

Human Rights Council

Addressing Human Rights Violations in Kashmir



Forum:	Human Rights Council
Issue:	Addressing Human Rights Violations in Kashmir
Student Officer:	Keya Luna van Rijn
Position:	Deputy Chair

Introduction

Kashmir Valley is situated in the state of Jammu and Kashmir in northern India and since 1990 has seen conflict between Muslim insurgents demanding accession to Pakistan and Indian security forces. In response to the insurgency there have been human rights violations towards the Muslims in Kashmir by the Indian forces including but not limited to; torture, rape, extrajudicial executions and assaults on health care workers. And vice-versa, the Hindu minority in Kashmir have also been subject to severe human rights violations by Muslim communities, who believe the original Hindu population no longer belong in their homeland, Kashmir. The origins of this conflict can be traced back to the first Kashmir war, also known as the Indo-Pakistan War, between October 22nd 1947 and January 5th 1948, being an armed conflict between Pakistan and India over the state of Jammu and Kashmir following the partition of British India.

The partition left the state to be contested in its territorial status over which the two neighbouring nations, Pakistan and India, have fought over. The late 1980's thereby saw an armed insurgency in a violent uprising due to an alleged rigged election for the 1987 Jammu and Kashmir Legislative Assembly election and was further backed by Pakistan who claimed to be providing "moral and diplomatic" support towards the separatist movement. During the time of this partition, Pakistan and India had agreed to terms regarding this which included the rights of the princely state rulers to opt for either India and Pakistan. These were consequently met with some reservations due to the undeniable wish of these states to remain independent, which to some extent was acted upon by the Maharaja of Kashmir, Hari Singh. By delaying his decision, he has initially believed that he could ultimately keep Kashmir's independence; however, a line of events caught up to him, including a revolution among his subjects following Islam throughout the western border. This event propelled him to sign an *Instrument of Accession to the Indian union*, meaning the Maharaja had chosen to remain under India's authority.



Pakistan's response to all that was occurring in the Kashmir region was the staging of an intervention as they perceived Kashmir to be an extension of Pakistan. The warfare within the area only ceased in January of 1949 after beginning in 1948 due to the intercession of the United Nations. The same year a cease-fire line was established by Pakistan and India which created a divide between the authority of the territory. This was created at the time to be a temporary solution, yet the line of control still remained and is existing to this day.

This very line increased a need for the presence of military groups both on the border lines and within the land. Since 1990 the state has been witness to several massacres which have resulted in the deaths and disappearances of thousands. During this time as well, there have been allegations ranging from forced disappearances, rape, sexual abuse, torture and mass killings separate from the officially coined massacres. Various groups have been put to blame for these severe violations of human rights unto the Kashmiri civilians such as the Central Reserve Police Force, Border Security personnel as well as the Indian Army along with other groups. The years in which murders and massacres have occurred since 1990 are as followed: 1990, 1991, 1993, 1995, 1996, 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2006, 2009, 2018, 2019 and most recently in 2022.

Definition of Key Terms

Human Rights

"Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Everyone is entitled to these rights, without discrimination."

Insurgency

"A condition of revolt against a government that is less than an organised revolution and that is not recognised as belligerency."



Cease-fire

“A cease-fire is an agreement that regulates the cessation of all military activity for a given length of time in a given area. It may be declared unilaterally, or it may be negotiated between parties to a conflict”

Violation

“A human rights violation is the disallowance of the freedom of thought and movement to which all humans legally have a right. While individuals can violate these rights, the leadership or government of civilisation most often belittles marginalised persons.”

Exodus

A mass departure/emigration of groups, often as a result of force.

General Overview

Situated in the northwest Indian subcontinent, Kashmir has a total area of 222,200 square km with a population of 12,541,302 and has been the subject of conflict between Pakistan and India for nearly 80 years. This issue will be addressing the Human Rights violations that can be seen in this region from all parties involved, which will be further discussed. An in depth look into the geography and political relations of this region can help in grasping a holistic overview of why such conflicts have arised and have failed to be solved in the near decade in which they have been surfacing. A confirmation of aforementioned violations may be confirmed through the Universal Declaration of Human Rights.

