

# India's Unilateralism in IHK – An Overview and Options

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## Overview

India's unilateral decision about the status of Jammu and Kashmir (J&K) can simply be termed as another step towards fueling disputes and shifting the western edge of South Asia into further disharmony and destruction. The self-styled Article 370 of Indian constitution accorded special rights to the Muslim-majority state of J&K, allowing the state to have its own constitution, flag, and autonomy to make laws on matters except defense, communications, and foreign affairs. Revocation of the article with a stroke of presidential decree, amid disapproval and uproar in India's two houses of parliament, has taken the territory back to its status of post-1947 independence of Pakistan-India Subcontinent from British rule, once the Muslim-majority state of Kashmir was to be acceded to Pakistan. Time is thus ripe to realize this will of Kashmiris. India, however, appears to introduce a new dimension to the issue.

The Simla Agreement came into force from August 4, 1972 and envisioned peaceful co-existence between Pakistan and India. History came full circle in forty-seven years at midnight August 4, 2019 and witnessed an illegal action by India that has brought their bilateral relations to an absolute halt. Indian decision has not only terminated the autonomous status of J&K but is also saddled with longstanding Indian desire of acquiring regional hegemony by stepping on other states' rights as well as terrains. Further Indian actions that have set the tone for more atrocities and imbalance in J&K include addition in troops to about a million, arrest of Kashmiri political leaders and bails to a few provided they stop their freedom efforts, and an enforced abolishment of civic services and all means of communication under a crippling curfew. The Reorganization Act, introduced in Indian Congress right after the abrogation of 370, bifurcated Kashmir into two union territories – Ladakh and J&K – and brought them directly under the rule of New Delhi. Parallel dissolution of Article 35 A dissolved residents' rights and privileges.

The swift action by radical BJP government did not go unnoticed in Indian spheres of politics. Rather, it raised immense hue and cry especially among the parties and circles that remain skeptical about shrinking freedom of expression in a *Modi-fied* India. While pro-state newspaper *India Today* named it a "historic day," Congress leader Shashi Tharoor objected that "this is not the Indian democracy we have cherished for more than seven decades. The assurances that successive rulers of India including those of BJP have given people and leaders of Kashmir and the international community now stand torn into shreds." M.K. Stalin, president of Dravida Munnetra Kazhagam party said "the abrogation... is murder of democracy." Famous author Arundhati Roy wrote in her *New York Times* article that the government has "turned all of Kashmir into a giant prison.... So, 'being open for business,' [Kashmir] can also include Israeli-style

settlements... an old, primal fear.... As the world looks on, the architecture of Indian fascism is quickly being put into place.” Notwithstanding an alarming domestic discontent and dire violations of human rights in J&K, Indian government is bent upon pursuing its politics of sorts in Kashmir.

## **Options**

Pakistan’s response tactics logically gain value in the context of Indian unilateral decision on a matter of bilateral and regional significance and its continued rejection of engaging Pakistan in a constructive negotiation process. Following independence of the Subcontinent, Kashmir has been an unfinished agenda. By far Kashmir is the key cause of a perpetual chain of conflicts and trust deficit between Pakistan and India. Even so, Pakistan’s diplomatic approach towards India has been positive throughout the course of history.

The extremism of Indian ideology and electoral gains bar India from resolving Kashmir issue through endurance and dialogue, traits that are hallmark of modern global politics and have helped many a nation states to achieve peace for their peoples and avoid scenarios that would have proven catastrophic for the world. Likewise, nuclear status of South Asia cannot be ignored, given the experts’ concerns over Kashmir dispute distending into a regional upheaval.

While taking Kashmir to the global diplomatic corridors, several facets demand valuation. These include:

### ***Legal Purview***

The decision to revoke J&K status did not take place in a day. Rather, it stayed in an incubation for decades, only to re-emerge in BJP’s election manifesto. The intent had to be translated into action any time. Pakistan, hence, must stay prepared with a pre-emptive diplomatic policy response, rather than an unfurnished reaction, against such advancements from the Indian side. A reactive approach may involve soft retorts premised on superficial knowledge, particularly of the legal aspect of Kashmir issue.

Article 370 is instrument of Indian accession of J&K. The ambiguity about legal status of Kashmir and Indian claims over it as a union territory must be made clear particularly to the public. Evaluation of Indian constitution will strengthen correct narratives and will shun wrong Indian claims over Kashmir.

India is adamant on keeping Kashmir issue an internal matter, naming 370’s repealing a constitutional amendment and dismissing all options for multilateral resolution. However, in the context of third-party mediation, India has already set a precedent, as in the cases of Indus Waters Treaty and for recovery of a serving Indian navy officer Kulbhushan Jadhav, caught red handed for masterminding acts of terrorism inside Pakistan and spying for Indian agencies.

