

**The State of Human Rights Violation in Indian held Kashmir
(2013-2018)**



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Dedication

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Nazish Latif

Declaration

I hereby declare that this dissertation is original and has never been presented in any other university or institute of learning. I also declare that this dissertation has never been copied and secondary information used has been duly acknowledgement in this dissertation.

Nazish Latif

ABSTRACT

Kashmir dispute which is an unfinished and territorial issue between India and Pakistan, both are known as two atomic powers in South Asia. Which may become the cause of 3rd World War.

Kashmir Dispute is creation of the Indian partition since 1947. Since then the Kashmiri people have been the victim of human rights killings by the Indian armed forces and authorities. But unfortunately, the international community has failed to attract its attention towards. There are severe clashes of human rights in Indian Occupied Kashmir, which attracts the means and principles of International law and international humanitarian law.

The purpose of my research is to focus on the status of human rights in Kashmir from 2013 to 2018. For this purpose different reports have been collected which showed the worse conditions of human rights in the Indian held Kashmir. The research has brought to limelight observed that there several Draconian laws, which stand in contradiction to the standard of international human rights law. It has also been focused in this research to attract the attention of international community, International bodies and other human rights activists regarding their role and responsibility for the protection of human rights in Kashmir. The research has also urged stress given on the United Nations and other world organization to put pressure on Indian government to stop the violations and to recognize the right of self-determination for the people of Kashmir.

Table of Contents

Chapter 1	12
1. Introduction	12
1.2 Background	14
1.3 Statement of the Problem	14
1.4 Aims and Objectives	15
1.5 Research Questions	15
1.6 Significant of Study	15
1.7. Research Methodology	16
1.8 Literature Review	16
1.9 Organization of the Study	25
1.9.1 Introduction	25
1.9.2 The Genesis of Kashmir Dispute	25
1.9.3The State of Human Right in Indian held Kashmir (1947-2013)	25
1.9.4 Human Rights Violation in Indian held Kashmir (2013-2018)	26
Chapter 2	28
Background of Jammu and Kashmir, Geography, Demography, Partition Plan	29
2.1 Introduction	29
2.2Background	29
2.4 Religions /Demography	33
2.5Population	35
2.6 Culture	37
2.7Second Part	38
2.7.2 Mountbatten Plan	39
2.9 Issues	45
2.9.1 Refugees	45
2.9.2 The Indus Water	46
2.9.3Accession of Princely States	46
2.9.4 Junagadh	47
2.9.5 Hyderabad	47
2.9.6 Jodhpur	47
2.10Lingual Problems with East Pakistan	48
2.10.2 Political Riots and Lingual Riots	48

2.10.3 The First Indo Pakistan War	49
2.10.4 The Second India Pakistan War	50
2.11.3 Resolution 47	52
2.11.4 Resolution 51	53
2.11.5 UNCIP Visit to Sub-Continent.....	53
2.11.6 Cease-fire Plan.....	54
2.11.7 Resolution 80	54
2.11.7 Proposals of Sir Owen Dixon	55
2.11.8 Resolution 91	55
2.11.9 Resolution 96	56
2.11.10 Resolution 98	56
2.11.11 Resolution 122	56
2.11.13 Resolution 126	57
2.12 Elimination of U.N Role after 1965 War.....	57
2.13 Role of Pakistan in Resolving Kashmir conflict.....	58
2.14 India's View	61
2.15 Pakistan's View	61
Conclusion	62
CHAPTER 3	63
The Status of Human Rights in Indian Held Kashmir (1947-2013).....	63
3.1 Introduction.....	63
3.2 Definition of Human Rights	63
3.3 Human Rights and United Nations Charter	63
3.4 Universal Declaration of Human Rights 1948 (UDHR).....	64
3.5 International Court of Justice (ICJ).....	65
3.6 Human Rights Atrocities in Kashmir.....	66
3.7 Kashmir Watch International (KWI)	67
3.8 Local Media	67
3.9 Kashmiri American Council (KAC).....	68
3.10 United Nations Reports on the Status of Human Rights in Kashmir.....	68
3.10.1 UN Report Mentioned Disappearances in Kashmir	68
3.11 Human Rights Violations	68
3.12 Indian Black laws	70

3.13 Jammu and Kashmir Public Safety Act (1978 but amended 1987 and 1990)	70
3.14 Jammu and Kashmir Disturbed Areas Act	71
3.15 Terrorist and Disruptive Activities Act (TADA).....	72
3.16 The Armed Forces Special Powers Act (AFSPA).....	72
3.17 The Prevention of Terrorism Ordinance (POTA)	73
3.18 Prevention Amendment Unlawful Activities Ordinance 2004	73
3.19 National Security Act (NSA)	75
3.20 Official Secrets Act (OSA).....	75
Conclusion	75
CHAPTR 4.....	77
Examination of Human Rights Violation in Indian Held Kashmir	77
4.1 Introduction.....	77
4.2 Killings	78
4.3 Violence Against Women in Kashmir	80
4.4 Enforced or Involuntary Disappearance	82
4.5 Unknown, Unmarked and Mass Graves	83
4.6 Arrest and Detention	86
4.7 Torture and Harassment of Political Activist.....	88
4.8 Attacks on Families of Policemen, Activists and Militants	90
4.9 Violations of the right to Health	91
Conclusion	92
CHAPTER 5.....	92
Conclusion and Recommendations.....	92
Recommendations	93
Bibliography	Error! Bookmark not defined.

CHAPTER 1

1. Introduction

Indian Occupied Kashmir, known as integral part of Pakistan has the most tracking histories of human rights violation by Indian security forces and pressure groups, similar to the Palestinians, who are facing oppression by Israeli government. But it seems like the human rights organization are not doing anything against these human right violations. Among all current global conflicts of the world, Kashmir issue is the most unsettled conflict on the agenda of United Nations Security Council. United Nations has passed twenty-three resolution on disputed region of Kashmir for the rights of the people of Indian Held Kashmir. In Kashmir valley whenever people demand for their rights, the ruling classes of Indian Occupied Kashmir spread terror, fear and horror in Kashmiri Muslim to suppress their voices. If we look back in past, the decade of 1990 was the most terrible phase of violation of human rights in Jammu and Kashmir at that time security forces of India killed more than ninety three thousand Kashmiri Muslims, who were the freedom fighters and struggling for their rights. Several organizations of human rights, especially the Amnesty International and Asia Watch have recognized the Indian brutalities on Muslim community of Kashmir. Pardon international has strong out biased rules which provides and permits the Indian security forces free hand for killing, violating and torturing the people of Kashmir. In occupied Kashmir one of the major issues is the human rights violation committed by Indian security forces.¹

In Indian Occupied Kashmir, violation of rights could not captivate the international attention as compared to other international disputes in the world mainly because viewers and international media have no entree in the state, and violation is still going on from many decades. Kashmir is one of the most conflicted territories in which Muslims face many problems and hurdles in their life. The report of China Daily (Jan 2, 2014), mentioned that the total death rate increased from 148 in 2012, to 204 in 2013 and the ratio increased by 38% in the year 2013.²

In occupied Kashmir, violation of human rights is not attracting the attention of civil societies and humanitarian organizations of the world especially in the west, because of the filthy

¹ A. Nisar Malik, and Majid Abdul. "*Kashmir; In Historical Perspective.*" Journal of the Punjab University Historical Society 29, no. 2 (2016): 1-10.

² Pir, Ali Mohd. "*Formation of the Princely State of Jammu and Kashmir: The Historical Perspectives.*" SUSURGALUR 1, no. 2 (2013).

policies of Indian government. Actually Indian government which calls itself a democratic country does not want to show the reality to the, world, and International media cannot enter Indian Occupied Kashmir and cannot cover any acts of such unkindness and violations, committed by Indian forces and authorities. In Kashmir many times internet and mobile services are blocked for unlimited time, as a result Kashmir is stay disconnected from the the whole world, and this occurs in occupied Kashmir any time by the will of Indian government. As per reports by Software Freedom Law Center, more than thirty times internet was blocked in Kashmir within four years, that is how India is trying to hide their oppression from the whole World and unfortunately they have succeeded in it. Even after the passage of over sixty years,³ violence on Kashmiris by Indian forces is kept hidden.

In 2014 elections, Narendar Modi became the prime minister, Bhartiya Janta Party won mainstream number of seats in the Indian parliament. In Kashmir region, people's Democratic Party, State Legislative Assembly election was held in the same year and won by the majority of seats. While on the other hand in Jammu, Bhartiya Janta Party won by the majority of seats. Before the elections both parties held campaigns against each other, but after the result of elections both joined together and formed a coalition government.⁴

Burhaan Wani, a young talented boy from Jammu, who belonged to the Islamic Mujhadeen , commanded an organization, famous as of Hizb ul Mujhadeen, which is called new age militancy. Indian government declared it a terrorist organization it is suspected for different terrorist attacks, on India. Middle class and those who are not well aware of media, join this organization.

They gained a massive popularity among the Kashmiri population. During this time, Waseem Malla and Nasser Ahmad Pandit, two of the renowned Burhan's associates were killed by security forces and they called it "a major breakthrough. There were about tens thousands of muslims in Kashmir came out to attend the funeral and the funeral rites had to be repeated six

³Hamid, Mohsin "*Discontent and Its Civilizations: Dispatches from Lahore New York and London*". Riverhead Books, 2016.

⁴ Ibid

times to allow all the grievors to participate. In 2014, youth who recently joined the Kashmir case was considered by India of militant had electioneered for PDP during the general elections.⁵

There is an extreme use of force, children torture, enforced disappearance, human rights violation, right to health, right to education, right to live, and right to freedom, of expression. The use of pellet-firing shotgun, arbitrary arrests and detention, sexual violence and abuses by armed groups are all examples of human rights violation by the Indian forces.⁶

1.2 Back ground

Jammu and Kashmir is a disputed territory, which is situated in Asia, geographically, it is surrounded by different countries, like, China is situated in the north, Pakistan is in the west side, India is in the east. The total area of Kashmir is 85806 square miles. There are total 37 districts in Jammu and Kashmir, out of which 22 are located in the occupied Kashmir and are administered by the Indian government, 10 are located in Azad Kashmir and 5 are located in Gilgit Baltistan, administered by Pakistani government.⁷

1.3 Statement of the Problem

Since independence of Pakistan and India, Jammu and Kashmir is an unsolved problem between these newly born states which are separated by Line of Control called LOC. In Indian occupied Kashmir, Muslims rights are violated by Indian forces and politics. The rights of the Muslims in Indian occupied Kashmir are crushed by authorities since 1947. The current study enlists ways through which Kashmiri Muslims are oppressed. For example use of pellet guns, mass killings, forced disappearances, torture, rape and sexual abuse, political repression and suppression of freedom of speech. India declares itself as a secular country but has violated many rights of Kashmiri Muslims in (Placeholder1) very inhumane manner. India treats Kashmiri people badly. Kashmiri people cannot breathe in a free atmosphere, they have no right to live according to their own will. Kashmiri people are living like slaves in India. Many innocent Kashmiri Muslims were killed and are being killed, and their only mistake is that they seek freedom to live they want to

⁵ Ibid

⁶ Ibid.

⁷ Snedden, Christopher. "What happened to Muslims in Jammu? Local identity, 'the massacre' of 1947 and the roots of the 'Kashmir problem'." *South Asia: Journal of South Asian Studies* 24, no. 2 (2001): 111-134.

spend their lives according to their will. Armed forces of India and militant groups, use their power on the population of Kashmiri Muslims, not only the men or youngsters are the victim of their cruelty, but also the women suffer equally. Army uses bullet guns on citizens as a result many people of valley are blind and paralyze. As an official policy the Indian forces look to consider loot and burning in the valley. Not only security forces but also authorities are responsible for the violation of the rights of Kashmiris. They engage in cruel activities all the time for instance like the acts of scorching include burning of crops, houses, buildings, villages and markets. Disputed area Jammu Kashmir has the most track history of violation of human rights through security forces of India.

1.4 Aims and Objectives

- To identify the status of human rights in Jammu Kashmir
- To examine the violation of human rights in Jammu Kashmir from 2013 to 2018.
- To explore the methods, tactics, and techniques of Indian force used for human rights violation in Jammu Kashmir.
- To examine the violation of human rights' of Kashmiri muslims by the Indian forces.

1.5 Research Questions

1. What is the overall status of human rights in Jammu Kashmir?
2. How many cases of human rights' violation have been registered in Jammu Kashmir from 2013 to 2018?
3. What type of methods, tactics and techniques are used by Indian forces to violate the human rights in Kashmir?
4. How Indian security forces violate human rights of the Kashmiri muslims?

1.6 Significance of the study

Such type of research studies, enable us to know the status The research provides insight to of human rights violation in Jammu Kashmir the methods, tactics and techniques used by the Indian forces in Jammu Kashmir for the violation of human rights . The Kashmiri people, Think tanks, NGO'S Government of Pakistan, students, international community, and political factors

came to know. This study expose the Indian authorities' practices in Jammu Kashmir. This study promotes an academic recognition to the ground realities.

1.7. Research Methodology

The status of human rights violation in Jammu Kashmir 2013 to 2018 is a recent contemporary issue that is to be examined under descriptive method. Mix method of both quantitative and qualitative have been used. Through qualitative approach the nature of problem has been analyzed. . The primary sources are: government reports, and interviews with Kashmiri people or eye witness of Kashmir. Front pages of newspaper, autobiographies, speeches, and NGO's reports. The secondary sources include: books, journals and articles.

1.8 Literature Review

People of Kashmir have been struggling for the rights of self-determination for many decades, but till now they have not achieve their dream of freedom. They are killed along with their voices, their aim, and with their struggle. For the occupation of Kashmiri people, all the citizens, men, women and children, came out in streets for a nonviolent protest, but many of them were killed in these protests. According to an estimated value almost one (01) million people or protested exceeded Security forces used force to suppress them. These all acts of Kashmiris and their struggle are true proof that they want to get freedom in every condition, they are not willing to compromise at any cost .Kashmiri people blamed that freedom is the birthright of every one.For freedom they have paid a price in blood and precious relations. In Indian Occupied Kashmir people are suffering since 1947 .⁸

On 19 September 2016, meeting of OIC was held, in which ministers were invited. It was held in New York. In this meeting the delegation of Pakistan, Azerbaijan, Niger, and Turkey were invited. This meeting was opened by H, Mr. Eyed Ameen Madani, the OIC Secretary-general, who reconfirmed that the principled position of the OIC is fully supportive the people of Jammu & Kashmir in their struggle to achieve their rights. In this meeting, he presented the current

⁸Putri, Kariza Bella. "*Upaya Oic Contact Group On Jammu-Kashmir dalam Penyelesaian Krisis Kemanusiaan di Jammu-Kashmir Tahun 2016.*" Bachelor's thesis, FISIP UIN Jakarta.

situation in the Indian held Kashmir, which is very disappointing situation, like extreme use of force, and violation of human rights. At the end of this meeting, he expressed that, they had hope, that members of OIC would play effective role for getting the rights the people of Kashmir. Members who were present in this meeting, they all expressed their support for Kashmiri people, by making reports on them, and by raising their voice on international level. Members of this meeting also agreed on this one point that they should be forced for peaceful and timely resolution of disputed Kashmir, with United Nations resolutions. Independent Permanent Human Rights Commissions' monitoring and recording of human rights violation in Jammu and Kashmir were also appreciated in this meeting. The IPHRC was called to submit its report on Kashmir issue, in this regard the next session of the CFM, was due to take place in Uzbekistan.⁹

(IPHRC) Independent Permanent Human Rights Commission visited Azad Jammu and Kashmir, from October 27 to 29, to find facts about human rights violation in Indian Held Kashmir Commission a meeting was arranged with President, prime minister, the ministers, including ministers from Gilgit- Baltistan, and representative of Hurriyat conference, also met with refugees from IOK. relevant government officials, victims of target killings, eyewitnesses of Indian firing on Line of Control and civil society. As freed open this commission was appreciated by Pakistan Government. Basic aim of this commission was to prepare a report of human rights violation in Indian held Kashmir. The commission collected the data or first-hand information from the victims and eyewitnesses people, who migrated from Indian held Kashmir representatives and political agents of the Hurriyat Conference and members of independent media, the commission has trusted comprehensively on the data reported by the independent human rights bodies like Amnesty International (AI), Human Rights Watch (HRW), Medicine Sans Frontiers (MSF), International People's Tribunal on Human Rights and Justice in Indian-Administered Kashmir (IPTK), Kashmir Media Service (KMS) and the Association of Parents of Disappeared Persons (APDP the State of AJK to undertake its command task with objectivity and neutrality. Indian security forces in Indian Occupied Kashmir are more than 94000, according to victims and eyewitnesses 7,000 people have been killed while they were in the custody of Indian forces.¹⁰

⁹ Ibid.

¹⁰ Shamim, Fareeha. "Journal of Strategic Affairs." (2015).