Geography

Being the most north-western region in India, Jammu and Kashmir is surrounded by multiple nations, leaving it in a vulnerable position to dispute. The northeast hosts the Uygur Autonomous Region of Xinjiang which is close to the Tibet Autonomous Region in the east. Both of these are under the control of China, another major power in addition to those of Pakistan and India. Pakistan occupies the west of Kashmir and Afghanistan to the northwest. The region of Kashmir in itself has also been further divided into different areas that are under different control, such as Pakistan



administering the western and northern portions. Gilgit, Azad Kashmir and Baltistan comprise the three areas in which Pakistan holds authority, the first and last being known also as Gilgit-Baltistan to create a single administrative unit. The areas administered by India are in the south and southwest named Jammu and Kashmir, and Ladakh. The Pakistani and Indian territories are divided by a construct of a 1972 agreement named the “line of control”; however, the two nations fail to recognise this as an international boundary.



(A map of South Asia depicting the location of Kashmir in

relation to the surrounding states. *Britannica.com*).



(A depiction of the split borders between Pakistan,

China and India. *bbc.com*).



Notable Human Rights Violations

On July 8th of 2019, the UN High Commissioner for Human Rights released a [43 page report](#) which resulted in major concerns regarding the abuses by both Pakistani and Indian armed groups and security forces in their own designated areas of Kashmir. Some of the accusations include; *'Civilian killings and excessive use of force, continued use of pellet-firing shotgun, cordon and search operations, arbitrary detention, impunity for human rights violations, restrictions on freedom of expression, censorship and attack on press freedoms, restrictions on freedom of assembly and association, torture, and the targeting of Kashmiri Muslims outside Jammu and Kashmir.'* Throughout the report these are explained in great detail, allowing for a solid understanding and grasp of the issues occurring in this area of the world. A reported 100,000 Kashmiris have been killed during the conflict in which India has been further accused of not only direct violence, but also systematic violence and torture against Kashmiri citizens. During the time in which the militancy in Kashmir erupted, a more intersectional path of violence was further uncovered against those in the Hindu Kashmiri Pandits minority as the Indian government released numbers of 219 pandits being killed alongside 140,000 migrants due to the stated insurgence in militancy.

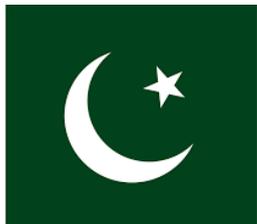
By 1990, the conflict had been ongoing for many years and had seen innumerable human rights violations throughout the region towards members of different ethnic groups and religions. The Muslim Kashmiri's faced many violations themselves; however, were not completely isolated in this matter. In January of 1990, the Hindus living in Kashmir, also known as the Pandits, were the victims of one of the largest ethnic cleansings the conflict had ever seen. The Pandits, descendants of Hindu Priests, were among the first inhabitants of Kashmir valley having resided there for around 5,000 years making them a significant indigenous group of the valley. The cleansing they had faced lead to an exodus of around 100,000 of the 120,000 remaining Pandit population in the Muslim-majority sector of the valley in which they were found migrating to the Indian-administered region. Some of the human rights violations seen against the Pandits include rape, looting, targeted killings, various forms of torture, religious hate speech/discrimination, terrorism and militancy. By the middle of 1990 there were already 80 reported cases of killed Kashmiri Pandits, many of whom were part of the Exodus that saw a mass migration to surrounding areas of India as well. Despite claims of casualty numbers being low, many Pandits stated their reason for migrating was the panic and fear instilled in them due to their surroundings and setting they were being forced into. Much of this related to targeted killings towards high-profile officials and greatly public political campaigns initiated by the insurgents belonging to the Muslim Kashmiris. As of 2011, there only remains an estimate regarding



the number of Pandits still remaining in the Kashmir Valley spanning between 2,700-3,400, a significant decrease in what it was 20 years prior.

Furthering this, the state of Kashmir took a great hit from the COVID-19 pandemic hosting over 300,000 deaths and over 4,300 deaths within the first year of the pandemic. The human rights violations remain systematic as the Indian government came under large criticisms regarding their failures in response to the pandemic within the region. As the new government began to develop in their state of power, 2021 June held the first large-scale migration of troops into the region since August of 2019 as the specialised constitutional position of Kashmir was suddenly revoked as a result of the removal of Article 370. Arrests of many civilians were recorded as well as the detainment of many local leaders.

