



**Human Rights Violations in Indian Occupied Jammu and Kashmir:  
An Analysis of Indian Discriminatory Laws to Suppress the Independence Movement**

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**Abstract:**

India is striving very hard to keep its control by using hard power tactics of committing human rights violations to suppress and oppress the independence movement in Indian Occupied Jammu and Kashmir (IOJK). The human rights violations range from mass killings, youth killings, torture, rapes, enforced disappearances and sexual abuses to political suppression. Lack of access to justice and impunity for human rights violations are major challenges for human rights in IOJK. The black laws enforced in IOJK such as Public Safety Act, (1978) and Armed Forces Special Powers Act, (1990) give unlimited powers to Indian Armed forces and have obstructed the normal course of law, impeded accountability and jeopardized the right to remedy for victims of human rights violations. Thousands of people have been killed, detained, injured and tortured since 1989. The study analyzed the gross human rights violations that took place in IOJK. The Research explored the methods which are being implemented and practiced to kill and curb the voices of people who have been fighting for their Right of self-determination.

**Keywords:** Indian Occupied Jammu and Kashmir, Public Safety Act, Public Safety Act, human rights violations, mass killings, molestation of women, forced disappearances

**INTRODUCTION**

Massive human rights violations are going on in Indian occupied Jammu and Kashmir (IOJK) since 1989. Indian occupational forces have been carrying on a ruthless campaign of terror against people of Kashmir who are fighting for their right of self-determination. Indian occupational forces have been given unlimited arbitrary powers to use lethal force. In this ongoing reign of terror, thousands of people have been killed, persecuted, injured and prisoned. The atrocities also include gang rapes, tortures, extra judicial killings, arbitrary arrests and burning of houses. More than eight thousand people are disappeared since 1989. There are more than seven thousand unknowns, unmarked, and mass graves found in IOJK. The total number of Indian troops deployed in occupied Jammu and Kashmir were 150,000 in 1990 but now there are more than seven lakh troops (JKCC, 2016).

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## Background

The Jammu and Kashmir dispute dates back to the days of decolonization and transfer of power by the British. At the time of partition of Indian sub-continent, the principle of “communal majority” was adopted, that is the contiguous Muslim majority were assigned to Pakistan while as Hindu majority areas were assigned to India. This partition plan as such did not apply to princely states, whose number was 565. They were enjoying semi-autonomous status under the British rule. Later these princely states became legally and completely independent after the end of his majesty’s government on 15 august 1947. After that these princely states were under no obligation either to join India or Pakistan. Then the viceroy of India lord Mountbatten pressurized all princely states to accede India or Pakistan but geographical situation and communal interest factors must be considered (Mangrio, 2012).

Three major issues (Hyderabad Deccan, Junagadh and Jammu and Kashmir) arose during the process of merger of states. The rulers of Junagadh and Hyderabad were Muslims and wanted accession with Pakistan but India didn’t accept the accession of both states. The majority of both states were Hindu and Indian’s stand was that one person couldn’t decide the fate of whole population. At the end both states were forcibly integrated to India. In case of Jammu and Kashmir, a Muslim majority state ruled by Hindu ruler Maharaja Hari Singh obviously belonged to Pakistan. To occupy the Jammu and Kashmir the direct approach by India was totally impossible and they adopted different stands to occupy it. They pressurized the Hindu ruler to integrate with India and employed political pressure behind the scene in which it would appear that people of Jammu and Kashmir wanted to join India of their own volition (Ahmed, 2000).

Although the Jammu and Kashmir accession had not decided, the Jammu massacre took place where non-Muslims directed by Dogra state Troopers killed more than 200.000 Muslims and uprooted one million Muslims (Chatta, 2009). This massacre angered the Pakistani Tribesmen and they crossed border on 22 October 1947 to save Muslim fellows of Jammu and Kashmir. To push Pakistani Tribesmen back the dominant non-Muslim ruler over Muslim majority state asked Government of India for assistance. In reply Indian government asked him first accede with Indian union and India claims “instrument of accession” was signed on 26 October 1947. Next day on 27 October India deployed troops in Kashmir. However, there are serious doubts about the documents of “instrument of accession”, neither India has produced document on any international forum nor has presented document to UN or Pakistan. This further doubts whether the maharaja signed the document or not (Mohiuddin, 1997).

