

INDIAN OCCUPIED JAMMU AND KASHMIR: HUMANS WITHOUT HUMAN RIGHTS



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PREFACE

Kashmir is the oldest unresolved conflict on the United Nations' agenda. One part of the erstwhile State of Jammu and Kashmir is under the illegal occupation of India. The Indian-occupied Jammu and Kashmir resembles an open prison, with its people enduring oppression and subjugation.

On December 10, 2023, the international community will commemorate the 75th anniversary of the Universal Declaration of Human Rights (UDHR). Simultaneously, the people of the Indian Occupied Jammu and Kashmir (IIOJK) will mark the 75th anniversary of the United Nations Security Council (UNSC) resolutions on Kashmir, resolutions that are yet to be implemented.

This report is an overview of the systematic and gross human rights violations in IIOJK. The situation in IIOJK will be analyzed in alignment with the principles enshrined in the UDHR, International Covenants, and Geneva Conventions. I must acknowledge the contribution of international human rights organization, human rights activists and journalist for exposing the Indian state terrorism.

Dr. Raja Muhammad Sajjad Khan

TABLE OF CONTENTS

| | | |
|----|--|-----------|
| 01 | Kashmir Conflict: International Law Perspective | 05 |
| 02 | Denial of right to self-determination | 07 |
| 03 | Draconian Laws inside IIOJK | 08 |
| 04 | Right to life | 09 |
| 05 | Sexual Violence | 12 |
| 06 | Enforced Disappearances in Kashmir | 13 |
| 07 | Unmarked Mass Graves | 13 |
| 08 | Assault on Freedom of Expression and Movement | 14 |
| 09 | Destruction and Confiscation of Properties of Kashmiris | 17 |
| 10 | Demographic Changes | 17 |
| 11 | Half Widows | 18 |
| 12 | Right to Freedom of Religion | 19 |
| 13 | Kashmiris Used as Human Shield | 20 |
| 14 | Use of Pellet Gun | 21 |
| 15 | Violation of International Humantrain Law | 22 |

KASHMIR CONFLICT: INTERNATIONAL LAW PERSPECTIVE

The Kashmir conflict encompasses various dimensions, both political and legal. This section is about the applicability of two important areas: International Human Rights and International Humanitarian Law.

a) Applicability of International Human Rights Law

International human rights law is universal and applicable in both war and peace. "Human rights are universally considered and accepted as a *jus cogens* rule of international law, such that their egregious breach anywhere on the globe should prompt action against the violators, particularly under the auspices and through the instrumentality of the United Nations Organization."¹

b. Applicability of International Humanitarian Law

The term International Humanitarian Law (IHL) refers to a specialized branch of public international law concerning the "law of armed conflict" or the "law of war." It is an ancient law, progressively established through state practices and codified through adopted treaties. IHL aims to govern the conduct of hostilities, primarily by mitigating unnecessary suffering to prevent conflicts from reaching a point of no return. The written rules of international humanitarian law can be found in the following treaties:

- The various declarations and conventions signed in The Hague, Netherlands (in 1899, 1907, 1954, 1957, 1970, and 1973) establish the rules governing the conduct of hostilities.
- Four 1949 Geneva Conventions further codified the rules and customs of the law of armed conflict. They set limits on the methods of warfare that may be used and added rules relating to the protection and relief of non-combatants during hostilities. The two Additional Protocols to the Geneva Conventions, adopted in 1977, aimed to consolidate and improve the rules for the protection of victims of conflicts:

The Kashmir conflict is an international armed conflict. According to Common Article 2 of the Geneva Conventions of 1949, International Armed Conflict (IAC) is defined as "all cases of declared war or of any other armed conflict that may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them."²

¹ Enya Nwocha, Dr. Matthew, Steve Ahamefula Amaramiro, and Emmanuel Chinweike Ibezim. 2021. "The Jurisprudence of Human Rights in a Global Context". *International Journal of Social Sciences and Humanities Invention* 8 (04):6441-53. <https://doi.org/10.18535/ijsshi/v8i04.03>.

² ICRC, 1949. Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention). International Committee of the Red Cross (ICRC).

- It includes “all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance” (ICRC, 1949, Article 2[2]).³
- Additionally, it encompasses “an unconsented invasion or deployment of a State’s armed forces on the territory of another State—even if it does not meet with armed resistance” (ICRC, 2016, para. 223)⁴.
- Finally, it involves “armed conflicts in which peoples are fighting against colonial domination, alien occupation, or racist regimes.” (ICRC, 1977, Additional Protocol I, Article 1[4], para. 1)⁵.

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³ Ibid.

⁴ ICRC, 2016. Commentary on the First Geneva Convention. International Committee of the Red Cross (ICRC).

⁵ ICRC, 1977. Protocol additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977. International Committee of the Red Cross (ICRC).

HUMAN RIGHTS SITUATION IN IIOJK

This section provides an overview of the human rights situation in Indian-occupied Jammu and Kashmir.

