

Indian Constitutional Rearrangements in Jammu & Kashmir and the Responses of Kashmiri Diaspora

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ABSTRACT

In the aftermath of August 5, 2019, almost the entire population of Indian-held Jammu & Kashmir was placed under stark lockdown with pro-freedom and mainstream politicians arrested. This was to prevent any outbreak in response to the revocation of region's special status. There were only two indigenous constituencies left for campaign and raising voices; 'Pakistani-administered' J&K and Kashmiri diaspora. The diaspora's feeling of being backstabbed created a sense of dispossession and alienation. Kashmiri diaspora across the globe mobilised on various fronts ranging from diplomatic, social, political, academic, and media. Though they managed to highlight the Kashmir conflict internationally, but they could not make some tangible impact as India's constitutional re-arrangements and the human rights violations in Jammu & Kashmir continued unabated.

Keywords: **Jammu & Kashmir, Article 370, Article 35A, State Subject, Diaspora**

Introduction

Article 370 of Indian Constitution guaranteed the special status of the former princely state of Jammu & Kashmir, giving it its own flag, autonomy and the power of legislation over its internal affairs; however, the Indian government retained control over defence, foreign affairs, and communications. Article 35A empowered J&K government to define state subjects (permanent residents) with certain rights and privileges. These special articles authorised the state of J&K to make rules concerning land ownership, permanent residency and fundamental rights. The importance of Article 35A is that it could bar anyone outside the state and especially Indians from buying property or changing the demographic character of J&K by settling there. After the abrogation of Articles 370 and 35A by Modi-led BJP government in India, the state of Jammu & Kashmir has been stripped off its special status. Not only did the government of India

unconstitutionally undermine Kashmir's internal autonomy, it bifurcated the state by making it into two different union territories; UT of Jammu & Kashmir and UT of Ladakh.

The Kashmiri diaspora responded immediately to the revocation of Article 370, mobilising much more strongly than in the past, through a range of different channels. Therefore, this paper examines the strategies used by the diaspora. It starts by outlining the historical analysis of constitutional development of Indian-Administered Jammu & Kashmir, and then explains the abrogation of Articles and 370-35A and a new domicile rule introduced in Jammu and Kashmir with their repercussions. Subsequently, the paper outlines the responses across the Line of Control (LoC) of J&K, as well as in the Kashmiri diaspora. Moreover, it investigates the strategies of diaspora and the impact of these activities to make some positive difference locally and globally, in response to the Indian illegal actions.

Historical context of state subject order

During the early 20th century, political movements led by Kashmiris, in the former princely state of Jammu & Kashmir were provoked in part by the uninterrupted entry of 'outsiders' into the administrative and government sectors of the state. Indigenous Kashmiris made a demand that only the native citizens should be appointed in the government jobs of J&K. Subsequently, on 20 April 1927, Maharaja Hari Singh, the Dogra ruler of the State of Jammu and Kashmir, imposed an inherent state subject order which permitted all Kashmiris with a right to purchase property and job opportunities in administration and government. In addition, on 27 June 1932, an order was issued by the Maharaja that these privileges were offered exclusively for permanent citizens (state subjects) and terminated any accessibility of the same to non-state subjects. (Malhotra 2010) Under the order of 1927, the employment of non-state subjects in the public service is prohibited. In addition, they were not entitled to own property/land. (Schofield 2003: 17) According to Maharaja's notification of 1932, "emigrants from Jammu & Kashmir state to foreign countries shall be equally considered state-subjects and also the descendants of these emigrants born abroad for two generations but these nationals of Jammu and Kashmir State shall not be eligible to claim the internal rights granted to subjects of this State by laws." (Sharma 2005)

Post subcontinent division

In accordance with the Indian Independence Act of 1947, the Indian subcontinent was separated into two countries, India and Pakistan. Prior to the enactment of a constitution by the constituent assembly of India, the Independence Act authorized the Governor General of India to adopt the Government of India Act 1935 as the

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interim constitution. The revised Act served as a constitution from 15 August 1947 to 25 January 1950. (Noorani 2011: 6-7)

