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## HUMAN RIGHTS VIOLATIONS IN JAMMU AND KASHMIR AND POST ABROGATION OF ARTICLE 370

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### KEYWORDS

Human rights, violation, abuse, media, laws, security, misuse, international law and fundamental rights, article 370, exodus of Kashmiri Pundits and scenario after abrogation of article 370.

### ABSTRACT

Kashmir has been a peaceful locus to live in ancient times. Every individual was living peacefully with one another and there was a religious diversity. All religious communities were living in peaceful ways with cultural unity and prosperity. However circumstances changed after the liberation of India. Some historical decisions changed whole scenario and status quo of Kashmir which resulted in humongous deployment of Indian troops in Kashmir, birth of terrorism and widespread gross human rights violations. The state of Jammu and Kashmir remains a constant headache for both India and Pakistan. Lack of constant efforts in resolving political differences and snatching the basic human rights had led people of Kashmir in segregation, fear and uncertainty. Hence, in this research study I shall be highlighting atrocities, misuse of authority, onerous and brutal laws, post 1987 political turmoil, insurgency after 90s, exodus of Kashmiri Pundits, gross human rights infringement, post article 370 abrogation and old historical errors done by government of India. I shall be highlighting the real injustice done to people of Kashmir, failure of the judiciary to protect the fundamental rights of its people, widespread abuse of power and violation of international and territorial law. In this research study, documented and archival methods, field works, perceptions of inhabitant victims of my valley especially residents of my place, personal and collective experiences of conflict regions and qualitative methods of research.

### Introduction

There has been an imminent and humongous increase in human rights concerns in the state of J&K considering the fact that 1989, at the inception of the advertising and marketing agenda of politics or state of J&K to join Pakistan. As the records suggest hundreds and thousands of innocent Kashmiris are arrested without any crime or conspiracy and are put behind bars for months and years without the cognizance of their family members and some are languishing in outside jails of other states for years and some died in jails. There are ample examples of mass rapes, custodial rapes, and gang rapes by Indian army in the state of Jammu and Kashmir i.e. "Kunanposhpora" mass rape incident. This inhuman and onerous incident is blotch on Indian army and government equally and victims are still waiting for justice. Judiciary is equally responsible for frustrating and delaying crucial human rights cases and shows its peak of incompetency.<sup>1</sup> Amnesty international referenced some 128 instances of disappearances in the year of 1994. It is estimated by police and hospital data that some 17, 000 people were killed in the state violence that still continues at present moment. After 1990s signifying increase was there in violations, disappearances, killings in custody, inhuman tortures, and exodus of KPs and gross instances of mass rapes which instigated fire among young youth of Kashmir to pick guns instead of pens. The Government of India, army and Jammu and Kashmir police are alleged of human rights violations and countless killings. However, militant groups are equally liable for killings and threatening innocent Kashmiri Pundits, abducting police officials and killing them. There are numerous examples of militant oppression in the valley. Some of them are alleged for abducting, killing hostages, rapes and murders of religious scholars and politicians.

### Historical Background

This is absolutely crystal clear that the unsuspecting uprising in Kashmir is the end result in segregation of a large part of the subcontinent of

India and its elected leaders, who appear to be former advertisers.<sup>2</sup> As during the uneven circumstances after freedom of India and Pakistan after 1947. The state of Jammu and Kashmir was compelled to join Indian union after sudden attack from Pakistani supported rebels called "PUSTOS". The situation was tense after that sudden brutal attack on valley and Maharaja Hari Singh had no other alternative instead of joining Union of India.

In addition to Sheikh Abdullah's work, in mobilizing the people of Kashmiri to assist in the entry into India, suspicious Indian authorities detained him for a period of time from 1953 to 1975 until the Indira-Sheikh agreement of 1975. In addition, semi autonomy granted to the erstwhile state of Jammu and Kashmir in 1952 in the shape of Article 370 of the Indian constitution was unconstitutionally and illegally scrapped by the Union regime. Plenty of the compensatory measures in the valley's crisis had been just a lie and unjustified. Only the annexation of erstwhile state with union was the last good thing after bloody foreign infiltration by Pakistani aided insurgents. The psychological and social development segments were not given certain attention resulting in hatred for the government and unrest in the shape of militancy, stone pelting and Hurriyart Groups who believe in solving problems via nonviolence. All the things had taken a new shape and community divisions happened and severe divisions on the basis of religion. The archival reason for turning the peaceful and hormonal society of Kashmir into a depressing place after the rigged elections of 1987.

It was believed that the Muslim United front (MUF), the political party which happened to be largest voted party by masses all over the Kashmir valley. However, the results were shocking. The National conference (NC) won the election and came into power. As it was believed those elections of 1987 were widely rigged and sentiment of betrayal arose in people and MUF after this specific election. This dark event is the

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starting point of militancy and unrest in Kashmir. People and MUF accused the Government of India for aiding and helping NC in coming into power. Post 1987 elections socio political betrayal still prevails and the insecurity of its people and Para Military forces. Most affected among post 1987 election is Kashmiri Muslim from both the ends. Rebellion and counter-insurgency through the Armed Forces, CRPF, police and dedicated militants have led to horrific violence in which, by a few exceptions, an estimated 60,000 people have been killed.<sup>3</sup> The report on human rights abuses is the immediate result of this petrifying conflict, and in part, fratricidal.

