



Law and Society Alliance

National Growth Organisation

**Human Lives Matter:
A Comparative Study and Analysis
of Human Development and Human
Rights in J&K and PoJK/G-B**



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Published by the Law and Society Alliance, 67D, Third Floor, Pocket A, DDA SFS Flats, Mayur Vihar Phase 3, New Delhi 110096.

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Human Lives Matter: A Comparative Study and Analysis of Human Development and Human Rights in J&K and PoJK/G-B

Published by the Law and Society Alliance

This publication has been edited in accordance with elements of the Law and Society Alliance editorial house style.

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Cover image: For representational purposes only.

Design/Layout: Shajan C. Kumar

Printing: Veekay Printers, East Delhi.

Copies of this publication can be obtained from
Law and Society Alliance.
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Website: www.lawandsocietyalliance.in

CONTENTS

A. INTRODUCTION	04
B. DEVELOPMENT INDICATORS AND GOVERNANCE	05
Human and Economic Development	
Education and Literacy	
Health and Well-Being	
Per Capita Income	
C. ETHNICITY, LANGUAGE AND CULTURE	09
Ethnic Demographics	
Language and Linguistic Dynamics	
Preservation and Promotion of Culture	
D. HUMAN RIGHTS CONDITIONS	17
Restriction on the Freedom of Religion or Belief	
Business and Human Rights	
Enforced/Involuntary Disappearances and Arbitrary Detentions	
Impact of Counterterrorism on Human Rights	
Restrictions on the Rights to Freedom of Expression and Association	
E. LAWS & LEGISLATION LEADING TO HUMAN RIGHTS ABUSES	28
F. OBSERVATIONS	33
Development Initiatives and Governance Reforms in J&K after the Abrogation of Articles 35A and 370 of the Constitution of India	35
REFERENCE DECK	38

A. INTRODUCTION

1. The territory of Jammu and Kashmir has been an issue of serious contestation between India and Pakistan since 1947. Both the countries have travelled a long way in the past 73 years of their Independence, so have the territories of Jammu and Kashmir across the Line of Control (LoC) that divides Kashmir into Pakistan and India. Analysing commitment of both the countries towards this territory, the respective actions taken by the two governments and their energies channelised for the welfare as well as treatment of inhabitants of both the respective lands are the prerequisites for making an assessment to map the path that both the countries have travelled in this region of conflict.
2. Earlier, several mapping exercises on human rights conditions in both parts have been carried out by various international organisations – at least twice by the OHCHR – in 2018 and 2019. Besides, there are several Universal Periodic Reviews (UPRs), filed by numerous human rights defenders. However, most of the mapping exercises carried out to date, claiming to be human rights centric, have hardly emphasised on human development and growth – intrinsic and integral components of human rights. Moreover, these mapping exercises often exclude comparative analysis of the situations existing in the two states: the Indian state of Jammu and Kashmir (J&K) and Pakistan-occupied Jammu and Kashmir (PoJK, which is also called Azad Kashmir or AJK by Pakistan) and Gilgit-Baltistan (G-B).
3. This research is a mapping exercise of human development and human rights conditions existing in J&K and PoJK along with G-B, followed by a comparative analysis of development components under various categories. To ensure empiricism, preference has been given to the documents of United Nations agencies, followed by the data resources of international organisations based in third countries – other than India and Pakistan.
4. The research largely draws information available in the public domain. Data from the major media platforms of both the countries have been incorporated to ensure there is no biases as well as to minimise errors. It also gives a snapshot of various research carried out by local, national, and international non-profit organisations and think-tanks on the issue of Jammu and Kashmir. At most of the places, we have attempted to incorporate official statements and government documents.
5. This report is an attempt to draw and present a broader picture of the political-economic conditions prevailing in these two territories.

B. DEVELOPMENT INDICATORS AND GOVERNANCE

Human and Economic Development

6. The PoJK government allocated PKR (Pakistani Rupee) 12,156 crore or US\$773 million for its 2019-20 budget.¹ On the other hand, J&K spent INR (Indian National Rupees) 88,911 crore or US\$12.4 billion in the fiscal year 2019-20.² Comparative analysis of the budget of both states reflects that India spends at least 16 times more on J&K as compared to the amount spent by Pakistan on PoJK.
7. There is a considerable difference in Human Development Index (HDI) of PoJK and G-B versus J&K. Data suggests that Pakistan has seemingly been a poor performer in human development in G-B, leading to underdevelopment of the territory. As per the UNDP 2017 data, HDI value for G-B was 0.523³ against 0.684⁴ for J&K. Whereas, the HDI value for PoJK was measured to be 0.734.

Education and Literacy

8. There are numerous claims made by Pakistani organisations as well as the government on literacy rate of G-B. The civil society suggests a horrible situation of education and literacy in PoJK and G-B region. According to a Pakistani non-profit organisation Pakistan Institute for Peace Studies, Islamabad (PIPS), G-B region has a super low literacy rate. In the area, a meager 14 per cent of men are educated, while education among women is even worse at 3.5 per cent.⁵ The condition is a little better in PoJK which has literacy rate of 60 per cent.⁶
9. The exceptionally low education rate is coupled by inefficiency of Pakistani government to tackle terrorism in the region and using the region as a launchpad and breeding ground of terrorists. In a recent incident, 12 schools were set on fire and burnt down by terrorists in G-B region.⁷ Most of the schools that were set ablaze were girls' schools.
10. There are currently six small and big universities in PoJK. Except for the University of Azad Kashmir, all other universities were founded in the 21st century and are yet to be fully developed. Besides, there are two small universities in G-B region with small numbers of student enrolments. The Karakoram International University has a comparatively higher number of enrolments than the Baltistan University - which was founded recently in 2017.
11. India, on the other hand, has been able to establish an infrastructural set-up of education system in J&K and is performing much better than PoJK and G-B territories. Besides, the literacy rate in the state is 67.16 per cent.⁸
12. The Government of India has made significant investments in higher education sector in J&K. As of now, there are ten major State Universities and two major Central Universities in J&K: one Central University in each part of the state - Central University of Jammu and Central University of Kashmir. In addition, there are four premier Institutes of National Importance including Indian Institute of Technology (IIT) Jammu, Indian Institute of Management (IIM) Jammu, National Institute of Technology (NIT) Srinagar and National Institute of Fashion Technology (NIFT) Srinagar.

Education Indicators in J&K and PoJK/G-B			
Indicators	J&K	PoJK	G-B
Education Budget (US\$)	1.55 billion	173 million	N/A
Universities	12	6	2
Literacy Rate (%)	67.16	60	~20

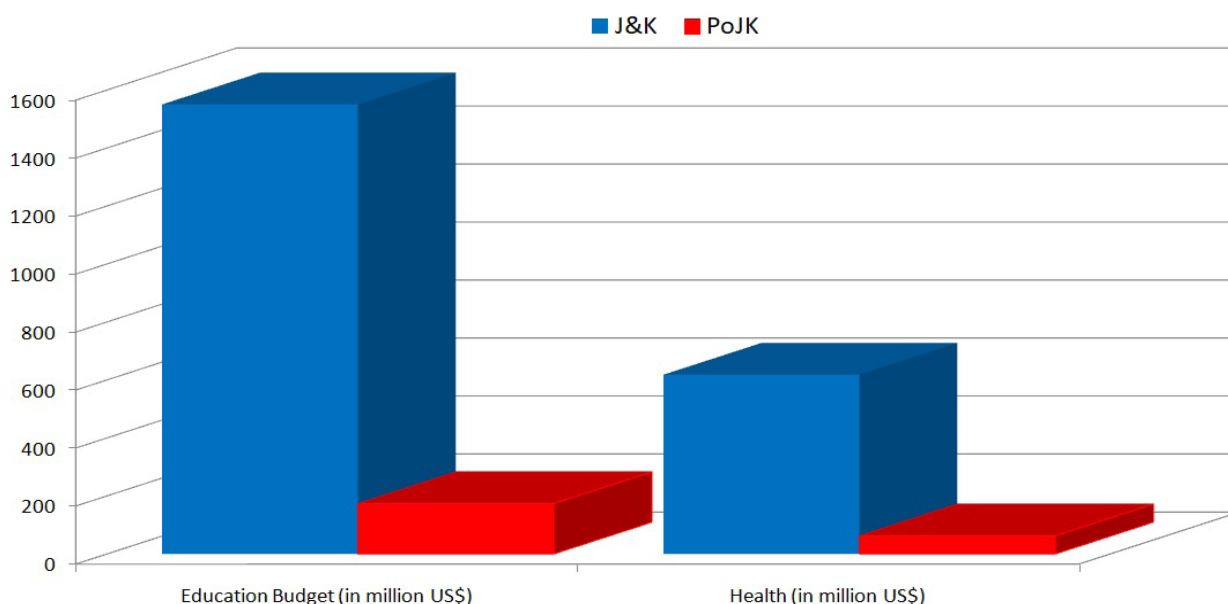
13. The spending on education by PoJK government in the fiscal year 2019-20 was PKR 2,716 crore or US\$ 173 million.⁹ Whereas, the spending on education by J&K government was INR 11,105 crore or US\$1.55 billion during the year 2019.¹⁰ In addition, a separate allocation was made for the medical and higher education sectors. It implies that J&K government spends nearly nine times more on education than by PoJK government.

14. In addition to poor educational infrastructure and low literacy, the PoJK and G-B regions are also struggling with severe unemployment conditions. According to a news report of 'The Nation', nearly 300 students committed suicide in the Ghizer district of G-B alone. There has been an increasing frequency of suicide incidents in the region. In Ghizer district alone, over 300 youth, both boys and girls, committed suicides since 2000.¹¹ One major reason for committing suicides is unemployment. Due to acute underdevelopment, there are no private jobs and educated youth are left with extremely limited options. There is no other scope for them besides joining either government services or Pakistan Army's battalion Northern Light Infantry.¹² They also have to face discrimination in the pay structure. The natives, who join civil services, are paid 25 per cent less than those on deputation from Punjab.¹³

Health and Well-Being

15. The budget of PoJK government for health in the fiscal year 2019-20 was PKR 969 crore or US\$62 million.¹⁴ Whereas, J&K government allocated INR 4,447 crore or US\$618 million for health in year 2019.¹⁵ The comparison of relative health expenditures of both the governments reflects a similar trend observed in education expenditure, as the budget allocated by J&K government is approximately 11 times more than that by PoJK government.

Education and Health Budget 2019-20 of J&K and PoJK



16. The Infant Mortality Rate (IMR) in Pakistan is 62 per thousand infants – one of the worst in the world.¹⁶ The Pakistani government did not include PoJK and G-B while measuring the IMR. The numbers for these two most underdeveloped territories are expected to be the worst. Available statistics suggest that G-B's maternal mortality ratio hovers between 250 and 600 per 100,000 live births – among the highest in Pakistan.¹⁷
17. There are just 33 hospitals with 986 beds in the entire G-B region. The doctor's coverage to population is expected to be roughly around one doctor per six thousand people.¹⁸ With such a meager number of hospitals/doctors, it is nearly impossible to ensure proper healthcare services to the inhabitants. Health is a rare and costly affair in G-B, available only to the upper and elite classes. District Headquarters hospitals, designated for maternity healthcare in G-B, suffer from lack of power and water supplies. Another facility is the Combined Military Hospital, where patient access is limited due to high costs.¹⁹ Recently, pictures of an ambulance discharging the duties of a garbage van surfaced over the internet and spoke volumes about the state of medical and health affairs in G-B and led to a huge embarrassment for Pakistani authorities.²⁰

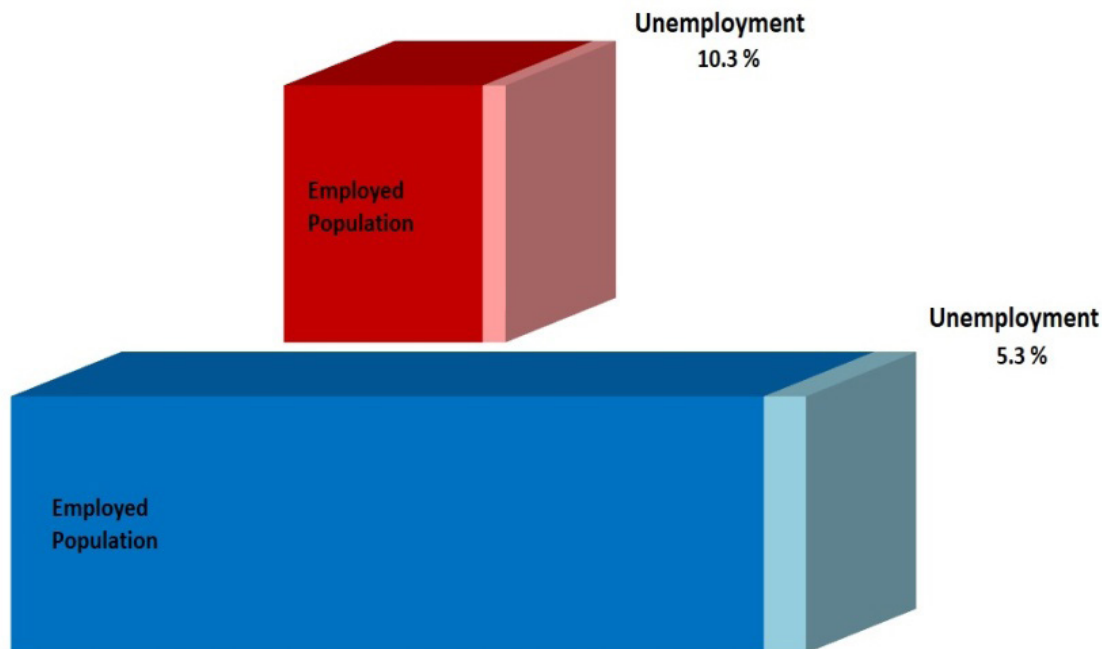
Health Indicators in J&K and PoJK/G-B			
Indicators	J&K	PoJK	G-B
Health Budget (US\$)	618 million	62 million	N/A
Hospitals	5,534	73	33
Doctor to Patient Ratio	1:1,658	1:4,916	
Infant Mortality Rate	23	62	62

