on the Situation of Human Rights in Kashmir: Developments in the Indian State of Jammu & Kashmir from June 2016 to April 2018, and General Human Rights Concerns in Azad Jammu & Kashmir and Gilgit-Baltistan* revealed that according to “UNMOGIP, the peacekeeping mission has received 141 alleged ceasefire violations complaints from Pakistan between the start of 2018 and 27 March 2018, 479 complaints in 2017 and 115 complaints in 2016, while India has not submitted complaints to UNMOGIP since 1972.”³⁹ Thus, despite having a staff of 114 personnel including 45 military observers⁴⁰ rendering their services, no significant success is on their credit so far.

³⁷ Report of the “OIC-IPHRC Fact-Finding Visit to the State Of Azad Jammu & Kashmir to Assess Human Rights Situation in the Indian Occupied Kashmir” *Independent Permanent Human Rights Commission*, (2017) Available online at <http://www.na.gov.pk/uploads/content/OIC%20Report%20on%20Kashmir.pdf> (Accessed: 16-01-2021).

³⁸ “First-ever UN Human Rights Report on Kashmir Calls for International Inquiry into Multiple Violations,” official website of *United Nations Human Rights Office of High Commissioner*, Available online at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23198%20> (Accessed: 16-01-2021).

³⁹ “Report on the Situation of Human Rights in Kashmir: Developments in the Indian State of Jammu & Kashmir from June 2016 to April 2018, and General Human Rights Concerns in Azad Jammu & Kashmir and Gilgit-Baltistan,” *Office of the United Nations High Commissioner for Human Rights*, (2018) Available online at <https://www.ohchr.org/Documents/Countries/IN/DevelopmentsInKashmirJune2016ToApril2018.pdf> (Accessed: 16-01-2021).

⁴⁰ Shaheen Akhtar, “Living on the Frontlines: Perspective from the Neelum Valley” *Margalla Papers*, (2017) available online at https://ndu.edu.pk/issra/issra_pub/articles/margalla-paper/Margalla-Paper-2017/9-Living-on-the-Frontlines-Dr.Shaheen-Akhtar.pdf (Accessed: 08-01-2021).

Violations of Laws of War on LoC by India

Indian firing across the Line of Control is not only a violation of international and bilateral ceasefire agreements between India and Pakistan, but the unprovoked and indiscriminate shelling with heavy artillery fire, heavy-calibre mortars and automatic weapons by Indian occupation forces have been continuously targeting civilian populated areas along the LoC.⁴¹ It is also breach and disgrace to the principles of military conduct established by Geneva Conventions and international humanitarian law.⁴²

Both India and Pakistan are party to the four 1949 Geneva Conventions.⁴³ The fourth Geneva Convention of 1949, its additional protocols and the fundamental principles of IHL regulate the conduct of armed conflict in order to protect population. The 1977 Additional Protocol of these Conventions strengthens the protection of victims of armed conflicts; however, both India and Pakistan have not ratified it yet.⁴⁴ However, keeping in view the universality of the Geneva Conventions, their general principles have now become customary law and are thus binding on non-parties. The fundamental and main principles of customary IHL demands distinction between lives and properties of civilians and combatants.⁴⁵ IHL limits the actions of parties to the conflict and prohibits all the means and methods that “fail to discriminate between those taking part in the fighting and those who are not,

⁴¹ Islamuddin Sajid, “India Violated Ceasefire 1,595 times in 2020: Pakistan,” *Asia Pacific*, 7-07-2020 Available Online at <https://www.aa.com.tr/en/asia-pacific/india-violated-ceasefire-1-595-times-in-2020-pakistan/1901855> (Accessed: 08-01-2021).

⁴² Naveed Siddiqui, “Indian Army used Cluster Ammunition along LoC in Violation of International Laws: ISPR,” *The Dawn*, (August 3, 2019), Available Online at <https://www.dawn.com/news/1497882/indian-army-used-cluster-ammunition-along-loc-in-violation-of-international-laws-ispr> (Accessed: 08-01-2021).

⁴³ International Armed Conflict between India and Pakistan, *Geneva Academy*, Available online at <https://www.rulac.org/browse/conflicts/international-armed-conflict-between-pakistan-and-india#collapseIaccord> (Accessed: 11-01-2021).

⁴⁴ Official website of International Committee of the Red Cross (ICRC), Treaties, States Parties and Commentaries, Available online at https://ihldatabases.icrc.org/applic/ihl/ihl.nsf/States.xsp?xp_viewStates=XPages_NORMStatesParties&xp_treatySelected=475 (Accessed: 16-01-2021).

⁴⁵ Gloria Gaggioli, Nils Melzer, *The Oxford Guide to International Humanitarian Law*, (Oxford: Oxford University Press, 2017).

(such as civilians), cause superfluous injury or unnecessary suffering; cause severe or long-term damage to the environment.”⁴⁶

Thus, in order to establish the legality of military conduct, it is crucial to maintain that each attack was conducted at a specific military object, the weapon used is capable to distinguish between the combatant and non-combatant, and if the plea is that damage was collateral it must be maintained that anticipated civilian casualties were not disproportionate to the expected military gain from the attack. However, India has violated the ceasefire line more than 2,900 times in 2020 alone that causing 33 casualties and more than 260 injuries to civilians.⁴⁷ According to 2020 data published in *Dawn News*, Indian shelling partially or completely damaged 596 houses in different sectors of AJ&K, while the number of completely damaged shops is 40.⁴⁸

Indian aggression across LoC is a serious threat to civilian lives and their properties and is also causing long-term damage to the environment. The use of cluster ammunition by Indian forces across the LOC is common. Cluster ammunition is forbidden under the Convention on Cluster Ammunition because of its severe impact on non-combatants.⁴⁹ The convention prohibits the use, production, stockpiling, and transfer of cluster munitions and requires states to ensure that they claim no further victims. According to the International Committee of Red Cross, cluster munitions kill and injure large numbers of civilians and cause long-lasting socio-economic problems.

Under UNSC and UNCIP resolutions and the UN charter, both India and Pakistan are bound to ensure the safety and security of the UNMOGIP observers. The most recent action of Indian Military

⁴⁶ Gaggioli and Melzer, *The Oxford Guide to International Humanitarian Law*.

⁴⁷ Tariq Naqash, “2020 Round up: 33 Civilians Martyred and more than 260 Injured by Indian Shelling,” *Dawn News*, 01-01-2021 Available online at <https://www.dawn.com/news/1599059> (Accessed: 10-01-2021).

⁴⁸ Naqash, “2020 Round up: 33 Civilians Martyred and more than 260 Injured by Indian Shelling.”

⁴⁹ Sidiqui, “Indian Army used Cluster Ammunition along LoC in Violation of International Laws: ISPR”.

forces targeting the officials of the UNMOGIP conducting the routine monitoring at Chirikot sector along the LoC has again exposed the aggression prevailing among Indian leadership and Indian armed forces. This recurrent escalation between nuclear-armed rivals is dangerous, not only for each side but also for regional and global stability.

Frequent Violations of Ceasefire Line and Humanitarian Crises in Jammu & Kashmir

The conflict of Jammu & Kashmir not only continues to raise the specter of war between India and Pakistan,⁵⁰ but it also continues to spark a serious human rights disaster that has been the result of unprovoked firing and ceasefire violations by India across the LoC. This not only is a threat to international peace but has also disturbed every aspect of life in LoC-bordering areas of AJ&K. Today, where attention is being highly paid to mental health, the vulnerable residents of AJ&K are living in a state of endless trauma. The casualties, injuries, loss of loved ones, destruction of property, socio-economic stagnation, and the guilt of being a triggering population in the event of a nuclear war have drastically damaged the psychological health of people living along LoC.

Most of the areas located near LoC are villages that already have poor infrastructure and socio-economic development has been extremely slow in these remote areas due to tough terrain and frequent ceasefire violations. The tough and uncertain circumstances further add to their miseries and thus even completing their regular tasks is challenging and full of distress for these marginalized people. Be it attending school, going to workplaces, harvesting the lands, taking care of cattle, collecting firewood, or fetching water, due to long-distance with the damaged roads that are directly

⁵⁰ Happymon Jacob, "Ceasefire Violations in Jammu and Kashmir, A Line on Fire," United States Institute for Peace, (2017), Available online at <https://www.usip.org/sites/default/files/PW131-Ceasefire-Violations-in-Jammu-and-Kashmir-A-Line-on-Fire.pdf> (Accessed: 08-01-2021).

exposed to cross-LoC firing, the accomplishment of every single routine task is a real test of nerves for the inhabitants.

The people living in these frontline villages are so severely affected by Indian ceasefire violations that every third person is a victim to a landmine or has lost loved ones, lost their limbs to Indian shelling, or have been alienated from their agricultural land or other properties –people are living under constant fear of becoming a victim to Indian hostility. The violation of ceasefire by India resulting in human rights crisis in AJ&K and the brutalities that people of IOK are facing is enough evidence that the role of the international community and UN in resolving the Kashmir dispute has not been satisfactory. While Pakistan has always supported Kashmiris in more than one way and has always brought this issue to the attention of the world, much more is required to be done to seek a permanent solution to this crisis.

Fieldwork to Gauge the Impact of Ceasefire Violations

The 740 km long Line of Control (LoC) dividing Indian and Pakistani Kashmir has been an active flashpoint between India and Pakistan since its inception. The people living near frontlines have witnessed many a confrontation and few brief intervals of peace since 1947. The escalation of the conflict on LoC affects different peoples differently; but the impact of conflict on inhabitants is always negative. For this paper, the residents of frontline villages were interviewed to find out the unusual circumstances being faced by them. It wouldn't be wrong to call the interview responses as untold stories of those living near the figurative 'Line on Fire'. Findings of the interviews have been laid under the following broad themes:

Human Catastrophe

Firing and shelling have dreadful effects on the physical security of people living on frontlines. According to a recent report, shelling

from the Indian side left as many as 33 innocent civilians martyred and about 260 wounded in different parts of AJK in 2020.⁵¹ According to a survey conducted in Neelum Valley by the Kashmir Institute of International Relations (KIIR), over 86 percent of the respondents contended that they perceive the conflict as a direct threat to their lives. Moreover, over 13 percent of those surveyed feared the loss of life from cross-border firing by India. The same survey reveals that ceasefire violations have directly affected as much as 64 percent of respondents who have lost one or more family members.⁵²

The people living in villages near LoC consider themselves direct victims of Indian aggression. It thus acts as a barrier to their socio-economic development. Moreover, the landmines placed in forests adjoining the LOC areas to counter any movement of the hostile armed forces often prove fatal for the local population, causing human casualties, disabilities, and loss of precious livestock which is usually the only source of income for most of the inhabitants.

The village households in AJ&K mostly have one or two earners. There are various incidents in which the sole bread earner of the family had either been killed or severely injured by shelling.

- Altaf Hussain a resident of Nikyal sector AJ&K, and the sole bread earner of his family, became a target of unprovoked Indian shelling when he was busy cultivating his land. He got severely injured and, due to continuous firing and shelling the local residents couldn't take him for emergency care; thus, he could not survive due to excess bleeding and died.⁵³
- Another case is of Muhammad Latif a resident of village Jabar of Nikyal sector Jammu & Kashmir, who was

⁵¹ Naqash, "2020 Round up: 33 Civilians Martyred and more than 260 Injured by Indian Shelling".

⁵² Atia Anwer Zoon, "Voices Unheard, Stories Untold: The Plight of Women in Neelum Valley – AJK," *Kashmir Institute of International Relations*, (2013) available online at <https://content.kiir.org.pk/Content/Files/WOMEN-IN-NEELUM-VALLEY.pdf> (Accessed: 08-01-2021).

⁵³ This story was traced by the author for the purpose of this study.

martyred by the Indian army. His close family member recalls that in an incident of unprovoked heavy shelling by Indian troops, while Latif was in the fields near his house, three shells hit him leaving his body in pieces. Late at night, when there appeared a short break in Indian shelling, only 4-7 villagers managed to offer his funeral prayer and buried him. His three children were traumatized and his family in distress migrated with their relatives to another village.⁵⁴

- Muhammad Imran (name replaced in the study to preserve anonymity), a retired government school peon who resides in Nikyal sector of AJ&K burst into tears while recalling the incident of his daughter's death. His daughter lost her life when an Indian shell hit her while she was sitting outside her house. He said "the painful and horrifying incident keeps me awake at night".⁵⁵
- Mrs. Saima Begum (name replaced in the study to preserve anonymity), another innocent civilian of Nikyal sector broke down while citing the painful story of being hit by an Indian shell that resulted in severely injuring her leg and that would lead her to permanent disability. The mental stress of the injury keeps her restless and in pain. She said, "I have no option but to live with this pain".⁵⁶

Threat to Psycho-Social Security

Today while mental health is a topic of great consideration for the modern international world, it is disappointing to notice that the psychological suffering of marginalized people living near LoC is ignored by the international community. So far, no significant attention has been given by the international community to take

⁵⁴ This story was traced by the author for the purpose of this study.

⁵⁵ This story was traced by the author for the purpose of this study.

⁵⁶ This story was traced by the author for the purpose of this study.

steps to improve the circumstances that will prove helpful for their psychological and social wellbeing.

The impact of cross-border shelling or armed conflict has a direct and close link with the psychosocial wellbeing of people. The continuous fear of casualties, injuries, loss of cattle, and destruction of the property greatly influence the mental health of inhabitants. For this research, residents of different areas close to LoC were approached to access the various impacts of conflict on them. One common response from all the respondents was the depression that they have been undergoing due to the uncertain situation of LoC as unpredictable ceasefire violations by India have badly damaged their psychosocial health.

- Muhammad Ikram (name replaced in the study to preserve anonymity), a resident of the Nikyal sector of AJ&K is working as a peon in a government school. Both his residence and workplace are situated in an area close to LoC. He has a hearing disability by birth and uses a hearing aid. According to him, on several instances when India starts unprovoked shelling, he could only access it by the movement of other people when they shelter themselves and he can only hear the bomb when it drops really close to him. He cites that the fear has affected his and his family's mental health. He says that "due to these circumstances whenever I leave my house for running errands or work, it always feels like I am walking under the shadow of death". One of his sisters is deaf as well and all family members always keep a close eye on her to save her from any uncertain incident of indiscriminate Indian firing. The uncertain situation of LoC due to the aggression of the Indian army is a continuous source of depression for him and keeps him awake even during peacetime. Sehrish, a junior government teacher (name replaced in the study to preserve anonymity), is also a frontline inhabitant of Nikyal sector. She is a widow raising three orphaned children. All of them are school going and

according to her, the fear that she or her children might be a target of indiscriminate Indian firing has not only damaged her mental and physical health but has also adversely affected her work. She expressed her worries about the future of her children. The physical insecurity they have been facing due to conflict is a barrier to education. She fears that in this age of competition, conflict is endangering the career and educational opportunities of her children. She says that her younger son, who is just 8 years, finds the sound of gunshots and mortar shells so terrifying that even the sound of thunder scares him. Being a mother, it is painful for her to notice the trauma her son has been facing at this young age.

A survey conducted by the Kashmir Institute of International Relations (KIIR) during 2013 in Neellum valley reveals that over eighty percent of people find Indian firing and shelling as a source of insecurity and uncertainty which affects the psychological well-being of people and is a matter of great concern.

Forced Displacement

The dislocation or displacement is another grave impact of ceasefire violation. Besides destruction and casualties, in most cases, the incidents of ceasefire violations not only harm the physical wellbeing and socio-economic development of people but also adversely affect them psychologically as being forced to leave home.⁵⁷

Despite the scale of escalation of hostility in the LoC areas, there is always a certain ratio of people that are forced to migrate. There are hundreds of thousands of people who have migrated to relatively peaceful regions. Some of them have found a good

⁵⁷ Preeti John, "Understanding the Lives of Those Living Along the LoC," *The Wire*, (2016), Available online at <https://thewire.in/uncategorised/understanding-the-lives-of-those-living-along-the-loc> (Accessed: 16-01-2021).

source of earning there, while most of them are living in vulnerable circumstances with no satisfactory subsistence. The uncertain circumstances prevailing at the LoC compel them not to return to their hometown, thus adding to their miseries and problems. One such example is of Zohra (name replaced in the study to preserve anonymity) and her family. She has three daughters, and her husband is a daily wage labourer. She recalls that her financial condition never remained good, but five years ago when they were living in their hometown their economic situation was comparatively better. They had their own cattle and a small piece of land to cultivate. Electricity, gas, and water costs were bearable as well. In 2016, when tensions between India and Pakistan grew higher, the circumstances near LoC got aggravated too. Her house is in close range of Indian shelling and it was impossible to live there due to continuous unprovoked and indiscriminate shelling and firing. They lost the number of their livestock to Indian shelling and were forced to sell the remaining to get some financial support to migrate. They moved to a relatively remote area of Mirpur. Although her family succeeded to escape the danger her husband couldn't find regular work and even when he did, his income was not enough to meet the minimum expenses of his family.⁵⁸

A Barrier to Education

The complex situation near LoC is not only a threat to the present condition of people but is also a question mark on their future. In this era of development where education is the only key for a successful and secure future, the young people of AJ&K claim that ceasefire violations by the Indian army have been a barrier to quality education, thus leaving their future uncertain. For this study, a question was forwarded to 70 teachers at government schools in different sectors parallel to LoC in which they were asked if they considered ceasefire violation as a hindrance to

⁵⁸ This story was traced by the author for the purpose of this study.

quality education. 55 of them responded to this and all the answers were in affirmative.

The populated public spaces and neighbourhood like schools, markets, residential areas, and hospitals always remain the target of indiscriminate Indian shelling. In 2016, a school bus driver was killed and several children were injured during an Indian firing in Mohra village in the Nakyal sector of AJ&K.⁵⁹ In another incident in 2003, mortar shells were used by the Indian army that resulted in the destruction of hundreds of houses and schools in the Nakyal and Battal sectors.⁶⁰ However, despite tough, uncertain, and risky situations, it is encouraging to notice that parents are keen to send their children to schools. For instance, in 2018-19, Government Girls Middle School Lanjoot, located very close to LoC, was targeted and the school building was damaged. Despite the horrifying incident, the strength of students in school is very satisfactory and the inhabitants of the area are determined to stay strong against Indian aggression.

Finding: Hence, a healthy trend revealed during the conduct of this research is that despite the potential danger associated with unprovoked firing, a long and unsafe distance of schools, and poor transportation system, generally, residents of the areas near LoC are willing to send their children to schools. However, due to the difficult environment children usually start their schooling late—normally at ages 6-7. In addition to this, the government of AJ&K is sometimes compelled to close the schools near LoC for such intervals as considered necessary, depending on about escalation. All these collectively act as a barrier to education and raise serious concerns about the future of those children. Their parents have been saddened by the knowledge that this continuous tension on LoC

⁵⁹ “One Dead in ‘Indian Shelling’ on School Van in Kashmir,” *Aljazeera* (December 16, 2016) Available online at <https://www.aljazeera.com/news/2016/12/16/one-dead-in-indian-shelling-on-school-van-in-kashmir> (Accessed 16-01-2021).

⁶⁰ Nakyal & Battal Sectors: Hundreds of Houses, Schools Hit by Indian Shelling”, *The Express Tribune* (November 12, 2016), Available online at <https://tribune.com.pk/story/1228547/nakyal-battal-sectors-hundreds-houses-schools-hit-indian-shelling> (Accessed: 16-01-2021).

warlike situation is keeping their children academically backward by denying them effective learning opportunities.

An Impediment to Economic Growth and Agriculture

Escalation of conflict along LoC has multi-dimensional effects on the lives of people, and economic stagnation is one of them. The areas near LoC are mostly villages where the economic conditions of inhabitants are already not ideal. The uncertain circumstances at LoC impede their economic development along with adversely affecting the development of AJ&K in general. Due to the unprovoked and indiscriminate acts of ceasefire violations by Indian troops, foreign investments are nonexistent and local individuals too are reluctant to invest. Moreover, the cycle of violence destroys public and private assets and causes an overall decrease in the productive capacity of businesses. This results in the shrinking of trade networks and thus impedes economic growth.

