

DELIMITATION REPORT: ANOTHER STAB IN THE BACK OF KASHMIRI MUSLIMS

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June 3, 2022

(Views expressed in the brief are those of the author, and do not represent those of ISSI)



The nefarious designs of Modi government to change the demography of State of illegally Indian occupied Jammu and Kashmir to turn Muslim majority into a minority went a step further with the recently released report of delimitation commission.

It was an old desire of BJP and other right wing Hindu groups to erase the Muslim character of IIOJK. They also wished to contain the ongoing freedom struggle waged by Kashmiris against Indian occupation forces. Hence, it was the fateful day of August 5, 2019¹ when, through a Presidential order, the State of Indian occupied Jammu and Kashmir was not only deprived of its status of a state and bifurcated into two Union territories, but also by removing Article 35 A and subsequently introducing the new domicile law², Indian government opened the gates of IIOJK for non – Kashmiris, to settle there permanently - something which was not possible previously.

As if this was not enough, the Jammu and Kashmir Delimitation Commission was formed on March 6, 2020 with the sole aim of further disempowering Kashmiri Muslims politically. The three member commission was headed by Justice (R) Ranjana Prakash Desai, former Chief Election Commissioner of

¹ “What is J&K Presidential Order, 2019,” Business Standard, Business Standard, <https://www.business-standard.com/about/what-is-j-k-presidential-order-2019>

² “J&K’s controversial new domicile law faces a legal challenge,” Wire, August 8, 2020, <https://thewire.in/government/jammu-and-kashmir-domicile-rules-legal-challenge>

India Sushil Chandra and Jammu and Kashmir Election Commissioner K.K Gupta.³ Apart from that, there were also five associate members including National Conference (a pro India political party) MPs Farooq Abdullah, Hasnain Masoodi and Mohammad Akbar Lone as well as Union Minister of State in the Prime Minister's Office Dr. Jitendra Singh and Jugal Kishore Sharma from BJP.⁴

This whole idea of delimitation was flawed on many counts. First and foremost, it was in stark violation of United Nations Security Council Resolutions on the issue of Jammu and Kashmir. Resolution 38 categorically states that "each of those governments inform the council immediately of any material change in the situation which occurs or appears to either of them to be about to occur while the matter is under consideration by the Council, and consult with the Council thereon".⁵

Though in the past, the state of Indian occupied Jammu and Kashmir has seen delimitation of Assembly seats but in 2002, the state government passed a law which barred delimitation exercise till 2026. This decision of the state government was later upheld by the Supreme Court of India as well.⁶ Hence, this delimitation exercise was illegal as it went not only against the laws of the state assembly but also the ruling of the Supreme Court.

And above all, the Indian government's decisions on August 5, 2019 have been challenged in the court and are still pending for final decision. Therefore, any new measure, emanating from August 5, 2019 Presidential order including delimitation will undermine court proceedings.

Unfortunately, keeping aside all above factors, the Modi government decided to go ahead with its delimitation plans. It was on May 5, 2022 that the Commission submitted its final report. The report proposed one additional seat for Kashmir region whereas Jammu region would get 6 new seats. The report also brought Rajouri and Poonch under the Anantnag parliamentary seat, completely ignoring the fact that the two regions are separated by Pir Panjal mountain range whose terrain is inaccessible for most part of the year.⁷ Thus, Kashmir will have 47 and Jammu will have 43 seats in

³ "Jammu and Kashmir delimitation commission order comes into effect," Business Standard, May 20, 2022, https://www.business-standard.com/article/politics/j-k-delimitation-commission-order-comes-into-effect-122052001709_1.html

⁴ "Delimitation in Jammu and Kashmir: how , why," Indian Express, June 21, 2021, <https://indianexpress.com/article/explained/delimitation-in-jk-how-why-pm-modi-jammu-kashmir-leaders-meeting-special-status-7369580/>

⁵ "Resolution 38 (1948) / [adopted by the Security Council at its 229th meeting], of 17 January 1948." United Nations Digital Library, <https://digitallibrary.un.org/record/111953?ln=en>

⁶ "SC upholds freeze on delimitation in J&K till 2026," Hindu, November 9, 2010, <https://www.thehindu.com/news/SC-upholds-freeze-on-delimitation-in-JampK-till-2026/article15680525.ece>

⁷ "J&K Delimitation: Will it really help BJP? Will it further alienate Kashmiris?," Quint, May7, 2022, <https://www.thequint.com/news/india/jk-delimitation-will-it-really-help-bjp-or-further-alienate-kashmiris>

the 90 member house. With this new arrangement, BJP hopes to influence electoral dividends to its advantage.

