



INTERNATIONAL JOURNAL OF KASHMIR STUDIES



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- The major objective of the *International Journal of Kashmir Studies* is to provide a forum for scholars engaged in Kashmir studies and dynamics of Pakistan. In addition, the journal is publishing 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. Besides promoting research in these fields, the Journal also seeks to provide a forum for expression of views on current history. It hopes to create a dialogue among specialists and leaders in public affairs in a wide range of areas and disciplines.
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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, defence and strategic studies, law based approaches, peace and conflict studies, governance and economy, self-determination and other solidarity rights.
- To coordinate research programmes 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.

Noting with satisfaction that both India and Pakistan desire that the question of the accession of Jammu and Kashmir to India or Pakistan should be decided through the democratic method of a free and impartial plebiscite,

(Resolution 47, On the India-Pakistan adopted by the Security Council at its 286th meeting held on 21 April, 1948. Document No. 5/726)

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The *International Journal of Kashmir Studies* has devised a clear policy for the publication of different articles. Articles submitted should contain elements relating to the Kashmir studies and dynamics of Pakistan. In addition, the journal is publishing 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.

As per layout of the journal, the first page of the article should contain the title, name of the author and an abstract of the article. For the sake of uniformity, we have included a “Note to Contributors” on the back of the cover page. For citation and references, the IJKS follows the format outlined in Sixteenth Edition of *The Chicago Manual of Style*.

The current Issue carries six articles. The first paper examines the Pulwama attack fallout, Indo-Pak chronology of the hostile events and repercussions of the subsequent policies taken by India in the political milieu vis-à-vis Kashmir crisis. It gives an insightful understanding of how the Modi regime deliberately pretexted the incident to fuel the direct confrontation (Balakot Intrusion, Aerial combat) with Pakistan for the accomplishment of multifaceted goals, emboldened by its ideologically radical aspirations and domestic political exigencies. The paper also highlights current dynamics of protracted conflict, third party role in the conflict mediation, diplomatic responses, and policy options for Pakistan.

The second article discuss the socio-psychological impacts of Kashmir conflict on the lives of the people who are leaving near LOC. This paper highlights that perpetual violence has had sociological, political and psychological implications on the Kashmiri society. It has infused a prolonged sense of agony and pain among the residents of LOC bordering areas; both remembrances as well as story-telling are the constituents of their collective memory.

The third paper provides a historical backdrop on *Weapons of Mass Destruction* WMDs and whether Iraq possessed Weapons of Mass Destruction (WMDs) or not? This paper highlights these facts through reports of inspection teams and unveils the myth and reality. This paper also helps to answer the question whether the possession of WMDs is an offense in international law or customs and are there any standards which make some countries eligible to have them?

The fourth paper undertakes an extensive as well as meticulous analysis of simmering conflict that has created many negative impacts on the lives of the people of the Indian Illegally Occupied Jammu and Kashmir. The paper highlights humanitarian dimension of the Kashmir conflict. It provides an overview of migrations from the Indian Occupied Kashmir to Pakistan or Azad Jammu and Kashmir, after the partition of the sub-continent. The main focus is to investigate the reasons of migration of people after 1989. This research is mostly interview based. However, some historical accounts are also discussed and analyzed.

The fifth paper provides a comprehensive analysis of institutionalized impunity and aggression of Bhartiya Janta Party (BJP) towards the Kashmiris. The research has enunciated the cunning political ideology of BJP leadership that is deteriorating the situation in Kashmir by amending and promulgating the laws without thinking about the solidarity of the Kashmiris. It has explained the motives of BJP behind the enforcement of such laws, least observation of human rights and implications for the Kashmiris in the days to come. The research is a guide for the students, researchers, readers, and policy-makers who want to examine the current state of the violation of human rights in Kashmir and reflection of the Hindu political and aggressive mind-set of BJP.

The last article attempts to analyze on the contributions of Education Cell Afghan Commissionerate Peshawar for the education of Afghan refugees in Khyber Pakhtunkhwa, Pakistan. Afghan Refugees Commissionerate was made and then an education cell in the Commissionerate was established to register, monitor and evaluate Afghan refugees' educational institutions and facilitate their education on scientific basis. Some of the functions of the education cell were to facilitate the refugees in getting admission in professional and non-professional colleges, issuance of certificates and attestation of educational documentations, conduction of 12th grade examination and award of scholarships to the eligible students. The study is qualitative in nature and is based on primary and secondary sources. The paper explores the decades long rich

experience of Pakistan in dealing with the education of Afghan refugees and its contributions in the reconstruction of Afghanistan.

The process of evaluation and blind peer reviewing is comprehensive. We have an Internal Review Committee (IRC) consisting of the Chief Editor, Editor, Associate Editors and Assistant Editors. The committee recommends an article for evaluation after preliminary assessment. The article then goes through a cycle of evaluation, editing, review and proof reading.

An acknowledgement letter is forwarded to the author, which should not be deemed as an acceptance letter. It is just to inform the author that the article is being sent for blind peer review. Then the article is sent to two appropriate scholars. Articles are evaluated on the recommendations of nationally and internationally known referees belonging to various disciplines. It is the policy of the forum that the internal committee recommends at least two reviewers one local and one foreign for the evaluation of every article. If they recommend changes and suggestions, the article is sent back to the author for revision. After positive recommendation from both the reviewers, an article is accepted for publication in the *International Journal of Kashmir Studies*

(Dr. Sania Muneer)

Editor in Chief

The Post Pulwama Kashmir Crisis: A Critical Appraisal

Syed Mushahid Hussain Naqvi* & Aminah Gilani**

Abstract

The paper examines the Pulwama attack fallout, Indo-Pak chronology of the hostile events and repercussions of the subsequent policies taken by India in the political milieu vis-à-vis Kashmir crisis. It gives an insightful understanding of how the Modi regime deliberately pretexted the [vary] incident to fuel the direct confrontation (Balakot Intrusion, Aerial combat) with Pakistan for the accomplishment of multifaceted goals, emboldened by its ideologically radical aspirations and domestic political exigencies. Likewise, it also extensively analyzes zero-sum policy imperatives of the Iron-Fist approach (Revocation of article 370, amended domicile law), its implications in the attainment of myopic goals— the structural marginalization of Kashmiris and provocation of Chauvinistic Hindutva tendencies that further complicates the quagmire. The research also highlights current dynamics of

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protracted conflict, third party role in the conflict mediation, diplomatic responses, and policy options for Pakistan. Lastly, it concludes that the belligerent policies are further escalating the conflict and turning India into a rouge state who predominantly relies on brute force and draconian laws to maintain status-Quo in the Kashmir valley. With zero sum prepositions of contending actors, the nominal role of third parties, militarization surge, embroiling turmoil, the future of Kashmir looks grim and panacea of the conflict hostile configuration is so far uncertain. Given the current trends, the dispute would continue to impede the multilateral prospects of the regional cooperation/engagement whilst posing heinous challenges for the stability of the regional security architecture.

Key words: Kashmir Conflict, Escalated Violence, Coercive Strategy, Draconian Laws, Political Strife

Introduction

Laden with escalated violence and intensifying geopolitical intrigue, “Protracted Kashmir Conflict” remained the bone of contention between the two neighboring nuclear contending powers and a nightmare for the perpetual peace proponents of the entire region. Vindicated by the history, the unresolved dispute resulted into three major conventional wars and halted economic, security, and strategic prospects of cooperation/engagement at bilateral and multilateral level. At the other end, the Indian forcible occupation brought grim consequences to the grief-stricken Kashmiri masses. Ever since the

controversial “Instrument of Accession”¹ to the “Pulwama incident fallout debacle,” the valley plugged into severe humanitarian crisis, popular insurgency, draconian law’s malpractice, gross human rights violation and perpetrated violence by the Indian armed forces that wrecked an unprecedented havoc till date.

This perilous situation strained further in the aftermaths of the Modi regime’s “Iron Fist Approach”² (Revocation of the articles 370, 35A, Domicile Amendment Law) and new military doctrine (False Flag Operations, Hypothetical Surgical Strikes) enactment to attain the multi-dimensional goals: conflict entrepreneurship, domestic political mileage, the structural marginalization of the native Kashmiri masses and pronouncement radical Hindutva ideological aspiration respectively.

In the persuasion of such endeavors in the occupied territory, the chalked-out policy encompasses curfew imposition, prolonged territorial lockdown, communication blackout, and military crackdown (tactical and operational) for the detentions of political leadership, journalists, and common masses. Consequently, such assertive measures lead to violence upsurge, political unrest, economic soft patch, rebellious insurgency, and fragmentation of social fabric at large. Further on, the bilateral relations between the two archrivals aggravated further due to their recent direct confrontations; mounting bellicose rhetoric shrinking space of

¹ Sumantra Bose, “Kashmir: Sources of Conflict, Dimensions of Peace,” *Economic and Political Weekly* 34, no. 13 (1999): 762–768.

² Institute of Peace and Conflict Studies, *Article 370 and the Reorganization of Jammu and Kashmir* (Institute of Peace and Conflict Studies, 2019), JSTOR.

plausible negotiations over the unsolved quagmire whilst jeopardizing regional security.

With no in sight of peaceful conflict resolution, this situation is feuding configuration due to stalled relations that are drastically pushing major archrivals towards another full-scale war outbreak in near future. Thus, it requires preferential treatment by revamping indigenous policy apparatus, coupled with proactive engagement of international stakeholders and great powers in compliance with the sanctity of “Responsibility to Protect Doctrine (R2P)” to ensure peace building measures and crisis management.

Post Pulwama Developments Vis-à-Vis Kashmir Conflict

On February 14, 2019 an Indian Central Reserve Police Force (CRPF) convoy was attacked by a vehicle-borne suicide bomber in the Pulwama district, resulting into 40 casualties leaving more than 150 injured.³ Soon after the tragic event, the Indian government accused Pakistan for the very incident and deceitfully pretexted it as a state sponsored terrorism act without providing any conclusive evidences. However, Islamabad rejected the Delhi’s claim, condemned insurgent attack, and expressed readiness to investigate into the matter but dogmatic approach from India surged crisis and rang alarm bells for another direct confrontation as it vowed to retaliate continuously with greater ferocity for a baseless revenge.

³ Mohammed Sinan Siyech, “The Pulwama Attack,” *Counter Terrorist Trends and Analyses* 11, no. 4 (2019): 6–10.

This incident fallout spur into a series of uncertain events which ensued multifaceted mayhem repercussions in the disputed territory through prevailing anarchic environment and also the hostile trajectory of Indo-Pak relations ameliorated amidst direct confrontation between the two archrivals first time ever since the Kargil Crisis.

Balakot Intrusion and the Operation Swift Retort:

After the Pulwama incident on 26 February 2019, an Indian fighter jet violated territorial jurisdiction, crossed aerospace boundaries in the Balakot region of Pakistan. India claimed targeting militant hideouts. However, the propagated offensive design was overtly exposed when Pakistan provided direct access to media agencies, international watchdog representatives, and foreign diplomatic staff to the respective site next morning. They evidently rejected the Indian baseless propaganda. However, the aerial intrusion subverted the deterrence between two states. In retaliation, instantly Pakistan conducted “Operation Swift Retort”⁴ in which two Indian fighter jets were destroyed and one pilot was captured alive. However, Islamabad returned him without any concessions, signposting peaceful gesture and exercising maximum restraint for broader interests of the region. This swift response left India embarrassed in front of the entire world, as its miscued policy overtly backfired again. The powerful response and efficient diplomatic maneuverings provided Islamabad an edge

⁴ Khurshid Khan and Pervaiz Iqbal Cheema, “Modi’s Kashmir Policy,” *Strategic Studies* 37, no. 3 (2019): 1–21.

over Delhi. However, Modi regime kept provoking ultra-nationalistic sentiments to draw favorable outcomes.

Iron Fist Approach: Revocation of Article 370 and 35A

This vitiated situation extended further when on August 5, 2019, the president of India revoked the Constitution Order, 1954 and enacted a constitution (Application to Jammu & Kashmir) order, 2019. The new order abolished the ‘special status granted to the Kashmir valley under the provision of Article 370.’⁵ From constitutional prospective, Article 370 is considered as a basis for the state of Jammu and Kashmir’s accession to the Indian Union. It came into effect in 1949, which allowed the State of J&K to have autonomy, making its own laws except in the matters of foreign relations, defense, and communication. The State could make its own Constitution, have a separate flag, and denial of property rights to any non-permanent resident or outsiders, that excludes the citizens of India. Under the provisions of Article 370, Indian government shall need the “Concurrence” of the State’s constituent Assembly before making any new provision, modification or applying any law in the State except defense, communications, and foreign Affairs.

It also asserts that the government of India cannot declare financial emergency. In addition to this, the fundamental rights of the residents, citizenship laws, and ownership of property of J&K are out bound from the Indian power jurisdiction. Non-resident individuals outside the State cannot purchase the property in Jammu and Kashmir.

⁵ Institute of Peace and Conflict Studies, *Article 370 and the Reorganization of Jammu and Kashmir*.

Moreover, the Article clearly mentioned that the Article 1 of the Indian Constitution binds the State of J&K with Indian Union through article 370 and abrogating it would make the State of J&K independent of Indian Union. It confers special power upon the State thereby giving it the “special Status” of “Autonomous State.” However, this article has been abrogated by the (Constitution Application to Jammu and Kashmir) Order, 2019. Revocation of Article 370 cleared the path for scraping Article 35A that bestowed the ‘permanent residents’ of the Indian Illegally Occupied J&K with special rights of property and privileges regarding public aid, granting scholarships and public sector jobs.

The Constitution (Application of Jammu and Kashmir) Order, 1954, included the article 35A under the provisions of Article 370.⁶ According to which, the citizenship of India and the related benefits were extended to the people of Jammu and Kashmir. It also empowered the State legislature to draft the laws for permanent residents regarding employment, immovable property rights, and settlement in the State of Indian Illegally Occupied Jammu and Kashmir. According to the Article 35A, a permanent resident would be one who was a State subject on May 14, 1954, or who has been the resident for 10 years and has acquired immovable property lawfully.

Under this provision, only the permanent citizens of the State could get a public sector job and buy or own the property in the Indian Illegally Occupied Jammu and Kashmir. It does not include citizens

⁶ S. P. Sathe, “Article 370: Constitutional Obligations and Compulsions,” *Economic and Political Weekly* 25, no. 17 (1990): 932–933.

of India. The Article also states that the Indian government can only impose national emergency in case of any foreign aggression. It can only exercise power in internal matters with the “Concurrence” of the State of Indian Illegally Occupied Jammu and Kashmir. However, the Article 35A is scrapped by the current Indian government and is a clear violation of the Article 370 and the State of Indian Illegally Occupied Jammu and Kashmir’s “Instrument of Accession.” Thus, the constitutional deceitfulness victimized the right of self-determination and autonomous state of public. The entire proceedings are carried out through the pattern of noxious totalitarian regime.

Revamped Domicile Law

On March 31, 2020, the Indian government introduced a new Domicile Law for the disputed territory.⁷ The amended law offered the ownership of immovable property and appointment in government jobs to the non-state subjects, which was earlier confined to the indigenous Kashmiri residents. All the non-permanent residents who have lived 15 years or students holding academic association of 7 years or appeared in secondary and higher secondary school exams from Kashmir were made eligible for the residency. In addition, the employees’ children of central government who served for at least 10 years and registered migrants with Relief and Rehabilitation Commission in the Indian Illegally Occupied Jammu and Kashmir have also been made eligible for the permanent residency.

⁷ “A Brief Chronology of Kashmir,” *Pakistan Forum* 2, no. 2 (2020): 2–3.

Appraisal and Assessment

The fallout of Pulwama incident brought a fresh wave of belligerence and coercion in the Indian Illegally Occupied Kashmir. Pretexting the incident as Pakistan sponsored terrorism act, a new counter insurgency operation launched in the valley by increasing the number of deployed troops. Dozens of innocent people were shot dead in the target killings and fake encounters. The countless number of houses was demolished and public property set on fire, accusing it safe heavens of the rebellious insurgents. Peaceful protests faced firing with pellet guns and bullets along with a huge number of rape cases and molestation which increased from ever before. Furthermore, the agitating circumstances amid Delhi driven recent political developments put normalcy (social, economic religious affairs) at halt while pushing the valley into dark ages through caging and disconnecting it from rest of the world. Ever since the revocation of the Article 370, millions of Kashmiris are demonized by myriad repressive measures, carried out by the Indian occupational forces to evade the probable backlash. An unprecedented lockdown, conditionally imposed curfew, communication blockade coupled with militaristic actions, normalization, and rationalization of draconian laws ensured through media, security, and intellectual cover fire. Ruthless restrictions sieged livelihood through hitting economic soft patch, causing psychological traumatization and political strife. Likewise, education, communication, healthcare, and transportation are hard-hit sectors by the operationalized tyrant instruments, particularly designed to marginalize Kashmiri populous.

Arguably, we need to understand ontological and epistemological dimensions for such political assertions and military doctrine with reference to the Kashmir Conflict. There are multifarious imperatives that explain why India opted such vicious policy tactics and they estimate their effectiveness in serving the larger interests.

All the Post Pulwama developments vis-à-vis the Kashmir conflict are deceitfully engineered by xenophobic and exclusionary political mindset of the ruling Indian party Bharatiya Janata Party (BJP), which being an offshoot of Rashtriya Swayamsevak Sangh (RSS), is predominantly known for breeding anti-Muslim sentiments and promotion of chauvinistic Hindutva tendencies. In the recent years, false flag operations and speculative surgical strikes have emerged as significant features of the Indian military doctrine vis-à-vis Pakistan. Keeping the earlier strategic precedents in account, the Pulwama incident is another episode of indigenously designed stratagem by the policy makers in Delhi to attain far-fetched goals following the Pathankot and Uri attacks, for which Pakistan had been accused without definite evidences.

The occurrence of incident right before the Indian General Elections suggests that BJP vowed to gain massive domestic political mileage. Evidently, this particular attack and direct confrontation with neighboring state assisted Modi regime to drive an anti-Pakistan campaign (largely a successful move in Indian political culture) which not only undermined its probable electoral vulnerabilities but it secured victory in elections with a big majority.

It is also pertinent to highlight that prior to the incident; the new government of Imran Khan in Pakistan was highly enthusiastic for rapprochement and re-engagement with India for crisis mitigation. Its policy initiative for the Karptarpur Corridor opening was a heap praise globally by Sikh community. It was also regarded as a major diplomatic triumph for Islamabad by the policy experts which raised grave apprehensions and disillusionment for Modi government at home. To an extent it dented its major scoring policy options and the further engagement with Pakistan would have brought massive domestic resentment from fanatic Hindus, costing considerable political deficits and hampering its covert agendas regarding Kashmir. Thus, fabricated attack provided a safe passage to BJP to avert domestic pressure and paved path for misleading notion of detachment with Pakistan. Notably, accusing Islamabad by Delhi for the Pulwama incident during a time when it had strained ties with Washington and was facing an arduous task for meeting the Financial Action Task Force (FATF) recommendations, is presumably a tactical move to exert maximum diplomatic pressure on Islamabad. While inside the Indian Illegally Occupied Kashmir, with a preemptive strategy, detention of prominent political leaders was carried out. Furthermore, two prominent pro-freedom parties, the Jammu and Kashmir Liberation Front (JKLF) and Jammata-e-Islami Jammu and Kashmir were banned by the government to prevent potential reaction of forcible imposition of new political laws. In view of regional geopolitical dynamics, fictitious hostile configurations had set stage for political onslaught against the rights of native Kashmiris.

Realistically, scraping Article 370 and introducing new domicile law is the projection of the Iron Fist approach to dispossess and disempower the Kashmiri masses through inflicting saffron nationalism agendas. Those political gambits through introducing draconian laws with reference to political future of Indian Illegally Occupied Kashmir suggests that BJP government is fully determined to bring demographic changes by altering the Muslim majority region into minority as per the Israel policy framework model of West Bank which seems a gamble to the existence of the state. The rise of Hindu community in the valley would spark ethnic conflict, while the ongoing quagmire configuration would become more complex and hostile in near future. The Hindu-Muslim confrontation in the Indian Illegally Occupied Kashmir will have indefinite domino effect into the rest of the country and it began a new separatist movement that added to the already ongoing nineteen separatist movements that poses intimidating challenges to the ethnically polarized Indian state sovereignty. The controversial citizenship amendment act would also serve as a catalyst to amplify the ideological and cultural fragmentation.

Amidst entire political and conflictual developments, unprovoked firing and LOC violations by India drastically increased while its media apparatus at home and abroad repeatedly indulged propaganda against Pakistan and fraudulently proved itself innocent in the global arena. Such tactic orients from two aspects. First, LOC violations remained a consistent tool of Indian turbulent polices and its geographic complexities rescinds plausibility of figuring out the actual perpetrator. Second, escalated hostility with Pakistan at

Borders, it tends to divert the attention of global community from the current situation of the Indian Illegally Occupied Kashmir, significantly the illegitimate changes made in political milieu.

The chronology of events and antagonistic policies suggest that Delhi played with full deck to draw zero-sum preposition over the Kashmir Crisis as a means to secure stable domestic political posture. However, it has become a wild goose chase in dark. Lessons can be drawn from malpractice of rigged elections of the year 1987,⁸ which set the tone for embroiling turmoil. Delhi has seemingly failed to curb the resistance shown by the Kashmiri masses till date.

