



# SYSTEMATIC CHANGES IN DEMOGRAPHIC COMPOSITION OF JAMMU AND KASHMIR BY INDIA AND ITS IMPLICATIONS FOR THE RESOLUTION OF KASHMIR CONFLICT

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**Abstract-** This research study on Indian demographic engineering traces specific administrative and legal measures that successive Indian governments initiated for demographic engineering in Jammu and Kashmir while the current BJP government crossed all limits and made unilateral moves to annex Kashmir in complete disregard to United Nations Security Council Resolutions and bilateral agreements between India and Pakistan. As a theoretical framework, the study used the Theory of Political Demography developed by Jack A. Goldstone, Eric P. Kaufmann and Monica D. Toft that explains how international security as well as national politics is being shaped by changes in population. Indian administrative measures for demographic engineering among others include grab of land and setting up of colonies for *Sainik* and *Kashmiri Pandits* while on the legal front, India eroded special status of the state by changing Article 370 and carving out two union territories to be governed directly from the centre. The study concludes that Indian unilateral moves in Kashmir not only created serious problems for final settlement of dispute but also spurred tensions between two nuclear states putting at risk the regional peace and security. The study provides pertinent recommendations to deal with the situation.

**Keywords:** Demographic engineering, Kashmir, plebiscite.

## I. INTRODUCTION

Jammu and Kashmir (J&K) is a disputed territory between India and Pakistan and is a matter of serious concern for regional stability and security since the partition of the Subcontinent. At the time of partition, majority of the people of J&K wanted to join Pakistan but the then ruler of the State, Maharaja Hari Singh arguably decided to accede with Indian Union.<sup>1</sup> The massacre of Muslims in Jammu resulted in an armed uprising in other parts of the State especially in Gilgit-Baltistan, present Azad Kashmir and Valley. When the situation went out of control of the Maharaja and he virtually lost control over Kashmir, he unlawfully annexed the State with India by signing a disputed and controversial Instrument of Accession<sup>2</sup>. In January 1948, India took the issue of Kashmir to the United Nations Security Council (UNSC) when the attempts to resolve the issue through bilateral means failed<sup>3</sup>. UNSC adopted different resolutions on Kashmir and in its resolution 47, the UNSC proposed holding of a free and impartial plebiscite as a solution for the disputed State to ascertain whether the people of Jammu and Kashmir wanted to join India or Pakistan.

Initially, India showed commitment to UNSC mandated solution of the Kashmir issue of holding plebiscite – as was evident from the statements of Indian leaders including the then Indian Prime Minister Pandit Jawaharlal Nehru. However, India used various delaying tactics and tried to block the holding of plebiscite in Jammu and

<sup>1</sup> I. Ahmad and A. Bashir, *India and Pakistan: Charting a Path to Peace* (Society for Tolerance and Education, Pakistan (STEP), (2004), 48.

<sup>2</sup> V. Schofield, *Kashmir in Conflict: India, Pakistan and the Unending War* (Darby, Pennsylvania: Bloomsbury Academic, 2003), 73.

<sup>3</sup> *Ibid.*, 76.

Kashmir on one pretext or another once it was evident that in case of free and fair plebiscite, majority of the people in Kashmir would opt to join Pakistan. India not only delayed the implementation to gain time, but also to start a systematic campaign to alter the natural/ historical demographic composition of the State of Jammu and Kashmir so that a more favorable outcome of any possible plebiscite could be achieved or India could change the demography in order to make the plebiscite virtually impossible.

This research paper, using secondary data, traces various Indian administrative and legal measures aimed at demographic engineering of Jammu and Kashmir. Based on in-depth interviews of the relevant experts and stakeholders, the paper also endeavours to measure impact of Indian demographic engineering on plebiscite as a possible solution of the issue in addition to suggesting policy options for Pakistan. As a theoretical framework, the study used the Theory of Political Demography developed by Jack A. Goldstone, Eric P. Kaufmann and Monica D. Toft (2011) that explains how international security as well as national politics is being shaped by changes in population.

