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Kashmir: A Year in Review and Future Outlook

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August 5, 2020 marks one year since India undertook unilateral and illegal measures to annex the territory under its occupation. By withdrawing the applicability of Article 35-A and Article 370 of the Indian Constitution to Jammu and Kashmir, New Delhi made a blatant attempt to change the demographics and identity of Kashmir.

Indian government repealed ‘special’ autonomous status granted to Jammu and Kashmir (J&K) and bifurcated the region into two Union Territories with limited administrative powers to directly govern them from New Delhi. The changes were implemented from November 1, 2019.

Announcement of these measures and their implementation was accompanied by communications blackout and a security clampdown in IOJ&K against popular protests. These strong-armed coercive measures drew strong condemnation from Pakistan, China, and the international community at large.

Since 1947, the final status of the former princely state of Kashmir has remained unsettled while the territory is divided between India and Pakistan via a militarized ‘Line of Control’ (LoC). Meanwhile, China also claims some part of the Kashmir territory. Pakistan controls one-third of the J&K territory, while Indian occupies the majority of the region.

The United Nations (UN) considers Jammu and Kashmir to be disputed territory, and as per UN Security Council Resolution final status of the Kashmir is to be determined by the people of Kashmir through a plebiscite.

India describes August 5, 2019 moves as an internal matter of India, while refusing to discuss it bilaterally with Pakistan and has also continued to oppose multilateral involvement. Pakistan calls for third-party intervention to resolve the matter, as India has not adhered to the Simla agreement, which prohibits both sides from taking unilateral actions in Kashmir.

India’s illegal actions and draconian security measures sparked international outrage as it undermined regional peace and stability, besides unleashing a humanitarian crisis and human rights abuses in the Valley.

These measures came months after a crisis between two South Asian nuclear-armed rivals in February 2019, when they came dangerously close to a war. Tensions again escalated between Islamabad and New Delhi after the illegal annexation, with diplomatic relations nose-diving. Similarly, concerns were expressed about its possible impact on the Afghan peace process, of

which Pakistan is an important part. Meanwhile, international organizations, including leading Western governments criticized Indian actions on human rights grounds particularly, excessive use of force and human rights violations on a mass scale.

These legislative and security measures reflected India's turn towards majoritarian extremism under a Hindu nationalist government. It demonstrates that the current Indian government under Prime Minister Narendra Modi is willing to pursue majoritarian policies undermining the secular traditions of India at the expense of the country's religious minorities.

This brief provides background on the Kashmir issue in the context of India's unilateral actions of last years, its impact, condemnation from the international community, and raises questions about the future of Kashmir.

Contextualizing India's August 5 Actions

Jammu and Kashmir region under India's control can be divided into three cultural hubs: Kashmir, Jammu, and Ladakh. More than half of the population lives in Kashmir Valley, while nearly 35 percent of residents live in the Jammu area, while over 250,000 people live in the remote region of Ladakh. J&K's majority population (around 70 percent) is Muslims, with Hindus making up for another around 25 percent. The rests are Buddhists and Sikhs. Meanwhile, 97 percent of Valley residents are Muslims. Jammu comprises over 65 percent Hindus, while in Ladakh population is evenly split between Muslims and Buddhists.

At the time of partition of India, this population make up had a unique status: a Muslim majority princely state was ruled by a Hindu King. The people of Kashmir wanted to join Pakistan, but King illegally attempted to accede to India, prompting a popular backlash, and Pakistan rejected the process through which accession was being carried out. A war broke over the sovereignty of Kashmir, it ended in a stalemate and a ceasefire brokered by the UN. The result was, a Ceasefire Line (CFL), later converted to Line of Control in 1972.

In 1949, the interim administration of IOJ&K and Indian Constituent Assembly negotiated a 'special status'. This allowed J&K to have its own Prime Minister, Flag, and Constitution, while J&K assembly was autonomous in making laws about affairs of J&K, except in the areas of defense, foreign affairs, and communications. These protections, however, were eroded within years via Presidential Orders issued from New Delhi, making the J&K government and assembly 'pliant' to New Delhi's influence. For decades, the Indian central government manipulated the political and electoral system in the Valley and imposed harsh legal instruments to influence decision-making, and wield control over the population. This led to recurrent popular protests and

backlash by the society. Youth would often pick up arms against heavy-handed tactics employed by the Indian security forces.

Even before the August 2019 decision, violence had increased in Indian Occupied Jammu and Kashmir during Modi's first tenure. Mass protests had erupted in Valley after the killing of a 16-year-old freedom fighter Burhan Wani in a shootout with the Indian military. Modi government has consistently failed to recognize the genuine political grievances of the people of Kashmir and instead resorted to coercive counter-insurgency strategy that further alienated the population, particularly the new generation.

