

EXCEPTIONAL DEMOCRACY II

**KASHMIR; A PARADISE TURNED GRAVEYARD
BY INDIAN RIGHT-WING POLITICS**



REPORT BY
LEGAL FORUM FOR KASHMIR - LFK

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Exceptional Democracy II

Kashmir; A paradise turned graveyard by Indian right-wing politics

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Cover Image: A women protestor applied salt on her face to protect herself from the teargas smoke in Soura, Srinagar, Indian occupied Kashmir.

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You cannot continue to victimize someone else just because you yourself were a victim once--- there has to be a limit.

Edward W Saeed¹

¹ Edward W Saeed was a professor of Literature at Columbia University and a founder of post-colonial studies.

Introduction:

A right-wing Hindutva nationalism in India—a belief that India should be an exclusively Hindu nation—has existed since the dawn of the Indian freedom movement itself. The followers of this belief have been actively participating in the politics of India after the partition. Bharatiya Janata Party (BJP) led by Narendra Modi based its campaign, for the elections 2019, around the rhetoric of "Hindutva" or Hindu Nationalism. The BJP popularized an ethnically divisive discourse in order to gain Hindu votes and create a culture of majoritarianism that would exclude minority communities in India. Presently, the right wing political party BJP is ruling the "exceptional democratic India".

After securing the second term, BJP led Indian government scrapped the Article 370 and took away the autonomy of Indian occupied Jammu and Kashmir on 5th August, 2019. Since then, the Muslim majority population has been facing a heavy security crackdown. Internet has been cut off, while foreign journalists, UN Special Rapporteurs and US Congressional Representatives have been barred entry to valley. Thousands of unarmed Kashmiri Muslims have been detained including the religious and political leaders. Hundreds of innocent people have been illegally arrested, tortured. The ongoing unprecedented curfew in Indian Occupied Kashmir has turned the valley into the largest open air prison of the world.

Legal Forum for Oppressed Voices of Kashmir (LFOVK) launched its first report in October 2019, which included the 55 days of Indian oppression in Kashmir since the revocation of Article 370 by the BJP-led Indian government. It has been over 130 days of inhuman military siege of Indian occupied Kashmir and still "normalcy" seems far away. Kashmir valley has witnessed further rise in worst human rights violations and India is trying to justify its illegal action by way of the annexation. The present report highlights the ongoing brutality perpetrated by Indian armed forces on unarmed Kashmiri civilians who are showing dissent against the illegal annexation made by India's right wing political party and other who are part of this despotic power corridor.

1. Violent Curfew in Indian Occupied Kashmir:

Indian government unilaterally abrogated the Article 370 on 5th August 2019, while the entire population of Kashmir were placed under strict curfew. The Indian Occupational forces restricted the mobilization of the people in the valley as they were fearful of massive protests against the abrogation of Article 370. Curfew in Kashmir is a tool used against any possible dissent from people of Kashmir. The ongoing curfew has resulted further rise in the human right violations in Indian occupied Kashmir. The present curfew has witnessed unbridled use of force from occupational force, torture, pellet injuries, illegal arrests, arbitrary detentions are part of the curfew.

1.1 Prison without Bars:

Kashmir is the largest militarized zone in the world with the presence of more than 700,000 Indian troops, which means every seven unarmed Kashmiris are guarded by one occupational force. Indian government further increased the number of troops on 5th August & the entire population of Kashmir is house arrested since then. People are restricted in their homes, Fear of being humiliated, tortured, arrested or killed dominates the valley these days.



"I was in Kashmir when India launched its brutal crackdown last month. Before I knew it, my beloved home had been turned into an open-air prison²," Kumail Sayeed writes in Jacobin Magazine.

² Sayeed, Kumail. "Kashmir Turned Into an Open-Air Prison". *Jacobin Magazine*.

1.2 Communication Blockade:

By the midnight of August 4, the last night of Jammu & Kashmir as an autonomous state with its own separate constitution, the entire valley of Kashmir had been besieged, all sort of internet services, cellular networks, phone lines and satellite television had been shut down. It has been over 130 days and the restoration of all the communications still seems far away. There is complete communication blackout in the valley. Indian authorities have turned the valley into the darkest part of the world. People living in the valley do not know what's happening in the other parts of the valley. This has resulted in further rise in the fear among the already oppressed people of Indian occupied Kashmir.

An eleven-member team comprising advocates, trade union and human activists and a psychiatrist visited the Kashmir Division from September 28 – October 4, 2019³. They have made a report which is based on their visit to different districts in the Kashmir valley, their visits to the High Court, District Courts and other quasi-judicial institutions, their interactions with the lawyers, health and mental health professionals, traders, people of Kashmir and victims of state perpetrated violence. The report says, "A man we met in a village in South Kashmir narrated how their family got news of the death of a family member living in another village in the region, who had died on one morning following the abrogation, only in the night following the death. They had to rush to make arrangements with great difficulty amidst the blockade to attend the funeral. We came across several references of the inability to reach doctors and ambulances. We also learnt that there were instances of houses destroyed by fires that could have easily been doused had there been access to telephones so that fire engine services could be called."⁴

International media has been continuously reporting on the worst communication blackout in Kashmir, heads of one of the powerful countries⁵ and international human rights organizations⁶ have asked India to restore the internet and mobile services but nothing could bring change in the India's attitude towards the Kashmiri people. Indian government is adamant to continue its inhuman siege of Kashmir to grab the land of Kashmiri people.

