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Good afternoon Chair Sherman and other members of the Sub-Committee. Thank you for giving me this opportunity to testify as an expert for I am someone who is not only a person of Kashmiri origin, but an extensively published scholar and writer on Kashmir, India, democracy, politics and international relations. Let me start by clarifying that I do not represent any advocacy group or lobby organisation and my views are based solely on my professional expertise, convictions, experience, and witnessing. I frequently travel to the region and have researched, published, presented and spoken about India and Kashmir for more than a decade.¹ In fact, I do not claim to speak for the Kashmiri people, but of them, because they are my own regardless of their religious or regional identities. I also speak on behalf of those Indians who are protesting their government’s undemocratic actions in Kashmir, and of course, for every human being like yourselves who believes in human rights for all and tyranny against none. I do wish this hearing had at least one expert witness from the main community most adversely affected – the Kashmiri Muslims from the valley; I hope you will have further hearings where you can invite human rights defenders from the valley and they would be allowed to travel by the Indian government.

Kashmir is a long drawn international conflict that has taken huge toll on developing countries of India and Pakistan² but the biggest victims have been the people of

¹ Some of the key publications as mentioned on my website www.nitashakaul.com include:

Kaul, N. (2018) (co-edited with A. Zia) EPW [Special issue on “Women and Kashmir”, Review of Women's Studies \(RWS\)/Economic and Political Weekly \(EPW\)](#), Volume 53, Issue Number 47, 01 December, pp. 33-78. This was a historic first publication on Kashmiri women by a collective of Kashmir women scholars.

Kaul, N. (2019) "[Finding the Ways Forward on Kashmir](#)", Centre on Constitutional Change (CCC) Blog Series, University of Edinburgh, 17 April.

Kaul, N. (2013) "[The Idea of India and Kashmir](#)", [Seminar \(Indian monthly symposium since 1959\)](#), issue on "Eye on Kashmir", March, Number 643, pp. 72-75.

Kaul, N. (2013) "[Kashmir: A Place of Blood and Memory](#)", in Sanjay Kak (ed.) [Until My Freedom Has Come: The New Intifada in Kashmir](#), Chicago: Haymarket Books, pp. 189-212.

Kaul, N. (2017) "[Rise of the Political Right in India: Hindutva-Development Mix, Modi Myth, And Dualities](#)", [Journal of Labor and Society](#), Volume 20, Number 4, pp. 523-548.

Kaul, N. (2019) "[The Political Project of Postcolonial Neoliberal Nationalism](#)", [Indian Politics & Policy](#), Spring, Volume 2, Number 1, pp. 3-30. doi 10.18278/inpp.2.1.2

Kaul, N. (2011) "[On Loving and Losing Kashmir](#)", India International Centre (IIC) Quarterly, Special Issue on Kashmir, Winter-Spring.

² Several scholars have written about this. See for instance, Schofield, V. *Kashmir in Conflict: India, Pakistan and the Unending War*, London: I B Tauris. A good resource for those who want to become familiar with the Kashmir conflict can be found at the collective Kashmir Scholars Consultative and Action Network (KSCAN) <https://kashmirscholarsnetwork.org/resources/research/>.

contested territory of Jammu and Kashmir whose right to self-determination as well as basic human rights have been denied for an unacceptably long time. As the UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein wrote in June 2018, "It is a conflict that has robbed millions of their basic human rights, and continues to this day to inflict untold suffering".³ There have been numerous reports produced by international organisations that have highlighted the denial of human rights.⁴ Most recently, OHCHR produced two extensive reports where it highlighted how essential norms of democracy and human rights are being flouted in both Indian and Pakistan administered Kashmir.⁵ India claims Jammu and Kashmir to be an integral part but continues to show a profound contempt for people of the same Kashmir and deny them basic human rights. Indian response to Kashmiri protests – peaceful or violent – has been more state violence.⁶ Even in recent years when the armed opposition to Indian occupation has been at its lowest, there have been glaring instances of rights abuses and contemptuous treatment of Kashmiris who seek justice for the abused.