Section 6(1) of this adopted Act of 1935 also empowered formerly princely states to accede to India, so long as their rulers signed an Instrument of Accession specifying terms and conditions. (Government of India Act 1935) The Maharaja of J&K acceded to India in order to secure Indian military assistance to protect J&K against an 'invasion' by tribesmen from Pakistan on 22 October 1947. (Snedden 2011: 12) In this context, Governor General's acceptance letter stipulated that "as soon as law and order have been restored in Kashmir and her soil cleared of the invaders; the question of the State's accession should be settled by a reference to the people." (Lamb 2003: 137) Therefore, early in 1948, the government of India published a White Paper on Jammu & Kashmir that recorded; "In accepting the accession, the Government of India made it clear that they would regard it as purely provisional until such time as the will of the people of the State could be ascertained." (Noorani 2011: 13)

The arrival of Indian Armed Forces in J&K on 27 October 1947 led into an India-Pakistan war that lasted into 1948. Meanwhile, the Kashmir dispute was referred to the United Nations Security Council in December 1947. Without consulting the major party i.e. the people of J&K, in April 1948 the UNSC established a special commission for investigating the dispute; it proposed plebiscite to resolve the conflict. The United Nations Commission on India and Pakistan (UNCIP) adopted a resolution on January 5, 1949 based upon the ceasefire agreement reached between India and Pakistan and affirming that the political fate of J&K would be decided through a fair and free plebiscite. (Malik 2006: 343)

Article 370 of Indian administered J&K

The Instrument of Accession extended India's jurisdiction in Jammu & Kashmir only to defence, external affairs, and communications. (Schofield 2003: 73) However, the then most popular Kashmiri leader, Sheikh Abdullah, negotiated with India that it was a matter of Jammu & Kashmir State's Constituent Assembly when convened to decide if any other subjects of the state may accede to India or not. (Noorani 2011: 2-3) It is clear that the concerns of Jammu & Kashmir in the proceedings of the Constituent Assembly were discussed twice; on 27 May 1949 and 17 October 1949. (Constitution Assembly Debates 1989) Eventually, on 17 October 1949, Indian Constituent Assembly adopted Article 370 as it produced Draft Article 306(A) of the Indian Constitution, assuring internal autonomy and special status to Jammu & Kashmir. (Bhat 2017: 42-44) Because of the disputed standing of the territory of J&K, an impartial and fair plebiscite was recommended to be held in the state as per the UN mandate.

The Constitution of India that came into force on January 26, 1950, had some special provisions for the State of J&K; these unique provisions under Article 370 came into force on 17 November 1952. Article 370 was framed to defend the rights of the state to draft its own laws, to have own flag, and to have complete control over the internal administration of the state. Jammu & Kashmir was the only state which negotiated the terms of its membership with the Indian union. In addition, this article had an important aspect, that is, it was not to be amended or abolished either by Indian Union or J&K state unilaterally.

Presidential orders and Delhi agreement

As per clause (1) of the Article 370, Presidential powers were to be exercised with the consent of J&K government. The Presidential order enforced on 26 January 1950 acknowledged the Special Status of J&K through Article 370. According to it, the legislative powers of the parliament were to be limited to those matters in union list. And the concurrent list that is established to correspond to matters specified in the Instrument of Accession by the President of India in consultation with the government of the State of Jammu & Kashmir. (Official Text 1954)

On 24 July 1952, an agreement was reached between Sheikh Abdullah and Indian Prime Minister Jawaharlal Nehru, known as 'Delhi Agreement' that reiterated the provisions of Article 370. The Delhi Agreement was the outcome of a dialogue on centre-state relations between the Indian Union and the delegation from Jammu & Kashmir, in response to a memorandum submitted to the Indian President by the Jammu Praja Parishad, requesting the absolute implementation of Indian Constitution in the state. (All Jammu Kashmir Praja Parishad has served as a major political party in opposition, which was active in Jammu region of the Indian administered J&K.) This agreement recognized the sovereignty of the State as indicated in the Instrument of Accession whereby the residuary powers of the J&K legislature were vested in the state itself. According to Article 5 of the Indian Constitution, Jammu & Kashmir domicile holders are regarded as citizens of India. However, the State Subject notifications of 1927 and 1932, gave powers to the legislative assembly to define and regulate the rights and privileges of the state subjects (permanent residents of the state). The assembly was also authorized to make laws for the return of state subjects who had migrated to Pakistan in 1947. (Cottrell 2016) The position of the Head of the State (*Sadar-i-Riyasat*) would be the person recognized by the President of India and elected by the legislature. For Jammu & Kashmir, therefore, only the Appellate Jurisdiction of the Supreme Court was applicable, not the whole section of 'fundamental rights.' It also authorized the Indian Government to impose declaration in case of any internal disruption, which was not approved by the representatives of J&K. (Gupta 1966: 396)