The report of the delimitation commission made it clear that besides working and facilitating the demographic change in IIOJK, Indian government also wishes to reduce Muslim representation and give greater representation to the Hindus. It is interesting to note that as per 2011 census, Muslims are 68.31% of IIOJK total population whereas Hindus are only 28.44% of total population of IIOJK.⁸ Similarly, population of Kashmir valley stands at 68,88,475, whereas, population of Jammu region as per 2011 census stands at 53,78,538.⁹ Hence, increasing the number of seats for Jammu region which has less population as compared to Kashmir clearly exposes the malafide intentions of Indian government behind this delimitation exercise.

Once the final report was out, all major political parties, under the banner of All Parties United Morcha (APUM) announced a joint struggle against the report.¹⁰ It was felt that the Commission had deliberately dissolved constituencies where traditional political parties had a strong hold.¹¹ Separately, Mehbooba Mufti also condemned the report and said "What delimitation are you talking about? That delimitation commission that has become an extension of the BJP? It has ignored the basic parameter of population and added or removed areas as per their wishes. We reject it, we have no faith in it."¹²

For its part, Pakistan did not waste any time in rejecting the delimitation report. In its strong protest, Pakistan highlighted that contrary to the claims made by Indian government that delimitation was meant to empower the local population, the ulterior motive of the Modi government is to reduce the representation of Muslims in in re-designated constituencies to their disadvantage.¹³

⁸ "Jammu and Kashmir Religion Census 2011," Census 2011, <https://www.census2011.co.in/data/religion/state/1-jammu-and-kashmir.html>

⁹ "Only J&K will use 2011 Census for delimitation," Hindu, March 1, 2020, <https://www.thehindu.com/news/national/other-states/only-jk-will-use-2011-census-for-delimitation/article30952006.ece>

¹⁰ "J&K political parties vow to fight against delimitation commission report," Outlook, May 9, 2022, <https://www.outlookindia.com/national/j-k-political-parties-vow-to-fight-against-delimitation-commission-report-news-195790>

¹¹ "J&K delimitation: Will it really help BJP? Will it further alienate Kashmiris," Quint, May 7, 2022, <https://www.thequint.com/news/india/jk-delimitation-will-it-really-help-bjp-or-further-alienate-kashmiris>

¹² "Delimitation Commission an extension of BJP: Mehbooba Mufti," Times of India, May 5, 2022, <https://timesofindia.indiatimes.com/india/delimitation-commission-an-extension-of-bjp-mehbooba-mufti/articleshow/91352906.cms>

¹³ "Pakistan categorically rejects the report of the so-called 'Delimitation Commission' for the Indian Illegally Occupied Jammu and Kashmir (IIOJK)," Press Release, Ministry of Foreign Affairs, Islamabad, May 5, 2022, <https://mofa.gov.pk/pakistan-categorically-rejects-the-report-of-the-so-called-delimitation-commission-for-the-indian-illegally-occupied-jammu-and-kashmir-iiojk/>

At the same time, it was extremely encouraging to see a very strong response from the Organisation of Islamic Cooperation (OIC). The Independent Human Rights Commission of the Organisation of Islamic Cooperation while terming Indian actions as violations of international human rights and international law stressed "IPHRC accordingly supports the unanimous rejection of the Kashmiri political leadership of these illegal measures, which are continuum of the host of other 'Hindutva' inspired illegal steps taken by the Indian occupation regime in IOJK in the aftermath of the 5th August 2019".¹⁴ It went on to say that "a nefarious attempt to alter the electoral demographics and dynamics in a manner that could influence sham electoral results to install puppet regimes of its choice".¹⁵

Similarly, in its strongly worded statement, the OIC General Secretariat also expressed its "deep concern" and reiterated "its solidarity with the people of Jammu and Kashmir in their just quest for the right of self-determination, in accordance with relevant UNSC resolutions". The statement also stressed the need for UNSC to take immediate notice of the implications of this delimitation exercise.¹⁶

At the same time, the deafening silence of the international community and United Nations Security Council is equally disappointing. The world, and particularly India needs to understand that the issue of Kashmir can never be resolved through unleashing reign of terror on hapless Kashmiris or cosmetics steps like introducing economic packages. Kashmiris have rendered far greater sacrifices to succumb to farcical tactics of the Modi government. Such acts will only serve to further deteriorate the situation inside IOJK and the region as a whole.

¹⁴ "OIC rights body condemns India's 'wicked' delimitation exercise in occupied Kashmir," Dawn, May 13, 2022, <https://www.dawn.com/news/1689462>

¹⁵ Ibid.

¹⁶ "OIC expresses 'deep concern' over India's delimitation exercise in occupied Kashmir," Dawn, May 16, 2022, <https://www.dawn.com/news/1689972>