The current political course of action would become ineffectual due to the growing internal strength and international recognition of Kashmir Movement. For the past six years, homegrown resistance took a leap forward with the rise of fresh wave of militancy, particularly in the aftermaths of martyrdom of the leader of the armed resistance movement, Burhan Wani. One of the key innovations is the fascination of educated youth towards Jihad culture. “Kashmir has one solution Gun solution Gun Solution” has become the hallmark slogan of the popular rebellious insurgency. This certain development made the Indian status Quo and security establishment highly apprehensive which forced them to use anti-Pakistan propaganda at this stage. It also highlights that Delhi somehow surrendered, convinced for a probable plebiscite in future, given the condition of demographic changes whilst signposting a last challenge to the

⁸ A. G. Noorani, “Kashmir and A Farcical Human Rights Commission,” *Economic and Political Weekly* 29, no. 32 (1994): 2053–2053.

freedom struggle to halt this last political development and bring their success further closer to reality.

In the broader spectrum, after the Pulwama Incident, the Indian posture over Kashmir crisis suffered with major jolts on the global geopolitical chessboard. The political pitfalls regarding the Indian Illegally Occupied Kashmir also put India in trouble as the United National Security Council (UNSC) for the first time in five decades, convened sessions to discuss the unsettled crisis of Kashmir. Moreover, the Amnesty International and the UN recent report accounting human rights assessment highlighted substantial evidences of the Indian heinous crimes committed in the valley and urged to probe into the matter with serious considerations. Likewise, OIC successively denounced the Indian incongruous approach and its political outrage towards the Indian Illegally Occupied Kashmir. Pakistan also got some support from China, Turkey, and Malaysia over its stance regarding the conflict. Likewise, intensifying crisis caught the attention of the print, electronic, and social media all across the world that not only enhanced the impetus of global recognition of Kashmir Movement, but to an extent, it exposed the Modi's noxious totalitarian regime. Thus, such responses from international community refuted Delhi's rhetoric whilst endorsing Islamabad's narrative: "Kashmir is an international dispute" between India and Pakistan.

The Iron Fist approach created a vacuum for the resurfacing of indigenous armed struggle. The Indian Illegally Occupied Kashmir political turf has lost the zip with imposition of silenced culture and

prevailing controlled narrative politics. Evidently, the ban of pro-freedom parties under the Modi regime whilst two other major political groups: People Democratic Party (PDP) and Jammu & Kashmir National Conference (JKNC) largely lost the social acceptance due to the aforementioned tendencies. Therefore, with scant political options, the indigenous Kashmir struggle is retracing its feet in armed struggle and the struggle for self-determination which predominantly challenged the Indian conventional approach of over reliance on militarization and brute force to suppress the enduring struggle.

Considering the effectiveness of the fifth-generation warfare tools, Media took the role of a key factor in contemplating the entire script crafted by the policy makers in India. Soon after the Pulwama Incident, propagandist channels furiously kept baying for the blood through baseless revenge, setting frequency for escalating hostility by broadcasting falsehood. Being mouthpieces of political elites and security establishment, policy formation by selling lies through majority media channels remained consistent throughout the Balakot intrusion and Operation Swift Retort. Likewise, it also played a handful role in portraying the “normalization in Kashmir during Iron Fist approach implementation”. However, it was exposed by the international media and news agencies coverage. They portrayed the on-ground situation of the Indian Illegally Occupied Kashmir valley.

The complete blackout of internet services and the social media apparatus apparently has nothing to do with the laws or security vulnerabilities. There are two certain reasons of adopting these

stringent measures. Firstly, with technological evaluation over the years, social media applications (Facebook, Twitter, YouTube, and Instagram) have become effective tools of promoting the freedom of struggle by the indigenous masses and its diaspora across the world through sharing personal views, videos of alleged injustice. They simultaneously promoted mobilization of masses through innovative means (stories, poetry, documentaries, and songs) by exposing Indian autocracies. To restrain the criticism by the masses, internet suspension was imposed in the occupied territory. Secondly, from the Indian perspective, masses' interconnectivity disengagement became essentially vital as it also played a vibrant role in mobilizing the protests and strikes. Therefore, fearing the massive revolt due to the changing political landscape, the government snapped major modes of communication.

The Balakot intrusion pitfall and aerial combat inadvertently exposed military strategic/operational deficiencies while Pakistan depicted effective military preparedness. Thus, the Modi government tends to seek redemption in revamping the political status of the Indian Illegally Occupied Kashmir with a cynical approach, irrespective of gruesome consequences which may hunt India's posture and stability, in the long run.

Hostile Configuration of the Indo-Pak Relations

History vindicates that the Kashmir crisis remained the vertex point of determining the dynamics of relations between India and Pakistan. Evidently, after the Pulwama incident, diplomatic row between the two adversaries downgraded the trajectory of ties. The plausibility of bilateral engagement stalled again with fewer accomplishment of cooperation over Kartarpur Corridor continuation. Throughout the crisis, bellicose rhetoric climaxed between the state officials, militarily strategic coercion alleviated, assertive ploys and diplomatic disengagement became the policy imperatives to ensure deterrence and power dominance. Amidst crisis, the number of skirmishes along the LOC between the two states drastically increased.

As an aftermath, the Indian government grisly devised myopic approach to cut off ties with Pakistan at diplomatic front. Firstly, it withdrew the Most Favored Nation (MFNs) status of Pakistan. Secondly, to hamper the previous economic cooperation, it increased the custom duty to 200% on the Pakistani exports—violating the deal made under the South Asian Free Trade Agreement (SAFTA).⁹ Thirdly, exercising maximum disengagement, the Indian government suspended the Srinagar Bus Service to Muzaffarabad, which was initiated during President Musharraf’s rule under bilateral peace initiative. After the one week of the incident, the Indian Union Minister stated that the Indian government has decided to ‘abandon’ the flow of its share of water to Pakistan from rivers under the Indus

⁹ https://www.business-standard.com/article/pti-stories/india-hikes-customs-duty-to-200-pc-on-all-goods-imported-from-pakistan-119021601070_1.html

Waters Treaty.¹⁰ Notably, it was followed by the Balakot intrusion by India and in retaliation Operation Swift Retort conducted by Pakistan. The scrapping of Article 370 potentially necessitated Islamabad to review its policy towards Delhi. Ever since 9/11, Pakistan for the first time revamped its “rapprochement policy towards India” through pragmatically shifting to the limited diplomatic engagement whilst India opted maximum coercion and deceitful political stratagems towards Islamabad. Pakistan also closed its airspace territory for the Indian accessibility. Thus, once again bilateral relations stalled between the two countries and the threats of escalation of asymmetric skirmishes became prevalent.

Policy Imperatives for the Crisis Mitigation

Pakistan can opt the following policy measures at domestic and international levels to ensure the desirable outcomes:

- Given the current dynamics of the Kashmir conflict, the probability of conflict resolution between the two states is seemingly far more ambiguous than ever before. However, “crisis mitigation strategy” can de-escalate the festering hostility which would ultimately pave path for any probable resolution in foreseeable future. In this regard, avoiding reductionist strategies, comprehensive pragmatic policy must be fostered by revamping reactive measures to pre-motive actions through the imperatives of diplomatic engagement, coercion and detachment where necessary with India over the

¹⁰ <https://www.aljazeera.com/news/2019/2/21/india-reiterates-plan-to-stop-sharing-water-with-pakistan>

crisis. The policy makers should effectively operationalize all the bargaining options to strengthen the coherent narrative among the indigenous masses and Pakistani diaspora all across the world.

- At international level, inclusive lobbying is required to gain substantial outcomes with reference to the Kashmir conflict at international legal forums, in particular the United Nation Security Council (UNSC), United Nation Commission for India Pakistan (UNCIP)¹¹ and Amnesty International. In this regard, services of professional lobbying groups can be hired for promoting our stance and highlighting Indian covert and overt oppression.

- Various regional forums, in particular Pakistan India Forums for Peace and Democracy, (PIPFDP), South Asian Free Media Association (SAFMA), South Asian Media Net (SAMN), Free Media Foundation (FMF), and South Asian Parliament (SAFMA) are stalled due to strained ties between the two countries. Fostering diplomatic re-engagement through aforementioned forums would assist to seek objectives in conflict resolution. Likewise, it would assert pressure on Delhi through the means of soft power.

¹¹ UNCIP is not existing right now and it was abolished in 1951. However, the resolutions of UNCIP are still present with the institution of UNMOGIP which has been observing LOC since 1951.

- Domestically, the longstanding nominal role of Parliamentary Kashmir needs utmost reconsideration. With current pattern it has only dodged the column due to its politicization, parochial membership selection criteria from both the House of Parliament and Legislative Assembly of AJK respectively. This conventional notion made the probable productive role frivolous in nature, simultaneously putting it at low ebb which requires to revamp its architecture. In this regard, members can be selected who are concomitant with the Indian Illegally Occupied Kashmir conflict from Azad Kashmir and Pakistan to safeguard the process of justice, related to the fundamental objectives of the Committee. Also, the established organizational sphere can be further widened by endowing membership to the actively associated people with freedom struggle. For this purpose, the Kashmiri diaspora residing in the different regions of the world such as the Gulf, Europe and the US can be taken into account as overseas associated members lesioned with official diplomatic presence in respective countries. Instead of relying on political representatives only, services of the personnel from the professional academia, retired diplomatic caucus, conflict and defense experts can be effectively utilized to ensure the anchoring role of the committee in pursuance of the desirable goals.

- To outspread the ‘noblesse oblige’ of conflict internationalization, under the supervision of Ministry of

Foreign Affairs' (MOFA) parliamentary committee should initiate global outreach program to create awareness of the Kashmir crisis and expose the Indian cloven hoof mindset by highlighting its atrocities and human rights' violations. For this purpose, Kashmir committee can set up its global offices, specifically in Brussels, London, Washington, and Geneva which will score viable diplomatic maneuverings at relevant global forums of the UN and EU.

- To prelude the indigenous freedom of struggle with terrorism, Indian diplomatic and security establishment over the years, deceitfully manipulated terrorism narrative and pretexted fabricated indictment "Pakistan's assistance to the militancy" to endorse its oppressively illegal militaristic activities in the disputed Kashmir. This stemming propaganda could be curbed through devising multi-pronged strategies at domestic and international levels. Islamabad should establish Kashmir media cells and multilinguistic publication agencies to disseminate narrative based policy papers, reports, newsletters to project its stance and contain the Indian deceitful policy apparatus. Likewise, Kashmir related special transmissions can be telecasted through electronic media to highlight struggle of freedom and Indian oppression. The committee must effectively mobilize its leveraging tools (delegations, civil society, media groups, and lobbies) through conducting international events, seminars, and conferences to frame more convincing and coherent narrative.

- At domestic level, Ministry of Foreign Affairs and Human Rights can establish exclusive Kashmir cell to access the violations of humanitarian laws and to further take up the matter of human rights council through fostering linkages with different special rapporteurs. Also, Trilateral Kashmir Parliamentary Bloc can be frogged inside both; the House of the Parliament and AJK Legislative Assembly to make it a constant agenda of routinely assembly proceedings and creating linkages with parliamentarians of other states to highlight the plight of Kashmiri people to bring substantial celerity over Pakistan's position.

- Kashmir crisis is an imperative to the foreign policy and political discourse of Pakistan. Consequently, the history of the conflict can be incorporated in academic national curriculum in numerous tiers of education system to stimulate an impartial stance regardless of devoid rhetoric and hyperbole in the local audience. The events such as debates, declamations, Model UN programs at university level would assist to recognize contextual conditions and methodological challenges of entire struggle for freedom at grass root level.

- In the past, Kashmir conflict policies usually remained non-sustainable due to ruling leadership inconsiderate approach, domestic constraints, and foreign policy apprehensions. Thus, it demands coherence and alignment to pursue far-fetched

agendas, irrespective of subjective rulers' preferences and circumstances.

- Allocation of special funds in annual budget for the projection of stance over the Kashmir would help to meet the financial constraints. There should be annual evaluation of the performance of the all the respective bodies working for the Kashmir cause.

- Registering protests with reference to continuous LOC violations by India is an inadequate course of action. Pakistan must foster a new mechanism to highlight incidents in compliance with Indo-Pak ceasefire agreement 2003, and it should bring into the notice of UN Military Observer Group in India and Pakistan (UNMOGIP) by providing them access to the effected region.

- The outbreak of corona virus across the world has influenced the global order. To an extent, it has diverted the attention of international community and world from major conflicts towards the rising global constraints. In this situation, it is imperative for policy makers in Islamabad to ensure that conflict must not lose its global recognition. It must remain intact as a prioritizing agenda for global community.

Conclusion

In the backdrop of the Indian Illegally Occupied Kashmir conundrum, India directed Post-Pulwama political and security developments, created hurdles as the future of conflict and now looks elusively grim whilst its extended hostile configuration eminently. From the Indian policy context, embolden by the radical Hindutva ideological mindset, imprudent political aspirations and domestic constraint compulsions, Modi's regime hastened offensive shortsighted zero-sum policies could only bring fewer domestic accomplishments. For instance, earlier accusing Pakistan for Pulwama incident, followed by Balakot strike and aerial combat events, it somehow managed to ensure electoral victory through deviously driving anti-Pakistan rhetoric by the assistance of security establishment and media tools propaganda. However, its political forays scrapping of article 370 and introduction of new domicile rules under the shadow of brutal forces to maintain status-quo through structural marginalization of natives facing massive criticism and squandered, its claims of a profound secular democratic state. This unrealistic image is further tarnished by its egregious human rights violations and clamp fundamental freedom in the disputed territory. Likewise, current policy caucus of military doctrine and Iron Fist Approach—lockdown, illegal detentions of masses, controlling narratives, and communication blockade—imprints the fascist regime governance patterns.

As far as the effectiveness of rigorous strategic imperatives in attainment of end goals are concerned, it failed to contain the freedom of struggle which predominantly repowered through indigenous

militancy provocation. It is unlikely to relinquish from given parameters of power resistance against the establishing order. Realistically so far, staunch response from the Kashmiris left India with minimal options to draw considerable outcome. The actual response from inside the valley yet has to come, once India decides to normalize the things through lifting the lockdown and by allowing communication. However, the security cautious approach entails that it has already sensed the danger of retaliation which would be hard to contain.

From Pakistan's perspective, domestic fault lines remained a major point of concern. After Pulwama incident, its foremost challenge was to disassociate from accusing state sponsored terrorism rhetoric that was handled through vivid, pragmatic diplomatic responses. Further, it managed post Balakot and aerial combat crisis with a win-win equation. Nevertheless, the political developments regarding the Kashmir conflict raised grave apprehensions that brought major shift in its policy preferences with India from rapprochements to detachment. Its position over the crisis potentially necessitated serious considerations and it managed to reengage international community by operationalizing coherent diplomatic imperatives. Albeit, responsive measures have partially drawn favourable outcomes but a sustainable roadmap for the future in terms of its reshaping domestic policies, dynamics of relations with India, and gaging level of negotiations over the crisis yet has to be established.

One of the dismaying factors is dubious role of great powers due to divergent interests in the region. Similarly, international community

largely remained nominal during the Indo-Pak direct confrontation and inconclusive in convincing the adversaries to adhere the UN declaration of conflict resolution pertaining to the settlement. Notably, with recent global outbreak of Corona pandemic their preferences would spotlight combating the economic woes and regional geopolitical intrigue, rather than dealing with the protracted conflicts.

With unfavorable external imperatives, ignorance of global stakeholders, persistency of Kashmir Freedom Movement and zero-sum prepositions of the contending actors, the conflict is likely to intensify and the security of the region would further deteriorate. Conflict entrepreneurship seemingly takes center stage where engaging actors would attain divergent interests-seeking political mileages, deflecting the attentions from the catastrophes of poor governance whereas the sufferings of native masses would prolong. Thus, there is dire need to revamp the zero-sum prepositions to positive sum gains, myopic approach to holistic view and biasedness with prudent rationalization to ensure the peace restoration in larger benefit of preventing humanitarian crisis and averting the jeopardizing of already fragile regional security architecture.

Socio-Psychological Impacts of Pak-India Conflict on the Life of People: A Case Study of LOC Areas of AJK

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Abstract

The People of Azad Jammu and Kashmir have been preyed to terror and trauma for the past seven decades. This perpetual violence has had sociological, political and psychological implications on the Kashmiri society. It has infused a prolonged sense of agony and pain among the residents of LOC bordering areas; both remembrances as well as story-telling are the constituents of their collective memory.

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By employing the qualitative phenomenology method approach in a limited ethnographic study, this paper attempts to highlight unexplored socio-psychological aspects of the life of Kashmiri people such as the impact of trauma, collective memory invoked through story-telling, and gender and class dynamics of violence. It will also analyze the impact of religion and faith on the lives of the Kashmiri people.

Keywords: AJK, LOC Bordering Areas, Trauma, Collective Memory, Freedom Struggle.

Introduction

Kashmir is one of the most complicated and obstinate crises that both nations have been facing since the Partition of the Indian Subcontinent. The problem has become inflexible and complicated due to various reasons; the chief amongst them are: the religious issue, geopolitical, and geostrategic significance of the region that places it at the confluence of one of the great strategic cross-roads of the 21st century. For these and other reasons, the human suffering in the Indian Illegally Occupied Kashmir has been exacerbating and has caused several social problems, making it ripe for a sociological investigation. One of the most alarming phenomena that have emerged among the natives is relieving of trauma in a recurrent manner; even in the times of relative peace, they employ traumatic memories to keep the past perpetually in the ‘present’.

The people, from the third and fourth generations of the divided and occupied Kashmir¹², have grown accustomed to a routine of observing the shocking events of the stretched conflict. Normal life, or the state of normalcy, now appears to be a short-lived event; so that whenever there is a lull in violence, people use narratives and collective memory of the past shocking events to relive the trauma. This has also been a source of inspiration for the younger generation to carry the struggle forward despite the risks and dangerous consequences. In a qualitative study carried out to estimate the impact of armed conflict on mental health among young adults in the Indian Illegally Occupied Kashmir, Dar and Deb (2020) engaged 680 undergraduate and postgraduate students and found that the conflict exposure has caused a mental health crisis which encompasses psychological distress, psychosomatic ailments including trauma and physical sickness.¹³

A rich body of literature exists for explaining the role of trauma in the collective memory of communities and nations. Neal articulates about incidental stories which are told again and again for creating affect. They get vital position in society and become very effective in making history of community. The story-telling then becomes a generational legacy, which builds a connection between various generations by continuous recalling of the past.¹⁴ Hutto argues that trauma victims

¹² F. Faheem, "Three Generations of Kashmir's Azaadi: A Short History of Discontent." *Economic & Political Weekly*, 51 (35) (2016).

¹³ A. A. Dar & S. Deb, "Mental Health in the Face of Armed Conflict: Experience from Young Adults of Kashmir." *Journal of Loss and Trauma*, 1(11) (2020)

¹⁴ Arthur G. Neal, *Memory and Representation: Constructed Truths and Competing Realities* (New York: Bowling Green University Popular Press, 2001), 3.

make use of narrative as a tool to preserve and reinforce identity by way of ‘communicating’ their traumatic incidents and bad experiences to the future generations as a ‘cultural legacy’.¹⁵

Young argues that social harmony is generated and sustained by communal memories. The deeply ingrained perceptions of the past also help shape the community identities.¹⁶ Adding to this, Barbara suggests that narrative has the power to shape individual and community behavior and identity.¹⁷

Zerubavel mentions the use of ‘language’ to share personal experiences with others, which then do not remain “exclusively theirs and could therefore be preserved as social memories even after they themselves were gone.”¹⁸ He further suggests that “such ‘mnemonic transitivity’ underlies the preservation of social memories in stories, poems, and legends that are transmitted from one generation to the next. Halbwachs further contrasted between collective and individual memory. He calls individual memory “personal” and “autobiographical” memory, and collective memory “social” and “historical” memory.¹⁹ Social or autobiographical memory is the memory of the things that one has experienced personally; whereas

¹⁵ Daniel Hutto, *Folk Psychological Narratives: The Socio-cultural basis of understanding reasons* (Cambridge: MIT Press, 2008), 36.

¹⁶ Allen Young, *The Harmony of Illusions: Inventing Post-Traumatic Stress Disorder* (New Jersey: Princeton University, 1995), 22.

¹⁷ Barbara Misztal, “The Sacralization of Memory,” *European Journal of Social Theory* 7, (2004): 75.

¹⁸ E. Zerubavel, “Social Memories: Steps to a Sociology of the Past.” *Qualitative Sociology* 19, no.3 (1996): 291.

¹⁹ Halbwachs (1992)

‘historical memory’, by contrast, extends to groups and communities, and has the capacity to reconstruct.²⁰

Rationale

The basic purpose of this study is to examine traumatic impact being faced by the Kashmiri public who have been subject to violence since the partition and are living in a state of unending insecurity. International community fears that the Indian Illegally Occupied Kashmir might turn into a nuclear flash point in future between India and Pakistan. Thus, it is vital for both nations that the Kashmir problem should be resolved on the priority basis to end human suffering and the threat of a nuclear war in future. Besides that, the Kashmiri people have been living in a persistent state of terror due to wars and the intermittent cross-border firing and shelling on the LOC. By far, no serious attempt has been made in Pakistan to study the sociological implications of the conflict on Kashmiri society. This study not only observes theoretical aspects of trauma and the role of narrative and collective memory in the recurrence of trauma, but it will also help in revealing and understanding the reasons of reliving trauma when it is not practically being experienced. It will suggest ways that would help the society and policy makers to overcome this intricate but extremely harmful social phenomenon.