In 2015, BJP and a local Kashmiri People's Democratic Party (PDP) formed a coalition government. It abruptly fell in June 2018, when BJP withdrew its support, leading to the imposition of President's Rule, which in effect means direct rule from New Delhi.

In late July and the first week of August 2019, India moved close to 50000 additional troops into Kashmir, prompting a reaction from Pakistan, which took it as an escalatory measure. This Indian move was, in reality, a preparation for the revocation of Articles 370 and 35A. On August 2, 2019, the local administration announced an end to all annual religious pilgrimage in IOJ&K and ordered all tourists to leave the region on the pretext of the terrorism threat. This created mass-panic among the population. Meanwhile leading political leaders of the region were detained, and all educational institutions were closed down. The next day, New Delhi ordered a communications blackout with the shutting down of internet and mobile telephone services. Pakistan termed these measures as "destabilizing".

With Kashmir under unprecedented 'lockdown', Indian Home Minister Amit Shah went to Parliament and announced legislation to change the political character of Kashmir. It was passed within twenty-four hours. The next day, the Indian Prime Minister claimed that new changes will ensure the 'integration and empowerment' of J&K. The main opposition party, Congress Party opposed the move. Indian public at large supported it, reflecting the mainstreaming of majoritarianism in India. On November 1, 2019, these changes went into effect, which meant that India, in its view, legalized its control over the occupied territories, declaring them Indian territories, to be governed directly by New Delhi without the consent of the majority of the people of Kashmir.

India also issued fake maps in which they showed that Gilgit-Baltistan and the so-called union territory of Jammu and Kashmir as its part, so they tried to solemnize and legitimize their illegal occupation, at least in their view.

Impact of Illegal Annexation on Kashmir

Actions of the Indian government led by the Bharatiya Janata Party (BJP) and its ideological movement RSS, are similar to those practiced by Hitler led Nazi Germany in the 1930s. For instance, through the Nuremberg Laws which were introduced in 1935, they first took away German nationality of the Jews, then Jews were deprived of their businesses, after which their identities were revoked, and then Jews were sent to concentration camps and leading to a holocaust. During the holocaust, these Jews were burnt alive, incinerated. In Kashmir brutality is even worse with a combination of Hitler's Nazism and policies being pursued by Israeli against Palestinians in Gaza and West Bank. This has three direct implications for the people of Kashmir:

1. Disenfranchisement of people of Jammu and Kashmir.
2. Dispossession of rights.
3. Displacement

These measures were taken without taking people of Kashmir on board, as there was not even a pretense of consulting people of Kashmir. For all practical purposes, Indian forces and India-supported administrative machinery is now in a foreign territory, under international law. The people of Kashmir have always resisted occupation and repression. They are even resisting right now. If the international community doesn't address their pleas, and Indian brutality continues, they will have no other option but to resort to armed resistance to protect their home, neighborhoods, identities, and above all their homeland.

In April 2020, to further deprive Kashmiris of their rights, New Delhi introduced a new Domicile Law, allowing resident certifications for Hindus from across India. Under this law, people from all over India are being brought to Kashmir, settled there, with permanent residence rights including the right to acquisition of property in an internationally-recognized disputed territory. This is a blatant violation of international law, international humanitarian law, Geneva conventions, and the Security Council resolutions by India. This policy is a replication of illegal settlements construction undertaken by Israel in Gaza and the West Bank. This is expansionism in practice and land grabbing by force. This has opened the door to changing the demographics of Kashmir in the long run. It essentially means, turning the Muslim majority into a minority in their homeland.

Pakistan fears that the Indian government is, under RSS guidance, planning to settle up to 2 million people in Occupied Kashmir over the next few years. Next, temples will be built in the name of religious freedom, and finally, a new census will be done reflecting the changed composition of Jammu and Kashmir. Essentially, India is turning Kashmiris into stateless people in their homeland

and at the same time is attempting to economically deprive them by allowing Hindus and other groups from across India to compete for nearly 500 thousand jobs currently reserved for Kashmiris.

Limitations of International Opprobrium:

Indian actions and coercive measures sparked international outrage. There was immediate condemnation over Indian move and human rights violations from countries around the world, including the United States, China, European Union, Turkey, Malaysia, the Secretary-General of the United Nations, and leading human rights organizations such as Human Rights Watch, Amnesty International, etc. Collectively, members of the European Parliaments, U.S. Congressmen, international civil society, leading international newspapers have supported the cause of Kashmiri people over the past 12 months. Concerns were expressed on the imposition of harsh security measures, arbitrary detentions, and flagrant violations of human rights. An organic momentum built-up between August and October 2019.

