

# 5 YEARS OF ILLEGAL OCCUPATION AND SUPPRESSION IN IIOJK



**KASHMIR POLICY RESEARCH INSTITUTE  
(KPRI)**

# 5 YEARS OF ILLEGAL OCCUPATION AND SUPPRESSION IN IIOJK

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## **BACKGROUND**

On August 5 2019, the Indian government diluted Article 370, revoking J&K's special status. First, President Ram Nath Kovind issued presidential order CO 272. Article 370 could only be amended by the recommendation of the J&K Constituent Assembly. The presidential order (CO 272) allowed the Union to amend Article 370 without the recommendation of the Constituent Assembly. It did this by amending another part of the Constitution which explains how the Constitution should be interpreted (Article 367). The amendment made it such that the reference to the 'Constituent Assembly in Article 370(3) became a reference to the 'Legislative Assembly.

Since J&K was under President's Rule at the time, the powers of the J&K Legislative Assembly were vested in the Union Parliament. So, a few hours after CO 272 was issued, the Rajya Sabha recommended the abrogation of Article 370, via a Statutory Resolution under Article 370(3).

On August 6, President Kovind issued a Proclamation, CO 273, putting into effect the Rajya Sabha's recommendation. All clauses of Article 370 ceased to operate, except clause 1 which was amended to state that the Constitution of India applies to the State of J&K. This removed the special status of J&K.

Finally, on August 9, the Indian Parliament bifurcated the State of J&K into two Union Territories by passing the Jammu and Kashmir Reorganisation Act, 2019. The two new Union Territories are J&K and Ladakh – only the former retained a legislative assembly.

## ARTICLE 370

The autonomy of the State is given by Article 370 of the Constitution. The temporary provision of this Article is derived from Part XXI of the Constitution under the title “Temporary, Transitional and Special provisions” which grants special status to the State of Jammu and Kashmir. This article was included in the Constitution on 17th October 1949 exempted the State from the Indian Constitution except from Article 1 and Article 370 and allowed the State to frame its own Constitution.<sup>1</sup>

### Article 370 in The Constitution Of India 1949

370. Temporary provisions with respect to the State of Jammu and Kashmir

(1) Notwithstanding anything in this Constitution,

(a) the provisions of Article 238 shall not apply in relation to the State of Jammu and Kashmir;

(b) the power of Parliament to make laws for the said State shall be limited to

(i) those matters in the Union List and the Concurrent List which, in consultation with the Government of the State, are declared by the President to correspond to matters specified in the Instrument of Accession governing the accession of the State to the Dominion of India as the matters with respect to which the Dominion Legislature may make laws for that State; and

(ii) such other matters in the said Lists as, with the concurrence of the Government of the State, the President may by order specify Explanation For the purposes of this article, the Government of the State means the person for the time being recognised by the President as the Maharaja of Jammu and Kashmir acting on the advice of the Council of Ministers for the time being in office under the Maharajas Proclamation dated the fifth day of March, 1948 ;

(c) the provisions of Article 1 and of this article shall apply in relation to that State;

(d) such of the other provisions of this Constitution shall apply in relation to that State subject to such exceptions and modifications as the President may by order specify: Provided that no such order which relates to the matters specified in the Instrument of Accession of the State referred to in paragraph (i) of sub clause (b) shall be issued except in consultation with the Government of the State: Provided further that no such order which relates to matters other than those referred to in the last preceding proviso shall be issued except with the concurrence of that Government

(2) If the concurrence of the Government of the State referred to in paragraph (ii) of sub clause (b) of clause ( 1 ) or in the second proviso to sub clause (d) of that clause be given before the Constituent Assembly for the purpose of framing the Constitution of the State is convened, it shall be placed before such Assembly for such decision as it may take thereon

(3) Notwithstanding anything in the foregoing provisions of this article, the President may, by public notification, declare that this article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify: Provided that the recommendation of the Constituent Assembly of the State referred to in clause ( 2 ) shall be necessary before the President issues such a notification.

### **ARTICLE 35-A**

Article 35A was introduced through a presidential order in 1954 to continue the old provisions of the territory regulations under Article 370 of the Indian constitution. Article 35A, not a part of the original Constitution, was conceived under the 1952 Delhi Agreement entered into by Jammu and Kashmir with India. In other words, it is a byproduct of Article 370 of the Indian Constitution. It is a part of the Constitution, but does not figure in the bare Act! One does not find Article 35A after Article 35 in the Constitution. Article 35 is followed by Article 36. But, 35A can be seen in Appendix i of the Constitution.