18. The condition of healthcare is not any better in PoJK. There are only 73 hospitals and health centres in PoJK (24 hospitals and 49 health centres). There are 4,916 people covered by each doctor in the state much lower than the recommended doctor-population ratio of the World Health Organisation (WHO).²¹
19. At present, there are at least 5,534 health institutions (4,433 government and 1,101 private) in J&K. However, the doctor-patient ratio in the state is one doctor per 1,658 people as against WHO's recommendation of one doctor per 1,000 population.²²
20. The IMR in J&K is 23 – three times less than that of the PoJK.²³ A year ago, J&K was ranked number one in the country for reduction in IMR by eight points in a single year.²⁴ The government plans to bring the rate further down to single digit by 2022.²⁵

Per Capita Income

21. According to Agha Khan Rural Support Program Survey, the annual per capita income of G-B is less than US\$268, which is one-quarter of Pakistan's national average per capita income.²⁶ The per capita income of PoJK is US\$1,512, which is around six times higher than the per capita income of G-B and substantially higher than that of J&K. Per capita income of J&K is US\$1,000 per annum. Despite a moderate per capita income, the poverty rate in J&K is extremely low and currently stands at 10.35 per cent, which is almost half of the national average of around 21 per cent.²⁷
22. According to the latest data available, unemployment rate in PoJK is higher than the national average of Pakistan, measuring 10.3 per cent.²⁸ Whereas it stands at 5.3 per cent in J&K, measuring lower than the national average.²⁹

Unemployment in J&K and PoJK



Income & Employment Indicators in J&K and PoJK/G-B			
Indicators	J&K	PoJK	G-B
Per Capita Income (US\$)	1,000	1,512	268*
Unemployment Rate (%)	5.3	10.3	N/A

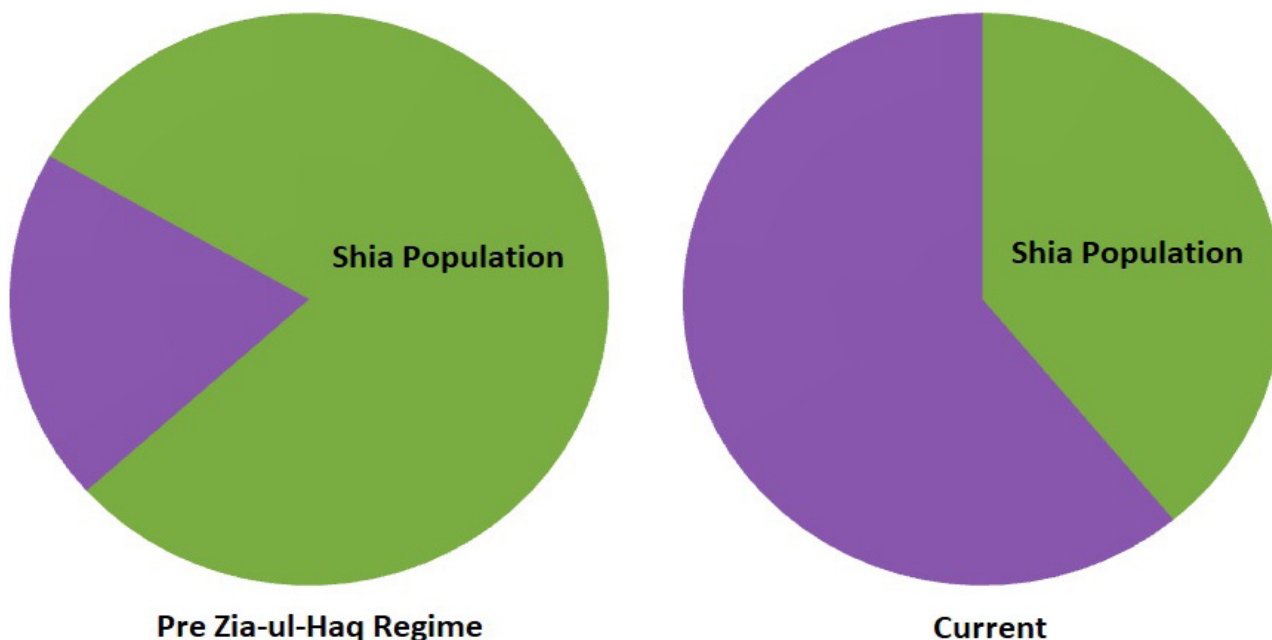
23. However, to understand the authenticity of figures related to Pakistan, it is a prerequisite to learn that these are the 'best possible figures' Pakistani government could have depicted. As it is unfortunate to learn that Pakistan has been manoeuvring its data at a massive scale to depict positive trends in most of the sectors that otherwise were experiencing a decline or were progressing downward. Between 1998 and 2018, the population of the country at once shot up with a 47 per cent³⁰ increase - a nearly impossible figure for any country in the world. The government has been alleged of adding pseudo population figures and associating them with statistics of its choice to adjust its development figures towards a positive trend.

C. ETHNICITY, LANGUAGE AND CULTURE

Ethnic Demographics

24. According to the last census held in 1998, population of G-B is around 870,000. G-B is one of the most multi-ethnic, multicultural, and multi-linguist regions of the world. The sparsely populated region consists of a conglomeration of multiple ethnic groups and tribes. According to the available data, population of the region is now approximately 1.5 million, with around 39 per cent Shia, 27 per cent Sunni, 18 per cent Ismaili and 16 per cent Nurbakhshi.³¹ Earlier, the region was dominantly inhabited by Shia population with a share of 80 per cent.

Declining Shia Population in G-B



25. Generally, people of G-B have been peace-loving and liberal as compared to other parts of Pakistan. There are reports of numerous inter-ethnic and inter-tribal marriages in the region. Interestingly and strikingly, sectarian identities were seemingly not very dominant in the region until early 1990s, as ethnic and tribal loyalties conventionally surpassed sectarian identities. However, Pakistan has long been making attempts to radicalise the region and induce strong sectarian identities amongst the people. Post 1980s, the G-B people started to gradually divide along sectarian lines - an outcome of Pakistan's continuous efforts. Today, the region has been converted into one of the most divisive regions in the world. There are bloody clashes and bloodbaths on small and petty issues.^{32,33} Sectarian clashes have also led to downfall of the tourism industry – the only revenue-generating industry in the region.³⁴

26. To worsen the situation, the international political dynamics such as Iranian revolution and Afghanistan war worked as catalysts to further the sectarian violence in the late 1980s and 1990s. Increased activities of religious extremists in the wake of Pakistan's involvement in Afghan war, coupled with the freedom given to religious groups, vitiated the atmosphere in this Shia-majority region. Pakistan's manipulation of religious groups for internal and external policy objectives is a major reason for the current sectarian situation in G-B and across the country.³⁵

27. The most severe damage to the culture and ethnicity of the region occurred in 1988, when militants

supported by Pakistani military and Federal Minister for Kashmir Affairs, launched attacks in G-B and killed hundreds of people. The unfortunate incident is known as ‘The Gilgit Massacre’ and lasted for 16 days with continuous bloodshed. It led to burning of more than 14 villages and molestation of local women. People were burnt alive in their homes - not for their fault, but for their faith.³⁶ Till 2013, around 3,000 Shias were massacred by the state-sponsored Sunni extremists in G-B. A report of the International Human Rights Observer’s (IHRO) G-B chapter, released in 2013, stated that around 3,000 people have been killed in sectarian violence since 1988. On the loss of lives and its impact, it states that about 900 women have been widowed and nearly 2,500 children orphaned. The report further mentioned, “the loss to property is inestimable.”³⁷

28. One of the heinous examples of ‘targeted genocide’ of Shia Muslims in G-B is the unfortunate incident of 16th August 2012, in which over a dozen gunmen forced 19 passengers, mostly Shias, off four buses and shot them at point-blank range. It was the third such incident in six months, only to be followed by many more similar incidents.³⁸
29. In a similar incidence, eighteen Shia pilgrims were openly killed on the Karakoram Highway in Kohistan district while returning from Iran on 28th February 2012.³⁹ Another brutal attack massacred twenty people at Chilas on 3rd April that year.⁴⁰
30. The Shias, in general, have been subjects of attack across Pakistan. Shias of the G-B region are targeted and killed across the country. In the aftermath of violence that occurred in Gilgit and Chilas, two Shias from G-B were shot dead in Quetta on 3rd April and another was killed in Karachi on 6th April 2012. In another incident, Ahmer Abbas - a Shia student from Gilgit - was shot dead in Karachi on 6th April 2012.⁴¹
31. Addressing a gathering to protest the targeted killings, Majlis-i-Wahadatul Muslimeen (MWM) Deputy General Secretary Allama Asghar Askari criticised the government and said, *“the entire Shia community has been deeply shocked by the unending spate of targeted killings. The government seems to be concerned over peacocks dying in Sindh but gives no importance to people mercilessly killed by extremists.”*⁴²



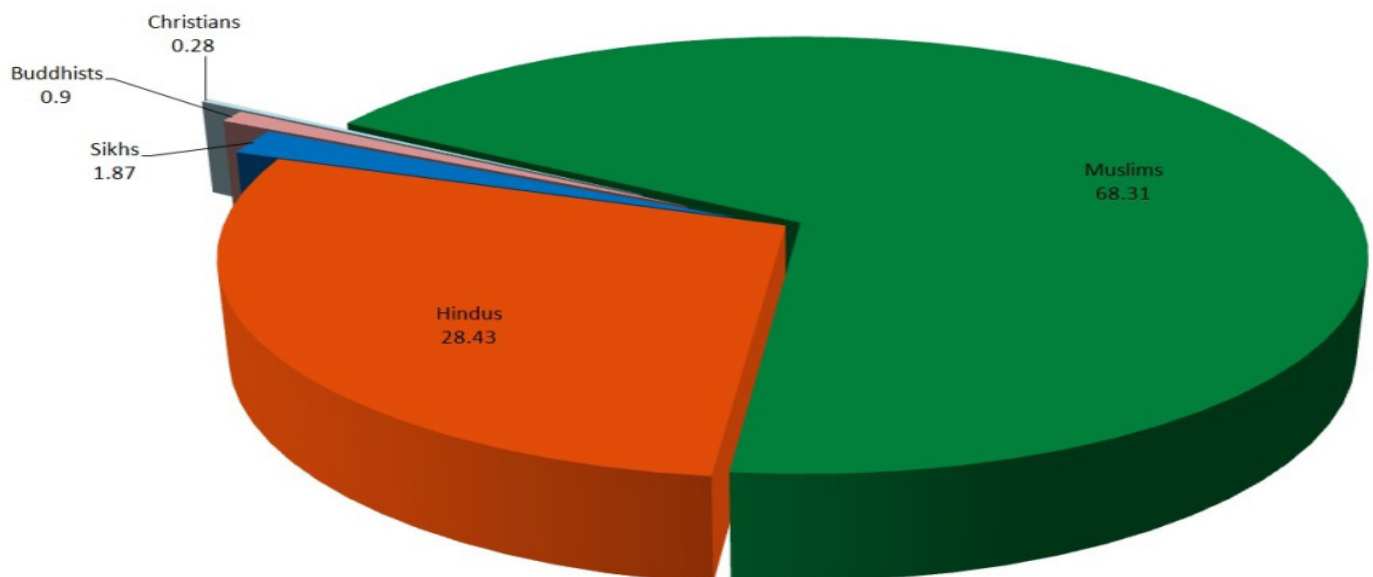
A hazy video-grab soon after the attack on a bus carrying Shias in Gilgit-Baltistan in 2012 | Source: Dawn

