

The Emerging Scenario in Jammu and Kashmir Implications and Future Strategy

(In the Backdrop of Abrogation of Article 370 (and 35 A) from the Indian Constitution)

This working paper is divided into four sections. The first section describes the nature of the amendments brought in the Indian Constitution and their technical implications. Moreover, this section also contains a brief analysis of successive manifestos of BJP's from 1984 till date to have a contextual understanding of the recent Indian actions regarding Kashmir. The second section examines the possible motivations that led to the amendment of the Indian Constitution even when the possibility of a severe reaction in Jammu and Kashmir was evident. This section also points to some of the prominent aspects of the situation that arise after the amendment. The third part discusses the question of what India is expected to do in the coming days. The last section deals with the question of how Pakistan should respond to under the given scenario. Moreover, this section in addition to the internal, diplomatic and communication strategies, also highlights the role of the Azad Government of the State of Jammu & Kashmir.

1. Amendments: Nature, Impact and Context

On August 5 2019, at the behest of the Modi Government, the Indian Parliament amended the Indian Constitution by approving a bill titled *Jammu and Kashmir Reorganization Act 2019*. With this amendment, not only the special status of India Occupied Jammu and Kashmir has been revoked, but also the state itself has been bifurcated into two parts. These two parts- Ladakh and Jammu and Kashmir- have been separately included in Union Territories. According to the amendment, there will be no legislative assembly in Ladakh, however, a representative assembly will be set up in Jammu and Kashmir with 107 members. Moreover, new constituencies would also be set up in a few days. After the delamination of these new constituencies, the number of members will be increased to 114. At that time, four seats of Ladakh will be abolished. The powers of this assembly will also be limited in terms of legislation. It will not be empowered to legislate about public order and the police. Practically all authority will rest with the Governor designated by the Center. Deployment of bureaucracy will also be handled by him. However, on the face of it, the

amendment stipulates that the single largest party in the Jammu and Kashmir Assembly will have the right to form a government headed by the Chief Minister. Moreover, after this amendment, the legislative assembly, as well as the government, will be formed for a reduced period of 5 years as compared to 6 years in the past.

Both (Jammu and Kashmir and Ladakh) Union Territories will be under the same Governor. On the other hand, five of the total six Lok Sabha seats for Jammu and Kashmir will be reserved for Jammu and Kashmir, while one will be reserved for the new Union Territory of Ladakh. Thus, the revocation of Article 370 and the amendment in the Constitution have resulted in the division of Jammu and Kashmir, along with the elimination of its special status.

1.1. Implications of the Amendments

Following changes will take place now,

- The state will not have its constitution, flag and national anthem.
- Citizens of the state of Jammu and Kashmir will not have dual citizenship. They will be declared as citizens of India only.

- Kashmiris will have the same rights as those given in the Indian Constitution. If they had previously received an exemption, they would no longer be entitled to it (for example, a financial emergency imposed under Article 360 would apply there as well).
- All the laws passed by the Indian Parliament will now apply to Kashmiris as well.
- The Indian National Penal Code will replace the Penal Code of state of Jammu and Kashmir. Therefore, the most significant changes that Article 35-A of the Indian Constitution, which was included based on the special status given to Jammu and Kashmir under Article 370, has also become ineffective and irrelevant.
- Any individual from any part of India can now buy property, receive scholarships, secure jobs and enjoy other perks and benefits in Jammu and Kashmir (and Ladakh). Moreover, as compared to the past, now if a woman from Kashmir marries outside the state, she will not lose her property in Kashmir. It should be noted that in the case of section 35-A, these protocols were a continuation of the decisions made by the then Maharaja during 1920s.
- Regardless of the governance aspect, through this amendment, India has given a clear message to the world that it is practically annexing Jammu and Kashmir to consolidate its control.

1.2. Annexation of Kashmir: A Historical Agenda of BJP

The BJP was formed in 1980. Annexing Kashmir and absorbing it in India has always been one of the primary motives of BJP. Thus in its manifesto of 1984, the BJP for the first time mentioned Article 370 and pledged to "delete the temporary article". The same intentions were again expressed in the manifestos of 1989 and 1991. In 1996, a coalition government led by Vajpayee was formed under the leadership of the BJP. Although this setup only lasted for 13 days, the manifesto of BJP not only focused on various aspects of the Indian Occupied Kashmir, but it also expressed clear resolve to reclaim the Kashmir Territory of Pakistan. In 1989 this resolve was reiterated in words: "The BJP will abrogate Article 370 of the Constitution." The 1996 manifesto read, "The failure of successive Congress Governments to formulate a Jammu & Kashmir policy that takes into account the State's internal problems has led to a situation where this strategic border state has emerged as the

principal challenge to Indian nationhood. The BJP realizes the magnitude of the challenge and dedicates itself to the task of not only solving the internal problems of the state but also reclaiming the portion of our territory which has been illegally held by Pakistan for nearly five decades."

However, there was no mention of Article 370 in the election manifesto of BJP in 1999 and 2004. Most probably, this was aimed to avoid any disagreement on these issues in the then alliance with other political parties (NDA). Afterwards, in the election manifesto of 2009, among other aspects related to Kashmir, the BJP mentioned that "Article 370 poses a psychological barrier for full integration of the Jammu and Kashmir with the national mainstream. The BJP remains committed to the abrogation of this article".