Every Kashmiri in the valley has grown up knowing about every other day being a commemoration of one massacre on another, several children and young persons have been blinded through pellet gun firing, individuals have been killed, and people detained for long period without trial.⁷

What changed on 5 August 2019 in Indian-administered Kashmir – known as Jammu and Kashmir under Indian constitution – that had de jure autonomous statehood? It had both constitutionally guaranteed autonomy as well as its statehood abolished without any consultation with the people affected. In fact, this act was preceded by a complete lockdown in the state⁸ where tourists and pilgrims were warned to leave the state immediately on the pretext of security threat and the native residents left without telephone, internet, and communications. The enforced silencing of people

³ Quoted in <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23198%20>

⁴ See extensive reporting on human rights abuses by Kashmir based organisations including Jammu Kashmir Coalition of Civil Society (<http://jkccs.net/>) as well as Association of Parents of Disappeared Persons (<http://apdpkashmir.com/>)

⁵ Two reports of the Office of the United Nations High Commissioner for Human Rights (OHCHR) detail the situation in Indian and Pakistan administered Kashmir. See <https://www.ohchr.org/Documents/Countries/IN/DevelopmentsInKashmirJune2016ToApril2018.pdf> (first report, June 2018) and https://www.ohchr.org/Documents/Countries/PK/KashmirUpdateReport_8July2019.pdf (second report, July 2019). The response of the Indian government was to reject the reports and a refusal to engage with the process.

⁶ Indian army chief for instance has expressed his view that he would prefer if the protesters used guns rather than stones. See <https://economictimes.indiatimes.com/news/defence/fire-weapons-instead-of-throwing-stones-army-chief-challenges-stone-pelters/articleshow/58880213.cms>

⁷ There are examples of young girls losing their eyesight, ordinary workers having their stomach pumped with hundreds of pellets, students being killed, and so on and if Kashmiris protest and rights organisation highlight the case, the state response is at best to promise inquiry which never ever lead to any action against the perpetrator and at worst to blame the victims. For examples of testimonies of pellet firing shotgun victims, see the recent report "My world is Dark" of APDP (Association of Parents of Disappeared Persons) at <http://apdpkashmir.com/>; international and Kashmiri media have often highlighted the plight of victims (for example, <https://www.nationalgeographic.com/magazine/2018/06/kashmir-conflict-anger-indian-police/>) but Indian security forces continue to use them without hesitation.

⁸ Tens of thousands of new troops were brought into Kashmir to join already existing hundreds of thousands of soldiers and police. See <https://www.indiatoday.in/india/story/28-000-more-troops-deployed-in-kashmir-valley-1576280-2019-08-02>

flouted all principles of democracy – consent, freedom of expression, freedom of movement, right to live with dignity. As I have written in *Foreign Policy*,⁹ this continuing action of India does not reflect a democratic practice but an authoritarian colonial power.

The Immediate impact on the people of Kashmir Valley

Emptying of Democratic Political and Civil Spaces

Kashmiri political leaders of all persuasion, including three ex-Chief Ministers, have been arrested. Indian government has been evasive on the reasons behind the detention and it has given no indication of how long these arrests and detentions will last. Not only have the political organisations that seek self-determination been banned and their leaders placed under indefinite arrests in prison or house arrest, but the new stage since 5 August is the mass arrest of civilian pro-India politicians. Indian action is seen as a contempt for all residents of Kashmir. Forcing a fundamental change upon a people without any efforts to secure consent is anti-democratic.

Elections in Indian Administered Kashmir are deeply divisive with many people boycotting it¹⁰ since electoral participation is represented as consent of Kashmiris to being ruled by India and thus making redundant the promise of plebiscite that India and Pakistan made through United Nations Resolutions of 1947 and 1948. However, some Kashmiris do participate in elections since they believed in working within Indian system. Even those pro-India leaders are now under indefinite arrest. This illustrates that Indian government is fully aware of the erasure of autonomous statehood as being deeply unpopular and thus its action lack democratic consent. To repeat, an imposition of a landmark change in governance while keeping the entire population locked is a sign of authoritarianism and not democracy.

The ongoing siege in Kashmir involves arbitrary arrests of hundreds of members of civil society including academics, teachers, business persons.¹¹ A flourishing civil society is an integral part of a democratic set up and through severe restrictions on its functioning, Indian state has deprived Kashmiris of any way of expressing themselves in a peaceful manner. Even elderly women who marked a silent protest in Srinagar, capital of Indian-Administered Kashmir, were not spared and detained.¹²

Human rights defenders, who were already under severe pressure, since August 5 are unable to function in Kashmir. For instance, every year on 30 August, the UN Day of the Victims of Enforced Disappearance, Association of Parents of Disappeared Persons led by Ms Parveena Ahangar, organises a vigil protest involving hundreds of elderly women and men whose sons had become victims of

⁹ See <https://foreignpolicy.com/2019/08/13/kashmir-is-under-the-heel-of-indias-colonialism/>

¹⁰ For instance, in the most recent parliamentary elections, the voters' turnout was very low and in many booths, not a single vote was cast. See <https://www.firstpost.com/politics/low-turnout-marks-four-phases-of-ls-polls-in-kashmir-172-booths-record-zero-polling-analysts-term-boycott-voluntary-6565981.html>

¹¹ See <https://www.thetimes.co.uk/article/india-arrests-hundreds-of-kashmiri-academics-activists-and-politicians-6mcbj6xjt>. The situation has worsened since this report from the earlier days of siege.