Governor General of India Lord Mountbatten said that the permanent accession of Jammu and Kashmir is not accepted until people of Jammu and Kashmir are not consulted. The then prime minister of India late Jawaharlal Nehru accepted the principle and wrote letters to prime ministers of Pakistan and Britain (Qadeer, 2018).

India took Kashmir issue to UN under article 35, chapter 6 of United Nations charter in 1948. The chapter 6 of UN charter outlines the means for peaceful settlement of dispute. It is very interesting to note here that India took Kashmir issue to UN and recognized Kashmir issue as dispute and it’s also evident that India accepted that instrument of accession is not permanent accession of Kashmir to Indian union. It is also interesting point to note that India did not take Pakistan to United Nations

under chapter 7 which is related to acts of aggression as India was alleging Pakistan. Both countries accepted UN resolution of 5th January 1949, as per UN resolution the plebiscite must be held in Jammu and Kashmir and “right to self-determination” must be exercised through which people of disputed territory must determine their future. Indian acceptance of UN resolutions proved that “instrument of accession” even if genuine, is declared null and void (Nawaz, 2018).

United Nations appointed commission for India and Pakistan (UNCIP) for negotiation between two nations. UNCIP passed two important resolutions on January and August 1948 which relates to plebiscite under UN supervision, ceasefire and demilitarization. From 1948 to 1962 several resolutions were passed in UN only calling for plebiscite. In 1964, India changed its stance, passed a resolution in the parliament and declared Kashmir as its ‘integral part’. Since then, Pakistan has continuously raised issue on different international forums to gain support for the right of Kashmiri people. This unresolved issue has not only created instability at regional or international level but both states have fought three wars, along with several low scaled intensity conflicts. Since 1947, Pakistan is providing political, economic and moral support to Kashmiri people (Orakzai, 2010).

### **LITERATURE REVIEW**

Major writings and sources are reviewed in this study which provides deep insight into the human rights violations. The literature reviewed mostly include scholarly journal articles, books, reports, websites etc.

Alastair Lamb in his book *Kashmir: A disputed legacy (1846-1990)* gave a general explanation of the events related to the Kashmir dispute that arose between two rivalry states in 1947. After presenting the detailed key developments from 1846-1990, Author viewed that it is due to the mistrust and divergent policies pursued by two south Asian nations that lead them to rivalry. This book also exposes the real fact of British Empire in Kashmir and the role played by the Lord Mountbatten the then Governor General of Indian sub-continent in partition. After mentioning the outcome of Radcliffe award and Gurdaspur matter The author eliminated all the myths related to Indian claim (Kashmir as an integral part). In response, Pakistan always challenged claim of India by calling Kashmir a jugular vein of Pakistan. Although all political events and developments from 1846-1990 are presented in his book but how political events and developments compel Kashmiris to start the armed movement against India for their promised right, (Right to self-determination) is ignored. As the starting of movement is main matter of subject in 1990s, that contributed to intricacy of Kashmir problem (Lamb, 1991).

Victoria Schofield in her book *Kashmir in conflict: India, Pakistan unending war* illustrates the historical background of Kashmir conflict and origin of Kashmir conflict from independent valley to the contemporary days of freedom struggle. The sale of Muslim majority province by British to Hindu Maharaja Gulab Singh paved the basis of Kashmir issue. After that Kashmiri Muslims struggle for the cause of independent state from British in Indian sub-continent and the accession based on communal divide put the Kashmir issue on top. Since then, both countries Pakistan and India are not good neighbors. Kashmir having a unique geographical strategic position on the borders of south Asia, Central Asia and China, have the stance and interest of both states over it. Both states are also indulging in other conflicts and have fought three wars over Kashmir conflict since inception (Schofield, 2010).

Ijaz Hussain in his book *Kashmir dispute: An International law Perspective* describes The inter-religious violence that occurred in Jammu and Kashmir against the backdrop of the 1947 Partition of India and its aftermaths included a possible 'ethnic cleansing' of Jammu Muslims. One million Kashmiri Muslim refugees were uprooted and an estimated 2,37,000 Muslims were systematically massacred in Jammu region alone by the forces of the Dogra State headed by the Maharaja and aided by Hindus and Sikhs. This happened in October 1947, five days before the Pathan tribesmen from the tribal area of Pakistan's north western Frontier Province, fired by the sentiments of holy war entered Kashmir to help their religionists. Reportedly, as a result of the massacre/migration, Muslims who were a majority (61 per cent) in the Jammu region became a minority (Hussain, 1998).