## II. DEMOGRAPHIC ENGINEERING: SYSTEMATIC AND SYSTEMIC INDIAN ADMINISTRATIVE MEASURES

At the time of partition in 1947, Jammu and Kashmir was united India's largest princely state with a population of four million and comprising an area of 84,471 square miles with its strategic location connecting with China and Afghanistan.<sup>4</sup> In the last census conducted in 1941 by the British government in India, Muslims were 77 per cent in Jammu and Kashmir (all administrative units) followed by the population of Hindus of 20 per cent while the remaining three per cent were Sikhs and other communities.<sup>5</sup>

### ***Jammu Massacre at the Time of Independence***

The record of large scale killing of Muslim population, at the time of partition of Sub-Continent in 1947, mainly in the Jammu region of Kashmir is well documented. According to one estimate, 237,000 Muslims were either killed or forced to migrate from Jammu region with at least 100,000 Muslims killed in what was infamously called the "Jammu Massacre". These figures did not include rapes, abduction and serious injuries, which were naturally far greater than those killed.<sup>6</sup> Many writers wrote about the estimated number of killings including Horace Alexander who stated in *The Spector* that 200,000 Muslims were killed and that it was done with the tacit approval of state authorities.<sup>7</sup> Even Indian commentators and authors acknowledge the Jammu massacre though they dispute the number of those killed or whether the Jammu massacre was pre-planned or not.<sup>8</sup> This large scale killing and migration of Muslims from Jammu region changed the demographic composition of the state of Jammu and Kashmir as a whole in general and Jammu region in particular.

### ***Grab of Land by Occupational Forces; Construction of Dams***

After the start of the latest wave of insurgency in Kashmir in 1989, a large number of pandits migrated from Kashmir with active support from the Union government while leaving behind their homes and properties. These left-over properties were grabbed by Indian security forces. In addition to this, the military also occupied a large number of privately owned properties, government property, forest and agriculture property, etc. Political parties in Kashmir like PDP (Peoples Democratic Party) and APHC (All Parties Hurriyat Conference) estimated that more than 2,800,000 kanals of land was grabbed by the military in Kashmir. As a result, the local inhabitants were not only deprived of their property rights but they also suffered economic losses.<sup>9</sup> In addition, the military also got hold of tourist spots like Toasmaidan, Gulmarg, Pahalgam, Bangus Valley, etc. Another notable aspect has been highlighted by a Kashmiri writer who stated that a campaign of massive scale hydro-electric projects was launched in Jammu and Kashmir that caused wide-scale

<sup>4</sup> Snedden, *Understanding Kashmir and Kashmiris*, 18.

<sup>5</sup> Habib Siddiqui, "What About Kashmir?," (IslamicCity.Org, 2011).

<sup>6</sup> Snedden, *Understanding Kashmir and Kashmiris*, 167.

<sup>7</sup> Raja Afsar Khan, *The Concept*, vol. 25 (Michigan: University of Michigan, 2005).

<sup>8</sup> S. Choudhry, *Kashmir Dispute: A Kashmiri Perspective - Kashmiri Struggle Transformed in to Jihad, Terrorism and a Proxy War* (London: AuthorHouse, 2013), 16.

<sup>9</sup> Peer Ghulam Nabi and Jingzhong Ye, "Of Militarisation, Counter-Insurgency and Land Grabs in Kashmir," *Economic and Political Weekly* 50, no. 46-47 (2015).

displacement of locals and deprived them of their land and properties.<sup>10</sup> The opposition from Kashmiris to the construction of such dams was increasingly growing as these benefits were meant for people outside the state while the people of the state were made the scapegoat.<sup>11</sup>

### ***Settlement of Soldiers and Pundits in Colonies***

With the view to change the demographic composition of Jammu and Kashmir, Indian government came up with a plan in 2016 for setting up Sainik (soldier) colonies in various parts of Kashmir valley, which was perceived in Jammu and Kashmir as RSS agenda of settling outsiders in the valley. The separatist leaders questioned the motive behind such separate colonies on the pretext that every inch of Kashmir valley was militarized.<sup>12</sup> The idea of setting up separate Sainik colonies was aimed at settling Indian soldiers in Kashmir valley and the move was mainly seen as Indian effort of changing demographic composition of this Muslim state. A similar Sainik colony was already set up in Jammu region and Indian soldiers started to live there.<sup>13</sup> In July 2019, the ruling BJP hinted at reviving its plan for resettlement of 200,000 to 300,000 Kashmiri Pandits (Hindus) in Kashmir valley as BJP's national secretary-general responsible for Kashmir Ram Madhav said that it is yet to be decided whether these Hindu Pandits are to be settled in specifically constructed segregated Hindu enclaves or in mixed resettlement township.<sup>14</sup> This move of Indian leadership was meant to influence any possible plebiscite in future and to create communal tensions by changing the social fabric, in the otherwise very peaceful land of Kashmir.