In 2014, the election manifesto of BJP reiterated its position to abrogate Article 370 from the Indian Constitution. However, it was stated that a discussion would be held with all the stakeholders. The election manifesto of 2019 cited the past position of the BJP on Article 370 as,

"We reiterate our position since the time of the Jan Sangh to the abrogation of Article 370"

It may also be worth mentioning here that during the election campaigns of 2019, the Congress party openly resisted the abolition of Article 370. However, in its manifesto (page 41 section 37) the Congress used the words "an innovative federal solution" for Jammu and Kashmir. Nevertheless, no details were given regarding this solution.

2. Motivations of the Indian Actions

Keeping the ground realities in view, Article 370 had already become ineffective as the state of Jammu and Kashmir was practically being run under the Indian Constitution. 260 out of 395 Articles of the Indian Constitution were already being applied to Jammu and Kashmir (State Autonomy Committee Report 1999). Even more changes, have been made over the last 20 years. Similarly, there are 97 subjects in the Union List, and 94 of them were already implemented in Jammu and Kashmir. Likewise, the Concurrent List has 47 subjects and 26 of them applied to Jammu and Kashmir. And these were key subjects. Despite that, if Article 370 ever proved to be an obstacle, the Indian government had collaborators in Jammu and Kashmir. Therefore, implementation of most of the laws was possible in Jammu and Kashmir with either the help

of these collaborators, Governor Rule, Presidential order, or by using the tool of concurrence.

It is pertinent to ponder then why this article was abolished at this time? There are several possible factors involved. First and foremost, the RSS ideology considers the region of Jammu and Kashmir to be a sacred territory and has, for themselves, set a clear agenda of reviving the historical status of Kashmir. However, the presence of Article 370 symbolically characterized a special status for the state of Jammu and Kashmir. Moreover, while Article 370 was in effect, removal of Article 35A was not possible, which prohibited any non-indigenous Kashmiri from buying immovable property in Kashmir.

2.1. Role of Courts and Domestic Politics of India

There were also concerns that any judicial proceedings authenticating the Article 370 as permanent in the Constitution, would render a new spirit to the special status of Kashmir as some petitions on this matter are pending in the Apex Courts. It must be noted that on October 1, 2015, the Srinagar High Court gave a clear decision on Article 370 by stating that Jammu and Kashmir is not part of India. Similarly, the Supreme Court of India also decided in 2016 that Article 370 had become a permanent feature of the Constitution. Afterwards, during a hearing of another petition, the Supreme Court of India in 2018 referred to the decision of Santosh Gupta case (2017) and observed that the Supreme Court had made a final decision on the Article 370 that it was a permanent feature of the Constitution.

On the other hand, a petition against the Delhi High Court verdict was submitted to the Supreme Court in January 2017, while a BJP leader filed a petition in the Supreme Court in January 2019 calling the Article 370 a temporary article. The Supreme Court had directed to tag the petition with other similar petitions. In this context, there was a concern that the proceedings would begin in the Supreme Court at any time and the decision of the Supreme Court would declare Article 370 to be a permanent part again. Although, amending the Constitution would not have been difficult for the Government of India due to clear majority in Parliament, however, such an amendment would have been cancelled if it was later challenged in the Supreme Court.

Some new petitions have also been filed in the Supreme Court (totaling 14) and will be heard

sometime in October 2019. The current amendment is not only explicitly against the Constitution but also contrary to the customary procedure. Therefore, there is no principle or legal basis for this amendment. However, there are concerns now the Supreme Court will, because of the amendment, either be ready to review its former position on Article 370 or it would delay the cases in such a way that would lose their effectiveness.

In addition to the legal debate, the timing of this move needs to be understood in the context of the internal political situation of India. Despite its poor performance in the last five years, the BJP has been able to secure a victory in the general elections mainly due to its aggressive rhetoric regarding Kashmir and Pakistan. Currently, BJP is at the peak of its political position due to the sheer number of its parliamentary seats and provincial governments. On the other hand, although the Congress- the biggest national opposition party- has gained more seats as compared to previous elections, it is practically at its lowest. It was but natural that over time, there would particularly be concerns about the economic performance of the Government of India and the political support of BJP and public euphoria would naturally and certainly decrease. Therefore, it was considered the most appropriate time to take any such step to change the status of Kashmir in continuation of the aggressive stance adopted in the election campaign.

2.2. Global Dynamics

The situation in Kashmir and the global response to it have also played a role in the timing of this decision. It is no secret that the BJP government has committed the most serious human rights violations in Jammu and Kashmir in the last five years (2014-19). (Also, the Indian Government has not only neglected mob lynching but also has practically condoned as a patron of such crimes.)

This extreme state- sponsored violence has triggered an international response, and not only have human rights organizations raised their voices in the past few years, but the UN Human Rights Council has also issued two reports (June 2018 and July 2019) on these gross human rights violations. Moreover, upon the initiative of Kashmiri Organizations, the Kashmir Week is being observed in the European Parliament for almost a decade now. In these circumstances, when the state violence in Kashmir had become a permanent part of the BJP government's policy, the

frequency of such international responses would naturally increase. By bringing the amendment, the BJP has attempted to change the nature of the debate and the issue of state-sponsored HR violations.