<https://www.jacobinmag.com/2019/09/kashmir-curfew-occupation-article-370-diary-narendra-modi>

³ "Imprisoned Resistance: 5th August and its aftermath", October 2019,

https://counterviewfiles.files.wordpress.com/2019/11/kashmir-report-lawyers-and-activists_final-compressed.pdf

⁴ ibid

⁵ "Communication blackout in Kashmir devastating, time for India to lift restrictions: US House Committee", October 08, 2019. <https://www.indiatoday.in/world/story/communication-blackout-in-kashmir-devastating-time-for-india-to-lift-restrictions-us-house-committee-1607183-2019-10-08>

⁶ "India should 'unlock' freedom curbs in disputed Kashmir, urges UN human rights chief", UN News, October 29, 2019. <https://news.un.org/en/story/2019/10/1050141>



1.3 Night Raids and Illegal Arrests:

Night Raids is normal practice for the Indian soldiers in Kashmir.⁷ The occupational forces raid the houses in the nights and intimidate the families. They illegally arrest hundreds of unarmed innocent people, humiliate them, and release them after 3 or 4 days. Few of them are detained under Public Safety Act (a draconian law which detains a person without any) and nobody knows about the whereabouts of those detainees. Indian soldiers brutally beat them with sticks and torture them with electric shocks. More than 13,000 unarmed civilians have been detained by the Indian security forces. These detentions also include minors.⁸

A fact finding report says, "In one of the villages in Pulwama, people said that since August 5, 2019, armed forces were conducting raids on villages and localities in the city almost every night, and most definitely if there was any protest or incident of dissent in that area. We heard that the entire village was rendered sleepless because of the nightly raids, harassment, humiliation and torture. The modus operandi of the raids, we were told, is more or less similar whether they are conducted jointly by the army, paramilitary forces and the police, or by any of these forces independently. "They barge into the village screaming abuses and throwing stones at the houses breaking window panes.

Almost all the houses in the villages and some neighborhoods in Srinagar, have broken windows owing to the stones thrown by the army. One of their favorite taunts is that they are going to choose girls from this village to get married to and that they are going to take over all the land in the village and nothing can be done to them. During these raids, which are usually past midnight, the Army jawans are usually drunk though not the police. The men are rounded up on the main road and their mobile phones are taken away from them and checked. Simultaneously the armed forces enter all houses in the name of conducting checks, women and girls are physically frisked

⁷ "In Pictures: Night raids, arrests amid Kashmir lockdown", Aljazeera, September 23, 2019. <https://www.aljazeera.com/indepth/inpictures/pictures-night-raids-arrests-kashmir-lockdown-190919153536231.html>

⁸ "Young boys tortured in Kashmir clampdown as new figures show 13,000 teenagers arrested", The Telegraph, 25 September, 2019. <https://www.telegraph.co.uk/news/2019/09/25/young-boys-tortured-kashmir-clampdown-new-figures-show-13000/>

by male army personnel, are sexually abused and molested. If this try to defend themselves they are physically abused.”⁹

Overall, the night raids are not always unplanned and sudden but designed to terrorize the already oppressed people of Kashmir. This, people say, is accentuated by the practice of torture not just in the army camps and police stations, but also right outside the houses, on the streets and in the local mosques. These night raids, coupled with the high density of militarization, are a method of saturating control. "



A Kashmiri woman prays as she watches a protest march in Srinagar

1.4 Arbitrary Detentions under PSA:

Indian authorities have been using draconian laws in Kashmir to maintain its illegal occupation for over four decades. Public Safety Act (PSA) was introduced in Kashmir to suppress the people of Jammu and Kashmir.¹⁰ Under this act, Under this Act, the government can declare any area as ‘protected’ and exercise authority to regulate the entry of any citizen in the protected area. Attempts to forcefully enter the designated areas invite prosecution. Section 8 of the PSA provides for arresting and imprisoning a person without trial for up to one years on mere suspicion of the district executive authorities that they may disrupt law and order in the state or for two years.

Indian authorities, in Kashmir, have been indiscriminately using this lawless law against the common people as well as political leaders and lawyers since the abrogation of Article 370 on

⁹ "Imprisoned Resistance: 5th August and its aftermath", October 2019,

https://counterviewfiles.files.wordpress.com/2019/11/kashmir-report-lawyers-and-activists_final-compressed.pdf

¹⁰ "A Lawless Law: Detentions under the Jammu and Kashmir Public and Safety Act", Amnesty International, 2011.

https://www.amnestyusa.org/files/asa200012011en_11.pdf

August 05, 2019¹¹. Hundreds of people have been detained under this PSA¹² and no one knows that why they have been detained. A fact finding team of eleven members explained¹³, “Lawyers we met informed us that the dossiers prepared under the PSA, also called grounds of detention, indicate that people have been booked for alleged offences in the past. They added that most of the people charged under the PSA have been detained on grounds of “likely to disturb public order,” which amounts to “thought” crimes. Without any reason whatsoever hundreds are shifted to jails outside the state, and family members are completely in the dark about their whereabouts.”

