

**FACT FINDING REPORT OF THE  
SECOND OIC-IPHRC VISIT TO THE**

**STATE OF AZAD JAMMU AND KASHMIR TO ASSESS THE  
HUMAN RIGHTS SITUATION IN THE INDIAN OCCUPIED KASHMIR**



اللجنة الدائمة المستقلة لحقوق الإنسان

Independent Permanent Human Rights Commission  
La Commission Permanente Indépendante  
des Droits de l'Homme

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## INTRODUCTION AND BACKGROUND OF THE OIC-IPHRC SECOND FACT FINDING MISSION:

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Jammu & Kashmir is one of the oldest internationally recognized disputes on the agendas of the UN Security Council (UNSC) and the Organization of Islamic Cooperation (OIC). UNSC has passed 18 resolutions<sup>1</sup> recognizing the Kashmiris' legitimate right to self-determination; a right India has denied through an occupation force of over 900,000 making Indian Occupied Jammu and Kashmir (IOJK) the most militarized zone in the world.

### Mandate of the Fact-Finding Mission

The 43<sup>rd</sup> OIC Council of Foreign Ministers (CFM) through its resolution no.8/43-Pol and no.52/43-Pol<sup>2</sup>, while welcoming the establishment of a “*Standing Mechanism to monitor human rights violations in the IOJK*” requested the IPHRC to undertake a fact finding visit to IOJK to ascertain the human rights situation and report its findings to the OIC CFM. Based on this specific mandate, OIC-IPHRC, in July 2016, approached the Indian Government to facilitate IPHRC fact-finding visit to IOJK. However, to this day, this request remains unheeded. A similar letter, written by the OIC General Secretariat to the Government of India concerning the OIC fact finding visit to IOJK, also remains unanswered. In the backdrop of this non-responsiveness from the Indian Government, the Commission discussed the matter in its 9<sup>th</sup> and 10<sup>th</sup> Regular Sessions<sup>3</sup> and it was decided that IPHRC should at least visit Azad Jammu Kashmir (AJK) in Pakistan to meet with the refugees from IOJK to ascertain the human rights situation in the IOJK. A similar suggestion was also made by the Special Representative of the OIC Secretary General on Jammu and Kashmir after his visit to AJK in May 2016<sup>4</sup>.

While the OIC-IPHRC continued impressing upon India to allow a fact-finding visit to IOJK, without any success, the Government of the Islamic Republic of Pakistan took the initiative to invite the OIC-IPHRC to visit AJK and meet with the refugees from IOJK, political leadership, media and civil society. In the backdrop of these developments, the OIC-IPHRC delegation, in compliance with the CFM mandate, undertook a three-day visit to the AJK from 27-29 March 2017, and produced a comprehensive report based on the first-hand data gathered by the IPHRC delegation and other authentic independent sources. It was the first ever report factfinding report published by an intergovernmental human rights organization investigating the human rights violations in IOJK. The findings of the IPHRC's 2017 report were confirmed by the relevant reports of the Office of the High Commissioner for Human Rights (OHCHR) issued in June 2018<sup>5</sup> followed by its update in 2019<sup>6</sup>.

While endorsing the IPHRC's first report, the 47<sup>th</sup> Session of the OIC Council of Foreign Ministers (CFM) denounced India for continuing to deny access to IPHRC and other international bodies to IOJK including the request made by the OHCHR to establish a Commission of Inquiry to ascertain the human rights violations in IOJK. The IPHRC report inter alia voiced its grave concerns over gross human rights violations in the IOJK including the denial of the fundamental right to self-determination to the Kashmiris, guaranteed by international law and promised by various UN Security Council Resolutions.

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<sup>1</sup> All resolutions of the UNSC on the issue of Kashmir can be accessed here: [https://www.securitycouncilreport.org/un\\_documents\\_type/security-council-resolutions/?ctype=Jammu%20and%20Kashmir&cbtype=jammu-and-kashmir](https://www.securitycouncilreport.org/un_documents_type/security-council-resolutions/?ctype=Jammu%20and%20Kashmir&cbtype=jammu-and-kashmir)

<sup>2</sup> The full text of the Resolution is accessible here: <https://www.oic-oci.org/docdown/?docID=6626&refID=3255>

<sup>3</sup> Reports of the IPHRC 9<sup>th</sup> and 10<sup>th</sup> Regular Sessions held in April and November 2016

<sup>4</sup> [https://www.oic-oci.org/topic/?t\\_id=11171&ref=4392&lan=en](https://www.oic-oci.org/topic/?t_id=11171&ref=4392&lan=en)

<sup>5</sup> <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23198>

<sup>6</sup> [https://www.ohchr.org/Documents/Countries/IN/KashmirUpdateReport\\_8July2019.pdf](https://www.ohchr.org/Documents/Countries/IN/KashmirUpdateReport_8July2019.pdf)

As the human rights violations in the IOJK continue to worsen, the 47<sup>th</sup> CFM mandated the IPHRC to submit an updated report on the situation to the 48<sup>th</sup> Session of the CFM<sup>7</sup>. In accordance with this mandate, IPHRC conducted a second visit to the AJK from 4-8 August 2021. During this visit the IPHRC delegation focused on the human rights situation from March 2017 onwards, with a special focus on the period since August 2019, when India illegally revoked its constitutional provisions to change the special status of the occupied territory of IOJK, in total violation of the international human rights and humanitarian laws.

There are three dimensions of the Kashmir dispute: the first and foremost is the legal / political dimension concerning the respective claims of the Governments of India and Pakistan regarding the territorial jurisdiction of the State of Jammu and Kashmir, which is recognized by relevant international institutions as a legal dispute over a territory and its people that has the right of self-determination. Secondly, the dimension of peace and security that makes the issue of Kashmir a critical dispute that has the potential to threaten the peace and stability in the region of South Asia with dangerous consequences on the global peace and security as both India and Pakistan are nuclear States. Thirdly, the human rights dimension i.e., the widely reported serious allegations of human rights violations by the Indian security forces and civil administration in total disregard of the prevailing international human rights and humanitarian laws, which is the main concern of the OIC-IPHRC. International human rights organizations including Indian civil society organizations and Media have extensively reported about the systemic and systematic human rights violations in the IOJK, which are a cause of continuing concern both for the OIC and the wider international human rights community.

The OIC IPHRC, as mandated, is exclusively concerned with the human rights aspect of the dispute and has accordingly focused on this aspect in both its reports. This latest report has particularly focused on:

- a) providing an update on its first report and assessing the current human rights and humanitarian situation in the IOJK in the light of prevailing international human rights laws and standards;
- b) first hand investigation of the reports about allegations of human rights abuses by the Indian Occupation forces in the IOJK, particularly after the illegal actions by India since 5 August 2019; and
- c) making recommendations to various stakeholders on the need to protecting the fundamental human rights of the Kashmiris.

### **Visit Program and Sources of Information:**

The Commission, during its four day visit met with a cross section of Kashmiri political leadership, including All Parties Hurriyat Conference representatives (a coalition of political parties' representatives from the IOJK), Kashmiri refugees from IOJK, victims (of human rights violations in IOJK), witnesses and their families as well as victims of Indian shelling and firing living in the AJK side of the Line of Control (LoC), representatives of the UNMOGIP Office in AJK, media and civil society, as well as relatives of the Kashmiri political leaders, who have been incarcerated in New Delhi's Tihar Jail without due legal process or the opportunity of a fair trial<sup>8</sup>. In addition, the delegation met with the political leadership and concerned officials of the Governments of Pakistan and State of the AJK. The Commission appreciated the unfettered, open and transparent access provided by the Governments of Pakistan and the State of AJK to undertake its mandated task with objectivity and neutrality.

<sup>7</sup> Details of the mandate of the Resolution No. 10/47-POL on the Jammu and Kashmir Dispute are available here: <https://www.oic-oci.org/docdown/?docID=6626&refID=3255>

<sup>8</sup> <https://www.aljazeera.com/news/2020/4/9/jailed-kashmiri-separatist-yasin-malik-being-denied-fair-trial>

## OBSERVATIONS/FINDINGS OF THE OIC-IPHRC OVER THE HUMAN RIGHTS VIOLATIONS IN THE IOJK:

The Commission had to surmount the gigantic task of collating reliable data and information as the locus of human rights violations against the Kashmiris was in the in-accessible IOJK and also because of multidimensional nature of such violations. As an independent expert body, IPHRC's views presented in this report are based on facts and the grim realities existing on the ground. Therefore, while compiling this report, besides first-hand information gathered from the victims, witnesses and refugees who have fled from the IOJK, including Kashmiri leadership and other concerned persons, the Commission has relied extensively on the data reported by the independent human rights bodies, including the Office of the High Commissioner for Human Rights (OHCHR), Amnesty International (AI), Human Rights Watch (HRW), Médecins Sans Frontières (MSF), International People's Tribunal on Human Rights and Justice in Indian-Administered Kashmir (IPTK), Kashmir Media Service (KMS) and the Association of Parents of Disappeared Persons (APDP).

Since the last report of the Commission was released in March 2017, there have been important political and legal developments in IOJK, which seriously impacted the life and livelihood of the Kashmiri population, in what it seems to be yet another phase of human rights violations that aggravated both in nature and intensity.

On 5<sup>th</sup> August 2019 India unilaterally and illegally, revoked Articles 370 and 35A of the its constitution scrapping the special status of the IOJK (which were providing a legal basis of minimal State's legislative autonomy and restriction of permanent residency status to the indigenous people of Kashmir only)<sup>9</sup>, scrapping the special status accorded to IOJK. This unilateral and illegal step was vehemently rejected and termed as unconstitutional and illegal by the entire Kashmiri leadership in IOJK<sup>10</sup>. The revocation of these articles clearly indicated the Indian intention to irreversibly change the demography of the IOJK territory.

