

INFRINGEMENTS OF INTERNATIONAL LAW AND UN CHARTER IN INDIAN OCCUPIED KASHMIR

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Abstract

The Indian illegal occupation of Jammu and Kashmir is a continuous denial of the right of self-determination, identity, independence, and freedom of expression to more than 12.55 million people. The Indian Armed Forces deployed in Indian Illegally Occupied Jammu and Kashmir (IIOJK) are extensively violating human rights and provisions of the UN Charter. Since the abolition of Articles 370 and 35 (A) from the Indian constitution in 2019, an additional 1.75 lakh Indian military personnel have also been deployed in Kashmir. This heavy deployment along with the imposition of yearlong lockdown and unwarranted subjugation of innocent Kashmiris is unprecedented. Against this backdrop, this paper intends to identify the humanitarian aspect of the Kashmir conflict that has entirely been disrespected by the Indian government. Communication, movement, and connectivity of the people of Kashmir has been cut off from the entire world. This paper also highlights that India is blatantly violating International Humanitarian Law and relevant UN Conventions in IIOJK. Despite this, the response of the international community towards this humanitarian crisis is bleak and inadequate.

Keywords: Kashmir, Indian Occupation, International Law, UN Conventions, Right of Self Determination.

Introduction

Inter and intrastate relations are influenced by international conventions as they provide general rules to govern and regulate the interaction between states. In this context, sovereignty, independence, and the right to self-determination are basic moral, legal, and internationally accepted norms and principles that people and governments strive to achieve and maintain as a part of their fundamental rights. These basic rights of the people of Indian Illegally Occupied Jammu and Kashmir (IIOJK) have been continuously denied by the Indian government for almost 72 years. Kashmir conflict is a territorial dispute between India and Pakistan as well as a leading example of human rights violations committed by Indian armed forces in IIOJK. The tension between India and Pakistan on this long-standing issue has further escalated since the abrogation of Articles 370 and 35 (A) from the Indian constitution in August 2019. On August 6, 2019, the Indian Parliament repealed the special constitutional status of Kashmir, thus, creating an identity and legislative crisis for the people of IIOJK.

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Legal Status of Articles 370 and 35 (A) of Indian Constitution

Articles 370 and 35 (A) of the Indian constitution enacted in 1949, rendering a special status to Jammu and Kashmir. These articles provided autonomy to occupied Kashmir within the constitutional framework of India. Other than defense, foreign affairs, and communications, the Indian constitutional provisions were not applicable to Jammu and Kashmir. However, the abrogation of these articles has major repercussions for the people of IIOJK. It has transformed into an identity crisis as Kashmiri people cannot have their own flag, constitution, and freedom to legislate. Indian citizens (non-residents of Kashmir) are now allowed to buy property in the occupied Kashmir, which previously was prohibited by Article 370 of the Indian constitution. It allows permanent settlements of Indian citizens (non-residents to Kashmir) in the occupied Kashmir, thus, changing the demographic character of IIOJK.

In addition, all provisions of the Indian constitution are now applicable in occupied Kashmir, which is a disputed territory. For example, Article 360 of the Indian constitution, imposing emergency, would be applicable in IIOJK, through which the center can directly disrupt the fundamental basic human rights. In this way, India has brought IIOJK at par with the rest of the country, which it cannot do due to the disputed status of Kashmir territory. India's unilateral decision of August 2019 explicitly breaches the essence of bilateralism that was agreed between Pakistan and India at Simla.¹ It is significant to highlight the fact that India's historical plea on the Kashmir issue is already very weak for several reasons. Firstly, India's claim that the Instrument of Accession was signed by the Maharaja on October 26, 1947, is dubious as India has neither shared the original signed document with Pakistan nor on any international platform like the UN.² Secondly, India took the case of Kashmir to the UN in 1948 under Chapter VI, which deals with the pacific settlements of international disputes. Though, India accepted the UN resolution on conducting a plebiscite in Kashmir which means that India adhered to the disputed status of Kashmir by accepting the resolution in January 1949, but India never abided by the provisions of the resolution.³ In this regard, this paper identifies major international law and human rights violations by the Indian government in IIOJK, which have been intensified since August 2019.

Violation of Universal Declaration of Human Rights

The Universal Declaration of Human Rights (UDHR) is an internationally accepted document as States have adopted the provisions within their own constitutional frameworks to make its enforcement possible. Thirty articles of the declaration ensure alienable rights ranging from the fundamental rights of identity, association, survival, movement, free speech to the rights of liberty, security, and the protection of law.⁴ For more than seven decades, the Indian armed forces are subject to constant violations of UDHR in IIOJK. In 2018, the UN revealed its report on Kashmir, which stated that "impunity for human rights violations and lack of access to justice are key human rights challenges in the state of Jammu and Kashmir. Special laws in force in the state, such as the Armed Forces (Jammu and Kashmir) Special Powers Act (1990) and the Jammu and Kashmir Public Safety Act (1978), have created structures that obstruct the normal course

of law, impede accountability, and jeopardize the right to remedy for victims of human rights violations.”⁵ Similar observations have been reported in the 2019-UN report on Kashmir. The following table illustrates human rights violations in the Indian occupied Kashmir according to the UN reports.