### ***Settlement Plan of West Pakistan Refugees and Outside State Labourers***

With the view to maintain demographic configuration of J&K, successive governments in Kashmir never granted permanent residence status (normally referred to as state-subjects) to refugees (Hindus) who had migrated from West Pakistan in 1947. According to some estimates, 5764 families or 47,215 people had migrated from Pakistan (not Azad Jammu and Kashmir) and those families had settled in Jammu, Kathua and Rajaouri.<sup>15</sup> However, in 2015, the parliamentary standing committee on home affairs recommended refugees the status of permanent residents with the right to vote in state assembly elections as they did not have such privilege already.<sup>16</sup> The main fear among the political leadership is that these settlements will not only change the status of Kashmir as Muslim majority state but will also give an undue and added number of population for it to demand a larger share in State legislative assembly on the basis of growth in population.<sup>17</sup> Due to resistance from local Kashmiris, the Indian government was not able to implement this plan. Also in 2016, Centre backed BJP-PDP coalition government came up with a new industrial policy with the name "Jammu and Kashmir New Industrial Policy 2016" in which a provision has been kept that Indian nationals which are non-Kashmiri industrialists (non-state subjects) who were otherwise not allowed to buy land would be allowed to lease land for industrial and information technology parks even outside Industrial estates for a period of up to 90 years after approval from the State Government.<sup>18</sup> The policy stated that private promoters of businesses who are from outside Kashmir would be eligible to acquire land with the prior approval of the state government on lease up to a period of maximum 90 years.<sup>19</sup>

### ***Shelters for Urban Homeless People and Land Transfer to Amarnath Shrine Board***

In 2016, Indian government came up with another plan aimed at demographic engineering in Kashmir when it decided to build shelters for urban homeless people all across India especially in Kashmir, under a national plan named as "National Urban Livelihood Mission." They were initially planned in Kupwara and Jammu districts and then were extended to other districts. The political parties and civil society reacted angrily to this proposal. Kashmir Centre for Social and Development Studies (KCSDS) termed the plan as a conspiracy

<sup>10</sup> P.G.N. Suhail, *Pieces of Earth: The Politics of Land-Grabbing in Kashmir* (New Delhi: Oxford University Press, 2018).

<sup>11</sup> Raihana Maqbool, "In a Kashmir Valley, a Massive Dam Threatens to Wash Away Lives," *Global Press Journal*, 6 March 2018.

<sup>12</sup> K.B. Ahmad, *Kashmir: Exposing the Myth Behind the Narrative* (New Delhi: SAGE Publications, 2017).

<sup>13</sup> SamanZulfqar, "Kashmir: Nature and Dimensions of the Conflict," *Journal of Current Affairs* 1, no. 2 (2016).

<sup>14</sup> Reuters News Service, "Settlement Plan of Pundits in Kashmir: Report," *Al-Jazeera*, 12 July 2019.

<sup>15</sup> Pawan Bali, "The Money Movement," *Epilogue* 2008.

<sup>16</sup> Amit Agnihotri, "Parliamentary Panel Push for Pakistan Refugees Voting," *India Today*, 25 January 2016.

<sup>17</sup> C. Zutshi, *Kashmir: History, Politics, Representation* (Cambridge University Press, 2017), 214.

<sup>18</sup> Zahid Rafiq, "New Jk Policy to Let Non-Kashmiris Lease Land in Region," 14 May 2016.

<sup>19</sup> Mudassar Ali and MukeetAkmali, "New Industrial Policy Opens Gates for Non-State Subjects in Jk," *Greater Kashmir*, 12 May 2016.

and asked the government to withdraw the proposal<sup>20</sup>. KCSDS also stated that shelter will also house non-state subjects, which indicates that the government was bent on changing the demography of the state<sup>21</sup>. The High Court Bar Association (HCBA) of Jammu and Kashmir and the separatist leaders rejected Indian plan of construction of these shelters. Despite resistance from various groups and parties, India went ahead with the plan for construction of these shelters/ homes for homeless people and settlement had already started. As a part of the larger goal of demographic change, the government came with a new tactic in 2008 under the right-wing leaning Governor Lt Gen (retired) S.K Sinha, who was also the patron of Amarnath shrine Board. Consequently, the government transferred 99 acres of forest to the Amarnath Shrine Board, on May 26, 2008. Its apparent purpose was to build shelters and facilities for the Hindu pilgrims of India in the valley.