²⁰ Maurice Halbwachs, *On Collective Memory* (Chicago: University of Chicago Press, 1992), 15.

Research Methodology

The research strategy employed is the phenomenological approach. To explore the issue, this study makes use of both primary and secondary data sources. Secondary data includes the studies on trauma and collective memory; whereas, the primary data collection methods used are semi-structured interviews and non-participant observation in a limited ethnographic study in selected areas near LOC of AJK. To study the phenomenon of social collective trauma, through direct interaction with the members of community, this research was focused on bringing out the detailed ways in which trauma is being relived in AJK.

Interviews and Field Notes

Interviews were conducted at different places. It depended on the gender and location of the participants. With females' interviews were conducted at homes, as most Kashmiri women observe *pardah* [veil], and with men in markets, hotels, and in one case it was in a taxi. A total of nine participants were selected randomly for interview. All of them were linked to conflict. Out of the four female participants, two were widows and two other women had lost their sons in the firing of Indian armed forces. Others were males and there was one member of a divided family who frequently crossed the LOC to visit his relatives in a village in the Indian occupied Kashmir. Other participants included a Pakistan Army Major posted at the Chakothi-Srinagar border; a truck driver who carried goods to and from Srinagar. Location of this field-research was selected based on the

proximity to the Line of Control, importance of area in terms of border sensitivity, and links to the other side of LOC.

Field notes were taken during the interviews which described how respondents reacted to particular questions and if their behaviour was formal or informal. The focal point of this research was how memories of the past are recalled by the community members. Therefore, special focus was given to note interviewees' pauses, sighs, and the parts of the conversation that made them uncomfortable, and also when they tried to ignore or preferred not to answer. All of these were seen as indicators of a past experience or a memory that the respondents were reluctant to share or remember. Interviews were conducted mostly in commonly spoken and understood language in Kashmir i.e. Punjabi and Urdu. But at times, when there appeared a language barrier, local translators were asked to assist. After finishing all interviews, transcribed data was categorized into themes.

Visual Sources as Secondary Data

Secondary data analyses included pictorial sources: pictures of various agitation and mourning scenes, community gatherings over tragic events; posters, flyers, and some works of local art (including wall chalking of faith-based messages), emerged from the lived experiences of locals during this long period of unrest, visually depicting the events, ritual acts like burials, mourning, funeral processions and graves of martyrs. The findings suggest the presence of a pattern which is socioeconomic and political in nature. It also added a psychological component to the existing research on trauma

in conflict zones – particularly in adjoining areas of LOC of AJK. Following are the different findings of the study.

Religion as a Major Binding Factor

Religion appeared as the most powerful binding factor in the Kashmiri society. It presumably helps them in their struggle to see their land free from a perceived sense of foreign occupation. The most common thing observed in all participants or the people interviewed was that only faith and religion gives them hope for redemption in this life and after death.

Socio-economic Deprivation

Another dominant theme that emerged is the economic deprivation of the people. It was seen that only poor people live near LOC areas and they are mostly shepherds or herb collectors. It is the people belonging to this class who most commonly become victims of cross-border firing and shelling.

Problems of Women

It was found that the subordination of female gender is directly related to the effects of conflict. Women who lose their husbands and sons become subject to economic and food insecurity and the widow status negatively impacts their right to property and education of the children. In addition, women in the Indian Illegally Occupied Kashmir are largely politically marginalized. They are trapped in a conservative and patriarchal society.

Restricted Movement and Communication

Restrictions on movement and communication of population such as curfews and lockdowns within their localities, villages or towns are a common feature in the conflict zones. No one is allowed to enter in 3-Km area around the LOC. Public and private means of transportation are strictly checked by armed personnel. There are check posts after every few kilometers and at the slightest suspicion or provocation, authorities take the driver and crew in custody and leave the passengers stranded.

Prayer as a Strategy to Overcome Pain

Muslim families, which have been tortured or traumatized, residing in proximity to the LOC are now seen more indulged in the practice of their faith through frequenting mosques and attending community prayers; participation in worships has thus transformed from a religious ritual into a general behavioural pattern.

Story-telling as a Coping Mechanism

By engaging in story-telling or narration, the traumatized victims in Kashmir are able to share their experiences of terror and violence; and thus, channel their curbed feelings, which in turn help reduce stressful effects of trauma. In the Indian Illegally Occupied Kashmir, these narrations and gossips are a daily ritual of the women living in the towns near the LOC, to find common cause in shared grief and melancholy. The common venue for such story-telling is their homes.

Conclusion

The Kashmir issue is not only a territorial conflict between India and Pakistan; it is also a key to peace and prosperity in South Asia. To create an objective understanding of the social aspects of this lingering conflict, it is necessary to examine the factors behind its creation and the contemporary drivers of conflict. In the Indian Illegally Occupied Kashmir, the social conflict is mainly driven by the religion. Secondly, the illegal occupation of Kashmir by the Indian army affects the population on both sides of the LOC. Emotions, the necessity of self-preservation and identity crises have further worsened the problem. Reliving the traumatic experiences has been the single most important factor in keeping the victimhood alive in the collective memory of the Kashmiri community. Folklore and story-telling is used as a coping strategy in society; but rather than relieving burden it gives rise to collective trauma. This permanent situation of torture and grief has created endless socio-psychological problems for the people.

There are measures that can be taken to help both parties to the conflict in creating a framework for a peaceful reconstruction of the Kashmiri society. India and Pakistan must take immediate steps to deescalate the conflict and move towards societal development. Both countries should rethink the nature of negotiations; and initiate a comprehensive dialogue on issues such as security, humanitarian crisis and cross-border community development. Trade between India and Pakistan should be encouraged to create interdependence that will help solve the Kashmir problem. This will also mobilize business

community as potential agents of peace with a direct interest in resolving the conflict by creating new links across the border.

Diaspora from India and Pakistan should also be mobilized as possible ambassadors of peace, as they regularly donate funds and support specific activities and leaders in their country of origin. For future research investigation of the relationship between gender and conflict would be fruitful. The culture of NGOs must be encouraged in the Indian Illegally Occupied Kashmir so the burden of social development could be shared between governmental and non-governmental stakeholders. Lastly, in the psychological and mental health policy direction, it is suggested to enhance the psychological support-services to address the mental health issues in this trauma-exposed population of the Indian Illegally Occupied Kashmir.

Weapons of Mass Destruction and Gulf War II: Myth and Reality

Dr Muhammad Mumtaz Ali Khan*

Abstract

The term Weapons of Mass Destruction (WMDs) became popular in the last decade of 20th Century. It refers to the weapons with the capability to cause indiscriminate loss of life and wide-scale destruction. The United States and its Allies alleged Iraq of developing stockpiles of WMDs, which could be a threat for regional peace and security of the whole world. The developing of such weapons was not illegal as International Law permitted that all states have the right to participate in for the fullest possible exchange of materials, equipment and Technological assistance and information for the peaceful uses of nuclear energy. Before US invasion in Iraq, UN Security Council sent numerous inspection teams like United Nations Special Commission (UNSCOM), United Nations

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Monitoring, Verification and Inspection Commission (UNMOVIC), International Atomic Energy Agency (IAEA) to inspect the stockpiles of WMDs in Iraq. Moreover, other official and impartial inspection teams such as the Iraq Survey Group (ISG) and the Commission on the Intelligence Capabilities (CIC) also presented their reports positive that there were no stockpiles of WMDs in Iraq. However, irrespective of all the agencies' and commissions' reports, the US led Coalition invaded Iraq, proclaiming of nuclear weapons, in March 2003 with devastating missiles. It caused the massacre of millions of innocent Iraqis and the destruction of Iraqi infrastructure. The present paper is an effort to analyze; whether Iraq possessed WMDs or not? Besides, to evaluate this question, it is obligatory to assess WMDs in the light of historical and legal facts. Furthermore, it is also necessary to know whether the possession of WMDs is an offense in international law or customs and are there any standards which make some countries eligible to have them?

Key Words: WMDs, Gulf War, United Nations, Security Council

Introduction

The term Weapons of Mass Destruction (WMDs) refers to Chemical and Biological weapons. It became famous in the last decades of 20th Century during the cold war between the United States and the Republic of Iraq. Iraq since last some decades was not protecting the US and her allies' interests in the region. More importantly Saddam Hussain was not the popular ruler of Iraq but continued ruling by force because the Iraqi people feared persecution. The Shia community, the majority in figure was annoyed with him due to many reasons

especially religious discrimination, cruelty, coercive measures against them, less chances for them to participate in governmental affairs, and most importantly 10 years long war with Shia dominant country Iran.

Soon after Iran-Iraq war (1980-88), Iraq attacked, invaded and annexed Kuwait with Iraq on August 9, 1990. Since then, Iraq attracted world powers' attention and was attacked by world powers led by US on January 17, 1991. The US led Coalition ousted Iraq from Kuwait, which is known as the Gulf War I (1991). Furthermore, soon after the Gulf War I (1991), the issue of Weapons of Mass Destruction came into discussion and it was alleged that Iraq possessed a large number of such weapons, which could be real danger to the region and the world's peace.

Remarkably, the UN Security Council passed the Resolution No. 687²¹ on April 3, 1991, formulating the inspection team to investigate WMDs in Iraq. Formally, on June 9, 1991, the United Nations Special Commission (UNSCOM) started the investigation of WMDs in Iraq, which lasted until 1999. Interestingly, the United Nations Special Commission (UNSCOM) could not find any signs of WMDs in Iraq.²² In spite of UNSCOM failure to find any signs of WMDs in Iraq, it was attacked by Cruise Missiles in December 1998, which is called

²¹ UNSC Resolution 687, S/RES/687 (1991) 8 April 1991

²² Chilcot, John, *The Report of the Iraq Inquiry*: London, Downing Street, 2016, p.4 (section 1.1)

the ‘Operation Desert Fox’²³ that lasted for four days. Later on, the United Nations replaced the UNSCOM to UNMOVIC (United Nations Monitoring, Verification and Inspection Commission) in December 1999.²⁴ After the Operation Desert Fox, the issue of WMDs of Iraq disappeared from world’s scenario until May 2001. Awfully, after the heartrending incident of 9/11 that reshaped Middle East as well as Central Asia, the US led Coalition proclaimed²⁵ that Iraq was developing the stockpiles of WMDs²⁶ and invaded Iraq.

The Weapons of Mass Destruction (WMDs)

The term WMDs stands for Weapons of Mass Destruction which have been primarily used during the time of Cold War between US and USSR. The same term was used by Israeli Prime Minister Menachem Begin in 1981 when Israel targeted Iraqi Nuclear reactor in ‘Operation Opera’. The term was used in Reykjavik Summit (Iceland) in 1986 when the US President Ronald Regan and Mikhail Gorbachev, the General Secretary of Communist Party of USSR met at Reykjavik, Iceland. After that, the term was directly linked with Iraq when Iraq Invaded Kuwait in 1991, Iraq’s nuclear, chemical and biological weapons became the concern of the US and Iraq’s Weapons Program

²³ Thompson, Alexander, Channels of Power: The UN Security Council and the US Statecraft in Iraq, London, Cornell University Press, 2009, p. 116

²⁴ UNSC Resolution 1284, S/RES/1284 (1999) 17 December 1999

²⁵ Cramer, Jane K., A. Trevor Thrall, Why Did the United States Invade Iraq? Routledge Taylor & Francis Group, New York, 2012, p.201

²⁶ Bassil, Youssef. "The 2003 Iraq war: operations, causes, and consequences." *Journal of Humanities and Social Science* 4, no. 5 (2012): 29-47(29)

was termed as WMDs. Most importantly, Iraq was attacked by the US and its allies in 2003 on the premises of WMDs accusation. To what extent the allegations and accusations of possession of WMDs by Iraq were true, can be found in and by certified references and many reports especially prepared for this issue. What the WMDs are exactly, the Report of the Iraq Inquiry defines it in the words: “The term weapons of mass destruction originated as an umbrella concept covering weapons with the capability to cause indiscriminate loss of life and wide-scale destruction.”²⁷

It would be evident and clear even from the reports made by state agencies that invaded or were part of that coalition. For example, the UK government announced and formulated a fair and free inquiry commission to analyze the invasion of Iraq in 2003. The Commission started its inquiry in the late 2009 and completed it in 2011, which could not be published until 2016 due to some political issues between the UK and the United States. Elucidatory, *The Report of the Iraq Inquiry* consists of 17 volumes comprising more than six thousand pages. It is one of the primary sources of this paper, which describes the Saddam program of WMDs in Iraq in the words that:

The ingrained belief that Saddam Hussein’s regime retained chemical and biological warfare capabilities, was determined to preserve and if possible, enhance its capabilities, including at some point in the future a nuclear capability, and

²⁷ Chilcot, John, *The Report of the Iraq Inquiry*: London, Downing Street, 2016, p.4 (section 4)

was pursuing an active policy of deception and concealment, had underpinned UK policy towards Iraq since the Gulf Conflict ended in 1991.²⁸

The question to be answered or to be analyzed is, whether Iraq possessed WMDs or not? Besides, to evaluate this question, it is obligatory to assess WMDs in the light of historical and legal facts. Furthermore, it is also necessary to know whether the possession of WMDs is an offense in international law or customs. The further question may be asked, do there exist such kind of standards that entitles for different states to have them. Briefly, there are no such International Laws, which define all aspects of Weapons (whether Chemical and biological or simple weapons) and their usage. Therefore, there is no such International Law, which clarifies and answers to the above-mentioned queries. Elucidatory, there are some ambiguous articles of International Law, for instance, the “Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological and Toxin Weapons and their Destruction” and “The Treaty on the Non- Proliferation of Nuclear Weapons” etc. Surprisingly, the “Treaty on the Non-Proliferation of Nuclear Weapons” clarifies that:

All the Parties to the Treaty undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials

²⁸ Ibid, p.8 (section 4.1)

and scientific and technological information for the peaceful uses of nuclear energy. Parties to the Treaty in a position to do so shall also co-operate in contributing alone or together with other States or international organizations to the further development of the applications of nuclear energy for peaceful purposes.²⁹

The foregoing paragraph illustrates that the member states could possess and use Biological and Chemical Weapons for peaceful means. Ambiguously, there is no explanation of the standard of peaceful purposes. In short, a group of British scholars compiled a book *Nuclear Weapons under International Law* on WMDs and other Chemical Weapons, which can be considered a reliable source for Nuclear Weapons in the light of International Law. The authors describe in the book that: “International Human Rights Law focuses on the lawfulness of the use of nuclear weapons under a number of different human rights instruments.”³⁰

The Reports of the Inspections Teams

After the Gulf War, the Iraq’s Weapons Program got fame and with the passage of time, it became an international issue. Pursuing this emerging issue, United Nations and other international inspectors

²⁹ International Law Handbook: New York, united Nations,2017, volume 2, pp.431,432

³⁰ Mitchell, Eleanor. "Nuclear Weapons under International Law, Gro Nystuen, Stuart Casey-Maslen and Annie Golden Bersagel (eds)." *International Review of the Red Cross* 97, no. 899(2015):913-921. (p.920)

made many inspections of the Iraqi weapon program. Some of the reports are being quoted here for reference. Historically speaking, when the United States alleged Iraq of developing WMDs soon after the Gulf War I (1991), the UN Security Council passed the resolution No. 687³¹ on April 3, 1991, formulating the inspection team to investigate WMDs in Iraq. Although, the US led coalition had eradicated the stockpiles of Chemical and Biological Weapons during the Gulf War I (1991), it still insisted about the presence of WMDs in global media. Formally, on June 9, 1991, the United Nations Special Commission (UNSCOM) started its investigation of WMDs in Iraq, which lasted until 1999.

The Inquiry Report assessed that whether Saddam Hussain used Chemical and Biological Weapons during Iran-Iraq war and during the Invasion of Kuwait. After Gulf War I, the UN Security Council (UNSC) through its Resolution No. 687,³² imposed sanctions on the wide range missiles of Iraq, which lasted till Gulf War II.³³ Interestingly, the UNSCOM could not find any sign of WMDs in Iraq.³⁴ After the UNSC Resolution No. 687, the United Nations Special Commission (UNSCOM) and the International Atomic Energy Agency (IAEA) started inspection of WMDs in Iraq which

³¹ UNSC Resolution 687, S/RES/687 (1991) 8 April 1991

³² UNSC Resolution 687, S/RES/687 (1991) 8 April 1991

³³ Chilcot, John, *The Report of the Iraq Inquiry*: London, Downing Street, 2016, p.8 (section 4.1)

³⁴ Chilcot, John, *The Report of the Iraq Inquiry*: London, Downing Street, 2016, p.4 (section 1.1)

could not find any sign of WMDs in Iraq until 1997. After six years' inspection of WMDs, the Director General of the IAEA, Dr. Hans Blix, concluded on October 6, 1997 that the WMDs program of Iraq reached the diminishing returns. He was of the opinion that: "The IAEA investigation of Iraq's nuclear program reached the point of diminishing returns to an extent to which the remaining acceptable uncertainty was a political judgement."³⁵ Later, another team named Operation Desert Fox³⁶ was appointed in December 1998 to inquire about the presence of WMDs in Iraq. Later, the United Nations replaced the UNSCOM to United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) in December 1999.³⁷ After the Operation Desert Fox, the WMDs issue of Iraq did not get much attention until the year 2001.

The UNSC Resolution 1137

The UN Security Council passed the Resolution No. 1137³⁸ on November 12, 1997, through which Iraq was condemned and threatened to cooperate with the UN inspection teams. Recalling the previous resolutions, Iraqi officials were banned to travel, so that they could enhance their cooperation with inspection teams. Despite full cooperation, the UNSCOM and IAEA could not find any signs of

³⁵ Ibid, p.84 (section 1.1)

³⁶ Thompson, Alexander, Channels of Power: The UN Security Council and the US Statecraft in Iraq, London, Cornell University Press, 2009, p. 116

³⁷ UNSC Resolution 1284, S/RES/1284 (1999) 17 December 1999

³⁸ UNSC Resolution 1137, S/RES/1137 (1997) 12 November 1997

WMDs.

Dr. El-Baradei's Report

The Director General of IAEA, Dr. El-Baradei confirmed on October, 1988 that there was no evidence of WMDs in Iraq. He confirmed that: “There was no evidence or indications of prohibited activity at the sites inspected before Iraq’s decision of August 5, to cease co-operation.”³⁹ The El-Baradei’s Report certified that there were no stockpiles of WMDs in Iraq. He also suggested that the economic and other sanctions should be removed but the suggestion could not get acceptance until the outbreak of Second Gulf War. When the inspection teams failed to find stockpiles of WMDs, the United States ordered them to leave Iraq by December 1998. On December 16, 1998, the UN Secretary General, Mr. Kofi Annan admitted that: “Annan had received a telephone call from Mr. Burleigh, who had advised him that the US personnel in Iraq were being asked to leave. Mr. Butler had also been advised to withdraw UNSCOM personnel and instructed them to do so.”⁴⁰ When the US personnel in Iraq went back, the US and the U broadcasted that Iraq was not cooperating with the inspectors, therefore, they decided the Operation Desert Fox in which they launched air attacks against Iraq.

³⁹ Chilcot, John, *The Report of the Iraq Inquiry*: London, Downing Street, 2016, p.131 (section 1.1)

⁴⁰ *Ibid*, p.146 (section 1.1)

The Operation Desert Fox

The Operation Desert Fox lasted for four days, ruining many oil depots and main cities of Iraq. The US and the UK had not taken specific authorization from the UN Security Council for aforementioned Operation.⁴¹ They considered the moral support of Mr. Kofi Annan sufficient to attack Iraq. As Mr. Kofi Annan, the then Secretary General of the UN condemned the aggression and the violation of the UNSC Resolutions. He Stated that:

It was a sad day for the United Nations and for the world as well as a very sad day for me personally. Throughout the year, I had done everything in my power to ensure peaceful compliance with Security Council resolutions and to avert the use of force. It had not been an easy or a painless process, but the United Nations had to try as long as any hope for peace remained.⁴²

Mr. Annan concluded: “I deeply regret that today these efforts have proved insufficient.”⁴³ It was a bad day in the history of the UN as described by the then Secretary General of UN. Remarkably, the UNSC further passed another

⁴¹ Chilcot, John, *The Report of the Iraq Inquiry*: London, Downing Street, 2016, p.147 (section 1.1)

⁴² *Ibid*, p.147 (section 1.1)

⁴³ *Ibid*, p.147 (section 1.1)

Resolution No. 1284, threatening Iraq to allow United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) team's immediate, unconditional and unrestricted access to the sites. It wanted to inspect and interview the individuals.⁴⁴

The United Nations Monitoring, Verification and Inspection Commission (UNMOVIC)

The UNMOVIC began the inspection of WMDs in Iraq by the end of 1999. The Commission submitted its Quarterly Reports to the UN Security Council in 2000. Further, the Commission submitted its 10th quarterly Report by September 2002, which highlighted the continuous progress of the inspection team. The Report highlighted that they were scanning documents electronically, which contained nearly 30,000 records until 2000.⁴⁵ Surprisingly, the inspection team could not find any stockpile of WMDs. The inspection report did not submit any complaint against Iraq of non-cooperation and non-assistance but the UNSC was asked to get another resolution passed against Iraq.