Subsequently, in November 1950, a Presidential order was passed that rephrased 'Maharaja of Jammu Kashmir' as 'Sadr-i-Riyasat.' This order validated

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the elimination of monarchy in Jammu & Kashmir. (Noorani 2011) Another agreement was soon negotiated between Indian Union and J&K, which was passed by the Constituent Assembly of Jammu & Kashmir through Presidential Order 1954. This was to effectively implement the Delhi Agreement of 1952. (Chowdhary 2015: 48) This order introduced Article 35A in the Constitution of India, which secured significant powers and autonomy for the Government of J&K. (Kumar 2005)

Article 35A

Article 35A was included in the Indian Constitution in 1954 exclusively for the benefit of the state of Jammu & Kashmir, by an order of the President Rajendra Prasad in consultative recommendation of Jawaharlal Nehru's cabinet. The order extended Indian citizenship to the 'state subjects' of J&K. Moreover, Article 35A, as a special provision of the Constitution of India, protected the rights and privileges of the residents of J&K. It was specially conceived to reclaim the state subject laws that had already been defined under Maharaja Hari Singh's regime and notified in 1927 and 1932. Article 35A defined the classes of the permanent residents of Jammu & Kashmir and also confers the prohibition of non-permanent residents from permanent settlement in the state, purchasing land and immovable property, seeking government jobs, voting or contesting elections and acquiring other state allowances, such as aid for healthcare and higher education scholarships. (BBC News 2019)

Presidential order 2019: revocation of articles of Indian constitution

All of the above changed on 5 August 2019, when the President of India issued order under Article 370 superseding the Presidential Order of 1954 that gave special protection and privileges to the residents of J&K. The new order rejected all such boundaries and also abrogated the separate constitution of Jammu & Kashmir. The extended provisions of Article 35A, which gave special privileges to permanent residents, were also removed. The government of India defended meeting the condition that "concurrence of the government of Jammu Kashmir" in making any amendment or abrogation of Article 370, by the approval of the Governor of the state. The 2019 Presidential Order also added some improved powers as well as phrase 'state government' to the Governor of J&K. (The Constitution Order 2019)

Indian home minister Amit Shah presented the Jammu & Kashmir reorganization bill on August 5, 2019, to change the status of the state into two different union territories, namely Jammu & Kashmir union territory and Ladakh union territory. (Singh 2019) The Bill was rapidly accepted by both houses of India's Parliament i.e. the Rajya Sabha and Lok Sabha. (India Today 2019) As a result, Jammu & Kashmir lost considerable political autonomy and statehood

status. (Lunn 2019) This move was a long-overdue promise from the general election manifesto of Bhartiya Janata Party (BJP) reflecting the long-standing objective of the RSS (Rastriya Swayamsevak Sangh) to assimilate the State of Jammu & Kashmir into the Indian union. (BJP Election Manifesto 2020)

Domicile rule

The Indian Ministry of Home Affairs issued the Jammu & Kashmir Reorganization (Adaption of State Laws) Order on 31 March, 2020 in order to substitute the status of ‘permanent residents’ with ‘domiciles of Union Territory (UT) of J&K.’ According to this order, “domicile” applies to anyone “who has lived in UT of J&K for a period of 15 years or has studied for a period of seven years with an appearance of class 10th/12th exams in any educational institution placed in UT of J&K. Moreover, it gave domicile of J&K to the central government officials and their children who had served in J&K for a period of 10 years.” (Singh 2020) The most alarming implications of this rule was to end the status of permanent residents, make all local jobs accessible to non-natives, and change the state administrative set-up, which had until then been controlled by the locals. (Javaid 2020) On 18 May 2020, the strict plan for the enforcement of granting domicile at the earliest by J&K administration was notified. This created chaos among the citizens and political leadership as they rejected this amendment by considering it an unlawful act aimed at “changing of demography of the erstwhile state of Jammu & Kashmir.” (Ashiq 2020)