32. Besides numerous violent attempts of ethnic cleansing in these regions, Pakistan government and military, under the leadership of Zia-ul-Haq, made several continuous attempts to alter the ethnic demography of the region. Post 1980s, Sunni Muslims from hegemonic Pakistani provinces like Punjab and Khyber Pakhtunkhwa started to make an influx through business routes and started to gradually settle in the region. In this regard, researcher and activist Samuel Baid argues, “the influx of outsiders has created two problems, depletion of employment opportunities for the locals and brutalisation of sectarian tension. Along with this, there has come along a gun culture and gradual replacement of spiritual values by class materialism of the new middle class. The outsiders grab land and government jobs. It is not only the jobs that the outsiders grab, but they also plunder upon forest and natural resources in the region. The funds allocated for the development of G-B are spent on the Army deployed there.”⁴³
33. Terror camps that were being run here openly with the active support of the Pakistani Army have bred hundreds of Sunni Jihadis of the Sipah-e-Sahaba Pakistan (SSP), who are now operating all across G-B, killing Shia Muslims. In this regard, rebutting the claims of foreign forces involved in G-B riots made by the Pakistani government, Inspector General of G-B, Hussain Asghar went on record to say, “*I don’t think there is any foreign hand involved in sectarian riots.*”⁴⁴ It is not only that the Shia, Ismaili and Nurabakhshi communities have been the targets of sectarian violence and ethnic cleansing in Pakistan, rather, the liberal Sunni Muslims have also been victims of attempts of Pakistani government and Army to cleanse the region and populate it with staunch Sunni Muslims.
34. Inhabitants of Gilgit region, for several years, have been voicing their concern that their region is under Taliban attack from the Waziristan region and being used as safe havens for Jihadis, supported by the Salafi elements in the Pakistan Army. At the 13th session of the United Nations Human Rights Council, Abdul Hamid Khan of the Balwaristan National Front said, “*human rights abuses are widespread and common in G-B for many decades but the absence of local media and independent judiciary have helped Islamabad to hide its illicit practices.*”⁴⁵
35. The abolishment of the State Subject Rule in G-B in 1974 and introduction of the Gilgit-Baltistan Empowerment and Self-governance Order in 2009 snatched land rights from G-B locals and opened the door for Pakistani settlements in the region. The Pakistani elites, including several Corporate, Army Generals and politicians have acquired land and built sprawling residences in G-B. The list includes Prime Minister Imran Khan, ex-President Parvez Musharraf, Senator Talha Mahmood and Hamid Gul, as well as many others.⁴⁶
36. Given the fact that G-B is the hotspot of China-Pakistan Economic Corridor (CPEC), it is pertinent to note that many Chinese citizens, who initially came to work on CPEC, have now settled all across G-B. A 2010 Stratfor report⁴⁷ estimated the figures and claimed that 7,000 to 11,000 PLA soldiers guard CPEC projects. The number is expected to multiply manifold in a decade. Several radical Pakistani musclemen, including ex-Army officers are being roped-in to work on projects of CPEC. These Wahhabi Sunni workers permanently settle in G-B, further radicalising the region and wiping out the Shia majority.
37. The Federal government of Pakistan has also been working to alter the demography of PoJK, since as early as 1971. In an article⁴⁸ written in 1971, titled “Azad Kashmir: A Colony of Islamic Republic of Pakistan”, Convenor of United Kashmir Liberation Front, United Kingdom-based M. Bashir Asef presented details on the attempts made by Pakistan to colonise PoJK. It highlighted that through institutional; and non-institutional moves, the Pakistani government was easily facilitating the settlement of non-Kashmiris in PoJK since before.
38. Pakistani government prefers to award contracts of projects in PoJK to Army officers, who marginalise

the local work force and later settle in the region. The labourers are deprived of labour rights, as they are barred from making labour unions. The obvious reason behind facilitating settlement of Army personnel in PoJK is to ensure a dominating position along the Line of Control (LoC) in case of confrontation with India.

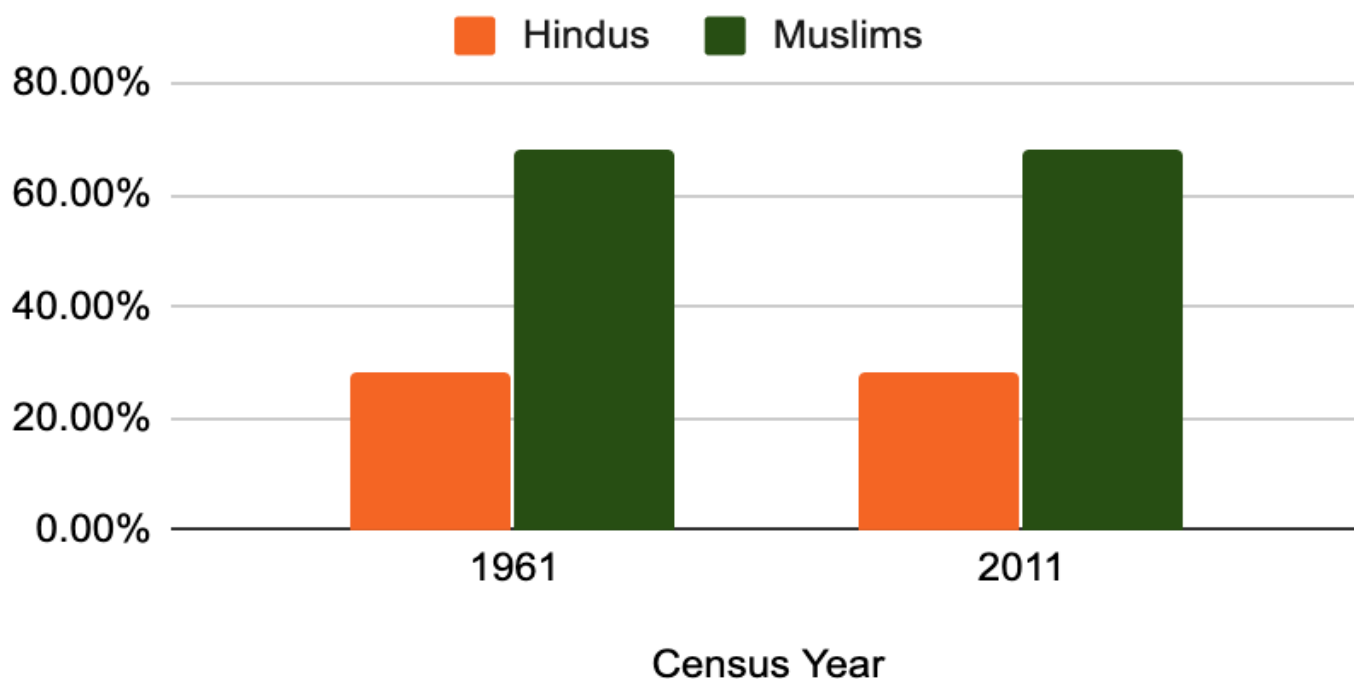
39. Besides targeted attacks on Shias of the G-B, Pakistan government has also been making continuous efforts to ensure ethnic cleansing of Shia Muslims in PoJK. According to a database compiled and maintained by media organisation LUBP, there have been around half-a-dozen organised attacks on the Shia community in PoJK, leading to innumerable casualties.⁴⁹ These attacks were precisely targeted at Shia areas and in a couple of incidents, on Shia processions and most of them were carried out collectively by large groups of Sunni Muslims.
40. At the time of partition of India and Pakistan in 1947, PoJK was a region dominated by Hindus and Sikhs. According to reports, Kotli town in PoJK was earlier dominated by Hindu and Sikh inhabitants. There were about 4,000 Hindus and thousands of Sikhs residing there. Subsequently, the Hindu and Sikh population was forced to flee to get shelter on the Indian side of the LoC.⁵⁰
41. During partition, at least 2,000 Sikhs were confined and murdered in Gurudwara Chathipathshai Naluchi - located at hilltop of Muzaffarabad, PoJK, by Pakistani tribal invaders.⁵¹
42. Even international boundaries could not act as a barrier in Pakistan's attempts of ethnic cleansing of the 'United Jammu and Kashmir' region. Pakistani terrorists, along with Pakistan-supported terrorists based in India, carried out one of the most sorrowful mass exodus of Kashmiri Pandits in the Kashmir valley of J&K. In 1989-1990, thousands of Kashmiri Muslims rose against the Indian state, instigated by Pakistan to create an Islamic state of Jammu and Kashmir; a valley homogenous in its Islamic (Wahhabi/Sunni) character. The Hindu Pandits of Kashmir became the first target of the insurgency. They were viewed as living symbols of Kashmir being an integral part of India. In order to spread fear among the Pandit community and oust them from Kashmir, the militants started targeting prominent Kashmiri Pandits in 1989.⁵² Pakistan's hullabaloo over the Jammu and Kashmir issue is not for democracy or human rights, rather, it is entirely based on the overbroad desire of creating an Islamic state of Jammu and Kashmir, exclusively inhabited by the Sunni population.

Religious Distribution of Population in J&K



43. J&K is home to multi-ethnic communities representing four major religions including Islam, Hinduism, Buddhism and Sikhism. According to the last census of 2011, Muslims are the majority in the state, constituting 68.31 per cent of the total population. Muslims are in a majority in 17 of the 22 districts of the state. Whereas, Hindus are in a minority in J&K forming 28.43 per cent of the total population, with majority in four districts. Other minorities in J&K are Sikhs (1.87 per cent), Buddhists (0.9 per cent) and Christians (0.28 per cent).
44. Interestingly, there has been a remarkable steady, stable similarity in the population growth of all the communities for more than five decades in J&K. In 1961, Muslims with a population of 2.4 million, constituted 68.31 per cent of the state's population of 3.6 million and Hindus with a population of one million made up 28.45 per cent.⁵³ It reflects that the ethnic and religious demographics of the state has been absolutely sustained and constant. It also gives a strong rebuttal to the contentious allegations⁵⁴ of the Islamic Republic of Pakistan on India, of trying to alter the religious demography of the state.

Population Demographics of Hindus & Muslims in 1961 and 2011



45. J&K is home to a sizable and significant number of tribal communities. Gujjar and Bakarwal are the two largest tribal communities in the state. Of the total 1.5 million Scheduled Tribes in 2011, 980,000 are Gujjars and another 110,000 are from the related tribe of Bakarwals. These two tribal communities are almost entirely Muslim, and they are found in all parts of J&K, except in Leh (Ladakh). During the last decade, the population of both tribes collectively has grown by nearly 33 per cent.⁵⁵
46. In order to eradicate backwardness of the Gujjar-Bakarwal tribes of J&K, the Government of India granted Scheduled Tribe status to Gujjars-Bakarwals under Ordinance No. 03 of 1991 under Article 342 of the Constitution of India on 19th April 1991. Given the separate Constitution of J&K under Article 370 of the Indian Constitution, the tribal communities were not entitled to all the benefits guaranteed to the Scheduled Tribes in other parts of India, including reservation for the community members in the state legislature and the Indian Parliament.⁵⁶ The Gujjar-Bakarwal community joyously and elatedly

celebrated the recent abrogation of Article 370 that gave special status to the erstwhile state. Leaders of the community stated that they have been liberated from the clutches of slavery after decades of servitude. They argued that with the abrogation, a dozen seats have been reserved in the J&K Assembly of the Union Territory, giving them a voice in the legislature. They highlighted that earlier, the Forest Right Act was enforced across India, except in J&K, only due to Article 370. Now, all Indian laws will be applicable to the Union Territory and hence, justice has been done to Gujjars and Bakarwals in J&K.⁵⁷

Language and Linguistic Dynamics

47. The inhabitants of G-B speak a combination of languages and dialects including Balti, Burushaski, Shina, Khawer, Wakhi, Turki, Tibeti, Pashto, Urdu and Persian.⁵⁸ Shina language, majorly spoken in Gilgit is a Dardic language, similar to Kashmiri and the two languages have close affinity. Kashmiri is the language spoken by the majority population of PoJK. Unfortunately, neither of the languages – Kashmiri as well as the ones spoken in multilingual G-B – have been placed among the list of ‘National Language’ or at least ‘Official Language’ by Pakistani government. Pakistan only recognises Urdu, spoken by a meager eight per cent of the population, as its only national language.⁵⁹ Besides Urdu, English is also used for official purposes in Pakistan.
48. Urdu is, in fact, a language of the Pakistani elite and had emerged in the northern plains of India. Urdu, along with Punjabi is imposed by the powerful classes of Pakistan across regions and communities. The desire of imposing these languages has led to triple ill-effects of ‘linguistic chauvinism, cultural imposition and regional hegemony’ of the powerful class pertaining to powerful regions of Pakistan, on the people of PoJK and G-B.
49. Interestingly, looking at the growing influence of China in Pakistan and the slow and gradual colonisation of Pakistan in wake of implementation of the China-Pakistan Economic Corridor, a resolution was passed by the Pakistani Senate in February 2018 to promote Mandarin in Pakistan for ‘Official Purposes’. Senator Khalida Parveen moved the resolution that read: *“This House recommends that, in view of the growing collaboration between Pakistan and China under the CPEC, courses of the Official Chinese Language should be launched for all current and prospective Pakistani CPEC human resources in order to overcome any costly communication barriers.”* The resolution was passed and adopted by the House. With this resolution, Mandarin, along with Urdu and English, has become one of the official languages of Pakistan.⁶⁰ In the 73 years of its existence, Pakistan has, with an overbearing desire, tried to promote four languages: Urdu, English, Arabic and Mandarin. Quite ridiculous as it is, none of these languages is a native language of the people of PoJK, G-B, or the Islamic Republic of Pakistan itself.
50. The major languages spoken in J&K are Urdu, Kashmiri, Dogri and Ladakhi.⁶¹ Of the total 22 languages officially recognised by the Indian government under Article 344(1)⁶² and Article 351⁶³ of the Indian Constitution, three languages - Kashmiri, Dogri and Urdu belong to J&K. It implies that the native speakers of these languages can write their school, university and government examinations including the prestigious civil services exams in their own languages. Official recognition also subsequently leads to promotion and preservation of the languages.
51. There have been both institutional and non-institutional efforts as well as binding and conventional efforts to promote Kashmiri language by the J&K government. For more than a decade (since 2008), the language has been made a compulsory language in all government schools in Kashmir valley. Recently, it has been made a mandatory subject for the middle and secondary level education in the state. The government of J&K, through Section 146 of the erstwhile J&K Constitution, set-up the Academy of Art, Culture & Languages to foster and coordinate activities in the spheres of letters & languages, visual &

plastic arts, music, dance & drama and of culture generally, in the state, and to promote, through them, the cultural unity of the region with other parts of the country.⁶⁴ The academy was set up as early as in the year 1958. Recently, the government of J&K announced setting up of State Council for Promotion of Urdu under the chairmanship of the Minister of Education in the year 2018.⁶⁵ The central idea behind setting up of the Council was to preserve, promote and popularise Urdu language.