### **Human Rights concerns in Jammu and Kashmir**

#### **Groundless incarcerations**

Many of the young lads of the valley are detained by securities agencies merely on suspicion. Activities designed to identify enthusiastic suspects. There are many of those whose whereabouts are still unknown and are languishing in outside state prisons. According to the official date of 1994 some five thousand Kashmiris were picked merely on suspicion with groundless allegations.

However, civil society independent groups claim that number is ten times more than this. The constitution of India provides that after arrest knowledge to be given to the family of the arrestee within 24 hours of detention. Unfortunately law here is just a saying. In reality no one follows laws or adhere laws and guidelines of the Apex court while arresting anybody. Kashmiri press reported that some people were arrested merely because they have similar names as militants during the 90s.

The legal protection guaranteed under preventive and special laws of the valley of Kashmir confirm the importance of legal protections.<sup>4</sup> The Authorities can imprison someone more than twice without summon or warrant and the case under the Public Safety Act (PSA) of Jammu and Kashmir for the reasons stated in the constellations for state security. By violating Global human right codes and territorial law. Reasons for detention can be detained a prisoner just for the sake of "public interest." This frequently occurs.<sup>5</sup> Terrorist and Disruptive Activities Act (TADA) people can be detained arbitrarily for "disruptive conditioning" "this could include questioning whether Jammu and Kashmir should remain part of India or whether a plebiscite should determine the state's future, as the Indian Government once pledged. Thousands of apprehensions have been made under these laws each time. Court orders to cover detainees are routinely scorned. Some of those arrested are released after weeks or Months, but others remain detained without trial for some time. Shabir Shah had been detained for five times without trial when he was released in October 1994. He would spend an aggregate of 18 times in captivity for peaceful political conditioning. Amnesty International has entered numerous complaints that people continue to be detained indeed beyond the legal period of their detention, indeed after the courts have ordered their release.

#### **Torture**

Torture in Jammu and Kashmir is of exceptional brutality and explains the shocking number of people who have failed in guardianship of the security forces. In areas where the security forces are engaged encounters-insurgency operations, the entire mercenary population is at threat.

Torture includes beatings and electric shocks, hanging people upside down for numerous hours, crushing their legs with heavy breakers, and burning corridor of their body. It has left people impaired for life. Amnesty International knows of several victims whose legs had to be reattached as a result of torture. This happened to Manzoor Ahmed Ganai, who failed within weeks of having his legs reattached in February 1993. Dogfaces had set light to his legs with paraffin and had suspended him upside down for around 24 hours. A croaker treating him in Srinagar's Bone and Joint Hospital said he could have been saved had he entered timely medical treatment. The government informed Amnesty International that "same statements were being spread to redirect

terrorist mindfulness".

Medical evidence, including data from foreign criminals who spy on victims of torture in the state, confirms the number of allegations of abuse.<sup>6</sup> Abuses are proven by the UN notable Reporter on Torture. Indeed, police have witnessed the abuse of suspects in a number of cases. However, the Government of India has repeatedly denied any allegations that its colors are a cause of harassment. There has been a different impact on rape cases. Almost no members of the armed forces have been charged with harassing prisoners in their cells.

#### **Custodial Deaths**

Thousands of young lads of Kashmir suffered and plenty of them were killed and butchered in the jails with zero accountability. Sometimes our decomposing bodies of patients return home without the same meaning. However, in recent years the authorities have a growing number of people who want to end this kind of killing as a result of "mergers" or "shootings", without presenting any evidence, in addition to making sure that those assassins are dealt with fairly. These allegations were made even in cases where witnesses witnessed arrests and our patient bodies verified continuous torture marks through clinical examination findings or police data. Greater Kashmir noted in 1993 in an estimated period of more than six months, "Massacres of one another and others have become almost daily occurrences". Many great ones were raised for the sake of the truth at that time.

Masroof Sultan, a student, turned out to be the victim of an electric shock in a famous area called Brutal Torture Cell in the midst of Srinagar city. Sultan was trashed inhumanly and his legs were broken. He was given inhuman and brutal treatment for unreasonable allegations. However, sultan was able to flee from the glitches of BSF and soon after some time he was declared dead by BSF. However, he was found alive by JKP and revealed publicly. There are many examples were Army, BSF and Para Military forces falsely announced people were killed in terrorist attacks and after some time they were declared alive by other agencies or by themselves. The innocent people killed in the custodies of the govt. of India still wait for justice. Judiciary played an equally abetting role in justifying and silencing these inhuman killings in jails. Victim families still wait for justice to prevail and as of now not a single accused was arrested and punished.

#### **Execution without Judgment**

Extrajudicial executions are one of the most inhuman killings. It is believed some thousands of people were killed extra judicially by security agencies in various places of the valley. Some of famous places where mass killings happened are Srinagar, sopore, kupwara, bijbehara, and handwara town.

"Sopore" is one of the beautiful places in the Kashmir valley. One of the inhuman incidents occurred in 1993 in the town of Sopore. Where people of all ages were protesting against illegal arrests and killings in Kashmir. People were unarmed and peaceful. Suddenly BSF Forces fired on unarmed and peaceful people indiscriminately and killed 53 people. However, post killings an independent committee was established for investigation. But, unfortunately still killers are not held accountable for their crimes.

"Bijbehara," it's the town of Islamabad District where 37 peaceful protesters were killed by security agencies of BSF and some were punished. However, mostly they are free and injustice still prevails.

"AFSPA" one of the brutal and onerous acts which empower Army and other Para Military forces to kill anyone in the conflict zone. Powers to kill or shoot anybody is defined under section 4 and 7 of the AFSPA.<sup>7</sup> These colonial laws justify inhuman and extrajudicial killings.