Legality of the revocation of article 370 & 35-A

According to the 2015 judgement of the Jammu & Kashmir High Court, “Article 370 cannot be repealed, abolished or even amended.” (Article 370...) This view was endorsed by the Supreme Court of India in its 2018 judgement on the same matter, which stated that Article 370 has secured an irreversible status in Indian Constitution and since the Constituent Assembly of Jammu & Kashmir has terminated, the Indian President would not be permitted to justify the mandatory provisions vital for its revocation. (Hindustan Times 2018) The Indian constitutional scholar A.G Noorani believes that the nullification of Article 370 by the Indian government through controversial means was “utterly and palpably unconstitutional.” (Deshmane 2019) It is set out for a “showdown in India’s Supreme Court.” (Gettleman 2019)

Article 370 (1) (c) evidently indicates that the Constitution of India only applies to the state of Jammu & Kashmir through Article 370, which binds the state of J&K to the Indian Union. The Presidential Order 2019, which was issued deceptively under Article 370, is patently illegal and unconstitutional. It breaches the contractual foundation upon which Maharaja Hari Singh accepted the annexation of J&K with India in 1947. It seeks to completely subvert Article 370

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by introducing a new clause under Article 376, whereby the centrally appointed Governor (not representative of popular voice) of J&K has been made the de-facto authority. As one academic observed, “this is nothing short of coup d’état on the Indian constitution.” (Personal Communication with Narender Nagarwal 2020) In relation to the question of legality, Congress spokesperson Jaiveer Shergill said that “according to the prerequisites of Article 370(3) of the Indian constitution, the Article cannot be abrogated by the President without the approval of the J&K state assembly, which no longer exists at present. Also, the BJP has been avoiding elections since long, so discarding Articles 370 and 35A in this manner is absolutely unconstitutional.” (Business Standard 2019) In addition, J&K as a political dispute has been pending in the United Nations for its resolution. Under the international law, if a matter is subjudice in the UN, no party can take any arbitrary decision unilaterally. Therefore, this action amounts to the subversion of the international and national law, and a dismemberment of the state of Jammu & Kashmir, which has grave implications for other states of the Indian Union. (Personal Communication with Narender Nagarwal 2020)

Situation across the LoC

Prior to the revocation of J&K’s special status on August 5, thousands of additional paramilitary troops were sent to Jammu & Kashmir. (The Hindu 2019) Thereafter, the government imposed a complete communication blackout, shut down landlines, cell-phones, internet, and even cable TV. The armed forces used satellite phones for communication. (Hussain and Saaliq 2019) A curfew was imposed under section 144 in all regions of Jammu and Kashmir (most intense in Srinagar), banning all public movements. (Khan and Ratcliffe 2019) In addition, all political leaders – including former chief ministers of J&K – were placed under detention. (India Today 2019) Local journalists were not issued curfew passes, and many were arrested on unspecified charges, especially those who were reporting on the ground situation to find out what was happening as thousands of civilians were reported to be arrested to prevent any outbreak of protest. (Dawn 2019)

The effects of this unconstitutional abrogation of Articles 370 and 35A have been felt on both side of the Line of Control (LoC). ‘Pakistan-administered’ Jammu & Kashmir witnessed substantial civil unrest, civilian anger and held massive protests, in almost all cities and near LoC. (Mughal and Masood 2019) The narrative of ‘Azadi’ re-emerged, leading to new calls for the freedom of J&K as a separate state. (Majid 2019) In frustration and anger, protestors tried to cross the LoC but police force was used against them. Communication services were disrupted by the Pakistani authorities, which complicated the reporting of the situation by the media; nevertheless, these developments got some attention from the international media. (Aljazeera News 2019)