The residents of AJ&K living near LoC specifically have very few economic opportunities. They mostly depend on their agricultural lands and cattle for their livelihood. This too is under severe danger and most of the time the desired profit cannot be earned due to explosive attacks, unprovoked firing, and shelling. These acts result in the loss of cattle and bar the locals to take proper care of their land. It damages their lands and destroys standing crops.

Furthermore, the economic crisis also prevails due to escalation across LoC and the residents are forced to leave their agricultural land and migrate to other areas. One of such internally displaced persons is Muhammad Mushtaq (name replaced in the study to preserve anonymity), who has migrated to Mirpur from Nara, a village close to LoC. He says that before his forced migration, his source of earning was livestock and produce of his land. Although the amount he earned was never satisfactory, still it was relatively enough for him to support his family. Now he works as a daily wage laborer and often does not find any work. He quoted that “my

financial issues keep me under constant stress, despite having inherited agricultural land I am forced to face economic crisis.” I see permanent peace along the LoC as the only solution to my problems.”⁶¹

Besides, the damage caused to agricultural lands, livestock and the threats prevailing for tourism, the eruption of hostilities cause heavy damage to homes, schools, hospitals, shops, and other infrastructures. It thus proves deadly to the economic life of already marginalized people. According to a report, an event of Indian ceasefire violation “burnt the local Bazaar to the ground in this incident. Besides other huge losses, the bazaar lost its traditional woodwork heritage”.⁶²

According to 2020 data published in *Dawn News*, Indian shelling partially or completely damaged 596 houses in different sectors of AJ&K, while the number of completely damaged shops is 40. The ratio continues as “complete destruction of 34 houses and 14 shops and partial damage to 167 houses in Neelum Valley. Whereas in Jhelum valley, eight houses and 16 shops were destroyed, and 88 houses were partially damaged. In the Poonch district, 143 houses were partially damaged, while six houses and seven shops were destroyed. In Kotli district, 83 houses were partially damaged, while three houses and two shops were destroyed. In the Bhimber district, 38 houses were partially damaged, and one shop was destroyed. In Haveli district, 10 houses were partially damaged, and 7 houses were destroyed, while in Muzaffarabad district, eight houses were partially damaged”.⁶³ In addition to this, the aggression by Indian troops caused the partial or complete destruction of a petrol pump, 23 vehicles and 5 motorcycles, four rice milling machines, three cattle sheds and nine mosques in various sectors close to LoC.⁶⁴

⁶¹ This story was traced by the author for the purpose of this study.

⁶² Akhtar, “Living on the Frontlines: Perspective from the Neelum Valley.

⁶³ Naqash, “2020 Round up: 33 Civilians Martyred and more than 260 Injured by Indian Shelling”.

⁶⁴ Naqash, “2020 Round up: 33 Civilians Martyred and more than 260 Injured by Indian Shelling”.

Impact on the Environment

Today where global warming, climate change, threat to environment and protection of woods and forests are topics of great importance in the global debate, it is surprising to notice that world has very less or almost no focus on how explosive activities of Indian troops are causing environmental loss. While the concept of environmental security goes back to the Cold War era,⁶⁵ not much concentration has been paid on environmental rights of people that are continuously affected by one of the world's longest conflicts.

Miss Asma (name replaced in the study to preserve anonymity), a government schoolteacher in Nikyal sector of AJ&K says that the effects of noise and air pollution of conflict are very disturbing. Sometimes, it is even difficult to breathe during the heavy shelling. She says "we can feel the smoke of explosions in our lungs and the chances that it can lead to respiratory diseases cannot be overruled".⁶⁶

The indiscriminate explosive attacks by the Indian army have resulted in pollution and environmental degradation and loss of biodiversity and habitat. In Neelum Valley, soil erosion causes landslides, which sometimes even force people to migrate. The heavy shelling and firing results in wildfires that compel wild animals like bears and chimpanzees to come down. This in return causes a threat to human lives and cattle and gives rise to man-animal conflicts.⁶⁷ Irrespective of the period of shelling or firing, the drastic effect of it on the environment is always long-lasting. The environment that gets poisonous and polluted because of the explosive military attacks directly affects the wellbeing of people and their livestock.

⁶⁵Wim Zwijnenburg, "Environmental Security in Times of Armed Conflict," *the Blog of Environmental Change and Security Program, Wilson Center* (November 6, 2018) Available online at <https://www.newsecuritybeat.org/2018/11/environmental-security-times-armed-conflict/> (Accessed: 16-01-2021).

⁶⁶ This story was traced by the author for the purpose of this study.

⁶⁷ Akhtar, "Living on the Frontlines: Perspective from the Neelum Valley.

Kashmir Conflict, Ceasefire Violations, and the Role of UN: Past, Present, and Future

UN has always been vocal about the fundamental rights of people and in maintaining and protecting global peace. While the UN has achieved some great success in uplifting and supporting socio-economic development across the globe, its role in dealing with violations of fundamental principles and laws is not very satisfactory in conflict areas like Kashmir. UN took up the Kashmir issue with spirit, but the output of the role of the UN in this regard is still a question mark.

The history of the UN's involvement in peacefully tackling the Kashmir issue has already been discussed in detail. The UN has so far taken various steps to ensure peace between India and Pakistan. These efforts include a series of UN resolutions, the establishment of UNCIP, the existence of UNMOGIP, and mechanisms of arbitration and mediation between the two countries that resulted in quite a number of bilateral dialogues and agreements. Notwithstanding all these UN efforts, the Kashmir issue has been getting complex and violations of human rights and ceasefire violations by India are increasing day by day which is a matter of grave concern. This entire situation is also a question of the effectiveness of the UN in ensuring peace. There are the following points on the continuous failure of the UN and the international community for shared analysis of the Kashmir issue in this context:

- Firstly, it must not be ignored that earlier discussed relevant resolutions of the Security Council were not binding decisions pursuant to Article 25 of the U.N. Charter. Their legal status thus is nothing more than recommendations made under Article 38. The same is the case with resolutions adopted by UNCIP. As UNCIP member Josef Korbel wrote in 1949, one "had to keep constantly in mind that (UNCIP)

was an agency of good offices having no power to impose its decisions."⁶⁸

- The second aspect of failure to a permanent solution to ceasefire violations and Kashmir conflict can be regarded as the lack of any practical and effective binding action by UNSC towards the subject to date. This again is not surprising keeping in view the distinct interests of members of the UNSC. The UNSC is a structure composed of and driving the force from its members. Every member state has its own approach when it comes to tackling the violations of international laws and norms. Their viewpoints are based on the reasons reflecting their social, economic, diplomatic, and regional interests. Thus, what might be acceptable for one state party can be disturbing for the other; hence, a consensus on any matter can neither be reached nor stressed by UNSC.

It has been established earlier that there might be a long-term solution like that of Ceasefire Accord 2003 but no permanent solution to ceasefire violations is possible till the Kashmir issue is resolved as per the will of its people. The unsatisfactory role of the UN towards the burning disputes like Palestine and Kashmir issue and the continuation of Cold War politics between major powers can be cited as the main reason that has prevented a resolution of the Kashmir dispute. However, we can derive hope from the fact that despite the severe rivalry and tense relations, the success of the UN in protecting global peace, thereby preventing any horrifying incident like WWI and WWII, should be acknowledged and hence it's potential for resolving the Kashmir conflict and tackling ceasefire violations must not be underestimated.

⁶⁸ Brian Farrell, "The Role of International Law in the Kashmir Conflict," *Penn State International Law Review*, Vol. 21:2 (2003) read and compare with Josef Korbel, "The Kashmir Dispute After Six Years," *International Organization*, Vol. 7:4 (1953).

Recommendations: Lessons from the Past and Way Forward

The Kashmir dispute “sparked two of the three major Indo-Pakistani wars in 1947 and 1965, and a limited war in 1999”.⁶⁹ Despite the fact that since 1999 both countries have not been involved in open warfare, the violation of ceasefire by India across the LoC and its involvement in activities that endanger the peace in Pakistan is of grave concern.⁷⁰ This alarming attitude of Indian leadership is not only a direct threat to global peace but is also a question mark on the role of the international community and the. But better late than never, the world needs to focus on the violations of human rights and international norms that India is being guilty of.

Pakistan has always extended a positive role, extraordinary sacrifices, and support towards the people of Kashmir; however, the hopes of Kashmiri people from Pakistan are higher than ever before. Furthermore, the contemporary condition of the Kashmir issue demands the leadership of Pakistan to revise their strategy towards this unresolved dispute. A strong Pakistan is crucial to tackling the Kashmir issue effectively. For this, Pakistan needs to continue to ensure the best use of constructive and creative diplomacy at international forums. In order to keep pace with the changing times and to address the Kashmir question effectively, Pakistan needs to polish its diplomatic skills.

The escalation of conflict across the LoC is directly and closely linked to the unsettled Kashmir dispute and hence the resolution of the Kashmir issue is the only permanent solution to ensure peace across LoC, while there is a long history of unsuccessful dialogues and agreements between India and Pakistan on

⁶⁹ “Conflict between India and Pakistan,” *Council on Foreign Relations*, (2021) Available online at <https://www.cfr.org/global-conflict-tracker/conflict/conflict-between-india-and-pakistan> (Accessed: 08-01-2021).

⁷⁰ Naveed Siddiqui ““Irrefutable Evidence” Dossier of India’s Sponsorship of State-Terrorism in Pakistan Presented,” *Dawn News* (November 16, 2020) Available online <https://www.dawn.com/news/1590333> (Accessed: 16-01-2021).

Kashmir issue and ceasefire, it should be kept in mind that war can never be an option and the only way out for both countries is an effective dialogue on terms of UN resolutions that endorses peaceful settlement through an impartial plebiscite. On the positive side, the fact that in the decades-long conflict both countries have surpassed some major tensions and have achieved some goodness for their people by inaugurating the historic “peace corridor” thereby granting the opportunity to Indian Sikhs to visit their religious sites in Pakistan.⁷¹ The initiative of Confidence Building Measures (CBMs) was also a great success as it provided an opportunity to people of both countries to meet and greet their loved ones across the LoC by traveling across LoC through bus service⁷² and by initiating the trade exchanges, etc. So, the hope for an effective dialogue between two countries to overcome the crisis must not be underestimated. However, the task of finding ways to peace is important as well as challenging.

India also needs to learn from the past that whatever tactic it has adopted to control the people of Kashmir, it failed to dim their aspiration towards self-determination. The concern of the Kashmiri people against Indian leadership is a clear sign that India is losing Kashmir.⁷³ Hence, India needs a radical shift in its policy towards Kashmir.⁷⁴ The world needs to realize the sensitivity of the Kashmir issue for maintaining global peace. The real situation prevailing in Kashmir and the violations committed by India across the LoC should be examined closely. The world should end its role as a silent spectator and should play a more vocal role about the rights of Kashmiris.⁷⁵

⁷¹ Asad Hashim, “Pakistan and India Sign Sikh Pilgrimage Corridor Agreement,” *Aljazeera*, (October 24, 2019) Available online <https://www.aljazeera.com/news/2019/10/24/pakistan-and-india-sign-sikh-pilgrimage-corridor-agreement> (Accessed: 08-01-2021).

⁷² The bus service, was more a symbol of diplomatic relations between the two nations was initiated for the first time on February 1999.

⁷³ Institute of Strategic Studies Islamabad, (2016), “*India is Losing Kashmir*,” available online at <http://issi.org.pk/india-is-losing-kashmir/> (Accessed: 08-01-2021).

⁷⁴ Institute of Strategic Studies Islamabad, (2016), “*India is Losing Kashmir*”.

⁷⁵ *Institute of Policy Studies, Islamabad*, (2019), “Kashmir: The Issue, Global Scenario and Policy Imperatives,” available online at <https://www.ips.org.pk/kashmir-the-issue-global-scenario-and-policy-imperatives/> (Accessed: 08-01-2021).

There are three primary ways in which the U.N. and the global community can play in the settlement of the issue:

- Firstly, the UN through its respective organs can encourage India and Pakistan to resolve the dispute as per principles of the international and bilateral agreement between two states. UN can actively engage both parties in process of dialogues, facilitating the process.
- Secondly, in order to be compelling India to step back from its unlawful attempt of changing the status of Jammu & Kashmir and to prevent it from violating the ceasefire, the UN and international community can take effective steps like imposing trade embargos or cutting diplomatic ties with India.
- Thirdly, the countries across the globe generally and Muslim countries specifically need to gather their resources to stop the human rights crisis and ceasefire violations by India against innocent Kashmiris.

Finally, in the present era where media is considered as an influential tool to attract the attention of countries across the globe on important issues, means and methods should be brainstormed to strategically gain the focus of international media towards the Kashmir cause and violations of the rights of Kashmiri people by India on both sides of the LoC.

Conclusion

Kashmir is often referred to as “paradise on earth” which has become a nightmare to live in due to ceasefire violations by India. This study aimed to understand the issues and challenges faced by people living in conflict-affected districts situated near the LoC. The uncertain circumstances that are giving rise to insecurity, psychological distress, and socio-economic stagnation have been highlighted. While collecting the data for case-studies respondents were asked, “What can be the possible solution to their miseries”?

They gave a common reply and that, “Peace and permanent solution to Kashmir issue according to wills and aspirations of the people of Kashmir”. The historic and legal background of the Kashmir dispute has also been discussed in detail in order to better understand the issue of ceasefire violation and to present a way forward. Thus, the present study establishes that the issue of ceasefire violations by the Indian army along LoC can be linked directly to the Kashmir issue. Hence, no long-term solution to tackle ceasefire violations is possible until the environment is paved in favor of Kashmiri people in which they can exercise their right to self-determination. This requires more effective steps by the UN and the international community towards the Kashmir cause. While Pakistan has always played an exceptionally positive role in supporting and aiding the Kashmiri people, the changing circumstances and complexity of the issue demand that there is still much more to be done. The government of Pakistan needs to develop a more effective strategy on the longstanding conflict of Jammu and Kashmir. Despite many difficulties, negotiations and international law can offer the best opportunity for the final settlement of the dispute. With the assistance of the international community and the UN, both India and Pakistan should work together to create favorable means to facilitate the Kashmiri people to participate in an UN-backed free and fair plebiscite. Meanwhile, to bring stability and peace, an agreement endorsing a complete ceasefire across the LoC must be brainstormed immediately. The effective dialogue and cooperation between India and Pakistan are the only key to bringing peace and development to this volatile region.



Kashmir's Frozen Conflict: Way Forward for Pakistan, AJK, and Kashmiris under Indian Occupation

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Kashmir's Frozen Conflict: Way Forward for Pakistan, AJK, and Kashmiris under Indian Occupation

Umair Pervez Khan
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Abstract

Kashmir conflict is one of the longest unresolved issues at the UN table. The post-August 5, 2019 situation in Indian Occupied Jammu & Kashmir (IOJK) has changed the dynamics of the conflict. India has already started implementing demographic changes in the areas under its occupation. It is safe to say that the Israeli settler-colonial model is being replicated by India. This has created a serious existential threat to the locals of IOJK. Since the revocation of Article 370, a prolonged lockdown has been imposed, which has become the longest ever lockdown in history—creating medical, socioeconomic, and other complications. Moreover, the response from the international community has not been enough to counter the threat to the entire edifice of human rights in IOJK. In this situation where the local voices are silenced by force and the international community is apparently not doing much, the role of the Azad Kashmir government and Pakistan has doubled. Understanding and emphasizing the dynamics and urgency of the roles played by Pakistan and AJK governments in such circumstances is the focal point of this research. This article analyses both the external systemic pressures and domestic factors

that shaped the response of Pakistan towards the Kashmir conflict historically and especially in the post-August 5 scenario using the paradigm of neoclassical realism. Employing descriptive and analytical research methods, this article discusses the factors determining the policy responses of the AJK government and social responses emerging out of the contemporary political climate of IOJK. Last but not the least, recommendations have been laid out for all the stakeholders involved in this frozen conflict.

Keywords: Kashmir Conflict, Pakistan, Azad Kashmir, Demographic Changes, IOJK

Introduction

Kashmir conflict is the longest lingering dispute on the UN agenda. It has remained the bone of contention between two Asian powers since their independence: India and Pakistan. The conflict has also been the progenitor of several issues in the global south, most importantly militancy. Both nuclear powers of the region have been competing with each other vis a vis the Kashmir conflict and even have resorted to the use of hard power at different times: three full-scale wars and a limited military conflict of Kargil 1999 increased the hostilities between the two rivals.

Historically, there have been many attempts to resolve the said conflict but all in vain. The chief diplomatic international organization, United Nations (UN), has even failed to resolve the dispute in the last seven decades. The bilateral approach has also been practiced for quite some time, but no comprehensive or decisive agreement was reached upon. Other approaches including third-party mediation and the famous four-point formula of President Musharraf also didn't bear any fruit. Recently, on August 5, 2019 move of the Indian state has further complicated the issue. Pakistan on the other hand has tried to use every diplomatic option to highlight the unlawful actions of India and has limited its response which is naturally seen by Kashmiris as insufficient.

This paper aims to discuss the contemporary behavior of the Pakistani state vis-a-vis the Kashmir conflict and analyzes the policy options for Pakistan and Sub-autonomous Azad Jammu & Kashmir (AJ&K) government through the lens of neo-classical realism. The methodology adopted for this study is qualitative in nature. Both primary and secondary data collection techniques have been used. The study is divided into two sections: first discusses the historical developments and factors that contributed to the deadlock in resolving the Kashmir conflict over seven decades; and, second half analyzes the post-August 5 situation and sheds light on the stalemate prevalent conveniently in the international community vis-a-vis the Kashmir dispute.

Theoretical Framework

The neo-classical realism model in international relations claims that the actions of a state in the international system can be defined by systemic variables, such as the distribution of power among states; cognitive variables, such as the perception and misperception of systemic pressures, other states goals, or threats; and domestic variables, such as state organizations, elites, and social actors within society, influencing the power and autonomy of action of the decision-makers in foreign policy.¹ Furthermore, its advocates complete the neorealist approach by suggesting that change in the international system directly influences the state's behavior vis-a-vis its foreign policy options. Scholars are of the point of view that domestic factors act as a channel that facilitates and help redirect pressures from the international system to shape units' foreign policy actions.²

Nevertheless, one of the neo-classical realists, Fareed Zakaria argues that international pressure remains the dominant factor in shaping the external policy of the state; so, a good foreign policy theory

¹ Gideon Rose, "Neoclassical Realism and Theories of Foreign Policy," *World Politics* 51, no. 1 (October 1998).

² Randall L. Schweller, "Unanswered Threats: A Neoclassical Realist Theory of Under balancing," *International Security* 29, no. 2 (Fall 2004): 164.

should first inquire what effects international system has on states' behavior and foreign policy analysis should begin from studying the relative position of any particular state in the international system.³ The paradigm of Neo-classical realism has been used in this study for analysis of the factors that are influencing the choices of the policymakers sitting in Islamabad regarding the Kashmir conflict. The reason to choose said theoretical framework is that it will help the researcher to consider systemic, national, and other influences, specifying what aspects of the policy can be explained by which factors.⁴

Kashmir Conflict: A Historical Appraisal

The conflict of Kashmir dates back to the partition of the sub-continent. Kashmir was amongst one of many princely states in British India and had failed to accede to either Pakistan or India on the eve of partition. This led to the initiation of the conflict when the locals revolted against the Hindu ruler who was hesitating to accede to Pakistan as per the religious, economical, geographical, and social factors demanded. Soon after that, Indian forces landed in Srinagar at the request of the Maharaja, and hostility between newly formed dominions broke out. It continued till the UN intervened at the request of India in 1948.⁵ Pakistan accepted this intervention as the organization had been newly established to resolve the conflicts among states. A ceasefire agreement was signed, and long deliberations were held on the matter.

The then foreign minister of Pakistan, Sir Zafarullah Khan, along with his team, including the founding president of Azad Jammu & Kashmir Sardar Muhammad Ibrahim Khan, pleaded the Kashmir cause in the headquarters of the UN. India made its claim on the controversial Instrument of Accession (which was never produced at

³ Fareed Zakaria, *From Wealth to Power: The Unusual Origins of America's World Role* (United States: Princeton University Press, 1999): 198.