1. DENIAL OF RIGHT TO SELF DETERMINATION

All peoples have the right to self-determination. By virtue of this right, they freely determine their political status and pursue their economic, social, and cultural development. The principle of self-determination is prominently embodied in Article I of the Charter of the United Nations. It is recognized as a right of all peoples in the first article common to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, both of which entered into force in 1976. Paragraph 1 of this Article provides:

*"All peoples have the right to self-determination. By virtue of this right, they freely determine their political status and freely pursue their economic, social, and cultural development."*⁶

The right to self-determination of peoples is recognized in many other international and regional instruments, including the Declaration of Principles of International Law Concerning Friendly Relations and Co-operation Among States adopted by the UN General Assembly in 1970,⁷ the Helsinki Final Act adopted by the Conference on Security and Co-operation in Europe (CSCE) in 1975,⁸ the African Charter of Human and Peoples' Rights of 1981,⁹ the CSCE Charter of Paris for a New Europe adopted in 1990,¹⁰ and the Vienna Declaration and Programme of Action of 1993,¹¹. It has been



⁶ United Nations General Assembly, 'International Covenant on Civil and Political Rights', 16 December 1966, 'International Covenant on Economic, Social and Cultural Rights', 16 December 1966.

⁷ Resolution 2625, 'Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations', 24 October 1970.

⁸ Cf. Buerghenthal, International Human Rights Law and the Helsinki Final Act: Conclusions, in HUMAN RIGHTS, INTERNATIONAL LAW AND THE HELSINKI ACCORD 3 (T. Buerghenthal ed. 1977).

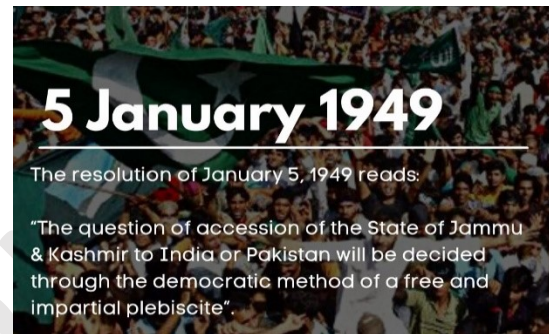
⁹ African Charter on Human and People's Rights, June 27, 1981, 21 I.L.M. 58, entered into force Oct. 21, 1986.

¹⁰ The Charter of Paris for a New Europe was adopted at the First CSCE Summit in Paris, November 21, 1990. 30 I.L.M. 190 (1991).

¹¹ Art 2, Vienna Declaration and Programme of Action (1993).

affirmed by the International Court of Justice in the Namibia case¹², the Western Sahara case¹³, and the East Timor case¹⁴, in which its erga omnes character was confirmed. The obligations flowing from the principle of self-determination have been recognised as erga omnes, namely existing towards the international community as a whole. The International Court of Justice (ICJ) has reiterated the erga omnes status of the general principle of self-determination in its Advisory Opinion on the Wall.¹⁵

Jammu and Kashmir is a disputed territory whose future must be decided by a free, fair, and impartial referendum under the supervision of the United Nations. There are many resolutions of the United Nations Security Council and the United Nations



Commission on India and Pakistan. UNSC passed its first resolution on RSD on 21 April 1948 (Res. No. 47 (1948)), which states:

*"Noting with satisfaction that both India and Pakistan desire that the question of the accession of Jammu and Kashmir to India or Pakistan should be decided through the democratic method of a free and impartial plebiscite."*¹⁶

Not only has India consistently refused to grant the right to self-determination to Kashmiris, but in 2019, India abolished the statehood of Jammu and Kashmir and divided it into two union territories. This denial of the right to self-determination is a clear violation of international law and UNSC resolutions on Jammu and Kashmir.

2. DRACONIAN LAWS INSIDE IIOJK

The Indian government has enforced draconian laws in Jammu and Kashmir to suppress the peaceful struggle for the right to self-determination and provide blanket impunity to occupation forces. The Armed Forces Special Powers Act (AFSPA) provides a license to Indian forces to kill any person in IIOJK. Under Section 4(a) of the Act, if the concerned officer is of the opinion that it is necessary to maintain public order, after giving such due

¹² Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (197 https://www.icj-cij.org/case/530).

¹³ Western Sahara, Advisory Opinion, ICJ GL No 61, [1975] ICJ Rep 12, ICGJ 214 (ICJ 1975), 16th October 1975, United Nations [UN]; International Court of Justice [ICJ].

¹⁴ International Court of Justice, Case Concerning East Timor (Portugal v. Australia), 1995 ICJ Rep 90, 30 June 1995.

¹⁵ International law and self-determination - Diakonia International Humanitarian Law Centre

¹⁶ UN Documents for Jammu and Kashmir: Security Council Resolutions, https://www . security councilreport. org/un_documents_type/security-council-resolutions/ page/2? Ctype =Jammu+and+Kashmir&cbtype=jammu-and-kashmir#038;cbtype=jammu-and-kashmir.

warning as he may consider necessary, he can 'fire upon, or use such force, even to the causing of death.' Under sub-section (c), they can arrest any person without a warrant who has committed or is likely to commit a cognizable offence. Additionally, under sub-section (d), they can enter and search any premises without a warrant to make such an arrest. The alarming part is that the officer needs no permission from a superior and is not answerable to anyone.

Section 5 of the Armed Forces (Special Powers) Act (AFSPA) states that "*No prosecution, suit, or other legal proceeding shall be instituted, except with the previous sanction of the Central Government, against any person in respect of anything done or purported to be done in the exercise of the powers conferred by this Act*".¹⁷

The Public Safety Act (PSA) of 1978 enables authorities to detain Kashmiris for two years without trial. It gives security forces total discretion in detentions; a person detained under the PSA does not have the right to move a bail application before a criminal court and cannot access any lawyer to represent him or her before the detaining authority.¹⁸

The Unlawful Activities Prevention Act is in place to "*prevent terror-related activities, unlawful associations, and activities that may endanger the sovereignty and integrity of India*."