Yet another aspect of the global response is even more important. Despite the international reaction to the serious human rights violations, India and the Modi Government is virtually not faced with any extraordinary and real pressure to improve the situation in Jammu and Kashmir. In fact, different countries, in their interests, have not only ignored state-sponsored terrorism but also are steadily increasing their cooperation and relations with India. This attitude has encouraged India, which wants to project itself as a 'superpower' in the region. It is in this context that the current move is considered a test by India for its 'greatness'.

In addition to being a large market in general, India is currently purchasing large quantities of defence equipment from the US, Israel, Russia and France. Therefore, the Indian leadership believes that any of its actions will not garner a significant reaction on the international level. On the other hand, the growing popularity of right-wing extremists in Europe also provides a favorable environment to India internationally.

2.3. Regional Dynamics

Meanwhile, the emerging changes in the region also played a role in the BJP's move. The United States and Taliban negotiations were progressively moving to a point where, if conditions were right, there was hope for some improvement or a new beginning. For now, on the one hand, Pakistan was able to curb terrorism and resolve issues at the Afghan border, on the other hand, America was also changing its attitude towards Pakistan. Based on these factors, the situation on the western borders for Pakistan was likely to improve. As this process had progressed, naturally Pakistan would give more attention to the eastern border. On the other hand, the success of an Islamic group in Afghanistan and its influence in Kabul would be a morale booster for the movement of Kashmir. Therefore, delaying its move to annex Kashmir would have created more difficulties for India. Under Modi's leadership, the Indian Government did not want to lose such an important opportunity.

In the backdrop of the regional dynamics, Pak-China relations and CPEC are also important factors. Over the past few years, these factors have also led to

strategic cooperation between the United States and India. While India's interests in annexing Jammu and Kashmir are clear, the United States is also interested in creating a conducive environment for itself (especially in Ladakh) and setting foot (possibly by establishing bases in the long run) in the strategic location of the region. Securing its presence in the region has become more pertinent for the United States as its direct involvement in Afghanistan is constantly shrinking. Therefore, it would not be a mistake to assume that the United States is fully supporting the Indian moves. The seemingly sudden offer of President Trump's "Mediation" also appears to be a continuation of this.

Another aspect linked with the timing of the Indian move is related to the Muslim world. Although over the past few decades, the Muslim governments have not played a significant role with regard to Kashmir, there was always the possibility of, some kind of more than a symbolic, response from them in an unusual situation regarding Kashmir. Although this possibility has not yet vanished, the internal changes in some of the key Muslim countries over the past few years and the division of the Muslim world have made conditions favorable for India. Under these new conditions, India is aware that as in the case of other countries, the possibility of an effective backlash to India from the Muslim governments is extremely low.

Also, given the current political and economic situation in Pakistan, India realized that the evolving political and economic landscapes do not reflect an ideal scenario. The challenges faced by Pakistan require a significant level of national consensus. But the increased polarization, extreme internal disputes, and weak governance make it natural for an adversary (India) to assume that a major retaliatory move from Pakistan will have a lot of challenges from within.

2.4. Immediate Response to the Revocation of 370

In this seemingly favorable scenario, India did not expect any major international backlash against its move. To eliminate any possibility of a ground-level public reaction in Jammu and Kashmir, the BJP Government had arranged for the use of unprecedented force. Moreover, massive communication and media blackouts were also arranged to blackout the global community from the situation in Kashmir. However, the response appeared so far from within India, on the international media, and civil society is certainly far beyond India's expectations.

Although no major breakthroughs have been made against India's action at the diplomatic level, discussions at the UN Security Council have made significant strides. On 5 August 2019, 45 members of the British Parliament expressed their concern in a letter to the Secretary-General of the UN. Such a letter was also sent by some EU members. On the other hand, the issue was discussed in the US Congress' sub-committee and the European Parliament, as well as on different levels by Iran, Turkey and Malaysia. The Amnesty International has launched an official signature campaign, while reports of World Genocide Watch have also been released. On 9 September 2019, the head of the UN Human Rights Council, in her inaugural address at the annual meeting, urged India to ease restrictions in Jammu and Kashmir and consider the will of Kashmiris in any future decision. The progress has created some ripples in the stagnant water.

On the other hand, despite the apparent silence in Kashmir, there has been no reduction in public grief and anger. The intensity of these feelings can be gauged by the fact that those who have been supportive of India till date have now openly opposed India's move. Just like the Hurriyat leadership, they had also been arrested and are being kept under constant detention. Despite the prolonged curfew and lockdowns in Kashmir for such a long time (36 days so far), people are not ready to take advantage of the partial relaxations that India is doing to restore its credibility. This defiance is going on even though not only the highest resistance leadership, but the second, third, and fourth level resistance leadership have also been arrested.

The move was expected to intensify anti-India sentiment in Pakistan and Azad Kashmir. The immediate public response has made it easier for Pakistan's Government and other institutions of the state to take a strong stand; in fact, it leaves no room for weakness or carelessness. The response so far may not have exceeded the expectation of the Indian leadership, but as public pressure is mounting, additional steps are becoming necessary to be taken by the Government of Pakistan.

At the internal level (in India), the BJP leadership and its followers, as well as the external players having stakes with India, insist that what India has done is an internal affair of it and well within the constitutional and legal sphere. However, the international response has mostly rejected India's position. Among

the neutral observers, experts, diplomats and lawmakers, the debate has actually been shifted to the international status of the Kashmir dispute, the UN resolutions, unconstitutional nature of Indian moves, and the irrelevance of the Shimla Agreement.