Table-1.1: Human Rights Violation in Kashmir

| From June 2016 to April 2018 | | May 2018 to April 2019 | |
|---|---|--|-----------|
| Unlawful killings by Indian security forces | 145 | Civilian killing by Indian security forces | 160 |
| Injured Detained | 9,042 1000 | Destruction of civilian property under cordon and search operations | 120 cases |
| Denial to Education | Schools & colleges were closed for nearly 60 percent of the working days in the IIOJK | No details have been given regarding education in the 2019-report, which explicates the extreme restrictions on information which Indians have imposed on Kashmir. | |

(Source: UN 2019-Report on Kashmir)

In addition, revocation of Article 370 ends the special status given to the people of Kashmir on their identity also comes under the violation of fundamental human rights.⁶

Violation of Fourth Geneva Convention – 1949

Indian occupation of Kashmir falls within the framework of the Geneva Convention of 1949 due to several reasons. Kashmir has been a disputed territory since the independence of Pakistan and India. It is evident that it is an unresolved partition problem. Moreover, the disputed status of the territory is internationally accepted. For instance, UN Resolution No. 47 on Kashmir has used the word ‘dispute’, which entails the status of Kashmir territory. Furthermore, the Line of Control (LOC) is not recognized as an international border rather this 450-mile-long line is considered as a military line dividing the IIOJK and Azad Kashmir. Therefore, any unilateral action by India is a breach of International law and conventions. In addition to it, the high number of casualties reflects the use of force, violence, and coercion in the Valley by the Indian deployed forces against the local population. Though the availability of actual statistics related to casualties in Kashmir is rare even the available statistics by the Indian Government are alarming.

According to the Indian Government’s estimates, from 1989 to 2008, more than 47,000 people have been killed.⁷ According to the media reports, approximately 68,000 people have been killed in IIOJK.⁸ A recent report by a Kashmiri activist states that the civilian death toll has been increased to 200 percent from 2013-2018.⁹ Furthermore,

incidents of torture, detention, and degrading treatment have been extensively reported from the Valley for decades. These figures demonstrate the intensity of armed conflict in Kashmir. Article 3 (I) of the Fourth Geneva Convention (1949) prohibits cruel treatment, torture, humiliation, and violence to life and person.¹⁰ Similarly, Article 32 states that “the High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition applies not only to murder, torture, corporal punishment, mutilation, and medical or scientific experiments not necessitated by the medical treatment of a protected person, but also to any other measures of brutality whether applied by civilian or military agents.”¹¹ In this regard, a report of *Médecins Sans Frontières* published in 2006 related to the status of violence in Kashmir highlights the deep state of violence in IIOJK. Nearly all respondents conveyed incidents of torture and violence. The results shown in the table below provides a comprehensive map of Indian atrocities in Kashmir. After this report, MSF was stopped to work and operate in Kashmir by the Indian government.

Table-1.2: Violence in IIOJK (1989-2005)

| | |
|---|--|
| Torture in captivity | 76.6% |
| Crackdowns | 99.2 % |
| Frisking by security forces | 85.7% |
| Round-up raids in villages | 82.7% |
| Physical and psychological mistreatment | 44.1% Directly Experienced 73.3 % Witnessed |

(Source: *Médecins Sans Frontières* Report on Kashmir: Violence and Health - November, 2006)

In 2010, WikiLeaks revealed briefings to the US diplomat in Delhi by the Red Cross related to incidents of torture on detainees. According to reports by the Red Cross, ICRC interviewed 1,500 detainees in private and it was reported that they had suffered various forms of torture, including electric shocks and suspended from the ceiling, etc.¹² These acts of torture and violence have been a permanent tactic of Indian armed forces in IIOJK, thus, violating the provisions of the Geneva Convention.