The UNSC Resolution 1441

The UN Security Council passed another Resolution No.1441⁴⁶

⁴⁴ Ibid, p.178 (section 1.1)

⁴⁵ UNMOVIC Tenth Quarterly Report to the UNSC, S/2002/981 Security Council, 3 September 2002

⁴⁶ UNSC Resolution 1441, S/RES/1441 (2002) 8 November 2002

against Iraq by recalling all the previous revolutions concerned with the disarmament of Iraq. The Resolution 1441 created a number of key ambiguities like: “The level of non-compliance with Resolution 1441 which would constitute a material breach by whom that determination would be made and whether there would be a second resolution explicitly authorizing the use of force.”⁴⁷

It is said that the above ambiguities were created deliberately because they could fulfil their desires by taking advantage of these ambiguities. Imprudently, these Resolutions were irrelevant and wastage of time because UNMOVIC and IAEA were searching for WMDs and submitting their progress reports regularly. Thus, Iraq accepted the Resolution 1441 unconditionally and allowed the inspectors to search for WMDs. Furthermore, Iraq assured its full cooperation with UNMOVIC.

The Official Report of Iraq on WMDs

The UNSC inspection team insisted Iraq to submit details of WMDs. The Iraqi officials submitted the 12,000 paged Report on December 7, 2002 on the possession of WMDs in which it proved that the country did not possess any WMDs but that report was accepted and Saddam Hussain was asked to go into exile or be prepared for devastating attacks.⁴⁸

⁴⁷ Chilcot, John, The Report of the Iraq Inquiry: (Executive Summary): London, Downing Street, 2016, p.178 (section 1.1)

⁴⁸ Thorpe, Edgar and Showick Thorpe, The Pearson CSAT Manual 2011: India, Saurabh Printer, 2004, p. 107

The Colin Powell Briefings at the UNSC

The US Secretary of State, Mr. Colin Powell briefed the UNSC on the WMDs and violations of Iraq on February 5, 2003. He briefed that:

- The Iraqis were moving “not just documents and hard drives but also weapons of mass destruction to keep them away from being found by inspectors.
- In early December, Saddam Hussein had all Iraqi scientists warned of the serious consequences that they and their families would face if they revealed any sensitive information to the inspectors. They were forced to sign documents acknowledging that divulging information is punishable by death.
- Secretary Powell concluded by setting out the US position on the activities in Iraq of Al Qaida and Ansar- ul-Islam. The Iraq’s denial of those links and its support for terrorism was “a web of lies”. The US was not prepared to run the risk of Saddam Hussein using his weapons of mass destruction.
- Secretary Powell said that Iraq was not taking its last chance and the Council had an obligation to

ensure that its resolutions were complied.⁴⁹

In the briefing, Mr. Powell alleged Saddam of non-compliance and dis-obligation of the UNSC Resolutions. He also accused Saddam of threatening his scientists to not reveal sensitive information of WMDs. Interestingly, soon after the Powell briefing, Dr. Hans Blix released a report on February 14, 2003.

Dr. Hans Blix's Report

On February 14, 2003 Dr. Hans Blix, the Director of UNMOVIC, briefed the UN Security Council, soon after the briefing of Collen Powell on the progress of UNMOVIC. He described that Iraqi officials were fully cooperating and there were no obstacles for inspectors to visit different sites. He further asserted that they did not find any prohibited weaponries until February 2003.⁵⁰

Dr. El-Baradei's Report

On the same day; February 14, 2003, after the briefing of Dr. Hans Blix, the Director of the IAEA, Dr. El-Baradei, briefed the UN Security Council on the IAEA inspection team's progress. He also testified that they did not find any restricted Weapons of Mass Destructions. Dr. El-Baradei reported that:

- The IAEA found no evidence of ongoing prohibited

⁴⁹ Chilcot, John, The Report of the Iraq Inquiry: London, Downing Street, 2016, p.189 (section 3.7)

⁵⁰Notes for briefing the Security Council on UNMOVIC's Readiness to Resume Operations, <https://www.un.org/Depts/unmovic/recent%20items.html>

nuclear or nuclear-related activities in Iraq, although a number of issues were still under investigation.

- Iraq continued to provide immediate access to all locations.
- The IAEA continued to interview key personnel and had recently been able to conduct four interviews in private, although the interviewers recorded the whole proceedings. In the meeting in Baghdad, Iraq “reconfirmed its commitment to encourage its citizens to accept interviews in private, both inside and outside of Iraq”.
- Iraq expanded the list of relevant personnel to more than 300 to include higher-level key scientists. IAEA continued to ask for information about personnel of lesser rank.
- The IAEA intended to increase the number of inspectors and support staff and to “expand and intensify the range of technical equipment.”⁵¹

The above-mentioned reports completely reject the Colin Powell’s speech of February 5, 2003. These reports suggested peaceful disarmament of Iraq instead of military action. Besides, the inspectors found only two Al-Samoud Missiles that were destroyed on February

⁵¹ Chilcot, John, *The Report of the Iraq Inquiry*: London, Downing Street, 2016, p.247 (section 3.7)

27, 2003.⁵² The above reports show that there was no legitimacy of military action against Iraq according to the UNSC resolutions. The next month, Dr. Blix and Dr. El-Baradei once again reported the UNSC positively that there were no indications of nuclear weapons.

Dr. Blix's Report to the UNSC

Dr. Blix reported UNSC on March 7, 2003 that UNMOVIC was working under several Security Council Resolutions. He asserted that the UNMOVIC would be ready to submit its report at the end of March. He additionally stated that:

The UNMOVIC was working under several resolutions and the resolution 1284 (1999) instructed UNMOVIC to address unresolved disarmament issues and to identify key remaining disarmament tasks ... to be submitted for approval by the Council in the context of a work program. The UNMOVIC was required to submit only the work program to the Council and the draft would be ready “this month as required.”⁵³

Dr. Blix's Report indicates that the Iraqi officials were cooperating fully to eradicate and end the sanctions imposed on Iraq. Both, the UNMOVIC and Iraqi officials were hoping that they would succeed

⁵² Ibid, p.376 (section 3.7)

⁵³ Ibid, p.377 (section 3.7)

to solve the issue of Iraq through peaceful means but that was only a wish or an illusion.

The Dr. El-Baradei's Report to the UNSC

Remarkably, Dr. El-Baradei reported the UNSC on March 7, 2003 that there were no signs of nuclear weapons. He additionally stated that Iraq had neither possessed nor created any kinds of nuclear weapons since the UN inspectors had left Iraq in December 1998. He, likewise, stated that:

There were no indications that Iraq had resumed nuclear activities since the inspectors left in December 1998 and the recently increased level of Iraqi co-operation should allow the IAEA to provide the Security Council with an assessment of Iraq's nuclear capabilities in the near future.⁵⁴

The March 7th Reports also announced that Iraq would be disarmed in peaceful way and military action would be illegal and cruelty to humanity. The rest of the world was insisting on the peaceful means of disarmament and motivating the US and UK to wait for the final reports of the inspection teams. On March 17, 2003 the UNSC inspectors were ordered to withdraw from Iraq without completing their job, which was a red signal for the devastating and destructive danger for Iraq.⁵⁵ On March 19, 2003 there was a long debate in the

⁵⁴ Chicot, John, *The Report of the Iraq Inquiry*: London, Downing Street, 2016, p.574 (section 3.8)

⁵⁵ *Ibid*, p.574 (section 3.8)

UNSC on military action against Iraq. The P3 (three permanent members of the UN Security Council) were against the military action including France, Russia and China.⁵⁶ Besides that, a majority of the members of the General Assembly were also against the military action. They emphasized on the peaceful disarmament.⁵⁷ However, all efforts of the UNSC and the UNMOVIC were dashed, due to the military action of the US led Coalition against Iraq.

Mr. Kofi Annan and the Military Action

After failing to convince the Security Council members, the US and UK attacked on Iraq on March 19, 2003 without any approval of the United Nations, which was the saddest day in the history of United States. Mr. Kofi Annan, Secretary General of the United Nations, was disappointed from the military action against Iraq. He stated that the military action was illegal and violation of the rules of United Nations. He expressed his despondency in these words:

The decision by the United States and its allies to proceed with the invasion of Iraq without Security Council authorization was a defeat for all of us who had sought to ensure that Iraq's defiance of the United Nations was met by a unified and effective response. However, it was a vindication, too, of principle over power. Members of the Council, including close allies and neighbors of the United States, had insisted on the prerogative of the United Nations Security Council to decide under international law whether a member state was in material breach of

⁵⁶ Ibid, p.574 (section 3.8)

⁵⁷ Ibid, p.585 (section 3.8)

the Council's resolutions, and what the consequences should be.”⁵⁸

After the armed attack on Iraq, a number of inquiry commissions were launched in search of WMDs. Particularly, the US led coalition created Iraq Survey Group (ISG) to look for nuclear weapons. Besides, many inspection teams also searched the Iraq plan of WMDs and published their reports such as Dr. Hans Blix, Hutten, and the US Commission on the Intelligence Capabilities. The conclusions of some key reports are as below.

Dr. Blix's Final Report to the UNSC

After the invasion of Iraq (2003), Dr. Blix submitted his report at the end of May 2003, in which he elucidated that there were no WMDs in Iraq. He even testified that the Commission had not found any evidence of the continuation or resumption of the WMDs program at any time since 1991. He further illustrated that: “The Commission had not at any time found evidence of the continuation or resumption of programs of weapons of mass destruction or significant quantities of prescribed items, whether from pre-1991 or later.”⁵⁹ Dr. Hans Blix was trying to legitimize the Invasion before, but then he announced that the attack was illegal and inspectors did not find any WMDs at any time neither pre-1991 nor later on. By March 2005, the US

⁵⁸ Annan, Kofi, *Interventions: A life in war and Peace* by The Report of the Iraq Inquiry: p.586

(section 3.8

⁵⁹ Chilcot, John, *The Report of the Iraq Inquiry*: London, Downing Street, 2016, p.481 (section 4.4)

Commission on the Intelligence Capabilities (CIC) also published its report on the Iraq program of nuclear weapons.

The Iraq Survey Group (ISG) was an International inspection team after the invasion of Iraq, which consisted of nearly 1,400 members to search stockpiles of WMDs in Iraq. When David Kay, head of the inspection team, resigned claiming that he believed that there would not have been any stockpiles of WMDs in Iraq, Mr. Charles Duelfer became head of the team and published his final report on September 30, 2004. The ISG Report is also known as “Duelfer Report”. Surprisingly, the Duelfer Report also unveiled the fact that they could not find any kind of nuclear weapons in Iraq. The Duelfer Report illustrated that Iraq had rolled back the nuclear program in 1991 following the Gulf War I (1991). The Report consists of three volumes and further divided into different parts like Nuclear, Chemical and Biological Weapons. Only key points of these parts are described briefly in the lines below.

The Report elucidates that they could not find any evidence of Nuclear Weapons, explaining that Saddam Hussain had ended his nuclear program after the Gulf War I (1991). “Saddam Hussain ended the nuclear program in 1991 following the Gulf war. The ISG found no evidence to suggest concerted efforts to restart the program.”⁶⁰ It is described in the Report that the inspectors did not find any stockpiles of Chemical Weapons except, a small number of remnants of destroyed ammunitions. The Report illustrates that: “While a small

⁶⁰Duelfer, Charles, Comprehensive Report on Iraq’s WMDs: 30 September 2004, volume 2, p.1 (Nuclear)

number of old, abandoned chemical munitions have been discovered, ISG judges that Iraq unilaterally destroyed its undeclared chemical weapons stockpile in 1991.”⁶¹

, The ISG Report illustrated that the inspection team could not find any such evidence of biological weapons as well in Iraq. The inspectors judged that: “in 1991 and 1992, Iraq appears to have destroyed its undeclared stocks of BW (Biological Weapons) and probably destroyed remaining holdings of bulk BW agent.”⁶² Due to the scarcity of time and space, the above-mentioned evidences are briefly described. Also, the unilateral and the US fully funded Iraq Survey Group (ISG) also reported that Iraq had destroyed its stockpiles of WMDs soon after the Gulf War (1991).

The Report of the Commission on the Intelligence Capabilities

On February 6, 2004 the then President of the United States, George Walker Bush, created the Commission on the Intelligence Capabilities (CIC) to search out the stockpiles of WMDs in Iraq. It was an official inspection team of the government of United States, which published its report on May 31, 2005 nearly after 15 months. Profoundly, the Commission concluded that they could not find any kind of WMDs in Iraq.

The Intelligence Community was dead wrong in almost all of its pre-war judgments about Iraq's

⁶¹ Duelfer, Charles, Comprehensive Report on Iraq’s WMDs: 30 September 2004, volume 3, p.1 (Chemical)

⁶² Duelfer, Charles, Comprehensive Report on Iraq’s WMDs: 30 September 2004, volume 3, p.2 (Biological)

weapons of mass destruction. This was a major intelligence failure. Its principal causes were the Intelligence Community's inability to collect good information about Iraq's WMDs programs, serious errors in analyzing what information it could gather, and a failure to make clear just how much of its analysis was based on assumptions, rather than good evidence. On a matter of this importance, we simply cannot afford failures of this magnitude. After a thorough review, the Commission found no indication that the Intelligence Community distorted the evidence regarding Iraq's weapons of mass destruction. What the intelligence professionals told you about Saddam Hussein's programs was what they believed. They were simply wrong.⁶³

A common person cannot accept that International Inspectors could not find WMDs after the search of 15 years but the same inspectors found and published their final reports within 15 months. These reports testify that the WMDs cause of the Invasion of Iraq was a fully fabricated propaganda.

Conclusion

The industrial revolution in Europe generally changed the world and gave new trends to modern world. Since the very beginning of the 20th Century, the humans witnessed and faced many devastative and destructive wars. We have sacrificed billions of people in these wars to stabilize the world peace. In late 20th and beginning of 21st century, the Gulf Wars I & II were an example where the destruction and

⁶³ The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction: Report to the President of the United States. 31 March 2005, p. 1

destabilization was caused in the name of stabilization, construction and peace. Unfortunately, these wars took lives of nearly one million people and countless injuries. In fact, there did not exist comprehensive legislation or treaty that could prohibit the manufacturing and possession of weapons of mass destruction. The Treaty on Non-proliferation was for those states only who signed and ratified it. So, International Law allows impartially all member states to possess and use Chemical Weapons for peaceful means.

Although, Iraq did not possess the Weapons of Mass Destruction, which is clear from many reports prepared by special missions on Iraq, it was invaded in the mid of March 2003. After the invasion, Dr. Blix once again presented his report to the UNSC. Precisely, the UN special commissions and other private inspection teams failed to find any stockpile of WMDs in Iraq after searching it for more than a decade, as it has been described in the present study. Unfortunately, the millions of innocent Iraqis were dashed to death due to an illusion and a false statement about WMDs and even today, the miseries of Iraqi people in no way seem to end.

Plight of Divided Families of Jammu and Kashmir

Hasnain Bin Sajjad Raja*

Abstract

The Kashmir conflict has many dimensions. This simmering conflict created many negative impacts on the lives of the people of the Indian Illegally Occupied Jammu and Kashmir. The families have been divided. The people of Indian Occupied Jammu and Kashmir were forced to migrate to Azad Kashmir and Pakistan. One member of the family is living in the Indian Occupied Jammu and Kashmir while the other is living in Azad Kashmir or Pakistan. From many decades they have not met each other. The miseries and pain of divided families have been generally ignored. This paper briefly discusses the genesis of Kashmir conflict and its impact on the lives of the people of Jammu

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and Kashmir. The paper highlights humanitarian dimension of the Kashmir conflict. It provides an overview of migrations from the Indian Occupied Kashmir to Pakistan or Azad Jammu and Kashmir, after the partition of the sub-continent. The main focus is to investigate the reasons of migration of people after 1989. This research is mostly interview based. However, some historical accounts are also discussed and analyzed.

Keywords: Ceasefire line (CFL), Line of Control (LOC), Refugees, Internally Displaced Persons (IDPs), Humanitarian Crisis, Divided Families.

Introduction

Jammu and Kashmir, rich in natural resources, was a princely state of the subcontinent before its partition. Through the partition plan, all the princely states of the subcontinent were given the choice to either accede with India or with Pakistan. Jammu and Kashmir were a Muslim majority state ruled by Dogra Rulers in 1947. As the people of erstwhile state of Jammu and Kashmir were Muslims, they wanted to accede with Pakistan because of their ideological and religious attachments. However, the Dogra Rulers announced its accession with India which resulted in protests by the natives against the Maharaja. Some people even started armed struggle against Maharaja to get freedom. Accompanied by the Tribal people of FATA now part of KP province of Pakistan, Kashmiris succeeded in liberating the Pakistan administered part of Jammu and Kashmir State but a large part of the state is still under Indian Occupation. Both India and Pakistan claim their right over Kashmir and have fought three wars

on the issue. This includes violations of the cease fire agreement by India.

Due to the conflicting situation in the region, Kashmiri people are facing numerous problems. One of the major problems is that many families are divided by the Ceasefire Line (CFL) renamed as Line of Control (LoC) after Simla Agreement 1972. Some members of certain families are in the Indian Occupied Kashmir and others are in Azad Kashmir. This division is the result of the armed conflicts between India and Pakistan and the atrocities of occupational forces in the Indian Occupied Kashmir.

Refugees and Internally Displaced Persons (IDPs)

According to international law, the displacement can be divided in to two categories; refugees and internally displaced persons (IDPs). According to the Article 1A (2) of the 1951 of the Geneva Convention on Refugees

A refugee is a person who is outside his/her country of nationality on the sound reasons for anxiety of being victimized because of his/her race, religion, nationality, membership of a specific social group or political belief, and is incapable to attain protection from home state or the person who do not having a nationality and being outside the country of his former habitation.⁶⁴

⁶⁴ UNHCR, The Refugee Agency, <https://www.unhcr.org/1951-refugee-convention.html>

The definition of IDPS provided by the United Nations Guiding Principle on Internal displacement as:

persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human made disasters, and who have not crossed an internationally recognized State border.⁶⁵

While analyzing both the definitions, one common thing is found that after 1947, the people of Jammu and Kashmir were forced to migrate because of the Kashmir Conflict. The people who had migrated towards Pakistan from India are refugees because they crossed the boundaries of their own state, but the people migrated from the Indian Occupied Jammu and Kashmir towards Azad Jammu and Kashmir are IDPs.

Different Phases of Migration

After the partition of the sub-continent, there are mainly four phases of migration. The first phase of migration took place in 1947 to 1949, second phase 1965, third phase 1971 and fourth phase in 1990 onwards. The first migration took place soon after the announcement of partition plan. Dogra Forces, RSS, Akali Dal and Patiala Forces were deputed in Jammu for killings of Muslims. This was the first planned and systematic ethnic cleansing; conducted by India which was done with the consent of the then ruler of Kashmir, Maharaja Hari

⁶⁵ “Guiding Principles on Internal Displacement”, *United Nations*, <https://www.ohchr.org/en/issues/idpersons/pages/standards.aspx>.

Singh. The *Daily Times* London Reported, “Out of a total of 8 lakhs who tried to migrate, more than 237,000 Muslims were systematically exterminated by all the forces of the Dogra State, headed by the Maharaja in person and aided by Hindus and Sikhs”⁶⁶. These refugees were settled in different areas of the Punjab and Khyber Pakhtoon Khawa. Some of them also moved from Pakistan to Azad Kashmir. Soon after the landing of Indian forces in Occupied Kashmir, the Hindus and Sikhs living in the areas of Azad Kashmir migrated towards Indian Occupied Kashmir. According to the International Committee of Red Cross, they facilitated about 5000 persons to migrate from Azad (Free) Kashmir to India.⁶⁷ According to a report of Indian government, 31,619 families migrated from Azad Kashmir to Indian Occupied Kashmir.⁶⁸

Second phase of the migrations was in 1965, during the Pakistan–India War. After the end of war, Indian government started killings, torture, sexual assault and pushing the Muslim population living on the adjacent village of the ceasefire line. Approximately ninety thousand people migrated towards Pakistan and Azad Kashmir, 10,500 were killed and about 4,687 Kashmiri girls were abducted by the Indian forces.⁶⁹ These migrants got settled in different areas of

⁶⁶ ‘Elimination of Muslims from Jammu’, II, *The Times*, (London), 10 August 1948, p. 5.

⁶⁷ International Committee of Red Cross, “The ICRC since 1945: post-independence violence in India and Pakistan, 03-05-2005”, <https://www.icrc.org/en/doc/resources/documents/misc/india-pakistan-kashmir-1947.htm>

⁶⁸ J&K’s Stateless People: *Report No 183, Parliament of India, Rajya Sabha, 17 April 2015*, <http://www.jammu-kashmir.com/insights/insight20150417.html>

⁶⁹ Aziz Beg, *The Wailing Vale* (Lahore: Babur and Amir Publications, 1969), 309-28.

Azad Kashmir and Pakistan. The third phase of migration was after Pakistan-India war of 1971, but during this period the quantum of migrations was not high.

In Occupied Jammu and Kashmir, people started a new phase of freedom struggle in 1988. The Indian government converted the state into a heavy militarized zone. The occupational forces arrested and tortured people to terrify them. These forces conducted the cordon and search operations, mass killings and mass rape incidents. The life, honor, property and dignity of the people were not safe. People from the Indian Occupied Kashmir started migrations towards Azad Jammu and Kashmir. Due to weather conditions, mines, Indian army's firing and very long traveling, many people died, got injured and became paralyzed on the way. The people migrated from the Indian Occupied Kashmir were settled in different places in five districts of Azad Jammu and Kashmir. According to the data provided by Rehabilitation Department, Government of Azad Jammu and Kashmir, on October 1, 2019, the total number of migrated families was 7,146 and total persons were 40,217. In District Muzaffarabad there were 5,030 families and 27,076 persons, out of these 105 families and 541 persons are in Neili Camp Hattian.