It allows the government to jail an individual for six months, without a trial or bail, stonewalling any judicial intervention. According to Amnesty International and the United Nations, the UAPA does not meet international human rights standards. The UN has said that the UAPA utilizes "imprecise criteria, contains a vague and overly broad definition of 'terrorist act', allows people to be held in lengthy pre-trial detention and makes securing bail very difficult".

On Nov. 22, Kashmiri human rights defender Khurram Parvez was arrested by India's National Investigation Agency (NIA), under the draconian UAPA law. This is one instance amongst many in which India has used the UAPA law against Kashmiris.¹⁹

3. RIGHT TO LIFE

The right to life is enshrined in Article 3 of the Universal Declaration of Human Rights and Article 6 of the International Covenant on Civil and Political Rights. It stands as the supreme right, from which no derogation is permitted, even in situations of armed conflict and other public emergencies that threaten the life of the nation. In Occupied Jammu and Kashmir, from

¹⁷ Armed Forces (Jammu and Kashmir) Special Powers Act (1990)

¹⁸ Jammu and Kashmir Public Safety Act, 1978.

¹⁹ <https://standwithkashmir.org/india-is-arresting-kashmiri-for-anything-everything-under-the-uapa-law/>.

January 1989 to November 30, 2023, 96,278 civilians have been martyred by Indian forces. Since August 5, 2019, occupation forces have been responsible for the deaths of 835 civilians.²⁰

CUSTODIAL KILLINGS

Journalists, civil liberties groups, and other organizations in IIOJK are reporting that several thousand people have been killed in custody by the occupation forces shortly after their arrest, in nearly all cases after torture. According to KMS, from January 1989 to November 30, 2023, 7322 civilians were killed in custody.²¹

On March 17, 2019, Indian security personnel took a young school principal from his home in south Kashmir's Awantipora area. People in the Valley learned of his passing three days after his arrest. The 29-year-old school teacher Rizwan "died in police custody."

Muneer Lone was picked from his house in a theft case on July 9, 2022, but he died within hours because of excesses committed in custody at Srinagar's Nowgam Police Station.²² A report "*Lawlessness in Police Custody -Custodial Killings in Kashmir*"²³ published in MZEMO on July 19,2022 exposes some cases of custodial killings in IIOJK.

FAKE ENCOUNTERS

These are also the untold stories of the Kashmiri people. Since the armed uprising of 1989, thousands of Kashmiris have fallen victim to these stage-managed encounters undertaken by different security agencies to gain out-of-turn promotions and other rewards.²⁴ The report of IPTK reveals that:-

*"The Machil murders, it has been reported, were also motivated to secure cash rewards. Reportedly, the Armed Forces have been offering cash rewards ranging from 50,000 Rupees to 200,000+ Rupees to police or armed forces personnel for the killing of a militant. It has not been made public whether the relevant armed forces officers have claimed 150,000+ Rupees in award monies for the staged encounter killings of Shahzad Ahmad, Riyaz Ahmad, and Mohammad Shafi."*²⁵

²⁰ Kashmir Media Service, (kmsnews.org).

²¹ Ibid.

²² Torture, custodial killings continue to haunt lives in Jammu and Kashmir - Frontline (thehindu.com).

²³ Naira Mir, Lawlessness in Police Custody- Custodial Killings in Kashmir - Mzemo.

²⁴ *Untold Stories of Human Rights Violations in Kashmir ABSTRACT*: Available from: https://www.researchgate.net/publication/312146759_Untold_Stories_of_Human_Rights_Violations_in_Kashmir_ABSTRACT [accessed Nov 30 2023].

²⁵ INTERNATIONAL PEOPLE'S TRIBUNAL ON HUMAN RIGHTS AND JUSTICE IN INDIAN-ADMINISTERED KASHMIR (IPTK) ,Fake Encounters and State Terror in Kashmir: A Brief , June 06, 2010, www.kashmirprocess.org.

In another case, known as the Chhatispura 'encounter,' the police picked up five people and later killed them in custody. They initially blamed them for the massacre of 36 Sikhs at the Chattisinghpora massacre.

"Following outrage by the villagers, an investigation was conducted. It transpired that they were all innocent. Those killed in custody were Zahoor Ahmad Dalal, son of Abdul Gaffar Dalal of Moominabad, Bashir Ahmad, son of Abdul Aziz Bhat of Halan, Muhammad Yousuf Malik, son of Abdul



Kabir Malik of Halan, Juma Khan, son of Faqir Khan of Brari Angan, and Juma Khan, son of Amir Ullah Khan of Brari Angan."²⁶ In another incident, a Muslim carpenter, Abdul Rahman Padder, detained in Srinagar in December 2006, was later labeled a 'Pakistani militant' and killed in custody.

Human Rights Watch and Physicians for Human Rights published a report in 1993, identifying many cases of fake encounters.²⁷ Since 5th August 2019, Indian forces have been using fake encounters to defame Pakistan as well. A recent example is the abduction of five local people from Naeelum Valley, Azad Kashmir, and their killing by Indian forces on October 28, 2023.

Five individuals from Grace Valley Saunar of Neelam Valley left home on the 26th of October in search of herbs and did not return. The affected family immediately lodged an FIR with the local Police. After two days, all of a sudden, social media accounts and Indian newspapers linked to RAW started spreading false propaganda, claiming to have arrested five so-called terrorists, followed by the Indian media pretending that these five supposed terrorists were killed.²⁸

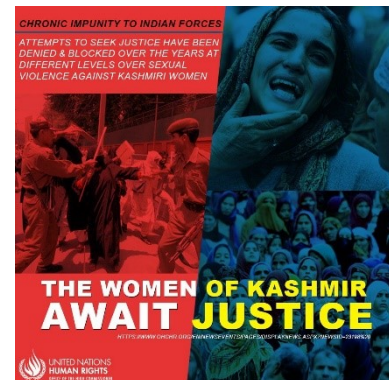
²⁶ Amjad Javed, Indian army spokesman admits Kashmiris were killed in fake encounter - Modern Diplomacy. NOVEMBER 8, 2020.