### **TEXT OF THE ARTICLE: 35-A. SAVING OF LAWS WITH RESPECT TO PERMANENT**

Notwithstanding anything contained in this Constitution, no existing law in force in the State of Jammu and Kashmir, and law hereafter enacted by the legislature of the State

(a) defining the classes of persons who are or shall be permanent residents of the State of Jammu and Kashmir; or

(b) conferring on such permanent residents any special rights and privileges, or imposing upon other persons any restrictions, as respects

i. Employment under the State Government;

ii. Acquisition of immovable property in the State;

iii. Settlement in the State; or

iv. Right to scholarships and such other forms of aid as the State Government may provide.<sup>2</sup>

## THE CONSTITUTION OF JAMMU AND KASHMIR

The Constitution of Jammu and Kashmir was made and adopted on 17 November 1956, and came into effect on 26 January 1957.

### 6. Permanent residents

(1) Every person who is, or is deemed to be, a citizen of India under Sec. 6 the provisions of the Constitution of India shall be a permanent resident of the State, if on the fourteenth day of May 1954—

(a) he was a State Subject of Class I or of Class II; or

(b) having lawfully acquired immovable property in the State he has been ordinarily resident in the State for not less than ten years prior to that date.

(2) Any person who, before the fourteenth day of May, 1954, was a State Subject of Class I or of Class II and who having migrated after the first day of March, 1947, to the territory now included in Pakistan, returns to the State under a permit for re-settlement in the State or for permanent return issued by or under the authority of any law made by the State Legislature shall on such return be a permanent resident of the State.

(3) In this section, the expression "State Subject of Class I or of Class II" shall have the same meaning as in State Notification No. I-L/84 dated the twentieth April, 1927, read with State Notification No. 13/L dated the twenty-seventh June, 1932.

7. Construction of references to State Subjects in existing laws Unless the context otherwise requires, all references in any existing Sec. 7 law to hereditary State Subjects or to State Subject of class I or of Class II or of Class III shall be construed as references to permanent residents of the State.

### 8. Legislature to define permanent residents

Nothing in the foregoing provisions of this part shall derogate from Sec. 8 the power of the State Legislature to make any law defining the classes of persons who are, or shall be, permanent residents of the State.

### 10. Rights of the permanent residents

The permanent residents of the State shall have all the rights Sec. 10 guaranteed to them under the Constitution of India.<sup>3</sup>

## **AN OVERVIEW OF INDIAN ACTIONS IN IOJK**

August 05, 2019, is another black day in the history of Kashmir. On 27<sup>th</sup> October 1947, India forcefully occupied a part of the State and on 5<sup>th</sup> August 2019 through constitutional amendment annexed the IOJK. Indian action is a clear violation of UN resolutions as well as bilateral agreements between Pakistan and India. Here is a timeline of various decisions/actions taken by the Indian government as well as the response of the international community, Pakistan and the people of Jammu and Kashmir.

### **J&K Constitution scrapped**

**Before Article 370:** It was the only State with its own Constitution. The Article provided J&K special provisions of the Constitution which did not apply to other states of India including special autonomy, separate state laws, etc.

**After Article 370:** With the scrapping provisions of Article 370, the separate Constitution ceases to exist.

### **Separate flag**

**Before Article 370:** The J&K state had two different flags – India and the State.

**After Article 370:** There would be no separate flag for the State.

### **Any Indian can now buy properties in J&K**

**Before Article 370:** Only residents of J&K could buy and sell properties in the State.

**After Article 370:** Any Indian citizen will be able to buy and sell properties in J&K.

### **Criminal Procedure Code in, Ranbir Penal Code out**

**Before Article 370:** Residents of J&K had separate laws related to citizenship, ownership of property, and fundamental rights.

**After Article 370:** There will be no separate laws for the citizens of J&K. Criminal Procedure Code will be in, Ranbir Penal Code of the State will be out.

### **The State becomes a Union Territory**

**Before Article 370:** Jammu and Kashmir was a State with special status.

**After Article 370:** J&K downsized to a Union Territory (UT) with Legislature while Ladakh became a Union Territory without any legislature.

## **DOMICILE ISSUED**

A new domicile law was introduced in 2020 permits anyone who has lived in Jammu and Kashmir for 15 years or studied there for seven years to apply for a domicile certificate, entitling them to apply for land and jobs. Jammu and Kashmir also hosts hundreds of thousands of migrant labourers, some of whom settled decades ago. As of the 2011 census, more than 1.7 million of these migrants (non-Kashmiris) had been living in the region for five years or longer, implying that they would be eligible to apply for residency. This number of migrants represents the equivalent of 14 per cent of the state's population.<sup>4</sup>

According to the officials, domicile certificates have been issued to 61,47,482 citizens under the new domicile law in Jammu and Kashmir up to June 2023.<sup>5</sup>