Based on these unilateral and illegal actions, the BJP government, in a bid to change the disputed region's demography, has also introduced illegal domicile rules in IOJK to advance its 'Hindutva' agenda. India has reportedly issued over 4 million domiciles to outsider Hindu population to settle in IOJK<sup>11</sup>. The Indian Government has also introduced new land laws under Union Territory of Jammu and Kashmir Reorganization (Adaptation of Central Laws) Third Order 2020<sup>12</sup>, allowing "citizens of India" to purchase non-agricultural land in the IOJK without ever having residency or domicile of the occupied territory. (*UN Experts Statement*)<sup>13</sup>

OIC-IPHRC, in its earlier press statements<sup>14</sup>, categorically stated that these new laws and the unilateral and illegal Indian actions of 5 August 2019 in IOJK will adversely impact the human rights situation, both immediately and in the long term. Particularly, the new domicile law undermines religious, linguistic and cultural identity of Kashmiris and puts employment for native Kashmiris at high risk. India's illegal and unilateral actions of 5<sup>th</sup> August 2019 were also forcefully rejected by the Kashmiris and the international human rights community as a blatant violation of the international law including the UN Charter, UNSC resolutions and international humanitarian law, especially the 4<sup>th</sup> Geneva Convention.

<sup>9</sup> <https://www.bbc.com/news/world-asia-india-49231619>

<sup>10</sup> <https://www.aljazeera.com/news/2019/8/5/india-revokes-disputed-kashmirs-special-status-with-rush-decree>

<sup>11</sup> <https://tribune.com.pk/story/2304530/over-3m-fake-domiciles-issued-to-non-kashmiris-to-change-IOJK-demography>

<sup>12</sup> <https://www.indiacode.nic.in/handle/123456789/12030?locale=hi>

<sup>13</sup> <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26758&LangID=E>

<sup>14</sup> <https://oic-iphrc.org/home/article/457>

## Human rights violations reported by the international media and human rights organizations

Since August 2019, India has imposed unprecedented military siege and restrictions on fundamental rights and freedoms of the Kashmiri people in IOJK. While the Kashmiri political leadership remains incarcerated under trumped-up charges, Kashmiri youth are routinely subjected to “fake encounters” and “cordon-and-search” operations by the Indian occupation forces resulting into arbitrary arrests / detentions without any due investigations and extrajudicial killings with impunity. Thousands, including children, have been imprisoned without any charge-sheet or due process<sup>15</sup>. In addition, refusal to return the mortal remains of martyrs for proper burial demonstrates a terrible disregard for basic norms of respecting human dignity and decency. A recent illustration of these severe human rights violations was seen at the death (1<sup>st</sup> September 2021) of popular Kashmiri leader Syed Geelani whose family was not given the right to perform burial rites or to choose his burial site. Indian security forces illegally took away the dead body from his Srinagar house and forced his family to bury him in a different location than the Martyrs’ Graveyard in Srinagar<sup>16</sup>, which was their original choice.

Based on these unrelenting human rights violations, Kashmir Walla<sup>17</sup>, one of the few remaining independent press outlets in Kashmir, summarized the situation in the following words: *“This relentless effort to enforce a silence, criminalize dissent, stop media, [and] disallow any political and society activity on [the] ground can only ensure peace of a graveyard”*.

Reliable sources have reported a significant increase in the level of systematic violence by the Indian Occupation Forces in the IOJK against the Kashmiri civilians since August 2019. Following is a summary of recorded casualties in the IOJK from August 2019 to August 2021<sup>18</sup>:

- More than 460 Kashmiris have been killed by Indian Occupation Forces. Out of these around 70 have been killed in fake encounters, extra-judicial operations and in Indian custody;
- Since January 2021 more than 160 Kashmiris have been killed extrajudicially by Indian Occupation Forces;
- In June 2021 alone, Indian Occupation Forces have killed more than 16 Kashmiris in custody, fake encounters or in extra-judicial operations, 169 have been tortured or injured and 81 civilians have been arrested;
- Some 4000 innocent Kashmiris have been tortured and injured and more than 145,039 civilians have been arrested. Around 1022 structures, including private houses, have been destroyed by Indian occupying forces;
- Whereas 21 women have been widowed, 54 children have been orphaned and more than 118 women have been molested or disgraced; and
- Pellet injuries stand at 584, including those who lost their eyesight.

And as stated above, in brazen acts of brutality, even the mortal remains of those killed in fake encounters are not handed over to the families for proper burial.

According to the bi-annual human rights report released by the All Parties Hurriyat Conference, since January 2021, the Indian occupation forces have:

- Conducted 202 so-called ‘cordon-and-search’ operations;
- Destroyed 58 houses of the Kashmiri people;
- Extra-judicially killed 67 innocent Kashmiris; and

<sup>15</sup> <https://www.hrw.org/news/2019/09/16/india-free-kashmiris-arbitrarily-detained#>

<sup>16</sup> <https://thewire.in/rights/how-syed-ali-shah-geelani-body-was-taken-from-his-family-buried-in-haste>

<sup>17</sup> <https://thekashmirwalla.com/peace-of-a-graveyard/>

<sup>18</sup> Kashmir media services reported human rights violations and statistics are available at <https://www.kmsnews.org/kms/>



- Arbitrarily detained and arrested 350 Kashmiris.

All these actions have been given impunity under a range of draconian laws such as Public Safety Act (PSA), Armed Forces Special Powers Act (AFSPA) and Unlawful Activities Prevention Act (UAPA)<sup>19</sup>.

Imprisonment and torturing of Kashmiri leaders on the basis of their political ideology and struggle against illegal Indian occupation is reflection of the disregard of the human rights of the Kashmiris and the international human rights law by the Indian authorities. With the policy of jailing all Kashmiri leaders who oppose the unilateral measures imposed by India on the Kashmiri population, the IOJK has been turned into the world's largest open prison with severe human rights and humanitarian repercussions for the innocent Kashmiri population<sup>20</sup>.

IPHRC delegation also noted reports from other credible media sources that provided detailed accounts of incarceration of entire Kashmiri political leadership without any legal recourse, and prosecution of journalists and human rights activists on false charges<sup>21</sup>. Reports also indicated that violence, rape, and molestation of women are widely used as a method of collective punishment by the Indian security forces with impunity due to blanket protection of the draconian laws. These draconian measures show India's blatant attempts to portray the legitimate Kashmiri struggle as "terrorism", and to prosecute its leaders through concocted cases, in a clear violation of the UN Charter, UN Security Council and UN General Assembly resolutions, and international human rights and humanitarian law.

Consequently, the recent actions by the Indian administration in IOJK have been criticized by a number of world parliaments<sup>22</sup>, global media outlets and international organizations including UN, OHCHR, EU, OIC and others. The severity of human rights violations in IOJK also forced the UNSC to discuss the situation at least thrice since 5<sup>th</sup> August 2019, which shows the grave concern international community has over this inhuman crisis and its possible repercussions on the regional and global peace and security. Furthermore, many UN experts have called for urgent action to remedy "alarming" human rights situation in Jammu and Kashmir<sup>23</sup>. For instance, five UN Experts have provided details of specific cases of three men about allegations of arbitrary detention, extrajudicial killing, enforced disappearance and torture and ill-treatment committed by the Indian security forces, in a letter that was addressed to the Indian government on 31 March 2021.<sup>24</sup>

The recent United Nations Secretary General's (UNSG) Report titled "Children and Armed Conflict"<sup>25</sup> also expressed grave concerns on the human rights violations of children in IOJK. The report raises alarm at the detention and torture of children and the military use of schools. It urges the Indian Government to stop associating children with the security forces in any way and take preventive measures to protect children including by ending the use of pellet guns against them.

<sup>19</sup> <https://www.indiacode.nic.in/handle/123456789/1470>

<sup>20</sup> <https://www.tandfonline.com/doi/abs/10.1080/01296612.2021.1949841?src=&journalCode=rmea20>

<sup>21</sup> <https://oic-iphrc.org/home/article/480>

<sup>22</sup> <https://hansard.parliament.uk/commons/2021-09-23/debates/BB35EDC2-CCB6-4E7D-941B-6E0929F2DC6D/HumanRightsKashmir>

<sup>23</sup> <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26148>

<sup>24</sup> <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26181>

<sup>25</sup> <https://childrenandarmedconflict.un.org/document/annual-report-of-the-secretary-general-on-children-and-armed-conflict-2/>

The UN Special Rapporteurs on Minority issues and on Freedom of Religion or Belief too have voiced their concerns over human rights violations, communication blockade, new domicile laws and demographic changes in IOJK<sup>26</sup>.

The Human Rights Watch (HRW) in its recent report<sup>27</sup> also gave an extensive overview of the human rights violations in IOJK, detailing Indian government's policies and actions targeting minorities in India and in IOJK. In its report<sup>28</sup> titled "The State of World's Human Rights 2020-2021" Amnesty International highlighted grave human rights violations being perpetuated in IOJK by Indian Government and its Occupation Forces.

As the IPHRC's core mandate is to focus on the state of human rights violations in IOJK, the Commission has endeavored to collate all the available information gathered both during the fact-finding visit as well as available from the reliable / credible sources into clusters of specific human rights violations. Accordingly, the next few pages list some of the core human rights, which have been routinely violated and denied to people in IOJK.

### **A. Violation of the Right to Self-Determination:**

#### **The Abrogation of Articles 370 and 35A of the Indian Constitution as a strategy to irreversibly change the demographic composition of Muslim majority in the IOJK**

The UN Charter and Article 1 of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) reaffirm peoples' right to self-determination as by virtue of that right people freely determine their political status and pursue their economic, social and cultural development. All of these are fundamental precepts of international human rights law. Here, it may also be recalled that Right to Self Determination is both an individual and collective right of people, exercise of which enables them to freely choose their socio-political and economic destiny and enjoy corresponding rights. Thus, this right is rightly called as the *raison d'être* of international human rights edifice.