²⁷ Human Rights Watch and Physicians for Human Rights, <https://www.hrw.org/sites/default/files/reports/INDIA937.PDF>

²⁸ Kashmir Media Service, <https://www.kmsnews.org/kms/2023/10/29/india-army-abducted-youth-from-neelum-valley-killed-them-in-fake-encounter-locals.html>.

4. SEXUAL VIOLENCE

Since January 1990, reports of rape by Indian occupation forces have become more frequent. Rape often occurs during crackdowns and cordon-and-search operations, wherein men are held for identification in parks or schoolyards while occupation forces search their homes. In these situations, forces frequently engage in collective punishment against the civilian population, most commonly by beating or assaulting residents and burning their homes. Rape is used as a means of targeting women accused by the forces of being militant sympathizers. In raping them, security forces attempt to punish and humiliate the entire community.²⁹ Rape has also occurred frequently during reprisal attacks on civilians following militant ambushes. In these cases, any civilians in the area become targets of retaliation. Anyone within range may be shot, homes and other property burned, and women raped.³⁰ There are no reliable statistics on the number of rapes committed by security forces in Kashmir. Human rights groups have documented many cases since 1990, but because many incidents have occurred in remote villages, it is impossible to confirm any precise number. There is no doubt that the use of rape is common and routinely goes unpunished.³¹ According to the report of Kashmir Media Service, Indian forces' personnel molested/disgraced 11,259 women, including the victims of the Kununposhpora mass rape and the Shopian double-rape-and-murder of 17-year-old Aasiya Jan and her sister-in-law Neelofar Jan. An eight-year-old girl, Aasifa Bano, of Kathua, was abducted, gang-raped, and subsequently murdered by Indian police personnel in January 2018. On February 10, 2021, Indian troops abused a minor girl and dragged her into their vehicle when she, along with her sister, was working in her garden at Chewa-Ajas in Bandipore district. On raising a hue and cry by her sister, the locals



²⁹ These abuses have been documented in the Asia Watch/PHR report, *The Crackdown in Kashmir: Torture of Detainees and Assaults on the Medical Community* (March 1993); and in Asia Watch, *Kashmir Under Siege*, May 1991.

³⁰ See for example, Edward Gargan, "Where Violence has Silenced Verse" *New York Times Magazine*, November 22, 1992; Edward W. Desmond, "Himalayan Ulster," *New York Review of Books*, March 4, 1993; Barbara Crossette, "India Moves Against Kashmir Rebels," *New York Times*, April 7, 1991. The U. S. State Department has noted that, "Kashmir observers report that house-to-house searches, torture and gang-rapes of innocent civilians (especially in remote villages) increased following the launch of Operations Tiger and Shiva by security forces in September and October." U.S. Department of State, *Country Reports on Human Rights Practices for 1992*, January 1993, p. 1140.

³¹ Human Rights Watch, *Rape in Kashmir: A Crime of War*, <https://www.hrw.org/sites/default/files/reports/INDIA935.PDF>

rushed to the spot and rescued the minor victim. The victim's family lodged an FIR in Ajas Police station, and the troops harassed and pressured the family to withdraw the case.³²

Geneva Convention IV Article 27 states, "Women must be especially protected against any attack on their honour, particularly against rape, enforced prostitution, or any form of indecent assault."

5. ENFORCED DISAPPEARANCES IN KASHMIR

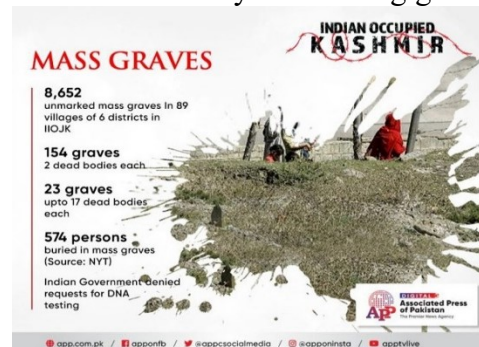
The International Convention for the Protection of All Persons from Enforced Disappearance,³³ to which India is a party, outlines the right of every person to be free from enforced disappearances under any circumstances. Despite signing the convention, India has not yet ratified it, meaning it is not fully obligated to follow its provisions. Since 1989, India has subjected 8,000 to 10,000 Kashmiris to enforced disappearances in Indian-occupied Kashmir.³⁴



6. UNMARKED MASS GRAVES

Several human rights bodies have revealed that India has been consistently committing gross human rights violations and war crimes in the Indian Illegally Occupied Jammu and Kashmir.

According to reports from the International People's Tribunal on Human Rights and Justice in Jammu and Kashmir and the Jammu and Kashmir State Human Rights Commission, there are 8,652 unidentified mass



graves in 89 villages across six districts of IIOJK. An investigative report in 2011 by the IIOJK State Human Rights Commission (SHR) stated that about 3,640 mass graves were found in Uri, Baramula, Bandipora, and Kupwara districts. Out of 5,643 graves, 140 graves contained two dead bodies, and 23 graves had up to 17 bodies in each grave. A report published by the



Manzoor Khan standing in Chehal's graveyard that houses 130 unmarked graves. (Pic: Bilal Handoo)

³² Kashmir Media Service, <https://www.kmsnews.org/kms/>

³³ The International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) was adopted by General Assembly resolution A/RES/61/177 in December 2006 and came into force on 23 December 2010.