¹² See <https://www.thehindu.com/news/national/in-kashmir-13-detained-women-released/article29714539.ece>

enforced disappearance at the hands of the security forces and have had no justice due to prevalence of impunity through emergency powers in place in Kashmir since 1990. This year, even the peaceful gathering of elderly parents mourning and waiting for their disappeared sons was not allowed. As Parveena writes “This year we have been strangled, and there was no coming together because through its siege, India has denied us even the right to mourn.”¹³

Humanitarian Crisis

While much of Indian media has been acting in an embedded manner merely regurgitating the state narratives without critical questioning about their legitimacy or justification, some members of Indian civil society and independent fact finding missions have reported about everyday life in Kashmir and suffering of the common people since the siege began.¹⁴ Businesses have suffered, economy has witnessed major losses,¹⁵ medical supplies are running low and there is a general sense of uncertainty that is not conducive to anyone’s wellbeing.

As the authoritative medical journal Lancet as well as British Medical Journal pointed out, the clampdown in Kashmir valley is detrimental to mental and physical wellbeing of more than six million people.¹⁶ Medical research has already shown the high incidence of depression, anxiety and PTSD in the valley due to almost three decades of violence;¹⁷ the enforced silence for the past ten weeks and counting and the general environment of fear due to heavy presence of military and paramilitary forces implies this situation will worsen. Stories of medical shortages,¹⁸ doctors who spoke of the impending crisis being muzzled,¹⁹ deaths due to delay in medical treatment, ambulances facing delays due to roadblocks set by the security forces, and more indicate that either the government’s approach is uncaring at best or deliberately punishing at worst.²⁰

¹³ See <https://www.theguardian.com/commentisfree/2019/sep/12/son-kashmir-disappeared-india-truth-fate-siege>

¹⁴ See for example <https://peoplesdispatch.org/wp-content/uploads/2019/08/Kashmir-Caged-final-report.pdf> And <https://www.deccanherald.com/national/north-and-central/jk-witnessing-civil-disobedience-movement-activists-767941.html> and <https://scroll.in/latest/940382/j-k-fact-finding-report-claims-kashmiris-are-resisting-government-through-satyagraha>. Even the democratic act of report presentation in India has often faced challenges and restrictions. See <https://www.outlookindia.com/website/story/india-news-press-club-of-india-disallows-civil-rights-activists-from-showing-videos-of-kashmir-unrest/336224>

¹⁵ Industry experts pointed that the loss to the economy as a direct result of the siege was more than \$1bn in two months (see BBC report <https://www.bbc.co.uk/news/world-asia-india-49956960>) and by now this would have increased significantly.

¹⁶ See <https://linkinghub.elsevier.com/retrieve/pii/S0140673619319397> and <https://www.bmj.com/content/366/bmj.l5204>

¹⁷ See <https://www.medact.org/2019/blogs/war-violence-and-the-mental-health-crisis-in-kashmir/> and <https://www.medact.org/2019/blogs/war-violence-and-the-mental-health-crisis-in-kashmir/>

¹⁸ See the New York Times report <https://www.nytimes.com/2019/10/07/world/asia/kashmir-doctors-phone.html>

¹⁹ A doctor who warned of a crisis was detained in front of the media. See <https://www.telegraph.co.uk/news/2019/08/27/kashmiri-doctor-arrested-warning-blackout-could-cause-deaths/>.

²⁰ See <https://www.nytimes.com/2019/08/14/technology/india-kashmir-internet.html>

Newspapers have reported about the general environment of militarisation, torture, beatings,²¹ pellet injuries, and fear. Thousands of young persons including children have been arrested, and some of them sent to prisons in far off places of India preventing their parents from visiting them without considerable hardship. From the government's own estimate, the youngest person detained is 9 years old.²² All these incidents are presented as pacification of the population by Indian state officials though these go against democratic norms and are more in common with practices of authoritarian states. What makes democracies different is that the people are seen as rights-bearing individuals and the actions of Indian state have accelerated the process through which every Kashmiri is subjected to an arbitrary exercise of power and their welfare is made dependent upon the whims of the officials. Even the courts that are meant to be defenders of rights are barely functioning.²³ Rather than reassurance from Indian diplomats that they can help individual Kashmiris living overseas get in touch with their family, what is required is a lifting of the siege; the former is a sign of arbitrariness of power with no accountability.