In the recent crackdown in Kashmir, Indian security forces have not spared even the pro Indian political leaders. They are also either house arrested or booked under PSA. For example, former Jammu-Kashmir Chief Minister Farooq Abdullah was booked under the Public Safety Act (PSA) on September 16, 2019. He had been kept under house arrest since the revocation of Article 370 of the Indian Constitution. PSA has been, excessively, used against the professionals. For example, PSA against lawyers. Six most senior lawyers, Adv Mian Abdul Qayoom, Adv Nazir Ahmed Ronga, Adv Ashraf Bhat, Adv Abdul Salam Rather and Adv Fayaz Ahmad Sodagar, have been detained under PSA.

All the above mentioned lawyers have been deprived of basic human rights and no cogent reasons have been given by the Indian authorities. Their petitions challenging the detention are still pending before the court. For example, Mian Abdul Qayoom, 67 year old, senior human rights lawyer & President of High Court bar association of Jammu and Kashmir has been detained under Public Safety Act (PSA) since 5th August 2019. He was contesting the case of Article 35-A before the Supreme Court. On 5th August 2019, the Jammu and Kashmir police raided the house of Adv Mian Abdul Qayoom and arrested him. He was detained in central jail of Srinagar, then shifted to Agra Jail, Uttar Pradesh, India. In grounds of arrest of Mian Abdul Qayoom, the police wrote: ‘We apprehend that you (referring to Mr. Qayoom) will motivate the people to agitate against abrogation of Article 370’.



Adv Mian Abdul Qayoom (President of J&K High Court Bar Association)

¹¹ "Kashmir's crippled courts leave detainees in limbo", BBC, October 3, 2019. <https://www.bbc.com/news/world-asia-india-49848899>

¹² "India: Detention of Kashmiri politician is 'blatant abuse of the law', Amnesty International, September 17, 2019. <https://www.amnesty.org/en/latest/news/2019/09/india-detention-of-kashmiri-politician-is-blatant-abuse-of-the-law/>

¹³ "Imprisoned Resistance: 5th August and its aftermath", October 2019, https://counterviewfiles.files.wordpress.com/2019/11/kashmir-report-lawyers-and-activists_final-compressed.pdf

Adv Mian Abdul Qayoom has been deprived of all fundamental human rights which are guaranteed by the Indian Constitution as well as by the international covenants including Universal Declaration on Human Rights and International Covenant on Civil and Political Rights. The detaining authorities are also disregarding the constitutional safeguards which are guaranteed to every detainee. It has been over 120 days and the petition challenging the illegal detention of Mian Abdul Qayoom is still pending before the high court. The state government is deliberately delaying the judicial process in order to insure the illegal detention of Mian Abdul Qayoom.

The high courts under Management Flow Rule are bound to dispose of the Habeas Corpus petition within 15 days, but no such rule is being followed in these illegal detention matters under PSA (A lawless law).

1.5 Torture:

Reports of torture at the hands of the Indian armed forces is not new to Kashmir¹⁴. Indian forces have been brutally torturing the unarmed Kashmiri civilians for over seven decades. The valley witnessed exponential rise in torture cases from 1989. The recent Kashmir crisis has further increased the number of these cases in the Indian occupied Kashmir. Indian forces raid the houses in the nights and randomly pick up the people especially the youth, mercilessly beat them with sticks and give them electric shocks.

In some cases, they carry the victim to the mosque, turn the speaker on, torture the person and the people in the whole area listen his screaming voice. This is how the Indian forces terrorize the entire population of that area. Hundreds of torture cases have been reported since August 05, 2019.¹⁵ The exact number of these cases cannot be figured out as still there is complete communication blackout in the valley.

Dreadful stories of physical torture of youth, in Shopian, have been reported. People have told that youth are kept in detention centers along with dogs. In a camp Mujeeb, 40 years old, and Salman were tortured on 11.08.2019 at night. The camp had a detention centre with loud speakers beaming the sound of torture in the camp so that the entire village would come to know about the happenings in the camp.

Villages are raided at night so that there is less resistance. Such detention also includes minor. In Shopian, 7 boys were taken in detention. Razak was brutally tortured and electrical shocks were applied on his genitals. He hasn't slept since then except on a night when there was a funeral in

¹⁴ "Torture; Indian State's instrument of Control in Indian Occupied Jammu and Kashmir", JKCCS, Feb 2019. <http://jkccs.net/wp-content/uploads/2019/05/TORTURE-Indian-State%E2%80%99s-Instrument-of-Control-in-Indian-administered-Jammu-and-Kashmir.pdf>

¹⁵ "Kashmir lockdown: Stories of torture and arbitrary arrests", AlJazeera, September 4, 2019. <https://www.aljazeera.com/news/2019/09/kashmir-lockdown-stories-torture-arbitrary-arrests-190904122016072.html>

the next house so he was sure the army would not raid his house and take him away. Wasim, a young boy, was also tortured.¹⁶



40 years old man tortured by Indian army

Another boy, 19 years old, was grazing cows outside the village when the soldiers met and confronted him. They said they could not believe that he was a peasant since he was wearing jeans. They took away his Aadhar card and asked him to collect it the next day. When he went to collect it, the forces slapped him hard and asked him to come again the next day. Another boy was caught and asked to show his bare back. They didn't find any injury marks so they hit him till he started bleeding.