Major Parties Involved



Pakistan

(Flag of the Islamic Republic of Pakistan)

Despite the multiple wars and disputes over the region of Kashmir, Pakistan remains firm in its outspoken stance that the final status of the region must be decided by the citizens of the state. They continue to abide by the view that the Maharaja was not a popular leader in an attempt to delegitimize his historic decision to remain under Indian administration. Their claims further include attempts to bring down India, including that of the Indian troops being present in the Kashmir region prior to the signing of the *Instrument of Accession*.



India

(Flag of the Republic of India)

Similarly to Pakistan, India also remains firm in its stance regarding the Kashmir state; however, on an opposite side of the spectrum as they believe that Kashmir is to remain an integral



part of India. Their attempts in winning over the region include an outspoken willingness to grant autonomy to the region so long as they remain under the Indian constitution.



China *(Flag of the People's Republic of China)*

Overall, China's stance has been against India in support of Pakistan. They are in control of Aksai Chin which is seen to be a part of Kashmir, yet they do not recognise it as such. It further disputed the borders with another autonomous region of Tibet in various locations.



Kashmir *(Flag of Kashmir)*

The views of Kashmiris are rooted in their history beginning in 1586 in which their beliefs remain that the rule of their state has lied in the Mughals, Afghans, Sikhs, Dogras and most recently the Indian government.

Timeline of Key Events

Date	Description of event
1947	Partition of South Asian subcontinent into the Muslim-majority state of Pakistan and the predominantly Hindu India due to the end of the British colonial rule.
1947	Treaty of accession with India signed by the Maharaja (Prince) of Kashmir after an attack by the Pakistani tribal army.



1948	<p>Kashmir is officially raised in the UN Security Council (UNSC) by India, leading to a call for a referendum on the status of the territory in <i>Resolution 47</i>.</p>
1951	<p>Jammu and Kashmir, an Indian-administered state, backs the region's accession to India during their elections; followed by a statement by India claiming that the results makes a referendum unnecessary. This is responded to by Pakistan and the UN who say that an account of voters' views are done through a referendum throughout the former princely state.</p>
1957	<p>Indian-administered Jammu and Kashmir's constitution defines the region as part of India.</p>
1971-72	<p>The 1972 Simla Agreement was formed after Pakistan was defeated during another Indo-Pakistani war. The agreement created a Line of Control over the Kashmir ceasefire line which pledges that negotiations will be used by both sides to settle their differences. The basis of Indian-Pakistani relations is formed by the agreement thereafter.</p>
1987	<p>Marking the beginning of the insurgency, impetus is given to a pro-independence insurgency centred around the Jammu and Kashmir Liberation Front (JKLF) during disputed state elections.</p>
1999	<p>Relations are broken between India and Pakistan after India accuses Pakistan of being behind militants crossing into the Indian-administered Kargil district from the Pakistani-administered Kashmir. The two nations go to war as a result of this.</p>
2011	<p>Unidentified bodies of over 2,000 citizens near the Line of Control in unmarked graves are confirmed by the Indian State Human Rights Commission. Activists claim the many of the deceased were people who had disappeared following their arrests by security forces.</p>
2013 September	<p>Both India and Pakistan's prime ministers meet over their disputed border in Kashmir and agree to try and reduce the number of violent incidents that occur there.</p>
2016 July	<p>Strict measures are imposed upon most parts of Indian-administered Kashmir by authorities, including; an indefinite curfew, the suspension of mobile and internet services and places such as schools, shops and banks being shut.</p>
2019 August	<p>The state of Jammu and Kashmir is stripped of their special status.</p>

UN involvement, Relevant Resolutions, Treaties and Events



- Security Council resolution 47 [on restoration of peace and order and the plebiscite in the State of Jammu and Kashmir] ,1948-04-21, (S/RES/47)
- AGREEMENT BETWEEN MILITARY REPRESENTATIVES OF INDIA AND PAKISTAN REGARDING THE ESTABLISHMENT OF CEASE-FIRE LINE IN THE STATE OF JAMMU AND KASHMIR (27/07/1949)
- International peace and security [Non-proliferation of weapons], 1998, (S/RES/1172).
- **Office of the High Commissioner for Human Rights (OHCHR) Report on Kashmir;**