### ***Changing the Script of Kashmiri Language***

In 2016, BJP-led Union government proposed the formation of the National Council for Promotion of Kashmiri Language "to prevent the Kashmiri language and its original script -*Sharada*- from becoming extinct". Indian Union Ministry for Human Resource Development was to set up an autonomous body that will focus on promoting Kashmiri literature<sup>22</sup>. Considering that the issue will create trouble in Jammu and Kashmir the BJP shelved the proposal but later on, in October 2019 the BJP once again came up with a proposal of declaring Hindi script Devanagari as the official script for all the regional languages including Kashmiri. Indian Home Minister Amit Shah has also proposed declaring the Hindi language as the national language of India though it was previously only an official language<sup>23</sup>. Earlier, Indian union government in its draft education policy also proposed for introducing Hindi in all the schools across India drawing serious criticism not only from opposition parties but also from southern and northeastern states<sup>24</sup>. This Indian practice is fully in line with the theory of Political Demography that explains that demography is willfully changed for achieving political objectives.

## III. DEMOGRAPHIC ENGINEERING: INDIAN LEGAL & CONSTITUTIONAL MEASURES

### ***Anatomy of Instrument of Accession***

India rests its claim of Jammu and Kashmir being its integral part (despite internationally recognized fact of Jammu and Kashmir being a disputed territory – the longest pending issue on the agenda of UNSC) on the basis of Instrument of Accession that India claim was signed by the then ruler of Jammu and Kashmir Maharaja Hari Singh on 26 October 1947 requesting accession with India, which the latter claimed to have accepted on 27 October 1947. According to the partition plan, all 584 princely states (562 princely states as per another count<sup>25</sup>) in united India were asked to decide whether to join Pakistan or India so all these princely states did with exception of three such states including Jammu and Kashmir, Hyderabad and Junagadh<sup>26</sup>. Due to a conspiracy between Indian rulers in New Delhi and Maharaja Hari Singh of Kashmir which is evident from the appointment of Gopalsowami Ayangar, who remained prime minister of Jammu and Kashmir 1937-41, as minister without portfolio and was given Kashmir affairs, Maharaja Hari Singh was persuaded to sign Instrument of Accession<sup>27</sup>.

While the whole document can be discussed and questioned from various angles, including international law perspective, Article 3, 5 and 7 are discussed within the scope of this research. Article 3 grants power to the legislature of Indian Union to legislate on the issues included in schedule that encompassed defence, external affairs, communication and some ancillary affairs (that included elections to the Indian parliament, offences against laws with regards to defence, external affairs, communication, and jurisdiction of Indian Courts in such matters). Article 5 envisages that the terms of Instrument of Accession cannot be varied through any of

<sup>20</sup> GK News Network, "Shelter to Urban Homeless People," *Greater Kashmir*, 30 April 2016.

<sup>21</sup> Observer News Service, "Shelter for 'Homeless', Attempt to 'Drill Hole in State Subject Law'," 30 April 2016.

<sup>22</sup> Smriti Kak Ramachandran, "National Body Proposed to Save Kashmiri Language from Dying," *Hindustan Times*, 16 May 2016.

<sup>23</sup> Anadolu Agency, "Bjp Proposes Replacing Occupied Kashmir's Language Script with Hindi," *Express Tribune* 20 October 2019.

<sup>24</sup> Maitri Jha, "National Education Policy : Highlights, Aim, Vision; Why State Govts Are Opposing Nep 2019?," *The India Wire*, 20 August 2019.

<sup>25</sup> Alistair Lamb, *The Kashmir Problem: A Historic Survey* (New York: Frederic A Praeger, 1967), 163.

<sup>26</sup> R.F. Gorman, *Great Debates at the United Nations: An Encyclopedia of Fifty Key Issues 1945-2000* (London: Greenwood Press, 2001), 87.

<sup>27</sup> S. Hamid, *Disastrous Twilight: A Personal Record of the Partition of India* (London: Leo Cooper, 1993), 256.

the legislation or amendment to the said act and thus warranting that any changes to the terms of this accession are bound to be made through another instrument as supplementary to this instrument. Article 7 clearly states that the clauses of this Instrument of Accession by no means should be construed as a commitment of acceptance of any future Indian constitution or that this Instrument of Accession or its clauses do not restrain Maharaja Hari Singh's choice to enter into an agreement – under any future constitution – with the Government of India.