Another leading factor is the absence of legitimacy to the Indian stance and their deployed armed forces. Though Indian military forces have been deployed in the area for nearly seventy-three years, still they have been unable to gain any local support and political standing among the population of Kashmir. Currently, around 700,000 Indian armed forces are deployed in IIOJK.¹³ For this reason, India is now artificially changing the demographic profile of Kashmir by abolishing Article 370 of the Indian constitution and giving the right to Indian nationals to buy property in IIOJK. It is a common pattern in armed conflicts and insurgencies that gaining local support changes the conflict dynamics, which in the case of Kashmir is completely opposite. In this context, it is evident that India is violating the Fourth Geneva Convention Relative to the Protection of Civilian Population of 1949. For example, Section III, Article 49 of the convention states

that “the Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.”¹⁴

Recently, on October 27, 2020, the Indian government passed two orders, which amended 14 laws and repealed 12 clauses related to the status of buying property in IIOJK. This notification will allow the non-residents of Indian held Kashmir to buy immovable property. The phrase stating “being permanent resident of the state” has been removed from the Jammu and Kashmir Development Act, permitting non-residents to own the property. Moreover, it will also allow transferring agricultural land for non-agricultural purposes.¹⁵ Along with this, it is being reported that more than 25,000 outsiders were issued domicile certificates¹⁶ by the Indian government.¹⁷ These steps are categorically an attempt to change the demographic position of IIOJK by bringing the settlers in, thus, violating Article 72 of the Fourth Geneva Convention (1949). It provides a legal right to the accused person to present witness and evidence for the defense. Moreover, an accused person can hire an advocate of his/her own choice or the occupying power shall provide an advocate or counsel to fulfill the basic requirements of justice.¹⁸ Due to the lockdown restrictions since August 2019, Kashmiris have been suffering to access the justice system and thousands of people were detained without any charge.¹⁹ According to Human Rights Watch, approximately 4000 Kashmiris have been detained. Many of them are not allowed to meet their families or contact their lawyers.²⁰

Indian armed forces are also violating Article 27 and Article 86 of the Fourth Geneva Convention (1949). These are related to the right of religious services and respect for religious practices and customs.²¹ After the imposition of lockdown in August 2019, it was reported that several mosques were closed for Eid prayers²² and people were denied access to the Jamia masjid of Srinagar. Furthermore, due to communication blackout, people were unable to either meet or greet their relatives, families, and friends. It is a customary practice across the Muslim community that they greet each other on Eid, which was denied to the people of Kashmir. Farooq Abdullah and Omar Abdullah were detained after the provocation of special status for more than seven months. Resultantly, they were unable to observe their Eid prayer in the mosque. Mostly, curfew-like restrictions are imposed by the Indian armed forces to stop Muharram processions in IIOJK. In 2019, no Muharram processions were allowed in Kashmir.²³ The fundamental freedom of religious practices and customs has been denied to the people of IIOJK, which not only breaches the rules of the Geneva Convention but also violates UDHR.

Violation of Convention on Certain Conventional Weapons (1983) and Convention on Cluster Munitions (2008)

India became a signatory to the Convention on Certain Conventional Weapons in March 1984. This treaty prohibits the use of injurious weapons, which can inflict indiscriminate damage.²⁴ In addition, cluster munition remnants kill or maim civilians. It prohibits the use, stockpiling, transfer, and production of cluster munitions. Though both India and Pakistan are not signatory to the Convention on Cluster Munitions, it has strong legal and moral standing within international law. India has violated these conventions with the use of cluster ammunition along the LOC. Reportedly, in July 2019,

Indian armed forces used cluster ammunitions in Nelum Valley, which killed two civilians including a 4-year-old boy, and injured eleven others.²⁵

Violation of International Covenant on Civil and Political Rights

India ratified the International Covenant on Civil and Political Rights (ICCPR) in 1979, which ensures the protection of civil and political rights. Article I of ICCPR states that “all peoples have the right of self-determination.” In addition, Articles 6 and 7 prohibit torture, cruelty, inhuman or degrading treatment or punishment and endorse the inherent right to live with safety and protection.²⁶ According to a human rights report, Indian armed forces, border security force, and central reserve police force have extensively violated these provisions of International law.²⁷ After the imposition of lockdown in 2019, the Indian armed forces in IIOJK have used torture as an instrument of coercion. Al Jazeera reported that thousands of Kashmiris have been tortured and detained particularly since 2019. In southern Kashmir, a 22-year-old man reportedly said: “I was beaten with sticks, rifle butts and they kept asking me why I went for a protest march. I kept telling them that I didn’t, but they didn’t stop. After I fainted, they used electric shocks to revive me.” Another villager said that a young boy was beaten so badly that he was not able to walk properly.²⁸ Similarly, the New York Times reported a story of a Pharmacist, Mohammad Ishaq Lone, who told that he got a call from the Indian army to meet the soldier near his house. Later, he was beaten, punched and smacked with a metal rod.²⁹ The Washington Post also reported that after the Indian decision to impose the lockdown, they interviewed 19 villagers in the southern part of Kashmir and all of them informed that the Indian armed forces used tactics including beatings with rods, sticks and cables, electric shocks, and being hung upside down for prolonged periods. Along with the interview, they also checked hospital records and photos for evidence.³⁰ Notably, the above news is being reported by the international news agencies and not by Pakistan only. Another serious violation of ICCPR is the denial of freedom of expression and opinion. In this regard, since 2016, years before the lockdown, India has been subject to serious violations of the convention by imposing communication blackouts.

