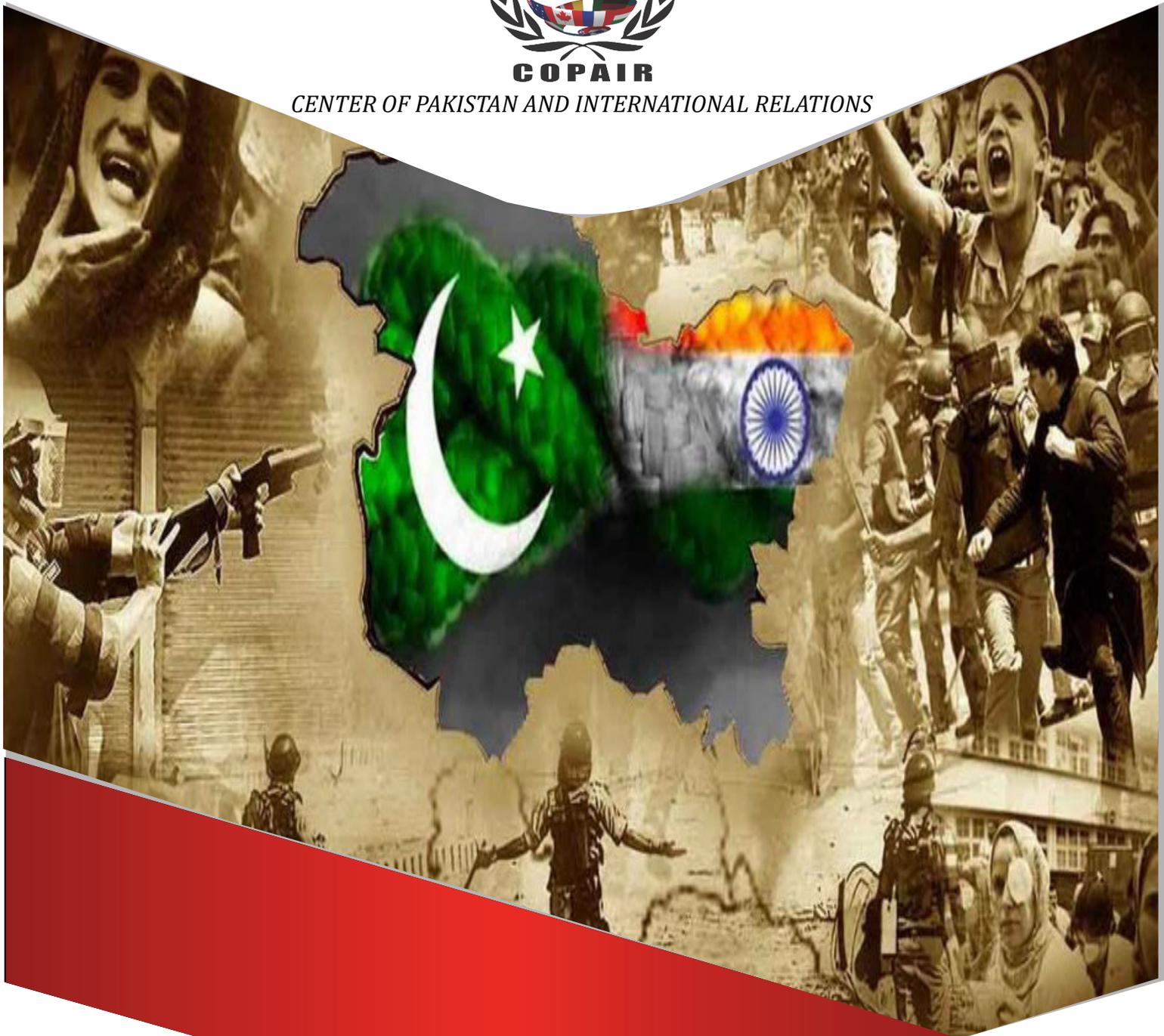




*CENTER OF PAKISTAN AND INTERNATIONAL RELATIONS*



## **Violation of Human Rights in Kashmir: Glancing through Humanitarian Prism**

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# Violation of Human Rights in Kashmir: Glancing through Humanitarian Prism

## 1- Introduction

It is incumbent to address these rights under the banner of the Universal Declaration of Human Rights which were proclaimed in 1948 and which form the fundamentals of Human and Legal Rights as well as Civil and Political Rights. Article 19 of the universal declaration of human rights 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 and regardless of frontiers.”