Preservation and Promotion of Culture

52. Pakistan has been working relentlessly to convert the otherwise peace-loving, tolerant, and secular G-B into a region divided along highly polarised, sectarian lines, where Sunni Wahhabism can dominate. The intrinsic secularism of the G-B inhabitants is diluted by the promotion of ethnic or Sunni culture by the government agencies. Gilgit-Baltistan-born US-settled activist Senge H. Sering argues that one way to tackle rising extremism is to promote the indigenous secular culture of G-B as a potential bulwark. However, Pakistan – which believes that promotion of non-indigenous Sunni Muslim culture will advance ethnic nationalism and possibly rupture the geographic seam – may not adhere to such policies. In fact, successive regimes have tackled the G-B residents heavy-handedly to curb pan-ethnic sentiments.⁶⁶
53. To ensure cultural conformity in tandem with that of Pakistan, agencies are altering the curricula of schools, with increasing emphasis on Sunni practices. The struggle of local people to rebut and stop cultural imposition by Pakistan ignited one of the longest periods of violence in G-B.⁶⁷
54. Culture in G-B is entirely different from that of Pakistan. Unlike the hyper-conservative Pakistan, G-B is majorly liberal and has a deep love for music, dance, and liberal art forms. Even in the southern district of Diamer, which borders on the more conservative Kohistan district of Khyber-Pakhtunkhwa province, music and dance were common, even among Madrassa students, until they were infiltrated by sectarian forces from outside the region to radicalise their school syllabus.⁶⁸
55. Religious tolerance was imbibed across communities in the region until Pakistan initiated a number of divisive measures to create a wedge between various social denominations after 1974.
56. In one such divisive measure, Islamabad banned the annual Muharram procession in Gilgit in 1974, expecting sectarian clashes and a resultant divide.⁶⁹ Clashes did occur, and were the beginning of a repeated cycle of sectarian violence in the region. Still, the people of the region are highly tolerant, as the majority lives in a rural economy, where interdependence of community members leads to strong ties, cooperation, and mutual survival.
57. Gujjar community constitutes a dominant part of the tribes inhabited in PoJK and G-B. According to Institute for Defence Studies and Analyses (IDSA), Gujjars, Jats, Mughals, Rajputs, Sudhans, Awans, Qureshis, Pashtuns, Shins, Ladakhi and Baltis are identified as ethnic groups of the PoJK region. Whereas for the G-B region, IDSA lists Shins, Baltis, Purikis, Ladakhis, Wakhis, Yashkuns, Tibetans, Mongols, Tatars, Mons, Pashtuns, Khowars, Doms, Gujjars, Rajputs and Kashmiris as ethnic groups.⁷⁰ A September-2006 report of Human Rights Watch (HRW) mention Gujjars as the largest tribal group in the territory.
58. In addition, the Institute of Peace & Conflict Studies (IPCS) mentions accounts of Gujjar visitors from PoJK to J&K, who complain about the situation concerning their social status.⁷¹ During their visit to J&K, Gujjars opened up about the unfortunate conditions of marginalised communities existing in PoJK. Mohammad Rauf, a Gujjar who visited Poonch from Trar Khar, was surprised to see communal harmony, brotherhood, and composite culture between Hindus, Muslims, and Sikhs in J&K. He

highlighted that in PoJK, even within the Muslim community, the Gujjars are not treated at par with the other inhabitants. Similarly, another visitor from the Gujjar community, Choudhary Mohammad Bashir, working as a Qazi in Kotli district, argued that he felt isolated in PoJK, because Gujjars feel inhibited about speaking in their mother tongue and practicing their customs. Unlike in J&K, Gujjars in PoJK do not use their surname 'Choudhary', as it earns the derision of others. This highlights that besides discrimination on a communal, sectarian, and ethnic basis, extreme forms of three other kinds of discriminations and divisions exist in PoJK – class, cultural and linguistic.⁷²

59. Gojri, an offshoot of the Indo-Aryan family of languages, is the native language of the Gujjar community. The Academy of Art Culture & Languages set up by J&K government has taken up development of Gojri as one of its important missions. To preserve the language, the Academy has come up with the Gojri dictionary in six volumes – containing approximately 50,000 words. The Academy has also come up with 16 books published in the Gojri language. Besides, it has also taken a number of steps to preserve and promote the rich Gojri folklore. The Academy also gives subsidy to and awards brilliant authors for their work in either of the major languages of J&K – Kashmiri, Dogri, Punjabi, Ladakhi, Gojri and Pahari.⁷³
60. Government of India has also been allocating sizable chunks of funds, through the Ministry of Culture, under different categories for preservation and development of the culture of J&K such as 'Financial Assistance for Preservation and Development of Cultural Heritage of the Himalayas'. The government also keeps coming up with workshops and cultural events inside and outside the state for preservation, propagation, and promotion of cultures of the state.⁷⁴

D. HUMAN RIGHTS CONDITIONS

Restrictions on the Freedom of Religion or Belief

61. During the Universal Periodic Review in 2017, the Unrepresented Nations and Peoples Organization (UNPO) indicated that Pakistan had not recognised non-religious minorities, such as Sindhi, Balochi, or the indigenous Shia people of G-B.⁷⁵
62. The Office of the United Nations High Commissioner for Human Rights (OHCHR) in its two reports released in 2018 and 2019 titled, ‘Reports on the Human Rights in Kashmir: Developments in the Indian State of Jammu and Kashmir from June 2016 to April 2018 and General Human Rights Concerns in Azad Jammu and Kashmir and Gilgit-Baltistan’ (OHCHR 2018 Report) and ‘Update of the Situation of Human-Rights in India administered Kashmir and Pakistan Administered Kashmir from May 2018 to April 2019’ (OHCHR 2019 Report), along with multiple Universal Periodic Reviews (UPRs) have highlighted the ongoing human rights crisis in PoJK and G-B territories.^{76,77}
63. In the June 2018 report, OHCHR drew attention to the provision in PoJK’s Interim Constitution, which in similarity with Pakistan’s Constitution, defines who may be considered to be a ‘Muslim’ and uses this definition to discriminate against the minority Ahmadiyya community.⁷⁸ The amended Interim Constitution of 2018 has made no changes to this discriminatory provision and declared the Ahmadiyya to be non-Muslims.^{79,80}
64. Human rights defenders and non-profit organisations informed OHCHR that Pakistan’s blasphemy provisions continue to be in force in PoJK and G-B. These provisions have been criticised by several United Nations bodies and Special Procedures mandate holders for violating a range of international human rights principles and emboldening instigation of violence against religious minorities.^{81,82}
65. On the contrary, Islam has been flourishing in the Kashmir valley in J&K. According to Centre for Policy Analysis, Kashmir Valley of J&K has witnessed a doubling number of births annually since Census 2001, despite being affected by Pakistan-sponsored terrorism. “Of the children born in the Valley, 99.13 per cent are Muslims. The spurt in live births in J&K is such that an average Muslim woman in the Valley can now expect to produce 1.34 extra children over her lifetime compared to what she could have expected in 2001,” highlights the report.⁸³
66. Highlighting fanfare and celebrations among Sikh community on abrogation of Article 370 of the Indian Constitution, a Sikh leader from J&K, Jagmohan Singh Raina said, “*we were informed that the National Commission cannot come due to special status. Today, I am happy with the abrogation of Article 370. Minority status will automatically be implemented here. Kuch to mila (finally, we got something). Now, the government must talk to youth and deliver.*”⁸⁴ Raina also attacked the previous J&K governments for not constituting a minority commission despite several requests by Sikhs, Hindus and Buddhists.
67. To ensure direct participation in governance, sustainable development and to protect the human rights of Buddhist citizens in Ladakh – a Buddhist-dominated region, Ladakh Autonomous Hill Development Council⁸⁵ was constituted in accordance with the Ladakh Autonomous Hill Development Council Act, 1995. The council came into being with holding of elections on 28th August 1995. The democratic constitution of the Council has heralded democratic decentralisation of the planning process with involvement of the people at grassroot level. Owing to the difficult geographical problems, greater public participation in the planning and development process was all the more necessary.

68. The Buddhist community of Ladakh had since long been demanding to abrogate Article 370 and grant Union Territory status to the region. Post abrogation of Article 370 on 5th August 2019, the Buddhist community thanked the government of India for fulfilling their long-pending desire. Buddhist spiritual leader from Ladakh, Gyalwang Drukpa, said, “*we express our heartfelt gratitude to the government of India for uniting Ladakh with the country.*”⁸⁶

Business and Human Rights

69. Being the gateway to China, G-B constitutes a major part of the CPEC. However, it has led to a sheer disappointment for the inhabitants of the region. Unlike other regions and provinces of Pakistan, G-B was not even once consulted on the CPEC. Similarly, no Special Economic Zones (SEZs) have been allocated to G-B that could lead to its development.

70. According to an International Crisis Group (ICG) report, the people of G-B are resentful because they feel CPEC projects were designed and implemented without their input and will be of little benefit to them. The report further said that it “could also affect G-B’s delicate Sunni-Shia demographic balance.” The ICG concluded, “the State’s response to local dissent and alienation has been an overbearing security presence, marked by Army checkpoints, intimidation and harassment of local residents and crackdowns on anti-CPEC protests.”⁸⁷

71. Talking about the possible environmental disaster caused by the CPEC project, Pakistan Businessmen and Intellectuals Forum President Mian Zahid Hussain said that with around 7,000 large trucks using the corridor daily, it is estimated to produce 36.5 million tons of carbon dioxide per annum, which is equal to 25 per cent of the total national emission. Such ecological degradation would harm environment, agriculture, tourism, water system and general health in the G-B region.⁸⁸

72. The OHCHR, in its 2019 Report, observed that the fashion in which the CPEC projects are being implemented raises issues in relation to the enjoyment of rights enshrined in the International Covenant on Civil & Political Rights and the International Covenant on Economic, Social & Cultural Rights, to which Pakistan is a party.

73. Since PoJK and G-B do not have any direct autonomy in governance and are directly controlled by the federal government, the local communities in both these areas do not have control over natural resources found in these mineral-abundant territories. Political leaders and activists from both the regions argue and emphasise that natural resources are exploited for the benefit of Pakistan while the people of PoJK and G-B continue to remain largely impoverished.

74. The Pakistani government – hyper conscious regarding the CPEC project – through its intelligence officials, warned and threatened journalists in G-B against criticising the CPEC projects.⁸⁹

75. Several communities in G-B have been raising concerns about the impact of CPEC on their lives. HRCP was informed that G-B authorities had forcibly evicted locals in Maqpoon Das area, while the Chief Secretary of G-B had allocated the same land to State authorities for the CPEC. The displaced people had claimed that they had not received compensation for relocation from the authorities.⁹⁰

76. Pakistan’s National Commission for Human Rights does not have any jurisdiction over PoJK but exercises direct jurisdiction over G-B.

77. Prior to their abrogation, Article 35A and Article 370 of the Indian Constitution restricted outsiders

from purchasing land within J&K, ensuring protection of natural resources, and strengthening of business-related human rights in the state. The state's Constitution, at the time of its adoption in 1956, defined a permanent resident as someone who was a state subject on 14th May 1954, or who has been a resident for 10 years, and has lawfully acquired immovable property.⁹¹ The two Articles of the Indian Constitution ensured a couple of rights for the citizens and barred some of them from a few other rights.