#### **Disappearance**

In a December 1993 record Amnesty International recorded 127 "disappearance" incidents which happened on the occasion of Jan. 1990. After that plenty of "disappearances" were reported. Families went to the courts to investigate "there are still pending cases [in the High Court] where the whereabouts of prisoners are unknown". Union of India, in

reply Amnesty International's<sup>8</sup> Dec. 1993 document in which "disappearance" stated: "The [Jammu and Kashmir] State Government" has spoken about 99 percent of all applications, despite extraordinary pressure when the prison is complete and the machine has been suspended due to intolerance to violence and terrorism. "However, data shared with the Indian Government regarding the reaction Amnesty International's The December 1993 document identified 15 of the 127 "disappearance" incidents. Authorities continue to break the bond over and over again, despite eyewitness testimony from time to time that the victims had been detained by the government before they "disappeared". In a few cases, Courts of Jammu and Kashmir presented proof of "disappearance", however decrees to provide victims in the judiciary were rejected by officials of the regime. In October 1994 "Even this court has been rendered helpless by law-abiding institutions. No one bothers to obey the orders of this court document."

#### **Government Behavior toward Human Rights in the State**

The Government of India failed miserably time and again in providing justice to victims of conflict in Jammu and Kashmir. People have lost faith in Government as well as in Judiciary. When victims approached the higher judiciary of the country either justice was delayed or evidence's manipulated by the Government thus leading to corruption in the system which ultimately led to anti-national sentiments in the valley. There are plenty of victims like in Kunan Poshpora,<sup>9</sup> Sopore incident, Bijbehara incident, mass disappearances, extra judicial killings and rapes and fake encounters which remained unreported and unjustified. Victims till now are waiting for justice to prevail. There is no shame in accepting that the human rights record of India is quite alarming.

#### **Scenario after 5th August 2019**

Kashmir was once again in the headlines when the Government of India revoked Article 370 unconstitutionally. Government by passed Supreme Courts Decisions and of course the Indian constitution. Soon after scrapping<sup>10</sup> Article 370 restrictions were imposed under section 144<sup>11</sup> of Cr.p.c. Internet was snatched and mobile telecommunication was shut for 8 Months.

Government claimed that this<sup>12</sup> Article 370 was main huddle in development and terrorism in the valley. However, this lousy justification doesn't sound prudent. Militancy again took birth in this conflicting region after 5th Aug. 2019. Soon before August 5th 2019.<sup>13</sup> Arbitrary arrests took place. Politicians, lawyers, activists, students, Traders and Hurriyat Members were arrested to curtail any unrest. Some of them are released on bail after spending months in jails all across India. Some of them are still lying in the jails. This draconian move was widely criticized by international media, international human rights forums, foreign envoys and even friendly countries of India.

The repercussions of the government's policies had everlasting and staggering implications and the government's attempt of hiding human rights concerns in the state of Jammu & Kashmir has so far not worked. This sudden and unconstitutional move was admonished by various constitutional experts. However, maintaining the status quo of the state is the responsibility of the government. But it's equally important to uphold and protect the civil liberties of its citizens. India must ensure to play a better role in winning hearts and souls of victim Kashmiris. But till now India has failed miserably in doing so.

#### **Draconian Law of AFSPA and Legal Controversy?**

This draconian law has been the primary tool for security agencies to end this insurgency in the valley. Plenty of times human rights defenders and constitutional experts argued that this onerous law is brutal and dark in nature. This act violates international humanitarian norms and the constitution of India as well. However, the Supreme Court of India directed some recommendations.

The law does not provide a specific explanation of "disturbed area." Announcing a place as 'disturbed' under Article 3 is entitlement of the Governor or Prime Minister. The State legislature has no jurisdiction over the matter, although under the Constitution the 'public order' is the

State's head [Schedule Seven, Schedule II, Appendix 1]<sup>14</sup>. Under Section 4 (a) of the Act, even an unauthorized officer may order his officers to shoot and kill "if he deems it necessary to carry out this in order to uphold public order" This provides broader understanding even for the youngest officers. Similarly,<sup>15</sup> Section 4(b) allows those military personnel to evacuate any refuge where, in his view, an armed attack is "possible" or has been used as a hiding place with the help of the use of refugees. "Required in any case" This list authorized the demolition of many houses and various homes within the State, as well as collateral damage while the surrounding neighborhoods were either broken or destroyed.<sup>16</sup> Section 4(c) of the Act allows for unlawful detention, at any "significant pressure" of any male or female opponent "who has a relatively inexpensive allegation of intent to commit an apparent offense." This provided a basis for impartial detention, and the use of brutal pressure and shooting against harmless civilians<sup>17</sup>. Section 4(d) authorizes access to and search, without permission, of any premises for the arrest of persons as authorized below.<sup>18</sup>

Section 4, or to improve any man or woman "believed to be improperly detained or detained," or any objects "suspected to be stolen" or any weapons, ammunition or explosives "believed to be illegally stored in the area" culturally unknown, 'beliefs' and 'accessible allegations' have absolutely no basis in human rights abuses,<sup>19</sup> although Section 5 of the Act expressly stipulates, "Any person arrested and detained under this Act shall be liable to remuneration to the police station at the nearest police station with minimal delay," this is a frequent violation. Article 6 discharges Army or Para Military Forces from implementation, defining, "No prosecution, game or criminal intent shall be inflicted, except by the previous judgment of the State, on any person who wishes an object which has been or is terminated in the exercise of its powers provided for in this Act." discharges from persecution is not always best for what is accomplished under this Act, however more than that which is "to be abolished."