Except the rights of human, Indian forces and authorities destroyed the infrastructure of Jammu and Kashmir, which was estimated almost one lack. From different sources and reports twenty two thousand (22,000) women have been widowed by forces. Almost one lack five hundred children were orphaned, more than ten thousand women were raped by Indian security forces since 1989. After the incident of Burhan wani, due to the target killings, pellet gun injuries more than 7000 people have died since 2016. Due to use of pellet guns many people were injured out of which two hundred (200) were left blind, which include wide range of children between the ages of 5-16 years.¹¹

In 2016,report of human rights watch indicate that more than 90 thousand people were killed due to the crackdown and shellings on protests in Indian Occupied Kashmir, while injuries were in hundreds.. The usage of pellet guns was protected by the paramilitary Central Reserve Force, in which hundreds of protestors were injured with release telling the courts that ‘it was not easy to monitor the nature of the protests SOP given by . In many schools military camps were established for military inside them, as a result the education of children suffered. Almost Two hundred schools were burnt without any specific reason. A non-governmental organization,Amnesty International reported on its annual report in 2016,about the curfew months in Occupied Kashmir, and series of human rights violation by Indian government and authorities.This organization stated that almost eighty people were killed, hundreds were blinded by security forces use of pellet guns, which are characteristically unselective and hundreds blinded by security forces use of pellet guns, which are characteristically unselective.¹²

According to another report, which was published in 2017, , Indian security Forces was made responsible, for using random and excessive force against unarmed protests. Also highlighted in this report are the circumstances after Burhan Muzaffar Wani death, when extra judicial killing of Kashmiri political leaders, and youth was commenced . Due to the Burhan Wani’s death thousands of Kashmiri came out on streets for protests against Indian forces. Dozens of Kashmiri people came out in fields against the curfews imposed on Indian Occupied Kashmir by government. Funeral prayer of Burhan Wane was attended by 200,000 people, despite of curfew in most parts of Indian Occupied Kashmir. Indian Security forces used live

¹¹ Inamul Haq. "*Kashmir Conflict and Human Rights Violation.*" HONAI 1, no. 2 (2018).

¹² Ibid.

pellet guns on Kashmiri people and killed many innocent lives. According to the committee of doctors, who were treating the injured persons, they stated that Indian Army fired above the middle height executing a policy of shoot to kill. As a result more than one hundred and sixty civilian were killed, and about twenty thousand injured including childrens ,were injured and blinded blinded.¹³

The report was based on many interviews and data collection conducted from August to October 2016, in multiple districts in Jammu and Kashmir. The increasing number of injuries and deaths of non-violent protesters in Jammu Kashmir, since July 2016, exemplifies a pattern of unnecessary and indiscriminate use of force by Indian police and other security forces as stated in this report. All of these incidents were caused by Indian authorities, as there was lack of training to control large crowds and mismanagement. The protest was also the result of bad policies and discrimination by Indian government.

In the month of July, 2008, more than eighty plus people were dead. Roads were totally blocked by forces and Indian police. Due to the blockage of roads many injured protestors could not reach the hospital in time for treatment. Security forces and police were busy with arresting and torturing the people.¹⁴

International People's Tribunal on September 2015, published a report on the structure of violence. The main purpose of this report was to investigate the role played by Indian government and higher authorities in Indian Occupied Kashmir. Jammu and Kashmir an occupied territory is also recognized as a disputed territory between India and Pakistan since the freedom of both countries. Due to this situation and conflict in Jammu and Kashmir, extensive violence, including the disappearance of eight thousand persons, six thousand unknown and unmarked mass graves, and seventy thousand plus deaths. Unlimited and uncountable cases of torture, and sexual violence were highlighted in the report. Indian leaders' politics in the state of Jammu and Kashmir is not based on democratic system, they subjugate them by force. Indian government wants to Occupy

¹³ HRW, "*Indian crackdown on protests in IOK*", 2, 6 July (2016)

¹⁴ Shabbir Mir, act, *The Express Tribune*, May 10, 2016.

the people of Kashmir as a piece of land, they want to change their wish of freedom by force and with cruelty.¹⁵

Express Tribune of 2016, 10 May, one hundred and forty (140) people placed under schedule of anti-terrorism act. In this report. This report stated that the wide choice of working serious human rights violations and designs of freedom in Indian Occupied Kashmir particularly from July of 2016 to 2018 till April. In both countries of the border line people have been harmed by Indian forces and firing. For the people of Kashmir who have been suffering for seven decades of clash they have need to justice from India. They need their rights which have been violated for many decades. They have paid their blood for justice, but they are suffer and facing many problems till now. Any resolve to the political situation in Kashmir should contain a responsibility to end the cycles of violence, accountability for past and current human rights violations and abuses committed by all parties and recompense for victims. This resolution, which includes the people of Kashmir can only be brought about by meaningful dialogue. Many reports of OCHR were published about human rights violation in Kashmir during 2016, based on situation like shelling and shooting of citizens. Due to the heavy pellet guns and other violation, many Kashmiri have been left their homeland and their state, they have to live in another country as migrants.¹⁶

Shahnawaz Mushtaq and Zeenat Ftima, published their article on very sensitive issue of Kashmiri people. This article was published in 2017, February "Psychological Impact of Human Rights Violation on Kashmiri People". They stated that how human rights violation harmed the youth, and psychological impact of human rights violation on Kashmiri people especially on youth. Development of any state or any country is dependent on youth. Youth is the backbone of any nation. In Kashmir, violation and torture badly destroys the Youth. In Occupied Kashmir people are suffering from violation, and they feel anger, frustration, anxiety, depression. Sometime they feel helplessness, because they can not do anything against this cruelty, which has continues since partition. Many of them lost their future and got affected. Security forces mostly attack youth, because youth is dangerous for them. Youth population of Indian Occupied Kashmir is fully aware of their rights, and the Indian black laws, which is imposed on them, so they raise their voices

¹⁵ Massarat Abid., and Ayesha Ashfaq. "Atrocities on woman committed by Indian armed forces in the Indian held Kashmir." *Pakistan Vision* 17, no. 1 (2016): 247.

against government. Military forces suppress their voices and kill them. Kashmiri population is impacted mentally, physically, and economically, mentally. Every year a great number of women become widow or half widow, thousands of children lose their parents, become orphan, many families lose head of their family. Many families have been crying for years for their missing persons. Writers of this paper are saying that these issues are not so new for the population of India but this paper is an effort to make them realize that what worst scenario the people of Kashmir valley are facing and how much they are suffering. They only need a support, a voice in their favor for which they are waiting and hoping.¹⁷

Sajjad Latif wrote in his article, people of Jammu and Kashmir are facing many problems from newly born states. They have been waiting for referendum since 1947, they struggle for freedom, . They struggle day and night with the hope that they will get freedom one day, but till now they just hoping, they are in waiting . He stated in his article that the Kashmiri people are struggling for their self-determination since the partition of Sub- Continent. While on the other hand, Indian forces want to control them, by using power, and force. They used force to control the freedom movement killings, torture, sexual violence, detentions, use of lethal weapons, extrajudicial killings and so many other acts. India, the country who called itself a democratic country, violates the rights of humans in a very bad manner, even though, security forces with hold the people from going to their mosques for performing prayers or Friday prayer Indian The forces of India have authority to kill anyone, in anywhere without any reason. Government of India also want to change the religion demography of Indian Occupied Kashmir. According to an estimated value from 198 to 2017, almost 142,294 people were killed, and 142,294 people were arrested .108310 infrastructures of Jammu and Kashmir were destroyed by forces.. According to this report 22,854 women got widowed, 107,656 children were orphaned and 11,017 women were harmed or gang raped.¹⁸

In Indian held Kashmir, the rights of human violation is a big problem for the population of Kashmir. This article also highlights the problems of Kashmiri people. Kashmir issue is never ending issue on the desk of United Nations. Author of this article also stated that State police,

¹⁷ Shahnawaz Mushtaq, & Zeenat Fatima, “*Psychological impact of Human Rights violation on Kashmiri people*”,3-6, February 5, (2020).

¹⁸ Sajjad Latif, “*Kashmir conflict*”,4,5 June. (20117).

security forces, and other authorities are involved in human rights violation in Jammu and Kashmir. Especially the leaders of this country do not want the decision of Kashmir by plebiscite. Lack of justice is the main problem of the people of Kashmir. In Indian occupied Kashmir, there is too much discrimination between Muslims and non-Muslims of Kashmir. When the community of Muslims tries to bring cases against violation of soldiers in courts, then they have security forces, become more violent that why they have attempt to case on forces and came in courts. This discrimination appreciated the forces and encouraged those rights violation to continue judicial system is also in the favor of Indian government. Victims of this discrimination always get frustrated by the courts process behavior of courts. Lawyers and protestors speak out for liberty in the system, but instead of solving their issue they are being injured and many time killed, also their protests are met with little action by the state.¹⁹

Human rights organization released the study in Jammu and Kashmir. In this study, the organization stated that, how big factors spread fear, and torture in the valley. Like government, state, police and security forces how they violates the people of Kashmir. Eight thousand people were missing due to this act of cruelty. Seventy thousand dead and more the six thousand unmarked and mass graves there is hardly any trial for the offence of the perpetrators.²⁰

Violence against women by military personal in Kashmir Valley, is a journal written by Mohammad Amin Wani, and Dr, R, Shankar In 2016. They stated in this article that since 1947, after the partition of Sub-Continent, Kashmir is the conflicted zone between two powerful countries. To occupy Kashmir, India has continuously violated the rights of human in this regime through various collusions. More than six lack Indian troops are present in Jammu and Kashmir, these troops make the life of Kashmiri people hell by crackdown, rapes, extortion, targeted killings, harassment, fake counters, arbitrary enforced disappearances, burning the houses, molestation of women destroying the crops, and other abuses.²¹

The worst part is that the perpetrators of these crimes have gone unpunished which results in increase of human rights abuses. Up to 2013 more than 1 lakh Kashmiris were killed by Indian security forces. In this journal, writers write a report on human rights violation in Kashmir. According to this report since 1989, 1 lakh Kashmir's are killed, 7,023 are custodial killings, 1,

¹⁹ Ibid.

²⁰ Ibid.

²¹ Mohammad Ahmed Wani, "*Violence against Women by Military Personal in Kashmir Valley*", 1(2016)

22,771 are arrested and sent to different jails, 1, 05,996 houses and buildings are destroyed, 22,776 women become widowed, 1050 women are half widows, while death rate of the people of Kashmir, who left their children orphaned was 1, 07,466 and 10,086 women were gang raped. In Indian Occupied Kashmir, women of Kashmir have always faced many problems since last three decades of Kashmir conflict. They are being tortured raped, and even killed by the security officers, which is a very alarming situation for all humans. Many studies have shown how cruel authorities and societal norms have multiplied her griefs. Since 1989, murders, rapes, molestations, disappearances and detentions by military persons have become very common activities in Kashmir. There is a huge increase of psychiatric disorders, among which there are more than 90% of traumatic women patients in Kashmir.

In 2014, Abdul hakim wrote a book, “Struggle of Freedom and Syed Ali Geelan”. In this book, Geelani is so deeply immersed in the Kashmir freedom movement .Mehtab Alam a civil rights activist and freelance journalism, sums up well the situations that muslims are constantly suspected of being terrorist therefore illegally detainable and severely tortureable to the possibility of being killed without being questioned. Mehtab Alam a civil rights activities and freelance journalism, sums up well the situations that Muslims constantly suspected of being terrorist to be illegally detainable and severely torturable to have the possibility of being killed without being questioned no matter if one is a believer doubting or an atheist crying a Muslim name deserves qualities for the above treatment. In February 2013 the fake encounters prove that the state internationally tags muslims youth as a potential threat for country.²²

Medical Science conducted a study of human rights violation in Kashmir. This report was about the use of pellet guns on the citizens of Kashmir. The report also stated that how they are violated by security forces. How security forces are using their force to stop protests and fights of Kashmiri people for their rights. According to this report, use of pellet gun can cause many injuries and deaths. As mentioned in this report pellet guns are the cause of death of at least six persons and one hundred and forty injuries during four months in 2016. from June 2016, to September 2016, This report is conducted in only these four months period, to investigate the use of pellet guns and its consequences. In these months six hundred and forty five patients were injured. Out of them. This study was conducted between June 2016 and September 2016.

²², Abdul Hakeem. “*Paradise on fire: Syed Ali Geelani and the struggle for freedom in Kashmir.*” Kube Publishing Ltd, 2014.

According to one value, three hundred and twenty-five (had) sustained shotgun injuries, eighty - eight were bullet injuries, thirty-nine were tear-gas shell injuries and one hundred and ninety-eight were pellet gun injuries, ninety-eighty were injured by stone pelting and another two hundred and eleven by alleged beating by security forces.²³

In Indian held Kashmir, human rights, , political, civil, economic and cultural rights, all those agreements and treaties which are signed by Indian government, like right of life, properties, land , free movement, self-determination etc. All these rights of the people of Kashmir are violated by the government of India. Indian forces are involved in custodial killings of the citizens of Kashmiri's security forces torture them by different means. According to the 4th and 7th article of ICCPR, torture is clearly banned in Indian Occupied Kashmir, but Indian government breach these laws and continuously violating on Kashmiri people. Indian army and security force are thoroughly violating all important standards of international human rights law, and which results in rebellion.²⁴ International Humanitarian Law (IHL), which is also known as the Laws of War, is also valid in Kashmir clash. International humanitarian laws are violated by Indian State. For instance Killing , torture of people by other acts like rape, murder: torture of captured combatants; destroying of infrastructure: like attacks on schools and hospitals: injustice with people of Kashmir: forced disappearances: destruction of villages and shops; use of lethal weapons and pellet guns on peaceful protestors: and banned people and media.

Indian police and security forces use pellets, carry out mass arrests and Kashmiri police turns to nocturnal raids. Indian police is using these pellets, doing these cruel activities and causing high number of injuries and deaths of protestors in Jammu and Kashmir, since July 2016. All these cruel activities exemplify unjust use of force by Indian police. While Physicians for Human Rights (PHR) made law for security forces and authorities to protect the civilians, during protests, and provide aid during protests from any harm arising in situation. Security forces have not implemented these rules and regulations, they open fire on crowds and crush them with power and weapons. As a result many were killed during protests and many injured

²³Ibid

²⁴ Basharat Masood, "*Jammu and Kashmir moves to identify land in Valley for Sainik colonies*" The Indian Express, May 6,(2016)43:.

during this fight. Kashmiri want to freedom from India in peaceful way, but Indian government crushes their dream of freedom. From July, 2016 to August 87 were killed during different protests.²⁵.

Fozia Nazeer Lone writes about Kashmir and Kashmiri people .She writes about many problems of Kashmiri people ,she also enlists the political activities of Indian government, using laws, and criminal and cruel activities of Indian authorities. People of Kashmir are still struggling for the right of self-determination since 1947. At the time of partition it was decided, that Kashmir can join India, or Pakistan, through plebiscite.²⁶

1.9 Organization of the Study

1.9.1 Introduction

This chapter gives a general introduction of the research work. It includes statement of the problem, aims and objectives, research questions, significance of the study, research methodology, literature review, theoretical framework ,and organization of the study.

1.9.2 The Genesis of Kashmir Dispute

This chapter will be divided into three parts.

In the first part background of Jammu Kashmir, land of Kashmir, geography, population, religions and customs will be discussed. The second part is about partition plan and issues post partition, the Indo Pak war on Kashmir and United Resolutions. The third part is about the role of Pakistan in resolving the Kashmir conflict.

1.9.3 The State of Human Right in Indian Held Kashmir (1947-2013)

This chapter will be about human rights in Jammu Kashmir and Indian black laws. What was the overall states of human rights in Kashmir from 1947 to 2013?

²⁶ Fozia Nazir Lone, Self-determination and Kashmir question Lahore: book publishers,2013,118.

1.9.4 Human Rights Violation in Indian Held Kashmir (2013-2018)

The chapter is about the inspection of human rights violation in India Administrated Kashmir and will focus on the following:

1. killings
2. violence against women
3. enforced or involuntary disappearances
4. unknown, unmarked and mass Graves
5. use of pellet shotguns
6. arrests and detention
7. killings and harassment of political activist
8. torturing of kashmiri youth

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Chapter 2

Background of Jammu and Kashmir, Geography, Demography, Partition Plan.

2.1 Introduction

This chapter consists of origin of Kashmir valley, boundaries of Kashmir, and neighbors of Kashmir and also discussed the population ratio and religion. Also, I will discuss in this chapter freedom movement, partition of sub-continent, partition plan, Mountbatten plan and problems of newly born state.