The above discussion suggests (1) Indian Parliament cannot make laws with regards to Jammu and Kashmir in any circumstances except the subjects specified; (2) terms of the accession cannot be changed except through another supplement to be signed by Maharaja Hari Singh or his heir and successor; (3) Instrument of Accession and its clauses cannot be construed as acceptance of any future Indian Constitution or changes thereof. Importantly, while accepting the Instrument of Accession, the then Governor-General of India in its letter to Maharaja of Kashmir had stated that Instrument of Accession was accepted with the condition that final choice with regards to the accession of Kashmir to India will be that of the people of Kashmir<sup>28</sup>. Thus, Indian claim that accession of Kashmir to India was full and final even without seeking the will of the people remains very shallow and superficial.

### ***Understanding Article 370 of the Indian Constitution***

When the Indian Constitution was framed Article 370 was added in it as per dictates of the Instrument of Accession, which gave special status to the state of Jammu and Kashmir in the Indian Union. Before changes in August 2019, Article 370 of the Indian Constitution stated about this article of having temporary provisions. Clause 1(a) stated that provisions of Article 238 (which were meant for other princely states) will not apply to Jammu and Kashmir thus granting special status to Jammu and Kashmir. Clause b(1) limited the power of the Indian parliament to legislate for the state of Jammu and Kashmir in the matters only specified in the Instrument of Accession. Clause b(ii), however, allows the Indian parliament to legislate on other matters only after concurrence of the government of the state of Jammu and Kashmir. In explanation, the article had stated that the State government means Maharaja acting on the advice of the Council of Ministers. Clause 2 stated that if any changes are made as per aforementioned clauses with the concurrence of the government of the State before the convening of the Constituent Assembly of Jammu and Kashmir, the same changes will be placed before the Constituent Assembly to rectify. Clause 4 explained that the President on the recommendations of the Constituent Assembly of the State of Jammu and Kashmir defined the government of the State as *Sadar-I-Riyasat* of Jammu and Kashmir (replacing Maharaja), acting on the advice of Council of Ministers of the State. Thus Article 370 was amended through Presidential order namely “The Constitution (Application to Jammu and Kashmir) Order, 1954” to replace Maharaja with *Sadar-I-Riyasat* (President of the State of Jammu and Kashmir) after Constituent Assembly of Jammu and Kashmir abolished monarchy replacing with *Sadar-I-Riyasat*.<sup>29</sup> According to one count, as many as 47 Presidential Orders were issued from 1956 to 1994 with regards to extending some provisions of the Indian Constitution to Jammu and Kashmir, which were meant to further erode the autonomy of the State of Jammu and Kashmir. Some of these Presidential orders were issued without the concurrence of the State's legislature and the only concurrence of the Governor of State (despite being representative of the central government and appointed by the central government) was deemed sufficient – A view that was endorsed and upheld by the Indian Supreme Court.<sup>30</sup>

### ***Relevant Provisions of the J&K Constitution***

The Jammu and Kashmir Constituent Assembly was formed in 1951 and Article 370 formally became operative on 17 November 1952. Later, incorporating the spirit of Article 370, the Jammu and Kashmir Constitution was framed and implemented. The Kashmir Constituent Assembly, using the provisions of Article 370 of Constitution of India, adopted Sections 6 to 9 for incorporation in the J&K Constitution, defining ‘Permanent Residents’ of Jammu and Kashmir. Article 6 narrowly defined state subjects and expressly excluded those settled in Kashmir but are not of Kashmiri origin. Similarly, Article 7 also discussed permanent residents of the state. Article 8 stated that any definition of State subjects rests with the State legislature, thereby excluding any other authority, even the Indian Constitution, from making such definition

<sup>28</sup> K. A. Bhat, *Special Status of Jammu & Kashmir: Article 370: An In-depth Analysis* (New Delhi: Educreation Publishing, 2017), 39.

<sup>29</sup> A. G. Noorani, *Article 370: A Constitutional History of Jammu and Kashmir* (New Delhi: Oxford University Press, 2015), 212.

<sup>30</sup> Jill Cottrell, “Kashmir: The Vanishing Autonomy,” in *Practising Self-Government: A Comparative Study of Autonomous Regions*, ed. Sophia Woodman and Yash Ghai, Law in Context (Cambridge: Cambridge University Press, 2013), 185.

of the State subjects. Article 9 stated that any changes in defining the state subjects could only be made through a two-third majority of the total house thus embedding State subjects in the basic structure of the Jammu and Kashmir Constitution. Aforementioned clauses and provisions of the Jammu and Kashmir Constitution were very explicitly explained in the State subjects (citizens of Jammu and Kashmir) and deny any space for non-Kashmiris (read Indian nationals) to enjoy privileges including voting for the state legislature, purchase of property, or other privileges that are exclusively meant for Kashmiris.