Violation of Territorial Integrity

Territorial integrity is core to state sovereignty and security. Chapter I, Article 2 of the UN Charter clearly states that “all members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or any other manner inconsistent with the purposes of the United Nations.”³¹ In this context, frequent violations at LOC by Indian armed forces are against the basic conventions of international law and UN charter related to territory. The following table explicates violations of India on LOC and working boundary.

Table-1.3: Indian Violations on Line of Control

| Year | Line of Control (LOC) Violations |
|-----------|----------------------------------|
| 2020 | 1595 times |
| 2019 | Over 3000 times |
| 2018 | 2312 times ³² |
| 2017 | 1299 |
| 2016 | 178 |
| 2014-2015 | 563 |

(Source: Various News Agencies including Anadolu Agency, Turkey and Daily Times, Pakistan)

India violated the territorial jurisdiction of Pakistan in February 2019 after the Pathankot incident.³³ Indian jets crossed Pakistani airspace approximately 10 km inside near the village of Balakot. The Indian government claimed that they targeted Jaish-e-Muhammad camp but the fact was that there were no hideouts of militants as Pakistan allowed foreign media to visit the site. On February 27, 2019, the Indian Air Force intruded Pakistani airspace and their jets were shot down by Pakistan Air Force along with one of their Wing Commander Abhinandan was captured by Pakistan security forces.³⁴ This ariel engagement has been the closest air combat maneuvering for decades between both states. Even after the return of Indian Wing Commander to India as a goodwill gesture by Pakistan, India continued LOC violations. Indian quadcopters³⁵ (spying drones) have been shot down several times by Pakistani forces since then. In 2020, Indian quadcopters intruded 11 times in the Pakistani territory.³⁶ These incidents indicate clear violations of bilateral border agreements between India and Pakistan along with international conventions of territorial integrity.

Violations of the Code of Conduct for Law Enforcement Officials (1973) and UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990)

In 2010, the Indian armed forces started the use of pellet guns in Kashmir.³⁷ In 2018, a report presented in the state legislative assembly of Kashmir figures out that between July 2016 to February 2017, around 6,221 people were injured due to pellets among which 782 got eye injuries.³⁸ The use of pellet guns against civilians by armed forces categorically comes under the domain of war crime. Article 2 of the Code of Conduct for Law Enforcement Officials (1973) states that “in the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.” In addition to it, Article 3(c) states that “the use of firearms is considered an extreme measure. Every effort should be made to exclude the use of firearms, especially against children.”³⁹ India has violated the provision of this convention, which is now considered as a part of customary law. UN Secretary-General Antonio Guterres’s recent remarks on the annual report of children and armed conflicts explicate the complexities linked to human rights violations in Kashmir. He stated: “I am concerned by the detention of children including their arrest during night raids, internment at army camps, torture in detention, and detention without charge or due process and urge the (Indian) government to immediately end this practice.... I remain

concerned by child casualties in Jammu and Kashmir and call upon the government to take preventive measures to protect children including by ending the use of pellets against children.”⁴⁰ In 2018, the eyes of an 18-month toddler, Heba Nasir, were ruptured due to a pellet attack by Indian security forces. She is the youngest victim of the Indian pellet guns attack in Kashmir.⁴¹ In addition to it, the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990) is another customary law, which is been violated by Indian forces in Kashmir. Article 11 (c) prohibits “the use of those firearms and ammunition that cause unwarranted injury or present an unwarranted risk.”

The above two documents of UN are based on three main principles, i.e., the principle of precaution, which needs planning to minimize the use of force; the principle of accountability of law enforcement agencies to ensure the limited use of force as much as possible; and the principle of precision, which restricts the use of deadly weapons as much as possible.⁴² These can only be used where there is extreme danger of death and survival, which is not the case in Kashmir. Indian armed forces have used pellets and shot guns on the civilian population, including women and children along with unarmed protesters and even recently on religious procession in Muharram.

Violation of UN Declaration of Internet Access as a Basic Human Right (2016)

In 2016, an addition was made to the UDHR by including the internet as a part of basic human rights. It states that “everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media regardless of frontiers.”⁴³ Internet has become a source of communication and connectivity, and facilitates freedom of expression and speech. India was among those states who opposed the addition of this clause.⁴⁴ In IIOJK, communication has been controlled and a complete shutdown has been observed in IIOJK since August 2019, for more than a year. The New York Times reported this blackout as “the world’s longest internet shutdown in a democracy.”⁴⁵ A partial lift was announced by the government on some websites with a 2G low speed. The order stated that “access shall be limited to whitelisted sites and not to any social media applications allowing peer to peer communication and Virtual Private Network Application.”⁴⁶

