[Rights violations in Kashmir](https://nation.com.pk/11-Feb-2019/rights-violations-in-kashmir" \t "_new)

Durdana Najam February 11, 2019 the nation

Every year on February 5, Pakistan celebrates “Kashmir Solidarity Day” to commemorate the struggle of the Kashmiri people for their right to self-determination. While eulogising the freedom fighters, who had lost their lives and limbs to the cause, February 5 serves to highlight the gross violations of human rights in Indian-held Kashmir. For decades now, Kashmir has become a non-issue for the international community mostly because of its economic interests in India that far outweigh any other consideration.

Even the United Nations was part of this silence and indifference, until June 2018, when the United Nations Office of the High Commissioner on Human Rights (OHCHR) issued a detailed report on the situation of human rights in the Indian state of Jammu and Kashmir. The report included a time period between July 2016 and April 2018, a period that witnessed one of the worst rights violations in the territory’s history.

In spite of the resistance from the Indian government to provide access to Jammu and Kashmir to the High Commissioner for Human Rights, the report amply exposed the violent governance structure that India has imposed on Kashmir. This model of governance warrants the use of excessive force with impunity. Though failing to arouse the international conscience for a suitable intervention, other than lip service that was duly provided, the report vindicated Kashmiri claim of living in a “valley of death and intimidations”.

The state of Jammu and Kashmir has been a stabbing “thorn” for India’s since 1947. Ideally, the state should have been naturally annexed to Pakistan, but Hari Singh, the ruler at that time, was taking his time to decide. In 1948, seeing India’s intrigues behind Singh’s indecisiveness, Pakistan mounted a war to wrestle out Kashmir. Refusing to capitulate, Singh sought India’s assistance and in barter signed the Statement of Accession.

The war left Pakistan with only 30 per cent of the Kashmir, separated from the rest by a cease-fire line. Later after the 1971 war, in which India had played a decisive role in the formation of Bangladesh, the line was converted in to a Line of Control through the 1972 Simla Agreement. It also required solving differences between the two countries through bilateral means, and, in the event of any bottleneck, using a third party mediation through mutual consent.

India was the first party among the two to go to the UN in 1948 for international meditation. Responding to which, the UN, through a string of Security Council Resolutions, tried to resolve the Kashmir issue. One of the most important resolutions was Resolution 47 that added to the mandate of the United Nations Commission for India and Pakistan, a provision to facilitate a “free and impartial plebiscite to decide whether the State of Jammu and Kashmir is to accede to India or Pakistan.”

Although the question of Kashmir remained on the UN radar until 1957, the plebiscite never happened. This was because the prerequisite demanding both India and Pakistan to withdraw forces from their respective “occupied” territories of Kashmir was never fulfilled. The Simla Agreement further hardened India’s position, which it believed had made all the previous Security Council Resolutions on Kashmir redundant. Pakistan, however, has stuck to its position, demanding for the implementation of all the resolutions.

Different movements, with some concerned with an independent Kashmir, others supporting plebiscite, while a few seeking a democratic system in Kashmir, have emerged at various stages since 1947. The turning point that added fuel to the conflict was the 1987 elections, which allegedly were highly rigged in favour of National Conference-Congress Alliance. Where the Muslim United Front, comprising of Jamaat-i-Islami and the Ummat-i-Islami, grabbed only 4 seats compared to the 66 seats of the NC alliance. Delhi’s decision to control Kashmir unfurled the first wave of insurgency in 1989, followed by several others in response to India’s excessive use of force.

The new avalanche of protests was triggered by the martyrdom of Burhan Wani, a 22-year old leader of the Hizbul Mujahidin. He died on July 8, 2016, in combat with Indian security forces. The reaction to his killing was unprecedented in scale and intensity, leading to causalities and wide range of human rights violations throughout the summer of 2016 and into 2018. Although the Indian held Kashmir had seen many protests in the past, this stood out because of the number of people involved and the profile of the protestors. Young, middle-class Kashmiris, including females, were now fighting from the front.

As a response, various legal regimes have been introduced by the Indian government to suppress Kashmiris. Legal statutes such as Armed Forces Special Power, Act 1990 (AFSPA) and Jammu and Kashmir Public Safety Act, 1978 (PSA), have obstructed the right to legal recourse, besides investing excessive power in the hands of the security forces.

In 2005, the Supreme Court appointed a commission to review AFSPA. The report of the commission stated that the law had become “a symbol of oppression, an object of hate, discrimination and high handedness.” In 2012, the National Human Rights Commission of India stated that AFSPA “remains in force in Jammu and Kashmir and the North-Eastern States, conferring impunity that often leads to the violation of human rights.” In November 2014, the Vice President of India, Hamid Ansari, said that there were complaints about the misuse of laws such as AFSPA and that “this reflected poorly on State and its agents.” International human rights experts and organisations have repeatedly asked for the repeal of AFSPA.

Section 4 of AFSPA gives the person using the law the right to use lethal force both in cases of self-defence and against any person violating laws or orders “prohibiting the assembly of five or more persons.” The OHCHR report also called for the repeal of the Public Safety Act, which it said was used to detain over 1,000 people, including children, between March 2016 and August 2017.

One of the most dangerous weapons used to quell protests was the pellet-firing shotgun, which is a 12-gauge pump-action shotgun that fires metal pellets. According to the OHCHR report, the official government figures list 17 people killed by pellet injuries between July 2016 and August 2017. In January 2018, the Jammu and Kashmir Chief Minister, Mehbuba Mufti, told the state legislative assembly that 6,221 people had been injured by pellet guns. However, the government of India has refused to accept the report and continues with its use of force against the protestors. The growing agony among the new generation will not be easy to quell through use of force.

Subjecting Kashmiris to violence on the pretext that terrorism is being unleashed in the garb of freedom struggle is just not acceptable. If India condemns terrorism than instead of silencing dissent it should be responsive to the persistent, reasonable, and non-violent dissent. What is happening is the opposite. The global community is awaited for its intervention on this vital issue.

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