### ***Article 35-A: Indian Government Defining Permanent Residents and Their Rights***

In Presidential Order “The Constitution (Application to Jammu and Kashmir) Order, 1954”, Indian central government, inter alia, accepted and defined certain rights of permanent residents of Jammu and Kashmir through incorporating Article 35-A.<sup>31</sup> The main thrust of the argument is that keeping the demography of the State of Jammu and Kashmir was constitutionally and legally protected under Indian Constitution but the later governments through various constitutional, legal and administrative moves tried to change the demography of the area under its administrative control of the State of Jammu and Kashmir.

### ***Repealing of Autonomy and Statehood of Jammu and Kashmir***

While previous legal attempts of the Indian government to remove special status of Jammu and Kashmir or making demographic changes were in bits and pieces, the major blow came on August 5, 2019 when the ruling BJP revoked this special status. Indian President issued “The Constitution (Application to Jammu and Kashmir) Order, 2019 (C.O. 272)”. It stated that article 370 of the Constitution has been changed with the concurrence of the State government (implying from its own representative i.e. the centre’s appointed governor). The order replaced the 1954 order and its subsequent amendments. The President of India through a notification also amended article 367 of the Indian Constitution for paving way for amending Article 370. With this move, the Constitution of Jammu and Kashmir stands abolished thus leaving no bar on restricting Indian citizens to purchase property in Kashmir and settle there permanently. Similarly, the Indian President issued another order C.O 273, according to which all existing clauses of article 370 would become non-operative from August 6, 2019 while adding a riding clause which states that all provisions of the Indian Constitution will now apply to the state of Jammu and Kashmir. The second notification has completely changed article 370 of the Indian Constitution repealing special status of the State of Jammu and Kashmir. The government also introduced the “Jammu and Kashmir Reorganisation Bill, 2019” to downgrade the status of the State of Jammu and Kashmir from a state to union territory, with effect from October 30, 2019, by carving out two separate union territories out of it. While the ruling BJP amended Article 370 and revoked the special status of Jammu and Kashmir, Indian Supreme Court in the case ‘Sampat Prakash versus State of Jammu and Kashmir’, in 1968 rejected a notion of the Indian government that Article 370 was a temporary provision stating that since Constituent Assembly of Jammu and Kashmir did not exist anymore, Article 370 cannot be construed as a temporary provision.<sup>32</sup> Thus, the Indian government went against the judgement of Indian Supreme Court when it abolished the special status of Jammu and Kashmir. To sum up, Indian legal attempts started with Instrument of Accession and ended up with radical measures to not only abolish its special status but also downgrade into union territories.

## IV. INTERVIEW RESULTS AND DISCUSSION

When respondents were asked what different tactics India employed to change the demographics of Jammu and Kashmir, the majority stated that revoking of the special status of Kashmir was the most drastic measure that Indian government initiated in August 2019 which not only affected special status of Kashmir that the state was enjoying under Indian Constitution but also changed its status from a state to union territory and deprived the state and its citizens their constitution, flag and anthem to completely deny whatever symbolic autonomy was previously enjoyed by the State. In response to the question as to “How demographic changes can affect the status and resolution of Kashmir conflict?” respondents stated that such demographic changes are aimed at changing the result of the plebiscite in Indian favour if and when plebiscite is held. They were of the view that India is trying to convert Muslim majority in minority through these demographic

<sup>31</sup>GoI, "National Portal of India " Government of India, [https://www.india.gov.in/sites/upload\\_files/mpi/files/coi\\_appendix.pdf](https://www.india.gov.in/sites/upload_files/mpi/files/coi_appendix.pdf).

<sup>32</sup>Prabhash K. Dutta, "Article 370: Can Modi Govt Defend Kashmir Move to Supreme Court?," *India Today*, 1 October 2019.

changes. When respondents were asked to give their opinion regarding the impact of these demographic changes on the possibility of an increase in violence in Kashmir and growing tensions between Pakistan and India, majority of the respondents stated that ceasefire violations on Line of Control and Working Boundary will grow in days ahead. When respondents were asked to comment on policy options for Pakistan, majority of respondents suggested that Kashmiris should be given the lead role in highlighting the issue at international level. They believed that Kashmiris could best fight their case at the international arena and the world would be more receptive listening directly from Kashmiris. They also suggested that the Government of Azad Jammu and Kashmir should be empowered to fight the case at the international arena.