78. Article 35A had barred a female citizen of the state from any property rights if she married a person from outside the state. The provision also extended to the children of such women as they do not have any succession rights over the property.⁹² Through the abrogation of Articles 35A and 370, the Government of India has ensured the entitlement of property rights to women of the state and ended the decades long anti-women discriminatory process. It has also entitled liberty to women of the state with the choice to marry citizens outside the state, without losing rights of inheritance in ancestral property.
79. Within a month of abrogation of Article 370, the Government of India received at least 44 proposals from companies to make investments worth INR 15,000 crore (over US\$2 billion) in J&K.⁹³ The business leaders also expressed optimism of growth and development in the region, besides evincing interest to invest in the Union Territory.⁹⁴
80. India is home to one of the most vibrant cooperative structures in the world. To prevent Kashmiri farmers from the ill-effects of the then existing slowdown in the Indian economy, the Government of India planned to buy apples directly from farmers through a cooperative model, through the National Agriculture Cooperative Marketing Federation of India (NAFED). The government bought apples at a price favourable to farmers and the money was directly transferred to their bank accounts.⁹⁵
81. Through passage of the Central Labour Laws (Extension to J&K) Act 1970⁹⁶, the Government of India entitled the citizens of J&K with a number of vibrant and liberal labour laws, which were unavailable to them. These include the Workmen's Compensation Act, 1923, the Trade Union's Act, 1926, the Payment of Wages Act, 1936, the Employment of Children Act, 1938, the Minimum Wages Act, 1948, the Maternity Benefit Act, 1961, besides other binding labour laws. Introduction of this legislation opened up the dynamic trade unionist culture for J&K.

Enforced/Involuntary Disappearances and Arbitrary Detentions

82. OHCHR has received credible information on enforced disappearances of people from PoJK, including those who were held in secret detention and those whose fate and whereabouts continue to remain unknown. The people of PoJK including journalists, activists and politicians have been subjected to enforced or involuntary disappearances. These included men working with the Pakistani security forces or those alleged to have previously associated with armed terrorist groups that operate in J&K. Some cases of alleged enforced disappearances have also been reported from areas close to the LoC that are under the administration of Pakistani armed forces.
83. The Asian Human Rights Commission pointed out in January 2010 that the intelligence agencies, particularly the Inter-Services Intelligence (ISI), are accused of training and sending people inside J&K for 'Jihad' or gathering information of militants working in other parts of Kashmir. The ISI, along with the Pakistani government and the armed forces, lure individuals into militancy in the name of 'Jihad'. Once involved with militancy, there is no way out for those who professed it in the first place. Family members of disappeared people state that when they quit 'Jihad' and returned to normal lives, they are detained by the ISI and moved to unknown locations as punishment for not working in the interests of Pakistan.⁹⁷

84. The detention centers are constructed by the Frontier Works Organisation (FWO) – a subset of the Pakistan Army dedicated to infrastructure development. The organisation constructs multiple detention centres along the International Borders, where activists, politicians, and those not in tandem with the Army are kept for indefinite periods and tortured mercilessly.
85. According to different estimates, as many as 8,000 cases of missing persons have been reported since the start of the war on terror from different parts of Pakistan and its occupied territories. In PoJK, numerous disappearances are also being reported, notably carried out by the state intelligence agencies, which arrest persons, and they disappear forever without a trace, if they had refused to join the ‘Jihad’ against J&K.⁹⁸
86. The United Kashmir People’s National Party (“UKPNP”) organised a number of protests throughout Pakistan against kidnappings and disappearances of nationalist politicians and activists in PoJK and G-B. Their demand was to stop abductions and enforced disappearances from PoJK and G-B.⁹⁹
87. Speaking at the 32nd Session of the UNHRC General Assembly, Sardar Shaukat Ali Kashmiri of UKPNP, urged upon UNHRC to put pressure on Pakistan to stop the victimisation of nationalist leaders of PoJK and G-B. Shaukat demanded that all political prisoners including Baba Jan and his colleagues should be released immediately and unconditionally, who faced trial under anti-terrorist legislations, and are facing ‘40-year’ life imprisonment. He also highlighted the restrictions on fundamental rights and forced/arbitrary arrest as well as detention and torture at the hands of the Pakistani military and police against those not conforming with Pakistan’s idea of Jammu and Kashmir.¹⁰⁰



Inhabitants of G-8 protesting against enforced disappearances carried out by Pakistani agencies | Source: counterviews.org

88. OHCHR noted that in almost all cases brought to its attention, victims alleged that Pakistani intelligence agencies were responsible for the disappearances. It further said that there are fears that people subjected to enforced disappearances from PoJK might have been detained in any of the military-run internment centres in Pakistan.
89. Right to life that is considered as the most primary and important human right has been severely violated and infringed upon by Pakistan and its armed forces. International Covenant on Civil and Political Rights (ICCPR) highlighted that enforced disappearances constitute unique and integrated series of acts that represented continuing violation of various rights recognised in the Covenant, including the right to life and the prohibition of torture and cruel/inhuman/degrading treatment or punishment.
90. The Actions (in Aid of Civil Power) Regulation, 2011 gives broad and sweeping powers to Pakistani authorities to label any dissenting voice not conforming with the Pakistani regime, as a terrorist and detain her/him. In April 2017, the Committee against Torture expressed concern at “*very broad powers given to the Army to detain people suspected of involvement in terrorist activities without charge or judicial supervision in internment centres under the Actions (in Aid of Civil Power) Regulation, 2011 (Articles 2 and 15).*” The Committee recommended that Pakistan should repeal or amend the Actions (in Aid of Civil Power) Regulation, 2011 to ensure that no one is held in secret or incommunicado detention anywhere in the territory of the state party to the Convention, as detaining individuals in such conditions constitutes per se a violation of the Convention.¹⁰¹
91. The Human Rights Committee has also expressed apprehensions against these internment centres and the “allegedly high number of persons held in secret detention under the Actions (in Aid of Civil Power) Regulation, 2011.”¹⁰² On working of Pakistan’s Commission of Inquiry on Enforced Disappearances, the Committee expressed concerns about “the insufficient power and resources allocated to the Commission; the non-compliance with the Commission’s orders by the relevant authorities; and the high number of cases brought before the Commission that remain unresolved, with no criminal proceedings brought against perpetrators (Articles 2, 6, 7, 9, 14 and 16).”
92. In May 2018, the Government of Pakistan informed the Supreme Court of Pakistan that 1,330 people were being held in various internment camps and that it required more time to furnish the Court with details of the legal proceedings against them.¹⁰³
93. OHCHR has been informed that there are likely several other cases of enforced or involuntary disappearances in PoJK but they do not get reported like in the rest of Pakistan due to the lack of independent media or independent human rights groups working in the region.
94. According to Amnesty International, in Pakistan, an internment centre is “any acknowledged detention centre administered under the Actions (in Aid of Civil Power) Regulations, 2011 where it is defined as ‘any compound, house, building, facility or any temporary or permanent structure that is notified by the Provincial government to serve as premises where persons are interned’.”¹⁰⁴
95. The United Nations Working Group on Enforced or Involuntary Disappearances has received at least one case of a Pakistani national disappearing from PoJK and a permanent resident of G-B disappearing from Pakistan.
96. To ensure the right to life of the separatist leaders, entitled under Article 21 of the Indian Constitution, the government had entitled separatist leaders with a strong security cover including a large number of security personnel, security vehicles, besides other facilities.

97. Around INR 10.88 crore (US\$1.45 million) was spent on the security of the separatist leaders. A sum of INR 10.36 crore (US\$1.34 million) was spent on the salary of the policemen guarding and protecting the separatist leaders, while INR 49.7 lakh (US\$66,062) was spent on fuel for the vehicles used for escorting the separatist leaders. A sum of INR 5.06 crore (US\$672,579) was spent on the guards' salary of Mirwaiz Farooq alone for the last 10 years. It was only after these leaders sympathised with the terrorists of the cruel and deadly Pulwama attack that their security cover was withdrawn.^{105,106} In the Pulwama attack, 40 Indian security personnel were killed by Pakistan-sponsored terrorists.
98. On 25th December 2017, extremist leader and Dukhtaran-e-Millat chief Asiya Andrabi was granted bail after being booked under Public Safety Act for inciting violence and participating in unlawful activities, besides being charged in several other cases.¹⁰⁷ In December 2017, three major separatist leaders were released during the visit of the Central government's special representative Dineshwar Sharma to J&K. They were also allowed to visit volatile areas.¹⁰⁸ Similarly, in 2014, just after the conclusion of elections in the state, more than 1,000 separatists and extremist leaders were released. Their detention ensured free, fair, and secured elections in the state. Voter turnout went up as high as 80 per cent in some areas.¹⁰⁹
99. More recently, on 10th October 2019, three major separatist leaders were released after being detained as a precautionary measure to ensure safety and maintain law & order after the abrogation of Article 370 of the Indian constitution.¹¹⁰
100. In April 2020, seven international organisations issued a statement/petition and urged Indian authorities to release the arbitrarily detained prisoners after abrogation-bifurcation on 5th August. The letter urged to "immediately release all arbitrarily detained prisoners, including journalists, human rights defenders, political leaders and others detained simply for expressing critical or dissenting views, including Miyan Abdul Qayoom and all those arrested after 5th August 2019 in J&K."¹¹¹

Impact of Counterterrorism on Human Rights

101. The Anti-Terrorism Act 1997 ("ATA") provides broad and sweeping powers to Pakistani authorities to use the law for targeting political activists, human rights defenders, and journalists in G-B. As noted in the June 2018 OHCHR report, the ATA is a Pakistani law misused by G-B authorities especially after introduction of Pakistan's National Action Plan for countering terrorism and extremism in December 2014. The report also indicated concerns raised by the Human Rights Committee and the Committee against Torture.
102. The Pakistan government used the ATA to arrest prominent political and liberal activist Baba Jan and 11 other protesters for their environmental activism in September 2011. He is serving a life imprisonment sentence and is now left with limited legal recourse available to challenge false charges against him. Same is the case with other detainees as well. Since then, inhabitants of G-B have held several protests demanding immediate release of Baba Jan and other activists. An international petition for demanding Baba Jan's release has been signed by eminent scholars and activists, including the likes of Noam Chomsky, Tariq Ali, and David Graeber, besides others.^{112,113}
103. Besides the ATA, Pakistan government is also using the cybercrimes law to curb the anti-CPEC dissent in G-B.¹¹⁴ The OHCHR highlighted that anyone who protests or criticises CPEC is termed as "anti-national and anti-people". Moreover, Pakistani authorities often accuse critics of being Indian spies to delegitimise their concerns and protests.¹¹⁵

104. In a joint communication to the Government of Pakistan, a group of Special Procedures mandate-holders observed, “It appears that the ATA has effectively created a parallel system of unique and exceptional procedures from arrest to custody, detention, prosecution and sentencing of terrorism-suspects by authorising measures such as denial of bail, enhanced police powers, arrest without warrant and extended remand of suspects for up to 30 days; thereby increasing the risk of torture as a means of extracting forced confessions in the custody of police, other law-enforcement or security forces.”¹¹⁶
105. On 17th March 2018, JKLF leader Naeem Butt was shot dead by the police at a rally organised by JKLF in Muzaffarabad. People across PoJK have been organising several protests to demand punishment and arrest of those responsible for killing Naeem Butt and push for constitution of a Judicial Commission to probe the killing.¹¹⁷
106. Pakistan has been fulfilling its mischievous motives by instigating and inciting stone-pelters to pelt stones on Indian authorities and security forces. According to the Indian officials, such incidents are “a new form of gun-less terrorism in the shape of stone-pelting that has emerged in Kashmir being funded by Pakistan and its agencies through ‘Over Ground Workers’ (sympathisers of militants) and hawala (illegal money transfer) channels.”¹¹⁸ Without resorting to violent methods to counter the stone-pelting and personally targeting the stone-pelters, the J&K government as well as the Central government have been quite generous in withdrawing cases against stone-pelters.^{119,120} Such gestures led to an impressive and significant drop in incidents of stone-pelting.¹²¹
107. India, for long, has resorted to and preferred the method of short-term house arrest of separatists and extremists, posing a threat to law & order situations and national security of the country. Without resorting to involuntary disappearing of extremists or arresting them, the Indian government tries to confine them to their homes to ensure tranquility in the region. Such house arrests are short lived and can vary from a couple of hours to a couple of days. India has also preferred this method not only to prevent the menace of separatists, but also to confine deadly terrorists like Yasin Malik - who killed four Indian Air Force soldiers besides conducting many terrorist attacks on Indian soil.^{122,123,124}
108. The J&K government released extremist separatist leader Masarat Alam in March 2015, who was involved in at least 27 cases relating to violence against the citizens of the state, including the case of inciting youth during the unrest in which at least 112 people were killed in bloody clashes between unruly and violent mobs and the security forces. The then government of J&K promoted the policy of ‘touch and heal’ to end terrorism in the state.¹²⁵
109. Releasing such separatists, extremists and even terrorists by Indian authorities are indicative of Indian government’s ideas to ensure human rights to each and every individual and providing them with a second chance.