Civil Rights are defined as, ‘the rights guaranteeing equal social opportunities and equal protection under the law, regardless of race, religion, or other personal characteristics. Examples of civil rights include the right to vote, the right to a fair trial, the right to government services, the right to public education, and the right to use public facilities. Civil rights are an essential component of democracy; when individuals are being denied opportunities to participate in political society, they are being denied their civil rights. Civil and political rights form the original and main part of international human rights.’<sup>1</sup>

According to the 1948 Universal Declaration of Human Rights (with economic, social, and cultural rights comprising the second portion), these group of rights are the “first-generation rights”.

Whereas, the concept of Civil Liberties is signified as, “the freedom of conscience, freedom of the press, freedom of religion, freedom of expression, freedom of assembly, the right to security and liberty, freedom of speech, the right to privacy, the right to equal treatment under the law and due process, the right to a fair trial, and the right to life. Other civil liberties include the right to own property, the right to defend oneself, and the right to bodily integrity.”

## 2- India and Universal Fundamental Rights

In the case of India, The Fundamental Rights—embodied in Part III of the constitution—guarantee liberties such that all Indians can lead their lives in peace as citizens of India. The six fundamental rights are right to equality, right to freedom, right against exploitation, right to freedom of religion, cultural and educational rights and right to constitutional remedies. However, unfortunately, the case in Kashmir made it a laughing stock as its institutions as well as its legal system became a hostage to right-wing fascist ideology against minorities and particularly against Muslims.

India has suffered the largest decline in its political rights and civil liberties over the period. In a 2020 report published by pro-democracy nonprofit “Freedom House”, a damning assessment of the Modi government’s “pattern of Hindu nationalist policies,” including the persecution of religious minorities, abruptly revoking Jammu and Kashmir’s autonomy, the adoption of the Citizenship Amendment Act (CAA), which it calls a “discriminatory citizenship law,” and the “aggressive” suppression of the anti-CAA protests that followed.<sup>2</sup> On whether Kashmir has an independent judiciary, the report said, “Courts are politicized and act as an extension of Indian executive and military authority. The government and security forces frequently disregard court orders.”



1 Encyclopaedia Britannica, Available online <https://www.britannica.com/topic/civil-rights>

2 Betwa Sharma, India Suffers ‘Alarming’ Decline In Civil Liberties, Kashmir Ranked ‘Not Free’: 2020 Freedom Report, The Huffington Post Dated 4-3-2020 Available at

[https://www.huffingtonpost.in/entry/india-human-rights-kashmir-2020-freedom-report\\_in\\_5e5f35edc5b67ed38b3a553e](https://www.huffingtonpost.in/entry/india-human-rights-kashmir-2020-freedom-report_in_5e5f35edc5b67ed38b3a553e)



India has come under increasing international pressure following the Modi government's revocation of J&K's special constitutional status and the passage of the Citizenship Amendment Act, which critics say makes religion the basis of granting Indian citizenship and discriminates against Muslims. Human Rights organizations have raised vociferous criticism against India as well as The United Nations High Commissioner for Human Rights (UNHCHR) Michelle Bachelet, who has filed an application before India's Supreme Court asking the U.N. be made a third party in the petition that has been filed against the CAA.<sup>3</sup> Moreover, Antonio Guterres defended the

right of self-determination of Kashmiris under International Law and promised that the right of self-determination of Kashmiris is protected. He was the first Secretary-general to talk freely on Kashmir.<sup>4</sup>