³⁴ Stand with Kashmir, <https://standwithkashmir.org/enforced-disappearances-in-kashmir/>.

International People's Tribunal on Human Rights and Justice in Indian-administered Kashmir, titled "Buried Evidence: Unknown, Unmarked, and Mass Graves in Indian-administered Kashmir: A Preliminary Report," reveals that, "based on applied research conducted between November 2006 and November 2009, this report documents 2,700 unknown, unmarked, and mass graves, containing 2,943 bodies, across 55 villages in Bandipora, Baramulla, and Kupwara districts of Kashmir."³⁵ In addition, 2,717 unmarked and mass grave sites were discovered in Poonch district and 1,127 such graves in Rajouri district.

The People's Tribunal also documented detailed evidence that establishes the perpetration or complicity of the state armed forces in killings, torture, and state-enforced "disappearances." No one has been tried for these crimes, creating a situation of total impunity. Relatives of those killed have been denied the right to have a decent burial according to their religious rites. Such policies violate Rule 115 of ICRC Customary International Humanitarian law.

7. ASSAULT ON FREEDOM OF EXPRESSION AND MOVEMENT

Amnesty International published a report in September 2022, titled "We are being punished by law"³⁶ reveals that:-

The Indian government has total control over information coming out of the region after passing restrictive media policies such as the 2020 Revised Media Policy and the 2021 Film Policy. After an initial 18-month internet shutdown, Indian authorities still often suspend internet services in various parts of Kashmir without any prior notice. Additionally, the sudden forced closure of the Kashmir Press Club in 2022 by the Indian government dealt a significant blow to the already disintegrating media pool. Several journalists, including Fahad Shah, Aasif Sultan, and Sajad Gul, have been subjected to 'revolving door' arrests. In a continuing pattern, they are arrested under one law, granted bail by the court, and then re-arrested almost immediately under the Unlawful Activities (Prevention) Act (UAPA)—India's primary anti-terrorism law in Jammu & Kashmir, keeping them perpetually detained.

The UN Special Rapporteur on the situation of human rights defenders, Mary Lawlor, has called for the Indian government to 'address fundamental issues with the country's anti-terrorism framework and its misuse to silence human rights defenders.' Her report came after

³⁵ Chatterji, Angana and Chatterji, Angana and Imroz, Parvez and Navlakha, Gautam and Din, Zahir-Ud- and Desai, Mihir and Parvez, Khurram, Buried Evidence: Unknown, Unmarked, and Mass Graves in Indian-Administered Kashmir (December 2, 2009). Buried Evidence: Unknown, Unmarked, and Mass Graves in Indian-administered Kashmir: A Preliminary Report, International People's Tribunal on Human Rights and Justice in Indian-administered Kashmir, 2009; ISBN 9780615326481, Available at SSRN: <https://ssrn.com/abstract=3240987>

³⁶ <https://www.amnesty.org/en/latest/news/2022/09/india-the-government-must-end-the-repression-of-rights-in-jammu-and-kashmir/>.

the second arrest on March 22, 2023, of the Kashmiri human rights defender, Khurram Parvez, by the National Investigation Agency. On March 14, 2022, human rights defender Fahad Shah was charged under the Jammu and Kashmir Public Safety Act 1978 and later 'preventively' detained under India's sedition laws. Arbitrary detention of those who politically dissent against the government has institutionalized state repression with impunity.³⁷

Justice Peace Advocates released a report, 'Kashmir Human Rights Updates-September 2023.' Some contents of the report are reproduced below:

On September 18, 2023, the Cyber Investigation Kashmir unit – a special police unit that surveils social media expression – arbitrarily detained Irfan Malik for Instagram posts and tweets regarding an Indian military-police operation in Kokernag, Anantnag, Kashmir on September 13, 2023. Jammu & Kashmir Police alleged that Malik's posts 'posed a severe threat to the unity, integrity, and sovereignty of the country [India].' Police continued to actively monitor Kashmiris online and have obtained the cooperation of social media companies like Meta in targeting Kashmiri dissent. Indian authorities are experts in digital authoritarianism and routinely have Kashmir censored, suspended, and banned on social media, which is intensely surveilled by dedicated police resources and vigilante groups. Indian authorities have broadly escalated their attacks against Kashmiri speech (online and otherwise) deemed disfavored, even speech that would appear to be minor or inconsequential. Recent examples include the counter-terrorism prosecution and prolonged arbitrary detention of several students for allegedly expressing support for the Pakistani cricket team and the loss of employment for using an emoji on Facebook.

The Jammu & Kashmir administration expanded policies legalizing reprisals for dissent on social media. On September 26, 2023, the Directorate of Family Welfare issued new social media guidelines prohibiting public sector employees from criticizing government policies or actions on social media under the threat of termination. Related policies include a March 2021 order requiring public sector employees to disclose their social media accounts and authorizing the police to investigate them (with pay suspended until a satisfactory police verification process is completed) and a policy legalizing denying Kashmiris passport issuance and renewal, government services, and employment on the basis of an adverse police report for acts, including alleged civil disobedience or dissent. Terminations are part of the systematic purging of public sector employees that the Jammu & Kashmir administration deems to have

³⁷ Genocide Watch: Kashmir, India April 2023, [file:///C:/Users/Matloob%20Hussain/ Downloads /Genocide%20Watch%20Kashmir%20India%202023.pdf](file:///C:/Users/Matloob%20Hussain/Downloads/Genocide%20Watch%20Kashmir%20India%202023.pdf)