2.2 Background

Kashmir problem is the nucleus of all problems between India and Pakistan. It is increasing the tensions between the relation of India and Pakistan since their independence from the British rule in 1947. In reality this sub-conflict started when the British India was partitioned in 1947, Muslim majority areas were included in Pakistan while Hindu majority areas were to be given to India. There were 650 Princely states at the time of partition. These princely states had the option of choosing whether to choose Pakistan or India, or they could also remain independent.²⁷

At the time of partition most of the princely states wanted to be "independent" but this independence was being considered to support monarchies and a hurdle to democratic process. Therefore, these states had to decide to be a part of India or Pakistan. The decision of accession of princely states either to accede to India or Pakistan was based on their religion ties. The muslim states favored to join Pakistan while Hindu popular states decided to be a part of India. The state of Jammu and Kashmir was also a princely state among six hundred and fifty princely states. The geographical boundaries of Kashmir were adjoining to India and Pakistan and the Kashmir had to accede to India or Pakistan. The ruler of Kashmir at that time Maharaja was Hindu while the majority of the population of Kashmir was muslim. Keeping in view the geographical, religion, social bonding of people of Kashmir, Maharaja Hari Singh decided to remain neutral. But later on Maharaja Hari Singh, who was in favor of independence of his state, acceded to India on a condition that except defense, currency and foreign affairs in all other matter the state will enjoy autonomy. This decision of accession to India was against the wishes of overwhelming muslim majority of Kashmir. The people of Kashmir revolted. Whereas, the Indian leaders perceive that a

²⁷ Korbelt, Josef. "Danger in Kashmir." *Foreign Aff.* 32 (1953): 482.

group of tribesmen entered in Kashmir to help the people of Kashmir and who had misconceived that the Maharaja was going to handover to Kashmir to India. The people of Kashmir with the help of tribal force declared war against Maharaja for their independence and marched towards Srinagar the Capital of Kashmir. In this situation, Hari Singh ran away to Delhi and directly appealed to the Indian government for military help to protect his territory. The last British viceroy Lord Mountbatten, and at the rise of the situation in Kashmir the governor-general of India, accepted Hari Singh's request with the condition that the Kashmiri people would be offered a referendum to decide about which country they actually want to join. Indian Prime Minister Nehru, however, himself a Kashmiri Hindu also wanted Kashmir as a part of India, so they can prove India as a secular state, flew troops to the state. Indian government adopted double standard policy after the deployment of Indian forces in Jammu and Kashmir on 26th August 1947. On one hand Indian government, expressed the intention for resolving the dispute by the choice of Kashmiri people but on the other hand, practically the Indian leaders, especially Nehru, the prime minister of India, took steps to join the state in the Indian Union. Kashmir conflict had not started for strategic stuff neither for geopolitical importance, unlike other inter-state conflicts. The key root of this dispute may be pursued in the various origins about religion of Indian and Pakistani leaders. India wanted to include Kashmir because India represents itself as a secular state, and most of the population of this state are muslims, so it can easily demonstrate itself as a secular state. India said that a muslim-majority area might flourish in the limits of a Hindu dominated state; India would have been committed to secularism without any doubt. It was equally very much important to mix Kashmir into its dominion, as the homeland of the muslims of South Asia.²⁸The leaders of Pakistan claim that their country and muslim nation of Pakistan is imperfect without having Kashmir as a part of Pakistan. Finally In 1948, the ruler of the princely state of Jammu and Kashmir, Maharaja Hari Singh, who was holding out for independence, acceded to India on the condition that the state remain self-reliant in all matters except defense, currency and foreign affairs. The invasion of Pakistani raiders and an uprising of villagers in the western part of the state motivated the accession. The war between India and Pakistan ended with U.N. intervention; since 1948 the U.N. Military Observer Group on India and Pakistan (UNMOGIP) has monitored the cease-fire line. The northern and western areas of the state Azad Kashmir, Gilgit Baltistan are under Pakistan's control; the Kashmir valley, Jammu, and Ladakh are under India's control. U.N proposed to hold

²⁸ Ibid.

a fair referendum to determine the final opinion of Kashmiri people, but Indian leaders have been rejected this suggestion and claims that because Kashmiris have voted in national elections in India, there is no need for a referendum.⁸ Pakistan keeps that a referendum should be held. Several militant groups and people in Kashmir have also called for a referendum but argue that an independent Kashmir should be an option. India and Pakistan have fought four wars for Kashmir but the issue is still remain.²⁹

2.3. Geography

The Region which is called as Kashmir now a days had been found on earth hundreds of million years back. When it was found on earth, it was like a beautiful water lake but later on it converted into a beautiful valley. The violent stormy explosions and additional dissident changes to showed up the Himalayas and Karakorum tops hastily. According to the record of Amritsar the Kashmir has covered the area of almost 84471 sq miles under Dogra Regulation since 1846. With the glorious high points like Himalaya and Peer Panjal, the valley of Kashmir is of 80 miles long length and 34 miles wide. Some different famous mountains of the state are Nanga Parbat (26183 feet), Haramukh (16904 feet) in them east, Gwash Brari (17802) in south area while in the South west, Amarnath with 17322 feet.

For visitants, from all over the world, the state of the Kashmir is that of a scarce elliptical land with most charming valley having implausible captivation. For instance, the Kashmir Valley, Tawi Valley, Chenab Valley, Poonch Valley, Sind Valley and Lidder Valley, Jammu and Kashmir are family units to a few valleys. The foundational Kashmir Valley is 100.75 km widespread and 15,522.3 km² in area. The hilly areas of Himalaya Mountain part the beautiful valley of Kashmir from Ladakh which close the valley from the south and west and divide it from the plains of the northern side of India. Near to the north-eastern border of the valley runs the prime range of the Himalayas. The normal figure of this beautiful valley is 1851 meters above the ocean level on the other side Pir Panjal is 5000 meters high from the ocean level.³⁰

The lifecycle story of Jammu and Kashmir's wide-ranging of heights, is varried. In the short altitude of southwest, Himalayan Subtropical Pine and Northwestern point clean woodlands the

²⁹ Lawrence, Walter Roper. *"The valley of Kashmi"*. H. Frowde, 1895

³⁰Sten Widmalm, *"Kashmir in Comparative Perspective: Democracy and Violent Seperatism in India"* (New York: Routledge, 2002), 232:

back of afar are found. These deal with the route to a widespread group of western Himalayan broadleaf woodlands coming from northwest-southeast above the beautiful valley of Kashmir. The broad leaf lands of timber flat into western Himalayan subalpine conifer woods while rising into the mountains. Northwestern Himalaya covered with snowfall scrubland and mounts are found above the height of tree in Northwestern Himalayan. A key part of the higher east of the state is safe by the Karakoram-West Tibetan Plateau higher grassland. There is no brushwood on most of the high rises. They are just full of stone and ice. Jhelum River which passes through the valley of Kashmir is the main important river of Himalayan river. The important streams through which water passes through the state are Ravi, Tawie, Indus and Chenab. Kashmir and Jammu are closer to a limited Himalayan glaciers. The Glacier of Siachen has length of 76.2 km with the height of 5754 meters from the level of ocean.

The air of Jammu and Kashmir fluctuates extremely. The air is almost monsoonal but in the south of Jammu faraway west an average 42 to 51 mm of rainstorm in a year is rewrded including January and March. During the season of summer, the temperature of Jammu is extremely high and it goes to almost 41 °C but in the month of July and August Monsoon rain occurs with the loads of 650 millimeters. The temperature decline in September and October and also decrease in rainfall. The temperature during this season is almost 30 °C. ³¹

Indent Rain shower in the South Asian which is reverse to the Pir Panjal certainly not a reason and most of the rain fall in the season of spring from southwest mist over groups. We all know that Srinagar is close to the Arabian Sea so there is 636 millimeters of rainfall on this criterion and from March to May 85 millimeters rain fall occurs. The major Himalaya Range, uniform the southwest cloud clusters isolated and the air of Ladakh and Zanskar are extremely desiccated and cold. Every year rainfall is just nearby 102 mm and moistness is low. Above 3005 meters' ocean level, season is winter is extremely cold. The minimum tempratue in Zanskar is -21 °C and the maximum temperature is -40 °C. All the cricks halt over and People Make River connections during this time on the surface that their important levels from freeze sheet liquefy in summer restrains crossing.

³¹ Schofield, Victoria." *Kashmir in conflict: India, Pakistan and the unending war*". Bloomsbury Publishing, (2010).

2.4 Religions /Demography

Many classes come near to each other due to the lot of significant conventional get together in Kashmir. People living in different areas of Kashmir speak different languages and different classes. For example, the people living in Pir Panjal speak Pahari language while the Gujjars and Bakkerwals practice Transhumance. The Dogras are ethnologically, semantically and publicly identified with the adjoining Punjabi people and normally live in the Udhampur and Jammu extents of the state. The Ladakhis live in Ladakh region.. Almost 68.5% of the people are Muslim while 28.5% of the people follow Hindu religion. Badgam area is covered with the majority of Shia Population. As a whole, the population of the Shia in the state is 15%. Most of the Population in Ladakh are Muslims which account for almost 47% remaining of the population are Buddhist and Hindu. The people of Ladakh are of Indo-Tibetan opening, while the southern zone of Jammu integrates many systems following their fatherliness to the adjoining Indian areas of Haryana and Punjab, unbiased as the city of Delhi.

The famous political analyst Alexander Evans said that from the total population of 161,000-175,000, almost 98% of the Kashmiri people are Brahmins and the people who were called as Kashmiri Pandits have gone due to the rebellions in the valley of Kashmir in 1990. There is an indication of evaluation in the report of the Central Intelligence Agency that almost more than 300,000 pandits in Kashmir and Jammu evacuated because of the rebellion in the state.

Before the division of sub-continent, the population of Muslims was about 72.51% and the Hindus were 25.11% according to the survey in 1941. Muslim population decline in the registration of 1961 which is 68.35% and Hindu population increased to 28.47%. The population of Muslims further declined to 64.25% in 1981 but again gained rise in the survey of 2011 which is 68.41%.³²

“In Jammu and Kashmir, the key rearranged languages are Urdu, Kashmiri, Dogri, Hindi, Pahari, Punjabi, Ladakhi, Balti, Shina, Gojri and Pashto. The official language of the state is the Urdu which is written in Persian. Hindustani is universally realized by public. As another tongue many talkers use Urdu or English as a successive language.

³² Ibid

Mostly Urdu is used in most of the governmental offices and in the law of Jammu and Kashmir and also Urdu is used in most of the talks whether they are media or political talks. The language is mostly the representative of the Muslims in the sub-continent. This language looks like Urdu. Furthermore, as the language is seen as an Urdu, fair and the language which is not local of the district, was largely recognized by the majority of Muslims of Kashmir. The way of Urdu as the formal language of Jammu and Kashmir has relatedly been reproved by Rajeshwari Pandharipande of the University of Illinois on the confirmation that the language is expressionless in as a resident language by below 1% of the population, and has declined Kashmiri, 54% of the population, pronounced by into a treasured, lesser language, satisfactorily limiting its working to home and family.

The majority of the citizens of Jammu and Kashmir want to remove the link of their state from the India and they have battle with India on this issue. The Muslim who are not Kashmiri like the group of Gujjars, Pharis and Bakarwalas, the places which are near to the Line of Control, have resided in different to the leading autonomy battle. The ratio of the population in the region of Jammu is 70:30 between Muslim and Hindu. Pieces of the area were smashed by invaders, however harshness has subsided there, within the valley, after India and Pakistan began a coordination practice in 2004.³³

The largest get together of multi culture was Dogars, whose 67% of population were living with people like Punjabis, Paharis, Kashmiri, Gujjar and Bakarwals. In the area ruled by the Hindu, statehood was wished. The majority of the population is living in the state of Ladakh which is more than 200,000 people. The two areas of Ladakh are Leh and Kargil. Majority of Buddhist, which is 69%, live in Leh, while majority of Muslim live in Kargil which is 92 percent. For the duration of long period, connotation sphere status has been the major attentiveness of Buddhist of Leh.³⁴

³³ Ibid

³⁴ Hunter, William Wilson, and John George Bartholomew. *Imperial Gazetteer of India...* Vol. 22. Clarendon Press, 1908.

Division	Area %	Population %	Population	Muslim %	Hindu %	Sikh %	Buddhist and other %
Kashmir	15.73%	54.93%	6,888,475	96.40%	2.45%	0.98%	0.17%
Jammu	25.93%	42.89%	5,378,538	33.45%	62.55%	3.30%	0.70%
Ladakh	58.33%	2.18%	274,289	46.40%	12.11%	0.82%	39.67%
Jammu & Kashmir	100%	100%	12,541,302	68.31%	28.43%	1.87%	0.89%

- Statistics from the 2011 Census India: Population by Religious community
- 525,000 refugees from Indian-Administered portions of the state (mainly the Jammu province) migrated to Pakistan and Azad Kashmir in 1947–48.
- 226,000 refugees from Pakistan-Administered Kashmir migrated to India and Jammu and Kashmir in 1947–48.
- An estimated 50,000-150,000 Kashmiri muslims and 150,000–300,000 Kashmiri pandits have been internally displaced due to the conflict.

2.5 Population

Jammu and Kashmir, as a state consists of three main divisions, namely Kashmir, Jammu and Ladakh. These three divisions are further divided into twenty-two small regions. Indian military controls the Siachen glacier, albeit it doesn't lie under the organization of the territory of Jammu and Kashmir.

The number of people live in the noble province of Kashmir and Jammu was 2,905,579 according to the state of the survey of 1901.” The number of muslims were 2,154,696 (74.17%), Hindus 689,074 (23.73%) Sikhs, 25,827 (0.88%), and 35,046 (1.20%) Buddhist and others (suggesting 935 (0.032%). The same survey was held in 1901 where the total population was calculated to be 1,157,395 with the majority of share Muslim People 1,083,767 which is equal to 93.7% and the population of the Hindu was 60,642. The population of Kashmir and Jammu increased to 3,158,172 as stated in the survey of 1911 in which the ratio of muslims remained high 2,398,321 (75.94%) Hindus were in numbers 696,829 (22.05%) Sikhs population was calculated as 31,659 (1.1%), and 36,513 (1.17%) Buddhists were calculated. In 1941, the last record of British India was, the total population of Kashmir and Jammu (which due to the Second World War, was evaluated from the 1931 registration) was 3,945,100. Of these, the complete muslim population was 2,997,040 (75.98%), the Hindu populace was 808,060 (20.49%), and the Sikh 55,000 (1.39%). People living there speak different language like Hindi, Punjabi and Dogri, while the vale of Kashmir speaks Kashmiri and the Tibetan and Balti is spoken by the people living in Ladakh”. The total population of India's separation of Jammu and Kashmir is 12,541,303 and Pakistan's separation of Kashmir is 2,580,000 and Gilgit-Baltistan is 870,348.³⁵

³⁵ Shamim, Fareeha. "Culture of Institutionalised Impunity and Violence in Indian Occupied Kashmir (IOK)." *Journal of Strategic Affairs*. Retrieved on March 8 (2020): 2020.

2.6 Culture

Indo-Tibetan culture is well known in Ladakh. The custom of reciting in Sanskrit and Tibetan language is customs a vital piece of Ladakh's Buddhist way of life. In Ladakh consistently Annual veiled move celebrations, weaving and bows and arrows are a significant piece of conventional life. Ladakhi Tibetan cuisines share much for all intents and purpose like, Thupka, noodle soup, and Tamba. Common attire includes gonchas of velvet, extravagantly weaved petticoats and boots. During Ladakhi celebrations People dressed up with gold and silver trimmings and turquoise headgears crowd the streets. Famous dance move in Kashmir valley is dumhal, performed by men of the Wattal area. Another society conventional move is Rouff performed by ladies. Kashmir is famous for its expressive arts for quite a long time, including verse and painstaking work. Shikaras, are customary little wooden vessels.

People who cannot afford the land use the boats as home in the valley they are the basic part of the Kashmiri. The famous Kehwa, which is also known as green tea has different flavors with which almond is served in the extreme winters. Mostly buildings in Kashmir are made of wood which also influenced Indian, Tibetan and Islamic engineering.

Jammu's Dogra culture, customs, and convention are fundamentally the same as that of neighboring Punjab and province of Himachal Pradesh. Lohri and Vaisakha rage celebrations celebrated with incredible enthusiasm and enthusiasm all through the district, alongside Accession Day, a yearly occasion which recognizes the increase of Jammu and Kashmir to the Dominion of India. Second biggest ethnic gathering in Jammu, is Gujjar after Dogras, who are known for their semi-migrant way of life: Gujjars are additionally found in enormous numbers in Kashmir valley.

Like Gujjars, Gaddis are essentially herders who hail from the Chamba locale in Himachal Pradesh. Gaddis are regularly connected with influencing music which is played on the flute. Another race

in Jammu and Kashmir, the Bakkarwalas .They are traveling peaceful individuals who move along the Himalayan slants looking for pastures for their tremendous herds of goats and sheep.

He Shri Pratap Singh Museum in Srinagar is the fundamental wellspring of Kashmiri tip top culture and regal legacy. The Meeras Mahal in Noor Bagh, close Sopore, established by AtiqBano, holds the material and creative legacy of the regular society.³⁶

2.7Second Part

The second part of this chapter consist of the following.

2.7.1 Partition Plan

Thirty fourth viceroy of India was appointed on March 22, 1947. His name was Ruler Mountbatten traded Lord Wavell (and the keep going). Mountbatten announced the British plan for the discussion of power on June 3, 1947. According to this plan, the governor general was permitted to describe up Limit Commissions, its sharing and terms of reference were to be settled in conversation with those worried in case of parcel of India. According to the third June plan, the territories of Bengal and Punjab, had been divided provisionally among Pakistan and India based on muslim and non-muslim dominant part areas. The last limits of the Punjab and Bengal were to be controlled by two boundary commission, which the Muslim League and the Congress had selected two adjudicators each. Sir Cyril Radcliffe, individual from Privy Council, was named as Chairman of both commissions. The planned examination, focused only on the British Plan of Partition of Punjab.