While the Indian government rejects any criticism of its conduct as interference in its internal affairs, portrays all opposition in Kashmir as a proxy war of Pakistan,²⁴ and reassures the international community that its actions are meant for the betterment of life of all people of Kashmir, in practice, its actions have meant collective punishment for all residents. The Muslim majority as well as the Hindu and Sikh minorities living in the valley are subjected to severe restrictions, arbitrary exercise of power and an uncertain future. As UN Human Rights experts pointed out, this is collective punishment.²⁵

Democracy requires a credible environment for anyone to dissent peacefully and without fear. Under the current set up, with leaders and activists of political parties, civil society organisations and human rights bodies all facing restrictions, and ordinary people facing surveillance, arbitrary detentions and clampdown on rights to communicate, there is no space to dissent peacefully and without fear. Requests and

²¹ See <https://www.telegraphindia.com/india/kashmir-9-year-old-out-to-buy-bread-beaten-locked-up/cid/1710267>. *Washington Post* on 30 September reported about torture. See also BBC Report <https://www.bbc.co.uk/news/world-asia-india-49481180>. A most recent report - <https://frontline.thehindu.com/dispatches/article29724488.ece> focuses on incidents of torture, the reluctance of people to speak about it lest they get punished; it also connects the current situation with the past where human rights organisations have highlighted impunity that perpetrators of torture enjoy: "A report released by Jammu and Kashmir Coalition of Civil Society on May 20 stated that "torture has remained unnoticed and survivors continue to suffer in silence". Of the 432 cases of torture between 1990 and 2017 that it studied, there were 24 cases of waterboarding and 238 cases of sexual abuse. Only 27 of the 432 cases (6.25 per cent) made it to the State Human Rights Commission. The Army, meanwhile, has categorically rejected cases of torture reported in the press."

²² See <https://www.hrw.org/news/2019/09/16/india-free-kashmiris-arbitrarily-detained>

²³ See BBC report <https://www.bbc.co.uk/news/world-asia-india-49848899>

²⁴ While India portrays all opposition to it as stemming from Pakistan backed insurgents, it ignores the fact that much of Kashmiri population is disenchanted with India because of the long term denial of human rights as well as crushing of movement for self-determination. Even the militancy now is mostly indigenous. Rather than engage with the root cause, Indian approach is to demonise the entire population and justify occupation, militarisation and dehumanisation.

²⁵ See <https://ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24909&LangID=E>

pleas from Kashmiri, Indian as well as international organisations to end the siege are rejected.²⁶

Siege

After a total clampdown on the phone and internet services, the government has only allowed landline connections and now mobile services after weeks of delay and that too under international pressure including possibly from the American leaders. However, to see these severely partial restorations as return to “normalcy” is unfair. Majority of people in Kashmir rely on pre-paid mobiles and thus continue not to have access to telephone or internet. Even the post-paid mobile connections that have only been allowed in the last one week with the proviso that this limited service will be withdrawn any time government feels it poses a challenge to security, does not allow internet. Thus, Kashmir (especially the valley) has become a place that is devoid of internet.²⁷

Dear Chair and other members, as you would appreciate, internet is not a luxury in today's world. It is essential to survive in a modern society. Without access to internet, millions of Kashmiris have been deprived of means to access information and be active citizens of the world. Different aspects of life – business deals, online banking, applying to educational institutions, taking examinations, accessing medical help and so on – have come to a grinding halt.²⁸ Rather than show a concern for the detrimental impact the communications siege has on the wider population, the Indian government representatives continue with the propaganda of normalcy.

Schools had been closed since August 5 first by the government. Once the government allowed the schools to reopen, they have faced empty classrooms.²⁹ The visible military presence on the streets, the non-plying of public transport, prohibition on phones, and the general sense of insecurity makes the environment not conducive for parents to send their children to schools. The government has shown no serious initiative to change the stalemate even as it claims normalcy.

Indian government has made the case that removal of autonomy will make investment easier. Given the volatility of security situation, which foreign investors would take the risk? Even Indian private investment is unlikely unless there is an assured heavy return. Kashmir has a fragile ecosystem and with the removal of autonomous statehood, the risk is that decisions will be made centrally by those with no understanding or care for the sustainability of development in Kashmir.

²⁶ Human Rights Watch, Amnesty International and several organisations have repeatedly urged India and their pleadings are ignored. See for instance <https://www.hrw.org/news/2019/10/07/restrictions-detentions-persist-kashmir>. Even the urgings from US members of Congress (<https://jayapal.house.gov/2019/09/30/members-of-congress-urge-india-to-restore-communication-in-kashmir/>) have been ignored.