'suspect loyalties' and are a means of suppressing and punishing dissent. In recent years, dozens of bureaucrats, teachers, doctors, professors, and police employees have been terminated. Such terminations for purported anti-national sentiment occur without due process or meaningful recourse, even if the disfavored sentiment is allegedly held by relatives or associates. In IAK, the government is the largest employer, and public sector employment is widely sought as economically rewarding and prestigious. For many Kashmiris, public sector employment is the only viable opportunity to work in the field for which they are qualified. Jammu & Kashmir Police used lawfare to threaten international journalists seeking to discuss the state of press freedom in IAK. The Jammu & Kashmir Police threatened legal action against the BBC for publishing 'Any story could be your last' – India's crackdown on Kashmir press,' an analysis of certain aspects of Indian authorities' systematic targeting of independent media in IAK and the result of a year-long investigation. While Indian authorities' multifaceted persecution of the BBC is emblematic of the intimidation of the international media, international journalists have been systematically targeted by Indian authorities, including for attempting to report on the human rights situation in IAK. Lawfare is one of several techniques used by Indian authorities to threaten or intimidate anyone who attempts to report honestly on the state of press freedom in IAK and has previously been used to target other international media organizations like Reporters Without Borders. In a related disinformation campaign, on September 5, 2023, Emaad Makhdoomi, Consulting Editor of the Greater Kashmir, published an opinion piece criticizing the BBC for its story, echoing common BJP official claims that Western media was spreading disinformation and pro-Pakistan propaganda. Makhdoomi was installed as the Consulting Editor of Greater Kashmir, a previously independent media organization that was brought under state control, after meeting and being approved by the Indian-appointed chief executive over Jammu & Kashmir in May 2022. On September 12, 2023, the Jammu and Kashmir Press Corps similarly denounced the BBC article. As part of a broader crackdown on civil society organizations in IAK, Indian authorities forcibly took over the Kashmir Press Club, the largest elected trade body representing journalists in January 2022. After that crackdown, the Jammu and Kashmir Press Corps, a government-aligned media association that systematically attacks expression inconsistent with government-sponsored narratives, emerged.³⁸

³⁸ Kashmir Human Rights Updates – September 2023 - Just Peace Advocates

8. DESTRUCTION AND CONFISCATION OF PROPERTIES OF KASHMIRIS

Property destruction or expropriation is a common form of collective punishment in IIOJK, including for dissent, with broad and detrimental ramifications for families and communities. Since 1989, Indian forces have been involved in the destruction or arson of houses and shops belonging to the people of Kashmir. According to Kashmir Media Service, in this period, 110,509 structures have been arsoned or destroyed.



After August 5, 2019, India's National Investigation Agency and the State Investigation Agency (SIA) have aggressively moved to seize the immovable properties of several Kashmiri activists. According to authorities in IIOJK, more than 500 properties, worth hundreds of crores, have been seized.³⁹ Government agencies have confiscated the properties of APHC leaders like Syed Ali Shah Geelani, Shabbir Ahmed Shah, Asiya Andrabi, Zafar Akbar Butt, Naeem Ahmed Khan, Syed Salaudeen, and Mushtaq Zargar, along with seizing Hurriyat's office.



On September 7, 2023, the Jammu & Kashmir administration announced that individuals from IIOJK, whom they claim are now residing in Azad Kashmir and involved in “militancy,” will have their property in IIOJK expropriated. A list of nearly 4,200 people has been produced by the state police's intelligence wing. The list has also been shared with the Inspector-General of Registrations and Revenue to prevent property on the list from being sold or transferred.⁴⁰

9. DEMOGRAPHIC CHANGES

After the abrogation of Article 35-A from the Indian Constitution in August 2019, the Indian government enforced a new domicile law for Jammu and Kashmir. The new law replaces 'permanent resident' (based on the 1927 notification) with 'domicile,' extending eligibility to persons who have resided in Jammu and Kashmir for 15 years, studied for a period of seven

³⁹ WION, <https://www.wionews.com/india-news/india-over-500-properties-seized-in-jammu-and-kashmir-as-govt-continues-all-out-war-against-terrorism-661100>.

⁴⁰ Ibid.

years, or appeared in Class 10 or Class 12 exams, and refugees from West Pakistan – mostly Hindus who have migrated from Pakistan – registered as migrants by the Relief and Rehabilitation (R&R) Commission-Migrants. The law also includes punitive action in case the domicile certificate is not issued within a period of seven working days – a recovery of Rs 50,000 from the salary of the competent authority (tehsildar or R & R Commission-Migrants). In addition to this new domicile law, a Delimitation Commission was established to change the number of electoral constituencies for Jammu and Kashmir. The recommendation of the commission shows that the prime objective was to disempower Kashmiri Muslims. The delimitation of Assembly constituencies attempted to tilt the scale of electoral math towards Jammu. When the Delimitation Commission increased the number of Assembly constituencies in Jammu and Kashmir from 83 to 90, Jammu's share jumped from 37 to 43 seats, whereas Kashmir's tally increased by only one seat, to 47. To award six of the seven new constituencies to the less populous Jammu, the Commission used geography and not population as its yardstick—an aberration of the norm. As per the 2011 census, the Kashmir Valley has a population of 68,88,475, and the Jammu region has 53,78,538.

61,47,482 citizens under the new domicile law in IIOJK up to June 7, 2023.