The Indian soldiers descended on Bashir Ahmed Dar's house in southern Kashmir on August 10, 2019. Over the next 48 hours, the 50-year-old plumber said he was subjected to two separate rounds of beatings by soldiers. In the village of Parigam, the family of baker Sonallah Sofi was asleep when army troops raided his home. The soldiers took his two sons into a street, hitting them with gun butts, iron chains and sticks, Sofi said. "Helpless, I heard my sons scream as soldiers started beating them up mercilessly in the middle of the road," Sofi said.¹⁷

¹⁶ "Imprisoned Resistance: 5th August and its aftermath", October 2019, https://counterviewfiles.files.wordpress.com/2019/11/kashmir-report-lawyers-and-activists_final-compressed.pdf

¹⁷ 'Electric shocks, beatings': Kashmiris allege abuse by India army", Aljazeera, September 10, 2019. <https://www.aljazeera.com/news/2019/09/shocks-beatings-kashmiris-allege-abuse-india-army-190910114145774.html>



Kashmiri baker Sonaullah Sofi shows torture marks on his son [Aijaz Hussain] [The Associated Press]

The cases of abuses and torture in the night-time raids by troops began in early August as New Delhi took action on Kashmir, according to interviews with at least 200 people.¹⁸ The change in status nullified decades-old constitutional provisions that gave Jammu and Kashmir State, as it is officially called, some political autonomy and land inheritance rights. The UN last year called for an independent international investigation into allegations of rights violations like rape, torture and extrajudicial killings in Kashmir. But the investigation was never done. Indian government is still doing the same and the role of international community is nothing more than mere a spectator of the Kashmir conflict.

1.6 Pellet Injuries:

Indian forces have been using internationally banned pellet guns to silence the voices of people of Kashmir who are demanding their very basic right self-determination. The use of pellet guns increased exponentially from 2016, after the killing of armed rebel Burhan Wani on 8 July 2016. According to *The Guardian*, 17000 adults were injured¹⁹, mostly by the pellets, in just four months after 8th July of 2016. This brutal act by the Indian security forces was condemned by the international community, but India doesn't pay heed to anyone when it comes to Kashmir. The disturbing use of pellet guns still continues in the Valley and there is no estimate of the number of injuries caused by its usage after the abrogation of Article 370.²⁰

On August 31, 2019, the Special Operations Group (SOG) came into the village in the evening at which time the boys were playing cricket in the ground. Unilaterally, they started tear gas

¹⁸ 'Don't beat us, just shoot us': Kashmiris allege violent army crackdown', BBC, 29 August 2019.

<https://www.bbc.com/news/world-asia-india-49481180>

¹⁹ "India's crackdown in Kashmir: is this the world's first mass blinding? , The Guardian, November 8, 2018.

<https://www.theguardian.com/world/2016/nov/08/india-crackdown-in-kashmir-is-this-worlds-first-mass-blinding>

²⁰ "Over 150 treated for tear gas, pellet gun injuries in Kashmir", AlJazeera, August 23, 2019.

<https://www.aljazeera.com/news/2019/08/150-treated-tear-gas-pellet-gun-injuries-kashmir-190823052847698.html>

shelling first, and fired pellets and even bullets upon the boys. Two people were injured by pellet guns, including a 50 year old woman who was passing by. The other victim, being a 20 year old boy, who was injured by the pellet gun has lost 70% of his eyesight and is unlikely to recover completely. After he was injured, he was taken on a bike to Sub-district Hospital at Chattargam, due to non-availability of ambulance services on account of the communication blockade. Seeing the serious nature of his injuries, he was taken by ambulance to SKIMS in Srinagar on the recommendation of the doctor, where he is undergoing treatment. The boy's father was picked up immediately following the pellet firing and kept in illegal detention for 4 days, when he was tortured.²¹

On September 16, 2019 during a night raid conducted by the police in a village in Baramulla, a boy was hit by the pellets. According to him, on September 16, 2019, he was home watching T.V. when he heard some noise on the streets. This was around 11.30 p.m. and when he looked out the window, he saw a large police force in the street below. A man knocked at their door, and when he opened the door, 15 policemen rushed in with the SHO, and started climbing the wall to go over to the next house. They said that they were looking for another youth, who incidentally had received pellet injuries during a protest in 2008, to which he asked the police why they were harassing Danish who was a heart patient, extremely weak and indisposed. At this point, stone pelting began outside on the street. The family switched off the lights and he peeped outside and saw an old man was lying on the street injured, so he went to help him, when there was a burst of pellet fire at him injuring him on right side and face. He was taken to SMHS and the operation was done in the next morning.