The office of the UN High Commission for Human Rights released a report and raised serious concerns about the human rights violations by Indian Armed Forces and calls for international inquiry into multiple violations. The political dimensions of the dispute between India and Pakistan have long been center-stage, but this is not a conflict frozen in time. It is a conflict that has robbed millions of their basic human rights, and continues to this day to inflict untold suffering. This is why any resolution of the political situation in Kashmir must entail a commitment to end the cycles of violence and ensure accountability for past and current violations and abuses by all parties, and provide redress for victims. The main focus of the report is the human rights situation in the Indian state of Jammu and Kashmir from July 2016 - when large and unprecedented demonstrations erupted after Indian security forces killed young leader of an armed group - to April 2018 (Office of the United Nations High Commissioner for Human Rights (OHCHR), 2018).

The US central Intelligence Agency (CIA) views Kashmir as the site of the world's largest and most militarized territorial dispute: The state of Jammu and Kashmir is one of the largest militarized zone in the world, the number of the soldiers, the paramilitary and the police deployed in Indian occupied Kashmir is between 6.5 lakh to 7.5. If we take the Indian army's total strength, half of it is in J&K. The ratio of police to people is the highest here among all States. According to the CIA world Book, the dispute between China, India and Pakistan over the issue of Kashmir has made it the largest and the most militarized territorial dispute in the world. Political activists in Kashmir say the onus of militarizing the region is more on India.

Jammu and Kashmir Coalition of Civil Societies (JKCCS) released a report on human rights situation in IOJK and expressed serious concern about the human rights abuse in IOJK. The year 2019, will be remembered as a landmark year in the history of Indian occupied Kashmir as the laws related to special status of IOJK were revoked by Government of India on 5<sup>th</sup> august 2019. The decision was taken unilaterally by Government of India without any consultation with the people of IOJK. By the abrogation of special status of IOJK, India violated the international standards related to self-determination like ICCPR as well as the bilateral agreement known as Shimla agreement. Before the scrap of special status government of India threw all the representatives of IOJK in Jails and deployed one lakh additional troops in IOJK. A strict curfew was imposed with a communication blackout and mass arrest spree. In this year 80 civilians along with 12 women and 159 armed freedom fighters were killed in different incidents in IOJK. Out of total civilian killings, 21 civilians were killed after the scrap of article 370 (Jammu and Kashmir Coalition of Civil Societies [JKCCS], 2019).

United Nations High Commission for Human Rights released its 2<sup>nd</sup> report on human rights abuses in IOJK and called for probe. The report mentioned that the arbitrary detentions in IOJK leads to

human rights violations and called for the formation of inquiry into the human rights violations going on in IOJK. The report released by human rights commission also called India to investigate the killings that took place after the killing of young boy Burhan Wani (OHCHR, 2019).

Amnesty International slams India over Kashmir move, launched Global campaign '*let Kashmir speak*' and demanded immediate lifting of communication blockade in IOJK. The human rights group criticized India on revocation of special status of Kashmir without the consultation of people and said the unilateral decision of Indian government was likely to inflame prevailing tensions and increase further human rights violations during a complete clampdown on civil liberties and communication blockade (Amnesty International, 2019).

### **RESEARCH METHODOLOGY**

The Methodology pursued during the study is qualitative with historical and analytical approaches. The data is collected from secondary sources to elaborate and analyze the research study. Secondary data included the reports prepared by national and international organizations, groups, government reports, research studies, journals, articles, books and newspapers. All the collected data helped to understand human rights violations like youth killing, torture, rapes and custodial killings that took place in IOJK. This study is based on descriptive and historical research design.

### **LIBERALISM, INTERNATIONAL LAW AND HUMAN RIGHTS VIOLATIONS IN IOJK**

Liberalism talks about human rights, freedom, equal rights and Opportunities, and same laws for everyone. India claims to be the largest democratic country of the world. One of the important characteristics of a democratic country is to protect the basic human rights like freedom of speech and religion, equal opportunities for everyone and an equal chance to everyone to participate politically and economically in a society. Considering the liberal view, India, as a democratic country should provide equal opportunities to everyone, even in Jammu & Kashmir but in reality India has been governing Kashmir through its security forces. India has been violating human rights under the umbrella of special laws. Under these special laws thousands of innocent people get killed and tortured. India is using Kashmir for its national interest, utilizes resources of Kashmir to boost economy (Jahangir, 2012).