## **DISEMPOWERING NATIVES**

Report of Crisis Group reveals:-

Over the last year, Jammu and Kashmir's new administration has taken a series of more discreet measures that many Kashmiris perceive as part of a strategy for disempowering locals and strengthening India's control. Following a slew of personnel transfers, which the government claims are meant to strengthen governance, outsiders now hold the majority of top bureaucratic posts in the new union territory, and none of the lieutenant governor's top four advisers – equivalent to ministers – are Muslims.<sup>6</sup> At the district level, too, only half the civilian administrative heads are Kashmiri Muslims.<sup>7</sup> Kashmiris perceive the arrival of new officials at the district and subdistrict levels, especially in the revenue and land departments, as part of a design to alter land records.<sup>8</sup> More generally, in a region where agriculture continues to dominate the economy, such government jobs are an important source of employment for young Kashmiri graduates.

Soon after August 2019, the BJP had stated it would make Hindi the official language in the new union territory instead of Urdu, the language most used by India's Muslim population, and started changing the names of administrative departments and famous buildings from English and Urdu to Hindi, even naming some after a Hindu nationalist figure.<sup>9</sup> The new administration has also replaced the entire board of the Jammu and Kashmir Bank, which historically has had a central role in the region's economy by providing loans to local businesses.<sup>10</sup> All the new board members, save

one, are non-Muslim and non-Kashmiri, in contrast to the past when membership was more balanced. In February, the administration also cancelled the recruitment process for 1,450 posts that had been open since 2018 and advertised the availability of 1,850 posts in June, thus inviting applications from new domiciles.<sup>11</sup>

Since August 2019, local contractors who hitherto had a de facto monopoly on contracts tendered by local government departments are also facing unprecedented competition from non-Kashmiri bidders. Indian companies from outside the state have secured most of the mining contracts issued in 2020. Local contractors said they could not compete with the bids coming from the – often much larger – non-local companies.<sup>12</sup>

The Govt. in IIOJK is appointing Indians to Govt, Jobs. According to data in the Jammu Kashmir Administrative Service 209 people were selected and from these, only 56 are from Kashmir, from 116 prosecuting officers only 30 are Kashmiris, in 1200 sub-inspectors 199 are Kashmiris, In Judicial service 208 were selected among these only 48 are Kashmiris.

The government’s decision to restructure the public-sector industry has also angered local industrialists, trade bodies and politicians. On 17 July 2020, the new Jammu and Kashmir administration announced the closure and privatisation of a series of government-run industrial units that employed thousands. The list included the Jammu and Kashmir Small Scale Industries Corporation, which provided raw material and marketing services to many of the region’s smaller industries. They will now need to compete with other Indian companies. The National Conference described the move as a plan “to systematically disempower the people of Jammu and Kashmir”.<sup>13</sup>

## **MEDIA POLICY 2020**

While the media in Kashmir was struggling hard for its survival the Indian government on June 02 2020 came up with a new media policy that was largely seen and censored as an attempt to strangle free press in Kashmir. The policy, which authorises government officers to decide on what is “fake news” and take action against journalists and media organisations, was introduced to



gain full control over the media, kill the local media and build only the government narrative. The new media policy has taken away the basic principle of a free press and systematically stifled all forms of dissent.

The policy gives the government unbridled powers to decide what is ‘fake’, ‘unethical’ or ‘anti-

national' news, and to take legal action against the journalist or media organization concerned.<sup>14</sup> The use of vague, ambiguous and undefined terms such as 'fake', 'unethical', 'anti-national' and 'anti-social' opens the doors for misuse. Moreover, giving the government powers to decide which news falls within the purview of these undefined terms, without standards or principles to guide officials in this respect concentrates wide discretion in the hands of the executive.

### **DELIMITATION/ DEMARCATION OF ELECTROAL AREAS**

The three-member Delimitation Commission was headed by Supreme Court Justice (retd) Ranjana Prakash Desai notified all 90 assembly constituencies on May 5, 2022, a day before the panel's extended term was scheduled to end. According to the notification, seven additional constituencies have been added to the J&K assembly. While the assembly constituencies in Jammu, the Bharatiya Janata Party's stronghold, have increased from 37 to 43 with the addition of six new seats, the number of seats in Kashmir has gone up only one notch, from 46 to 47.

This is despite the fact that Jammu's population is only 53 lakh, around 15 lakh less than the Kashmir Valley's population of approximately 68 lakh, according to the 2011 Census.<sup>15</sup>

In the revised electoral map drawn by the delimitation panel, the average population of an assembly constituency in the Muslim-majority Kashmir will be 1.4 lakh, while it will be only 1.2 lakh in Jammu, which is the bastion of the saffron party.

