

THE SIEGE

A Year Since Abrogation

August 2020

Jammu & Kashmir Solidarity Group



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The Commission of Inquiry team also takes this opportunity to thank all the people and organisations who met with us, during our visit to the Kashmir valley in the month of February 2020. We are grateful to each one of you for spending time with us, sharing your experiences and helping our learning and understanding about the impact the devastating political move of August 2019 had on each one of you. To the families of the victims, we are forever indebted to you for agreeing to meet with us and risk re-living the pain – to make sure truth is documented.

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We are grateful to a whole lot of individuals, who gave extensive time and energy to the production of this rather exhaustive report. Our sincere gratitude to all the authors of different briefs and sections, who made sure that JKSG, could bring out this important report and analysis. Our sincere apologies if we have overstepped by pushing with hasty deadlines or strict edits.

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We thank all the contributors of this report. We believe that each and every brief or testimony you have produced in this report is a testimony to your conviction, courage and politics. Thank you for enriching this report with your writing. Special thanks to all the friends who did the re-composing of chapters and the designing of the factsheet.

We hope this report helps in the currently stalled process of the independent people's tribunal on J&K go forward. We express our gratitude to the esteemed jury, who despite the several inevitable postponements, have stuck to their commitment to this important process.

We aspire through this report to contribute to an important assertion of people's politics – to understand and stand with each other, beyond the narrow lens of nationalism's inflicted prejudice and hate.

Editorial Team

The Siege: A Year Since Abrogation (August, 2020)

Summary

On the night of 4th August 2019, as things were being set in motion for the reading down of Article 370, Kashmir and its people were witnessing a nightmare and a deadly blow to their political aspirations. As people hurriedly wished goodbye to their loved ones, desperately sent messages to friends outside the state to let them know what was happening, one by one all communication services of internet, landlines, mobile phones, postal services were blocked to stop spread of information and possible resistance from the Kashmiri people. With no information from the Indian government about decisions being made about their future, people were left in a state of fear, anxiety and uncertainty. Kashmir, the most militarised zone in the world, having already had a significant disparity in military to civilian ratio, went from bad to worse. All Non-Kashmiri people were evacuated including the pilgrims of Amarnath Yatra. Educational facilities were vacated to accommodate additional armed forces deployed in the valley.

Over the last year, as all sectors of the economy of the state were collapsing, bills and ordinances have been introduced that undermine ownership rights of Kashmiri people over immovable properties and at the same time facilitated the takeover of land for industry and military control. These changes have reinforced fears of the people of J&K both as a collective and individually, of being systematically robbed of their rights, dignity and the authority over their lives, identity and their traditional homeland. Over the last one year, the Indian state has committed gross injustices ranging from the kidnapping and torture of minors to decimating the identity of people. In doing so, the Indian government has violated internationally recognised fundamental rights and its own constitutional values and guaranteed freedoms.

This report seeks to draw attention towards and attempts to explore the social, political, cultural and political condition of the valley since the abrogation of Article 370 in a much deeper and broader sense. This report also aims to shed light on the excesses of the Indian Government and Armed Forces in order to suppress the popular resistance movement. It highlights the arbitrary detentions, tortures and means employed by the armed forces to subjugate and disempower people including access to livelihood, education, environment, health and communication. The new modes of resistance and the role of youths in taking the Kashmiri Tehreek forward is evocatively explored as well.

In this report, 'The Siege: a year since abrogation', marking the dark anniversary of the abrogation of Article 370 and 35A of the Indian Constitution and bifurcation of the state, we have compiled the salient findings of the Commission of Inquiry and updated briefs, which have drawn upon the reports of other Fact Finding Teams that visited the state in the aftermath of August 5, 2019.

We reflect back on the history of the state and the circumstances that led to its accession to Indian Union and its short-lived relation to India which was hanging by thread in the name Article 370 of the Indian Constitution. The impact of complete lockdown of

Kashmir Valley and five Muslim majority districts of the Jammu region has been observed across sectors of life including health, academics, research, business, agriculture handicrafts and particularly the media industry. The brief on media discusses different aspects of the lives of journalists and the challenges they have faced in order to report from the areas they were working. Detailed analysis of the regressive mechanism adopted by the state and its Media Policy 2020 which further aims to regulate or control the narrative along with role of judiciary and its inability to create an environment for journalists and other media personnel to report without any pressure from the government institutions is presented in this chapter.

Torture in Kashmir is not new and neither is it looked upon as illegal, having being de facto institutionalised by instruments such as AFSPA. Torture is, in fact, an instrument of the Indian state's policy in the valley where impunity has forever prevented any prosecution for torture in J&K. Since the 5th of August, 2019, torture in the valley has shifted gears; no longer targeted at individuals but to inflict collective silence and admission to the might of the Indian state. The penetrative use to surveillance technologies to target individuals and thus spread the message that the collective was at risk, or the loudspeaker-amplified torture sessions to break the collective will, point towards this.

Post the 5th of August, detentions became the modus operandi of the local administration, working in tandem with the J&K Police, the Indian paramilitary & military and the state, to ensure that no form of regularity was allowed to function. Kashmiris were detained on the flimsiest of cases, most of them fabricated, making the entire exercise of detentions a mere paperwork formality. This was exacerbated by the fact that the courts were under threat with senior lawyers and top office-bearers of the J&K Bar Association being detained under the PSA. Likewise, some of the detainees were flown out of the valley and into prisons in India, and with the restrictions on movement and the internet/telephone clampdown in the valley, avenues for redressal were limited.

The new Rules also provide an expedient and easy process for acquisition of domicile for non-Kashmiris. Applicants with proof of residence follow a straightforward process in which a district officer issues a domicile certificate within a strict 15 days limit. Under the new Rules, existing permanent resident certificates (PRC) of indigenous Kashmiris exist only as evidentiary proof of their residence, and must be submitted to their district officer to obtain a new domicile certificate. In its reading down of Article 370, the Indian state maintained this was to enable an equal status for the women of Kashmir, who according to this narrative stand to lose their permanent resident status and their right to inheritance if they married non-permanent residents. The women of Kashmir not only have access to their permanent resident status, but also to ancestral property, education and better indicators of gender equality.

Kashmir's economy is in shambles following on from the floods in 2014, the Burhan Wani killing related disruption in 2016, the Demonetisation and GST shocks, the Abrogation and now the pandemic. The Indian state has over the last year deliberately instituted a process whereby an asset transfer out of the valley is underway. This reflects in almost all

of the economic sectors of the valley, in testimonials from locals and in the silence of the government's economic data. Kashmir's economy, which was self-sufficient and catered to local businesses and employment, is being dismantled piece by piece, through both active planning by the Indian state, and passive standing-by during the pandemic.

While the mainstream narrative is that of saving Kashmir's future by saving its economic growth, it is the children of Kashmir who carry the burden of law and order that is put on them as the state continues to treat them as threats. 'De-radicalising camps' set up the colonial agenda of the Indian state, to reshape the future of Kashmir. The brief examines how the trauma of living under a constant state of terror, encountering armed forces in all aspects of their lives, and facing detention, violence and harassment right from a young age shapes the lives of Kashmir's future.

Education has taken a severe hit over the last year, from communication blockades, to the inability to attend classes, students have been left in the dark about their future as many are losing on a school year and opportunities of further studies. The initial takeover of schools and colleges by the additional armed forces that moved into the valley was another assertion of power by the state, one that continues to affect the relationship between students and their safe spaces of learning. The changes in the education of young Kashmiris is an indication of the larger forcible structural changes that the Indian state aims to bring about.

Some of the most heart wrenching stories that emerged in the past year was of patients being shut away from essential or emergency medical care by communication and travel restrictions, complete a near total collapse of financial assistance schemes, doctors and medical workers being assaulted, pregnant women journeying several kilometres on foot as they went into labour. A physician best summed the situation, "you can postpone a kidney surgery, not child birth." The matters assume a new sense of urgency in the wake of a global pandemic that hit Kashmir just as the state was emerging from months of restrictions, rushing it into another lockdown of more uncertainty and fear. The piece attempts to trace what lead to the breakdown and it's long lasting, multiple impacts on the people of Kashmir.

Art has emerged as a political weapon for expression, critique and resistance. Despite the scrutiny on dissent and the indiscriminate use of draconian laws against Kashmiris, to question the regime, the artists of the region are hammering away. Artists recount how they were initially stunned into withdrawal by the actions of the state. In this brief, we present the testimonies of artists, poets and cartoonists. These artists and poets and their creative works to highlight the situation of Kashmir are widely utilized for the Counting Days-Kashmir Campaign, run by Pakistan-India Peoples' Forum for Peace and Democracy.

In the months following August 2019, analysts noted a significant form of resilience emerging in the most decentralised democratic fashion across Kashmir Valley. Despite the naked face of terror that they were subjected to, elderly, adults and even children were collectively reflecting a mode of resilience that was interpreted as 'civil curfew' and a new

form of civil disobedience. The brief explores the political narrative defined the silent strategies.

Contemporary controversies regarding the settler coloniser model that is unfolding in Kashmir Valley largely surrounds governmental orders and policy changes regarding domicile law and the newly found freedom for the armed forces to acquire lands without NOCs from local bodies. However, this ignores the role of a pre-existing move to spatially alter the reality of the biggest urban centres in the Kashmir Valley – Srinagar. The brief is a political, social and cultural critique of the Srinagar Master Plan 2035.

In the valley itself a quiet defiance continues, a silent civil disobedience. People seem to be shunning the public arena, reducing the state's supervisory abilities and in turn expressing a refusal to accept the rules of normalcy set by New Delhi.

The report does not carry any recommendations as a political choice. It is based on the fact that it is a political provocative of the govt that is being witnessed with regard to the handling of the people and the state of Jammu and Kashmir. We are convinced that this government is keen on a clear ultra nationalist Hindutva positioning that targets the Muslim majority state of Jammu and Kashmir. We are also avoiding recommendations based on our realisation that it is only a political dialogue with the people, the political leadership and the civil society of Jammu and Kashmir that can take forward much required process of resolution to the political aspirations of the people of Jammu and Kashmir. We are equally convinced that as people engaged in solidarity work, we should not be communicating demands to the government nor recommendations about the situation but rather be restricting our role to exposing what has been done to the people and state of Jammu and Kashmir.

- *7th August 2020*

KASHMIR COLONISED

Erasing Kashmir from India's Collective Consciousness

Love in the time of occupation

*I would have rowed my shikara to you, my beloved...
But I hope you know, our Jhelum is curfewed.*

- Amir Wani (@kashmirthroughmylens)

*I don't see the stars of the dark,
moon of the night looks clotted.
blood on the streets is sinking towards Jhelum.
will there be no accountability? she asked.
why is there so much flood in an innocent town?*

- Fayiq Wani (@fayiqw)



The Need for Public Accountability

It is a year since August 5, 2019 when Article 370 of the Indian Constitution, granting special status to Jammu and Kashmir was abrogated. What followed seemed like an annexation, with tens of thousands of troops sent into Jammu and Kashmir just days before the abrogation. The state was partitioned, after the Reorganisation Bill was passed in the Parliament. With more than 700,000 Indian soldiers, paramilitary and police ('security forces') already deployed in Jammu and Kashmir, the additional influx of troops has made J&K the most militarised region on earth, Indian state appears to have turned from administrator to coloniser. Voices in the valley speak of India following Israel's vision of settler colonialism and its methods to accomplish total control of the Palestinian territory and its people. The situation lends credence to what Kashmiri scholars have been saying over the past few years that India – administered Jammu and Kashmir should be recognised as an occupied territory.

The communication and internet were shut down, and what has been restored remains severely disrupted even today (*despite Supreme Court's instructions*). Instead of the promised 'development' boost, the economy of the state has collapsed and a quick volley of decisions on facilitating the takeover of land for industry and military control, have raised serious concerns of dispossession of Kashmiris and destabilization of sensitive ecological balance. **Swift changes in the domicile law have reinforced fears of the people of J&K both as a collective and individually, have been systematically robbed of their rights, dignity and the authority over their lives, identity and their traditional homeland.** In other words, the Indian state's tyranny of oppression has done widespread and systematic harm to the people of Kashmir. Its institutions have committed wanton outrage and gross injustice against the people in violating internationally recognized fundamental rights and India's own constitutional values and guaranteed freedoms.

Appeals by citizens of Jammu and Kashmir to the local and the highest level of Indian judiciary seeking removal of these unjust restrictions and the restoration of their fundamental rights, have achieved very little, as the courts, the custodian of constitutionally mandated individual liberties and fundamental rights have repeatedly given the government the benefit of the doubt, especially when the state invokes the non-negotiable argument of 'security of the state'. The crisis is all the more acute when despite the state's blatant transgressions of fundamental freedoms, the government is able to garner unconditional support of large section of Indian citizens, particularly the urban middle classes, through sustained false propaganda and severe restrictions of truthful reporting by the media. Massive majorities in Parliament (and a marginalized opposition), have suborned the democratic values and fundamental freedoms of the Indian Republic, with disastrous consequences for the people of the country, and especially for the people of J&K.

A year after the legislative coup that erased J&K special status, identity and the rights of the people in the promise of a 'final settlement', there is urgent need for a democratic process of public accounting, even if the prospects for achieving institutional accountability is virtually nil. Silence is not an option, if democratic rights, and fundamental freedoms are to be safeguarded in J& K and India as a whole.

Pakistan-India Peoples' Forum for Peace and Democracy (PIPFPD) along with People's Union for Civil Liberties (PUCL), Delhi Solidarity Group (DSG), New Trade Union Initiative (NTUI), National Alliance of People's Movements (NAPM), National Federation of Indian Women (NFIW), All India Progressive Women's Association (AIPWA), All India Student's Union (AISA), Act Now for Harmony and Democracy (ANHAD), Students Federation of India (SFI), All India Democratic Women's Association (AIDWA), All India Kisan Sabha (AIKS), All India Union of Forest Working People (AIUFWP), Mazdoor Kisan Shakti Sangathan (MKSS), Citizens for Justice and Peace (CJP), and other human rights, civil liberties and women's rights organisations decided to hold an independent People's Tribunal on Jammu & Kashmir. It is an exercise in holding the state accountable against crimes of violations of the rights of the peoples of J&K. It is also an initiative of solidarity with the oppressed peoples of J&K and a recognition of the centrality of the people's right to be consulted in any settlement of the political problem of J&K.

“Why have we appointed ourselves? It was precisely because no one else did. Only governments or the peoples could have done it. As for governments, they want to retain the possibility to commit crimes without running the risk of being judged; therefore, they would create an international body empowered to do so. With regard to the peoples, except in case of revolution, they do not assign courts, for which reason they could not appoint us.”

- *(Jean-Paul Sartre on International People's Tribunal on War Crimes in Vietnam, 1966)*

The Tribunal Jury consisted of Justice Madan Lokur, Justice AP Shah, Justice Anjana Prakash, and a host of important citizens from various walks of life including: Admiral L Ramdas (former Chief of the Naval Staff), Meera Borwankar (IPS), Atul Gurtu (Scientist), Dr Shyam Menon (former VC of Ambedkar University), and Lenin Bharathi (Film Director). The Tribunal was scheduled to be held on March 3-4, 2020 in Delhi at the Indian Society of International Law. The Tribunal hearings were postponed because of the outbreak of communal violence in North-East Delhi in February 2020. The subsequent March lockdown to prevent the spread of the Covid-19 pandemic, further postponed holding the Tribunal. We are committed to holding the Tribunal as soon as the lockdown

is lifted and people feel easy to participate in a public event. The violations of the rights of the people of J&K under military siege are still an issue of extreme concern. The new normal, it is feared, is a colonized Kashmir.

As a part of the process of holding the Tribunal proceeding a Commission of Inquiry was formed to access and analyse the extent and the impact of the actions of the state on the people of J&K since the reading down of Article 370 and Article 35 A, and their civil resistance. As a part of our ongoing commitment to hold the Tribunal it was decided to publish the Commission's findings, with updated Briefs that built upon the earlier seven fact finding reports. Indeed, the Commission's visit was envisaged as a continuation of the efforts of Indian civil society activists to reach out in solidarity to the people of J&K as well as to hold the state and the institutions to account. The e-Report represents a consolidation of our collective on-going efforts.

The Commission team comprised of Vijayan MJ (General Secretary, PIPFPD), Anuradha Bhasin (Executive Editor, Kashmir Times), Jashodhara Dasgupta (Social Researcher, Gender-Health-Human Rights), Rita Manchanda (Consulting Research Director, SAFHR), Siddharth Chakravarty (Research Scholar), and Shubhangi Sharma (Researcher). They were backed by the Jammu & Kashmir Solidarity Group.

The Commission visited the valley from February 18-24, 2020 and collected evidence of the pattern of arbitrary detentions torture including sexual abuse, and the possibilities of judicial redress. We confronted shifts in the security forces' operational strategies in conducting CASO and the strategy of wanton destruction by 'indirect fire' of a row of houses blasted to get at militants hiding in one house. We sought to understand the systematic deployment of a technology of subjugation to disempower the people and which even seven months after, continued to oppress. The Commission inquired into the harm done to people's access to Livelihood, Education, Environment, Health and Communication. The restrictions on the Media were of particular interest. The Commission also documented narratives of civil resistance and resilience. Given the objective of The Tribunal, a major focus was to collect testimony and identify witnesses who would testify.

We hope the report, '*The Siege – A Year Since Abrogation*', will assist our readers to examine, analyse and evaluate the constitutional validity and legality of the actions of the Indian state in virtually hollowing out Article 370. And to examine the truthfulness of the 'facts' presented by the Indian Home Minister in Parliament to justify the abrogation of Article 370 and the actions that followed.

- Tapan K Bose

“It is not the property of either India or Pakistan. It belongs to the Kashmiri people. When Kashmir acceded to India, we made it clear to the leaders of the Kashmiri people that we would ultimately abide by the verdict of their Plebiscite. If they tell us to walk out, I would have no hesitation in quitting Kashmir.”

“We have taken the issue to United Nations and given our word of honour for a peaceful solution. As a great nation we cannot go back on it. We have left the question for final solution to the people of Kashmir and we are determined to abide by their decision.”

[*Pandit Jawaharlal Nehru in Amrita Bazar Patrika, Calcutta, January 2, 1952.*
Source: <https://mronline.org/2010/11/29/nehru-on-kashmir/>]

“The Government of India not only reaffirms its acceptance of the principle that the question of the continuing accession of the state of Jammu and Kashmir to India shall be decided through the democratic method of a free and impartial plebiscite under the auspices of the United Nations but is anxious that the conditions necessary for such a plebiscite should be created as quickly as possible”

[*Written by Pandit Nehru, in a letter dated 11 September 1951, to the U.N. representative. Link: <https://mronline.org/2010/11/29/nehru-on-kashmir/>*]

**“Injustice may be the provenance of state,
memory is our own”¹**

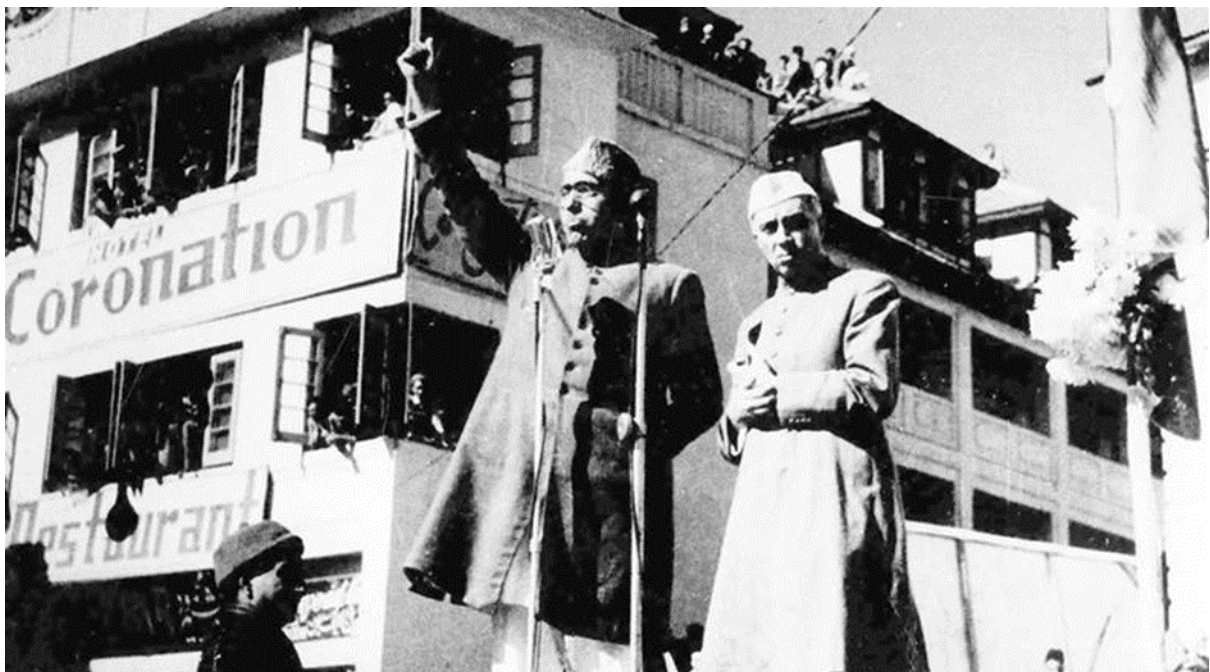
- Shopian – Institutional Denial of Justice

¹ Inscription on back cover of the report, “Shopian: Institutionalised Denial Justice” by Majlis-e-Mashawarat.

**Promises to Ashes:
A Saga of India's Commitment to Kashmiri People**



It was November 2, 1947. Kashmir's accession to India was only a week old. Pandit Jawaharlal Nehru was in Srinagar's Lal Chowk addressing a huge crowd of Kashmiris. Nehru clearly stated that regarding the future of J&K, Kashmiris would be consulted in a plebiscite or referendum.



Listening to him, Sheikh Abdullah, the Prime Minister of Jammu and Kashmir was so moved that he sang out Amir Khusrau's couplet:

*“Mun tu shudam tu mun shudi, mun tun shudam tu jaan shudi,
Taakas na guyad baad azeen, mun deegaram tu deegari.”*

(I have become you, and you me,
I am the body, you soul;
So that no one can say hereafter,
That you are someone, and me someone else.)

Nehru first made this promise 14 months before the UN Security Council (UNSC) was to adopt the Plebiscite Resolution on January 5, 1949. Between 1947-51, he repeated this ‘solemn promise’ several times in various speeches. On November 25, 1947, Nehru informed the Indian Parliament, “We have suggested that when people of Kashmir are given a chance to decide their future, this should be done under the supervision of an impartial tribunal such as United Nations Organization”. The 1948 Indian White Paper also clearly records that the accession of Kashmir to India is provisional until such time as the will of the people (self-determination) of the State could be ascertained by a plebiscite.

Within ten years of making that famous promise in Srinagar and the singing of Amir Khusrau couplet, Nehru publicly reneged on his solemn commitment to plebiscite.

Historical Background of J&K’s Accession to India

The Hindu ruler of the princely state of Jammu and Kashmir did not want to join either India or Pakistan, though the departing British advised him to accede to either of the two newly emerged dominions. The Muslim League put pressure on him to accede to Pakistan, and the Indian National Congress and other political groups, particularly the Hindu nationalists, tried to persuade the Hindu Maharaja to accede to India. But the Maharaja wanted to remain independent.

As the Maharaja vacillated, his subjects began to revolt. In the spring of 1947, an armed uprising broke out in Poonch, located on the borders of Rawalpindi district of West Punjab and Hazara district of the North West Frontier Province. By the third week of October 1947, the Maharaja was facing serious challenges to his authority from his subjects in the western parts of the state and in the frontier districts of the northern areas. The All Jammu and Kashmir Muslim Conference, which was close to the Muslim League and was popular in the western parts of the state and in parts of the valley, led the revolt against the Maharaja in Poonch, Rajauri and Muzaffarabad. On August 27, 1947, Sardar Abdul Qayum Khan, a local landlord, who had returned after serving in the British Indian Army, led an attack on a police-cum-military post in Dhirkot and captured it.

The event led Maharaja Hari Singh to unleash the full force of his Dogra troops on the population. As the armed rebellion started in Poonch, activists of the Rashtriya Swayamsevak Sangh (RSS) and the Akalis mounted attacks on villages of eastern Jammu district, killing Muslims and setting their houses on fire. This was the beginning of a

widespread extermination of Muslims in Jammu in 1947. From September 1947 onwards, organized gangs of extremist Hindus and Sikhs, who were mobilized by the RSS, started killing Muslims on a massive scale. The killing was aided and abetted by the Maharaja's forces.

On October 24, 1947, New Delhi received the news of a 'tribal invasion' via General Gracey of the Pakistan Army who communicated the news to General Lockhart. R. L. Batra, the Deputy Prime Minister of Jammu and Kashmir, forwarded a message from the Maharaja to the Indian Prime Minister Nehru, requesting military assistance as well as a proposal to accede to India. On the same day, a second provisional government of Azad Kashmir was established at Palandri under the leadership of Sardar Ibrahim, while the rebel forces took over Bimber. It was clear that between 15th August and 24th October Maharaja Hari Singh had tried his best to prevent the princely state's physical and political disintegration, but he had failed.

When the Maharaja acceded to India on October 26, 1947, his armed forces had lost control of nearly 70 to 80 per cent of the territory of 'his' princely domain. By then, J&K was a divided state. Kashmiri nationalists were also divided on religious, ethnic, cultural and linguistic lines.

Ceasefire sans Peace, Promises sans Plebiscite

From October 27, 1947, Indian forces began to be airlifted to Kashmir. And the first India-Pakistan war began. The war lasted till the end of 1948. In the beginning of 1948, India took the matter to the United Nations Security Council. The United Nations Commission for India and Pakistan (UNCIP) passed a resolution on January 5, 1949 wherein it was agreed that "the question of the Accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite." The resolution was negotiated with both India and Pakistan and accepted by all the five members of the Commission, Argentina, Belgium, Columbia, Czechoslovakia and the United States. Professor Joseph Korbel (father of Dr. Madeleine Albright) was then the Chairman of the Commission.

A ceasefire between India and Pakistan was agreed on January 1, 1949, supervised by UN observers. It seems that the Indian government had expected the UN Security Council to accept India's claim that it was a victim of Pakistan's aggression. Two weeks later, Pakistan denied the charges and accused India of annexing Kashmir and destabilizing Pakistan in its infancy. After crafting a ceasefire line, the UN instructed the UNCIP to go to the subcontinent and help the governments of both India and Pakistan to restore peace and order in the region and prepare for a referendum to decide the fate of Kashmir. The Security Council on April 21, 1948 asked Pakistan to withdraw its forces as well as its Pakistani nationals from the territory of Jammu and Kashmir. India too was asked to withdraw its forces leaving only a small number to maintain law and order, following which a plebiscite would be held.

However, it had become apparent to many Indian leaders that a plebiscite under the supervision of an international body might not yield a favourable verdict for India. On May 14, 1948, Indira Gandhi from Srinagar wrote to Pandit Nehru and warned, “they say that only Sheikh Saheb is confident of winning the plebiscite” (Sonia Gandhi, ed. *Two Together, Two Alone*. 2005, 517). Chitralkha Zutshi in *Languages of Belonging* (Permanent Black, 2011, 298-303) holds that the Muslim Conference “reigned supreme in Poonch and Jammu in 1946” while the Valley was split. Photographs of Mohammad Ali Jinnah and Mohammad Iqbal were displayed in shops and public places indicating that some sections in the valley were in support of accession to Pakistan.

The Kashmir Socialist Party announced in September 1947, that “in the best interests of the poor and backward people accession to Pakistan is desirable.” The Kisan Mazdoor Conference, an organisation of small farmers and landless people of Kashmir also agreed that the State should cede to Pakistan due to its majority Muslim population and the fact that the three main highways and all the rivers of the State flow into Pakistan.

Pandit Nehru and other Indian leaders were well aware of these differences among sections of Kashmiris on the issue of accession.

In order to get out of its commitment to the plebiscite resolution, Nehru had started questioning the impartiality of the UN, especially after the UN Security Council did not name Pakistan as the ‘aggressor’ in Jammu and Kashmir. In a letter to Vijayalakshmi Pandit, who was head of the Indian delegation to the UN and his sister, Nehru wrote, “The USA and UK played a dirty role, the UK probably being the chief actor behind the scene. I have expressed myself strongly to Atlee about it, and I propose to make perfectly clear to the UK government what we think about it. Time for soft and meaningless talk has passed.’ (Iqbal Singh, *Between Two Fires: Towards an Understanding of Jawaharlal Nehru*, Orient Longman, 1993, 90.)

For the next seven years, the Government of India was engaged in several actions, both at the national and international level, primarily aimed at extricating itself from the commitment to hold a plebiscite in Jammu and Kashmir. In 1956, Nehru publicly reneged on his solemn commitment to plebiscite. At a press conference in New Delhi, Nehru said the circumstances had changed as Pakistan had become a part of the US military block after it joined SEATO and the Baghdad Pact. The Indian government also expressed apprehension that the USA had plans to set up a military base in Kashmir, pulling India into the Cold War and undermining India’s Non-Aligned position. It also claimed any alteration of the status quo would adversely affect the position of Muslims in the rest of India. In a taped interview to H.V. Hodson, a former civil servant in colonial India, V P Menon, Secretary in the India’s Ministry of States, said in September 1964, “As for plebiscite, we were absolutely, absolutely dishonest.” (H.V. Hodson, *The Great Divide: Britain, India, Pakistan*, Hutchinson, 1969)

Article 370: Creation, Dilution and Abrogation

Jammu and Kashmir is the only state in the Union of India, which negotiated the terms of its membership with the Union. The ruler of Jammu and Kashmir acceded to India by an Instrument of Accession on October 26, 1947, in respect of only three subjects — defence, foreign affairs and communications. A schedule listed precisely 16 topics under these heads plus four others (elections to Union legislature and the like). Clause 5 said that the Instrument could not be altered without the state's consent.

The Article 370 was negotiated as a temporary provision because until the 1960s, the Government of India's stated policy was to conduct a plebiscite to determine the future of Jammu and Kashmir. While all the provisions of the Indian Constitution were debated in the Constituent Assembly after deliberations in its Drafting Committee, Article 370 was discussed for five months by Nehru and his colleagues including Sheikh Abdullah, then Prime Minister of J&K.

Article 370 was a solemn compact — with neither side mandated to amend or abrogate it unilaterally — except in accordance with the terms of that provision that the Article could be abrogated by the President of India with the concurrence of Jammu and Kashmir Constituent Assembly. In other words, revocation of Article 370 required the creation of a new Constituent Assembly of Jammu and Kashmir which would be willing to recommend its revocation. However, Parliament had the power to amend the Constitution to change this provision. But this certainly would be subject to a judicial review as Article 370 defines a basic feature of the relationship between the State and the Centre and, therefore, involves question of whether it could be amended.

Regarding Article 370, on November 27, 1963, Nehru told Parliament that the government did not want to completely end Article 370, rather, it would allow its gradual erosion. "Nehru was conscious of the indelicacy of the metaphor," says A.G. Noorani, renowned jurist and historian. Noorani adds, "Article 370 was not 'eroded' by the efflux of time or the ravages of the elements. It was denuded of content by conscious executive acts on his (Nehru's) advice through one Presidential Order after another." Almost every election in Jammu and Kashmir was rigged to ensure establishment of governments headed by persons who could be manipulated by New Delhi.

From Promises of Plebiscite to Hindu Nationalism

All the governments after Nehru followed the same pattern – promising greater autonomy, while in practice robbing Jammu and Kashmir of whatever little autonomy was left. Article 370 was also freely used not only to amend the Constitution of India but also of the state. On July 23, 1975, an order was made debarring the state legislature from amending the state Constitution on matters in respect of the governor, the election commission and even "the composition" of the Upper House, the Legislative Council. On July 30, 1986, the President made an order under Article 370, extending to Kashmir Article 249 of the Constitution in order to empower Parliament to legislate even on a

matter in the state list on the strength of a Rajya Sabha resolution. Concurrence to this was given by the Centre's own appointee, Governor Jagmohan.

The false promises continued. On November 4, 1995 the then Prime Minister P V Narasimha Rao while visiting Burkina Faso in western Africa declared that the sky was the limit as far as the demand in Kashmir for autonomy was concerned. "From a long distance away from home, I am addressing an appeal through this statement to the people of Jammu and Kashmir, at a time which could well turn their destiny once again in glorious manner, so as to make that lovely land a peer to paradise – *jannatnishaan*, as it has been called for centuries".

In reality, Rao's offer had nothing to do with autonomy. In fact, it was a reiteration of the Beg-Parthasarathy Agreement of 1975, which stated that Article 370 would continue to govern relations with the state *but all the Articles of the Indian Constitution that were extended to Jammu & Kashmir after 1953 without modification would remain unalterable*. That agreement "patronizingly" recognised the State's right to legislate on matters such as welfare, social and cultural issues and Muslim personal law. Having been made to eat humble-pie, the Sheikh was condemned by his own supporters as an opportunist.

India's former Prime Minister, Atal Bihari Vajpayee was projected as a person who wanted to bring peace, progress and prosperity in the valley by imbibing the spirit of *Insaniyat* (Humanity), *Jamhuriyat* (Democracy) and *Kashmiriyat*.

The double speak of the Vajpayee government was exposed on July 4, 2000 when it rejected outright the autonomy proposal passed by the Jammu and Kashmir's National Conference led state assembly. Vajpayee's deputy, L. K. Advani, while rejecting the autonomy resolution passed by the legislature of Jammu and Kashmir, emphatically stated that there was no question of the BJP led NDA government agreeing to "set the clock back".

During his meeting with the President of Pakistan, General Pervez Musharraf at the United Nations on September 24, 2004, Dr. Manmohan Singh, the then Prime Minister of India agreed "to explore all the possible options to settle the issue of Kashmir." One year later on September 16, 2005, Manmohan Singh again said at the United Nations, "What I do believe, I have also said that borders cannot be redrawn but we must work together to make borders irrelevant." Earlier, on September 5, 2005, Singh promised Mirwaiz Umar Farooq, Chairman, All Parties Hurriyat Conference that India would have Zero Tolerance on the human rights violations in Kashmir.

In October 2010, after eruption of massive violence in the Valley, Manmohan Singh appointed a committee headed by noted journalist Dileep Padgaonkar to ascertain the views of the Kashmiri people. In its final report in 2012, the committee recommended review of AFSPA, talks with the 'separatist' platform, the Hurriyat, and the setting up of the constitutional committee. Manmohan Singh's government did not bother to discuss the report on the floor of the House and the recommendations, were shelved.

Farooq's Foibles

In 1994, Dr Abdullah was persuaded by Prime Minister Narasimha Rao to be a part of a delegation to Geneva to persuade Iran to drop the Organisation of Islamic Countries (OIC) resolution at the UN Commission on Human Rights (UNCHR), condemning India for human rights violations in Kashmir. The resolution, with UNCHR approval, was to be referred to the UN Security Council for initiating economic sanctions and other punitive measures against India.

Dr Abdullah later told a reporter that he had agreed because Rao had offered to restore the Constitutional arrangement that existed prior to 1953, a euphemism for greater autonomy, as a quid pro quo for saving India from possible disgrace at a time when the country had mortgaged its gold reserves.

Dr Abdullah was again persuaded by Deve Gowda to participate in the October 1996 assembly elections on the assurance that he was free to pursue legislative process to seek changes in the constitutional relationship between Srinagar and New Delhi.

The RSS from the onset rejected the plebiscite resolution and never promised to grant any autonomy to Jammu and Kashmir. It firmly stood for abrogation of Article 370.

Dr. Shyama Prasad Mukherjee, the founder of the Jana Sangh, which later became the BJP, was the 'first martyr' of the agitation for repeal of Article 370. In fact, in 2002, after Narendra Modi was elected as the Chief Minister of Gujarat, the RSS started a campaign for dividing Jammu and Kashmir into three states on religious lines, especially a separate Jammu state that would belong to the Hindus. A few days later, the Vishwa Hindu Parishad President, Ashok Singhal announced that the Muslim population of the proposed Jammu state would have to leave so as to make Jammu an entirely Hindu state.

With Modi's repeated success in the elections, the suppression of the popular and militant assertion of the Kashmiris was perceived as politically fundamental to the advance of Hindu Rashtra. It is for this reason that the dilution of Article 370 and the dismemberment of the state was imperative for the triumph of Hindu nationalism. It has little to do with the integrity of the nation.

Modi government diluted the special status of Jammu and Kashmir guaranteed by Article 370 through the Presidential order by adding a sub-clause to Article 367 and replacing the terms 'Constituent assembly of Jammu and Kashmir' to mean 'legislative assembly of Jammu and Kashmir' and 'government of Jammu and Kashmir' to mean 'governor of Jammu and Kashmir acting on the aid and advice of the council of ministers'. As the Presidential order also required the concurrence of the government of the state and as Jammu and Kashmir is currently under Governor's rule, the Governor's concurrence was deemed to be the government's concurrence. Clearly, the government did not go for amending the Constitution as it would require two-thirds majority in the Parliament. It is a moot question whether the President can replace the state's Constituent Assembly by the state legislature and then replace it with the governor who is its own appointee. As advocate Aman Hingorani, an expert on Kashmir constitutionalism has said, "In a

roundabout way, this is the Centre seeking its own concurrence.” Jammu and Kashmir has been relegated to a status inferior even to other states.

It has been 71 years since the international community promised the people of the strife-torn valley their right to self-determination. Over the decades, the global commitment to that promise has wavered, even in the face of the inhuman brutalities that the people of Occupied Kashmir now live through as normal.

- *Tapan K Bose*

Charred Homes, Battered Lives

A year after the abrogation of Article 370,

Dr. Syeda Hameed finds things still unchanged in Kashmir

It is almost a year since I last visited Kashmir. After the abrogation of Article 370 last August, I visited the state as part of a small fact-finding team. We wanted to open a window to the world to show how Kashmir had changed after August 5, 2019. At that time, we had moved around the city and surrounding areas, dealing with the ubiquitous security forces in the best way we could.

But this visit (in July, 2020) was a completely different experience altogether. Movement through the streets was not at all possible due to the pandemic restrictions. The little I did see was bleak: pot-holed lanes, closed shops, a few random cars and bikes on the streets, men and women slumped and masked, a dismal picture of utter weariness. There seemed to be a sense of hopelessness even in the very air I breathed. My eyes brim over with tears – this is my beloved birthplace, my *gehvara* (cradle)! It speaks to me. This is the truth about the Kashmir of today.

Through the 25 days of my visit, between long conversations and casual exchanges, even as the Kashmiris extended to me nothing but kindness, warmth and hospitality, I could sense the depth of their despair. Over the last 30 years, I have never missed an opportunity to visit Kashmir. After each visit, I would return home to Delhi rejuvenated by its healing touch which was like a special benediction. It may be because of the fresh mountain air I breathed, or my visits to its sacred shrines. This time it is a different story. Almost home bound now, I feel like I am taking back a burden to which I can assign no name. Is it despair? Is it dread?



Source: <https://adimagazine.com/issues/issue-4/>

“Adi” in Tamil means ‘protest,’ ‘intervention,’ ‘violence’. The cover of the journal by that name says it all. A dead body is covered with a red kafan (*shroud*) that is Kashmir’s flag. The body is identified by a toe tag which says Article 370. It is surrounded by clusters of concertina wires in which are stuck torn scraps of paper; each one bears a scribbled word: ‘Livelihood’, ‘Internet’, ‘Education’ ‘Communication’, ‘Medicare’, ‘Movement’, or ‘News’.

Lockdown for Kashmir is the new normal. Fingers snap in Delhi and the Valley disappears bit by bit into oblivion. The first to disappear is the internet, then the news and telephone lines. Next, what rolls in is the inevitable hardware: barricades, concertina wires, boots and more spiked boots. This metal cocktail strikes terror in the hearts of the humble people who walk on the desolate streets of Kashmir.

There were seven fact-finding reports during a period of three months following the abrogation of Article 370 in August 2019. Each one had a concluding chapter with recommendations based on eyewitness accounts from ground zero. Not a single recommendation or suggestion has been considered either by the state or the centre. On the contrary, 11 months later, what I saw was a plethora of measures to further strangle the worn-out populace of Kashmir.

Kashmiris have a deep understanding of politics and long memories. Every move of the Centre is keenly observed and followed by the people. For example, the amendment to the Control of Buildings Operation Act 1988 and the J&K Development Act 1990 gives the government open licence to declare any area “strategic”, meaning “open for occupation”. In practice it means, my home, my orchard, my property can be occupied and the Indian Army can carry out unhindered construction. These constructions are not temporary sheds but permanent buildings as residential blocks for settling families. And it is absurd to even think of compensation or reparation! To quote Faiz Ahmed Faiz:

*Baney hain ahl-e-havas muddayi bhi munsif bhi
Kisey wakil karein kis se munsafi chahein!*

*The ‘lust filled’ have become advocates and judges
Who will argue your case, who will you ask for justice?*

The day I reached Srinagar, the headlines of an Urdu paper read, “Encounter in Meva Bagh Shopian: Three Militants Killed” Who were they? Who claimed the bodies? Were they local boys who had raised guns? There was talk about *mukhbirs* (informers) who had become very active in South Kashmir. What happened to the people, the villagers who were caught in the crossfire? In Srinagar, Nawakadal BBC showed a video of a home reduced to rubble. The women stood outside the ruins of their home; I have no words to describe the despair on their faces. The man looked straight into my eyes through the camera... That night when the boots crashed on his door, stamping around and searching

for hidden militants. And when they found nothing, they turned a living home into a massive wreck. The man was a poet of the masses who wept for the charred pieces of his manuscript. [Madhosh Balhami March 2018]

Various articles written by journalists across the world opened a new window during my housebound stay. One read, “Kashmir on the Genocide Watch List”. With over 600,000 troops, 8000 disappearances, 70,000 killings, mostly by security forces, the report declared Kashmir was ripe for genocide. Seven early warning signs of impending massacre and ten stages of the genocidal process were listed which are far advanced in this region. My mindscape reverted to an earlier clip of New York where the Indian Consul General declared before an audience that the Israeli model of West Bank settlements is the way forward for Kashmir – “If the Israeli people can do it, so can we.”

The implications of revoking 35A are universally and all too easily understood by the people of Kashmir. Kashmiris talk of a settler colonial project, comparing it with the Zionist movement and the South African apartheid. All special guarantees removed in one stroke means loss of property, loss of jobs, loss of livelihoods for the youth of Jammu, Kashmir and Ladakh. “Indian Settlements” which are already in blueprint mean militarised infrastructure — additional troops, more checkpoints, walls, watch towers. People are fearful of “deradicalization camps” for the Kashmiri youth; they understand the pattern of internment camps for the Uighur in China.

It is Education which has been the biggest casualty in the state. A beautiful school in Pulwama, where I had laid the foundation stone two years ago, is today a quarantine centre. The children are on the verge of collapse. Post August 2019, a small girl had deposited at the 30th Anniversary of UNCRC where I was also present:”

‘When I wake up in the morning I have only one thought: is the school open today?’, not ‘what food to carry in my tiffin.’

Limitations of 2G are universal, but in South Kashmir even that is cut off any time there is real or false dhamaka. ‘As a child of J&K, I feel like a bird trapped in a prison waiting to be set free’. Problems of a single phone in one family, interrupted connections and limited data make education the biggest casualty.

“Silence is not an option” is the theme of the journal Adi, which became essential reading for my research. But Ather Zia, poet and academic, has given a different reading list – “Essential reading in Kashmir are the epitaphs.”

I watched a video of a young Kashmiri poet reciting his verses. I could not find his name – he preferred to remain nameless, and for good reason. With his lines I end my piece:

Chaman ki har kali kali lahu se laal laal hai
Zehen pe har shab-o-sehr ajeeb sa sawaal hai
Sawaal ye ke saarey khwaab zer-e-khaak so gaye
Sawaal kar rahi hain maaein jin ke laal kho gaye

Every bud of the garden with blood is red
In the mind day and night rise strange questions
Questions about dreams that are asleep in earth's folds
Questions by mothers of beloved sons who went missing.

- *Syeda Hameed*

Replace Opaque and Translucent Narratives

From the Counting Days – Kashmir campaign (CD-K) convener's desk

Sitting in Delhi, I could hear two narratives about Jammu & Kashmir's Abrogation and Partition. One was of chest-thumping for the ultimate capture of Kashmir from the hands of 'Islamists' and 'separatists' with kudos being showered on Narendra Modi and Amit Shah. This narrative was surely proud that the Constitution was overlooked to make sure that the only Muslim majority state in India was disbanded, partitioned and the land captured. The other narrative was the lament for Kashmir, by many activists, human rights groups, liberals, and others. This narrative tried to appeal to the progressive conscience of the nation, in an effort to bring the constitutional and rights framework into the discussion. They argued that "this move will make sure we lose Kashmir forever" – a phrase they tactically felt would prevent those uncertain about the government's action, whose conscience militated against lending it outright support, from allowing the government to pursue its disastrous course.

While the former was opaque about its essential statist characteristics, the latter was translucent in their approach. Amidst all the reporting that one heard from the besieged valley of Kashmir on what was being done to the people and region by the Indian government, one started wondering how Kashmiris are managing to go about their daily lives. What does their suffering signify? Have the ground-rules changed in the historic Masla-e-Kashmir (the conflict of Kashmir)?

During a visit to the valley a few months later, many aspects of this became clearer to me. In the seven months from August 2019, when the first few fact-finding teams visited the Kashmir valley to late February 2020, when our Commission of Inquiry team visited different districts of 'abrogated Kashmir', I could see a sea of change. However, the core remained the same. **The world of difference between the language of an Indian activist and a Kashmiri activist was also becoming more visible and louder.**

An era of Kashmir solidarity ended on 5th August 2019

Mainland Indian activists tend to take a tactical line on Kashmir. They have already faced an avalanche of abuse from Sangh trolls and the BJP IT cell on social media; they have heard the shouting down and vituperation on Indian news channels and they have felt threatened by the ease of 'seditious embroilment' by false implication of colleagues and others in the resistance. In the face of the rapid transition of a secular republic to a *Hindutva Rashtra*, they could not talk about the fast-track changes occurring in the Kashmiri political landscape, **where people were openly advocating for political aspirations and self-determination was at its very centre. They found it difficult to talk about 'occupation', although they could speak about militarisation.**

Kashmiris found no sympathy for this fine balance. Kashmiris saw no solidarity in this apolitical support. August 2019 had put an end to all political ambiguity for them. 'Enough is enough', repeated every Kashmiri civil society activist. Young Kashmiri netizens started trending while reporting on what was happening as they saw it. They didn't want to be caught in the narrative of deciding which Indian constitutional right was being violated in Kashmir, nor did they want to hear the sympathetic pleasantries of fact-finding teams or human rights activists.

Time for transparency and accountability in solidarity politics has arrived. Counting Days Kashmir, a daily poster campaign since August 2019, initiated by young Indian scholars, activists and artists (of which I was a part), was one such attempt. It existed to tell the world that it is for the younger people on both sides to decide how they negotiate solidarity spaces and understand solidarity as unconditional and mutual. Amidst all the chaos, it must also be noted that neither benevolence of the perpetrator community nor sheer victimhood of the occupied will work anymore. Neither will glorification of identities, religious solidarity, or perpetual superficiality save any progressive movement.

- *Vijayan MJ*

STATE OPPRESSION

Abuse of Power

*The city from where no news can come
is now so visible in its curfewed nights
that the worst is precise:
From Zero Bridge
a shadow chased by searchlights in running
away to find its body.*

- Agha Shahid Ali

1 March 2020

**210
Days**

#KashmirCaged
#StandWithKashmir
#EndOccupation

"IN THE DARK TIMES
WILL THERE ALSO BE SINGING?
YES, THERE WILL ALSO BE SINGING
ABOUT THE DARK TIMES."

Bertolt Brecht

@withkashmir

Photo: Javed Dar/ Illustration: @withkashmir

Creating Terror Psychosis: Technology of Subjugation

“Everyone I met is in shock. There is a strange numbness... Kashmir has been turned invisible even inside Kashmir”.

- *(Muzammil Jaleel, journalist, Srinagar August 5, 2019)*

“You are going to muzzle us and blind us and then you are going to make your decision behind this tall black wall that you have carved out between Kashmir and everyone else.”

- *(Sanna, a student, Srinagar)*

After weeks of confusion, uncertainty and dread, the people of Jammu & Kashmir woke up to shock, shame and betrayal on August 5, 2019. The Indian Parliament read down Article 370 of the Indian Constitution and with it, special status bestowed on the state of Jammu and Kashmir was abolished. Overnight, their voice, identity and the land were taken away by a legislative coup. The fate of the people of Jammu and Kashmir was decided in power corridors of New Delhi, thousands of miles away from their homeland, while they were silenced and invisibilised, walled in by guns of soldiers and spools of concertina wires. An indefinite communication blackout and Sec.144 was imposed; transportation and civilian movement was completely stopped. Kashmiris were cut off within the valley and from outside. There was an absolute blackout of Kashmiri media as well. It turns out that the promised ‘final settlement’, is coercive control of nearly 8 million people, with 7357 people illegally detained or locked up, within or outside state, under preventive detention laws.²

In the weeks leading up to August 5, 2019, a complex layered web of confusion, rumours and manipulated policy leaks and non-credible denials was systematically spun to produce an atmosphere of extreme anxiety, a sense of loss of control, and overwhelming dread of what was to come.

“We haven’t slept last night and we don’t know whether we are going to wake up tomorrow. People are avoiding movement and hoarding essential items. It is a doomsday feeling. Can someone tell us what’s happening here?”

- *(Shah Faesal, ex IAS officer turned politician)*

What set the valley on edge was successive orders of deployment of additional troops in a security environment saturated with extra armed forces since February Pulwama-Balakot

² G K Reddy Minister of State, Home, in the Rajya Sabha in March 2020, cited in Indian Express 4/08/2020

attacks. On July 27, Union Home Ministry deployed 10,000³ paramilitary personnel in Jammu and Kashmir on top of the extra 40,000⁴ paramilitary personnel deployed for the ongoing Amarnath Yatra. Within a week following the deployment on July 25, news spread on August 2 that another 28,000⁵ CRPF troops are being rushed to Kashmir. The troop build-up fuelled speculation of the threatened abrogation of Article 35A which defines and provides for the special status of J&K permanent residents.



Photo: The Sniper gun allegedly found along with grenade on the Amarnath Yatra route⁶. It provided the much needed impetus for extreme militarisation in the period immediately receding abrogation.

"Centre's decision to deploy additional 10,000 troops to the valley has created a fear psychosis amongst people. There is no dearth of security forces in Kashmir. J&K is a political problem which won't be solved by military means. Government of India needs to rethink and overhaul its policy."

- (Mehbooba Mufti, former J&K Chief Minister)

Hundreds of newly arrived paramilitary personnel were seen stationed in civilian installations like government hostels, degree colleges and government buildings in the

³ <https://economictimes.indiatimes.com/news/defence/centre-rushes-10000-troops-to-kashmir/articleshow/70409455.cms>

⁴ <https://www.livemint.com/politics/news/40-000-security-personnel-deployed-in-j-k-ahead-of-amarnath-yatra-1561660254273.html>

⁵ <https://www.hindustantimes.com/india-news/over-280-companies-of-forces-could-be-deployed-in-valley/story-2aHZFv0GeFOI03CqrcirJ.html>

⁶ <https://twitter.com/ANI/status/1157233063765651457>

Valley. The local police stations were augmented with fresh troops from the outside. A Srinagar based educationist told our visiting team that a senior police official had confided that “these outside forces would provide the ‘backup’, if the J&K police were slow to shoot at protesting local crowds”. The air was thick with rumours, and the endless convoys of military vehicles on the road while overhead was the relentless hum of helicopters, reconnaissance drones and combat aircraft. It created an overpowering sense of dread and terror; our team was told.

Adding to the panic, on July 28, a letter by a Railway Protection Force (RPF) official, Sudesh Nugyal, assistant security commissioner, Budgam appeared on social media, asking employees to stock ration for at least four months and take other steps due to the “forecast of deteriorating situation” in the Kashmir Valley “for a long period”. The official asked the employees to take various precautionary measures like storing drinking water for seven days and fill vehicles fully to deal with the issue of law and order for a long period. Subsequently, the railway authorities clarified that the official had no authority to issue the communication.