⁴ Zakaria, *From Wealth to Power*, 198.

⁵ Wahenguru Pal Singh Sidhu, Bushra Asif, and Cyrus Samii, "Chronology of the Kashmir Conflict," in *Kashmir New Voices, New Approaches* (Lahore: Vanguard Books (PVT) Ltd, 2009), 249-65.

UN in its original form⁶) while Pakistan built the case that the document was fake and the Maharaja had no right to decide the future of the people against the popular will; especially when his reign was overthrown by the locals in a successful revolt.⁷ The delegation was able to secure the right to self-determination for Kashmiris and landmark resolutions of April 21, 1948, and January 5, 1949, were passed accepting the right to choose of the Kashmiri people.

Initially, Pakistan succeeded in its diplomacy and was able to gain international support for the cause. This was because the international system was supporting the right to self-determination and the formation of new states was also being supported. Second World War was recently over and an organization like the UN was formed to support the liberal international order that was in its nascent phase. The Soviet Union and the U.S. were trying to make their allies in different regions and new states being decolonized were the most convenient options. Pakistan had a clear-cut inclination towards the west; contrary to India which was yet to take sides in international politics but was inclined towards the Soviets. Domestically, Pakistan was facing severe challenges due to immediate crises like that of refugees, financial issues, and weak infrastructure; but the policymakers were careful in designing the options for Kashmir. Furthermore, the leadership of AJK was taken into confidence regarding policy options. These factors advanced the efforts of the newly formed Pakistani state at the international diplomatic forum.

The failure of the UN in resolving the Kashmir conflict complicated the situation. Stakeholders tried to approach the conflict through different strategies including bilateral talks and even going for full-scale wars. However, the strategy of bilateral talks at different times proved futile. Even the wars of 1965 and 1971 didn't produce any

⁶ Arif Jamal, *Shadow War* (New York: Melville House, 2009), 56.

⁷ Jamal, *Shadow War*, 56.

solution to the Kashmir conflict. The amputation of Pakistan in the 1971 war led to the Simla Agreement of 1972 which altered the international personality of the Kashmir conflict as it provided India with an opportunity to project Kashmir as a bilateral issue.

Post-East Pakistan debacle, Pakistan suffered from severe shocks and the morale of the Pakistani nation was very low as 90,000 Pakistanis were held as prisoners of war in India. Though Kashmir's cause was echoed in international forums like the UN and Organization of Islamic Countries (OIC), it saw a stalemate for years to come.⁸ However, the Afghan-Soviet war encouraged non-state actors to wage Jihad in IOJK;⁹ it made things more complex regarding the conflict in question as militancy was introduced in the struggle of Kashmir. The valley saw violence for the following decade. Later, this militancy factor hurt the Kashmir cause and India got the international room to propagate that the indigenous nature of the freedom movement was state-sponsored terrorism by Pakistan. Around the end of the twentieth century, Pakistan went nuclear in response to the nuclear tests conducted by India in May 1998. This was solely on the pretext of the realist approach of balancing the power in the region. A year after, both atomic powers confronted each other in the highest battlefield of the world: Kargil. The limited-scale war rang the bell of nuclear conflict in the region and international powers intervened, and consequently, a nuclear confrontation was evaded.

Moreover, to India's luck twin tower attack happened which contributed to a shift of international opinion regarding militancy. Therefore, 9/11 extended an opportunity to India to link the Kashmiri freedom struggle and Global War on Terror (GWOT), at different forums, to attain maximum backing from altered global opinion. This active propaganda of India affected the Kashmir

⁸ Hasan-Askari Rizvi, "Islamabad's New Approach to Kashmir," in *Kashmir: New Voices, New Approaches*. (2009), 137-51.

⁹ Pervaiz Iqbal Cheema, "The Kashmir Dispute: Key to South Asian Peace," *IPRI journal* 14, no. 1 (November/December 2014), 2.

conflict largely and its dynamics transformed to a greater extent. The war against terrorism exerted huge pressure on Pakistan and its approach to the conflict. In the post 9/11 scenario, it became difficult for Pakistan to support Kashmir's freedom struggle. The blurred distinction between just freedom fight and 'Islamic extremism/Fundamentalism' made the world more intolerant towards terrorism and militancy.¹⁰ It was not until 2016, with the martyrdom of Burhan Wani, that the indigenous color of the struggle was brought back to the world stage. The local young boy used social media accounts to project the legitimate freedom struggle of Kashmir in the international arena.¹¹ He was eliminated by the Indian occupying forces which refueled the freedom struggle. The Indian state is ruled by the right-wing Bharatiya Janta Party (BJP) further took repressive measures to curb the revolting voices. The pellet guns were used against the protestors and as many as 6,221 young people were either partially or completely blinded up till June 2018.¹² This particular year of turbulence left 160 civilians dead, which is believed to be the highest number in over a decade.¹³

Revocation of Article 370 and 35A

India has been torturing Kashmiris now for more than 7 decades, but the step taken in August 2019 is unprecedented in the long history of the Kashmir conflict. Indian parliament under the leadership of right-wing extremist RSS ideologue Narendra Modi withdrew the so-called autonomy given to the occupied region. Article 370, the constitutional link between the center and IOJK along with article 35A which had hitherto denied the outsiders permanent resident

¹⁰ Shaheen Akhtar, "War on Terrorism & Kashmir Issue," University of the Punjab (Accessed December, 2020), <http://pu.edu.pk/images/journal/pols/Currentissue-pdf/SHAHEEN%20AKHTAR.pdf>

¹¹ Sabrina Gabel, Lilian Reichert, and Christian Reuter, "Discussing Conflict in Social Media: The Use of Twitter in the Jammu & Kashmir Conflict," *Media, War & Conflict* (December 2020), 1-26, <https://journals.sagepub.com/doi/pdf/10.1177/1750635220970997>.

¹² UN, *First-ever UN Human Rights Report on Kashmir Calls for International Inquiry into Multiple Violations*, (OHCHR, 2018),

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23198%20>.

¹³ UN, *Update of the Situation of Human Rights in Indian-Administered Kashmir and Pakistan-Administered Kashmir from May 2018 to April 2019*, (Office of the United Nations High Commissioner for Human Rights, 2019),

https://www.ohchr.org/Documents/Countries/IN/KashmirUpdateReport_

status in IOJK was revoked.¹⁴ This move was not only criticized by the pro-freedom leadership of Kashmir but also came as a betrayal to the pro-India Kashmiri leadership.¹⁵

The unilateral move was against the UN resolutions; so-called accession document as well as it violated India's own constitution.¹⁶ The abrogation of Article 35A, introduction of 'Reorganization Order' and 'Domicile rule' contravenes UN resolutions 122 and 126 adopted on January 24, 1957, and December 2, 1957, respectively.¹⁷ These resolutions prohibit any unilateral action targeted at changing the disputed nature of the State of Jammu & Kashmir either by India or Pakistan.¹⁸ Similarly, scrapping article 370 needed prior consent from the occupied state's assembly which was never sought.¹⁹ Secondly, Clause 7 of the Instrument of Accession signed by Maharaja Hari Singh declared that the state could not be compelled to accept any future constitution of India. The state was within its rights to draft its own constitution and decide for itself what additional powers should it extend to the central government²⁰ Article 370 was designed to protect those rights. Moreover, the Indian government's control over IOJK was limited to defense, foreign affairs, and communications, and Delhi could only use its power when the state government concerned with the central government.²¹ However, the Indian state took the illegal step using unprecedented and unwarranted hard power, increasing the number of troops to 900,000 and imposing a strict lockdown with a complete

¹⁴ Shaza Arif, "Kashmir Bleeds Again," *Modern Diplomacy*, last modified August 12, 2019, <https://modern diplomacy.eu/2019/08/10/kashmir-bleeds-again/>.

¹⁵ "Article 370: Former Chief Minister Says India Has Betrayed Kashmir," BBC News, last modified August 5, 2019, <https://www.bbc.com/news/world-asia-india-49231620>.

¹⁶ Kelly Buchanan, "FALQs: Article 370 and the Removal of Jammu and Kashmir's Special Status," Library of Congress Blogs, last modified October 3, 2019, <https://blogs.loc.gov/law/2019/10/falqs-article-370-and-the-removal-of-jammu-and-kashmir-special-status/>.

¹⁷ Halil Emre Aktuna Toker & Sheikh Waleed Rasool, *Kashmir: Regional and International Dimensions* (Islamabad: Institute of Multi-Track Dialogue, Development and Diplomatic Studies, 2020).

¹⁸ Toker & Rasool, *Kashmir: Regional and International Dimensions*.

¹⁹ Umair Pervez Khan, "Article 370: Resist to Exist!" *Daily Times*, November 13, 2019, <https://dailytimes.com.pk/499201/article-370-resist-to-exist/>.

²⁰ Khan, "Article 370: Resist to Exist!" *Daily Times*, November 13, 2019.

²¹ Ahmed Saeed Minhas, Bashir Ahmad, and Masrur Alam Khan, "Seizing Kashmir's Identity: Implications for Global Peace and Stability," *NDU Journal* 33 (2019): 63-82.

communications blackout.²² The internet service was shut down and the entire valley was turned into an open prison. Medical services were obstructed and even ambulances were attacked. The valley has seen a three-tiered curfew since the revocation of autonomy: the local population suffered first due to military curfew, the second was the winter-induced lockdown, and in March 2020 it was imposed once again by Delhi under the pretext of Coronavirus outbreak.

Since the withdrawal of the special status, illegal military actions accelerated in the region and killed 229 people, destroyed 48 structures by conducting 100 military operations in the year 2020.²³ The economy of the occupied region has suffered heavy losses and according to a report by Kashmir Chamber of Commerce, occupied Kashmir has suffered a total loss of (Indian) Rs. 31,200 Crores, from August 5 to May 2020.²⁴

Apart from the killings of innocent locals and damage to property, revocation of the said article has additional implications for Kashmiris. India has paved the way to malign the identity of IOJK firstly by dissolving the articles and then introducing new legislations and splitting the occupied state into two union territories (UTs).²⁵ BJP government, projecting Hindutva ideology, intends to change the demography of the Muslim majority state and convert it into a Hindu dominated region. The administration has already issued more than 25,000 domiciles to the non-natives in a stark violation of UN resolutions.²⁶ Imitating its partner, Israel, India is replicating the Israeli model in IOJK except adopting the inclusive

²² Moin Ul Haque, "The Forgotten Lockdown," *The News*, June 14, 2020, <https://www.thenews.com.pk/print/672217-the-forgotten-lockdown>.

²³ "One Year of India's Clampdown in Occupied Kashmir — Here's Everything You Need to Know," *Dawn*, August 13, 2020, <https://www.dawn.com/news/1514652>.

²⁴ Umair Pervez Khan, "What is Kashmir Going through since August 5, 2019?," *Daily Times*, August 5, 2020, <https://dailytimes.com.pk/649509/what-is-kashmir-going-through-since-august-5-2019/>.

²⁵ "India Strips Kashmir of Special Status and Divides it in Two," *The Guardian*, October 31, 2019, <https://www.theguardian.com/world/2019/oct/31/india-strips-kashmir-of-special-status-and-divides-it-in-two>.

²⁶ "Kashmir Muslims Fear Demographic Shift As Thousands Get Residency," *Al Jazeera*, last modified June 28, 2020, <https://www.aljazeera.com/news/2020/6/28/kashmir-muslims-fear-demographic-shift-as-thousands-get-residency>.

settler colonial model rather than the exclusive settler colonial model. Kashmir is another Palestine in the making.

Moreover, the fear of a bloody insurrection in IOJK has also mounted as the policy makers in Delhi are continuously trying to use hard power to suppress the anger in the local population. To divert the attention from the actual problem, hawks sitting in Delhi may also implicate Pakistan in the Kashmiri freedom struggle as they did in February 2019 by orchestrating the attack on their own troops in Pulwama,²⁷ which led to direct confrontation between two air forces. The possibility is high and India might plan a limited war if not full-scale war as the situation along the ceasefire line depicts. According to a report, in the year 2020, 3,003 ceasefire violations were recorded, resulting in 27 deaths and serious injuries to 250 civilians.²⁸

Repealing article 370 also has implications for the Indian state itself. The political clout of India has declined in IOJK as the pro-India politicians have made alliances against this decision.²⁹ The former chief minister of IOJK Farooq Abdullah has also made a fresh statement to include Pakistan in the dialogues calling it a major stakeholder in the Kashmir conflict.³⁰ This is a source of discontent in Delhi, which could be cashed in favor of the people of Kashmir at the international level.

Furthermore, the movie depicts the hegemonic design of the Indian state. It is trying to assert itself as the regional hegemon which has been opposed by Pakistan on one side and on the other China has taken serious note of these hegemonic designs of the Hindutva state.

²⁷ "Indian Conspiracy behind Pulwama Attack Exposes Arnab Goswami," *The Nation*, January 16, 2021, <https://nation.com.pk/16-Jan-2021/indian-conspiracy-behind-pulwama-attack-exposes-arnab-goswami>.

²⁸ Huaxia, "India Carries Out Over 3,000 Ceasefire Violations this Year: Pakistan," XinhuaNet, last modified December 21, 2020, http://www.xinhuanet.com/english/202012/21/c_139605429.htm#:~:text=In%202020%2C%20the%20Indian.

²⁹ A.G Noorani, "Kashmir's Future," *Dawn*, October 24, 2020, <https://www.dawn.com/news/1586748>.

³⁰ Noorani, "Kashmir's Future," *Dawn*, October 24, 2020.

The regional balance is being disturbed; so, China has given a strong message to India in the area of Ladakh by entering into the region and increasing its military presence. The Chinese acted offensively and serious skirmishes have also occurred between the Indian military and Chinese armed forces which led to the humiliation of the Indian forces.³¹ Consequently, this implies that this move of India has implications for the whole of the South Asian region and is also a test case for the UN.

Response of Pakistan

August 5, 2019 actions of New Delhi left Islamabad in shock. Pakistan, being a main stakeholder in the Kashmir conflict started to analyze its options against the aggressive move made by its geopolitical archrival. It immediately approached the UN and in the next month of September, Pakistani premier Imran Khan in a well-articulated detailed address to the UN General Assembly (UNGA) condemned the unilateral act of India. He, while addressing the world leaders, warned of a pogrom of Muslims in IOJK by fascist Modi.³² Pakistan started to lobby internationally to highlight the illegality of the move and the atrocities committed by India in IOJK. It immediately approached the US, China, Organization of Islamic Countries (OIC), and the UN;³³ although it didn't yield the expected results.

Furthermore, the national assembly of Pakistan passed a unanimous resolution condemning and rejecting the unilateral illegal move by India.³⁴ It also suspended bilateral trade including *Samjhota Express* and *Dosti Bus* and expelled Indian High Commissioner from Islamabad and didn't send its own High Commissioner to New

³¹ "India Now Says 20 Troops Killed in China Clash," BBC News, last modified June 16, 2020, <https://www.bbc.com/news/world-asia-53061476>.

³² "PM Imran Mince no Words at UN, Calls Out Modi Govt for the Oppression of Kashmiris," *Dawn*, September 27, 2019, <https://www.dawn.com/news/1507675>.

³³ Saral Sharma, "The Political Impact of India's Removal of Jammu & Kashmir's Special Status," South Asian Voices, last modified August 30, 2019, <https://southasianvoices.org/understanding-the-political-impact-of-indias-removal-of-jammu-kashmir-special-status/>.

³⁴ Minhas, Ahmad, and Khan, "Seizing Kashmir's Identity," 75.

Delhi.³⁵ Government of Pakistan also announced to celebrate Independence Day as Kashmir Solidarity Day and August 15 as black day.³⁶

Pakistani diplomats were continuously engaged in lobbying for the situation of IOJK, accumulating support for their stance in the international political arena. Pakistan also provided evidentiary dossiers to the UN about illegal activities of India which have been contrary to the UN Charter.³⁷ All these efforts are appreciable; however, the momentum which was gained at an international level right after the revocation of article 370 couldn't sustain for long. Once again, the global political environment favored India and global focus was diverted. The entire world affairs started to revolve around the Covid-19 pandemic and despite IOJK being in complete lockdown, the world hardly budged.

Moreover, India took maximum advantage of the situation and immediately tightened the lockdown in IOJK under the pretext of the Coronavirus. The Indian media, using its propaganda techniques along with state support, framed the situation in its favor. Indian state arranged a visit of right-wing European MPs to IOJK to give a message of normalcy to the international community.³⁸ India's fake media outlets around the world were activated to spread fake information regarding IOJK and against Pakistan. This phenomenon was exposed in a report published by EU Dis Info Lab last year.³⁹

³⁵ Minhas, Ahmad, and Khan, "Seizing Kashmir's Identity," 75.

³⁶ "Nation Celebrates Independence Day as Kashmir Solidarity Day," *The News*, August 14, 2019, <https://www.thenews.com.pk/latest/511817-nation-celebrates-independence-day>.

³⁷ "Pakistan Gives UN a Dossier on India, New Delhi Dubs it 'lies'," *Al Jazeera*, last modified November 25, 2020, <https://www.aljazeera.com/news/2020/11/25/pakistan-gives-un-a-dossier-on-india-new-delhi-dubs-it-lies>.

³⁸ "Outrage Over Right-Wing Euro-MPs' Kashmir Visit," *BBC News*, last modified October 30, 2019, <https://www.bbc.com/news/world-asia-india-50231022>.

³⁹ "Indian Chronicles: Deep Dive into a 15-Year Operation Targeting the EU and UN to Serve Indian Interests," *EU DisinfoLab*, last modified December 9, 2020, <https://www.disinfo.eu/publications/indian-chronicles-deep-dive-into-a-15-year-operation-targeting-the-eu-and-un-to-serve-indian-interests/>.

Nevertheless, right before the anniversary of the Indian illegal act of repealing autonomy of IOJK, Pakistan published a new political map of Pakistan including the whole state of Jammu & Kashmir in its area⁴⁰. In another move, the government of Pakistan renamed Kashmir Highway as Srinagar Highway in its capital city.⁴¹ These steps were responded with mixed opinions amongst political commentators. Some of them saw these as a matter of routine solidarity initiatives while others considered these unnecessary and to some extent damaging the Kashmir cause. Anyhow, these acts are of cosmetic nature and the state of Pakistan must go beyond these steps to formulate a consistent and coherent policy on Kashmir.

Response of the International Community

Kashmir conflict is an internationally recognized conflict between two nuclear rivals; so, the responsibility of the international community is manifold to resolve it. However, after seven decades the international community has failed to find a solution to this potential nuclear flashpoint. The dispute was taken to the UN as early as 1948 which has put efforts to resolve it but all in vain. Early delay tactics of India and later denial of the conflict have made it complicated for the UN to arrange a plebiscite as decided by its several resolutions. UN had been active for the first ten years of the conflict but lately, it had been reluctant to discuss the issue assertively. It has even been suggested that the failure of the UN to implement its resolutions on Kashmir lies in the mishandling of the conflict at the time of its origin. The organization considered it a political dispute rather than judging it on legal grounds in the context of the Instrument of Accession and other legalities.

Additionally, the internal decision-making process of the organization has restricted meaningful action. The major global powers have their role in the UN decision-making mechanism;

⁴⁰ "In a Landmark Move, PM Imran Unveils 'New Political Map' of Pakistan," *Dawn*, August 4, 2020, <https://www.dawn.com/news/1572590>.

⁴¹ "Pakistan Renames Kashmir Highway as Srinagar Highway," *The Nation*, August 3, 2020, <https://nation.com.pk/03-Aug-2020/pakistan-renames-kashmir-highway-as-srinagar-highway>.

hence, the P5 influences the ability of the UN to take any concrete actions. For instance, several resolutions against India have been vetoed by Russia in UNSC.⁴² The vested interests of P5 in different regions have also contributed to the stalemate in the Kashmir resolution.