²⁷ Jan Rydzak, a scholar based at Stanford Global Digital Policy Incubator, has pointed out that Kashmir valley has seen the highest number of state imposed internet shutdowns in the world. The current shutdown that started on August 5th shows no sign of being over. See <https://caravandaily.com/communication-blackout-in-kashmir-truly-a-digital-siege-says-former-stanford-university-scholar/>

²⁸ See <https://www.nytimes.com/2019/08/14/technology/india-kashmir-internet.html>

²⁹ See <https://www.aljazeera.com/news/2019/09/kashmir-unrest-prevents-students-returning-school-190923153707462.html>

Justification of denial of freedom through the promise of development is not only anti-democratic but outrightly colonial.

The denial of democratic rights in Indian-Administered Kashmir affects not only the residents but also those living outside in India and overseas. After weeks of no communication with their family and loved ones, even with limited restoration of phone line for a few people is laden with heavy realisation that all conversations are monitored and no one will risk being honest lest their family is in trouble. For tens of thousands of students studying in Indian educational institutions, in addition to uncertainty about their family and their welfare, there is fear of bullying, intimidation and targeting by far right nationalists in India as well as the practical problem of surviving without their family being able to send monies.³⁰

While media freedom in India is better than in countries such as China or North Korea, for a democratic country, its deteriorating situation is a cause for serious concern.³¹ When it comes to reporting on Kashmir, there is a big disconnect between how international newspapers including New York Times, Washington Post, The Guardian, The Telegraph and others report and how Indian channels and some newspapers report. While the former highlight different aspects of life, the latter often come across as state propaganda. The worst situation is of journalists and newspapers based in Kashmir. Since August 5th, many newspapers have faced severe restrictions.³² Kashmiri journalists have expressed dissatisfaction with the inhospitable conditions under which they have to operate.

One excuse used by the government for all the restrictions is that it prevents loss of life. While reasonable restrictions are expected in different contexts, an unending emergency like situation is a sign not of security but of insecurity. Given the severe restrictions on reporting and most of the villages and small towns in Kashmir being off the grid from news reporting, there is no way of knowing the actual situation and the number of fatalities on the ground. In addition, India is left with no credible partners for dialogue in Kashmir.³³

The Wider Question for India and the World

What explains the drastic and unilateral action by Narendra Modi led government? What is the significance of it for those beyond Kashmir? The ruling Bharatiya Janata Party (BJP) has had in its manifesto the pledge to remove autonomy of Jammu and Kashmir enshrined in Article 370 because it saw it as a special guarantee to a Muslim majority state. BJP is avowedly Hindu nationalist and its leaders and activists

³⁰ See <https://caravandaily.com/continued-communications-blockade-heightens-sufferings-of-kashmiri-students-outside-state/>

³¹ See <https://economictimes.indiatimes.com/news/politics-and-nation/india-drops-down-on-world-press-freedom-index/articleshow/68940683.cms?from=mdr>

³² See <https://www.newframe.com/press-under-fire-in-kashmir/> and <https://www.telegraphindia.com/india/day-of-hell-for-journalist-in-srinagar/cid/1703539>. Committee to Protect Journalists has done several reports expressing its concern including <https://cpj.org/blog/2019/09/kashmirs-news-media-faces-existential-crisis-amid-.php>

³³ As an ex-intelligence officer and previous head of India's Research and Analysis Wing (RAW), A. S. Dulat remarked, there is no one left in Kashmir for Indian government to talk to due to its muscular approach. See <https://www.telegraphindia.com/opinion/kashmir-the-perils-of-a-muscular-approach/cid/1699516>

have repeated their resolve to convert India into a Hindu nation where Hindu supremacism will reign.³⁴ While Indian government pays respect to Mahatma Gandhi when in the West, the ruling party has senior politicians who celebrate the murder of Gandhi and valorise the assassin Nathuram Godse.³⁵ A BJP Member of Parliament asserted there won't be a need for elections in the future because Narendra Modi would be seen as an unchallengeable nationalist leader.³⁶

Muslim and Christian minorities are seen as enemies and obstacles in the agenda. Various rights organisations, scholars and news commentators have highlighted the spike in everyday discriminations, prejudices and violence that religious minorities have to endure. The primary focus is on demonising and marginalising the largest religious minority – Muslims. Several Muslims have been lynched and instead of calling for the punishing of the culprits, members of the ruling party have justified the acts and sometimes valorised the culprits.³⁷ As India imposes the world's largest exercise to identify citizens through National Register for Citizens in state of Assam, millions have been rendered potentially stateless, many Muslims. This statelessness is bureaucratically enabled³⁸ and on a scale bigger than what afflicted Rohingyas in Myanmar. India's Home Minister has publicly announced that the government will ensure that every person who cannot prove citizenship will get rights to stay in India unless they are Muslim.³⁹

Given the size of the population of India, the question of minority rights should be a priority not only for Indians but the international community. Without greater democratisation within India and pressure from international community, the prospect of India turning into a Hindu nation is real.