On July 30, another verbal order was leaked: the administration directed five zonal superintendents of police to provide a list of mosques in the city and the ideological affiliation of their management committees. Another administrative order appeared on social media directing police officers to collect information about passenger capacity of taxis and fuel capacity of petrol pumps.

“Keeping in view the latest intelligence inputs of terror threats, with specific targeting of the Amarnath Yatra, and given the prevailing security situation in the Kashmir Valley, in the interest of safety and security of the tourists and Amarnath Yatris, it is advised that they may curtail their stay in the valley immediately and take necessary measures to return as soon as possible.”

- *(Security Advisory, August 2, Government of J&K)*

Close on its heels followed the security advisory, thousands of Amarnath Yatris were asked to cut short their pilgrimage and all tourists told to leave Kashmir Valley at the earliest, citing terror threats. Labourers from other states were roughly told to pack up and leave.

“In some areas where there are a lot of migrant workers from Bihar in Budgam district, the kids of very poor parents (labourers, domestic workers etc) were asked to leave Kashmir. Tourists, people of Jammu, non-Muslims were all evacuated. Kashmiri Muslims experienced terror on realizing this.”

- *(a government school teacher)*

Non-Kashmiri students studying at central institutions like NIT were signalled to leave the valley in buses arranged by the security forces. Officials claimed that there was no advisory to shutdown educational institutions but hostels across colleges were promptly shut down.

“It began with the non-Kashmiris being asked to leave the hostels and campus, terrifying to know we were selectively being kept back, perhaps for some sinister purpose. It was so disruptive and we were all totally confused.”

- *(a university student, Srinagar)*

On August 3, non-Kashmiri doctors were ordered to vacate the hospitals and leave. Kashmir’s main hospitals, The Bones and Joint Hospital, directed Kashmiri employees not to leave station “in view of prevailing situation”. Reports were rife (but unverified) of medical staff in outlying districts being directed not to refer patients to Srinagar? All of this was for what --in anticipation of a deluge of the injured in the city? Speculation was rife.

“On 4th and 5th of August I remember standing outside principal’s office there were two buses for the female students who were from Jammu. Everybody knew that something is going to happen but we had no clue of what will be happening. Non-Kashmiri staff, doctors, everybody left by 3 -4 August.”

- *(a Kashmiri Doctor’s Testimony)*

Divisional Commissioner Kashmir, Baseer Khan’s directive for rationing of petrol and diesel sent car and other vehicle owners into a frenzy of mass fuel buying, and residents across the Valley thronged ATMs and crowded markets to stock up on essentials in case of any eventuality. Our visiting team was told repeatedly, how senior state officials advised their relatives to stock up on essentials. “At least stock milk tetra packs for the children”, a kindergarten teacher who remained sanguine, was urged.

“nothing to worry about... as of now”...“I don’t know about tomorrow.”

- *(J&K Governor, Satya Pal Malik)*

Subjugating an ‘Occupied’ People

Peoples sense of uncertainty and disorientation, anxiety and panic and above all a sense of loss of control was systematically ignited by techniques structured to inflict psychological trauma which counter insurgency studies of Kashmir have describe as a

‘psyops’⁷. The technique of issuing repetitive, staccato orders (including denials) one after another to inflict psychological trauma is recognised as a method of inducing psychological control and disempowerment as detailed in studies of inflicting of psychological trauma on people in situations of ‘captivity’ to secure coercive control. Judith Herman’s classic study ‘Trauma and Recovery’ (1992), is revelatory of the methods of establishing ‘coercive control’ over another person or community based upon “the systematic, repetitive infliction of psychological trauma’.

“They are the organized techniques of disempowerment and disconnection. Methods of psychological control are designed to instil terror and helplessness and to destroy the victim’s sense of self in relation to others. ...The ultimate effect of these techniques is to convince the victim that the perpetrator is omnipotent, that resistance is futile, and that her life depends upon winning his indulgence through absolute compliance. In addition to inducing fear, the perpetrator seeks to destroy the victim’s sense of autonomy.”⁸

“Around 5th August, there was a widespread fear that there would be genocide of Kashmiris. I became aware of the extraordinary power of the state and its extraordinary capacity for surveillance; absolute control by state machinery”.

- (*Srinagar University Professor*)

“Seems like India wanted to ‘avoid genocide at all costs’ so they demonstrated absolute control by spreading terror to prevent mobilization and protests but actually did not massacre people.”

- (*Parvez Imroz, JKCCS*)

These techniques, which were organised to disempower and disconnect were carried over into the August 5 lockdown weeks even to the detail of restructuring traffic arrangements. Daily concertina wire traffic diversions, the armed checkpoints, the blockades would be re-organised. A long time Kashmir inner city resident was quoted as saying that the distance between his house and hospital is two kilometres, but when he set out to see his doctor, he found that what was a familiar route for him turned out to be a –

“maze of road blocks which took me nearly an hour and-half when it should have at best taken me half an hour. On my return three hours later, believing that I by now knew the maze and would be home in an hour-and-a-half, I found that the route had been reset and had now to struggle through a new maze which took me two-and a half hour. The Government of India does not even want the people of

⁷ Maj. Daniel G. Hodermarsky 2013. ‘Lessons From India’s Counterinsurgency Campaign in Jammu and Kashmir’. School of Advanced Military Studies, Fort Leavenworth, Kansas

<https://pdfs.semanticscholar.org/a642/1c402748230dd0b7d8854ee2d98cf5c3c3a5.pdf>

⁸ Judith Herman 1992. Trauma and Recovery New York Basic Books

Kashmir to know the way from their home to the hospital. This is the new normal of everyday life in Kashmir”.⁹

Many that we spoke to recalled the terrible helplessness that gripped them in the days after August 5.

“More than 2500 were said to have been picked up right away on 4-5th August as a deterrence measure and put in lockup. All the big political players were locked up. There were rumours of plans for mass slaughter of thousands. Kashmiris felt it was wise to stay indoors. For two weeks even the government officials did not go to work, so much fear and apprehension about what may happen. People felt helpless.”

Most stressful and terrorising was the digital surveillance. At checkpoints, randomly civilians on two -wheeler would be stopped and captured on camera. An NGO professional recalled how he and his wife were stopped. He was photographed. In panic, he implored the soldiers to do what they wanted to him, but destroy the photograph. That photo, he feared, and with good reason, would be used to incriminate him at the whim of circumstance. He could find himself included among thousands in open FIRs which represent the maintenance of law and order in Caged Kashmir. A Kashmiri photo-journalist told us of how patrolling soldiers stopped a young boy, made him climb on board the Rakshak (military vehicle) and thrust in his hand an AK 47 (an automatic weapon). He was made to hold it aloft as they clicked pictures. Warned that they would come after him with these photos, he was let go.¹⁰

A veteran editor confirmed the use of social media to circulate images to terrorise people. “The way kids are picked up, forcibly made to hold guns while the police grab it on video and then harass them ...this actually turned one boy into a militant and then he was killed in January.”

“They have clearly been preparing this for a long time with long term plans; they have control over all the forces. But we did not know. We were taken by surprise and thrown into confusion compounded by wild rumours. On the surface it looks like there is order, but that is an appearance created by force and huge deployment of security personnel. It’s all done through use of brute force and complete

⁹ Kashmir: Srinagar a maze of razor wires and steel barriers. (2019) Retrieved from <https://www.aljazeera.com/news/2019/08/kashmir-srinagar-maze-razor-wires-steel-barriers-190813115830621.html>

¹⁰ <https://scroll.in/article/966031/is-this-the-end-of-militancy-in-south-kashmir-a-spate-of-new-recruits-suggests-it-is-not>

repression. Earlier we used to have our own elected government, now even that is gone. There is a sense that we have lost our agency and been totally subjugated. Can we get empowered if our identity is lost? How can we have any regard for India now? Any one of us can be called terrorists.”

- *(Student, Srinagar University)*

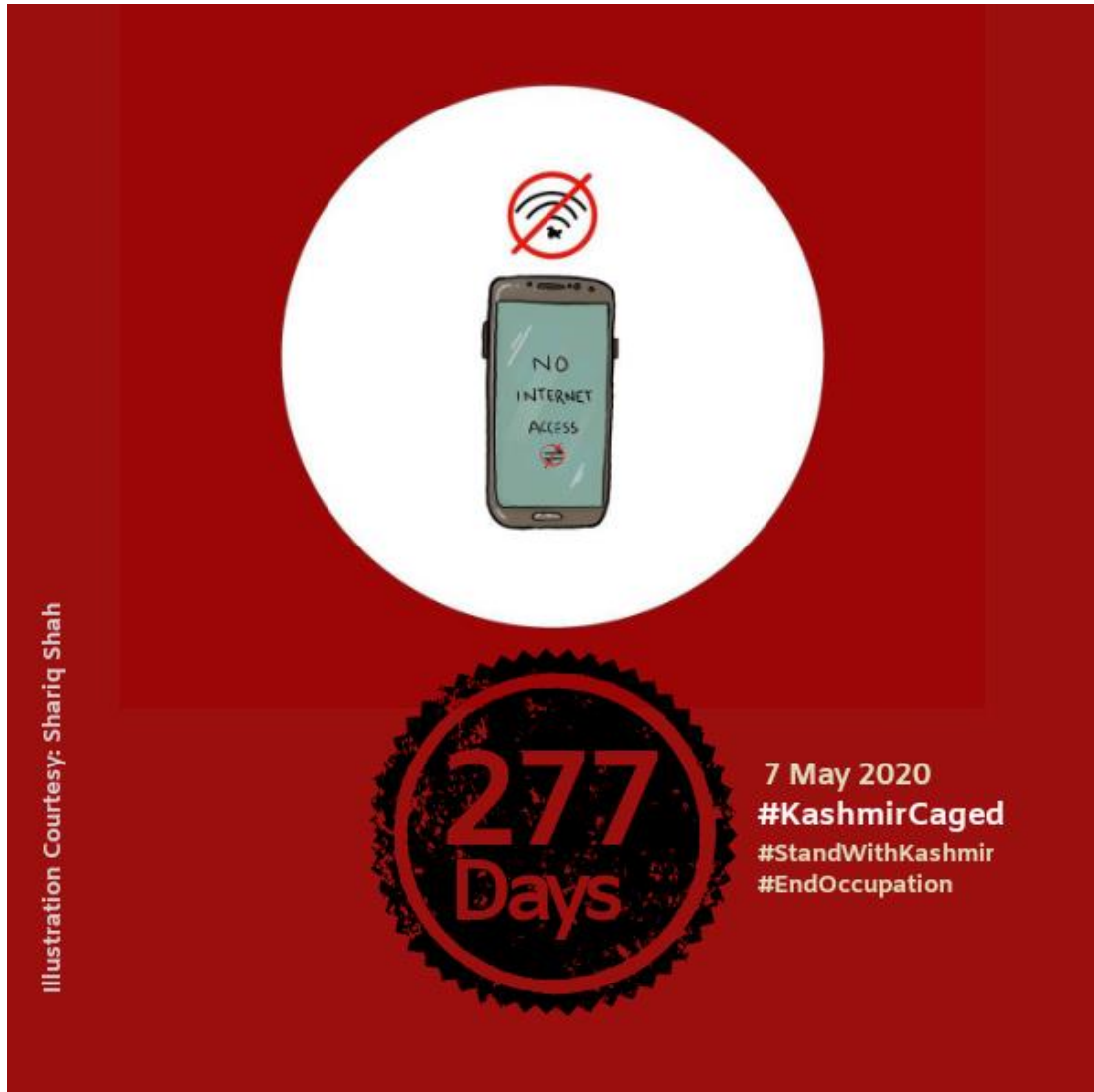
Clinical psychologist Shobna Sonpar described the state agencies systematic orchestration of an atmosphere of confusion, uncertainty and fear as 'technology' of subjugation.

“An explicit connection needs to be made between the deliberate infliction of what is traumatic and the subjugation of the spirit. I would mention the role of isolation and solitary confinement since isolation has been implemented by internet shutdown as well as incarceration. A further step in breaking the spirit is by creating situations where a person/people are forced to compromise on principles or betray someone/something”.

- *(Shobna Sonpar, Clinical Psychologist, Delhi)*

DGP J&K Dalbir Singh, with pride asserted “**not a single civilian has been killed**”. (Interview: IE31/07/20). The achievement of India’s successful experiment with technology of subjugation?

- *Rita Manchanda*



The World Wide Web (without Kashmir)

... when it comes to Kashmir, the World Wide Web comes with an Asterix and a note 'Terms and Conditions apply'....

[Excerpt from Counting Days (@countingdaysk) archives, Day 155]

Why I petitioned the Court...

In the days preceding August 5, Kashmir was riled by rumours, mobilization of troops, multiple sorties of aircrafts, the abrupt halt of Amarnath yatra and tourists being sent back. There was an eeriness in the chaos as speculations went wild about what was happening and what New Delhi was up to. 300 kilometres from Kashmir, in Jammu, where I am based, there was the cold comfort that whatever was happening would happen at the other end of the Banihal tunnel. We woke up to a new morning on August 5 with Section 144 in place and virtual curfew like situation in some localities enforced by barbed wires and extra mobilization of police and CRPF.

In a few hours, as the outcome of the parliamentary proceedings was to reveal a new political future for entire Jammu and Kashmir, the realization gradually began to dawn that communication in most parts of the state had gone into a black hole. The mobile internet had stopped functioning in the plains of Jammu and Ladakh. In rest of the state including the hill districts of Jammu, everything fell silent – landline phones, mobiles and all of internet. Kashmir-based reporters, including our entire bureau, remained untraceable.

Anxieties about what was going on and the inability to publish the Srinagar edition of *Kashmir Times* intermingled with worries about the very well-being of our staffers, Kashmir having a history of jailed and tortured journalists. Kashmir remained hidden ghost like. It wasn't just our Kashmir edition that was silenced, the Jammu edition too had no authenticated stories from Kashmir. We were left to rely on titbits of information appearing in various national and international publications and we took to compiling news by quoting these reports. But the information was scarce and not first-hand. Meanwhile, anchors of various television channels were busy reporting a 'happy' Valley amid a lockdown.

Having worked in Kashmir for 30 years, this image did not sit well with the recent past of the Valley. Even in Jammu, it was unprecedented that there we would be caged in by coils of razor-wires. If everyone, indeed, was happy, then why were all communication systems, so vital for human existence in the modern times, put under the lock? Happy or unhappy, where had all the people disappeared? Even the officials were hidden behind the haze of the unannounced communication ban. There was nobody you could turn to for getting information or authenticating anything one heard about. In such a situation, how could I justify my profession?

The media's job is to inform public — to highlight not only the functioning of the government but also bring to the public domain the issues of the ordinary people. In a functional democracy, media becomes a connector between the rulers and the ruled, the haves and the have-nots, by speaking truth to power and by giving voice to the marginalised and suppressed. None of this was possible in the situation that time.

Media in Jammu and Kashmir had already walked the razor's edge through three decades of conflict, negotiating physical threats from State and non-State actors as well as dealing with arm-twisting tactics of the government including attempts to block revenue and information. The information siege since August 5 was, however, unprecedented; and thus, seemed also like a long haul.

Such a prolonged silence from Kashmir's media also invoked fear and apprehension about the prospects of the future of free and independent media. It was these compelling reasons that prompted me to approach the Supreme Court of India with an appeal to lift the curbs and restrictions on media in Kashmir Valley. As a media professional and, as one of the senior-most editors of *Kashmir Times*, the move was a call to duty.

The first day I spoke to my Srinagar bureau chief, Zahoor Malik, was on August 17, a day after the first hearing of my petition. I finally knew he was safe but he did not know about the well-being of some of the staffers, particularly those in the rural areas (who were to remain disconnected for several more months). Zahoor was calling from the newly set up Media Facilitation Centre where one mobile phone (under strict surveillance) was being shared by all the journalists. Usually chirpy and well-informed, I had never sensed such fear and hesitation in whatever he said.

Exactly five months later, after the litigation had moved from one hearing to another, the court offered some reprieve with its final verdict but there was no immediate impact. Could the delay in adjudicating a matter related to fundamental rights be truly deemed as justice?

My petition to the court was related to the constitutionally guaranteed freedom of the press and I had implicit faith that the courts were duty bound to protect the constitutional rights. Exactly five months later, after the litigation had moved from one hearing to another, the court offered some

reprieve with its final verdict but there was no immediate impact. Could the delay in adjudicating a matter related to fundamental rights be truly deemed as justice? The verdict was significant for the basic principles it laid down which would impact the future course. The immediate, however, remained just as bleak because the court stopped short of directing the government to immediately restore internet (all other communication systems barring pre-paid mobile phones had been restored in a phased manner months after the lockdown).

The government responded a few days later with the announcement of 400 extra internet kiosks in Kashmir Valley with a bar on social media sites. The government order said that broadband facilities would be restored to those providing essential services such as hospitals, banks, government offices and trade and travel establishments in Kashmir. Leaving the general public and media persons in Kashmir out of this ambit of relief, the order emphasized the "complete restriction on social media applications."

In five districts of Jammu – Jammu, Samba, Kathua, Udhampur and Reasi, where internet is partially banned, the order indicated restoration of 2G services for post-paid mobile services with slow speed with effect from January 15, 2020 for a trial period of 7 days, after which the government would review if these online facilities should continue.

The government finally allowed internet access while putting a majority of websites, barring 100, behind the firewall. In subsequent weeks and periodical reviews, more websites were added taking to number to 1000 in early March, after which the firewalls were removed.

However, with respect to mobile internet, high-speed 4G services continue to be under lockdown, impeding the working of professional media-persons.

The government response has been inadequate and out of sync with the significant guiding principles that the court laid down. The court verdict was significant for three things that it laid down. One, that use of internet as an inviolable fundamental right. Two, that government cannot use arbitrary powers to ban internet or to impose restrictions like Section 144 for prolonged period. Three, that in case such restrictions are imposed, the government must bring into public domain detailed reasons for why this is being done.

The court primarily recognised that the freedom of speech and expression includes the right to internet within Article 19 and restrictions on it have to follow principles of proportionality under Article 19(2).

In light of this judgement, the internet connectivity should have been immediately restored. The government has circumvented these principles laid down in the Supreme Court verdict to prolong the agony of the public in Jammu and Kashmir and to perpetuate the restrictions. By denying high-speed internet, it continues to do so.

- *Anuradha Bhasin*



Nothing is new
neither this plague
nor its lockdown
it came with.

All along,
we've been witness to
so many plagues
and lockdowns.

Not only social distancing
the plague of occupation
exposed us to
communication lockdown as well.

Since the last seven decades,
the continuous tribulations,
area meddling with our potential
of resistance and resilience.

With firm faith
in our hearts,
and confidence in our struggle-
we have always been a triumph.
All lockdowns will be vanquished.
All plagues will be forgotten.
The memory will only comply with-
our Resistance and Steadfastness.

- *Khan Asur*

Kashmir: Silencing Media Systemically, step-by-step



Photo: Journalists in protest against 100 days of internet gag in Kashmir¹¹

Blockade and Surveillance

A communication blockade was imposed on August 5. While half of Jammu province and Ladakh region were deprived of partial internet connectivity, there was a complete lockdown in Kashmir Valley and five Muslim majority districts of Jammu region. Landline phones were not working for three to four weeks after August 5. Mobile phones (post-paid) resumed from October 13. Internet remained totally disrupted till January 10, 2020. This blockade impacted various sectors of life including health sector, academics, research, business, agriculture, handicrafts and particularly the media industry, on which it had a chilling impact.

Unlike in 2010, 2013 and 2016, there was no official ban on the media but the excessive lockdown including freeze on communication virtually made it impossible for the media to operate. Though some journalists and local newspapers made some brave efforts, there were limitations on their ability to operate freely even from their restricted zone in Srinagar's City Centre.

Journalists in Srinagar had no option but to file stories from government set up Media Facilitation Center (MFC) (about 5 computers for over 100 journalists, slow connectivity and each person gets 15 minutes to work). The Center was set up around August 15. While the facility was inadequate, it brought the entire work of journalists under surveillance,

¹¹ <https://kashmirobsvr.net/2019/11/12/journalists-in-kashmir-protest-against-100-days-of-internet-gag/>

enhancing the sense of intimidation the journalists are already facing in a conflict and the situation that emerged post August 5. The journalists had to move to and fro their offices and the MFCs to check and update every little details even in sub-zero temperature. The entire affair was humiliating and servile. Besides, journalists in the other districts of the Valley (with no such Media Facilitation Centre facility) were unable to work at all. Some travelled to Srinagar once in a while to file stories. Many in the districts were not regular staffers but working as stringers and therefore virtually jobless. A report in a local weekly 'Kashmir Life' pointed out that they were taking to alternate livelihood options – working as salesmen, doing odd jobs and even at construction sites as casual laborers. The connectivity in the five hilly districts of Jammu region – Rajouri, Poonch, Doda, Kishtwar, Ramban was also erratic for several months, forbidding journalists from filing their stories with regularity, though some managed to use the connectivity available with the police officers and administrative offices.



Photo: Journalists struggling to access internet at Media Facilitation Centre¹²

Journalism under Surveillance

For more than six months, a congested Media Facilitation Centre (MFC), set up by the government (first in a hotel in the security zone and later shifted to a more central place closer to most newspaper offices) became the only newsroom for over 200 working journalists who spent time jostling for space on inadequate number of computers that started from three, went up to seven and soon were back to four or five in number, under the complete surveillance of the government. While that tiny space remained like the sole source of checking information, getting preliminary information and sending out stories, the reporters were faced with the challenges of managing their work within the limited time of '15 minutes each'. Till late October, the MFC operated between 10 AM to 8 PM

¹² <https://www.theweek.in/news/biz-tech/2020/08/05/article-370-how-ban-on-4g-has-ruined-many-dreams-in-kashmirs-economy.html>

or maximum 9 PM. The journalists thus missed out on late night reports, sometimes important developments (for instance the killings of apple traders and truck drivers) and local newspapers had to go to bed before 9 PM. After October the working hours of the MFC were increased to 11 PM. The suffocating working conditions evoked a few silent protests from journalists who called the MFC a “sub-jail”. Some professional organizations including the Kashmir Press Club also criticized the facility in their statements.

Litigation on Restrictions

On August 10, 2019, Anuradha Bhasin, Executive Editor of Kashmir Times, filed a writ petition in the Supreme Court of India seeking directions to ensure that the State creates an enabling environment for journalists and all other media personnel in all parts of Jammu and Kashmir to practice their profession, and that the debilitating restrictions imposed through the complete shutdown on internet and telecommunication services, and severe curbs on the movement of photo journalists and reporters be immediately relaxed in order to ensure the freedom of the press and media. In her petition, she pleaded that she has been unable to print and publish the Srinagar edition of Kashmir Times as complete and absolute restrictions on all communication services and movement has resulted in the imposition of blockade on media activities, including reporting and publishing on the situation in Kashmir. It was also pleaded that such restrictions were curbing the rights of journalists under the provisions of Articles 14 and 19 of the Constitution of India and the right to know the conditions of residents of Kashmir Valley.

After five months of delay, the Supreme Court pronounced judgment in *Anuradha Bhasin v UoI* [WP(C) 1031/2019] and *Gulam Nabi Azad v UoI* [WP(C) 1164/2019] on January 10, 2020. The judgment has laid down the law on the issue of Internet shutdowns. The court held that “the right to freedom of speech and expression under Article

Justice Delayed...

... “the right to freedom of speech and expression under Article 19(1)(a), and the right to carry on any trade or business under 19(1)(g), using the medium of internet is constitutionally protected.”...

19(1)(a), and the right to carry on any trade or business under 19(1)(g), using the medium of internet is constitutionally protected”. The apex court directed that all orders under the Telecom Suspension Rules have to be published. The Court held that although the Suspension Rules does not provide for publication or notification of the orders, a settled principle of law, and of natural justice, is that an order, particularly one that affects lives, liberty and property of people, must be made available. The Court held that Rule 2(2) of the Telecom Suspension Rules, 2017 requires every order passed by the competent authority to be a reasoned order. The Court further held that if an authorized officer is passing the order in unavoidable circumstances, the officer should indicate the necessity

of the measure as well as the “unavoidable” circumstance necessitating his passing such an order. The Court held that any curtailment of fundamental rights should be proportional and that the least restrictive measures should be resorted to by the State, that suspending internet services indefinitely is impermissible. It directed that the review committee must meet within 7 days of the previous review and look into compliance with requirements of Section 5(2) of the Telegraph Act as well as the proportionality of orders.

Government response

The restrictions were gradually eased in phases through fortnightly reviews. Connectivity first started with only 100 white-listed sites that were increased to 1000 and 2G mobile connectivity. On March 4, the firewalls were removed. Jammu region has 2G connectivity on both pre-paid and post-paid mobiles. In Kashmir region, there is only 2G connectivity only on post-paid mobiles. The 2G is an outdated technology, even according to service providers. Connectivity on 2G is so slow that one can rarely work on this. Since April, the internet connectivity and mobile services were partially banned on three occasions, after some militancy related violence, for almost a week each time, twice in few districts and once across the region.

Slow connectivity speeds are impeding the flow of information. Though most local media offices rely on fixed line internet connectivity, which has now been restored, there are frequent disruptions. Mobile internet connectivity which could have been an effective alternative remains unreliable. Besides, the reporters in the field remain virtually out of the radar and communication between offices and reporters in the field remains dismally poor. Many freelancers, particularly in the rural areas, rely mostly on mobile internet connectivity, and are unable to operate with regularity. Amidst Covid-19 pandemic, when ‘work from home’ culture is being encouraged across the world, many Kashmiri journalists are often unable to cope to do so.

Second petition in Supreme Court

On May 11, hearing another petition, filed by the Foundation for Media Professionals, seeking restoration of high-speed internet, the apex court shifted responsibility, and directed the Indian government to constitute a ‘special committee’ to review the contentions raised in a petition. **The State was the main respondent in the case. It is not just ironic that the respondent is being asked to review its own actions and the opposition to those actions, it also defies the principles of India’s constitutional democracy.** This court directive abdicates the constitutional obligation of the court to review the working of the executive as the court, instead it willingly gives back that function to the government.

On July 16, the minutes of the meetings of the Special Committee – constituted by the Supreme Court on May 11 to promptly review the ban on 4G mobile internet in Jammu

and Kashmir – were before the Supreme Court in a sealed cover. The Special Committee comprises the Secretary of the Ministry of Home Affairs, the Secretary of the Department of Telecommunications, and the Chief Secretary of the government of Jammu and Kashmir. The details of the working of the committee are not in the public domain.

On July 24, the Union Ministry of Home Affairs (MHA) informed the Supreme Court that the special committee constituted to look into the issue of restoring 4G internet in Jammu and Kashmir decided against resuming the services. The MHA said the next review by the special panel will be carried out after two months.

An affidavit was filed by the MHA in response to contempt petition against the Jammu and Kashmir administration that read, "Based on a considered and wide-ranging assessment of the prevailing situation in this sensitive region, the committee arrived at a decision that no further relaxation of restrictions on internet services, including 4G services, could be carried out at present."

Information vacuum in newspapers

Newspapers have been unable to function normally since August 5, 2019. Barring half a dozen newspapers, for almost two months, no newspapers were printed. Even when they gradually started printing, they were truncated versions of their original size. The content on Kashmir and its politics has been mostly missing. The reporting quality has considerably improved from the first few months of publishing only government handouts with respect to Kashmir. But the reports are carefully not critical. The opinion columns are either missing or not saying much, focusing on inane subjects. Even now, many newspapers are not publishing editorials and comment articles. Those that do confine themselves to topics like religion, cleanliness, benefits of walnut or global issues that have no impact on Kashmir. Kashmir's media, intimidated and completely subjugated, has cocooned itself into a shell of silence, making Kashmir a land of no information.

The opinion columns are either missing or not saying much, focusing on inane subjects. Even now, many newspapers are not publishing editorials and comment articles.

Information about government's policies and engagements and about its impact on ordinary lives is a vital need in a democracy. However, there was little reportage on what the people of Kashmir were going through and continue to as Kashmir transitioned from post-August 5 lockdown to pandemic lockdown. Barring efforts of some reporters, nothing much has been written about random raids, crackdowns, illegal detentions and torture. The scale is still not known. There is little information about the experience of political leaders and others who were arrested, many still detained in jails in Kashmir or outside the state. There is even lesser said about how people have been deprived of health-care and healthcare schemes in absence of internet connectivity and because of the continued

lockdown. The information vacuum fuelled rumours, myths and untruths to take firm root, enhancing the sense of intimidation and fear in the minds of the public.

Financial hardships and other threats

Kashmir's media has operated under severe stress and strain in the last three decades of conflict, negotiating the challenges and threats of novel methods of gags, censorship and physical intimidation from state and non-state actors. Newspapers have been banned from time to time by both the state and militant groups. Media persons have been jailed, physically attacked and killed.

Poor resources and limited budgets, in view of the various advertisement bans that have hit media houses badly in the last decade, further limit their power of negotiating with the present challenges. Post August 5, faced with huge financial crunch, many local newspapers have laid their staff. One newspaper has slashed salaries of staffers.

Kashmiri journalist is also grappling with physical intimidation. The silence of information is not born in a vacuum, it is linked to the local conditions and the widening domain of fear that exists between the might of the government that can detain anyone without a charge and some faceless non-state actors, suspected to be militants, who pasted intimidating posters or use the gun against hapless ordinary civilians. Media-persons have been exposed to greater vulnerability which continues to deepen.

In the run-up to August 5, the editor of Kashmiriyat- a web portal, Qazi Shibli, was arrested. Another journalist, Irfan, working with Greater Kashmir, was picked up and released few days later. Peerzada Ashiq was taken to a police station in Srinagar's Kothi Bagh district, where he was ordered to reveal the name of the person who had given him official documents that he had used for a story about illegal detentions in the Kashmir Valley after August 5. Hakeem Irfan, a reporter for The Economic Times daily, was taken to a counter-insurgency centre in Srinagar on 30 November and intimidated after he had filed a report critical of the government. According to a report by Reporters Without Borders, "*Indian Express* correspondent Bashaarat Masood and a colleague from the Scroll.in news website, Safwat Zargar, were detained while reporting in Handwara, in north-western Kashmir, on 23 December, and were taken to the police chief's office, where they were interrogated".

Two journalists were summoned for questioning by the Srinagar police on February 8 and were interrogated for four hours about a statement by the outlawed Jammu Kashmir Liberation Front police summarily confiscated the cameras and phones of two TV reporters, Qayoom Khan of CNN News 18 and Qisar Mir of TV9 Bharatvarsh, in Hakripora, a village in Pulwama district, 30 km southeast of the regional capital Srinagar, where they were covering an operation by the National Investigation Agency (NIA). Journalists were beaten up, senior journalist Gowhar Geelani was barred from leaving the country at the airport, before he was flying out for a training course in August. At least

three journalists were served notices to vacate government accommodation in the middle of abnormal conditions in the Valley.



Photo: Masrat Zahra, Peerzada Ashiq and Gowhar Geelani¹³

Weeks after the pandemic lockdown, on April 20 and 21, criminal cases were lodged against senior journalist and commentator Gowhar Geelani, Masarat Zahra (photo-journalist) and Ashiq Peerzada. Geelani and Zahra were booked under anti-terror Unlawful Activities (Prevention) Act for their facebook posts but the cases did not mention any particular posts. A day before that Zahra was summoned by Kashmir’s Cyber Police and questioned about “glorifying anti-national activities” on social media. She answered that she had only been sharing her published work. The case was slapped, nonetheless. Zahra has been quoted in several reports as saying that she had been documenting her published work on the facebook and twitter. Geelani is known to write columns for various local, national and international publications which are seen as often critical of government policies. He uses his social-media posts to comment on politics and also advocate peaceful resolution. His colleagues are reported to have said that none of his posts have ever preached violence.

Peerzada Ashiq, Srinagar correspondent of The Hindu was accused by police, on April 20, of reporting “factually incorrect” news that “could cause fear or alarm in the minds of the public” and a criminal case was lodged against him. The case against him did not cite the law that was being allegedly violated.

Subsequently, in June and July, editor of Kashmirwalla, Fahad Shah was summoned by the J&K Police twice and grilled for hours, each time, over his report about destruction of 15 houses during an encounter in Srinagar.

These cases are in line with a new media policy, with all the characteristics of censorship, rolled out by the government, though the policy was formally announced two months later in June, 2020.

¹³ <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/india-jammu-and-kashmir-police-question-three-kashmiri-journalists.html>

Before the official policy was rolled out, a climate of fear had already been prepared creating a psychological impact and putting media in almost a state of freeze.

Media Policy 2020

Rein in truth and block information appears to be the purported aim of the Media Policy 2020. The 50-page document outlining this Orwellian Policy has three main highlights.

- The government will assume sweeping powers to examine content to identify news items that can be categorized "fake", "plagiarism", "unethical", and "anti-national activities". Those found accused of these offences will be punished.
- The government would monitor content published in newspapers and other media channels and decide what is fake news, anti-social or anti-national reporting. The news organisations involved in “fake, unethical and anti-national” reporting would be de-empanelled and not get government advertisements, apart from facing legal action.
- The government will do a background check of newspaper publishers, editors and key staff mandatory before empanelling them for government advertisements, apart from security clearance before a journalist is given accreditation.

This virtually means that every word and column written will virtually need a certification of authenticity. The bureaucrats at the J&K government’s Department of Information and Publicity will become the judge, jury and arbiters of not just qualifying news and checking backgrounds of journalists, they will also have the powers to press criminal charges against those they feel are playing truant. If this document, that violates the spirit of the Indian constitution and the right to freedom of expression guaranteed by it, becomes the legal bible, the media persons will be caught between the options of surrendering and turning themselves into vehicles of the state’s propaganda machinery or standing up in defiance at the risk of being persecuted. “What could be construed as “fake news”, “plagiarism” and “anti-national”? Anything and everything!”, says Anuradha Bhasin.

The logic of law and order, security and terrorism are being used to justify the introduction of this media policy but it is at odds with the purported aim that this policy seeks to fulfil. According to the document, it is intended to create a “sustained narrative on the functioning of the government in media” and promote the “highest standard of journalism”.

“It is clear that the idea is to de-legitimize and even criminalize every journalist who tries to puncture the ‘sustained narrative’ of the government’s existent and non-existent achievements with the ugly truth about the flaws in its functioning or abuse of power by the rulers.” Anuradha Bhasin, KT.

Moazum Mohammad, vice-president of the Kashmir Press Club, traces the events of last year or so, starting from depriving some newspapers of advertisements in March 2019, to drive home the point that the ‘climate of fear’ has been systematically built up to keep journalists under pressure.

“They moved step-by-step, first blocking advertisements, banning communication systems forcing journalists to work under complete surveillance from Media Facilitation Centre, summoning journalists, and more recently pressing criminal charges against three journalists and now this Media Policy. The sequence of events has created a psychological terror in the minds of journalists, which is why you find a muted response to the Media Policy. ...If you don’t carry an official version, you can be accused of fake news and the practical difficulty is that the officials are unwilling to talk to the media.”

- (Moazum Mohammad, VP Kashmir Press Club)

Effectively, the government wants to turn journalism into an extended arm of the government’s public relations department and certify that as “high standard”. The independent media that holds a mirror to the society and speaks truth to power, asks government tough questions to make it accountable - key features of independent press in a democracy - could now easily be cast aside and buried. The media policy is the last nail in the coffin.

- Anuradha Bhasin with Rajashri Dasgupta, Pamela Philipose

A guy in Shopian was tortured shortly after abrogation. After he was released, a journalist did an interview with him. He had been married only recently. So, the girl’s brother turned up for the interview, took the journalist aside and said to him – “If he has been tortured, please let me know, my sister is very young. We will get her married elsewhere.”.

[Excerpts from Counting Days (@countingdaysk) archives, Day 94]

The un-freedom of the Press

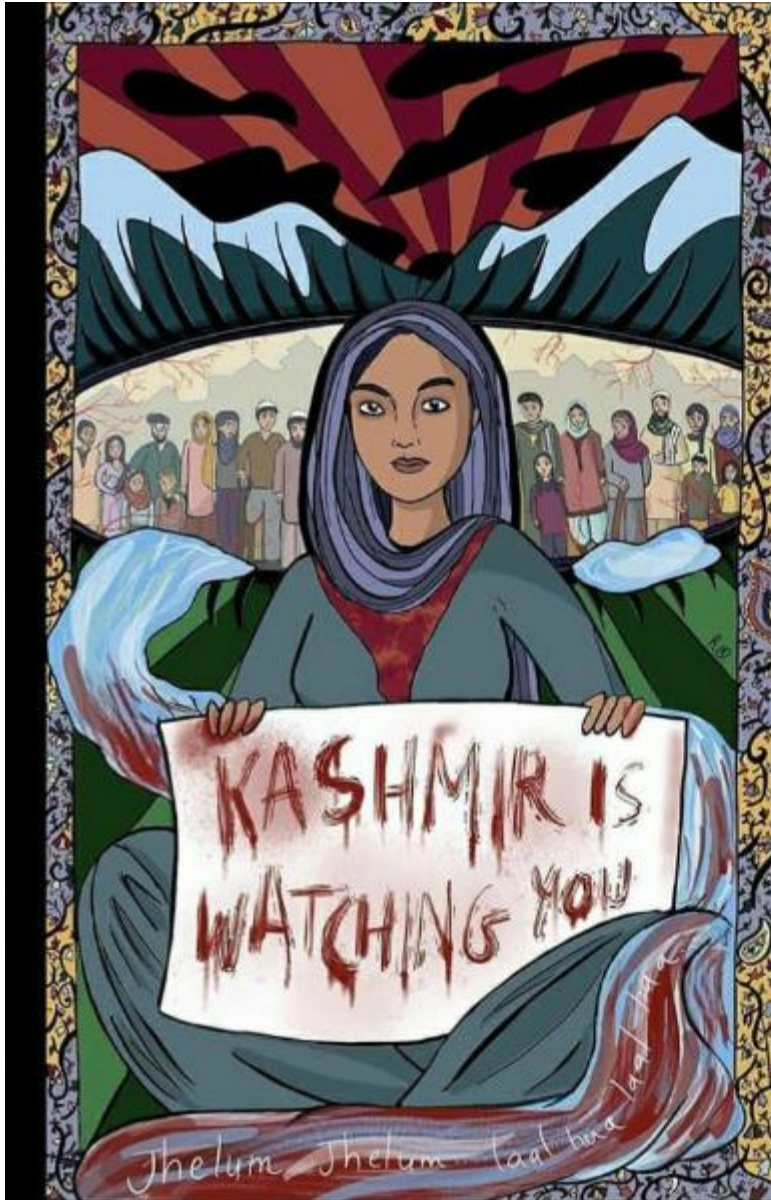
Without mincing words, the Kashmir Press Club told the visiting delegation that the period since the August 5 2019, has been the “toughest time” for the Kashmir media, during which the journalists faced harassment, summons, intimidation and censorship. They stated how this was the longest internet curfew in the modern history, which severely hampered the working of the press in the region while terming the situation “a press gag”. During these trying times, the Kashmir Press Club has tried its best to be the voice of the media in Kashmir.

The KPC members detailed out the individual cases of harassment, frequent summoning of the journalists by the police during this period and also handed out a compilation of all the statements and the testimonies of the journalists collected during this time to the visiting PCI delegation for their perusal and subsequent reflection in their reports. The KPC also pointed out that for restoring the internet connectivity to the media houses and journalists in Kashmir, the Internet Service Providers on the instructions of the government authorities sought “coercive undertakings’ from them, wherein one clause even asked for “providing complete access to the systems and content” to the security agencies as and when needed.

Perhaps what made these curbs on the freedom of the press worse was the conduct of the media houses in India. Some stayed silent, others were complicit, many bayed for Kashmir's blood. On this matter, the KPC members raised questions over the conduct of the Press Council of India and pointed out that during this troubling time the said body had failed to show solidarity with the Kashmiri journalists even facing existential threats. They also condemned the “unethical” stand taken by the PCI chairman who had justified the restrictions imposed by the government post abrogation of Article 370.

The Kashmir Press Club in its interaction with the visiting PCI delegation stated that they hoped that in future the Press Council of India would do everything in its endeavour to counter attempts by the authorities to muzzle freedom of press and raise voice for the rights of journalists guaranteed under the constitution in the region, more particularly in Kashmir.

[Excerpts from Counting Days (@countingdaysk) archives, Day 226]



14 March 2020

223
Days

#KashmirCaged
#StandWithKashmir
#EndOccupation

Illustration Courtesy:
@rangeelart

In Kashmir: Writing under Occupation¹⁴

they want us to write. in blood.
and only write. of peace.
they capture our land. make us sow rice that is not seed. kill us. rape. They
tell us we are ungrateful. like children – who do not see what is good for
them. holding us with many kinds of guns; they grimace at the world
calling our blood on their faces –
vermillion.

they sell pens.
we buy with blood.
many of them, from their mythical land come to us, with clean hands,
softened in the Ganges. they meet our eyes. that gaze, which through you
goes elsewhere. behind their orange irises you see wheels turning. like the
innards of a Swiss-watch. precise. surgical.

they sell paper.
so much paper. we buy with blood.
they put the kettle on boil. it whistles. the seduction of tea.
there is no better heaven. our pens poised. the next word will liberate.
an orgasmic lull prevails.
that next sentence. always in arrival. like that justice thing.
meanwhile Ashfaq is no more. Maqbool has gone. Asiya and Neelofar,
raped then killed. Afzal hanged. Tufail, buried in two graves. the Ittar
seller in Lal chowk disappeared. they found his bones with empty bottles;
the kettle whistles.
the tea never comes.
our bones are made tired. waiting.
before the door of law from that over-used Kafka tale. the only thing that
grows after this wait, are their swords. looming mightier. and this too, we
write.

they exhort us to write. and write. in blood.
of peace. of tulip gardens they grew on soils made fertile with our flesh,
and bones.
and write. when they, are at war with us.

- *Ather Zia*

¹⁴ <https://scroll.in/article/807015/they-want-us-to-write-in-blood-four-poems-on-kashmir>

Torture: Screams in the Night - To Terrorise, Degrade, Subjugate

“We know that in Kashmir, interrogation is another word for torture.”

- (Shehla Rashid, Delhi, 2019)

“But when impunity is the almost universal outcome of every first investigatory step, and when that outcome is repeated over hundreds of cases, no matter how well documented, then impunity is not a weakness of the State: it is the public policy of the State. And if impunity for torture is policy, the inevitable conclusion is that torture is policy as well.”

- (UN Special Rapporteur on Torture in India Juan E Mendez, 2019)

Torture as a part of investigation processes is widespread in India, and enjoys impunity from persecution. Although India is a signatory to the United Nations Convention against Torture (UNCAT) since 1997, it has not ratified the treaty till date. **In 2010 efforts were made to incorporate anti-torture clauses in national legislation through the introduction of *Prevention of Torture Bill* in the Indian Parliament. The Bill lapsed without being passed in 2014.**

In Jammu and Kashmir (J&K), militarization and the absolute impunity guaranteed under the Armed Forces Special Powers Act (AFSPA) (1990),¹⁵ ‘normalizes’ indiscriminate torture, making it “*an instrument of state policy*”, as many national and international human rights advocates have noted. Despite being well-documented by state agencies and the courts, impunity has prevented even a single prosecution for torture in J&K.

In a 2019 study¹⁶ on torture, by the Association of Parents of Disappeared Persons (APDP) and Jammu Kashmir Coalition of Civil Society (JKCCS) documented over 432 cases spanning nearly three decades, to demonstrate that “*torture as an instrument of control*” was routinely used in the state by the armed forces and police, without any distinction of political affiliation, gender or age, and against both civilians as well as those deemed as militants.

The 7000 unmarked graves in Jammu and Kashmir bear testimony to the horrific nature of these crimes.

- excerpt from *Counting Days* archives of Day 74

¹⁵ AFSPA gives the Indian armed forces sweeping powers of arrest of civilians, and even to use lethal force on ‘unlawful assemblies’ on law and order grounds.

¹⁶ ‘Torture: Indian State’s Instrument of Control in Indian-administered Jammu & Kashmir’, A Report by APDP and JKCCS, Srinagar. 2019

“The widespread human rights violations, including use of indiscriminate torture, is a tactic employed to break people’s will. This is reflected in the Indian Army’s Doctrine on Sub-Conventional Operations¹⁷, which says, “The endeavour should be to bring about a realization that fighting a government is a ‘no win’ situation and that their anti-government stance will only delay the process of restoration of peace and normalcy.”

- (APDP & JKCCS, 2019)

In the run up to August 5, 2018, and the oppressive aftermath of military siege, which included intense surveillance and a communication clampdown in the region, there were reports of thousands of mass arrests, illegal detentions, use of extreme force and widespread, systematic, brutal torture. *“Practically, in every village some 20 men would be picked up to spread the message of terror and humiliation,”* a university lecturer said.

Fact-finding reports, media reportage and observations made by the Commission of Inquiry team, indicated that there was a shift in the *modus operandi* of the standard cordon and search operations (CASO), of mass indiscriminate arrests and routines of torture. It indicated an objective to spread collective terror, inflict collective punishment and to subjugate the general population so as to choke resistance. On refusing to do forced labour for the security forces camp, a business entrepreneur from Pulwama who is a torture survivor was tersely told by the uniformed officer, *“Kashmiriyon ka kaam hai, humari ghulami karna”* (it is the job of Kashmiris to do our slave work -- Case ‘B’: see testimony below). In another instance, a 14 years old child was picked up in Srinagar, held in illegal detention for 13 days and cruelly tortured. The police said that since *“he wouldn’t lower his gaze”*, they had delayed his release. (Case ‘SM’: see testimony below)

Extreme techniques of terror, included inflicting public displays of brutal beatings outside a mosque, at village crossroads and in front of the house in a crowded neighbourhood are practiced by security forces against civilians in Kashmir. In villages in Pulwama and Shopian districts of South Kashmir, the night air rang with the screams of victims being tortured which were amplified through loudspeakers in the local camps of the Rashtriya Rifles (RR) and other security forces. Midnight raids no longer meant the midnight knock, but soldiers scaling walls, breaking open doors and entering homes. Reports have noted incidences where windows were smashed, houses vandalised, domestic granaries soiled by mixing grain with petrol, as well as money and jewellery being looted. The Commission of Inquiry team was told of a disturbing new communal trend, with the men in uniform forcing their captors to shout, *“Bharat Mata ki Jai.”*

Using census data collected earlier by the security forces,¹⁸ arrests on a mass scale were made of people who showed a capacity for leadership, exhibited signs of being religious, knew a militant or was related to one, or sighted in a surveillance video of an unlawful

¹⁷Indian Army. *Doctrine on Sub-Conventional Operations*. 2006. Shimla: Headquarters, Army Training Command. <http://indianstrategicknowledgeonline.com/web/doctrine%20sub%20conv%20w.pdf>

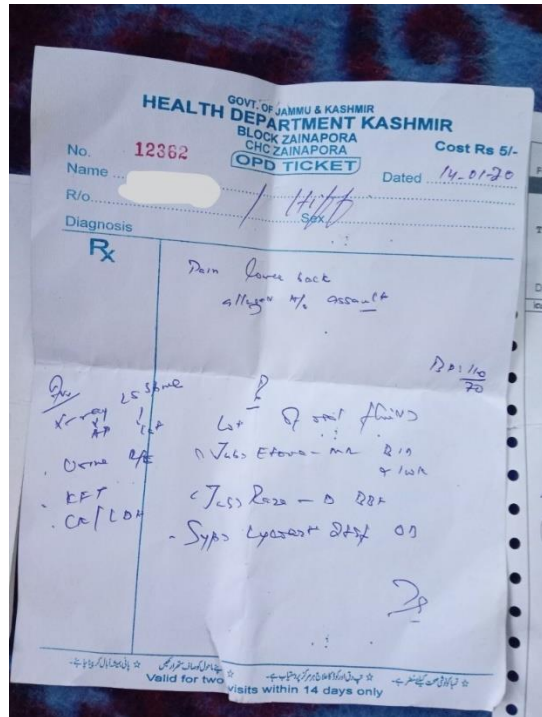
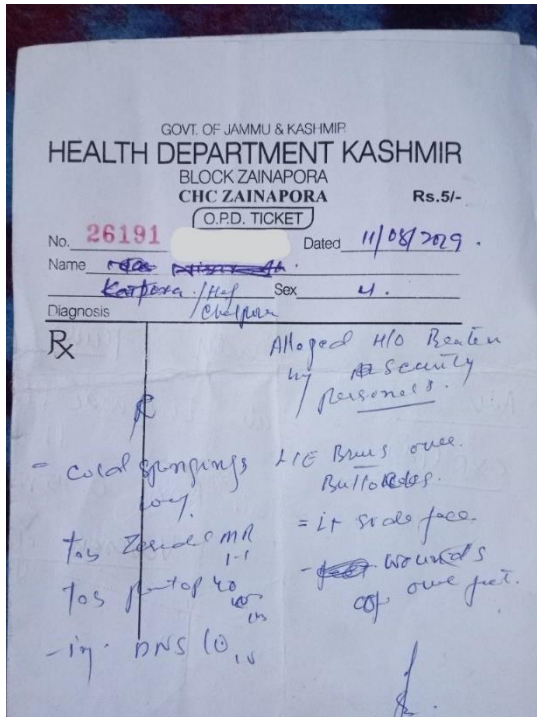
¹⁸ Nandini Sunder & Nitya Ramakrishnan Fact Finding Report, October 2019

assembly, including a *janazza* (funeral procession). Anyone could be branded a 'stone pelter', which is now a criminal classification, and booked in open FIRs, making them vulnerable to arrest thereafter every time there was political unrest. Family members resisting their sons being dragged away were indiscriminately and brutally thrashed. What was conspicuous this time was the way women and children were beaten and threatened with more violence. With no women security personnel accompanying the raiding party, reports of sexual abuse were rampant. Commission of Inquiry members were told that soldiers appeared emboldened enough to pass lewd comments when they came across photographs of girlfriends or sisters on mobile phones, including those of journalists. There are reports of the sexualised torture of young men and boys.

Commonplace were the accounts of people being beaten up and facing prolonged detention for the "crime" of violating Section 144 and straying out to buy necessities like medicines, or worse fleeing from patrolling military convoys. Most sinister were the summons from the local camp to thousands of 'suspects' who were trapped in the endless routine of being rendered perennially suspect and liable to being summoned at will. This could happen not once, but several times. Once old wounds had healed, they would be sadistically summoned and beaten up again. After such cruel assaults, they would be left outside the gate for anxious relatives to carry them home.

By the time, The Commission of Inquiry team visited the valley in February, more than six months after the abrogation, the number of illegal detentions was tapering off, according to local sources in south Kashmir. So intense was the terror of the preceding months that people were suspicious of each other and few were willing to speak up in the villages. Those who had dared to speak to the media or visiting human rights teams about their torture were punished for doing so, and had understandably been driven into complete silence. Some had even changed homes and relocated in order to avoid callers. However, we deeply appreciate the courage and strength shown by those who were willing to speak to the team. Other cases cited here have been verified by case lawyers and local journalists who had investigated these incidents.

The impunity with which torture is sanctioned is evident in the frankness with which official medical reports of torture victims boldly indicate "*assault by security forces*". The Government of J&K 'Health Department: CHC Zainapora, OPD Ticket' detailed injuries resulting from 'alleged beatings by security personnel' (CASE 'D': see testimony below listed 'assault by security forces').



In South Kashmir, Shopian, at the district court on February 22, the atmosphere immediately became tense and wary when we inquired about torture and the different kinds of detentions, including under state anti-terror laws like PSA.

“There were some 50-60 cases under PSA. Most others were illegally detained in police stations. Families preferred illegal detentions as there was no need to go to Court or to get bail. Most important, the name of the person detained would not be officially entered into police records. The police manage to run a profitable extortion racket charging the family between 2 to 10 lakhs of rupees to free the detainees. Earlier, there were [a lot of minors being detained]. There were 70-80 boys in northern Kashmir and 30-35 minors in Shopian itself. Lately it seems minors are not being detained. Even so, they [police, the army] link local youth to anything, for example, if a cache of arms found somewhere, they will pick up local boys.”

- (Lawyer, Shopian District Court)

Case Files

Case ‘B’, Pulwama: Illegal Detention, Torture, Extortion and Harassment

‘B’ is an entrepreneur with a factory in the Lassipora Industrial Growth Centre, Pulwama. B’s family had a long-standing relationship with the army. His father had worked closely with ‘MES’, his uncle was in the Air Force and this familiarity had induced a false sense of comfort. “I never imagined this could happen to me,” he remarked. Involvement in flood relief work in 2014 had disrupted his plans to join the IAS, but his prolonged absence from home in a sensitive district brought him to the adverse notice of the police authorities.