In Muzaffarabad district there are ten camps; three camps are in Ambore, Rara Domishi Camp, Basnara Camp, Manak Payan no.01, Manak Payan no.02, Thotha Camp, Chehla Bandi, Karka Pathika Camp and Zero Point. 2,303 families (11,291 persons) are living outside the camps in Muzaffarabad. In District Bagh there are five camps; Chattar No.02, Mang Bajri, Huda Bari, Naar Sher Ali Khan

and Qadir Abad. Sixty-five families (370 persons) are living outside the camps. Total families in district Bagh are 1,119 having 6,805 persons. In district Kotli Azad Kashmir there are 878 families (5,393 persons). There are two camps Gulpur and Kotli Sohlinan. 274 families (1,490 persons) are living outside the camps in different areas of Kotli, whereas 11 families (76 persons) are living in Fateh Pur. In district Mirpur there is no camp, 106 families (805 persons) are living in different places. In Rawalakot 13 families (138 persons) are living in different areas but there is not any camp.⁷⁰

In Jammu and Kashmir, there was always interfaith harmony and cooperation. The Indian government tried to counter freedom movement by using force and different tactics. In 1990, the Governor of IOK, Jagmohan planned the migration of Kashmiri Pundits. The basic aim was to defame the freedom struggle as a communal activity and to crush the movement with iron hands without harming Hindu Pundits, as these Pundits were living in Muslim population areas. After 1989, a total of 219 Pundits were killed,⁷¹ but the leadership of Kashmir Liberation Movement always demanded to probe into the matter that who killed them. They were also asking for the return of Kashmir Pundits, but BJP was using these Pundits in internal politics of India to secure vote bank of Hindu voters.

⁷⁰ Rehabilitation Department Govt. of Azad Jammu and Kashmir.

⁷¹ Er. Arafat Ashraf Kakru, "The Pandit migration", *Rising Kashmir*, August 15, 2018,

[http://risingkashmir.com/news/the-pandit-migration.](http://risingkashmir.com/news/the-pandit-migration)

The Plight of Divided Families

The line of control, not only divided villages but it has also separated mother from son, brother from sister, families, emotions and sentiments. The stories of the divided families of 1947, 1965 and 1971 are also like the stories of immigrants of post 1989. People who migrated after 1989 to this side of ceasefire line have their family members on the other side too. Families are divided since decades and could not even see their relatives. Every story has pain, tears, hope and struggle. They migrated because their fathers and brothers were dragged on roads, being imprisoned and even getting killed brutally, their sisters being raped, their mothers getting half-widowed or molested. They were raised by nothing but violence and misery and in case if their family members were alive in IOK. They could not go and meet them neither could they communicate by any means. In 2005, bus service was started between Muzaffarabad and Srinagar. The refugees had hope that they will visit and see their loved ones, but the immigrants of 1989 were not allowed by Indian government to travel through bus service.

The reason of migration of these people and their plight could be understood by interacting with them. Al Jazeera's reporters collected many stories. Talking to Al Jazeera, Usman Ali, who migrated at the age of 16 years, belonging to Kunan Posh Pura said, "I did not enroll in school here because when I came, I did not come for school. I came to take part in the struggle for independence. I felt that if my life here was difficult, I was doing it for my family who was suffering over

there. There should be some reason I came here. But after staying here so long, I have lost out.”⁷²

Another person, Chaudhry Mushtaq who is currently residing in Manak-Payan refugee camp Muzaffarabad fled his home when he was 17. He left home because both his father and brother were imprisoned by Indian Forces allegedly being a part of independence movement. He told, “At the time I was very young. I was scared and didn’t know how to [cross the LoC]. But the pressure and cruelty on the other side was so much that all day, every day, the army men would come and bother my family. So, it was my mother who said that I should leave, no matter what, so that I can avoid my brother’s fate”.⁷³

Uzair Ahmed Ghazali, who has a brother, two sisters and a mother still on the other side of LoC told, “[In 1989], Indian forces began carrying out more raids, arresting young and old alike, imposing curfews, curtailing people’s movements, shooting people wherever they found them. So, in that situation, I received reports that I was also going to be captured. The elders in the village told me that intelligence agency and security forces personnel were roaming in my village. So out of fear, like others, we ran away here to Azad Kashmir.”⁷⁴ Babur Khan, S/O Dilawar Khan, R/O Pathika,⁷⁵ who migrated in 1990 from village Keran, Kupwara at the age of 15, told

⁷²Asad Hussain, “Kashmir refugees living a life on hold”, *Al Jazeera*, September 18, 2013. <https://www.aljazeera.com/indepth/features/2013/09/201391711186325937.html>.

⁷³Ibid

⁷⁴ Ibid.

⁷⁵ Babur Khan, Personal Interview on October 01, 2019.

that he migrated with his parents because of the oppression of the Indian Army. The army pressurized them for forced labor without any wages and in case of denial they were arrested and tortured.

Khawaja Muhammad Azhar, S/O Maulvi Ghulam Mujtaba,⁷⁶ who is 64 years old, residing in Thotha Refugee Camp, migrated from Keran Kupwara at the age of 35 in 1990, told that his son is living in the Indian Occupied Jammu and Kashmir. He migrated when the Indian army increased torture and humiliation. He told that he himself witnessed that during crackdown, an army personal asked a young boy to put his hand on table. When he placed his hand on the table, the army personal cut his hand with sharp knife and the young boy became disabled. Maryum Butt, D/O Khaleeq Butt,⁷⁷ also belongs to District Kupwara. She migrated at the age of 30 in 1990. She told that her daughter was in the Indian Occupied Kashmir. She said, “From 1990, I never got peace of mind any day, I cannot forget my daughter, I cannot see her”. Her misery was visible in her tears. She could not talk of her daughter for long because of her sorrow and pain.

Meera Begum, D/O Gulstan Mir,⁷⁸ residing in Abid Shaheed Camp Chehla Bandi, migrated at the age of 30 with her husband. She informed that her family was feeling threat of life. Her father was brutally killed by the Indian forces. Ashiq Hussain, S/O Manga Khan,⁷⁹ migrated alone in 1990 at the age of 13 years because his elder brother was arrested by the Indian army. Ghulam Rasul Rather,

⁷⁶ Khawaja Muhammad Azhar, Muzaffarabad, Personal Interview ,October 01,2019

⁷⁷ Maryum Butt, Personal Interview, Muzaffarabad, September 20, 2019.

⁷⁸ Meera Begum, Personal Interview, Muzaffarabad, September 21, 2019.

⁷⁹ Ashiq Hussain, Personal Interview, Muzaffarabad, September 22, 2019.

S/O Abdul Rehman Rather,⁸⁰ migrated from Uri Baramula in 1990 at the age of 25. He told that he was arrested and tortured by the Indian army in camp. His whole family is in occupied Kashmir. He told that he misses his family. He said, we cannot share pain and happiness with our family. Muhammad Hussain, S/O Satar Deen,⁸¹ residing in Bagh Azad Kashmir, migrated in 1991 at the age of 32 from District Baramula. He told that at that time life, property and honor of the women was not safe. Sahil Khan⁸² living in Refugee camp Manak Paiyan migrated in 1990 with his parents, at that time he was only one year old. His sister and other relatives are in Indian Occupied Kashmir. He wishes to see his sister; family and birth place but could not. He told that he can see his village from this side of river but he cannot cross this distance of 500 meter. Sughra Mushtaq Rather⁸³ migrated from Mahora, Uri in 1990 at the age of twelve; her grandfather was physically and mentally tortured by occupational forces. Height of the dilemma is that members of these divided families cannot even reach to attend the funeral prayers of their parents, kids or siblings. Having stringent facilities and checks of the occupational forces they cannot communicate through modern sources of communication to share such moments of grief.

Muhammad Yasin is living in a refugee camp Muzaffarabad and his parents are in Occupied Jammu and Kashmir. His father died in IOK and his brother called him to share this sad news. Muhammad Yasin

⁸⁰ Ghulam Rasul Rather, Muzaffarabad, Personal Interview, September 22, 2019.

⁸¹ Muhammad Hussain Khan, Muzaffarabad, Personal Interview, September 23, 2019.

⁸² Sahil Khan, Muzaffarabad, Personal Interview, September 24, 2019.

⁸³ Sughara Mushtaq Rather, Personal Interview, September 25, 2019.

said “I was sorry not to see his face one more time or to attend his funeral, our family was already divided. Now we cannot even speak to them to share the grief.” Ms. Naseema Bibi migrated from Indian Occupied Kashmir in 1992 at the age of 21 with her husband, one son and two daughters. She was forced to leave her elder son in IOK, who was away from home when Indian troops came to her village. She shared her story with *The Straits Times*. According to her,

Indian forces launched a crackdown in our village. They arrested my husband, tortured him and broke his arm. We were terrified and fled in darkness. We reached Pakistani Kashmir in three days. We hid during the day and travelled during the night. We did not wait to treat my husband's broken arm and that's why my son was left behind. Her son is now married and she saw him at Teetwal, three years ago.”⁸⁴

People left their families on the other side of the LoC, not because they wanted to but they were forced to do so. Children lived without their parents, mothers lived without their children, some were injured and some lost their body parts. After getting settled in AJK, they want to meet their family members who were left behind in IOK but due to the *de facto* border between IOK and AJK, people are not allowed to meet them.

After the ceasefire agreement of 2003 between India and Pakistan, the immigrants from the villages of Keran and Teetwal sector of IOK in Neelum valley and their relatives in AJK, allowed for incomplete

⁸⁴“Miserable Eid for Kashmir families divided by India-Pakistan conflict”, *The STRAITSTIMES*, August 09,2013,<https://www.straitstimes.com/asia/miserable-aid-for-kashmir-families-divided-by-india-pakistan-conflict>

meeting on river banks of Neelum. In the winter season, when the level of water become low, these families come on river banks of their respective side, wave hands and shout. On some special occasion they exchange gifts by throwing on the other side. These meetings are full of emotions, pain, cries and hope. *Newsline* published a story of these meetings, which shows the plight of these families.

Shabir Ahmed a migrant from Keran, IOK running along the bank of river in AJK side, holding his three years son and shouting “*Ammi (Mother)*, it’s me. Can you see my son who is now a big boy? Do not worry *Ammi* we are all fine, thing will be changed and we will be able to meet”⁸⁵. He believes that he will be able to meet with his parents before he die. Mrs. Safia of village *Teetwal* (IOK) shared that, “At the time of marriage ceremony of my daughter, my brother who is living on the other side of the divide kept watching from the bank of the river. He could not come to this side but helplessly just waved at us and left. Earlier, we communicated to him about the ceremonies through a telephonic conversation.”⁸⁶ Rakhela Begum of village *Teetwal* said, “We all sit on the both sides of the river and can only see our separated ones but can neither hear each other due to the gushing sound of flowing river, nor meet. It is a painful situation and most of us keep wailing and crying helplessly as the river flows.”⁸⁷

⁸⁵ Masud Ansari, “ Across the Divide” *Newsline* , February 2003, <https://newslinemagazine.com/magazine/across-the-divide/>

⁸⁶Ezabir Ali, “Interacting with Women on LoC”, *Greater Kashmir*, March 11,2018

<https://www.greaterkashmir.com/news/opinion/interacting-with-women-on-loc/>

⁸⁷ Ibid.

People on the Line of Divide

The Line of control runs 742km (460 miles) is a temporary boarder between IOK and AJK. This line was initially agreed between Pakistan and India in 1949, through Karachi Agreement as Cease Fire Line. This line divided many villages and many families. The physical distance between families is less than 100 meters in some places but they cannot meet with each other. Even some villages were either united before 1971 and were under the sovereignty of Pakistan but are now under Indian administration and vice versa. The story of the village Hunderman in Kargil region is also like many other villages. This village was under the administration of Pakistan from 1947 to 1971, but in 1971 war, India captured half of this village. Ghulam Hussain, the resident of this village was not in village when the Indian forces occupied this village. The roads leading to his village were closed and he could not come back to his village. He passed all his life alone in Sakrdu waiting the reunion with his family and died in 2005.⁸⁸ Behroti village located in Mandhol Poonch was also divided in 1971 war; half of this village was occupied by the Indian forces in 1971. The distance between both the sides is not more than 500 meters, but they could not even see their family members and close relatives on the other side.⁸⁹ In 1971 war, Pakistan captured almost 120 square KM area in Chamb, Azad Kashmir, which was under the

⁸⁸Shubhangi Swarup, "Portrait of a village on the border", *Livemint*, August 11, 2017,

www.livemint.com/whenbordersmove.

⁸⁹Happymon Jacob, *The Line of Control: Travelling with the Indian and Pakistani Armies* (Penguin Viking, December 2018).

Indian occupation from 1947. The people of Chamb also had family members in IOK.

The life of people living in the villages located near the line of control is very difficult and insecure. Even after ceasefire agreement, the people on AJ&K side are victims of unprovoked shelling of the Indian forces. They are losing lives, body parts, houses, shops and their livelihood. The people living on other side of LoC, being harassed, terrorized and used as human shield by the Indian forces.

Problems Faced by the Divided Families

Members of the divided families especially post 1989 migrants are facing different types of socio, psychological, health, settlement and economic problems. They have an uncertain future and cannot hope for a reunion with their families, in near future. They are living in AJK, but their soul is attached with their families in IOK. The people living in the valley are industrious and hardworking. They love to grow fruits, vegetables and crops. They always miss their families and because of this they are suffering from posttraumatic disorder, stress, nerves problems and other health issues. On special occasions like Eid and marriages, they cannot enjoy these moments and are sad instead of being happy. They are living the stigmatized life of refugees and they face problems socializing with the local society. They live in a constant fear of losing their family members in IOK due to the persistent situation there.

Rehabilitation of the Divided Families in Pakistan and AJK

The people of Jammu and Kashmir, have migrated and are settled in different areas of Pakistan. They are enjoying double status as citizen of Pakistan and as State Subject of Jammu and Kashmir. They are in business, politics, civil and military establishment. In AJK Legislative Assembly twelve seats are reserved for them and refugees elect their representatives. In 2016 elections of AJK, the Legislative Assembly's total voters of twelve constituencies of refugees settled in Pakistan were 438,884 (410,779 Jammu & others, 28,105 valley).⁹⁰ In government jobs, their quota is 19 percent⁹¹ which is highest among all the administrative units of AJK. They are also entitled to get admissions in professional colleges/universities from reserved quota as well as from quotas reserved for their districts/province in Pakistan.

The people who migrated after 1989 are living in camps and some of them are living outside the camps. These camps were established by the Rehabilitation Department, Government of AJK. The majority of camps are in the main cities. Six percent quota is reserved⁹² for these IDPs in government jobs and professional institutions. According to the Rehabilitation Department, the government of AJK is paying Rs, 2000/- per person/per month to these refugee families. The government of Pakistan is also providing stipends worth Rs. 3.8

⁹⁰ Azad Jammu and Kashmir Election Commission,
<http://www.ec.gok.pk/constituencies-wise-maps/>

⁹¹ "AJK Civil Establishment Code", Service and General Administration
Department Azad Government State of Jammu and Kashmir, August 2016, 274.

⁹² Ibid

Million to the refugee students of IOK, studying in the universities of Pakistan.⁹³

Conclusion

The Kashmir conflict has different political, legal and economic dimensions, but the most critical dimension of this conflict is human tragedy, sufferings of people and uncertain future. Although the people who migrated in 1947, 1965 and 1971 faced a lot but now their second and third generation is in AJK and Pakistan. The people who migrated after 1989 are still in transitional phase. They have a hope that they will go back to their homes. They are still in camps or temporarily adjusted in rented houses. Their loved ones are on the other side of the ceasefire line. These divided families are from the same state but divided due to the unresolved Kashmir conflict. It is the need of the hour that international community takes serious steps on humanitarian grounds and help find a workable solution.

⁹³Pakistan government provides stipends to refugees students of Indian Occupied Kashmir, *Times of Islamabad*, 15 Apr, 2019, <https://timesofislamabad.com/15-Apr-2019/pakistan-government-provides-stipends-to-refugees-students-of-indian-occupied-kashmir>

Institutionalized Impunity: A Case of Aggression and Atrocities of BJP towards the Kashmiris

Muhammad Shamshad*

Abstract

History witnessed that since the partition of the British India in 1947, the Kashmiris have fallen victims to the aggression of the Indian occupational forces and political parties. A number of changes have been made in the Indian constitution by the political elite to enter more and more troops in the valley that caused a colossal damage to the identity of its people. The policies of Bhartiya Janta Party (BJP) created the worst conditions for the Kashmiris. Current changes in the constitution by Narindra Modi-led government of BJP deprived the Kashmiris of their demographic and human rights. BJP tried to dilute the demographics of Muslim majority Kashmir with Hindu settlers by repealing Article 370 of the constitution. Similarly, Article 35A has been hollowed out that is a big challenge to the integration and autonomy of the Kashmiris. The research has enunciated the cunning political ideology of BJP leadership that is deteriorating the

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situation in Kashmir by amending and promulgating the laws without thinking about the solidarity of the Kashmiris. It has explained the motives of BJP behind the enforcement of such laws, least observation of human rights and implications for the Kashmiris in the days to come. Qualitative method has been used for the study to critically analyse the available secondary sources to meet the research objectives. Research articles, surveys, reports, news-posts, magazines, websites and other relevant datum have been consulted to analyse the topic. Opinions of the authorities on the topic have been used to formulate personal opinion about the particular topic. The research is a guide for the students, researchers, readers, and policy-makers who want to examine the current state of the violation of human rights in Kashmir and reflection of the Hindu political and aggressive mind-set of BJP.

Keywords: Bhartiya Janta Party (BJP), Constitution, Demographic Changes, Article 370, Article 35A, Destructive Policies.

Ideological Position of BJP

British India was partitioned in August 1947 into two parts named as Pakistan with the Muslim majority and India with Hindu majority countries. During this division, an unjust way was adopted in case of princely states. Most of the states were given to India which were composed of Muslim majority and were attached to Pakistan demographically. India's seizure of Muslim majority states like Hyderabad and Junagarh is an example in this connection. Though the rulers of these states were given the power to accede on the behalf of the state, the ill-will of some of the rulers deprived Pakistan of

Muslim majority states. Same was the case with the state of Kashmir which became a bone of contention between the two countries because Hari Singh, the ruler of Jammu and Kashmir, acceded to India in return for military support following an invasion of tribal Pakhtuns. Each country claimed Kashmir as its integral part that resulted in the occupation of the Indian forces in the disputed region. Instead of resolving the issue, India increased number of troops in the region that caused a terrible condition in the Valley. The Kashmiris are suffering from Indian violence for decades. None of the governments in India paid attention towards protecting the rights for the Kashmiris. Though, the Indian constitution is composed of some articles which grant the security to the State, it was either ignored or amended according to the wishes of the Indian political elite and these practices are continued till date. In the recent scenario, the governing authorities in India exhibited a comparatively more aggressive attitude to deal with the situation. They introduced violent policies to resolve the Kashmir issue that has led the situation towards social, economic and political deterioration. With a totally different ideology, ‘the government of India led by BJP, decided to permanently annex this territory into the rest of India’.⁹⁴

It is a fact that every political party works with a specific ideology that is reflected by its way of working for the public welfare. It tries its level best to facilitate the public in every sphere of life and avoids the national disintegration. Minorities are usually obliged and disputed territories are often paid special attention to get close to the

⁹⁴Vindu Goel, “What is Article 370, and why does It Matter in Kashmir?” *Asia Pacific*, August 5, 2019.

permanent solutions. But, in the case of the Indian Illegally Occupied Kashmir, the BJP leadership in India is totally different. It failed in assuring national solidarity; minorities are being deprived of their rights that have infuriated them, especially the Muslims, to such an extent that they have initiated a rebellion against the governing authorities. As far as the question of disputed Kashmir is concerned, BJP made multiple attempts to cause an irreversible loss to the solidarity and identity of the Kashmiris through the reflection of Hindu aggression. So, the ideology of BJP is not constructive rather it is destructive that resulted in increased blend of problems for the Muslims of the Kashmir Valley particularly, and for the national integration generally.

The word ‘aggression’ is generally associated with BJP and its roots can be traced back to the ideology of Rashtriya Swayamsevak Sangh (RSS). It is a Hindu nationalist and religious orthodox volunteer organization, influenced by Hindu Mahasba and is recognized as an ideological parent of BJP. The RSS is a cadre-based movement that was founded in 1925 and is associated with Sangh Parivar.⁹⁵ It is an umbrella of Hindu outfits that ranges from political association to the civil society organizations ‘all committed to the Hindutva (Hindu nationalist) Ideology’.⁹⁶ History reveals that the creation of RSS was the response of increasing Pan-Islamism among the Muslims and some anti-Hindu incidents in the Subcontinent. The major objective

⁹⁵ Sangh Parivar is a collection of political parties, religious organisations and student unions that represent the Hindu nationalist movement of India.

https://en.wikipedia.org/wiki/Sangh_Parivar.