The inalienable right to self-determination of the people of Jammu and Kashmir is guaranteed by International Law and promised under numerous UNSC resolutions and agreed by the parties in dispute i.e., India and Pakistan. The UNSC Resolutions 47 of 21 April 1948, 51 of 3 June 1948, 80 of 14 March 1950, 91 of 30 March 1951, 122 of 24 January 1957 and UN Commission on India and Pakistan (UNCIP) Resolutions of 13 August 1948 and of 5 January 1949 all of which, declare that the final disposition of the State of Jammu and Kashmir would be made in accordance with the will of the people expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations. The denial of this fundamental right to the Kashmiri people is a serious breach of international law. In terms of Article 25 of the UN Charter, it remains an international responsibility to pressurize India to agree to grant this fundamental right to the Kashmiris who are denied this right for over almost three quarters of a century.

Abrogation of Articles 370 and 35A of the Indian constitution in August 2019 stripped the symbolic special status of the IOJK, bifurcating the Occupied State into two parts and annexing it with the Indian Union. While Kashmiris in the IOJK were being denied their fundamental

<sup>26</sup> <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=26758&LangID=E>

<sup>27</sup> <https://www.hrw.org/news/2021/10/08/india-gunmen-target-minorities-jammu-and-kashmir>

<sup>28</sup> <https://www.amnesty.org/en/documents/pol10/3202/2021/en/>



right to self-determination for decades, these illegal constitutional amendments seek to exacerbate this denial by overturning centuries-long demographic identity of Kashmir into a redesigned population map<sup>29</sup>.

Since August 2019, India has started to gradually disempower the local population and consolidate control through untrammelled executive power. While the elections in the IOJK have no legitimacy as these are routinely rejected by the Kashmiri leadership, for over two years now, the IOJK has been without any so-called elected government. All the changes being introduced have been steamrolled by the Indian government rather than being legislated by elected representatives of the people in the IOJK<sup>30</sup>. Even the pro-Indian politicians were not involved as there is unanimity of views among Kashmiri leadership on the illegality of the recent constitutional amendments and their negative repercussions on the socio-cultural, political and demographic rights of Muslims in IOJK.

Accordingly, India resorted to illegal constitutional and administrative measures to illegally alter the demographic composition of the Muslim majority in IOJK by enacting ‘Jammu and Kashmir Grant of Domicile Certificate (Procedure) Rules, 2020’ and land laws for IOJK titled, “Union Territory of Jammu and Kashmir Reorganization (Adaptation of Central Laws) Third Order, 2020” causing ‘demographic flooding’ of non-natives in the IOJK which is a manifest violation of the Articles 27 and 49 of the Fourth Geneva Convention. Indian government has forced law reforms and new regulations to settle non-Kashmiri Hindu citizens in the occupied territory in order to convert its Muslim majority into a minority, and has been actively engaged in gerrymandering to reduce Muslim representation in the state legislature of IOJK. The new law and Indian policies in IOJK closely resemble and are widely equated with the policy of illegal Israeli settlements in the Occupied Palestine<sup>31</sup> (West Bank) with settlers living among disenfranchised locals. Various analytical reports have also compared the severe impact of these Indian policies on human rights situation in Kashmir with the Israeli settlement policies in Occupied Palestine, which India has adopted in the IOJK.<sup>32</sup>

During its visit to AJK, the Kashmiri leadership informed the IPHRC delegation that since April 2020, India has introduced 113 new laws and amended 90 other laws against the rights of Kashmiris that were protected by the revoked articles. Even the administrated body in the IOJK is being changed from Kashmiris to Indians through executive orders by the Indian government. Furthermore, as a consequence of these reforms, the Kashmiri Muslims in the IOJK, who have been the indigenous population of the region for many centuries, risk losing their majority and distinct identity due to the demographic changes<sup>33</sup> being imposed to the occupied territory<sup>34</sup>, in a clear violation of the 4<sup>th</sup> Geneva Convention.

In a clear attempt to change the demography and to turn the Kashmiris into a minority in their homeland, the Indian government has brought millions of Hindus to the IOJK since April 2020, which is a serious violation of international humanitarian law that prevent orchestrating demography changes in disputed territories. And while the population in IOJK is currently about 68-70% Muslim, the representation in administrative and political institutions is already down to 50% Muslim only.

<sup>29</sup> <https://www.aljazeera.com/news/2019/8/5/darkest-day-uproar-as-india-strips-kashmir-of-special-status>

<sup>30</sup> <https://thewire.in/government/jammu-and-kashmir-land-policy-reform>

<sup>31</sup> Rana Ayyub, an Indian journalist, put it more bluntly in a tweet: “Kashmir is now Westbank,” <https://t.co/5qLAW61YII>

<sup>32</sup> <https://www.aljazeera.com/opinions/2020/6/20/bringing-the-israeli-model-to-kashmir>

<sup>33</sup> <https://www.usnews.com/news/us/articles/2021-02-19/un-rights-experts-concerned-over-indias-changes-in-kashmir>

<sup>34</sup> <https://www.aljazeera.com/news/2020/6/28/kashmir-muslims-fear-demographic-shift-as-thousands-get-residency>

Several reports indicate that between April 2020 and July 2021, 4.1 million new domicile certificates in the IOJK had been issued to non-Kashmiris brought from mainland India<sup>35</sup>, while thousands of additional domicile certificates are being issued to Indians. In addition, Indian authorities have been allowing extra seats and extra waterside rights to the Indian citizens in the IOJK. These unprecedented policies are paving the way for the demographic genocide of Kashmiris. Exiled Kashmiri leadership in AJK warned that if the ongoing Indian demographic terrorism is not stopped in IOJK, they feared “there will be no Kashmir to save in two years’ time”.

These concerns are based on the serious developments on the ground, and reflected in many reports and statements by international human rights organizations. The Genocide Watch in its latest report<sup>36</sup> highlighted that preparation for genocide was definitely underway in India. Explaining the systematic targeting of Muslims, Chairman Genocide Watch stated that, “the persecution of Muslims in Assam and Kashmir is the stage just before genocide. The next stage is extermination – that’s what we call genocide”.

The 8<sup>th</sup> report<sup>37</sup> of the Concerned Citizens group, which visited IOJK in April 2021 also expressed its concerns that there is a sense of alienation reflected by the Kashmiris’ hopelessness at the loss of their identity, division of the territory into two Union Territories, deep anger at the obliteration of the political mainstream and the unfathomable fear of demographic change through revised domicile laws.

These are all serious developments that are carefully crafted to alter the demography of IOJK. These will not only affect the present social, cultural, political and economic rights of Kashmiri Muslims but most importantly their ultimate goal to exercise their right to self-determination would be compromised as they are gradually converted from a majority to a minority in IOJK.

During his visit to Pakistan in May 2021, UN General Assembly President Mr. Volkan Bozkir called on all the parties to refrain from changing the status of Jammu and Kashmir and stated that “a just solution should be found through peaceful means in accordance with UN Charter and UNSC Resolutions on the issue”<sup>38</sup>.

## **B. Violation of Right to life**

Article 3 of the Universal Declaration of Human Rights (UDHR) stipulates that “*Everyone has the right to life, liberty and security of person.*” The International human rights law prohibits arbitrary deprivation of life under any circumstances, Article 6 of ICCPR, prohibits derogation from the right to life, even during occasions of emergency. ICCPR Articles 4 and 7, explicitly ban torture even in times of national emergency or when the security of the State is threatened.<sup>39</sup>

IOJK, with an approximate 900,000 Indian Occupation force, is the most heavily militarized zone in the world with a ratio of 1 soldier for 9 civilians, has seen an increase in the use of force against civilians since August 2019. However, the Indian Security Forces continue to enjoy blanket immunity through discriminatory laws, imposed in the State, since 1990. Among these laws, Armed Forces Special Power Act (AFSPA) empowers the security forces “to shoot at sight or arrest people without a warrant.” The documents, which have been made public

<sup>35</sup> <https://tribune.com.pk/story/2304530/over-3m-fake-domiciles-issued-to-non-kashmiris-to-change-IOJK-demography>

<sup>36</sup> <https://www.genocidewatch.com/single-post/kashmir-is-on-the-brink-of-genocide-warns-american-scholar>

<sup>37</sup> <http://mainstreamweekly.net/article10769.html>

<sup>38</sup> <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

<sup>39</sup> <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>

through a Right to Information query filed by Venkatesh Naik, a human rights activist, show that Jammu and Kashmir tops the list of human rights violations committed under the AFSPA, with 92 complaints against the Indian Army and paramilitary forces in 2016.<sup>40</sup> The right to life is violated by section 4(a) of the AFSPA, which grants the armed forces the power to shoot to kill in law enforcement situations without regard to international human rights law restrictions on the use of lethal force<sup>41</sup>. Such laws violate the fundamental human rights and international norms, to which Indian government is a signatory and duty bound to protect in all situations.

OHCHR Report dated June 2018 stated that “Impunity for human rights violations and lack of access to justice are key human rights challenges in the Indian state of Jammu and Kashmir. Special laws in force in the State, such as the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990 (AFSPA) and the Jammu and Kashmir Public Safety Act, 1978 (PSA), have created structures that obstruct the normal course of law, impede accountability and jeopardize the right to remedy for victims of human rights violations”<sup>42</sup>.

In response to the protests by Kashmiri Muslims against the 2019 reforms in IOJK and demand for freedom, the Indian Occupation Forces which are laced with the unbridled powers provided by these black laws that assure their impunity, have committed excessive human rights violations in IOJK. Multiple reports indicate that Kashmiri civilians have been brazenly brutalized, extra-judicially killed, injured, maimed, tortured and arbitrarily detained. For instance, prominent political leaders, including three former chief ministers, were among thousands detained to prevent protests. Police told the courts that 144 children had also been taken into custody. According to the Jammu Kashmir Coalition of Civil Society, based on *habeas corpus* petitions over 400 people remain in custody under the draconian Public Safety Act, which permits detention without trial for up to two years<sup>43</sup>. Furthermore, the indiscriminate use of pellet guns had resulted in mass blinding of Kashmiri youth. These human rights violations are widely reported and criticized, both in Indian and international media<sup>44</sup>.