The areas of Kashmir today are divided between the Republic of India, the Islamic Republic of Pakistan and the People's Republic of Bangladesh. The division of Bengal and Punjab was based on the religion like Hindu or Muslim majorities. The separation also included

³⁶ Ibid.

between the two states in the institution like the Army of India which is British at that time and the Civil services of India. For the action of partition act was built which is named as Independence act 1947. This act also ends the rule of British in the Sub-Continent. So legally Pakistan and India two separate nations appeared in the map of world at 12 AM on August 1947.

The separation is limited to the areas where at least 11 to 13 million persons live with strict conditions, making strong evacuated individual emergencies in the newly area of districts the big option of desolation, with evaluations of death peal going with or going before the parcel questioned and fluctuating between a few hundred thousand and 2,000,000. The harsh idea of the division made a environment of opposed atmosphere and uncertainty among India and Pakistan that annoyance their connection to the present.³⁷

2.7.2 Mountbatten Plan

The division of Punjab by the British was the confusing case. The plan through which division of area occurs was exceptionally mystified. Those political personalities who are linked with areas where division has to be occurred should be see the impact of this plan on these areas. Viceroy and Lord Mountbatten are the main persons responsible for this plan after that the leader of the Congress Nehru and the leader of Muslim League Muhammad Ali were to look after this plan independently. There was a rude discussion on the students of history on this plan of division in 1947.

The talks between British rulers and Hindu leaders were not beneficial on the unity of India and the leaders of India to recognize to Pakistan was in confusing state which could question the plan. Patel, Nehru, and Mountbatten were not sure about the resolution and final luck of Pakistan and

³⁷ Ilyas Ahmad Chatha (September 2009), " *Partition and Its Aftermath: Violence, Migration and the Role of Refugees in the Socio-Economic Development of Gujranwala and Sialkot Cities*", 1947–1961. University of Southampton, retrieved 16 February (2016). pp. 179:.

Sikhs also demanded the separation portion of Punjab. In this situation, they were so taken in by Congress modernizers that they did not act informed related to their real advantages.³⁸

“Muhammad Ali Jinnah and Liqueate Ali Khan tried their best to dissolve issues with the Sikh Chiefs but all in vain. There was a rivalry between Congress and Muslim League Congress needed some help to control the Muslim League and that help they could gain from the Sikhs to fulfill their objections. For this a meeting was arranged to pass a resolution in the favor of Sikh. The meeting was arranged in March, 1947. The resolution demanded on the partition of Bengal and Punjab, mostly related to non-Muslim areas. Gandhi was in Bhiar, his recognition was not taken by any means so Gandhi wrote to Patel and Nehru to simplify the resolution. Patel spoke that it was tough to release to him, yet it was neither received thoughtlessly nor in a hurry. So, he must not to constrain the resolution. Actually, Congress thought that due to this resolution Jinnah would withdrawal his demand for Pakistan. It was the general conception if Jinnah choose from one of the Punjab or Bengal, there will be a strong reaction from the Muslim League.³⁹

Muhammad Ali Jinnah warned Mountbatten in their early meetings not to destroy the harmony of Bengal and Punjab which was the symbol of unity and purposeful history and lifestyles. Mountbatten was not sure and lacked the ability on the partition of India without the Punjab and Bengal. He resolved that since section was the foundation of the muslim prevailing part zones and there were muslim marginal areas in Punjab and Bengal, those areas were to be equally divided. He guaranteed the leaders of Congress that he would legally resolve this later on the condition that they would not raise this issue at this time.

The genuine division of British India between the two new locales was cultivated by what has come to be known as the **3 June Plan** or **Mountbatten Plan**. It was declared at a question and

³⁸ Ahmad, Qazi Shakil. "The Partition Plan, Indian Design and the Kashmir Issue." Pakistan Horizon 56, no. 2 (2003): 17-35.

³⁹ Ibid

answer session by Mountbatten on 3 June 1947, when the date of autonomy 15 August 1947—was likewise reported.” The arrangement's primary concerns were the following.

There was a meeting between the Leaders of Muslims, Hindu and Sikhs leaders which was concluded in the favor of division of Punjab and Bengal. This was straightforward that dominant area based on religion would be divided. Choices were given to leaders of Sindh and Baluchistan on the occasion of division. Same choices were given to the North West Frontier Province which is known as Khyber Pakhtun Khawa now a days and Sylhet area of Assam. India will was to gain Independence on 15 August 1974. The separate independence of Bengal was excluded. A bound commission to be built if there should be an happening of section.

On 2 June the Indian political pioneers acknowledged the plan. It did not manage the subject of the royal states, yet on 3 June, Mountbatten prompted them against staying free and encouraged them to go along with one of the two new domains.

The demand of Muslim League for the separate state was accordingly ceded. Congress condition on commonality was furthermore deliberated while building Pakistan as little as could be probable under the conditions. Mountbatten's plan was to divide India and instantaneously preserve most exciting possible commonality.⁴⁰

Abul Kalam Azad conversed worry over the possibility of ferocious noises, to which Mountbatten answered:” In any occasion on this investigation I will give you total assertion. I will make sure that there is no massacre and mass. He said that he was the officer not the military individual”. When the section is recognized on a basic level, I will assure that there is comfortability and no mass affect any place in the country. In the occurrence that there must to be the minimum furor, I will take the strong measures to pinch the exertion in the sprout. Jagmohan has articulated that this and what tracked shows the obvious displeasure of the supervision tackle. On 3 June 1947, the section plan was recognized by the Congress Working Committee.

⁴⁰ Ibid

Radcliff line was developed between two freshly regarded states by London attorney, Sir Cyril Radcliff. Pakistan looked with two non-bordering territories, East Pakistan, now known as Bangladesh and West Pakistan, secluded geographically by India. India was made for the majority of Hindus and Pakistan was made for the majority of Muslim.⁴¹

Independence Bill was passed by the parliament of British on 18 July 1947 that made the way for the division of Sub-Continent. British suzerainty finished the 650 august Situations, of which there were consistent societies a few hundred, parting them permissible to preference whether to join to one of the new regions. The constitution of both countries was the Act 1935. This constitution was on temporary basis.

Pakistan was created on 14th August 1947 and the Pakistan applied for the member of United Nation and it was recognized by United Nation on 30 September 1947 on the occasion of meeting of General Assembly. While India was the member of United Nation since when the United Nation founded in 1945.⁴²

2.7.3 Radcliff Line

There are five channels in the Punjab region through which water passes are the Chenab, Bias, Jhelum, Ravi and Sutlej which includes of interpluvial, Doabs or regions of land lying between two blended rivers. These are Sind Sagar Doab, (among Indus and Jhelum), The Jech Doab (Jhelum/Chenab), the Rechna Doab (Chenab/Ravi), the Bari Doab (Ravi/Beas), and the Bist Doab (Beas/Sutlej). The Commission of Punjab Boundary questioned regions gave off a dint of being in the Bari and Bist doabs, in mid-1947, although a few states. Congress and Sikhs demanded for Rechna Doab. The complete areas which pass through the Bari Doab are Lahore, Amritsar, Gurdaspur and Montgomery. All areas excluding Amritsar have majority of Muslim. In reality the majority of Muslim part was 51.2% in Gurdaspur. On the north of Gurdaspur there were just 3

⁴¹ Ali Khan, "The Kashmir Dispute: A Plan for Regional Cooperation." *Colum. J. Transnat'l L.* 31 (1993): 495.

⁴² , Vapal Pangunni. "Transfer of power in India. Princeton University Press", 2015.

majority areas of non-Muslims in Baridob and they were belonged to Pathankot, in Amritsar region Tarn Tara and Amritsar. On the other hand there were four Muslim majority area tehsils to East of Beas-Sutlaj (with two where Muslims joined Hindus and Sikhs together). Also, Operation team were made for the East and the West Punjab locales before the Boundary commission started recognized arrays. Their spheres were briefly subdivided by **speculative dissection** in light of direct region greater parts. The Boundary Commission covered of two Muslim and two non-Muslim boards with Sir Cyril Radcliffe as a classic administrative in cooperation Punjab and Bengal section. The Punjab, which was the most confusing state because of the majority of Muslim and non-Muslim which result in the division of Punjab based on the share of Muslim and non-Muslim. In doing such, it will consider different adjustable. Muslims and Congress both presented them strongly in order to resolve the issue. The juries also had no order to bargain-basement and no every single important issue they secluded two and two leaving Sir Cyril Radcliffe the damaging errand of settling on the real choices.⁴³

2.8 Massive Population Exchanges

The exchange of people among the two newly states occurred after the division of sub-continent. The total population of India was 390 million in 1947 but after the separation of majority muslims areas like East Pakistan and West Pakistan, the population of India now 330 million. 30 million people lived in West Pakistan and 30 million people lived in East Pakistan which is known as Bangladesh now a days. As per the survey of Pakistan in 1951 the number of people who entered in Pakistan from India were 7,226,700, mostly muslims. According to the survey of India in 1951, the number of hindu and sikhs who entered in India from Pakistan were 7,295,880 after the partition. Both number rose to 14.6 million people. Of course, both surveys conducted after 3 years and 6 months of partition, so there is probability of record increase in net population after the historical migration.

⁴³ Spate 1947, pp. 126–137

Total number of people in the west were 11.2 million and the biggest ratio of people living in Punjab was 6.5 million Muslims who migrated from the India to West Pakistan. Total number of people like Sikh and Hindu who moved from West Pakistan to India were 4.7 million. So total number of people after the migration from India to West Pakistan was 1.8 million. The number of migrated people to the East Pakistan was 3.3 million and 2.6 people migrated from East Pakistan to India and 0.7 million migrate from India to East Pakistan currently known as Bangladesh so the net migration from West Pakistan to India was 1.9 million people. Population interchanges was not instigation would be principal due to the sharing. The minorities have to adopt the policy of see and wait because of being dependent on the states they were living. Punjab was the special case where a large number of population moved due to the cruelty affecting the areas by the division. According to the documented survey number 241951 which is registered, the total number of people entered in Pakistan was 7,226,600 probably chances of Muslims who entered in Pakistan from India. Pakistan looked with horrible number of deaths and properties, loss and the migration of a high figure of astounded and unproductive ladies, kids and men. The concern was overwhelming as far as human condition. Muslims consider it as an opportunity as to achieve their goal, opportunity to achieve their dreams and to do anything what they want which may increase their confidence. Also, sovereignty had opened up a dazzling coming for the Muslims, and political insurgents who pursued after a break improved way of life, financial development, success and a fuller life. Be that as it may, it looked in those early years (1947-58) that the massive repentances may have been fruitless for Pakistan had been clashing beginning with one noteworthy disaster then against the next, combatting to divert the different concerns that assigned the country.⁴⁴

⁴⁴ Madan G chikarta." *Converts do not make a nation*". APH Publishing,(1998).

2.9 Issues

2.9.1 Refugees

There was an agreement between Jinnah and Nehru that Boundary Commission must present the description of borders between Pakistan and India. The Government of Britain created a Commission of Boundary under the supervision of Sir Cyril Radcliffe to describe the idea about the boundary line between Pakistan and India. The boundaries are built up in such way that majority of areas whose major population belongs to Muslim went to Pakistan and majority Hindu population went to India. There was the view of different people that the borders of Punjab must be safe as there are lot of Hindu and Sikhs living there. Be that as it may, the area was divided. As the matter of the fact when the restrictions were forced between India and Pakistan, it passed about many dreadful instances. In an almost strained, brutal rush, the commission secluded ranges, towns, farmlands, water and property. A vast quantity of blameless men, ladies and youngsters were acquired unmindful. Consequently, many ruined above the outskirts, departure their homes, areas and personal property to stare for cover. Anger, terror, revenge and hostages followed. Lot of blood faced by both the countries Pakistan and India. 7,000,000 refugees, who must be reestablished, outfitted, took care of and secured. Similarly, division incorporated segregating of the assets of the Sub-mainland. India get the biggest share from all the resources due to the huge population while Pakistan get lesser share from India did not have the ability to run the system in these limited resources like medical, rail and workplaces. There were not adequate homes, seats, tables or even stationery and paper pins for governing determinations. Food was scarce. There was no industry in the Pakistan at the time of partition. Nearby then there were the money modifies of Rupees four thousand million in bank, and the two nations have same opportunity to divider equalize, yet in the start of December 1947, there was a talk between Pakistan and India and it was decided that Pakistan will get 750 million rupees and as an advance 200 million rupees had been paid to Pakistan to fight the war currently ongoing in Kashmir. Be positioned that as it can, as this stand was decently baseless, the breakdown of the amount was later on dissipated after Gandhi's reckless and ambiguous market pressure on January 15, 1948. After a break of long time, Sardar Patel demoralized that the implementation of the considerate would trust on the clearance of the

Kashmir issues however it was depending on Gandhi's solicitation that the reserved bank of India paid Pakistan rupees 500 million, to vary some exaggerated case against Pakistan.⁴⁵

2.9.2 The Indus Water

Another immense debate after parcel was the subject of sharing the waters of the Indus Basin. India removed the inventory of water from the two headworks under her influence on April 1, 1948. Around then World Bank for remaking and advancement offered for the arrangement of water issue in 1952. Both government acknowledged the arrangement in 1960, which was generally known as Indus Basin Treaty. Transitional time of settlement was 10 to 13 years, after this bargain three Eastern waterways were given to India and three Western streams to Pakistan.

2.9.3 Accession of Princely States

Before the division of sub-continent, there occurred in British India frequent semi-self-sufficient princely communicates whose future must be stable before Britain dragged back from India. There were total five hundred sixty states in the sub-continent at that time and some of them were given to Pakistan and some of them were given to India on the plan of Mountbatten. "The last representee of British Government in India was Lord Mountbatten. He said on his speech delivered on 25 July 1947 that he has the idea of the current condition of state and opted either for Pakistan or India, except the states of Junagadh, Hyderabad, Jodhpur and Kashmir, who challenged the belief of partition."⁴⁶

⁴⁵Tinker, Hugh. "Pressure, Persuasion, Decision: Factors in the partition of the Punjab August 1947." *The Journal of Asian Studies* 36, no. 4 (August 1977): 695-704.

⁴⁶Copland, "State, Community and Neighbourhood in Princely North India, c. 1900-1950. Springer", 2005.

2.9.4 Junagadh

The state of Junagadh whose administrator was Muslim Nawab but the population of state was almost 80 percent Hindu. Nawab of this opposed state wanted to join Pakistan. On 1947, 15 September the Nawab of Junagadh recognized Pakistan, in vindictiveness of the way that his state did not fall inside the structural congregation of Pakistan. India disagreed, and moved their energy and forced the Nawab to compliance to India.⁴⁷

2.9.5 Hyderabad

The subsequent state was the Hyderabad, the main and the most dangerous in India. Hyderabadis population was 85 percent Raja of this territory was Muslim. He was diffident to junction either to any of the new born States. Indian government and authorities pressurized to Nizam for joining his State with India. Like other States India drawn her forces into this state and started violence on the people of this State. At last Hyderabad had joined to India by force on September 17, 1948.

2.9.6 Jodhpur

Jodhpur was also an area that was ruled by the prince. The Raja of this conflicted area also wanted to join hands with Pakistan but the same problem of population in which Hindus were in majority. Jodhpur as well complied to India and with this agreement the military and financial matters of this area sources linked with India.

So as to castigate Pakistan financially, India was not fulfilling its promise and as contrasting to providing Pakistan with Rs.750 million, in a fiddly objection once more, just gave Rs.200 million. Similarly, the dissection of military funds was uncalled for and Pakistan needed to take the route of slightest resentment as opposite to captivating up arms from the weapons that were positively to be Pakistan's.⁴⁷

⁴⁷ Ibid.

2.10Lingual Problems with East Pakistan

At the time of partition, it was an assorted initiation of many languages as well as Sindi, Urdu, Punjabi, Balochi, and Pashto and furthermore Bengali. Urdu was official language, declared by the Quaid-e Azam, Bengali revolted at that time for declaring Urdu as an official language.

2.10.1 Leadership Vacuum after Quaid-e-Azam and Liqueate Ali Khan.

After Quaid-e-Azam Muhammad Ali Jinnah died which resulted in Liaquat Ali Khan becoming the Prime Minister of Pakistan. All the weights of the nation fell on the shoulders of patriotic man, who gave Pakistan, Objective Resolution on March 1949, his great name was Liqueate Ali Khan. Liqueate Ali Khan was burdened after his death. At that time our enemies could not see our country developing ways so Liqueate Ali Khan was shot dead and we lost another great personality which could help us in improving our situation at that time. The loss of Liqueate Ali Khan was the biggest privation and made a shocking vacuum in Pakistan

2.10.2 Political Riots and Lingual Riots

The offensiveness of the Bengalis in the state and the problem of mode of Language was a main issue. The first martial law in Pakistan was due to the battle of Shia Sunni sects of Muslim and anti-Ahmadi slogans and violence in East Pakistan. The nation without any financial properties and badly in need of administrative equipment without any homework. In any case, under Quaid's administration famed events. The last message Quaid e Azam delivered to the people of Pakistan on 14 August 1948 was that the administration and foundation of our country had been made so that it was our duty to work for it as possible.⁴⁸

2.10.2 India and Pakistan War and Resolution

⁴⁸ Snedden, Christopher. "What happened to Muslims in Jammu? Local identity, "the massacre" of 1947' and the roots of the 'Kashmir problem'." *South Asia: Journal of South Asian Studies* 24, no. 2 (2001): 111-134.