Even during the Covid-19 pandemic, internet and mobile services were abruptly shut down, which restricted the work of health professionals as well as the civilian population to reach out for consultation. It was reported that doctors were unable to communicate with each other to share information about treatment and they had difficulty in accessing their patients as well.⁴⁷ Whereas, across the globe, e-technology, video calling was used to reach out to the patients to avoid exposure and maintain social distancing. Interestingly, the application developed by the Indian government for coronavirus tracing was inaccessible to the users for days. Education is another sector that has been drastically affected by the internet blackout in Kashmir. Teachers are unable to use online teaching methods with restrictions and low 2G speed. Another sector

that has been gravely affected by the internet blackout is the economy. E-commerce and business activities were severely affected in Kashmir. It is being reported that since the imposition of lockdown and internet blockade, Indian Rupees 15,000 crores of economic loss has been estimated in the valley.⁴⁸ In addition to it, systematic delays in the judicial system are also linked with internet blackouts. 99 percent of habeas corpus petitions filed in Kashmir valley for the release of illegal detainees remains pending because of lock down and communication restrictions.⁴⁹ This example explicates the multi-dimensional effects of internet blackout on the people of IIOJK.

Besides this, the use of digital technologies in health, education, business, and judicial sectors immensely increased during the pandemic across the globe but Kashmiris lagged in the black shadows of Indian despotism. According to recent estimates, internet usage has increased to 70 percent during the Covid-19 pandemic.⁵⁰ Unfortunately, the international community has not raised its voice on this digital apartheid.

Denial of the Right of Education

Articles 13 and 14 of the International Covenant on Economic, Social, and Cultural Rights describes the basic right of education. Under the general obligation rules in Article 13, the covenant states that “the right to education, like all human rights, imposes three types or levels of obligations on State parties, i.e., obligations to respect, protect, and fulfill. In turn, the obligation to fulfill incorporates both an obligation to facilitate and an obligation to provide.” In this context, India has denied the main features described in Article 13 (2), i.e., accessibility, availability, and adaptability.⁵¹ Similarly, Article 28 of the UN Convention on the Rights of the Child states that “make educational and vocational information and guidance available and accessible to all children.”⁵² From August 5, 2019 to February 24, 2020, educational institutes were closed down in IIOJK denying approximately thirteen lakh students their basic right of education, which violates Article 13 (2). In March 2020, educational institutes were again closed due to Covid-19 restrictions. Although the global education sector opted for e-learning, the students in IIOJK were unable to continue their education due to internet restrictions and low speed. The President of Private Schools Association of Jammu and Kashmir, G.N. Var, said that “the loss could have been compensated by online classes, but [I] fail to find logic in restricting the internet. We don’t want schooling should be affected but nobody is paying heed to our pleas.”⁵³ The Association later filed a petition in the Indian Supreme Court on the issue of slow internet speed and the lack of 4G in the Valley.⁵⁴

Denial of the Right of Health

The Preamble of the 1946-Covenant of the World Health Organization (WHO) states health as “a state of complete physical, mental, and social well-being and not merely the absence of disease or infirmity.”⁵⁵ The health facilities and conditions in IIOJK were already alarming since the August 2019 lockdown, but it became bleaker due to the Covid-19 pandemic outbreak.

Mental health issues are on the rise in IIOJK. In 2015, *Médecins Sans Frontières* in a report underlined that 1.8 million (45 percent) adults in IIOJK are suffering from mental distress, 26 percent from anxiety, 41 percent exhibit probable depression and 19 percent suffer from Post-Traumatic Stress Disorder (PTSD)⁵⁶. Another report given by Srinagar's Institute of Mental Health and Neuroscience stated that the number of children treated in the psychiatric ward of the hospital from 2016 and 2019, approximately doubled from 17,000 to 30,000.⁵⁷ It is being reported that mental health issues have increased in the aftermath of lockdown since August 2019. One of the doctors reportedly stated that "they were concerned about their future and the future of their children. These thoughts made their mental state worse than before."⁵⁸

Conclusion

The above discussion provides a layout of the human rights situation in IIOJK and to what extent India is observing the provisions of international law. The response of the global community on the Kashmir issue has been weak and off-putting. Since 1947, it has only been considered as an unresolved issue of partition. Due to this one-sided approach, India has been successful in using coercion, force, and violence to suppress the voice of the Kashmiri people. Kashmir along with the bilateral dispute between India and Pakistan has become a leading example of human rights atrocities and genocide. Since August 5, 2019, more than 200 people have been killed in extrajudicial killings in Kashmir.⁵⁹ The UN has been unresponsive towards Indian use of force in Kashmir. Under the Hindutva ideology of the Modi government, the situation in IIOJK has worsened due to their extremist intentions. Despite this, a collective response against Indian illegal occupation in Kashmir is still lacking.