While political actors may benefit from these anti-democratic actions in Kashmir and celebrate a resurgent militarism,⁴⁰ I have noted during my visits to Kashmir that

³⁴ Yogi Adityanath, one of the hard line ideologue, became the chief minister of India's most populous state. Earlier, he was filmed at a Hindu awareness rally in Uttar Pradesh where his follower refers to his leadership and exhorts Hindu men to exhume the bodies of Muslim women and rape them - see <https://scroll.in/article/778661/a-few-things-i-wasnt-able-to-discuss-with-bjp-leader-ram-madhav-during-his-al-jazeera-interview>

³⁵ Pragya Thakur, accused of terrorism, is one such politician. She is now part of the Indian parliament. See <https://uk.reuters.com/article/india-election-priestess/terror-accused-hindu-hardliner-pragya-thakurwins-parliamentary-seat-in-bhopal-idUKKCN1ST1I9>

³⁶ See <https://economictimes.indiatimes.com/news/elections/lok-sabha/india/thered-be-no-elections-in-2024-says-sakshi-maharaj/articleshow/68432071.cms>

³⁷ Jayant Sinha, a minister in Narendra Modi's had garlanded those accused of lynching; see <https://timesofindia.indiatimes.com/india/union-minister-jayant-sinha-garlands-8-lynching-convicts-faces-opposition-flak/articleshow/64901863.cms>. See

³⁸ See <https://www.westminster.ac.uk/news/dr-nitasha-kaul-for-al-jazeera-english-newshour-on-the-exclusion-of-people-from-indias-citizens-list> and <https://amnesty.org.in/news-update/amnesty-india-joint-statement-to-condemn-the-exclusion-of-1-9-million-people-from-the-assam-nrc/>

³⁹ See <https://www.indiatoday.in/india/story/ amit-shah-nrc-speech-kolkata-bjp-elections-citizenship-illegal-immigrants-1605194-2019-10-01>. Amit Shah has a track record of using hate speech against minorities. See <https://thewire.in/rights/us-state-department-india-amit-shah-human-rights-refugees>

⁴⁰ The unilateral action by Indian government in terms of removal of autonomy as well as statehood for Jammu and Kashmir was celebrated by many BJP activists. Several leaders and activists publicly saw this as a new opportunity to have greater access to Kashmiri women and to property in Kashmir (<https://uk.reuters.com/article/uk-india-kashmir-women/indian-men-who-see-new-policy-as-chance-to-marry-kashmiri-women-accused-of-chauvinism-idUKKCN1UY113>). This misogynist fantasy of some Indians is

sometimes ordinary soldiers stationed there have a better understanding of the possible solution than the political class. While patrolling a hostile population, they would express their view that Kashmir needs a political and not a military solution.⁴¹ The governing party is using Kashmir issue to silence all opposition as anti-national and pro-Pakistan. This chauvinist attitude is a dangerous trend in a democracy. It encourages the celebration of violence and the heroization of the perpetrators of violence against Kashmiri Muslims.⁴² In fact, even the cost for Indian citizens to speak out against the government's actions in general and on Kashmir in particular is being made high.⁴³ For Hindu chauvinists in power, Kashmiri Muslims are perfect enemies – they are stereotyped as dangerous, fanatic seditious, separatist, and terrorist - and thus fair game for violent crackdowns. Even as the fig leaf of democratic deliberation is dispensed with in the case of this momentous de jure transformation in Kashmir and a majoritarian consensus manufactured in the name of nationalism, the checks and balances that protect democracy in India risk getting diluted or being made obsolete through means including the transformation from within of public institutions and constitutional bodies.

What about Kashmiri Pandits?

While the struggles for self-determination and self-representation in different parts of Indian and Pakistan administered Kashmir are long, one specific characteristic of Kashmir valley was the relative absence of Hindu-Muslim hate politics until the late eighties. Kashmiri Pandits/Hindus as well as Sikhs lived along with Kashmiri Muslims in villages and towns. During the beginning of armed uprising against Indian state, following on from the widely reported electoral riggings in 1987, the mass migration of Kashmiri Pandits occurred. With immense violence of state and non-state actors all around, the exodus of a religious minority took place.