2.10.3 The First Indo Pakistan War

Youthful Kashmiri, Mohammad Ibrahim Khan, who established a framework and set up contact with Pathan clans in Pakistan and started freedom movement against Maharaja Hari Singh in 1947. In the start of October 25, 1947 Pathan ancestral quickly entered into the valley and conquered many parts of India, at that time Maharaja Hari Singh requested the Indian government for help. Prime Minister of India consented to give military to the Maharaja PM Nehru consented to give the Military to Maharaja as a byproduct of his acknowledgment of Kashmir's lawful promotion to India. Hari Singh had no real choice but to obey. Shaikh Abdulla was likewise for the increase of Kashmir to India. At the point when the device of rise was marked, Indian soldiers were rippled into the valley from early November the Indian soldiers constrained the pathan inborn power to pulling out by contagious Baramullah on 8 November 1947. The Indian armed force arranged for a hard and fast savage in Kashmir toward the start of 1948. Pakistan armed force was requested into Kashmir in Spring 1948. During hardly any months the Pakistan armed force had the option to recapture some lost ground in the West of Kashmir. The primary fight between the two countries, forces was fought about Poonch. Pakistani armed force was in the long run unfit to hold. To forestall such a catastrophe the United Nations initially India had raftered the Kashmir question in January 1948, overcome upon the two sides to acknowledge United Nations supported truce understanding in December, 1948 dependent on the current spots of their soldiers. Under this truce understanding, which happened on January 1949, India and Pakistan consented to stop struggle and furthermore invested in tolerating the nearness of military spectators in Kashmir until the question was resolved. In January 1949, United Nations Military Observers Group in India and Pakistan (UNMOGIP) visited Kashmir to determine the political gridlock between the different sides. The promotion of Kashmir into Pakistan and India with political dealings at an impasse, both India and Pakistan needed to retain their separate segments of Kashmir. In 1950, some portion of Kashmir which was around 33% of the new domain, was isolated into two zones, and the rest of the region kept on being called Azad Kashmir. Then both

territories were momentarily incorporated into the Pakistan state. Kashmir was likewise converged in the Indian constitution under Article 370 which gave it an "extraordinary status". The 1949 truce line therefore turned into the deserter fringe between the two states consequently

isolating Kashmir.⁴⁹ The Indian part comprised of three fundamental districts the valley, Jammu and Ladakh. In 1965, the Jammu & Kashmir constituent Assembly confirmed their merger with India, this was very bad news for all Pakistanis and Kashmiris.

2.10.4 The Second India Pakistan War

In 1958, after the control of intensify by the military, the Chief Martial Law Administrator and president General Ayub Khan reconsidered Pakistan approach through military on Kashmir. Reevaluate action of Ayub Khan was the cause of many reasons, the help of Soviet Union. It is likewise conceivable that Ayub was irritated by Nehru's chilly reaction to his proposition to make a joint Indo-Pak protection understanding once an answer for the Kashmir debate had been found. It was certain that the 'lucky opening' to settle the Kashmir question in support of Pakistan was quickly shutting. In January 1965, preceding began battle with India in Kashmir, Pakistan tried India's military purpose in marginal activities in the Rann of Kutch in western Gujrat. India sought after a brisk truce and raised the problem to the International Court of Justice meanwhile it required to stop away from a important war. At the period of Ayub, India's response was a sign of fault.

Rann of Kutch episodes are as follows.

“Pakistan on the enthusiasm strict disruption in Kashmir, manifestly determined the delinquency of a blessed Muslim reported and admired, the Hazrat Bal or a hair of the Prophet Muhammad. As an open appeal detached, Pakistan decrypted it as signal of Military delicate and that limitless well-known Annoyance occurred in Kashmir against India, Pakistan driven Operation Gibraltar. In this operation two plans were made by the military of Pakistan in which to take the control of Kashmir through military power.

1. The first period of the plan was that orthodox Pakistani soldiers, cloaked as the people of tribal areas, would over the treaty line and rouse an agitation in the marginal zones of Kashmir.
2. In second phase, Pakistan would bout and hold the Indian part of Kashmir in a limited war which will be fight for less time, then ceasefire will be announced by Pakistan and

⁴⁹ Tavares, Rodrigo. "Resolving the Kashmir conflict: Pakistan, India, Kashmiris and religious militants." *Asian Journal of Political Science* 16, no. 3 (2008): 276-302.

Pakistan will go to United Nations for the permanent solution of Kashmir issue. The war was initiated between Pakistan and India in 1965. The United Nations and the world power saw the elaboration with attentive and absolute over cautious to work out a hasty cease-fire between the opposing sides. The powerful block who supply weapons to Pakistan and India withdrawn from supply of weapons to both countries. The Prime Minister of Soviet Union played the role of mediator between Pakistan and Indian and meant with the rulers of Pakistan and India for dialogues in January 1966. According to the agreement both the countries will call back their forces on the situation of line of control 1948-1949 on the border and Kashmir and back to their positions in Punjab.⁵⁰

2.10.5 The Third Indo-Pakistan War

Another dispute among India and Pakistan arised in 1971. As a matter of fact Kashmir did not launch this war again. Rather, the crackdown on the Bengali secessionists by the Pakistani military in Eastern Pakistan caused this war by causing a tremendous displaced person trouble for India. As the strong Pakistani army continued in Eastern Pakistan, India's Indira Gandhi regime decided that it was less expensive to do battle against Pakistan in the interest of the Bengali seccionsnist than to intrigue the evacuees who had taken safe house in India. The war in the Kashmir segment ended up being of brief span since India involved East Pakistan and perceived Bangladesh 's free province within about fourteen days of starting the military attack, India won a discretionary triumph against Pakistan on the Kashmir issue in the 1972 post-war harmony understanding between Prime Minister Gandhi and Bhutto in Simla. In the second section of the Simla Agreement, it was reported that India and Pakistan "are expected to settle their differences by peaceful methods by bilateral treaties or by any other quiet methods commonly settled between them." In the years that followed the Simla Agreement, India requested a strong interpretation of Section 2, that the two states agreed to settle Kashmir debate reciprocally without outside mediation so as to forestall the internationalization of the Kashmir dispute. On its part, Pakistan had fought that an exacting perusing of passage two is commensurate to an infringement of its national power and in this manner, has proceeded with its endeavors to internationalize the Kashmir question

⁵⁰ Hewitt, Vernon. "*Kashmir: The unanswered question.*" History Today 47, no. 9 (1997): 60-64.

2.11.1 First U.N Resolution on the Issue of Kashmir (RESOLUTION 38)

On January 17, 1948, U.N received its first resolution after hearing the delegations of both India and Pakistan. In this resolution India and Pakistan were urged to practice restriction and also to reduce the pressure, nine ballots were also casted, out of these nine went without casting a ballot, also there was no cast against it.

2.11.2 Resolution 39

“This was the succeeding resolution incorporated on January 20, 1948 by the United Nations on the problem of Kashmir between both countries. The resolution made the commission of three individuals, one is from India and one is from Pakistan other one is from the United Nations from the advisory group. The board of commission would create a joint letter enlightening the council on what development with respect to movement would be supreme to advantage further synchronization in the district. This resolution was similarly conceded with nine to zero democratic percentage while two went without manufacture a ballot.”⁵¹

2.11.3 Resolution 47

“This resolution was passed on April 21, 1948. It was happened due to the mediation of Britain and the United States after hearing both the countries and the size of commission prolonged as compared to the resolution 30 and now commission consist of five members and helped the administrations of India and Pakistan to reconstruct coordination and request in the locality and get ready for a proposal to choose the fortune of Kashmir. The resolution was passed by U.N under part VI of UN Charter. Resolution went under Chapter VI of UN contract was considered non-official and have no essential enforceability instead of the perseverance went under Chapter VII.”⁵²

⁵¹Das, Taraknath. "The Kashmir Issue and the United Nations." *Political Science Quarterly* 65, no. 2 (1950): 264-282.

⁵² Ibid

2.11.4 Resolution 51

“The U.N Security Council conceded alternative resolution on June 3, 1948, which confirmed the previous resolution and demanded that the UNCIP continued to the **questioned zones** to complete its calculated expressed under Resolution 47 of April 21, 1948. The resolution was passed by eight votes.”⁵³

2.11.5 UNCIP Visit to Sub-Continent

“The UNCIP arrived at the Indian sub-continent in July 1948 and after consultations with Indian and Pakistani administration, they delivered a proposition in which they required a quick truce and an understanding among India and Pakistan alongside withdrawal of all Pakistani ancestral and warriors and main part of India's soldiers. India dismissed the recommendations based on the contention that the proposition did not consider Pakistan capable, which India considered as the assailant in Kashmir-while Pakistan dismissed the arrangement as the Interim organization of Valley of Kashmir and the regions that had fallen under Indian control had been relegated to Sheik Abdullah's control. Sheik Abdullah, who had become the Prime Minister of the self-governing J&K State on March 5, 1948, was considered by Pakistan as India's partner and by suggestion could impact the submission in support of India. Pakistan additionally dismissed the concurrence on the ground that it should pull back the entirety of its powers from the State while India was permitted to hold a portion of its soldiers to look after request, which might prompt utilization of power on voters by Indian powers to impact the result of the proposed submission.”⁵⁴

⁵⁴ UN Charter, <https://treaties.un.org/doc/Publication/CTC/uncharter.pdf>

2.11.6 Cease-fire Plan

“On December 11, 1948, the UNCIP spread out another arrangement of proposition that explained on the subject of submission in the State of Jammu and Kashmir. As per the recommendations, the topic of increase to India or Pakistan was to be chosen by a free and fair choice, which was dependent upon having a truce. Pakistan and India acknowledged the arrangement and permitted U.N to watch the truce from January 1, 1949.”⁵⁵

2.11.7 Resolution 80

“It was included on March 14, 1950 after uncomplaining the reports of the Commission for India and Pakistan, just as a report from McNaughton. The Council approved India and Pakistan for their consistence with the truce plan and for likeminded on preparation of Admiral Chester W. Nimitz as the future plan Administrator. The Council named a United Nations representative to aid the measures and convention of the demobilization program, to inform the governments with respect to India and Pakistan just as those of the Council, to practice the whole of the force and responsibilities of the United Nations Commission for India and Pakistan, to compose the choice Administrator to accept all the bulks doled out to him at the fitting phase of neutralization and report to the Council as he saw fundamental. The Resolution mentioned the two governments to find a way to guarantee that the truce proceeds and expressed gratitude toward the individuals from the United Nations Commission for India and Pakistan just as General McNaughton and concurred that the United Nations Commission for India and Pakistan would be ended one month after the two gatherings have educated the United Nations Representative regarding their acknowledgment of the exchange of the forces and duties of the United Nations Commission to him yet this arrangement additionally flopped as India and Pakistan could not consent to the arrangement of neutralization.”⁵⁶

⁵⁵ UNMOGIP, accessed on 5th Feb, 2020, <[⁵⁶ The India-Pakistan Question, accessed on 5 Feb, 2020, <<http://unscr.com/en/resolutions/80>>](https://peacekeeping.un.org/mission/past/unipombackgr.html#:~:text=In%20July%201949%2C%20India%20and,supervised%20by%20the%20military%20observers.&text=On%2030%20March%201951%2C%20following,supervis e%20the%20ceasefire%20in%20Kashmir.></p></div><div data-bbox=)

2.11.7 Proposals of Sir Owen Dixon

After Mc Naughton's recommendations fizzled, the United Nations replaced the UNCIP by an unsocial U.N agent Owen Dixon in 1950. Owen Dixon in the rouse of seminar the the ruling classes of India and Pakistan accepted that there was nearly zero prospect in regards to a business to frustration Kashmir. Dixon believed of another plan of proposal, which gave a thought of holding of 'territorial choices' in the State of Jammu and Kashmir. The proposal was succumbed to the U.N Security Council in 1950 and they suggested the additional focuses ‘

(a) Holding a choice in the entire state of Jammu and Kashmir, local by area.

(b) Holding a choice just in residents which were incredible the rest would contain those regions that depended on upon to cast a election undeniably whichever for an elevation with India or Pakistan. Anyway, India and Pakistan could not go to a harmony on his proposal.⁵⁷

2.11.8 Resolution 91

This was included on 30 March, 1951. Pleasing note of a report by Sir Owen Dixon which articulated that the prime apprehension of divergence among Pakistan and India on set up the province of Jammu and Kashmir for the farm of a suggestion were as per the following. The technique and gradation of frustration, level of knowledge over the activity of the basics of government, important to promise a free and reasonable choice. The Council acknowledged Sir Dixon's abdication and offered it's thanks to him for his extraordinary capacity and dedication and named Mr. Honest Graham to do the activity as the delegate of U.N and again worried on the neutralization of Kashmir and to figure out how to continue towards a serene arrangement.”⁵⁸

⁵⁷Jyoti Bhusan Das Gupta (6 December 2012). Jammu and Kashmir. Springer. p. 159-161.

⁵⁸ The India-Pakistan Question, accessed on 5 Feb, 2020, <<http://unscr.com/en/resolutions/91>>

2.11.9 Resolution 96

“This resolution was embraced on November 10, 1951, succeeding to patient a statement by Mr. Frank Graham, just an enquiry his address before the council a reason for program of disarmament was noted with confirmation. The council a reason for program noted with delight the presentation by both India and Pakistan that they would work for a tranquil settlement, keep on watching a truce and they acknowledged the rule that the increase of the state of Jammu and Kashmir.”⁵⁹

2.11.10 Resolution 98

“Existence comprised on December 23, 1952, the resolution requested both governments to go into fast relations below the support of the United Nations Illustrative for India and Pakistan so as to decide on the precise number of crowds to stay on each side of the truce line near the surface of the recently established time of nullification. The UN Representative commended that this number was to be anywhere in the range of 3,000 and 6,000 on the Pakistani side and 12,000 and 18,000 on the Indian side. The resolution at that point said thanks to Mr. Forthcoming Graham for his endeavors and mentioned both the governments to answer to the Council no later than 30 days after the reception of this resolution and asked Mr. Graham to keep the Council educated regarding any advancement yet the endeavors of Mr. Graham restored no natural product as the halt stayed between the two states.”⁶⁰

2.11.11 Resolution 122

“On January 24, 1957, received this resolution publicized that the assemblage planned by the Jammu and Kashmir National Conference could not start an answer for the issue as characterized in United Nations Security Council Resolution 91 which had been embraced very nearly six years sooner.”⁶¹

⁵⁹ The India-Pakistan Question, accessed on 5 Feb, 2020, <<http://unscr.com/en/resolutions/96>>

⁶⁰ The India-Pakistan Question, accessed on 5 Feb, 2020, <<http://unscr.com/en/resolutions/98>>

⁶¹ The India-Pakistan Question, accessed on 5 Feb, 2020, <<http://unscr.com/en/resolutions/122>>

2.11.12 Resolution 123

This resolution was received on 24 Jan, 1957. It comprises following points

“Declared the President of the Security Council, the mediator of Sweden, to inspect with the Governments of India and Pakistan any endorsements which, as he would see it ,are possibly working to underwrite near the defrayal of the debate, having respect to the past resolution of the Security Council and of the United Nations Commission for India and Pakistan; to visit the sub-landmass for this reason; and to answer to the Security Council not later than 15 April 1957.2.Invited the Governments of India and Pakistan to co-work with him in the exhibition of these functions and requested Secretary-General of United Nations and representative for India and Pakistan to render such help as he may ask for.”⁶²

2.11.13 Resolution 126

On December 2, 1957, at 808th gathering the security council received resolution 126. It comprises of following points.

Requested the United Nation’s representatives for India and Pakistan to make any suggestions to the assembly for additional proper activity, with the end goal of gaining ground towards the implementation of resolution of the United Nations Commission for India and Pakistan of 13 August, 1948 and 5 January, 1949, and towards a tranquil settlement. Allow the representatives of UN to visit the sub-continent for these purposes. Instructed the United Nations Representative to answer to the Security Council on his endeavors at the earliest opportunity.”⁶³

2.12 Elimination of U.N Role after 1965 War

United Nations was not able to solve the problem and provide the answer for the Kashmir conflict, even after the conferences and hard work. The 1965 war made it more difficult for UN to solve this problem between two nations. There were many discussions on the issue but all of them

⁶² The India-Pakistan Question, accessed on 5 Feb, 2020, <<http://unscr.com/en/resolutions/123>>

⁶³ The India-Pakistan Question, accessed on 5 Feb, 2020, <<http://unscr.com/en/resolutions/126>>

came out to be useless, because of differences and different point of views of both countries. In this way UN wasn't able to do anything for truce or anything.

2.13 Role of Pakistan in Resolving Kashmir Conflict

Jammu and Kashmir are a contested domains since 1947. Under the coercive tension of Indian military powers state's increase to India under the coercive tension of Indian military powers state's increase to India in October 1947 was temporary and executed. The disputed position of Jammu and Kashmir is recognized in the United Nations Security Council resolution of August 13, 1948 and January 5, 1949, to which both Pakistan and India concurred. India and Pakistan talked over the forthcoming position of Jammu and Kashmir should assume to make sure about the freedom of self-assurance for the Kashmiri individuals. This pleasure comprises a free, sensible, and commonly succeeded referendum, as agreed in the 1948-1949 UN Security Council goals. The personalities of Kashmir had the choice to make the decision of continuous promotion to either Pakistan or India.