⁹⁶ Sofia Ammassari, “Contemporary Populism in India: Assessing the Bhartiya Janta Party’s Ideological Features”. *Institute of Barcelona Estudis Internacionals*, Student Papers Series 48, (2017): 6.

behind the creation of RSS was to re-affirm the grandiosity of the Hindu civilization, uniting all the Hindus, irrespective of their caste and regional differences, to constitute a new Hindu nation. All the non-Indians and even the Indians, who were professing the religion apart from Hinduism, Buddhism and Sikhism, were not a part of the project.⁹⁷

Since the partition till 1990s, the Indian Muslims remained victims of the atrocities of RSS in every corner of India. The direction of that aggression diverted from the Muslims to the Christian Fathers during 1997 to 2000. RSS raised the slogan of Hindutva and condemned the activities of Christian missionaries who were blamed for teaching Christianity among the backward *Adivasi* communities particularly. The incident paved the way for BJP to form a Congress-led coalition government in the 2004 national elections.⁹⁸ In general elections of 2009, BJP faced a failure in inflicting its ideology upon the Indian masses. Later on, the Modi-led BJP competed strongly and won the elections in 2014 after demonstrating an attractive manifesto. As far as the case of minorities is concerned, they were promised at they would be given equal importance in running the state affairs. The BJP leadership assumed that if any segment of the Indians was left behind, India could not make progress. *Waqf* boards were promised to be empowered with the consultation of religious leaders. Permanent inter-faith consultative mechanism was supposed to be introduced for promoting harmony and trust among the minorities and the central

⁹⁷ Ibid.

⁹⁸ Peggy Froerer, "Emphasizing 'Others': The Emergence of Hindu Nationalism in a Central Indian Tribal Community". *Royal Anthropological Institute* N. S 12 (2006): 41-43.

government.⁹⁹ But, the enactment of policies and changes in the attitude of the BJP leadership, particularly against the Muslims in Kashmir, eclipsed the image of that manifesto. Critics all around the world reminded the tenure of Narindra Modi as Chief Minister of Gujrat (2001-2014) that was full of atrocities committed against the Muslim community. For those atrocities, Modi was given a notorious title of “Butcher of Gujrat”. He adopted the same way to deal with the Muslims of Kashmir and brought the state of human rights to the brink of destruction. He used constitutional and institutional tools to inflict the inherited aggression against the Muslims. These anti-Muslim measures earned another win for Modi in 2019 elections which proved quite devastating for the Kashmiris.¹⁰⁰

The BJP further enhanced its atrocities by amending the Indian constitution and undoing of the special status of J & K under articles 370 and 35A. Most of the members of BJP have acquired the mind-set of Modi in dealing with the Kashmiris. One example of Dr. Subramanian Swamy can be quoted here. In an interview with the correspondent of *The Wrap*, he admitted that his party has done the things which were pending over the years and he added that the whole country was with them in this cause. He directly blamed the Islamic Ideology and expressed the existence of 30 per cent Muslim population as a great threat to India. He emitted his hatred against the Muslims in such a way that he negated the fair interpretation of article

⁹⁹ <http://cdn.narendramodi.in/wp-content/uploads/2014/04/Manifesto2014highlights.pdf>, accessed on March 18, 2020.

¹⁰⁰ Arjan H. Schakel, Chanchal Kumar Sharma & Wilfried Swenden, “India after 2014 General Elections: BJP Dominance and the Crisis of Third Party System”. *Regional and Federal Studies* (2019): 17. DOI: 10.1080/13597566.2019.1614921.

14 of the Indian constitution that guarantees equality for all. But Swamy excluded the Muslims from the provisions of this article.¹⁰¹ It reflects the reality that India is going to worsen the situation after depriving its Muslim community of their basic rights again granted by the constitution of India.

State of Human Rights in Kashmir under Modi Regime

Narindra Modi, before entering in politics had been serving as the head of RSS and later administrated a special oath of the loyalty from the activists of RSS. Modi was barred from entering the United States, United Kingdom and European Union for a short time because of his alleged Gujrat pogrom against the Muslims in the 2002.¹⁰² With this background, while working as Prime Minister of India, he is showing violent behaviour in dealing the Kashmiri Muslims that has witnessed a least observation of human rights in the Valley. Most of the channels of international media are silent on the situation but United Nations Organization and some other Non-Governmental Organizations (NGOs) have paid a special attention to examine the condition of human rights in Kashmir.

The current situation of human rights' violation in Kashmir can be judged after reading the reports and surveys of the international organizations and institutes. Summary of the couple of reports, composed by UN, is presented here to observe the situation deeply.

¹⁰¹ Interview of Dr. Subramanian Swamy. *The Wrap*, Apr 1, 2020. <https://www.thewrap.com/showtimes-vice-exposes-human-rights-crisis-as-muslims-are-targeted-in-india-exclusive-video/>, accessed on March 18, 2020.

¹⁰² Ibid.

These reports have been prepared in June, 2018 and July 2019. The former one was the first ever report that was composed by United Nations Human Rights Office of the High Commissioner. It explains that “impunity for human rights violations and the lack of access to justice are key human rights challenges in the state of J & K”. The report says, noting that the Armed Forces Special Powers Act 1990 (AFSPA) and the Indian Illegally Occupied J & K Public Safety Act 1978 (PSA) have “created structures that obstruct the normal course of law, impede accountability and jeopardize the right to remedy for victims of human rights violations.”¹⁰³ The report was first published by the UN to highlight the human rights violation and abuse on both sides of the line of control. The report covers the duration from July 2016 to April 2018. The 49 pages of the report describe that AFSPA did not allow the armed forces to act in the Valley until they were not granted prior permission from the Indian government. It gives the details of impunity enjoyed by the Indian security forces to commit violence on the Kashmiris.¹⁰⁴

The second report of the UN Human Rights Office of July, 2019 was analysed by *Al-Jazeera* in a lucid way. The UN accused India again for violating the human rights in Kashmir. The office has decided to form a commission of inquiry into the particular allegations. The 43 paged report emits that the Modi government has been asked to investigate the killings of Burhan Wani¹⁰⁵ in 2016 and 100 more

¹⁰³<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23198%20>, accessed on March 19, 2010.

¹⁰⁴ Ibid.

¹⁰⁵ Burhan Wani was a Chief of Operations of *Hizbul Mujahedeem* in Indian held Kashmir. He wielded massive popularity in the local populace through social media

Kashmiris who were protesting Wani's killing.¹⁰⁶ The report observes that these atrocities of the BJP have triggered a new wave of anger among the Kashmiris against the Indian rule. The report blames that Modi responded negatively and permitted his forces to intensify the security operations in the Valley that increased the number of casualties there. According to the information provided by 'J & K Coalition of Civil Society' (JKCCS), 586 Kashmiris were killed in 2018 that was the highest number since 2008. Additionally, the report describes that bombing of February 14, 2019 (Palwama Attack) raised the graph of violation of human rights in Kashmir to an unbearable level.¹⁰⁷

The Human Rights Report (HRR) adds that since January 1989 to January 31, 2018 the number of innocent killings in Kashmir is 94,644, among which 7099 Kashmiris have been killed in the custody, 11042 women were gang-raped and 7485 have been injured by pellets. The maximum number of the mentioned sufferings can be seen during the reign of Narindra Modi and the year 2018 has been declared as the deadliest one in the decade.¹⁰⁸ The reports denote that "Modi, a Hindu nationalist by the time he was 10 years old, had upended life in the Muslim-majority region, flexing those nationalist muscles for his millions of followers."¹⁰⁹ With this mind-set he has

due to his pivotal role for Kashmir cause. Indian security forces imposed a hefty bounty on his head. He was martyred by Indian army during an alleged encounter in Bamdoora village of southern Kashmir on July 8, 2016.

¹⁰⁶ Rifat Fareed, "UN Report on Kashmir Calls for Probe into Human Rights Violations". *Al-Jazeera*. July 08, 2019.

¹⁰⁷ Ibid.

¹⁰⁸ *The Nation*, October 12, 2019.

¹⁰⁹ Modi clamps down on occupied Kashmir — and India loves him for it, <https://www.dawn.com/news/1499671>

clamped down on the Muslim majority Kashmir while approaching the totalitarian levels. A majority of the Indian masses showed consent to the initiatives of Modi to stripe Kashmir of statehood and its special status that was assigned by the Indian constitution. On the other hand, some of his political opponents such as Rahul Gandhi, Ahmed Patel and Mallik Arjun Kharge called out their support in this context as they view that these steps can lead the country towards political chaos.¹¹⁰

In the recent scenario, there are many incidents which show the discriminatory attitude of the Indian Prime Minister Narindra Modi of BJP towards the Muslims specifically; either in India or in Kashmir. The most recent example is the burning of 40 lives near the Indian capital, a large portion of them were the Muslims. On June 22, 2019 a viral video did rounds on Indian social media in which a young Muslim was tied up with profusely bleeding body and folded hands. He was being lynched by a Hindu mob that was forcing him to chant of '*Jai Shri Ram*' and '*Jai Hanuman*' (glory to lord Ram and lord Hanuman). Similarly, 24-year-old Tabrez Ansari became the first victim of Modi's Second term. The US Commission for International Human Rights condemned this Indian pattern of hate crime against the Muslims.¹¹¹ Critics say that the killings were neither spontaneous nor without warning: they were inevitable. Step by step, they contend, policies enacted by Prime Minister Narendra Modi have dug in exemption, captured institutions and fanned religious hatred —

¹¹⁰ *Dawn*, August 15, 2019.

¹¹¹ *Times*, June 28, 2019. Available at: <https://time.com/5617161/india-religious-hate-crimes-modi/>

efficiently fabricating a perilous Hindu-nationalist ecosystem. It was inevitable till something blew up.¹¹² The case of the Kashmiris is different from the Indian Muslims. The un-armed Kashmiris are demanding legitimate right of implementation of 11 resolutions of the United Nations Security Council. But the government of India is continuously ignoring and denying their right of self-determination which they attained under the provisions of the article 370 and 35 A of the Indian constitution, which was repealed in April 2019. The Kashmiris are facing all kinds of brutalities and their voices are being silent by bullets. A complete lockdown of the valley since August 5, 2019 does not allow the international media and human rights organizations which can bring the real face of Modi in front of the international community.¹¹³

Provisions of the Article 370 and 35-A in the Indian Constitution

A constitution is a set of principles on the basis of which the state affairs are governed by the political elite and administrative units. It is often promulgated after examining all the spheres of the country ranging from socio-economic to the religio-political ones. It is most probably, composed of the articles which define the laws, promotes national integration and encourage patriotism. A special way is selected to facilitate minorities to avoid political instability and social unrest. But, when the governments disobey and amend their respective constitutions according to their will, they have to suffer a

¹¹² Jeffrey Gettleman and Maria Abi Habib, "In India, Modi's Policies have Lit a Fuse". *The New York Times*. March 1, 2020.

¹¹³ *The Nations*, October 12, 2019.

lot for protecting their solidarity. Same is the case with the current government (BJP) in India that has amended its constitution time and again. With a particular reference of minorities, it has failed in securing their rights. The Muslims are treated in an ill way in India and in Indian Occupied Kashmir (IOK). The Muslims in Kashmir are not enjoying the true spirit of the related articles of the Indian constitution rather these have been abolished. Resultantly, the Kashmiris are living a pathetic life. Following were provisions of the Article 370 which empower the State of Indian Illegally Occupied J & K to make laws to deal with specific matters. Finance, defence, foreign affairs and communication were not under the jurisdiction of the State.

Article 370 “(1) Notwithstanding anything in this Constitution

(a) The provisions of article 238 (which has been omitted from the constitution on April 1, 2019¹¹⁴) shall not apply in relation to the State of J & K;

(b) The power of Parliament to make laws for the said State shall be limited to

(i) Those matters in the Union List and the Concurrent List which, in consultation with the Government of the State, are declared by the President to correspond to matters specified in the Instrument of Accession governing the accession of the State to the Dominion of India as the matters with respect to

¹¹⁴ <http://legislative.gov.in/sites/default/files/COI-updated.pdf>, accessed on March 21, 2020. P. 12.

which the Dominion Legislature may make laws for that State;
and

(ii) Such other matters in the said Lists as, with the concurrence of the Government of the State, the President may by order specify.”

(c) “The provisions of article 1 and of this article shall apply in relation to that State;

(d) Such of the other provisions of this Constitution shall apply in relation to that State subject to such exceptions and modifications as the President may by order specify: Provided that no such order which relates to the matters specified in the Instrument of Accession of the State referred to in paragraph (i) of sub-clause.”

(2) “If the concurrence of the Government of the State referred to in paragraph (ii) of sub-clause (b) of clause (1) or in the second proviso to sub-clause (d) of that clause be given before the Constituent Assembly for the purpose of framing the Constitution of the State is convened, it shall be placed before such Assembly for such decision as it may take thereon.”

(3) “Notwithstanding anything in the foregoing provisions of this article, the President may, by public notification, declare that this article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify: Provided that the recommendation of the Constituent Assembly of the State

referred to in clause (2) shall be necessary before the President issues such a notification.”¹¹⁵

Similarly, the provisions of the article 35A are in the following to analyze its privileges to the State of Indian Illegally Occupied J & K. As per description of Article 35A “Saving of laws with respect to permanent residents and their rights. —Notwithstanding anything contained in this Constitution, no existing law in force in the State of Indian Illegally Occupied Jammu and Kashmir, and no law hereafter enacted by the Legislature of the State,

- (a) Defining the classes of persons who are, or shall be, permanent residents of the State of Indian Illegally Occupied Jammu and Kashmir; or.
- (b) Conferring on such permanent residents any special rights and privileges or imposing upon other persons any restrictions as respects
 - (i) Employment under the State Government;
 - (ii) Acquisition of immovable property in the State;
 - (iii) Settlement in the State; or
 - (iv) Right to scholarships and such other forms of aid as the State Government may provide, shall be void on the ground that it is inconsistent with or takes away or

¹¹⁵ <https://www.iitk.ac.in/wc/data/coi-4March2016.pdf>, accessed on March 21, 2020. P. 249-250.

abridges any rights conferred on the other citizens of India by any provision of this Part.”¹¹⁶

The Article 35A was added to the Indian constitution on May 14, 1954 through a Presidential Order named as Constitutional Order 1954. According to the description of the provisions of this article, the State of Indian Illegally Occupied J & K defined these privileges to include the ability of purchasing land and other immovable property. The State attained to vote and contest elections, its residents could get their due share in government jobs and could avail the state benefits like higher education and healthcare. Non-permanent residents were not entitled to these privileges even if they were Indian citizens.¹¹⁷

It shows that BJP is trying to declare the Muslims an illegal population either in Indian Illegally Occupied J & K or in Indian state. Christophe Jaffrelot, a London based political scientist and expert on Indian nationalism, was interviewed by *The Wire* for analysing the current policies of BJP against the Muslims. While answering to the question on the controversial Citizenship Amendment Act of December, 2019, he argued that the particular Indian idea of citizenship is enshrined in the Citizenship Act of 1955 which does not have any concerns with religion as it is simply based on humanist universalistic values. He says that Hindu nationalists deny this idea of humanistic values and define India on the basis of ethno-religious

¹¹⁶ <https://www.iitk.ac.in/wc/data/coi-4March2016.pdf>, accessed on March 22, 2020. P. 366.

¹¹⁷ “Abrogation of Article 370 and 35A by India”. *The News*. April 3, 2020.

categories. Their biased attitude allows non- Muslims coming from Bangladesh, Pakistan and Afghanistan, to be seen as refugees and they can apply for citizenship whereas, “Muslims will be seen as illegal migrants and may become stateless”.¹¹⁸ In another interview to the same channel, Jaffrelot generalizes the case of India in such a way: “By following the same ethno-nationalist policies everywhere, populists make international relations more acrimonious. The way Trump and Johnson are treating migrants, including Indians, is a case in point”.¹¹⁹

Abrogation of the Articles 370 and 35-A

The Modi-led BJP aimed at attaining political, military and territorial legitimacy over Indian Illegally Occupied Kashmir by constructing frameworks which can be supportive for it to be disregarding the accountability in the South Asian region. Recent abrogation of the Article 370 is an attempt by the BJP to alter the demographic composition of J & K. Resultantly, the Article 35A was automatically abolished which is a threat to the integration of the Valley. This is a shrewd way of contemporary Indian Administration to validate its political and territorial hegemony through structural changes in the region. Notably, the Article 370 exempted the Indian Illegally Occupied J & K State from the constitution of India. Under the provisions of the particular article, all the powers were vested in the hands of the State authorities to make all the laws excluding the

¹¹⁸ *The Wire*, January 24, 2020. available at: <https://thewire.in/politics/christophe-jaffrelot-bjp-india-caa-part-one>

¹¹⁹ *The Wire*, January 25, 2020. available at: <https://thewire.in/religion/christophe-jaffrelot-rss-narendra-modi>

matters of finance, defence, foreign affairs and communication.¹²⁰ Same is the case with the provisions of article 35-A that allowed the local legislature to define the permanent residents of the Valley. It also prohibited the permanent settlement of the outsiders and did not allow them to buy land in this region. Both the articles show that Kashmir and the Kashmiris maintained a 'special status'. But, revoking of this special status by the Indian government worsened the already volatile situation of IOK.¹²¹

History discloses that at the time of partition, J & K was the only state in the Indian Union that negotiated its terms of accession. Time-taking discussions and meetings between the state leaders and the center were held to award the Valley with a special status and greater autonomy, legalized through the Article 370 of the constitution. It took the time from October 1949 to November 1952 to make the particular article operative. Meanwhile, Indian Illegally Occupied J & K became a bone of contention between its leadership and the center.¹²² There are two schools of thought to argue about the special status and autonomy of Indian Illegally Occupied J & K. The first school of thought is known as integrationists. The scholars of this group support the ideology of BJP and Vishwa Hindu Parsad who raised the slogan of *Ek Pardhan, Ek Vidhan, Ek Nishan* (one Prime Minister, one constitution, one flag). They argue that the militancy and secessionist movement in J & K were the result of the undue

¹²⁰ Fareeha Shamim, "Culture of Institutionalized Impunity and Violence in Indian Occupied Kashmir (IOK)". *Strategic Studies Institute Islamabad* 04, no. 01 (2019): 03.

¹²¹ Ibid.

¹²² Aijaz Wani, "Article 370: A Constitutional History of Jammu and Kashmir". *Race and Class* 56, no. 2 (2014): 93.

privilege meted out under Article 370. On the contrary, other school of thought, including legal luminary, columnist and author A. G. Noorani, opines that restoration of autonomy is the only viable solution to the vexed Kashmir issue. They think that the Indians eroded the Delhi Agreement of 1952 and consider it a breach of trust between the Kashmiris and the Centre. Actually, these circumstances were responsible for the secessionist movement in the valley.¹²³

According to the Presidential Order of 1954, the powers were vested to the state authorities to regulate the rights of permanent residents under the provision of the article 35-A of the constitution's appendix. The article clearly denies the rights of non-residents to work and attend the colleges of the Kashmir Valley. Most importantly, it negates the ownership of the property by the non-residents of the Valley.¹²⁴ BJP has scrapped the provision of the Article 370 of the Indian constitution through which J & K had been granted autonomy. The former government introduced a bill to strip the region of statehood and decided to divide it into two parts; both were supposed to be controlled by the central government. But, Modi, a Hindu nationalist, while working according to the political agenda of his party that could be observed during his election campaign when he got famous while stoking fervour against Muslim-led Pakistan and now-a-days he is delivering on that pledge.¹²⁵

¹²³ Ibid.

¹²⁴ K. Alan Kronstadt, "Kashmir: Background, Recent Developments and US Policy". *Congressional Research Service*. January 13, 2020.

¹²⁵ Goel, "What is Article 370?" *Asia Pacific*, August 5, 2019.

Accordingly, India moved an additional 45,000 troops into the Kashmir Valley in late July and during the first week of August 2019. It was an apparent preparation for announcing Article 370's repeal. Satya Pal Malik was appointed as governor of Indian Illegally Occupied J & K by the government of New Delhi who ordered to cancel the major annual pilgrimages in the valley. The tourists were directed to leave the region on urgent basis as the Indian intelligence agencies had predicted a terror threat. After revoking of the Article 370, the people of Kashmir were deprived of their right of constitutional protection and two days later senior political leaders of Kashmir, including the former Chief Minister of the State Omar Abdullah (2009-2015) and Mehbooba Mufti, were placed under house arrest. All the schools were closed and all the telecommunications were curtailed. Internet service was shut down and all the landline telephones were disconnected. The State was depicting a complete lockdown.¹²⁶ Meanwhile, the Indian Home Minister Amit Shah introduced legislation in the parliament for abrogating the Article 370. He suggested to bifurcating J & K State into two "Union Territories", Jammu & Kashmir and Laddakh. Shah alluded Article 370 "discriminatory on the basis of gender, class, caste and place or region". Prime Minister Modi lauded the legislation while declaring "J & K is now free from their clutches" and predicted that "the changes would be ensuring integration and empowerment".¹²⁷

¹²⁶ Alan, "Kashmir", January 13, 2020.

¹²⁷ Ibid.

