

Submission from Labour Friends of Kashmir

Labour National Policy Forum: Human Rights Abuses in Indian-administered Kashmir

Background to the Kashmir Conflict

Since the Partition of India and Pakistan into sovereign states in 1947, the former princely state of Jammu and Kashmir has transformed into one of the world's most enduring, protracted, and violent conflicts over sovereignty and national self-determination. As a result of the conflict, the people of Jammu and Kashmir have been subject to long-standing and egregious human rights abuses, which are rooted in the systematic denial of their right to self-determination. The right of self-determination is both enshrined in international law and numerous UN Security Council resolutionsⁱ, which call for an end to the conflict through the conduct of a “*free and impartial plebiscite*” to allow the people of Jammu and Kashmir to democratically and independently determine their own future.

An Overview of Human Rights Abuses in Indian-administered Kashmir

Indian-administered Kashmir exists as the world's most militarised region, with 700,000 troopsⁱⁱ currently deployed in the region. Human rights abuses perpetrated by Indian security forces and armed groups are widespread and well-documented by international organisations including the United Nations, Amnesty International and Human Rights Watch. Since 2014, there has been a rise in incidents of rape and molestation, with over 7,000 cases of molestation and 1,600 cases of rape registered over the last five yearsⁱⁱⁱ. As outlined by the UNOCHR report published in 2019, in mass rape cases such as Kunan Poshpora in 1991, “there has been no progress and authorities continue to thwart attempts of the survivors to get justice”^{iv}. According to the Association of Parents of Disappeared Persons (APDP), there have been more than 8000 cases of enforced and involuntary disappearances between 1989 and 2009.^v Many of these individuals have ended up in unmarked graves and nearly 6,000 single or mass graves have been found in the region since 2008^{vi}.

Expressions of civil grievances in the form of protests are routinely met by Indian security personnel with excessive force, utilising methods of crowd control that often result in serious injuries and civilian deaths. Unrest in 2016 was met with the widespread use of pellet guns. According to Amnesty International, in the 7 months following the killing of popular militant leader Burhan Wani in July 2016, over 6,000 people were injured by pellet guns, including 782 who suffered eye injuries^{vii}. The case of Hiba Nasir, a toddler from the Shopian district, who was blinded by pellets fired by Indian security forces inside her own home^{viii}, demonstrates how civilians as young as 19 months old have fallen victim to the indiscriminate use of pellet guns. The Jammu and Kashmir High Court has refused to ban the use of pellet guns^{ix} which continue to be utilised on a widespread basis by Indian security forces.

Impunity for human rights abuses is a long-standing and ongoing issue in Indian-administered Kashmir, facilitated by the Indian government's imposition of draconian laws. The Public Safety Act (PSA), which has been described by Amnesty International as an essentially “lawless law”, allows for the detention of individuals without charge or trial for periods of two

years or more. The number of people detained in Jammu and Kashmir is 14 times higher than the national average in India^x. The Armed Forces Special Powers Act (AFSPA) has further prevented accountability for human rights abuses by shielding security personnel from being held accountable for their actions. As outlined in a report published by the UNOCHR in 2018^{xi}, “Section 7 of AFSPA 1990 prohibits the prosecution of security forces personnel unless the Government of India grants a prior permission or “sanction” to prosecute. This gives security forces virtual immunity against prosecution for any human rights violation.” Civil society in India and Kashmir have been vehemently demanding the repeal of both laws^{xii}. However, no progress has been made so far.

Human Rights Abuses following the Amendment of Article 370 and 35A

The amendment of Article 370 and Article 35A on the 5th August 2019, a unilateral measure taken by the Indian government without the concern, consent or active participation of the people or the Government of Jammu and Kashmir, has abrogated Kashmir’s semi-autonomous status within the Indian Union. This has resulted in the dissolution of the Government of Jammu and Kashmir, and the territory was bestowed with the status of ‘Union Territory’ and is now governed by the central government in New Delhi.

Contrary to the Indian government’s narrative that the abrogation of Kashmir’s semi-autonomous status would bring peace and development in the region, a wave of repressive and authoritarian measures has been imposed, eliciting an unprecedented humanitarian crisis. The threat of the current crisis is so severe that Genocide Watch has issued a Genocide Alert for Indian-administered Kashmir^{xiii}. Experts from the United Nations^{xiv} described the communication blackout of mobile and internet communications, the longest ever imposed in a democracy^{xv} cutting off over 7 million people from Indian-administered Kashmir from the rest of the world, as a form “of collective punishment of the people of Jammu and Kashmir, without even a pretext of a precipitating offence” and “inconsistent with the fundamental norms of necessity and proportionality”. Restrictions remain, despite the restoration of limited broadband services and 2G mobile coverage in January 2020^{xvi}. Tens of thousands of extra troops have been deployed to the region following the abrogation of Kashmir’s semi-autonomous status and security forces have been accused of carrying out night raids, beatings and torture^{xvii}, with 412 people^{xviii} documented as illegally detained under the Public Safety Act (PSA) by JKCCS, a Kashmir-based human rights organisation.