### ***Indian Climb-down: Multilateralism to Bilateralism, then Unilateralism***

India herself took the issue of Kashmir to the UNSC at the start of 1948 and since then the UNSC has passed numerous resolutions calling for holding of the free and impartial plebiscite as a solution to the Jammu and Kashmir dispute. India accepted the UNSC mandated solution (as reflected in UNSC Resolution 47 adopted on April 21, 1948) and pledged to hold the plebiscite in Kashmir to seek the will of the people whether they want to join Pakistan or India. In his statement in Indian Parliament on February 12, 1951, then Indian PM said, "We had given our pledge to the people of Kashmir and subsequently to the United Nations; we stood by it and we stand by it today. Let the people of Kashmir decide."<sup>33</sup> While interpreting the Simla Agreement, India contended that the agreement envisaged bilateralism as a means to resolve the issue of Kashmir superseding UNSC resolutions on Kashmir though Pakistan did not agree with this interpretation of the said agreement.<sup>34</sup> India based her argument on Clause 1(ii) of the Simla Agreement, which states that both the countries will resolve their issues through peaceful negotiations or any other mutually agreed peaceful means and no one will make any unilateral move till the time issues are resolved. Pakistan contended that Simla Agreement does not supersede or override the multilateral agreement reached through UNSC resolutions. By taking unilateral measures like amending article 370 and depriving the state of its Constitution, flag, anthem, etc. India violated the Instrument of Accession and the very basis of its relations with the State of Jammu and Kashmir. Thus, Indian unilateral moves in Kashmir have no legal basis, making India occupier of the state in true sense.

### ***Bilateralism: Kashmir Issue and India-Pakistan Relations***

Article 5 (ii) of the Simla Agreement states, "In J&K the LoC resulting from the ceasefire of December 17, 1971, shall be respected by both sides without prejudice to the recognized position of either side." (emphasis added) whereas the recognised position of Pakistan (and earlier India, as well) has been that the Kashmir issue should be resolved in light of UNSC Resolutions. Hence the Simla Agreement does not deny the applicability of UN resolutions. Simla Agreement was signed in 1972 between Pakistan and India, and since then almost five decades passed. It would be worthwhile to assess, gauge and evaluate its effectiveness for resolving disputes between the two countries as the said agreement had called for peaceful bilateral means to resolve the issues. However, both the countries could not resolve even less complicated issues like Sir Creek and Siachen dispute. On the other hand, multilateralism or third-party mediation was seen as comparatively more viable means for resolving conflicts and managing relations between Pakistan and India. The first such example was the signing of World Bank brokered Indus Waters Treaty of 1960 that withstands the test of serious conflicts and tensions and largely remained intact, though Pakistan blames India for violating the treaty while using provisions of the treaty itself, but the agreement has not been scrapped. In addition to signing agreements, the crisis and conflict situations of the past were managed only when international players like the US intervened including 1984 crisis when Pakistan was fearing attack from India on its nuclear installations, tensions in 1989 after the uprising in Kashmir, Kargil conflict in 1999, a military standoff of 2001-02,<sup>35</sup> tensions after Pulwama attack and Indian and Pakistani attacks against each other in 2019 were only averted through the intervention of global players and the international community. Hence putting things together, one can reach to a conclusion that bilateralism remained an ineffective dispute

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<sup>33</sup> J.C. Aggarwal and S.P. Agrawal, *Modern History of Jammu and Kashmir: Ancient Times to Shimla Agreement* (New Delhi: Concept Publishing Company, 1995).

<sup>34</sup> V. Lowe et al., *The United Nations Security Council and War: The Evolution of Thought and Practice since 1945* (Oxford: Oxford University Press, 2010); S. Sinderpal, *Modi and the World: (Re) Constructing Indian Foreign Policy* (Chennai: World Scientific Publishing Company, 2017).

<sup>35</sup> Malik, "Pakistan-India Relations: An Analytical Perspective of Peace Efforts."

resolution mechanism between Pakistan and India while third party mediation and external facilitation has proven helpful in reducing tensions, resolving issues and increasing cooperation.