Recently, UNSC held consultative meetings on the request of China but without issuing any official statement.⁴³ UNSC members showed deep concern over the use of force and communications blackout in IOJK.⁴⁴ UN has an obligation towards the unresolved dispute as it guaranteed the right to self-determination to Kashmiris. Even the US had supported the right to self-determination of the Kashmiris in the early phase of the conflict, but its policy has changed over time due to its strategic and economic interests in the South Asian region.⁴⁵ War on Terror influenced the way Washington looked at such freedom movements and it also asked Pakistan to change its Kashmir policy. Musharraf made an abrupt U-turn for the Kashmir cause which had implications for Kashmir as well as Pakistan itself. The US also intervened to manage the conflicts between India and Pakistan i.e., Kargil. Different presidents of the US have time and again offered their good office for mediation but didn't find the will to face the Indian ire.⁴⁶ Same was the case this time after the limited autonomy of IOJK was annulled. The US President Donald Trump offered to mediate⁴⁷ but didn't afford to lose a large Indian market and a potential competitor to China in the region; thus, the statement he made was merely lip service.

⁴² M. Feyyaz, "P-5 Members and UN Conflict Resolution Approaches," *South Asian Journal* 28 (April/May 2010).

⁴³ Anwar Iqbal, "UNSC Reviews Kashmir Situation as Protesters Condemn Indian Action," *Dawn*, August 6, 2020, <https://www.dawn.com/news/1572879>.

⁴⁴ Iqbal, "UNSC Reviews Kashmir Situation as Protesters Condemn Indian Action," *Dawn*, August 6, 2020.

⁴⁵ Ershad Mahmud, "Post-Cold War US Kashmir Policy," *Policy Perspectives* 2, no. 1 (April 2005).

⁴⁶ Mahmud, "Post-Cold War US Kashmir Policy."

⁴⁷ Kunwar K. Shahid, "The End of Article 370: How Pakistan Surrendered Kashmir," *The Diplomat*, last modified August 12, 2019, <https://thediplomat.com/2019/08/the-end-of-article-370-how-pakistan-surrendered-kashmir/>.

Similarly, the Kashmir conflict is the legacy of British colonialism, as the Kashmir dispute is often referred to as the unfinished agenda of the partition plan, the UK today bears responsibility towards its solution. The UK does support the right to choose of the Kashmiri people as a matter of principle but has been calling the Kashmir conflict a bilateral issue.⁴⁸ In the wake of August 5, 2019, it had acted cautiously towards calling India an aggressor; although, it did voice concerns about the human rights violations in IOJK.⁴⁹ Few of the UK lawmakers have been successful in initiating the debate on the Kashmir conflict in the UK parliament, which is a positive step towards recognition of the Kashmir conflict as an international dispute by the UK.⁵⁰ However, Pakistan along with the Kashmiri diaspora must do a lot more to swing public opinion of the UK in Kashmir's favor which will ultimately compel the British government to act.

China has backed Pakistan's stance at international forums with a careful approach. It criticized India over its hegemonic designs in the region and the illegal move made by it in August 2019. The rising global power lobbied for the hearing of UNSC on the matter twice. It also had reacted aggressively towards the Indian move of building road infrastructure in the disputed region of Ladakh and moved its troops there claiming the area under its control.⁵¹ China has cautiously supported Pakistan. Although, according to some reports (which have been negated by Pakistan) China asked Pakistan to recognize Gilgit Baltistan (GB), the starting point of the China-Pakistan Economic Corridor (CPEC) on the Pakistani side, as a

⁴⁸ Rahul Roy Chaudhury, "The Kashmir Factor in UK-India Relations," IISS, last modified March 6, 2020,

<https://www.iiss.org/blogs/analysis/2020/03/sasia-the-kashmir-factor-in-uk-india-relations>.

⁴⁹ Chaudhury, "The Kashmir Factor in UK-India Relations."

⁵⁰ "UK Parliament Debate Made Clear Kashmir is Not India's 'Internal Issue': FM," *Dawn*, January 15, 2021,

<https://www.dawn.com/news/1601662/uk-parliament-debate-made-clear-kashmir-is-not-indias-internal-issue-fm>.

⁵¹ Jeffrey Gettleman and Steven Lee Myers, "China and India Brawl at 14,000 Feet Along the Border," *The New York Times*, May 30, 2020, <https://www.nytimes.com/2020/05/30/world/asia/india-china-border.html>.

province. If done, this would harm the Kashmir cause internationally.

Muslim countries that supported the Kashmir cause historically included the Kingdom of Saudi Arabia (KSA), United Arab Emirates (UAE), Turkey, Malaysia, and Iran with other small states as well; however, in the recent scenario, the leading Arab nations KSA and UAE tilted towards India and awarded their highest national awards to Indian Prime Minister Modi for his role in improving bilateral trade.⁵² The approach of KSA and other Arab countries about the recent lockdown in Kashmir did affect the role of OIC as the organization didn't issue immediate strong criticism of the Indian move instead it hosted India in its meeting as a guest of honor earlier in 2019.⁵³ The changing relation of Muslim countries with India validates the realpolitik argument –after all the Arab Gulf countries trade 100 billion USD annually with India.⁵⁴ Turkish president, Recep Tayyip Erdogan and Malaysian premier Mahathir Muhammad raised their voice against the Indian unilateral move and its human rights violations in the 74th UNGA session.⁵⁵

Way Forward

a) Pakistan

Pakistan has always supported the right to self-determination of the Kashmiri people irrespective of the external and domestic factors influencing its ability to support Kashmiris. The recent global environment has been biased and not favoring Pakistan as in the contemporary realm of international relations, political economy is the key determinant of a state's ability to change the global opinion in its favor. On the other hand, the huge economic market, one of

⁵² Minhas, Ahmad, and Khan, "Seizing Kashmir's Identity," 75.

⁵³ Shahid, "The End of Article 370."

⁵⁴ Minhas, Ahmad, and Khan, "Seizing Kashmir's Identity," 75.

⁵⁵ Prashant Dhawan, "Countries That Raised the Kashmir Issue at the UN General Assembly 2019: Full Analysis," India Today, last modified October 4, 2019, <https://www.indiatoday.in/education-today/gk-current-affairs/story/countries-that-raised-the-kashmir-issue-at-the-un-general-assembly-2019-divd-1606255-2019-10-04>.

the largest arms importers of the world with a high defense budget, running fake media and propaganda outlets throughout the world is what makes India more favorable in the eyes of global powers. Similarly, the Chinese factor gives India an opportunity to sell itself to the west as a natural balancer vis a vis China's rising power. Thus, the US and western powers are pampering India as a potential regional competitor to China so that the Chinese global rise may be delayed, if not stopped.

Moreover, the political economy based on global and regional realignments are indicating the shift in the world order. Two blocks are predictable in the coming future as China, Russia along with Pakistan, Iran and Turkey can make a strategic block while the major western powers, the US and India with other Middle Eastern countries may form another. This may take time, but one can see it coming.

In this background, what Pakistan should do is that it must sustain the international personality of the Kashmir conflict and emphasize the solution according to the UN resolutions. It must not let the moral high ground of its narrative diminish in international diplomacy. To achieve this, it must be cautious in taking any internal or external step which might damage the Kashmir conflict internationally. The delicate matter like GB must be dealt with high intellect and utmost care as declaring GB as the fifth province will give a reason to India for legitimizing its illegal move of August 5, 2019. Additionally, India and the west must not be provided with a cause to link the indigenous Kashmiri struggle with state-sponsored terrorism. Any step in the wrong direction will hurt the Kashmir cause to an irreparable extent. Furthermore, the case of Kashmir must be presented on international platforms as a case for the right to self-determination and human rights violations.

Most importantly, Pakistan needs to develop economically as it is the key factor for determining the state's power in the global system. The CPEC project must be completed and new regional and national

initiatives of economic development must be taken. Secondly, relations with the other two neighbors, Afghanistan and Iran, must be revisited. It should remain relevant in the new Afghan regime and make efforts to rebuild the trust with Iran as it will bring stability in the region, ultimately benefitting Pakistan.

The change in public opinion of smaller states is also as important as of major powers; so, Pakistan must work on the less globally recognized countries as all the countries at the UN have one vote each. To attain the objective, engaging the Pakistani and Kashmiri diaspora is most important; as about 800,000 Kashmiris live in Britain and about 1.2 million are scattered around the world. The non-technical diaspora communities like students do have the intellectual potential to project the Kashmir cause internationally but they lack finances, thus not being able to mobilize the public opinion and policymakers of the host countries. If provided little assistance, they can make a huge difference in swinging the public opinion in different capitals.

The use of social media is even more significant than that of conventional media when it comes to countering propaganda or shaping narratives. Pakistan must focus on the social media sites to regulate them as well as to project the true situation of IOJK in the world. This will help counter the Indian false narrative as it has invested a large amount even to maintain fake media outlets being disclosed in recent EU Dis Info Lab findings.

International scholars and journalists must be engaged and produce extensive literature on the legal aspects of the Kashmir conflict. Lobbying for the UN to revisit the Kashmir question through the legal lenses must be started and for this, a proper plan for approaching lawmakers of different important countries must be devised. A platform like OIC must be used but other regional platforms like Shanghai Corporation Organization (SCO) could be a potential podium for exerting pressure on India as its composition does favor Pakistan at present.

Furthermore, Pakistan must use the frustration of the IOJK leadership at the international level as it has openly criticized India's recent acts. The acceptance for India in IOJK has reduced so, this is the time Pakistan must step in and take full advantage of the situation in favor of the Kashmiri people. Likewise, timely exposing the Indian choreographing of the terrorist incidents for implicating Pakistan is significant, so that international branding of India could be countered.

To conclude, the government of Pakistan along with all the stakeholders including military and Kashmiri leadership should make a multidimensional, coherent long-term as well as short-term strategy viz a viz Kashmir in all areas including but not limited to political, economic, strategic, and media to name a few. Furthermore, in present circumstances, Pakistan should have a retrospection of its policies on Kashmir at the parliamentary level and define the role of leadership of Kashmir in policy matters regarding the Kashmir conflict. Prime Minister Imran Khan has reiterated himself as an ambassador of Kashmir but let's Kashmiris be their ambassadors. Change your strategy and let Kashmiris speak for themselves. The relation between Pakistan and Kashmir is of trust. Strengthen this bond and back them diplomatically, politically, and ethically. Kashmiris are vocal and can articulate their case in the international arena. This will make the Indians task harder as the world will get to know a detached version of the events from the victims themselves.

The people who have the stakes, let them explain their miseries to the world. The words of others will not do much good as the tone and pain in the victim's voice would do. Send historians, scholars, students and more significantly the victims to international forums to shake the conscience of the world community. Let the world listen to the voices of the voiceless and know the original version of the story instead of seeing this matter as a question of India and Pakistan!

And last but not the least; despite all the odds, Pakistan must be ready militarily to retaliate against any offensive designs of India regarding the international boundary. The nuclear option is obviously the last resort but nuclear deterrence could be used to limit India's expansionist designs.

b) Government of Azad Jammu and Kashmir

In the wake of the uprising in 1947, a small strip of AJK along with GB was liberated by Dogra forces and the Indian army. Later, a revolutionary government was formed and with time it changed into a democratic government to run the affairs of the state, but it maintained its character as the 'basecamp' for the freedom struggle of Kashmir. No doubt, the fight for liberation stands chiefly on two factors: the sacrifice of the IOJK people and the structure of the sub-autonomous AJK government. Therefore, AJK must be given a greater role in the policy-making vis-a-vis Kashmir cause without disturbing its Sub-autonomous structure; rather it should be given more autonomy.

Recently, India has been acting aggressively and has severed IOJK in two union territories, merging them in Indian dominion has now shifted its claim over Kashmir from a "bilateral issue" to its internal matter of the state. This has posed a serious challenge for the role of the sub-autonomous government of AJK, which claims to itself as the basecamp of the freedom struggle.

In this scenario, the foremost obligation of the government of AJK, with its limited authority, is to make sure that the international persona of the conflict is not diluted. The most effective way of doing this is to synchronize the efforts of different diaspora groups throughout the world. Here comes the role of the diaspora community leaders and AJK leadership. They must devise a strategy to keep the IOJK leadership in the loop and provide a unified front for one-point agenda i.e. Right to self-determination. Until the

efforts of the groups will not be channelized, they will not be able to have the desired effect on the political hub of different countries.

Moreover, after the revocation of Article 370 and initiation of the Citizenship Amendment Act, the youth of IOJK in general and AJK, in particular, feel alienated. They need direction from the leadership of AJK; else they are falling prey to the Indian narrative. To counter this, a concrete plan from the government of AJK is required. The recent EU Dis Info Lab report has cited that the AJK youth has been projecting the Indian narrative at international forums. AJK government does not have the resources to fund the scholars indigenously, so it must prepare a database of scholars from AJK already studying in different universities abroad and take them on board so that they may counter the Indian propaganda internationally. This will help the AJK government to emphasize its own identity as well as will help the Kashmir conflict unimaginably in the long run as the students do have the intellectual potential but need direction and little backing. Similarly, it must warn the people of IOJK not to sell their land to foreigners. An extensive media campaign should be initiated which may expose the Indian designs of making Kashmir another Palestine. This is necessary to be done on a priority basis as the Hurriyat leadership is either in jail or under house arrest.

The freedom struggle has gone through different phases and is now completely transformed. In this critical juncture of history, no scholarship is present on either side of the CFL. Recently, the AJK government took the initiative of establishing an indigenous research think tank in AJK, Policy and Research Forum, which is trying to produce research regarding the Kashmir conflict, but such forums need more autonomy to produce better results. This is highly recommended that more think tanks and autonomous research institutes be developed in the region with the collaboration of universities. It will help to document and project research-based information to the international community.

Furthermore, it is the responsibility of the AJK government to engage with the people and authorities of GB on regular basis. Their genuine concerns must be heard and also, they be given voice in the policy-making circles of Pakistan: to help them get their constitutional rights but make sure that no arrangement is done out of the UN framework.

AJK government also holds the responsibility to train the youth in a manner that they can lead the nation in the coming future. Leadership is the prime factor in such movements so the youth must be given confidence in a way that they could carry the burden of leadership in the coming time. Likewise, framing the heroes of such long resistance movements is necessary. Unfortunately, we have been failing in projecting the heroes with few exceptions. The AJK government, having opportunities must devise a sound media strategy to project and frame the poster boys of the movement as was done in Burhan Wani's case.

The importance of seminars, conferences, demonstrations, and protests could not be undermined. AJK government is already doing such activities, but international seminars and conferences must be conducted in AJK on regular basis to make sure that our voice is not echoing. Similarly, universities must be directed to train the students to use the UN complaint mechanism in a proper way. This would help the record to be put straight and will be helpful for the documentation of original stories from IOJK internationally.

Art, poetry and music are free of any physical boundaries. It has been historically used by different nations to inspire the youth for ages. The erstwhile state of Jammu and Kashmir, across CFL, share a sense of strong common identity which must be preserved through these connecting ways. The government should engage creative artists and craft a policy to support the local, national and international sympathizers of the protect and project the very identity of the larger state of Jammu and Kashmir.

Lastly, since the abrogation of the special status of IOJK India is on its way to eroding the individual character of Kashmir, so the way forward for the AJK government is to emphasize and preserve the identity of whole Kashmir until the success of the continuing freedom struggle and to make sure that struggle continues hope must not die!

c) People of IOJK

The people of IOJK have become the symbol of resistance across the world. The resolve and commitment shown by them are exemplary. Since the inception of the conflict, they have sacrificed in every possible way. Total people killed by occupational Indian forces in IOJK count 95,723 from 1989 to December 2020⁵⁶. Other than killing the youth, the occupational forces have resorted to gang rapes, forceful disappearances, destroying infrastructure, making humans as shields, use of pellet guns to blind the protestors, and depending on excessive inhumane force to curb the voices⁵⁷. In recent times, the phenomenon of mass graves has shocked the world and according to a report 2373 unnamed graves have been discovered in only three districts of IOJK⁵⁸.

Moreover, the killing of prominent journalists, civil society activists and advocates is a day-to-day affair in IOJK. UN has shown its deep concern regarding the impunity for the occupational forces in IOJK as no military personnel has been charged for grave human rights crimes⁵⁹. Adding to this, the population of IOJK has been time and again betrayed by Indian leadership, local politicians and the international community. Nor the Indian state has fulfilled the promise of its founding father, Nehru, of holding free plebiscite nor the UN has been successful in delivering its commitment to

⁵⁶ "HR Violations (From Jan 1989 till 31 Dec 2020)," Kashmir Media Service, (Accessed January 18, 2021), <https://kmsnews.org/news/>.

⁵⁷ UN, "First-ever UN Human Rights Report."

⁵⁸ Angana P. Chatterji et al., *Buried Evidence-Unknown, Unmarked, and Mass Graves in Indian-administered Kashmir*, (Srinagar: International People's Tribunal on Human Rights and Justice in Indian-Administered Kashmir, 2009).

⁵⁹ UN, "First-ever UN Human Rights Report."

Kashmiris by giving them the right to choose. Still, the resolve of Kashmiris has proven to be unprecedented in the history of the modern freedom struggle.

The resistance movements across the globe go through an evolution process. The thing that remains constant is the relation between insurrectionary and the environment. Likewise, the international systemic pressure cum domestic environment has also influenced the way of resistance in IOJK. The generations of IOJK have witnessed three phases of conflict transformation. The first phase of the early years of conflict had the opportunities and hopes for the international community to play its part, especially the UN. Secondly, the wars between India and Pakistan resulted in the introduction of militancy in IOJK as guerilla warfare was the popular way of resistance in the 1980s across the globe. The youth started to join the militant organizations and resisted the occupation through an arms struggle, but it couldn't last long in an effective manner due to the launch of GWOT. The third and recent phase is a new phenomenon of street protests and the use of social media that had put India in an awkward situation in the eyes of the international community as well as has made it difficult for Delhi to control these massive protests and information flow. Nevertheless, due to record massive rallies in the years, 2008, 2010 and especially post-Burhan Wani martyrdom created international headlines exposing Indian atrocities.

Resultantly, the Indian state prior to revoking the autonomy of the area, deployed additional 200,000 soldiers, making the region one of the most militarized zones of the world, to curb the street protests. The strict and longest lockdown in the recent political history of the world was imposed for more than a year, making it possible, at least for the time being, that India had managed to keep low the intensity of the physical protests. However, despite strict lockdown measures and communication blackout, the youth of IOJK has somehow managed to uncover the Indian atrocities through the use of social media, publishing articles and pictures. Three journalists from IOJK

got Pulitzer Prize for covering the lockdown era in the occupied region along with another photojournalist, Massrat Zahra, winning international honor for “Courage in Photojournalism award”.⁶⁰

Furthermore, the people of IOJK are now facing an existential threat in their own land as New Domicile Law allows outsiders to settle in IOJK. Already 25,000 domiciles are awarded to the ‘strangers’ by Delhi and the communal balance in the region is being changed. The ongoing demographic changes will ultimately convert the valley of Kashmir into Palestine of South Asia. To counter this malicious design of India, the local population of IOJK especially the youth must take the lead. It must educate the elder populace not to sell their land and try to resist the colonization process by strong awareness campaign with other tactics as well including mass protests, boycotts of so-called elections and use of calculated hand force wherever possible.

As mentioned earlier, the relation between insurrectionary and environment is the constant factor, so the youth of the IOJK must act according to the available domestic and global environment. In the present time, as the global scenario is in the transition phase, so the people of IOJK must survive this difficult chapter of the freedom movement with no apparent “outside” help. To attain this, the youth must reject the traditional collaborators and rely on popular mass support. It must exploit the Indian unpopular recent moves and cash on to get maximum backing of the people. It will earn international attention.

Additionally, the UN complaint mechanism along with other international human rights organizations must be approached via social media and other platforms on regular basis to expose the Indian designs in the world. A strong connection with the diaspora scattered across the globe and with the people of AJK across CFL

⁶⁰ Masrat Zahra Wins IWMF's 'Courage in Photojournalism Award', (International Women Media Foundation, 2020), <https://www.iwmf.org/2020/06/masrat-zahra-wins-iwmfs-courage-in-photojournalism-award/>.

will surely help the cause. Consistency and persistence are the keys, as the history of international relations suggest in such kind of democratic movements. The crisis of leadership is also evident in near future. Therefore, it is the responsibility of the veteran resistance leadership to smoothly mentor and transfer the leadership to the next generation. The youth must also prove and transform their role from street fighters to leaders.