### (i) Extrajudicial killings and Fake Encounters

During the Covid-19 pandemic, Indian security forces increased the pace of killings, arrests and tortures of Kashmiris, protesting against issuing residency and domicile certificates and water rights to non- native Kashmiris from India. Ironically, India has even used the time of Covid-19 to intensify its abuses. While the rest of the world including international media were busy grappling with the effects of the Pandemic elsewhere, India under the guise of pandemic related measures, placed further restrictions on the freedom of movement and assembly and imposed a communication blockade in IOJK.

The IPHRC delegation was informed by the AJK administration that since 2019, several dead bodies were recovered in the AJK from the river Jhelum coming from the IOJK. The Commission also met with the families of the victims who were killed in fake encounters and listened to many painful accounts from Kashmiris in AJK from IOJK. These families underwent the trauma of losing their loved ones without any recourse to justice and without any opportunity to register official complaints with the police.

<sup>40</sup> <https://www.livemint.com/Politics/CcFJoIMR39wtQwiIoIfi3O/Jammu--Kashmir-tops-list-on-rights-abuses-under-AFSPA-Assa.html>

<sup>41</sup> <https://legislative.gov.in/sites/default/files/A1958-28.pdf>

<sup>42</sup> <https://www.ohchr.org/Documents/Countries/IN/DevelopmentsInKashmirJune2016ToApril2018.pdf>

<sup>43</sup> <https://www.hrw.org/news/2020/08/04/india-abuses-persist-jammu-and-kashmir>

<sup>44</sup> [https://www.voanews.com/a/south-central-asia\\_one-year-later-human-rights-violations-continue-indian-kashmir/6193953.html](https://www.voanews.com/a/south-central-asia_one-year-later-human-rights-violations-continue-indian-kashmir/6193953.html)

Stories of these families are not unfounded as the United Nations Special Rapporteur in his letter dated 31 March 2021<sup>45</sup> cited specific cases of “Mr. Waheed Para, Mr. Irfan Ahmad Dar, Mr. Naseer Ahmad Wani, including allegations of arbitrary detention, extrajudicial killing, enforced disappearance, torture and ill treatment committed against them. The allegations also include an act of reprisals against Mr. Para following his engagement with the UNSC members and denunciation of human rights violations in the State of Jammu and Kashmir (IOJK)”. The same communication also raises “concerns regarding the repressive measures and broader pattern of systematic infringements of fundamental rights used against the local population, as well as of intimidations, searches and confiscations committed by national security agents in Jammu and Kashmir which were raised by Special Procedures mandate holders in previous communications dated 21 December 2021 (AL IN 20/2020) and 4 May 2020 (AL IND 6/2020) and 1 July 2020 (AI IND 11/2020)”<sup>46</sup>.

During its interaction with Kashmiri refugees from the IOJK in AJK, IPHRC delegation listened to many of the gruesome and shocking stories, which either involved their personal experiences or first-hand information about human rights tragedies faced by their close relatives, friends and family members. Testimonies of these Kashmiri refugees from IOJK re-confirmed the horrors of brutalities and serious human rights violations including right to life, protection against torture and other curbs on fundamental human rights and freedoms, faced by Kashmiri Muslims in IOJK, which are otherwise widely reported in the national and international media.

Gasping for air and constantly crying, some women were even unable to speak and convey properly the extremities faced by them and their relatives in IOJK. Some of them bitterly recalled the loss of lives and brutalities faced by their near and dear ones, merely on the pretext of being involved with freedom fighters. Others counted the horrors of facing torture, arbitrary arrests and humiliation including mal-treatment of women as collective punishment, faced by the families, friends and even complete villages of suspected freedom fighters in IOJK. Another woman kept crying as she had just received the news of her son being martyred in IOJK. Other refugees also counted incidents of killings of their relatives under ambiguous circumstances, news of which they received several months after their death.

While praising the hospitality of AJK government in providing them food and shelter, these refugees highlighted that they were not able to enjoy these facilities as their family members remain hungry and suffering in the IOJK. However, the most bitter part was the desperation coming out from multiple testimonies, which conveyed their disappointment at the lack of a strong response by the international community, in particular Muslim countries/OIC, to push India to stop these human rights abuses against Kashmiri Muslims and grant them their legitimate right to self-determination.

Based on multiple interviews made with the relatives of the victims and refugees from IOJK and the reports from credible Media and civil society organizations, the IPHRC delegation concurs with the observation raised by the UN Special Rapporteurs in their above referred letter that “no investigation into the allegations of enforced disappearances and extra judicial killings have yet to be conducted in an independent, impartial, prompt, effective, thorough and transparent manner in accordance with the human rights obligations of India”,<sup>47</sup> which remains a consistent pattern and trend in all other cases.

<sup>45</sup> <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26181>

<sup>46</sup> <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26181>

<sup>47</sup> <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26181>



According to yet another report<sup>48</sup> in July 2020 Indian Occupation forces in IOJK claimed to have killed three “unidentified hardcore terrorists” in a gunfight in Amshipora village of Kashmir’s Shopian district. These three so called “terrorists” were later identified to be innocent labourers. The police and security forces admitted the guilt and in December 2020, police filed a chargesheet of more than 200 pages against a captain of the Indian Army and two civilians for the alleged abduction and subsequent murder of the three workers. But despite lapse of more than a year no headway is made in the case<sup>49</sup>. The evidence presented in these instances clearly illustrates that Indian false-flag operations are based on fabrication. The July 2020 fake encounter is a repeated example of Indian theatrics, which carried similarities to previous encounters in 2016.

## (ii) Restrictive and discriminatory laws

The delegation had the opportunity to examine in detail the AFSPA and Public Safety Act (PSA) and have found them to be absolute discriminatory laws, which encourage impunity in IOJK. The PSA, which Amnesty International has also called as ‘*lawless law*’<sup>50</sup> is even used to detain minors. The Amnesty International India, HRW, the International Commission of Jurists and UN Special Rapporteur on extrajudicial, summary or arbitrary executions has urged the Government of India to end the use of AFSPA and PSA to detain people, including children<sup>51</sup>.

It is the considered observation of the IPHRC delegation that the PSA, which applies only in IOJK is specifically designed to deter Kashmiri Muslims from demanding their legitimate rights and raising their voices against the illegal actions / atrocities committed by Indian forces. It permits the Indian authorities to detain persons without charges or judicial review for as long as two years without visits from family members. People incarcerated under the PSA are sent to Jammu jail to make them inaccessible to their families causing further anguish and mental distress to the affected families.

Under Section 4(a) of the AFSPA, even a non-commissioned officer can order his men to shoot to kill “if he is of the opinion that it is necessary to do so for maintenance of public order”. Also, Section 4(c) of the Act permits the arrest without warrant, with whatever “force as may be necessary” of any person against whom “a reasonable suspicion exists that he is about to commit a cognizable offence.” As evident, the provisions of these acts violate relevant provisions of international law including Indian obligations for protection of human rights as provided in International Bill of Rights.

IPHRC views are supported by Amnesty International’s report on AFSPA on July 1, 2015<sup>52</sup> which severely criticized the Act for creating an environment of impunity for Indian security forces in IOJK enabling them to commit atrocious human rights violations without any fear of being tried. It focuses particularly on Section 7 of the AFSPA, which grants virtual immunity to members of the security forces from prosecution for human rights violations.

The Commission is also of the view that the powers granted under AFSPA, PSA and other such discriminatory laws are in reality broader than that allowable under a state of emergency as the right to life may effectively be suspended and the safeguards applicable in a state of emergency are absent. Moreover, the widespread deployment of the military creates an environment in which the exception becomes the rule, and the use of lethal force is seen as the primary response to conflict. This situation is also difficult to reconcile in the long term with India’s insistence

<sup>48</sup> <https://www.aljazeera.com/news/2021/6/3/pro-india-kashmiri-politician-tortured-in-custody-say-un-experts>

<sup>49</sup> <https://scroll.in/article/1000841/one-year-after-three-young-workers-killed-in-kashmir-fake-encounter-police-probe-filled-with-holes>

<sup>50</sup> Amnesty International: India: Still a ‘Lawless Law’ Detention under the Jammu and Kashmir PSA 1978  
<https://www.amnesty.org/en/documents/asa20/035/2012/en/>

<sup>51</sup> Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, 26 April 2017  
[http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.47.Add.1\\_EN.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.47.Add.1_EN.pdf)

<sup>52</sup> Amnesty International Report “Denied: Failures in accountability for human rights violations by security force personnel in Jammu and Kashmir”

that it is not engaged in an internal armed conflict. Therefore, retaining such law runs counter to the principles of human rights and democracy.

During its interaction with the exiled Kashmiri leadership in AJK, the IPHRC delegation was informed that the use of these abusive practices and laws have expanded during the Covid-19 pandemic. The Indian security forces responded with extreme violence against the peaceful protests and the increasing frustration of the local population about reforms that stripped them from the minimal legal protections they used to have before the illegal constitutional reforms of August 2019. As narrated by local sources from the IOJK, since August 2019, the level of gross human rights violations is unimaginable, the Indian authorities have dismembered the Kashmiri population from the Kashmiri leadership who have either been imprisoned or have become refugees.

The exiled leadership in AJK narrated that jailed Kashmiris continue to suffer from the lack of basic medical facilities throughout the IOJK. Ironically, while India provided only one doctor for every 4000 people in Kashmir, it does provide one soldier for every 9 people, a shameful statistic.

The Kashmiri leadership also highlighted that the economic cost of Indian oppression on the Kashmiri population is significantly increasing under the pandemic situation. As reported by the NY Times recently<sup>53</sup>, 500,000 people in the IOJK had been sent jobless and \$5 billion had been lost from the local economy.