### **Universal Declaration of Human Rights (UDHR) and Human Rights Violations in IOJK**

Universal declaration of human rights (UDHR) is a historical document, considered as a milestone for humanity. This document is drafted by representatives who belong to different legal and cultural backgrounds of the world. The General Assembly of United Nations proclaimed the declaration on 10<sup>th</sup> December 1948 in Paris, known as General Assembly Resolution 217A. It is pointed as a common standards of achievements for all nations and all people of the world. Besides, it sets out that Human Rights must be universally protected and to be translated into 500 languages of the World. Today the Universal declaration of human rights is as relevant as it was in 1948. It is a global yardstick through which we can measure Right and Wrong. All signatory members of this document have same extraordinary vision to safeguard humanity all over the world from discrimination by the states either democratic states or kingdoms. But it is very unfortunate, despite having such a golden document still human rights violations takes place. People are being subjugated against their wishes and sentiments by the UN member states but United Nations organization (UNO) instead

strengthens the document they discriminatorily ignore human rights violations of mighty states against depressed and oppressed within their domain. In this regard Kashmir is one of the chronic examples (Amnesty International, 2017).

Since 1947, Jammu and Kashmir is under forceful occupation of India but from beginning people of Jammu and Kashmir has never ever surrendered to the brutality of India forces. Government of India tried very hard to control and depress the voices of people but violations failed to change the pro-freedom mindset of people. Many times India went to UN to rescue herself by showing willingness in resolving Kashmir issue but every time they betrayed Pakistan, Kashmir as well as UN. India used its all efforts to defame the legitimate freedom struggle of Kashmir and label them as terrorists but failed. Various resolutions were passed by UN to hold plebiscite and to let the people of Kashmir decide their future. India also accepted those resolutions and also her prominent leaders repeatedly promised to hold plebiscite. However, with the passage of time India abandoned its promises and strengthen their control through atrocities by their occupational forces and implement draconian laws. In response Kashmiris always show tolerance against brutality and continue their freedom struggle. People of Kashmir has never bow their heads in front of India. Kashmiris are sacrificing their lives and standing in front of brutal forces to face bullets for their sacred cause (Ali, 2019).

People of Kashmir always protest and want to gain response of international community, particularly from powerful UDHR signatories to watch human rights violations, brutality and cruelties committed by Indian security forces against Innocent Armless people. But unfortunately, all powerful states along with international community and particularly UN have forgotten the golden document of universal declaration of human rights and without paying any attention they turned themselves deaf and dumb towards severe human rights issues in IOK (Balakrishnan, 2016).

### **IN THE LIGHT OF YOUTH BULGE THEORY**

Today is the age of youth and the youth movements have got worldwide attention. The role of youth in socio economic development and nation building process increased at global level. The youth bulge has also been at the center of debates in Indian occupied Jammu and Kashmir particularly for last three decades. Kashmir dispute is one of the serious issues of the world, where youth have assumed central importance by providing best efforts to shape ideology in one way or the other. The people of Kashmir are struggling for their right, "Right to self-determination" on two fronts, one is political front comprising many political and religious parties and other one is armed front also comprising many armed wings, on both fronts the youths of Kashmir are taking active and important role. In this ongoing freedom struggle, the people of Kashmir particularly young generation are facing massive Human rights violation (Bukhari, 2013).

The story of Kashmiri youth is directly related to broken promises. Since 1989 unprecedented pressure have been seen on youth of Kashmir. The atrocities have made serious impact on young generation that grew up after 1989. Unresolved dispute pushed the young generation to Gun culture and also to the streets to protests. Before starting armed struggle the young generation also made many attempts to take the Kashmir conflict at center stage but the Government of India betrayed and foiled them. Today the young Generation of Kashmir region are different from other regions of south Asian States. Modern education has spread all over the world but Kashmiri youth are

engaged in unresolved dispute. A continued feeling of living under siege in their own home land and to curb the movement by force have led to dejection. It forced youth to get together to take occupational forces and police on a large scale. The Indian forces are conducting fake encounters to get rewards and promotion, all this have also triggered a long scale of violence (Mir, 2019).