On a visit to Srinagar in 2015, his father got a call summoning 'B' to report to Police Station in Pulwama. The endless cycle of illegal detentions began.

Testimony: *"I was locked up for three days in the Police Lines and they beat me up, asking me from where had I got the money to do flood relief work. I showed them the list of beneficiaries. They took away my laptop. I went back to work and built up my business over three years. On November 2018, soldiers from the 55 RR camp came to the house at night, searched every nook and corner and then left, taking away my car. The next morning, the Captain came. He asked me about the wife of Zakir Musa (a well-known militant killed in May 2019). She was the sister of a friend. I was asked to get close to her, and through her lead them to Zakir. I said I couldn't do that. They left. But 5-10 days later they came again. They beat me. Took away my iPhone. I was asked to report at their camp (55th RR). There, they blindfolded me and beat me non-stop for two hours, all the time pressing me to spy for them. They broke my hand and my buttocks were so painfully bruised I could not sit for three months. My father paid them about 3 lakhs to get me released.*

"The security forces really want militancy to continue, as it provides them with a lot of cash; the army is really the most corrupt institution, I know. I've seen it up close. I took the matter up with the IG and DIG, and with the State Human Rights Commission. This enraged them, that I, a mere village boy, could do this. They would taunt me, continually, coming home whenever they wanted and harassing me. At least once every week, I would be summoned to the camp.

"On 5-7 August 2019, I stayed on at the factory because I was completing some urgent job-work. The RR soldiers came to the house and, not finding me there, attacked my family. They even beat up my 15-year-old cousin brother who is mentally disabled. When I returned home the next morning, I went alone to the army camp. They asked me what is being said about the abrogation of Article 370. They handed me over to the police who detained me in the Police Lines (with no FIR or any charges) for about 15-17 days. I was not beaten but I saw others being beaten and pressurized to become informers. I kept asking to meet the SSP but was not allowed to do so. Finally, when I met him, he told me, 'We didn't pick you up, it is the army who did this to you.' There were a couple of 15-year-olds who were held with us. After four days, they were taken away, moved out of the state under PSA. I was finally released. But it was not over.

"After the evening namaaz of 6 PM is the time when the terror of the army begins. When I am driving home after 8 PM, there is extreme interrogation at each army check-post and harassment is normal. A month after I was released in September 2019, I was driving my car within the industrial estate when the soldiers stopped me. {Abutting on to the Industrial Estate is a camp of the 44th RR.} Routinely, the army men stop our cars. If we are on motorbikes, they harass us. The army men asked me to load bricks on to a trolley like he was ordering a labourer. When I protested that I was an entrepreneur who owned a factory and that I was willing to pay someone else to do the work, one of them said, 'Kashmiriyon ka kaam hai, humari ghulami karna' (it's the duty of the Kashmiris to do our slave work). I still refused to do it, saying this would lower my prestige in front of my colleagues. This made them angry and they took away my I-card. I got scared then. I waited four days before going back to the Estate. Finally, I went to the DSP and managed to get my I-card back.

"A few days later, they came back. We were watching a video of UN speeches (September 27, 2019) where there was also a speech by Modi. Just as we were watching Pakistan PM Imran Khan's speech,

they came upon us. To punish me, they took away my I-card again. So, I had to go to them and beg to get it back once again. Everyone faces such harassment.”

Case ‘D’, Heff-Shermal, Shopian: Screams in the Night,¹⁹ Torture of militant family. Double victimization for talking to the media

‘D’ was a plumber with a small orchard. His brother ‘A’ was a postgraduate but was unemployed and survived by working in the Shopian fruit market. ‘A’ was hounded by the Deputy Superintendent of Police (Dy SP) of the Imam Sahib sub-division, who kept calling him to the police station and taunting him about why someone like him hadn’t become a militant. After the third time he did this, ‘A’ fled and did join the militants. Ever since this happened, the army came regularly to the family house in search for him. Last June (2019), A had visited on Eid and stayed for 45 minutes. This time, a day or two before Bakr Eid (August 10/11, 2019), the army burst into the house at 2 am. They ransacked it and snatched D’s ATM card and mobile phone.

Testimony: *“They asked me to come outside, and they smashed my face and beat me for an hour right in the middle of the road. They wanted to know where my brother was. They took my I-card and summoned me to the camp the next morning to collect it. At 10 am I went with my father and a cousin, who is a lawyer, to the Heff-Chillipora 44th RR Camp. A ‘Major Bhim Singh’ present there asked me to get my brother ‘A’ to surrender to them.*

“In the camp they held me and beat me for an hour, again on my face, feet and buttocks. Another person from Heff-Shermal was brought in and his screams were broadcast on the loudspeaker. My father, who was outside, kept trying to enter the camp but was prevented from doing so. Meanwhile, I fainted as a result of the beatings. [Grievously injured, he was subsequently handed over to his father].

“The family took me to sub-district hospital at Zainpora where I was given IV fluids until I revived. I was then sent home. Over the next two and a half months I was bed-ridden. So badly bruised was my face that my 5-year-old son was too terrified to come near me.

“The next night the army came again, and taunted me about being a cripple. They raided the house, after herding the women and children together in a room. Family members were threatened that they would be shot if they made any sounds. Kerosene and mobile oil were mixed in the stored food grains, which included 5 quintals of rice. Oil was poured into the water tank, all utensils were thrown around and smashed, and hair-oil poured on the baby’s clothes. The next morning, we did not have a vessel to even boil a cup of tea.”

[D’s story was published in the international media. A human rights team, including lawyer Mihir Desai, visited the family and the case of torture was reported in the PUCL Report]

¹⁹[Shopian: Where villagers can’t sleep as they hear people ‘cry’](#) – Newslick, September 13, 2019.

“After the story appeared in the media, the army came back to threaten me. They asked, what did they give you? Did they give you money? We have recorded the conversation and have all the footage of what you said.”

“Four months later, in January 2020, the Dy SP, Zainapora, summoned me to the Shopian SP’s office, asking that I could come with my father. There was so much snow that day that I went alone. Again, they demanded that I get my brother to surrender. Again, the army came at midnight for a raid. This time they searched five houses. When they came to our house, they shone a torch on my face and taunted me asking if my injuries had healed. They took me to the same spot outside the house as earlier and beat me again on the face, calves and legs. After 45 minutes, they got a call. The beating stopped. They let me go.”

“Now my arm is in a brace and I cannot work at all. We have an orchard but the produce is just half of what it was previously because I could not tend to the apples. Every time I venture out, the army asks why I am going out alone. I can only go out with the rest of the villagers. My family is ostracised by the villagers because of all this. My nephew (14) goes to school but has to be home by 4 pm. He cannot play anywhere. The family has a hereditary heart disease, so I cannot go away leaving my parents behind.”



Photo: X-Ray scan of ankle, hand, of victim ‘D’

Case of Abid Khan, Hirpora, Shopian District: Illegal Detention, Extreme Torture which was video-taped, ‘army’ flaunted its impunity. Double Victimization: Framed as a ‘stone pelter’ in an Open FIR

The efforts to meet Abid Khan were unsuccessful. The account²⁰ given here has been verified by his lawyer based on a video recorded interview: TRT World 17/09/2019, 2019)

“...A group of soldiers led by an officer entered my home in Hirpora, Shopian, about 65 kilometres south of J&K’s capital, Srinagar. Several army vehicles were waiting on the road outside the house. A few soldiers grabbed my youngest brother Suhail, and he was given an electric shock in the chest with a hand-held device. Suhail passed out in the courtyard and was let off.”

“They pushed me into a vehicle and took me to the camp, blindfolded. At the camp (designated as 66 RR B Company, at Chowgam), about 8 km from my home, I was stripped naked, water-boarded and forced to drink copious amounts of a “horribly smelly” liquid. Two of them punched me in the gut until I vomited and urinated. My hands and ankles were tied with a rope. I was then hung from a pole. Four soldiers took short runs and struck my buttocks, hips and back with batons. As I struggled in pain, my wrists and ankles got bruised. The bruises became worse after every beating.”



Photo: Torture marks still visible and significant 32 days after the assault²¹

“They passed an electric current through my body after dunking me in water. They did it several times. At one point, when I could take it no more, I feigned that I had fainted. But another electric shock startled me. I prayed for death. Within no time I had passed out. When I regained consciousness, they hit my private parts with a stick. One officer told me ‘I will end your life now.’ He drew a red-hot iron rod close to my penis but stopped short of touching it. I cried a lot. His colleague told him, ‘Don’t do it. He has been married recently. After all she is our sister too.’ They pulled the skin near my private parts with a pair of pliers. It still hurts when I urinate. Once my entire body was bruised, they rubbed salt into the wounds.”...

²⁰ Hilal Bhatt and Mohammad Rafi, “India’s torture methods: New claims emerge from disputed Kashmir” – TRT World, September 17, 2019 <https://www.trtworld.com/magazine/india-s-torture-methods-new-claims-emerge-from-disputed-kashmir-29879>

²¹ <https://tribune.com.pk/story/2057549/screams-night-occupied-kashmir>

What agonises Abid Khan the most is that the “Indian army soldiers” had filmed parts of the torture inside the camp. He had passed out after being administered electric shocks but what could have happened during that phase when he was unconscious is what troubles him: **“What if they had committed be-satree and filmed that too? It is better to die in that case”** (be-satree can be defined as various forms of sexual violence).

“Before the torture began, the army major told me that I had invited Riyaz Naikoo (the most-wanted Kashmiri rebel commander) to my wedding in July. The officer accused me of building a hideout for militants in my home which stands in the middle of an eight-acre apple orchard. I told him to go and bulldoze my home to the ground and if you find there is a hiding place anywhere, set the entire thing on fire. But if there is none, I would have to be compensated with a new home. The major became even more angry in response and demanded that I confess. He told me to confess that Naveed Baba [a militant] had been hiding in the home of my neighbour, Peer Sajad. I asked him why I should falsely accuse somebody else of something about which I know nothing.”

“On August 13 I was taken to an army medical facility where I was given several injections. It made the pain disappear and I became light-headed. I could even sit on my bruised buttocks. Two kind-hearted Sikh medics shouldered me to the gate of the camp. I was released in the evening. My family members had been waiting outside for me the entire day. The major had threatened me that if I visited any doctor or filed a complaint with the police, all my family members would be detained. My wife, father, brother and the village head were asked to sign some papers.”

His hospital medical record reads: “Trauma due to assault by security forces.”

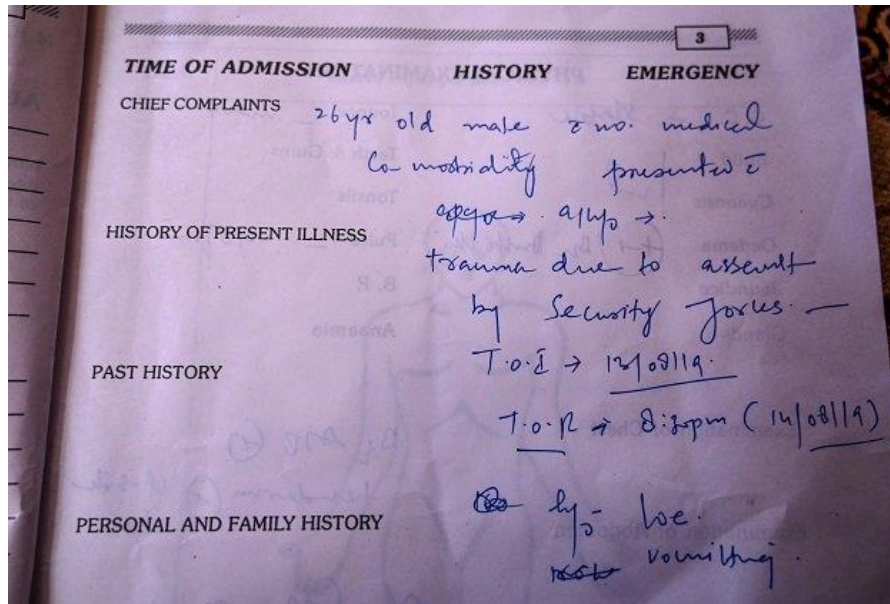


Photo: Medical reports states trauma due to assault by security forces²²

“My buttocks were swollen and had turned purple. After 10 days of treatment, an acquaintance advised me to leave the hospital so as to avoid being noticed by Criminal Investigation Department personnel. Had we stayed the police might have filed a FIR [a report for criminal investigation]. We

²² Ibid.

were very scared. But at home, I started vomiting and the pain recurred. I told my family we should visit a hospital. At first, they didn't agree but when the pain became unbearable, we went to SMHS Hospital in Srinagar at 1 am so that nobody could see us leaving."

Abid Khan had dared to speak to the media. The journalist with an international media organisation, aware of how vulnerable Abid Khan was, and overestimating his own influence, decided to call on the major at the 55 RR camp and warn him against doing AK further harm. According to sources close to Abid Khan, security forces were informed about this that night and they visited him to threaten him. He was reportedly told, 'Did you think your 'powerful' media friends could protect you? He is my friend too. He told me about your conversation.' Subsequently, Abid Khan was framed in a four-year-old case of stone-pelting, which was filed as part of an open FIR.

Case of Mohammad Yasin Bhatt et al, Parigam, Pulwama district:

Torture, Extreme Sexual Abuse

Mohammad Yasin Bhat and 11 other men²³ were detained during a cordon and search operation on August 5/6. According to media reports they were stripped naked and kept in a row on the main road. All of them were electrocuted in their genitals. When the physical torture ended, they were made to lie face down on top of each other, in a pile.

Case of the Sofis, Parigam, Pulwama district: beatings, torture

Shabir Ahmad Sofi, 25, and Muzaffar Ahmad Sofi, 23, along with their father Sanaullah Sofi, were picked up from their home in Parigam village. The family runs a bakery. Based on prior census, the army knew of them, although the boys did not have any previous charges.

The Sofi brothers; Qayoom Ahmad Wani; Yasin Ahmad Bhatt; Muzaffar Ahmad Bhatt; and Abdul Ghani's son were beaten outside the mosque with cables and sticks from 12.30 am to 3 am approximately on August 6, 2019. After falling unconscious, they were given electric shocks to revive. When family members tried to intervene, the army threatened to beat them even more. The boys crawled home on all fours. The next morning the boys were taken to the Government Hospital for Bone and Joint Surgery, Barzulla, Srinagar. They have been unable to move for the last two months, leave alone work. The families wanted to file a FIR to be filed in Pulwama but the thana there has been fenced off with barbed wire.

(Excerpted from a fact-finding report dated October 2019, filed by Nandini Sundar, sociologist and Nitya Ramakrishnan, lawyer)

²³ <https://www.independent.co.uk/news/world/asia/kashmir-crisis-latest-india-article-370-autonomy-torture-claims-planning-a9086611.html>

Case of Riyaz Ahmad Tikrey, Kupwara: Custodial torture and death

On September 6, Riyaz Ahmad Tikrey, son of Salim ud din Tikrey of Bandi, Handwara, Kupwara, was brought home dead from a local police station where he had been detained for four days. He was arrested by police from his home in connection with a protest following the abrogation of Article 370 and 35A. The police informed his family that he had committed suicide. However, his body bore marks of severe torture.

Torture and Illegal Detention of Minors

Media reports and fact-finding teams have documented the illegal detention and torture of children. The J&K police confirmed that 144 minors were held in custody, some as young as 9 years of age. They were said to be released or sent to juvenile centres. However, Amnesty International India in its March 2020 press release²⁴ stated that at least 34 children were being held under various laws in jails across J&K.

Sociologist Nandini Sundar and lawyer Nitya Ramakrishnan, on a fact finding visit in October 2019, learned that in SS village, Shopian district, the police detained around 20 children between 12 and 20 years for 15-20 days, and charged the families Rs. 100 per day for their food. They were allowed to meet their families for 10-15 minutes every day. Since the jails are overcrowded, it is difficult for the children to lie down and sleep. A few boys from Shopian village were badly beaten up by the police in the thana as well.

Case of 14-year-old SM²⁵ (14), Natipora, Srinagar: Illegal detention and torture of minor

Efforts to meet the family unsuccessful. SM was victimized for speaking to the media. The police framed Shahid in an Open FIR as a stone pelter.

On August 21, 4:30 pm, SM was picked up by the police from Azad Basti, Natipora. According to his father Ghulam Mustafa, Shahid a student of IX grade was returning after his prayers at the local mosque. The area in uptown Srinagar was known for clashes between the police and local boys. A neighbourhood woman had seen Shahid being bundled into a Rakshak (armoured personnel carrier). Shahid tried to resist arrest and was hit with a gun butt and fell unconscious. He was taken to Chanpora police station and found himself with 27 others in a cell measuring 10ft x 8ft with a toilet in the corner. He was held there for two days before being shifted to the Bhagat police station. Once there, a police officer showed him a video captured from atop a Rakshak and asked him to identify the masked boys in the video. *“If I had identified anyone, they would surely have picked him up and I would have been branded informer,”* he later said. When he refused, he was beaten with a cable wire, non-stop for 5 minutes. They beat him especially on his left ear,

²⁴Amnesty International India Press Release 31 March 2020. This was on the basis of responses to RTI application from 37 Tehsils (sub-districts) and 12 jails across J &K.

²⁵ Umar Mukhtar, ‘A Minor Story’ *Kashmir Life* December 8, 2019

the very damaged ear that his father begged the police not to hit. (Shahid has hearing disability now). While in detention, he was forced to cut grass and perform forced labour, along with others. After 13 days in the lockup, SM was released. Every day during that period the entire family, including elderly ailing aunts, would wait outside the police station to see him and plead with the police to release him. A signed bond was taken from his father.

“All that the police wanted was to break him (Shahid). The police officer told us that unless he lowers his gaze and stops looking directly into our eyes, we will not let him out.”

- (Hudabiya, SM's cousin)

Shahid is back home but is a changed child. He stays locked up in his room and does not talk to the family. He has lost all interest in life, and spends his time reading religious texts such as 'Jannat Kaise Millega'.

Case of 'P' (15), Budgam district: Illegal detention, torture, extortion

This has been excerpted from the fact-finding report, 'Imprisoned Resistance'

P was a student of IX grade at the local government school. There was a minor incident of stone pelting in the neighbourhood and his father, a driver, and he had stepped out at 4.00 pm to see what was happening. The DSP of Humhama police post, Budgam Police Station, came to them along with other policemen and caught the boy by his neck. They dragged him for half a kilometre and beat him on his back and neck with a drain pipe and butt of a gun. This was witnessed by several passers-by. They then took him to Humhama thana (Post-Budgam Police Station, Airport Road) and beat him up again. He suffered several injuries on the arms, back and left leg. They kept him locked up. The Station House Officer (SHO) would repeatedly come and ask for the names of the boys who had pelted stones. Since P had never pelted stones, he was not aware of the boys who did so. There were about 9 boys in the police station locked up along with him. They brought two other boys after him, and he was one of the youngest boys in the lockup. One of the boys was beaten up so badly that his legs were broken. There was another who was mentally challenged.

When the boys' families got to know of the incident later in the evening, they went to the Humhama police post but were misinformed that the boys were at the Budgam Police Station. The families went there to search for the children, only to be informed that the boys weren't there as well. When finally, they returned to the Humhama police post, the policemen acknowledged that the boys had been arrested because they had abused the police. The families were informed that they would be released by evening but that did not happen.

Thereafter, this became a routine exercise. Every day, the families were informed that their wards would be released in the evening by 9.00 pm. There was no FIR or any other document filed or given to the parents, so they were unable to move the court for the boys' release. They were kept in the police station for 6 days. The food they were given was inedible. On the 11th of August, 'P' was released after being detained for 6 days in the regular lock-up, along with adult detainees. His elder brother had to give a maafinama (an apology) and sign a bond, the contents of which was not shown to them. The family was also asked to pay Rs. 15,000 for the boys' release and another Rs. 1000 for their catering in the lock up.

Two days after his release, 'P' ran away from home and tried to commit suicide. His father found him near the bypass. On August 14 he developed a heart problem (palpitations due to anxiety) and was examined and treated in JVC hospital. He is under medication. His parents stated that he is undergoing extreme mental trauma and hardly speaks about the details of what happened to him in the lock up. The family sent him to his maternal uncle's house for a few days to recuperate but he continues to be anxious and depressed. [Imprisoned Resistance 2020, 49-50]

- *Rita Manchanda, Jashodhara Dasgupta*

CANDY IN HIS TINY FISTS

Memorize new songs to be sacrificed
for an eight-year-old martyr
clutching sweets and candy in his tiny fists.
The blood of Sameer was
buried in the rootless rocks
crushed dead by soldiers' boots.
Memory will weigh heavily around history's neck,
a tiny corpse spat blood and candy.
On his way home
his moon ringed,
his eyes won't show the road to the stars anymore
blooming bloodstains hang in the dark night now.
No hands can hold their grief together
to pray for peace anymore,
at such a price?
No, please, no more!

- Muhammad Nadeem

[Counting Days (@countingdaysk) archives, Day 173]

Destruction of Civilian Property by Armed Forces

The destruction of properties by Indian soldiers is a very common phenomenon in Jammu and Kashmir from the last 30 years. Instead of trying to arrest them [militants], the focus of Indian soldiers is to kill them at any cost, as there is a monetary incentive for soldiers for killing militants.

- (Khurram Parvez, Srinagar-based activist)²⁶

It took me 40 years to build this house, and it took the Indian forces less than 40 seconds to destroy it.

- (Rafiq Jan, resident of Nawakadal)²⁷

On May 19 2020, Indian forces tracked down two local rebels in the densely populated neighbourhood of Nawakadal. In the 10 hour-long gunfight, more than 15 houses were damaged, two rebels killed and some civilians injured. Three families lost members after a shell which was lying in the debris exploded on the day after the encounter.



Source: <https://www.newsclick.in/over-dozen-homes-burned-looted-nawakadal-encounter-residents>

²⁶ (Bhat Burhan and Saqib Mugloo, Kashmir's Displaced Struggle to Survive Amid COVID-19, May 29, 2020.) <https://thediplomat.com/2020/05/kashmirs-displaced-struggle-to-survive-amid-covid-19/>

²⁷ Ibid.

As the coronavirus pandemic takes over the world, social distancing norms have become the primary concern in any given situation. Self-isolation at home has been prescribed as the safest way to stop the spread of Covid-19. Most of the world has shifted to work from home and study from home. At such times having a safe home has become the biggest concern, the surest way to survive in this pandemic. But for the people of Kashmir, even the pandemic cannot keep them safe from the possibility of losing their home to armed forces excesses. In fact, this technique of blasting arbitrary homes is something Kashmiris are used to. The Indian army sees this blatant and unjustified use of violence as key to 'chasing' rebels out of their alleged hiding spots.



Photos: Nawakadal blast²⁸

In Nawakadal, the army forced people to evacuate without any of their belongings, that are now lost forever. Most residents allege they were not allowed to take their papers, precious belongings and even life-saving medicines. Many were left homeless and struggling to adjust to living with relatives in cramped houses, exposing themselves and their loved ones to heightened risk.

We were evacuated at 9 a.m. by Indian forces and after that in five minutes everything had turned into rubble. Even my daughter's jewellery was destroyed in it. They should have taken into consideration that this is a cramped area and not done such huge damage, because it is a densely populated area and the houses are close to each other. But they did not listen, they did not even allow us to take a single pill of medicine with us; the damage done was deliberate, the losses are humongous.

- (Tasleema, resident of Nawakadal)²⁹

²⁸ <https://kashmirreader.com/2020/05/20/junaid-sehraie-killed-in-encounter-in-downtown-srinagar/>

²⁹ (Bhat Burhan and Saqib Mugloo, Kashmir's Displaced Struggle to Survive Amid COVID-19, May 29, 2020.) <https://thediplomat.com/2020/05/kashmirs-displaced-struggle-to-survive-amid-covid-19/>

Ours was a fully five-story house with 21 rooms. Now it has turned into a ghost house. Nor am I now wearing a mask, neither am I able to follow any guidelines. We have forgotten that there is virus now, we have been engulfed by a bigger virus now.

- (Shaheena Jan, health educator, resident of Nawakadal)³⁰



Source: <https://www.thehindu.com/news/national/encounter-erupts-in-srinagars-kanemazar-area/article31619876.ece>

In the aftermath a Mohalla Committee set out to raise money for the residents to help rebuild their homes and also to compensate families of those who lost members and those who were injured. They were able to raise Rs. 3 crores and have begun to rebuild the homes.³¹ Till the date of publication of this news, no compensation or help from the government was received.³²

- Antara, Devika, and Shubhangi

³⁰ Ibid.

³¹ Srinagar Locals Collect Rs 3 Crore in 7 Days to Rebuild Houses Damaged in Nawa Kadal Encounter, <https://thewire.in/rights/srinagar-nawa-kadal-encounter-damaged-houses>

³² Ibid.

#StandWithKashmir
#EndOccupation

Illustration Courtesy: Shabna Sumayya



The (Im)possibility of Redress

A state of “lockdown” is something that almost every Indian is now familiar with to a greater or lesser degree, having experienced ‘the most severe lockdown in the world’ for about seven weeks, between March and May 2020, imposed on the entire country by the Indian government in an attempt to check the early spread of the COVID-19 pandemic in India. For people in Kashmir, this lockdown was a pale imitation of what they have lived with for over three decades now, with brief breaks and relaxations in between.

Not just lockdown, but arbitrary arrest, detention, torture, enforced disappearance, custodial killing, massive search and seizure operations without a warning, all these and more are part of a routine that more than one generation of residents of the Kashmir valley are routinely subject to. Since August 5, 2019, the worst of all these phenomena has been reintroduced into the valley. This time, however, the rhetoric of the state is not just about fighting a Pakistan supported insurgency but also about the need to bring the entire state out of a vicious cycle of backwardness, poverty and underdevelopment.

The state of things prevailing in Kashmir has been reported extensively over these decades, including by me.³³ The primary role of law in Kashmir is to legitimise force. Systems of law and justice are also used to create an aura of fair play and even handedness, making it seem as if the force used is the minimum necessary, and that even this is regulated and subject to independent checks and controls. In reality, however, the rule of law stands severely truncated, and overridden by the subjective will of the military (or other security forces) authority in command. The suspension/ subrogation of normal law and legal process apply as much to the courts as any other aspect of the state in Kashmir.

Right from day one there have been reports of human rights violations, arbitrary detention, arrest and torture. Minister of State, Home, G K Reddy in Parliament in March 2020 put the figure of preventive detentions at 7357 of which 451 remain in detention. Of these, 396 have been booked under the Public Safety Act while 55 have been arrested under the Code of Criminal Procedure.

In the first seven weeks following the August 5 change in abrogation of Article 370, 250 habeas corpus petitions challenging detentions under the Public Safety Act were filed.³⁴ Besides the prominent political faces, hundreds of ordinary people, including young children, have been picked up. Many have been detained illegally, and kept in secret detention.³⁵ Some lucky ones are released after a period of detention and torture. They are threatened to keep their silence under pain of re-arrest. Some not so lucky are charged under various “open” FIRs that are registered against unknown persons. The allegations

³³*In Search of Vanished Blood* Ashok Agarwal, SAFHR 2008

³⁴ Indian Express August 4, 2020

³⁵ Newspaper reports are replete with details of instances of violence on children during this period.

in the FIRs are often vague or general, such as ‘he was part of a mob of persons that pelted stones at, on’. Since it is impossible to keep persons in custody for too long under such vague and insubstantial charges, the administration frequently resorts to its main weapon—the J&K Public Safety Act 1978—to keep them in detention for longer periods.³⁶ Many detainees are being held in prisons outside Kashmir.³⁷

Section 8(3)(e) of the PSA 1978 provides that a person under the age of 18 years cannot be detained. However, the APDP report titled ‘120 Days’ states that 14-year-old Aftab was arrested on 8 August 2019, booked under PSA and after some time, shifted to a jail in Varanasi, U.P. This is not an isolated instance of abuse of the law is seen from numerous other reports.³⁸ Anisha Mathur, writing for *India Today*, reported that a 11-year-old was illegally picked-up under section 107, J&K Criminal Procedure Code 1989 on August 5, 2019. A 9-year-old and an 11-year-old were picked up on August 7, 2019 from Batamaloo³⁹. It has become a matter of ‘normal practice’ of the security forces to pick up young boys and, thereafter, released only after community bonds were secured from the villagers and local committees. It is also widely reported that though there have not been any stone pelting incidents since 5 August 2019, yet boys are picked up on the basis of criminal cases registered with regard to incidents of stone pelting in 2018 and as far back as 2016, on the basis of “open FIRs”.⁴⁰

Nitya Ramakrishnan and Nandini Sunder reported that “20 children (approx.) between the ages of 12 and 20 were picked up and kept for 15-20 days. One 12-year-old child, SN, class VII, was picked up on August 10 and released on September 25 to a juvenile justice home. There are 6 cases against him – of stone pelting, damaging houses and vehicles”.⁴¹

A report by Enakshi Ganguly and Shantha Sinha titled ‘Children in Kashmir in Perpetual Lockdown’ notes the numerous news stories and reports prepared by reputed newspapers and news portals about the detention and torture of children. They say, “*The Washington Post* reported on 29 August, 2019 that how a 13-year-old child was suddenly picked up by police and held in a police lockup. *The New York Times* reported on September 04, 2019 that a 16-year-old Kashmiri boy died after he was hit by security forces in the face with buckshot. *The Print* has documented five cases of youngsters including a 14-year-old child who suffered from serious pellet injuries at one of the protests in Srinagar in August 2019.”⁴²

It is virtually a cliché that the only remedy against a predatory state is the justice system through the courts. Particularly in the Common Law jurisdictions, the writ of *habeas corpus* is the last bastion against oppression and repression by the State. In the words of Dicey,

³⁶ It is reliably reported that more than 3000 people have been detained under this law.

³⁷ A large number of detainees are being held in jails in Meerut, Agra, Delhi, Jaipur, etc.

³⁸ The J&K CrPC also provides for preventive detention, without the restriction against detention of minors found in the J&K PSA.

³⁹ *India Today* 29/102019 Retrieved from <https://www.indiatoday.in/india/story/children-among-minors-detained-kashmir-article-370-abrogation-reports-1605322-2019-10-01>

⁴⁰ Concrete evidence of this “practice” is given below, albeit not relating to minors

⁴¹ This report was released in October 2019. Names were withheld due to safety and security concerns.

⁴² Ganguly and Sinha ‘Children in Kashmir in Perpetual Lockdown’

*“(The Habeas Corpus Acts) declare no principle and define no rights, but they are for practical purposes worth a hundred constitutional articles guaranteeing individual liberty.”*⁴³ There is ample evidence to show that this bastion of liberty, individual and collective, has been extensively suborned in the name of national security, integrity, fight against terrorism, etc.

As we mentioned at the beginning, illegal arrest, detention, torture and worse are continuing phenomena in the valley. Despite this, 5 August 2019 marks a new level of these actions upon the hapless citizenry. Nitya and Nandini report that *“The number of arrests and preventive detention cases has increased since August 5. People with old FIRs against them are being picked up and kept in the police stations. Sometimes they are released and some of them are charged under PSA and kept in Srinagar central jail or taken to Agra. Families are scared that if they protest or speak to the press, the detainees will be charged with PSA.”*⁴⁴

We have been hamstrung by difficulties in obtaining greater details as documents have been hard to come by. However, we must acknowledge the courage and commitment shown by several lawyers and others in the valley in assisting us. We present here a brief overview of the situation prevailing in this regard by examining a few cases of preventive detention. The paucity of material does not come in the way of showing that the courts are, largely, incidental to the way the situation plays out in Kashmir. In order to let the (albeit sparse) documentation speak for itself, comments (if at all made) have been kept at a minimum. The reader will see that the High Court does quash the detention order in some cases. However, its interference is selective, in the sense that in key cases the court gives the legal position the go by and tends to side with the administration, irrespective of the reason or logic connected with the rule of law. We will reserve further comments pending access to further material on which they can be based.

- Ghulam Ahmed Dar @Gulsaka age 43, resident of district Budgam.⁴⁵ The detention “category” mentioned at the head of the ‘grounds’ is “Stone pelter”. The grounds are completely vague, and without any dates or specific incidents. General words and expressions such as – “chronic”, “habitual”, “hard-core stone pelter”, person with ‘predilection towards causing disruption.....often breaking the law’, ‘in constant touch with anti-national elements’, ‘you are reportedly operating in a clandestine manner’, ‘have become a chronic mobiliser... unlikely to mend your ways’, ‘therefore, imperative to detain you under PSA as your activities are detrimental to the maintenance of public order in the district of Budgam’.

⁴³ Albert Venn Dicey

⁴⁴ Ramakrishnan and Sundar, October 2019, *supra*

⁴⁵Information based on two pages from a detention order, stating ‘grounds of detention’, date not known.

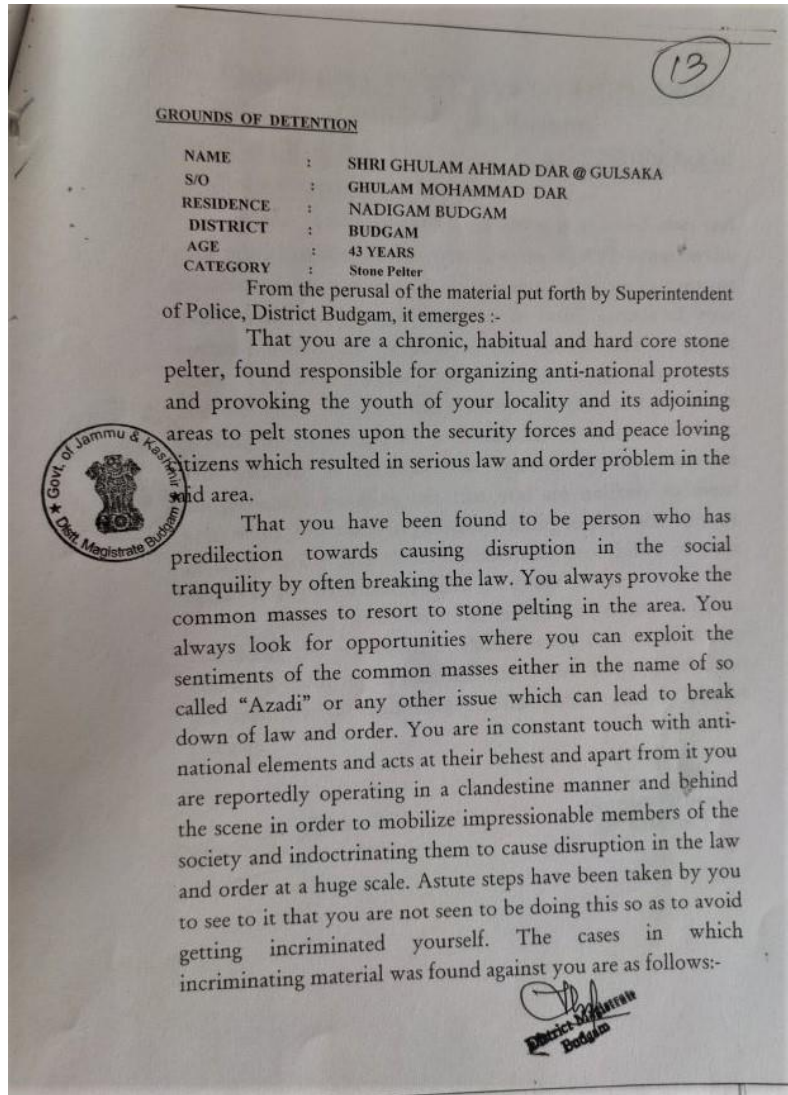


Photo: Grounds of Detention of Ghulam Ahmed Dar

Two FIRs (First Information Reports) have been mention, almost in the passing, one of them from 2013, without specifying the nature or extent of his involvement in them. Further, neither of the FIRs pertain to stone pelting or such like activity: FIR No. 93 of 2013 (PS Budgam), under sections (u/s) 147, 447 354, 336, 427, 323 RPC (The J&K equivalent of the Indian Penal Code (IPC)), and FIR No. 198 of 2019 u/s 8/21 of the Narcotics (NDPS) Act.⁴⁶ Almost all of them are cognisable (roughly, felonies under US penal provisions) offences and any person charged with these offences must be tried in a court of law.⁴⁷

⁴⁶ Section 147 RPC specifies the punishment for rioting; Section 447 RPC provides for punishment for criminal trespass; Section 354 RPC punishes assault or criminal force to women with intent to outrage her modesty; Section 336 RPC punishes any act endangering life or personal safety of others; Section 427 RPC punishes 'Mischief causing damage to the amount of fifty rupees'; Section 323 RPC provides for punishing 'for voluntarily causing hurt'; Section 8 NDPS Act prohibits activities like cultivation, production, sale, etc of narcotic and psychotropic substances; Section 21 NDPS Act punishes violations of law with respect to 'manufactured drugs and preparations'.

⁴⁷ It is settled law that substantive offences cannot be made grounds for preventive detention.

- Hilal Ahmed Tiploo, resident of Anchar, Soura:⁴⁸ on grounds of cited dossier dated 10.08.2019 issued by the SP Srinagar for issuance of warrant for detention under PSA. Allegations of stone pelting and propagation of “secessionist ideology” 2 FIRs are mentioned, namely FIR No. 75 of 2019, u/s 147,148,149,336 RPC and FIR No. 78 of 2019, u/s 147, 148,149,336 RPC, both at PS Soura.⁴⁹ The ‘grounds’/detention order states that the ‘normal law has been found inadequate to stop him’, and hence the detention order.

- Fahim Akram Bhat, age 20, resident of district Budgam:⁵⁰ Allegation in this case are almost identical to those against Ghulam Ahmed Dar, above, except that FIR numbers are different. He is accused of being a ‘habitual stone pelter’. The grounds are vague, without any dates or specific incidents being mentioned.⁵¹ In his reply to the habeas corpus petition on behalf of Fahim, certain “facts” are asserted by the District Magistrate, Budgam. The reply cites Sophocles to assert that ‘law must be backed by fear’. It is asserted in the reply that Fahim’s detention was necessary in view of his ‘past conduct’, which gave rise to the ‘reasonable apprehension’ that he would repeat the same behaviour, in the face of the orders passed by the government on 5 August 2019, abrogating Articles 370 and 35(A) of the Constitution.

- Sheeraz Ahmed Bhat, age 26, resident of district Kulgam: Sheeraz Bhat was detained under PSA by an order dated 11.08.2019. Dossier prepared against him alleges he was ‘mobilising youth to create disturbances.’ It mentions an incident of 01.08.2016 (FIR u/s 147,148, 341,336 RPC), alleging that he had led a violent mob which assaulted a deployed ‘nafri’ (labourer). Another incident mentioned is of 02.08.2016 (FIR u/s 147,148, 149, 307, 332,336, RPC and u/ s. 13 UAPA⁵²) alleging he was part of an armed mob chanting anti-national slogans, and alleging assault of security personnel. Although no specific role has been assigned to him, the detention order asserts his “involvement has been established” during investigation. A third incident narrated in the detention order is of 03.08.2016, in which a mob attacked security personnel. The FIR in this regard (u/s 147, 148, 149, 307, 332, 336 RPC, and u/s 13 UAPA) alleges his involvement in arson, looting, and stone pelting. It is also alleged he is an “over ground worker” of an unnamed banned terrorist outfit.

⁴⁸ Information based on a single page from a detention order, date not known.

⁴⁹The order states that ‘while he has been found involved in almost every law and order case registered at PS Soura, he is particularly involved in the two cases specifically mentioned therein.

⁵⁰Information based on two pages from his detention order, date not known as well as the reply filed by the District Magistrate, Budgam, in response to the habeas corpus petition filed on his behalf.

⁵¹ The detention order refers to FIR No. No. 100 of 2017, u/s. 307, 336, 332, 148,149 and 171-F, RPC; FIR No. 16 of 2019 u/s. 307, 336, 332, 148, 149, 171-F, RPC; and FIR No. 61 of 2019 u/ s. 147, 148,149, 336, 332,307 , 427 RPC, all registered at PS Charar e Sharief, Budgam.

⁵² Unlawful Activities (Prevention) Act 1968

Among other reasons, the writ petition challenging his detention, filed by Sheeraz Bhat's father, states that he has been granted bail in all the three FIRs mentioned in the order. It challenges the allegation that he is an 'over ground worker of banned terrorist organisation' by pointing out that the name of the organisation is not mentioned in the order.

We will round off this, with a brief overview of a few decisions by the J&K High Court in cases under the PSA, between mid-2018 till date.

HC(P) No. 57/2018; Decided on 18.09.2018; Fayaz Ahmed Kumar v. State and Others

- The petitioner was detained under the PSA vide detention order dated 28.12.2016. The said order was quashed by the High Court. Upon this the respondents (State) took him out of jail and shifted him to PS Baramulla, where he was detained in connection with various cases registered against him. Thereafter, on 03.03.2018 a fresh detention order was passed against him, on the same grounds. This was again challenged before the High Court, where the respondents sought to justify the detention by arguing that the impugned detention order had been passed in consonance with the provisions of the PSA. The Court held that the detention order 'seems to have been passed on surmises, conjectures and repetition of earlier grounds (which had been quashed), which was not permissible in law.' Further, since the detainee was charged with various substantive offences, and was already in custody on those charges, the State could not have imposed detention under the PSA upon him. The court reasoned that in the event of his being enlarged on bail, the State had the right to challenge the order granting bail.

WP no.351/2018; Decided on 07.09.2018; Farooq Ahmad Bhat v. State of J&K and another

- The petitioner has spent (it is stated) almost 25 years in preventive detention custody since 1990, the first detention order having been passed against him in 1990, when he was barely 19. Each time he was ordered to be released by the courts he would be again taken into custody on the basis of a fresh detention order. In 2012, when he challenged his detention before the Supreme Court, in order to avoid a decision on merits the respondents informed the court that they were revoking his detention order. By order dated 22 March 2013 the Court directed that in future they should give him 'a clear 7-day notice before any further detention'. However, since then he has been subjected to six orders of preventive detention, out of which five detention orders have been quashed by the High Court. He has also secured four bail order since 2007, except the latest order of preventive detention dated 11th November 2017. This, latest detention order, according to petitioner, was the 36th detention order passed against him since 1990.

- In reply the State brought on record the following facts pertaining to the detainee: That he is head of a prominent secessionist outfit, namely the Muslim League, which is an important constituent of Hurriyat Conference (G). Since 1990 he has been indulging in various terrorist and secessionist activities, aimed at seceding the State of Jammu and Kashmir from the union of India. More than 50 criminal cases stand registered against him.
- After a long and meandering discussion on various topics, including constitutional and statutory provisions, and legal precedents, the Court declared that it is the collective obligation of all nations to combat fanaticism, extremism, and terrorism, so as to save and protect the State and its subjects from uncertainty, melancholy and turmoil. Therefore, the writ petition was dismissed.

WP(Crl) no.251/2019; Decided on 07.02.2020; Mian Abdul Qayoom vs State Of J&K and Others

- By order dated 7 August 2019, the petitioner, a renowned, practising senior Advocate before the J&K High Court for over forty years and also the current President of the J&K High Court Bar Association, Srinagar was taken into preventive custody under the PSA. He had earlier been placed under preventive detention in 2010, which order was subsequently withdrawn. It was claimed on behalf of the detainee that he had been arrested during the intervening night of 4th/5th August 2019 and kept in a police post at Rangreth for two days before being shifted to Central Jail, Srinagar.
- The detainee suffers from various ailments.
- The petitioner claimed that the grounds of detention showed non application of mind by the detaining authority. Further, it was argued that the activities mentioned in grounds of detention pertained to 2008 and 2010, and FIRs registered in the year 2008 and 2010 were relied upon for detaining the petitioner. This was impermissible since he had already been detained in 2010 on this basis, and that stale material cannot be relied upon for repeating an order of detention.
- It was pointed out (on behalf of the petitioner) that the detaining authority had not even adverted to the fate of the FIRs relied upon in the detention order, i.e. whether the FIRs have resulted in a trial or have been closed without trial. In other words, it was argued, after nine years the FIRs have themselves become stale, so far as connecting them with the petitioner's current situation is concerned.
- It was argued that the respondents had not cared to take note of whether the petitioner was on bail or not in the cases connected with the said FIRs, again reflecting non application of mind.

- It was argued that the respondents had not set out any 'sufficient and compelling reasons' for placing him under prevention detention, either in the grounds of detention or in order of detention.
- In other words, it was argued that the grounds of detention were 'vague, indefinite, uncertain and baseless, as also ambiguous and lack in material particulars and essential details, which has rendered the petitioner unable to make an effective representation against his detention to appropriate authority'.
- In response to the State, respondents argued that the grounds of detention, order of detention as well as the material relied upon by detaining authority were furnished to the petitioner well within the statutory period provided under Section 13 of the PSA.
- It was contended that the grounds of detention have been framed by the detaining authority after applying its mind to the record furnished to it and thereupon 'deriving subjective satisfaction'.
- The petitioner has been informed with sufficient clarity what actually weighed with the detaining authority while passing the detention order. The detaining authority has narrated facts and figures that prompted it to exercise its powers under Section 8 of the PSA, and record its 'subjective satisfaction that the detainee was required to be placed under preventive detention in order to prevent him from acting in any manner prejudicial to the maintenance of peace and public order'.
- The Court further opined that the issue of validity or otherwise of the grounds of detention 'lies within the competence of the Advisory Board'. Further, the High Court 'does not sit in appeal over the decision of the detaining authority and cannot substitute its own opinion over that of detaining authority when grounds of detention are precise, pertinent, proximate and relevant'.
- For the foregoing reasons (and lengthy discussion), the Court found the petition to be devoid of any merit and, accordingly, dismissed it.

In conclusion, it is axiomatic that the narrow aperture of justice afforded to people beset by a repressive regime is predicated upon the existence of an independent judiciary that acts on the basis of a notion of equality, liberty and rule of law. Despite its many failings, the Indian judiciary has never let the flag of justice fall down completely, somehow managing to uphold liberty, and the various freedoms guaranteed to citizens of free India at crucial junctures. In Kashmir, however, these valiant few appear to be getting fewer, and the flag flies lower.

- *Ashok Agrवाल with Namita Wali*

Arrests, Detentions & Transfers to Distant Jails⁵³

“When the institutions are destroyed, where is the space to speak?”

- (Senior advocate Z. A. Shah)

The fact that Kashmiris have been subject to arrests and detentions regularly over the last thirty years is not an unknown fact. However, what made these arrests and detentions especially sinister since the abrogation were that they were accompanied by a transfer of detainees outside the erstwhile state, thus creating a physical separation from support networks. In addition, the communication blackout and the clampdown on civilian movement meant that the process of accessing legal mechanisms was severely hampered. And finally, the clampdown on the judiciary, including the detention of high profile and important lawyers, sent a message to the Kashmiris that legal avenues to seek justice were suspended.

It has been estimated that between 12,000⁵⁴ to 15,000 people were detained in the valley illegally and without the maintenance of any form of record. While a few were picked up, assaulted and released, there is no official record of those who remained in custody in the initial months. Of these immense numbers, only the plight of those who had the ability to approach the legal system was known. In the following pages, we attempt to present some of the stories of students, civilians and lawyers in an attempt to weave together an understanding of what has transpired in the valley over the last one year.

The Legal System

There were 450 habeas corpus⁵⁵ petitions filed after August 5, 2019. Of these, a staggering 447 were pending before the court at the time of our visit; only three cases had been heard, one of them of a terminally ill cancer patient. It must be highlighted that in 2005, the Supreme Court of India had ruled that habeas corpus must be heard within 15 days. And yet, here in the valley, judges made no reference to rules or precedent. Similarly, in spite of the growing number of persons charged under the Unlawful Activities Prevention Act (UAPA), there is just one designated court in Srinagar charged with overseeing 12 districts. Rather than an accident, this is by design where the centralisation of judicial powers is underway with powers vested in subordinate courts being systematically eroded. To make matters worse, in a complete disregard for the bail process, this court has been reduced to

⁵³ This write up is a compilation comprising a section reproduced from “Interrogating the “Normal” in Kashmir” with updates on the COVID-19 fallout on Kashmiris detained outside J &K. Interrogating the “Normal” in Kashmir was written by Kalpana Kannabiran, Sarojini Nadimpally, Navsharan Singh, Roshmi Goswami, and Pamela Philipose based on their visit to the Valley from January 31 to February 5, 2020.

⁵⁴ In conversation with Advocate GN Shaheen, former General Secretary of J&K High Court Bar Association.

⁵⁵ A writ requiring a person under arrest to be brought before a judge or into court, especially to secure the person's release unless lawful grounds are shown for their detention.

a remand court and bail or any other form of relief has been denied. The court in itself has become an instrument of oppression.

We came across two cases where young men were picked up from their homes. One of them was detained because he was in a photograph of a funeral procession in the village; he was sent to Agra jail. The other was a student visiting home during a college break who was sent to Ambedkar Nagar jail in Uttar Pradesh. The families were distraught as there were no routes open for them to secure the release of their boys. Even when the student's father obtained orders from the J&K High Court to bring him to Srinagar for his practical examinations in December 2019 and again in January 2020, neither of the orders was complied with, a refusal that is plainly contumacious.

In violation of previous practice where those preventively detained in detention facilities close to their homes, since the abrogation, detainees under preventive detention were placed in solitary confinement. Further, in order to aggravate punitive measures, close to 500 persons from the preventive detainees were also transferred to distant jails outside of the erstwhile state. Preventive detention, which in itself is the continuation of a colonial practice and allows for the bypassing of procedural safeguards, had a practice of periodic reviews. In clear violation of the procedures established by law, the transfer of detainees to far off areas makes the possibility of such reviews very remote.

Public Safety Act (PSA)

The Jammu and Kashmir Public Safety Act was amended in July 2018 to do away with a legal provision that prohibited it from lodging state residents detained under PSA in jails outside the state, to make way for sending them to prisons far away from their families. It is under these amended rules that post August 5, PSA detainees were jailed outside J&K. Although the Amendment in 2018 was tabled on the grounds of “up-gradation of infrastructure, particularly for improving the living conditions of the jail inmates⁵⁶”, in reality, moving the detainees to far flung areas is to add to the punishment. The families we met were struggling to come to terms with the arrests and find means to visit their kin in far-off regions. They had to sell their land and other possessions to travel to see them. They told us that the detainees have no clothes and no money and sometimes they send requests for these, but the parents have no means of going for frequent visits. The following testimonies⁵⁷ reflect the very grave situation.

⁵⁶ Retrieved from

<https://www.greaterkashmir.com/news/kashmir/psa-detainees-can-now-be-jailed-outside-jammu-and-kashmir/>

⁵⁷ Names have been anonymised for civilians and students to protect their identities

PSA: Striking terror

Story 1:

Bilal Ahmad, a resident of district Kupwara, and a B.Sc. final year student of Amar Singh College, Srinagar, was picked up from his maternal uncle's home on August 5. He was in the village for Eid holidays. His father followed him to the police station and asked the officer the reason of his son's arrest. The police officer told the father that he will be released in 5-6 days. Several other boys who were arrested on the same day were released after a few days when they allegedly agreed to pay heavy bribes to the police. Bilal's father refused to bribe because he was convinced that his son was not involved in any wrongdoing. He waited for him to be released. But soon the family learnt that the boy has been booked under PSA and sent to Central jail in Srinagar. For several days they didn't know where he was. After two weeks in the Central jail, he was sent to Ambedkar Nagar jail, in UP, some 1,600 kilometres away from Srinagar.

His father tried to follow the case and learnt that the police had named him in a 2016 stone pelting case in which a FIR, with a few names stating 'unnamed crowd of thousands' was already there. Bilal, then a minor, was named, detained, and later released on bail. He had been out on bail, studying in Srinagar and staying away from any political activity. His arrest under PSA shocked his father, "*Mujhe police se nafrat ho gayi hai*" (I have nothing against the police), but they are not willing to listen to common people, they just do things which earn them one star or two stars, promotions and rewards for catching more people. My son is innocent."

In Ambedkar Nagar custody, Bilal contracted jaundice and although he received treatment, his father made the 1,600 km arduous journey to Ambedkar Nagar to meet him. The family had to sell their cow to put together INR 25,000 spent on this trip. "In Ambedkar Nagar, no hotel will provide accommodation to a person from Kashmir, not even in hotels run by Muslims," the father lamented. When he met his son in jail, he learnt that he was badly beaten and tortured in police custody in Srinagar and kept in a small cell of six by six with one more detainee. His son gave him phone numbers of families of 25 other boys who were lodged in the same Ambedkar Nagar jail and had not been able to call or meet their families.