The manner in which the constituency boundaries have been redrawn, keeping in mind caste dynamics, has raised several questions about the intentions of the BJP and its efforts to consolidate and polarise the Hindu vote. "In Jammu, new Hindu-majority constituencies were created, such as Padder with a population of just over 50,000, while three times as many Muslim areas, such as Surankote in Poonch district, were not given a seat in parliament," the report says.<sup>16</sup>

### **CUSTODIAL DEATHS AND OVERCROWDED PRISONS.**

The Jammu and Kashmir courts have flagged overcrowding and negligence as causes of custodial deaths. The region's prisons can house a total of 3,629 inmates, but they lodged 5,300 as of June 2023.<sup>17</sup> Prominent APHC leaders Syed Ali Gillani and Ashraf Sehrai were denied proper health care and died under custody.

In August 2022, 36 years-old Muni Mohammad, a resident of Rampora in Kathua, died in Jammu's Kot Balwal jail while he was offering prayers, apparently of a heart attack. 121 This was the second incident of custodial death at Kot Balwal jail in less than one year.



In October 2022, Altaf Ahmad Shah of the dissident Hurriyat (Geelani) faction died in Tihar jail while fighting renal cancer, hypertension and diabetes. He had been in Tihar for the past five years. While Tihar has the capacity to house

5,200 inmates, it currently holds 13,000 prisoners.<sup>18</sup> On October 25, 2022, 37 years-old Mohammad Yousuf Bhat died in Kupwara jail, after ‘falling from a sub-jail building.’ His wife cited a wound on his head as reason to question the cause of death. On December 27, 2022, 75 years-old Mohammad Maqbool Khan died in Kupwara jail. Jail officers claimed that he was already on medication, was seriously ill and was moved to the sub-district hospital Kupwara, where he<sup>19</sup> died shortly after.<sup>20</sup>

### **UNEMPLOYMENT AND DRUG ABUSE.**

At 23.1 per cent in March 2023, unemployment was almost three times the national average of 7.8 per cent. According to the Indian Ministry of Health, Jammu and Kashmir is among the top two states and union territories for drug abuse, with an estimated 900,000 habitual drug users, roughly 1 in 130.5.<sup>21</sup>

### **NEW RESERVATIONS**

The Jammu and Kashmir Reorganisation ( Second Amendment) Act, 2023, was passed in December 2023, the Constitution (Jammu and Kashmir) Scheduled Tribes Order (Amendment) Act, 2024 was passed in February 2024, the Constitution (Jammu and Kashmir) Scheduled Castes Order (Amendment) Act,2024 and the Jammu and Kashmir Reservation (Amendment) Act , 2023 were also passed.

The Jammu and Kashmir Reorganisation (Amendment) Act replaced ‘107 seats’ in section 14 of the Act with ‘114 seats’, and inserted two new sections, 15A and 15B, which reserve two seats for ‘Kashmiri migrants’, one of them a woman, and one seat for people displaced from Pakistani-held territories of Jammu and Kashmir. All three would be nominated by the lieutenant governor. The Scheduled Tribes Order (Amendment) Act included the Pahari community and the Paddari, Gadda Braman and Koli tribes to Jammu and Kashmir’s list of scheduled tribes who are entitled to reservation in jobs and admission to professional educational institutions, a change which is seen by

many in the Gujjar and Bakerwal communities as further reducing their access to opportunity. The act also has an electoral impact. Paharis will now be able to contest assembly seats reserved for scheduled tribes, which were previously constituencies of Gujjars and Bakerwals. The most affected area will be the Pir Panchal range, which includes Rajouri and Poonch, where Paharis are in a majority in seven out of eight assembly segments. It has four seats reserved for scheduled tribes.

The third act included the Valmiki community in Jammu and Kashmir's list of scheduled castes. Valmikis were inducted by the state government in 1957 following a strike by safai karamcharis (sanitation workers) in Jammu. The fourth bill renames 'weak and under-privileged classes (social castes)' as 'other backward classes' (OBCs), adding 15 more communities to the OBC list, including West Pakistan refugees and Gorkhas.<sup>22</sup>

These two laws are also introduced to benefit BJP in Jammu, which has the largest number of scheduled castes as well as OBCs. Effectively, it will entrench castes and community-based voter mobilisation.