### **DRACONIAN LAWS IMPLEMENTED IN IOJK**

India is striving very hard to keep its control by using hard power tactics in IOJK. It has given unlimited powers to occupational armed forces to play havoc with the life, honor and property of helpless people of Kashmir and to suppress the Kashmiris' ongoing struggle aimed at securing their inalienable right to self-determination. The armed forces totally operate under a host of black laws. The black laws through which the occupational forces are enjoying complete impunity for their brutal actions and crimes are Armed Forces Special Powers Act (AFSPA), Public Safety Act (PSA), National Security Act (NSA) and the Unlawful Activities Prevention Act (UAPA) (HRW, 2006).

#### **Armed Forces Special Powers Act (AFSPA)**

It was passed in September 1990 that grants vast powers to occupational forces in IOJK. Section 7 of AFSPA (1990) prohibits any kind of prosecution of Indian forces unless, Indian Government grants a permission to prosecute. It provides occupational forces impunity against prosecution for violation of human rights. Since, the implementation of AFSPA not a single prosecution of any armed personnel is granted by the government of India. Section 4 of same law allows any armed personnel to use lethal and prohibits the assembly of five or more persons. This provision of AFSPA breaches various international standards and UN basic principles on the use of force. Due to the restrictions imposed by section 7 of AFSPA 1990, cases related to excessive use of force have never been independently prosecuted or investigated (UNHCR, 2013).

This law along with other black laws are not only criticized by the international human rights groups or organizations but also by the US state department in its Annual human rights reports. In 2017, US state department in its annual human rights report on India, reported that India is using deadly force to maintain law and order in disputed territory and any person is detained under PSA for several weeks, months and years without issuing or serving arrest warrant (US Department of States, 2017).

British All Parties Parliamentary Group (APPGs) reported that the implementation of AFSPA in IOJK erodes the rule of law all across the Indian occupied Jammu and Kashmir. It is totally against the norms of human rights and rule of law and it must be repealed on priority basis (APPG, 2018).

AFSPA also authorizes non-commission officers to enter a house, search and arrest anybody without issuing arrest warrant and can even shoot any person on mere suspicion. No penal action can be taken against the forces without the sanction of the Union Government of India.

Since 1990s, Indian forces committed huge number of human rights abuses under Armed Forces Special Powers Act (AFSPA), which includes, detentions under PSA, searching and arresting without warrant, Fake encounters, enforced disappearances, custodial killings, torture, rape, use of Pellet firing shotguns, excessive use of force and inhuman treatment of prisoners like beatings with iron rods, burning with cigarettes and mostly electric shocks (JKCCS, 2018).

**Public Safety Act (PSA)**

In 1978, Public safety Act (PSA, 1978) was introduced to deal timber smugglers but this law is commonly used to stifle dissent and counter political opinions and viewpoints in IOJK. It has been used to target freedom fighters, journalists, human rights activists, civil society actors, political leaders and protesters who are struggling for cause of Kashmiri's right of self-determination The PSA does not provide for judicial review of detention (HRW, 2016).

This tactic has been used to detain people for several weeks, months and years without issuing or serving arrest warrant. PSA authorizes the authorities to impose detention order without charge or trial for up to two years. This law also gives authorities free hand to sweep power and provides least possibility for detainees to contest the legality of their detention (Amnesty International, 2001).

People who are detained under PSA are tortured, they are not allowed to meet their family and are not given access to lawyers. The torture is commonly used in army camps, police stations and interrogation centers to humiliate people which resulted in huge number of deaths. The Bar Association of IOJK have challenged the PSA cases in different courts but the Indian Authorities deliberately ignored court orders quashed detention orders and granting bail. Interrogation centers are kept beyond the judiciary scrutiny, they are run by Armed forces and makes impossible for the people of Kashmir to determine the location of their family members or the welfare of those who are in detention centers or have disappeared. It is also very hard for bar association to know where about or remaining of detainees. For example, still the remaining of Maqbool Bhat and Afzal Guru is in Tihar Jail (JKCCS, 2018).

**Unlawful Activities Prevention Amendment Act 2004 (UAPA)**

In 2004, the government of India repealed the prevention of terrorism Act (POTA) and amended the Unlawful Activities Prevention Act (UAPA). Similar to the previous black laws, this act again provides extraordinary powers to Indian armed forces and other law enforcement agencies (Abraham, 2017).