Restrictions on the Rights to Freedom of Expression and Association

110. The PoJK Interim Constitution (13th Amendment) Act, 2018 entitles the Pakistani government to authoritatively suppress dissenting voices. It states, “No person or political party in Azad Jammu and Kashmir shall be permitted to propagate against, or take part in activities prejudicial or detrimental to, the ideology of the state’s accession to Pakistan.”¹²⁶
111. The OHCHR, in its June 2018 Report, highlighted that the Interim Constitution of PoJK places several restrictions on anyone criticising the region’s accession to Pakistan, in contravention of Pakistan’s commitments to uphold the rights to freedom of expression & opinion, assembly and association.¹²⁷ It recommended Pakistani government to bring this law (along with associated laws) into compliance

with international human rights standards.¹²⁸ However, the amended Interim Constitution of 2018 has retained the clauses that directly contravene international human rights law.

112. Pakistan puts blanket restrictions on individuals who do not conform to the government's views and wish to contest elections. PoJK's electoral law has not been amended, and it continues to disqualify anyone running for elected office who does not sign a declaration that says, "I have consented to the above nomination and that I am not subject to any disqualification for being, or being elected as a member of the Legislative Assembly and in particular I solemnly declare that I believe in the Ideology of Pakistan, the Ideology of State's Accession to Pakistan and the integrity and sovereignty of Pakistan."^{129,130}
113. Post-2018, the G-B Empowerment and Self-Governance Order 2009 ("2009 Order") imposes similar restrictions on freedom of expression and association of people under its jurisdiction. Article 9(2), under the fundamental rights section, states, "No person or political party in the area comprising G-B shall propagate against or take part in activities prejudicial or detrimental to the ideology of Pakistan."¹³¹
114. Similar to PoJK, authorities in G-B also failed to amend provisions in the region's governance rules that restrict the rights to freedom of expression & opinion, assembly, and association. The Gilgit-Baltistan Governance Reforms, 2019 ("Reforms Order 2019"), which is identical to Gilgit-Baltistan Order 2018 ("Order 2018") and states verbatim as in Article 9(2), under the fundamental rights section.¹³²
115. Pakistan has been facing strong opposition at home against the G-B Order 2018. The Human Rights Commission of Pakistan (HRCP) criticised the G-B Order 2018 for failing to protect the fundamental freedoms of the people of G-B.¹³³ It said, "In claiming to grant the people of G-B their fundamental freedoms, the G-B Order has clipped their rights to freedom of association and expression. It has denied any G-B resident the right to become a chief judge of the Supreme Appellate Court or to have any say in internal security. Above all, it has disregarded people's needs despite continual public pressure in G-B to address their problems fairly and in accordance with local aspirations."¹³⁴
116. The G-B Order 2018 has proved to be lethal to the human rights of the inhabitants indicating Pakistan's failure in ensuring the rights of the people. The HRCP called on Pakistan's President to delay the enforcement of the order "pending necessary consultations with the people of G-B".¹³⁵ In a letter sent to Pakistan President Arif Alvi, the HRCP reiterated its earlier observation that "the G-B Order 2018 was a step backward as compared to the previous order issued in 2009, that is, the G-B (Empowerment and Self-Governance) Order 2009. The democratically-inclined people of G-B have long been fighting for recognition of their fundamental rights."¹³⁶
117. Members of nationalist and pro-independence political parties claim that they regularly face threats, intimidation, and even arrests by local authorities or intelligence agencies, for their political activities. They said that threats are also directed at their family members including children. Such intense pressure has reportedly forced many to either flee Pakistan, and continue their political activities in exile, or stop them completely.
118. In a recent incident, 19 activists of the JKLF were charged with "treason" for organising a rally in Kotli area of PoJK in November 2018. Thirty members of the Jammu Kashmir National Students Federation ("JKNSF") were arbitrarily detained by Pakistani law enforcement agencies while demanding independence from Pakistan at the Rawalpindi Press Club in Rawalpindi on 15th March 2019.¹³⁷ They were later released on 20th March 2019 after court intervention.¹³⁸ The JKNSF alleged that authorities did not release their former president, Sardar Talah, who was also detained at the same venue on 15th March 2019.¹³⁹

119. Pakistan is practising the cruelest form of censorship in the PoJK territory. According to a report of the United States State Department, media managers and media owners in the region still have to obtain permission to publish, from the Kashmir Council and the Ministry of Kashmir Affairs.^{140,141} Human rights groups report that publishers of books or periodicals are also required to make a declaration of loyalty to accession to Pakistan.¹⁴² Several books supporting Kashmiri independence were also reportedly banned by a government order in February 2016.¹⁴³
120. Besides practicing direct censorship, Pakistan is also implementing indirect ways to censor news content. To avoid harassment from armed forces and not losing government advertisements, the media organisations resort to censor dissenting news and non-conformist views that go against the Pakistani government. A number of journalists in PoJK and G-B confess that media houses continue to practice self-censorship as a means to obtain government advertisements, the main source of revenue. Journalists claim local administrators use the advertising revenue as a “carrot and stick” policy with media owners in order to get favourable news published, reduce coverage of their political opponents, and censor any criticism of Pakistan by political groups or civil society members.
121. Journalists in PoJK are continuously threatened and harassed in the course of carrying out their professional duties. According to the Committee to Protect Journalists (CPJ), an anti-terrorism court in G-B sentenced journalist Shabbir Siham in absentia to 22 years in prison and fined him PKR 500,000 (US\$4,300) on charges of defamation, criminal intimidation, committing acts of terrorism and absconding from court proceedings.¹⁴⁴ Siham was accused of “fabrication” and extorting a regional minister in violation of Pakistan’s Anti-Terrorism Act after he wrote an article for the ‘Daily Times’ newspaper alleging G-B legislators of having involvements in human trafficking and prostitution.¹⁴⁵ Shabbir Siham told CPJ that he did not appear before the court due to security concerns.¹⁴⁶
122. In another incident, authorities in G-B arrested journalist Daulat Jan Mathal in October 2016 on anti-terrorism charges because the publications he edited supported national autonomy for G-B.¹⁴⁷ He was then charged with the allegation of “damaging the solidarity and integrity of Pakistan” by publishing material supporting the Balawaristan National Front, a local nationalist party.¹⁴⁸
123. The police forces in PoJK and G-B work like those in a dictatorial regime, ruled by martial laws. Individuals are imprisoned based on petty issues like debates and expressing their views openly. In one such incident, G-B authorities arrested journalist Muhammad Qasim Qasimi after he engaged in verbal argument with a local police officer on 21st November 2018.¹⁴⁹ The newspaper that he worked for reported that he may have been arrested to prevent the publication of his story on a corruption scandal in the local government.¹⁵⁰ According to CPJ, Qasimi has been charged with “criminal intimidation, intentional insult to provoke breach of peace, defamation, threat of injury to public servant and obstructing a public servant in discharge of public functions.”¹⁵¹
124. Most recently, Pakistan’s media mogul and Editor-in-Chief of Jang/Geo group Mir Shakil-ur-Rahman was detained in March 2020 by the National Accountability Bureau, without fair and free trial. There were countrywide protests all across Pakistan for months to get him released. In addition to these protests, international human rights activists, and academicians, including Noam Chomsky, came up with a petition slamming Pakistani government and demanding Rahman’s release.¹⁵²
125. According to the International Crisis Group (ICG), Pakistani intelligence officials have also warned journalists in G-B against criticising the CPEC projects.¹⁵³
126. According to a Muzaffarabad-based senior journalist, there were no newspapers in PoJK until the

late 1990s. Currently, 32 local newspapers operate in PoJK. All the newspapers are published in the Urdu Language, and not in the majority's language - Kashmiri. All the newspapers in the state have to follow a different procedure of title registration than the mainland Pakistani newspapers. The registration requests/application forms have to be necessarily filed before the local Deputy Commissioner, but final approval is given by the Kashmir Council based in Islamabad and not by the Ministry of Information and Broadcasting. Through this process, Pakistan practices a direct form of press censorship in PoJK.¹⁵⁴

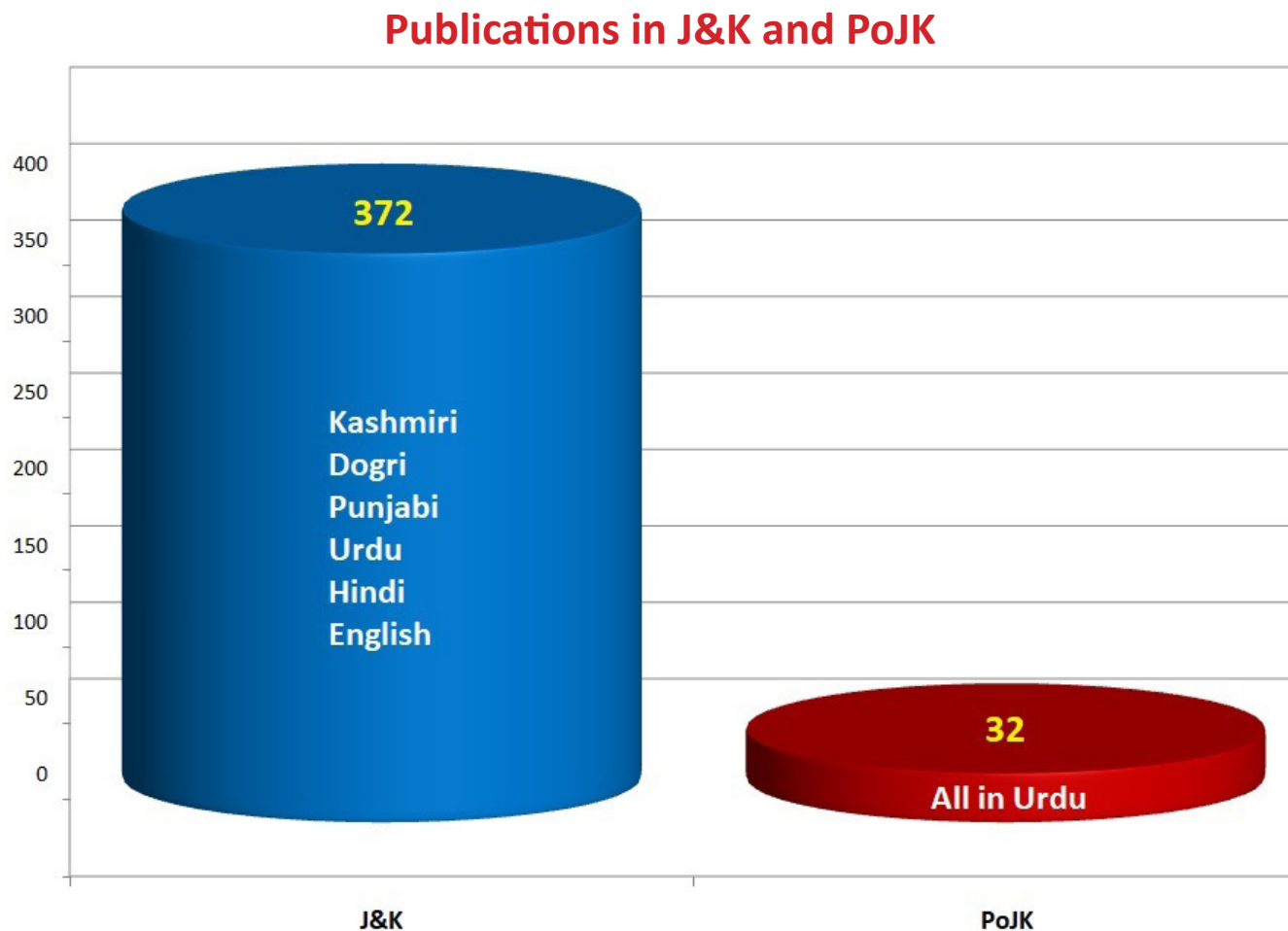
127. A growing body of findings and resolutions holds that there have been intentional disruptions to the internet, violating international law. The UN Human Rights Council and the UN General Assembly have passed, by consensus, multiple resolutions that unambiguously condemn internet shutdowns and similar restrictions on freedom of expression online. For example, the UN Human Rights Council in Resolution¹⁵⁵ A/HRC/RES/32/13: “Condemns unequivocally measures to intentionally prevent or disrupt access to or dissemination of information online in violation of international human rights law and calls on all States to refrain from and cease such measures.”

128. Pakistan shuts down the internet in PoJK for petty issues. At times, it shuts down the internet based on the developments taking place in India.¹⁵⁶ Recently, it shut down the internet in the region as soon as India revoked Article 370 of the Indian Constitution.¹⁵⁷

129. Unlike PoJK, government advertisement constitutes a major chunk of revenues of the media organisations based in J&K. The numbers and frequencies of such advertisements have increased significantly post Article 370's abrogation. In a recent example, J&K government splashed the newspapers with advertisements to urge people to shun shutdown in the state after Article 370's abrogation. Such advertisements also get featured in newspapers like Greater Kashmir which is known for picking up anti-government lines.¹⁵⁸

A copy of Sangarmal - a prominent newspaper in Kashmiri language published in J&K

130. Currently, 372 daily newspapers and monthly magazines get published in J&K in English, Hindi, Urdu, Dogri, Punjabi and Kashmiri. The two most prominent newspapers published in Kashmiri are - Sangarmal and Kahawat.¹⁵⁹ Moreover, online news portals like Koshur Akhbar have become incredibly famous in the state for their Kashmiri language news and literary content.