## POWER CUTT

Local businesses, manufacturing units, and service providers have also raised alarms about recurring power cuts imposed by the power department. Hotels and hospitals have been particularly affected.<sup>23</sup>



## LAND AND DEMOGRAPHY

Indian Cultural Forum has highlighted local concerns that the union administration's far-reaching land and domicile changes are intended to engineer demographic change in Kashmir.<sup>24</sup> These concerns have been reignited by the Jammu and Kashmir administration's 'land for (the) landless' scheme of June 2023. The scheme proposes the provision of 5 marlas land (.031 acre) and the construction of houses for landless poor under the Pradhan Mantri Awas Yojana – Gramin (PMAY-G). Additionally, the Ministry of Rural Development has allocated a target of 199,550 new houses to the union territory for the financial year 2023-24.<sup>25</sup>

Laudable as land for the landless is, the wide discrepancy between figures for the landless and housing allocation raises suspicion. According to official figures, there were 19,047 landless people in the region in 2021; under the first phase of the scheme, 2,711 households have been

designated landless. Assuming five people per household, the first phase would cover most of those designated landless, so is there any need for a second or third phase? Is there a relation between this scheme and the allocation of 199,550 houses?

Presumably, the allocation of 199,550 new houses will cover urban migrants, including labourers, street vendors, and rickshaw pullers. According to the Jammu and Kashmir Housing Board, however, any citizen of India who migrated temporarily or permanently, for employment, education, or a ‘long-term tourist visit’, would be eligible to apply. If the affordable housing policy is implemented, it would lead to the inclusion of around a million people.<sup>26</sup>

## **PROPERTY ATTACHMENT AND DESTRUCTION**

According to Kashmir Media Service, in its fresh move, the Modi regime has seized the seven immovable assets and bank deposits worth Rs 5 crore belonging to Hurriyat leaders and activists



including Zafar Akbar Butt, Qazi Yasir, Muhammad Iqbal Mir, Muhammad Abdullah Shah and Fatima Shah. The assets were attached by India’s dreaded probe agency Enforcement Directorate in false cases registered against them.

The Indian authorities have already confiscated the headquarters of All Parties Hurriyat Conference in Srinagar and hundreds of houses and properties belonging to Hurriyat leaders and organizations including Syed Ali Gilani Shaheed, Shabbir Ahmed Shah, Aasiya Andrabi and Jamaat-e-Islami across occupied Kashmir. The occupation authorities have also demolished many residential houses, shops, shopping complexes and other properties in the occupied territory.<sup>27</sup>

The administration in IIOJK has continued evictions while planning new land allocation and housing construction. In February 2023, a four-story commercial building owned by Shuaib Wani in Rampora, Srinagar, was seized, and Junaid Ahmed Bhat’s house in Anantnag was demolished, both without prior warning.<sup>28</sup>

In August 2023, the Police attached the property of Mehboob-ul-Inam Shah, son of Inam-ul-Haq Shah of Nadihal, Bandipora, the land which was attached measured 4 marla under Khasra No 384.<sup>29</sup>

In January 2024, The police in Ganderbal attached land measuring 10 marlas situated at Revenue Estate Wakoora belonging to Lateef Ahmad Kambay, a resident of Wakoora area of Central Kashmir district, who is currently under trail and lodged at Central Jail Srinagar.<sup>30</sup>

In February 2024, the double-storeyed house of Afaq Ahmad Wani, single-storeyed house of Muneer Ahmad Pandey, the house of Saleem Andrabi and the double-storeyed house of Islam ul Haq were attached in Handwara.<sup>31</sup>

In May 2024, property belonging to Kashmiri migrants Adrees Ahmad Mir S/o Shakar Din Mir R/o Singtung Gowhallan Uri, District Baramulla residing in AJK including 6 Kanals and 10 Marlas land worth lacs has been attached. According to a Police statement in the first four months of the current year, Police in Baramulla have attached 46 kanals of land belonging to 11 migrants who are currently living in AJK.<sup>32</sup>

## **ECONOMIC LOSS**

Kashmir Chamber of Commerce and Industry (KCCI), the report said that the industries after August suffered a loss of Rs 17,878.18 crore (roughly USD 2.4 billion), while job losses in the valley were just under half a million (497,000) in the first four months after the restrictions



were imposed.<sup>33</sup>

Total investment in 2021-22 in Jammu and Kashmir stood at \$46m, down from \$50.5m the previous year, and dramatically less than the \$102.8m spent in 2017-18.<sup>34</sup>

Govt. of India has reduced the 20 per cent import duty will significantly increase the import of Washington apples in Indian markets and shrink the space for the production of apples from Kashmir. 22 lakh meters tons, exclusively of the apple crop, is produced in the valley of Kashmir and about 70 per cent of households in Jammu & Kashmir directly or indirectly depend on this sector. The government's decision to slash import

duty on Washington apples from 70% to 50% has added to the miseries of the valley-based fruit growers. The apple industry, suffered huge losses in the last few years due to the import of apples from Iran and other countries without any tax.

### **EROSION OF RELIGIOUS IDENTITY OF MUSLIMS**

In 2022, BJP authorities seized the J&K Waqf Board and all its properties across the region. This marked a drive to take control of all prominent places of religious significance for Muslims in the occupied territory, including shrines. Religious leaders and Islamic scholars were arrested and prayers were barred in many mosques across Kashmir. These and other measures sought to systematically erode Kashmiri's religious identity and culture.