On his return to Srinagar, the father filed a petition in the J&K High Court praying that his son be allowed to take his practical exam which was due in January 2020. **The High Court passed an order that the boy be brought back for his exam. The order was received on December 31, 2019 but it was not honoured. He filed a second petition to allow him to write his final exam due in February, 2020 and the Court again passed an order for his appearance in exam. But once again it was not followed. The father was left with no option but to file a contempt of court petition to seek redressal, but he had no money to do so, he told us.**

It seems the state is using the policy of punishing people by incarcerating and torturing them through long drawn out legal cases. As a Bar Association senior member said, 'Keeping them busy in cases is a tool they are using, knowing fully well that these cases will outlive this regime.'

Story 2:

Naved Parray, 21, a casual worker, was picked up on August 12 from his home in a village, in Baramulla district. The family first thought it was a routine rounding up of young men before August 15. They expected his release in a couple of days after August 15. But when he wasn't released, his brother and mother got very worried and went to look for him in the police station. They were both insulted and beaten when they pleaded for the release of Naved. The mother was hit on her back. A few days later, Naved was transferred to Central jail in Srinagar and before the family knew, he was transferred to Agra jail in Uttar Pradesh with PSA slapped on him.

His family had to sell 10 *marlas* of their 1.5 canal land holding for INR 47,000 to pay for their trip to Agra to meet him which costed them INR 35,000. Naved was the only earning member of his family. His old parents had no source of income and they were somehow living by borrowing and waiting for his release when we met them in early February 2020. They had no means to approach the court so Naved Parray languished in Agra jail, a thousand kilometres away from home, unrepresented.

But the travails of the family did not end. Bringing back Naved from Agra jail turned out to be big challenge. In March, Naved's father was kicked by the family goat leading to the fracture of his hip bone. The family had to cough up resources through borrowing and donations to get his surgery done in a private hospital 22 km from the village. It was almost an impossible task to organise a visit to the doctor, getting the X-Ray and the MRI done, all in private health facilities as the small government hospital near the village had no such services available. After the surgery, as the father was getting discharged, the doctor, returned the Rs 20,000 which the family had deposited in the hospital. The doctor said, "Keep the money, you will need it, times are tough,"

His elder brother, Iqbal Parray, a daily wage labourer had lost work during the post-August lockdown and the lockdown enforced during the pandemic made his condition even worse. In mid-April when we spoke to him, he said that his family, with three children, his wife, two sisters, and old parents, was surviving on some rice and wild mushrooms. The ration shop in the village opened only once in few weeks and before they got any ration, the shop owner would announce that the rations were over. He said that they hardly received their 5 kg of free rice which the government had announced for every person every month. "Allah created food for all humans, the government can't even distribute with earnestness", he said in one of our phone conversations.

When Naved's PSA was revoked, the family started waiting for him. Initially the court directed the government to bring back the released persons. Official sources said that passes will be arranged for those released to travel to their homes. However, since no public transport was available, the order came that the families will receive attested copies of revocation order and travel passes from respective District Magistrates and they will have to arrange their own transport to bring back their relatives. The family was again in distress, how will they travel to Agra under complete lockdown conditions to bring back Naved, they asked? There were two other boys who were also released with Naved. The families started to pool resources to hire conveyance to bring back the released. But the Uttar Pradesh jail authorities said that they will be facilitating the return of the detainees only after seeing the orders which hadn't reached them. They families were told that they will have to take these orders with them. They decided to hire a van and travel together, fearful of their own safety as they were in Uttar Pradesh.

Story 3:

Faiyaz Meer, 28, an unemployed post-graduate, is a resident of Pulwama and a PSA detainee. He is the sole bread earner of his family. He bought a tractor on loan with the hope that he will work and meet the livelihood needs of the family. His family includes elderly parents and four young sisters. He was kept in a jail in Bareilly but his family somehow managed to put together with great difficulty INR 25,000 rupees to go to Bareilly and visit him. But at the *mulaqaat*, the jail security guard was adamant and insisted that they only speak to him in Hindi for 20 minutes. The father knew only Kashmiri. For twenty minutes Faiyaz's father faced him speechless. Only the sound of sobs shaking the father's body broke the silence.



Photo: 1) Family of Faiyaz Meer waiting for his release, 2) The tractor bought on loan

PSA: Imprisoning the judiciary

“If you want to influence the judiciary, you are not contributing to justice. I have also been working on what measures we should take to ensure the independence of the judiciary. It is our duty. No matter which party is in power. Modi has abrogated Article 370. I want to ask him: Have you settled Kashmir?”

- *(Nazir Ahmad Ronga, former President J&K Bar Association & PSA detainee)*

N. A. Ronga, who is over 70 years old, was arrested from his home in Srinagar on August 9, 2019. He was given a thorough medical check-up in the Police Control Room before being detained in Central Jail, Srinagar from August 9 to September 3. While there, through an inmate, he learnt that he was detained under the draconian Public Safety Act. In September, a police officer directed the jail superintendent to produce Mr. Ronga before him. He was served the grounds of arrest and shifted to District Jail, Ambedkar Nagar, Uttar Pradesh. His family was not informed about this for 20 days. He is clear that the grounds were totally fabricated and false. He has a standing of 40 years in the Bar and served for nine years as the Bar Association President. He categorically told the Commission of Inquiry team that the Judiciary is under attack and that the common people are losing faith in the institution.

He was taken in an army plane (Dakota) along with 29 other detainees. They were divided into three groups and escorted by ten policemen and two riflemen to Lucknow. From there they were put through a 6-hour road trip to Ambedkar Nagar where 29 of them were placed in one barrack and Mr. Ronga was placed in solitary confinement. Initially he was let out of his cell only for half hour once in every 24 hours. To protest this, he went on a hunger strike and then the period outside the cell was increased to one hour. He along with other detainees went on hunger strike again protesting that they were not convicts but political prisoners and must be treated as such. Of the people who were detained with him were two people from JKLF (one of whom has been in prison for 13 years), three were accused of gun-snatching and the rest were alleged to be stone-pelters or affiliated to political parties. There were two other persons aged over 60 years: one from Sajjad Lone's party and another from Peoples Democratic Party, the BJP's former coalition party.

One of the grounds for Mr. Ronga's arrest was that he had brought thousands of people out to cast their vote and that he had the potential of organising people against Government of India. And that he was an advisor to Omar Farooq who had asked him to enter politics. Both of these grounds are entirely unmeritorious. Mr Ronga's son, who is a lawyer, mobilised the international community and eventually, his detention was unconditionally revoked. He was emphatic about his belief in the rule of law and asserted that he has always strived “to ensure the majesty of justice”. After 51 days of being in custody, his jail conditions were partially relaxed, and were further relaxed after three

months. He was allowed out of his cell from 8 am to 5 pm in December and finally released on January 17, 2020.

Mr Ronga was very concerned that we grew up with talk of “unity in diversity” and now we have moved to “tukde-tukde gang”. In his view the discourse of unity in diversity should never leave India and the rule of law must prevail under all circumstances. He also strongly felt that conflict between India and Pakistan must be settled for all time:

“Give peace a chance. Prosperity and peace must go together. There must be permanent peace on the subcontinent and India has a big role to play. Kashmir is here. It will not go anywhere. Hanuman cannot lift Kashmir and take it somewhere else. Kashmiris will continue to take shawls to Bengal, Chennai and the rest of India. As human beings we must come together leaving our religions aside, confine it to our private lives. We have not thrown out Kashmiri Pandits. The situation was such that we could not even help ourselves. At that time the Governor played a dirty role. We have never said only Muslims should live in Kashmir. Kashmiri Pandits should come and live here. You cannot move sentiments of people on the basis of religion for long.”

Similarly, Mr. Qayyum, President of the Bar Association was detained on the intervening night of August 4-5, and was booked under the Public Safety Act on the 7th of August. He is very unwell, and is currently detained in Delhi’s Tihar Jail. In May, 2020, the J&K High Court rejected a petition seeking his release, agreeing with the comments of the AG, when he said, “The FIRs against Qayoom and the grounds of detention depict and relate to the secessionist ideology of the detinue, entertained, developed, nourished and nurtured by him over decades”⁵⁸.

Post-pandemic:

On March 23, 2020, in the wake of Covid-19, the Supreme Court ordered the state governments to decongest jails in order to mitigate the spread of coronavirus. The Apex Court directed each state government to constitute a high-power committee comprising of law secretary and chairman of state legal service authority to determine which class of convicts or undertrials can be released on parole or interim bail. The Jammu & Kashmir government constituted a high-level committee which maintained that the release of detainees under the PSA did not fall within the terms of the guidelines issued by the Supreme Court to decongest jails. This was despite the fact that the PSA law empowered the government to temporarily release detainees with or without conditions. However, the panel considered the parole and temporary release of convicts and under-trials involved in crimes with a punishment of less than seven years’ imprisonment.

⁵⁸ Retrieved from <https://www.outlookindia.com/website/story/india-news-on-grounds-of-ideology-jk-hc-dismisses-bar-prezs-plea-against-detention-under-psa/353696>

According to estimates nearly 270 PSA detainees, including 30-40 foreigners, are lodged in the jails of J&K and about 90 in the jails of Uttar Pradesh and Haryana. In April, the Home department revoked the PSA of 41 prisoners who were held in different jails outside the Union Territory and ordered their release. Naved Parray (Story 2) was one of the PSA detainees whose PSA was revoked. Soon the court directed that transportation of prisoners would be done in full compliance of the rules and norms of social distancing and no transportation shall be allowed in excess of half or one fourth capacity of the vehicle. This meant that the families could not pool the conveyance and had to arrange separate vehicles. Naved's brother tried to hire a taxi to Agra, which was 2300 km by taxi, to and fro, and would cost INR 40,000. The driver wanted the money to be paid in advance. Naved was finally brought back to his village by his brother after pawning every possession the family had – land, jewellery, and animals.

The manner in which the PSA has functioned before the abrogation when crucial amendments were made to it, the way it has been utilised to stifle voices in the valley since the abrogation, and the manner in which the conditions of the pandemic are exacerbating the violence, both inside and outside of jails, points once again to a theme that has been running through this report: that the Indian state has schemed and planned ways in which Kashmir would be silenced post August 5. What this further points to is the violence in the intent and the actions of the Indian state in the valley.

- *Kalpana Kannabiran, Sarojini Nadimpally,
Navsharan Singh, Roshmi Goswami, and Pamela Philipose*

KASHMIR CAGED - AUGUST 2020 FACTSHEET

HUMAN RIGHTS



since 2018
32 women killed

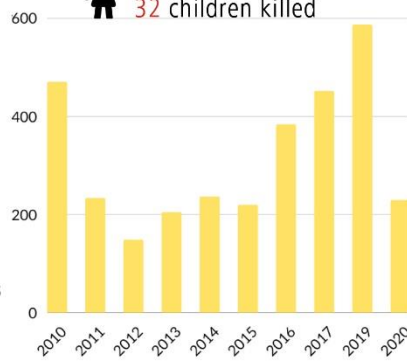


since 2018
32 children killed

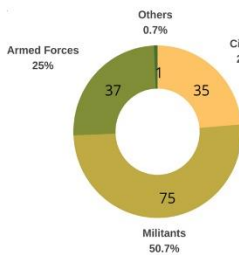
DEATHS IN KASHMIR

DOUBLING VIOLENCE

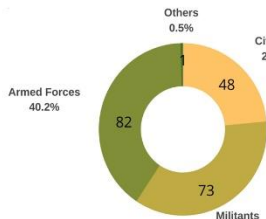
in the last 5 years overall deaths have doubled compared to the previous 5



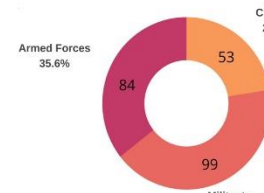
NOTE - Figure for 2020 only from January to June 2020



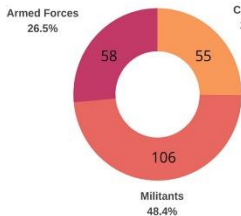
2012



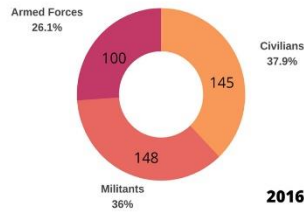
2013



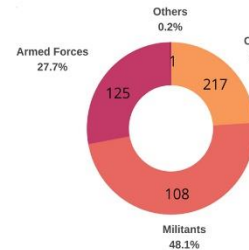
2014



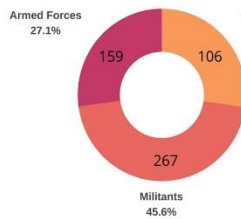
2015



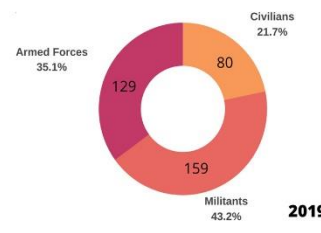
2016



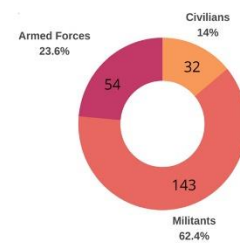
2017



2018



2019



2020

1029 CIVILIANS

1578 MILITANTS

1001 ARMED FORCES

3527 TOTAL

JKCCS Annual reports on Human Rights in Kashmir

ENCOUNTERS

 **143**
2018

 **87**
2019

 **57**
2020

NOTE - Figure for 2020 only from January to June 2020

SOURCE : Amnesty International's Press Release dated 31 March, 2020



People administratively detailed since August 5th 2019

ARRESTS AND DETENTION

Number of people in administrative detention as on 11 March 2020

7357

6605

People taken into preventive custody since 4th August

144 minors

Disclaimer: Data for arrests and detentions have been taken from multiple sources. Given the nature of the Indian state, these could be minimum numbers and actual detention are mostly likely higher. The data presented is to give the reader the serious nature of the situation.

ATTACKS ON KASHMIRIS

outside the state

4

5

21

78

22

43

2014

2015

2016

2017

2018

2019

CEASEFIRE VIOLATIONS



153



152



228



860



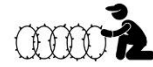
1629



3200



There have been 2500 Ceasefire Violations between January 1 - July 25, 2020 as against 1500 ceasefire violations during the same period in 2019. SOURCE: Ministry of Defense, Annual Reports



SOILDER : CIVILIAN

1:8

650000

Troops before August 5th 2019

ARMED FORCES

Troops after August 5th 2019

800000

EDUCATION

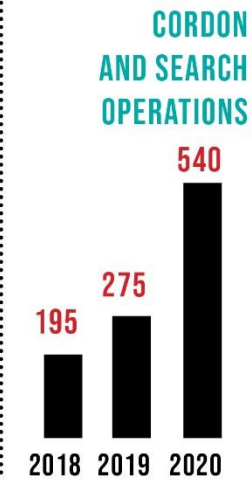
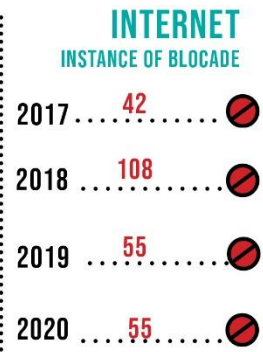
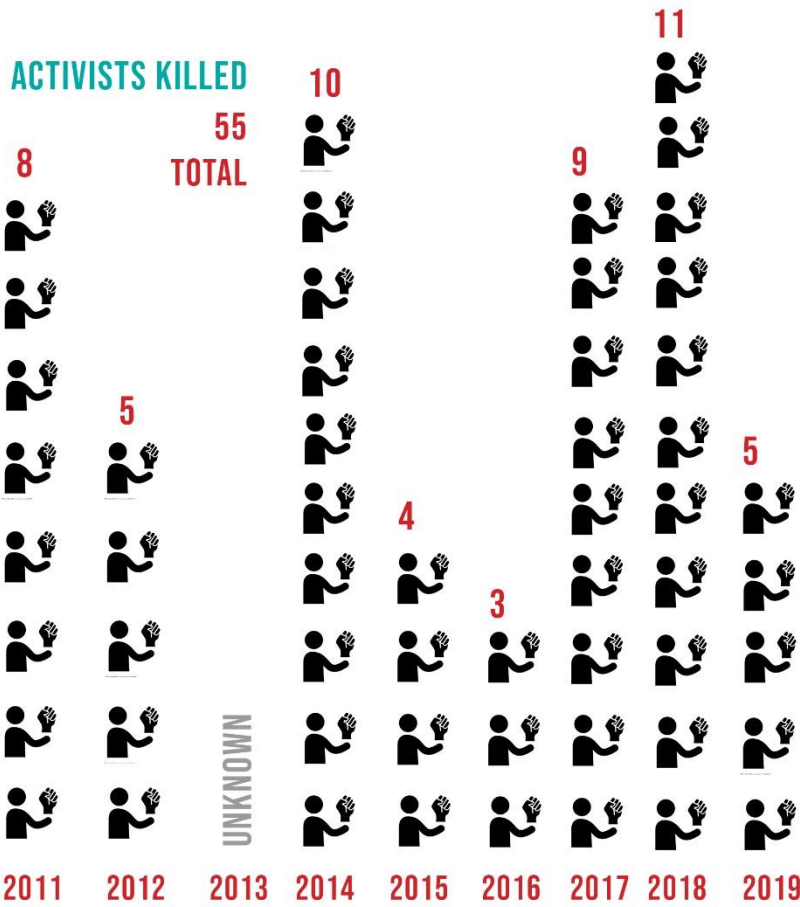
100

365

Schools and colleges functioned for barely 100 days between 2019 and 2020

SOURCE: <https://www.aljazeera.com/indepth/opinion/2017/08/erasing-kashmir-autonomous-status-170813093425950.html>

SOURCE: Jammu and Kashmir: The Impact of Lockdowns on Human Rights by The Forum for Human Rights in Jammu & Kashmir, August 2019-July 2020



NOTE - Figure for 2020 only from January to June 2020

SUICIDE // FRATICIDE

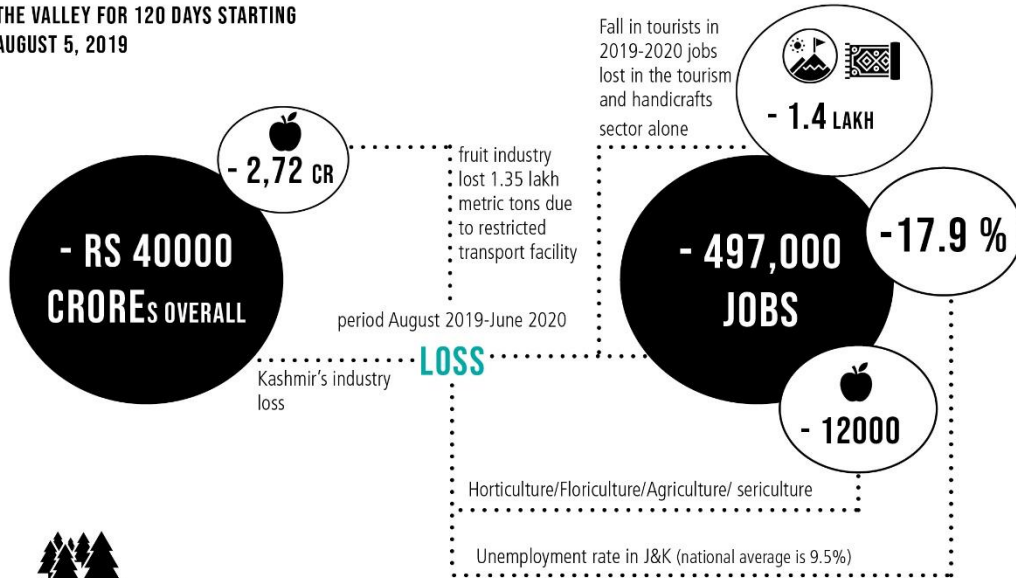


JKCCS Annual reports on Human Rights in Kashmir

ECONOMY

ESTIMATES FOR 10 DISTRICTS OF THE VALLEY FOR 120 DAYS STARTING AUGUST 5, 2019

SOURCE: <https://www.firstpost.com/long-reads/kashmir-forests-face-the-axe-for-est-advisory-committee-approves-diversion-of-727-hectares-in-33-days-7777801.html>



727 HA | 1871 TREES

diversion of designated forest land though FAC clearance.

LAND

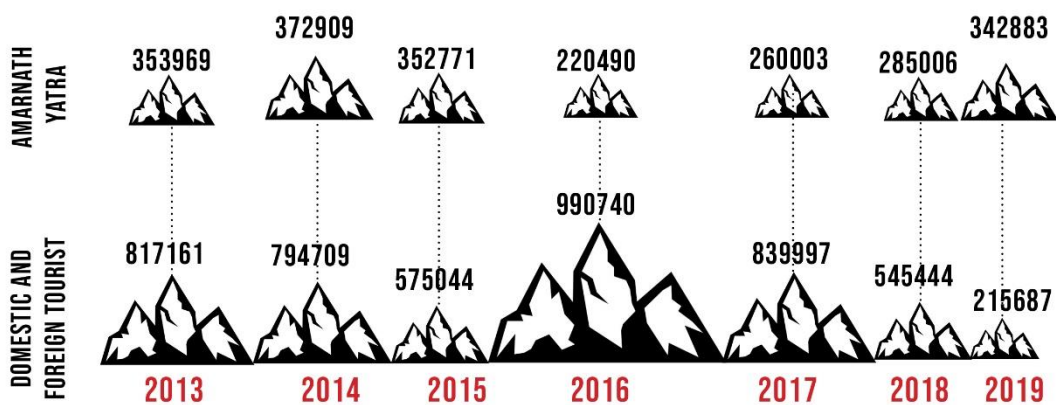
occupied by armed forces in Kashmir (including Ladakh)

SOURCE: APDP & JKCCS Annual Human Rights Review, 2018



40246 HA

TOURISM



SOURCE: Economic Survey, 2016, Directorate of Economics and Statistics, Government of Jammu & Kashmir

According to the Economic Survey, 2016, religious tourism does not contribute to the local economy in any significant way since religious tourists do not spend on luxury tours, spend very few days in the Valley, stay at budget accommodation, eat in the community kitchens and do not tend to purchase souvenirs. The fall in the number of domestic and foreign tourists, the income generating sector in tourism, has had a significant impact on the people

- Factsheets compiled by Swathi Seshadri

**IMPACT
AND
VIOLATION OF RIGHTS**

Lightness of Being in a Heavily Militarised Zone

before they lay barbed wire
across our tongues
let's sing of almond blossoms
before they hammer our heads to
harvest thoughts let's think
what we want to think
before they wall our sleep
let's whisper dreams
into cold cruel ears
before they blind us
with a burst of lead
let's mirror our darkness
let's engrave this story
with fingertips on palm
before they erase our words

- *Asiya Zahoor*

[From Serpents under my veil, Tethys, 2019]



Changing the Domicile Law in Jammu and Kashmir: BJP's Long-Term Plan to Colonise Kashmir

That the Modi Government will bring in a law altering the definition of resident or domicile in Jammu and Kashmir was a foregone conclusion. The RSS could not live with the fact that Jammu and Kashmir is a Muslim majority region and that its Muslim majority status was protected by law, that is, Article 370 and Article 35A. During his election campaign in 2019, Modi had promised to abrogate Article 370. After being re-elected he fulfilled that promise to his constituency. The fact that he waited nearly eight months to make this change, which is the first step towards changing the demography of Jammu and Kashmir, is surprising. Presumably, the country wide agitation caused by the enactment of CAA and the proposed NPR and NRC had made him pause. Now that the country is in a lockdown, thanks to the dreaded Corona Virus, and people are in quarantine and the police is out there to ensure no one can come out to protest -the government has brought in the new law.

As Prof. Siddiq Wahid, former Vice Chancellor of J&K Islamic University said, *"I think it illustrates clearly that some will not stop from politicking during coronavirus."* All political parties of Jammu and Kashmir have opposed the new domicile law. Civil society groups have condemned it. Retired Air Vice Marshal Kapil Kak, who has challenged the abrogation of Article 370 in the Supreme Court, told Al Jazeera *"(it is) a permanent resident by stealth". "It should worry the Kashmiris ... The effect of this notification would be felt in [the] Jammu [region] because there are not many people who have come into Kashmir in the last 15 years."*

Even the BJP spawned J&K Apni Party president Altaf Bukhari said, *"This order in its entirety is a casual attempt, cosmetic in nature, to hoodwink the people of J&K who genuinely believed that post October 31, 2019, their rights and privileges in the matter of employment and other rights would remain as it had been."* And speaking about double speak and lies, on March 15, 2020, when a group of Kashmiri political leaders met Prime Minister Narendra Modi and Home Minister Amit Shah in Delhi, on the issue of domicile and statehood, both of them had issued statements reiterating their commitment to protecting rights of J&K people.

According to the new law all those who have lived in J&K for 15 years, as well as those who studied there for at least seven years and appeared for Class X and XII exams from an educational institution in Jammu and Kashmir will be recognised as a domicile. The new law has expanded the definition to include *"children of those central government officials: all India services officers, officials of Public Sector Undertakings children of Central government employees, PSUs and autonomous body of central government, public sector banks, officials of statutory bodies, officials of central universities and recognised research institutes of central government who have served in Jammu and Kashmir for a total period of ten years or children of parents who fulfil any of the conditions..."*. Under this law, now the 'Tehsildar' has been given the power to issue domicile certificate. Earlier it was the Deputy Commissioner who was empowered.

The new Rules also provide an expedient and easy process for acquisition of domicile for non-Kashmiris. Applicants with proof of residence follow a straightforward process in which a district officer issues a domicile certificate within a strict 15 days limit. On the other hand, Kashmiri natives are burdened with a complicated domicile-attaining process. Under the new Rules, existing permanent resident certificates (PRC) of indigenous Kashmiris exists only as evidentiary proof of their residence, and must be submitted to their district officer to obtain a new domicile certificate. This circular requirement aimed at verifying domiciled people of the region unnecessarily burdens Kashmiris with a stringent process. A quarter of J&K's native population, consisting mainly of university graduates and women, are unemployed. With increasing competition from new domiciles, the fear of demographic flooding replacing Kashmiris with non-locals is a real concern.

However, Jammu and Kashmir is not the only state where special laws meant for preserving the identity are in force. Nagaland has Article 371A and outsiders need a special permit to enter the state. Similarly, the neighbouring state of Himachal Pradesh has a domicile law which prevents outsiders to purchase land there. Himachal Pradesh is ruled by the BJP and Nagaland's government is supported by BJP. Article 371 A, prevents non-Nagas from acquiring landed property in Nagaland. When it comes to implementing the one India slogan in letter and spirit, states like Nagaland and Himachal are glossed over.

Until now, state government jobs in Jammu and Kashmir were reserved for the permanent residents of the state as defined in section 6 of the J&K Constitution. The J&K Constitution has been repealed. Through the new law, the Centre has repealed the Jammu and Kashmir Civil Services Special Provisions Act. Initially only Class IV category of government jobs, such as junior assistants and peons, had been reserved for residents, or domiciles, of J&K with pay up to Rupees. 25,500 per month. All other category of government jobs, including judicial services were opened to people from all over the country.

The law was criticised by almost all J&K political parties and social organisations, including supporters of BJP in Jammu and the newly formed Kashmiri political party which was blessed by the BJP, prompting the government on April 3 to modify the order. Now all jobs under the J&K Administration are reserved only for those certified as domiciled in Jammu and Kashmir. The press conference addressed by the IGP of Kashmir, threatening to, "*arrest those instigating people against the new domicile law*" shows that despite the lockdown, people of J&K were giving expression to their anger and opposition to this sneaky midnight move of the Central government to take away the protection of 'State Subjects'. According to the IGP of J&K, posting messages opposing the new domicile law is misuse of social media and punishable under the orders of the government. Clearly, in Jammu and Kashmir, the people do not have any rights, and criticism of the government is illegal. Altaf Bukhari, the leader of J&K Apni Party changed his tune after the Central government modified the rules and extended reservation to all categories and classes of jobs.

The whole purpose of revoking Article 370 was to settle outsiders here and change the demography of the state. Now this law has been created to provide modalities to settle many categories of Indians in Jammu and Kashmir.

“It is an attempt to change the demographics, not only change but flood it. It will lead to demographic flooding.”, says Sidiq Wahid former VC Islamic University.

The abrogation of Article 370 and 35A in August 2019 and the changing of the domicile law is the other side of the strikes across the border after the Pulwama massacre. It is a direct assault on the people of Jammu and Kashmir, directed at what the BJP calls internal rectification required for “*full and complete integration of Jammu and Kashmir with the rest of India.*”

A Historical Background

Kashmir's oppression and colonial exploitation had started long before the dispute over its territory between India and Pakistan in 1947. After its annexation by the Mughals in 1589 AD, Kashmir has been ruled by non-Kashmiris. After the Mughals, the region was ruled by Afghans (1753-1819), Sikhs (1819-46), and the Dogras (1846-1947) until the Indian and Pakistani states took over.

The Mughals did nothing to lessen poverty of the people or fight famines. They built hundreds of gardens in Kashmir, converting it into a luxurious summer refuge for the rich. In fact, it was the Mughals who promoted tourism in Kashmir. After the Mughals came the Afghans, who not only sent Kashmiris to Afghanistan as slaves, but also imposed extortionate taxes on the region's famed shawl weavers, causing the shawl industry to shrink in size. Next came the Sikhs, who, according to William Moorcroft, treated Kashmiris "little better than cattle".

The Dogra rule was possibly the worst phase for the Muslims in the history of Kashmir. Kashmiri Muslims were banned from holding any land. The Dogra rulers took away about 50-75 percent of cultivated crops as taxes, leaving the working people with practically no control over the produce. The Dogra rulers also reintroduced the forced labour system under which the state could employ workers for little to no payment. Every imaginable profession was taxed and Kashmiri Muslims were also forced to pay a tax if they wished to get married. The Dogra rulers had introduced a tax for recovering the cost of tax collection.

The worst feature of the Dogra rule was its communal outlook. It discriminated against the Muslims on the basis of their religion and also interfered in their religious affairs. The Dogra State was actually a Hindu State and its rulers tried their best to broaden its Hindu nature. As a result, Kashmiri Pandits, the Hindu community of the valley, were associated

with it and the Muslims were marginalised. In the field of education, Kashmir lagged behind the whole subcontinent although modern education began in Kashmir in 1880, and it was the Kashmiri Pandits who took advantage of it. Muslims were denied education facilities provided to the Pandits. As Muslims were mostly uneducated, they were not employed in the state's public service.

With the turn of the century the Muslims became conscious of their disadvantages as a community. They sent petitions and requested the government to establish schools in their areas, but were turned down. Muslims outside the state also highlighted the grievances of Kashmiri Muslims and supported them through their organisations and the media. Under pressure of growing public opinion, Maharaja Pratap Singh, in 1916 invited Sir Henry Sharp, the Educational Commissioner, Government of India to examine the educational system in Kashmir and advise for future policy. Sharp recommended the expansion of primary schools, and scholarships for the Muslims. Though Pratap Singh accepted these recommendations, his Hindu officials ignored them as they did not want Muslims to be appointed in State services, which they considered their monopoly.

In 1920, the silk factory workers struck work to call for a pay rise. Four years later, they launched an even bigger agitation due to poor working conditions. The Reading Room Party from Srinagar agitated for improved education facilities and more administrative work opportunities for Muslims. In July 1931 Kashmir's Muslims launched their first massive protest against the unfair Hindu administration of Dogra regime. On 13 July 1931, several Kashmiri Muslims protesting the arrest of Abdul Qayyum, had taken out a procession demanding his release. To counter the spreading rebellion of Kashmiri masses, Maharaja Hari Singh passed an Ordinance which empowered troops to enforce brutal laws. Through this draconian Ordinance the city was handed over to the military and civil administration was suspended. The Rajput soldiers of Maharaja took full benefit of the Ordinance Raj over the days. The Ordinance gave troops a free hand. Soldiers entered homes, looted and raped women. Several cases of rape were reported to Middleton, Enquiry Officer of Riots Enquiry Commission. Shopkeepers were asked to open their shops, and when they did, they were arrested. In their absence the shops were plundered. People were forced to salute the military officers in the streets of the town.

J&K State Subject Law

The State Subject Law was enacted by Maharaja Hari Singh to deal with Kashmiri people's struggle for equality and democratic rights as state subjects. The State Subject movement had a distinctive feature of its own as it amalgamated both the regions on this issue, i.e. Jammu under Dogra Sadr Sabha and Kashmir under Pandits. At the annual conference of Dogra Sadr Sabha held at Srinagar on October 1926 Pandit Jia Lal Kilam moved a resolution, demanding that only those persons whose ancestors had been residing in the state since the time of Maharaja Gulab Singh should be considered as hereditary State Subjects and preferential treatment be given in the state-services to such persons. Finally, the issue came up again towards the beginning of Maharaja Hari Singh's regime.

The Maharaja appointed a commission under the chairmanship of Major General Janak Singh, the then revenue minister, to define the term. The commission comprised officials and non-officials, including natives and outsiders.

The constitution of the *State-Subject Definition Committee* was broad based and representation was given to all sections of the population of the state including Kashmiris, Dogra and Punjabis. The definition of state subject law was framed in 1927 under the rule of Maharaja Hari Singh. It was the Kashmiri Pandits who played an important role in getting the legislation framed as the issue was largely irrelevant to Kashmiri Muslims, who were shut out of the employment pool almost entirely due to their comparative socio-economic disadvantage and the communal nature of Dogra rule.

On October 5, 1931, during the celebration of his birthday, Hari Singh asserted “*I believe I am voicing the general feeling when I say that we are deeply grateful to the troops for their devotion to duty and the self-restraint they have shown in maintaining the public peace and authority of law during last three months.*” (The same praise is often heaped on Indian security forces, by India’s mainstream political parties, despite their horrible human rights record.) The protests gained momentum after the killings and Maharajah Hari Singh was forced to institute the Glancy Commission to inquire into Muslim grievances.

The Glancy Commission found that in 1930 in the state’s bureaucracy, Hindus and Sikhs held 78 per cent of gazetted appointments compared to Muslims who held only 22 percent of the jobs. The Glancy Commission submitted its report to the Maharaja on March 22, 1932. The Hindus felt that its recommendations were not in the interest of their community. They started a movement against the recommendations of the Glancy Commission called “Bread Movement” asking the Maharaja not to employ Muslims in large numbers in the government. The divide between the Kashmiri Pandits and Kashmiri Muslims can be traced back to this movement of Kashmir Pandits, when instead of supporting their Muslim brethren, they opposed them. This was the time, when Kashmir witnessed its first communal violence and communal killing

In 1930, Kashmiri Muslims had only 22 percent of gazetted jobs. Let us look at the community wise distribution of jobs in Jammu and Kashmir in the 1990s, sixty years after Glancy Commission’s recommendations. As on July 1, 1987, in J&K, nearly 57 percent of Gazetted jobs were held by Hindus and Sikhs, while the Kashmir Muslims held 41.71 percent of these positions. About one third of all persons employed in state owned corporations, undertakings, autonomous bodies and banks in J&K were Hindus. When we look at the community wise breakdown of employment in Central government establishments in Jammu and Kashmir in 1989, we see that Hindu employees constituted about 83 percent of the “Officers” while only about 6 percent of them were Muslim. Considering that Hindus and Sikhs together constituted about 36.5 percent and Muslims comprised of 64.15 percent of the population of J&K (1990/91), it clearly shows that the Kashmiri Muslim never enjoyed a monopoly over jobs in the government of J&K, even under the rule of the Abdullahs. (*India’s Kashmir War, Tapan Bose, Dinesh Mohan, Gautam Navlakha, Sumanta Bannerjee; Economic & Political Weekly, March 31, 1990*)

New Domicile Law - Rationale

A document, which according to a government official, provided the rationale for the removal of special status of Jammu and Kashmir was published by the Hindu on August 5, 2019. The document clearly spells out BJP's reasons and objective for removal of Article 370 and 35A. It says, "*There exists an unnecessary chasm between citizens of Kashmir and the rest of India.*" The document also claims that, "*...(In) Kashmir the positive discrimination has tended to be insidious. ...If Indians (non-Kashmiris) cannot invest in land or property, how can manufacturing firms or multinational corporations?*"

This and many more such instances were held responsible for unemployment, which makes the advent of radicalization more likely. Hence, Article 370, the pernicious basis of Article 35A must go.

Changing Kashmir's Demography

Under the new law, every year tens of thousands of non-domicile residents will be given domicile status. Though the Union Home Ministry is yet to come out with a new land policy, it has already started advertising lucrative land prices for acquiring land for its so-called new township projects. Land in overcrowded Kashmir is scarce and many original owners, facing severe financial crisis due to continuous lockdown, may be tempted to sell out. The new rules making it easier for anyone to acquire domicile status and in the absence of a policy to protect the land from slipping into the hands of outsiders, the BJP has initiated a programme for demographic change. Cancelling Article 370 is part of a fulfilment of that promise of reinvigorating Hindu India, in a way that may be both supremacist and democratic, much like Jewish settlements in the West Bank. More importantly, it also paves the way for a full settler colonial project in Kashmir with the next stage likely to involve Hindu-only enclaves, much like Jewish settlements in the West Bank.

When we look at the categories of people who are entitled to get domicile status under the new law, it becomes clear from who is covered and to whom it applies to... Once hundreds of thousand people are domiciled, they will be able to acquire land, get state government jobs and reduce the Muslim majority character of Jammu and Kashmir for all time.

New Delhi appointed bureaucratic government in the "Union Territory of Jammu and Kashmir" has started granting Kashmiri domicile certificates to Indian citizens. On June 26, 2020, Tehsildar of Jammu's Bahu revenue division, Rohit Sharma, issued domicile certificate to Navin Kumar Choudhary, a senior Jammu and Kashmir cadre IAS officer from Bihar. According to the Home Ministry, since June 22 when the online facility opened to end July, 3.7 lac domicile certificates have been issued, of which 78 percent are in Jammu. As the agenda unfolds it becomes clear that along with the intended demographic change, the target is also the jobs, natural resources, cultural identity and everything that the people of Kashmir had tried to save. *The replacement of the Kashmiri people has begun.*

- Tapan Bose with Anuradha Bhasin

Domicile, the new Resident?

"A permanent resident has now been replaced with 'domicile' with retrospective effect. It is legally questionable if such a power exists in the parent Act itself. New classes of people have been made eligible for domicile status including migrants, central government employees, Indian armed forces personnel and their children who meet the eligibility criteria." These words of Mirza Saaid, a Kashmiri lawyer exposes the reality of the changes in the domicile law.

Within a month of changing decade old Domicile Law, the Indian government brings yet another notice on 18th May stipulating the time frame to issue the domicile certificate. Earlier on 1st April, government of India issued a notification on 1st April, changing the decades-old domicile law of Jammu and Kashmir. It entitles anyone who has stayed in the region for 15 years to domicile status—10 for central government officials and their children and 7 for high school students. The government has given a timeline of 15 days for issuance of the certificate after which the applicant shall be free to approach an Appellate Authority, whose decision will be binding upon the issuing authority. The Government order also states that "Permanent Residents of the erstwhile State of J&K in whose favour Permanent Resident Certificate (PRC) has been issued by the competent authority before 31.10.2019 shall be eligible for receiving their Domicile Certificates on the basis of PRCs alone and no other additional document shall be required for such residents."

"For non-Kashmiris, it has been made easy to get domicile certificate. They just need a mere ration card or a document of proof of residence and they can even apply for and receive the certificate electronically," says Muhammad Tahir.

With every month, every day and with each passing second, India issues authoritarian provisions, in an attempt to provide bureaucratic sanction to its occupation of Kashmir. What kind of law and order and order and law is being played? Now, Kashmiris who have tilled their soil, built their lives, lived through the trauma inflicted by the Indian state are to prove whether they existed at all. This latest Kafkaesque order is to be read as guidelines on how Indian settlers can obtain domicile in Kashmir and change the demographics of the region.

[Excerpt from Counting Days (@countingdaysk) archives, Day 293]



Illustration Courtesy: Rollie Mukherjee

Can you hear them?

Kashmiri women speak of myriad things: of spectacles and street protests; women's companionships and female alliances; women's movements and imaginaries of resistance; the links between militarisation, militarism, and the creation of impunity by the law; competing patriarchies and sexual violence as they seek to break Kashmiri communities; the infrastructures of control that limit their mobilities, bodies, and experiences; public grief at funerals as a challenge to Indian sovereignty over Kashmir; and autobiographies, oral histories, and the textures of political memories. In the powerful idiom of postcolonial criticality, the question we should ask is not "Can the Kashmiri women speak?" but rather "Can you hear them?"

[Excerpt from Counting Days (@countingdays) archives, Day 217]

‘Gender Disparity’ in Kashmir: Facts and Fiction

The Government of India quoted ‘gender disparity’ as one of the reasons for reading down Article 370 and for reorganizing Jammu & Kashmir. The contention that women were deprived of equal rights due to the special status of J&K is misplaced; there is no connection between gender parity and the bifurcation or demotion of the state into two union territories! The contention appears to have been made on the premise that women in Kashmir lost their permanent resident status and their right to inheritance if they married non-permanent residents.

The J&K Constitution, which was adopted on November 17, 1956, defined a Permanent Resident (PR) as a person who was a state subject on May 14, 1954, or who has been a resident of the state for 10 years and has ‘lawfully acquired immovable property in the state’. The definition of PR could be altered only through a law passed by two-thirds majority in the J&K legislature. The PR law replicated a state subject law promulgated by the Dogra king, Maharaja Hari Singh in 1927 following a strong campaign by Kashmiri Pandits who were opposed to the hiring of civil servants from Punjab as it affected their representation in the Dogra administration.

The original law laid down four different classes of state subjects. By late 1930s, the rest of the law was retained but the class barriers were removed. The only mention of women in the original state subject law and its amended form was: ‘The wife or a widow of a state subject of any class shall acquire the status of her husband as state subject of the same Class as her husband, so long as she resides in the State and does not leave the State for permanent residence outside the State’. Nowhere did the Dogra Maharaja’s promulgation specify the status of women *marrying* someone from outside the state. All the clauses of the Tate Subject law only mention ‘person’, ‘persons’ and ‘descendants’, which includes all genders.

It was in 1967 that the ambiguity on the question of legal rights of women came up when the then Revenue Minister in J&K’s cabinet, Trilochan Dutt, issued an order to affix the stamp ‘valid till marriage’ on the State Subject certificates of women. A decade later, several women challenged this in J&K High Court and similar petitions were clubbed together with the main petition, State of Jammu & Kashmir versus Susheela Sawhney. On October 7, 2002, a three-judge bench of the court sat to decide on ‘whether the daughter of a Permanent Resident of the state of Jammu & Kashmir marrying a Non-Permanent Resident loses her status as a Permanent Resident of the State of Jammu & Kashmir, to hold, inherit and acquire immovable property in the state.’ The Court, by a majority decision, held that a woman would not lose her status of PR if she married outside the state. Justice Muzaffar Jan in a dissenting opinion observed that a female Permanent Resident of the state on her marriage to the N-PR would lose her status as a PR of the state. However, he concurred with the majority opinion that a female N-PR on her marriage to a PR of the state would have the right to inherit the property in accordance

with the personal law of the deceased, including regarding employment, education and other rights.

In 2004, the J&K Government contested this decision by trying to bring in a legislation disqualifying women marrying outside the State from PR rights. Called the PR Women (Disqualification) Bill, it was hurriedly and unanimously passed in the Assembly but later collapsed in the Upper House following stiff resistance from women's groups. The Bill was shelved. Subsequently, a House Committee was formed to draft rules on the matter to ensure that the fundamental rights of the women are not violated. In the same year, BJP leader Hari Om filed a writ petition in the High Court, pleading that despite the 2002 Court directive, the government continued to affix the 'valid till marriage' endorsement on the State Subject certificates issued to unmarried daughters of state subjects and requested contempt proceedings against the concerned authorities. The Court directed the concerned government officials not to make any endorsement of 'valid till marriage' on the State Subject certificates issued to unmarried daughters of state subjects. It took another year for the government to comply with the Court directives. The obnoxious stamp 'valid till marriage' on the State Subject certificates of women has since been done away with. Women marrying outside the State unquestionably enjoy equal rights of citizenship.

The component of gender parity in inheritance laws in Jammu and Kashmir actually predates even the Indian inheritance laws. For example, it was in 1920 that the J&K Succession (Property Protection) Act was enacted, giving equal rights to women in ancestral property; whereas for the rest of the country it was 35 years later that the Hindu Succession Act, 1956 on inheritance rights and succession was enacted. Again, it was as recent as 2018 that the Supreme Court of India granted Indian women equal share in ancestral property.

Though the Child Marriage Restraint Act, 1929 was not applicable to J&K, fewer women in J&K were married as children when compared to other states in the country. In 2015-16, according to the National Family Health Survey IV, in J&K only 8.7 percent women between the ages of 20 and 24 years were married before the legal age of 18 years, compared to the national average of 26.8 percent. In Bihar, this figure was as high as 42.5 percent and in Gujarat 24.9 percent (<https://www.factchecker.in/pm-modis-speech-on-jk-4-claims-true-4-false-3-partly-true/>).

If we look at education, women in J&K enjoyed 50 percent reservation in professional colleges. Since the 1950s, education has been free in schools, colleges and in government institutions. While this encouraged women's education, the literacy gap particularly in rural areas however remains skewed, partially because of an ongoing military conflict.

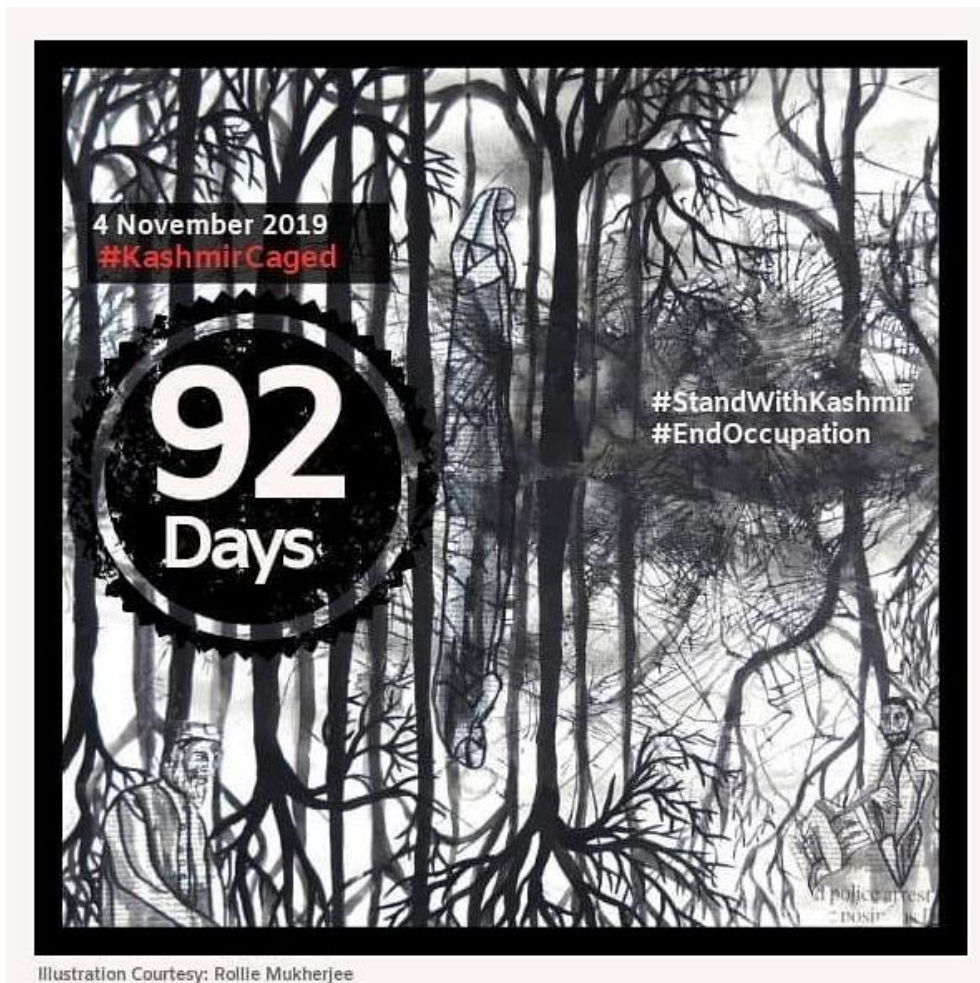
- *Anuradha Bhasin*



The Civilisational Lie

A friend was recently narrating their childhood experience from when they were in school in the early 1990s. They were sitting in a geography class and were puzzled by the map of the erstwhile state of Jammu and Kashmir which was being shown in class. They knew from their family that the top left portion was not a part of India and was in fact on the other side of the Line of Control, an area administered by Pakistan and known as Azad Kashmir. They raised their hand and asked the teacher about why an incorrect map of the region was being taught to the students. The answer they got was, "Sometimes it is better to not ask certain questions". Cut to today, and the Jammu and Kashmir Board of Secondary Education has already introduced a module on the J&K Reorganisation Act and aims to tell the students of the valley on how the state was converted into two Union Territories.

[Excerpt from Counting Days (@countingdaysk) archives, Day 219]



"Lakeerein bahut ajeeb hoti hai... Khaal pe kheench jaaye to khoon nikaal deti hai, Aur zameen pe kheench jaaye to Sarhadein bana deti hai.

(Lines are very strange... when they are drawn on skin, they draw blood... and when drawn on land they make borders.)"

- Mashal Khan, the student who was lynched in Peshawar, Pakistan on blasphemy charges (13 April, 2017)

"On the third of November, 2019 the Indian government released the new map of Jammu and Kashmir and added another painful chapter to this treacherous history. No longer can we say the state of Jammu and Kashmir, as it no longer exists. What have come into existence are the Union Territories of Jammu and Kashmir, and the Union Territory of Ladakh. Once again lines have been drawn across a landscape by people who are good at drawing lines, but utterly inept at understanding the violence that these lines unleash."

[Excerpt from Counting Days (@countingdaysk) archives, Day 92]

Voices from Jammu and Ladakh: From Celebration to Silence

The unease and anxieties in the days preceding August 5, 2019 in Kashmir spread to some extent to the hill districts of Jammu region: Rajouri, Poonch, Reasi, Doda and Kishtwar, and in the Ladakh region to Kargil district. Speculations based on reports, rumours and official statements were of some drastic action in Kashmir or on the border. On the morning of August 5, before the announcement of the reorganizing the state into two union territories and abrogation of Articles 370, 35A – Jammu and Ladakh were unpleasantly surprised to find themselves in a lockdown as well.

Ladakh was vertically split but protests both in Muslim dominated Kargil and Buddhist dominated Leh remained subdued. In Jammu, the silence of the Muslim dominated hill districts, behind the iron curtain of communication blockade, was jarring. In the Hindu dominated areas a muted and mixed reaction found expression on the social media.

“The BJP will not let the Jammu people down. We have finally got rid of Kashmiri Muslim domination. Kashmiri rulers always discriminated against Jammu and now it is our rule. When delimitation happens, we will get more seats and Jammu’s youth will also now get jobs. I’m sure demand of preserving the domicile rights of Jammu will be heard.”

- *(Shop-owner of furniture shop at Residency Road in Jammu, January 2020)*

A week after the abrogation, the Jammu unit of BJP demanded that the domicile rights of the people with respect to jobs and land should be preserved. A delegation went to Delhi to take up the matter with the central government. It is not known what transpired in the Delhi meeting but the demand was subsequently dropped.

Initially the overwhelming discourse on WhatsApp, facebook and twitter as well as on the streets was celebratory but silence gradually replaced the triumph. There were if any feeble whimpers of protest. The entire mainstream political leadership of J&K, barring the BJP had already been put under house-arrest for two months on the night before August 5. Subsequently, political activists who demanded protection of domicile rights or internet connectivity were detained or heckled. Congress spokesperson Ravinder Sharma was whisked away from the Congress office before he could address a press conference.

“The message, even in Jammu is clear. Speak up and face consequences. Who will then dare to open ones’ mouth?”, says a student of Jammu University.

Unlike Kashmir, Jammu had not witnessed incessant curbs on freedom of speech. August 5, 2019, heralded a new period. People in Jammu now are most unwilling to speak against

abrogation or against the tinkering of laws that affect their rights. Those who spoke did so on conditions of anonymity.