3. Future Moves of India?

In this overall context, the question is: What can be the future strategy of the Modi government?

There are three main areas of focus for the future strategy: Indian occupied Kashmir, response to Pakistan, and response to the international reaction.

3.1. The Strategy towards the Indian Occupied Kashmir

The biggest challenge for India in occupied Kashmir is to control the ground situation. The use of state power by India in the Occupied Kashmir is most likely to continue in full swing. In the current situation, the immediate possibility of an end to curfew and lockdown is highly unlikely. However, some speedy steps may be taken in Ladakh, especially where the restrictions are relatively low; and in comparatively less affected areas of Jammu.

Some political process may be started in Jammu and Kashmir to ease the possible pressure and avoid any further turmoil in the valley. The state assembly elections are reported to be planned in November-December to help BJP candidates succeed in all seats in Hindu dominated areas in Jammu while the votes of Kashmiri Pandits based in Jammu and Delhi are reported being registered in the valley. Thus, the results of the valley will also be affected by their postal ballots. Also, efforts will be made to hold the panchayat elections as soon as possible, as elections at this smaller levels will also be easy to be held in phases. While some new stakeholders might be created at the grassroots level through this exercise, these attempts are aimed at generating an impression that conditions are returning to normal.

Efforts have already been initiated to bring in investment from foreign governments, domestic, and foreign investors to Jammu and Kashmir. Major investments in the region are expected in the areas of energy, hydro-electric power, and tourism projects. This is likely to be implemented as quickly as possible to maximize external stakes in the changing situation. The same process will be carried out on the domestic level as well to change the status quo as soon as possible and to establish a new normal in the region.

The possibility of eliminating the popular leadership of the Hurriyat is also high.

3.2. Strategy towards Pakistan

The intensity of skirmishes along the LoC could also escalate until a major clash with Pakistan takes place. Moreover, some activity might also be launched in Afghanistan to deflect global attention and discussion away from the core issue of Kashmir. Moreover, tensions could also be escalated with Pakistan under the pretext of a False Flag operation to divert attention from the real issue.

Intense efforts to exacerbate the situation internally in Pakistan through various intelligence operations are also expected. Meanwhile, aggressive diplomacy to isolate Pakistan will continue to be more active in the diplomatic and political arena.

3.3. Strategy in the International Arena

As mentioned earlier, India has not yet faced a major reaction from any of the governments. One of the reasons could be the Indian strategy of taking the Western powers in confidence beforehand. However, growing opposition in global public opinion could be a considerable challenge to the Indian designs. There might be a realization that if the public opinion is not managed properly, it might eventually affect the positions of the governments as well. Therefore, to influence public opinion in its favor, India will direct significant focus on the intellectual field, media, and social media. In fact, for reasons quite known, in the world of internet and social media, India already holds significant influence and it is likely to increase it further.

On the other hand, major activities are already being undertaken by the Foreign Ministry and Indian Embassies to engage with different governments diplomatically. The campaign will be further accelerated, which will play a significant role in advancing Indian thinking and support at both the domestic and global levels. It is important to note that in the four weeks since August 5, besides visiting Bhutan, the United Arab Emirates, Bahrain and Russia, Modi has also attended a G-7 meeting in France, which provided the opportunity to meet several heads of state at the same time. While the UAE and Bahrain have even awarded Modi with the highest civilian awards, it is also reported that he is likely to receive the Bill Gates Foundation award as well.

The meeting of the UN General Assembly is naturally an important occasion. In the next two to three weeks, the above mentioned potential strategies of India will be of greater importance in its pursuit to prevent any international reaction. Meanwhile, India could also use this opportunity for a psychological attack on Pakistan and its leadership as a response.

3.4. Short term and Long Term Goals of India in the Occupied Kashmir

The main focus of the above mentioned immediate and short-term measures of Modi Government is to change the demographic composition of Jammu and Kashmir. This may seem to be a long process, but the evolving dynamics indicate that this process will be initiated at an increasingly rapid pace to eliminate the Muslim-majority identity of Jammu and Kashmir and the process will begin in Jammu and Ladakh. In this context, every aspect of the Israeli strategy in Palestine will be included in India's agenda as well (Former Israeli Foreign Minister Simeon Perez's remarks given while visiting India in May 1993 will be appropriate to mention here. He said "India should not be afraid or hesitate to populate Kashmir with people from all over India. Only a demographic change in Kashmir can help it. The idea of a Muslim majority state living peacefully with Hindu majority community is idiotic and this idea is nothing but anathema").

According to reports so far, the Maharashtra government has announced to buy land in Kashmir and to set up two tourist Resorts in Pahalgam and Ladakh and has even allocated funds for it. There might be some anxiety among the Dogra population and Buddhists on such activities, however, the BJP will handle it by appeasing them somehow. The real target is to outnumber Muslims in Jammu and Kashmir. Besides shifting the non-Kashmiri population to Kashmir, increasing tension on the Ceasefire Line/LoC to push a section of the population towards Pakistan will also be an important means of achieving this goal.

It is unlikely that India will be ready to reverse its steps even under mounting pressure. However, the possibility cannot be ruled out that under intense pressure India might offer to lift of the curfew, remove lockdown, release arrested citizens and other similar measures. These measures would then be presented as a concession, while on the other hand, the petitions in the Supreme Court might be used to establish some new arrangement through the courts.