Indian state which has claimed sovereignty over Jammu and Kashmir singularly failed to protect the minorities while suppressing the majority.⁴⁴ Further, governments have converted the suffering emerging out of dislocation into a tool to

bound to cause further distress and fear amongst Kashmiris. There have been other instances where BJP and its followers have demonised Muslim minorities to such an extent that they even trivialise rape and sexual violence against Muslim girls and women and defend the alleged rapist in the name of Hindu nationalist solidarity. Kathua rape is one such example (<https://www.bbc.co.uk/news/world-asia-india-43722714>)

⁴¹ See <https://cafedissensus.com/2017/08/15/we-want-freedom-kashmir-a-photo-essay/>. Occasionally when military or paramilitary personnel highlight the dire conditions in which they have to operate in Kashmir or on India-Pakistan borders, they are penalised. See <https://www.bbc.co.uk/news/world-asia-india-39650492>

⁴² For instance, every time there is a case of killing of Kashmiri person, various trolls on social media celebrate the killing as a lesson for Kashmiri Muslims. With this level of dehumanisation going hand in hand with state using violence against a population resisting, it should be surprising that Genocide Watch has put Kashmir on genocide alert (<https://www.genocidewatch.com/copy-of-current-genocide-watch-aler>).

⁴³ See Kaul, N. (2018) "[India's Obsession with Kashmir: Democracy, Gender, \(Anti\) Nationalism](#)", [Feminist Review](#), Special Issue on Feminism, Protest and the Neoliberal State in India, Volume 119, Number 1, July, pp. 126-143.

⁴⁴ In recent times, Indian government has made statements to the effect that they would also work to take back control and exercise physical sovereignty over Pakistan Administered Kashmir. See <https://www.indiatoday.in/india/story/eam-jaishankar-pakistan-occupied-kashmir-india-neighbour-1600129-2019-09-17>. The risk such approach poses for a war with Pakistan is very high.

be used for collective punishment of all Kashmiri Muslims.⁴⁵ Rather than investigate the cases of killings of religious minorities or make real efforts to facilitate their return to their original homes, India has adopted the approach of divide and rule. As Amnesty International reported, “A Jammu and Kashmir Police report in 2008 stated that 209 Kashmiri Pandits had been killed in the state since 1989, but that charges had been filed in only 24 cases. Several cases in which Kashmiri Pandits were killed by suspected armed group members – such as the killing of 24 Kashmiri Pandits in 2003 in Nadimarg, Shopian – have not led to convictions.”. Supreme Court of India rejected re-opening of investigation of deaths on the grounds that “...more than 27 years have passed... No fruitful purpose would emerge, as evidence is unlikely to be available at this late juncture.”⁴⁶

How does one make sense of this when looked at along side and not as competing with the overall number of Kashmiris (mostly, but not exclusively, Muslim) killed (figures range from 50,000-more than 70,000) including in documented cases of massacres such in in Gawkadai, Handwara, Chattisinghpora, Sopore, and Doda; forcibly disappeared (figures range from 6000-10,000); women rendered half-widows; many raped (including the mass rape in the villages of Kunan-Poshpora in 1991); many more tortured; children and young adults detained without trial.⁴⁷ All Kashmiris have suffered immensely – Muslims, Hindus, Sikhs, men, women, sexual minorities – and it is irresponsible on the part of the State to exploit and exacerbate the divides and encourage the discourses of competing victimhoods. Most cases of human rights abuses never lead to prosecution as violence and discrimination are systemic. In fact, there are well publicised cases where the perpetrators of human rights abuses have been awarded and publicly feted.⁴⁸

What we witness is a clear instance of failure by the state, compounded by an insistent refusal to face up to its ignominious action, something that would be necessary to provide justice and redress to all Kashmiris, by first of all acknowledging their humanity and their suffering. It is far easier to continue extracting political profit by propagating ‘what about Kashmiri Pundits?’ in response to every brutalisation of other Kashmiris, especially Muslims.

⁴⁵ See <https://www.aljazeera.com/indepth/opinion/2017/07/kashmir-communalisation-political-dispute-170725082030871.html>

⁴⁶ See <https://amnesty.org.in/news-update/supreme-courts-refusal-reopen-cases-killings-kashmiri-pandits-disappointing/>.

⁴⁷ See various figures, https://www.fidh.org/IMG/pdf/20190315_kashmir_briefing_note_-_final.pdf. See Human Rights Watch Report from 1993 <https://www.hrw.org/sites/default/files/reports/INDIA935.PDF>. For rape survivors struggling for justice, see this <https://www.bbc.co.uk/news/world-asia-41268906>. On half-widows, see <https://www.theguardian.com/global-development/2010/oct/11/1>. There are cases of Kashmiris who have been hanged by Indian state, buried in prison, and their body never returned to the family. Maqbool Butt and Afzal Guru are two such Kashmiris. See <https://www.thehindu.com/news/national/afzal-guru-hanged-in-secrecy-buried-in-tihar-jail/article4396289.ece>

⁴⁸ There was a case of use of a Kashmiri civilian as human shield. Instead of punishing the act, the military awarded the official and Hindu chauvinists in India praised him as a hero. See <https://www.bbc.co.uk/news/world-asia-india-40103673>

What different communities in Kashmir need is reconciliation, justice and moving ahead as equals. India has shown no interest in this.⁴⁹ In fact, this unilateral move of Indian government widely perceived as utter debasement and humiliation of Kashmiri Muslims, risks making permanent and irreconcilable the divisions along identity lines. It puts an end to the possibility of moving on without grievance.