Masters within the UN Human Rights Committee, which met in Geneva in March 1991, have made it clear that the Act violates many of the Articles of International Covenant on civil and Political Rights that India has signed.<sup>20</sup> Article 2(3) states that the nation should make sure, man or woman whose legal rights are being infringed. "Shall have a strong remedy, provided that the violation is given in a dignified manner." Art. 4(1) allows Organs of State to take steps to postpone their activities in the event of a national emergency; Article 4(3) stipulates that such contempt must be addressed to the various organs of State through the UN Secretary-General. The Indian authorities have never made such a connection. In any case, as the expert on the United Nations Human Rights Committee points out, such an urgent need has been a temporary measure, and will not work for decades, as the Act has been in various parts of India.

In addition, Section 4(2) stipulates that no reduction in key good titles, such as Section 6 [right to life], may be made under this regulation. But Section Four of the Law, as shown above, empowers the shooting, which may also cause death, primarily based on the opinion or suspicion of a minor. This violates Article 6(1) of the Convention which states, among other things, "No one shall be deprived of his life for any reason." Under international law, as soon as India signs the Convention, its provisions may even supersede the Constitution. In other words, the Military Law [Special Forces] cannot be declared a criminal offense and it is lawful for it to be in accordance with the Constitution, even though it violates the Convention.

The role of AFSPA, PSA AND TADA Acts were to ensure terrorism gets completely uprooted from the valley and apprehend terrorists for treason and killings. However, these inhuman acts were implemented on innocents in Kashmir. Time and again international human rights advocates and legal luminaries had alleged fundamental rights of people are getting violated like as<sup>21</sup> Article 21 and Article 14 of the Indian constitution which states about right to liberty and right to equality. Law

of 'AFSPA' was implemented by Britishers on Indians during Colonial rule. Unfortunately now British laws are imposed on innocent Kashmiris. Laws should be in parallel to Constitutional and international human norms. Tests of constitutionality must be done and these laws must be declared nullified or amended as according to global human norms.

### International scenario

#### The role of the UN Security Council

On January 01, 1948. The Security Council appointed the United Nations Commissions in India and Pakistan (UNCIP) to look into the Kashmir conflict and propose solutions. "This issue should be resolved as soon as time allows. In any case, it will lead to so many different problems in South Asia. Should be resolved through table negotiations.

They are the ones who accompany them. An important key to solving the Kashmir problem is the United Nations Security Council (UNSC) proposal to be followed. Authority must be held in Kashmir in order to know the wishes of the people of Kashmiri in which country they need to sprout. In any case, India, which brought the issue to the UN, refused to follow the UNSC's approach the atomic bombings in Hiroshima and Nagasaki, shocked the world with its first use of atoms. It aroused the USSR, a key US rival, to deal with the nuclear program. After the US, the USSR became the second atomic weapon in 1957 and encouraged the great world power to achieve this renaming. In each case, they have seized it, despite obstacles we can scarcely imagine. "The story of the atomic race does not end here; rather, it allowed other provinces to discover this danger. Finally, the race reached South Asia in 1974 when India blew up for the first time while negatively measuring the strength of South Asia and Pakistan. India began to disintegrate with atomic power following China's crushing on the 1962 Sino-Indian conflict. Pakistan began to face atomic weapons after the 1971 Indo-Pak war.

#### The Role of International Media

Soon after 5th August, 2019 the Modi Government abolished<sup>22</sup> Art. 370 which was a special status of Jammu & Kashmir. International Media played a terrific role in presenting wrong historical decisions of Govt. of India before the world. Some prominent news channels labeled this move like this.

- Al Jazeera: Darkest day in the history of J&K<sup>23</sup>
- Bloomberg: A shocking Decision
- CNN : Historically a big blunder
- TRT: Special status removed illegally
- Los Angeles Times: Revocation of Kashmir's limited autonomy

These were the headlines in international media. I quoted some prominent news media channels. Global media played equally a colossal role in shaping a public image of the Kashmir issue globally. Some countries criticized Indian government moves in Kashmir and held the Government of India as accountable for human rights violations.

#### Whether the interference is valid or not?

Indeed, as per my opinion it's highly praised and morally valid. Coming on counter parts of Indian media which is highly biased and one sided. The National Media always favor's Government especially after BJP coming into power in 2014. The National Media is enormously unprofessional and puppets of Ruling party. Restrictions were eased after repeated and continuous reporting of the Kashmir issue at international level. Obviously, when State Media favor's good and bad decisions of the Government then it becomes the responsibility of Global Media to report and nullify counter claims of state sponsored media. Internet, Phone calls and other restrictions were eased after highlighting the Kashmir issue continuously.

Media is supposed to be the 4th pillar of democracy. Media is a significant part of democracy and their work is to be voiceless. Criticize the Government positively as you support them in good policies. National media must uphold and present any human rights abuse before the people of the country and admonish the Government for failing in protecting civil liberties and present data correctly before viewers. As

we are living in the Globalized world where everything can be assessed in one touch. International media is doing an appreciable job in highlighting issues like Kashmir. Kashmir remained hub for human rights abuses, killings, disappearances, extrajudicial killings and rapes for nearly 3 decades. Both National media and International media must cooperatively present abuses of any kind accurately before viewers and help people of conflict to have civil liberties like other states and obviously a better life.