Moreover, if the pressure increases due to a war-like situation with Pakistan, reconciliation and mediation offers of US might be used, which have seemingly been rejected as of now.

4. Policy Options for Pakistan: Challenges and Opportunities

The moves of the BJP government should not be considered as a sudden development especially since it secured two-thirds majority in the 2019 elections. Even how the additional security forces were deployed before August 5, it was not difficult to infer that an unusual move was about to take place. When put in perspective, the response of Pakistan appears to be lacking in comprehensive and integrated strategy and pre-emptive measures. The immediate reactions from Pakistan appear solely based on protests. Although these reactions are commendable, yet they are not enough. This step of India has provided an extraordinary opportunity to Pakistan to clear the mist around the Kashmir issue and isolate India with a proactive strategy in this regard. Indeed, the timing is right to highlight the constitutional legality of the Kashmir dispute and to move forward with a resolution of the dispute in accordance with aspirations of the Kashmiri people.

The situation also poses a challenge in the sense that India has taken a step which, in absence of a proper response, would be further directed towards Azad Jammu and Kashmir region. In this regard, the BJP has a declared agenda that is written in its manifesto as well. Whether to take advantage of the opportunity or to meet the challenge, the goal cannot be achieved by mere reaction-based protest. While continuing to respond to and protest, innovative and proactive measures are necessary to be taken.

Keeping the global dynamics in view, it is important to note that while this is a great opportunity to present our case, no immediate and short-term measures can solve this problem. Short-term measures are not insignificant, but attention must be given to medium and long-term measures as well. India has extensive experience in controlling uprisings and may have already estimated the required level of state-sponsored terrorism for the next four to five months. Therefore, unless the reaction exceeds its expectations, India will not feel any significant pressure. Increasing the current momentum and maintaining it for the long term will be inevitable for sustainable success.

4.1. Aggressive Political and Diplomatic Campaign

It should be clear at all levels that our goal is to liberate Kashmir in light of UN resolutions and according to the aspirations of Kashmiris. To reach this goal, two major priorities should be set at this stage. One is to strengthen the Kashmir movement. The other is to expose the fascist ambitions of India's current leadership around the world in such a way that it is forced to take a defensive position. There is no doubt that Modi and his colleagues, through their initiatives, have created the opportunity to introduce and identify them as fascists in the world. No matter how apathetic the governments of the world are, this label will create problems for Modi himself, and a large number of the people of India.

From this point of view, it is incumbent to intensify a major campaign against curfew, lockdown, torture, arrests, ban on communication and other human rights violations in the current phase and it has already started. The campaign has to be intensified to bring relief to the Kashmiris who are enduring agony and the inhumane conditions. For this purpose, not only widespread publicity is required for the reports which have come out and published so far; but there is also a need to produce more reports based on the latest and undisputed facts and disseminate them in different languages worldwide.

It has been generally acknowledged that Jammu and Kashmir is the most militarized region on the earth. However, few know that contrary to the general impression, the total number of security forces under various agencies in Kashmir is not 800,000 but almost double of that number. Therefore, when curfew will be finally lifted, a new uprising will emerge and no matter how effective the diplomatic campaign of India is, a serious humanitarian crisis would take place. In this regard, the information cannot be ignored that a large number of RSS bandits have also been deputed in Jammu and Kashmir in the name of security forces. The alert issued by Genocide Watch should not be taken lightly. The matter requires an organized and effective diplomatic campaign.

The continuous curfew in Kashmir has resulted in the lack of food, medicine and other facilities. Pressure needs to be built that the International Red Cross, organizations of social work, and medical organizations should be allowed by the Indian Government to get access to Kashmir for providing relief to the people. On the other hand, there are the UN observers on LOC as per the UN decision,

however, India has denied access to these UN observers in the area under its control. Pressure should be raised to mobilize the UN observers in the Indian-Occupied Kashmir. Moreover, pressure should also be mounted to send delegations comprising the UN observers on fact-finding missions in the Indian Occupied Kashmir on behalf of the UN and its Human Rights Council. A major subject of such a campaign should be sending the Indian army to the barracks to be followed by their exit from Jammu and Kashmir. The participation of celebrities in all such campaigns, directly or through social media, can make such campaigns effective.

4.1.1. Exposing India

The BJP leadership, its followers, and even some of the international actors in sync with the BJP have repeatedly insisted that Kashmir is an internal affair of India and whatever India has done in Kashmir is in line with the constitutional and legal jurisdiction. Moreover, the Kashmir dispute is a bilateral affair between Pakistan and India. However, the serious elements do not agree to this contention. This position of India has often been rejected in the local (i.e. within India) and international responses.

On the other hand, there are some minorities and regions who do not accept the dictatorship of Hindus and Delhi. They too have a similar reaction. In this backdrop, the situation in the Occupied Kashmir has undoubtedly provided an epoch-making opportunity for exposing the real face of India's current leadership. An aggressive strategy is needed to effectively advance these discussions through the platforms of research, academia, media, and communications. In this regard, any impacts on the environment will be extraordinarily helpful to the success of the diplomatic sphere. For this purpose, the most important tasks are to formulate a comprehensive strategy, direct the narratives accurately, and to effectively disseminate these narratives at every level.