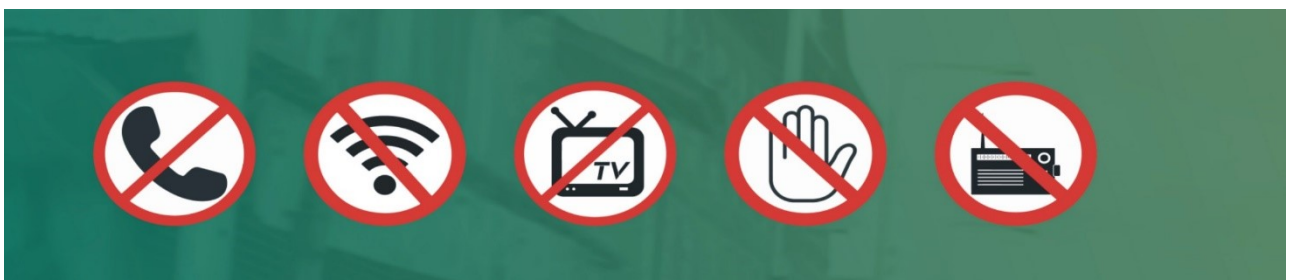
### **BAN ON DIFFERENT POLITICAL PARTIES OF IIOJK**

Indian authorities banned All Parties Hurriyat Conference, Tehreek-e-Hurriyat Jammu and Kashmir (TeH), Jamaat-e-Islami, Jammu Kashmir Liberation Front JKPL (Mukhtar Ahmed Waza), JKPL (Bashir Ahmad Tota), JKPL (Ghulam Mohammad Khan alias Sopori), also known as Jammu and Kashmir Peoples Political League, JKPL (Aziz Sheikh) led by Yaqoob Sheikh, Jammu and Kashmir Peoples Freedom League, the Muslim Conference Jammu and Kashmir (Bhat faction), Muslim Conference Jammu and Kashmir (Sumji faction), Dukhtaraan-e-Millat', and Jammu and Kashmir Democratic Freedom Party.



### **COMMUNICATION BLOCKADE**

Between 2019 and 2021, the government shut down the internet in Jammu and Kashmir for an unprecedented period of over 500 days, saying restrictions were necessary to prevent the spread of



false or incendiary information that could cause violent protests. But the shutdowns caused disproportionate harm to the population, by exacerbating an information blackout, stopping families

from communicating, preventing people from accessing essential activities and services – including medical services – and disrupting the local economy.

## **SOCIAL MEDIA CENSORSHIP**

Modi's regime has employed a range of intimidating tactics to ensure no reporting critical of its actions comes out of the territory. Journalists, rights activists, and even ordinary netizens in IIOJK are arrested for merely expressing their opinions on social media. Ordinary citizens' Twitter, Facebook, & Instagram accounts are being persistently censored to ensure there is no voice contrary to the government's claims. Kashmiris' cell phones are being taped and every individual's activities are being monitored by Indian agencies. IIOJK's mainstream media is not allowed to report facts on the ground and legitimate political voices of the people of occupied Kashmir are being silenced under the guise of "national security".

## **RATIFICATION BY INDIAN SUPREME COURT**

On 11 Dec 2023, the Indian Supreme Court upheld the abrogation of Article 370 A granting a status of autonomous territory to Kashmir. The Supreme Court of India announced its verdict on Article 370 -The decision of the Supreme Court of India was not unexpected for the Kashmiri people because the courts of India have always taken decisions of the will of the Government of India in the case of Kashmiris. In the recent past, be it the decision of the judicial killing of Afzal Gaur Shaheed or the pending writs of habeas corpus after August 2019, Indian courts have committed serious violations not only of international law but also of their own law and constitution. The people of Occupied Jammu and Kashmir have never recognized the Indian constitution and sovereignty. Their struggle is for independence and the right of self-determination from India. The main reason for the protest of the Kashmiri people against the Indian actions of August 5, 2019, and its ratification by the Supreme Court is that these measures are aimed at changing the religious and social demography of Occupied Kashmir. The statehood of Occupied Jammu and Kashmir was abolished and it was divided into two parts. India has changed the state subject law in force since 1927 to not only settle Indians in Kashmir but also bring in and adjust Indians in government jobs, businesses and industries. Kashmiri language, civilization and culture are being destroyed