In fact, this dramatic increase in the human rights violations and oppression in the IOJK goes beyond being simply about restrictive and discriminatory laws, to reflecting strategic turnout in the relationship between India and the territory it occupies. It is not anymore, a question about discriminatory policies only, but it is about a new state model that seeks to eradicate the very existence of Kashmiri identity and history in the IOJK. The latest form of Indian war in the IOJK is lawfare. “Just with a stroke of a pen, our right of self-determination is being further undermined” as narrated by a local activist.

### **C. Violation of the Right to Freedom of Opinion and Expression:**

Freedom of expression is one of the most important human rights, vital for a functioning democracy and protection of all other rights. Article 19 of UDHR provides that “everyone has the right to freedom of opinion and expression, which includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”.

In August 2019, India imposed an unprecedented curfew on Media and communication in IOJK (230 days without internet), which is the longest Internet shut down in history so far. The Indian authorities also violated the basic rights of freedom of expression and any Kashmiri writing anything on digital media was being put behind bars under the notorious Unlawful Activities (Prevention) Act. Shortly after India imposed unprecedented restrictions on communication in Kashmir, many UN human rights Special Procedures called on the Government of India to end the crackdown on freedom of expression, access to information and peaceful protests imposed in the IOJK. The Special Procedures expressed concern that the measures, imposed after the Indian Parliament revoked the Constitutionally-mandated status of the IOJK, are without justification, inconsistent with the fundamental norms of necessity and proportionality,” and represent “a form of collective punishment of the people of Jammu and Kashmir, without even a pretext of a precipitating offence.”<sup>54</sup>

<sup>53</sup> <https://www.nytimes.com/2021/01/11/world/asia/kashmir-india-tourism.html>

<sup>54</sup> <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24909&LangID=E>



The IPHRC delegation interviewed refugees and members of civil society and media from IOJK and inferred that the existing restrictions on the freedom of expression in IOJK have been expanded since August 2019. Interviewees also conveyed that the increased militarization of IOJK in post August 2019 has worsened the security situation. Kashmiri civilians who try to speak up against the new measures are regularly subjected to arbitrary arrests and extrajudicial killings with impunity as the Indian Occupation forces' policy to shoot to kill is protected by various Indian Acts that are in stark contradiction to International human rights laws.

The delegation visited Thotha model village in the suburbs of Muzaffarabad which hosts hundreds of refugees from the IOJK, where it interacted with number of refugees, including women and children. Many among them were victims who reported first-hand experiences about the violations they suffered from the Indian authorities. Most had left their families behind and couldn't reunite with them for many years. It is most concerning that all interviewed refugees mentioned that they had lost any contact with their families since August 2019, when the Kashmiri population in the IOJK were subjected to new restrictions that limited their communication with the outside world and their freedom of communication and movements. Only few refugees reported being in touch over the phone with their families in the IOJK recently. They too, however, mentioned that their families avoid speaking about the situation on the ground and the conditions of their livelihood out of fear that they will be arrested by the Indian Security forces who maintain surveillance of all their communications.

Civil society representatives informed the delegation that the Indian authorities have been ruthless against Kashmiris trying to exercise their freedom of expression. Journalists are thrown behind bars without trial for merely expressing their independent views least to talk of human rights violations or speaking about freedom or the right to self-determination.

In its interaction with Mrs. Mishal Malik, prominent Kashmiri activist and wife of jailed Kashmiri Hurriyat leader Yasin Malik, IPHRC delegation was informed that in the aftermath of August 2019, whatever was left of the already limited freedom of speech, is gone in the IOJK, as the Indian authorities shut down any media content as soon as it is perceived by the authorities to be against the Indian State. Based on interaction with her own and other Kashmiri families from the IOJK, Mrs. Malik provided detailed and first-hand instances of the suffering of Kashmiri people, which reflect the worsening situation of human rights as a result of the increasing violations of the Indian authorities against the innocent Kashmiri population. She highlighted that the Indian authorities have tightened-up their censorship measures in the IOJK since August 2019, which seriously limit information coming out from the occupied territory. As an example of that, Mrs. Mishal herself couldn't speak to her husband for the last two years.

Mrs. Malik referred to the IOJK as the Gaza strip of Kashmir. She stressed that there are a lot of commonalities between the Palestinian issue and the Kashmir issue. Yet, while the international media is present in Palestine, none are allowed in IOJK. Covering events or getting information out of there was quasi-impossible. Referring to sporadic news reports, she called these "out of blue acts", which occasionally pop up and are shared by Kashmiri diaspora through social media. Even on the social media, India tried to establish a monopoly on the news coming out from the IOJK by blocking accounts of Kashmiri activists. So, there is an international invisible curfew on sharing the news of Kashmir as well", she added.

Testimonies of Ms. Malik and others are confirmed by other independent international reports on the ongoing developments after August 2019. In April 2020, Amnesty International reported that Indian authorities invoked the Unlawful Activities (Prevention) Act (UAPA) against many journalists, which signal the authorities' attempt to curb the right to freedom of expression. Harassment and intimidation of journalists through draconian laws such as UAPA worsened the efforts to address the COVID-19 pandemic by creating an atmosphere of fear and reprisal.<sup>55</sup> Amnesty International has strongly criticized the prolonged restrictions on internet speed and arbitrary detentions, often without any kind of documentation, access to lawyers and

<sup>55</sup> <https://www.amnesty.org/en/latest/news/2020/04/journalists-in-jammu-and-kashmir/>

recourse to justice, which severely undermines the human rights guarantees of the people of Kashmir.”<sup>56</sup>

EU DisinfoLab (a reputable NGO), which undertook an intensive investigation and published an extensive report in December 2020, exposed 750 fake media outlets in a vast 15-year global disinformation campaign to serve Indian interests that were designed primarily to "discredit Pakistan internationally" and influence decision-making at the UN Human Rights Council (UNHRC) and European Parliament<sup>57</sup>. The whole operation is termed as an Indian attempt to cover up its failing human rights record at the international level.

In addition, the Pegasus spyware’s leaked database revealed that over 25 Kashmiri Journalists, politicians, businessmen and human rights activists were kept under illegal surveillance, in breach of their right to privacy, which is contrary to the international human rights law<sup>58</sup>.

#### **D. Violation of the right to Freedoms of Peaceful Assembly and Association:**

While meeting with refugees and visiting people from IOJK, the IPHRC delegation came across several accounts of relentless imposition of curfew without any leniency offered to cater for the needs of the vulnerable segments of population like elderly, infirm and children. As per their views, the curfew by the State administration is imposed as a tool to suppress civil liberties and inflict collective punishment for the entire population.

The IPHRC delegation was told by the exiled members of the Hurriyat leadership in the AJK that their colleagues in the IOJK continue to be frequently arrested or kept under house detention. It was highlighted that while the intensification of the search and cordon operations against any civic movement that demands basic political and social rights for the Kashmiri population started with the election of Modi in 2015, the situation has further deteriorated since his reelection in 2019.

The Commission was informed that the limited information coming out from the IOJK since August 2019 indicates that the Indian authorities do not allow any peaceful protest, and that any pacific civic action is harshly silenced by using systematic violence against civilians and punishing whole neighborhoods for organizing any peaceful protests to demand their basic human rights. It was also reported that the increased arrests of Kashmiri political leadership by the Indian authorities was a planned strategy to eliminate the leadership role in mobilizing pacific action against the human rights violations in the IOJK.

Referring to the case of her husband, Yasin Malik (a famous Kashmiri political leader), Mrs. Malik informed the Commission that he was kept in a death cell of Tihar jail in a fake case for more than two years in solitary confinement, while being denied all demands for a meeting between him and his daughter. Mrs. Malik complained that despite being a political prisoner, he was mentally and physically tortured, a treatment which wasn’t even meant for criminally convicted prisoners. She highlighted that her husband, as well as other Kashmiri prisoners don’t have access to any legal assistance as guaranteed by International human rights law. She also conveyed that her husband had developed numerous illnesses including kidney and urinary infections beside twice suffering food poisoning in the prison.

Another example of prolonged illegal and inhuman incarcerations against Kashmiris is that of Ms. Asiya Andrabi and her two female associates in Tihar Jail in India on concocted and baseless charges under the controversial Unlawful Activities Prevention Act (UAPA)<sup>59</sup>, which wasn’t only mentioned by Kashmiri dissidents in AJK but also widely reported in Indian national and international media. Ms. Andrabi and her associates, like other political prisoners in the IOJK, are being held without access to free and fair trial. As per reports, they are also

<sup>56</sup> <https://www.amnesty.org/en/latest/news/2020/04/journalists-in-jammu-and-kashmir/>

<sup>57</sup> <https://www.disinfo.eu/publications/indian-chronicles-deep-dive-into-a-15-year-operation-targeting-the-eu-and-un-to-serve-indian-interests>

<sup>58</sup> <https://www.thehindu.com/news/national/pegasus-delhi-based-kashmiri-journalists-kashmir-leaders-were-potential-spying-targets-from-2017-to-mid-2019-the-wire/article35493223.ece>

<sup>59</sup> <https://oic-iphrc.org/home/article/480>

subjected to physical and psychological torture and denied critical medical care endangering their lives in contravention of the international human rights and humanitarian laws.

As widely observed and reported, since August 2019, IOJK faced the longest curfew and communication blockade with no breaks leading to worst humanitarian sufferings. Most fundamental rights were curtailed through the imposition of continuous curfews and restrictions. Section 144 of the Criminal Procedure Code, prohibiting assemblies of more than four persons, remained in force for most of the times in the IOJK. Assemblies, marches, graffiti, pamphlets, even silent vigils are banned.

Yet again the reported violations of freedom of peaceful assembly, association and communication blockade were confirmed during IPHRC delegation's interaction with Kashmiri refugees. Many of them affirmed that since 5 August 2019, their communication links with their relatives in IOJK were cut-off and they remained unable to know their well-being for a very long time. One of the women narrated that she received the news of the demise of her father and later her brother only six months after they had expired.