### ***Diplomatic Pragmatism***

Taking Kashmir dispute to the UNSC after a lapse of fifty years is Pakistan's success. Formation of Kashmir Cell in Islamabad and all foreign missions under PM Khan's directions shall also help in consolidating political efforts, spreading credible information, and creating positive narratives about Kashmir. In addition to such initiatives for a logical resolution of dispute, Pakistan can focus more on adopting several approaches that would bear tangible and quick results. Sustained engagement with the international community is important to the extent of keeping in line a number of strong like-minded states for support. More important is a clear signal to India that Pakistan keeps a no-nonsense disposition. Careful deliberations with China are pertinent due to its postures on Ladakh and Aksai Chin. Additionally, it is extremely important to secure correct coverage of online data on Kashmir and maps of Pakistan, as the existing information on common search engines reflects biased and incorrect interpretations. Similar efforts will then have to be spread out, particularly in academic institutions, to provide accurate guidelines to our youth.

### ***Political Consensus***

The importance of Kashmir for Pakistan calls for an overarching consensus within the political parties as well as other national stakeholders, no matter how intense the level of their differences. Mutually, they should achieve a logical decision on issue-based arrangements. An All Parties Kashmir Conference and delegation of certain responsibilities to different parties along with assured accountability will project an image of national solidarity and power in this regard.

### ***Proactive Constitutional Measures on Gilgit Baltistan***

Another significant facet of the broader Kashmir issue is the constitutional status of GB, that awaits mainstreaming into normal setup. In its seventy years' history, GB has been under different arrangements such as direct rule through political agents, Frontier Crimes Regulation (FCR), provisional governments, Ministry of Kashmir Affairs, GB Council, etc. Although the region has been adeptly managed by all incumbent governments of Pakistan, an elected legislative assembly under a provincial status from the onset would have been a rational setup. The 1949 Karachi Agreement held that state of Pakistan retains administrative control of GB, while Article 258 of the constitution signifies its linkage:

*“Subject to the Constitution, until [Majlis-e-Shoora (Parliament)] by law otherwise provides, the President may, by Order, make provision for peace and good government of any part of Pakistan not forming part of a Province.”*

The 2009 Empowerment and Self Governance Order of the federal government renamed the region from Northern Areas to Gilgit Baltistan and granted it self-rule and an elected legislative assembly. The UN resolutions do not specifically apply to GB. It is held that GB is the region of Pakistan as the rulers unequivocally acceded to Pakistan in 1947-48.

The case of awarding GB a constitutional status has been attached to resolution of Kashmir dispute, to strengthen the Kashmir cause. If Pakistan attempts to change the status of GB in the wake of recent provocations by India, the latter's long-held stance on Kashmir will face a blow. At the same time Indian propaganda is focused at weakening Pakistan's case globally. Granting GB a provincial status at this time will not be perceived as a supporting step by Kashmiris, who are currently subject to brutality by the world's most fascist regime, but will certainly complete another unfinished task of independence of the Subcontinent.

Given the fact that GB is the pivotal territory for CPEC, the Indian move over J&K has highlighted Indian disruptive intentions. In its earlier reproachful attempts on CPEC, India had criticized the regional development plan, and continued convincing the world that it passed through a disputed territory. The revocation of 370 has not only stirred the status quo undesirably, but has also paused prospects of positive diplomacy. A question thus arises whether Pakistan should secure its strategically important territory by granting a complete provincial status to GB or keep it associated with resolution of Kashmir issue. Any ambiguous posture may result in receiving a surprise from the other side, and breeding alienation particularly in the youth of GB, who remain exposed to various negative external factors.

### ***Security Measures***

A number of useful efforts on diplomatic fronts by Pakistani government are surrounded by suppositions, whether diplomacy will work against the Indian hostility towards Pakistan. The possibility of any deception such as an Indian false flag operation must therefore be proactively dealt with. India can pit Pakistan into a catch 22 situation, in order to justify military action against Pakistan or at least globally malign Pakistan's efforts. Pakistani forces must exercise extra vigilance to stall the chances of any such event taking place. Massive campaigns mainly through media and academic debates and wargaming activities in this regard will expose the Indian shrewdness and at the same time will keep Pakistanis vigilant.

### **Conclusion**

India's unilateralism in J&K, prevailing radical mindset in the country, and aggressive overtures of Indian government are matters of great concern for the liberal democratic world order. A country that professes to be the largest democracy has already leapt into radical propensities besides wriggling itself out of responsibilities that are complementary to a state's aspirations for gaining power and prestige. BJP's strategy is centered on overpowering alleged opposition in Kashmir, not by addressing the core reason of the indigenous freedom struggle and fulfilling demands of Kashmiris for right of self-determination, but by annihilating innocent people and throwing them into an abyss of poverty, malnourishment, ignorance, and uncertainty. The UN resolutions, through more than six decades of Kashmiris' misery, could not even influence India

to show respect for its commitment to conduct fair and free plebiscite in J&K. Moreover, India's focus on alteration of the territory's demography will harm the very idea of plebiscite in Kashmir as it appears to be a delaying tactics to gain time and turn the page to its own advantage. All these factors require incisive diplomatic skills by Pakistan, serious involvement of the world community, and a collective support to Kashmir cause till the time the issue gets resolved in the favor of humanity and peace.

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