Responses of the diaspora

Jammu & Kashmir has a globally established diaspora, as their displacement has been a constant process, with peaks at specific times. This paper focuses on the responses to the revocation of J&K's autonomy by India from two categories of Kashmiri migrant. The first group is mostly from the valley of Kashmir, living across the world (especially in the US), including members of the Kashmiri Hindu minority, the Pandits, as well as Muslims who migrated in pursuit of economic opportunities, and due to the outbreak of violence in conflict zone. The second major diasporic group hails from 'Pakistani-administered' Jammu & Kashmir and is mostly based in Britain and other European countries. The migration of this second group is usually characterized as being economic (Webb 2014) and political in nature, as a response to the construction of the Mangla Dam, which displaced them. (Personal Communication with Nasreen Ali 2020) Most of these emigrants remain connected with their homelands through sharing remittances with their families, and through a sense of 'Kashmiriyat' associated with the continuance of the dispute. (Eliss and Khan 1996 and 1998)

Reaction and agitation by the diverse Kashmiri diaspora was to be expected, because August 5 marked the clear designs of the Indian government to seize Jammu & Kashmir despite numerous United Nations Security Council resolutions declaring the entire J&K as a disputed territory until its final settlement. (Personal Communication with Nayyer Niaz Khan 2020) The Kashmiri diaspora has responded to these constitutional rearrangements in varying ways.

a) Social media, protests and rallies

Amid the crisis caused by revocation, the Kashmiri diaspora started its campaign through a number of social media accounts related to Kashmir, with a 'red-dot' being adopted by many people as their profile picture as a symbol of resistance. Activists believed that these responses would put Kashmir on the global headlines. Social media provided space for an indigenous 'Kashmiri narrative' to grow, where previously the conflict had been presented as an Indo-Pak matter in international media. Social media also permitted the creativity desired for this message to gain momentum. (Sadeque 2019)

The Kashmiri Diaspora from Britain, Europe, North America, and Canada came out with the same resilience denouncing Indian aggression and expressing their anger. These were ordinary people who felt the pain of Kashmiris under occupation. The main concerns they expressed were with human rights violations and betrayed pledges and promises by occupiers and the international community. (Personal Communication with Nayyer Niaz Khan, 2020) Interestingly, in the Kashmiri protests in London, many other diasporas i.e. Sikh, Palestinian, Sri Lankans, Indians, Pakistanis, and some Labour Party MPs joined them; and in the US, large demonstrations were reported in major cities and progressive members

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of the Jewish diaspora also supported Kashmir's right to self-determination. (Mohammed 2019)

b) Political role of diaspora

In terms of lobbying by the British diaspora from 'Pakistani-administered' J&K, they responded by pressuring MPs through petitions in areas where their population is high. However, the diaspora from Indian-administered J&K is small in number and not particularly politically engaged. (Personal Communication with Waseem Yaqoob 2020) MPs of Kashmiri origin, British MPs with large numbers of Kashmiris in their constituencies and the All-Party Parliamentary Kashmir Group (APPKG) raised their concerns in the British Parliament regarding human rights violations in Indian-Administered J&K and the grave implications of the revocation of Articles 370 and 35A. (Basu 2019) Another way in which the diaspora raised their voice against the changes imposed by Indian government was to write letters to the UN Secretary General and human rights organizations. They also asked the British government to realise the country's historical obligation as a former colonial power to help resolve this long-standing conflict and raise the issue at the UN Security Council. However, the reaction of the British government was conventional, defining the dispute as bilateral. British Labour MP Liam Byrne responded to the British government by saying that "the idea that this is a bilateral contest and negotiations is a dead deal and it's time that British government now stepped up and recognize that Simla agreement is dead in a water and it's time for multilateral solution." (Byrne 2019)

However, the efforts of the British Kashmiri diaspora did lead to another big political development; the UK opposition Labour Party passed an emergency motion on Kashmir at their Party Congress in September 2019. The resolution condemned the revocation of Article 370, noted its grave implications, and called on Labour leader Jeremy Corbyn to seek international observers to demand the right to self-determination for Kashmiris and to accept Kashmir as a disputed territory. It called on Corbyn to meet both Indian and Pakistani High Commissioners in order to mediate and ensure peace. The resolution called on the Labour party to send a representation to the UNHRC to demand the restoration of basic human rights, freedom of speech and communication, lifting of the curfew, and permission for international observers and humanitarian organization to access the heavily-militarized zone. (News18 2019) This resolution damaged relations between the Labour Party with the Indian diaspora in the UK, which in response aligned with the Conservative party in the British general elections of 2019. The Conservatives went on to win the election. As a result, the influence of the Kashmiri diaspora on British government policy is likely to be severely limited for the foreseeable future. (Business Standard 2019)