The report published in Geneva on the 14th of June 2018 called for the urgent addressing of both ongoing and past violations of human rights visible in the Kashmir region. The report consists of 49 pages and is the first one released by the United Nations in regards to this issue, 70 years later. It details the violations on both sides of the Line of Control and urges “-the UN Human Rights Council to consider establishing a commission of inquiry to conduct a comprehensive independent international investigation into allegations of human rights violations in Kashmir.” Although it refrained from posing actual resolutions, it finally brought the violations to an international level, thereby encouraging action to be taken in response to this.

Previous Attempts to solve the Issue

Simla Agreement

The Simla Agreement was signed on July 2nd 1972 by Prime Minister of India, Indira Gandhi, and President Zulfikar Ali Bhutto of Pakistan. It was treated as a peace treaty looking to reverse the consequences of the war in 1971. It further became a thorough blueprint for friendly neighbourly relations between the two nations involved as they undertook to abjure conflict and confrontation. The main aspects of the agreement emphasised: *‘Respect for each other’s territorial integrity and sovereignty; non-interference in each other’s internal affairs; respect for each other’s unity, political independence; sovereign equality; and abjuring hostile propaganda.’* However, the agreement was heavily skewed in Pakistan’s favour with Pakistan regaining the land she had lost to India in the war and also the safe return of all the POWs. There was no defining clause in the treaty holding either nation down and giving them the incentive to maintain peaceful relations with the other, resulting in a lack of structure to remain intact throughout the years.



Removal Article 370

In 2019, the Indian government revoked a vast majority of Article 370 in their constitution, taking that of Article 35A with it. This specific article has given privileges to the citizens of Kashmir and has been an almost vital part in India and Kashmir's complex relationship. The article has granted a limited amount of autonomy to the region including, freedom of law making, its own constitution and a unique flag to them. Despite this, foreign affairs, communications and defence still remained in the hands of the central Indian government. The removal of this article came as a result of the newly elected prime minister Narendra Modi of the Bharatiya Janata Party, Hindu nationalist, as it had a long history of opposing Article 370. The result of this measure led to Kashmir no longer having the rights to follow their own curated constitution, and will instead have to follow the authority of the central Indian constitution, something that the government claims will bring development to the region.

Possible Solutions

Seek independence for Kashmir as a sovereign state

A Muslim majority nation which would be secular in nature. *Not viable* as neither Pakistani nor Indian voters and government would allow for an independent Kashmir.

Indo-Pak agreement for a formal partition between India and Pakistan.

Can be current (LOC) with minor adjustments to allow for the best possible outcome. 85% of Kashmiri locals support the LOC being a permanent border in some form. Within this, the ideas of disarmament and soft borders will be included, hopefully reaching to a conclusion in which Kashmiris no longer have to live in fear of one another.

Kashmir to receive maximum autonomy;

From both the Indian and Pakistani government to effectively be a self-governing state. Initial borders shall remain; however, the region is to have free access to one another within the self-governing area and to have the freedom of movement in and out of both India and Pakistan. The free-flowing movement should pave the way for a reduction in military bases at the borders due to a revoked necessity for restraining citizens' attempts at crossing lines. The overarching consequence would see safer migration and minimal interactions between citizens and police forces.



Bibliography

About the author Christopher Finnigan Posted In: Featured, et al. "India and Pakistan: How Treaties Prevent the Rivalry from Devolving into War." *South Asia@LSE*, 10 June 2019, blogs.lse.ac.uk/southasia/2019/06/10/india-and-pakistan-how-treaties-prevent-the-rivalry-from-devolving-into-war/.

"Article 370: What Happened with Kashmir and Why It Matters." *BBC News*, BBC, 5 Aug. 2019, www.bbc.com/news/world-asia-india-49234708.

Behind the Kashmir Conflict - Background (Human Rights Watch Report, July 1999), www.hrw.org/reports/1999/kashmir/back.htm.