Similarly, the Article 35A became a part of the Indian constitution in 1954 by an order of the then President Rajindra Parasad on the advice of the cabinet led by Jawaharlal Nehru. It was trailing the Delhi Agreement of 1952 that extended Indian citizenship to the “State Subjects” of Indian Illegally Occupied J & K. Though the Article 35A does not figure among the articles of the constitution and is not found after Article 35, it is a part of the constitution as it lies in its Appendix 1. It empowers the State legislature to define the rights and privileges of its permanent residents. The basic purpose behind the formulation of the specific article was to protect the State subject laws which were defined under the *Dogra* ruler of Maharaja Hari Singh in 1927 and 1932. The Article 35A had been bizarre to the Indian public since the time of its enforcement in 1954. A number of petitions were filed in the Supreme Court of India for challenging the constitutional validity of the article.¹²⁸ BJP used this hatred against the Muslims. Jaffrelot analyses BJP’s intentions behind this abrogation in the following way:

The BJP rallied to the call of this ethno-religious mobilization strategy and even participated in the processions which took place all over minorities to establish educational institutions; abolish Article 370 of the constitution granting a partially autonomous status to Jammu and Kashmir; promulgate a uniform

¹²⁸ Preeti Sharma and Sheila Rai, “Article 35 & Its Implications: A Quest for Stability in Jammu & Kashmir”. *JETIR* 6, no. 4 (2019): 472-473.

civil code, primarily to put an end to the possibility given to Muslims to follow Islamic law (sharia).¹²⁹

Policy Options to Assure a Bright Future for Kashmir

There are many options which can be used to prevent the current violation of human rights in Indian Illegally Occupied J & K that is a result of the mismanagement and institutionalized impunity by the Indian government. Some important and useful options are expressed here. First and the foremost, the Kashmiri leadership should integrate their public to decide their future. They should go to find legal ways to negate all the blames put on them by the Hindu extremists through promoting media links with international human rights wings, organizations and NGOs. In this time of severer crisis, they must be able to put a petition in Permanent Court of International Justice (PCIJ) and International Court of Justice (ICJ) to get rid of the clutches of the Indian forces. Kashmiri leadership should convince the world for a third-party mediation to hold free and fair elections in the Valley to decide its future. In the case of achievement, they will be free to make their own laws, to preserve their living rights and to protect their identity, solidarity and integration. But the current lockdown restricted them at homes.

International organizations and media should materialize the highlighted situation of human rights in Kashmir and should take a strict action against the Indian authorities. UN and ICJ should play a critical role in this respect. UN should practically consider all the

¹²⁹ Christophe Jaffrelot, ed. , *Hindu Nationalism: A Reader* (Princeton and Oxford: Princeton University Press, 2007), 22.

resolutions moved by international community from all around the world in favour of holding a plebiscite in Kashmir and should convince the Indians to agree upon the plebiscite. UN Security Council should deal the matter according to its litigation and ICJ should decide the case under the decrees of international law. Besides, international NGOs, including Amnesty International, Human Rights Action Centre, Human Rights Watch and Human Rights without Frontiers (HRWF), should examine the violation of human rights in the valley and convince the international community of India's savagery towards its minorities, especially the Muslims in Kashmir.

Similarly, opposition parties in India, academia and human rights commissions should help restrain the policies of BJP leadership to minimize the number of casualties in Kashmir. They should be unbiased and encourage the Indian administration to avoid national disintegration through observing the rights of minorities in Kashmir particularly, and in India generally. They should set a pattern to amend the constitution in such a way that none of the rulers can establish a totalitarianism that leads toward deterioration and tarnished image of the nation. The powers of the Prime Minister should be exercised as these are elaborated by the constitution of India. The opposition should pass a resolution, as most of the oppositions do in the world, to stop violence in Kashmir Valley after increasing the number of troops and the abrogation of Articles 370 and 35A. It will not provide a sigh of relief for the Kashmiris but will be productive for the Indians to restore their image as "protectors of minorities.

By the same token, Islamabad should show an inclination towards making dialogue with Delhi for the permanent solution of the disputed territory of Kashmir. It should bring its counterpart to sign an agreement like ‘Karachi Agreement’ (1949) to establish cease-fire line in Kashmir that will decrease the number of brutal attacks of the Indian force on the Kashmiris. Pakistan should remind the Indians about the ‘Liaquat-Nehru Pact’ (1950) that guaranteed the minority rights in either of the states. ‘Lahore Declaration’ of 1999 and Agra Summit of 2001 should not be ignored in which both states, India and Pakistan, have agreed upon reducing the nuclear arsenals to find some permanent solutions to the disputed Kashmir. Pakistan should interpret these agreements in an unbiased way to present it in front of international community and the observers of these agreements and treaties. Pakistan should activate Confidence Building Measures (CBMs) on Kashmir and suggest the solution which can be acceptable for Pakistan, India and Kashmir. Though these pacts were not too much productive, yet the text can be beneficial to materialize the things after a deep observation from both the states.

Conclusion

In short, since 1947, the Muslims in the Indian Illegally Occupied J & K have been the victims of aggressive and violent policies of the Indian rulers. Often, they have to face a blend of regional, religious and political problems that isolate them on so many occasions. As a result, they find it much difficult to protect their identity, solidarity and integration. Violation of the human rights in the Valley has been order of the day over last seven decades. Recently, the policies of BJP

brought sufferings of the people of IOK at an extreme. Abrogation of the Articles 370 and 35A from the Indian constitution shows that India has negated the autonomy and the special status of J & K which has been elaborated in the provisions of the particular article. These measures have paralyzed the life in Kashmir; there is a complete lockdown and humans are being treated inhumanly. Akin to that, the inequality-based attitude of BJP towards the Kashmiris caused the lowest ebb of relations between Pakistan and India. So, this frame of mind of India is directly a major threat to the socio-economic development and peace in the South Asian region. The development and peace are a viable solution of the disputed Kashmir.

Pakistan`s Contribution to the Education of Afghan Refugees: A Case Study of the Education Cell Afghan Commissionerate, Peshawar

Zahid Anwar* & Nadia Sajjad**

Abstract

Saur Revolution in Afghanistan in April 1978 and political instability in the country culminated in the Soviet invasion in December 1979. Political, economic and social crises in Afghanistan compelled millions of Afghans to migrate to other countries particularly Pakistan. Most of the refugees took shelter in Khyber Pakhtunkhwa Province (former NWFP) due to its geographical contiguity, cultural similarity and ethnic connectivity with Afghanistan. Pakistan welcomed these refugees on humanitarian basis and extended every possible support. Pakistan`s endeavors in this respect were fully supported and appreciated by the civilized world in the 1980s. The authors conducted research in different refugees` camps e.g., Swabi, Jaluzai, Munda and Nasir Bagh/Kacha Gari including Afghan

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Commissionerate in the early 1990s. The paper is focused on the contributions of Education Cell Afghan Commissionerate Peshawar for the education of Afghan refugees in Khyber Pakhtunkhwa, Pakistan. Afghan Refugees Commissionerate was made and then an education cell in the Commissionerate was established to register, monitor and evaluate Afghan refugees' educational institutions and facilitate their education on scientific basis. Some of the functions of the education cell were to facilitate the refugees in getting admission in professional and non-professional colleges, issuance of certificates and attestation of educational documentations, conduction of 12th grade examination and award of scholarships to the eligible students. The study is qualitative in nature and is based on primary and secondary sources. The paper explores the decades long rich experience of Pakistan in dealing with the education of Afghan refugees and its contributions in the reconstruction of Afghanistan.

Keywords: Pakistan, Contributions, Education, Refugees, Afghanistan, South Asia

Introduction

Refugees worldwide are a source of challenge for both the host countries and refugees themselves. Refugee is a person who leaves his country with well-grounded fear of being persecuted on the basis of religion, race, nationality, political opinion and belongingness to a particular social group and his country of origin. He is unable to protect himself in the country where he migrated to, where he is treated as a refugee and the refugee laws are applied on him.

¹³⁰ Many states like Afghanistan, Libya, Somalia, Sudan and Yemen produced a bulge of refugees for the last fifteen years. Iraq and Syria crises also resulted in the mass migration of a major chunk of the native population to other countries. Neighboring countries are facing various challenges in absorbing thousands and millions of refugees.¹³¹ According to the UNHCR report, Pakistan absorbed 1.45 million refugees' which makes it the second largest refugees hosting country after Turkey. For a developing country, accommodating such a large number of refugees was very difficult because it had already been facing various economic issues. Initially the government focused on the various basic needs such as: shelter, food, water of the refugees but later on, they had to focus on other issues too that include education, social cohesion and income generating activities because of the prolonged stay of the refugees in Pakistan.

Antonio, the UN High Commissioner for Refugees stated that it is their collective responsibility to ensure the refugee access to education. Education is the only tool with which refugees can earn their dignity and contribute a positive role in the country's development. Furthermore, he stressed on the importance of a suitable education plan, and programs initiatives for safeguarding refugee children.

¹³⁰UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137

¹³¹ Marc Lynch. Laurie Brand, "Refugees and Migration Movements In The Middle East" Pompes Studies No 25 ,Project On Middle East Political Science, USC University Of Southern California (March 2017).6.

International community developed sustainable development goals (SDGs),¹⁷ with the objective of transforming the world by 2030. Among these ‘Goal Four’, to ensure inclusive and quality education for all and lifelong learning would not be addressed without fulfilling the educational needs of vulnerable groups and refugees. Many other goals will not be met if educational goal is missing because peace, health and prosperity are related to education.¹³² The paper explores the contributions of Pakistan in education sector of Afghan refugees in Pakistan with the focus on Khyber Pakhtunkhwa. It analyses the contribution in the context of Afghan Commissionerate Peshawar. In the historical perspective, it was explained how despite meager resources, the refugees` in the country gained benefits. Multi-dimensional tasks of the Commissionerate are discussed step by step, such as the management of refugees` education, liaison, the registration of educational institutions, attestation of students` documents and dissemination of scholarships. The complexity of the tasks is underlined and institutional efforts are highlighted to have a comprehensive view of the project.

On December 1, 1979, Soviet intervention in Afghanistan resulted in a large number of refugee influx to its neighboring countries. The refugee influx started before the Soviet intervention as in Daud’s era, the refugee population in Pakistan reached to 109,000 in April 1978 and 500,000 in mid-January 1980. According to 1991 Pakistan official records, there were 3.2 million Afghan Refugees in 345

¹³² SDG-Education 2030 Steering Committee, “*Submission of the SDG-Education 2030*”, Sustainable development Knowledge Platform.,2017.

refugee camps in Pakistan.¹³³ A large number of Afghan refugees migrated to the neighboring countries, particularly to Iran and Pakistan.¹³⁴ The major objective at that time for Pakistan was to procure financial assistance from world community to tackle the refugee problem. Large influx of refugee burdened Pakistan to ask for foreign assistance to deal with the situation.¹³⁵ Foreign assistance was provided to Pakistan because the world community at large and the government of Pakistan developed a consensus that refugees should be allowed to stay in Pakistan until the security situation normalizes in their native land.¹³⁶

Early Management of the Afghan Refugees

The Disaster Relief and Preparedness Cell of the federal government, along with home and tribal departments of KP and Baluchistan played a crucial role at the initial stages to deal with the refugee problem because at that time they were manageable. As the number of Afghan refugees increased, the need for well-organized efforts was felt. It was the sole reason behind the creation of chief commissioner Afghan

¹³³ Myron Weiner . Ali Banuazizi, *The Politics of Social Transformation in Afghanistan, Iran, and Pakistan (Contemporary Issues in the Middle East)*,(Syracuse NY,Syracuse University Press, 1994),353.

¹³⁴ Alison Parker, “Closed Door Policy: Afghan Refugees in Pakistan and Iran,” Human Rights Watch, G1402 (27 February 2002):5.<https://www.refworld.org/docid/3c7ce78a4.html> (accessed 3 November 2019).

¹³⁵ Zahid Anwar, “Around Afghanistan in fifteen days,” Area study Centre, Central Asia Journal, no.50 (2002).

¹³⁶ AZ Hilali,*US-Pakistan relationship : Soviet invasion of Afghanistan*,(US foreign policy and conflict in the Islamic world series., Aldershot : Ashgate, 2005),90.

Refugees Islamabad which is functioning under the Ministry of State and Foreign Regions (SAFFRON). The Chief Commissioner for Afghan Refugees (CCAR), is responsible for the overall coordination and managing of the refugee matters such as keeping check on the refugee movement inside the country, their relief assistance and establishing refugee camps. The Commissionerate for the Afghan Refugees in Peshawar was established in 1980.¹³⁷

There were 17 District/Agency Administrators in the KP. At the highest level of the Provincial headquarter; there was the Provincial Refugees Commissioner who worked under the Home Department of the province. Commissionerate for Afghan Refugees (CAR) was established in every Province of the country to look after refugee matters and having the Chief Commissionerate (CCAR) based in Islamabad. The mandate of the Commissionerate, Afghan Refugees, and Khyber Pakhtunkhwa is to look after the overall Administration and establishment of the Afghan Refugees organization in the country, the financial management along with the refugee's repatriation management and control, overall Supervision and monitoring of UNHCR funded projects working on health, education and community development regarding Afghan Refugees, supervision of district administration of Afghan refugees and coordination with different Government Departments/UN Agencies, NGOs and INGOs. Since 2008 the Commissionerate Afghan Refugees, Khyber Pakhtunkhwa have also been given the mandate to

¹³⁷ Fazul-ur-Rahim Khan Marwat and Parvez Khan Toru, *From muhajir to mujahid, politics of war through aid : (a case study of Afghan refugees in NWFP)*, (Peshawar : Pakistan Study Centre, University of Peshawar, 2005),12-13.

the Camp Management/Administration and Coordination of the official Camps in Khyber Pakhtunkhwa Province.¹³⁸

The educational institutions in the camps are a reflection of the efforts of the Commissionerate to cope with the enormous challenge of making arrangements for the education of the refugees.¹³⁹ The department endeavored to find durable and permanent solution for the Refugees. As far as the objectives are concerned, the Commissionerate focused on the development of result-oriented organization, that is equipped with professionals who are working under a comprehensive program of change management. It focused on leadership qualities and team building to implement a sustainable program for Afghan refugees under the Afghan Management Strategy. This program was finalized amongst the Government of Pakistan, Government of Afghanistan and UNHCR (The tripartite agreement).

Background of the Education Cell Afghan Commissionerate

The United Nations Higher Commissionerate for Refugees (UNHCR) is strongly committed to providing basic education programs based on the United Nations' Millennium Development Goals (MDG) and the education for all, strategy. UNHCR Key policy is to safeguard the rights of refugees to free education for all.¹⁴⁰ To safeguard the right

¹³⁸ Ibid.

¹³⁹ Zahid Anwar, "*The Socio-Economic and Political Thought-Process of Afghan Refugees in and around Peshawar*," Area study Centre, Central Asia Journal ,no.50 (2001):

¹⁴⁰ Nasir Sahibzada, "Background paper on Afghan Education in Pakistan", (Paper presented at seminar by UNHCR Education Officer, UNHCR Sub office, Peshawar, 2009), p.2-4.

to quality and safe Education for all boys and girls of concern to UNHCR in all phases of operations as stated by the 1951 convention, relating to the status of refugee (article 22) and the convention on the right of the child (article 22&28).¹⁴¹ In this connection, a large number of skilled employees of the organization run from pillar to post to provide every facility to the children of the poverty-stricken Afghan Refugees. To look after all the “Educational Interventions” introduced in the NWFP for Afghan Refugees an “Education Cell” in the Commissionerate for the Afghan Refugees was established in July 1981. The main purpose of establishing the Cell was to promote Education among the Afghan Refugees Community and to monitor the NGOs’ education related activities. ¹⁴²

History shows that often refugees initiate educational activities in the country of migration on self-help basis and on volunteer context without any outside assistance. For example, in Peshawar, Pakistan, in 1993 and 1994, newly arrived Afghan refugees from Kabul developed “self-help” community-based schools within weeks, trying to get material sources from donor agencies mainly UNHCR.¹⁴³ In 1980s and 1990s a number of primary, Middle and High schools were set up in Afghan Refugee Camps (ARC). These schools were funded by the UNHCR and were monitored by the Education Cell. The

¹⁴¹ Nasir Sahibzada, interviewed by author, UNHCR Sub office Peshawar June 21, 2008.

¹⁴² Waqar Maroof, interviewed by author, Commissionerat for afghan refugees, March, 2008

¹⁴³ Jeff Crisp, Christopher Talbot and Daiana Cipollone. Learning for a future: refugee education in developing countries, (Geneva, Switzerland: UNHCR, 2001), p-18.

government was able to achieve a milestone of conducting examination of 12th grade in the period of 1989-2004.

Total admission cases processed during (1981-1995) were 3453. This includes 619 students who appeared in the 12th grade examination (1989-1995). Islamic development bank (IDB) started scholarship programme for the Afghan refugees in 1987 which lasted till 1995. Under this programme 162 Afghan Refugees were granted scholarships of \$1500 per annum. Under DAFI scholarship in collaboration with UNHCR's, 1339 students' cases were processed. 1108 students were granted scholarship after conducting interviews. The budget constraints caused big changes in the UNHCR policy to phase out all the Middle and Secondary schools.

On January 1, 1996, the UNHCR decided to hand over 277 primary schools to basic Education for the Afghan Refugees (BEFARe) and the Non-Governmental Organizations funded by UNHCR. The Middle and High Schools in the camps were closed. To complete the academic session, the local camp elders requested to allow these schools to run through the internal account of the office. This was made possible due to the camp elders' request and preparation of PC-1 for further action for academic sessions 10/12/1995 to 31/3/1998. The significant role played by the Education Cell Afghan Commissionerate in this era is the re-activation of 81 Middle and 7 Secondary schools from Sales Proceed Fund amounting Rs. 59.706 million. The SAFRON ministry approved the PC-1 and the schools were re-activated but again due to budget constraints all the schools were closed on March 2006. As the academic session was in progress;

in order to complete the session, the local AR Community requested the Commissioner Afghan Refugees to allow them to run these schools on self-help basis. So, their request was acceded to, and is still functioning properly on self-help basis. 2395 admission cases in respect of Afghan Refugees were processed between 1996 -2006. From 1996 to 2004 a total number of 2269 of students appeared in the 12th grade examination. However, from 2004 onwards, the UNHCR stopped funding for the 12th grade examinations.¹⁴⁴

Major Activities Undertaken by the Cell in Facilitating Refugee Education

The educational institutions are being monitored by the field staff. At present, the Education Cell is monitoring 379 Afghan Citizen Educational Institutions at various camps and urban areas of Khyber Pakhtoonkhwa. This includes 127 Primary schools in various camps, 195 AR Community Schools, 02 Madaris and 55 vocational technical institutions in KP. The monitoring process is carried out with the motive to improve the quality of teaching and learning process in the Afghan Refugees Schools and to update the “Education Management Information System” database for current and post project implementation purposes and to keep the record of institutions updated. Monitoring includes the overall assessment of the educational activities inside the schools which include curricular and co-curricular activities. Regular meetings with schools` management committee is another important task to engage community in

¹⁴⁴ Fazal Rabbi, “*Sub Project Description of Education Cell*”. (Presentation of project brief at UNHCR by deputy director, Sub Office Peshawar, 2012) p.2-14.

education related matters and make them realize the importance of female education.¹⁴⁵

The Commissionerate Education Cell branch provides necessary assistance to all the potential Afghan Refugee candidates for admission in various Colleges and Universities. In year 2009, 860 admission cases were processed. Their application forms with necessary documents were received and processed for transmission to the Federal Government for final approval. Besides general education, their admission in professional classes such as medicine and engineering against the reserved seats is very important.¹⁴⁶ These tasks require great labor and care to scrutinize the documents of the candidates and verify their identity for admission in these classes on merit. Private Institutions cannot give admission to the refugees nor are they allowed to take Board/University examination unless the Government of Pakistan approves their admission. Detailed list of admission cases processed are attached in the Annexure ‘I’.

There are five seats in each Government College and polytechnic institutes of Khyber Pakhtunkhwa for the admission of the Afghan Refugees in the first year according to the notification issued by the Governor of Khyber Pakhtunkhwa on November 11, 1984. List of seats reserved for the Afghan Refugees in professional colleges is placed in the Annexure “II”

¹⁴⁵ Hanif Jan, “*Narrative Sub-Project Report*”, (Six month report submitted by field monitoring officer, Education Cell, Commissionerat for Afghan Refugees ,2012),p.1-4.

¹⁴⁶ Mumtaz Farman, interview by author, Education Cell, Commissionerat for Afghan Refugees, June 15, 2011.

The Education Cell countersigns/verifies all certificates issued to the Afghan Refugee teachers and students. After signing and verification, the documents are further sent to the Afghan Consulate and the Foreign office and the departments after Education Cell Afghan Commissionerate's verification.¹⁴⁷ Until December 2009, 598 attestations were made from which 484 were school student's attestations, 21 were staff certificates attestations, 85 were DMC attestations and 8 were attestation of school certificates. 430 certificates were issued out of which 395 were school student's certificates, 30 were staff certificates and 5 were school certificates.

The Education Cell conducts the 12th grade examination for those students who read in the Afghan Refugee Secondary Schools. Necessary funds for this purpose were provided in the budget. The process includes setting the papers, marking of answer sheets, declaration of results and awards of certificates. Besides regular students, the Afghan Refugees are also accommodated in private examinations. In this regard, attestation of the certificates and application forms of the Afghan Refugees by the Education Cell is also a prerequisite for admission in Universities or other institutions.¹⁴⁸

The UNHCR started the program of awarding scholarships to the Afghan Refugee students in 1980. The Education Cell implemented

¹⁴⁷ Mumtaz Farman, interview by autor, Education Cell, Commissionerat for Afghan Refugees, March 20, 2013.