4.1.2. Targeting International Forums

A lot of political activity is held during September on the international level. The Human Rights Council is meeting in Geneva from September 9 to September 27. Any resolution can be approved by a simple majority at the Council's meeting of 47 members. It is expected that the government is pursuing strong strategies for making contacts in this regard (though no specific signs of it have been observed yet).

Similarly, the UN meeting in the coming days has undoubtedly become extraordinarily important. The series of protests, that have been launched abroad, need to be coordinated and unified to expose the atrocities and fascist ambitions of India. If large-scale demonstrations are organized on specific days outside the Western capitals and outside the United Nations, at appropriate intervals, the current momentum can be sustained for a longer period. Signature campaigns and social media campaigns should also focus on harmonizing and integrating with these demonstrations.

4.1.3. Chapter VII of the UN Charter

The UN resolutions on Kashmir are under Chapter VI of the UN Charter. The popular perception is that these resolutions provide a moral and legal basis, but they do not provide the basis for UN sanctions and the exercise of force on the Kashmir dispute. It is necessary to clarify this impression as during the initial days of UN this kind of classification was not part of the practice whereas the UN has been acting on the subject until even today with UN observers here. To stir up a debate and gradually make a demand, that resolutions on Kashmir be formally approved and ratified under Chapter VII of the UN Charter, should form an important agenda. Regardless of chances to meet any immediate success or failure, the demand would provide a basis for a proactive agenda in the diplomatic arena.

While Jammu and Kashmir is a disputed region, the Kashmiri people have a status of indigenous peoples in their region. These indigenous people have the right to protect their land, along with the right to self-determination and self-governance. This should be a subject in itself of the freedom struggle of Kashmiris and their campaign against the recent amendments.

4.1.4. Formation of a Dedicated and Dynamic Team

Based on the above-mentioned discussion, practical political and diplomatic steps require the formation of a team of effective diplomatic experts including retired Ambassadors/ High Commissioners who had served in the USA and India, and politicians. Regardless of the political affiliations, a team that is familiar with the history of the conflict and the current global dynamics and can effectively articulate their ideas, need to be made and assigned the task. The Foreign Ministry should coordinate this process in collaboration with all other stakeholders. The Foreign

Office has announced the establishment of a Kashmir Desk in various embassies and at the headquarters, though very late, is still a source of satisfaction. Other relevant ministries (e.g. Information, Law, Human Rights, etc.) should also pay attention to this and effective coordination should be provided.

Communications also require a comprehensive strategy that will be further discussed later. It is important to note here that after many years, a good part of western media is showing interest in the ground realities of Kashmir and it is also sympathetic at the moment. One area to sustain this wave is to highlight the abuse and violence against women. To effectively project this, a team of women would need to be mobilized.

4.2. An International Legal Case

Homework is needed to build a case against the atrocities of the Indian occupational army in the International Criminal Court (ICC). There is a lot of work which has been done at the individual and institutional levels to document the evidence which may be utilized for war crimes trials. A special task force of legal experts should be set up to review and use this work, which could also include foreign experts in addition to the local ones. On the other hand, ICJ's advisory opinion could be requested based on of the UN Human Rights Council's report.

During this concerted campaign for human rights, it needs to be repeatedly stressed that the real issue of the Kashmiris is based upon the denial of their basic right of self-determination. The denial of this fundamental right separates Kashmir from the rest of the world (and from Pakistan too, if unfortunately the question of human rights violations is being raised at any level here). The people of Jammu and Kashmir also need to be reminded that the reversal of Indian moves, lifting the restrictions, and even state autonomy are neither the solution to this problem nor should it be an end of the struggle. The real goal is self-determination. The struggle for the right to self-determination should not be overshadowed by the ongoing human rights campaign. However, when, how and which one of these two aspects are focused upon, must be customized.

4.3. Role of 'Azad Government of the State of Jammu and Kashmir'

'Azad Government of the State of Jammu and Kashmir' can play an important role in the political and diplomatic campaign on the international level. It

must be acknowledged that in this regard, mistakes have been made in the past, intentionally or otherwise. In fact, if India's narrative of Kashmir being a bilateral issue has ever been accepted to some degree in the world, one of the major reasons is that the "Azad Government of the State of Jammu and Kashmir" was not given the chance to play a frontline role in the freedom struggle of Kashmir; in spite of the fact that this is the main purpose of its establishment and a key requirement of its Constitution. For future, 'Azad Government of the State of Jammu and Kashmir' should be given a frontline role on every front of the struggle for independence including the diplomatic campaign.

For this purpose, steps are required in several domains. The following are some suggestions:

- Instead of the Government of Azad Kashmir, it should be written, read and described by its original and constitutional name, 'Azad Government of the State of Jammu and Kashmir'.
- Seats of people of the Occupied Kashmir should be reserved in the assembly of Azad Jammu and Kashmir.
- Up until 1970, Pakistan's political parties could not establish their branches here. Ever since the ban was lifted, the independent region has somewhat become a part of Pakistan's politics. While there may be some justification, but this aspect needs to be seriously reviewed by all stakeholders.
- Over the past few years, the leadership of the Azad State of Jammu and Kashmir has promoted collaborative activities on the Kashmir dispute through All Parties. This is a positive development and based on it the 'Azad Government of the State of Jammu and Kashmir' should be given full opportunity in the coming days. In this regard, it is important to respect their rights and provide all possible resources.
- An increased role of the 'Azad Government of the State of Jammu and Kashmir' on the frontline will also discourage such elements who are trying to influence the ideological unity of the Kashmir movement with the slogan of Independent (Khud Mukhtar) Kashmir. Of course, many people might have good intentions while raising such a slogan, but in reality, this is a design to separate the Kashmir dispute from the UN resolutions which provide only two options in the plebiscite i.e. Pakistan or India. It is necessary

to contact with sincere leadership among them and make them an integral part of the struggle for independence, as it is currently happening in the Occupied Kashmir. They should realize that the power of freedom struggle lies in unity. In this context, it must be noted that the Constitution of Pakistan has declared that if the people of Kashmir decide to affiliate with Pakistan as a result of the polling, it will be on the terms and conditions of the people of Kashmir. For this, the Kashmiri people must be given an opportunity sincerely and with open mind and promises made with them must be fulfilled. However, at this time, if three options are offered, it will result in the division and weakening of anti-India votes. In fact, at this time, even the Pro-Indian elements of the past could also be taken along if they seriously express their dissatisfaction against India.

- In addition to the abovementioned steps regarding the role of Azad Kashmir, international organizations, media groups, public figures, parliamentary groups, and human rights organizations should be invited under a joint initiative to come and observe the status of freedom in Azad Kashmir.
- It must be stressed and clarified that the unilateral move of India has again changed the status of LOC to a Ceasefire Line. The Indian moves have violated the promises it made to Kashmiri leadership in 1949, 1951 and 1953. The Indian policies are unconstitutional, illegal and immoral. On the other hand, the Shimla Agreement has also become irrelevant. Shimla Agreement stipulated that neither party would arbitrarily change the status quo. India was already an occupational force, now through annexation, it has given even greater justification to armed resistance. The residents of Azad Kashmir have full right to participate in this resistance. There certainly is a need to work on the legal aspects of the matter, but by agreeing on a principled stand it is important to take the necessary steps in this regard.
- Mujahid Forces and National Guards, which used to be active in the past, should be given a renewed and effective role so that they can be used in any unusual situation. It is necessary to have such a capable local presence in the independent region according to the UN resolutions, before any arrangement of a

plebiscite, Pakistan is under obligation to withdraw its troops from the region before India.

- To ensure an effective role of the 'Azad Government of the State of Jammu and Kashmir', the Karachi Agreement (1949) should also be revisited with mutual understanding and mutual trust. Keeping the current circumstances in view, the real goal should be to ensure an effective role of 'Azad Government of the State of Jammu and Kashmir' for projection and other tasks in the context of the freedom movement of Kashmir.
- A large number of Kashmiri diaspora living around the world, especially in Europe and the United States. These Kashmiris have always been vibrant abroad, but after India's recent move, they have shown extraordinary activity. Naturally, they also receive full support and participation of Pakistani diaspora in their activities. In the coming days, the importance of this diaspora will increase even more. An effective role of the 'Azad Government of the State of Jammu and Kashmir' will be the source of both the pull and the push factors for this diaspora.
- An important aspect of the narrative on this subject is related to slogans. While the slogans are meant to attract and reflect public sentiment, these slogans also serve as a source of public perception and could become divisive if not used carefully. There is no doubt that a large number of Kashmiris have always raised the slogan of 'Kashmir banay ga Pakistan (Kashmir will become Pakistan)'. The loud chants of these slogans on the streets of the Indian Occupied Kashmir and the burial of the Kashmiri martyrs in Pakistani flags are practical manifestations of this slogan. However, it must be understood that this slogan is genuinely meaningful if raised by the Kashmiris. Repeated use of this slogan in Pakistan, especially at the leadership level, not only complements the perception of Kashmir being a bilateral issue but also impacts the freedom movement negatively at national and international levels when it is exploited by certain elements negatively. Consequently, it practically helps in advancing the Indian strategy.
- In this context, writers, poets and activists also need to be encouraged to play their role as they not only translate public sentiments but also guide the public perceptions through their creative, effective, and accurate narratives.

The public sentiments to cross the LoC/Ceasefire Line are extremely intense among the people of Azad Kashmir and Pakistan in the current context. In fact, with due deliberations, such an effective activity can become an important and effective turning point in the freedom struggle. However, no effective results would be achieved if different groups continue their efforts in a loose and uncoordinated fashion and if these sentiments are not properly harnessed and integrated. On the contrary, if an accident occurs on the LoC/Ceasefire Line, it will adversely affect the internal unity. It is necessary to formulate an integrated strategy in consultation with all stakeholders, in which the momentum can be increased step by step in this direction. For this purpose, whatever is the nature of the final strategy, the role of the 'Azad Government of the State of Jammu and Kashmir' and its political leadership must be ensured on the frontline.

4.4. The Questions of War

Another important subject of discussion is the Ceasefire Line/LoC between Pakistan and India, which is also linked with the topic of 'war'. Of course, war is always easy to start, but it becomes difficult to end. Therefore, any decision in this direction should always be considered with due diligence, mutual consensus, and exhaustion of all other options.

Negotiations are important for avoiding war, however, negotiations cannot take place unilaterally or by ignoring the real issue. Over the past few years, all the unilateral efforts made by Pakistan for negotiations have not been fruitful and they are unlikely to succeed in the coming days as well. In spite of that, any chance of real and genuine negotiations should not be overlooked. Nevertheless, it is also important that the entire focus of the negotiations must be on the modalities that ensure the right to self-determination for the people of Kashmir.