Immediate Recommendations

- It is necessary to reinstate the state subject rule in GB to mount pressure on India and must resolve the ambiguity in the constitutional status of GB as early as possible.
- Practically make a special committee/ desk on Kashmir in Foreign Office that should consist of academicians and competent politicians. Under its umbrella, every important foreign mission should have a sub desk to lobby for Kashmir. Take input from Kashmiris in it.
- Approach international human rights organizations and the UN for the immediate release of political prisoners and provisions of medical and health facilities to the people of IOJK.
- In the wake of the Covid-19 Pandemic, must request World Health Organization and UN to make sure that basic health facilities and enough food is present in IOJK as locals are falling prey to communal prejudice of the Indian state.
- Make a national committee comprising legal experts and lawmakers to devise a framework for giving AJK the leading role in the projection of the Kashmir conflict at the international level.
- Trust Kashmiris! Send scholars, politicians and historians from Kashmir to international capitals to plead their case.
- AJK government to form a “Kashmir Scholars Group”, contacting masters and Ph.D. Level students already studying in foreign universities and taking them on board to

devise a strategy to reach the public of the respective host countries. This can be more easily materialized within friendly countries. This will surely help to make strong connections with future policymakers of different states including IOJK and can shape the future of the Kashmir conflict.

- An international conference must be organized in Muzaffarabad, AJK, with participants from the Kashmiri diaspora community, IOJK leadership representatives, GB leadership and representatives from friendly countries like China and Turkey giving a clear message to the world community that the identity of the larger state of Jammu & Kashmir can't be eroded by any unilateral move. Secondly, this would reemphasize the basecamp identity of the AJK government.
- Make sure the civilian population is protected from the Indian bombing across CFL. For this purpose, the bunkers must be built and befitting response to Indian guns must be given, when and where necessary.

Conclusion

The freedom movement of Kashmir is passing through a critical juncture of its history. It has felt the influence of the national, regional and global political environment however the steadfastness of the Kashmiris has proven unprecedented. The recent illegal move of India has not only challenged the legitimacy of international organizations like the UN but has also put the region's security at stake. Now, it is the responsibility of the international community to step in and take note of the hegemonic design of the Hindutva state to ensure global peace. Already, the denial of India has been the main hurdle over the deadlock in resolving the conflict. Moreover, international cum domestic factors have historically influenced Pakistan's ability to back the just struggle of Kashmiris. The contemporary global environment is biased towards Pakistan so, it

must focus to strengthen itself and, in the meantime, shall continue to support the Kashmir movement politically, diplomatically, and ethically by drafting constant and coherent policy. The AJK government must be given a greater role in policymaking and it should take necessary measures to internationalize the Kashmir conflict along with the efforts of IOJK people and diaspora. As India is trying to remake Kashmir so, preserving the identity of the erstwhile state of Jammu & Kashmiris is the way forward. The people of IOJK have become a symbol of resistance in the whole world and they must continue to resist to exist!



Significance of Soft Power in South Asia: The Case of Kashmir

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Significance of Soft Power in South Asia: The Case of Kashmir

Nadia Sajjad

Abstract

Traditional tactics and policymaking tools had been based on hard power. Globalization and interdependence among countries have changed the nature of power politics. Every country is dependent on other countries for the fulfillment of its objectives and survival. Soft power was coined by Joseph Nye in the 1990s and has been smartly used by states in gaining their policy objectives. India uses soft power through public diplomacy, culture, art, film industry which has had attracted a lot of attention and investments from foreign countries: that is that the Indian soft power, specifically with regard to the economic and cultural aspects of policy, plays a strong role in projecting Kashmir issue in the developed world and at the UNSC. Indian foreign policy towards IIOJK, Pakistan, and the other regional countries has been based on discrimination, strong posturing, hostility, and brutality to further its hegemonic designs. Pakistan, although a very important country in the region and a representative of the Muslim countries, is not utilizing its soft power effectively. This paper suggests that, for Pakistan, proper implementation of the soft power agenda requires political will, training, availability of the resources, strong diplomacy and other tools like media, press, values and culture promotion, and film industry, tourism, and other important factors that have not been

presented to the international community to counterbalance Indian soft power and to build a strong vote bank in favor of the Kashmir cause. The international community is not supporting our stance openly on the Kashmir issue due to a lack of comprehensive soft power policy on our end.

Keywords: Soft Power, Diplomacy, Propaganda, International Community, Kashmir.

Introduction: The Subject Matter of Soft Power

The world is neither unipolar, multipolar, nor chaotic—it is all three at the same time.”

— Joseph S. Nye Jr., *The Future of Power*

The subject matter of soft power initiated a debate in international politics immediately after the adoption of the agenda of New Millennium by the UN General Assembly with a core target of fostering human dignity and international peace through progress and prosperity. The concept of soft power not only alters human behavior but brings development softness in socioeconomic conditions. Therefore, power is an ability to affect others to achieve the desired targets and helps to achieve pre-determined objectives. Almost all the renowned scholars of International Relations since primitive to the modern age, from Thucydides and Machiavelli to Foucault, considered power as a key to International Political Relations. It is also an important factor in influencing behavior or outcomes.

Theoretical Framework

Soft power is not a new concept in international relations; it was coined by Joseph Nye in the late 1990s. Nye differentiated three types of power: the first type of power is the use of force to influence other nations through coercion or threats; the second type comprises of a rewards system by offering military aid, grants, and other rewards; and the third type covers the hearts and minds

approach.¹ Soft power tools are intangible components of power like culture, ideology, diplomacy which currently are considered as the most powerful tools in contrast to the traditional hard power. Three major sources of soft power, explained by Joseph Nye, are public diplomacy, popular culture and a country's foreign policy.²

Role of Soft Power in International Relations

The major role of soft power in international relations is acknowledged and practiced by many countries in the form of culture, education, foreign policy, business and other tools for achieving their desired policy goals.³ traditional diplomacy is being used by private individuals and groups through various tactics and techniques like communication, memorandums of understanding (MoU) with stakeholder associations and organizations and individuals, foreign governments to influence their behavior. It has served to advance the national interests of states through understanding, informing, and influencing foreign audiences around the world. The public diplomacy as an instrument of soft power has also been used by states in projecting their image.

Pakistan and Kashmir: A Case for Soft Power

A seminar held at the Institute of Strategic Studies Islamabad (ISSI) on "Soft Power of Pakistan" in which it was comprehended that Pakistan needs to use both a combination of hard and soft power: initiatives need to be taken in the promotion of its rich cultural heritage, sports, festive food, musical events and acknowledgment of the achievers at different forums. Emphasis must be given to women's empowerment and encouragement in different fields. Humanitarian and relief activities like Chippa and other Edhi contributions to humanity need to be highlighted at the international

¹ Joseph S. Nye, "Soft Power," *Foreign Policy*, no. 80 (1990): 3, doi:10.2307/1148580.

² Snow, Nancy, and Philip M. Taylor. *Routledge Handbook of Public Diplomacy*, 1st ed. (London: Routledge, 2008), 166-67.

³ Nicolae Haneş & Adriana Andrei, "Culture as Soft Power in International Relations," *International conference Knowledge-Based Organization* 21, no. 1 (2015): 36, doi:10.1515/kbo-2015-0005.

level through electronic and press media. Last but not least Education science and technology is the only solution through which we can compete with the world through smart policies.⁴

In a workshop held at Islamabad Policy Research Institute (IPRI) on “Potential of Pakistan’s Soft Power and Public Diplomacy”, General (R) Asif Yasin Malik, former Secretary of Defense, stated that Pakistani people possess and are utilizing soft power domestically and internationally but this kind of power is neglected by the political elites since 1947. This is the age of soft power and public diplomacy due to globalization and interdependence among nations of the world. Pakistan has a rich cultural heritage, military strength, nuclear capability, and vast population with different cultures, religions, festivals, and natural plus agricultural resources through which we can maximize our soft power tendencies. Pakistan needs to protect and project its real and true image of a peaceful and secure state where everyone lives peacefully without any discrimination.

India has been very successful in promoting its soft image through investing in different policies and programs. Pakistan’s weak soft power projection is due to the fact that not much seriousness is given to that area of policymaking. The public diplomacy is nowadays considered a smart policy tool in achieving many policy objectives at different forums.⁵ Ravale Mohyidin stated that Pakistan appears to be very low and slow in soft power application. Reasons for ineffective soft power are weak diplomatic measures, rare utilization of the available resources, mismanagement of the situations, and irregular priorities. National leaders set these values, priorities, and goals which determine how a country would behave. Other Muslim countries are working hard to develop their soft

⁴ Qasim Mustafa, Kasif Mumtaz, & Ahmad N. Salik, "Seminar Report on “Pakistan’s soft power”," Institute of Strategic Studies Islamabad | Just Another WordPress Site, last modified November 5, 2016, <https://issi.org/pakistans-soft-power/>

⁵ Khalid Chandio, "Potential of Pakistan’s Soft Power and Public Diplomacy: Islamabad Policy Research Institute," Islamabad Policy Research Institute, last modified October 17, 2016. <https://ipripak.org/potential-of-pakistans-soft-power-and-public-diplomacy/>

image abroad like Turkey keeping religion and other factors side by side.

After the post-Cold War, no such programs and diplomatic products were planned for creating the soft image of Pakistan internationally. The main reason behind that was the policy and agendas of the leaders in that period lacked vision and priorities had not been set according to international policies regarding soft power. PM Imran Khan set Pakistan's agenda at United Nations in 2019 and highlighted national values; has been addressing the Pakistani diaspora considering them a valuable and concrete asset for strengthening Pakistan's soft image abroad. He has also shown solidarity with Muslim countries and raised his voice against brutal killings and human rights violations in Kashmir at different forums.⁶

The Uri incident led Indian policy-makers towards a more aggressive approach towards Pakistan than before. Pakistan always feels that the international community has adopted a discriminatory attitude towards Pakistan in the Indian context. Being a neighbour of India and without good relations since inception, the policy-makers of Pakistan have been investing more in security and defense, with little attention to soft power projection through art, education, cultural exchange and diplomacy. Pakistan's crackdown against terrorist groups and its role in the infamous War on Terror has further harmed its image abroad when these very actions were taken for making the world a better place to live in –according to Western standards.

Soft Power and PM Imran Khan's Kashmir Policy

Imran Khan's bent towards soft power became visible soon after he came to power. His main emphasis has been on promoting cultural diplomacy, tourism development and optimal utilization of national

⁶Ravale Mohyidin, "Latent Soft Power," Dawn.com, last modified October 6, 2019, <https://www.dawn.com/news/1509286>.

resources. Easing visa regime is a commendable step along with different campaigns for the promotion of Pakistani music, art, landscape, culture, people, and food. According to the Foreign Minister of Pakistan Shah Mehmood Qureshi, the country's image over the years has been wrongly portrayed by international media; mainly on issues like corruption, insecurity and instability, and Al-Qaida and terrorism have been linked to Pakistan and the pressure of doing more. Recently, the Pulwama suicide attack, following a clash over Kashmir, has further deteriorated the relations between India and Pakistan and also gave a setback to Pakistan's attempts regarding soft image building internationally. PM Modi in his statements focused and proposed for India to engage in dialogue because the resolution of Kashmir is not possible without it and understanding by all the stakeholders. In response, Khan's smart decision of releasing the invading Indian pilot was a gesture and acknowledgment of Pakistan's efforts towards peace with India.⁷

Major stakeholders dealing with national peace and security matters and the major national political parties of the country's opposition, PML (N), PML (Q), and PPP supported the government's policies on soft power; in a joint statement, it was declared that the only key to deal with inter-state problems and enhancing Pakistan's image globally is soft or smart power. However, leaders of India had always been clouded by hard power in their minds while dealing with Pakistan in any matter whatsoever. Modi's definition of soft power is also hard power and includes a radical expansionist ideology, majoritarian dictatorship, and suppression of minorities has led people to resist and protest against the oppressive state power.

Need for Pakistan to Strengthen its Soft Power

Pakistan needs to strengthen its diplomatic means and strategies because it is the age of globalization and interdependence. Countries

⁷ Hajira Maryum, "Is Pakistan Reviving its Soft-Power?," *The Diplomat*, March 9, 2019, <https://thediplomat.com/2019/03/is-pakistan-reviving-its-soft-power/>.

today need to adopt policies and agendas to attract the international community which helps in molding other countries' behavior and in achieving the desired policy objectives.

Maleeha Lodhi represented Pakistan at the Soft Power Summit, organized by Brand Finance in London, in which speakers highlighted a rich debate around the Global Soft Power Index 2020, and a report was issued as well. The study was conducted on the discerning seven soft power pillars, i.e., business and trade, governance, international relations, culture, heritage, media and communication, and education and science. Pakistan figures among the bottom 10, at 53 out of 60. Pakistan needs to convey a positive image abroad by organizing events projecting a rich cultural heritage through different plans and programs like Pakistan's role in UN peacekeeping missions and contributions to global peace and security.⁸

Indian Smart Power and Implications for Kashmir

An armed revolt has been going on against illegal Indian occupation in the region, claiming tens of thousands of lives. Since Narendra Modi came to power, with his hard power policies towards Pakistan, things have gone very wrong for Kashmir. Pakistan was blamed for attacks on the Indian airbase in Pathankot in the northern state of Punjab and also for the suicide attack on 40 soldiers held.⁹ . Modi also canceled a regional summit to be held in Islamabad in 2017. After removing Mehbooba Mufti of the People's Democratic Party from power in June 2018 Jammu and Kashmir have been under direct rule from Delhi. India has always propagated Pakistan to be responsible for the cause of unrest and of supporting militant groups in Kashmir. The revocation of Article 370 on 5 August 2019 by the Bharatiya Janata Party (BJP) government further deteriorated the situation and wreaked havoc on the lives of the Kashmiri people.

⁸ Maleeha Lodhi, "Why Soft Power is Pivotal," *Dawn*, last modified April 6, 2020, <https://www.dawn.com/news/1546838>.

⁹ "Why India and Pakistan Fight over Kashmir," BBC News, last modified August 8, 2019, <https://www.bbc.com/news/10537286>.

Before it happened, all communications lines were cut off, former chief ministers of the area were placed under house arrest, and foreign tourists were told to vacate the area. Pakistan condemned these measures but India responded with a statement that referred to Kashmir as an internal matter but in reality, this act was just to change the demographic status of the state of Jammu and Kashmir by allowing citizens of India to acquire land and property in Kashmir.

Even after these horrendous human rights violations in Kashmir, India has a positive image internationally due to widespread diaspora, rich culture, film industry, and a huge market which has contributed positively to making the position of the country strong abroad. India has also been enhancing its soft power through political institutions and civil society

Through smart diplomacy and foreign investments, India is engaged with Iran, Afghanistan, Gulf countries, and China; no one is ready to take the risk of losing ties with an economically benefitting country as the cost of favoring Pakistan on the Kashmir issue. The United States of America needs India due to its powerful geostrategic position in South Asia and to contain China in the region. The international community needs to realize the importance of Pakistan without which peace is not possible in the region and to acknowledge the sacrifices and sufferings this country has faced since 9/11. Again, Pakistan needs to thoroughly focus on its available soft power options by prioritizing mainly human rights, woman empowerment, education, cultural diplomacy, democratic governance, and less focus on security and defense issues, as far as global outreach is concerned.¹⁰

India is fully backed by the US and Israel in its offensive approach towards Pakistan and Kashmir. Permanent members of the UNSC support India in all its brutal activities in Kashmir and never play an

¹⁰ Nayab Fatima, "Pakistan's Soft Power Problem – South Asian Voices," *South Asian Voices*, last modified January 5, 2017, <https://southasianvoices.org/pakistans-soft-power-problem/>.

influential role in implementing UN resolutions regarding Kashmir. India is consistently viewed by western countries as major economic and an ideal partner for containing China.¹¹

It is a fact that India's successes in soft power are very effective against Pakistan and that is what causes setbacks for Pakistan in achieving any considerable support regarding the resolution of the Kashmir issue. Calling Pakistan, a terrorist state and an agency of human rights violation defame its image internationally and to a great extent, the policy of demonizing Pakistan has been a very practical one. India's skillful diplomacy and soft power tactics are going so well. Policymakers of India tactfully bypass the democratic political system and initiate negative and repressive policies targeted specifically at Muslim minorities, in mainland India and Kashmir, while hiding all internal problems like poverty, hunger, and corruption from international media.¹²

The Eyewash of India's Soft Power: Old Tactics, New Strategies

Modi's anti-Pakistan strategies and policies and his directions to government officials are tantamount to wrapping old contents in modern covers. Indian media is fully controlled by the government; no one is allowed to say any word against Hinduism or Hindutva and any such statements are faced with strict actions. Furthermore, the Muslim community is portrayed on media as enemies. Muslim rituals, celebrations, and festivals are mostly projected negatively. The study shows that India uses its media only for gaining its selfish hegemonic objectives and defaming Pakistan by linking it with terrorist groups. India's so-called fake soft power strategies are used for molding the behavior of western powers and in return, they tacitly allow a continuation in its brutal activities in the region, most importantly in Kashmir. In short, Modi is using soft power strategy

¹¹ Nasim Zehra, "Can Pakistan Force Indian Recoil?," *The News International: Latest News Breaking, Pakistan News*, last modified December 29, 2019, <https://www.thenews.com.pk/tns/detail/589535-can-pakistan-force-indian-recoil>.

¹² Zafar A. Chaudhry, "Growth of Soft Power," *Daily Times*, last modified October 25, 2019, <https://dailytimes.com.pk/489631/growth-of-soft-power/>.

as a weapon of foreign policy to destabilize South Asia and disturb the demographic stability in the region by making the lives of the Kashmiris miserable.¹³

Post-August 5, 2019 Efforts by Pakistan

Kashmir's special status has been changed since the revocation of Article 370 by the Indian government on August 5, 2019. This decision abrogated the United Nations Resolutions on Kashmir and it was also against the bilateral understanding between India and Pakistan previously held at Simla and Lahore. From that day IOJ&K community has faced several problems like illegal detentions, human rights violations, lockdowns, bad communications systems, and hurdles in accessing human rights facilities. The decision is linked to the death of Burhan Wani in 2016; the Pakistan government protested and raised the issue at international forums through press and diplomacy that helped in the internationalization of the issue. Since 1971, the Kashmir issue was discussed for the first time on the floor of the United Nations Security Council (UNSC) with the support of China but the forum reached a disagreement on releasing a joint statement after the meeting. After the speech of Prime Minister Imran Khan at the UN General Assembly in which he expressed his willingness for dialogue and negotiations regarding the resolution of Kashmir Issue, United States President Donald Trump also had offered his mediating and facilitating role between India and Pakistan on the concerned issue. Furthermore, the Foreign Minister of Pakistan wrote a letter to United Nations Security Council (UNSC) to bring their attention to the vulnerable situation on the Line of Control (LOC). Both China and Pakistan requested UNSC for United Nations Military Observers Group (UNMOGIP) formation to present its report based on observations and facts regarding the situation in Kashmir.

¹³ Syed M. Ali, Arshi S. Hashmi, & Javeria Farooqi, "Use of Soft Power by India as a Strategic Weapon: Media's Manipulation," *NDU Journal* Vol. 32, no. 1 (2018): 1-14, <https://prdb.pk/article/use-of-soft-power-by-india-as-a-strategic-weapon-media-s-4134>.

Kashmir was discussed for the third time within the UNSC in January 2020. This time, the meeting was also held in the backdrop of a new Citizen Amendment Act (CAA) in India that essentially discriminates against its Muslim citizens and has received a largely critical reception globally. India again managed to thwart this attempt with the help of France that opposed China's attempt to bring Kashmir up for deliberation. UNSC has emerged as the newest forum for India and Pakistan to discuss diplomatically Kashmir, LOC, and other issues. Pakistan's efforts on the international political level failed to bring about any significant contribution towards the resolution of Kashmir. Diplomatic efforts from the prime minister's speech to the foreign minister's letter and the US offer for mediation have at least brought some considerable attention towards atrocities and human rights violations in Kashmir and to expose India's true face to the world.