The repeal of POTA was an election drama of the then elected congress government. The amended UAPA was passed with many changes, like the concept of terrorist act, terrorist organizations were added from repealed POTA and also the concept of terrorist gangs were added from the same Act.

In fact, the chapters of UAPA that deal with the punishment of terrorist activities and organization are also borrowed from repealed Act (POTA). Under this Act, the government of India declares the pro resolution political as well as religious organizations of IOJK as terrorist organizations. Moreover, it allows the authorities to detain a person without charge for a period of 180 days and police custody can be up to 30 days. In reality the UAPA is a substitute of repealed black laws (Bhawnani, 2018).

**National Security Act (NSA)**

Under this Act, a person can be detained up to one year to prevent him from acting in a manner prejudicial to state security, the maintenance of public order or having relations with a foreign powers ("Explained: The Jammu and Kashmir," 2019).

**IMPUNITY AND LACK OF ACCESS TO JUSTICE**



Lack of access to justice and impunity for human rights violations are major challenges for human rights in IOJK. Abuses by Indian Armed forces including rape, disappearances and killings have always gone un-investigated. The draconian laws which are in force in IOJK, like public Safety Act, (1978), Armed Forces Special Powers Act, 1990, have created such type of structures that really obstruct the normal course of law, impede accountability and jeopardize the right to remedy for victims of human rights violations. AFSPA was passed on September 1990 that grants vast powers to occupational forces in IOK. Section 7 of AFSPA (1990) prohibits any kind of prosecution of Indian forces unless, Indian Government grants a permission to prosecute. It provides occupational forces impunity against prosecution for violation of human rights. Since, the implementation of AFSPA, not a single prosecution of any armed personnel is granted by government of India. Section 4 of same law allows any armed personnel to use lethal and prohibits the assembly of five or more persons. This provision of AFSPA breaches various international standards and UN basic principles on the use of force. Due to the restrictions imposed by section 7 of AFSPA 1990, cases related to excessive use of force have never been independently prosecuted or investigated (HRW, 2006).

### **Illegal Detentions and Arbitrary Arrests**

Every state party to the ICCPR is obliged to ensure principles of legality and the right to liberty and security, including the right not to be subjected to arbitrary arrest or detention. If anyone is charged or detained, he or she has right to know the reason of his or her charges and detention. Every detained or charged person must be brought before judge within reasonable time after detention or arrest and must have right to appeal in court to review his/her detention or arrest (ICCPR, 1966).

In 1978 Public safety Act (PSA, 1978) was introduced to deal timber smugglers but this law is commonly used to stifle dissent and counter political opinions and viewpoints in IOJK. It has been used to target freedom fighters, journalists, human rights activists, civil society actors, political leaders and protesters who are struggling for the cause of Kashmiri's right to self-determination. The practice of detaining people is frequently used in IOJK, especially after the scrap of special status of IOJK. The PSA does not provide for judicial review of detention. This tactic has been used to detain people for several weeks, months and years without issuing or serving arrest warrant. PSA authorizes the authorities to impose detention order without charge or trial for up to two years. This law also gives authorities free hand to sweep power and provides least possibility for detainees to contest the legality of their detention. Indian Supreme Court described this illegal detention system as lawless law. Jammu and Kashmir Authorities are continuously countering the orders by high court of Jammu and Kashmir to release detained people by issuing successive detention orders (JKCCS, 2019).

International community have called India for the revision of PSA, so that they can meet international human rights obligations. It has been noted by United Nations human rights committee that it totally contravenes the civil and political rights enshrined in international covenant including the rights to liberty and to a free and fair trial (Sekaggya, 2012).

### **Torture**

Article 7 of international covenant on civil and political rights prohibits every state to torture under any circumstance. India being a state party also obliged to ensure that no person is subjected to torture, cruel, inhuman or degrading punishment or treatment but there have been persistent cases

of torture by Indian forces in IOJK. This practice is started in IOJK in 1990s and since then, not a single army person, who has committed tortured or any other form of inhuman or degraded treatment have been prosecuted in a civil court (HRW, 2006).

Indian forces continuously use torture as a method to intimidate people and to suppress and oppress freedom struggle of IOJK. Mostly, the torture cases are not reported in media. It is now common in IOJK that people are called to the army camps and are being tortured and humiliated (JKCCS, 2019).