"Building Trust: Cooperation between Rivals India and Pakistan." *Taylor & Francis*, www.tandfonline.com/doi/abs/10.1080/00358533.2019.1592318?journalCode=ctr20.

Ganguly, Meenakshi. "Kashmir: Un Reports Serious Abuses." *Human Rights Watch*, 28 Oct. 2020, www.hrw.org/news/2019/07/10/kashmir-un-reports-serious-abuses.

The Geneva Conventions of 12 August 1949. www.icrc.org/en/doc/assets/files/publications/icrc-002-0173.pdf.

here], [Author meta content. *Windowtitle*, m.california.universitypressscholarship.com/mobile/view/10.1525/california/9780520266773.01.0001/upso-9780520266773-chapter-11.

"Human Rights Abuses in Kashmir." *Wikipedia*, Wikimedia Foundation, 13 May 2022, en.wikipedia.org/wiki/Human_rights_abuses_in_Kashmir#:~:text=Jammu%20and%20Kashmir,-Main%20article%3A%20Human&text=Human%20rights%20abuses%20in%20Jammu%20and%20Kashmir%2C%20a%20disputed%20territory,and%20bans%20on%20religious%20gatherings.

The Human Rights Crisis in Kashmir. www.hrw.org/sites/default/files/reports/INDIA937.PDF.

"Human Rights Violations in Jammu & Kashmir - A Report." <https://www.outlookindia.com/>, 3 Feb. 2022,



www.outlookindia.com/website/story/human-rights-violations-in-jammu-kashmir-a-report/211099.

Human Rights Violations of Kashmiri Pandits: An Appeal, www.ikashmir.net/appeal/index.html.

“Indo-Pakistani War of 1947–1948.” *Wikipedia*, Wikimedia Foundation, 23 June 2022, en.wikipedia.org/wiki/Indo-Pakistani_War_of_1947%E2%80%931948.

“Kashmir.” *Encyclopædia Britannica*, Encyclopædia Britannica, Inc., www.britannica.com/place/Kashmir-region-Indian-subcontinent.

“The Latest Kashmir Conflict Explained.” *United States Institute of Peace*, 17 Sept. 2021, www.usip.org/publications/2019/08/latest-kashmir-conflict-explained.

“Mea: Statements : Bilateral/Multilateral Documents.” *Ministry of External Affairs, Government of India*, mea.gov.in/bilateral-documents.htm?dtl%2F5252%2FAgreement%2Brelating%2Bto%2BCeasefire%2BLine%2Bin%2BJampK.

“Mea: Statements : Bilateral/Multilateral Documents.” *Ministry of External Affairs, Government of India*, www.mea.gov.in/bilateral-documents.htm?dtl%2F5252%2FAgreement%2Brelating%2Bto%2BCeasefire%2BLine%2Bin%2BJampK.

“Resolution 47 (1948) /.” *United Nations*, United Nations, digitallibrary.un.org/record/111955/?ln=en.

The Kashmiri Pandits: An Ethnic Cleansing the World Forgot, www.satp.org/islamist-extremism/data/The-Kashmiri-Pandits-An-Ethnic-Cleansing-the-World-Forgot.

Solutions to the Conflict in Kashmir - ScholarWorks@BGSU, scholarworks.bgsu.edu/cgi/viewcontent.cgi?article=1035&context=irj.

“UN Experts Concerned over Rights Abuses in Kashmir.” *Anadolu Ajansı*, www.aa.com.tr/en/asia-pacific/un-experts-concerned-over-rights-abuses-in-kashmir/2260057#.

.



“United Nations Security Council Resolution 47.” *Wikipedia*, Wikimedia Foundation, 17 Apr. 2022, en.wikipedia.org/wiki/United_Nations_Security_Council_Resolution_47.

Appendix or Appendices

[THE GENEVA CONVENTIONS OF 12 AUGUST 1949: Part I – General Provisions: Article III – Conflicts of not an international character.](#)

[Update of the Situation of Humans Rights in Indian-Administered Kashmir and Pakistan-Administered Kashmir from May 2018 to April 2019.](#)

[All UN resolutions regarding Jammu & Kashmir since 1948.](#)