In an unprecedented move, China, the permanent member of the UNSC brought up the issue of Kashmir for discussions and consultations between members of the Security Council, the highest international forum with the responsibility for maintaining international peace and security. Two meetings of the UNSC were held after illegal Indian actions. It was an unqualified diplomatic success of Pakistan's strategy. In October, the US House Foreign Affairs Subcommittee on Asia, the Pacific, and Nonproliferation held a hearing on human rights in South Asia, where the discussion was dominated by the Kashmir issue. Congress's Tom Lantos Human Rights Commission held a mid-November hearing entitled "Jammu and Kashmir in Context," during which numerous House Members reiterated concerns about reports of ongoing human rights violations in the Kashmir Valley. Similarly, several Members of the European Parliament expressed human rights concerns and called on New Delhi to "restore the basic freedoms" of Kashmiris. During her early November visit to New Delhi, German Chancellor Angela Merkel noted, "The situation for the people there is currently not sustainable and must improve." Later that month, Sweden's foreign minister said, "We emphasize the importance of human rights" in Kashmir.

Similarly, Pakistan's diaspora community in the United Kingdom, Europe, North America, Asia-Pacific region, the Gulf held protests and public events to highlight the plight of Kashmiri people and oppression being undertaken by Indian security forces. They were joined by members of civil society and concerned citizens across the globe.

Most notably, Prime Minister Imran Khan highlighted the issue of Kashmir and the dangers it presents for the international community in a forceful manner during his address to the UN General

Assembly. He warned global leaders that the people of Kashmir were being forced towards a military option, and it carried grave risks of a nuclear Armageddon if war broke out between India and Pakistan.

Yet, the international response had limitations. While international media outlets from London, New York, and other Western capitals were highlighting Indian atrocities, governments in Washington, London, Paris, Berlin, Brussels, Tokyo, and other places chose silence. It was Beijing that raised the Kashmir issue at the UNSC and spoke for the rights of the people of Kashmir. But the rest of the P-5 remained silent. Moscow referred to the UNSC resolutions for resolving the Kashmir dispute, which was a welcome change in its decades-old position. Gradually, however, other events took over the global coverage and international response. As the world entered into 2020, the COVID-19 pandemic distracted international civil society and human rights organizations.

Recently, efforts have been made to regain diplomatic and political traction, which was visible last year. Organization of Islamic Countries (OIC) has denounced a new domicile law introduced by India. European parliament members have written to the President of the European Commission and EU High Representatives to take up the issue of killing and torture of Kashmiris with the Indian government.

Despite limited international support, the people of Kashmir and more importantly Pakistani diplomats would have to be innovative in their approach for highlighting the dispute. The challenge for Pakistan is to generate a critical mass of international opinion, which could force a rethink of the prevailing policy in New Delhi leading to the halting of illegal settlements and rollback of measures announced on August 5, 2019. Pakistan cannot resume normal diplomatic engagement with India until it reverses draconian illegal measures.

Looking at the future?

A key goal of international stakeholders (the U.S., UK, Russia, China, and the UN) in South Asia has been to prevent the India-Pakistan conflict from escalating to interstate war. This means the major powers have sought to avoid actions that overtly favored either party. Yet, over the past decades, Washington and the Western governments, have gotten closer to India by deepening their security and diplomatic engagement. Meanwhile, Pakistan's relations with the U.S. and Western nations have mostly remained difficult, marked by mistrust, and divergences over key regional security issues.

Developments of 2019 – a crisis in February, and India's illegal unilateral action of annexing Kashmir – highlight the need for sustained international diplomacy and engagement with South

Asia to avert dangers of war, and for stabilizing the situation. The international community, particularly, governments in the U.S., UK, France, Russia, European Union must ask:

- Have Indian unilateral actions of August 5, 2019, related to Kashmir negatively influenced regional stability? If yes, then what can they do to address resulting instability? Are they willing to employ their leverages for stabilizing fraught regional situation?
- Can the international community led by the U.S., or through the platform of UNSC, play a meaningful role in bringing about an end to human rights abuses in held Kashmir and also manage India-Pakistan conflict?
- To what extent are India's so-called traditional norms and secularist traditions at risk in the current political environment? Are majoritarian policies undermining religious freedom and leading to human rights abuses? If yes, can the leading western countries and international organizations work to safeguard the rights of minorities and consistently raise these issues with India? Is the European Union willing to use its growing trade with India as leverage to influence its human rights policies?

The past 12 months have been the darkest period for the people of Kashmir. The challenge for Pakistan and the international community is: will the next 12 months remain the same? For a material change to happen, the first condition is the de-coupling of Kashmir from India, for the international community. Pakistan needs to convince the outside world to not view Kashmir from India's prism. Pakistan needs to redesign its Kashmir strategy and rethink its end goal. Only a well-thought-out strategy on Pakistan's part can cause human rights abuses in Kashmir to end.

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