²¹ "Imprisoned Resistance: 5th August and its aftermath", October 2019, https://counterviewfiles.files.wordpress.com/2019/11/kashmir-report-lawyers-and-activists_final-compressed.pdf

1.7 Curbs on Religious Rites

Restrictions on practicing the religious rites in the Indian occupied Kashmir are serious violations of applicable International human rights law. Indian authorities have banned the Friday prayers at mosques for an indefinite period.²² For nearly four months now, the voice that would call out five times a day from the minarets of the Jamia Masjid and echo across Srinagar has been silent, a result of India's ongoing security operations in the Muslim-majority region. Mohammed Yasin Bangi,²³ the 70-year-old whose voice has called out the prayers at the mosque for the last 55 years, said the current restrictions are the worst he has seen.



The entrance gate of the centuries old Jamia Masjid in Srinagar (Photo: 09 Nov, 2019)

“During earlier restrictions, we would be sometimes allowed to offer evening prayers. But not even once during this time around,” he said. “The closure of the mosque has robbed me of my peace. I’ve been subjected to spiritual torture,” he told.

1.8 Media Gag in IOK:

In Kashmir, the journalists are struggling hard to keep the people informed inside and outside the valley. The siege imposed by the Indian government on 5th August also brought journalism to a halt in Kashmir.²⁴ The communications shutdown did not spare mobile phones and broadband, ensuring that journalists in Kashmir could not work at all. Access and press cards became

²²" No Friday prayers in over 4 months in Kashmir's largest mosque", Aljazeera, December 10, 2019.

<https://www.aljazeera.com/news/2019/11/friday-prayers-months-kashmir-largest-mosque-191129100152994.html>

²³" India's crackdown hits religious freedom in disputed Kashmir", The Straits Times, December 10, 2019.

<https://www.straitstimes.com/asia/south-asia/indias-crackdown-hits-religious-freedom-in-disputed-kashmir>

²⁴ "The government has made journalism impossible in Kashmir", The Telegraph, November 04, 2019.

<https://www.telegraphindia.com/opinion/media-freedom-the-government-has-made-journalism-impossible-in-kashmir/cid/1715650>

meaningless. Journalists could not even contact each other. Even, journalists are being beaten up by the Indian forces in Indian occupied Kashmir for covering the Indian oppression in the valley.²⁵

The Indian government has provided an internet connection at a media center set up for journalists, but reporters say this is insufficient and it lacks privacy. "There's no privacy. Some 300 journalists use that facility daily and it is crowded. It is also being monitored and we are under surveillance," said Ishfaq Tantray, general secretary of the Kashmir Press Club.²⁶

On Oct 03, 2019, Journalists in Indian Kashmir staged a small silent protest against what they say has been a "media gag" by Indian authorities that has badly affected their ability to work in the disputed region.²⁷

"End information clampdown," "Stop criminalizing journalists," "Journalism is not a crime," read placards held up during the silent protest.



Journalists hold signs during a protest against the ongoing restrictions of the internet and mobile phone networks at the Kashmir Press Club during a lockdown in Srinagar, Oct. 3, 2019.

The International Federation of Journalists (IFJ)²⁸ and its South Asia affiliates represented by the South Asia Media Solidarity Network (SAMSAN) have expressed grave concern over the communications shutdown and demanded the immediate removal of the ban. In a series of

²⁵ "Day of 'hell' for journalist in Srinagar", The Telegraph, September 09, 2019.

<https://www.telegraphindia.com/india/day-of-hell-for-journalist-in-srinagar/cid/1703539>

²⁶ "Journalists protest 100 days of internet gag in Kashmir", India Today, November 13, 2019.

<https://www.indiatoday.in/india/story/journalists-protest-100-days-of-internet-gag-in-kashmir-1618315-2019-11-13>

²⁷ "Kashmiri Journalists Stage Protest Against 'Media Gag', VOA, October 03, 2019.

<https://www.voanews.com/south-central-asia/kashmiri-journalists-stage-protest-against-media-gag>

²⁸ "Rights body urges India to release detainees in Kashmir", Anadolu Agency, August 16, 2019.

<https://www.aa.com.tr/en/asia-pacific/rights-body-urges-india-to-release-detainees-in-kashmir/1584980>

exceptional videos released by Reporters without Borders (RSF) ²⁹ on the 100th day of a blackout on all communications in the Kashmir Valley, RSF's local correspondent interviewed nine local journalists about the terrible constraints they have had to work under as a result of this blackout. The journalists, while giving the interviews, have said that reporting in Kashmir is risky and they face humiliation at the hands of Indian security forces.