Unlike the Kashmir Chamber of Commerce which has compiled data on the losses incurred during the lockdown, its Jammu, their counterpart failed to officially declare any statistical assessment. Mid-September, it gave a call for strike against the increase in taxation of motor vehicles and the creation of new toll plaza. Within hours it retracted its call, stating that the administration had assured them that their demands would be looked into. The government went ahead with increase in registration of vehicle tax. Three toll plazas at Lakhanpur and Sarore have come up in Jammu in the last one year.

“Lockdown virtually eclipsed the Kashmiri apple trade. Our business is down to 15-20 percent of what it was. In the previous lockdown things were not so bad. Even in 2016, though we suffered losses when the apple season began amidst the agitation but later from November onwards it picked up as the situation eased.... No efforts were made by the government to bail out the traders. The Covid-19 lockdown added to our woes. 1 lakh tonnes of fresh fruit are rotting in cold storage in Kashmir. No attempt was made to enable its transportation and trade.”

- (*Jammu fruit trader (insisted on anonymity)*)

After the domicile law was framed and the bar on non-permanent residents with respect to ownership of land was removed, there is a growing feeling in Jammu that the demographic flooding would impact Jammu more because of its geographical and cultural proximity and because of the absence of conflict.

Among the youth, there are anxieties with respect to jobs and admissions in higher educational institutions.

“The domicile law was prima facie supposed to protect us. It has instead trampled our rights. Look at the stalled process of JK Bank recruitments two years after it was started. They have now resumed the process after bringing in the domicile law and according to the new recruitment process, the previous applicants will be considered with a different age limit in the name of ‘justice’. But not only will such a process side-line J&K’s permanent resident, it has created two classes of applicants. Is that justice?”

- (*Youth Activist Kanwal Singh*)

Much deeper anxieties exist in Ladakh where the youth were completely excluded from the fresh JK Bank recruitment protests, triggering protests across the region in July 2020.

“We had hoped that our condition would be better under a union territory and but we seem to have lost even what we had. There are no signs of protecting our identity by giving us tribal status. Ladakhis children will also lose ST quota seats in J&K colleges and Universities they earlier used to get.”

- *(Angmo, a research scholar)*

“Investments by big business houses will also hamper our ecology. It is a question of our very survival. The Ladakhis are also very worried at the Chinese advances. Our land is shrinking and we feel let down.”

- *(Tashi Spalzbar, an NGO activist)*

Low-key protests began in Kargil soon after August 5, 2019. Sajjad Kargili, a journalist, said that people in Kargil are worried that their district will be neglected and marginalized under the Buddhist domination.

Recently, the Kargil unit of National Conference demanded that Kargil be merged with Kashmir and J&K be granted statehood.

- *Anuradha Bhasin*

For Hiba

She cries in pain,
Mother, hold me tight,
I feel cold.
Mother tells her,
It is not cold,
It is the icicles making you chill.
She laments,
Mother, hold me tight.
It is darker than the night around,
Mother tells her,
It is not the night that is dark.
It is the burnt coal surrounding the village.
She whispers,
Mother, hold me tight
I feel thirsty in tidal waves,
Mother tells her,
It is not the jhelum that is aroar,
It is the gush of the verinag that is sore
She screams,
Mother, hold me tight,
I can't breathe,
Mother tells her,
It is not the air that has become dusty,
It is the boots of a man throttling your throat.
She sighs,
Mother, hold me tight,
I can't move,
Mother tells her,
It is not the thunder stopping you,
It is the trigger killing you.
Mother, hold me tight,
I can't see you,
Mother tells her,
Stay calm my child until I pick pellets from your eyes.
Mother sobs and screams.
Hiba holds mother tight and sings a lullaby.

- *Nayeema Ahmad Mahjoor*

[Excerpt from Counting Days archives, Day 119]

Children in Kashmir in Perpetual Lockdown

Since the lockdown of August 2019, children in Kashmir are undergoing an unbelievable state of anxiety and uncertainty.

Children, especially those from poor and marginalised communities, are living with hunger, insecurity, violence and abuse, in many cases being pushed into child labour, child marriage and uncertainty of education. The political situation of suspicion and hostility prompted since August 2019 and exacerbated by the COVID lockdown has pushed children to a very vulnerable position. Their families carry memories of many generations who have lost their lives, been maimed, incarcerated or disappeared. They live in a state of nervous disquiet. There have been times of intermittent peace and stability enabling them to recover from this painful past, yet even before they are healed the cycle of violence and anxiety gets repeated again. The story of victimhood of children in Kashmir has been unending. All children in Kashmir want a normal day where they can go to school feel secure, play with friends, discover their innate strengths, nurture connections with their own people and community and dream of a future that is fearless.

Detention of Children

Children in many parts of India rarely encounter police or security forces. They are part of a mythical reality to be feared and even respected. This has not been the case in Kashmir for many decades. The security forces (a term used to denote all military, para-military, special operation groups and police) are seen as harbingers of loss, anxiety and terror for families, especially children. The experiences of interactions with security forces are often detrimental, reinforced with fear and trauma, especially during escalation of state violence. In fact, the deployment of armed forces in almost every street, moving convoys, armoured vehicles, humiliating stops at check posts for public vehicles and the daily news of gun battles with people losing lives has been a constant reminder of unceasing violence, uncertainty and fear and trauma for the children of the valley.

As a result, the impact of violence is deeply embedded in the psyche of children. Not many of them are able to find expression to this frustration and anger in creative ways, like art or are able to talk to peers (who themselves are victims in most cases). Some of them suffer in silence and experience mental health issues including depressive and anxiety related issues. Some join protesting crowds of stone pelters inviting an attack on their bodies by security forces. Many others have been taken into police custody, illegally detained, and subjected to untold physical and emotional violence.

“There is no shock or outrage among authorities that children are being detained”.

On December 9, 2019, while hearing a petition relating to the alleged illegal detention of children in Kashmir, the Supreme Court of India in its oral remarks said that *“petitioners should not be overly alarmed if children are detained for a few hours or for just a day, because in certain situations it is for their own good (emphasis added).”* However, in law, illegal detentions still remain illegal, whatever the quantum of time. There is reliable research to show that young children subjected to any form of detention suffer from tremendous trauma. The lifelong scars it leaves are all too well known.

On January 24, while speaking to media and foreign delegates at the Raisina Dialogue, the first Chief of Defence Staff of India – General Bipin Rawat, said

“Like what we are seeing in Kashmir... Today we are seeing radicalisation being undertaken even among the young people. Girls and boys as young as 12 are now being radicalised. These people can still be isolated from radicalisation in a gradual way. But there are people who have completely been radicalised. These people need to be taken out separately, possibly taken into some de-radicalisation camps. We have de-radicalisation camps going on in our country”.

This idea was supported by J&K Director General of Police, Dilbagh Singh. However, in February the Minister of State for Home, G. Kishan Reddy told Parliament that there was no proposal under consideration to set up de-radicalisation camps in J&K. While the precise status of these de-radicalisation camps is not clear, the statements of General Rawat and DGP Dilbagh Singh provide a disturbing reflection of how children are perceived by the highest authorities responsible for law and maintenance of order in J&K. It provides a snapshot of the attitude of security forces in J&K towards children.

There have been numerous cases reported in the media of children detained in police lockups, tortured and harassed. *The Washington Post* reported on August 29, 2019 that a 13-year-old child was picked up by the police and held in lockup. *The New York Times* reported on September 4, 2019 that a 16-year-old Kashmiri boy died after he was hit by security forces in the face with buckshot. *The Print* has documented five cases of youngsters including a fourteen years old child who suffered from serious pellet injuries at one of the protests in Srinagar in August 2019. The Jammu Kashmir Coalition of Civil Society (JKCCS) in their Annual Human Rights Review – 2019, stated that children have continued to be the victims of state violence in J&K during 2019 as 8 children were killed in various incidents of violence.

Matters became worse after the abrogation of Article 370 on August 5 2019, with reports of illegal detention of children. Despite previously denying, the government finally admitted to having detained 144 children (August 5 and September 23). The youngest was 9 years old.⁵⁹ On the basis of media reports a writ petition⁶⁰ was filed in the Supreme Court

⁵⁹ Livelaw News Network 14, ‘Illegal Detention of Children in Kashmir: Two Child Right Experts Move SC, Seek Urgent Intervention of Court’ [Read Petition] Link: <https://www.livelaw.in/top-stories/illegal-detention-of-children-kashmir--148066?infinitemscroll=1https://www.livelaw.in/top-stories/illegal-detention-of-children-kashmir--148066?infinitemscroll=1https://www.indiatoday.in/india/story/children-among-minors-detained-kashmir-article-370-abrogation-reports-1605322-2019-10-01>

⁶⁰ Supreme Court of India, Writ Petition (C) No.1166/2019. <https://indiankanoon.org/doc/193384604/>

drawing attention to illegal detention of children and seeking appropriate relief. Thereafter, on September 20, 2019, the Court directed the Juvenile Justice Committee of the J&K High Court to file a report. According to the report prepared by the Additional Director General of Police (Coord.), PHQ, J&K Srinagar and submitted to the Juvenile Justice Committee comprising of four honourable judges of the J&K High Court, 75 children were arrested under J&K Public Safety Act (SHO, Battamaloo PS arrested six juveniles, SHO, Karan Nagar PS arrested seven, SHO Shaheed Gunj PS arrested five, SHO Sadder PS arrested twenty one, SHO Rajbagh PS arrested ten, SHO Soura PS arrested seven, SHO Lal Bazaar arrested five, SHO Nigen PS arrested three, SHO Zakura, SHO Nishat and SHO Harwan PS arrested one each and SHO Parimpora PS arrested fourteen juveniles). This is in clear violation of the Juvenile Justice Act.⁶¹

Nine juveniles were arrested under Section 107, Chapter VIII of the Criminal Procedure Code. Some were kept in observation homes which is also in violation of The Jammu and Kashmir Juvenile Justice (Care and Protection of Children) Act, 2013 and the Juvenile Justice (Care and Protection) of Children Act 2015.

Sadly, the Juvenile Justice Committee endorsed the Report of the ADGP, and presented the same to the Supreme Court, concluding that ***“no child had been kept or taken into illegal detention by police authorities.”*** The plea relating to deaths of minors was denied in the ADGP’s report, (even though funeral pictures were on record). Injuries from pellet guns were also not considered by the Supreme Court.

In its final Order of December 13 2019, the Supreme Court directed that children who had been detained should be provided with mental health support, *“So far as the issue of mental health is concerned, we direct the Government of Jammu and Kashmir to take the services of experts from IMHANS and Child and Adolescent Mental Health Centre, Sher-e-Kashmir Hospital to provide necessary help to the affected children, on the recommendation of the Medical Officer”*. It is important to verify how this order has been acted upon – how many children have received mental health support till date and what has been the follow up.⁶²

Meanwhile, and contrary to the apparent findings of the Juvenile Justice Committee in its sealed report, the UN Secretary General, Antonio Guterres on June 16, 2020 reiterated that the UN had verified allegations of detentions of children in Kashmir. Report of the Secretary General to the Human Rights Council on *“Children and Armed Conflict”* states:

“The United Nations verified the killing (8) and maiming (7) of 15 children (13 boys, 2 girls), between the ages of 1 and 17, by or during joint operations of the Central Reserve Police Force, the Indian Army (Rashtriya Rifles) and the Special Operations Group of the Jammu and Kashmir Police (10), Lashkar-e-Taiba (1), unidentified armed elements (1), or during shelling across the line of control (3).

<https://www.livelaw.in/top-stories/kashmir-sc-to-consider-plea-against-alleged-illegal-detention-of-juveniles-on-december-13-150617?infinite-scroll=1>

⁶¹ Anjana Prakash. ‘Jammu and Kashmir Police Has Violated the JJ Act in Detaining Children’, <https://thewire.in/rights/jammu-and-kashmir-police-has-violated-the-ji-act-in-detaining-children>

⁶² <https://indiankanoon.org/doc/193384604/>

The casualties that occurred in Jammu and Kashmir were mainly caused by torture in detention, shootings, including from pellet guns, and cross-border shelling.

The United Nations verified attacks on nine schools in Jammu and Kashmir by unidentified elements. Of concern, 68 children between the ages of 9 and 17 have been detained by Indian security services in Jammu and Kashmir on national security – related charges, including 1 for actual or alleged association with armed groups.

UN Secretary General expressed concern over the detention of children including their arrest during night raids, internment at army camps, torture in detention and detention without charge or due process. He stated that **68 children in the region have been detained by Indian security forces on national security charges.**” (emphasis added)

Children’s Education and Internet Shutdown

An indication of normalisation of daily routines, especially in the lives of children is the sheer routine of packing a school bag and going to school. Even after the government announced that they would lift curfew and reopen schools in the beginning of March 2020 (after a gap of seven months), no parent in Kashmir felt safe to send their children to school. Undoubtedly, the lack of internet services compounded the fears of parents, heightening anxiety about the safety of children should they venture to go to schools. By the third week of March, schools were closed once again due to the COVID-19 lockdown. The government announced online classes as an acceptable remedy to reach out to children. Online classes were offered by most private schools, but this mode of education alienated a majority of Kashmiri children. Not everyone could avail of this facility and the connection continues to be invariably poor.

Given how important the internet is to young people today, and their dependence on it, the lack of access to internet, or having only limited access affects them. Their anxiety grew when online classes through ZOOM were not smooth due to low speed internet. This has left them deeply frustrated.

“The grainy video, the frequent drop calls, the background noises, the poor sound quality, and the unreadable words on the board get on your nerves, and make the entire learning process a pestering experience.”

- (*Sameena, IX Class, Srinagar’s Nowgam*)

“We’ve now stopped even complaining about it (poor network) ... somewhere down the line, the current regime wants Kashmiris to beg for everything — even

for a basic thing like internet. It's clear that they want to send out a message that beggars can't be choosers."⁶³

- (Sadaf Mirza, XII Class)

Parents too are under stress having to provide the necessary technological gadgets to their children for online lessons. Many parents have also been anxious since they have not been able to contact their children studying outside Kashmir.

It is reported that in Srinagar, the administration set up centres with internet access to help students register for exams. It claims 1,00,000 students have used this facility. But for most Kashmiris, the nearest place where broadband internet is readily accessible is the town of Banihal in the Jammu region bordering the Kashmir Valley. They have been making the journey since train service resumed on November 11, 2019.

"It was Yakoob's second trip in as many days. The day before, the Internet wasn't working even in Banihal. She had attempted to access the Internet at the district headquarters near her home — where four computers are available for a population of 1 million people — but the lines were too long. Yaqoob and her mother waited for three hours outside an Internet cafe before their turn came. The teenager was submitting a form for a competitive exam for which she had been studying for two years, and the deadline was fast approaching. When she finally submitted the form, she burst into tears of relief."⁶⁴

Shakeel Shuja, a Srinagar – based teacher who gives three online lectures daily from his home, said. *"The entire process driven by slow-internet reduces us teachers to talking heads. We can't even read the proper facial expressions and body language of our students on mobile screens. This is pathetic. We are running these online classes for the heck of it, as 2G internet defeats the very purpose of the learning process."*⁶⁵

Mental Health Impacts on Children

IMHANS-K has already seen around 200 mental trauma cases among children in the past 12 months, which were marred by frequent crackdowns by security forces, encounters and funerals in J&K.

Of the 200 cases, according to the IMHANS-K data, 65-70% of the affected children were from South Kashmir and around 80% belonged to pre-adolescence and early adolescence age groups.

⁶³ Sajad Bhat, Jyotsna Bharti, 'Poor and Pestered: 2G-Online Classes 'Killing Curiosity' in Kashmir', Kashmir Observer, June 4, 2020, <https://m.kashmirobservers.net/2020/06/04/poor-and-pestering-2g-online-classes-killing-curiosity-in-kashmir/>

⁶⁴ Niha Masih, Shams Irfan and Joanna Slater, 'India's Internet shutdown in Kashmir is the longest ever in a democracy', Washington Post, Dec. 16, 2019.

⁶⁵ Sajad Bhat, Jyotsna Bharti, 'Poor and Pestered: 2G-Online Classes 'Killing Curiosity' in Kashmir', Kashmir Observer, June 4, 2020.

“Many children from south Kashmir talked about the presence of security personnel as a trigger for anxiety, irritability and anger. Many were having flashbacks, inducing episodic sightings of trauma, fright, scary dreams and sleep disorders,” Dr Karrar said.⁶⁶

Food and Hunger

Shortage of food began in August 2019 with the lockdown following the abrogation of Article 370,⁶⁷ and continued into the nation-wide COVID-19 lockdown.⁶⁸ With ICDS centres closed and mid-day meals not available since schools are shut, children are deprived of the additional nutrition they are entitled to.

Highlights

- No headcount of children in institutional care / JJBs available – this is a prerequisite to their release (in accordance with the Supreme Court Order of April 3, 2020 (Suo Motu Writ Petition (C) No.4/2020).
- Children injured in the instances surrounding violence are not provided free health care, nor compensated and medical expenses taken care by the government.
- Right to food of children is not assured; nor are their mental health rights.
- Mental health services should be made available to the children.
- No governmental data on school dropouts – during the period.
- Online mode is near impossible with the current level of internet (2G).

Conclusion

The safety and well-being of the children of J&K has to be ensured immediately. The situation of the children of J&K interrogates the values that Indian democracy claims. It's time we subject ourselves to scrutiny and certification by them.

- *Enakshi Ganguly and Shantha Sinha*

⁶⁶ <https://www.thehindu.com/news/national/children-in-kashmir-valley-vulnerable-to-ongoing-trauma-say-doctors/article31972531.ece>

⁶⁷ Example. <https://www.telegraph.co.uk/news/2019/08/07/kashmir-residents-say-starving-first-accounts-surface-lock-down/>

⁶⁸ <https://www.hindustantimes.com/videos/coronavirus-crisis/amid-covid-19-pandemic-pak-occupied-kashmir-residents-allege-shortage-of-food/video-YlpdhaUGwYdVSgaTOdA14N.html>

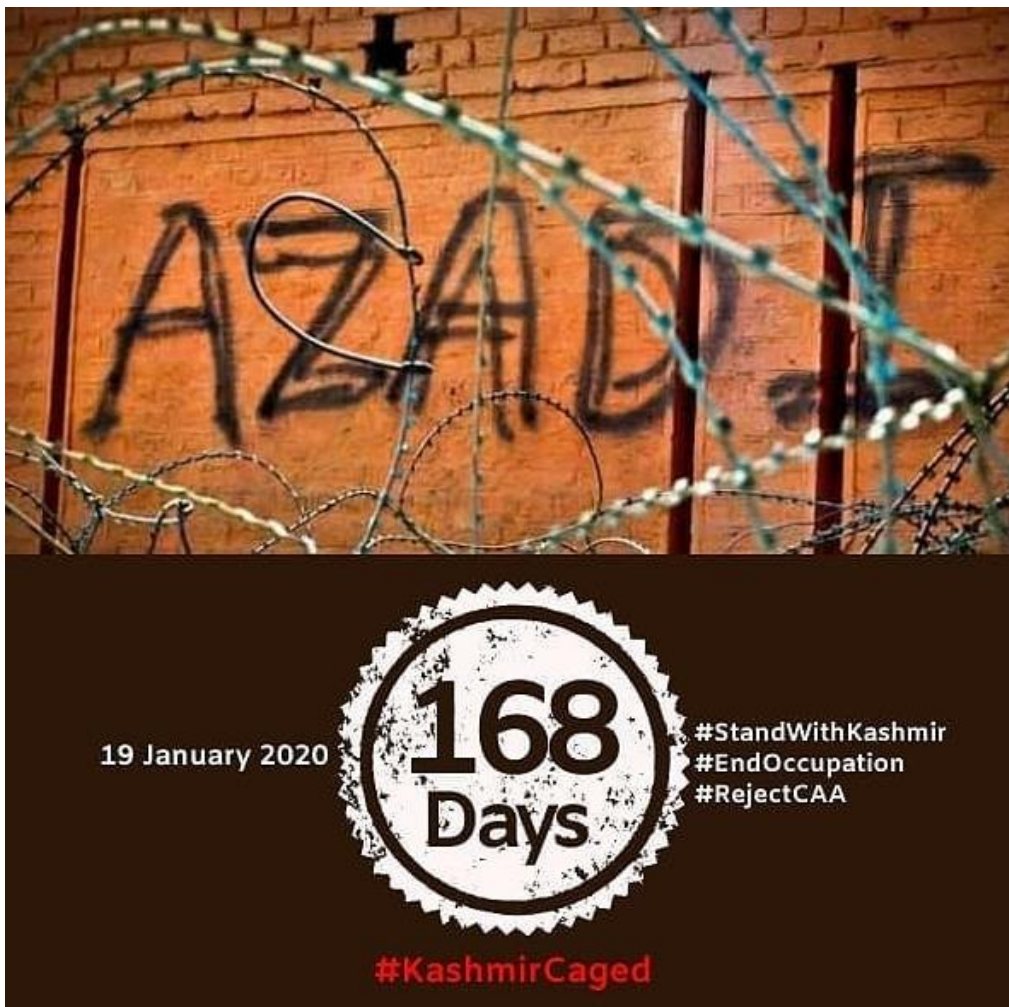
What has Started, can be Ended

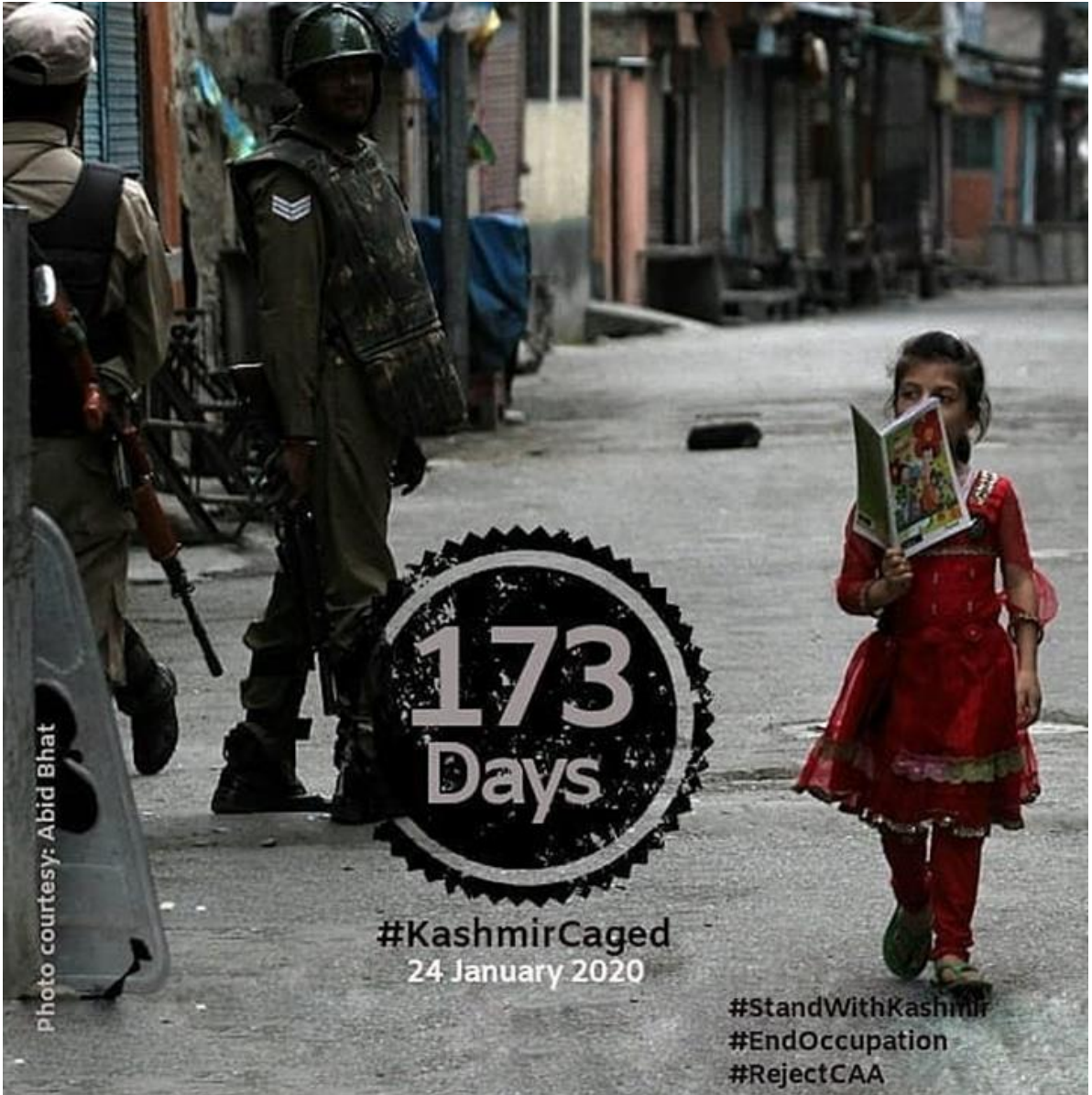
The chief of the Defense Staff, Gen. Bipin Rawat hit a new low when he addressed the press to say Kashmiri children should be put in "de-radicalisation camps".

In his own words - "To say that radicalisation cannot be countered, I don't agree with this. Anything that has started can be put to an end. Radicalisation can be countered. You have to start looking at where the radicalisation is happening. And who are the people who are radicalising these people. It is happening in schools, universities, religious places and sites, and there are a group of people who are spreading this," Further, he suggested gradually isolating children who have been 'radicalised' to place them in a counter-radicalisation program. He also recommended segregating people based on their 'degree' of radicalization.

After paving the way for Israeli style coloniser settlements, the army now wants to put children in camps as part of a criminal attempt to quell the opposition against Indian occupation of Kashmir.

[Excerpts from Counting Days (@countingdaysk) archives, Day 168]





When schools turn to army camps...

It's over four months, 125 days to be precise since students of Kashmir have been denied their right to education. A brief summary of a report on the conditions of schools and colleges in Kashmir: "I was scared to walk inside my own college campus as I noticed that many bunkers were built along the main road of the college. All the college buildings, including the students' hostel were being used by the CRPF personnel. Concertina wire was spread over the length and breadth of college. Many CRPF vehicles were parked in the college ground. It seemed as if I was walking in the headquarters of the CRPF." says a student from Kashmir Government Polytechnic. "We have kept the staff arrival registry in one of the school teacher's house who lives nearby. All the teachers visit his house to mark their attendance because schools have no space left for staff," school official from Khag who added that teachers conducted examination of classes 1st, 2nd, 3rd and 4th in a nearby public park. However, he said that school has now arranged two rooms on rent and is conducting the exams there since the winter has set in.

Home Minister claimed in parliament that 20,000 schools in Kashmir is open. True, but most of them have been turned into army camps and none of them have held classes for the last four months! Students, who have visited the colleges, report of the numerous security checks, identity verifications, searches by the forces."

[Excerpts from Counting Days (@countingdaysk) archives, Day 125]



Illustration Courtesy:
Oddrija Scribbles

Education Endangered

This Brief is derived from seven reports of fact-finding teams that visited Jammu & Kashmir after August 5 and the abrogation of Article 370 and the lockdown of J&K, first the military clampdown followed by the COVID 19 pandemic lockdown. Other hyperlinked references are from media reports.

Lockdown Sequence

Kashmir's 11,319 government schools and 2,198 private schools, in which 9,23,048 and 3,39,366 students are enrolled respectively, had reopened after their summer vacations on July 24⁶⁹. These constituted over three-fourth of the 14,938 schools in erstwhile Jammu and Kashmir, which includes primary, elementary, secondary, and senior secondary schools. On August 5, all schools, colleges, and educational institutions were ordered to be closed and student hostels to be vacated with immediate effect⁷⁰. On August 10, prohibiting orders under CrPC Section 144 were lifted in five districts of the Jammu region and curfew was relaxed in Doda and Kishtwar districts in Kashmir valley, and officials claimed that all schools and colleges had reopened in these districts. Later, on August 19, the government announced reopening of 190 primary schools in the Valley, and then the higher secondary schools and colleges in the Valley⁷¹, making it mandatory for all government officials to resume working⁷². On September 16, the Supreme Court ordered that: "*The State of Jammu & Kashmir... shall make all endeavours to ensure that... people have access to... schools, colleges and other educational institutions and public transport*"⁷³. However, that the State was unable to do so was evident from how all schools were ordered to reopen as late as October 4; and then it was announced, in early October, that Board exams for class 10 and 12 would be held from October 23 and for undergraduate courses in November. Winter vacations were declared for all schools from December 10 to February 24, 2020. But when students and faculty members of Kashmir University asked for extension of vacations beginning on December 23, the authorities decided to resume classwork from February 3, 2020 for all post graduate departments.

⁶⁹ 120 Days, 5 Aug – 5 Dec. Association of Parents of Disappeared Persons: Shahid Malik, Sukriti Khurana, and Aarash; *Dec 2019*

⁷⁰ Imprisoned Resistance: 5th August and its aftermath; *Oct 4, 2019*

⁷¹ Firstpost: Kashmir's schools, colleges double up as bunkers for military; students forced to depend on tuitions, notes in absence of classes; Bisma Bhat; *Nov 30, 2019*

⁷² 120 Days, 5 Aug – 5 Dec. Association of Parents of Disappeared Persons

⁷³ Imprisoned Resistance: 5th August and its aftermath; *Oct 4, 2019*



Photo: Classrooms at schools visited by reporters mostly appeared empty⁷⁴

Attendance and Loss

It is within this context of closures since August 5 that one has to view what happened in the education sector in Jammu and Kashmir. Official sources had to acknowledge on August 19 that attendance in public schools was miserable: “*Staff presence was 30 to 40% in Srinagar*”, said the Information Director; “*Of the 196 primary schools opened, 72 schools registered a thin attendance of students,*” said Director of Education; in Budgam district only 35 schools opened, with attendance between 4 to 12%; Baramulla saw 322 schools out of 671 opened with 40% staff present and 20% students; Kupwara’s 137 schools had attendance of 1,000 students; while Bandipora’s 207 schools saw 10 to 12% student attendance. “*The education department will try to operationalise primary and middle schools in areas where there are no restrictions,*” said a government spokesperson. In South Kashmir, only 2-3% attendance of students was registered while in some areas of North Kashmir, the students' attendance was up to 50%. All private schools in Srinagar remained shut as parents were apprehensive after violent protests. Many teachers could not make their way to schools either. But in October the Home Ministry insisted that a total of 21,328 schools in Jammu and Kashmir had started functioning, which is 98% of the total. Independent observers reported, as late as November, that children were unable to go to school; teachers were present but marked attendance occasionally⁷⁵, Few students could be seen

⁷⁴ <https://www.bbc.com/news/world-asia-india-49394618>

⁷⁵ Sixth and Seventh Reports of the Concerned Citizens’ Group on Kashmir; Yashwant Sinha, Kapil Kak, Sushobha Barve and Bharat Bhushan; *Sep 17, 2019 and Nov 26, 2019*

as there was no public transport⁷⁶; and fewer parents could ferry the children themselves⁷⁷. The Divisional Commissioner insisted that the teachers go and collect students and bring them to the school, but this too was not working⁷⁸. New admissions were in jeopardy⁷⁹; students could not complete their curriculum, and teachers found it hard to do evaluations⁸⁰. The private schools had completed around 70% of their syllabus on August 5, after which students could not access their schools; and a parent said, "*Bachchon ki education baith gayi*"⁸¹. A young scholar noted, "*What the Home Minister said in Parliament, that more than 20,000 schools are open, is true in a context that there is no class work happening*"⁸². "*I am pursuing diploma in civil engineering and our course is based on practical work which is not possible now,*" said another⁸³. School registration is also a source of verification of the date of birth and in many cases the armed forces argued that the age of the detained students given in the school certificates was false. Consequently, parents have not been sending their kids to schools, both as a matter of protest as well as because they fear for the safety of their children⁸⁴. Children were also afraid to go to school as they could get caught in the middle of a protest or a raid⁸⁵.

Private Tutions and Schools

In the absence of a formal, functioning educational structure, parents, children, and schools have been forced to look at other options, such as video lessons and other assignments that were given to students to make up for the loss⁸⁶. One school teacher in a middle-class Srinagar school said they distribute assignments to all those children whose addresses they have but don't know how to reach the rest⁸⁷. The other option was to offer online courses, with an estimated 14 lakh children learning from such services⁸⁸. As schools in Kashmir remained deserted following the government's decision to open them, the management of various schools started asking students through advertisements to collect video lessons and assignments; but this too suffered because of the complete blockade on communication, and lack of broadband connections. "*College provided us with the study material for exams but it is not possible to study engineering at home and also we don't*

⁷⁶ Nandini Sundar (Sociologist)Nitya Ramakrishnan (Advocate) Oct 9, 2019

⁷⁷ Sixth and Seventh Reports of the Concerned Citizens' Group on Kashmir

⁷⁸ Imprisoned Resistance: 5th August and its aftermath; Oct 4, 2019

⁷⁹ Kashmir Civil Disobedience: Trauma | Resistance | Resilience | Two months on – A Citizens' Report; Anirudh Kala, Brinelle D'Souza, Revati Laul, Shabnam Hashmi; Oct 7, 2019

⁸⁰ 120 Days, 5th August to 5th December; Association of Parents of Disappeared Persons;

⁸¹ Sixth and Seventh Reports of the Concerned Citizens' Group on Kashmir

⁸² Firstpost: Kashmir's schools, colleges double up as bunkers for military; students forced to depend on tuitions, notes in absence of classes; Bisma Bhat; Nov 30, 2019

⁸³ *ibid*

⁸⁴ Imprisoned Resistance: 5th August and its aftermath; Oct 4, 2019

⁸⁵ 120 Days, 5th August to 5th December; Association of Parents of Disappeared Persons;

⁸⁶ Sixth and Seventh Reports of the Concerned Citizens' Group on Kashmir;

⁸⁷ Nandini Sundar (Sociologist)Nitya Ramakrishnan (Advocate) Oct 9, 2019

⁸⁸ Sixth and Seventh Reports of the Concerned Citizens' Group on Kashmir

have access to internet," said one student⁸⁹. A partial option was offered by private schools. "Children studying in private schools get study materials but the ones going to public schools are the worst off," said one report⁹⁰. These schools, mostly private, that had opened were functioning with an average 10 to 30% attendance⁹¹. But private schools faced a dilemma as their only source of revenue was school fees, parents had not been able to pay fees because of the loss of livelihoods (except for government servants), and teachers still had to be paid. Most of the staff and teachers in these private schools were local Kashmiris and their pain and anguish added to the suppressed anger⁹². Another option, therefore, was to seek out private tuition centres which had remained open after August 5. "My two children have started going for tuitions. Earlier, I thought the situation will improve within a few weeks. Now I do not see any chances of schools opening in the near future. There is not only a communication blockade but a shutdown too," said a public sector employee. "Private tuitions are costly. For one subject we are charged Rs 3,000 to 4,000. It is very difficult for underprivileged students to manage the expenses of private classes," lamented a student. However, she said that subjects like surveying, building constructions and construction material are practical-based which cannot be studied even in private classes⁹³. Two youngsters preparing for their medical entrance exams had paid for coaching classes and, with the restrictions, all that money was lost⁹⁴. One last option was to go out of J&K. "Of the 60 students that were in my batch in school, 40 are studying in other states", said one student; but many others missed the opportunity to study in university outside the region. Also, post-Pulwama, Kashmiri students studying in different parts of India reported harassment and expulsion from their colleges and universities⁹⁵.

⁸⁹ Firstpost: Kashmir's schools, colleges double up as bunkers for military; students forced to depend on tuitions, notes in absence of classes; Bisma Bhat; Nov 30, 2019

⁹⁰ Kashmir Civil Disobedience: Trauma | Resistance | Resilience

⁹¹ Sixth and Seventh Reports of the Concerned Citizens' Group on Kashmir;

⁹² Kashmir Civil Disobedience: Trauma | Resistance | Resilience

⁹³ Firstpost: Kashmir's schools, colleges double up as bunkers for military

⁹⁴ Kashmir Civil Disobedience: Trauma | Resistance | Resilience

⁹⁵ 120 Days, 5th August to 5th December; Association of Parents of Disappeared Persons



Photo: A student crossing through barbed wire to reach the examination center in Srinagar, Source: Kashmir Life

Terror / Counter-Terror



Photo: Schools occupied by paramilitary forces for shelter⁹⁶

⁹⁶ <https://www.firstpost.com/india/kashmirs-schools-colleges-double-up-as-bunkers-for-military-students-forced-to-depend-on-tuitions-notes-in-absence-of-classes-7720351.html>

Several reports have documented the occupation of schools by paramilitary forces. Two government middle schools in Budgam district, one higher secondary school each in Kupwara and Shopian districts have been under the occupation of security personnel since August 5. The first two schools have at least 40 classrooms which are all used by the security personnel⁹⁷. Other schools have been occupied by the armed forces since July 2019. The Border Security Force (BSF), from the intervening night of August 3 and 4, has taken over and occupied the grounds and classrooms of a higher secondary school and a boys' high school in Baramulla district⁹⁸. The close proximity of security camps to schools makes students victims of surveillance and sexual violence; it also goes against the UNSC measures towards the Safe School Declaration which India has still not ratified⁹⁹. People were angry about the schools and other public places having been taken over by the armed forces. Children were also reportedly scared to go to school because "*police uncle goli mareng*"; and parents don't want to send their children to school with such heavy militarization¹⁰⁰. School buses have to pass through a large number of security check posts. Classrooms that were once populated by students are now serving as a shelter for hundreds of the paramilitary troopers. It is the presence of seven CRPF companies in KGP College that has prevented over 850 students from attending classes. They are asked to show identity proofs and told to deposit all their belongings at the gate before being allowed inside. A student narrated, "*I was scared to walk inside my own college campus as I noticed that many bunkers were built along the main road of the college*". Another student in Srinagar returned to find, "*The classrooms smelled of alcohol and alcohol bottles were scattered everywhere*". An official of SP College said, "*Around four trucks of garbage were collected from the college ... The garden had been turned into a cesspool*". A female staffer in a girls' middle school in Budgam rued, "*At many times, I have seen the military men passing comments whenever I go to school*". A parent complained, "*She has to collect study material for her examinations. I was not allowed to enter along with her so I am waiting here*"¹⁰¹. When civilian spaces like educational institutions are occupied by the army, the area becomes vulnerable to attacks which can result in the casualty of civilians and destruction of educational institutions. At least five students were trapped after an encounter broke out outside a board exam centre in Pulwama district. A government school building, that was supposed to hold board exams for students, was set ablaze in Shopian district by a group of terrorists. A mysterious explosion rocked the area outside Kashmir University but police could not identify the nature of the blast. All these created an air of continuous vulnerability that interferes with any education.

⁹⁷ Firstpost: Kashmir's schools, colleges double up as bunkers for military

⁹⁸ Imprisoned Resistance: 5th August and its aftermath; Oct 4, 2019

⁹⁹ 120 Days, 5th August to 5th December; Association of Parents of Disappeared Persons

¹⁰⁰ Nandini Sundar (Sociologist)Nitya Ramakrishnan (Advocate) Oct 9, 2019

¹⁰¹ Firstpost: Kashmir's schools, colleges double up as bunkers for military;

Examinations Under Stress

Given the impossible odds against attending school, the lack of any systematic schooling, and the occupation of schools by the forces, it is a wonder that examinations could even be thought of. When it was announced that they would be held in November, an 11th standard girl in Pulwama, who had been earlier studying for medical entrance tests in a coaching college in Srinagar but had to return, had no idea of how she would do it since they had not been taught the course, and the new material was difficult to study on her own¹⁰². To make it even more difficult, the administration decided to keep an eye on students in the Valley and depute magistrates to every educational institution to oversee their day-to-day functioning. At the same time, the lack of internet did not allow candidates for NEET or other competitive examinations to appear¹⁰³.

When eventually the examinations did take place, an official revealed that teachers conducted it for classes 1st to 4th in a nearby public park, but after winter set in they had to arrange two rooms on rent for the purpose¹⁰⁴. So great was the pressure that the Director, Education had to allow children up to 9th to be promoted to higher classes without examinations¹⁰⁵. Shahid and Abid were among the few who appeared for the year-end exam held in October-November last year. *“We would sneak into school early morning and sit for the exam. There was always a threat of violence breaking out on the streets,”* Abid says. Both secured about 60% in the exam. *“We could have done better. With the situation being volatile, focusing on studies was very tough,”* they say. A student of Kashmir University said, *“We can’t get access to journals or the internet, it is so important today. I missed a deadline for filling forms for some examinations I wanted to take.”* An engineering student said, *“I had to apply for a Master’s course I am interested in and had to fill the forms, for that I visited Kargil”*. It speaks volumes for the persistence of the students that, when the results were declared on January 22, they had surpassed all previous records, with 76.08% qualifying – an increase of 25 percentage points over the previous year. The results were even better than in 2016 when schools in restive regions were locked down for almost six months following the killing of militant commander Burhan Wani.

Other Problems

After remaining closed for almost four months, amid a persistent demand from the students and faculty members to extend the winter vacations, Kashmir University allowed residential students to join back only if they furnished a ‘bond’ which included restrictions on using internet to share information and an assurance not to *“indulge in activities inimical to the interests”* of the university, before they could get to use the hostel facilities. *“A university is a place where students are supposed to debate openly about the issues and protest about unjust happenings. But we have been already deprived of that basic right,”* said a scholar. *“A*

¹⁰² Nandini Sundar (Sociologist)Nitya Ramakrishnan (Advocate) Oct 9, 2019

¹⁰³ Sixth and Seventh Reports of the Concerned Citizens’ Group on Kashmir

¹⁰⁴ Firstpost: Kashmir’s schools, colleges double up as bunkers for military;

¹⁰⁵ 120 Days, 5th August to 5th December; Association of Parents of Disappeared Persons;

student can now be thrown out of the hostel even if he raises questions on the food quality.” It was also reported that about 70 students were camping in a hostel in Ghaziabad for the three weeks, at their own expense, to organise their placement drive. In the northern district of Bandipora, a Master’s student of political science was concerned about what the future holds, “There are PhD scholars here, who are driving rickshaws or just sitting at home, because there are no jobs.”

In June 2020, the J&K Education Investment Policy 2020 was announced to raise the educational standards. It maintains that colleges and universities in the UT are lagging behind, hence 15,000 out of 60,000 students passing class 12th were seeking admissions in colleges outside J&K. The policy, therefore, envisages roping in private players to set up educational institutes, even though most of the existing 208 private un-aided colleges do not have infrastructure in place, and some have not been made functional. The policy proposes to facilitate allotment of land in UT from the available land bank and to coordinate with the concerned departments for the required approvals and clearances, for the establishment of state-of-the-art knowledge institutes of national and global repute. *“New courses will be introduced for entrepreneurship development. Efforts will be made to engage industry experts to teach specialized elective courses at higher and technical education institutions as part of the degree courses being offered by the respective institutions,”* the policy reads.

Education Amidst COVID-19 Lockdown

Schools and colleges in J&K had barely opened in February after the long shutdown, when it was immediately followed by the lockdown due to the pandemic that was imposed in mid-March, even before it started in the rest of the country. The coronavirus pushed educational institutions across the globe to go online. While this exposed the vast gaps in internet access, adding to the existing disparities with respect to education throughout the country, Jammu & Kashmir’s case is peculiar because of slow speed internet that makes Zoom classes a luxury only for the privileged class of those who have broadband connections. Even the broadband connection is erratic and often slow, especially in Kashmir. The mobile internet at 2G speed just does not work. *“With private schools insisting on regular attendance in Zoom classes and students complaining of disconnecting often, the teachers and parents are engaged in a constant tussle. We were not left with any option but to get a broadband connection,”* said Isha, mother of a Class 10 student. For many who had already given up their landline phones in the mobile era, this is unimaginable.

Much worse is the plight in government schools and low-budget private schools. A teacher from a government school spoke about the difficulty of getting students to access online classes. *“Out of 50, less than 20 can attend and even that is not regular. Many of them do not have smart phones. Some are lucky to have one smart phone for the entire family and are able to occasionally attend classes but even these keep getting disrupted due to poor connectivity,”* she said.

Curiously, after such a long break from schooling, the J&K government made an amendment in Jammu and Kashmir School Education Rules, 2010 in April 2020. A new

rule titled Rule 8A was introduced directing all schools in the UT, including government, aided and unaided institutions, to comply with weight limit of school bags. The order further stated that no school should prescribe any other subjects except Language and Arithmetic for class 1st and 2nd; Language, Environmental Science (EVS) & Arithmetic for class 3rd to 5th; and Language, Social Science, Mathematics and Science for class 6th and 7th, or “as prescribed by the affiliating authority”.

In the same month, the Private Schools Association of Jammu and Kashmir moved the Supreme Court seeking restoration of 4G services in the union territory, contending that the lack of proper internet connectivity violated the fundamental right to education of children. The petition was clubbed with another petition by Foundation for Media Professionals seeking restoration of high-speed internet in J&K. The apex court refrained from passing any orders on the restoration of 4G internet services in Jammu and Kashmir, and instead directed the Centre to constitute a ‘special committee’ to examine the contentions raised by the petitioners. Late July, the Ministry of Home Affairs informed the Court that the special committee has decided against the restoration of 4G internet for now.

In early June, the School Education Department’s Director Finance in a communiqué stated that the ‘government intends to re-open schools in mid of June’ and asked the concerned authorities to ensure all safety measures to arrest the spread of coronavirus among students and teachers. *“In this connection, necessary instructions may be circulated to the heads of all government schools to provide a pair of reusable masks and a pair of hand gloves to every student and ensure availability of bulk hand sanitiser and liquid soap dispenser at the entry point of each school,”* said the communiqué. This created a huge backlash, with parents saying that the decision is not only idiotic but will prove extremely dangerous, putting children’s lives at stake. *“What is the logic of opening schools when every day more than 100 people are testing positive for COVID-19... Are the officials okay with making our children soft targets?”* said Ateeqa Begum, 45, mother of three school-going children.

As is evident from the descriptions given above, the authorities are following a contradictory course of making it difficult for students to follow their normal course of studies through a series of shutdowns and lockdowns that confine almost the entire population to their homes and destroy the once enviable structure of state education. At the same time, using the pretext of young people leaving the state to pursue their studies elsewhere, they are opening the doors to expensive private institutions with offers of land and resources long with liberal recruitment policies and reformed educational syllabi. The forcible ‘structural’ change that the abrogation of Article 370 catalysed is still a long way from completion and successive changes in the educational sphere indicate that J&K is in for a long and painful period of transformation.

- *Dunu Roy with Anuradha Bhasin and Aniket Aga*



Photo: Senior doctors at Super Speciality Hospital protest against manhandling of two senior doctors by the police while they were on duty (Photo | PTI)¹⁰⁶



Photo: A Kashmiri Doctor protested the clampdown on telephone and Internet communications by Indian authorities at a press conference on Aug. 26. He was later arrested, then released after a few hours. Muzamil Mattoo/NurPhoto via Getty Images¹⁰⁷

¹⁰⁶ <https://www.newindianexpress.com/nation/2020/may/26/doctors-protest-against-harassment-of-healthcare-professionals-by-police-in-kashmir-2148246.html>

¹⁰⁷ <https://www.npr.org/sections/goatsandsoda/2019/08/30/755853835/why-doctors-and-medical-journals-are-fighting-over-health-care-in-kashmir>

When Time Stood Still

A Kashmiri Doctor Recollects

The Beginning

Something was afoot. I first got this feeling when I met a friend, a Police Officer, at a cafe in July of 2019. He told me, “Something is going to happen, just be prepared.” I postulated a few scenarios for him, but he just said, “No. This is much, much, bigger.” At the same time another friend accompanying us showed me a social media message which suggested that a major political change was in the offing. On the medical groups that I was part of, messages started circulating towards the end of July that Article 370 and 35A were being abrogated and the State was to be trifurcated. I told everyone who was suggesting this, that the Indian Constitution has mechanisms whereby it is necessary to get the approval of the Legislative Assembly of the State before the Article could be considered for abrogation in Parliament. Since the Assembly had been dissolved, an abrogation was impossible. I was dead wrong.

On August 2, my son’s school had a fancy-dress party, he left home dressed up in the clothes of his favourite super-hero. As he boarded his school bus along with boys and girls dressed as Spiderman, Batman, Iron-Man, and Cinderella and I thought, what if this is the last day of school for him for a long time? It is a thought that has stayed with me for 200 days. By the time, I saw off my son on the bus that day, everyone from the fruit seller outside our home, to the high-ranking bureaucrats in the Secretariat knew ‘something was going to happen.’ Reports started coming in that hostels, colleges, schools and other government departments were being taken over by security forces. Media reported that more than 25,000 additional security force personnel were being brought into Kashmir. Reports from Punch and Rajouri suggested a similar influx and flag marches. The National Institute of Technology and the hostels in the Medical College were being emptied with bag and baggage. I remember seeing hundreds of medical students with their meagre belongings, thronging buses that were sent in to take them ‘back home.’ They had a forlorn look on their faces. Vacations for medical staff were cancelled. The Amarnath Yatra was cancelled. Tourists were asked to curtail their stay and leave. A group of bikers was prevented from entering Kashmir. All of this was pointing in one direction- but the people whom it most impacted had no idea. In the evening I read that the Rajya Sabha was to debate a motion on reservations in Kashmir, and that the BJP had issued a whip asking all its members to be present on the 5th of August.

On August 3, I would take what would be my last ride around Srinagar on my bicycle for a long time. I took pictures of the sunset on the Dal while riding with a friend from Kishtwar. Both of us were in a state of stupor – we did not know whether we would meet again. That evening I found out that my cousin’s wedding had been cancelled. My uncle had been told by a friend in the Police to cancel it. That evening, my closest friend called me in panic, his wife was due to deliver on 8th August, but going by what was happening

he was not sure whether he would be able to get her to hospital at the time. He called her doctor who suggested that they come for check up on Sunday, 4th August. She had a surgery on 4th August, three days before the due date, mainly due to panic over what was going to happen. I was in surgery when I found out that he had had a daughter who was well. On 4th August, my grandfather, tried to take a trip to his home in Sopore, but returned midway when rumours started that the J&K State Flag had been removed from the Secretariat. Panic was setting in.

In the evening on 4th August, we had a modest gathering at my cousin's place. All close family members were having dinner together, it was 2 days before the wedding had been scheduled, so all the members had taken time out to check on the family. At around 10 pm, my uncle received a call from an important businessman. The file recommending the abrogation of Article 370 had been signed and forwarded to Delhi by the Governor, who two days ago had said, 'nothing was going to happen.' Within minutes, social media groups were agog with the news. A few minutes later the internet started shutting off. My brother messaged me from the US, 'So, it is finally happening.' I replied, 'Yes, it is.' It would be the last message I would send to him for 109 days. I came home and sent an email to a close friend wishing him goodbye and good luck. My father was frantically trying to book tickets to the US, he had to travel to see my brother and his new-born daughter. He managed to book the tickets using our broadband connection at 12.37 a.m. on 5th August, 2019. It would be the last thing he did on the internet at home for 207 days. I slept. When we woke up in the morning to an eerie silence on the streets outside and a palpable tension in the air, the landlines were dead, the mobile phones were dead, there was no internet, and the cable TV had been disconnected. The only window we had to the outside world was a bedroom TV hooked to a Direct-To-Home connection. We sat and watched as each news channel carried the story on what was going to happen in Kashmir.

Time stood still at 11:05 AM. when NDTV displayed the Presidential Order de-operationalizing Article 370, allowing the Home Minister under the new Constitutional Order passed a few minutes earlier and published in the Gazette of India a few seconds before he got up to speak in the Rajya Sabha, to table a motion that would change my life and my relationship with many others for all times to come.

By afternoon it had become clear what was happening. Since most people did not have access to DTH, the news was being spread from mouth to mouth. Most people found out after the noon prayers. Sad and angry, I took my son for a cycle ride along a nearby canal. I counted over one hundred people fishing in the canal. It was not a normal site at that time of day and that time of year, and I have never seen so many people fish at the same time. Was it a reaction?