The Indian government continued to expand militarized, colonial settlements in IAK, including through the construction of "transit" accommodations for Hindu "migrants." On September 2, 2023, officials announced that 2,704 residences are currently being built at Vessu, Qazigung, Kulgam district, and that 2,304 residences are currently being built at Mirhama and Chowgam, Kulgam district.⁴¹

According to officials, domicile certificates have been issued to 61,47,482 citizens under the new domicile law in IIOJK up to June 7, 2023.⁴²

As per international law, India cannot manipulate the demography of Jammu and Kashmir, which is a disputed territory under United Nations Security Council (UNSC) resolutions that pledge that the final status of the territory is to be determined as per the right to self-determination.

10. HALF WIDOWS

The plight of "half widows," whose husbands disappeared without a trace, underscores the pervasive impact of the conflict on families. Lack of closure and uncertainty about the fate of

⁴¹ Kashmir Life, PM Package Employees To Get Transit Accommodation In 600 Flats In South Kashmir, <https://kashmirlife.net/pm-package-employees-to-get-transit-accommodation-in-600-flats-in-south-kashmir-326944/>.

⁴² <https://www.daijiworld.com/news/newsDisplay?newsID=1087754>.

their loved ones add to the humanitarian crisis. The publicly announced number of half-widows is between 2000-2500.⁴³

The disappearance of a family member has an impact on the lives of the entire family, not only in economic terms but also in social and psychological terms. Facing multi-dimensional problems have impaired their coping mechanism and ability to live constructively as a family. One of the daunting questions that the half widows and their families face is that of immediate maintainability. Furthermore, several other



potential sources of relief such as issuance of ration cards or transfer of husband's property or bank accounts have also been closed to the half widows. This is because these processes require death certificates, which they do not have since their husbands are not officially recognized as deceased. In the absence of the husband's death certificate they are unable to access family funds or avail of benefits they would otherwise be entitled to, such as widow's pension, ration cards or the transfer of the husband's property or bank accounts. Disappearance of their husbands marginalised their economic status even more.

11. RIGHT TO FREEDOM OF RELIGION

Right to freedom of religion including the right to religious assembly has been the hallmark of free societies. However in Jammu & Kashmir, the state administration has often denied people the right to prayers and religious congregations, on one or the other pretext. This denial is tantamount to gross interference in the religious affairs of the people and it is not only against the democratic ideals but violates the natural rights of a human being. Instead, the state is attempting to erase people's Muslim identity and facilitate Hindu supremacy. This is evident in the United States Commission for International Religious Freedom (USCIRF)'s 2022 report, which has designated India as a "Country of Particular Concern" for "for engaging in and tolerating systematic, on going, and egregious violations of religious freedom". Muharram processions have not been allowed in Kashmir since 1989 due to "security reasons" and this year was no different. These processions are critical to the religious practice of Shia Muslims worldwide, who commemorate the death of the Prophet's grandson and members of his family. While Muharram in 2022 collided with India's Independence Day circus in Kashmir, the processions were attacked by Kashmiri Police and CRPF and mourners were critically

⁴³ A cup full of woes for the valley's 'half widows' | Tehelka

injured. This happened in one part of the Srinagar city while in the other part, Indian nationalist “Tiranga Rallies” and “Flag Marches” were organized within a thick security cover.⁴⁴

12. KASHMIRIS USED AS HUMAN SHIELD

The war crime of 'shielding' is defined as intentionally using the presence of civilians to render certain points, areas, or military forces immune from military attack. While it may be unlawful, as noted above, to place forces, weapons, and ammunition within or near densely populated areas, 'shielding' occurs only when there is a specific intent to use civilians to deter an attack. Opposing forces may attack a military target that is using human shields, but they are still obligated to determine whether the attack is proportionate—that is, that the expected loss of civilian life and property is not greater than the anticipated military advantage of the attack.

Since the 1990s, using Kashmiri locals as human shields has been a practice followed by the government forces during ambush and gunfights. Many people have been killed, injured and tortured in the process.



A short video clip that went viral on April 17, 2017 showed a man tied to the bonnet of an Army jeep being driven through the streets, as it escorted election officials on polling day in the Srinagar parliamentary constituency. Heard in the clip, on what appears to be the public address system of the vehicle, are the threatening words, “*Paththar bazon ka yeh haal hoga* (this shall be the fate of stone-pelters).” The man has subsequently been identified as Farooq Dar, a 26-year-old from Budgam district who embroiders shawls, and the Army personnel are said to belong to the 53 Rashtriya Rifles. Farooq Dar was subjected to this humiliation as the vehicle passed through 10 to 12 villages.⁴⁵ Dar said the six-hour ordeal had left him traumatised and unable to continue his work as a shawl weaver. “My arms, legs and my whole body still hurt me even after more than a month,” he said. “I have not been able to recover from that shock.” Major Leetul Gogoi, who is still under investigation for strapping 26-year-old Farooq Ahmad Dar to the front of an army vehicle was awarded the Chief of Army Staff’s Commendation Card “for his for sustained efforts in counter-insurgency operations”.⁴⁶

⁴⁴ <https://standwithkashmir.org/under-barbed-wire-religious-freedom-in-indian-occupied-kashmir/>.

⁴⁵ Army personnel using 'human shield': The rights thing, <https://www.thehindu.com/opinion/editorial/on-army-using-human-shield-in-kashmir-the-rights-thing/article59781330.ece>.

⁴⁶ Outrage over India award for ‘human shield’ soldier, <https://www.aljazeera.com/news/2017/5/23/outrage-over-india-award-for-human-shield-soldier>.