Both the refugees and representatives of the All Parties Hurriyat Conference confirmed that one of the key reasons of the Media blackout was to curtail the steady flow of information among Kashmiri Muslims and their leadership to avoid large scale protests, spread misinformation through official sources and impose a forced calm at all costs. However, the blackout not only impacted political rights of the Kashmiri Muslims, but it seriously impacted their lives in all aspects including the right to education, health, information and loss of economic livelihood. Many of the refugees expressed their continued serious concerns about the safety of their family members as the communication links of the IOJK remain disrupted, hence no regular feedback. At the same time, these refugees expressed concerns that communication links with outer world from IOJK are regularly surveilled that put the lives and livelihood of the Kashmiri Muslims under greater risk of reprisals.

In the aftermaths of the constitutional amendments of August 2019, many former Indian ministers visited the IOJK under the platform of Concerned Citizen Group and have released nine reports so far. One of the reports released in August 2020 titled "Raising Stakes in Kashmir" noted that "the Kashmiri youth was being pushed towards militancy because of the harassment faced by people at the hands of the army personnel"<sup>60</sup>.

Many exiled Kashmiri political leaders in AJK opined that continuous detention of the Kashmiri leadership in IOJK shows Indian authorities' unwillingness to negotiate any solution of the Kashmir dispute and the desire to address the problem with an iron hand, though it has historically and repeatedly proven to be a futile exercise. Most Kashmiri refugees and leaders stressed that no number of extrajudicial killings, illegal detentions of their leaders or harassment of innocent men and women, which is an attempt to silence the population in IOJK, can desist them from their ongoing liberation movement. They were confident in stating that the sacrifices of Kashmiri martyrs and sufferings of prisoners will not go waste.

In a recent account that illustrates the increasing misuse of draconian laws against any peaceful assembly of Kashmiri civilians in the IOJK, a report by Kashmir Media Service on 26 October 2021, indicated that the Indian Police in the IOJK have registered two separate cases against the staff and students of two medical colleges under a harsh anti-terror law for allegedly celebrating Pakistan's victory against the Indian side in the T20 Cricket World Cup match<sup>61</sup>. Based on the First Information Report (FIR) registered at Soura police station in the IOJK, these students were accused of terrorism under Section 13 of the Unlawful Activities Prevention Act (UAPA) and Sections 105-A and 505 of the Indian Penal Code (IPC) just because they "were crying and dancing after Pakistan won the World Cup T20 match against India". These verified accounts of how the Police interacts with Kashmiri civilians in the IOJK illustrates the level of abuse the Kashmiri population is subjected to at the hands of the Indian occupation forces.

<sup>60</sup> <https://www.crisisgroup.org/asia/south-asia/kashmir/310-raising-stakes-jammu-and-kashmir>

<sup>61</sup> <https://www.dawn.com/news/1654166>

## **E. Protection against Torture, cruel, inhuman or degrading treatment or punishment**

The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)<sup>62</sup> together with Geneva Convention related to the Protection of Civilian Persons in times of war, 1949 and Additional Protocols of 1977 provide for protection against humiliating and degrading treatment; torture, rape, enforced prostitution or any form of indecent assault.

According to WikiLeaks, US Embassy in one of its cables disclosed the findings of the International Committee of the Red Cross (ICRC) about the widespread use of torture in IOJK. The ICRC report claimed that out of 1,296 detainees it had interviewed, 681 said they had been tortured. Of those, 498 claimed to have been electrocuted, 381 said they were suspended from the ceiling, and 304 cases were described as sexual abuse<sup>63</sup>. Two months after the August 2019 crackdown started, the Secretary of State for Foreign Affairs in UK also expressed deep concerns about wide allegation of torture by Security Forces in the IOJK, which was raised with the Indian government<sup>64</sup>. Furthermore, in a letter dated 31 March 2021, the UN Special Rapporteurs expressed their grave concern on a number of reported cases of arbitrary arrests, torture and ill-treatment including extrajudicial killing, which if confirmed, would amount to violations of articles 6, 7, 9 and 14 of the ICCPR to which India acceded to in 1979<sup>65</sup>.

### **War Crimes by the Indian Occupation Forces:**

Regarding anti-Islam and anti-Muslim actions in the IOJK, multiple eye witnesses from the refugee camps conveyed to the Commission that the Indian troops were killing only the Kashmiri Muslims, destroying their places of worship, outraging their language, history, culture and traditions, which clearly show that under the garb of fighting terrorism, Indian Occupation forces are engaged in the systematic war against the Muslims in Kashmir.

Accusations against the Indian Occupation forces in the IOJK find evidence in many reported cases by various international and even national observers within India itself. IPHRC was able to get access to 3432 case studies, which include testimonies of Kashmiri victims and multiple investigation reports according to which 1128 members in the Indian Security forces were found to be involved in war crimes<sup>66</sup>, which include both higher and lower rank officials.

The multitude of these reports do not only reflect complicity of the Indian government but also validates involvement of complete hierarchy of Indian law enforcement machinery in the systematic human rights violations against Kashmiri Muslims in the IOJK. Testimonies received by the IPHRC delegation revealed that the perpetrators enjoy complete State patronage and are deliberately shielded by sham Indian system of justice, and continue to serve within the various ranks of security apparatus in the IOJK. The Commission was also informed that the majority of the Kashmiri victims do not opt for the legal recourse against the security forces out of fear of reprisals and lack of hope for any remedy. These reported crimes contradict Indian obligations to the ICCPR obligations, which prohibits all forms of torture, cruel, inhuman and degrading treatment.

The systematic character of these gross human rights violations is supported by the so-called legal machinery of Indian laws, such as the Unlawful Activities Prevention Act (UAPA). This reality was reflected in a joint letter on 26<sup>th</sup> May 2020 addressed to the Indian Minister of Home Affairs by 28 Human Rights organizations stating that “we are seriously concerned that the Indian authorities have routinely misused draconian, anti-terrorism laws such as the UAPA, to

<sup>62</sup> <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>

<sup>63</sup> <https://www.theguardian.com/world/2010/dec/16/wikileaks-cables-indian-torture-kashmir>

<sup>64</sup> <https://tribune.com.pk/story/2258061/kashmir-a-giant-open-air-prison>

<sup>65</sup> <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26181>

<sup>66</sup> Names of perpetrators and details of testimonies are available in audiovisual format with the Commission.



undermine human rights, stifle dissent and press freedom. This is even more concerning during the Covid-19 pandemic”<sup>67</sup>.

These concerns were again raised by ten UN Special Procedures who addressed the Indian Minister of External Affairs in another joint letter dated on 1<sup>st</sup> July 2020 highlighting that the “sudden closure of J&K State Human Rights Commission has left the people of the region with limited recourse to seek justice for human rights violations committed against them, including enforced disappearances, extra-judicial killings, torture, sexual violence, and it has also created uncertainty as to how pending cases will be treated”<sup>68</sup>.

These multiple reports are few of many other sources verified by the Commission, which confirms the first-hand information collected by the IPHRC delegation from its interaction with Kashmiri refugees and their families who have been victims of these severe human rights violations. The draconian UAPA serves as a tool, which the Indian government has extensively used to curb the dissent and silence the Kashmiri voices, especially in the aftermath of August 2019 reforms. The Commission strongly believes that the repetitive and systematic actions of the Indian security forces in the IOJK, as narrated by Kashmiri refugees in the AJK and reported by dozens of human rights organizations across the world, represent serious evidence for elements of war crimes, including genocide and destructions of cultural heritage of the Kashmiri people in the IOJK.

#### **F. Violations of Economic, Social, and Cultural Rights:**

The worsening situation in the IOJK has significantly disrupted the economic, social, and cultural lives of the Kashmiri people. Consequently, economic activities, including trade, industry, banking, agriculture, and other sectors, have been severely affected by the post-August 2019 lockdown and communication blockade imposed by the Indian occupation authorities. The illegal Indian measures have not only resulted in the internal displacement of the population but also caused forced migration of skilled artisans, traders, and farmers, leading to severe violations of their economic, social, and cultural rights. Furthermore, the lockdown and the pandemic have cost an estimated loss of US\$6 billion to the economy of the IOJK<sup>69</sup>.

These systematic violations have been facilitated through the impugned laws of AFSPA and PSA and other discriminatory laws introduced after the illegal constitutional amendments of August 2019, which provided false legal grounds for disrupting the economic lives of the Kashmiri population. For instance, Section 4(b) of AFSPA allows Indian military personnel to destroy any shelter from which, in their opinion, armed attacks "are likely to be made" or which has been utilized as a hide-out by absconders "wanted for any offense." This license has provided the pretext of vandalizing private property, including schools and places of worship, causing severe damage to Kashmiri's cultural heritage and civic life. In addition, the burning of crops and disruptions in sowing, the torching, and the ransacking of markets and private property have further ruined the economic well-being of the Kashmiri people.

As a part of the new systematic policies after August 2019 that target the economic and social rights of the Kashmiri population in the IOJK, the Indian government has lifted a requirement set in place by a 1971 circular under which Indian security forces had to obtain a special certificate to acquire land in Kashmir. However, a new order introduced in July 2020 allows “Indian Army, Border Security Forces, paramilitary forces and similar organizations” to acquire land without a “no objection certificate” (NOC) clearance from the region’s home

<sup>67</sup> <https://www.icj.org/joint-open-letter-to-the-indian-government-calling-for-the-release-of-human-rights-defenders-at-risk/>

<sup>68</sup> Full text of the UNHRC Joint Communication Letter to Jaishankar is accessible at:

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25346>

<sup>69</sup> <https://thekashmirwalla.com/rs-45000-crore-cost-of-three-years-of-kashmir-lockdowns/>

department."<sup>70</sup>. This process officially began on 18 July 2020 when the Indian authorities amended the Development Act of 1970, which used to require local assent for any acquisition of land by the military<sup>71</sup>. Accordingly, the army, paramilitary forces, and all other "similar organizations" can now identify any area in the IOJK as "strategic" and take it over, disregarding any objections from civilian authorities or landowners.