Nevertheless, the option of war (not just defensive but also offensive) cannot be ruled out. Study of human history, international law, and international relations testify that war also solves problems. Therefore, it is very important to genuinely prepare for war and that these preparations need to be made visible. Visible war preparations are also an important tool of foreign policy. The visibility of war preparations can also serve as a deterrence to prevent war as the adversary realizes that it could be targeted.

It needs to be stressed on national and international levels that we are fully prepared for war. In this context, it is important to have a perspective of modern Hybrid War. The manifestations of the Hybrid War can be observed when many people in the country seem to deliberately or unwittingly subvert national goals. Of course, there are many economic challenges for us, but they are not bigger than in 1947. If the Mujahideen could liberate 38% of the territory of Jammu and Kashmir under the extreme economic constraints of that time, then today the situation is much better. In wars, the vision of the leadership, self-confidence, national unity, solidarity, and the spirit of sacrifice are more important than anything else. This has become clear once again in the case of neighboring Afghanistan and followed by the Kashmiri people who are facing the huge Indian army without any resources.

In the context of war, it should also be reiterated that more than half of Indian troops of fifteen hundred thousand (i.e. around eight hundred thousand) are currently stationed in the Occupied Kashmir. It is, in fact, a contribution on the part of Kashmiris that they have engaged such a large part of the Indian army that has aggressive designs towards Pakistan. On the other hand, this situation offers many opportunities in the realm of conventional combat techniques. In this sense, one of the important aims should be to disperse the military concentration of India in Kashmir. India has escalated the security situation across the borders many times. Could there be a strategy to create similar pull factors for pressuring India as well?

It should also be kept in mind while formulating a strategy that if India realizes the threat of war, it will be compelled to withdraw a section of the army from the Occupied Kashmir and some relief will be provided to the Kashmiris.

4.5. Comprehensive Communication Strategy

In this backdrop, a strong communication strategy would certainly require that the aspects of nuclear war and nuclear flashpoint are highlighted. Indeed, it should also be reiterated to shape the international opinion. However, frequent use of this narrative by every other official gives an impression of blackmail rather than a real threat. In fact in this case, instead of frequently repeating it at all levels, it is important to remember that "Actions speak louder than words".

An important aspect about media is that the ground realities cannot be concealed for long by the media strategies. Against this backdrop, India's stand on Jammu and Kashmir will be defeated ultimately, even if it takes a while. However, if this fact-based case is pursued through just a superficial media/communication strategy without fulfilling all its legal, political and diplomatic, and other requirements, success would not be possible.

At present, there is a lack of a comprehensive and well-coordinated communication strategy. In the context of media and communications, the Foreign Minister appears to be working very hard. However, despite this extremely unusual situation, the minister has only visited one country (China) directly (and later to Geneva for UNHRC). Except for a few telephonic contacts, all the emphasis is on internal communication. Even in this communication, many aspects of the comments he made are not suited for even a junior official of the Ministry of Foreign Affairs. Moreover, it is also difficult to understand the domains of the ministers. Regular statements given by different ministers on the subject matter give the impression as if some internal battle over the Kashmir dispute is being fought. After an unprecedented consultative meeting of the Security Council, the focus should have been on the formulation of the future goals and communications rather than taking credit and banging about success. There is a national consensus on the Kashmir dispute, therefore, presenting the smallest breakthrough as success for a single person or party is a sign of ignorance and inadequacy and could severely weaken the case globally. It needs to be reminded that each of our successes and (God Forbid) failures will be remembered as a national success and a national failure.

The Prime Minister has established an important narrative by equating the BJP with fascism, RSS with Nazism, and Modi with Hitler. However, his tweets

and statements are not enough. More concrete work needs to be done on this topic. There should be a focus on conducting seminars and academic meetings internationally based on some solid work. The Prime Minister also needs to be more active to make contacts with the outside world.

There is no doubt that the majority of the population in Jammu and Kashmir is Muslim and these are the people who have kept the freedom movement alive. However, BJP's actions have hit Jammu along with Valley. Thus, there is a segment that is displeased with the revocation of 35A. This segment also needs to be addressed in terms of communication strategies. On the other hand, there is a need for more effective management of the transmission to broadcast to the residents of the Indian Occupied Jammu and Kashmir from Azad Jammu and Kashmir.

Finally, it is necessary to reiterate that the decisive feature of the framework presented in this paper is the ongoing movement in Jammu and Kashmir. It is becoming apparent with the unfolding events that people are risking their lives for activism and are not ready to accept the Indian occupation at any cost. Actions on our part must be convincing enough for them that not merely political and moral but Pakistan is ready to give every kind of support to them; and that they are being heard in the world media, human rights organizations are voicing their concerns, and the global public perception is changing. If this process continues, governments will also be forced to listen to them.

National unity, confidence at the leadership level, public activisms, and an integrated strategy in the domains of politics, diplomacy, communication, relief and defense are the least of the factors that are essential to meet any challenge and achieve any goal. And remember, in this case, it is about our jugular vein.

[The points presented above are primarily based on a debate at a roundtable (September 4th, 2019), held at the Institute of Policy Studies.]

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