1.9 Blow to the Kashmir's Economy:

Four months on, the situation is far from normal. Internet and mobile phone connections remain suspended, public transport is not easily available, and most businesses are shut.³⁰ The lockdown in Indian occupied Kashmir has cost the region's economy more than \$1bn in two months, according to industry experts.³¹ There is also a shortage of skilled labor, as some 400,000 migrants have left since the lockdown began. The streets are deserted and devoid of the tourist business which had supported up to 700,000 people. Srinagar's almost 1,000 iconic houseboats have also been running empty. "Every houseboat needs up to \$7,000 a year for maintenance," says Hamid Wangnoo from the Kashmir Houseboats Owners Association. "For many, this is the only source of livelihood."



Hundreds of houseboats have been lying vacant

Source: BBC

"More than 50,000 jobs have been lost in the carpet industry alone," according to Shiekh Ashiq, president of the chamber of industry. He says July to September is when carpet makers usually receive orders for export – especially overseas, so they can deliver by Christmas. But they are unable to contact importers, or even their own employees, because of the communications lockdown.

²⁹ "RSF breaks the silence forced on journalists in Indian administered Kashmir", Reporters without Borders (RSF), November 13, 2019. <https://rsf.org/en/news/rsf-breaks-silence-forced-journalists-indian-administered-kashmir>

³⁰ "Apples rot in Kashmir orchards as lockdown puts economy in tailspin", Reuters, September 19, 2019. <https://www.reuters.com/article/us-india-kashmir-economy/apples-rot-in-kashmir-orchards-as-lockdown-puts-economy-in-tailspin-idUSKBN1W4048>

³¹ "Kashmir conflict: Woes deepen as lockdown stifles economy", BBC, October 8, 2019. <https://www.bbc.com/news/world-asia-india-49956960>



In southern Kashmir, the region's famous apples were not plucked from the trees on time. Shops and cold storage units are shut, and the main apple market is empty. Last year, it did business worth \$197m, local farmers say. "I feel so much pain seeing my apples hanging from the trees that I don't go to the orchard anymore," says a worried apple grower, who did not wish to be named.

"Apples account for 12–15% of Kashmir's economy, but more than half of this year's produce has not been plucked," says economic journalist Masood Hussain. "If this continues through October, it will have devastating consequences."



Kashmir's famous apple orchards have also been hit hard

Source: BBC

2. Bifurcation of Jammu and Kashmir:

Before 5 August 2019, the state of Jammu and Kashmir had its own constitution and administrative autonomy. Indian citizens from other states could not purchase land or property in Jammu and Kashmir. On 5th August, Indian government unilaterally abrogated the Article 370, which was included in the Indian constitution on 17th October 1949 which permits Jammu and Kashmir State to draft its own constitution and restricting the Indian parliament's legislative powers into the state. In short it accorded special status to the state, giving Jammu and Kashmir legislation free rein to draft its own laws, except in the areas of communication, defense, finance and foreign affairs. As a result Jammu And Kashmir State had its own constitutional flag and panel code. Article 35A stems from Article 370. It was introduced through presidential order in 1954 on recommendation of Jammu and Kashmir constituent assembly. This Article empowered the state legislature to define who the states permanent resident were along with the social rights and privileges.

There were as many as 264 state Acts passed by Jammu and Kashmir legislative assembly, since 1907 to 2018. With Jammu and Kashmir Reorganization Act, 2019 passed by the Parliament of India. The State was reconstituted into union territory. Some 95 Central Acts will be applicable for the two UTs while 164 state laws would be repealed.

The biggest fall out for state after abrogation of Article 370 are:

- The Indian panel code will replace Ranbir panel code of Jammu and Kashmir.³²
- Jammu and Kashmir will no longer have separate constitution, flag or anthem. The citizens of Jammu and Kashmir will not have dual citizenship—they will be citizens of India along.
- As the new union territory of Jammu and Kashmir will be subjected to the Indian constitution, the citizen will not have the fundamental rights enshrined in that document till now.
- Article 360 of the Indian constitution which can be used to declare financial emergency will now also be applicable.
- All laws passed by parliament will be applicable in Jammu and Kashmir, including the right to information Act and right to education Act.
- As the government has modified the Article 370, diluting special status of Jammu and Kashmir State, Article 35A which originates from this provision stands null and void.
- Any Indian citizen from any part of the country can now buy property in Jammu and Kashmir, take a state government job and enjoy scholarships and other government benefits.

³² "Scrapping of Art 370: No separate Constitution, flag for J&K", The Week, August 05,2019.

<https://www.theweek.in/news/india/2019/08/05/scrapping-of-art-370-no-separate-constitution-flag-for-jammu-kashmir.html>

On 5 August, the Indian government introduced a bill named Jammu and Kashmir reorganization bill 2019. It contains provisions to reconstitute the Indian administrative state of Jammu and Kashmir into two union territories one called Jammu and Kashmir and the other one is Ladakh. The union territory of Jammu and Kashmir was proposed to have legislature under the bill whereas the union territory of Ladakh is proposed to have without legislature. The bill was passed by Rajya Sabha on 5th August, next day bill was passed by Lok Sabah. The bill became an Act after it was signed by president. The two union territories came into existence on 31st October 2019.