Reality Sinks In

Although I was on duty, I did not muster the courage to go to work. If I was badly needed, an ambulance could be sent for me to my home. I understood that not many patients

would have made the journey since there were restrictions on the roads and free movement was prevented. I returned to work on August 6, 2019, wearing a tie and a shirt and riding my cycle. I was stopped at a few places and asked to take strange and senseless detours that served no purpose other than to lengthen my journey. I carried my identity card around my neck. A traffic policeman at Lal Chowk, the business-hub of Srinagar, made fun of my tie but I ignored it. At the hospital the new reality set in. I could not call my colleagues, I could not message them, there was no way they could reach me in the event of an emergency, my patients were disconnected from me, and patients could not call in to cancel or reschedule their surgery or appointments. The out-patients department was deserted. Only a few patients turned up, mostly from nearby localities with chronic illnesses. In the ward, I learnt of many patients who had panicked and left the hospital against medical advice. For one of these patients, this decision was to prove fatal. Some hardy patients stayed back. Two of them underwent surgeries that day. The whole department sat in silence in as we watched the patients in the ward. The shock was too much to bear. Outside, the traffic was negligible, the Police was out in full force and in a painful, new phenomenon, more security force bunkers came up at many street corners, including one at a famous spot near the Emergency Room gate of our hospital, where a Biryani-seller from Uttar Pradesh had set up his stall. No one would ever hear from him again. Streets were deserted and people seemed to have gone into a slumber. I cycled back home, and again was made to take senseless detours. My tie and the identity card around my neck probably saved me from more harassment that many others would face in the coming days.

By evening, the Bill was passed by the Lok Sabha, and Sushma Swaraj, one-time Leader of Opposition and former External Affairs Minister died. My cousin's wedding, now without the festivities went ahead, but with only immediate family members in attendance. We were treated to a surprise when I found out that my cousin, whom I met after 10 years had also made the trip to attend the wedding. He said that after the phones went off, every Kashmiri in the diaspora thought that a massacre was happening.

The next day, after a mundane and lackluster day at work, I met a relative at the wedding who was travelling in a few days. I wrote a short note on pieces of paper which I asked them to send to my brother's number in the US. I just wrote that we were fine and holding out well. The pictures of that note were to make their way to Twitter. I also asked this relative to recharge our DTH connection since I had not thought of paying the bill in advance, who does? He could not, since it required a one-time password, which he could not obtain as there were no phones working. No phones working anywhere, that is.

I also had a small swelling on my back. I had that removed. It had been my companion for 10 years. I thought maybe now was the time to release some historical baggage.

A few days into the lockdown, after the shock of betrayal had given way to exasperation, we began to adjust ourselves to the new reality. Each day, in the morning, with schools closed, my son and I would spend the mornings having tea and dry bread and watching Cable News Network International (CNN) and other news channels to understand what

was going on in the world. We also became inveterate readers of the newspaper, devouring each news item and reading even the advertisements and tenders. It became the only limited window we had to the outside world.

Stories started filtering in. One of the stories that hurt a lot was of a doctor whose husband was working abroad and had come for his vacation, who probably hearing about the lockdown being imposed and fearing the worst, died of a sudden heart attack in Delhi. His body was then flown in, and few relatives would ever find out because the phones were not working. Of young boys being picked up by the Police. On the day I heard that, I cycled to my sister-in-law's home which was about 5 kms away to find out how she was doing. I also cycled to my grandmother who lived with her son and my aunt in another corner of the city. They were doing fine thankfully.

Preparations started for Eid. This time few of us opted for slaughtering the sacrificial animals at home, and instead decided to donate the money to organisations that support the poor and orphans. I made a trip to the charity hospital I work in on Sundays, on 11th of August. I was worried about the patients I had operated upon on the 4th of August. Both were incommunicado for obvious reasons – and I travelled to the home of one of them to find out how he was doing. The hospital staff had held out well, working in darkness with no guidance they had managed to keep things going through a combination of age-old techniques of 'dropping messages' at people's homes to tell them they were needed and visiting doctors in ambulances to inform them of waiting patients. Nothing was easy any more.

The New Normal Begins

Towards the end of August, my son's school started publishing notices in the newspaper asking parents to collect printed work from the school on specified days for each class. The worksheets were to be completed at home 'under supervision,' and were to be submitted back to school for evaluation. This became routine with all schools, including government schools. The only way for schools to send out messages was through the newspapers or through word of mouth. On one of these trips to the school to collect the study material, I sat in the classroom waiting for the teacher to copy the video classes and assignments on to a USB drive I had with me. As the teacher engaged in conversation with another parent in the classroom, and the discussion veered towards the state of education and the mental status of children in the lockdown, I could see her eyes swell and tear up. Few more parents in the classroom also started crying, it was collective agony. This pattern of collecting assignments and submitting them back to school continued till February 2020, and then it restarted three weeks later, this time for another lockdown.

A kidney cancer patient of mine, with advanced disease, required special medication which had to be couriered from Delhi. There are not many kidney cancer patients in that stage of disease in Kashmir and it is not profitable for the drug stockists in Srinagar to keep a large stock, especially considering the price. He would email the requirement to a stockist

in Delhi, who would give his bank details, and once the money was paid online the stockist would courier it to Srinagar. This system had collapsed, and he had no way of obtaining his medications. I met him in hospital a few weeks later and asked how he had managed to obtain his medications. He replied, “I went to the Police Station and used the Officer’s phone to call a friend in Delhi who sent the medicine through another friend who was flying to Srinagar.”

A patient of pancreatic cancer, who had received chemotherapy to control the disease, was awaiting surgery. The charitable hospital where I work had coordinated with a larger, tertiary care cancer centre to schedule his surgery, as it would not be affordable for him to travel to the large city and wait for his turn for surgery. After 5th August, the communication broke down, and there was no way for him to communicate with the tertiary hospital. After some landlines were restored, I attempted to contact the doctor who headed his treating team, but he did not answer the phone. I would later hear that he died from his cancer a few months later, having reported to the tertiary centre late and at a stage when his cancer was no longer curable.

A bladder cancer patient, who had undergone radiation to control the disease, was also being discussed with experts on a panel. He had intolerable post-radiation symptoms and I had planned to refer him to an expert in this field and had already discussed the issue with him. The last conversation was on 30th July. Due to the breakdown, I could not reach him again, and I found out that the old patient died peacefully at his home, while awaiting treatment for his symptoms.

I came across a labourer who had brought his wife for dialysis to a centre where I was attached. He had brought her after 2 weeks, as he did not have money to spare with his earnings severely diminished due to the lockdown. I asked why he had not enrolled for any Below-Poverty Line or any other Government scheme. He said that times had been better for him earlier and hence he was not eligible for those schemes. His plight was an unfortunate, but not wholly unique one.

I met a nephrologist around this time. Nephrologists specialize in treating disorders of the kidney. He told me that fewer dialysis patients were coming for dialysis as they were unable to afford the treatment in the lockdown. He also told me of the breakdown of the Ayushman Bharat scheme, which was the flagship healthcare scheme launched by the Prime Minister, was stalled as the whole enterprise depended on functional internet and verification of details of the patients online. No hospital was honouring the Ayushman Bharat cards anymore since there was no way of verifying the details of the cardholders. J&K had been ranked at the top for utilization of the Ayushman Bharat scheme, when the data first came out in March 2019. It was sad to see the whole scheme collapse. Hospitals later developed a way of handling the data, they appointed ‘runners’ who would collect the weekly data, print it out or store it on USB drives, travel to Jammu (280 kms away), upload the data, confirm submission, and then come back to Kashmir.

Once landlines were restored, I made a few calls. One to my guide in Mumbai, to let him know that I was well and to ask about how others in the team were doing. Another to the

editor of a journal where I worked as an Editorial Assistant to tell him I was off the grid and could not help in the editing work that I had been assigned. He was very understanding. I could not communicate with the two other international journals based abroad. I was part of the reviewer team, since we had no international dialing facility. When I opened my inbox after 107 days, I found lot of assigned work that I had not been able to respond to. I wrote to the Editor of this prestigious journal at the time, to inform him of my predicament. His words in response were, 'disconnecting the internet is a very harsh step that the Government has taken. I hope you and your family are safe.' He is a living legend in the world of urology, my speciality. To have been assigned work by him and to not be able to do it is a blow to me.

Medical education had collapsed. Seminars, meetings, classes, and journal clubs were cancelled. There was no way to do research for these. Many post-graduate students had found innovative ways of circumventing the problem, they would travel to Delhi for a couple of days and download all relevant material. Others would make frequent calls to friends and colleagues in other parts where the internet was working and ask them to search for the information they needed. At a time like this when information is at the fingertips of doctors and can be the difference between the life and death of a patient, doctors were being forced to travel to other cities to collect such information. We were in a bad place.

Mobile phone calling services were restored in October, but short-messaging services (SMS) were not restored until January 2020. The beginning of voice calling made life slightly easier, at least I knew where someone was after calling them!

I was asked by my Department to go to Jammu for a meeting in November 2019. I remember entering the hotel room and connecting to the Wi-Fi to be online for the first time in 107 days. The deluge of emails and messages was overwhelming. I spent hours in that hotel room working on a paper that I had started working on a few months before the lockdown and submitted it to be published. It was my first scientific paper in months.

But the moment that made me cry had nothing to do with scientific enquiry. It was when I made my first video call in 107 days to my brother in the US. He was driving his car and did not know that I had travelled to Jammu, so he was surprised to see my call. He stopped the car and I remember the few seconds that we spent just staring blankly at each other's screens. We had not seen each other's face for a long while. I would then call his wife and see my niece who had grown a lot since I last saw her, days which I missed. I took screenshots of the conversations to keep with me as mementos on my return, like soil from far-off land. I remember showing my Mom and Dad her picture. We had hours and hours of conversation during my 48 hours in Jammu. I hardly slept. I would have to wait another 2 months before I could send my brother an SMS text. I remember him replying, 'I never knew in my life that I would be so happy to receive a text.'

The impact of the internet shutdown would not dissipate whenever the internet would, if ever, be restored. Modern medicine requires regular scientific paper publications, participation in national and international meetings, conferences and membership of

various scientific bodies for promotion in academia. For the doctors in Kashmir, such a long shutdown would have ripple effects far into the future, perhaps for decades, since many doctors would lose papers, research grants, opportunities to present data, and would no longer be in the running for prestigious appointments in high-class institutions. The cut-off from academia would also impact patient care. In a world where new medications are routinely introduced with much fanfare and then withdrawn due to unforeseen side effects, doctors in Kashmir would be unaware of such developments. During the internet shutdown, a new combination drug was withdrawn due to non-lethal side effects, but doctors continued to prescribe it since they had information to the contrary. New research came out on cancers, which doctors had no idea about. In the treatment of prostate cancer, paradigm-altering research was published, but I remained blissfully unaware. The final brunt would have to be borne by the patients, since the doctors in Kashmir were unable to provide up to date and modern treatment for them in many areas until internet is restored.

Many institutions in Kashmir were parts of national schemes and were designated data collection centres for various studies. All this data collection was to be collated online. The internet shutdown meant this data was no longer being collected and uploaded to the data centres. Kashmir had become a scientific blackhole. I was impacted as I had applied to become a part of the National Cancer Grid, under the aegis of a Central Government Institution. This Grid enabled doctors to collaborate on the treatment of complex cancer cases virtually, thus obviating the need for patients to make exhausting trips outside their hometowns, saving them money. My association with the grid was dependent on a functional internet connection, which was no longer available.

The limited avenues of internet access were distant, over-crowded and inaccessible most of the time. In order to check my email, I would have to leave hospital during working hours, go to the designated government internet centre, stand in line, and wait for my turn, which may or may not come, an exhaustive search of me and my belongings and depositing my identity papers. The internet was often slow, was on public computers which meant that confidential patient data could not be entered on these systems since it would violate the privacy of patients, especially considering the sensitivity of diseases involved. I decided against using this method for any of my scientific or personal communications.

The Beginning of the End of the Shutdown

I made a trip outside Kashmir in January 2020, which almost did not happen. Tickets and reservations had to be done on the phone, SMS services were not working. A significant spelling mistake in the name of my wife meant that she would probably not be allowed to travel. A last-minute correction followed. Something that could have been easily avoided if we had a functional internet connection, became a hassle that almost cost us our trip and money. While I was outside the news started filtering in that the mobile internet would be restored, but broadband would remain shut until proper 'filters' could be instituted for its use. What exactly were they looking for? Kashmiris turned to various methods to

circumvent this new obstacle, of not being allowed to access social media sites, by using virtual private networks (VPNs). It reached farcical heights when security forces started stopping youth and checking on their phones and whoever was found with a VPN was beaten up and harassed.

By February 2020, permission was given for the installation of Wi-Fi internet in some localities of Srinagar. We hastened to install ours. The installation cost as much as the entire one-year internet bill of all the mobile phones we were using at our home, but considering our desperate requirements, we footed the bill. After 207 days, in late February, the internet finally switched on again at our home.

Conclusion – Erasure from the Indian Collective Consciousness

If the hanging of Afzal Guru in 2013 was to ‘satisfy the collective consciousness of the country,’ at the cost of alienating Kashmir, the communication blackout served to erase Kashmir from the collective consciousness of India. It served to dehumanize, delegitimize, and degrade Kashmir in the eyes of India. A restive province was to ‘be taught a lesson at whatever cost it might be.’ Patients, students, doctors, businessmen, tourists, everything be damned, the objective was to destroy Kashmir economically and ideologically in the minds of Indians. As the internet shutdown gradually lifted and connections with friends and family restored, I was shocked to see the approval with which the constitutional changes were met with amongst most Indians and also to see the nonchalance with which the plight of Kashmiris were viewed. The communication blackout had served to sever all ties of humanity between most Indians and Kashmir and had succeeded in its aim.

Patients in Distress

Health Report of Kashmir: Aug 2019 – Aug 2020

We had booked one patient from Uri, a 50 years old man with bladder cancer, for surgery on the 6th of October. He only returned in November at which point his cancer was no longer curable. He had left for his home on 4th of August in the fear that he won't be able to meet his family anytime soon.

- (a physician working in Srinagar)¹⁰⁸

Decades of conflict has fatally impacted physical and mental health in Kashmir. Despite this Kashmir was once a state with better performing health indicators, a robust health services infrastructure, and dedicated medical professionals ranging from ASHA workers to eminent doctors who were connected to a larger medical community. Post 5th of August, the health indicators have collapsed, reeling under the year-long restrictions on movement and communication. The year is concluding as globally an unprecedented strain on public health takes over and Kashmir struggles in the COVID-19 pandemic, cut off from the rest of the world.

“We did manage to provide all routine and emergency surgery. All kinds of cases would get brought here for treatment, even the victims of the grenade attack at Soura were not taken to SKIMS but brought here. Pellet injuries, and others injured in the protests all came here for treatment.”

- (Dr Zakir (Medical Superintendent), Dr Tabassum (Dy MS) and Dr Safia (Ob/Gyn doctor on duty) of JNLM Hospital Rainawari)¹⁰⁹.

State of Health Pre & Post August 2019

“In the last few years, hypertension and diabetes have been increasing. Hypertension has become like an epidemic. The already existing illnesses and health problems have definitely aggravated in the last six months,”

- (A medical officer in a primary health centre (PHC))¹¹⁰

¹⁰⁸ A Physician working in Srinagar in conversation with Jashodhara Dasgupta- member of Commission of Inquiry visited to Valley in February 2020

¹⁰⁹ Dr Zakir (Medical Superintendent), Dr Tabassum (Dy MS) and Dr Safia (Ob/Gyn doctor on duty) of JNLM Hospital Rainawari in conversation with Jashodhara Dasgupta- member of Commission of Inquiry visited to Valley in February 2020

¹¹⁰ Kalpana Kannabiran, Sarojini Nadimpally Navsharan Singh, Roshmi Goswami, Pamela Philipose Interrogating the “Normal” in Kashmir, <https://indianculturalforum.in/2020/03/04/interrogating-the-normal-in-kashmir/>

Infant mortality rate (IMR) and life expectancy in Kashmir were not far from the national average. In J&K, like in any other states, some variations in terms of infrastructure, human resources, disease patterns and indicators existed between districts. Post-August 5, particularly with the unprecedented abrogation of Article 370, the clampdown on communications and the lack of transport, the implications for health were very adverse.¹¹¹

“We are a 700-bed tertiary care hospital and have around 700 OPD cases each day as well as over a hundred admissions. So, we are still understaffed and overburdened. Moreover, we need better integration with the personnel in the peripheral health centres, to streamline the referral process. We have many years of experience in dealing with difficult situations, as we are a landlocked Valley. We have weathered decades of conflict and developed resilience.”

- (Dr Farhad Jabeen, HOD of Gyn/Obs Lall Ded Hospital)¹¹²

“The Lall Ded (Maternity) Hospital (LDH) served people all over, there were patients from Jammu as well. All maternity care was free owing to the JSSK and the NRHM really benefitted the women of Kashmir. All maternal and infant deaths are reviewed through MDR protocols with full participation of hospital teams. The ongoing conflict situation leads to delays and does hamper patients reaching on time. The situation since 1989 has been tough: many Kashmiri pandits were doctors, and they left the Valley so had to replace them. Hospitals were understaffed and more so in the peripheral hospitals overburdened teams. Because of the academic slowdown, there have been no post-graduate doctors for 10-12 years so there are no new Gyn/Obs doctors produced.”

- (retired Gyn/Obs)¹¹³

¹¹¹ Kalpana Kannabiran, Sarojini Nadimpally Navsharan Singh, Roshmi Goswami, Pamela Philipose Interrogating the “Normal” in Kashmir, <https://indianculturalforum.in/2020/03/04/interrogating-the-normal-in-kashmir/>

¹¹² Dr Farhad Jabeen, HOD of Gyn/Obs Lall Ded Hospital in conversation with Jashodhara Dasgupta

¹¹³ A ret'd Gyn/Obs in conversation with Jashodhara Dasgupta- member of Commission of Inquiry visited to Valley in February 2020

I

Dropping numbers

Across J&K medical officials have reported a drastic drop in numbers. In some cases, the hospitals shut down non-emergency facilities. The Oncology Department in the government hospital, which normally sees 200 patients a month, only got 50 patients in August 2019. Before August 5, 2019, the Khyber Hospital averaged 30-40 angioplasties – procedures to treat blocked blood vessels in the heart. August 2019 saw only about 10 angioplasties conducted.¹¹⁴

Sheikh Ul Alam Hospital usually receives 350 patients every day in its OPD but has received only 50 patients since August 5. Instead of 300 surgeries every month, it had done only 50 in August. The Oncology Department in the government hospital, which normally sees 200 patients a month, only got 50 patients in August 2019. Patient data under PMJAY pre- and post-August 5 accessed by Medibulletin “shows a sharp decline in hospital admissions in the state after August 5 – in fact, in the immediate aftermath, hospitalisations were down to one-tenth of the numbers before the abrogation”. While in the last week of June 2019 there were 2,050 hospital admissions, in the three weeks following 5 August, the total admissions stood at 179, 163 and 250 respectively. The hospitalisation rate per lakh population dipped from 57 before August 5 to just six in the three weeks after that.¹¹⁵

“On any normal day, around 800-900 patients from across the Valley visit the hospital for treatment. Since August 5, around 200-300 patients are able to reach the hospital for treatment and most of them are from Srinagar only.”

- (OPD official of Srinagar’s Bone and Joint hospital)¹¹⁶

A dip in the number of patients can be attributed to the following reasons-

1. Access to Essential Health Services

“We saw patients disappearing from the hospitals, postponing their treatments because they did not have access to hospital on the night of the 4th (August, 2019) as they thought something bad is going

¹¹⁴ Kalpana Kannabiran, Sarojini Nadimpally Navsharan Singh, Roshmi Goswami, Pamela Philipose Interrogating the “Normal” in Kashmir, <https://indianculturalforum.in/2020/03/04/interrogating-the-normal-in-kashmir/>

¹¹⁵ Kalpana Kannabiran, Sarojini Nadimpally Navsharan Singh, Roshmi Goswami, Pamela Philipose Interrogating the “Normal” in Kashmir, <https://indianculturalforum.in/2020/03/04/interrogating-the-normal-in-kashmir/>

¹¹⁶ Safwat Zargar, ‘Kashmir ground report: A cancer patient struggles to reach hospital for chemo, others can’t get home’, Aug 10, 2019, <https://scroll.in/article/933393/in-kashmir-a-cancer-patient-struggles-to-get-to-hospital-for-chemotherapy-others-cant-get-home>

to happen. Many of them were cancer patients, many of the patients who required dialysis didn't turn up. Then many patients couldn't continue because of no money and they had no access to banks also."

- *(a physician working in Srinagar)*¹¹⁷

One of the biggest contributors to the declining state of health in J&K has been the severe restrictions on movements, curfews, absence of transport and communications. Patients and medical professionals have both testified to the lack of empathy among security forces set up at checkpoints, severely impacting emergency medical services. As public transport was unavailable, many people had no option but to hire private vehicles shelling out an exorbitant cost and gambling with the possibility of being turned away.

The major issue was patient access to the hospital, as there were barricades every 100 yards. We had to do constant duty to ferry the staff of the hospital from their doorstep and then drop them back each time their shifts ended. We also dropped off patients if they lived far away and couldn't get transport to go home, we took them at least 30 kms out of town so that they could find a way to get home. Patients found it difficult to get into the hospital due to the barricades all around the gate and checking by security forces. They also got beaten by CRPF and subjected to rough treatment in order to discourage them from coming.

The army set up barricades every few yards, would make us stop and pull each person to show their ID to be checked. They would harass us at each barricade and push us around. It was very difficult to do our duty; besides, every trip took much longer than usual. They would block different part of the roads every day and make us take detours from the usual routes. We worked round the clock for those 4-5 months, those of us who lived far away stayed on overnight as there was no chance of going home beyond once a week. We really wish the ambulances were better vehicles, not Maruti which doesn't have tyres suitable for snowy roads. A 4-wheel drive vehicle would be much better in the snow as we often skidded.

- *(Ambulance Drivers working with the JNLM Hospital Rainawari)*¹¹⁸

¹¹⁷ A Physician working in Srinagar in conversation with Jashodhara Dasgupta- member of Commission of Inquiry visited to Valley in February 2020

¹¹⁸ Ambulance drivers of JNLM Hospital Rainawari in conversation with Jashodhara Dasgupta- member of Commission of Inquiry visited to Valley in February 2020



Photo: Ambulance with smashed windscreen

2. Communication Restrictions

We had a WhatsApp group for last 2-3 years with district hospital (DH) doctors, so that they could be given feedback about the referral cases, how the system could be improved to prevent maternal deaths, and ambulance staff better equipped etc. Now this sort of coordination with the peripheral health facilities is not possible. We also could not communicate with doctors anywhere else, no email or Skype calls.

- (retired Gyn / Obs)¹¹⁹

A complete breakdown in the communication services has alienated patients from doctors, doctors from their larger medical fraternity and has led to avoidable deaths. A Public Interest Litigation (PIL) was filed before the Supreme Court by Dr. Sameer Kaul and Salim Jahangeer Kirmani to ensure restoration of landlines and internet service across hospitals and medical establishments in Kashmir. The petition also brought to notice that most purchases of surgical equipment, instruments and drugs are made from across the world.¹²⁰

¹¹⁹ A ret'd Gyn/Obs in conversation with Jashodhara Dasgupta- member of Commission of Inquiry visited to Valley in February 2020

¹²⁰ Kalpana Kannabiran, Sarojini Nadimpally Navsharan Singh, Roshmi Goswami, Pamela Philipose Interrogating the "Normal" in Kashmir, <https://indianculturalforum.in/2020/03/04/interrogating-the-normal-in-kashmir/>

“Another patient of bladder cancer, who I have been taking care of since 2017, died without being able to communicate with me. I heard about him from his neighbor. He missed his treatment for three months as he never came to the hospital. I am sure if I was able to communicate with him, he would have survived and have been cured by now. His cancer was under control but due to loss of follow up, he died. Another patient needed pancreatic surgery. We had referred him to Tata Memorial Hospital in Mumbai. He died because of no communication. He couldn’t find a slot in the hospital. He tried communicating with the hospital through various means.”

- (a Physician working in Srinagar)¹²¹

3. Running Short: Depleting Stocks of Medicines

Chemotherapy related medicines which were falling short because there isn’t enough stock and the entire lockdown episode was unpredictable. The stock houses in the entire region also don’t keep enough of it. For a population of 8 million, they order it on weekly basis or monthly basis. Then, there were medicines for dialysis, neurology which are usually found very less in the market. The regular medicines like for fever, cold, anta-acids etc. are usually in stock for 3 to 5 months. They usually have enough stock for 2-3 years of these regular medicines. But these medicines are usually there in the government supplies as well (paracetamol, disprin etc).

- (a Physician working in Srinagar)¹²²

Severe restrictions on communication and movement from outside the state to within, has impacted the medical supply mechanisms. Orders are not being placed and suppliers are unable to get medicines in easily.

“The hospital provides all examinations and tests but medicines always have to be bought from outside. That means medical shops are essential, but they were also not always open during the shutdown. Usually we update our distributors each day to tell them what medicines are running low in stocks, send WhatsApp messages. The distributors found it tough to bring their vehicles around to replenish supplies, as there were barricades everywhere.”

- (owners of Pharmacy shops outside the JNLM Hospital at Rainawari)¹²³

¹²¹ A Physician working in Srinagar in conversation with Jashodhara Dasgupta- member of Commission of Inquiry visited to Valley in February 2020

¹²² *Ibid.*

¹²³ owners of Pharmacy shops outside the JNLM Hospital at Rainawari in conversation with Jashodhara Dasgupta- member of Commission of Inquiry visited to Valley in February 2020

4. Financial Distress

Months of lockdown in the valley has led to loss of livelihood and has increased the precariousness of health. Most of the residents are now, more than ever, in need for government health schemes. However, a clampdown on communications also led to the collapse of systems for distributing life-saving financial assistance. There were 613,697 families – 29% of all families in the erstwhile Jammu & Kashmir- eligible for health protection under the Ayushman Bharat. Till May 2019, 1.1 million e-cards had been generated and 13,000 claims worth of Rs 8.7 crore submitted, according to the Ayushman Bharat website. The state had one of the best rates of utilisation of the scheme.¹²⁴

Outpatient health care is expensive in J&K as compared to all-India. For instance, the NSSO report 507 revealed that the average expenditure (medical and other related expenditure but excluding loss of household income/wages) for non-hospitalised treatment per ailing person was Rs.394 and Rs.478 for rural and urban J&K, while it was only Rs.285 and Rs.326 in rural and urban India (NSSO, 2006).¹²⁵

While most people in the state are suffering due to this, some hospitals have tried to intervene. On humanitarian grounds, the Khyber Hospital allowed free services for Golden Card Holders until August 26, 2019, believing the internet would be restored. But with current unpaid bills running to Rs 22 lakh and Rs 60 lakh yet to be received from the central government, hospital authorities said they had now stopped free treatment for Ayushman Bharat beneficiaries.¹²⁶

While there has been a noticeable dip in the number of patients accessing health services across the state, the combined stress of these factors has also affected certain population of Kashmir disproportionately. The breaking down of the health infrastructure in the state is setting up losses that will take years or decades to recover. The daily violence, isolation and despair is changing the fundamentals of being.

¹²⁴ Swagata Yadavar, Athar Parvaiz, 'In J&K Shutdown, PM's Health Scheme Grinds To Halt, Healthcare Crisis Grows,' September 6, 2019. <https://www.indiaspend.com/in-jk-shutdown-pms-health-scheme-grinds-to-halt-healthcare-crisis-grows/>

¹²⁵ Kalpana Kannabiran, Sarojini Nadimpally Navsharan Singh, Roshmi Goswami, Pamela Philipose Interrogating the "Normal" in Kashmir, <https://indianculturalforum.in/2020/03/04/interrogating-the-normal-in-kashmir/>

¹²⁶ Swagata Yadavar, Athar Parvaiz, 'In J&K Shutdown, PM's Health Scheme Grinds To Halt, Healthcare Crisis Grows,' September 6, 2019. <https://www.indiaspend.com/in-jk-shutdown-pms-health-scheme-grinds-to-halt-healthcare-crisis-grows/>

II

Mothers of Kashmir Battle New Hurdles: Maternal Health



Photo: A pregnant woman waiting inside a makeshift tempo with her family outside the hospital.

You cannot postpone a delivery; you can postpone a kidney surgery.

- (Physician working in Srinagar)¹²⁷

We saw advanced complications such as sepsis, heavy bleeding and intra-uterine death cases. There also seemed to be miscarriages and abortions perhaps caused by stress.

- (Dr Farhad Jabeen, HOD of Gyn/Obs Lall Ded Hospital)¹²⁸

“We were able to continue with all essential maternal health services including C-sections, and we had enough drugs and supplies. After the shut down the peripheral health system has collapsed owing to security issues. Morbidity is more serious and caseloads at Lall Ded Hospital much higher. Women are coming with very advanced complications in labour like

¹²⁷ A Physician working in Srinagar in conversation with Jashodhara Dasgupta- member of Commission of Inquiry visited to Valley in February 2020

¹²⁸ Dr Farhad Jabeen, HOD of Gyn/Obs Lall Ded Hospital in conversation with Jashodhara Dasgupta

Ruptured Uterus, which is so rare otherwise. The elective surgeries like laparoscopic hysterectomy are stopped now, only emergency surgeries performed.”

- (retired Gyn/Obs)¹²⁹

There is perhaps no bigger indication of the state of health in Kashmir than the health of women. Women disproportionately carry the burden of conflict, both in their bodies and mind. Lack of access to medical services has worsened the situation for many expecting mothers. Mental health is a major concern, as women take on the emotional stress of surviving a heavily militarised state, worrying about the safety of their family, making compromises to their diet while dealing with food and income shortage. A study by Doctors Without Borders, Prevalence of PTSD in Conflict-hit Kashmir, published long back had attributed the high rate of miscarriages among women in the Valley to Post Traumatic Stress Disorder (PTSD), an anxiety disorder caused by a shocking incident. Many pregnant women in Kashmir have also suffered pre-term labour—delivery well before the completion of the gestation period—due to severe stress.¹³⁰



Photo: District hospital, Bandipora

According to the 2015 National Family Health Survey, 61% of married women in Kashmir report one or more reproductive health problems – markedly higher than India’s national average, 39%. The survey also found that 73% of the women in Kashmir have

¹²⁹ A retid Gyn/Obs in conversation with Jashodhara Dasgupta- member of Commission of Inquiry visited to Valley in February 2020

¹³⁰ Dr Rabia Noor, ‘Perinatal Mortality: Too early to die’, March 10, 2020

reported reproductive health problems. Studies undertaken at SKIMS suggest that 15.7% of women of childbearing age cannot have offspring without clinical intervention, and another 14% are unable to conceive because of unknown medical conditions. Studies have already shown a high prevalence of psychiatric disorders in patients with PCOS; more recently, more women in Kashmir have also been reporting mood and anxiety disorders. This is MACPCOS [mood and anxiety complex of PCOS], which is actually caused by the stress, this condition is common in Kashmir. A study conducted by researchers at SKIMS with the participation of 112 young women suffering from PCOS found that 65-70% of them suffered from some psychiatric illness.¹³¹

Children's Health

“The supplementary nutrition of children and women has been affected as Anganwadi Centres stopped working on 5th August. Some AW centres began procurement of supplies from Mid-Feb 2020, some have not even begun.

In terms of harm to children, continued illegal detention, abduction, extortion to release those picked up, sexual abuse or threats of a sexual nature to boys and girls, use of force with children and so forth. The officials do not have any skills to deal with minors, they behave heavy-handed as if dealing with adults. Formerly we saw pellet-guns being used with young people, now it is 'Preventive Detention'. The young people are being released after a while but are severely injured and psychologically harmed. They have a duty to report to the Thana at regular intervals, which is a continued source of stress.”

- (Hilal Bhat, UNICEF)¹³²

The Union and Jammu and Kashmir administrations finally admitted in the Supreme Court that 144 children had been detained in August-September 2019. The youngest was 9 years old. Sadly, the Supreme Court in its oral remarks on December 9, 2019, while hearing a petition relating to the alleged illegal detention of children in Kashmir, said that petitioners should not be overly alarmed if children are detained for a few hours or for just a day, because 'in certain situations it is for their own good'. In its final order of December 13, 2019, the Supreme Court directed that children who had been detained should be provided with mental health support. It is unclear whether this order has been acted upon. According to the UN Secretary General's June 2020 report on children in armed conflict, 68 children between the ages of 9 and 17 were detained in Jammu and Kashmir on national security-related charges.¹³³

¹³¹ Rabia Noor , 'Kashmir's Hopeful Mothers Have a Silent Enemy in the State's Violence' Feb, 20,2020, <https://thewire.in/health/kashmirs-hopeful-mothers-have-a-silent-enemy-in-the-states-violence>

¹³² Hilal Bhat (UNICEF) in conversation with Jashodhara Dasgupta- member of Commission of Inquiry visited to Valley in February 2020

¹³³ The Forum For Human Rights In Jammu and Kashmir, Jammu and Kashmir: The Impact of Lockdowns on Human Rights August 2019-July 2020 Report

In most situations where services are disrupted, preventive services like immunization get affected and outbreaks of vaccine preventable diseases are known to occur. Vaccines, cold storage systems and more importantly communication systems, are crucial. Children in these circumstances, who may also be vulnerable to other infections and malnutrition, require immunization against potentially life-threatening illnesses such as measles, rubella, tuberculosis, polio, diphtheria etc.¹³⁴

A paper by Mohammad Altaf Paul and Waheeda Khan, published in the current issue of the journal *Community Mental Health* describe the results of a survey assessing the mental health of a thousand children from 12 schools in Shopian district. They report an astonishing finding: One out of every three of these children had a clinically diagnosable mental disorder, most commonly in the form of mood, anxiety or behavioural disorders.¹³⁵

The Invisible Battleground: Mental Health in Kashmir

I received one case a month back, the man lived alone at home, he would go to meet his relatives every weekend. Alone due to lockdown and communication clampdown, he started getting panic attacks and developed suicidal thoughts, he is now a patient of acute depression and suffers from tremors, suicidal tendencies, and frequent panic attacks.

- (Valley based psychiatrist)¹³⁶

Decades of unrest and trauma from surviving day to day alongside military excesses, disappearances, torture, constant threat of violence, injuries, coupled with the daily survival of bearing economic losses, collapse of public services has tipped the residents of Kashmir into extreme distress. A survey conducted by Médecins Sans Frontiers (MSF), in 2015 showed that nearly 1.8 million adults in Kashmir indicate symptoms of significant mental distress

A report released by the Médecins Sans Frontières (MSF)/Doctors Without Borders in May, 2019 showed that nearly 1.8 million adults (45% of the population) in the Kashmir Valley show symptoms of significant mental distress. Of these 41% of people exhibit symptoms of probable depression, 26% show symptoms of probable anxiety and 19% show symptoms of probable Post-Traumatic Stress Disorder (PTSD). Across the world, the wave of Islamophobia is wreaking irrevocable damage on the homes, bodies and minds of people. More than PTSD, it is the Ongoing Traumatic Stress Disorder that unfolds in areas of the world where occupying states flex their nationalist muscles. This trauma is ongoing in the Kurdish fighters watching Turkish tanks roll into Syria, for the Palestinians who witness Zionists breaking into the Al Asqa Mosque and for the Uyghur community which faces ethnic cleansing at the hands of the Chinese state.

[Excerpts from Counting Days (@countingdaysk) archives, Day 68]

¹³⁴ Statement by doctors, on public health and health care in Jammu and Kashmir 22nd August 2019

¹³⁵ Vikram Patel, 'Mental illness often stems from early-life trauma. It's happening in Kashmir', August 7, 2019, <https://indianexpress.com/article/opinion/columns/judgement-day-3-kashmir-unrest-mental-illness-5883899/>

¹³⁶ The Forum For Human Rights In Jammu and Kashmir, Jammu and Kashmir: The Impact of Lockdowns on Human Rights August 2019-July 2020 Report

due to unemployment, financial issues and due to traumatic events. The survey also found that 41 percent of the population showed signs of depression, 26 percent showed signs of anxiety and 19 percent showed probable symptoms of post-traumatic stress disorder (PTSD), which is exacerbated due to associated stigma.¹³⁷

Many of the Kashmiris we spoke to said that they were used to the civil strike –the shutdown of shops and businesses – but were anxious about the uncertainty of what lies next. They felt hurt and humiliated, and that their sense of identity was taken away. During a visit to the OPD of Institute of Mental Health and Neuro Sciences (IMHANS) situated at the SKIMS (Sher-i-Kashmir Institute of Medical Sciences) government hospital in the first week of February 2020, we saw several young and old women and men under treatment for depression and anxiety.¹³⁸

In 2018, the Lancet Commission on Global Mental Health, led by an eminent Indian psychiatrist, highlighted the long-term needs of populations affected by humanitarian crises, emphasising that their human rights and mental health are frequently compromised and should be addressed as a priority. This Lancet Commission was launched on Oct 18, 2018, at the Global Ministerial Mental Health Summit in London, UK, and was endorsed by ministers or their representatives from more than 40 countries, including India and Pakistan.¹³⁹

Surviving the State Violence: Living with Disability

Visually impaired survivors require therapeutic and rehabilitation services like physiotherapy, occupational therapy, speech therapy, visual-mobility trainings; assistive aids like braille, hearing aids, mobility aids – wheelchair, crutches, canes and other devices. However, I have not come across any pellet survivor being provided these assistive aids. The psychological suffering needs to be addressed with regular counselling and therapy which is completely missing now. There is no systematic documentation of mental health issues of the survivors.

- (Health activist)¹⁴⁰

Kashmir has a high instance of temporary or permanent disability due to injuries inflicted by the security forces. In such cases there is an increased need for health and other care-taking services. A large number of children have dropped out of schools as they are unable to see, read or concentrate because of the disability caused by pellet injuries. Furthermore,

¹³⁷ Kalpana Kannabiran, Sarojini Nadimpally Navsharan Singh, Roshmi Goswami, Pamela Philipose Interrogating the “Normal” in Kashmir, <https://indianculturalforum.in/2020/03/04/interrogating-the-normal-in-kashmir/>

¹³⁸ *Ibid.*

¹³⁹ Zafar Mirza, ‘Humanitarian crisis in Kashmir: don't shoot the messenger, September 04, 2019, [https://doi.org/10.1016/S0140-6736\(19\)32078-1](https://doi.org/10.1016/S0140-6736(19)32078-1)

¹⁴⁰ Kalpana Kannabiran, Sarojini Nadimpally Navsharan Singh, Roshmi Goswami, Pamela Philipose Interrogating the “Normal” in Kashmir, <https://indianculturalforum.in/2020/03/04/interrogating-the-normal-in-kashmir/>

as a consequence of this violence, conflict and intentional injuries, many people become disabled and many families experience further impoverishment, with additional costs of care-giving, loss of economic support imposed on them.¹⁴¹ The lockdown, restrictions on communication and inaccessibility of primary and tertiary medical care has meant that many Kashmiris have been surviving with pain, loss of bodily autonomy and independence.

The Growing Isolation of Kashmiri Doctors: Medical Community in Kashmir and Outside

*The trauma of not being able to care for patients in need has caused widespread depression amongst medical personnel.*¹⁴²

On June 3, 2020, Dr Muzaffar Jan, a prominent epidemiologist, was allegedly beaten by CRPF troops in Budgam district. On May 26, the Chief Medical Officer of Bandipora district was not allowed to cross a check-post while on his way to inspect a quarantine and sample collection centre. On May 23, Dr Syed Maqbool, a senior cardiologist, was detained and allegedly beaten by the police in Srinagar while on his way to the hospital. In two of the cases, the doctors were traveling in official government vehicles. Following protests by the Doctors Association of Kashmir, Inspector-General of Police Vijay Kumar issued instructions that medical personnel were to be given passage at check-posts.¹⁴³

Doctors in Kashmir have been under enormous stress of responding to their patients while dealing with the various restrictions during the lockdown. Many have stories of patients they lost during this time, patients they had to turn away because of the unavailability of medical supplies and having to deal with a growing military presence. There is also a sense of despair at being cut off from the larger community. Even with the restoration of 2G services, doctors are unable to access newer data and existing forums of discussion. There is also the added stress of the state surveillance on who they administer medical help.

“The Casualty Medical officer who is on duty at that point of time is responsible for all medico-legal formalities. He is generally informed that an alleged bullet victim or beating victim has arrived in casualty, it is his job to report. There are couple of police officers next to the emergency ward in the hospital so that they can take the daily census. They take out the names immediately. We don’t know what happens to these names.” – (Physician working in Srinagar)¹⁴⁴

¹⁴¹ Kalpana Kannabiran, Sarojini Nadimpally Navsharan Singh, Roshmi Goswami, Pamela Philipose Interrogating the “Normal” in Kashmir, <https://indianculturalforum.in/2020/03/04/interrogating-the-normal-in-kashmir/>

¹⁴² The Forum For Human Rights In Jammu and Kashmir, Jammu and Kashmir: The Impact of Lockdowns on Human Rights August 2019-July 2020 Report

¹⁴³ *Ibid.*

¹⁴⁴ A Physician working in Srinagar in conversation with Jashodhara Dasgupta- member of Commission of Inquiry visited to Valley in February 2020

On August 17, 2019, the editors of The Lancet wrote a piece raising serious concerns for the health, safety, and freedoms of the Kashmiri people and appealed to Prime Minister Narendra Modi that the people of Kashmir need healing from the deep wounds of this decades-old conflict, not subjugation to further violence and alienation.¹⁴⁵

“The report emphasises continued use of excessive force against civilians—for example, the use of pellet-firing shotguns has led to 1253 people being blinded between 2016 and 2018.

Despite decades of instability, developmental indicators suggest that Kashmir is doing well compared with the rest of India. In 2016, life expectancy was 68.3 years for men and 71.8 years for women, which are greater than the respective national averages. However, the protracted exposure to violence has led to a formidable mental health crisis. A Médecins Sans Frontières study in two rural districts affected by conflict stated that nearly half of Kashmiris rarely felt safe and of those who had lost a family member to violence, one in five had witnessed the death first hand. Therefore, it is unsurprising that people in the region have increased anxiety, depression, and post-traumatic stress disorder.”

- (Lancet: Fear and uncertainty around Kashmir’s future)¹⁴⁶

On 19 August 2019, the Indian Medical Association issued a letter condemning The Lancet for publishing what they deemed a breach of propriety by commenting on a political issue and an interference into an internal matter of Union of India.¹⁴⁷

“I urge the IMA, or at least the individual doctors this body represents, to have the courage and moral imperative to retract this misguided and damaging statement against The Lancet and focus their attention on the suffering of the people they have taken an oath to protect. The civilised world cannot afford to repeat the mistakes of the past.”

- (Zafar Mirza)¹⁴⁸

¹⁴⁵ The Lancet, ‘Fear and uncertainty around Kashmir’s future’ August 17, 2019, [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(19\)31939-7/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(19)31939-7/fulltext)

¹⁴⁶ *Ibid.*

¹⁴⁷ Letter from Indian Medical Association to Mr. Richard Horton, Editor-in-Chief, The Lancet, Dated August 19th 2019

¹⁴⁸ Zafar Mirza, ‘Humanitarian crisis in Kashmir: don't shoot the messenger, September 04, 2019, [https://doi.org/10.1016/S0140-6736\(19\)32078-1](https://doi.org/10.1016/S0140-6736(19)32078-1)

III

A Global Challenge made Worse in Kashmir: Surviving COVID-19

Internet access is critical at a time of crisis. Human health depends not only on readily accessible health care. It also depends on access to accurate information about the nature of the threats and the means to protect oneself, one's family, and one's community

- *(David Kaye, United Nations Special Rapporteur on the Right to Freedom of Expression)¹⁴⁹*

As COVID-19 spreads through Kashmir, the already fragile health care system is starting to collapse under this added burden. Inaccessibility continues with travel restrictions and low internet speed, with only 2G being available. 35 internet shutdowns were also reported during this period. Shortage of food, other essentials and medicines has placed the entire population at risk with falling nutrition levels and compromised immunity. There have been instances of harassment of medical workers, with many finding it difficult to move around the state to conduct tests and with low availability of protective gear. There are also many stories of Kashmiris stuck outside of the state or abroad, and unable to return home in the absence of support from the administration. Detentions have been rising up, within a month of nationwide lockdown, 1012 FIRs had been registered in Jammu and Kashmir against 2303 people defying the lockdown rules set by the administration. Of these, 1691 were arrested in Kashmir and booked in 568 FIRs whereas 612 people were arrested in Jammu division and booked in 444 FIRs. Arrest of at least 92 more people was reported after the statement by J&K Police on 16 April. Apart from arresting people, 1295 shops and vehicles were also seized for defying lockdown orders by 16 April.¹⁵⁰

The internet connections in Kashmir Valley remain patchy as of July 2020. The latest information from the Ministry of Communications and Information Technology is that the 4G speed is unlikely to be restored any time soon. Mobile connectivity is at 2G speed, or even slower, which means that watching videos, attending webinars, or downloading important presentations and textbooks is beyond reach. The knock-down effects of this means that there is limited access to reliable information on the recent pandemic, especially with regards to precautions, management, and treatment of the disease. This has led to increased anxiety, fear, and restlessness amongst people, and especially among doctors who badly need to communicate with one another to keep abreast of the fast-changing developments related to the Covid-19 pandemic. The repeated disconnection of

¹⁴⁹ Jammu Kashmir Coalition of Civil Society & Association of Parents of Disappeared Persons, Six Monthly Review of Human Rights Situation in Indian administered Jammu and Kashmir (January to June 2020) July, 1, 2020), <https://jkccs.net/bi-annual-hr-review-229-killings-107-casos-55-internet-shutdowns-48-properties-destroyed/>

¹⁵⁰ *Ibid.*

the internet - especially in areas of South Kashmir - by the law enforcement agencies, to prevent people from gathering at encounter sites, means that doctors and patients too are directly affected.

At a time when, due to the lockdown, most laboratories and hospitals are engaging in telemedicine and remote consultations and sending reports via the internet, the repeated blockade of the internet has put a brake on this endeavour. Again, this has resulted in anxiety, fear, and hopelessness. The patients and doctors feel helpless in the face of repeated internet blockades, and they have no one to appeal to or complain to, since the administration is paralysed by the Pandemic.

Anecdotal evidence suggests that doctors have been unable to download the latest guidelines, unable to watch webinars, and unable to stay abreast of latest developments regarding the Pandemic of Covid-19. Patients are the victims - since they are unable to access health care at a high-quality standard that they deserve.

- (Physician working in Srinagar)¹⁵¹

“In the COVID-19 conditions it is virtually impossible for residents of containment zones to go to the hospital. Moreover, in most districts, due to the shortage of staff, infrastructure and funding, the health system with its total attention to Covid-19 is unable to cope with the crisis and the rising number of cases. Most of the Corona-positive patients have been quarantined in non-medical facilities with poor facilities. Due to the shortage of doctors and paramedical staff, most of these patients are being taken care of by teachers and other government employees. There are also examples where there has been laxity in testing.”

- (Teacher, Kulgam)¹⁵²

Instead of being treated as a health emergency, this lockdown was also implemented in a highly militaristic manner like many other lockdowns that Kashmiris have been made to suffer, the most recent being imposed on 5 August 2020. Armed police and paramilitary forces personnel manned the roads, which were also blockaded by concertina wire and the armed police and paramilitary vehicles. Hundreds of FIRs were filed against people charging them of defying restrictions.¹⁵³

Doctors and patients alike complained that the stressed state of healthcare in Jammu and Kashmir is such that, in order to cope with the pandemic, other services such as Out-

¹⁵¹ A Physician working in Srinagar on email to Jashodhara Dasgupta (member of Commission of Inquiry visited to Valley in February 2020)- Report on Pandemic and Absence of High-speed Internet

¹⁵² The Forum For Human Rights In Jammu and Kashmir, Jammu and Kashmir: The Impact of Lockdowns on Human Rights August 2019-July 2020 Report

¹⁵³ Jammu Kashmir Coalition of Civil Society & Association of Parents of Disappeared Persons, Six Monthly Review of Human Rights Situation in Indian administered Jammu and Kashmir (January to June 2020) July, 1, 2020), <https://jkccs.net/bi-annual-hr-review-229-killings-107-casos-55-internet-shutdowns-48-properties-destroyed/>

Patient Departments, surgeries and wards for patients suffering from non-COVID ailments, have been closed. According to an online survey conducted by Child Relief and You, 77 percent of respondents from Jammu and Kashmir said they had not been able to access immunization services for children aged 1-5, as compared to 63 percent for the rest of North India.¹⁵⁴

Official Statements Correlating to Health

The following have been taken from the report 'Six Monthly Review of Human Rights Situation in Indian administered Jammu and Kashmir (January to June 2020)' by Jammu Kashmir Coalition of Civil Society & Association of Parents of Disappeared Persons.

April 1:

J&K Govt to take action against Doctors & Paramedics If They 'Publicly Criticize the Admin'

Issued by the directorate of health services, Kashmir, the order observed that "some of the government servants are publicly criticizing the efforts of the administration to combat the Pandemic of COVID-19, which is against the service conduct rules. It further added that action would be taken against "any person disobeying any regulation or order made under the Epidemic Diseases, Act, 1897, punishable under section 188 of the Indian Penal Code."

"There can be difference of opinion or some minor issues, which the government employees can bring into the notice of concerned authorities so that the issue is redressed instead of putting that issue in social media, print and electronic media, which is causing more harm than good to the public and administration in combating pandemic of COVID-19," the order issued by Dr Sameer Mattu, Director, Health Service, reads.

May 31: IGP Kashmir, Vijay Kumar said due to COVID-19, bodies of slain militants were not being handed over to their families. "Whilst there is the threat of coronavirus, the bodies will not be handed over," the inspector general of police in Kashmir, Vijay Kumar, told Al Jazeera in early May.

- *Jasodhara Dasgupta and Devika Shetty
with Kalpana Kannabiran, Sarojini Nadimpally,
Navsharan Singh, Roshmi Goswami, and Pamela Philipose*

¹⁵⁴ *Ibid.*

I AM KASHMIR

Broken... limping
I still dare to get up
For I will never give up

Stabbed... wounded
My heart skipped beat
But I won't accept defeat

Crushed... tormented
My soul is restless
But never hopeless

Today I am in deep pain and sigh
But my flag will again rise high
My sacrifices won't wither by
For it is often "in the ruins that
hidden treasures lie"

- Noor Afshan

[Excerpt from Counting Days archives, Day 329]

**Jammu & Kashmir Economy Under Boots:
Political Economy of Militarized Underdevelopment**

The data that is reproduced on this page is sourced from all the data that has been made publicly available by Government of India on an erstwhile vibrant economy, that of Jammu & Kashmir!

Systematic Decimation of Kashmir's Economy

The abrogation of Articles 35A and 370 and the military siege that has continued for a year since August, 2019 has ushered in a new chapter to three decades of brutality inflicted on the people of Kashmir. The region, itself caught amidst territorial assertions of India, Pakistan and China, has evolved to survive with conflict. Kashmir itself has lived through wars, skirmishes, militancy, occupation and state terror. An economic analysis of a region has to be located within the larger context of conflict, without which it would be misleading, an attempt that the Indian state has engaged in. Unlike most other regions of India, curfew, hartal calls, internet shutdowns are not new, sometimes they can last for weeks and as we know now even over a year. The occupation and its multiple dimensions have affected every aspect of life in Kashmir, economy included. Over the last two decades, Kashmir have seen a cumulative 3000 days of lockdown; to put it another way, in the last 20 years, the state has been under lockdown for over 8 years.

An Overview

The Indian state's attitude of seeing Kashmir as a resource and Kashmiris as law and order problem is reflected in the expenditure on bureaucracy and police forces of the state in the national accounts captured under the innocuous term, "public administration". In contrast, social services like education and health, labelled under "other services" paid for by the state's budget, constitute just 10 per cent of the economy and the military expenditure constitutes to 15.5 percent of the economy. With maintaining two capitals and expenditure to support the bureaucracy and state services that come with it, account for 26 per cent or more than a quarter of its economy. This is unlike any other state in the Indian Union. It should be noted that the expenditure on the military personnel and related infrastructure paid for by the Centre provides artificial buoyancy to the consumption, demand and economic activities in the state. As a result, the share of the economy, accounted for the over-developed state and military apparatus, in reality is substantially higher than 26 percent recorded officially in the state's GDSP accounts.

This over-developed state apparatus, with disproportionately large para- military and police force (more than half a million military personnel positioned in the region), has distorted the structure of the economy and prevented the development of modern manufacturing and knowledge-based services. It has also reduced the state spending in real sectors of economy namely agriculture and manufacturing.

Kashmir does not have modern manufacturing units that could boost its economy (reasons stated above) and its growth in recent years have considerably been to cater the armed forces like that of construction and real estate which has expanded as the central government has stepped up its expenditure on border roads and other military installations. Today, it accounts for 17 percent of the state's income giving the secondary sector a respectable 26 percent share in the GDSP. But on many social indicators Kashmir has continued to be better than some other states in the union.