While Kashmir remains in a lockdown there is a great desire of the people of Kashmir in the liberation movement. The spirits of the people of Kashmir remain high and resolute. No one can deny them the freedom from the barbaric Indian occupation. More Indians are living abroad in shame as never before, is a grim reality. When the famous Indian author and writer Amartya Sen wrote his book the "Argumentative Indian", many Indian disbelieve to put reason and argument behind any social discourse but the face of the new reality is that today many Indians in the West became apologetic and not argumentative. Scholars and writers like Sen himself opposed the BJP directly and criticized the BJP government policies. He once said, "As an Indian, I am not proud of the fact that India, after having done so much to achieve a democratic norm in the world – where India was the first non-Western country to go for democracy – that we lose that reputation on the grounds of action that have been taken". He regarded the detention of Kashmiri political leaders as "a classical colonial excuse" to prevent a backlash against the Indian government's decision and called for a democratic solution that would involve Kashmiri people.<sup>5</sup> Arundhati Roy, a famous Indian activist and celebrated writer while addressing huge crowds in the US, commented on the fate of Kashmiris as "Indian Muslims have been effectively disenfranchised and are becoming that most vulnerable of people: a community without political representation and a voice. Various forms of the undeclared social boycott are pushing them down the socioeconomic ladder and, for reasons of physical security, into ghettos. Indian Muslims have also lost their place in the mainstream media."

A conquest, a colonial annexation, another triumph for the Hindu nation was being celebrated. Once again, the conquerors' eyes fell upon the two primaevial trophies of conquest: women and land. Statements by senior BJP politicians and patriotic pop videos that notched up millions of views legitimized this indecency. Google trends showed a surge in searches "marry a Kashmiri girl" and "buy land in Kashmir". It was not all limited to loutish searches on Google. Within days of the siege, the forest advisory committee cleared 125 projects that involved the diversion of forest land for other uses. In the early days of the lockdown, little news came out of the valley.



3 *ibid.*

4 UN chief Antonio Guterres's remarks in Pakistan: India says J&K its integral part Available at <https://www.livemint.com/news/india/un-chief-antonio-guterres-s-remarks-in-pakistan-india-says-j-k-its-integral-part-11581880712591.html>

5 Amartya Sen as quoted in South Asian Journal, Dated August 20, 2020 Available online at <http://southasiajournal.net/as-an-indian-i-am-not-proud-amartya-sen/>

The face of the Indian confederation is bare-naked today. Through the NRC The national registration of citizens, there is an uproar and a social and political discontentment in Assam. Movements of separatism are gaining strength in Mizoram, Tripura and Nagaland. The general impression is that RSS has safonized India. In educational institutions as well there is a deep fragmentation as in Jawarharlal Nehru University a Kashmiri Student was attacked and the Hindu Mahasabha applauded that. The ideology of Hindutva is decapitating the Indian state but the Indian civil society is challenging the fascist ideology of BJP.

There are three key areas, first is the current situation in India and country's ideological tilt towards Hindutva, secondly, the BJP government is unilaterally acting without any prior approval of legal supra-structure like UN and undermining the International Law, while the third issue is the violent transgression of Human Rights. However, the current world is giving a deaf ear to the grave violations of international norms and principles and is currently giving preference to trade and commerce of India over its contraventions of international customary norms.

### 3- Modi Conflating kashmir with Terrorism



Modi conflated Kashmir with terrorism and the issue of infiltration of militancy. The Indians thought that they could fool the international community to deceive that Pakistanis are aggressors, but it backfired in February 2019. When we talk about the role of the international community in resolving this issue, we must say that it should investigate facts what if Pakistan would have responded to the Indian moves in frustration. Pakistan demonstrated that it was a responsible state in the world, which does not

want adventurism and foul play. In the meantime, there is also a fact that India got relief from the international community that was preoccupied with China. Must also be noticed that it is Indian adventurism that has led to Indo China recent skirmishes where India had to withdraw from some areas of the Aksai Chin along the Line of Actual Control. In addition, the fact that we must look is that Kashmir issue is no longer an issue that started with the freedom movement, as it goes back to way back to 500 years. It is not a transborder issue as it has a taste of an indigenous movement which has been in the spirit of the freedom from foreign occupation ever since

Recently, there has been a momentum gathering up by the United Nations after the Indian move of abrogation. Human Rights organizations and the UN has asked the repeal of the AFSPA OR Armed Forces Special Power Act because they think that it is a licence to kill and unrestrained attack on rights. It encourages arrests without warrant, extrajudicial killing, and torture including harming secret parts, electrocution, and severe violence. The more authentic moves should come from the United Nations, which is witnessing the mass atrocities, and recently it published reports on Rights violation In Kashmir. The UN report criticized special provisions for Indian forces in Kashmir. It says that the Indian administered Kashmir continue to use forms of arbitrary detentions to target protesters, dissidents, and civil society groups. The report highlights that has not been a single case of prosecution of armed forces personnel granted by the central government in the civilian court. The report also calls for the formation of a commission of inquiry to conduct a comprehensive, independent, international investigation into allegations of human rights violations in Kashmir.