The decision of the Supreme Court of India is a collection of contradictions. The whole world knows that the whole process of the Jammu and Kashmir Reorganization Act 2019 is based on malice and the Supreme Court not understanding that malice is the biggest malice. Under a systematic plan, Governor's rule was imposed in Occupied Kashmir, the assembly was dissolved, then the presidential role was imposed and then Article 370 was changed under the guise of this. The Supreme Court made

a joke not only of the Constitution of India but also of justice. There was a case in the court to restore the statehood of Jammu and Kashmir, which also included Ladakh but the court ignored the historical and legal facts and declared the solicitor general's assurance as a decision. The status of occupied Jammu and Kashmir was restored as a state but Ladakh was separated. During the pendency of this case on 6<sup>th</sup> December 2023 Indian Govt, introduced two important pieces of legislation regarding Jammu and Kashmir Jammu and Kashmir Reorganisation (Amendment) Bill, 2023, which aims to amend the Jammu and Kashmir Reorganisation Act, 2019, and the Jammu & Kashmir Reservation (Amendment) Bill, 2023, aimed at amending the Jammu and Kashmir Reservation Act, 2004. The basic purpose of these two bills was to further disempower the people of IIOJK and divide them based on languages, areas and tribes. The timing of the bills shows that all has been planned and agreed between the executive and judiciary. There are many other contradictions and violations of Indian constitution in the decision.

### **KASHMIRI DETAINEES LANGUISHING IN INDIAN JAILS**

Over five thousand Hurriyat leaders, activists, youth, students, Ulemas, journalists and human rights defenders including APHC Chairman, Masarrat Aalam Butt, Muhammad Yasin Malik, Shabbir Ahmad Shah, Aasiya Andrabi, Naheeda Nasreen, Fehmeeda Sofi, Nayeem Ahmad Khan, Mohammad Ayaz Akbar, Peer Saifullah, Merajudin Kalwal, Shahidul Islam, Farooq Ahmad Dar, Maulvi Bashir Ahmed, Bilal Siddiqi, Ameer Hamza, Mushtaq-ul-Islam, Dr Hameed Fayaz, Noor Muhammd Fayaz, Muhammad Yousuf Falahi, Abdul Ahad Parra, Dr Muhammad Qasim Fakhtoo, Dr Muhammad Shafi Shariati, Ghulam Qadir Butt, Syed Shahid Yousuf, Syed Shakeel Yousuf, Muhammad Rafiq Ganai, Hayat Ahmed Butt, Zaffar Akbar Bhat, Umar Adil Dar, Fayaz Hussain Jaffery, Sarjan Barkati, Muhammad Yasin Butt, Saleem Nananji, Zahoor Ahmed Butt, human rights defender Khurram Parvez, journalists Aasif Sultan, Irfan Majeed and over three dozen Kashmiri women continue to remain lodged in different jails of India and IIOJK.<sup>35</sup>

### **HUMAN RIGHTS SITUATION IN IIOJK POST 5<sup>TH</sup> AUGUST 2019**

From 5th August 2019 till July 31, 2024, the occupational troops have martyred 907 Kashmiris, tortured 2442 people and arrested 24,904 civilians. 133 women were gang raped and 69 were widowed. The troops have damaged over 1122 houses.

### **HUMAN RIGHTS WATCH REPORT 2024 (JULY 31, 2024)**

#### **India: Repression Persists in Jammu and Kashmir**

## Rights Restricted Five Years Since Special Autonomous Status Revoked

(London) – The Indian government has not restored freedom of speech and association to Jammu and Kashmir five years after revoking the region’s special autonomous status on August 5, 2019, Human Rights Watch said today.

The Indian security forces continue to carry out repressive policies including arbitrary detention, extrajudicial killings, and other serious abuses. Indian authorities seek to justify abuses by contending that political violence in the region has declined considerably in the past five years, with fewer civilian and security personnel casualties. A recent surge in violence in the Jammu region since June has led to the death of 15 soldiers and 9 civilians.

“Indian authorities insist that violence has been contained in Jammu and Kashmir, but in five years they have done little to end the government assault on fundamental freedoms,” said Meenakshi Ganguly, deputy Asia director at Human Rights Watch. “Kashmiris are unable to exercise their right to free expression, association, and peaceful assembly because they fear they will be arrested, thrown in prison without trial for months, even years.”

In March 2024, demonstrators in the now separate territory of Ladakh demanded a greater participation and role in how their territory is governed. Since 2019, religious minorities and migrant workers have faced targeted attacks while hundreds of Kashmiris, including journalists and human rights activists, remain in custody under draconian detention and counterterrorism laws.

“It might seem calm with all the tourists, late night shopping, and other overt signs of normalcy, but we are festering inside,” said a 27-year-old Kashmiri businessman. “It is like a soda bottle waiting to



burst.”