c) Congressional hearing in the United States

In October 2019, the United States House of Foreign Affairs Committee arranged a hearing on human rights in South Asia. The committee specifically devoted much of its energy to the situation in Jammu & Kashmir. Dr. Nitasha Kaul, Aarti Tikoo Singh and Anghana Chatterji gave their testimony on human rights violations in Kashmir. These testimonies were based on recurring themes; human rights in Kashmir's context, the Indian government's August 5 action, the current situation of the Valley, and the place of Kashmiri Pandits in the conflict.

On the human rights aspect, Kaul observed that India claimed Kashmir as an integral part of the country even while denying Kashmiris basic human rights. Tikoo Singh responded that the violations of human rights were justified for the purpose of crushing Pakistan-sponsored terrorism in the valley. Chatterji said that militancy was not a significant phenomenon. India was falsely using militancy to justify a lockdown. According to Kaul and Chatterji, the August 5 move was that of a Hindu majoritarian state pursuing a totally undemocratic and illegitimate agenda. Tikoo Singh, to the contrary, supported the Indian government's actions, claiming they were aligned with sound constitutional principles and secularism.

At the hearing Dr. Kaul argued that August 5 decision was an imposition of collective punishment on all the states of India by questioning their democratic values as if government can do this to J&K, it can be possible with any other state of India. Against this, Tikoo Singh claimed that the temporary provisions were justified to strengthen human rights in Kashmir. Chatterji countered that Kashmiri anxieties could lead to armed insurgency. On the question of the Kashmiri Pandits, Chatterji highlighted the urgency of their return to J&K their healing. Tikoo Singh claimed that the militancy in Kashmir was carried out by Islamists and geared against their expulsion. Dr. Kaul on the other hand, blamed the Indian state for failing to see and act upon their plight after their departure from the valley. (Chakarvarti 2019) This activity generated a constructive debate on Jammu & Kashmir at the highest political level in the United States

d) Organizational contribution

After the abrogation of Articles 370 and 35A, several Kashmiri diaspora organizations have contributed to raising awareness of the plight of the Kashmiri people in different segments i.e. academics, activists, media and charity.

Kashmir Scholars Consultative Network (KSCAN) is a global interdisciplinary group of academics (mostly engaged in research), practitioners and activists. (KSCAN official website) This group is trying to build a literature (mostly indigenous) with extensive research work on Jammu & Kashmir. Apart from intellectual input, they have approached many international forums through letters and by giving presentations on the situation in the valley. Since August 5, KSCAN has been successful in these endeavours. KSCAN discussed and helped prepare the briefings for the US Congressional hearing on human rights in South

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Asia, presented by Dr. Nitasha Kaul and Anghana Chatterji, both are members of KSCAN. (Personal Communication with Javaid Hayat 2020)

Another organization, Stand with Kashmir (SWK) is a global Kashmiri diaspora group that raised awareness about the plight of Kashmiris, encouraging meaningful, organised activism around the world. Through a volunteer structure and fundraising drive, they have reached a large audience of non-Kashmiris. Also, SWK managed to gather signatures from academics and people of conscience globally for a letter to the Indian government demanding justice, freedom, dignity, and self-determination for Jammu & Kashmir. Moreover, they have started campaigns for; a) release of Kashmiri prisoners detained in the aftermath of the constitutional rearrangements in IHK; b) participated in a “red for Kashmir” campaign by putting red pictures in their social media profiles, which was a symbolic gesture to resist and reject the Indian illegal decisions on Kashmir; and c) they regularly produce content especially detailed infographics, which is shared many thousands of times across the world; d) they highlighted to the world how journalism in J&K is in danger, campaigning for a free press and lifting of all illegal allegations against Kashmiri journalists. (Official Website of Stand with Kashmir) This campaign acquired worldwide following.