As a result of these new draconian measures, various activists from the IOJK have warned that farmers near the LoC now fear losing even more of their land to the military. With India bringing IOJK deeper into its occupation fold, the Indian government will have greater power to seize territory in the border regions in the name of national security<sup>72</sup>.

Based on these realities, it is clearly observed that the looting of cultural property and destruction in the IOJK is becoming the main feature of the multifaced and systematic human rights violations by the Indian authorities. By misusing the so-called "legal measures," the occupying Indian authorities are regarding these violations as their right to rob the defeated populations of their distinct cultural heritage. IPHRC is deeply concerned that in the cases of both Palestine and IOJK, as a result of the armed occupation, local populations – in this case, Kashmiri Muslims – have witnessed a massive loss of cultural property and heritage. Buildings, museums, and archives were looted. At the same time, rituals, festivals, languages, and cultural practices, which were generational in nature, were either destroyed or inhibited by utilizing so-called legal and institutionalized measures.

In fact, these measures affect a multitude of economic, social, and cultural rights, including the right to health. Even before the events of August 2019, residents of the IOJK already showed symptoms of significant mental distress, according to many reports. For instance, a 2016 survey<sup>73</sup> published by Doctors Without Borders (MSF) recorded 45 percent of the Kashmiri population (nearly 1.8 million adults) experiencing some form of mental distress. According to another MSF's "Kashmir Mental Health Survey 2015"<sup>74</sup>, 50 percent of women (compared to 37 percent of men) suffered from probable depression; 36 percent of women (compared to 21 percent of men) had a probable anxiety disorder, and 22 percent of women (compared to 18 percent of men) suffer from post-traumatic stress disorder (PTSD).

In the aftermath of the Indian lockdown in 2019, India has flooded the IOJK with thousands of extra troops to keep Kashmiri people from hitting the streets in protest. Residents were forced to stay inside their homes, fearful and stressed for months while bearing the brunt of operations by security forces to quash protests<sup>75</sup>. According to a report by the Jammu Kashmir Coalition of Civil Society (JKCCS), at least 229 killings and 48 cases of destruction of civilian property were reported in IOJK in the first six months of 2020<sup>76</sup>. Furthermore, health experts indicated that the continued presence of extra troops on the streets of the world's most militarized zone<sup>77</sup> and mass arrests of civilians have led to an increase in trauma and anxiety, particularly among women and children<sup>78</sup>.

During its interactions with the Kashmiri refugees from the IOJK in AJK, the IPHRC delegation has witnessed the psychological distress of various families whose loved ones have either been killed or detained or whose houses got damaged or entirely burnt down during fake military encounters in IOJK. These first-hand observations are severe indicators of the catastrophic situation of mental health of thousands of families in the IOJK who remain under

<sup>70</sup> <https://www.aljazeera.com/news/2020/7/28/india-eases-rules-for-security-forces-to-acquire-land-in-kashmir>

<sup>71</sup> <https://www.article-14.com/post/2-legal-tweaks-make-it-easier-for-armed-forces-to-take-over-land-in-j-k>

<sup>72</sup> <https://www.aljazeera.com/news/2019/10/30/indias-defences-eat-away-at-farmland-along-border-with-pakistan>

<sup>73</sup> <https://www.msfindia.in/msf-scientific-survey-45-kashmiri-population-experiencing-mental-distress/>

<sup>74</sup> [https://www.msfindia.in/sites/default/files/2016-10/kashmir\\_mental\\_health\\_survey\\_report\\_2015\\_for\\_web.pdf](https://www.msfindia.in/sites/default/files/2016-10/kashmir_mental_health_survey_report_2015_for_web.pdf)

<sup>75</sup> <https://reliefweb.int/report/india/silent-mental-health-crisis-among-women-kashmir>

<sup>76</sup> <https://jkccs.net/bi-annual-hr-review-229-killings-107-cases-55-internet-shutdowns-48-properties-destroyed/>

<sup>77</sup> <https://www.sbs.com.au/news/explained-kashmir-the-most-militarised-zone-in-the-world/f24bd385-1d6a-4ed2-b04e-394c8805bd20>

<sup>78</sup> <https://reliefweb.int/report/india/silent-mental-health-crisis-among-women-kashmir>



these draconian measures, which constitute brutal and systematic aggressions against the right to health of Kashmiri civilians under the constant stress of Indian occupation. As indicated by Dr. Junaid Nabi, a psychiatrist at the Institute of Mental Health and Neuroscience (IMHAMS) in IOJK, "Since women often find themselves the sole manager of the household, sole parent, or caretaker of elders in Kashmir; they suffer more [as a result of the ongoing circumstances]<sup>79</sup>".

### **G. Indiscriminate shelling across Line of Control (LoC) and targeting of civilians and civil infrastructure:**

The IPHRC delegation had the opportunity to visit the LoC and meet with several victims of cease fire violations and members of village defence committees who narrated their first-hand experiences and observations about the Indian violations against civilians along the LoC. The IPHRC delegation also witnessed dozens of victims with severe body injuries, including women and children, that were affected by the indiscriminate shelling by Indian forces across the LoC. In addition to its first-hand observations, the IPHRC delegation was informed of multiple Indian violations of the cease fire which resulted in civilian casualties inside AJK. Among those in touch with their families on the other side of the LoC, further informed the IPHRC delegation that villagers in IOJK continue to suffer torture at the hands of the Indian occupation forces including stripping them naked during custody, for seeking confessions.

#### **Use of Cluster Munitions and Pellets:**

During its interaction with refugees in AJK, the IPHRC delegation frequently heard serious allegations of the indiscriminate use of pellet guns by the Indian security forces against many of their family members and friends in the IOJK. They reported that the use of pellet guns against the peaceful protests in the IOJK has resulted in blinding, killing and traumatizing consequences for the innocent civilians. This widely reported practice of the Indian security forces - pellet firing shotguns, violates international human rights standards on the use of force.

These reported violations were also confirmed in the OHCHR report released in 2018 which stated that "one of the most dangerous weapons used against protesters in 2016 was the pellet-firing shotgun, which is a 12-gauge pump-action shotgun that fires metal pellets."<sup>80</sup>. According to information received by the J&K Human Rights Commission from 10 districts of the Kashmir Valley, metal pellets injured 1726 people. CPRF and JK Police used the weapons against protesters<sup>81</sup>.

An earlier report titled "Losing Sight in Kashmir" released in 2018 by Amnesty International has included around 88 case studies of victims whose eyesight was damaged by metal pellets between 2014 and 2017, including several people who have permanently lost their eyesight despite repeated surgeries<sup>82</sup>. Another report by the Association of Parents of Disappeared Persons in October 2019 documented 23 case studies<sup>83</sup>. These reports confirm the stories of victims that interacted with the IPHRC delegation and clearly indicate that using pellet guns is not an isolated act but a systematic behavior by the Indian security forces against the unarmed Kashmiri population in total violation of international human rights and humanitarian norms.

The IPHRC delegation also interacted with victims of Line of Control (LoC) violations who shared their experiences about suffering from the use of Cluster ammunition by the Indian military from the Indian side of the LoC. During this interaction, IPHRC delegation has witnessed severe body injuries among the resident of AJK villages near the LoC. Observed injuries included amputated parts and permanent disabilities resulting from the Cluster ammunition used by the Indian troops from across the LoC.

<sup>79</sup> <https://reliefweb.int/report/india/silent-mental-health-crisis-among-women-kashmir>

<sup>80</sup> <https://www.ohchr.org/Documents/Countries/IN/DevelopmentsInKashmirJune2016ToApril2018.pdf>

<sup>81</sup> Reference will be added.

<sup>82</sup> <https://www.amnestyusa.org/reports/losing-sight-in-kashmir-the-impact-of-pellet-firing-shotguns/>

<sup>83</sup> [https://apdpkashmir.com/ebmedia/sitename\\_eb/wp-content/uploads/2019/12/APDP-Report-9.12.19.pdf](https://apdpkashmir.com/ebmedia/sitename_eb/wp-content/uploads/2019/12/APDP-Report-9.12.19.pdf)

These first-hand observations are some of many recorded cases by official authorities and human rights organizations in AJK. According to data collected by AJK's revenue department and disaster management authority during the period from 1989 to 2020, IPHRC delegation was informed that at least 916 innocent Kashmiris residing in AJK along the Line of Control have been killed and 3469 have been injured by Indian Forces. The Commission was also informed that in addition to ceasefire violations, Indian troops have been targeting innocent Kashmiris residing along Line of Control by using snipers and cluster ammunition.

As an illustration of additional cases, a recent report released in 2020 by the Kashmir Institute of International Relations has documented accounts of 10 victims of sniper fire based upon the testimonies of witnesses<sup>84</sup>. Based upon the testimonies of four eye witnesses, the report has revealed that 9 years old child called Ayyan Zahid was killed by an Indian sniper fire on 18 February 2019 while playing outside his house in Kotli District in AJK. Another account revealed that in July 2019, Indian forces deliberately targeted villages along the LoC in Neelum Valley with cluster ammunition, where cluster bombs were found lying in populated civilian areas. The report included visual evidence of bombs found in armed state with their stability ribbons detached and forensic confirmed their Indian origin.

The cases witnessed by the IPHRC delegation along the LoC and those included in multiple other reports are all heart-breaking stories of ordinary Kashmiri civilians trying to live their lives in peace, while being targeted by the Indian forces across the LoC from inside the IOJK.

## H. Conclusion

During its second visit to AJK, the Commission interacted with refugees, victims and families of victims, representatives of political parties and civil society from IOJK as well as victims of cross border shelling along the LoC. Based on the first-hand information collected from this visit, and by carefully examining multiple reports from independent sources to contrast and compare the collected evidence about alleged human rights violations with various other allegations, the Commission concluded that since 5<sup>th</sup> August 2019, the entire region of Indian Occupied Kashmir is turned into a prison with severe human rights and humanitarian repercussions for the innocent Kashmiri population.