Conclusion

The creation of Pakistan was based on the ideology of Islam. Islamic teachings are enriched with the politics of diplomacy and soft power strategies, and it provided guidance in every field including war and peace; so, like other progressive countries, Pakistan can also enact its internal and external policies to promote of soft power. The incident of 9/11 and Pakistan's efforts as a frontline state in a war against terrorism is exemplary; although Pakistan suffered great monetary and human losses. It was the failure of policymakers that the clear and true image of Pakistan was not conveyed to the world. Lack of smart diplomacy, propaganda mechanisms, and a positive role by the media caused harm to the country's image. Today India is calling Pakistan a terrorist state, why? How a country that had fought a war against terrorism, scarified several lives, suffered institutional and infrastructure decay; whose law-and-order situation deteriorated in many areas while targeting terrorist camps can be a terrorist state? It is very unfortunate for Pakistan that due to India's false propaganda drive the world could never know what the real

face of Pakistan is, what are the capabilities and achievements in different fields like education, sports, science and technology, etc.

Kashmir is a beautiful region known as 'Heaven on Earth', covering around 86,000 sq. miles. Mountains, lakes, rivers, and natural resources are in abundance. Kashmir issue was active even before the independence of India and Pakistan and as per the partition plan of the Indian Independence Act, Kashmir was free to accede either with India or Pakistan. Maharaja Hari Singh joined India in October 1947 against the will of the people. Soon after its annexation, a war on Kashmir began. India took the case to the UN which recommended holding a plebiscite in the valley but the two countries refused to demilitarize the region before the referendum could be held. In July, an agreement was signed by both the countries and a ceasefire line was demarcated by the UN as the line dividing the region. Both fought the second war on Kashmir in 1965 and another subsidiary war in 1999 at Kargil. According to Pakistan, it was a defensive strategy that ultimately led to conflict at the Line of Control (LOC). Today India and Pakistan both claim Kashmir but in parts recognized internationally as "Indian-administered Kashmir" and "Pakistan-administered Kashmir".

Pakistan has offered several times to India for initiating a dialogue process on the Kashmir issue which has always been considered as Pakistan's weakness whereas Pakistan is committed to representing the Kashmir issue globally. Pakistan's diplomatic efforts affirmed that Kashmir is an internationally disputed area that needs resolution on par with international law and UN resolutions. Indian media aggravated the issue by portraying Modi's stance as legal and heroic; whereas, Pakistani media and press criticized the PTI government for not achieving any solid stance and called out the government's policy on Kashmir as a total failure. It shows the difference in the acceptability of the Kashmir issue in the two countries involved. Muslim countries are divided and have never been united on any issue related to Palestine and Kashmir. Arab League and the OIC never play any vital role in solving or even

raising proper voice at the international level. China has supported Pakistan at every forum on the Kashmir issue while the United States has remained silent except for a one-time offer of mediating. With India, the economic interests of many big players are aligned; but Pakistan has always been sought for Taliban and terrorism-related matters and Indians are lobbying for it.

For centuries, policymakers have used both hard and soft power for achieving national objectives. Pakistan is not too successful in this regard due to a lack of diplomatic resources and a strong agenda mostly. It has been shown in this paper how cultural diplomacy plays an important role in turning economic and political situations to a country's advantage; for example, India. History shows that smart policy makers are engaged in creating soft image abroad through various means like language, exhibitions, exchange programs and India in this regard played very well with its cultural diplomacy, economic development and trade relations, and global outreach.



Sino-Delhi-Kabul Nexus: A Paradigm Shift in the Discourse of Terrorism and its Implications

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Sino-Delhi-Kabul Nexus: A Paradigm Shift in the Discourse of Terrorism and its Implications for Pakistan

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Abstract

The 9/11 terrorist attacks caused not only a paradigm shift in the discourse of terrorism as a global issue, but it is also a paradigm shift or a start of a new spell in India-Afghanistan relations. Pakistan's state policy was to eradicate the parasite of terrorism to achieve its foreign policy goals –be its Indian sponsored terrorism or militant groups supported by Afghanistan. Since India is a strong country, it could withstand Pakistan's nuisance, but the same cannot be said about Afghanistan. Moreover, the American response to the 9/11 terrorist attack was marred by political controversies in the US. It is often said that 9/11 provided an opportunity for the neoconservatives in American polity especially Republican Party to push their agenda of benign imperialist agenda in the name of fighting terror. India's engagement in Afghanistan is meant to curtail Pakistan's influence in the country. The international community needs India a regional power perspective to steer the events in Afghanistan towards a colonial future for Afghanistan in the hands of India, which will help to aggravate tensions between Afghanistan and Pakistan. This paper analyzes Indian involvement

in Afghanistan and its implications for Pakistan. The study is designed to unveil the hidden objectives of fast-growing Indo-Afghan relations and evaluate Indian strategies in the regional context.

Key Words: Delhi, Kabul, Nexus, Pakistan, Regional Dynamics, Security & terrorism

Introduction

US Involvement in Afghanistan is a boon to India. The 9/11 terrorist attack brought forth not only a paradigm shift in the discourse of terrorism as a global issue, but it was also a beginning of a new chapter of Indo-Afghan relations. It is to be understood that in this paper the objective is not to discuss the 9/11 attack as a standalone event but how the 9/11 incident and events that occurred as a consequence have triggered a new trajectory in India – Afghanistan relations. It is a fact that the West once called terrorism a law-and-order issue and asked the concerned states that were facing this menace to handle them on their own, such thinking is now a thing of the past, terrorism has caught America's attention after 9/11. It is also a fact that the US wanted an instant revenge attack on the Taliban and Al-Qaeda to send out a larger message. Pakistan's dealings came under intense scrutiny since America's intervention in the post 9/11 scenario;¹ thus, brightened the possibilities of Indian involvement in Afghanistan. The USA is an insecure ally of Pakistan never trusted the efforts being made by Pakistan to eradicate the menace of terrorism and always looked towards Pakistan with suspicion.

Moreover, the American response to the 9/11 terrorist attack was marred by political controversies in the US. It is often said that 9/11 provided an opportunity for the neoconservatives in American polity especially the Republican Party to push their agenda of benign

¹ Kapur, A. "India and the South Asian Strategic Triangle. USA". *Routledge*. 2011.

imperialist agenda in the name of fighting terror.² India's engagement in Afghanistan is only meant to aggravate the upheavals in relations between Afghanistan-Pakistan and the curtail positive image of Pakistan Infront of the international community.

India's Military Footprint in Afghanistan

To everybody's surprise, the US deliberately sought to increase India's role to civilian and economic assistance to swing the sword of Indian paranoia on Pakistan. Involving in the military domain on foreign soil even if it is going to be at the request of the host country will be a major break from its policy directions and there are so many flip sides of such a decision. Of course, it would have been a different case if India is a fully developed economic & military superpower. Within 10 days after the Northern Alliance entered Kabul, i.e., on November 13, 2001, India marked its presence there.³ On November 21, 2001, India's special envoy on Afghanistan Shri. S.K. Lambah led a diplomatic mission to Kabul and from the same date, the liaison office of the ministry of external affairs became operational in Kabul. The fact that India has lost no time in establishing its presence immediately after the fall of the Taliban regime confirmed that its set up in Afghanistan was intact. The worst turnaround was that the interim government that has been created after the fall of the Taliban consisted of Northern Alliance leadership in abundance, which is a clear victory of India's position.

Responding to the Emerging Situation

The alacrity with which India established its diplomatic presence in Afghanistan explains the importance India has attached to Afghan theatre and its willingness to engage with Afghanistan bilaterally. As an aspiring regional power, Afghanistan is a launching pad for

² Mishra, Manoj K. "Afghanistan and the Major Powers: The Interface of Geostrategic, Geopolitical and Geoeconomics Factors". *New Delhi: Abhjeet Publishers* 2014

³ Perspectives". *International Journal of Scientific and Research Publication*. 2013.

India to prove the credentials that shall make it an undisputed regional power first and then a leading global player. India is doing extraordinary lobbying to the international community.⁴

India's Afghanistan Policy

The region of South Asia is very diverse and dynamic in the context of culture, geography and religion. It has always advocated the establishment of multiple monarchs and power centers. The region has never emerged as a controlled unit under the umbrella of unitary power; because of its distorted structure, it attracted foreign invaders. Kanti Bajpai gave her narrative that after British colonialism “invasions got successful because Indians were internally dismantled due to her backwardness.” However, the contemporary era is seeing emerging India as an important power in the region and international sphere.⁵ In the previous decades, India has undergone massive military advancement and economic growth, which took her to incline with the international market. The foreign policy of India revolves around the global market strategies because of its emerging economy and smooth sailing in the political sphere. India assumes herself to take the role of regional power. Another dominant factor that is crafting India's international policies is the ambition which it is envisaging to be recognized as a world power.⁶

As per the narrative of Riedel who is revealing Indian hegemonic intentions and designs in South Asia. Eventually their aim and objective are to develop their superior and powerful position in their region. Mitchel focuses that considering India as an enormous power is based on the capability to influence instead of comparing her power with its contemporaries. Moreover, under the prevailing circumstances, India is envisaging a powerful role in South Asia particularly in Afghanistan. Cohen emphasized that its additional

⁴ Raiphea, Y. "India Afghanistan Strategic Partnership: An Analysis of India and Pakistan

⁵ D'Souza, S. "India, Afghanistan and the 'End Game'? *ISAS Working Paper*. 2011: pp. 1-28.

⁶ Riedel, Bruce. "Pakistan and Terror: The Eye of the Storm". *Saga Publication*. 2008.

growth and prosperity would facilitate her to grow her teeth in its foreign policy.⁷

The other side of the picture manifests that, it can be said that India by and large qualifies for all the essential ingredients, which a regional power is looking for. India is maintaining its power on the five essential principles:

- Democracy
- Economic growth
- The pluralist dynamics of society
- Nehru's vision
- History and Traditions

“India is using the diplomatic mechanism to craft and mold relations based on its materialistic approach that eventually constructs its hegemonic passage at the international level. Apart, India is adopting a discourse that penetrates along limitations as a power, because of its disproportionate capacity as compared to its neighbors, which include internal conflicts, chaos in the neighborhood, and the ongoing rivalry with Pakistan.”⁸

Therefore, India had undergone an extensive change under the I.K. Gojral doctrine. According to him, India could not attain an influential status without resolving its internal and regional conflicts. Whereas, the Indian confrontation with Pakistan on the Kashmir dispute has brought huge damage to her soft image, “India's relations with her neighbors, specifically with Pakistan, is be the

⁷ Acharya, Amitav. "The Periphery as the Core: The Third World and Security Studies" 1997.

⁸ D. Mitchell, *The Meaning of a Rising India: (Re) Examining India as Regional Power in South Asia*, (Bucknell University. 2014).

most pivotal factor in determining its emergence as a great Asian power.”⁹

According to Pant,

“Afghanistan is a litmus paper that will forecast its ascendance as a global and regional power. In the post 9/11 era, the region has undergone the same minatory issues of security and hostile relations between important stakeholders, because of vivid radicalization [post-Soviet withdrawal] specifically within Afghanistan, that ultimately dug its heels in Pakistan. On the other hand, the global players are witnessing India as an emerging power in the region, with arduous horizontal and vertical maneuvering to increase its role as a regional power along the peripheries of South Asia.”

As Hilali believes, “while other states may resist, India is excelling to play a hegemonic role in the Indian Ocean and South Asian region”.¹⁰ post-independence, the position of India was not strong to impose hegemonic designs in the region; therefore, Indian foreign policy was facing a lack of “grand strategy” that obstructed her way of becoming a dominant player in the region. Shanmu gasunaram says, ancient Indian foreign policy showed the discourse of strategic autonomy and secured its territory from any foreign invasion to penetrate its borders [as showed in the Kautilian philosophy]. Nehru adopted the foreign policy of non-alignment during the Cold War era, but the policy of Indira Gandhi was seen as a defining moment between Indian furious mode in the region and Nehru’s idealism eventually followed by her son Prime Minister Rajiv Gandhi, and the policy was implemented in BJP’s the first tenure. A change has been felt in the era of 1990s in the strategic security

⁹Ahmad, Shamsad. "Post-9/11 Foreign Policy of Pakistan". *Criterion-quarterly.com*. Retrieved from: <http://www.criterion-quarterly.com/post-911-foreign-policy-of-Pakistan/>. 2015.

¹⁰ Ajith, kumar M. "India- Pakistan Relations. Kalpaz Publications" 2006.

dynamics of India under the leadership of Inder Kumar Gojral. Logically, in the post-Taliban era, India is proactively promoting its hegemonic designs and intentions through extensive cooperation in the region¹¹.

According to him, India is promoting various strategies in the region, first and the most important; it envisages being the prominent actor within the Indian Ocean. Secondly, New Delhi assumes the role of crafting a regional security strategy to flourish stability throughout the Indian Ocean. Thirdly, India is working extensively to eradicate all those measures detrimental to its vested interests. The adoption of vigorous strategy by India does not forecast pre-emptions; it subsequently promotes Indian power, and financial, political gains to increase her hegemony in the region. The Indian influence in Afghanistan advocates the ongoing process of superiority and hegemony in the region, neither India nor Iran has any intention in the expansion of what we call the Afghan-Pak area both states have their strategic interests and establish the historical tradition of cooperation in Afghanistan.¹²

It has been observed that “India as an emerging power in South Asia is the only regional actor that owns both capacity and capability to deal with the extreme security threats arising from unstable Afghanistan and along the Durand Line”. As it is unfolded by Pant, Robert Gilpin has put light that “a more financially stable state will be able to pursue a huge pile of security and welfare goals as compared to the less privileged state to acquire ample control over her strategic interests. India by and large has all the ingredients to become a regional power and by all means capable of justifying her role in Afghanistan as the best possible alternative for the US after the withdrawal of NATO forces from Afghanistan.”¹³ However, US

¹¹ Ali, Z. "War on Terror and Pakistan-US Partnership: Effects Problems and Prospects (2001-2012)". 2016.

¹² Arun, Sahgal. "Afghanistan A Role for India" *K W Publishers Pvt Ltd* 2011: pp. 141-162

¹³ Pant, Harsh. "India In Afghanistan: A Rising Power or A hesitant Power"? *Note De Recherche Working Paper*. 2010: pp. 1-28.

policies are also supporting Indian hegemonic measures in the region, which will ultimately debilitate the strategic and security interests of other stakeholders in the region. Therefore, India is promoting a vigorous policy in the region that unveiled the avenues for the less privileged states in South Asia and specifically in Afghanistan.¹⁴ Wagner emphasizes, India has come up as the biggest donor to Afghanistan and staunch supporter, therefore, infringing meddling in the area historically influenced by Pakistan.¹⁵ Kasturi mentions that India's role in Afghanistan is a carefully planned design of diplomacy. India has built a narrative that a peaceful Afghanistan is necessary to safeguard Indian interests and development which shows India's commitment like the international community to reconstruct Afghanistan, which has been shattered due to the long war of decades. India took a stance that post-NATO withdrawal challenges will be tough for Afghanistan and it may not be possible for it to survive positively without the support of the world in general and that of its neighbor in particular. India does not want to leave the space open for Islamabad to play a vital role in the political geography of Afghanistan and is trying to take a lead role to avoid any negative impact on its territory or development.

According to Tiwari, India sees that Afghanistan is facing acute challenges that are as follows; Compromised political structure, influential individuals working under the umbrella of indigenous groups and corruption, political welding among the apex governing statutory is an important reason which fueled the political failure in Afghanistan. The revamping of the Taliban and their role in political structuring within the government of Afghanistan is a huge hovering threat for India. India is a staunch follower of the fact that the Taliban is a reality that has faced extensive air and grounded strikes

¹⁴ Ashraf, Fahmida. "India-Afghanistan Relations: Post 9/11". *Islamabad: Institute of Strategic Studies*. 2011.

Barfield, Thomas J. "Afghanistan: A Cultural and Political History". *Princeton University Press*. 2010.

¹⁵ Barno, G. D. "Beyond Afghanistan a Regional Security Strategy for South and Central Asia". *USA: Center for a New American Security*. 2011.

for 14 years of (ISAF), and has the capability of reinforcing as an ideal candidate in the political hierarchy of Kabul (Afghanistan).¹⁶

An economic setback is a serious threat for the Afghan government that further horrifies the situation of the war-broken state. Drug trafficking and opium production have a pivotal contribution to the devastation of Afghanistan's social fabric. Hanaur and Chalk emphasize Indian motives in Afghanistan according to India's calculation of her smart policies in post 9/11.

India is more interested in curtailing Pakistan's role and influence in Afghanistan. But India is also promoting a wide range of interests that would hinder the motives and interest of her traditional rival state. India is looking up for feasible options in Afghanistan, her growth will certainly alter the status quo and would form a new setup according to her security demands and needs. India's presence in Afghanistan shows her needs of increasing security by aggravating her resonance and control over the internal-external security environment in Afghanistan.¹⁷

Souza, in his observation states, that Indian prime objectives are approaching three major categories:

- Security concerns
- Economic interests
- Dreams of regional supremacy¹⁸

He further adds to capitalizing on the above-mentioned objectives that; India is showing its soft power and noble image in Afghanistan. Therefore, India is promoting its interests in

¹⁶ Buzan, B., & Weaver, O. "Regions and Powers, The Structure of International Security". *United States: Press of Cambridge*. 2003.

¹⁷ Chauhan, R. S. "India's Options in Afghanistan". *Indian Journal of Asian Affairs*. 1988

¹⁸ D'Souza, S. "India, Afghanistan and the 'End Game'?" *ISAS Working Paper*. 2011: pp. 1-28.

Afghanistan under the vivid involvement in the social fabric, so for the pursuance of its wide range of realist objectives and overruled Pakistan's concern of strategic encirclement. The credit of successful bilateral relations between India and Afghanistan should go to Hamid Karzai an Indian-educated politician, from a famous Popalzai tribe in Afghanistan. The positive momentum was such that suddenly utopian ideas of trilateral cooperation of India, Afghanistan, and Pakistan have been floating around for some time to make sure that all Pakistan's concerns are taken care of in Afghanistan.¹⁹

The Unstated Indian Goal

One of the important objectives of India's engagement in Afghanistan is to counter Pakistan and India's approach to this issue through confrontational tactics or by employing methods to destabilize. It hijacked the interests and minds of Afghan policymakers. To explain Indian behavior and engagement in Clausewitz's terms, one must say that the general principle of war has three main objects conquering and destroying the armed power of the enemy, possession of his material and other sources of his strength, and gaining public opinion.²⁰ Since the first two principles are met somehow by the US through its military intervention as it is still a major security provider and has complete control over Afghanistan resources etc., what is left out is nothing but gaining a favorable public opinion, though the US tried to gain a favorable public opinion for themselves through Provincial reconstruction teams in Afghanistan, they could not do as the neoconservative's attention in Bush administration was diverted towards Iraq as explained by Ahmed Rashid in his book – *Descent into Chaos*. In that sense, India's engagement in Afghanistan has been a cost-effective and win-win situation for both Afghanistan and India.²¹

¹⁹ Cohen, Stephen P. "India Rising. Brookings. Collapse of the Soviet Union - 1989-1991". Retrieved from <http://www.globalsecurity.org/military/world/russia/soviet-collapse.htm>, 2000.

²⁰ Dupree, Louis. "Afghanistan. Pakistan". *Oxford University Press*. 2000.

²¹ Dwivedi, M. "Internal Security Threats to South Asia. Delhi". *G. Print Process*. 2013.