Jammu Kashmir TV (JKTV) is an online UK-based television channel that claims to be a voice for the voiceless, with a global reach, campaigning for freedom of speech and press for the people of Jammu & Kashmir. As there is no independent media in Jammu & Kashmir, and existing platforms are either facing significant difficulties to present true picture of ground realities or bound to facilitate Indian and Pakistani narrative, so, JKTV has appeared as an indigenous platform that gives space to natives and builds an independent narrative of Jammu & Kashmir. Initially, JKTV was not very popular, reaching an audience of only 300-400K people per month, but after 5 August 2019, it reached 33 million views and 21 million engagements per month following the abrogation of Articles 370 and 35A. (jammukashmir.tv) The JKTV covered responses over the illegal revocation from all regions of the erstwhile state of Jammu & Kashmir as well as the diaspora. They also gave a platform to the individuals who are struggling because of the same reason and arranged live shows by inviting Jammu & Kashmir activists, historians, and researchers. Thus, it became the hub of global dialogue for the millions of progressive Kashmiris, Pakistanis, Indians and other worldwide supporters of Jammu & Kashmir cause. JKTV has played its part as the only independent & indigenous media forum and voice for the oppressed people of Jammu and Kashmir that highlighted the response of diaspora across the globe. (Personal Communication with Shams Rehman 2020)

Broad-gauge perspective of diaspora

The Kashmiri diaspora responded effectively after the revocation of Article 370 as compared to their mobilisation in the past. A wave of peaceful protests swept

many urban centres, from small towns to major cities including London, Brussels, Paris, Geneva, New York, Washington DC, and Toronto. These protests also attracted widespread support from local communities, human rights organizations, politicians, journalists, and faith groups from Europe to North America. However, this was not a well-planned or consolidated reaction; it was abrupt and a reaction to events. This movement lacked leadership and a solid agenda. Therefore, they could not build pressure on international institutions for conflict resolution or for breaking of the impasse. These demonstrations again failed to impart a cohesive and substantial narrative. Lacking a planned strategy, all efforts failed to yield a political impact although social mobilization was diverse in nature and greater in number. (Personal Communication with Nayyer Niaz Khan 2020)

In general, the Kashmiri diaspora failed to understand the revocation of both articles and their effects, focusing mostly on an emotional response rather than a rational approach to the new scenario. They even retained an old-fashioned 'protest' strategy with a view to 'shame India' before the international community – failing to realise that India is now one of the largest global economies and huge consumer market for whom the international community and its institutions would bend any rules in order to ensure open access to the Indian market. (Personal Communication with Barrister Hamid Bashani 2020) One of the most crucial reasons why the diaspora's lobbying never worked was the Simla Agreement of 1972 which made Jammu & Kashmir conflict a bilateral one, an agreement which is not entertained by India anymore other than to silence the international community when it comes to the conflict.

Diaspora groups based in the UK also made a bad political choice by putting all their eggs in 'Labour Basket.' The Indian community sided with the Conservative party, to whom Kashmiris had little access. The Conservatives won the UK general elections and now the Indian community has sided with the Tories. British Indians hold very important ministries in Boris Johnson's cabinet. Prior to the general elections of 2019, Indian diaspora organisations wrote letters to the Labour Party's leader who walked back from Labour's Congress Resolution in support of Kashmir in response to Indian constitutional changes. After the election, the new Labour Leader Kier Starmer wrote a letter to a Hindu community organisation defining the Kashmir dispute as either a bilateral one or an internal matter. There is a risk that the Tories and Labour are converging on the same attitude towards the Indian community and India with respect to Kashmir, and the diaspora cannot avoid responsibility for the current Conservative government's policies on Kashmir. (Personal Communication with Sadiq Subhani 2020)

On the other hand, it seems difficult to assess what 'positive difference' the diaspora has made, as they have not been able to change the Indian policy, to be sure, but they educate, they agitate, they organize. A handful of Pandits have argued that the revocation of 370 reneges on India's constitutional arrangements; however, most Pandits have celebrated this revocation, even as some of them recognize that being downgraded into a Union Territory is both unprecedented and