131. India is one of the countries that records the highest number of internet shutdowns across the world. According to a study, ‘The Global Cost of Internet Shutdowns in 2019’, India had to suffer a loss of US\$1.3 billion on account of internet shutdowns.¹⁶⁰ J&K is among the regions recording the highest number of internet shutdowns. Most of the shutdowns that take place in the state are outcomes of terrorist attacks or anticipation of attacks during ongoing operations. The duration of most of these shutdowns is under 24 hours and takes place in a small and local area. In many cases, instead of a complete internet shutdown, authorities prefer to lower the internet speed. However, redundant, and high numbers of shutdowns have acted as hindrance to day-to-day economic activities, public services, and education in J&K. As per the Kashmir Chamber of Commerce and Industry, within four months of abrogation-bifurcation of Article 370/Creation of Union Territories on 5th August 2019, the internet shutdown led to an economic loss of INR 17,878 crore (over US\$2.3 billion) for J&K.^{161,162}

E. LAWS AND LEGISLATION LEADING TO HUMAN RIGHTS ABUSES

132. The PoJK and G-B are not mentioned in the Article 1 of the Pakistani constitution, which defines and mentions Pakistani territories. It implies that neither PoJK nor G-B have been mentioned as Pakistani territories under its constitution. However, Article 1(2)(d) states that Pakistan's territories include "such States and territories as are or may be included in Pakistan whether by accession or otherwise."¹⁶³
133. The Pakistani government, under the Karachi Agreement with the PoJK government, divided the natural resources-rich and fertile G-B from PoJK and renamed it as Northern Areas. Since then, Pakistan has been directly ruling G-B through provisional orders/ordinances, where every new order replaces the previous one. Unlike PoJK, it does not have an interim or permanent constitution.¹⁶⁴
134. The State Subject Rules of 1927 - the land ownership act entitling land rights to the locals - was annulled by the Pakistani government in 1974, which opened the door for the influx, settlement and subsequently dominance of the Pakistani community in G-B.¹⁶⁵



People of Skardu protesting against imposition of G-B Order 2018 | Source: Dawn

135. Until 2009, no legislative body existed in G-B. The Pakistan government promulgated the G-B Order 2009 to entitle the inhabitants of the territory a certain amount of control over governance. G-B Assembly and G-B Council were also set up under the provisions of the Order.¹⁶⁶ However, in 2018, the Pakistan government introduced the G-B Order 2018 to replace the Order 2009, which was not received warmly by the local populace. It gave sweeping and broad powers to the Federal government to directly control the territory. Along with G-B Assembly, the Prime Minister of Pakistan was empowered with direct legislative powers to make laws on G-B as well as directly imposing the laws from Pakistan. The powers of the G-B Council were thus taken away and entrusted to the Pakistani Prime Minister,

limiting the Council's role to act as an advisory body. The Order 2018 was met by intense protests in G-B including by the political parties, pro-independence groups, and civil society organisations.¹⁶⁷ The activists demanded full democratic rights, representation, and revocation of the Order 2018.

136. The Order 2018 has infringed upon the financial autonomy of G-B. In order to establish control over the economy of G-B, the federal government also took over the accounts, audits, and taxation departments of the region.
137. On 20th June 2018, the Supreme Appellate Court of G-B suspended the Order 2018. However, it was restored by the Supreme Court of Pakistan on 17th January 2019. Besides restoring the Order 2018, the Supreme Court of Pakistan warned the federal government to not change the status quo of G-B, until and unless a referendum was conducted and extended its own powers over the region. It ordered the federal government to come up with a new policy - G-B Governance Reforms, 2019.¹⁶⁸
138. Pakistan has been changing goalposts in introducing and implementing the 2019 Reforms in G-B. Despite the Pakistani Supreme Court's mandate to the federal government to come up with G-B Governance Reforms 2019 almost one and half year ago, the government has failed to do so. Under pressure from the Supreme Court judgment, Pakistan government, through its Ministry of Kashmir Affairs and G-B, came up with the G-B Reforms Order 2019, which was a combination of Order 2009 and Order 2018 and has induced most of the provision from the Order 2018.
139. Instead of an executive order, the federal government now plans to introduce the legislation in the form of an ordinance to bypass the dissent of the locals of G-B.¹⁶⁹ Earlier, it planned to introduce the reforms in the form of G-B Reforms Bill 2019 through a joint sitting of the G-B Council and G-B Assembly. Later, the federal government began planning to bring the law through an act of the Pakistani parliament. Shifting of goalposts might be a delaying tactic under the garb of indecisiveness on whether to table the Bill in the G-B legislature or the Pakistani parliament.
140. Currently, the Order 2018 is in force in G-B where the Pakistani Prime Minister, who is a part of the national executive, enjoys exclusive authority to legislate on 68 subjects, pertaining to matters of executive, legislature, and judiciary in G-B.
141. The people of G-B have not yet been entitled to all the fundamental rights of the Pakistani Constitution and the Principles of Policy (similar to Directive Principles of State Policy of the Indian constitution) do not apply to G-B. Besides, G-B has not yet been entitled to any representation in constitutional bodies of Pakistan.
142. As far as PoJK is concerned, the Article 257 of Pakistani constitution authorises the people of the region to take a decision on its accession/merger within the Pakistani territory. Article 257 states: "When the people of the State of Jammu and Kashmir decide to accede to Pakistan, the relationship between Pakistan and that State shall be determined in accordance with the wishes of the people of that State."¹⁷⁰
143. Pakistan's National Commission for Human Rights – government institution in Pakistan to deal with Human Rights issues – does not have any jurisdiction over PoJK, which leads to uncountable and unchecked human rights abuses in the territory.
144. The AJK Interim Constitution Act 1974 provides for an interim constitution of PoJK. After passage of the 13th Amendment Act on 2nd June 2018, the Legislative Assembly of PoJK declared it as a full constitution and endorsed sovereignty of PoJK.¹⁷¹ The amendment limited the powers of Kashmir Council and reduced its role to an advisory one.¹⁷² The amendment diluted the powers of Kashmir Council and

began to form laws without the knowledge of Pakistan government and bypassing the Federal Cabinet. The PoJK Legislative Assembly also acquired powers to approve or disapprove emergency in times of war or conflict.

145. Now the federal government plans to introduce the 14th amendment seeking to restore the pre-13th amendment position. If enacted, the amendment is likely to face strong opposition from the leaders of PoJK on charges of attempting to weaken the region's autonomy.

146. The AJK Interim Constitution Act 1974 prohibits the expression of any idea that is not in conformation with those of Pakistan. Section 4(7)(3) of the Act states: "No person or political party in Azad Jammu and Kashmir shall be permitted to propagate against, or take part in activities prejudicial or detrimental to, the ideology of the State's accession to Pakistan."¹⁷³



Ahmadiyya women of Pakistani origin expressing joy after voting for the first time in their lives in 2016 US Elections | Source: rabwah.net

147. Besides the Interim Constitution of PoJK, the 8th Amendment of Pakistan's 1973 Constitution infringes the basic human right of Ahmadiyya Muslims to vote as well as restricts them from practicing and propagating their culture, tradition, and sectarian practices. The Pakistan Penal Code contains legal provisions that enables the extremist fringes to justify and institutionalise crimes against the Ahmadiyya community, including Section 298-C, which categorically states "any person of the Qadiani group or the Lahori group (who call themselves 'Ahmadis' or called by any other name), who directly or indirectly, poses himself as a Muslim, or calls, or refers to his faith as Islam, or preaches or propagates his faith, or invites others to accept his faith, by words, either spoken or written, or by visible representations, or in any manner whatsoever outrages the religious feelings of Muslims, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine."

148. Provisions of the Pakistan Penal Code, along with the ATA, are largely responsible for incitement of religious hatred. Especially, blasphemy laws contained in Sections 295 (a), (b) and (c) of the Pakistan Penal Code provide unfettered powers to the government as well as the Sunni Muslim majority to use

religion as a tool of suppression. The US Department of State report on religious freedom says, “Freedom of speech was subject to ‘reasonable’ restrictions in the interest of the ‘glory of Islam,’ as stipulated in sections 295 (a), (b) and (c) of the penal code. The consequences for contravening the country’s blasphemy laws were death for defiling Islam or its prophets; life imprisonment for defiling, damaging, or desecrating the Qur’an; and 10 years’ imprisonment for insulting ‘another’s religious feelings’. Some individuals brought charges under these laws to settle personal scores or to intimidate vulnerable Muslims, sectarian opponents, and religious minorities. Under the ATA, any action, including speech, intended to incite religious hatred was punishable by up to seven years’ imprisonment.”¹⁷⁴

149. Pakistan’s ATA authorises the security forces in PoJK and G-B to infringe the freedom of expression in the name of dealing with terrorism. Sections 8 and 9 of the Act bring activities like ‘threatening’, ‘abusing’ and ‘insulting’ under the category of terrorism. The offenders are charged and treated like terrorists. In a number of cases, alleged persons have been forcibly disappeared.¹⁷⁵

150. It is noteworthy that according to Articles 41(2) and 91(3) of the Constitution of the Islamic Republic of Pakistan, 1973, as well as the Articles 5(4)(a) and 13(2) of the AJK Interim Constitution Act, 1974, the respective Presidents and Prime Ministers have to be Muslims.

151. On the Indian side, Articles 35A and 370 of the Constitution provided a number of powers to the J&K state legislature. The Constitution (Application to J&K) Order, 1950 was introduced through Presidential Order, contemporaneously with the Indian Constitution. Besides, the Union was authorised to have powers on 38 subjects from the Union List. Under such an arrangement (as per Article 370) 235 Articles of the Indian Constitution were inapplicable to J&K. The 1950 Order was superseded by the Presidential Order of 1954.



Members of LGBTQ community disrupted an event in London organised for restoration of Article 370 | Source: India Today

152. However, Article 370 was prohibiting the state to grow and develop full-fledged, at par with other states of India, besides depriving the citizens of a number of fundamental rights. For example, PoJK, G-B and entire Pakistan have criminalised homosexuality, infringing the basic human rights of its citizens. Pakistan and India, being commonly ruled by the Britishers as undivided India, had the draconian laws of penalising homosexuality. The Indian Supreme Court struck down the colonial law

and decriminalised homosexuality. However, with J&K having a separate constitution, the law was not applicable there. When Article 370 was abrogated, the LGBTQ community warmly welcomed the step and celebrated it all across the world as a major victory for the community.¹⁷⁶

153. The Constitution of India, in its very Preamble, declares India to be a ‘secular’ state. Further, Articles 25 to 28 of the Constitution provide numerous freedoms to all individuals of the country and lays the extremely basic foundation of equality. Right to Freedom of Religion is a Fundamental Right in India.¹⁷⁷ In addition, Article 51(A)(e) of the Constitution, under Directive Principles of State Policy, asks the state, “to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women.”¹⁷⁸
154. Article 19 provides for a number of freedoms related to speech, expression or association and protects them. Neither this Article nor any other Article or provision of the Indian Constitution compels its citizens to conform with the ideas of the Indian state or with those of the majority. The Freedom of Speech and Expression is also a fundamental right entitled by the Indian Constitution to all Indians.¹⁷⁹
155. As far as election and voting rights of citizens are concerned, the Citizenship Act, 1955, entitles the right of voting to every Indian citizen above the age of 18 years.¹⁸⁰ Besides, the Representation of People’s Act provides equal opportunity to contest elections to every Indian citizen, regardless of their class, caste and religious identities. It also reserves seats for the backward communities in elections. With Article 370 prevailing, this provision was not applicable in J&K, depriving backward classes of their rights in the region.¹⁸¹
156. The J&K Assembly elections of 1987 were a blackmark for Indian democracy and infringed the democratic rights of citizens of J&K. The elections were rigged in favour of dominant politicians and marked the beginning of terrorist insurgency in the Kashmir Valley. A number of political parties, who got defeated, later moved away from democracy and become separatist leaders and members of separatist organisations, including the Jamaat-e-Islami, People’s Conference and Ittihad-ul-Muslimeen. All these parties later joined the separatist alliance – the All Party Hurriyat Conference.¹⁸²