The president of India appointed lieutenant governor for union territories. Presidential rule Article 356 of the constitution of India was ended in the state of Jammu and Kashmir on the night of 30th October. On 31st October Indian government formally revoked the constitutional autonomy of Jammu And Kashmir State and bifurcated it into two federal union territories in order to integrate fully into India. Girish Chandra Murmu has been appointed as the Lt Governor of Jammu and Kashmir.³³

After the bifurcation of Jammu and Kashmir State, the government of India released a new political map of India after two new union territories Jammu and Kashmir and Ladakh came into existence. The union territory of Jammu and Kashmir has 22 districts while Ladakh has 2 districts. This is for the first time in the history of India that a state is being converted into two union territories the new political map of India also shows three districts of Pakistan administrated Kashmir (Muzaffarabad, Poonch and Mirpur) as part of Union territory of Jammu and Kashmir and Gilgit Baltistan another territory of Pakistan administration as a part of Ladakh union territory.³⁴



³³ "Girish Chandra Murmu to be LG of J&K: All you need to know about him", India Today, October 25,2019. <https://www.indiatoday.in/india/story/girish-chandra-murmu-to-be-lg-of-j-k-all-you-need-to-know-about-him-1612977-2019-10-25>

³⁴ "New Map of India: this is how the new J&K, Ladakh map looks!", jagran josh, Nov 04,2019. <https://www.jagranjosh.com/current-affairs/new-map-of-india-govt-releases-new-political-map-with-uts-of-jk-ladakh-1572756785-1>

The amendment to laws mentioned below will change the demographic structure of state.

The State Laws which shall be applicable to the Union Territory of Jammu and Kashmir and Union Territory of Ladakh with amendments are Transfer of Property Act; J&K Alienation of Land Act; the Jammu and Kashmir Big Landed Estates Abolition Act; the J&K Land Grants Act; the J&K Agrarian Reforms Act; the J&K Cooperative Societies Act and the J&K Reservation Act JK registration Act.

3. Nomenclature to Changing Demographics?

BJP-led Modi's government using all the options to wipe out the J&K's identity. After unilateral abrogation of Article 370 of the state, the news comes that Sher i Kashmir stadium is likely to be renamed after Sardar Patel³⁵. According to The Wire, preparations for the change of nomenclature are going on and the formal announcement in this regard is likely to be made on December 15 – the date that marks the death anniversary of Patel³⁶. Although Patel was a Congress leader, the BJP-led Narendra Modi government at the Centre has promoted him as a nationalist icon at the expense of Jawaharlal Nehru, especially in the context of Jammu and Kashmir.



The Sher-i-Kashmir Stadium, Srinagar, Kashmir

³⁵ "Sher-i-Kashmir Cricket Stadium Likely to be Renamed after Sardar Patel", The Wire, November 04, 2019.

<https://thewire.in/government/kashmir-sardar-patel>

³⁶ "Kashmir May Be the Latest Target of Centre's Name-Changing Spree", The Wire, November 19, 2019.

<https://thewire.in/government/kashmir-name-changing>

On October 31, the PMO's official Twitter handle quoted Modi as saying: "Sardar Patel once said that if I was in charge of Kashmir, its resolution would not have taken so long. Today, on his birth anniversary, I dedicate the removal of Article 370 to his memory". Sources said the names of some streets and roads of city center around Lal Chowk would also be renamed after known personalities of India. Earlier this week, with the approval of the Prasar Bharati Board, the name of "Radio Kashmir"³⁷ was changed to "All India Radio". Change of names for many Kashmir streets is also in the pipeline.

Indian governments have been brutally oppressing the voices of Kashmiri Muslims but the present extreme right wing political government led by Mr. Narendra Modi, in India, has broken all the previous records. The situation in the Indian occupied Kashmir is deteriorating by each passing day. The recent developments in IOK have further increases the human rights violations by the Indian security forces. The government is changing the nomenclature of the valley, it seems like if the world doesn't stop Indian aggression in Kashmir then soon there will be no Kashmir. If it happens this will be a blot on all the human rights champions of the global world.

4. Role of UN in the recent Kashmir Crisis:

The United Nations got involved in the Kashmir conflict to end the first Pakistan-India war on the valley in 1948. Multiple resolutions were passed and plebiscite was promised to the people of Kashmir, so that they could decide their political destiny by themselves. The referendum never happened.³⁸ It has been over seven decades and the implementation of the UN resolutions is still pending. Even, the UN has been unable to save the innocent unarmed Kashmiri Muslims from the Indian oppression.

Kashmir witnessed another onslaught on its history and existence when Indian government took away the autonomy of J&K. The future of Kashmiri Muslims was being decided, while the entire population was under strict curfew with no internet and mobile services in the valley. The UN stayed silent on the worsening situation of the Indian occupied Kashmir. China asks the UNSC to hold a meeting on the recent Kashmir crisis. After over 50 years,³⁹ the UNSC discusses the Kashmir, on 16 August 2019, in an informal meeting but the meeting ends with no results. Even, it couldn't pressurize the Indian government to lift the inhuman siege of the valley.

³⁷" Radio Kashmir renamed All India Radio", The Economic Times, October 31, 2019.