#### The Cruncher of the Article 370

Ever due to the fact that its inception, it changed into maintained that<sup>24</sup> Article 370 changed into temporary. No more can this be emphasized than through Highlighting<sup>25</sup> that the Art.370 of the charter of India titles- "Temporary Provisions with admiration to the State of J&K." A plebiscite changed into to be hung on receiving advice from the Constituent Assembly of The J&K for the deletion of the Art. 370. However, the constituent meeting dissolved in 1957 without such advice. This, in effect, supposed that the availability changed into now deemed everlasting through many. On third April 2018, the Supreme Court of India gave a comparable opinion with the declaration that Article 370 had received everlasting status.

#### Rescinding of Article 370 and 35a

With the Deletion of<sup>26</sup> Art. 370 and<sup>27</sup> 35A, which has been criticized and celebrated. The Modi Regime fulfilled one in all its key guarantees in elections. The circulate has greater than simply stirred conversations round terrorism and Pakistan. It has stirred Conversations on human rights within the country.

#### India's Stance at The Move

The act of abrogation of the articles in questions, become observed via means of stationing greater troops within the valley to "preserve regulation and order", detaining the political leaders of the state, arresting journalists, and implementing lockdown with a whole verbal exchange blackout. This circulate has appeared as "unconstitutional" by way of means of many, and those for the duration of the country have held protests in opposition to the circulate. The authorities have constantly appeared the circulate as vital to convey peace, and keep away from any destiny disruptions which may stand up from this surprising circulate. They argue that with those articles gone, the human beings of Kashmir now have human rights that had been denied to them beneath the preceding rule, and hence, they've effectively restored human rights within the region. While addressing the country at the eve of the 73rd Independence Day, the President of India stated that many humans across the country additionally appear to resonate with the government, as they observe that the land of Kashmir has witnessed over 30 years of terrorism and ethnic cleansing.

They say that the issues of public order and public protection stay paramount and Abrogating those articles become no longer a smooth decision, and become sure to have a violent reaction within the valley. Justifying the regulations installed in the region with the aid of the government, it's been opined that attempting to save you large-scale violence why installing excessive regulations isn't always immoral. It is, as an alternative, the responsibility of the government.

#### How the World Sees It

The worldwide media, and Governments abroad, have additionally made feedback at the problem.

- In the remaining Five (5) months, (UNSC) has met two times in the closed-door meetings with regard to the unrest in the state of J&K.<sup>28</sup>
- The United States Congress has overturned a decision to stay in Kashmir, criticizing New Delhi's decision.
- House 745 resolution, which will be tabled in the US House of Representatives for a year with the help of Indian American consultant Pramila Jayapal, won 36 Com supporters.
- This extended understanding in the Kashmir state (from the United States and the US, Especially) he pressured New Delhi to ask

foreign strategists and lawmakers that Kashmir Valley on a 'finding the truth' journey. The first will be in October 2019, while Authorities have invited a group of European Union lawmakers to the Valley.

- In July, the Office of the UN High Commissioner for Human Rights launched a record of 43 web pages, which raises critical issues about harassment with the help of state security forces and armed organizations in each of India's and Pakistani regions of Kashmir. The UN has found that the Indian Security Forces (ISF) often uses unequal pressure to respond to violent protests that began in July 2016. It also condemned the lack of justice by overcoming such harassment.
- Killings and pressure to expel Hindu Kashmiri Pundits, forced disappearance, and allegations of sexual violence with the help of using ISF personnel. Indian authorities dismissed the record as "an unrealistic and inspired story" that overlooked the central problem of cross-border terrorism.
- Soon after abrogation of article 370, Pakistan downgraded diplomatic ties with India and "In disturbing global intervention, Pakistani Prime Minister Imran Khan warned in opposition to a "Srebrenica-kind bloodbath and ethnic cleaning of Muslims," that "may have extreme repercussions and reactions within side the Muslim global placing off radicalization and cycles of violence." While India has defined this as alarmist, the government must heed Kashmiri voices that stated that the current clampdown may want to incite violence. Addressing human rights is step one closer to finishing the cycle of violence".
- A United Nations spokesperson stated that the Secretary-General became "involved over reviews of restrictions" and that these "may want to exacerbate the human rights state of affairs within the region." The solution is for India to undertake global human rights requirements and now no longer ape the repressive strategies of its neighborhood.
- South Asia Director at Human Right Watch, Meenakshi Ganguly stated, "India and Pakistan blame each other for human rights violations in Kashmir at the same time as ignoring their personal duty for abuses".
- The UN human rights workplace stated that armed agencies have been answerable for human rights abuses which include kidnappings, killings of civilians, sexual violence, recruitment of kids for armed combat, and assaults on humans affiliated or related with political agencies in Jammu and Kashmir. It noted the Financial Action Task Force (FATF), an intergovernmental company that video display units cash laundering and terrorist financing, which has referred to as on Pakistan to cope with its "strategic deficiencies. Serious subjects become proven concerning raised tensions among India and Pakistan. It may result in use of extra pressure from both sides, growing the opportunity of war, which might then result in violation of extra human rights within the manner for the sake of "protection of humans."
- This isn't always the handiest time that the global organizations and media have spoken about Kashmir. The United Nation Commission for India and Pakistan<sup>29</sup> (UNCIP) surpassed a decision on January 5, 1949 that supplied the mechanism for containing a "loose and impartial plebiscite" in Kashmir. The United Nations (UN) Security Council Resolution 47, stipulated that each India and Pakistan need to withdraw their military forces and set up for a plebiscite to be held if you want to offer the humans of Kashmir the selection of which kingdom to join (S/RES/47). Ostensibly this decision becomes an attempt via the means of the UN Security Council to place the proper to self-dedication into practice.

