

Human-Rights violation in the Kashmir Conflict

The Kashmir conflict is one of the longest bilateral conflict over territorial claims. It has kickstarted various hot and cold wars between India and Pakistan which have only deteriorated the already worsening ties and trust. Both the countries view each other through a negative lens which makes the possibility of multilateral problem-solving complex.

Regardless of the political direction the conflict takes in the upcoming future the gross human rights violation ongoing in the valley needs to be brought to a halt. Kashmir, once known for its natural beauty now hosts around 800,000 (unofficial figures) armed personnel making it the most densely militarized region on the planet. It is believed that around 80,000-100,000 people from the valley have been killed in the last 30 years. Due to the refusal of Indian government to publish accurate official statistics there are an estimated 7,000 unmarked graves. The human right violations are being carried out via an existing power structure which remarkably decreases the possibility of holding these human right violators accountable. Some of these measures include: Special Acts and Laws which provide the armed forces with additional powers which are often not in line with the UN guidelines, moreover the Indian press selectively covers news which helps create the false impression that Kashmiri citizens strongly support the Indian government; such false narratives keeps the Indian population unaware and misinformed of the human rights violations ongoing in Kashmir and thus helps the government avoid possible backlash from its own citizens.

- Special Acts and Laws for the armed forces in Kashmir:

The human rights abusers rely on a complex, yet effective legal structure put in place by the Indian government to safeguard themselves from legal actions. The key part of dismantling this structure is to identify the laws and acts which enable these actions.

Once identified they should be subjected to stringent inspection by global institutions

of human rights. Some of the most draconian and oppressive laws which were enacted in the valley are mentioned below:

1. Jammu and Kashmir Public Safety Act 1978:

The Jammu and Kashmir Public Safety Act 1978 has been termed as a 'preventive detention law' by the Indian government. Under this act the government can detain a person on the ground of security and public order. Detention without charge is possible for up to one year where there is a threat to public order and up to two years where there is a threat to the security of the state. There is no need to inform the detainee of the grounds of detention. The act makes it incredibly hard to discover where about of arrested person. If a person is released from the umbrella of another law the person may still be apprehended under this law .

2. Terrorist and Disruptive Activities (Prevention) Act (TADA) 1987:

Terrorist and Disruptive Activities (Prevention) Act, commonly known as TADA, was an Indian anti-terrorism law which was in force between 1985 and 1995. It was renewed in 1989, 1991 and 1993 before being allowed to lapse in 1995 due to increasing unpopularity after widespread allegations of abuse. The act made detention without charges possible for 189 days. TADA defines "disruptive activity" as any speech, article or other act that supports secession from the union. This is a blatant contravention of the right to freedom of speech. (Majid, Dr Abdul, and Dr Mahboob Hussin. "Kashmir: A conflict between India and Pakistan." *South Asian Studies* 31.1. 2020.)

3. Armed Forces Special Power Act 1990:

Armed Forces Special Powers Act (AFSPA), 1958 is an act of the Parliament of India that grant special powers to the Indian Armed Forces the power to maintain public order in "disturbed areas". This provision provides the basis for military to

suppress legitimate political activity. In a disturbed area any member of the armed forces can authorize the use of lethal force in circumstances which include contravention of any law prohibiting the assembly of five or more persons. No one acting thus can be tried without the leave of the central government.

4. Prevention of Terrorism Act (POTA):

This is another instrument, which is incompatible with fundamental rights in the Indian constitution and the international human standards. Four main provisions are (i) detention without trial (ii) confession before police as evidence (iii) denial of public hearing of trials (iv) criminalisation of legitimate political dissent and free speech. India has been criticized on the national level for these laws. The high authorities of the UN also made some objections on these laws. “In 1991, during the presentation of the second periodic report to the Human Rights Committee, which monitors compliance with international standards, several members of committee were dissatisfied with the implementation of the covenant of Indian law and practice” (Kashmir Times, 2004).

- Role of Indian Press:

The increasing number of government-controlled Media houses in India is a growing concern in the International Press Community. India has been steadily declining in the international freedom of press index, ranking at 142 among 180 other countries on its latest iteration. However, the press freedom of Kashmir has remained unchanged for most of the past decades. The media houses are heavily harassed by government authorities thus making it impossible to get access to unbiased and true to source information from the valley. This allows the National media to change the narrative and report the issues as they please, which are more often than not pro-government.

RSF, reporters without borders, an international NGO based in Paris with consultative

status in United Nations, UNESCO, the Council of Europe and the International Organization of the Francophonie (OIF) says the following about the state of media in Kashmir, “ The situation is still very worrying in Kashmir, where reporters are often harassed by police and paramilitaries and must cope with utterly Orwellian content regulations, and where media outlets are liable to be closed, as was the case with the valley’s leading daily, the Kashmir Times.”

The Misleading coverage of the situation in Kashmir by the National medias of India and Kashmir contribute very strongly to the free reign of human right abusers. The Press keeps the general population misinformed which enables the gross violations.