<https://economictimes.indiatimes.com/industry/media/entertainment/media/radio-kashmir-renamed-all-india-radio/articleshow/71835313.cms?from=mdr>

³⁸ Qadri, Nasir. "Kashmir Back at UN Security Council Table", SSRN, August 22, 2019.

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3438912

³⁹ "Kashmir at the United Nations after half a century", The Telegraph, August 17, 2019.

<https://www.telegraphindia.com/india/kashmir-at-the-united-nations-after-half-a-century/cid/1698277>



United Nations Security Council

Another important organ of the UN, UNGA, holds its annual session in September, 2019. The representatives of 193 countries participated in this session but only 3 of them, Pakistan⁴⁰, China, Turkey⁴¹ and Malaysia, talked about the serious humanitarian crisis in Indian occupied Kashmir.⁴²

To date, it has been over 130 days of violent curfew in the valley but the UN is still acting as mere a spectator of the Kashmir conflict. Thousands of unarmed Kashmiri Muslims have been detained just for demanding their fundamental human rights. All the internationally basic human rights and the UN resolutions have been trampled by the Indian authorities in Kashmir. They have no regard even for their own Indian constitution. Humanity has lost in the valley of blood and tears.

The United Nations should come forward and fulfill its promise to the Kashmiri Muslims to resolve the longstanding Kashmir Dispute. If the UN fails, it would be remembered as one of the biggest failures in its history.

⁴⁰" Imran Khan Warns of Kashmir 'Blood Bath' in Emotional U.N. Speech", The New York Times, September 27, 2019. <https://www.nytimes.com/2019/09/27/world/asia/khan-modi-united-nations.html>

⁴¹ "Turkey"s Erdogan raises Kashmir issue at UNGA", Outlook, September 25, 2019.

<https://www.outlookindia.com/newscroll/turkeys-erdogan-raises-kashmir-issue-at-unga/1626539>

⁴² "China, Malaysia raise voice for Kashmiris in UNGA address", Business Recorder, September 28, 2019.

<https://www.brecorder.com/2019/09/28/524895/china-malaysia-raise-voice-for-kashmiris-in-unga-address/>

5. Violation of International Human Rights and Humanitarian Laws:

5.1 Human Rights Law:

International human rights law prohibits the arbitrary deprivation of life under any circumstances. The government of India is a party to the International Covenant on Civil and Political Rights (ICCPR). Article 6 of the ICCPR expressly prohibits derogation from the right to life. Thus, even during time of emergency, "[n]o one shall be arbitrarily deprived of his life."⁹⁹

The ICCPR also prohibits torture and other forms of cruel, inhuman and degrading treatment. Articles 4 and 7 of the ICCPR explicitly ban torture, even in times of national emergency or when the security of the state is threatened.¹⁰⁰

The Indian army, Special Task Force, Border Security Force, and state-sponsored paramilitary groups and Government militia-the principal government forces operating in Jammu and Kashmir-have systematically violated these fundamental norms of international human rights law. Under international law, India's state-sponsored militias are state agents and therefore must abide by international human rights and humanitarian law. The government of India is ultimately responsible for their actions.

5.2 International Humanitarian Law:

International humanitarian law, also known as the laws of war, apply when there is a situation of international and internal "armed conflict." Although Human Rights Watch has maintained that the struggle in Kashmir in the early 1990s did meet this threshold, it is less clear that International Humanitarian law applies to the conflict given the diminution of fighting throughout much of Kashmir.

The international humanitarian law applicable to the conflict in Kashmir is found in Article 3 common to the four Geneva Conventions of August 12, 1949-known as "Common Article 3." Common Article 3 provides international law and standards governing the conduct of parties in an internal armed conflict, including government forces and insurgents. Common Article 3 provides that:

(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, color, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; (b) taking of hostages; (c) outrages upon personal dignity, in particular humiliating and degrading treatment; (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

(2) The wounded and sick shall be collected and cared for.

However, Common Article 3 in no way precludes the government of India from punishing persons for crimes under its domestic laws. Indeed, Human Rights Watch believes that it is the Indian government's duty to do so. Thus, Kashmiri militants may be tried for murder, kidnapping or other crimes, so long as they are afforded the rights of due process.

Persons protected by Common Article 3 of the Geneva Conventions include all noncombatants, even if they have provided food, shelter or other partisan support to one side or the other, and members of the armed forces of either side who are in custody, are wounded or are otherwise hors de combat. If under these circumstances, such persons are summarily executed or die as a result of torture, their deaths are tantamount to murder.

Torture, hostage-taking, and rape have all been prominent abuses in the Kashmir conflict, and it is evident that Common Article 3 forbids each of them. Rape also violates the ICCPR and Common Article 3 prohibitions on torture.

INDIAN OCCUPIED KASHMIR

Internet

Political Prisoners Siege Trauma
Public Safety Act
Media dehumanisation
Mass-incarceration Militarisation
Press Freedom Injustice
Abolished rights State-terrorism
Violence Economic Loss
Torture Freedom of Expression Mental Health
Collective Punishment Rapes
Enforced-disappearances
Custodial Killings Massacres
Broken Pledges
Self-determination
Political Dispute