In a report published by Human Rights Watch^{xix} in January 2020 assessing the situation in Indian-administered Kashmir, many of the thousands arbitrarily arrested, including lawyers, shop owners, traders, students, rights activists had reportedly been released, but only after promising not to criticise the government. Some senior Kashmiri political leaders, including former chief ministers, remain in custody. Local police have admitted that at least 144 children had been detained^{xx} and the Chief of Defence Staff has spoken of putting children in deradicalisation camps.^{xxi}

On 8 July 2020, United Nations (UN) Special Rapporteurs made public their third communication^{xxii} forwarded to India since the decision on August 5th 2019 to remove Jammu

and Kashmir's special status, expressing "grave concern over alleged excessive use of force, ill treatment during arrests and detentions". The previous two communications received no response from the Government of India.

Human Rights Abuses during the Covid-19 Pandemic

The conflict has given rise to an underfunded and underdeveloped healthcare system in Indian-administered Kashmir ill-equipped to deal with the spread of Coronavirus. The doctor-to-patient ratio is 1:3,866 — vastly lower than the World Health Organization's (WHO's) norm of 1:1,000. In addition, the Kashmir Valley has just ninety-seven ventilators for 7 million people, a ratio even lower than Gaza^{xxiii}. The Indian government has denied doctors the ability to treat possible Covid-19 patients properly by refusing to restore high-speed internet, despite calls from multiple human rights organisations and the pressing need for the population to stay informed about the coronavirus pandemic to support prevention efforts. Doctors have either been unable to or have had to spend hours trying to download treatment and intensive care guidelines^{xxiv}.

The UN Secretary-General's appeal in March 2020 for a global ceasefire during the Covid-19 pandemic has fallen on deaf ears in the region, as epitomised by the Indian government's crackdown on Kashmiri journalists^{xxv}, an increase in police arrests and brutality^{xxvi}, enhanced curfew measures and an uptick the destruction of civilian properties by security force encounters, with at least 48 cases recorded^{xxvii} in the first six months of 2020, rendering many families homeless and without shelter.

Additionally, there are indications that the Indian government is exploiting the pandemic to accelerate a large-scale demographic change to the Muslim-majority region^{xxviii}. On 31 March 2020, the Indian government introduced a new domicile law, which paves the way for demographic flooding in Kashmir^{xxix} by allowing non-Kashmiris to obtain property and compete for government jobs, leading to a potentially irreversible shift in the region's demographics and creating an environment in which local Kashmiris would be subjugated in. More than 25,000 certificates^{xxx} have been issued by the Indian government to date.

UK Government Policy and Kashmir

As a permanent member of the UN Security Council and the former colonial power responsible for the 1947 Partition leading to Kashmir's disputed status, the United Kingdom has both a specific interest and obligation to support the resolution of the conflict. The UK Government has stated its commitment to resolving the dispute over Kashmir through the assertion across successive administrations for India and Pakistan to find a lasting political resolution on Kashmir^{xxxi}, considering the wishes of the Kashmiri people.

Despite decades of sustained human rights violations, the relationship between the UK and India has consistently failed to call into question the actions of Indian security forces in committing human rights abuses in Indian-administered Kashmir, as the Indian government routinely accuses critics of its policies as merely an interference in internal affairs. In addition,



the UK government has made no active attempt to facilitate a political resolution to the conflict considering the aspirations of the Kashmiri people.

The UK government's approach ignores the bigger picture of the regional and international factors that pertain this dispute, namely that what happens in Kashmir has both regional and global ramifications as a global nuclear flashpoint. The Kashmir conflict has been the driver of three conventional wars between India and Pakistan, with the case of the 1999 Kargil war representing the only instance in history in which nuclear powers have engaged in direct conflict with each other's forces. The Kashmir conflict has been a huge obstacle in both countries establishing cordial relations with one another.

Labour Policy and Kashmir

As an internationalist party committed to the values of human rights, social justice, equality, and democracy, it is imperative that the Labour Party recognises the Kashmir conflict as both an international political dispute underpinned by outstanding aspirations for self-determination, as well as a humanitarian issue characterised by systematic and prolonged violations of human rights.

As the UK seeks to strengthen its networks in the Commonwealth following its withdrawal from the European Union, the Labour Party should not support the development of commercial ties with governments that systematically undermine the most basic tenets of democracy and human rights. If the Labour Party is to adopt an ethical foreign policy, it must recognise that its stance on Kashmir must be consistent with not only the core values of the party, but also in maintaining the notion that the Labour Party is a consistent global advocate of social justice, democracy and human rights.

Policy recommendations

- A call for cessation of human rights abuses perpetrated by Indian security forces, with a view to working towards an eventual demilitarisation of the region.
- Urge the Government of India to withdraw its draconian emergency laws such as Armed Forces Special Powers Act and Public Safety Act which provide impunity to security forces.
- The suspension of all sales of crowd control material, weapons and military equipment to India, whilst it continues an undisrupted practice of human rights violations in security operations and civil protests.
- Recognise and support the realisation of the right of self-determination for the people of Jammu and Kashmir, as mandated by the United Nations.
- Call for the Governments of 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.

- Promotion of multilateral engagement with representatives from India, Pakistan and both sides of Jammu and Kashmir for justice, peace, and an ultimate resolution to the conflict.

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