#### **Scenario: After Eradication of Article 370 in Jammu And Kashmir**

One year passed when you consider that India abolished<sup>30</sup> Article 370 and abolished the unique autonomy of Jammu and Kashmir, making it a

cohesive and controlled state. Since then, the oppressed area has been characterized by persistent human rights violations, demographic changes, and pressures to determine the location in order to allow Council elections to take place. India says it provides a lot of financial development and sells democracy in Jammu and Kashmir while actually holding on to breaking international law. India's ambition to portray the valley as one where the Kashmiris ultimately reap the benefits of peace is the protection of local smoke from where everything goes from normal. The article will examine India's movement for more than a year and say that although Modi is trying to hide what is happening around the world, India's persistent rolling and authorization in Jammu and Kashmir should now not pass unnoticed.

#### **Human Rights Violations**

According to the Human Rights Forum Jammu and Kashmir and their recently presented report, 'Two Years of Closure: Jammu and Kashmir Human Rights', human rights abuses in India continue. While India claims Kashmir now has great peace records, liberating. That the number of terrorist incidents has decreased with the help of 59 percent compared to last year, many Kashmiri people are not feeling the effects of this so-called peace. And the prohibition of public meetings<sup>31</sup> under Sec. 144 of the Cr.p.c. 1973. Although the provision of 4G had been re-launched in February 2021, eighteen. Officials have been neglected because of 'anti-nationalism' activities on social media, further undermining the freedom of expression within. In addition, the new security features make you feel comfortable around the anti-terrorist programs and the media outlets are afraid to check them out Reporting.

#### **Demographic Adjustment**

On September 26, 2020, the Jammu and Kashmir Official Languages Act, 2020 passed which introduced Hindi as one of the official languages in the region. On October 26, 2020, India passed the Union Territory of J&K Reorganization (Adaptation of Central Laws) Order Friday, 2020 which allowed non-locals to buy land in Jammu and Kashmir. These legal guidelines aim to revise the panorama of the population and languages of Jammu and Kashmir and concerns have been raised with the help of the UN.

In February 2021, the UN Special Spokesperson on minor issues and the Special Spokesperson on freedom of religion or expression introduced a statement stating that internal changes were in danger of undermining the rights of minorities and advising India to ensure the economic, social and cultural rights of the Kashmiris people. In addition, they say that the lack of independence and the imposition of direct governance with the help of the New Delhi Government shows that the people of Jammu and Kashmir do not have their own authority and show wrong powers to legislate or amend local laws to ensure the protection of their rights as minorities ... "This change of law could have the power to open the way for people outside the former Jammu and Kashmir states to settle within the area, to change the population and to undermine the power of the few to exercise their human rights effectively." and expressed the difficulty that the diversity of immigrant certification successful packages may also suggest that inter-language, non-national and racial exchanges have begun. The implication is clear - India violates the Kashmiris' right to self-rule & alters the demographics of the region. The latter clearly violates Article 49 of the Fourth Geneva Convention.

In May 2021, the official website of the authorities also noted that the people of Jammu and Kashmir are mainly Hindus. The Invest website used with the help of the Department of Industry and Trade stated below the section on temples to be visited internally. A region "of either Kashmir or Jammu, the majority of the population is Hindu." According to the 2011 Census of Jammu and Kashmir, 68.31% of the population is Muslim and 28.44% are Hindu.<sup>32</sup> As fears about statistical change grow, the framework is now no longer considered a threat if the BJP chooses to continue removing Muslims from the region.

#### **The Tourism Industry Suffered Losses and the Economy Slowed**

After the removal of Article 370<sup>33</sup> in the erstwhile state of J&K a terrific

fall was noticed in the tourism sector. Tourism domain was hunted severely after the deletion of Art. 370. Numbers shortened significantly.

#### **Data Analysis**

Data accessed by India spend says, in 2018 from Aug to Dec. The numbers of Tourists or pilgrims visited Kashmir were<sup>34</sup> 316,434 and subsequently in 2019 the data shows severe downfall as only 43,059 visited Kashmir after 5th Aug. 2019 which shows miserable downfall of 86%. There have been some 150,000 job losses in Kashmir since August 5, 2019. These job losses were mainly from the tourism and handicrafts domain.

There is no shame in accepting that after this so-called historic decision plenty of youth losses, jobs and poverty increased because of this decision of the central Government. Tourism was in shambles after the 5th, Aug 2019 blunders. It will take years to get back into a stable position and recover the losses of the economy and jobs. Overall 15,000 crore losses are estimated.

**Interviews:** I personally questioned some youth who were running their own ventures in the tourism domain. Abdul Rashid, a budding business man suffered a loss of 15 lacs which he had invested in building a hotel near the picturesque locus of Doodhpathri. As very few visited Kashmir those days he had to shift in daily labor works for earning. He suffered loss because of Lockdown, few visiting Kashmir because of fear of the aftermath of the 5th Aug, 2019 blunder. He loaned the said money from J&K Bank Ltd. And which he has to pay at any cost and there have been no relaxations in paying loan amount and the Government did nothing to save these budding Businessmen from losses. Some were working in tourism related domains. They were either fired or their salaries were reduced because of a shutdown in the tourism sector.