India and Pakistan must settle the issue of Kashmir with the Simla Agreement of July 1972 and the pertinent UN Security Council goals. India and Pakistan have had restored political commitment to date with an understanding set up to keep up exchange as a weapon towards harmony arrangement and annihilate the strain that has been seen by the two nations for a very long time conceivable. India Prime Minister Narendr Modi, completed his international strategy backing since 1989, can have the option to break the pattern of discourse, interference that has persistently upset the tranquil endeavors between the two countries. Modi's international strategy is to advance harmony by giving discourse among India and Pakistan an opportunity to make an enduring answer for the contention and issues encompassing the contention between the two nations.⁸⁹ It saw that the Indian Prime Minister Narendr Modi since 1947 that the war and strain among India and Pakistan is seeing some light and harmony process that can take enduring arrangements through a formal and organized commitment. In 2014 Prime Minister Modi has had fruitful endeavors, where he included the Pakistan Prime Minister Nawaz Sharif in 2014 after his political decision. This gathering was assembled effective in light of the fact that right now declaration of harmony process through discourse named exhaustive respective exchange which secured ten explicit zones of compromise including psychological warfare, exchange, Kashmir and human viciousness and so forth. As opposed to the earlier system in India, Modi has had the

option to make a few visits to Pakistan for advancing harmony between the two countries and create exchange process between the two nations. Lahore was the city of Pakistan where he visited in 2014, the eight visits of Modi was in Lahore. Indian executive since the parcel of the subcontinent in 1947, Manmohan Singh, in his entire timeframe as India's PM never visited Pakistan even once, this unmistakably shows he has no enthusiasm to explain the Kashmir problem. Six rounds of Indo-Pakistani talks in 1962-1963 discussions that during the six rounds of Indo-Pakistani talks in 1962-1963, under tension from the worldwide network the two states examined conceivable Kashmir settlement that would be end the Kashmir dispute. The discussions nearly went to a clearing in favors to trading regions of vital significance to either nation a joint U.S U.K. proposition proposed at make the different sides settle and make progress towards compromise suggested that neither India nor Pakistan would surrender altogether its case to the Kashmir Valley yet for each side to safeguard a broad situation in Kashmir through the drafted settlement finishes up.⁶⁴

In May 1997 in Male, Indre Kumar Gujral and Nawaz Sharif began the compound discourse process which incorporated eight fundamental issues. There are, Jammu and Kashmir, Siachen, Wullar Barrage/Tulbul, Navigation Project, Sir Creek, Terrorism and Drug Trafficking, Economic and Commercial Cooperation, Peace and Security, and Promotion of friendly exchanges in different fields. Under the procedure of this composite discourse, in 15 to 17 October 1998 the first round of chats on Jammu and Kashmir were held in Islamabad, however they finished without success. Pakistan's persistence on foreigner arbitration was discharged by India, yet the importance of reducing the risk of an argument by building mutual assertion in the nuclear and conventional grounds was repeated. Prime Minister Atal Bihari Vajpayee came to Lahore, in 1999, where he met and marked the Lahore declaration with his partner Nawaz Sharif on 21 February 1999. Among other issue, the Declaration likewise said that the two gatherings' will fortify their endeavors to resolve all issues and issue including the issues of Jammu and Kashmir.

Vajpayee welcomed Pervez Musharraf for talks in Agra in July 2001. Unfortunately, deprived of genuine basis, conflict, aggression and judicial problems exhausted the movement with out by any earnings a combined statement presence transported. Returned energies for Concord, In April

⁶⁴ Ganguly, Šumit." *Conflict unending: India-Pakistan tensions since 1947. Columbia University Press*", 2002.

2003, Vajpayee over made an idea for discussions, which was suitably replied by his companion, Zafarullah Khan Jamali. It was the different sides decided to initially do the establishment. Impact of this gathering was, cracked bar, path, airborne and appeasing influences were restored to upgrade trust and certainty between both states.⁹⁵ In July 27 to 28, 2004, talks were held in New Delhi drove by Indian Foreign Secretary Shashank and his partner Riaz Khokhar. Pakistan Foreign Secretary called these discussions as helpful and great initial step, additionally Indian External Affairs Minister Natwar Singh depicted the discussions as positive and cement. In June 28 the joint enunciation gave, and affirmed the need to advance a steady domain of harmony and security. There were not made any stride on the transport interface among Srinagar and Muzaffarabad, or some other harmony step could be made. The two Countries India and Pakistan complied to take the harmony procedure forward in a situation modern from a savagery and fear. The two sides moreover constant their duty to the cooperative press accounts of January 6, 2004, in Islamabad. In malice of the optimistic air, differences borne. On one hand, India raised the issue of psychological oppression, while at the opposite side, Pakistan denied with a call for conclusion human rights violation and controls discount in the state.

The transport administration began in April 7, 2005 from Muzaffarabad to Srinagar. It was concurred that travelers can go with passage grants, which would fundamentally be their character cards for movement. Musharraf's Kashmir Proposals on October 25, 2004 General Musharraf, give Kashmir proposition for the arrangement of Kashmir strife. Musharraf called for distinguishing areas of Kashmir on the two sides of the LoC, neutralizing them, and allowing them the status of autonomy or setting them under a joint Indo-Pak control, or UN command. Musharraf proposed that Kashmir has seven areas. Two of the areas are remembered for Pakistan and five are in India. Musharraf said that as indicated by my view, distinguish a locale, regardless of whether it is the entire or seven or part, identify the area, disarm the district perpetually and change its status. Status can be autonomy, apartment suite where there can be a joint control or there can be UN command to be characterized by lawful individuals. In spite of the fact that, in Musharraf proposition he did not indicate the seven locales, yet reports recommend that the seven areas could be the fields including Jammu, lower regions up to 7,000feet, PirPanjal, the Valley, the incomparable Himalayan Zone, the upper Indus Valley and the Karakoram ranges. Five are with India from these seven areas, similar to a Ladakh (Ismaili part), Kargil/Dras (Muslim), Poonch (bordering to Azad Kashmir), Jammu (Muslim-greater part regions) and the Valley. What's more, the other two are

with Pakistan, Azad Kashmir' as Pakistan alludes to it, and the Northern Areas (short Baltistan). In Pakistan, the Pakistan Peoples' Party Parliamentarian (PPPP) and the Pakistan Muslim League-Nawaz (PML-N) dismissed the recommendations.⁶⁵

2.14 India's view

Kashmir has a huge emblematic significance for India it is hard to exaggerate the profundity of energy which numerous Indians feel regarding the matter. For Hindus and other Hindu shared gatherings, it is to a great extent a matter of straightforward nationalism. India speeches as Hari Singh cleared the instrument of promotion in October 1947 giving control of the Jammu and Kashmir over to India, the State is the portion of India, and it have been accepted by the Indian independence act and the parting British dominion.

India moreover articulated that people collections of Indian Kashmir sustenance in choices displays that persons are smiling and there is no curiosity for any survey. India suspects Pakistan and belongings that Pakistan has not barred its army powers, which India's viewpoints are one of the original stages in performing a goal. India accused Pakistan of dispersal competitors of India viewpoints between the people of Kashmir, through media, to adjust Kashmiri conclusion.⁶⁶

2.15 Pakistan's view

As indicated by perspective on Pakistan that as per the theory of Two Nation on Kashmir must have been through Pakistan. From the time when it has a Muslim greater. Pakistan differentiating the view point saying that the races have never been free and reasonable in Kashmir, the individuals have decided in favor of administration issues like streets, power and different invulnerabilities and not sifting through the Kashmir dispute. People of Kashmir are not free till now in any choice.⁶⁷

Pakistan struggles that India has confirmed contempt to the determinations of the United Nation Security Council and the United Nations commission and Pakistan, neglecting to hold a plebiscite. Pakistan additionally said that India abused halt understanding and that Indian soldiers were at that point in Kashmir before the instrument of accession was signed.¹⁰² There are around

⁶⁵ Ayyaz, Shazia. "Ideological Analysis of Pervez Musharraf's Interview with SIEGEL (German Online Magazine)." *Putaj Humanities & Social Sciences* 24, no. 2 (2017).

⁶⁶ World: South Asia Vajpayee: Pakistan a 'terrorist' state, BBC, 9 August 1999

⁶⁷ Ahmed, Adeel (20 July 2016). "Who said what about Kashmir in the last one year". DAWN.COM. Retrieved 9 April 2018.

seven lakh troops in Kashmir and criticisms have not frequently been casted on the freeness and Reasonableness of elections directed under such overwhelming military presence. On the other hand, the Indian armed force has regularly been blamed for grave human rights infringement like torment, custodial passing, vanishing, assault and attack in the state. In 2006, the proportion of sending in Jammu and Kashmir is one Indian soldier for each eighteen man. Anyway the number expanded in 2008, 2009 and 2010 because of persistent strike in Kashmir and India tossing more soldiers in state.⁶⁸

Conclusion

In overall conversation, the analyst presumes that the historical backdrop of partition is as yet an alive and dynamic subject, a work in progress with numerous activities experiencing chronicled research and enquiry. The present examination draws in with the shortcomings of an arrangement that endeavored to safeguard countries from the imperial Raj however, neglected to make stable state elements, especially if there should be an occurrence of Pakistan.

⁶⁸ Kashmir jugular vein of Pakistan: Durrani. DAWN.COM. 16 December 2006. Retrieved 9 April 2018.

CHAPTER 3

The State of Human Rights in Indian Held Kashmir (1947-2013)

3.1 Introduction

In this chapter we will discuss about the human rights and violation of human rights in Kashmir since 1947 to 2013. It will also discuss the black laws imposed by India in occupied Kashmir.

3.2 Definition of Human Rights

In order to understand the meaning of Human Right, we must first know the meaning of right. According to the English Language Encyclopedia, “exact meaning of the word right is anything done in agreement or conformable to moral law or some standards or values of justice, reasonable, morality and accurate”⁶⁹. So this means that the meaning of “human rights” will be anything done within the will of human. Islam has also given importance to human right by mentioning in Holy Quran many times. In order to be a civilized nation, we must ensure that everyone is able to enjoy full human rights, as it is a very important part of our society. Non-Muslims take “Magna Carta” as their struggle for human rights especially Western people, but as a Muslim our faith is different about human rights, because we have entitled human rights before 14 hundred years ago. When our Prophet came in this world as a last Prophet of Allah. While Magna Carta was an agreement between King Jon and public.

3.3 Human Rights and United Nations Charter

In October 24, 1945, right after the Second World War, with the approval of UN charter by 51 members of countries, United Nations was established. The main objective of this charter was the protection of human rights mainly during war or any other incident.” Apart from giving

⁶⁹ Crystal, David.” *The Cambridge encyclopedia of the English language.*” Ernst Klett Sprachen, 2004.

everyone equal and essential human rights without any kind of discrimination, it is also responsible for giving rights to citizen of country.

Article 1 also discussed that one purpose of United Nations is to develop friendly relations among different nations which is based on respect for the major of equal rights and self-determination of people. Also, Article 1 imposes responsibility on the United Nations to take and settle all proper means to strengthen universal peace and to achieve international cooperation of social and humanitarian character. The basic duty of the United Nations is to encourage all the countries who are the members of this organization for respect and freedom every subject and country without any division of race or sex. Quality of this charter was that It invites only those countries and states for its membership which are peace loving and accept the obligations of the charter. General Assembly unified program of optional services in the field of Human rights, regional training courses, fellowship and advisory service of experts were made part of this program in 1955. The purpose of this program was designed to give government an opportunity to share experience and to exchange knowledge about the advertising and security of human rights. Some specialized agencies are also associated with United Nations which are concerned with human rights.⁷⁰

Another most important organization which is responsible for the protection of human rights is known as International Labor Organization. These types of organizations are supposed to make unbiased reports on human right with the passage of time.” Along with that, they also send their reports to other organization who are also working for human rights.

3.4 Universal Declaration of Human Rights 1948 (UDHR)

In 1948, United Nations, organization working for human rights, announced Universal Declaration of Human Rights (UDHR), the main purpose of this announcement was to remove discrimination between nations and introduce equality for all nations. It was responsible for many

⁷⁰ Purpose and Principles of the United Nations, accessed on 5 Feb,(2020)

activities related to Human rights, as it was its main purpose.” It made its very good impression upon governments and on many other organizations working for human rights.

Some other important objectives of UDHR are provides to every individual the piece of land for their rights and freedom, the announcement efforts not only on the development of the rights of individuals but also for the people of different cultures, races, languages, religion, and social backgrounds. The declaration was not only dedicated to move legal compulsions on Countries, but pretty to launch aims for states to work towards the respect of human rights. In the General Assembly Mr. Roosevelt identified that the declaration was the first and main statement of the basic values to serve as common standard of all nations. It might well become Magna Carta of all mankind. This Universal Declaration of Human Rights providing a legal customary for the protection and implementation of human rights in the world.” It has been made the basic part of fundamental rights which are adopted by the several countries in their constitutions along with regional human rights instruments and charters.⁷¹

3.5 International Court of Justice (ICJ)

League of Nations introduced a system which was called International Courts of Justice. Before the formation of this system it was called a permanent court of Justice this court of Justice is known as vital part of United Nations Charter. The main objective of charter is to deliver justice all over the world without any kind of discrimination. International courts of justice headquarter is situated in Hangul.

Sources of court working are as fallows.

1. International Conventions
2. International Custom
3. The General principles of law
4. Judicial decisions
5. Juristic work/ opinions of jurists

⁷¹ Assembly, General. "United Nations Human Rights Council."

Total judges of International Court are 15. They are chosen for the period of 9 years. These judges are elected by the General Assembly and the United Nations Security Council from the list of eminent jurists and legal experts of the world.⁷²

3.6 Human Rights Atrocities in Kashmir

It not hidden from the world that how much Kashmir people have suffered and still suffering. Many human right organizations have reported the brutality of Indian government and what are they doing in Kashmir, but still our Kashmiri people are suffering for decades.

“In Kashmir territorial dispute started since 1947, by the beginning of two states India and Pakistan in South Asia. Kashmiri people are facing problems till then the British government sold Kashmir to Maharaja Gulab Singh for 75000 Nanak Shahi. This treaty was known as, the Treaty of Amritsar 1846. It was the start of injustice to the residents of the valley of Kashmir which is the most beautiful valley in the world. After the partition of Sub-continent, Kashmir dispute was created between two states India and Pakistan. Muslim Mujahedeen started freedom movement by the help of Tribal areas of Pakistan and resultantly some areas of Kashmir were occupied by the Mujahedeen which is known as Azad Jammu & Kashmir. Kashmiri Muslims strongly protested for their freedom but India denied their freedom and right of self-determination which is recognized by the international law.⁷³

Indian forces continues to subdue the voices of Kashmiri Muslim by force during freedom struggle. The Indian forces used all acts of violence against the innocent Kashmiri Muslims for this purpose, because they were demanding their universally accepted right which is known as right of self-determination. Indian forces violate the human rights where international community and personalities from time to time and forced the Indian Government to stop the violations of human rights in the state of Jammu and Kashmir.⁷⁴

⁷² "United Nations Official Document". www.un.org.

⁷³ Paradise lost, BBC World Service, undated. Retrieved August 2016.

⁷⁴ "Rape in Kashmir: A Crime of War" (PDF). Human Rights Watch. 1993. Retrieved 21 July 2012.

Kashmiri people have been raised of their voices at different international forums for their rights.” United Nations passed several resolutions for the recognition of the right of self-determination for the people of Kashmir but unfortunately those resolutions are still unsuccessful. Different reports are being received from different sources about the violation of human right in the occupied Kashmir. The detail of the reports on the Atrocities on human rights is as under.⁷⁵

3.7 Kashmir Watch International (KWI)

“Kashmir Watch International is Britain founded international global organization for the protection of human rights. It has showed violation of human rights in Indian Occupied Kashmir. In this report the chairman of Kashmir Watch International, Mr. Muhammad Siddique Khawaja and his colleagues expressed sympathy to the family of these deceased young boys. The organization showed violation on youngsters, children, women and even Muslim’s animals are not. The chairman of Kashmir watch demanded from the international community to focus on the low typical of the human life and the violation of basic fundamental rights in the Kashmir.⁷⁶

3.8 Local Media

A monthly report, Kashmir Wala reports that India is not successful to provide justice forth rights of Kashmiri people. “The United Nations special report on human rights violations named as Margaret Sekagya visited Kashmir on January 19, 2011. Geneva based Human Rights Council appointed her. She noticed that everyone is suffering in Kashmir, including children and women have suffered at the hands of forces. Almost more than half million Indian troops are presented and they are not providing justice to the Kashmiri people.”⁷⁷

⁷⁵ Burke, Jason. "Wikileaks cables: India accused of systematic use of torture in Kashmir." *The Guardian* 16 (2010).

⁷⁶ Ibid

⁷⁷ Ibid

3.9 Kashmiri American Council (KAC)

United States Department confirms the human rights violence in Kashmir and explains that there are different reports about the human rights violations devoted by Indian forces and paramilitary forces in the territory of Kashmir, but these violations are not being raised openly by the US administration because it may disturb the commercial and military relations with India.⁷⁸

3.10 United Nations Reports on the Status of Human Rights in Kashmir

3.10.1 UN Report Mentioned Disappearances in Kashmir

We all know that how India is trying hard to oppress the voice of Kashmiri people and disappearance of people is also part of it. Many human right organizations have talked about it and also reported it in their reports. Even United Nations also reported it in their report on Kashmir.