### ***Indian Demographic Engineering: Implications on Resolution of Kashmir Dispute***

Once all legal and constitutional bars are removed after drastic Indian measures adopted on August 5, 2019, India will not only settle non-Kashmiris into Kashmir but would also involve in the genocide of Kashmiris to quell uprising in Kashmir as well as reduce the number of people with pro-Pakistan feelings. Since Kashmir valley is predominately a Muslim majority region, Indian leadership perceives that religious attachment of the people of this region is the main decisive factor of people having pro-Pakistan feelings and hence converting Muslim majority in the valley to a Muslim minority might be the most viable option. Moreover, India is also interested in creating a rift among various ethnic and religious communities to damage the very fabric of Kashmir. Even though India is not interested to hold plebiscite as a means to the final settlement of Kashmir dispute, it took steps to change the demography of Jammu and Kashmir as a fallback option to impact the result if India is compelled by the international community to hold the plebiscite in Kashmir. Hence, any change that quintessentially alters the demographics of the region is meant to change the outcome.

## V. RECOMMENDATIONS

Following is recommended:

- Pakistan should ensure that the world does not accept Indian moves as *fait accompli*. Pakistan needs to seriously consider taking up the issue of Indian human rights violations and revoking the special status of Kashmir to International Court of Justice (ICJ) despite the fact that ICJ's ruling may not be binding but would definitely put pressure on India. Similarly, Pakistan may also build a case against atrocities of Indian occupation forces in the International Criminal Court.
- Pakistan needs to launch a fresh diplomatic effort to highlight the situation in Kashmir. Similarly, Pakistan should devise a medium- and long-term strategy to effectively fight the case of Kashmir at the international level. Pakistan should also empower Kashmiris to fight their case at the international arena. In this regard, Pakistan may consider the formation of a team of former diplomats/ ambassadors/ high commissioners, preferably Kashmiris, who are familiar with the history of the conflict so that they are able to present the case of Pakistan and Kashmiris to the international audience.
- As international media has adequately covered and highlighted happenings in Kashmir, the international opinion against India is forming so Pakistan needs to focus on public diplomacy so that people of the host countries could put pressure on their respective governments to ask India to reverse its unilateral moves in Kashmir.
- Since European countries are specifically focused on upholding and protecting human rights, Pakistan needs to highlight Indian human rights violations and seek support from the members of the European Union.
- Pakistan should make efforts for convening a special session of OIC on the issue of Kashmir and make diplomatic efforts for convincing Muslim bloc to stand with Kashmiris in this testing time.
- Since latest Indian moves have seriously disturbed pro-Indian political parties in Kashmir like National Conference and Peoples Democratic Party, Pakistan may engage the leadership of these political parties and mend fences with them. A unified response from all political forces in Kashmir would serve Kashmiri cause better.
- Pakistan should initiate measures for political empowerment of the people of Azad Jammu and Kashmir and Gilgit-Baltistan. These two regions must be given greater autonomy as it will not only quell dissent and resentment within these two regions but will also arouse more pro-Pakistan feelings among the people of Indian occupied Kashmir who are being inhumanely treated by the Indian government.



## VI. CONCLUSION

It is now abundantly clear that India, over a period of time, adopted some specific, systematic, systemic administrative and legal measures to change the demography of Jammu and Kashmir with the view to impact final settlement of dispute if and when the option of UNSC mandated plebiscite in Kashmir is exercised. On August 5, 2019, India took a drastic measure to repeal special status of the state depriving it of any autonomy that it enjoyed. Thus, the BJP government deprived Jammu and Kashmir of its Constitution, separate flag and having its own anthem. This Indian move would have far-reaching implications for settlement of Kashmir dispute as these measures would make UNSC resolutions completely irrelevant as the option of self-determination expressed through free and impartial plebiscite could only be exercised by the Kashmiris alone. These unilateral Indian measures would also negatively affect relations between Pakistan and India resulting in more ceasefire violations, possible direct confrontation between the two countries and more Indian involvement in fomenting trouble in Pakistan. In addition, these measures are also believed to have a negative effect on Kashmiri society as these measures are likely to disturb communal harmony in Kashmir as well as increasing violence and militancy. Similarly, India is likely to continue her oppressive measures against innocent Kashmiris and more human rights violations are expected from Indian security forces. In a nutshell, India has put regional peace and stability at stake by adopting unilateral measures in Kashmir. Indian legal and administrative measures are neither in consonance with the Indian constitution and pledges of Indian leadership nor pass the test of morality, nor aligned to international law and fundamental human rights. It is now for the world to decide whether it will allow India to execute its aggressive postures and mete out inhuman treatment to Kashmiris or will the international community hold India responsible for her actions in Kashmir.

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