#### **Use of Pegasus (An Israeli Software) Against Kashmiris**

“New monitoring has been added to measures involving the Special Task Force (STF), as well as the recruitment of cyber-volunteer volunteers, to show off debts on social media, such as government employees, “anti-national content.” The file also set out that after<sup>35</sup> Article 370 analysis and land reform, children, young people and girls were affected in a “very serious” way. The colleges operated a little over 250 days for 3 years because of the continuous closures. Internet speed restrictions made it unfeasible for virtual orders to be successfully featured until February 2021, while 4G switched to its recovery.

#### **Test Rate For Use of Pegasus**

Human Rights organization raised the issue of Pegasus and is known as an inquiry into the cost of adware that was modified against 25 Kashmiris. There are apprehensions of using<sup>36</sup> Pegasus software against 25 Kashmiris. Their right to privacy and personal liberty is at stake. There is news that 300 persons are monitored with Pegasus. Government is playing a dictator role and punishes its citizens for dissent and admonishment. Hardly the government accepts or appreciates constructive criticism. Even opposition parties are victims of this cam, even Supreme Court Judges. This is quite disheartening that in democracy we as its citizens get punished and apprehended for showing dissent or criticizing Govt. for wrongdoings or wrong policies.<sup>37</sup> The liberal democracy index is falling persistently and in this year we are at 93th position. It is quite shocking that the world’s largest democracy is at 93th spot.

#### **Internet Closure**

In today’s epidemic, as the economic and training system is increasingly circulating everywhere, the Kashmir region of India is blocked by high-speed network connectivity, locally for the reason that in August 2019. With state-of-the-art technology embedded in 5G technology, Kashmir has received the best reception in 2G limited connections, at a speed of sixty-four kbps. By using that speed, it takes a few minutes to open the website and staying healthy online is not possible for the citizens of the country.

#### **Restriction of the Internet Creates Differences on Long-Term Rights of Public**

Absolute restrictions throughout the epidemic violate the Kashmir people’s right to training, health, business and speech. In addition, any such restrictions lead to official instructions, information, and recommendations that the COVID-19 solution not be accessible within the country. Due to this inaccessibility, doctors have restricted the COVID-19 herbal technology introduced into various aspects of the U. S. and in other countries. In addition, it prevents acceptance of telemedicine recommendations introduced through the Indian Government’s approach to providing health care to residents with tangible facilities and reducing costs. People visiting hospitals. Twin unavailability of fashion remedies and telemedicine consultations violates the Right to Health Care under the scope of Art.21<sup>38</sup> of the Indian Constitution.

In addition, the ban refers to the Right to Access to Justice, as the courts work honestly and the grievance procedure has been transferred to the online system. Like the introduction of the telemedicine demonstration, the high-speed net ban has made it difficult for the people of Kashmir to enter justice. In addition to problems related to importation and administration, the ban has serious implications for design and training. The Indian government has ordered companies to force them to do business in a domestic manner that does not work in Kashmir. The inability of citizens to make drawings due to the high speed net violation violates each of the Rights of Life enshrined in Article 21, as well as the alternatives provided for in Article 19(1)(g)<sup>39</sup> of the Indian Constitution. Finally, the government ordered the closure of all skills and universities, and training was transferred to online institutions. The buildings are no longer painted in Kashmir and as a result the Government violates the Right to Education provided for in Article 21-A<sup>40</sup> of the constitution.

#### **Prohibition Infringes the Court’s Decision**

The ban also violates the recent decisions of the case of **Anuradha Bhasin v Union of India**<sup>41</sup>, while the SC of India upheld application of the “equality law” while limiting the freedom of speech and expression provided for in Article 19(1)(a)<sup>42</sup> in the Constitution. In addition, the court document instructed the authorities to excuse the restrictions on Fundamental Rights, and to clarify how any potential for minor gravity might be sufficient. In the worst case scenario, this type of ban is unequal because many important citizens’ rights are being jeopardized. The same is true of artificial insemination as it applies to the whole nation and now no longer applies to fragile objects where donations may appear unsafe.

#### **Restriction of the Internet as An Infringement of Human Rights Under Law of Land**

In international law, speed bans violate many of the Indian Government’s international obligations provided for in the Universal Declaration of Human Rights (UDHR). First, it violates Article 19<sup>43</sup> of the UDHR which protects the Right to Freedom of Speech and Speech, which violates the accessibility of social media systems and various services. Second, the same prohibition is contrary to Articles 23<sup>44</sup> and 26 each of the UDHR which provides for the Right to Work and the Right to Education respectively. In addition, the ban violates the International Covenant on Economic, Social and Cultural Rights,<sup>45</sup> provided that Article 12 authorizes the Right to Health and Disease Control.

Finally, it violates the Siracusa Principles introduced with the help of the United Nations Economic and Social Council, which is a sincere nation that any ban, regardless of the emergency, should not interfere with the current volume. Within the means of achieving the goal of citizen safety. The Indian authorities took a deceptive approach to providing a 2G connection, so that the order now does not violate the Basic Internet Right under Article 19<sup>46</sup> of India’s constitution. However, within this marginalized epidemic, the ban is not accompanied by many important rights that are effective in protecting the basic human rights of citizens. In addition, they do not respect the human rights that have been granted with the help of international law.

#### **Arrest Police, Army Personnel and Armed Forces of Para Military**

### to Respond To Human Rights Violations

The institution is referred to as the first crime and community action against police officers, soldiers and soldiers facing human rights violations, especially in relation to attacks on journalists. He called on the Army's Add. Directorate of Human Rights to grant complete liberty within the playing field to investigate allegations of human rights abuses. Additionally, it has requested obedience to the Counseling and Search operations (CASO) to limit killings, accidents and other sufferings or losses.