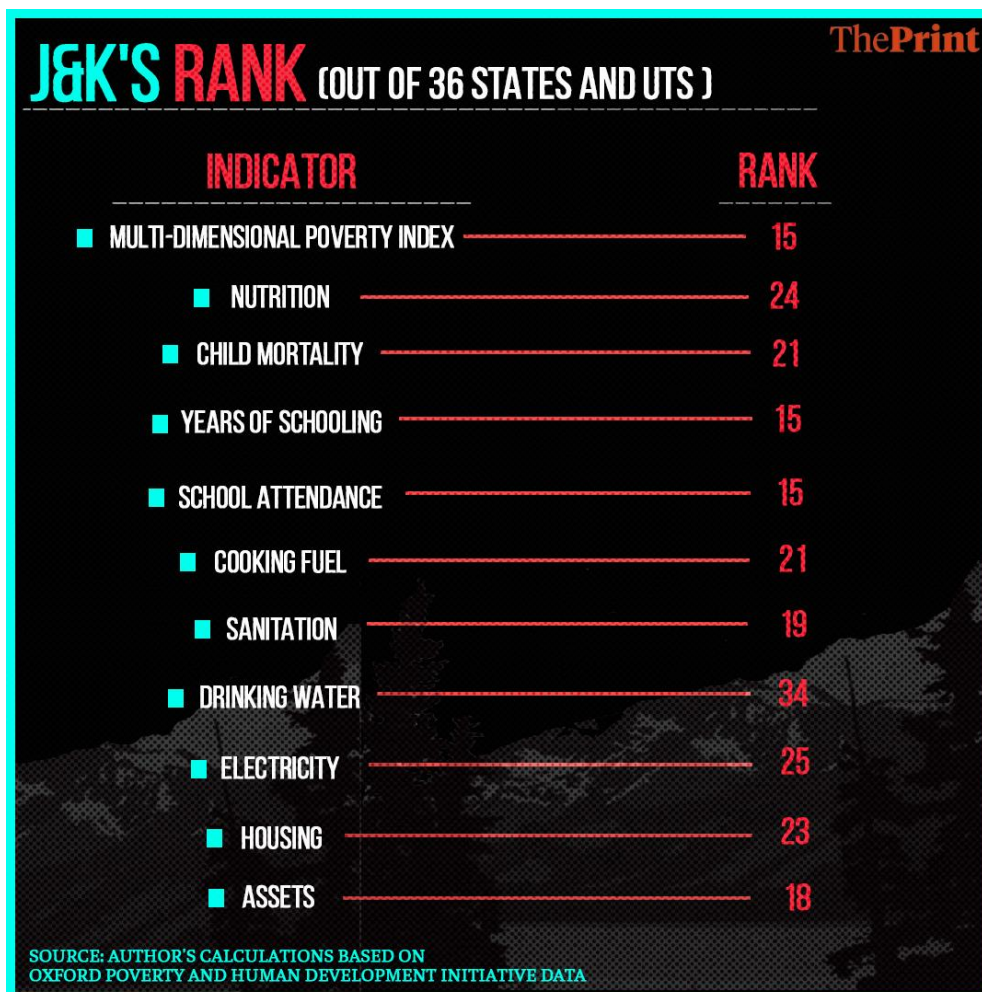
Multiple reports show the steady increase in Human Development Indices (HDI) indicators pertaining to literacy rates, marriage and fertility, child sex ratios and school attendance rates for girls over six years of age are relatively better than many other regions in India¹⁵⁵. In the latest Multidimensional Poverty Index (MPI) created by the Oxford Poverty and Human Development Initiative, using official Indian statistics on health, education and access to assets, Jammu and Kashmir ranked 15th out of 36 states and Union Territories¹⁵⁶. In the same article the author points out that Jammu and Kashmir's unemployment rate was lower than the national average as of 2017-18, when the Periodic Labour Force Survey was conducted by the National Sample Survey Office. It ranked 11th out of 21 states considered for the JustJobs Index created by the Azim Premji University and the JustJobs Network to study the creation of good quality jobs, above several more developed states, including the northern states and Gujarat.

T.K. Rajalakshmi highlights that in a comparison of the health indicators between NFHS-4¹⁵⁷ (2015-16) and NFHS-3 (2005-06) shows a marked improvement in Jammu and Kashmir in the decline in child and infant mortality rates. Sex ratio at birth in Jammu and Kashmir improved substantially (921 female births for every 1,000 male children in 2015-16 compared with 902 in 2005-06). Literacy rates in Jammu and Kashmir improved for both men and women, with a 10.5 per cent increase in the percentage of women who had studied beyond class 10. Similarly, the school attendance for female children above six years of age went up from 57.5 per cent in 2005-06 to 65.5 per cent in 2015-16.

¹⁵⁵ <https://frontline.thehindu.com/cover-story/article29054385.ece>

¹⁵⁶ <https://theprint.in/opinion/data-doesnt-support-amit-shahs-claim-that-article-370-deprived-jk-of-development/273302/>

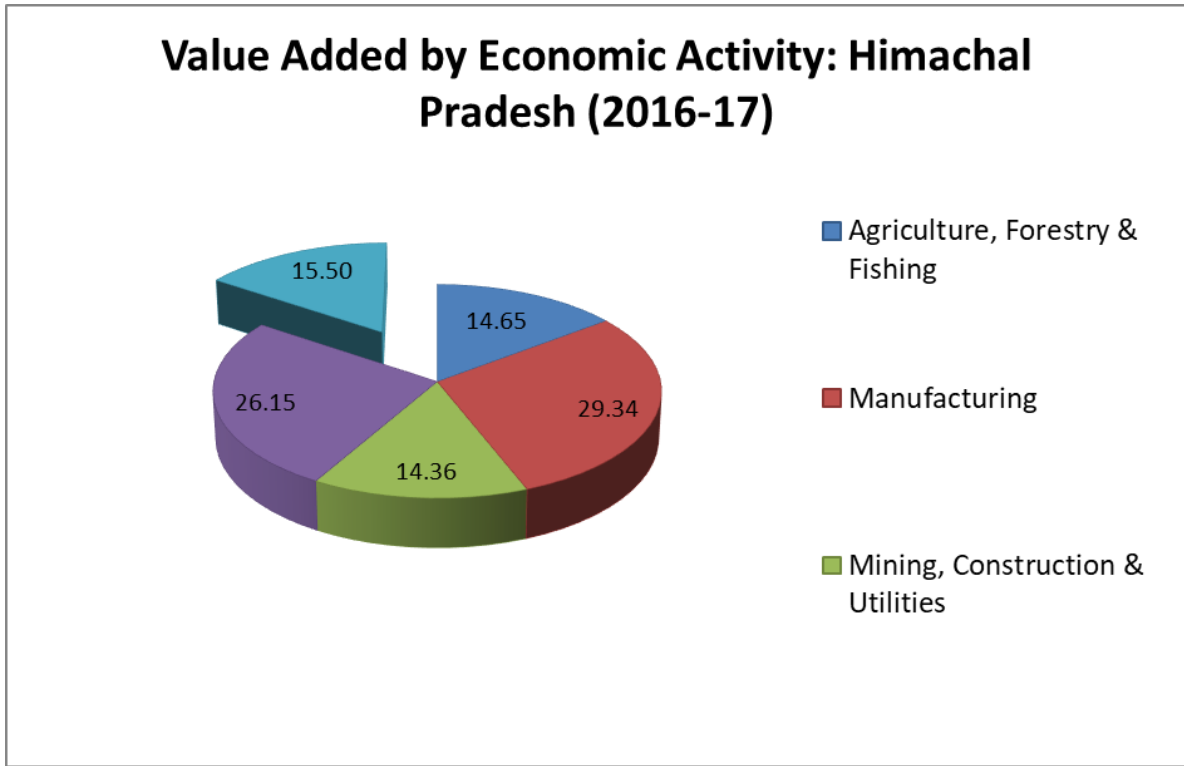
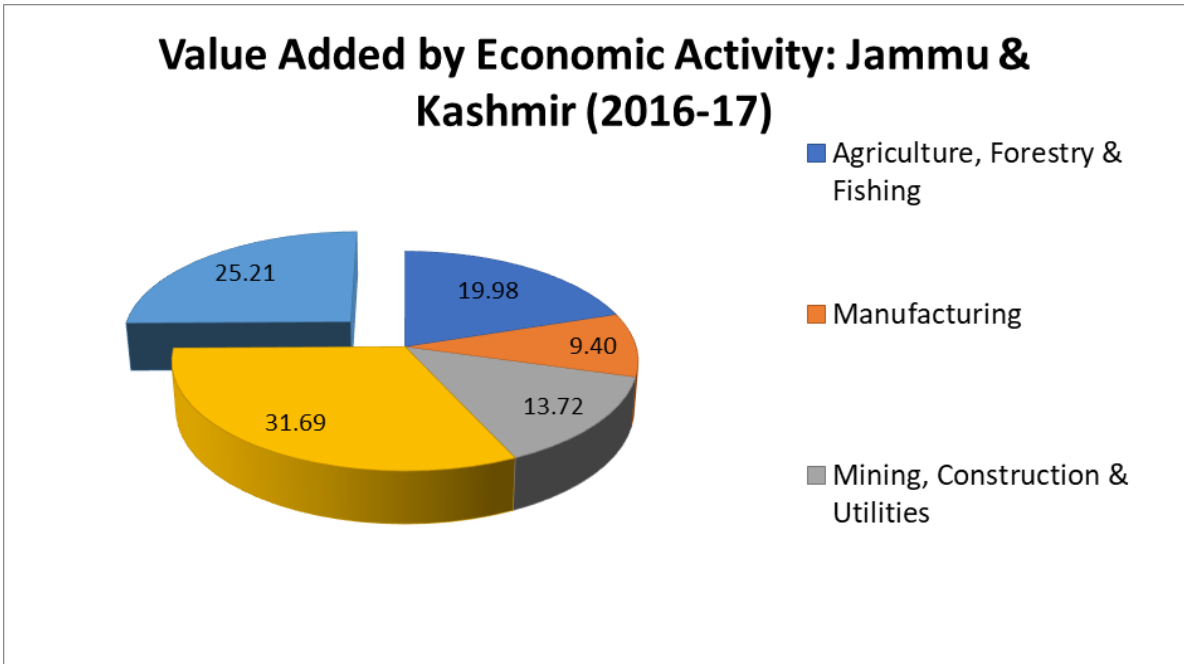
¹⁵⁷ <http://rchiips.org/NFHS/NFHS-4Reports/India.pdf>



These numbers indicate a much better social infrastructure in comparison with many other Indian states. Land reforms implemented in the 1950s, ensured people's access to resource. Today agriculture (including Horticulture) accounts for 20 percent of the state's output. As a result of its special status and social policies like the land reforms, had kept Indian economic plunder of Kashmir in abeyance and its economic growth, though not comparable to modern manufacturing and heavily Industrial societies, was organically linked to the land, its resources and people.

Manufacturing sector for example constitutes largely of traditional industries like sericulture, handicrafts, carpet weaving, wood-based industry and food processing, papier-mache and cement production, accounting for 9 percent of the GDSP. Jammu and Kashmir is the largest producer of apples, walnuts, almonds and saffron in the country. These products account for J & K's exports in India and abroad. Sopore market alone has an average annual turnover of more than 3000 crore rupees and is Asia's 2nd biggest fruit market. Tourism is another important sector that accounts for 6.9 per cent of the state's income. Tough tourism in J&K, suffered in the 1990s due to insurgency and counter insurgency, recorded significant profits in recent years till it was completely shut down on 3rd August 2019.

A comparison of Kashmir economy with sectoral economy of Himachal shows this difference:



As of March 2019, J&K Bank was among the stable profit earning public sector banks in the country with aggregate business of the bank at `155910.40 Crore and Gross Profit for the financial year 2018-19 stood at 1717.90 Crore¹⁵⁸.

After the abolition of the state of J&K in August 5, 2019 all economic activities came to a halt in the Kashmir Valley. Markets and shops were closed and tourists were ordered to vacate the state. City bus services came to a halt, internet and telephone services were suspended, the limited railways system between Qazigand to Baramullah remained completely shut for several months. Even post offices did not open and people found it difficult to withdraw money from their postal saving account. Few customers could reach the banks. Children were deprived of their much need meal as even anganwadi centers were shut and primary health centers were barely working. Many public buildings, including schools and health centers were occupied by armed forces since July 2019. Traditional manufacturing and weaving sectors made a loss of Rs 2520 crores, according to Kashmir Chamber of Commerce estimates. Sales of white goods and automobiles have totally collapsed with curfew and difficulty of movement in the Valley. Even private health care and nursing homes have suffered loss of business due to shut down of communications. Without internet, traders were unable to file e-way bills and ship their commodities out of the state even if freight trucks were available.

This prolonged shut down was limited to the Kashmir Valley with the area around Srinagar facing the most sever forced lockdown that even shut the government-run industrial area in the outskirts of the city. On the other hand, life in Jammu and Ladakh regions was largely normal with increased freight movements to support a larger para military force. However, the continued clampdown on the valley has begun to reflect the in the economy of these regions as well since they relied on the ability of the valley to produce commodities and products. This targeting of Kashmir valley is a premeditated and careful implementation of the Indian Hindutva state's strategy to control the land and its resources and subjugate the people.

365 days down the line, it is confirmed from political pronouncements of the ruling party that the destruction of the erstwhile state's economy is not a collateral damage, but the result of deliberate statecraft. The arbitrary communication blockade for months altogether and the restrictions on physical movement were a body blow to the economy, which has survived many temporary shutdowns and lockdowns in the past, caused by the existing conflict in the region. Unlike the past, the longest internet shutdown in history made all online transactions inaccessible to Kashmiri businesses and people. From tourist bookings, vegetable / fruits and nuts exports, carpet / handicrafts industry, which again was export based to students giving entrance exams, job applications all ensured a devastation that would be difficult to revive from. Further keeping Kashmiri businesses outside the reach of mining contracts, physical removal of the traditional Dal dwelling and boat owners' community, filling J&K Bank with non-Kashmiris, removal of section 35 A

¹⁵⁸

<https://www.jkbank.com/pdfs/annrep/Annual%20Report%20Deluxe%20Final%20Artwork%20%2026092019.pdf>

makes it clear that containment of economy is not only a part and parcel of the political agenda of the Central Government but it is just the beginning of an even more devious plans.

Decimation of the Kashmiri hold over Kashmir's economy is an important part of the agenda to the 'opening up of Kashmir's economy'. Even the pandemic has become an opportunity to once again curtail the movement in the state, the Indian government is marching full speed ahead with law, policy and governance changes that threaten the very survival of this economy, singed and approved. The Forest Advisory Committee of the Jammu and Kashmir administration has granted clearances to 125 projects¹⁵⁹ involving diversion of forest land for other purposes between August and October alone¹⁶⁰. Kashmir post abrogation of Article 370 and section 35A is ideal option to take Indian and International business to an already occupied territory (considering, the Indian State has been trying desperately to bring in Army in the central Indian regions to enable the peaceful plunder of natural resources). With that achieved Indian administrators can continue to make the following statements, even as the people who built their lives, livelihoods and economy around the land and its resources die trying to defend it.

Finance Minister's budget speech for Jammu and Kashmir

"Notwithstanding some of the problems, the pace of development has shown a remarkable resilience both in terms of revenue and development expenditure. The overall expenditure has gone up by ` 5,600 crore by end of January, 2020 compared to last year. GST growth at end of February, 2020 was 13%. Significantly, growth of GST cash for December, 2019 was 40% and GST growth for February, 2020 (cash and credit) was 31%, making J&K one of the better performers on this parameter. Economic resilience is also indicated by growth of over 60 % in stamp duty collections, 7.5 % growth in excise collections, and growth of 1.7% in toll tax at end of December, 2019. Apple exports have been at par with last year, and export of handicrafts, crewel, shawls etc have been greater than last year. The ATM and Bank transactions have also shown positive trend as compared to last year. The macro-economic parameters show that J&K economy has risen up to the challenges of transition and continues to do well."¹⁶¹

But, the true victory for the Indian state lies not just economic colonisation of Kashmir, but breaking the spirit of the people who refuse to accept its occupation. It is only that can explain a state that imposed a total shutdown for months and also through its Public Sector Banks hounding the business community to replay loans, while Indian businesses got a moratorium during a pandemic, Kashmiri business people were forced to plead.

¹⁵⁹ <https://www.downtoearth.org.in/news/forests/amp/with-state-under-lockdown-j-k-fac-issues-record-forest-clearances-67322>

¹⁶⁰ <https://scroll.in/latest/941222/jammu-and-kashmir-125-projects-cleared-on-forest-land-since-august-only-97-approved-last-year>

¹⁶¹ <http://www.jakfinance.nic.in/>

SOS

HERE IS AN SOS MESSAGE TO 1.3 BILLION HUMANS FROM ILL-FATED TRADE, TOURISM, HORTICULTURE, AGRICULTURE, HANDICRAFTS, COMMERCE & INDUSTRIAL COMMUNITY OF KASHMIRIS

THAT HAS GOT CAUGHT IN THE MIDDLE OF THE SEA OF DEBT AND DESTRUCTION.

Approximately 1000 days (more than 2.5 years) of standstill since 2008 until this Day due to Unrest and Turmoil, made our survival vulnerable. Despite the fact we have not earned a single penny during these troubled spells, we never have been hesitant in paying Bank Interests, Different Administrative Charges, Salaries to our Staffs and maintaining our families.

How cruel can be the system, when fraternity is being enticed for investments, Sky is the limit, has been sold as dreams. But when the same community gets trapped due to system failures, the same system leaves the community in shambles and start selling false dreams to new entrepreneurs.

The entire business community is trembling under its weight of involuntary failures, the failures that have been imposed on us due to lack of management skills, sympathy, interest, and concern.

May we least expect from conscious souls that they rise to the crisis with compassion and concern. Your conscience should not let you sleep while seeing and knowing that we have been forced to suffer losses, liabilities, and destructions?

Dear 1.3 billion people we trust you that you will make them realize what we have been going through all these years, how long we will be compelled to bear these involuntary losses and liabilities, we believe, you will make them realize that this is high time to address our genuine concerns and make them start acknowledging their responsibilities.

KCCI (Kashmir Chamber Commerce and Industries) | **KTMF** (Kashmir Trade and Manufactures Federation) | **KEA** (Kashmir Economic Alliance) | **FCIK** (Federation of Commerce and Industries Kashmir) | **PHD Chamber of Commerce** (Kashmir Chapter) | **KAHROF** (Kashmir Hotel and Restaurant Owners Federation) | **KHARA** (Kashmir Hotel and Restaurant Association) | **JKHC** (Jammu Kashmir Hoteliers Club) | **JKAHUC** (Jammu Kashmir Association of Hajj & Umrah Companies) | **KIRDF** (Kashmir Industrial, Revival & Development Forum) | **JCCD** (Joint Committee of Chemists and Druggists) | **TWA** (Transport Welfare Association) | **KFVC** (Kashmir Fruit and Vegetable Chain) | **KHBOA** (Kashmir House boat Owners Association) | **Beopar Mandal** (Maharaj Gani) | **HRA** (Hotel and Restaurant Associations) | **PSA** (Private School Association) | **SFA** (Shopian Fruit Association) | **KGA** (Kashmir Gold Association) | **ARF** (Artisans Rehabilitation Forum) | **KEF** (Kashmir Eco Forum) | **TTSF** (Tourist Taxi Stand Federation) | **TASK** (Travel Agent Society of Kashmir) | **JKTA** (Jammu Kashmir Tourism Alliance) | **PLTOF** (Pilgrimage & Leisure Tour Operators Forum) | **UTTA** (Urban Tours and Travels Association) | **AKTO** (All Kashmir Tour Operators) | **TTIG** (Travel Trade Interest Guild) | **TAAK** (Travel Agent Association of Kashmir) | **KCA** (Kashmir Contractors Association) | **KSP** (Kashmir Silk Producers) | **SKTA** (Sheri Khass Traders Association) | **JTA** (Jamia Traders Association).

BESIDES THESE THERE ARE NUMBER OF BUSINESS AND TRADE ORGANIZATIONS WHICH HAVE
EXTENDED THEIR SUPPORT FOR THIS JUST AND REASONABLE CAUSE

Horticulture

The famous Kashmiri apple industry in Kashmir, worth INR 80 billion¹⁶² and contributing to 8 percent of J&K's GDP has been hit the hardest, especially in the districts of Pulwama, Kulgam, Budgam, Anantnang, Sopore and Shopian. The Sopore apple mandi is the second largest fruit mandi in Asia, with about 350 trucks, each carrying about 1200 crates of apples, transporting the fruit out of the mandi any given day. The massive financial loss can be estimated from the fact that the fruit in each truck is valued at a minimum of Rs 5 to 6 lakh rupees.



Photo: Sopore apple mandi – the 2nd largest apple mandi in Asia

The impact on livelihoods and employment can be estimated by the fact that on an average each mandi employs a minimum of 10,000 labourers on a daily basis and overall is recorded to employ around three million people¹⁶³.

¹⁶² https://www.orfonline.org/wp-content/uploads/2020/01/ORF_SpecialReport_99_Kashmir.pdf

¹⁶³ <https://kashmirobsrver.net/2020/05/18/mounting-economic-loss/>



Photo: a poster from Counting Days archives, Day 106¹⁶⁴

The Kashmir Valley has historically been the largest producer of apple, walnut, almond and many other temperate dry and fresh fruits, and holds number one position in saffron production in India – 98 percent of it being cultivated in the Kashmir province. While horticulture production is concentrated primarily in the Valley, trading is done via traders from the Jammu region who account for 70 percent of state exports. The horticulture industry survives mainly through exports, 84 percent of total output being sent outside the region. Moreover, this sector is highly labour intensive and provides employment opportunities to a sizeable number in both cultivation and processing.

The production and productivity of this sector, as well as the livelihoods of those dependent on it, has suffered immensely since the lockdown. The suspension of bus and

¹⁶⁴ <https://www.instagram.com/p/B5AfUjYHq67/>

transport services including railways has obviously severely constrained movement of products both within the region and outside, leading to massive losses in terms of money as well as kind: not only has trade earnings been lost but fruits being highly perishable goods have rotted. The KCCI report states, the government's promise of supporting the horticulture sector with Rs 8,000 crore fund to purchase apples has failed to take off. In addition, untimely snowfall has damaged the crop as well as the fruit trees.

Compounding this is the takeover of both public and private buildings including storage sheds and market places by paramilitary troops, thereby denying horticulturists and traders' space to store whatever products they had been able to. Markets and mandis have been cordoned off with concertina wires, with no entry being allowed either of people or products.

Trading also involves increasing dependence on communication facilities in a fast digitalizing world, both nationally and internationally: with the communication blockade and the restriction of internet to 2G, online trading and auctions have been heavily restricted, if not denied altogether. Added to these constraints is the closure/restricted functioning of banks, the two together not even permitting receipts and payments. It is estimated that commercial and private transactions were down to less than 10 percent of their monetary value compared to pre 5th August.

Tourism

Tourism, the economic sector popularly associated with Kashmir, contributes about 7 percent to the GDP of J&K and Ladakh, according to the Economic Survey 2017. Moreover, industry estimates, it directly employs over a lakh people. While official data records merely one lakh persons dependent on tourism, the number of people actually depending on tourism for their livelihoods is much more. These include porters, loaders, carriers, translators, guides, water vendors, vegetable sellers, flower sellers, shikara employees, workers employed to do household cleaning and maintenance of houseboats, houseboat builders, crafts-persons dependent on tourist sales, warm clothing renters, photographers, hotel and restaurant owners and workers employed therein, taxi owners, bus owners, drivers, cleaners, horse and pony owners, shops and eateries on tourist spots, internet cafes, phone providers, apparel shops, parlours, office and support staff in all establishments both formal and unorganised as well as registered/unregistered – the list is unending.



Photo: Dilawar, the wonderful flower man of Dal Lake; Counting Days archives, Day 231¹⁶⁵

A year after the siege tourism industry has been ravaged and the many layers of livelihoods and occupations, it supports decimated, perhaps, irretrievably¹⁶⁶. Compounding this impact are the poorly conceived lockdown to stem the tide of COVID-19 infections and the arbitrary and whimsical restrictions by the Union Territory administration, the blockade of 4G internet services, heavy troop deployment, and incidents of violent strife.



Photo: Empty boats on the side of Dal Lake

¹⁶⁵ <https://www.instagram.com/p/B-CR3rqHI0I/>

¹⁶⁶ <https://www.hindustantimes.com/india-news/thousands-lose-jobs-as-restive-kashmir-s-tourism-economy-dwindles/story-n0C6bt8FiyurKP7JFHP8uN.html>

The industry has seen turbulent times in the past and has recovered every time. one of the severe falls in the number of tourists started in by 1989 and continued to worsen throughout the 1990s.¹⁶⁷ It started picking up pace once again in the 2000s. Till 2000 tourism was only considered a trade activity, in May 2002 the Ministry of Industries recognised tourism as an industry¹⁶⁸. Its steady increase was halted once again in 2008 during the protests against the transfer of land to Amarnath Shrine Board. The number of tourists visiting Jammu (*Vaishno Devi Temple*), Ladakh, and Kashmir (both Amarnath Yatris and foreign/domestic tourists) declined by 33 percent from about 1.25 crores in 2012 to about 84 lakhs in 2016, according to J & K Economic Survey 2017. The reasons for the decline of tourists, as reported by the media, range from the 2014 devastating floods, the subsequent closure of the Valley and incidents of violence in 2015 following the extra-judicial killing of Burhan Wani, among others. Negatively impacted by snags in the implementation of the new Goods & Services Tax (GST) regime by India too, tourism-dependent businesses in J&K were already on a weak footing leading up to the events of July 2019 and after.

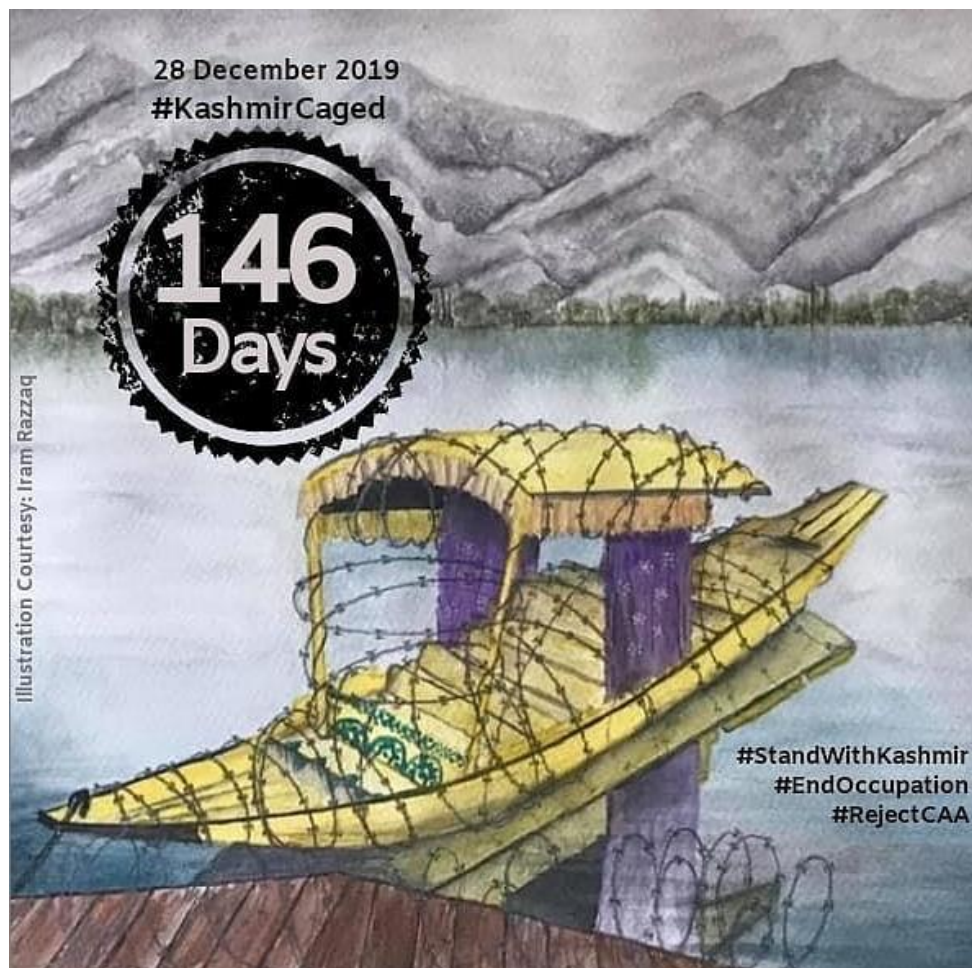


Photo: Counting Days archives, Day 146¹⁶⁹

¹⁶⁷ <https://shodhganga.inflibnet.ac.in/bitstream/10603/186099/13/12%20chapter%203.pdf>

¹⁶⁸ Ibid

¹⁶⁹ <https://www.instagram.com/p/B6n0YINnRXZ/>

Government-Instigates Panic

The year 2019 did not augur well for tourism¹⁷⁰ in Kashmir. In February, the Pulwama attack where around 40 CRPF personnel lost their lives, led to some influential people in India to call for a boycott of Kashmir. There was an increasing perception that Kashmir was no longer a safe tourist destination though by July 2019, there were signs of tourist revival. By end-July, about 3 lakh pilgrims¹⁷¹ had offered prayers at the Amarnath shrine, comparable to figures in previous years.

On August 2, 2019, in an unprecedented move, the Government of J&K cancelled the Yatra citing threats of a Pakistan-sponsored terrorist attack, and ordered pilgrims and tourists to immediately leave the Valley. Owners and operators said that the police/paramilitary forces visited hotels, lodges and houseboats, asking tourists to vacate as soon as possible. By August 4, telephonic, cellular and internet services were suspended across the state. These measures triggered panic and deep insecurity across the Valley¹⁷², as thousands of tourists, pilgrims and lakhs of inter-state migrant workers desperately sought to leave, fearing attacks or worse – about 3,000 tourists were evacuated by air¹⁷³.

No terror attack occurred, and on August 5, 2019, the Indian Government de-operationalized Articles 370 and 35A, and downgraded the state into two Union Territories.

Abrogation & Beyond

The government advisory asking tourists to leave the state was only lifted on October 9, 2019¹⁷⁴. However, the tourism sector could not pick up after it was strangled in August. Heavy security clampdown, restrictions on movements and communication, and a seething local population are hardly conducive to tourism. Moreover, the peak tourism season ends by November as winter set in. Yet, when the Rajya Sabha Member and Communist Party of India (Marxist) leader from Kerala, Elamaram Kareem asked the Union Tourism Ministry about the impact of the abrogation of Article 370 and the related, prolonged lockdown on tourism in Kashmir, the Tourism Minister, Prahlad S. Patel claimed on November 19, 2019 in Parliament, that effectively, there was no significant impact. An RTI investigation revealed that in fact Patel had lied to the Parliament, and concealed information provided to him by the UT administration.

¹⁷⁰ <https://www.outlookindia.com/magazine/story/business-news-heaven-and-hell-how-kashmirs-tourism-industry-is-sinking-after-pulwama-attack/301542>

¹⁷¹ <https://www.bbc.com/news/world-asia-india-49222571>

¹⁷² <https://www.aljazeera.com/news/2019/08/panic-kashmir-india-asks-tourists-pilgrims-leave-190802145955424.html>

¹⁷³ <https://www.outlookindia.com/outlooktraveller/travelnews/story/69625/pilgrims-non-residents-of-kashmir-sent-back-in-a-hurry-owing-to-security-reasons>

¹⁷⁴ <https://www.ndtv.com/india-news/tourists-to-be-allowed-to-visit-jammu-and-kashmir-from-thursday-2113226>

There had actually been a sharp decline in tourist arrivals in Kashmir, following the abrogation of Article 370 (see Table 1). As Muzamil Bhat and Chitragada Choudhory reported in *The Wire*, the decline in tourist arrivals from August – December 2019 “is 86% vis-à-vis the same period in 2018 ... and a fall of 93% vis-à-vis 2017.”

Administrative ‘relief’ measures are totally unrelated to the reality of tourism and tourism dependent people. For instance, shikarawalas have been designated as ‘labourers’ and they have no option but to accept the downgrading of their occupational status if they wish to claim the relief amount of Rs 1000.

Table 1: Tourist Arrivals in Kashmir Valley

Tourist Arrivals	2017	2018	2019
August	164395	85534	10130
September	135751	103195	4562
October	133071	55951	9327
November	112300	33720	12086
December	65837	38024	6954

Source: Lok Sabha Unstarred Question 3411 dt 19 Dec. 2019, cited in Report in The Wire by Muzamil Bhat and Chitragada Choudhury.

This has led to massive losses and destruction of jobs in the region, as hotels, ski resorts, and houseboats ran empty, shikara rowers were stranded without work, and pony-owners¹⁷⁵ looked to daily wage work. Ramneek Kaur, who runs a hotel in Pahalgam¹⁷⁶ told *The Wire* that “2019 has been the worst year in recent times,” and that in September-October, things turned desperate and she had to lay off service staff because of poor business. “With so much political turmoil, and restrictions on the internet, not many tourists will risk coming here,” she said¹⁷⁷.

Estimates by the Kashmir administration pegged the losses¹⁷⁸ to the tourism sector at 71 percent between August and October 2019. The Kashmir government itself attributed the reluctance among tourists to restrictions on communications and the internet, among other reasons. As per estimates by the KCCI, the tourism sector faced losses ranging

¹⁷⁵ <https://www.forbesindia.com/article/special/kashmir039s-tourism-sector-faces-losses-over-rs-9000-cr-14-lakh-people-lose-jobs/57275/1>

¹⁷⁶ <https://thewire.in/government/kashmir-tourism-article-370-rti>

¹⁷⁷ <https://ruralindiaonline.org/articles/srinagars-shikaras-still-waters-run-deep-losses/>

¹⁷⁸ <https://thewire.in/government/rti-reveals-union-minister-lied-to-parliament-about-hit-to-tourism-in-jk>

between Rs. 5000¹⁷⁹ and 9000 crores, and over 1.4 lakh¹⁸⁰ people lost their jobs. Only 50¹⁸¹ of about 2500 travel agents continue to operate¹⁸².

There has been no revival in 2020 in tourism in part because of the continuing restrictions on internet speeds, By March, there were fresh sets of lockdown ordered by the Indian Government in the wake of the Covid-19 pandemic.

Not much is known about the impacts on tourism in Jammu and Ladakh. In fact, visitors to the Mata Vaishno Devi Temple have not fluctuated as sharply as those for Kashmir. In Ladakh, tourism suffered in 2019 on account of the turmoil in Kashmir, and in 2020, the pandemic-related restrictions and the Galwan Valley clashes with China have further wrecked¹⁸³ the prospects of tourism.

References:

1. Government of J & K (2016): State Industrial Profile of Jammu and Kashmir, MSMEs
2. Government of Jammu & Kashmir (2018): J&K in India Economy: Directorate of Economics & Statistics

Economic Lockdown

The period from the 5th of August, 2019 to the 5th of August, 2020 has been a period of continuous lockdown for the erstwhile state of Jammu and Kashmir. This report divides these lockdowns into three stages:

- **Lockdown 1.0: At gunpoint** started on August 5th and continued until early November;
- **Lockdown 2.0: Closed in** started with the onset of winter in November, 2019 and lasted until spring at the end of March, 2020;
- **Lockdown 3.0: Pandemic** is the third lockdown period which started on the 24th of March, 2020 and is ongoing.

Overall, these lockdowns have had a severe impact on the economy of Kashmir. However, it must be made clear that the responsibility of systematically letting the Kashmiri economy spiral downwards is entirely by design and willed by the Indian state. As the most recent economic projections and reflections by independent trade and commerce bodies from the valley show, the economy is staring at losses of at least INR 40,000 crores.

¹⁷⁹ <https://economictimes.indiatimes.com/news/politics-and-nation/no-sign-of-revival-for-kashmir-tourism-ahead-of-spring-season/articleshow/74215641.cms>

¹⁸⁰ <https://scroll.in/article/951354/abrogation-of-article-370-has-broken-the-back-of-kashmirs-tourism-industry>

¹⁸¹ <https://www.telegraph.co.uk/global-health/terror-and-security/near-economic-collapse-kashmirs-tourism-industry-decimated-indias/>

¹⁸² <https://www.forbesindia.com/article/special/kashmir039s-tourism-sector-faces-losses-over-rs-9000-cr-14-lakh-people-lose-jobs/57275/1>

¹⁸³ <https://www.outlookindia.com/website/story/india-news-the-long-winter-border-face-off-dashes-ladakhs-hopes-for-tourism/356019>

This is a result of the combination of the active planning to break the Kashmiri economy and the passive standing-by during the pandemic by the Indian state.

Lockdown 1.0: At gunpoint

On the 2nd of August, 2019 via Order No. Home-881-2019, the Principle Secretary of the Home Department of J&K issued a security advisory to all tourists and pilgrims in the valley to curtail their stay and take measures to leave the valley at the earliest. Soon after the process of abrogating articles 35A and 370 of the Indian Constitution began. The Jammu and Kashmir Reorganisation Act was introduced and passed in the Rajya Sabha on the 5th of August 2019, introduced and passed in the Lok Sabha on the 6th of August and received the President's approval on the 9th of August, 2019. Members of a fact-finding team visiting the valley on the day 'found the city silenced and desolated by curfew, and bristling with Indian military and paramilitary presence. The curfew was total, as it had been since 5th August. The streets of Srinagar were empty and all institutions and establishments were closed (shops, schools, libraries, petrol pumps, government offices, banks)'¹⁸⁴.

It was evident to the authors that the timing of the abrogation had coincided with the peak of the tourist season and the festival of Eid-ul-Adha such that the evacuation of tourists and visitors from the valley and the imposition of curfew and internet shutdown had disrupted the economy of the region. There was also an articulation of things to come as evidenced by the statement of one local, *"State land will be sold cheap to investors. Ambani, Patanjali etc can come in easily. Kashmir's resources and land will be grabbed"*. Similarly, the shutdown on movement meant that in spite of a bumper crop of cherry and pear this year, most of it could not be sent to other states even before August 5 (Cherry season is June and it is transported out in July) because of restrictions on highway movement¹⁸⁵. A spokesperson for the Kisan Tehreek told the authors that *"Two days were reserved for the movement of army convoys and on the other days civilian traffic allowed only between 10 AM and 6 PM. This affected the distribution of the cherry and pear crop"*.

As the weeks progressed, the shutdown took two forms: one was in terms of the clampdown on civilian movement, internet and phone connectivity, and security measures including arrests and detentions imposed by the Indian state and the other was the form of 'hartal' undertaken informally by the locals. It began to become apparent that as the clampdown from above began to tighten its grip on the flow of goods and services in the region, the economy of the region was getting further disrupted. Between six to eight weeks since the abrogation, the fact-finding team¹⁸⁶ reported that the apple, leather, tourism, manufacturing, IT, trade among others were in crisis; this echoed the concerns of the press

¹⁸⁴ Kashmir Caged, p. 1

¹⁸⁵ Concerned Citizen's Report, p. 7

¹⁸⁶ Imprisoned Resistance

note issued by the Kashmir Chamber of Commerce and Industry (KCCI) on the 3rd of August in which they said that ‘a breakdown of the economy is imminent’.

For instance, the apple industry in Kashmir suffered physical losses of approximately INR 20 crores/day¹⁸⁷, in addition to the intimidation imposed via the army which ‘has put concertina wires all around the mandi and fenced it off and scores of armed forces (police and CRPF) are posted at the mandi’. Similarly, the tourism sector, one of the mainstays of the valley’s economy was completely disrupted; “*With the order directing tourists to leave about 50,000 tourist taxis, 1000 houseboats, 1500 hotels and 650 shikaras came to a standstill*”¹⁸⁸. Just one calculation from the Kashmir Houseboat Owners Association found that the sector was estimated to have lost INR 105 crores in a period of 150 days following the abrogation.

Heading into the third month since the abrogation, two fact-finding reports¹⁸⁹ found that the micro-level economy had also been negatively impacted. Nitya and Nandini met transport workers whose livelihoods had been downgraded; for example, an ‘auto driver said he used to run a hotel with 16 rooms but since there were no tourists, he was now driving an auto’. A butcher told the other team, “*Mai dukaan pe aata hoon roz oxygen lene ke liye -I come to my shop for a breather everyday*”. Troublingly, October also saw a spate of killings of truckers and non-locals¹⁹⁰ as individuals fell victim to a structural problem with a regional dimension between Jammu and Kashmir. While the Jammu Chamber of Commerce and Industry was in support of the abrogation, it was clear that the impacts of the abrogation were severely disrupting multiple sectors in Jammu¹⁹¹.

Lockdown 2.0: Closed in

To make matters worse, the valley saw the early onset of winter in the valley in the first week of November. Here the cumulative impacts of the abrogation- the absence of the migrant labour force, the trade slowdown and the communication shutdown- began to add to the woes of the valley’s horticultural and agricultural economy. Without labour to work in the harvest and trade sector, the absence of market linkages to sell produce and the inability to get weather warnings the apple and walnut industry collapsed. Leaders of All India Kisan Sangharsh Coordination Committee (AIKSCC), an umbrella body of about 250 farmers’ outfits, said that horticulture suffered ‘a double thrashing’ in this season—due to the blockades and due to untimely snowfall¹⁹². They also predicted that losses in the sector accounted to approximately INR 7000 crore and that the livelihoods in the region had been impacted for years to come.

¹⁸⁷ Imprisoned Resistance, pp. 30-33

¹⁸⁸ *ibid.*

¹⁸⁹ Nitya and Nandini and Kashmir Civil Disobedience

¹⁹⁰ Retrieved from <https://economictimes.indiatimes.com/news/politics-and-nation/another-truck-driver-shot-dead-by-militants-in-south-kashmir/articleshow/71796275.cms?from=mdr>

¹⁹¹ For a review of inputs see, Nitya and Nandini, pp. 30-31

¹⁹² Retrieved from <https://www.thehindubusinessline.com/news/national/kashmir-farmers-lost-rs-7000-crore-due-to-blockades-aiksc/article29992509.ece#>

By early December, it was clear that with winter formally set-in, the main economic sectors of J&K had closed their seasonal windows for the year; fruit and nut harvest seasons were over, the snow was causing the valley to be inaccessible over land routes and the tourist peak-season had officially ended. It was at this point, four months since the abrogation, that the KCCI released its assessment of the losses on the Kashmiri economy (Annexure I). The KCCI used two methodologies to calculate the losses; one was using a top-down loss assessment from J&K's GDP, while the other was an independently undertaken sector-wise study of the local economy. As per the results of the first method, they estimate that the Kashmir economy lost INR 17,878.18 crores in the 120 days since the abrogation, while via the second method they found that the losses totalled to INR 14,961 crores. The number of job losses estimated by this report amount to a staggering 4, 96,000.

Other than out-of-state trade, the local economy which caters to household consumption had also been disrupted through the period. A report by the Association of Parents of Displaced Persons found that as a result of 'the lockdown in Kashmir surrounding the abrogation of Article 370 has severely impacted the ability of people to access food and conduct trade'. In fact, the shutdown has affected the right to food, clothing and of essential commodities under the Essential Commodities Act, 1955 'and the imposition of the curfew and other lockdown measures have resulted in several barriers to trading commodities in Kashmir, which have started to impact people's livelihoods.' This has meant that there has been a tremendous impact on daily wagers particularly street vendors, people were unable to go and meet their daily requirements due to restrictions, stocks at government houses could not be accessed and the supply of perishable items was hit due to these blockades.

Over the period December, 2019 to February, 2020, J&K has been locked in both virtually and physically due to a combination of the continued security measures since August 5th and the winter months. It was at this point that a team from New Delhi visited the valley to meet with the people in a bid to bridge the information vacuum that has been created in this period. The team met various representatives of Kashmiri society and attempted to document the state of the economy. The timing of the visit was an opportune moment to analyse what lies ahead for the region particularly since this last month has seen direction from the Supreme Court to restore telephone and internet connectivity, as well as for the fact that spring will soon be upon the valley and this is physically re-opening the routes to India. This was also important because there has been a drive from the Indian state to push for investment summits in the valley¹⁹³, as well as visits by Union ministers to unveil schemes related to economic development¹⁹⁴ in the region.

¹⁹³ Retrieved from <https://www.hindustantimes.com/brand-post/j-k-global-investors-summit-2020-pre-summit-investors-meet-held-in-capital/story-zoZUIJoECm6jA605QD87NN.html>

¹⁹⁴ Retrieved from <https://www.thehindu.com/news/national/ministers-begin-outreach-in-jk/article30595802.ece>



Photo: Meeting of Commission of Inquiry team with KCCI members

In our meetings with members of the KCCI, the Dal Dwellers Welfare Union, the Kashmir Houseboat Owners Association and locals who preferred to remain anonymous, the consensus is that local businesses and people are being edged out as the Indian state pushes for centrally-planned development projects. We identified four main components under which changes are underway that are disempowering the local economy in favour of actors from outside the state which are: land-use change, mining block allocations, governance overhaul and environmental clearances. Large-scale policy changes in these components highlight the tension between the Delhi-based development model and the indigenous Kashmiri model that has been moulded to the special and particular needs of the valley. Critical resources in the valley, land, minerals and natural resources have become available to buyers and bidders from outside the valley which has been made possible only after the abrogation of articles¹⁹⁵ 35A and 370.

What is perhaps the cruellest aspect of these changes is that while the valley has been shrouded under the dark cloud of 2G internet, India has implemented laws that have allowed Indians to access opportunities that Kashmiris are not able to either participate in or protest against. For example, when the erstwhile state was under a lockdown, the Forest Advisory Council gave clearances to 125 projects; soon after which the cabinet-led process was dissolved and the clearance process shifted to Chandigarh¹⁹⁶. Similarly, with the applicability of the J&K Reorganisation Act should have implemented acts such as the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights)

¹⁹⁵ Retrieved from <http://www.kashmirtimes.com/newsdet.aspx?q=98981>

¹⁹⁶ Retrieved from <https://www.downtoearth.org.in/news/forests/with-state-under-lockdown-j-k-fac-issues-record-forest-clearances-67322>

Act, 2007 and give secure tenure and land rights to forest-working and tribal communities, months later it is yet to be implemented.

Since independence, land and its distribution have been central to the economic growth of the region. *“Kashmir has been a leader in land-reforms, having started the land reforms even before Kerala with the ‘Big Landed Estates Abolition Act, 1951’. This was the first step of land reforms in the state where a land ceiling of 12.5 acres was set. This was followed by the ‘Agrarian Reforms Act, 1976’ in which tillers were given inalienable rights over land”*¹⁹⁷. Land holds a special significance for the Kashmir region on account of close to 30% of the state’s population being nomadic and graziers and close to 20% of the state’s GDP being generated by agriculture. Using progressive laws, Kashmir had even allocated lands to refugees who had come over from the POK part of the region. However, this was all being undermined. As was made clear during our meetings, the Reorganisation Act had been schemed up and written in such a manner that it was aimed at chipping away at the inalienable right of the people to land.

While Article 35A did away with the matter of state-subject, a slew of state have been retained, but with *modifications*. A newspaper article¹⁹⁸ had this to say about the laws, ‘Under the new tweaked Transfer of Property Act, the government has decided to delete section 139 and 140, which was restricting certain institutions to acquire immovable property in Jammu and Kashmir. With new amendments, the non-state subjects can buy property in the new Union Territory of Jammu and Kashmir similarly, there would be no prohibition on transfer of land to non-state subjects as the new UT administration is planning to delete Section 17 of Jammu and Kashmir Agrarian Reforms Act. The Act was framed in 1976 to transfer land to tillers on certain conditions. Section 20A of the Land Estates Abolition Act has also been removed, which prohibited transfer of land to non-state subjects.’ Following this, the media¹⁹⁹ reported that ‘in a massive land-hunt exercise, [the government] has so far identified 120,000 kanals (15,000 acres) of land from 203,020 acres of state-owned land in Kashmir region for industrial infrastructure development. Most of this land is ecologically sensitive because it is either part of or close to rivers, streams and other water bodies according to the officials.’

The dilution of land laws is also having a domino effect on other land-based sectors such as mining. *“Prior to the abrogation, mining was allowed to be undertaken only by the J&K state’s public sector with royalties paid to the people whose lands were being mined. Now the people don’t even know when their land has been allotted”*²⁰⁰. In early February, 2020 mining blocks in the river Jhelum and its tributaries in all ten districts were opened to outside bidders²⁰¹. While the competitiveness of the local businesses was a primary concern during the time of our

¹⁹⁷ Prabodh Jamwal in conversation with Siddharth Chakravarty

¹⁹⁸ Retrieved from <http://www.earlytimes.in/newsdet.aspx?q=280500>

¹⁹⁹ Retrieved from <https://india.mongabay.com/2020/01/is-reorganisation-hastening-land-use-change-in-jammu-and-kashmir/>

²⁰⁰ Prabodh Jamwal in conversation with Siddharth Chakravarty

²⁰¹ Retrieved from <https://theprint.in/india/outside-firms-enter-mining-race-in-jk-lease-earnings-touch-crores-from-lakhs/360175/> and <https://kashmirobsver.net/2020/02/10/in-a-first-outside-companies-earn-100-percent-mining-rights-in-kashmir/>

visit, a few months later, the KCCI issued a press note that said, ‘The recent bidding for mineral blocks in Kashmir province clearly indicates that local stakeholders have been side-lined. Use of financial muscle power has totally wiped them out in Srinagar and reports from other districts are equally discouraging. The auction bid for 15 blocks in Pulwama has jumped from the previous Rs 2 Crores to a whopping Rs 17.82 Crores. There is no way that the local contractors can compete and thus disadvantaged. While the Government may see the increase in revenue as a positive sign, the consequential increase in material costs for the consumers suggest that it is the local consumers who have to pay the price. Instead of money flowing into the local economy there is all likelihood of a reverse outflow’.

Similar to land-based mining, even river-based sand mining tenders had been recently put online and auctioned to the highest bidder. Of the 20 blocks which went up for auctions in January, 2020, 19 had been bagged by contractors from outside the state based entirely on their ability to edge out local contractors on financial power. In a story²⁰² carried by a local publication, it was estimated that close to 1.5 lakh people would be rendered jobless because of this shift. KCCI’s statement on the matter goes on to say, ‘The introduction of heavy machinery in the extraction process would leave the local sand diggers jobless and the environmental costs are also worrying. A non-local syndicate appears to have altogether muscled out local stakeholders and is now indulging in aggressive and unfair trade practices. The cost of sand has been more than doubled’. Perhaps what is most worrying about this whole affair is that governance mechanisms with such immense economic and ecological impacts of these shifts are taking place entirely in an exclusionary manner. When ordered by the administration that the locals could no longer mine in the river, one local remarked, *“How come a person from other areas can come and extract sand where we have been mining since generations. Where shall we go, what shall we do?”*²⁰³

This approach to land is also carrying over to the tourism sector. As the Tourism Brief shows, the peak tourist and pilgrim season of 2019 saw an 86% drop in visitors when compared to the same period in 2018. During our visit to the valley, we met with the Dal Lake Houseboat Owners Association who cited many difficulties standing in the way of their business. Abrogation had devastated the tourist season entirely, and in turn, as per the estimates of the Houseboat Owners, had inflicted losses worth 200²⁰⁴ crores in the seven months since the abrogation. To make matters worse, electricity charges for the entire period had been levied on the boat owners, boats which had been gutted in a fire had received no compensation, and the continued clampdown on movement and restriction on the internet meant that they had very little expectation of tourists returning in 2020. As representatives said to us, *“We are not allowed to repair, renovate, to transport our boats to a different place. We are on such a bad state that we want to surrender our boats, let someone take over our property and seek employment elsewhere to be able to take care of our families”*. And on the point about tourism plans that envision a futuristic Dal Lake, someone commented,

²⁰² Retrieved from <https://kashmirilife.net/sand-storm-issue-45-vol-11-223571/>

²⁰³ *ibid.*

²⁰⁴ KHBOA in conversation

“Their intention is maybe to give it all to private companies to operate, to sell to them at high prices; they want to destroy not only our livelihood but also end our culture”.