In South Kashmir’s Pulwama district, these happenings are the same. Since February 2019, two civilians have been killed, one injured and another tortured severely.⁴⁷

13. USE OF PELLET GUN

The term “pellet gun” is associated with the type of airguns used to shoot balloons at village fairs; that is, guns which fire individual pellets and must be reloaded after every shot. However, the guns used by Indian forces bear no resemblance to such weapons. Instead, Indian forces use standard 12 gauge pump-action shotguns, each of which can be loaded with up to four shotgun shells. Admittedly, each shotgun shell is in turn loaded with up to 600 pellets. But that, by itself, is no excuse to refer to a deadly weapon as if it was a child’s toy. As Orwell advised many years ago, it is generally better to use plain words. In Kashmir, Indian forces have been using No. 6 (300 pellets of 2.79mm each) and No. 9 (600 pellets of 2.30 mm each) cartridges.⁴⁸ India regularly uses shotguns against crowds even when there is no imminent danger of death or serious injury to Indian forces. India first started using pellet-firing shotguns against Kashmiris in 2010 but the matter only hit international prominence in 2016 when protests following the death of Burhan Wani resulted in thousands of injuries, the blinding of hundreds and the deaths of over 70 people.

The Guardian, for example, published a story asking if Kashmir represented “the world’s first mass blinding.” Even Indians were rocked by a viral series of pictures showing the distorted faces of celebrities. On 28 August 2020, Indian forces in Srinagar opened fire with “pellet guns” on a peaceful religious procession. More than forty people were wounded while several were blinded.

On November 23, 2018 the 18-month-old’s eye was ruptured by pellets fired by security forces inside her home at Kapran, a village in the Shopian district in Indian-administered Kashmir. She was in her mother’s arms when the volley of pellets hit her. In recent years, more than 6,000 people, mostly teenagers, have lost their eyesight fully or partially after being struck by the pellets, which are fired from iron shotguns used by security forces to control demonstrations in Kashmir.⁴⁹



Hiba Nasir is one of thousands of Kashmiris whose eyesight has been damaged by pellet guns, the use of which rights groups have campaigned against [Shuaib Bashir/Al Jazeera]

⁴⁷ <https://www.newslick.in/Kashmir-Pulwama-Civilian-Deaths-Human-Shields-Security-Forces>.

⁴⁸ <https://www.trtworld.com/opinion/kashmir-turning-a-blind-eye-40292>.

⁴⁹ Kashmir’s youngest pellet gun victim could lose complete sight | Features | Al Jazeera.

The Office of the United Nations High Commissioner for Human Rights (OHCHR) has said that use of a shotgun “firing metal pellets is one of the most dangerous weapons used in Kashmir,” and has called for an immediate end to their use for crowd control. On September 4, 2020 Human Rights Watch issued a statement which says, “Time and again, Indian law enforcement’s use of shotguns in Kashmir has resulted in shocking, grievous injuries of protesters and bystanders.”⁵⁰

14. VIOLATION OF INTERNATIONAL HUMAN RIGHTS LAW

Indian forces are committing war crimes, crimes against humanity and ethnic cleansing in occupied Jammu and Kashmir.

War crimes – Serious violations of international humanitarian law include willful killings, direct attacks on civilians, torture, the use of prohibited weapons, the murder or ill-treatment of prisoners of war or others who have been captured, surrendered, or injured, and crimes of sexual violence.

Crimes against humanity – Crimes committed as part of a widespread or systematic attack by or on behalf of a state or an organization against a civilian population, whether during peace or wartime, constitute crimes against humanity. The 11 crimes against humanity include murder, extermination, enslavement, deportation or forcible transfer of a population, torture, rape, and other serious forms of sexual violence, enforced disappearance, and apartheid. These crimes may be committed in armed conflict or during peacetime.

Genocide – Genocide involves certain acts committed with the intent to destroy, either completely or partially, a national, ethnic, racial, or religious group. Genocidal acts may occur in armed conflict or during peacetime.



KASHMIR IS ON THE BRINK OF GENOCIDE, WARNS AMERICAN SCHOLAR

Dr. Gregory H Stanton says Biden administration must urge Modi to change his policies.

The Express Tribune, Pakistan
February 05, 2021
By Hamid Sarfraz

The systemic state-sponsored discrimination against Kashmiri Muslims bears all the hallmarks of a genocide, according to the founder and president of Genocide Watch, a global organization that flags the intentional destruction of ethnic, racial and religious groups.

"We believe that the Indian government's actions in Kashmir have been an extreme case of persecution and could very well lead to genocide," said Dr. Gregory H. Stanton, Founding President Genocide Watch.

Dr. Stanton, who served at the US Department of State during President Bill Clinton's term, is known for drafting the United Nations Security Council resolutions that created the International Criminal Tribunal for Rwanda, the Burundi Commission of Inquiry, and the Central African Arms Flow Commission.

Speaking from Washington D.C., where he is based, Dr. Stanton described the situation in occupied Kashmir as appalling. "Kashmir is under military rule and it is a very clear pre-genocidal situation," he cautioned.

In the picturesque valley, Dr. Stanton said, the Indian government has confined more than seven million Kashmiris to their homes. "The state has been under lockdown. The Narendra Modi government imposed a sweeping communications blackout and a curfew that was so draconian that residents couldn't even step out. In short it is a police state," warned Dr. Stanton, referring to the situation in the valley after the Hindu nationalist government in New Delhi unilaterally stripped the region of its constitutional autonomy.

⁵⁰ <https://www.hrw.org/news/2020/09/04/india-stop-using-pellet-firing-shotguns-kashmir>.



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