India rejected the UN report calling it false with a motivational narrative. India called the report as a violation of India's sovereignty and territorial integrity and ignore the issue of cross border terrorism.

The following have been identified as the main and salient features identified by the report.

- Civilian killings and excessive use of force
- Use of pallet guns
- Cordon and search operations
- Arbitrary detention
- Impunity for human rights violation
- Restrictions on freedom of expression, censorship, and attack on press freedom
- Restriction on freedom of assembly and association
- Torture
- Targeting of Kashmiri Muslims outside of Kashmir

## 4- Looking for Kashmir's Solution

As for the solution regarding the Kashmir issue, it can only be resolved through peaceful solutions. Should be more dialogue specific. It is the only way. A number of meetings took place but are none of them concluded or resulted in solving this decade's long territorial dispute. According to many experts, there are other options as well and we need more voices, more interactions on the subject of Kashmir solution at multi-lateral forums. In many of Imran Khan speeches, the notion of sanctioning India has surfaced in response to India's breach of the Geneva conventions.

Nazir Ahmed, House of Lords UK said that "Indians are not listening unless there is a direct action by the UN British government also cannot do anything. If Saudi Arabia could be condemned for Yemen and Milosevic for war crimes, then why the West cannot do this. UN is a talk shop. It could not do anything beyond the resolutions. It cannot ask India to do to stop it. It could do for South Africa. Indian democracy is a sham. Can ICC condemn the actions of Modi to be prosecuted? But Modi is being awarded the highest civilian prize by GCC Countries. Why Kashmir issue be not highlighted like Palestinian issue. We need APHC to unite and there must be more representation in Brussels, Washington DC, to have these fake encounters of India recognized. His final word was that we need to have campaigns like these for mass awareness of Indian wrongdoings like the demographic changes of Kashmir."



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## References

- [1] Encyclopaedia Britannica, Available online <https://www.britannica.com/topic/civil-rights>
- [2] Betwa Sharma, India Suffers 'Alarming' Decline In Civil Liberties, Kashmir Ranked 'Not Free': 2020 Freedom Report, The Huffington Post Dated 4-3-2020 Available at [https://www.huffingtonpost.in/entry/india-human-rights-kashmir-2020-freedom-report\\_in\\_5e5f35edc5b67ed38b3a553e](https://www.huffingtonpost.in/entry/india-human-rights-kashmir-2020-freedom-report_in_5e5f35edc5b67ed38b3a553e)
- [3] *ibid.*
- [4] UN chief Antonio Guterres's remarks in Pakistan: India says J&K its integral part Available at <https://www.livemint.com/news/india/un-chief-antonio-guterres-s-remarks-in-pakistan-india-says-j-k-its-integral-part-11581880712591.html>
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Center of Pakistan and International Relations is a strategic think tank working on policy advocacy and project implementation along with the provision of a vision based on contemporary scenarios. Center of Pakistan and International Relations is also engaged in policy advocacy of Kashmir and philanthropic movements within the country. COPAIR host a series of webinars to highlight the Human Rights violations and neglected right of self-determination of Kashmiri people.. COPAIR believes that robust diplomatic outreach and forging a national narrative of the Kashmir as illegally annexed territory by India is need of the hour and thus the non-profit organization is hosting a series of dialogues to highlight the transgressions of human rights in Kashmir and to draw the attention of the world towards the neglected plight of Kashmiri people. Under the dynamic leadership of President Amna Malik COPAIR focuses on human rights issues, youth skill development, Green energy business solutions, gender equality, women rights, economic empowerment, global peace, Sports, democracy, inter-faith harmony, trade, investment and diplomacy. In the wake of providing an insight into the situation regarding many aspects COPAIR, has published several reports. These reports are an amalgamation of historical perspectives along with the current trend while adopting the futuristic approach. Awais Siddique-Research Associate of COPAIR had compiled these reports.