It is clear that sweeping changes related to land, land-use and rights over land are underway in the valley. What this indicates ultimately is that land, and with it the resources and the ability to exploit them, are being institutionally transferred away from Kashmiris in a planned manner by the Indian state and under a development model that is purely extractive and focussed on short-term gains. The contrast between the availability of land for Kashmiris is perhaps best indicated where on one hand, as members of the KCCI told us, land for local businesses had been unavailable since the start of the militancy; a shortage created to keep local businesses in check. On the other hand, on two instances from two districts locals re-accounted to us how in the face of these changes, when they had approached the local administrators for an engagement, they had been met with hostility. One had been told that they would be buried alive if they raised too many questions, and the other had been told that they would be detained under the draconian Public Safety Act. Ironically, since the abrogation the J&K Pollution Control Board²⁰⁵ has shut a total of 134 businesses, a majority of them relating to stone quarrying, sand mining, infrastructure and the tourism sector. The signal that India is sending is clear: Kashmiri land and resources are open for business, but only if they are from India.

Lockdown 3.0: Pandemic

With spring upon the valley, there was hope that civilian movement would now be possible, markets would be open, tourists would begin returning and that the local economy would begin to revive. On the 17th of March, a delegation from the KCCI visited New Delhi and met with the Union Finance Minister and presented her with a plan detailing the losses, and the possible avenues for the reconstruction of the battered Kashmiri economy. However, after the 23rd of March, 2020 Jammu and Kashmir was again put under lockdown with curfew like restrictions and imposition of Section 144 on 19 March, 2020.²⁰⁶ As a report makes amply clear, the militaristic-style lockdown in the valley once again recreated the conditions that were seen after the 5th of August, 2019; ‘armed police and paramilitary forces personnel manned the roads, which were also blockaded by concertina wire and the armed police and paramilitary vehicles. Hundreds of FIRs were filed against people charging them of defying restrictions’²⁰⁷. Overall, this has meant that the valley has entered a third phase of lockdown since the end of March, in turn hampering all avenues for the main economic sectors to restart.

As the Horticulture Brief shows, the apple trade which accounts for an annual INR 10,000 crore turnover had collapsed last year on account of the Abrogation, which was further exacerbated by the early setting-in of winter. Due to the pandemic this year’s season has

²⁰⁵ Retrieved from <http://jkspcb.nic.in/Content/ClosureOrders.aspx?id=446>

²⁰⁶ Retrieved from <https://www.jkccs.net/wp-content/uploads/2020/07/Bi-Annual-HR-Report-2020-JKCCSAPDP.pdf>

²⁰⁷ *ibid.*

once again been disrupted. According to Director of Horticulture Kashmir, Ejaz Ahmad Bhat, there are 34,000 metric tons of apples lying in Kashmir's cold storage²⁰⁸. With markets and logistics having collapsed, there is very little demand for apples and the valley is looking at another dismal apple season. Similarly, the pandemic-related lockdown has kept tourists away. The Amarnath Yatra which is the single-largest congregation of Indians in the valley, and a significant source of revenue for locals has been cancelled this year²⁰⁹, making it two pilgrimages that stand cancelled back to back. It must be recalled that the timing of the abrogation was done in 2019 to inflict maximum damage on the valley's economy and had ushered in a panicked ending to the yatra last year; the continued lockdown since have added severe strain to the economy.

As per the KCCI, in a press note released on the 20th of June, 'the sudden infliction of the COVID-19 Pandemic, all focus was understandably diverted towards controlling its damaging impact. With experts predicting a prolonged period of deep recession and massive GDP contractions, most of our sectors face permanent and irreparable damage'. Kashmir's economy accounts for approximately 6% of India's foreign exchange, and in an economy that is export-based, the grounding of international and domestic flights is sounding the death-knell. Add to that the internet ban which has now cross 12 months and Kashmir has a situation in which businesses and traders are all suffering. As one reporter put it, commenting on the state of entrepreneurship, 'internet is like an umbilical cord for such business ventures as most of the critical business operations for such start-ups are driven by the internet'²¹⁰.

This digital desert that the valley has been turned into is telling of the Indian state's attitude towards Kashmiris. On one hand, in India the narrative that is being spun is one of self-reliance (aatma nirbharta), while on the other, Kashmir's self-reliance is being systematically broken. As Kashmir entered the 11th month of its abrogation in July, the KCCI released another statement that said, 'Most economic sectors continue to reel under unprecedented stress and financial instability. There is urgent need for providing all possible support in the shape of tangible and concrete interventions for economic revival. The introduction of policies which aggravate the stress and adversely impact the livelihood of people at this time of crisis would go against the commitment of development and upliftment of the living conditions of the people'. They were responding to the 20 lakhs crore Aatma nirbhar Bharat package that is unsuited to the valley's business woes which were feeling a culmination of a year of lockdown.

Revising its earlier estimates of losses worth INR 18,000 crore in the first 120 days of the lockdown, the Kashmir Chamber of Commerce and Industry (KCCI) has since revised its losses for the calendar year since the abrogation to INR 40,000 crores²¹¹. With the continuing losses due to the pandemic, the compounding stress due to the absence of state

²⁰⁸ Retrieved from <https://www.outlookindia.com/website/story/india-news-lockdown-snow-and-pandemic-kashmiri-apples-rot-in-cold-storage/352290>

²⁰⁹ Retrieved from <https://timesofindia.indiatimes.com/travel/travel-news/amarnath-yatra-cancelled-in-light-of-covid-19-pandemic/as77104455.cms>

²¹⁰ Retrieved from <https://www.asiasentinel.com/p/a-year-later-kashmirs-economy-faces>

²¹¹ (Dis)integration at Gunpoint, Kashmir Reading Room (KRR)

support, these losses are likely to be much higher, and further exacerbated over the next few months. In addition, with the Indian economy in itself expected to contract severely on account of the pandemic-related global recession and the Indian government's poorly planned response, the losses in the valley's economy could be even higher. By one estimate, Kashmir's economy is likely to shrink to 60% of what it was at the end of the financial year 2018-2019. If the projected Gross State Domestic Product (GSDP) of the Kashmiri economy was INR 157383.77 crore for the year 2018-19²¹², then the losses stand at a staggering INR 62,593 Crores.

As India marches on into Kashmir unflinchingly, there is nothing positive to be said about the valley's economic state of affairs since the abrogation. It is a moment of *déjà vu* where a statement made by a carpet trader last year could as well as have been said today, "*Who shut everything down? Who brought economic life to a standstill? Government of India ordered the shutdown. They shut down the Amaranth Yatra. They asked tourists to leave. They asked migrant workers to leave. Nobody in Kashmir has ever asked anybody to leave. Who created this abnormal situation? Now they tell Kashmiri's resume your normal life. Are the people of Kashmir monkeys that they will sit when the government says sit, stand when the government says so. Normalcy will not return. They must bring back Article 370 and Article 35A. Lift all restrictions and release all political prisoners*"²¹³.

- Aniket Aga, Ritu Dewan, Sushil Khanna,
Siddharth Chakravarty, Priya Dharshini, and Thomas Mathew

*Yet another militant attack;
Yet another encounter
Another day starts with the news of bloodshed... Did you hear the guns go
in the morning?
For there are no birds to chirp in this Kashmir!
As the paradise on earth prepares herself for more funerals;
Doves fly away for fear of death!*

[Excerpts from Counting Days (@countingdaysk) archives, Day 228]

²¹² J&K Economic Survey, 2019 Kashmir Reading Room report on Economic Impacts of Abrogation

²¹³ Imprisoned Resistance

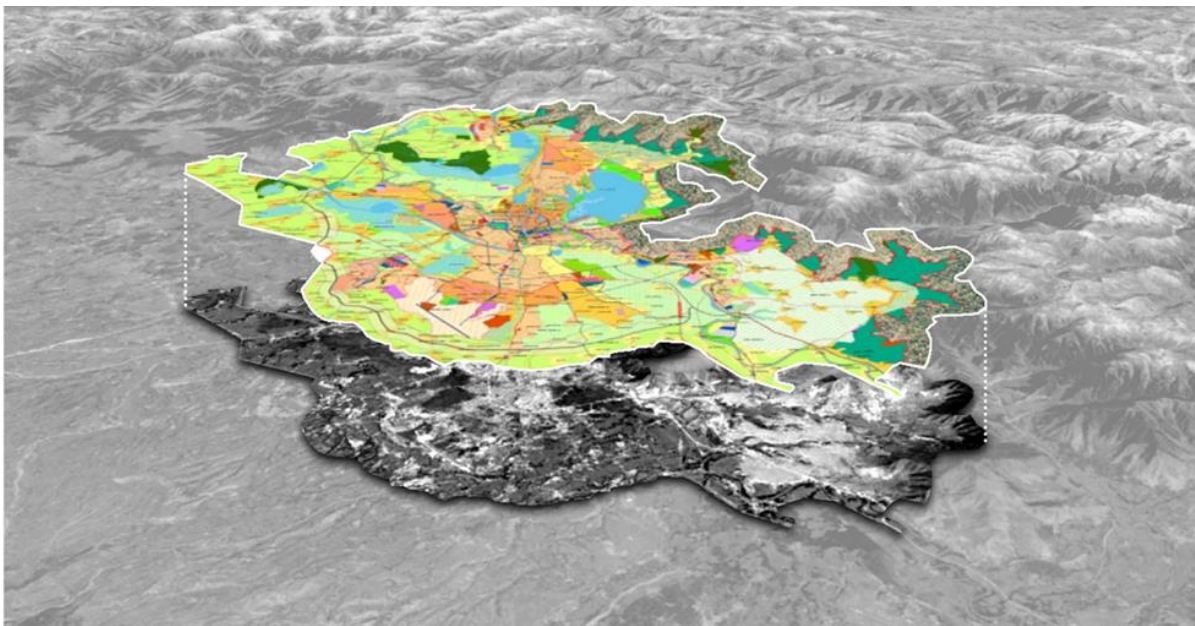
ANNEXURE I: Estimated Economic Loss in Kashmir Valley for 120 Days Starting 05 August 2019

Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7
Sector	Sub-sector	Net Output of J&K at Current Prices (17-18)	Net Output of the 10 Districts of Valley (17-18)	Output Interpolated for 120 Days- the Impact Period	Actual Output Considering Economy Operated at 15%	Net Loss for Kashmir Valley during the Impact Period
			(60% of Col. 3)	(40% of Col. 4)	(15% of Col. 6)	(Col. 5 – Col. 6)
(in Rs. Crores)						
Allied Services & Agriculture	Agriculture/Horticulture etc.	15,119.00	8,315.00	3,326.00	498.90	2,827.10
	Livestock	9,435.00	5,189.00	2,075.60		1,764.26
	Forestry & Logging					
	Fishing & Aquaculture					
Industries	Manufacturing	11,211.00	6,166.00	2,466.40		2,466.40
	Construction	8,712.00	4,792.00	1,916.80	287.52	1,629.28
	Mining & Quarrying					
	Utilities (Electricity, Gas, Water etc.)					
Services	Trade/Hotel/Restaurant	13,983.00	7,690.00	3,076.00	461.40	2,614.60
	Transport/Communication	12,125.00	6,669.00	2,667.60	400.14	2,267.46
	Financial Services	6,331.00	3,482.00	1,392.80	208.92	1,183.88
	Real Estate, Rent & Professional Services	16,712.00	9,192.00	3,676.80	551.52	3,125.28
	Public Administration & Defence					
Total Estimated Loss during the Peak Season in Kashmir Valley for 120 Days starting 05 August 2019 = Rs. 17,878.26 crores						

Source: The Kashmir Chamber of Commerce and Industry, Preliminary Economic Loss Assessment Report, December, 2019.

The Future of the Colony

Close your eyes and imagine Srinagar in 15 years from now. Instead of barbed wires around the iconic Lal Chowk, there will be slick malls as part of the high development zone of the city. The Dal Lake, instead of being impinged upon by houseboats, will be a conservation site with floating gardens. The bypass road passing to the South and West of the city will be the gateway to the Special Investment Corridor. And most importantly, breaking the spatial confines of the current city, the Srinagar Metropolitan Planning limits will expand to 766 square kilometres, a whopping 84% increase over the current plan. By 2035 then, as per the plans approved on the 20th of March, 2019, the face of Srinagar is about to change. The question that lies herein is really at whose behest and from whom is this transformation being undertaken.



While evaluating the fast-paced interventions being made by Government of India in Kashmir valley, this report is an attempt to understand the role of planning in an occupied territory. In doing so, the next few pages offer a critique of the 'Srinagar Master Plan (SMP) 2035' and push the reader to think about the overhaul of this urban landscape and the far reaching consequences for its peoples. This brief analyses critical sections of the master plan; though the SMP is not directly linked to the dateline of the abrogation of Article 370 or 35A, it takes the form of the missing details of the larger puzzle. It aids in the process of tracing the interplay of new coloniser policies that were in place and approved much before the abrogation.

The Srinagar Master Plan 2035 (SMP) is not the result of an innocuous one-time effort aimed at transformation of an urban landscape through a Master Plan; rather it is the cumulative reflection of a process which is aimed at the consolidation of a system of domination. Accompanying a system of domination are always processes of violence upon and the alienation of local peoples; though these are never readily perceptible through a cartographic, mathematical and spatial document like a Masterplan. But when read with government orders that are communicated in the post-August 2019 period, it reveals to us

a thoroughly planned scheming; a scheming of India settling down in Kashmir, plans for which began much before this visual document was published.

The SMP is the third statutory plan prepared for a threshold population of 3 million by 2035. After the local area was notified in 2014, the draft plan was put in the public domain by Srinagar Development Authority under the provisions of the J&K Development Act, 1970 in May 2017. About 320 suggestions and objections were received which were examined by the Committee constituted by the Government vide Order No: 226–HUD of 2017 dated 09.11.2017. In brief, these are some of the major changes:

- The Srinagar Metropolitan Planning limits have been increased by 84%, from the existing 416 Sq. Km. to 766 Sq. Km.
- Out of the total local area of 766 sq. km., about 57% area by and large is unsuitable for any kind of development which includes the areas under wetlands and water bodies, forests and wildlife, *rakhs* and farms etc. Apart from these areas, 23% of the area is restricted from any form of development and includes the areas earmarked for defence use, graveyards and cremation grounds etc. In the local area, 107 sq. km. are highly vulnerable or potentially undevelopable.
- This leaves a total of about 327 sq. km (43%) in the whole local area which is developable.

In order to advance the understanding of the SMP's impact, we refer to four forms/areas of development below:

1. Dal Lake

The master plan has acknowledged the historical relationship of Dal dwellers with the lake and one finds mention of this relationship in the reviving of the floating gardens which are now categorised as special areas. However, the fulfilment of this relationship stops at a point such that it does not impede on the tourist and atheistic demands. The draft House Boat policy, put out without consultation with stakeholders, states that under the new guidelines, no new houseboat will be allowed to be constructed on the Dal and Nigeen Lakes. The houseboat owners can register and renew their houseboats only after fulfilling certain conditions dependent on getting certain clearances from the Department of Tourism.

The Dal Lake is proposed to now have with tourist gateways, cycle tracks, boulevards and also lands for organic farming. Adding to this, there are plans to open cafes in the restricted areas by framing flexible policies for the land owners. There will be an introduction of water sports in the lake. These point to the fact that the revamping of Dal Lake will change the landscape of Srinagar. With most of the Dal dwellers being relegated to being mere subjects of relocation and rehabilitation, it is clear that in conjunction with the Smart City Plan, 2017, the iconic Dal Lake will be gentrified into an exclusive zone for Indian and foreign tourists.



Photo: Dal Lake and the houseboats

Dal Lake's association with the city is so historical and intimate, that when one thinks of Srinagar, one thinks of Dal. In the past few years, Dal Lake has been reported in the media mostly as a conservation issue, also involving rehabilitation / relocation of Dal dwellers. This discussion can be traced back to the year 2000, when the plan was to rehabilitate the Dal dwellers, who were identified as encroachers, to the *Rakh-e-Arth* resettlement colony, in Budgam, an hour's drive from Srinagar. The colony is built on marshy lands, leaving it susceptible to natural disasters and with very poor infrastructure.

When the Kashmir Tribunal Commission of Enquiry team that met both with Dal Houseboat Owners Association as well as the Dal Dwellers' Association recorded the meticulous documentation produced by these groups to prove their claims, countering the government arguments about *Rakh-e-Arth* being a suited for human rehabilitation. We were told stories of the plinth of the houses sinking by over six feet and houses splitting along the middle as a result. If this is what happens when people are resettled, and if the resettlement, in essential an eviction, is framed as a conservation issue, then in reality tourists to the Dal might see a serene lake on the surface, but one with violence and dispossession under.



2020



2021

Map 1 – The upper portion is a part of dal lake from the 2020 google earth satellite image. The second half is the similar portion marked in Master Plan 2021.



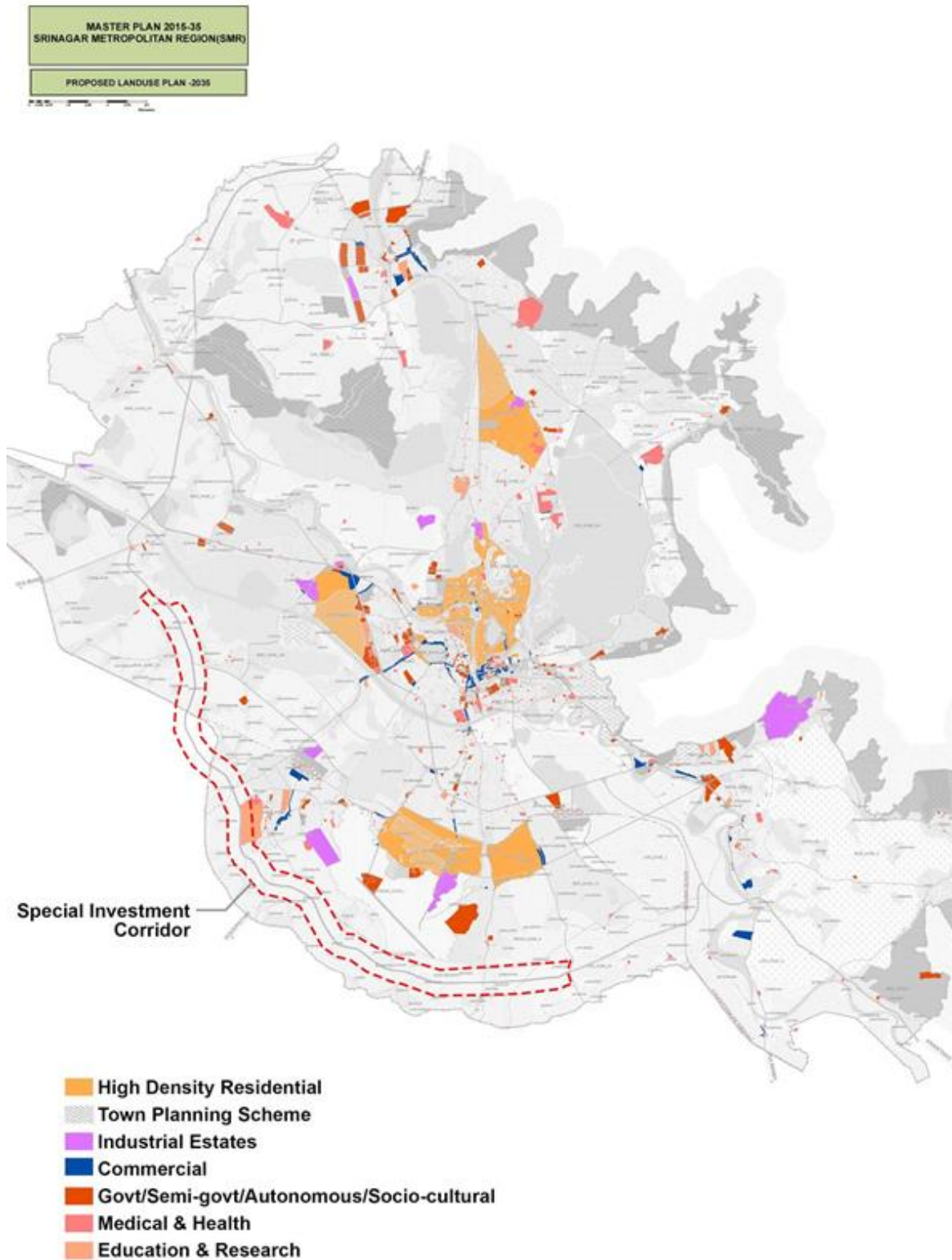
2035



Overlapping 2020 satellite view with 2035 land-use

Map 2 – Read this map in continuation with Map 1. The upper portion is of the similar portion marked in Master Plan 2035. The second half is an over lay image of the master plan 2035 with 2020 google earth satellite image.

2. Special Investment Corridor



Map 3 – Indicates the location and extent of the Special Investment Corridor mentioned in the Master Plan 2035

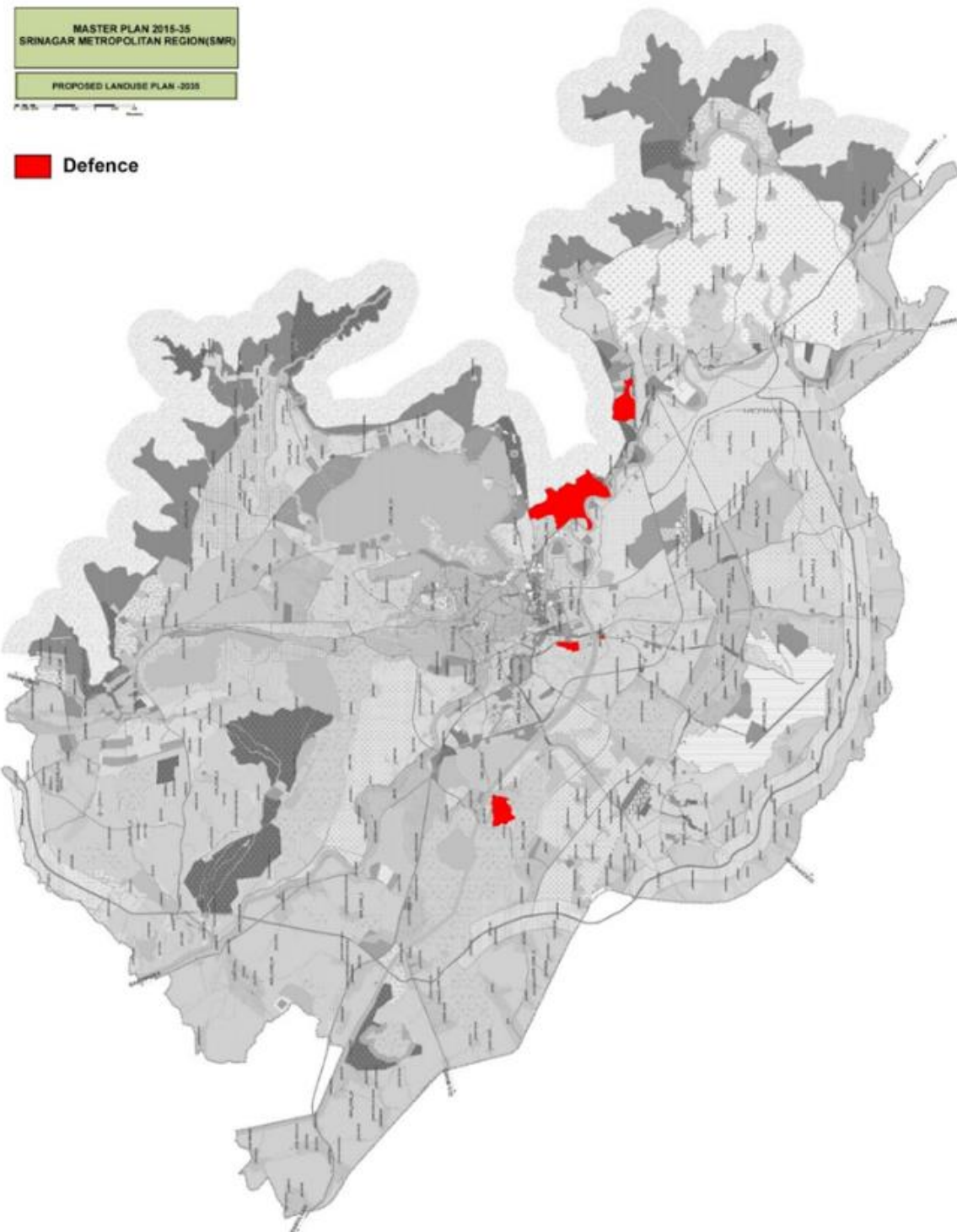
In the map above one can see a bypass road passing to the South and West of the city; this road is the gateway to the Special Investment Corridor. The SMP sees a leap in the areas demarcated as high-density areas (from the centre of the city towards municipal limits of the city) suggesting that the high-rise residential colonies coming up are not a growth that respond to existing local demands but a created one to create future foreign aspirations. The Masterplan also confirms that the informal and formal housing colonies have been proposed in town planning schemes as well as in special investment corridors.

Post the abrogation, the change in domicile laws makes it possible for people from outside Kashmir to become permanent residents, sparking fears among locals that non-locals will get priority when it comes to housing, jobs and education. Residents of Jammu and Kashmir have written to the office of Kashmir Divisional Commissioner with their objection to the domicile law. Recently on 17th July 2020, the Administrative Council also gave a go-ahead to the proposal of the Housing & Urban Development Department for adoption and notification of the 'J&K Housing, Affordable Housing, Slum Redevelopment and Rehabilitation and Township Policy, 2020'. The approval consists of two lakh dwelling units to be built in a span of few years under seven different models of housing, ranging from in-situ slum redevelopment to integrated townships.

The masterplan also mentions that "to harmonise the residential development, the Master Plan envisages re-densification of low and medium density areas especially the along North-South axis. These areas are envisaged to be planned with increased densities for efficient use of limited suitable land. Besides, Satellite townships at Ganderbal, Bemina, Pampore, Budgam and Dormitory townships at Nowgam, Lawaypora, Zakura etc need to be developed to ensure supply of adequate serviced land to increase housing choices for people of all categories."

The masterplan was the first sign that the control of Kashmir would be taken away from Kashmiris through "interventions" in the name of developments. It was clear that they will no longer have autonomy and that issues of development and control would be wrestled away from them, both through legal and administrative changes.

3. Defence Land and Its Reality



Map 4 – In this map, defence lands has been marked which were mentioned in the Master plan 2035

The current area of defence as seen on the map is 0.6 percent of land usage within Srinagar’s metropolitan area. The defence area is marked at Haji Bagh, Elachi Bagh, Bandami Bagh Cantonment and Pampur. The SMP has reduced the defence areas compared to what was earmarked in Master Plan 2021 on account of the fact that “the statistics reveal that there is more area occupied by defence use than the area used for the

development of District, Divisional and State level public and semi-public infrastructure”. Hence there has been an effort in the master plan 2035 to find balance in land usage by the defence.

The plan of bringing in balance in land usage and pegging the land use percentage at 0.6 percent however, will only remain a plan on paper. The J&K administration has recently withdrawn a 1971 circular that required a ‘No Objection Certificate’ (NOC) from the Home department for the acquisition or requisition of land in favour of the Army, BSF, CRPF and other similar organisations. Instead the acquisition will be under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. This means a free ticket to acquire land in the name of national security or defence of India or State police, safety of the people. Thus, in reality, it is expected that the land use percentage will increase with the current hocus-pocus on the strategic areas.

4. Saffron Fields

The saffron fields in the SMP have been marked under the legend of special areas, whereas saffron field in Masterplan 2021 was marked under the category of agriculture. This sudden ungrouping of the saffron fields from agriculture group to special category has been unexplained.

Large fields of saffron are very close to where the proposed Food Parks and Export Promotion Industrial Parks in Khunmoh and Budgam are marked. The question that arises is, with the special category now allocated to saffron fields, how does this affect the ownership of these fields? As explored in the Economy section, a slew of well-planned land-use changes do not preclude the possibility of this high-revenue generating sector shifting away from local farmers and into the hands of Indian investors.

In the current besieged situation of Jammu & Kashmir, an innocuous looking masterplan would have probably gone unnoticed. In the absence of democratic and participatory governance in Kashmir, the tool of planning, as deployed through the Srinagar Masterplan 2035, hints at the subtle and cunning way in which India intends to take-over lands, livelihoods and life in the valley.

- *Evita*

Still I Rise

- Maya Angelou

Leaving behind nights of terror and fear
I rise
Into a daybreak that's wondrously clear
I rise
Bringing the gifts that my ancestors gave,
I am the dream and the hope of the slave.
I rise
I rise
I rise

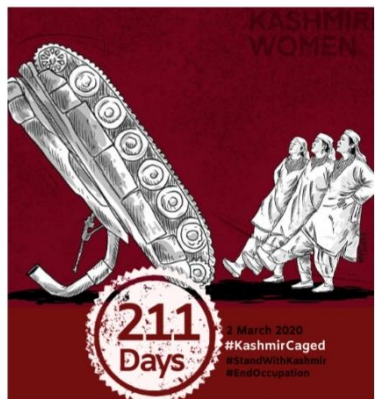
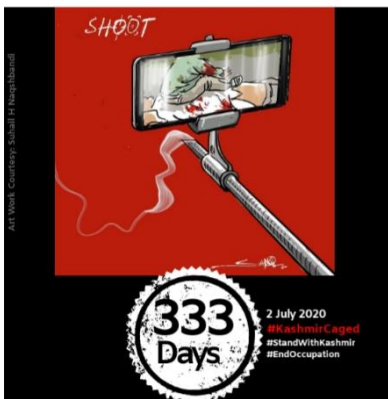
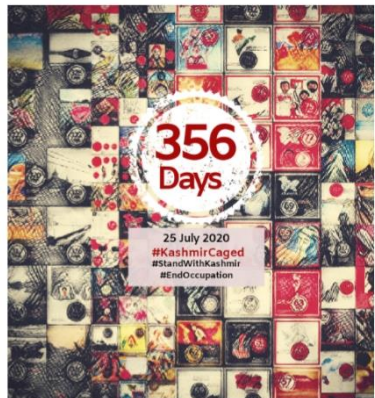
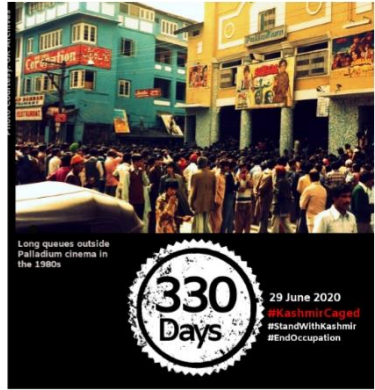
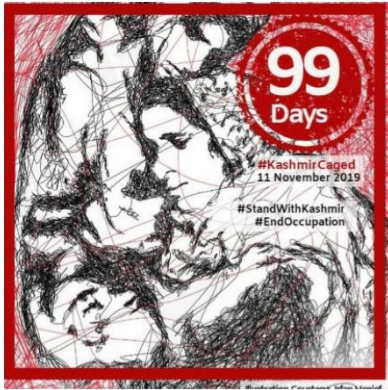
[Excerpts from Counting Days archives, Day 212]



The Kashmiri artists' persistent effort to make art, in spite of the clampdown, seems like a Mantoiyat challenge where "truth must never be told, tear up the pages you don't like". Much like the long shutdown in Indian-occupied Kashmir which has disrupted millions of people's lives, the artists who were trying to record the difficulties of their everyday lives in the region have been disrupted too. For them Art is not just for Art's sake: it is a reflection of their struggle, trauma and resilience. It screams of the decades-long oppression of Kashmiris. Post 5th August these artists were confined inside their houses with nowhere to go and no option to stimulate their creative side.

[Excerpts from Counting Days (@countingdaysk) archives, Day221]





Art of Resistance. Art in Resistance.

Life in a conflict zone is beyond the grasp of anyone who is not born into strife. We read reports and articles that seek to inform us, educate us. And then there are the artists and poets whose works stare right back at us, asking what it is we did with this knowledge.

When life in Kashmir was disrupted in an unprecedented manner on August 5, 2019, an occupying nation was either caught celebrating or silent. The weeks and arguably even months preceding this moment had been tense for J&K, with the government maintaining a sullen silence over its political manoeuvres. The days prior to August 5 were rife with lies of terror threats peddled by the Indian government through the media. Something ominous was in the air, hazy and distressing, until it was revealed – abrogation, communication shutdown, curfew and partition.

Overnight Kashmir was plunged into a digital darkness, and a people's right to express was gagged. All political leaders of Kashmir were arrested, thousand others placed in preventive detention and the State of J&K was split into two Union Territories. Politics, economy and social life was brought to a grinding halt, and a military lockdown was imposed with no sign of respite. Throughout this period, the colonising state issued one notification after another, laying out the modus operandi of how to invade the land, forests and culture of a people.

Abrogation of Article 370 and 35A was a move designed to humiliate the region's people by snatching their autonomy, which was the principle grounds for J&K's accession to India. With the Abrogation, the Hindutva nation state had openly declared that Kashmiris will have no say in the destiny of Kashmir and that the government will ensure this by deploying whatever unconstitutional or constitutional means necessary. It was all a shrewd call to the people of the region to submit to their own subjugation. However, what the pathological state fails to understand is that a will to resist cannot be captured the way land, rivers and mountains sadly can be.

In the tumult of these months, a community of artists, most of them young, many of them without formal training began to draw, sketch, paint and write their experiences and that of their people. It was clear to them that Kashmiris had been at the receiving end of state oppression for years due to their proud culture and distinct politics. And so, it was exactly this that they set out to document and celebrate.

In Kashmir, art has emerged as a political weapon for expression, critique and resistance. Despite the scrutiny on dissent and the indiscriminate use of security laws against Kashmiris daring to question the regime, the artists of the region are hammering away. Formally diverse and relentlessly daring, these artists fight the daily oppression of life under a colonial settler occupation with fierce wit and knowledge, both skill and spirit. Today, their work forms an open museum of memories standing against political and cultural erasure. In the dim light of hope, their work provides protection to them and their

people against loneliness and despair. And it reminds the world that this will not be forgotten.

But it was not easy. Artists recount how they were initially stunned into withdrawal by the actions of the state. The oppression and claustrophobia of being held hostage made summoning the strength to create art very difficult. Amidst a lockdown and an internet ban, many artists had to travel outside the state to even upload their protest work. Today, a year since the draconian measures of the Indian state, the work of a generation of Kashmiri artists has blossomed across social media, which has emerged as a space for expression and solidarity. Kashmir's artists have mounted a formidable challenge to the Indian regime by simply, yet extraordinarily, retaining their right to tell their stories.

The works of these artists have been the backbone for the Counting Days - Kashmir campaign, and we owe them a great deal for what we have learnt along the way. To celebrate them, we asked Kashmiri artists to share their thoughts and feelings as they look back at the work created by them and their fellows in the last year. We also asked what they hoped for in the coming days for this artist movement in revolt. We present here their testimonies.

I was born in 1994, the heart of armed resistance in Kashmir that started in 1989 and honestly, I do not think that my entitled and privileged self would have ever come to know about the realities of the overly romanticized heaven if it wasn't for the art and artists who I was surrounded with while I grew up. Like I say;

*When you live under occupation, your life is never just life,
It is a constant struggle for resistance and existence.
You do not have an option of making it out, alive.
You either die a rebel, resisting occupation with every ounce of your being,
Or
You die the death of a coward who could neither afford a dignified life nor an honourable death*

The art of metaphor and level of creative brilliance inherent to Kashmiris is always occupied by the pain of loss, agony and sufferings of occupation and we only have the occupation to thank for that. In a free world, artists like MC Kash, PeaceAndPyjamas, Aaishan Khan and the likes would have been busy weaving songs, pictures and colors of happiness, rather than singing, clicking and drawing only occupation and brutality. But that being said, I am extremely proud that I am an iota in this huge Universe of resistance art that emanates from Kashmir. Free people who choose art as a career, only put money at stake but Kashmiri resistance artists know that it is their life and the life of their beloved people that is put in jeopardy with every stroke of the guitar, the brush or the pen.

As far as the question of what I hope for this artist movement in revolt goes, I think there is just one answer to it. After the occupier finishes its incarceration drive against journalists in the valley, they are going to come for artists but little do they know that we have sold our fear and bought dreams of freedom and revolution.

AAZADI, In Shaa Allah!!!

—Farzan Dar, Poet

Artists put up a line of resistance to authoritarian wrongs in ways that can't be put by others. Images speak more than words and have an immediate impact. Amplifying such work is important.

—Suhail Naqsbandhi, Cartoonist

I'm a student of English Literature and Language at University of Kashmir and I'm a self-taught artist. I paint abstract and semi-abstract paintings which mostly revolve around Sufism and all its aspect... First of all, I want to say that Sufism is intrinsic to Kashmir and to Kashmiris as well... We are peace loving and free-spirited people but the major aspect that dominates our lives is the conflict and our struggle for freedom. My paintings picture the spiritual aspect of our place but in some way or other the conflict gets depicted as in auburn hues and bold strokes, that "pain" gets depicted... And to say that Kashmiris are really creative people so art is something blended in our blood...

Conflict has done one beautiful thing. It has made artists of all genre to come and paint, sing what not on the single topic of our "revolt ". I think every artist here in Kashmir is doing a commendable job by portraying their innate feelings of dissent, beauty and valour. After August 5, we were left caged in our homes as prisoners but we utilized that time and created art and were able to put our experience out there for the world to see and feel. They tried to silence us down but our art has resonated ten times more. I think collectively our art is extraordinary and conflict has definitely conjured up a stage for us... I think we are now left with only one medium of resistance and that's art and that is the only thing they cannot take away from us... Even if they take our brushes and canvas away. We will paint with our blood on the sordid canvas of our valley. We are resilient equally as our land is. It writes its own poetry and paints its own canvas...

I think this artistic movement will flourish and it will help our cause and art has the capacity to capture attention, and our art certainly has. I think we can do wonders if we continue presenting our land and our struggles on the canvas. Art has always been the precursor for freedom. I believe so and history is witness to this...

— Badrunissa, Artist

As a Kashmiri, August 5 is a black day in our history. On this day, our only privilege left in this occupation was taken away from us and that has affected every Kashmiri whether he/she accepts it or not. As if denying us our rights wasn't enough. When I saw the news on that particular day and in the subsequent days, it just made matters worse. The things we saw on the internet with people making songs and rejoicing our pain just added fuel to the fire. This state has been against the occupation for a long time and will continue to do so. After that day, nothing was the same. As an artist, this ordeal changed my entire vision and my art too. After that day, all my artworks were about Kashmir and resistance. The martyrs, the leaders and the fighters. Now, whenever I have to draw something, all I can think about is Kashmir and its pain. And it's not just me. After August 5, I have seen countless artists painting their thoughts about Kashmir and it is beautiful and heart-breaking.

This place has seen a lot of blood and pain in recent years and the years before that. I think the artists here are now expressing their dissent through their art. And I hope our voice reaches an international forum and is heard all around the world. And In sha Allah, our resistance and sabr bears fruits and we will see the dawn of freedom and peace. In sha Allah.

Hum Dekhenge!

— Sab.mitti, Artist

Art and culture have historically always had an interlocked relationship with political revolutions. Art gives expression to subtly powerful and directly subversive sentiments, memorialising experiences of both artists and those witnessing the upheavals of everyday. Artistic practice in Kashmir has likewise been loaded with the experiences and memories of the 1990s. The artistic engagement with this historical moment and the body of work that it has influenced over the years evades words and becomes a collective memoir. To this realm of memory, everyone contributes to the process of commemoration through personal memories, which when looked as a single layer form a collective memoir. This provides the possibility for artists to make a transition from emotional/psychological accountability of their individual memoirs and in turn re-negotiate the past and the present through a perspective in which the micro is set against the macro in elucidation of a reality and experience that at once is personal and collective. This constant shifting of personal and collective folds artists and those represented in artwork into a single whole, blurring boundaries between subjects and artists. It is in this context that a conceptual shift has taken place in understanding and transformation of memorials. I am particularly interested in reconsidering the artists in Kashmir as “memorials in flesh,” which produce and engage in different acts of remembering, both personal and collective.

Such an artistic movement is expected to create a certain historical consciousness in a place like Kashmir – marred by decades of political violence – where civil society has little or no space for protest. The role of the internet – often seen to challenge oppressive regimes because of its free and interactive model of information exchange – in the creation of this consciousness is vital.

I think it is of utmost importance for us to understand and propose an ideal design on how to contribute to this collective memoir and further reflect on the aesthetic and political function of commemoration within the context of an e-space or social media platform like Instagram. We must also be aware that the absence of engagement and our presence in this space can leave the memory and its prosthetic – the artist and artworks – vulnerable to the mechanics of oppression and cycles of renewal and decay.”

— Trappedingeopolitics, Artist

Resistant art of Kashmir has made a space for "difficult" conversations, art and artists basically lay a platform where conversation around Kashmir can be done. Visual art specifically leaves an imprint on peoples' mind, there is a lingering feeling. It hits people hard and they tend to look up the matter. At times when journalists, academicians and writers are being detained, artists have been continuing the practice of letting the world know what's been happening in silence in Kashmir.

Art is now easily accessible with social media platforms. It is easy to see, as against long write-ups or articles. Art is important to reach to every kind of audience.

— Nawal Watali, Photojournalist

When people are reduced to a statistic, any act performed that is human is resistance. Making art is resistance, having personal preferences and individual goals is resistance, acknowledging pain is resistance, even strolling alone at night looking at the stars is resistance.

I hope we see a time where we can make art for the sake of art, for the sake of beauty, in a time where there are no oppressive forces left to resist.

— Khytul Abyad, Artist.

- *Bhamati Sivapalan and Evita*

There was a time when Agha Shahid Ali, the legendary Kashmiri poet, was stranded at an international airport. When a guard asked him if he was carrying anything with him that could be dangerous to the other passengers, the poet put a hand on his chest and cried, "Only my heart!"

To young lovers sitting by the Dal lake as a "box-shaped, mine-protected vehicle rolled up next to them", love meant defiance. "Let the army man see us and die of jealousy," she said, her eyes blazing. They stared long and languidly at each other into the night, in defiance of oppression.

[Excerpts from Counting Days (@countingdaysk) archives, Day 94]

Where Silence is Defiance

Civil disobedience movements have many historical narratives across the world. One of the more fascinating history narratives is of Swidnik, a small Polish town, where people's resistance made a mockery of Martial Law. It was December 13, 1981. Following one man's actions, people of Swidnik decided to step out of their homes during prime news time, their TV sets placed on windowsills facing the world. People would walk out on to the main roads, roam around neighbourhoods, chat with fellow citizens and spend time outdoors as a community – to demonstrate their defiance and disobedience to the rulers. The 'walk' movement caught the imagination of the people, it spread to nearby towns and cities. As a result, the government declared evening curfews to stop people from expressing anger, collectively.

Ajaz Ashraf compares the Swidnik walk (Caravan, August 2019²¹⁴) to a more effective variant of the 'civil curfew' in Kashmir. Unlike the Swidnik walk where people built collective resistance in public spaces, Ashraf argues, *"In Kashmir, its people seem to have shunned the public arena, reducing the state's supervisory right over it to irrelevance. Can the state make it mandatory for Kashmiris to step outside their homes daily, at least for a few hours? Such a measure would be unprecedented. The state could also decide not to condone the thin attendance of government officials. Will they all be dismissed from service? What would happen to students if they refuse to attend classes?"*

"The state is both the disruptor and the restorer of normalcy in the Valley. The Kashmiris' decision to voluntarily stay locked inside their homes is their attempt to usurp this power. In Kashmir and elsewhere, the state's favoured method of returning to business as usual is to stringently regulate the public arena. But this has been aborted in Kashmir, as its people have refused to step outside or open their shops", argues Ashraf.

In the following months of September and October 2019, leading up to the harsh winter, Kashmiris refused to accept the rules of normalcy set by New Delhi. The Government of India, in its desperate effort to deflect both international and national criticism for the curtailment of civil life and complete blockade of communications, had started 'relaxing the norms' in October. But the disobedience in the Valley continued unabated and in a decentralised manner.

The apple traders of the Valley were direct and clear about their response to the militarised clamp down. They readily met the Commission of Inquiry team²¹⁵ at Asia's largest apple market in Sopore town in North Kashmir and spoke their mind.

²¹⁴ <https://caravanmagazine.in/politics/civil-disobedience-curfew-kashmir>

²¹⁵ The Commission of Inquiry team was constituted for the J&K Tribunal and visited the Kashmir valley in the last week of February 2020

“We were determined not to sell any apples to them. We are ok to allow our fruits to rot. Whatever bear minimum was required to be sold to protect our ethicality with the small traders we have done that. Nothing more...”

“Our apples are like our children, if our children have decided they will not join school, why should we think differently about apples. If we must go down in history, we will do so together, the people of Kashmir and the vegetation here are together in resisting this oppression.”

In Bandipora, a villager said that the army Commanding Officer had started to call villagers, especially village elders, to his camp office every evening to enquire about the situation in the villages post 5 August. After a few days, one by one they stopped attending these meetings till it reached a point that no one from the villages was attending these coercive information sharing meetings.

“Who is he to enquire about our well-being?” said the villager. “They behave like kings of areas that they can survey from their hilltop camp office. Who made them the rulers of our area? If there is a drinking water problem or an electricity crisis, they become arbitrators. We are not going to co-operate with this drama. But sometimes we feel helpless, we are scared that they will attack us at night for not joining their meetings.”

Several fact-finding teams that visited the Kashmir Valley in September and October 2019 noted widespread incidences of civil curfew and disobedience. The government repeatedly refuted the claim, stating that people were not stepping out of their homes out of fear of militants.

For example, one fact-finding report²¹⁶ stated that many shops and offices remained closed, but not because of militants, separatists or political leaders. It is, in fact, an “act of resistance against the Indian state”. In three instances, people did tell the fact-finding team that there were posters, possibly put up by militants, asking people to keep their shops shut. But many more people claimed that they were being forced by Indian security personnel to keep their shops open. *“These are people the Kashmiris are equally scared of. It is at their behest that people are being arrested. So, the decision to defy them is significant and brazen. And yet, that is the choice most Kashmiris have made. To go against the diktat to open shops. And remain in this mode of civil disobedience for as long as they can,”* says the ‘Civil Disobedience’ report.

According to Gautam Mody of New Trade Union Initiative, what struck him most during his visit to the state was the enormous scale of civil disobedience. *“The presumption of this government that the Kashmiri people are fed up with Kashmiri politics and want development is a*

²¹⁶ #KashmirCivilDisobedience — A Citizens’ Report by Shabnam Hashmi, Revati Laul, Anirudh Kala and Brinelle D’souza, October 2019

figment of its imagination. This scale of disobedience was not in the Bhartiya Janata Party government's playbook. This is probably the longest such civil disobedience after Indian Independence — it is extraordinary and impregnable,” Mody told a journalist²¹⁷, after the release of the factfinding report by the team²¹⁸.

Members of the fact-finding teams asserted that people in Kashmir across the spectrum – from hardliners to separatists, who either want a union with Pakistan or want *azadi*, to those siding with India – have experienced collective shock and trauma. All this has turned many Kashmiris into “silent protestors”. The reports warned that the phenomenon of silent protest and civil disobedience may just be the lull before an impending storm.

In the earlier months after the abrogation of Article 370, parents expressed civil disobedience sentiments regarding their children's education. Till February 2020, the Valley schools were shut for seven months in a row because parents and even many teachers did not co-operate with the orders of the government. Even the markets in and around Srinagar finally began to re-open and function around the same period. Understandably, by then the resolve had given way to thinking about the future of the children, economy, family and livelihood.

The civil curfew and disobedience had lost its steam. People were desperate for the numbness to fade away. Children were missing their friends and school. The tragic irony is that within weeks of these developments, Kashmir, like the rest of India and much of the world, was again shut down due to the COVID-19 pandemic.

When South Asia commemorates the century of the Civil Disobedience movement initiated by the anti-colonial struggle, the significance of the silent defiance of the people of Kashmir will remain etched in the annals of history as a powerful and symbolic tool against neo-colonial occupation.

- Vijayan MJ

²¹⁷ <https://www.firstpost.com/india/imprisoned-resistance-new-report-on-kashmir-situation-post-article-370-questions-govts-normalcy-narrative-7592721.html>

²¹⁸ Imprisoned Resistance, 5th August and its Aftermath – Fact finding Report by Citizens groups, October 2019

HOPE

The harbingers of revolution are
not born.

They are made.
They are shaped in the bone melting
desert of tyranny.

They are apprenticed under shadow of
weapons.

They bloom when trampled under the
boots of cruelty.

Every time the oppressive regime
aims to tame their flight, they see
gates to new horizon

Where they fly with freedom,
Spreading the message of revolution
and arming people with best weapon
against an oppressive regime,

HOPE.

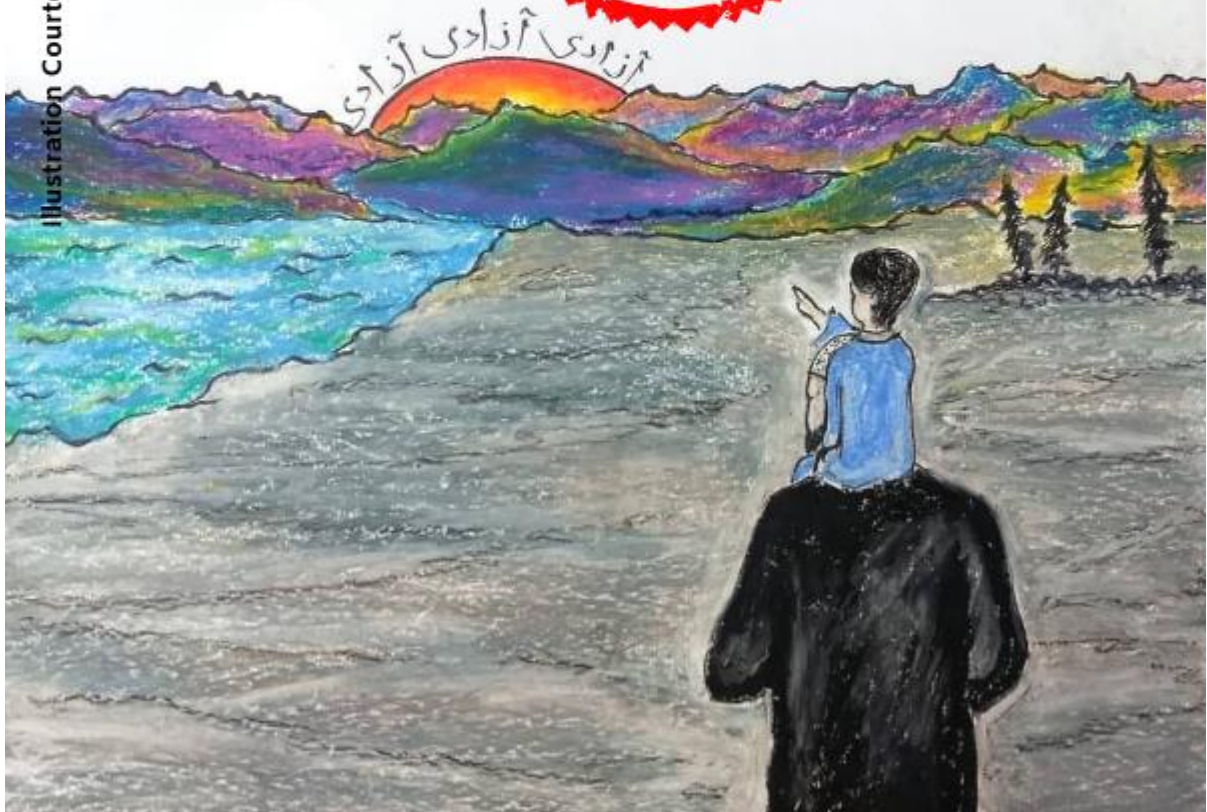
- Farzan Dar

[Excerpts from Counting Days (@countingdaysk) archives, Day 278]

Illustration Courtesy: Shomasree Majumdar

**215
Days**

6 March 2020
#KashmirCaged
#StandWithKashmir
#EndOccupation



phuul shāḡhoñ pe khilne lage, tum kaho
jaam rindoñ ko milne lage, tum kaho
chaak sīnoñ ke silne lage, tum kaho
is khule jhuuT ko, zehn kī luuT ko
maiñ nahīñ māntā, maiñ nahīñ jāntā



tum ne luuTā hai sadiyoñ, hamārā sukūñ
ab na ham par chalegā, tumhārā fusūñ
chārāgar dardmandoñ ke bante ho kyuuñ
tum nahīñ chārāgar, koī maane magar
maiñ nahīñ māntā, maiñ nahīñ jāntā

Habib Jalib