India's Diverse Interests

In addition to security interests, India's economic interests are the leading factor in India's policy approach towards Afghanistan. The single largest Indian activity in Afghanistan is the successful tender by a consortium of Indian Public-Private sector companies to develop the Hajigak Iron Mine and the investment is expected to be around more than 6 billion dollars. Another obvious explanation for India's unrelenting engagement with Afghanistan is presumably to get connected to Central Asian states through Afghanistan via Iran's Chabahar port. This explains why India chose to engage with ordinary Afghans than with a fractured Afghan establishment. At the end of the day, to have connectivity through foreign territory, the goodwill of the people who inhabit the territory is needed. Take for example the case of Baluchistan, any economic plans that the Pakistan establishment makes involving Baluchistan province meet with stiff opposition from the locals because the India's strong lobbying in Baluchistan. It is only because of that; oil pipelines are routinely blown up by some groups in Baluchistan supported by India.²²

Comprehensive Cooperation

India's relationship with Afghanistan is an all-encompassing one that touches on security, political & economic arenas. As mentioned earlier, India has to minimize its role in all three domains. The strategic cooperation agreement between Kabul & Delhi in 2011 is one such attempt by both countries to mount tension in all three areas. Despite its relative economic strength, India could not take its relations to a higher level because its intentions are not followed up by actions.²³ Afghanistan government says that the bilateral trade could reach 3 billion dollars if all the agreements are operationalized

²² Gul, N. "Post 9/11 Pakneistan-India Relations". *Institute of International Affairs*. 2004.

²³ Mushtaq, M. "Regional Hegemonic Aspirations of India: A Review Nuclear Program". *Pakistan Journal of Social Sciences (PJSS)*.2012: pp251-262

between India and Afghanistan as the current trade is only around \$600 Million. One reason why India could not do it is that it has neglected the security domain.

When we are talking about India's involvement in the security domain, it necessarily means that India wants to put its boots on the ground in Afghanistan, which might sound outlandish at the moment. But a better way is to strengthen the hand of the Afghan military & police by giving them the thread of security. It is only in this context the question of how assisting the Afghan government should be structured in the days to come arises. While the United Nation humanitarian and economic aid is fine but that is just not enough.²⁴ India's defense budget is US\$50 billion on an average and adding another \$1 billion into it by coming up with a creative name or criteria is inappropriate so that the monies can be allocated for the next 10 years either under defense head or under a separate head called foreign contributions/aid etc.²⁵

Conclusion

Presently, India's economic and social support to Afghanistan is a trailer of growing Indian hegemonic intentions in the region, especially eradicating Pakistan's role in Afghanistan as well as producing anarchy and chaos in Pakistan in the vicinity of the western border. Politically, India portrays itself as a regional hegemon by exerting influence in the region, especially in Pakistan's adjoining countries, to suffocate Pakistan's political liberty. The global community is for sure Indian influence in Afghanistan. Pakistan has tried to normalize relations with India many times in the past, but every such move was construed by India as Pakistan's weakness. For Afghanistan, it should realize that it is in the interest of Afghanistan that it reduces its dependency on India as far as security matters are concerned to the least.

²⁴ Pant, Harsh. "India In Afghanistan: A Rising Power or A hesitant Power"? *Note De Recherche Working Paper*. 2010: pp. 1-28.

²⁵ Riedel, Bruce. "Deadly Embrace". *New Delhi: Harpar Collins Publishers*. 2011



Parallels in Resistance: A Comparative Analysis of Kashmiri Freedom Movement and Irish Republican Army Struggle

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Parallels in Resistance: A Comparative Analysis of Kashmiri Freedom Movement and Irish Republican Army Struggle

Amna Raza Abbasi

Abstract

Many scholars of comparative politics and political studies have found striking similarities between the Kashmiri and Irish struggles. This article entails a brief description of the Kashmiri struggle from 1846 and the Irish struggle from the 1800s to date, respectively. Later on, it evaluates the critiques of comparison of the two conflicts and concludes how much these two struggles converge or diverge.

Keywords: Kashmir, National Liberation Front, JKLF, APHC, Sein Fein, IRA.

Introduction

Dipankar De Sarkar, an Indian Journalist, wrote an article titled “If Pakistan were like Ireland” in which he reminisces how Ireland played a positive role in bringing peace in Northern Ireland by collaborating with Great Britain. According to him, Pakistan needs to learn from it. The assumption is that only if Pakistan has had behaved like Ireland, peace would have been restored in Kashmir.¹

¹ Dipankar De Sarkar. "Jammu and Kashmir, Ireland and the ghost of Pakistan." the mint. Mar 13, 2015 <https://www.livemint.com/Opinion/Z515sh0NwLeNF7ID8FV6nO/Outside-In--Jammu-and-Kashmir-Ireland-and-the-ghost-of-Pak.html> (Accessed July 1, 2021).

This observation comes from a degree of assumed supremacy. Sarkar equates Indian authority with that of British-occupied forces and presupposes that it has been equally forbearing in the Jammu and Kashmir, the leniency Britain was forced to show in occupied Ireland. The Kashmiris and Irish are two different people and two different conflicts. The notorious IRA troops and their atrocities had stirred terror in the public imagination; while the Kashmiri struggle is still relatively non-violent and pure in resistance despite the Indian accusations of foreign involvement. There is a Kashmir Road in Ulster, and that is where the stories of Kashmir and Ireland merge and eventually separate. This article will briefly summarize the history of the Kashmiri struggle and a timeline of IRA; then it will take an inquisition on the comparisons of the two struggles before drawing any conclusion.

The Kashmiri Struggle during Dogra Rule (1846-1947)

Ironically, the BBC periodical online starts with the timeline of the Kashmir struggle from 1947, when the Indian subcontinent underwent partition into Hindu majority and Muslim majority geographies; although the miseries of this princely state started way before that when the British East India Company, after overthrowing the Sikh government, ruled over Kashmir from 1819 to 1846. What entailed was the most horrific ordeal for the vast population of Kashmiris when it was sold to Maharaja Gulab Singh for 75 lakhs Indian rupees.

Dogra rule is considered the most oppressive century in the beautiful valley of Kashmir. The regime carried out inhumane maneuvers over 97% of the population of Kashmiris that is Muslim. Politically powerless, bereft of the right of peaceful protest, Muslims became a helpless, tortured entity.² In the 1920s and 1930s Muslims of Kashmir started to demand their rights. A Reading Room party emerged and tried to build awareness against the atrocities of Dogra Raj by writing in newspapers and corresponding to the Viceroy of

² Ahmad, *Kashmir: Looking Back in Time*. (New Delhi: Atlantic Publishers, 2021), 18.

India. In 1930, in the reign of Hari Singh, any mass uprising against the raj was crushed mercilessly.³ In 1932, Sheikh Abdullah and Chaudhry Ghulam Abbas founded Jammu & Kashmir Muslim Conference (MC). The party peacefully demanded swift implementation of the Glancy Commission that allowed opening mosques and shrines, and regnant propriety rights to legal tenants. MC demanded their legislative rights and their right to education.⁴ Thanks to Indian Congress for meddling the MC plunged into differences because of a very public rift between Sheikh Muhammad Abdullah and Mirwaiz Muhammad Yusuf Shah on the Ahrar-Mirzayi issue.⁵ The conflict and disparities among the two leaders of Muslims of Kashmir derided the poor population of Kashmir a resistance that could've to help them alleviate the injustices of Dogra Raj.

Eventually, Sheikh Abdullah leaned in favour of the Indian National Congress after meeting with Jawaharlal Nehru at Lahore Railway Station in 1937. About which Chaudhry Ghulam Abbas commented that "Abdullah returned intoxicated with the wine of nationalism."⁶ Most educated Muslims were averred of his nationalistic agenda and started leaving S. M. Abdullah. Losing local elections, being bankrupt, and intensified aggression from Kashmiri Muslims over Abdullah's objectives did not deter him to change his ideological stance and he converted MC into National Conference (NC) that jubilated both Nehru and Gandhi.⁷

On June 16, 1936 the angered Muslim Youth which felt betrayed by Abdullah's actions tried to recapture Mujahid Manzil, the place where MC was founded. In retaliation, Sheikh Abdullah and his associates pelted the insurgents with stones. Another attempt in 1940 failed. Nehru kept in touch with Abdullah all this time, despite growing mistrust of Hindus and Pandits of Kashmiri over

³ Ahmad, *Kashmir*, 19.

⁴ Ahmad, *Kashmir*, 22.

⁵ Ahmad, *Kashmir*, 23.

⁶ Ghulam Ahmad Chaudhry, *Kashmakash* (Srinagar: Kashmir Book Foundation, 2017), 159.

⁷ Ahmad, *Kashmir*, 36.

Abdullah's stance, and tensions among Muslims. In 1940 another blow to the Muslim majority was by the rule passed by the Prime Minister of Jammu & Kashmir on the implementation of Devanagari scripts in the schools and allowing Hindus to possess arms at the expense of Muslims. In 1941 the MC was reenacted, two years later Chaudhry Ghulam Abbas joined back, who up till now had resigned to Jammu while dissociating with Abdullah.⁸

Abdullah, as expected, sided with the Dogra policies. Other Muslim's outrage led to Sher-Bakra animosity (Abdullah and Mirwaiz groups, respectively), which ensued a social rift in and fragmentation among common Kashmiris: with divorces occurring because of affiliations of husband and wife to two different groups, street fights, and separate Eid congregation and mosque attendances.⁹ In the Sher-Bakra riots, Abdullah's protégé created a Maisuma Regiment that led to attacks on the Mirwaiz supporters, from thrashing prayers attendants to desecrating green flag with *kalima shahadah*. Consequently, the NC became a tool for the Indian Congress. By locking a Dar-us-Salam madrassah, vandalizing an MC office to attack its workers. The months of March and April, in the words of MC workers, were torture equivalent to that of a Nazi regime.¹⁰ Mirwaiz was a religious leader with authority over Hazratbul shrine and Dastageer Sahib; while Sheikh Abdullah, with state machinery at his disposal, was able to take control of these places to further his political agenda.¹¹

In July 1944, at the official visit of Hari Singh, both NC and MC welcomed him, which was a shift in the policies of MC. On March 16, 1945 the slogans of Pakistan Zindabad were raised by MC during a Milad-un-Nabi procession for the very first time. Nehru was irked by the news and sent Diwan Chaman Lal to meet Abdullah on this matter. That same year Mirwaiz and Abdullah were given a royal reception in Poonch. MC raised black flags and pelted

⁸ Ahmad, *Kashmir*, 44.

⁹ Ahmad, *Kashmir*, 48.

¹⁰ Ahmad, *Kashmir*, 50.

¹¹ Ahmad, *Kashmir*, 52.

stones on a river procession held by NC for Indian Congress Leaders. In retaliation, NC members beat up every Muslim Congress member and student encountered and thrashed every green flag with the kalima emblem seen.¹² Taking a different approach, Abdullah started a Quit Kashmir movement against Maharaja Hari Singh and changed his stance against MC. Abdullah was described by Abbas as a great leader in a public gathering in a Jama Masjid on May 8, 1946. Twelve days later Abdullah was arrested by the government before he could attend a ceremony to rename NC to MC. The MC distanced itself from the Quit Kashmir movement as the government assured them that they will concede to Pakistan.¹³

Maharaja Hari delayed his decision of accession; leaders of India visited Maharaja and were persuaded to join them while a request by Mr. Jinnah for a visit wasn't granted by Maharaja. Mirwaiz warned against a backlash against a Hindu Kashmir. By October 1947, the insurgency against Hari Singh forced him to flee to Jammu and ask for military intrusion. The scuffle between Kashmiris supported by western Pashtun tribal wedged Azad Jammu & Kashmir into one-third for Pakistan and two-thirds for India, where Abdullah of NC was given the administration.¹⁴

The Ongoing Kashmir Struggle (1947 onwards)

After the British left the subcontinent, Maharaja had a choice, whether to accede to Pakistan or India or to be a semi-autonomous body. Hari Singh delayed the decision hoping that he may create a princely state; this gave a lot of time to other factors to take effect. The Muslims of Kashmir along with Pashtun tribesmen started a revolution for their independence; so, to prevent that the Maharaja signed an Instrument of Accession to Indian Union in October 1947. Pakistan seeing that as a betrayal for Kashmir was a natural extension of its geography and Maharaja had already signed a

¹² Ahmad, *Kashmir*, 54.

¹³ Ahmad, *Kashmir*, 55.

¹⁴ Ahmad, *Kashmir*, 57.

standstill agreement with Pakistan for the possibility of a trade, which it did not sign with India; while India wanted to assert Hari Singh's accession, a local struggle erupted in 1948 which got halted with UN intervention.¹⁵

Article 307 although granted Kashmir a special status with India which had full authority over itself except communications, foreign affairs, and defense; the Maharaja signing the treaty against the will of Kashmiris would plunge Kashmir into decades of hostility.¹⁶ Abdullah's oath ceremony was overshadowed by Indian troops' para jumping in Srinagar to fight the Pashtun tribal and local rebels.¹⁷

Sheikh Abdullah later wrote a letter to Maharaja Hari Singh for the assurance of his continued loyalty. He ruled for the next few years. In his memoirs, he writes that he was grateful for being the first Prime Minister for Kashmir although all that time there was already a sworn Prime Minister of Kashmir, Meher Chand Mahajan.¹⁸ Hari Singh later led the oath-taking ceremony at the behest of Nehru to set Abdullah as Prime Minister. Nehru's hostility against Maharaja played a pivotal role in Abdullah assuming authority over Kashmir.¹⁹

Ironically Abdullah corresponded with the seal of the Saryavanshi Dogra Monarchy and extended the Dogra hundred-year rule. In 1951 Karan Singh became *Sadr-e-Riyasat* and Abdullah worked under him. In 1953, Abdullah was dismissed and sent to jail on orders of the same Nehru who brought him to power.²⁰ Sir Owen Dixon of UN proposed a partition post-plebiscite to which Liaquat

¹⁵ Britannica, "Kashmir Summary". April 29, 2021, <https://www.britannica.com/summary/Kashmir-region-Indian-subcontinent> (Accessed October 21, 2021).

¹⁶ Britannica, "Kashmir Summary".

¹⁷ Ahmad, *Kashmir*, 67.

¹⁸ Ahmad, *Kashmir*, 70.

¹⁹ Ahmad, *Kashmir*, 73.

²⁰ Ahmad, *Kashmir*, 75.

Ali Khan and Nehru were signatories. But they were empty promises as India never accepted to withdraw from Kashmir.²¹

The UN's plebiscite in Kashmir wasn't becoming a reality so a Plebiscite Front (PF) was formed. Abdullah never supported plebiscite and cited old age for not heading the front; which interestingly was not a factor when he assumed the presidency of NC in 1975 at the age of 70. In 1951 Abdullah's party won all seats which, as the UN declared, could not be considered a plebiscite. By 1955 Nehru withdrew from his plebiscite promise citing the cold war as the reason.²² Although Indian occupied Kashmir was already in flames with continued Dogra policies. A Poonch Revolt erupted in Azad Jammu Kashmir on the dismissal of Sardar Ibrahim. Although the revolt was curbed the actions of forces brought in from Punjab puts stains on the history of Pakistan's goodwill on Kashmir.²³

Abdullah was freed and then again put in jail; meanwhile, the Indian occupied Kashmir was ruled by Karan Singh with support from the Indian armed forces. 1963 to 1987 witnessed true Kashmiri nationalism. On the international front, China had annexed India's Tibet and signed its agreement with Pakistan over its Xinjiang Province.²⁴ A theft of a religious relic, *Moi Muqaddas*, in 1963 engulfed Indian occupied Kashmir into a riot; but the relic was later found not to have been stolen in the first place. In 1964, the titles of Sadr-e-Riyasat and Prime Minister were changed to governor and CM, which according to Bose was the end of the road for Article 370 that gave Kashmir institutional autonomy.²⁵

²¹ UN Digital Library, Report of Sir Owen Dixon, United Nations Representative for India and Pakistan to the Security Council. (September 1950.). Retrieved from <https://digitallibrary.un.org/record/486273?ln=en> (Accessed October 21, 2021).

²² Ahmad, *Kashmir*, 81.

²³ Usman Khan Yousufzai, "The Forgotten Poonch Revolt: A Stain on our History," *Tribune*. March 18, 2021. <https://tribune.com.pk/article/97333/the-forgotten-poonch-revolt-a-stain-on-our-history> (Accessed October 21, 2021)

²⁴ Sumantra Bose, *Kashmir: Roots of Conflict, Paths to Peace* (Harvard: Harvard University Press, 2003), 76.

²⁵ Bose, *Kashmir*, 82.

In 1965 Pakistan and India, over the unresolved issue of Kashmir, plunged into war. It started with Operation Gibraltar. Later, India attacked Lahore and Sialkot. The Indian advancement was defeated.²⁶

Maqbool Bhat a revered leader in both Azad and occupied Kashmir with Amanullah Khan created Jammu Kashmir Liberation Front (JKLF). Initially, after the formation of PF, a National Liberation Front (NLF) was formed that purported armed insurgence.²⁷ Bhat crossing over to Indian Occupied Kashmir started organizing. The PF distanced itself from the NLF over the armed agenda. In 1968 Maqbool Bhat was arrested and given a death sentence; luckily, he fled Srinagar jail and escaped to Pakistan where he was arrested by Pakistan Army, interrogated for several months, and later freed. Bhat became the head of the PF and declared the NLF as its armed wing. To come to a middle point the JKLF was formed, the notions for liberation were conceived in the streets of Jammu & Kashmir and founded in London in 1976.²⁸

On January 30, 1971 the NLF hijacked an Indian plane named Ganga and diverted it off to Lahore, Pakistan. This irked both sides as Pakistan deemed them as Indian agents and vice versa. Not only did it bring the NLF to international light, but it also painted the party as the sole savior of Muslims of Kashmir.²⁹ Maqbool Bhat intensified his activities from across the border. Pakistan, in the words of Amanullah Khan, had a gentleman's agreement that lasted till Zia's plane crash. Benazir Bhutto, by Khan's account, ordered the ISI to clip their wings after a very verbal spat in Muzaffarabad with leaders of the JFLK. After that Pakistan backed liberation movements which started sprouting in Jammu and Kashmir, undermining the JKLF authority as a pure Kashmiri struggle. After

²⁶ Muhammad Ilyas Khan, *Operation Gibraltar: The Pakistani Troops who Infiltrated Kashmir to Start a Rebellion*, September 5, 2015. BBC.com. <https://www.bbc.com/news/world-asia-34136689>.

²⁷ Zafar Khan, "The Jammu Kashmir Liberation Front: An Insider Account," in S. Hussain (Ed.), *Society and Politics of Jammu & Kashmir*, pp. 141-56). (Coventry, UK: Palgrave Macmillan, 2021): 147.

²⁸ Khan, "The Jammu Kashmir Liberation Front," 148.

²⁹ Khan, "The Jammu Kashmir Liberation Front," 149.

the assassination of Maqbool Bhat, Yasin Malik became the head of the JKLF.³⁰

1989 onwards saw an exodus of Kashmiri Pundits from Jammu and Kashmir, 95% of whom left in a decade that ensued. Although it was seen as the result of the JKLF, Lashkar, and Hizbul Mujahideen's efforts, another explanation was given that they were removed by the Indian government to tackle the Muslim population more vehemently. Leaders like Yasin Malik and Ali Shah Gilani had a similar stance and so did Professor Safiuddin Soz. Although Jagmohan, the then appointed governor of Kashmir, discredited any such claims.³¹ In 2004, an All Parties Hurriyat Conference was created to bring forth the struggle of self-determination, which eventually saw a similar fate as previous movements and broke into two factions: one led by Mirwaiz Umar Farooq and supported by Yasin Malik and other by Syed Ali Shah Gilani.

From time-to-time Pakistan and India fought over the issue of Jammu and Kashmir, which led to Siachen debacle, Kargil War and futile peace talks. The unrest continues as India's oppressive tactics keep amplifying. In 2016, after the assassination of Burhan Muzaffar Wani, Kashmir plunged into a blood bath, resulting in a fifty-day curfew and hundreds of deaths. 2019 onwards India has revoked the Article 370, shutting the poor descendants of Kashmir valley into a perpetual lockdown. Since then, more than 5000 people have been detained and tortured.³² The Kashmir Struggle hangs in a balance like that of the Northern Ireland. Only in comparison Northern Ireland is several times more peaceful today.