¹⁴⁸ Fazal Rabbi, "*Budget proposal of Activated 50 German Aided schools out of self help Afghan Refugees schools*".(Budget report submitted by deputy director , Education Cell,Commissionerat for Afghan Refugees ,2009).p.7.

this program in September 1993. There is another scholarship which was introduced in 1986 by the Islamic development Bank to the Afghan Refugees in professional colleges. The bank awarded scholarships every year to the Afghan Refugees enrolled in the professional classes. The applications for scholarships were received and processed by the Education Cell. After scrutiny, these papers are forwarded to the Frontier Region's Division Government of Pakistan, Islamabad. Apart from that, the department also collaborates with UNHCR while granting DAFI Scholarship to refugees and plays an active role in interviews and all other necessary works. Germany is helping refugees around the world. In Pakistan, DAFI is one of the largest and longest-running German-funded scholarships in the world. The Afghan Refugees having proof of registration and minimum 12 years of Education can apply for this scholarship.¹⁴⁹ Those who pass the exam are considered eligible, where they will pay the same fees as local students (Afghan Refugee status). Whereas those Afghan students who approach the institutions directly are considered foreigners and have to pay three times the amount. In March/April 2008 more than 300 Afghan Refugee students were called for interviews in the Commissionerate for the fresh admissions in the professional colleges.

Liaison with Stakeholders

The Education Cell frequently establishes liaison with the Afghan Refugees' stakeholders and other public, department agencies,

¹⁴⁹ Hanif Khan. "*DAFI Scholarships for Afghan Refugees in Pakistan*", University level Scholarships, <http://scholarships-updates.blogspot.com/2012/03/dafi-scholarships-for-afghan-refugees.html> [Accessed: 14 May 2013].

diplomatic missions and literacy department, Government of Khyber Pakhtunkhwa, Inter Board Committee of Chairman (IBCC), Higher Education Commission (HEC), the Higher Education Regularity Authority (HERA), Pakistan Foreign Affairs Camp Office Peshawar and Afghan Consulate, Peshawar. Monthly coordination meetings with the NGOs to discuss the education related matters and resolving and highlighting the issues at the appropriate level is another activity of Education Cell. In short, it was created with the objective to make the management and the learning process of Refugees Primary and Post Primary Formal Education and vocational training in Afghan Refugees Community in the urban areas and in their villages/camps. The Project Directorate of Education is regularly arranging monthly co-ordination meetings with all the Afghan Refugees Education stakeholders. The main objective of these meetings is to point out and discuss the relevant issues and problems regarding the Afghan Refugee Education. These meetings provide a forum for all the participants to share and exchange their experiences regarding the various Educational issues. Minutes of the meetings are sent on a regular basis to the concerned departments.

Proposal Submissions

Proposal submission is a very active area of the cell and from time to time various proposals are submitted to make the Refugee Education system better. On April 2008, the Education Cell submitted a Proposal for the support of 50 Middle and Secondary Schools to the German Embassy at Islamabad. The Proposal was accepted by the German Government and the agreement was signed on October 16,

between Dr. Michael Koch, the Ambassador designate of the Federal Republic of Germany and Syed Jamal-ud-din Shah, Commissioner Afghan Refugees (CAR) NWFP. The aim of the project was to improve the Afghan refugees' education in Pakistan. The project was one element of Germany's initiative in the framework of the G-8 to promote cooperation between Pakistan and Afghanistan – an initiative launched on May 30, 2007 in Potsdam under the German G-8 presidency. The Foreign Ministers of Afghanistan and Pakistan renewed their Governments' pledge at all levels, in particular in the field of security and refugee issues.¹⁵⁰ To quickly implement the project, the Commissioner Afghan Refugees, established PIU (Project Implementation Unit) for the German Project at the Education Cell of CAR. The services of Four Field Education Officers, one Deputy Director and two computer operators have been hired under the Leadership of Project Director (Education). The selection of teaching staff was made on the recommendation of the concerned District Administrator Afghan Refugees and local community keeping in view their qualification and experience. A contract was issued to 390 teachers from 50 activated schools under the German Project. The German Government provided funds till December 2009. Since January 2010, due to the fund closure, the German Aided Middle and Secondary schools are working on the Self-Help basis.¹⁵¹

¹⁵⁰ G8 Research, Group, “G8 Afghanistan –Pakistan Initiative, “Joint statement by the foreign Ministers of Afghanistan and Pakistan, <http://www.g8.utoronto.ca/foreign/formin070530-joint.htm> (accessed November 10,2019).

¹⁵¹ Nadia Sajjad and Nazish Sher, “*German aided project progress report*”, (September progress report submitted by field Monitoring Officers , Education Cell, Commissionerate for Afgan Refugees, 2009),p.1-4

Wash and Hygiene Facilities in Institutions

For making the educational environment more conducive for learning in the year 2009, the Education Cell initiated two German Government aided projects for the provision of Basic facilities in 29 Afghan Refugees Schools at the estimated cost of Rs. 208.38, 000.¹⁵² Both projects were completed in July 2010. The objective of these projects was to provide proper water and toilet facilities in the AR schools. Most of the AR schools lack drinking water and toilet facilities. Where these facilities exist, they are not up to the mark, making these schools unattractive for the refugee students. This has resulted in higher drop-out rate of students. The non-availability of basic facilities forced the poor students and the teachers to use the open areas for the toilet facility and drink unhygienic water, which create health hazards. By providing this basic facility, the living standards of the students and teachers have been improved in schools. This has benefitted the children from the lower socio-economic backgrounds. The project initiative has resulted in decrease in drop-out rates and an increase in students' enrollments to 15% in the AR schools.⁶²

The Commissionerate has taken some initiative for the development & streaming of the Afghan Education under the concept of AMRS 2010-1012. The main area of focus was to revive the Afghan Refugee admission policy and to devise a strategy which has future implications on the Afghan Refugees in Pakistan. The step taken by

¹⁵² Fazal Rabbi, "Education Cell background", (Paper presented in front of IP's by deputy director, Education Cell, Commissionerate for Afgan Refugees, 2009).

Commissionerate staff is reviving five seats in the Government /Post graduate Colleges for males and females in various districts of Khyber Pakhtunkhwa for the academic session 2011-2012 after successful meeting with the Provincial Higher Education Department, Government of Khyber Pakhtunkhwa. There are 93 Postgraduate/Degree Colleges for Boys while 49 for girls throughout the KP province. Details of the institutions are placed in the Annexures III and IV.

The reserve quota for the Afghan Refugee students in Khyber Pakhtunkhwa is 710 seats which includes 465 male and 245 female seats for the post graduate and degree colleges. Another development was Commissioneerate Education Cell staff meetings with the secretary of Industries, Commerce, and Technical Education Department Government of Khyber Pakhtunkhwa regarding reservation of seats for the Afghan Students in the Provincial Polytechnic Institutes/Commerce Colleges. Successful outcomes of the data sharing and meetings was in the form of reservation of 02 seats in each Polytechnic Institution/Commerce College in Khyber Pakhtunkhwa for the academic session 2011-2012.

Registration of the Afghan Refugees' Institutions

In May 2007, the Education Cell initiated a Program to register the Afghan Citizen Private Educational Institutions functioning in various parts of NWFP. All the schools were informed through leading Newspapers to apply for the provisional registration with Education Cell. A proforma was designed and distributed to the community and self-help schools for the provision of the requisite

information. The Education Cell registered 379 Afghan Citizens Educational Institutions and complete data have been collected until now. There are ups and downs in the educational institutions due to the stoppage of funding of various schools. The Education Cell started provisional registration of the Afghan Refugees' private institutions in the urban and rural areas of Khyber Pakhtunkhwa. Meetings in this regard are held from time to time to make clear the necessary information and data needed by the office in this regard.¹⁵³

The Education Management Information System (EMIS)

The Education Management Information System (EMIS) of the Education Cell/CAR is responsible for arranging data of all Community Schools including Primary, Middle and High Schools and Vocational Skills Training Institutes of the Afghan Refugees. Initially, the registration exercise of the AR Schools was launched in June 2007 throughout Khyber Pakhtoonkhwa. Data was collected with the help of the field as well as administrative staff of the Education Cell. Later on, this practice became a permanent feature and data collection of educational institutions was done in 2011, 2012 and 2013 as well. For granting registration, the following aspects of the Afghan Refugee communities' Educational Institutions were assessed:

¹⁵³ Ihsanullah Khan.and Hanif Jan. “*Statistical report of Afghan Citizen Community schools and vocational Institutes*”, (Statistical report submitted by field officers, Education Commissionerate for Afgan Refugees, 2011) p.1-3

1. Number of AR Community Educational Institutions (by Level, Type, Location & Gender)
2. Enrollment by Gender and Level of Education.
3. Number of Teachers by Gender, School and Nationality.
4. Facilities (No. Of Classrooms, Library, Lab and Office)
5. School wise data by the type of management, curriculum, gender, date of establishment and details regarding building and location.¹⁵⁴

Capacity Building and Trainings of Teachers

In-service training or teacher education is the main responsibility of the training staff of the Education Cell. Finally, in 2008, the Education Cell started working in the training areas after field assessment regarding the need for most urgent trainings needed for the refugee teachers. In service training courses for the Afghan Refugee teachers were conducted under the UNHCR Budgetary mandate in 2008 and 2009. The funding of training was provided till 2010.¹⁵⁵ Trainings were imparted on the school improvement program, monitoring and evaluation of education, and the school management committees. More than 900 head teachers and teachers have benefited from these trainings. The trainings were given primarily in the school

¹⁵⁴ Nadia Sajjad and Zahida Akbar. “*Statistical report of Afghan Citizen Community schools and vocational Institutes*”, (statistical report prepared to update the EMIS by field staff, Education Cell, Commissionerat for Afghan Refugees, 2010),p.1-2.

¹⁵⁵ Ihsanullah Khan.and Hanif Jan. “Quarterly report of Education Cell Educational Institution period June – Dec ”, (Report submitted by field officers, Education Commissionerate for Afgan Refugees, 2011) p.5-9. . (Khan & Jan, 2010).

improvement program, school management committee, teaching methodologies and lesson planning.¹⁵⁶

National and Policy Seminars

One day policy seminar on Afghan Education in Pakistan was held on December 12, 2008. It was organized by the Education Cell in collaboration with the UNHCR. The Abasyn University representatives from the Higher Education Commission, IBCC Provincial, International Rescue Committee, BEFARe, AIL, BEST, the Afghan Consulate, eminent educationists, UNESCO, PEACE and the Afghan students' organization participated. These organizations presented their papers and highlighted the issues faced by the Afghan Refugees in the education sector in Pakistan. The aim of the seminar was to gather under one roof the stakeholders of the Afghan education to highlight issues confronting the Afghan education in Pakistan and to help resolve them with the help of eminent educationists.¹⁵⁷

A one-day national seminar on the Afghan Education in Pakistan was held on December 8, 2009 at ICMS, Hayatabad, Peshawar. The seminar was organized by the Education Cell, Afghan Refugees Commissionerate, Khyber Pakhtoonkhwa in collaboration with

¹⁵⁶ Nadia,Sajjad, “*Annual training report 2010*”, (Yearly training report submitted by field monitoring and education officer, Education cell,Commissionerat for afghan refugees,2010).p.1-10.

¹⁵⁷ Ihsanullah Khan and Hanif Jan“*Afghan Education in Pakistan*”, (proceedings of the seminar on problems of refugees education held at Commisionerat for afghan refugees, December 2008), p.1-2.

UNHCR and ICMS. Along with other suggestions, the problems of equivalence were discussed and Afghan students requested to raise the limit of seats for the AR in the professional colleges.¹⁵⁸ Another challenge for the refugee education is the call for the deadline of their POR (Proof of Registration) card validity.

In 2016, Pakistan continued its support to the Afghan refugees. The following data was taken from the Afghan Commissionerate that illustrates the support in general and technical colleges of the **General Education System**.

The competent authorities of the Provincial Government of Khyber Pakhtunkhwa have approved reservation of 05 seats in each Post Graduate/ Degree Colleges of KP for the Afghan Refugee Students. The number of the existing Colleges in KP is as under:

Number of Colleges	Number of Reserved Seats
Number of Existing Colleges for Boys	93
Number of Existing College for Girls	49
Total Number of Colleges	142
Total number of seats	(142x5) =710 seats

¹⁵⁸ Hanif Jan, "Afghan Education in Pakistan" (Monthly progress report submitted by field monitoring officer, Education Cell, Commissionerate for Afghan Refugees, 2009), p.2.

Technical Colleges

S. No	Name of Institution	No. of Institutions
1.	Government Colleges of Technology	10
2.	Government Polytechnic Institutions	12
3.	Government Colleges of Management & Sciences	20
4.	Government Commerce Colleges	07
5.	Government Technical Institutions	05
6.	Government Technical & Vocational Centers (Boys)	25
7.	Government Technical & Vocational Centers (Girls)	17
	Total	96
	Total number of seats	96 X 02 = 192

Currently, 127 primary schools are functional in KP, funded by UNHCR monitored by the education field staff of the Education Cell. Twenty-two primary level schools are being managed by Daa Laas Gul, in the southern part since January 1, 2016. One hundred and five (105) primary schools are being managed by the Rural Empowerment and Development Organization (REPID), in rest of the KP since September 1, 2016. One hundred and eighty two (182) Self-help Schools were previously registered with CAR, out of which 92 are

registered with the Afghan Consulate (Education Attaché). The list of Schools registered with Commissionerate Afghan refugees is provided in the Annexure V.

Conclusion

The Afghan Refugees' influx created a challenging and demanding situation for Pakistan and the international community. It was difficult for Pakistan to deal with such a situation on its own, yet it shouldered the responsibility to help the destitute refugees from Afghanistan. The positive response from the international community made this matter less difficult. Apart from the international community, the local organizations specifically population of hosting areas` contributed immensely to facilitate the refugees. The Afghan Commissionerate generally and its education cell particularly played an important role in the education of the Afghan refugee children whether they were within or out of camps. Due to the systematic and collaborative efforts of the Afghan Commissionerate, Afghan Refugee students' education system progressed despite several challenges. Those students later on, contributed immensely in the reconstruction and the development of their country when they returned to their homeland in the wake of Bonne Accord. In all echelons of the state institutions, especially three branches of government- judiciary, executive and judiciary, the young Afghan men and women who got education in Pakistan, are playing very important role in the development of their country.

Annexure 'I'

**Year wise Detail of the Afghan Refugees Admission Cases
Processed until 2012**

S. No	Period	Admission Cases Processed
1.	1-1-1996 to 31-12-1996	447
2.	1-1-1997 to 31-12-1997	533
3.	1-1-1998 to 31-12-1998	439
4.	1-1-1999 to 31-12-1999	500
5.	1-1-2000 to 31-12-2000	586
6.	1-1-2001 to 31-12-2001	717
7.	1-1-2002 to 31-12-2002	632
8.	1-1-2003 to 31-12-2003	846
9.	1-1-2004 to 31-12-2004	953
10.	1-1-2005 to 31-12-2005	1514
11.	1-1-2006 to 31-12-2006	1580
12.	1-1-2007 to 31-12-2007	743
13.	1-1-2008 to 31-12-2008	835
14.	1-1-2009 to 31-12-2009	793
15.	1-1-2010 to 31-12-2010	992
16.	1-1-2011 to 31-12-2011	1096
17.	1-1-2012to 31-12-2012	1319
Total		17878

Annexure “II”**Detail of Seats Reserved for the Afghan Refugee students
in the Professional Colleges of KP**

S.No	Name of Discipline (Professional Field)			
	MBBS	Bds	B.Sc Eng	D. Pharmacy
1	04	01	04	04
Total	13			

Annexure “III”**Particulars of Post Graduate/Degree Male Colleges in the
Khyber Pakhtunkhwa**

S.No	District	Name of Colleges & Address
1	Peshawar	Government Superior Science College Peshawar
2		Government College Badabair
3		Government College Hayatabad
4		Government College Mathra
5	Nowshera	Government Post Graduate College Nowshera
6		Government College Pabbi
7		Government KK Khattak College Akora Khattak

8		Government Molana Abdul Haq College Khan Kohi Nizam Pur
9	Charsadda	Government Post Graduate College Charsadda
10		Government College Tangii
11		Government College Shabqadar
12	Mardan	Government Post Graduate College Mardan
13		Government College Mardan
14		Government College Toru
15		Government College Khair Abad
16		Government College Lund Khwar
17		Government College Bakhshali
18		Government College Takhtbai
19		Government College Babu Zai
20		Government College Katlung
21	Swabi	Government Post Graduate College Swabi
22		Government College Lahore
23		Government College Kotha
24		Government College Yar Hussain
25		Government College Gadoon Amazai
26		Government College Shewa Swabi
27		Government College Zarobi
28	Mlakand	Government College Thana
29		Government College Badkhela

10		Government College Dargai
31		Government College Agra
32		Government College Dotakan
33	Lower Dir	Government College Temergara
34		Government College Gulaabad Adezai
35		Government College Samar Bagh
36	Upper Dir	Government College Dir
37	Chitral	Government College Chitral
38		Government Collge Booni
39	Swat	Government Jhanzeb Post Graduate College Saidu Sharif Swat
40		Government College Mingora
41		Government College Kabal
42		Government College Matta
43		Government College Madyan
44	Shangla	Government College Alpuri
45		Government College Chakesar
46		Government College Puran
47	Buner	Government College Daggarr
48		Government College Totalar
49		Government College Jowar
50	Haripur	Government Posst Graduate College Haripur
51		Government Collegzie Khalabat Township
52		Government College Ghazi

53		Government College Khanpur
54	Abbottabad	Government Post Graduate college Abbottabad
55		Government Post Graduate college Mandian
56		Government College Nathya Gali
57		Government College Havelian
58		Government College Sherwan
59	Manshera	Government Post Graduate College Manshera
60		Government College Oghi
61		Government College Balakot
62		Government College Lassan Nawab
63	Battagram	Government College Battagram
64	Kohistan	Government College Pattan
65	Kohat	Government Post Graduate College kohat
66		Government College KDA Kohat
67		Government College Lachi Kohat
68	Hanggu	Government College Hanggu
69		Government College Thall
70	Karak	Government Post Graduate College Karak
71		Government College Takhat Nasruti
72		Government College Sabirabad
73		Government College Ahmedabad
74		Government College Latumbar

75		Government College Banda Daud Shah
76	Bannu	Government Post Graduate College Bannu
77		Government College Bannu
78		Government College Mamashkhel
79		Government College Sikandarkhal Bala Bannu
80		Government College Kakki Bannu
81		Government Collere Ghauriwala Bannu
82	Lakki Marwat	Government Post Graduate College Lakki Marwat
83		Government College Essak Khel
84		Government College Sarai Naurang
85		Government College Tajuri
86		Government College Ghazni Khel
87	DI Khan	Government College Dera Ismail Khan
88		Government College #2 Dera Ismail Khan
89		Government College Prova
90		Government College Panyala
91		Government College Paharpur
92		Government College Kullachi
93	Tank	Government College Tank

Annexure “IV”

**Particulars of the Post Graduate/Degree Female Colleges in the
Khyber Pakhtunkhwa**

S. No	District	Name of College and Address
1	Peshawar	Government City Girls College Peshawar
2		Government Girls College Gulshan Rehman Kohat Road Peshawar
3		Government Girls College Hayatabad
4	Nowshera	Government Girls College Nowshera
5		Government Girls College Pabbi
6		Government College Pir Pai Nowshera
7	Charsadda	Government Girls College Charsadda
8		Government Girls College TajoBibi Charsadda
9	Mardan	Government Post Graduate Girls College Mardan
10		Government Girls College Sheikh Maltoon
11		Government Girls College Takhtbai
12		Government Girls College Lundkhawar
13	Swabi	Government Girls Colle Maneri Swabi

14		Government Girls College Kernal Sher Khan Kili Swabi
15		Government Girls College Murghaz Swabi
16		Government Girls College Manki Swabi
17	Malakand	Government Girls College Thana Malakand
18		Government Girls College Dargai Malakand
19		Government Girls College Julagaram
20	Lower Dir	Government Girls College Timergarah
21	Upper Dir	Government Girls College Dir
22	Chitral	Government Girls College Chitral
23	Swat	Government Girls College Saidu Sharif
24		Government Girls College Khawazakhela Swat
25		Government Girls College Barikot Swat
26		Government Girls Collge Kanju Township Swat
27	Buner	Government Girls College Daggar Buner
28	Haripur	Government Girls College Haripur
29		Government Girls College Khalabat T/ship Haripur
30		Government Zubaida Aman Girls College
31		Government Girls College Sarai Salah
32	Abbottabad	Government Girls College Abbottabad

33		Government Girls College Mandian Abbottabad
34		Government Girls College Nawan Sher Abbottabad
35		Government Girls College Havelian Abbottabad
36	Manshera	Government Grls College Manshera
37		Government Girls College Chitti Dheri Manshera
38	Battagram	Government Girls College Battagram
39	Kohat	Government Post Graduate Collee Kohat
40	Hanggu	Government Girls College Hanggu
41		Government Girls College Thall Hanggu
42	Karak	Government Girls College Karak
43	Bannu	Government Girls College Bannu
44		Government Girls College Surani Bannu
45		Government Girls College Mandan Bannu
46	Lakki Marwat	Government Girls College Lakki Marwat
47	D.I Khan	Government Girls College D.I Khan
48		Government Girls College # 2 D.I Khan
49	Tank	Government Girls College Tank

Annexure ‘V’

**Summary of the Afghan Citizen Educational Institutions
Registered with the Education Cell**

S. No	Category	Total	Students’ Enrolment
1	Self Help schools	195	83025
2	BEFARe	127	56786
3	Madaris	2	541
4	Vocational	55	12768
Total		379	153120

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