The gross human rights violations faced by the innocent Kashmiri Muslims in the IOJK make it one of the worst human rights tragedies in the world. Despite pandemic and persistent global condemnation by the UN, OIC and other human rights bodies, the Government of India, continues to pursue systematic persecution of Kashmiri Muslims through vicious political, economic and communication blockade to change the on-ground demographic and geopolitical realities. The entire Kashmiri political leadership is incarcerated without any legal recourse and journalists and human rights activists are being prosecuted on false charges.

While the Kashmiri political leadership remains incarcerated under trumped-up charges, Kashmiri youth are regularly tortured and killed during "cordon-and-search" operations and fake "encounters" carried out by the Indian occupation forces with impunity. Thousands, including children, have been imprisoned without any charge or due process of law. Worst still, rape and molestation of women is used as a method of collective punishment. The impugned laws of AFSPA and PSA and many other such discriminatory laws continue to provide blanket protection to over 9 million Indian Occupation forces deployed in IOJK to trample human rights of innocent Kashmiris.

Since August 2019, the Indian government, through nefarious means, has been actively engaged in gerrymandering, to reduce Muslim representation in IOJK. It has enforced illegal reforms to settle non-Kashmiri Hindu citizens in the occupied territory to convert its Muslim majority into a minority. The abrogation of Articles 370 and 35A of the Indian constitution has taken away the symbolic special status of the IOJK. While Kashmiris in the IOJK were being

<sup>84</sup> Zulfiqar Ali, Kashmir: India's Sniper War along the UN-monitored ceasefire line", Kashmir Institute of International relations, June 2020

denied their fundamental right of self-determination for decades, these illegal and repressive reforms seek to exacerbate this denial by illegally changing the demographic composition of Kashmir akin to the Israeli settlements in Occupied Palestinian Territories.

Since April 2020, India has introduced 113 new laws and amended 90 other laws and issued 4.1 million new domicile certificates to non-Kashmiris from mainland India, paving the way for implementing genocide tools through demographic changes. This is a manifest violation of the well codified international human rights treaties, including Articles 27 and 49 of the Fourth Geneva Convention, which clearly prohibit any illicit transfer of population in conflict zones or disputed territory. These blatant human rights violations reflect an obvious State bias, which has led to the issuance of genocide alerts by international human rights organizations.

The persistent denial of the Indian Government to allow access to the OIC-IPHRC, UN and other international human rights bodies further reflects negation of India's human rights obligations and to come clean on serious allegations of human rights violations.

The analysis of considerable statistical and circumstantial evidence indicates that the human rights violations against the Kashmiri population in the IOJK have reached an unprecedented level. It could also be inferred that these repetitive, systematic and systemic human rights violations seem to have a well-defined pattern and design of State bias and collusion, which are telltale signs of an impending genocide.

Based on its mandate, IPHRC will continue to monitor and report human rights violations in IOJK, through its Standing Mechanism that monitors human rights situation in the IOJK. IPHRC will also keep pronouncing its position on these developments through Press Statements as well as by providing regular briefings to OIC Contact Group on Jammu and Kashmir. Additional efforts would also be made to raise awareness on this important issue in cooperation with all relevant OIC organs / Missions, UN mechanisms and other human rights organizations, including through holding of relevant symposia and seminars.

## **I. Recommendations:**

### **For the UN and international community**

The Jammu & Kashmir dispute remains one of the oldest items on the UN agenda, which bestows an important role on the UN to continue to make concerted efforts to protect and promote the fundamental rights and freedoms of the people of Jammu and Kashmir, especially their right to self-determination. Therefore, the UN may be requested to:

- a- implement UNSC resolutions to allow people of Jammu and Kashmir to exercise their right to self-determination in a free and fair plebiscite under the UN auspices;
- b- fulfil its primary responsibility to bring an end to the ongoing human rights violations in the IOJK by using all diplomatic means to pressurize the Government of India;
- c- establish a Commission of Inquiry, as proposed by OHCHR Reports to investigate the allegations of human rights violations, especially cases of enforced disappearance, extrajudicial killings, rape, unmarked mass graves and illegal demographic changes in the occupied territories by India since August 2019.
- d- urge the Government of India to fulfil its human rights obligations by repealing all discriminatory and repressive laws like AFSA, PSA and UAPA which are contradictory to international human rights law;
- e- employ political and diplomatic means to pressurize Indian Government to reverse all measures aimed at changing the demographic status of the majority Muslim State of the Jammu and Kashmir;
- f- urge all relevant Special Procedures mandate holders to focus and report on various grave violations in IOJK from human rights and international law perspectives;
- g- push the UN Human Rights Council to consider appointing a Special Rapporteur with a specific mandate to investigate India's human rights violations in IOJK under international law and international humanitarian law;

- h- request the UN High Commissioner for Human Rights may continue to urge the government of India to accept an OHCHR fact finding mission to IOJK and must continue to monitor, document and report the ongoing human rights violations under her regular briefings to the HRC;
- i- request the Director General of World Health Organization, in his periodic health situation reports may consider to report upon the health conditions of Kashmiris in the IOJK, especially those related to COVID-19 and also vaccination status, as is done in the case of Palestinians in the Occupied Palestinian Territories. It will help in highlighting the precarious health conditions in the IOJK;
- j- request UNESCO to investigate and report on the violations of cultural rights of Kashmiris and desecration and destruction of the cultural heritage and identity of the native Kashmiris especially in the wake of ongoing illegal demographic policies which will systematically debase the cultural landscape of IOJK; and
- k- in the event of continuing non-cooperation by the Indian Government, the UNSC must employ all available means including targeted sanctions such as Boycott, Divestment and Sanctions (BDS) to protect the rights of the Kashmiris.

### **For the Governments of Pakistan and the State of the AJK**

The Government of Pakistan should:

- a- provide moral and diplomatic support to the Kashmiris at all bilateral and multilateral fora, including UN and OIC, to create awareness over the human rights violations and internationalize the issue;
- b- engage with the IsDB and other Multilateral Development Institutions to provide humanitarian support to the victims and affectees in IOJK;
- c- engage international media and human rights organizations and civil society to create quality digital content to present the plight of Kashmiris in IOJK;

### **For the Government of India**

The Government of India must:

- a- allow access to OIC, UN, IPHRC and other human rights organizations international media to visit IOJK and conduct independent investigations into and reporting upon allegations of human rights abuses;
- b- repeal all restrictive and discriminatory laws like AFSA, PSA, UAPA and other laws aimed at bringing demographic changes within the occupied territories to allow the Kashmiris appropriate access to justice, free trial, freedom of movement;
- c- allow access to the humanitarian organizations to provide much needed medical support to the victims of the violence in particular cases of blindness by the pellet gun injuries;
- d- bring an end to impunity accorded to the security forces and other government functionaries, involved in gross human rights violations against Kashmiris;
- e- remove travel restrictions imposed upon the Kashmiri leadership to facilitate their right to free movement abroad;
- f- be reminded that non-Kashmiri people (granted domicile of IOJK after Aug 2019) cannot be part of any future referendum/plebiscite, which remains the only path for the Kashmiris toward realizing their inalienable right to self-determination.

### **For the OIC**

The OIC has several mechanisms/platforms to deal with the issue, which include raising it during the Summit, CFM and Contact Group on Jammu and Kashmir Meetings. OIC Groups in Geneva and New York must also raise the issue during meetings of the relevant Committees and Commissions in the General Assembly and the UNHRC. Besides the OIC may:



- a- pressurize the Government of India to allow the OIC and IPHRC Fact Finding Missions to IOJK to investigate and report upon the allegations of human rights violations;
- b- organize an international conference/symposium of international human rights and legal experts to discuss the implications of the latest demographic changes in the IOJK and consider pronouncing a legal strategy to deal with the issue;
- c- coordinate with the OIC Contact Group on Jammu and Kashmir to meet regularly on the side-lines of session of the UN General Assembly, the UN Human Rights Council as well as the OIC Ministerial meetings to forge a consensus position for presentation at the international forums, beside regularly meeting the UN Secretary General and President of the UN General Assembly to apprise them about the human rights situation in IOJK;
- d- establish and operationalize a humanitarian support fund, in collaboration with Islamic Development Bank and Islamic Solidarity Fund, for providing humanitarian support to the people of IOJK and also initiating development projects in the field of education and health to mitigate the humanitarian catastrophe in IOJK;
- e- urge its Member States to use their influence with Indian government to put an end to the human rights abuses against Kashmiri Muslims, failing which they may consider using the BDS measures against India to fulfill its human rights obligations;
- f- in partnership with all relevant stakeholders, including the UNESCO and ISESCO should prepare a media strategy to raise awareness about various aspects of suffering in the IOJK, including destruction of Kashmiri cultural heritage and identity. It should include systematic use of social media, films and audio-visual documentaries to highlight the impact of the Indian occupation on the native population of Kashmir;
- g- nominate a Kashmiri human rights activist for relevant international prizes and/or establish prizes that support the promotion and protection of human rights in Kashmir;
- h- through the assistance of Member States, should take the case of illegally detained Kashmiri leaders, including Yasin Malik, Asiya Andrabi and others to the International Court of Justice (ICJ) and other world forums to ensure their release. These Kashmiri leaders should be declared as prisoners of conscience/opinion, and should be given a status within the norms of International Law;
- i- explore all legal avenues for taking the case of human rights violations in IOJK to ICJ;
- j- ask the OIC Groups in New York and in Geneva to circulate this report as an official document of the UN. It may also be shared with the relevant EU authorities through our OIC Mission in Brussels.
- k- Request the CFM to encourage Member States to translate this report into their local languages for wider dissemination and distribution in academic circles, in order to raise awareness on the aspect of human rights violations taking place in the IOJK among the local populations and civil society actors in OIC Member States.

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