That I recommend limiting Section 144<sup>47</sup>; to prevent attacks by journalists and detachment delegates on the way home; to protect the police and military personnel responsible for harassing civilians in checkpoints; fair compensation for residents whose homes have been destroyed in CASO or land restitution campaigns; and to ensure the safety of nomadic tribes under the Forest Rights Act, 2006.<sup>48</sup>

### Recommendations

1. All the last political prisoners who were detained in detention are released. Bail rights and litigation were immediately exercised. To repeal the PSA and a separate law to prevent arrest or amendment to transfer it in accordance with our constitutional principles. The letter and spirit of child protection law, as well as references to child soldiers, are effective. Release all imprisoned children and withdraw the fine imposed on them.
2. Withdraw unsubstantiated PSA / UAPA funds from political leaders, news reports and activists, and set up timely questions about alleged abuses in custody, as well as those made in connection with People's Democratic Party (PDP) official Waheed Para.
3. Implement criminal and civil action against police officers, soldiers and soldiers convicted of human rights violations, especially in connection with media attacks. Prompt action reviews have been issued on the July 2020 out-of-court killings of 3 Rajouri youths in Shopian, the death of Hokersar in December 2020 and allegations of the death of Irfan Ahmed Dar of Sopore, and the reputation of subsequent prosecution.
4. Ensuring that the extra human rights unit is guaranteed complete liberty within the function it can do in the alleged allegations of human rights abuses, and checking compliance with humanitarian guidelines to be considered during Cordon and Search Operations (CASO), to save lives, accidents or other injuries or losses.
5. Limit the use of Section Fourteen to make it easier for cases where there may be hygiene and threats of gifts and to make sure that District Magistrates absolutely comply with legal directions prohibiting its utility. Assaults on newshounds and patrolling teams with a loose approach during the return period may also be restricted. Police and military personnel who abuse civilians at search places must be held guilty and take absolute legal action against them
6. Complete monetary allowance to the harmless citizens whose homes were dismantled in CASO or in land reform drives. Ensure that nomadic tribes maximize the rights they may be entitled to under the Forest Rights Act of 2006.
7. Restore all former nations<sup>49</sup> legal entities, especially those that monitor human rights, as well as J&K Human Rights Commission and the Jammu and Kashmir Commission on the Rights of the Child and the Child. In the meantime, their country has a wide range of numbers as opposed to the numbers below that those rights cross, and the National Human Rights Commissions or Women Commissions, must establish centers at the cities of Jammu and Srinagar.
8. Compensate the neighboring business ventures and victims of conflict that those who were compelled to close because of the closure of the authorities between August 2019 and March 2020 and make sure that they can be provided with the official services

they need as fully as possible. Promptly provide financial and security assistance.<sup>50</sup>

9. Reverse media coverage, as well as police surveillance and / or media sector raids, ban on video drones using video-newshounds and reporting bars from opposition sites. Review sympathetic insertions to avoid certain media vendors being penalized for difference of opinion. Withdrew accusations against Kashmiris and made sure that no such charges, aimed at preventing harmful reviews, were lodged.
10. Reckoning status of village protection committees (VDCs) and the reinstatement of Special Operations Group (SOG) and SPOs. In all cases, those projects that have been identified increase the risk of workers' actions beyond the general public in acts of violence.
11. The Government of India must ensure peaceful and favorable situations must prevail to ensure safe and sound return of Kashmiri pandits. Government must ensure that communal hatred decreases and should stop propaganda movies like THE KASHMIR FILES. These type of movies increase hatred and insecurity of both the communities i.e. Kashmiri Muslims and Kashmiri pandits. In order to secure the return of Kashmiri pandits the Government must provide security and support of Kashmiri Muslims.
12. The Government of India should reduce or demilitarize the locus of conflict. In order to have a long term peace and tranquility in the valley it's prodigiously urgent to withdraw half of troops and snatch their absolute and unaccountable powers under AFSP, UAPA & PSA.

### Conclusion

The scenario isn't anticipated to normalize anytime soon. With the State Legislative elections in Kashmir for constituencies coming up, protection is anticipated to be tightened again. Restrictions which have been formerly loosened can be rolled back. The authorities who have supposedly completed a lot for the nation's growth, monetary and social Improvement have been unsuccessful to stay as much as its promise, because the nation has visible major economic setbacks and losses due to the lockdown which has alternatively set it back. It is exciting to be aware that the use of a has stationed maximum of its Armed Forces in Kashmir. For a population of eight million, around 950 thousand Indian Armed Forces are deployed in the region.

There isn't any denying of the truth that the nation has been below assault since Independence. It has grown to be a method to unfold terrorism, to annoy people, overuse of Army forces and making it extra of a warzone. The authorities' step which was applauded with the aid of nearly everybody is now issued to harsh criticism. The implementation of the much-sought movement is humiliating. PM Modi in his speech said, "I guarantee you that it won't take extra than 4 months to normalize the odd scenario that has continued there for 40 Years." In order to have perpetual tranquility in Kashmir both Center and state as well media has to play a vital role. Media should be held accountable for falsely misinterpreting images and enormous hatred and alienating Kashmiri people from the rest of India. The Government of India must hold perpetrators of peace accountable or liable, especially the national media. Some goodwill gestures and policies are needed and engage youth in sports, jobs and business. Develop or expand infrastructure for sports activities and training in various domains. Jammu and Kashmir had the highest unemployment rate of 46%. Data analysis, backwardness of state and some fruitful and goodwill policies are exigently required.

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