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inappropriate. Most Kashmiri Muslims now feel that this revocation is the first step in changing the demography of the Union Territory (or the state), and their fears are not unfounded. (Personal Communication with Suvir Kaul 2020) The biggest challenge the Kashmiri Muslim diaspora faced over this surprising move came from the Kashmiri Pandits. The majority of the Pandit community under the umbrella of Global Kashmiri Pandit Diaspora (GKPD) supported the abrogation of Article 370-35A by using all the same tactics i.e. social media, rallies, lobbying and diplomatic pressure. (Business Standard 2019)

Although the revocation was painful and questioned the identity of the state subjects across LOC and in the diaspora, it also meant that for the first time in history Kashmiris (especially from the Valley) were united in the diaspora, as they were directly affected by this action. Whatever international reaction took place; it was mainly because of the diasporic efforts. In addition to holding protest rallies on the streets of the US and the UK and other countries, this time the diaspora succeeded in highlighting the plight of Kashmiris. Many hearings have been held in the US Congress and for the first time, a somewhat independent Kashmiri perspective has been heard. It can be safely said that more people are now aware of Kashmir than they were this time last year, and the fascistic vision of the occupiers is more apparent to the world than previously. (Personal Communication with Javaid Hayat 2020)

In addition to the abrogation of Article 370, cross-LOC violence remained a constant threat for the people of J&K living near the border areas. Majority of casualties were reported from 'Pakistan-administered' Jammu and Kashmir. Many people lost their lives, including children and women, in addition to the loss of infrastructure. In Britain, majority of the people identifying as "Kashmiri diaspora" belong to 'Pakistan-administered' Jammu Kashmir. However, they failed to highlight the plight of the people living near the border areas. Therefore, while the British diaspora from 'Pakistan-administered' Kashmir mobilised effectively and played an imperative role in highlighting human rights violations in Indian-administered Jammu Kashmir, they failed to make any substantial intervention to highlight the cross-LOC violence that affects the lives of the people of 'Pakistan-administered' J&K severely. (Personal Communication with Amina Mir 2020)

In contrast to mobilisation around constitutional changes, the reactions to new domicile law introduced by the Indian government have been less visible. There are multiple reasons for this; mainly measures taken by governments to tackle the COVID-19 pandemic. Social distancing and stay-at-home orders were the main factors preventing diaspora to agitate against the new domicile law - but their failure to produce political results during the previous agitations are also likely factors. (Personal Communication with Nayyer Niaz Khan 2020)

Conclusion

The Indian government's act of August 5, 2019 is unconstitutional because it crushes the established constitutional mechanisms for managing the state of Jammu and Kashmir's relationships with India. This legal framework was outlined at the time of the state's provisional accession to the Indian Union in 1947. There was only one window allowing the Indian government to exercise its legitimacy in Jammu & Kashmir and that window was Article 370. In other words, Article 370 was an outcome of a mutually binding agreement between two sovereigns in which both the parties India and Jammu & Kashmir carried equal legality. Any revisions including abrogation to this provision were technically linked to the approval of Jammu and Kashmir constituent assembly. Given this background, Indian government's actions of August 5, 2019 were nothing but unconstitutional, illegal, and unjust – not to mention that they were accompanied by a lockdown imposed on the entire population of Jammu and Kashmir.

The Kashmiri diaspora worldwide mobilised sufficiently and visibly in August 2019 in response to the constitutional rearrangements in Indian-administered Jammu & Kashmir. They raised their voices and tried to build a Kashmiri narrative through social media, organizing rallies and protests across the globe, by pushing their political representatives in the host states, as well as through participating on international humanitarian forums. As far as the tangible impact of the diasporic activates is concerned, it can be argued that the Kashmir conflict has been internationalized, but Kashmiri voices are still not sufficiently heard.

The challenge facing the diaspora is to remain out of the orbit of vested interests. Their scattered voices are too weak because they lack a concentrated strategy towards a defined objective. Individual/non-political groups/academia reacted more responsibly and in a more organised fashion than conventional and seasonal political groups. Traditional political groupings failed to acquire any substantial support in Western societies. However, it must also be said that the prevailing COVID-19 situation has severely affected the diaspora's political/social activities all over the world, undermining the gathering momentum against Indian constitutional rearrangements in Jammu and Kashmir. Nonetheless, even after the passage of over one year, the Indian rule in J&K has been unable to control the yearning of the Kashmiris for a complete divorce form India with full independence.

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