They have group working on the disappearances and also the incidents of mass graves in occupied Kashmir and their report was also submitted to UN general assembly.

Ban Ki-moon, politician of South Korea and also the eighth-secretary general of UN, after his visit of India, he also mentioned about India's behavior in Kashmir in report. Hurriyat Conference, alliance of 21 political parties, also welcomed the report of Ban Ki-moon about India and what it is doing in Kashmir. The main points were about violation of human rights in Kashmir, asking India to follow United Nations resolutions and many other important points were discussed.

3.11 Human Rights Violations

The Kashmiri people have been suffering since the advent of Dogra raj. Certainly, the continuous violations of human rights in Indian Held Kashmir not only the attitude and pride of Indian government with the people of Kashmir, but also its polices proved towards the

⁷⁸ *Ibid*

International Human Rights Watch Organizations. India is busy continuously to violate the human rights of Kashmiri people. They have no right to spend their lives from their own will.

It is the fact that the Human Rights organizations have sent many times reminders and appeals, to the Indian Government, but in vain, till now India did not take any action against the perpetrators. Indian cruelties in Indian Held Kashmir characterizes a worst example of state terrorism in the modern history of mankind. On one side India regularly plans the repetition of being the largest democracy, while on the other side it has also become the most prominent human rights violator in the world. Local and international organizations have compiled and projected a long list of illegal arrests, unlawful killings, rapes, and burning of properties, but no change in Indian attitude and policy has been witnessed. The Indian authorities continue to regularly work suppressive and brutal tactics with complete freedom. Both rapes and torture have indeed become regular elements of security forces policy to threaten the local population.

The latest available figures covering a period from 1989 to January 2016 are listed below

- Total Killings : 94,305
- Custodial Killings : 7,042
- Civilian arrested : 132,734
- Structures arsine/destroyed : 106,055
- Women widowed : 22,808
- Children orphaned : 107,550
- Women gang-raped/molested 10,169

Indian security forces have systematically violated human rights and humanitarian law. Security forces are always involved in violation of human rights law, and spreading fear of the valley every time. No one saves from security forces of India and authorities of India.

3.12 Indian Black laws

Last 7 decades have witnessed carefully crafted Indian policy aimed at the avoidance of holding of plebiscite and gradually introducing more and more what the Kashmiri people call as the 'Black laws' with a view to suppressing the freedom struggle by force. Indian security forces impose draconian laws to violate human rights without any fear of criticism or legal embarrassment either at home or the international level. Indian government has not only mistreated cleared Kashmiris but also focused more on the legal protection of human rights violators. A series of black laws were introduced in Indian Held Kashmir that facilitated the Indian security forces to perpetuate their oppressive regime. The Indian security forces in Indian Held Kashmir include Indian military, Security Forces, Central Reserve Police Force, Special Operations Group etc. Among a long list of black laws, following are the most prominent.

3.13 Jammu and Kashmir Public Safety Act (1978 but amended 1987 and 1990)

According to this act government allowed to hold up any person without any trail for two years under the maintenance of public order. "The prisoners are not frequently informed of the reasons of their arrest and always preserved in custody for a much longer time than what was allowed. The cause of this act is basically linked to Defense of India Act which was implemented in India by the British Government during their rule. Mr. Mahatma Gandhi was made victim of that black law. The Public Safety Act is occurred more cruel and disciplinary law than the defense of India Act. Public Safety Act has took the place of DIA. In 1967 and was introduced as Jammu and Kashmir Public Safety Act 1978, which has been much criticized by the legal experts and other human rights activists at both national and international level."

The Act was forced in 1978 in the state of Jammu and Kashmir with vast powers to the state machinery. "This law is a cruel weapon to dominate the innocent citizens and politicians in the valley. Prisoners are not informed the reason for arrest under this act and they are kept in custody for limitless period without any justification. During the arrest the prisoners are deprived

from all the rights like to meet with relatives and lawyers. Right to access counsel is universal right which cannot be snatched away in any circumstances from any prisoner. Prisoners are tortured in cells without any orders of courts. In Kashmir the lawyers have challenged the Public Safety Act many times but government has ignored all the time the orders of the courts and ignored the authority of the courts. This is a weapon to pressurize the politicians in Kashmir and many imprisoned by the government while acting by requiting attitude. It is very surprising to see that Public Safety Act has no provision for compensation of such illegal detentions or if any act is committed by Indian law enforcement agencies then no action can be brought against them and even no return or any remedy is available for the victim of illegal detention. The Public Safety Act is also the violation of United Nation's Convention against Torture (CAT) which prohibits all types of torture to the individuals. Human rights law bans all the kinds of extra judicial killings, arbitrary arrests, detention and mistreatment. States are bound to lodge investigation against the all types of violations of human rights".⁷⁹

3.14 Jammu and Kashmir Disturbed Areas Act

It allows security forces to use 'shoot or force and have authority to arrest under the excuse of maintaining the public order'. Maintaining the public order, I take this as an excuse or propaganda to oppress Kashmiri and to stop them for rising voice for their right, mainly right to live. This act is also one of many draconian laws to stop and oppress Kashmiri people. There are many illogical points of this act which did not make any sense and without even implementing them keeping them as a law is also a clear violation of human rights.

Some main objectives of this act are

- Security office can shoot or force anyone
- Authority to arrest anyone
- Authority to destroy anyone's property

All of this dirty work is done under an excuse of "maintain order. Like if you are police officer or any security officer then you can shoot anyone or kill with an excuse that "I was trying to maintain

⁷⁹, Shamsa. Nawaz "Indian Efforts to Change the Demography of IOK." Strategic Studies 37, no. 2 (2017): 40-57.

order”. This type of law produces more violence in public and also this type of authority can lead to my bad consequences. India declared itself a large democratic country but actually India imposed a draconian law in Indian Held Kashmir and violates the people of Kashmir continuously.

3.15 Terrorist and Disruptive Activities Act (TADA)

This act was enforced in 1985 and amended in 1987. “This Act gives security forces special powers in the use of force, arrest and detention. Under the Act, association with, or preparation for, troublesome activities can lead to severe punishment up to life imprisonment’. This Act was extensively employed in Indian Held Kashmir and even after its interval it was used. According to this Act the involvement of any individual in the disruptive activities amounts to strict punishment. The basic and fundamental duty of any state to protect and provide the free environment for the exercise of basic rights which are guaranteed in the constitution. So, it is the duty of the Indians to make sure the free and fair enjoyment of freedom of speech and expression to the people of Kashmir. The TADA is also the violation of article 13 of the Indian constitution because this Act is against the fundamental rights such as freedom of speech and freedom of expression. There are lot of provisions in TADA which are unrefined violation of international law of human rights and Geneva conventions. The international community should make the pressure of the Indian government against such type of law. India declared itself a large democratic country but actually India imposed a draconian law in Indian Held Kashmir and violates the people of Kashmir continuously.” This issue should take into consideration on humanitarian grounds and laws like TADA should not be implemented on the people of Kashmir.⁸⁰

3.16 The Armed Forces Special Powers Act (AFSPA)

After the amendment of Terrorist and Disruptive Activities act, in 1990, another act known as Armed Forces Special Powers Act was made compulsory. In accordance to this act India armed

⁸⁰ Ibid

forces had given freehand on doing torture, arresting, kill and many more abuses, for the sake of maintaining order. Like violating human rights, just for the sake of maintaining order or it can be manipulated for their personal reasons, like oppressing Kashmiris.

Some of objectives of this act are

- Officer or non-commissioned officer can search any place.
- Permission to stop any vehicle
- Fire at any person
- Arrest anyone on basis of doubts

And again, all of this was done just for maintaining the order, just for maintaining the order. Also, this law permitted Indian armed forces to use support of civil authorities. There are many examples of abuses of these powers by Indian Armed Forces in Kashmir and these powers are still being used in Kashmir, neglecting the fact that how it is a clear violation of Human rights. Like we see the extrajudicial killing is still being practiced under this act. Even there are many protests in Kashmir and also in many other parts of India, but still, it is active.

3.17 The Prevention of Terrorism Ordinance (POTA)

This act was imposed in 2002 allowing the force to delay Kashmiri people for three months without framing charges against them. POTA allowed security forces to enjoy extraordinary powers. It was supposed to be implemented on the whole country but its main target was Indian Occupied Kashmir.

Apart from being implementing and being still active, this act is part of debate because for a country like India, which is itself a part of many human right organization to implement and act upon such an act which is not fulfilling international human rights.

3.18 Prevention Amendment Unlawful Activities Ordinance 2004

This act allowed extraordinary powers to security agencies similar to those previously provided by the POTA. This ordinance was promulgated in 2004 and subsequently taken the shape of Act. It also provides extraordinary powers to the law enforcement agencies.

“The powers are provided under this ordinance are almost same as provided in the POTA 140. The Act was further amended in 2008. In December 2008, Unlawful Activities (prevention) Bill were introduced and that was presented for discussion in the parliament. It was passed without any debate in the parliament. Although it was demanded by some members of the parliament that the bill must be referred for discussion to standing committee but it was ignored by the government and it was passed impulsively. One can judge the authenticity of any law which is passed without any debate at the floor of parliament and passed without any review. Unfortunately, this Act is also derived from the previous anti terrorists’ laws and the same idea is drawn which about the unlimited powers to law enforcement agencies. The definition of terrorist acts is very controversial and is against the provisions of various articles of human rights instruments. According to section 2 clause the Unlawful activity is defined as; unlawful activity, in relation to an individual or association, means any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise).

This definition is very controversial and is contradicting several provisions of International human Rights Law. It restricts the voices of people for their fundamental rights like self-determination because the right of self-determination is such right which cannot be derogated at any cost. The right of self-determination is a basic rule of democratic society which is familiar universally and it provides option to the certain individuals to decide about their future according to their own wishes. But in India this right is completely being denied by India, since 1947 after the partition of sub-continent. Under the article 2 of United Nations the concept of self-determination is preserved. The basic principle allows the peoples to choose freely their rights of political status and to determine their own social, economic and cultural status. International law is very clear on this principle, the Article 1 of the United Nations charter affects the right of self-determination. Previously it was included in Atlantic Charter and the Dumbarton Oaks which developed in the United Nations charter.

The inclusion of this principle in the United Nations charter makes universal its appreciation in order to maintain peaceful and friendly relations among the members of United Nations.⁸¹

According to international human right organization, any type of activity which prevent some from rising voice for his freedom and rights is a violation of human right and these types of activities should be prevented". So, all the acts mentioned above are directly or indirectly violating the rights especially the right of Kashmiri people.

3.19 National Security Act (NSA)

This act introduced security forces to keep someone without any charge or trial for almost a year on the basis of preventing him acting in a manner harmful to state security or relations with foreign powers.

3.20 Official Secrets Act (OSA)

It allows the government to check or even stop publications critical of government. The Newspapers Incitement to Offences Act 1971 and the Criminal Procedure Code. This act provide 'special powers to authorities 'to search anyone anywhere and arrest without a warrant.

Conclusion

In the light of the above discussion, the conclusion will be that, India has been violating all human rights in Kashmir since the independence of both countries. All the above-mentioned acts have same objective, to target the people of Indian occupied Kashmir and stop them from rising voices for their freedom. There are many examples which have been reported by different source about how the Kashmiri people are tortured by Indian government and how human rights are being violated in Kashmir by Indian government and especially their armed forces and police. These types of reports are also published by many human right organizations. The acts like AFSPA, TADA and POTA are clearly violating the international human rights and also it is clear violation of Charter of UN which is India itself part of. And these laws not only violate the International laws but also violating the laws mentioned in constitution of India. So, in order to

⁸¹Anil Kalhan ; et al. (2006). "*Colonial Continuities: Human Rights, Antiterrorism, and Security Laws in India*". 20 Colum. J. Asian L. 93.

prevent them, these so-called Human Right Organization should take some serious actions against all these violations.

CHAPTR 4

Examination of Human Rights Violation in Indian Held Kashmir

4.1 Introduction

Kashmir is a territorial area, where law is on the hands of authorities. In Indian Held Kashmir, every twenty citizens are commended by one soldier for every time. In territorial area Jammu & Kashmir there are over 3,00,000 army men, 5,00,000 prepared troops, 1,30,000, central police forces and 70,000 Rashtriya Rifle soldiers, as against the total residents of 1 crore.

The people of this conflicted zone are fighting for freedom from early nineties, but the role of defense and security forces are used endlessly. Violation of Armed Forces in Jammu and Kashmir have brought bang to the composure. Jammu and Kashmir population of Muslims life is not easy, they face many problems in their life. Even they are killed without reason and without investigation in anywhere. In an international level peaceful protest is the image of democracy, but in Kashmir peaceful protests are tortured by forces, and many freedom protestors are killed on the spot with an excuse of maintaining order. This study will be helpful to show the people on an international level, how state violence is established through a culture of institutional freedom to the state forces where the police, the judiciary and forces are free to subjugate the people and violate the rights of the people of Kashmir. Also, this study tells us that how state actors and authorities used power on people of Kashmir and human rights through violation.⁸²

Result of this cruelty and violation in Indian Held Kashmir is uncontrolled and enforced disappearance, which was estimated 8,00 persons, more than 70,000 were killed, and revelations of more than 6,000 unknown, unmarked and mass graves was recorded in the month of November 2013. In 2014, Kashmir Home Department exposed the mass grave issue of the Kashmir, because there are only 15 to 16 familiar research laboratories in the government or in secretive sector for

⁸² Mohmad Saleem, and Aneesa Shafi. "Status of human rights in democratic setup: Experiences from Kashmir." *Journal of Law and Conflict Resolution* 5, no. 3 (2013): 41-47.

DNA tests. The respected Supreme Courts also abandoned up protecting criminals by preservation in the path rival fake come across case refusal of approval for action under the law of AFSPA so levitation yet extra barrier with mediation the committers and to support and bring domestic laws against Disappearance, Enforced, Torture, and other type of violation.

Human rights violations began in Occupied Kashmir in 1990. In Indian Occupied Kashmir operations of military forces were marked by unnecessary and unequal use of force for Muslims and non-Muslims community. Soon after the death of Burhan Wane, in 2016, civilian protests were started in whole Kashmir for the right of self-determination for their rights like, state violence, violence by too much strength and force by armed forces, and many rights of Kashmiri people were violated by forces especially in Kashmir valley. But as usually Indian Government denied to give the right of referendum to the people of Kashmir in Occupied Kashmir. Also, the Government of India denied from another request of United Nations in 2016, this request was basically right of entry to Jammu & Kashmir to examine violations of human rights. United Nations again wanted to reach Kashmir for investigating in 2017 and 2018 but India denied it again with lame excuses.

In May 2018, foreign journalists based in India wanted to travel to certain areas without permission, but they were never given permission from the Government of India.⁸³

4.2 Killings

In Indian Occupied Kashmir, extrajudicial killings of Kashmiri people by India army, police and security officer continue to happen with disturbing situation in Jammu & Kashmir. All the time Indian Occupied Kashmir is an alarming situation. Everyone is in fear of killing every time. Till now thousands of innocent citizens were killed by Indian forces without any cause. The Home Department of the Government of Jammu and Kashmir put on 14 February 2013, the Draft Jammu and Kashmir Police Bill, 2013 on its website and invited suggestions and comments from the public within 15 days. Kashmir was under curfew at the time of publication of the draft bill, and there was no access to the internet at that time. On 9 February 2013, Afzal Guru, a Kashmiri man was hanged in Delhi, and declare him a terrorist agent. The Government of Jammu and Kashmir had imposed a curfew on Jammu and Kashmir at the same day, and blocked access

⁸³ Abdul Majid, and Mahboob Hussain. "KASHMIR: A Conflict between India and Pakistan." *South Asian Studies (1026-678X)* 31, no. 1 (2016).

to the internet, cable television, and mobile services. Many were killed and over a hundred injured in fights between protestors and police/security forces. The Home Department extended the deadline on 27 February 2013, because of firing comments and suggestions on the bill by one month from March 1, 2013.

In February 2013, the use of 'pepper gas' shells by law enforcement officials supposedly headed to the deaths of three people whose lungs conditions were aggravated by revelation to the gas, and affected dozens of others. In the year of 2013 up to July cruelties has been done usually and 36 persons were killed in these months, 3 prisoners were killed, 474 were tortured/critically injured, 290 civilians were arrested and almost 350, women were harmed by gang raped.⁸⁴

Indian army personnel opened fire on November 2014 in Budgam districts, as a result of this firing two persons were killed and two were seriously injured. Indian Army admitted being responsible for death of Faisal Yusuf Bhat and Mehrajuddin Dar, they also admitted that there killing was mistake of army. 22-year-old leader Burhan Wane who was the part of the armed group Hizbul Mujahedin, was killed in Indian-administered Kashmir on 8th July 2016, by the security forces. He was highly active on social media and had been called a "Twitter terrorist". His funeral prayer attended tens of thousands time, at this time many conflicts were arise between the security forces and protestors. The security forces killed several people and fired live shells on public and protestors.⁸⁵

According to the SATP, fatality rate due to terrorist violence in the Northeastern states reduced from 273 deaths in 2015 to 119 during the year. If we compare year of 2015, with year of 2016, the killing cases were increased in 2016 as compare to 2015, in Jammu and Kashmir, only in the month of January 223, were killed by security forces. This figure increased and reached at 300, killings in the whole year of 2016. Year of 2016, was very dangerous in Kashmir, due to the incident of Buhran wani. In Indian held Kashmir, the situation of the Muslims in Indian Occupied Kashmir was very bad, many were killed in protests, majority were injured in 2017. around an estimated value 160, civilians were killed in 2018. According to the Jammu and Kashmir coalition of civil society, many issues of violation were registered during these 45 years. According to one

⁸⁴ Ashish Kumar Dixhit. "*Human rights abuses in Jammu and Kashmir.*" International Journal in Management & Social Science 2, no. 2 (2014): 175-184.