F. OBSERVATIONS

157. The comparative assessment infers that J&K seems to perform relatively better in terms of human development and growth. At the economic and budgetary fronts, J&K is multiple times ahead of PoJK and G-B. In terms of health and education – the two foundational pillars of the HDI – J&K has allocated a budget that is equal to the worth of multiples of the budget of PoJK. Besides, the infrastructural set-up of J&K in these two areas has also been noteworthy. This research suggests that India is comparatively performing better in terms of objectives as well as the infrastructure in health and education sectors, besides other components of the HDI in J&K.
158. The state of linguistic-political-economic index in both territories reflects that Pakistan is in a state of ‘Oriental Dilemma’ of promoting Urdu – which is neither a native language of Pakistan’s populace nor the native language of PoJK and G-B. Instead of romanticising with Urdu and luring China by promoting Mandarin, there is an urgent need for Pakistan to look up to and promote its native languages in respective states including Kashmiri and other languages of PoJK and G-B. On the other side of the international border, vibrant languages and literature of J&K are flourishing in the state itself and other parts of India as well. Constitutional recognition and state support to the vernacular languages are the two major factors that have catalysed the major differences in the conditions of Kashmiri and other local languages in both the territories across the LoC.
159. Enforced disappearances amount to the most serious form of human rights abuse – infringing the foundational human right to life. Armed forces of Pakistan have been actively engaged in arrests and enforced disappearances of the residents in PoJK and G-B, especially the minorities. Armed forces are also using the means of such illegitimate arrests and enforced disappearances to ensure ethnic cleansing in the two territories, with Shia, Ahmadiyya and other minorities being the major targets. Conversely, India seems to prefer not arresting the extremists and separatists but limiting their activity to reduce the scope of potential damage that could be done by them. Even if arrested, India has, on multiple occasions, taken back the charges on the accused persons with the optimism of goodwill creation.
160. States and Constitutional set-ups have major roles to play in ensuring human rights of its citizens. Numerous cases of human rights violation on religious and sectarian grounds suggest that there has been an institutional sanction and validity of differentiation, discrimination and marginalisation by Pakistani as well as PoJK Constitutions and local laws. Differentiating others from the dominant Pakistani Sunni sect has been provided for and validated by Pakistani Constitution. On the other hand, India has, in most of the cases, ensured equal fundamental rights and has prevented the forms of discrimination across its diversely religious and multi-ethnic demography. Instead, the abolishment of Article 370 of the Indian Constitution has extended the scope of human rights to be applied equally to all citizens of the country, including those in J&K.
161. The very essence of the comparison of respective performances of both the states across the LoC lies in the availability of data in both the countries or precisely, on J&K and PoJK and G-B. In this context, two factors are noteworthy.
- First, as the OHCHR, in its 2018 and 2019 reports, has noted, the quality and quantity of information on J&K is significantly higher when contrasted with the information available on PoJK. Journalists, activists, and civil society members can document stories and developments taking place in J&K. Stringent limitations on the freedom of expression and assembly limit the ability of observers to document and evaluate human rights conditions in PoJK and G-B. This limitation can consequently create a bias in the views of human rights defenders and other observers.

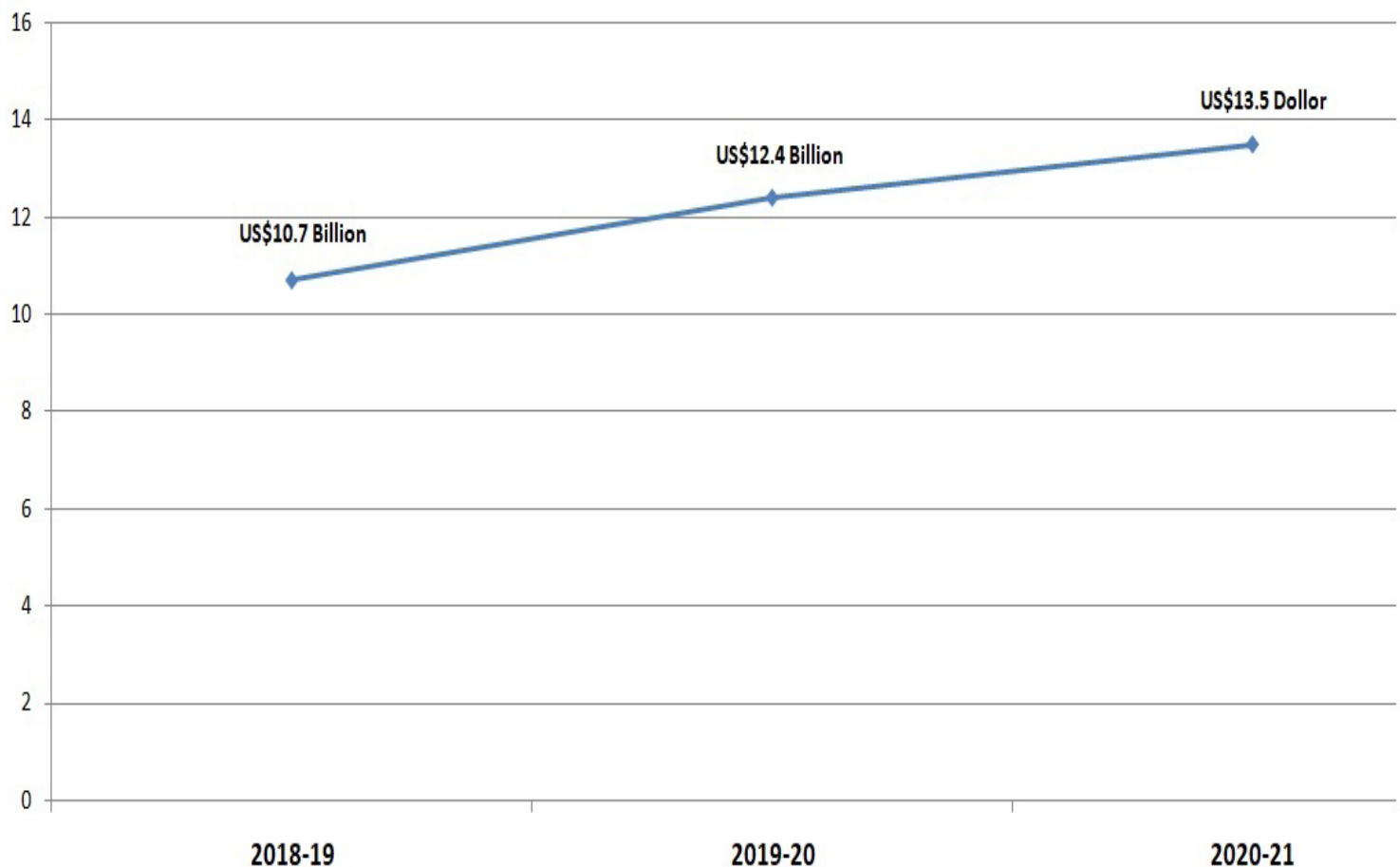
- Second, Pakistan has kept itself indulged in the mischievous task of altering and manipulating data. It keeps up doing anomalous alteration of data like suddenly increasing the population figure by 47 per cent in a time frame of less than a decade and a half. Policy communities are always sensitive to such ‘Himalayan Blunder’ and tend to reject it as well as the associated figures.

162. However, both the limitations notwithstanding, India tends to better protect the human rights of the citizens of J&K and at the same time, gradually taking the state towards development.

Development Initiatives and Governance Reforms in J&K after the Abrogation of Articles 35A and 370 of the Constitution of India

- While responding to a debate on abrogation of Article 35A and Article 370 in Rajya Sabha (the upper house of Indian parliament), Minister of Home Affairs Amit Shah argued that these Articles had been promoting corruption, acting as a hindrance to development and economic backwardness.¹⁸³ The decision received mixed responses from all over the world, most of them focusing on the civil liberties aspect. United States Congressman Joe Wilson was probably the first lawmaker to highlight the economic and development aspect of the move. In December 2019, while speaking at the US House of Representatives, Wilson said that Indian Parliament, with multi-party support, took the decision, supporting the Prime Minister's efforts to boost economic development, fight corruption and end gender, cast and religious discrimination.¹⁸⁴

J&K Budget in Last Three Fiscal Years



Since then, the Government of India and the Government of Union Territory of J&K have taken a couple of important policy decisions, besides allocating funds for development projects. The Parliament of India passed a state budget of INR 101,428 crore (over US\$13.5 billion) for J&K for fiscal year 2020-21, marking a 27 per cent increase in the annual budget, as compared to INR 80,313 crore (US\$10.7 billion) allocated in 2018-19 for J&K including Ladakh.¹⁸⁵ This is the highest ever allocation made for J&K region till date. The Union government also allocated a budget of INR 30,757 crore (US\$4.1 billion) for J&K and INR 5,958 crore (US\$795 million) for Ladakh in the Union Budget 2020-21.¹⁸⁶

- Ten important ministries came together to chalk out a comprehensive plan on the development of J&K. The project is being coordinated by the Ministry of Home Affairs and focuses on areas like education, employment, health, power, trade, and tourism.¹⁸⁷
- Apart from shielding terrorism, the abrogation of Article 370 has also been attributed to thriving corruption.¹⁸⁸ The Indian government has also come up with a series of governance reforms, including direct benefit transfers (DBT) in state welfare schemes. Post abrogation of Article 370, INR 1,705 crore (US\$227 million) were disbursed to 4,500,000 beneficiaries through direct transfers to their accounts.
- The temperate and cold climate of the region makes it suitable for a wide range of horticultural products including apple, almonds, walnuts, pears, cherries, and apricots (grown in temperate areas and mango, citrus, litchi, papaya, and guava (grown in subtropical areas). Despite the geographical advantage, the agrarian crisis has been a major problem in J&K. The roles of middlemen and loopholes in procurement of agricultural products from farmers have added to the problems of the state. Just a month after the abrogation of two Articles in the Indian Constitution, the J&K administration came up with first-ever support price-based direct procurement system for apple farmers of the Union Territory, benefitting more than three million farmers.
- In September 2019, the Market Intervention Schemes (MIS) was launched, under which National Agricultural Cooperative Marketing Federation of India Limited (NAFED) had to procure apples directly and market them. Talking to a news platform, an apple farmer Farooq Ahmad from Wagoora tehsil in Baramulla district said, “The MIS has provided us an alternative market. We can bargain with the traders now and sell our apples at a better price. The MIS has broken the monopoly of traders.”¹⁸⁹
- However, in a survey and research after the abrogation of Article 370, farmers expressed that they faced troubles in selling their agricultural produce in the local markets run by the NAFED. There were two main reasons: the unseasonal snowfall in early November 2019 that destroyed their crop; and the threats made on their lives by the militants.¹⁹⁰ To further strengthen the direct procurement channel and to ensure direct and flawless procurement from farmers, the J&K government is now working towards linking local mandies (markets) with the National Agriculture Market (eNAM) portal – a national portal linking Agricultural Produce Market Committees (APMCs) and farmers.¹⁹¹
- The production as well as procurement of fresh fruits recorded impressive figures in the last fiscal. According to the Ministry of Home Affairs, in 2019-20, 1,834,000 Metric Tonnes (MTs) of fresh fruit were dispatched (till January 2020) to the markets. In 2019, J&K witnessed a record production of 813 MTs of Silk cocoon as well. Similarly, during the first three quarters of 2019-20, handicraft worth INR 688.26 crore (US\$91.5 million) were exported.¹⁹²
- In March 2020, J&K government came up with the J&K Captive Power Policy-2020 and the J&K Hydro Power and Renewable Energy Policy-2020 to encourage investments in the energy sector and promote green and clean power in the Union Territory.¹⁹³ The Union Territory currently has a total installed power generation capacity of 3,417.13 MWs under various utilities.
- Post abrogation-bifurcation, road projects got a new push in the state. More than half a dozen projects of National Highway Authority of India (NHAI) and National Highways Infrastructure Development Corporation Limited (NHIDCL) got accelerated after 5th August 2019. Currently, the NHIDCL is working to develop five all-weather tunnels in J&K at a total cost of US\$3.42 million.¹⁹⁴ Most importantly, the Government of India began upgrade of the Mughal Road, connecting Kashmir Valley with Poonch, from a summer road to an all-weather road.¹⁹⁵

- The change in the status of J&K has also started to attract investors. At least 41 corporate entities expressed their interest to invest more than INR 15,000 crore (over US\$2 billion) in the Union Territory through 61 Expressions of Interest (EOIs).¹⁹⁶
- To boost the healthcare, J&K government introduced the J&K AYUSH Care Investment Policy-2020. The new policy focuses on providing benefits of the AYUSH scheme by encouraging industrial investments. However, due to the internet shutdown in most parts of the Union Territory, there was a sharp decline in the number of beneficiaries under the AYUSH scheme.¹⁹⁷
- The continued internet shutdown in parts of J&K has acted as a hindrance in availing various public schemes, education, and day-to-day businesses. According to the Kashmir Chamber of Commerce and Industry (KCCI) the internet shutdown led to a loss of INR 17,878 crore (US\$2.3 billion) for J&K, just within four months of abrogation-bifurcation.¹⁹⁸
- There is a difference between allocations and implementation. Mere allocation of funds or the launch of projects is not enough for ensuring development. Rather, expedited and efficient implementation is the key. Five years past allocation of the INR 80,000 crore (US\$10.7 billion) Prime Minister's Development Package (PMDP) for J&K in 2015, only 50 per cent of the funds have been utilised. Separating Ladakh, out of INR 58,627 crore (US\$7.8 billion) allocated for J&K, only INR 28,768 crore (US\$3.8 billion) has been utilised so far. Till date, only nine projects have been fully "completed" and eight have been "substantially completed", which value less than a fifth of the total package allocated to the Union Territory.¹⁹⁹

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