### **Excessive Use of Force**

The huge killing that took place in IOJK is obvious that Indian forces used excessive force to respond the peaceful protesters, rallies and demonstrations. Various international human rights groups have reported or documented that Indian occupational forces are using excessive force and violate the national as well as international standards of use of force (JKCCS, 2016).

According to international standards of the use of force, law enforcement officials have to give clear message or warning before using firearms and give people sufficient time to react but according to witnesses, Indian forces did not give any warning or message before firing pellets or bullets on protesters (United Nations Office on Drugs and Crime (UNODC) & OHCHR, 2017).

### **Enforced Disappearances**

The Association of Parents of disappeared people (APDP) and Jammu and Kashmir coalition of civil society reports that more than 8,000 people of Kashmir are disappeared since 1989. The families of disappeared people are continuously suffering as the Government institutions could not provide any help to trace the disappeared people. Neither any enquiry nor any policy has been introduced to find out the reason behind the forced disappearance of more than 8,000 people. The government is not willing to investigate the cases of disappeared people and claims that most of the disappeared people cross border and are staying in Pakistan. However, the claim of government is continuously rejected by families of disappeared people, who have witnessed their loved ones being picked up by various agencies of armed forces. The families of disappeared people are continuously demanding government and other security agencies to prove their claim that disappeared persons have crossed border and are staying in Azad Kashmir, but the government along with all agencies failed to prove their false claim that disappeared persons crossed the border and are staying in Azad Kashmir or Pakistan (APDP, 2016).

### **Unidentified Mass Graves**

The crime of unmarked mass graves and enforced disappearances are closely related to each other. The mass graves are present all over IOJK. In 2017, more than seven persons are forcefully or involuntary disappeared by security forces, five among them were found dead few months later after disappearance. In 2007, the government of India signed the international convention to protect all persons from enforced disappearance (ICPPED) but has not ratified it. Indian government did not provide any effort to criminalize the enforced disappearances. Various members recommended India to ratify ICPPED but India did not act. The United Nations working group on evolutionary or enforced disappearances has not been allowed to visit Indian occupied Kashmir (JKCCS, 2019).

### **Half Widows or Half Wives**

The cases of half widows or half wives is closely related to crimes of enforced disappearances and unidentified graves. Half widows or half wives is the name given to Kashmiri women whose husbands have disappeared and they do not know whether their lifepartners are dead or alive. These disappearances have been carried out by Indian armed forces. No human rights organization or group knows the exact number of half widows or wives due to the widespread violence and lack of access to remote areas but the human rights group named Jammu Kashmir coalition of civil society reports that there are around fifteen hundred half widows in Kashmir valley (APDP, 2011).

It is possible that these missing persons may have been buried in an unidentified grave too. The unidentified graves or mass graves are more than seven thousand in IOJK. There are various cases in which local civilians were buried and were labelled as foreign rebels by Indian authorities.

The biggest problems faced by these half widows is that in the absence of their breadwinners, they are dependent on others and are facing social and economic insecurities. Mostly these half widows have not remarried, still they are waiting for their husbands to return back. They are the examples of bravery, attempting to hope against hope and despite a lot of economic hardships they continue to look after their children. The main concern of all these widows is to find their loved ones. Their routine is to move from one army camp to another and one police station to another. In this process of searching they have spent months and years. The disappearances have also lasting adverse effects on their children. These children carry the pain of being fatherless. They are often facing traumatic stress disorders and are feeling extremely loneliness. Many half widows often lie to their children about the father's fate in order to protect them from stress disorders (APDP, 2011).

### **Cordon and Search Operations (CASO)**

Cordon and search operation, one of the worst and most criticized Indian military strategies was employed in IOJK in 1990s and is reintroduced in 2017. Since 1990s, mostly the extrajudicial killings are done on the name of so called cordon and search operation. In cordon and search operation all persons of a village or colony are ordered to come out and assemble for identification in front of hooded informers or agents. In such operations particularly youth are targeted. Various kinds of human rights violations take place in cordon and search operations like physical intimidation, assault, privacy breach, collective punishment, destruction of private property and illegal detention. Various organizations have also expressed grave concerns over CASO (JKCCS, 2017).