The authorities have continued to prosecute prominent civil society activists on apparently politically motivated charges. On July 10, authorities arrested Nazir Ahmad Ronga, the chairman of Jammu and Kashmir’s High Court Bar Association under the Public Safety Act. In June, they arrested Mian

Abdul Qayoom, former president of the association and a vocal critic of government rights abuses, accusing him of murder. Within days, the local administration banned elections in the bar association, allegedly fearing a “breach of peace.”

Kashmiri human rights defender Khurram Parvez has been jailed since November 2021 under the Unlawful Activities Prevention of Atrocities Act (UAPA), India’s stringent counterterrorism law. United Nations experts have urged the Indian authorities to stop targeting Parvez, and in 2023 the UN special rapporteur on human rights defenders, Mary Lawlor, called for his release. In March 2024, UN experts reported on the “harassment and prolonged detention of human rights defenders and journalists” in the country.

Since August 2019, at least 35 journalists in Kashmir have faced police interrogation, raids, threats, physical assault, restrictions on freedom of movement, or fabricated criminal cases because of their reporting. A new media policy introduced by the government in June 2020 made it easier for the authorities to censor news in the region. In June 2024, authorities introduced a policy to protect public officials in the region from alleged false complaints and recommended punishing media publications complicit in spreading misinformation, which raised concerns over government accountability and threats to press freedom.

In several cases, the police kept people in custody by filing new allegations after courts granted them bail, or quashed detention orders and even ordered compensation. In March, authorities rearrested Aasif Sultan, a Kashmiri journalist who had just been released after spending more than five years in prison, filing another case under the UAPA. In May, police arrested the lawyer Zahid Ali under the UAPA, having kept him detained since 2019 by repeatedly filing new cases.

The High Court of Jammu and Kashmir has rebuked the authorities for misusing the Public Safety Act for repeated preventive detentions, even after courts have ordered release. In one case the judge noted: “It appears as if the preventive detention jurisdiction is answerable to no one.”

The authorities have also used the counterterrorism law in an arbitrary manner to crack down on peaceful critics, journalists, and human rights defenders to silence dissent. In recent years, the number of UAPA cases in Jammu and Kashmir has increased significantly. In 2022, the region recorded the highest number of such cases in the country with 371 cases out of the total 1,005, according to data from the National Crime Records Bureau.

Between 2019 and 2021, the government shut down the internet in Jammu and Kashmir for an unprecedented period of over 500 days, saying restrictions were necessary to prevent the spread of false or incendiary information that could cause violent protests. But the shutdowns caused disproportionate harm to the population, by exacerbating an information blackout, stopping families from communicating, preventing people from accessing essential activities and services – including medical services – and disrupting the local economy. In 2019, United Nations experts urged India to end the communications blockade. Denying access to the internet in Jammu and Kashmir, and other parts of India has become a default policing tactic by Indian authorities.

Prime Minister Narendra Modi said in an interview in May that because of government internet shutdowns, “there were difficulties for a few days, but it was for a good cause,” and warned against groups that sought judicial intervention. “Now when these issues become a discussion in courts then things get disturbed,” he said. “Such NGOs who go to court, firstly it is very important to save the country from them.”

Since 2019, the Indian security forces have been implicated in numerous abuses including harassment and ill-treatment at checkpoints, arbitrary detention, and extrajudicial killings. There has been no accountability for these recent alleged extrajudicial killings or past killings and abuses by security forces, in part because of the Armed Forces (Special Powers) Act (AFSPA), which provides members of the armed forces effective immunity from prosecution. Since the law came into force in Jammu and Kashmir in 1990, the Indian government has not granted permission to prosecute any security force personnel in civilian courts.

Hundreds of thousands of Kashmiris, many of them Hindu, known as Pandits, were displaced from the Muslim-majority Kashmir Valley after a spate of attacks by militant groups in 1989-1990. Only a few hundred displaced Kashmiri Pandit families have returned in response to government programs to create jobs and shelters. But the authorities have failed to address their security concerns. Many fled after gunmen shot a Kashmiri Pandit in 2022 among other targeted killings of minorities and civilians since 2019.

“Indian authorities need to rethink their approach to Jammu and Kashmir, and prioritize justice for victims of abuses,” Ganguly said. “The government should provide remedies for those whose rights were violated and bring abusive forces to account.”<sup>36</sup>

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<b>Jan 1989 till 31</b>	
Total Killings	96,340
Custodial killings	7,347
Civilian arrested	171,843
Structures Arsoned/Destroyed	110,518
Women Widowed	22,977
Children Orphaned	1,07,965
Women gang-raped / Molested	11,264
<b>(Since 5 Aug 2019)</b>	
Total Killings	907
Tortured / Critically Injured	2,442
Civilian arrested	24,904
Structures Arsoned/Destroyed	1,122
Women Widowed	69
Children Orphaned	187
Women gang-raped / Molested	133



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