Recommendations

As a matter of urgency, the Subcommittee should urge the Indian Government to:

- End all elements of siege in Kashmir valley and fully restore mobile telephony and internet
- Release all political and civil society detainees immediately
- Put an end to use of pellet shotguns for crowd control
- Work with all stakeholders to ensure safety and security and functioning of schools and educational institutions
- Restore democratic rights for all including the freedom of speech and assembly
- Allow Kashmiri as well as foreign media to travel and report freely and without intimidation
- Commit to providing safe environment to human rights defenders and organisations to conduct their work without fear

In the medium term, the Subcommittee should:

- Urge India to withdraw its draconian emergency laws such as Armed Forces Special Powers Act and Public Safety Act that provide impunity to security forces
- Urge India to fast track investigation of all the allegations of human rights abuses including enforced disappearance, sexual violence, torture, and extra judicial killing and punish the perpetrators
- Urge India to establish a Truth and Reconciliation Commission to investigate killings of Kashmiri Pandits, Sikhs and Muslims
- Call upon both India and Pakistan to end to the use of torture, extra-judicial killing, arbitrary detentions including of political activists and juveniles
- Ask the State Department to take up the cases of human rights abuses in both India and Pakistan Administered Kashmir on a regular basis.
- Send delegation of political leaders and facilitate trips of fact finding missions to Indian and Pakistan administered Kashmir to meet different sections of society.
- Demand India and Pakistan to fully cooperate with the United Nations Office of the High Commissioner for Human Rights and implement all recommendations made in its two recent reports on Indian administered Kashmir and Pakistan administered Kashmir

In the long term, the Subcommittee should:

⁴⁹ In a cynical move, Indian government had converted notorious torture centres in Srinagar into residences of senior government officials. See <https://www.csmonitor.com/World/Asia-South-Central/2012/0711/In-Kashmir-old-torture-centers-get-makeover>

- Call for demilitarisation of Indian administered Kashmir and Pakistan administered Kashmir
- Encourage credible dialogues amongst Indians, Pakistanis and Kashmiris.
- Ensure the respect for freedom and the right to self-determination of all people of Jammu and Kashmir
- *Most importantly*, the international community must create the space for a credible and sustained dialogue in which Kashmiris from the different regions in order to arrive at a mutually acceptable resolution of the toxic status quo for all inhabitants of the region.

Conclusion

While as a scholar of International Relations, one should be concerned about the significance of Kashmir conflict for two nuclear powered countries India and Pakistan, it is important for the purpose of a hearing on human rights to focus on the people who matter most in this instance– the Kashmiris. Neither Pakistan nor India have a stellar record when it comes to protecting minority rights and religious freedom; security forces in both the countries have been accused of practicing torture, extra judicial killings, enforced disappearance and abusing human rights.

Given that even the status quo of India-Pakistan-Kashmir stalemate has been shattered by the unilateral action of India, huge uncertainties loom and it is important for the international community to intervene both for the sake of peace in the region and to avoid humanitarian disaster involving Kashmiris. While Trump-Khan-Modi type of diplomacy may sound promising, unless a range of different stakeholders of Indian and Pakistan administered Kashmir are involved as serious partners, no durable and humane solution is possible.

To be clear, arbitrary arrests, shrinking of space for peaceful expression of views, and restrictions on freedom of assembly and other democratic rights have long been a feature of life in Kashmir. What is new is the acute and extreme nature of the restrictions, the contempt for all democratic norms, and putting an end to all possibility for dialogue with Kashmiris who seek justice, dignity, freedom, and self-determination. Given there is no longer any space for peaceful expression of dissent anywhere in Kashmir, what are the Kashmiris being pushed toward? While selling its actions in Kashmir as aimed for development, Indian state has flouted every single principle of democracy.

To quote a great fellow countryman of yours, Martin Luther King: “Injustice anywhere is a threat to justice everywhere”. What happens, or is condoned, in Kashmir has both regional and global ramifications, and it is thus vital that we take sincere steps forward, right now, to act in good conscience, to act for the defense of the ideals of human rights, substantive democracy, and freedom.