- Quantifying the Human Rights violation:

The facts and figures of the human rights violation taking place are hard to statistically analyse since the information about the deaths are not provided by the Indian government. However, International organisations like Amnesty International did publish reports on the situation in Kashmir on the basis of their own research. They were even banned from working in the country by the government due to the controversial nature of their report. Their report suggested the number of deaths was close to one million, “The war in the Kashmir Valley is almost 21-years old now and has claimed about 1,00,000 lives. Millions have been tormented and tortured, several thousand have ‘disappeared’, women have been raped, tens of thousands widowed. Widespread human rights violations in the state since January 1990 have been attributed to Indian army, and the paramilitary Border Security Force and Central Reserve Police Force” (Amnesty International Report 1993, p. 20). Reports like these (Amnesty International, United Nations High Commissioner for Human Rights) have always indicated that the number of killings, harassment and unlawful activities have been absurdly high in the valley. However, these reports never seem to gain the

necessary traction in international and Indian national media. These gross violations have also raised a generation of children who have been mentally harassed since their birth, who will be no doubt scarred for rest of their lives. On top of the human rights violations, mental health issues and PTSD are some of the major problems faced by the population of the valley.

Possible Solutions/Policy:

- Highlighting the Human Rights Violation:

Highlighting the violation of human rights in the valley should be treated as the primary and first goal of a possible solution. This should start from the grass root levels, with United Nations recognizing independent NGOs who are capable of representing the people of Kashmir at an international level. Subsequently, UN should provide a global stage for these selected representatives where they can share their experiences for people around the world. To help the situation gain traction, proper use of social media, celebrity/UN ambassadors should take place.

Actions taken by United Nations or such a global Organisation feels like the obvious and most probable plan of action. However, the Indian and Pakistani government can be pressurized by its allies too. Superpowers like United States hold enough power and interest to stage an intervention and catalyse the processes mentioned above.

- Evaluating the Special Acts and Laws of armed forces in Kashmir:

Many of the special powers provided to the Indian armed forces occupying Kashmir do not follow the basic human rights framework put forward by the United Nations. Most of the laws like Armed Forces Special Power Act, Prevention of Terrorism Act etc need a serious rework and global organisations should look into them as soon as possible. These are grossly unlawful and create a system of oppression which denies even basic rights such as a lawyer during arrest, or meeting with family members in

custody. Draconian Laws like these are used indiscriminately in the valley to detain and harass protestors for as long as two years without any trials or legal processes.

International organizations like Amnesty International, which promote the concept of human rights and uphold them whenever possible, were banned from the country for a number of years. Acts like these should not go unpunished, Sanctions are one possible and straightforward punishment which can be used to get the government to come clean about their actions in the valley. International commissions also report that Kashmir's justice system is practically dysfunctional with no power to prosecute the armed forces who are protected by the unlawful acts and laws. Since, Kashmir is an independent state not subjected to the same rules as other states of India, the local government could use some of its power to strengthen the judicial system, which will not only help tackle the human rights violation but also uplift the valley from other social issues.

- **Regulating Indian Media:**

On a surface level evaluation, a democracy such as India should not be able to perform such gross human rights violation. It has a government which needs to answer to the citizens of the country and human rights violation is a serious concern all over the world in this day and age. However, these actions are never truthfully reported to the Indian citizens. Many international reports have concluded that Indian and Pakistani media portray Kashmir as an India against Pakistan issue which requires their governments to take such outlandish measures to protect their respective countries. None of the human aspects of the valley are reported to the citizens, essentially reducing Kashmir into a ground of battle for India and Pakistan. This misinformation and agenda from the major Indian Media put a lot of lives at risk, it can even be considered a part of the system that upholds the structure required to

carry on the gross human rights violation. Some possible solutions could be promoting fact checking websites and independent media houses, moreover, the media regulation should have Kashmiri representation to help the media houses realize their side of the story. This is not necessarily a solution that an international organization can enforce, but an increased coverage of the issue may bring about some much-needed changes in Indian Media.

Future Implications:

The steps mentioned above will work the best when implemented together, a refined plan of action which can make sure all these different aspects of the solution are carried out in an orderly fashion and with equal importance, is important for the success of the policy. The obvious issues which might come up in the implementation are the increasing power of India in the United Nations. Most of the solutions mentioned rely on interventions from international powers such as the United Nations. India has been steadily increasing its support for the UN in recent times and has in parts become a great power with a very strong power/vote in the council. This status makes actions against the Indian government complex. However, the worsening status of Kashmir is in no way or form expected to improve or stabilize in the near future, if the international powers don't act as soon as possible they might not ever get to intervene ever again.

Reference:

Bhat, Sabzar Ahmad. "The Kashmir conflict and human rights." *Race & Class* 61.1 (2019): 77-86.

Majid, Dr Abdul, and Dr Mahboob Hussin. "Kashmir: A conflict between India and Pakistan." *South Asian Studies* 31.1 (2020).

Jahangir, Mohmad Saleem, and Aneesha Shafi. "Status of human rights in democratic setup: Experiences from Kashmir." *Journal of Law and Conflict Resolution* 5.3 (2013): 41-47.

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