Pakistan has diplomatically protested in the United Nations Security Council (UNSC) several times with the support of China on the situation prevailing since August 5, 2019.⁶⁰ Recently, the demand of India in UNSC to take-off India-Pakistan question from the Council's proceedings was not recognized by the Council. Furthermore, Kashmir has always been an important agenda point in the annual UN General Assembly speech of Pakistan. Despite this, Pakistan's Kashmir diplomacy needs a more pragmatic and active approach to incorporate bilateral, regional, and international forums. Therefore, collective and cohesive efforts are required to contain violations of human rights and international law.

References

- ¹ On July 3rd, 1972, Pakistan and India signed Simla agreement which adheres to the peaceful resolution of disputes through bilateralism.
- ² Lubna Mohiuddin, "Human Rights Violations: A Case Study of Kashmir," *Pakistan Horizon*, Vol. 50, No. 2 (April 1997), 75-97. Available at https://www.jstor.org/stable/41393573?seq=3#metadata_info_tab_contents.
- ³ United Nations Security Council Resolutions <http://unscr.com/en/resolutions/47> UNSC resolution 47 states that "Recommends to the Governments of India and Pakistan the following measures as those which in the opinion of the Council are appropriate to bring about a cessation of the fighting and to create proper conditions for agree and impartial plebiscite to decide whether the State of Jammu and Kashmir is to accede to India or Pakistan" UN Charter, Available at <https://www.un.org/en/sections/un-charter/un-charter-full-text/#:~:text=Article%206recommendation%20of%20the%20Security%20Council>.
- ⁴ Universal Declaration of Human Rights, available at <https://www.un.org/en/universal-declaration-human-rights/>.
- ⁵ Report on the Situation of Human Rights in Kashmir: Developments in the Indian State of Jammu and Kashmir from June 2016 to April 2018, and General Human Rights Concerns in Azad Jammu and Kashmir and Gilgit-Baltistan, *Office of the United Nations High Commissioner for Human Rights*, 2018, 11. Available at <https://www.ohchr.org/Documents/Countries/IN/DevelopmentsInKashmirJune2016ToApril2018.pdf>.
- ⁶ Article 370, allows the state its own constitution, a separate flag and independence over all matters except foreign affairs, defense and communications.
- ⁷ Kashmir Fast Facts, March 26th, 2020, Available at <https://edition.cnn.com/2013/11/08/world/kashmir-fast-facts/index.html#:~:text=Between%202008%20and%202019%2C%204%2C427,according%20to%20the%20Indian%20government>.
- ⁸ *Dawn*, August 17, 2016, Available at <https://www.dawn.com/news/1278128>.
- ⁹ Samir Yasir and Kai Schultz, 'Kashmir activists demand international probe into alleged torture and abuse by Indian police,' *The Independent*, July 7, 2019, Available at <https://www.independent.co.uk/news/world/asia/india-pakistan-border-tension-human-rights-kashmir-narendra-modi-a8992121.html>.
- ¹⁰ Geneva Convention relative to The Protection of Civilian Persons in Time of War of 12 August 1949, pp. 170-171. Available at https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.33_GC-IV-EN.pdf.
- ¹¹ Geneva Convention relative to The Protection of Civilian Persons in Time of War of 12 August 1949, p. 180. Available at https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.33_GC-IV-EN.pdf.
- ¹² Kashmir Torture Reports, available at <https://www.dw.com/en/wikileaks-reveals-kashmir-torture-reports/a-6353481>.
- ¹³ Imran Jan, 'Kashmir and the Fourth Geneva Convention,' *The Express Tribune*, August 15, 2019, <https://tribune.com.pk/story/2033987/kashmir-fourth-geneva-convention>.
- ¹⁴ Geneva Convention relative to The Protection of Civilian Persons in Time of War of 12 August 1949, p. 185. https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.33_GC-IV-EN.pdf.
- ¹⁵ The central government of India notified the Union Territory of Jammu and Kashmir Reorganisation (Adaptation of Central Laws) Third Order and the Jammu and Kashmir Reorganisation (Adaptation of State Laws) Fifth Order, 2020. In addition to it, these notifications have ceased The Jammu and Kashmir Alienation of Land Act, 1938. For details see, Bhadra Sinha, "12 laws repealed, 14 amended — what exactly changes under new land orders in J&K", October 29th, 2020, <https://theprint.in/judiciary/12-laws-repealed-14-amended-what-exactly-changes-under-new-land-orders-in-jk/533038/>. Also see, Peerzada Ashiq, *The Hindu*, October 28th, 2020, <https://www.thehindu.com/news/national/other-states/now-outsiders-can-buy-land-in-jammu-and-kashmir/article32952629.ece>.
- ¹⁶ Domicile certificate entitles a person to residency and government jobs in the region. Before the provocation of Article 370, this kind of citizenship right was only granted to the local population.
- ¹⁷ *The News*, June 28th, 2020, <https://www.thenews.com.pk/print/679063-india-grants-iok-domicile-to-25-000-outsiders>.
- ¹⁸ Op. cit., IV Geneva Convention 1949, pp. 194-195.
- ¹⁹ Mostly, people are detained in the Indian occupied Kashmir under Public Safety Act (PSA), which permits the detention for more than two years without any charge or trial. This law itself is the violation of International law <https://www.hrw.org/news/2019/09/16/india-free-kashmir-arbitrarily-detained>.
- ²⁰ Article 47 states that, 'Protected persons are entitled, in all circumstances, to respect for their persons, their honor, their family rights, their religious convictions and practices, and their manners and customs'. Article 86 states that, 'The Detaining Power shall place at the disposal of interned persons, of whatever denomination, premises suitable for the holding of their religious services'. Op. cit., IV Geneva Convention, 1949, pp. 179,196.
- ²¹ For Details, see, *The News*, September 21, 2019, <https://www.thenews.com.pk/print/529624-mosques-locked-prayer-leaders-arrested-in-iok>.
- ²² Ashraf Wani, *India Today*, September 10, 2019, <https://www.indiatoday.in/india/story/muharram-procession-kashmir-restrictions-srinagar-updates-1597450-2019-09-10>.
- ²³ United Nations Treaty collection, https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtid_sgo=XXVI-2&chapter=26&lang=en.
- ²⁴ Zeeshan Ahmad, "India uses cluster munitions on civilians along LoC", *The Express Tribune*, August 3rd, 2019, <https://tribune.com.pk/story/2027515/india-uses-cluster-munitions-civilians-along-loc>.
- ²⁵ United Nations Human Rights, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.
- ²⁶ The Human Rights Crisis in Kashmir, *Human Rights Watch*, (1993), 29-30. <https://www.hrw.org/sites/default/files/reports/INDIA937.PDF>.