Irish Republican Army

Be advised, my passport's green,

³⁰ Khan, "The Jammu Kashmir Liberation Front," 152.

³¹ Alexander Evans, "A Departure from History: Kashmiri Pandits, 1990-2001," *Contemporary South Asia*, 11:1 (2010): 21.

³² M. Junaid, "Kashmir: A Historical Timeline," *Adi Magazine*, <https://adimagazine.com/articles/kashmir-a-historical-timeline/>.

No glass of ours was ever raised,

To toast the Queen.³³

The struggle of Ireland to gain independence from the Britain Empire is long, and will always come together with the name of Irish Republican Army. And for some it is still incomplete due to the division of Ireland and Northern Ireland. Although the struggle is a century long, stories of huge public support and Irishmen boasting about an 800 years old fight against monarchy might be a little exaggerated.³⁴

The Origins of Revolution (1798-1900's)

The initial underlining to the Irish Republican Army can be traced to the Irish demands of independence at the end of the eighteenth century when Great Britain was in conflict with other European powers. In 1798, the same time around French Revolution was at its peak, the father of the Irish Revolution, Theobald Wolf Tone, got assistance from the French for his insurrection. But that rebellion was crushed by the monarchy. In 1800, an Act of Union was passed in which Ireland became 'forever' dominion of the British Empire. This led to the dismantling of the quasi-independent Irish parliament and sole authority to govern the inhabitants of Emerald Isles rested upon the Westminster Parliament.

Irish who supported Great Britain came to be known as the Unionists while the rebels or those who demanded freedom were deemed as Republicans or Revolutionaries. In 1803, Robert Emmet tried an insurrection against King George III but he was too apprehended and executed. Over the next two decades, the strength of rebel Irish men and women grew, and the Fenians started to band

³³ The Guardian, "Seamus Heaney," January 14, 2011, <https://www.theguardian.com/books/2008/jun/13/seamus.heaney> (Accessed May 24, 2021).

³⁴ Brendan O'Brien, *The Long War: The IRA and Sinn Féin* (Dublin: Syracuse University Press, 1993), 9.

together. The reason for Irish revolutionaries coming together could be the great Irish famine, worsening local situation, and support for the Irish brotherhood from the United States, a nascent but strongly emerging power. This was the time that Great Britain listed the Irish Volunteers as terrorists. But till 1916, IRA remained a somewhat non-aggressive force.³⁵

Irish Revolutionary Period (1916-1921)

“Ireland unfree shall never be at peace”,³⁶ said Patrick Pearse when he ended his eulogy for Jeremiah O’Donovan Rossa standing along the latter’s graveside on August 1, 1915. And those words became the trajectory of Ireland’s fate for the century to come. O’Donovan Rossa was a senior member of Sinn Féin, which originated in 1902 and is a main political segment of the Irish Republican Army (IRA).³⁷ IRA was officially created in 1919 as an offshoot of Irish Volunteers that was a country-wide volunteer movement of freedom fighters, or terrorists, depending on which side you take. During the decade of 1912 to 1922, there was mass volunteering in the rebellion: men became part of IRA, women of Cumannam Ban and young boys formed Fianna Eiream.³⁸

The most influential IRA activity can be traced back to the Easter Uprising of 1916, headed by a defense council of seven men. The mutiny lasted for six days. Patrick Pearse read out aloud their manifesto on the steps of the General Post Office. Soon the British Monarchy curtailed the mutiny and in the next month gave death sentences to sixteen men associated with IRA including Patrick Pearse. The British style of persecution, arrests, and subsequent martial law only gave impetus to the freedom movement. On January 12, 1919, the newly founded Sinn Féin or IRA elected its parliamentarians, who were a part of the British House of

³⁵ O’Brien, *The Long War*, 10.

³⁶ Patrick Pearse, "Graveside Panegyric for O'Donovan Rossa on 1 August 1915 at Glasnevin Cemetery in Dublin," <http://www.easter1916.net/oration.htm>.

³⁷ Paul Arthur, "Sinn Féin," Britannica. 2021. <https://www.britannica.com/topic/Sinn-Fein>.

³⁸ Peter Hart, "The Social Structure of the Irish Republican Army, 1916-1923," *The Historical Journal* Vol. 42 no. 1 (March 1999): 208.

Commons. The elected parliament accredited their 1916 proclamation which stated that “We declare the right of the people of Ireland to the ownership of Ireland and to the unfettered control of Irish destinies to be sovereign and indivisible.” They called it the Dáil Éireann.³⁹

The parliament also sanctioned the founding of an independent Irish republic where they demanded Irishmen in evacuating their homeland from the British garrison. On the very same day, two soldiers of the Royal Irish Constabulary (RIC) were shot dead and full responsibility was taken by the IRA. The Government of Great Britain vehemently rejected the parliament.⁴⁰ During that year, the IRA gradually isolated RIC, attacked their barracks and executed the G-men and their members of the British Intelligence Division. By the end of the year, the damage was quite huge and the British hold was shattered. Two British inspectors sent by the Crown, to investigate the culprits and the IRA military and financial resources, were shot dead within days of setting foot in Dublin.⁴¹ 1920s led to a wave of recruitments in the RIC as the British government promised hefty pay, nice meals and uniforms. Those last few years had been successful for IRA as their activities helped bolster their image and the damage to British administration was visible. On the English front, not only new recruits but also retired officers joined the RIC.

The heavy influx led to a shortage of uniforms, so the new RIC became a mixture of bottle greens and khakis. Ill-trained, non-disciplined and ruthless; the RIC carried out tit-for-tat attacks, burning down of properties, and shooting anyone on spot for the mere assumption of being a Fenian. They became famous as Black and Tans, named after a regional pack of hounds and their terror was far-reaching.⁴²

³⁹ PBS. "FRONTLINE." *Readings - The Proclamation of The Irish Republic | The Ira & Sinn Féin*. 1998. <https://www.pbs.org/wgbh/pages/frontline/shows/ira/readings/easter.html> (Accessed May 25, 2021).

⁴⁰ James Durney, *The Volunteer: The Uniforms, Weapons and History of the Irish Republican Army 1913-1997* (Ireland: Gaul House, 2004), 19.

⁴¹ Durney, *The Volunteer*, 20.

⁴² Durney, *The Volunteer*, 22.

In that year, 450 barracks were deserted by the Brits which were burned to the ground by the IRA. The RIC became dysfunctional and matters of local security and common legalities were being dealt by the elders of the IRA. The monarchy tried to deal with the situation through its constabulary only, so as not to give the assumption of war if it brought an army. IRA kept attacking the police and barracks and did considerable damage to the presence of Great Britain in Ireland.⁴³

On November 21, 1920 the IRA killed nineteen British agents. That day the situation was tense but 15000 Irish came out to see Dublin play Tipperary in Croke Park. The RIC divided into four groups entered the park to arrest members of the IRA. One constabulary shot a bullet that killed a football player on the spot. It created panic and killed and injured many including women and children. The fatality toll was above thirty in only fifteen hours including three men killed by the RIC later. In which one of them was not a Fenian but just a common man. That day is remembered in Ireland's history as the "bloody Sunday".⁴⁴

Ultimately the British government passed the bill to divide Ireland into two separate administrative blocks. The seat of Belfast ruled six Ulster counties and Dublin governed twenty-six counties. But the troubles continued with guerilla attacks on police and the army while the terror of Black and Tans reigned. In Ireland, there were approximately 10000 IRA members and 60000 British army troops and 15000 RIC men. On February 20, 1921, around fifteen Irishmen were killed by the black and tans, and a month later same number of Fenians had surrendered to the police.⁴⁵ The volunteers started attacking the cities of London and Manchester as well and then by the end of 1920 they damaged hundreds and thousands of pounds of properties along a dock, and targeted British farms, hotels, and commercial spots.

⁴³ Durney, *The Volunteer*, 24.

⁴⁴ Durney, *The Volunteer*, 26.

⁴⁵ Durney, *The Volunteer*, 28.

On May 21, 1921, the IRA burned down the customs house, the finest piece of architecture in Dublin. And it provided a great amount of propaganda for the Irish Republican Army when the symbol of British government and administration in Ireland burned down to ashes.⁴⁶ In June, IRA was advancing by attacks but in one event the auxiliaries to British police were able to intercept a batch of the IRA members and killed twenty, wounded ten, and imprisoned eighty members, which were the IRA's finest and that was a blow to their organization. By July both the parties were heavily distraught and in the loss. The monarchy was losing a lot of money and men in the war so King George V opened the Irish parliament. In the by-elections, the Sinn Féin members got elected in every constituency of South and declared the rule as Second Dáil. The Anglo-Irish War came to an end by a truce. The treaty to accept Northern Ireland as the constituency of Great Britain was signed by Michael Collins, a Fenian, as the "stepping stone to the Freedom of Ireland".⁴⁷

Irish Civil War (1922-1923)

The Second Dáil accepted a treaty that allowed Britain some access to Ireland's port demanded the Irish deputies to show allegiance to King George, and keep the Privy Council intact. Northern Ireland used its power to remain out of the Free State of Ireland. Such a resolution brought a divide as there were some Irish who were happy with whatever Ireland they got (moderates), others wouldn't sit until they got the whole emancipated (radicals). The pro-treaty and anti-treaty republicans both weren't happy with the arrangement; they were just not in agreement about how to achieve the "Free State".⁴⁸

In the parliament, the anti-treaty group headed by De Valera believed that pro-treaty Fenians (Michael Collins) had no right to

⁴⁶ Durney, *The Volunteer*, 30.

⁴⁷ Durney, *The Volunteer*, 31.

⁴⁸ Matthew Whiting, *Sinn Féin and the IRA: From Revolution to Moderation*. (Edinburgh: Edinburgh University Press, 2018), 18.

pass the resolution. The masses wanted to see a unified Sinn Féin; but, although the government was of pro-treaty politicians, the anti-treaty group occupied the four civil courts. The governmental disparity broke into a Civil War triggered by the assassination of Michael Collins. The guerilla attacks and ambush by both sides started on June 28, 1922, and ended on April 30, 1923. The anti-treaty republicans though largely portrayed as terrorists and irrational actually won the elections by a margin despite having their major leadership in jail. The Civil War resulted in a major change of direction of the Irish Republican Army or of Sinn Féin. Their enemy changed from the British Empire to the Free Irish State. The Sinn Féin depicted da Valera as the legitimate President of Ireland, as he was sworn in during the First Dáil as well. But it did not have any mass following and in the words of Irish parliamentarian Bob Briscoe, “Irish Republic was a shadow government that ruled nothing, Sinn Féin a shadow political party with no politics.”⁴⁹

Fianna Fail (1926-1937)

Eamon de Valera the anti-treaty leader was imprisoned in 1923 due to which his followers refused to be part of the parliament and formed Fianna Fail. By 1932 de Valera remained the premier of Ireland till 1973, except for six years. The Fianna became moderate Republicans. IRA tried to negotiate a position with da Valera which he rejected and demanded the IRA militia to join the Irish army. This furthered the rift. In 1925 the IRA left the leaders of second Dáil so as to avoid any obligation of conforming to the government. The guerilla attacks and violence in pursuit of united Ireland continued by the IRA. But de Valera’s government was able to clamp them down.⁵⁰

⁴⁹ Whiting, *Sinn Féin and the IRA*, 20.

⁵⁰ Whiting, *Sinn Féin and the IRA*, 23.

IRA –‘they just got old’ (1938-1957)

In 1938, IRA was successful in a military takeover, but it did not ensure any peace: they waged a war on Britain. De Valera worked hard in subduing them as he feared the autonomy of Ireland in jeopardy. The IRA was grounded and most of them were left to die during the Second World War.⁵¹ IRA had been declining in strength. Diarmuid O’Leary, then joint secretary, accepted that the strength of IRA reduced to hundreds and the real members died or got old.⁵² In 1948 a former chief of the staff of the IRA Sean McBride became the ruler of Ireland, the government renamed the free state to the Republic of Ireland. For his policies, McBride was called ‘pro-treaty party number three’. The IRA was diminishing so it actively started infiltrating the Sinn Féin again. And instead of Dublin, they turned their attention towards the north.⁵³

The ‘Troubles’ – Means to an End (the 1960s-1990s)

“One of the most harrowing moments in the whole history of the harrowing of the heart in Northern Ireland,” mentions Seamus Heaney in his Nobel speech, is where a minibus full of workers (17) was halted by armed men in masks and lined up, they demanded the Catholics to step out. There was only one, and the rest were killed there and then, attackers “were not Protestant terrorists, but... the Provisional IRA.” But that wasn’t the beginning of it. On January 30, 1972 a few Britain had slain thirteen peaceful Catholic protestors. The Brits declared them terrorists which weren’t true and the incident led to a rebirth of the IRA. Later that year more than twenty bombs shattered the whole of Belfast in which 130 people died. Later, the IRA was held responsible for the bombing in 1976 that killed Lord Mountbatten.⁵⁴ The troubles of Northern Ireland were the result of a clash between the Unionists, who wanted to

⁵¹ Michael Laffan, *The Resurrection of Ireland: The Sinn Féin Party 1916-1923*. (Cambridge: Cambridge University Press, 2004), 450.

⁵² Diarmuid O’Leary. “Sinn Féin Funds Case,” (Dublin: National Archives of Ireland, 1948), 41.

⁵³ Laffan, *The Resurrection*, 451.

⁵⁴ A&E Television Networks. "Irish Republican Army," *History.com* May 15, 2019.

<https://www.history.com/topics/21st-century/irish-republican-army> (Accessed May 27, 2021).

remain under the English and were predominantly Protestants, and the Republicans who were Catholics. For IRA, it was a freedom movement; for Unionists, IRA was a terrorist organization. This continued for three decades and with Northern Ireland being constantly wounded; the Troubles ended in 1995 after a peace treaty –and so did the IRA. Eamonn McDermont, a volunteer sentenced to death, asserted that “It’s a cliché now but the British Army created the IRA.... They brought the national question into it.”⁵⁵ The republicans stood up for reform; but, division of the land and ill-conceived policies of the Empire had led Ireland into a century of turmoil.

The Kashmir Struggle in Comparison with the IRA

As mentioned, some Indians are obsessed with a comparison of Ireland’s resolution with their own and with that of Kashmir.⁵⁶ The problem with such comparison is that they feel they themselves are the colonial power like the UK. They believe Jammu & Kashmir could remain their territory like Northern Ireland has been for Britain. But this is somewhat flawed and based on the assumption that the Irish are happy with this solution. Only recently the Irish PM said he wanted to see a United Ireland.⁵⁷ Varghese Koithara articulates that the two political problems are dissimilar to each other. He believes Ireland wants to peacefully end the conflict while Pakistan wants to exacerbate the Kashmir issue. He also adds that Europe is less nationalist and religious than the countries of South Asia. According to him, the Northern Ireland disparity is only of two groups of Protestants and Catholics while Kashmir is more diverse.⁵⁸

⁵⁵ Kevin Bean and Mark Hayes, eds., *Republican Voices* (Monaghan: Seesyu Press, 2001), 34.

⁵⁶ Salil Tripath, “Opinion | Where the Irish and Kashmiri stories converge and diverge,” Live mint. 2019 Aug21 <https://www.livemint.com/opinion/columns/opinion-where-the-irish-and-kashmiri-stories-converge-and-diverge-1566409034068.html> (Accessed Jun 19, 2021).

⁵⁷ Shane Harrison, “No one group can have a veto on Ireland’s future - Varadkar.” BBC News. 2021 Jun 17. <https://www.bbc.com/news/world-europe-57492552> (Accessed June 19, 2021).

⁵⁸ Verghese Koithara, *Crafting Peace in Kashmir: Through a Realist lens*. (New Delhi: Sage Publications, 2004), 145.

Sadly, the Indian independent strategic analysts' suggestion looks inconsistent at all three levels. Firstly, they forget to consider the military involvement of India in Jammu and Kashmir, which makes it a humanitarian issue. Secondly, the Irish issue is still democratically divided into those who want to separate from the Crown and those who want to stay united. Thirdly, the religious composition of Kashmir, which Mr. Verghese dismisses as more diverse, is as plain as it can be. The Indian demographics portal of 2021 shows that there are 97.16% of Muslims and 1.85% Hindus living there.⁵⁹ And even before the creation of Pakistan and India as separate states, the Kashmiri dilemma was that a minority (Hindus) which is not even a total of 2% of the population ruled over the 97% (Muslims). With religious animosity on a scale that one has a holy duty to sacrifice an animal (cow) which is a deity for the other.

Later on, Mr. Koithara very conveniently correlates the IRA's activities in the 1930s, 1950s and 1968 with Insurgencies of Kashmir in 1965, 1970-1971, and 1989, and that too he asserts were sparked by Pakistan.⁶⁰ Even if we take this argument at its face value, Mr. Koithara has reduced the actual Kashmiris to a non-entity.⁶¹ Although, he rightly draws a parallel between the Indian Army and British army against Kashmiris and the Irish, respectively. He asserts that after the Bloody Sunday of 1972, the Army and police changed their harsh ways, eradicated brutality, and became more unassuming towards North Irishmen. And Indian occupied forces should learn a thing or two from them.⁶²

Alexandra Brennan writes that wherever a peacekeeping mission has been stationed the likeliness of that issue being resolved is very low. She made her case with the examples of Kashmir and Northern Ireland. Peacekeeping missions try to balance the power of two conflicting peoples, keeping them under a threat of punishment if they transgress. Pakistan controlled Kashmir and Indian controlled

⁵⁹ <https://jk.gov.in/jammukashmir/?q=demographics>.

⁶⁰ Koithara, *Crafting Peace in Kashmir*, 172.

⁶¹ Koithara, *Crafting Peace in Kashmir*, 145.

⁶² Koithara, *Crafting Peace in Kashmir*, 172.

Kashmir both are being subjected to peacekeeping missions.⁶³ In Kashmir the peacekeeping missions have been there for 70 years as it was supposed to normalize their presence by now and should have achieved military peace but that's not the case. Similarly, the fragility of peace is shown by Amanda Sloat exclaiming that the Good Friday solution was not a perfect recipe for the resolution of conflict and that Brexit has opened new wounds.

The real reason that ensured some peace in Northern Ireland was the fact that violence went out of Ireland. The IRA conducted its activities on British soil; while in the conflict of Kashmir the perils of war and violence have remained in the valley.⁶⁴ It can be agreed that these two in fact are two different case studies because Northern Ireland enjoys a certain amount of peace for the past three decades. And the violence in Kashmir continues and the international community pays no heed to it. There is not even negative peace in Kashmir and it is still a conflict zone.

Conclusion

The success of the IRA was in its ability to attack British soil. The JKLF, although conceived such notions but never acted upon them. The reason that violence rarely pours out of Kashmir valley and into the Indian soil does not put enough pressure on India to stop atrocities. Secondly, Ireland was strictly divided into Protestants and Catholics and ensured strict segregation. The internal conflicts of MC and NC showed similar instances of sectarian conflict. It can be said that Ireland's movement for self-determination was not solely motivated by religion, although it was marred by sectarian strife. Kashmir is nevertheless a religious issue. The Kashmir Road in Belfast, Northern Ireland is a reminder of the similar ontology of conflict for the two countries and shows that Kashmiris could learn a lot from the history of the Emerald Isles.

⁶³ Alexandra Brennan, *The Ineffectiveness of Peacekeeping and the Absence of Crucial Peacebuilding Initiatives in the Kashmiri and Northern Irish Conflicts* (Fordham: Fordham University, 2019), 17.

⁶⁴ Brennan, *The Ineffectiveness of Peacekeeping*, 29.

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The International Journal of Kashmir Studies (IJKS) invites the submission of articles and book reviews for the next of this journal. It's a peer reviewed bi-annual journal confronting to the standards of HEC recognize journal and aspire to be soon recognized by HEC. We invite submissions form academics and PhD candidates, diplomats, decision-makers and activists. IJKS accepts scholarly work encompassing (but not limited to) the research themes relating Kashmir conflict such as:

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