### **Restrictions On Media, Journalists and Human Rights Activists**

According to the article 19 of ICCPR every state is obliged to ensure the right to freedom of expression and opinion. There must not be any kind of restrictions on journalists or human rights defenders to attend any kind of human rights meetings (ICCPR, 1966). Despite party to ICCPR, India is continuously violating the right to freedom of expression and opinion. Various human rights activists, who tried to bring international attention to human rights abuses in IOJK, faced reprisals and various journalists were denied access to the region and in turn were arrested and detained under PSA. IOJK is extremely a dangerous place for journalists. Since 1990, Indian forces have made journalism a hazardous profession by assaulting, intimidating, abducting and killing journalists. 21 journalists have been killed in target killing or cross firing since 1990s (OHCHR, 2019).

### **Abrogation of Article 370**

After the huge deployment of armed forces in all districts of IOJK, the curfew was imposed on the early hours of 5<sup>th</sup> August and whole region of Jammu and Kashmir was under military and communication clampdown. Same day, a bill was introduced by BJP Government in upper and lower house of Indian parliament to abrogate article 370 of Indian constitution related to special status of IOJK. The scraping of special status of IOJK by the BJP government is inconsistent with earlier rulings of Indian Supreme Court, which declared that articles related to special status of Kashmir could not be abrogated without the approval of the legislative assembly of IOJK. The unilateral decision of abrogation of article 370 and 35A by government of India is violation of international standards and principle of right to participate and right to self-determination of people for their political future, which India is obliged to follow after it signed the ICCPR (APDP, 2019).

After repealing special status of IOJK, Indian parliament passed a reorganization Act of 2019 and divide disputed territory of IOJK into two union territories, Jammu Kashmir and Ladakh, directly under the control of Delhi. The decision of Indian government to abrogate article 370 and 35A is to ensure the complete annexation of disputed territory, in a belief that such type of developments would lead to an end of the long standing dispute in south Asia.

### **Operation Calm Down**

After the killing of young boy Burhan Wani in July 2016, Indian armed forces started Operation calm down in IOJK. In this operation hundreds of youth were killed and thousands of people were injured. In September 2016, four thousand additional troops were deployed in IOJK as a part of operation calm down to suppress and oppress the innocent people of Kashmir who are demanding the right of self-determination since 1947.

### **Operation All Out**

Indian Armed operations are going on in IOJK since 1990s but this one is started in 2017 following the killing of young Boy Burhan Wani in 2016. The operation is carried jointly by army, police, CRPF, BSF and Indian intelligence agencies to kill the Kashmiri youth, who are fighting for the right of self-determination. From 2017 hundreds of youth were killed by Indian armed forces in operation all out (JKCCS, 2019).

Not only the armed freedom fighters but also civilian were killed near encounter sites. Since 2017 hundreds of people including minors were killed near encounter sites in IOJK. People who were killed near encounter sites were mostly non-protesters whom India called accidental killings (APDP, 2019).

### **Recommendations**

There is an urgent need to address the ongoing human rights violations and to deliver justice for the people of IOJK. International community particularly UN must come forward and make a commitment to end the cycles of violence and must focus on accountability for all human rights violations and abuses committed by Indian armed forces.

The most important thing which needs to be done by United Nations is to repeal black laws in IOJK.

Human Rights Organizations must play their role to insist and force India to stop human rights

violations and abuses in Kashmir as it is not the solution to crush the pro-resolution movement in IOJK.

International Media should play active role. Global campaign should be launched on human rights violations of IOJK.

Restrictions on journalists, human rights defenders and civil society organizations must be lifted and given free access to IOJK that would be a great step towards transparency in IOJK.

## **CONCLUSION**

Since 1989, IOJK has witnessed unprecedented cycles of violence by Indian Armed Forces. People have witnessed human rights violations in the form of extra-judicial executions, civilian killings, illegal detentions, pellet gun injuries, bullets, torture, sexual violence, disappearances and arson. All international notable human rights organizations and groups, investigate teams and international journalists have been barred from visiting to IOJK.

Armed forces special power Act (AFSPA 1990) grants vast powers to occupational forces in IOJK. It provides occupational forces impunity against prosecution for violation of human rights. Since, the implementation of AFSPA not a single prosecution of any armed personnel is granted by government of India. There is a complete breakdown of the law and order machinery in IOJK. High court of Kashmir has been made helpless by Indian law enforcing agencies.

India didn't keep any stone unturned to defame the indigenous movement of Kashmiri people and pro-resolution leadership on international forums but in reality Kashmiris are peaceful, humane chartered, talented and generous. Rule of law, justice, liberty, equality and religious freedom are not found anywhere in Kashmir.

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