- ²⁸ Akash Bisht, "Kashmir lockdown: Stories of torture and arbitrary arrests", *Al Jazeera*, September 4th, 2019, <https://www.aljazeera.com/news/2019/09/04/kashmir-lockdown-stories-of-torture-and-arbitrary-arrests/>.
- ²⁹ Sameer Yasir and Kai Schultz, "Kashmiris Call for Investigation of Torture Accusations Against India", *The New York Times*, July 6th, 2019, <https://www.nytimes.com/2019/07/06/world/asia/kashmir-india-torture.html>.
- ³⁰ Niha Masih, Joanna Slater and Shams Irfan, "The night the soldiers came: Allegations of abuse surface in Kashmir", *The Washington Post*, October 1st, 2019, https://www.washingtonpost.com/world/asia_pacific/the-night-the-soldiers-came-allegations-of-abuse-surface-in-kashmir/2019/09/28/90969472-d40d-11e9-8924-1db7dac797fb_story.html.
- ³¹ <https://www.un.org/en/sections/un-charter/chapter-i/index.html>.
- ³² It includes the ceasefire violations on LOC and working boundary. For details see, *The Nation*, November 3rd, 2018, <https://nation.com.pk/03-Nov-2018/pak-summons-indian-dhc-over-unprovoked-ceasefire-violations-at-loc>.
- ³³ For details see, Milad Elharathi, Sadia Mahmood Falki and Aisha Shahzad, "Strategic Autonomy or Isolation: An Analysis of Major Dynamics of Pakistan's Foreign Policy", *Margalla Papers*, Vol: XXIV, No. I, (2020), 110-119.
- ³⁴ *Dawn*, February 26th, 2020, <https://www.dawn.com/news/1466347>.
- ³⁵ Quadcopter can be used for a wide range of military and tactical missions, including intelligence gathering, surveillance, reconnaissance, detection and tracking of ground targets, and search-and-rescue.
- ³⁶ *Daily Times*, April 10th 2020, <https://dailytimes.com.pk/592844/pakistan-army-shoots-down-indian-spy-quadcopter/>
Dawn, September 10, 2020, <https://www.dawn.com/news/1578898/indian-spying-drone-shot-down>.
- ³⁷ "Pellet guns" are pump-action shotguns which fire a cluster of small, round, metal pellets with high velocity over a wide area. Indian forces use standard 12-gauge pump-action shotguns. Each shotgun shell is in turn loaded with up to 600 pellets which disperses with high speed in all directions inflicting organ damage, eye injuries in Kashmir.
- ³⁸ Amnesty International India, February 1, 2018, <https://amnesty.org.in/six-things-know-pellet-shotguns-kashmir/>.
- ³⁹ United Nations Human Rights, <https://www.ohchr.org/en/professionalinterest/pages/lawenforcementofficials.aspx>.
- ⁴⁰ *The Express Tribune*, June 16th, 2020, <https://tribune.com.pk/story/2243890/3-un-chief-asks-india-end-torture-use-pellet-guns-children-iok>.
- ⁴¹ Riffat Fareed, "Kashmir's youngest pellet gun victim could lose complete sight", *Al Jazeera*, December 7th, 2018, <https://www.aljazeera.com/features/2018/12/7/kashmir-s-youngest-pellet-gun-victim-could-lose-complete-sight>.
- ⁴² Feisal Naqvi, "Kashmir: Turning a Blind Eye", October 6th, 2020. <https://www.trtworld.com/opinion/kashmir-turning-a-blind-eye-40292>.
- ⁴³ Universal Declaration of Human Rights <https://www.un.org/en/universal-declaration-human-rights/>.
- ⁴⁴ Russia, China, Saudi Arabia, Indonesia, India and South Africa also opposed the document. For details see, Catherine Howell and Darrell M. West, "The Internet as a Human Right", *Brooking Institution*, November 7, 2016, <https://www.brookings.edu/blog/techtank/2016/11/07/the-internet-as-a-human-right/>.
- ⁴⁵ *The New York Times*, January 26th, 2020, available at <https://www.nytimes.com/2020/01/26/world/asia/kashmir-internet-shutdown-india.html>.
- ⁴⁶ *The Wire*, January 24, 2020, available at <https://thewire.in/government/2g-data-services-to-be-restored-throughout-jammu-kashmir-union-territory>.
- ⁴⁷ *Al Jazeera*, May 20, 2020, available at <https://www.aljazeera.com/features/2020/5/20/kashmir-internet-blackouts-thwart-coronavirus-fight>.
- ⁴⁸ Kashmir Media Services, available at <https://kmsnews.org/news/2019/12/06/iok-economy-suffered-losses-of-rs-15000-crore-since-aug-5/>.
- ⁴⁹ Report on "Why India's internet ban in Kashmir is called digital apartheid", available at <https://www.trtworld.com/magazine/why-india-s-internet-ban-in-kashmir-is-called-digital-apartheid-39263>.
- ⁵⁰ Mark Beech, March 25, 2020, <https://www.forbes.com/sites/markbeech/2020/03/25/covid-19-pushes-up-internet-use-70-streaming-more-than-12-first-figures-reveal/#6d7586e3104e>.
- ⁵¹ OHCHR Report, available at [https://www.ohchr.org/EN/Issues/Education/Training/Compilation/Pages/dGeneralCommentNo13The right to education \(article13\) \(1999\).aspx](https://www.ohchr.org/EN/Issues/Education/Training/Compilation/Pages/dGeneralCommentNo13The%20right%20to%20education%20(article13)%20(1999).aspx).
- ⁵² Convention on the Rights of the Child, 1990, <https://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf>.
- ⁵³ <https://www.indiatoday.in/india/story/kashmir-survived-without-4g-internet-for-months-with-coronavirus-it-really-needs-it-1659883-2020-03-26>.
- ⁵⁴ *Deccan Herald*, May 3rd, 2020, <https://www.deccanherald.com/national/north-and-central/coronavirus-lockdown-teaching-in-kashmir-goes-online-but-low-speed-internet-an-issue-832961.html>.
- ⁵⁵ The Right to Health, World Health Organization, p.1, <https://www.ohchr.org/documents/publications/factsheet31.pdf>.
- ⁵⁶ Kashmir: Violence and Health, *Médecins Sans Frontières/Artsen zonder Grenzen Tambri Housen, Akmal Shah* (Nov 2006), <https://www.msf.org/sites/msf.org/files/2018-08/kashmir-violence-and-mental-health.pdf>. Also see, Dua Ti Dawa Ti: understanding psychological distress in the ten districts of the Kashmir Valley and community mental health service needs, *Conflict and Health* 59 (2019), <https://conflictandhealth.biomedcentral.com/articles/10.1186/s13031-019-0243-8>.
- ⁵⁷ "Kashmir: how conflict and stigma are creating a mental health crisis", available at <https://www.telegraph.co.uk/global-health/climate-and-people/kashmir-conflict-stigma-creating-mental-health-crisis>.
- ⁵⁸ Saima Bhat, "Mired Minds", January 8, 2020, <https://kashmirlife.net/mired-minds-issue-40-vol-11-221817/>.
- ⁵⁹ Malik Muhammad Ashraf, "Crimes Against Humanity", *The Nation*, July 31, 2020. <https://nation.com.pk/31-Jul-2020/crimes-against-humanity>.
- ⁶⁰ Anwar Iqbal, "Kashmir can't be removed from UN agenda: Pakistan," *Dawn*, September 5th, 2020. Kashmir can't be removed from UN agenda: Pakistan - Newspaper - DAWN.COM.