⁸⁵ Ibid

report of JKCCS, 1,081 civilians have been killed by security forces in extrajudicial killings between 2013 and 2018.⁸⁶

In the year of 2018, according to another report of JKCCS, 160 INNOCENT Kashmiri Muslims were killed by security forces. Kashmir is the conflicted territory, where most of the clashes happened for the region and a piece of land. In 2018, four main districts of Kashmir, in Pulwama, Kulgam, Shopian, Anantnag, 85 people were killed in counter attacks. In the report of Civil society groups, they wrote that in 2018, many civilians were killed due to excessive use of force by Indian armed forces against the civilians. Their report is similar to the pattern found by OHCHR from July 2016 to March 2018.

4.3 Violence against women in Kashmir

The State has been the focus of interest for the world since the time of partition. During the last two decades, a continuing rise in terms of gender discrimination due to the predominant economic, social, and political turmoil has become obviously showed. Involvement of women in the socioeconomic and political processes is the new change. Due to the development in the world, and awareness of the rights of the women, they have awarded with the right of freedom in their lives, in their speech, to get education, to do work in different fields. Women's role has been ignored disturbing in human development and well-being. Their lives have witnessed sweeping changes compelling them to be silent spectator amidst the fast-changing socioeconomic scenario. So much so, that the changes have developed signs of exclusiveness resulting in an identity crisis. In Jammu and Kashmir, women are the most vulnerable and violated by security forces. Women of Occupied Kashmir suffering from intense humiliation, harassment, and disturbing experiences with prolonged depression. Women in Jammu and Kashmir are not safe even in their own houses, Security forces entered their homes without permission and violate the women. In Occupied Jammu and Kashmir violation on women increased day by day.⁸⁷

⁸⁶Hajjar, Lisa. *Torture: "A sociology of violence and human rights"*. Routledge, 2013.

⁸⁷ 53Bukhari S. Why The 51-Day Curfew Will Change Nothing in Kashmir. *ScoopWhoop News*. 2016 August., <<https://www.scoopwhoop.com/Why-51-Days-Of-Curfew-Is-Nothing-New-For-Kashmir/#.gn42opwp0>>

In Indian Held Kashmir, violation on women like, rape and other forms of sexual violence have continued to be used as a tool of repression. Rape and other forms of sexual violence have continued to be used as a tool of repression. During searched operations, at the time of night, men are being tortured and in the front of their eyes rape of women takes place. Rape and sexual violence are proved in many cases in Jammu and Kashmir. Security forces are very cruel to the Muslims in Occupied Kashmir, teenager and innocent girls are also victimized by Armed forces. Teenager girls are also harmed by the security forces. In 2016, case of 16 year old girl was reported, she was raped by Indian army Officer in Kapwara District. Girl was complained into recording statement, but there were not any action took place against soldier, and this complain is pending till now. Another case was recorded in January 2018, against two police Officers, they raped an eight year old, she was belonged from Bakarwal community, police officers killed her after rape. The charge sheet filed by the police stated that one of the motives was to scare the Muslim Bakerwal community into moving away from the area. The trial is ongoing. In 2018, a group of women associated with APDP & JKCCS submitted petition to the SHRC and wanted inquiries be made in 143 cases of sexual violence in Jammu & Kashmir between 1989 and 2017. but till now there is no progress has been made at the time of publication in these cases.

In 2013 a special report was published on violence against women, the causes and consequences, of this report was, that women are not save in Indian occupied Kashmir. Whether in their homes or in public, in this report it was stated that there is no right for women in Indian Occupied Kashmir, and there is no law for forces, they have right to do anything with Muslim citizens in the State. One important case that shows the state's failure to investigate and prosecute allegations of sexual violence and addressing freedom for sexual crimes in Kashmir is the Kunan-Poshpora mass rape, which took place 27 years ago and for which challenges to pursue justice have been denied over the years by the authorities and forces at different levels.⁸⁸

On 18th July, 2013, petition was filed in Kupwara district court. But due to insufficient evidences and failure of police in investigating the case properly, there was no progress even after passage of months. After that, five people again filed a petition to Jammu & Kashmir High Court. Jammu & Kashmir High Court ordered to pay monetary compensation for the loss within three

⁸⁸ Ibid

months. Instead of following the order, State government challenged this order in Supreme Court of India.

4.4 Enforced or Involuntary Disappearance

Since 1990, many enforced/involuntary disappearances have been documented in Indian Occupied Kashmir by security force or police. According to a report, there are about eight thousand plus cases of enforced disappearances. This not only stops at disappearances but some time it results in deaths of those people. There are many cases reported in Jammu & Kashmir, where civilians disappear and are not seen for months, sadly some of them end up dying. In 2013, seven cases of enforced disappearance were reported, out of these seven four were found after few months in very bad condition, like they were kept in very bad place. And three of them were found dead. Similarly, in 2014, three civilians disappeared and all of them were found dead.

India denied many requests of human right organizations for visiting Kashmir. In 2017, when third Universal Period Review (UPR), Indian government denied the all eight recommendations for approval of ICPPED. Similarly, back in 2010, United Nations working group was requested to Indian Government to visit on Indian occupied Kashmir but India denied. Indian government never replied to any of requests positively and eventually denied, like in 2018, India denied the request of UN Working Group on Enforced or Involuntary Disappearances (WGEID) to visit India but, India not only denied all the request but also denied all the claims of enforced disappearances for Indian Occupied Kashmir. In order to cover all enforced disappearances, India said that there are only four thousand disappearances and they are not resident of Kashmir but they are the one who crossed LOC. In has implemented many acts to support these disappearances like TADA and POTA etc. People of Kashmir are facing many problems because of these disappearances. They do not even know whether there relative is dead or alive, and they are not even safe in their homes because of these black laws introduced by India.

Indian security forces are responsible for all the disappearances in Kashmir, and the reason behind all this is to spread fear and terror among Kashmiri People, and to stop them for rising voice against oppression of India and to demand their rights. There is still no proper justification of all these disappearances and that is why India is not letting any Human Right Organization to visit Kashmir.

In 2018, disappearance of three persons was reported, and later their dead bodies were found.

1. Manzoor Ahmad Bhat from Hajin (25-year-old)
2. Mushtaq Ahmad Mir of Mir Mohalla, Harwan
3. Sheeraz Ahmad Bhat of Laroo, Kulgam (45-year-old)

While in 2017, 11 cases of enforced disappearances were stated. After few months the dead bodies of four of these persons were founded. Indian Government have not taken any action against these violations, like enforced disappearances of Kashmiri people in India even though UN OHCHR's report on Kashmir in June 2018 recommended India to not only approve ICPED but India denied to accept it.

India did not permit the United Nations Working Group on Enforced or Involuntary Disappearances (UNWGEID) to visit Kashmir for investigate the human rights violation. In Palwama village, 55 year old man was arrested by Security forces on January 3, 2016. Name of this old man was, Ghulam Mohammad Hajam. Relatives of old man did not know, where he was placed. As usual after (14) fourteen days of his disappearance his dead body was found in a field of Kapwara. Another case of disappearance was reported in July, 2016, Fayaz Ahmed Sofi, son of Ali Mohammad Sofi Naidyar, citizen of Awantipura was disappeared from Markit. From 9 July to 16 July, family member of this victim were searched him but they could not find him. On July 16, his dead body was found in Kangan. According to the victim's family, his hands were tied, grave injuries were quite visible on his head and he had scratches all over his body, it seems he was tortured before being killed. His family expected he was being hurried and arrested by the state cases of enforced disappearances continued to be reported in 2018.⁸⁹

4.5 Unknown, Unmarked and Mass Graves

In Indian Occupied Kashmir people were killed without any reason, and their dead bodies were thrown in different places and unknown areas. In Jammu and Kashmir, State Human Rights commission advised the government to investigate the existence of 2080 unmarked and mass graves in two villages Poonch and Rajouri. Association of Parents of disappeared persons appealed to a filed on 24, October, 2017. According to this appeal 3844, unmarked and unknown mass graves in Poonch and Rajouri Districts of Jammu and Kashmir. SHRC in its order once again acknowledged the presence of unknown, unmarked and mass graves in Jammu and Kashmir and

⁸⁹ Kashmir Reader. Pulitzer-winning journalist denied entry into India for travelling into 'protected areas of Jammu and Kashmir'. 2018 December

directed the government for a full investigation including DNA Testing, Carbon dating and other forensic techniques.

After investigation, it was found that there were about two-thousand and eighty unmarked and unknown graves in Poonch only, as per the reports of commission. In 2015, Association of Parents of Disappeared Persons (APDP) and International People's Tribunal on Human Rights and Justice in Indian-administered Kashmir (IPTK) reported three hundred and thirty-three cases of human right violations. Indian army, paramilitary and police officers were involved in all those violations, since they have freedom to do anything to Kashmiri people just for the sake of maintaining the order, and this order is maintained by killing many innocent people.

SHRC, passed an order for investigating the unknown, and unmarked mass graves in the district of Poonch and Rajouri in 2017, also suggested comprehensive investigations using DNA and other modern techniques. Government of India has not implemented on this recommendation and has stated that deficiency of infrastructure for failing to investigate the mass graves. On 4 February 2018, an APDP team of lawyers was forbidden from visiting the grave site of Atta Mohammed, who passed away on 10 January 2016 and had been involved in unmasking mass graves in Uri. Claims of human rights violations, if backed by substantial civilian protests, often result in the government organization examinations and constituting survey commissions.⁹⁰

4.6 Use of Pellet Guns

In Indian Occupied Kashmir security forces violate on human rights by using pellet guns and shotguns. Armed forces try to stop protestor by use of pellet gun which is a clear violation of human right and international laws and end up killing them with their pellet guns. The use of pellet guns leads to many problems and also it is very dangerous weapon to be used against protest, as it can lead to serious injuries, permanent blindness and sometimes it leads to death of a person. There are many small metal balls in bullet of pellet gun and when it is fired, all these metal balls spread in air, depending upon the range of target it can be very dangerous. In its use against protest, it can injure more than one person. According to the organization of human rights, pellet shotgun is made up of 500 to 600 shots which are resemble ball manners.

⁹⁰ See Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, G.A. Res. 34/52, U.N. GAOR, 39th Sess., Supp. No. 34, U.N. Doc. A110034 (1975).

Due to the use of pellet shotgun on citizens and protestors. resulted in many deaths and serious injuries of hundreds of persons of Muslims of Kashmir between 2016 and 2018. In Kashmir, time period between “2016 to 2018” was very dangerous for the Muslims of Kashmir. Many people were injured by pellet. Calculated value of harmed persons were 1726 people. According to the data collected by the Jammu and Kashmir State Human Rights Commission (SHRC) of human rights violation in the year of 2018.State human rights commission stated that 142 persons were injured due to pellet gun in 2018. While in between 8 July 2016 and 27 February 2017 6,221 people had been injured by pellet guns according to the Chief Minister Mehbooba Mufti statement. The Chief Minister also reported that 54 persons of Indian Occupied Kashmir suffered from of visual damage due to pellet injuries.In other side civil society organizations assertion that the number of people moderately or completely blinded due to pellet injuries is higher.

State Laboratory had conducted tests on the impact of metal pellets on February 2018, but result cannot show till December 2018.High Court Bar association appealed to the Supreme Court of India against the use of pellet guns in Kashmir, on 2016.The Union Ministry of Home Affairs told the parliament that an expert committee should be set up to explore alternatives to pellet shotguns had recommended the use of a chili-based munition PAVA (Pelargonic Acid Vanillyl Amide) shells, STUN-LAC (stun grenades and shells) and tear gas shells to disperse the protest on March 2017. Security forces of India are not controlled by authorities or other administration institute of human right violation, and using pellet guns. According to the report of 2018, about 40, people were injured, 35 persons lost their eyes due to the pellet shutgun, in Sophian and Anantnag district. Indian forces used pellet guns for controlled the citizens of Kashmir, to suppress their voices for freedom.⁹¹

4.7 Four persons who lost their lives after being hit by pellets were identified as

1. **Wasim Ahmad Thokar** son of Haji Mushtaq Ahmad from Schoch, Kul gam. Suffered from pellet gun injury for a year and the died
2. **Adil Farooq Sheikh** (14 years old) son of Farooq Ahmad Sheikh from Yarigund, Kawoosa, Budgam. He was a student of class 2nd year. He was injured by pellets on April 9 during by-poll parliamentary elections.

⁹¹ Barry, Ellen (28 August 2016). "An Epidemic of 'Dead Eyes' in Kashmir as India Uses Pellet Guns on Protesters". The New York Times. Retrieved 5 February, 2020

3. **Mohammad Younis Sheikh** (16 years old) son of Abul Khaliq Sheikh from Saimoh, Tral, Pulwama. He was a student of 1st year. He was injured on August 9 and also could not survive and died later.
4. **Owais Ahmad Dar** (16 years old) son of Mohammad Shafi From Kakapora, Pulwama. He was a student of 1st-year. He was hit by pellets on August.

4.8 Arrest and Detention

In Indian Held Kashmir arrests of citizens is not a big issue for the authorities of Kashmir. Authorities have arrested nearly 4,000 people since 2013, International Covenant on Civil and Political Rights, Article 9, imposes that, India provides for the rights to freedom, which includes, right of freedom, and right of freedom from liberty. The Human Rights Committee, the UN expert body that oversees the implementation of the ICCPR, has said that when there is a judicial determination that there are no grounds for continued detention, any further detention amounts to an arbitrary deprivation of liberty.⁹²

Here the story of 16-year-old boy who was arrested with any reason and after that he was accused of being involved in protest and had used deadly weapons, this whole thing was lie and even after his bail police did not bail him and kept him in jail for months. Sajad Mir a 16, year old boy arrested by security forces. The police without informing his family, took him in Jail. And this jail was 300 kilometer away from his home. On 2013, April 9, High court was annulled the arrest order against Mir. Jammu Kashmir police rearrested him again under the Ranbir Penal Code involved in rioting armed with deadly weapons, attempt to murder, endangering the life or personal safety of others, and attacking a public official. After two days, on 4 May, a trial court ordered that Mir be released on bail after his family agreed to provide surety. But the police did not release him. Instead, Mir was detained at various police stations in Srinagar for more than a month. The police did not inform either Mir or his family about the reasons for his continued detention, and he was not brought before a judicial authority, rendering his detention arbitrary under international human rights law and illegal under Indian law on multiple counts. On 30 May, he was taken to the Srinagar Central Jail. He was finally released on bail on 13 June, 39 days after his bail was

⁹² United Nations Human Rights office of higher commissioner, Retrieved 5 February, 2020, <<https://www.ohchr.org/EN/HRBodies/CCPR/Pages/GConArticle9.aspx>>

granted.⁹³ His brother Ghulam Mohammad Mir in an interview said that a policeman had told him, “Do not go to the courts or the media. Even if (Mir) is released, we will just arrest him again and again.” (Ghulam, 2013) Same as another case, on various criminal charges, attempt to murder and in the case of stone pelleting. On 7, March 2013, Eighteen year old, Faisal Qayoumi was arrested by security forces. Family court agreed to provide surety and approved bail. However he was in custody of police, when he was finally released. 93

If we look at the constitution of India, Constitution of India also says that no person shall be disappointed from government about his life or personal freedom, Article 21 provides rights to the citizens of Jammu and Kashmir. According to procedure established by law, and the Supreme Court of India has ruled that such a technique must be just, fair and reasonable. The continued detention of Sajad Mir and Faisal Qayoom Bhat after a judicial authority ordered their release constitutes an arbitrary deprivation of liberty under both Indian and international law. A number of laws in Jammu and Kashmir provide the legal basis for arbitrary detention, but the one that is used most regularly to stifle protests and political dissent is the Jammu and Kashmir Public Safety Act (PSA) 1978.⁹² The PSA does not provide for a judicial review of detention, and state authorities have challenged orders by the Jammu and Kashmir High Court to release people detained under this law by issuing successive detention orders .⁹⁴

India’s detention policies are being criticized internationally but still India is following those policies. In 2014, it was declared by India to Committee of Rights of Child that they revise their policies and detention policies would be different for children under 18 years of age, but even after this declaration of changed policy the reports of Office of the United Nations High Commissioner for Human Rights suggest that India is still following their old policies and underage children are being kept in jail without any allegation and lock-ups for several days. They did not stop there, they also violated policies by mistreating them.

Jammu and Kashmir High Court called invalid the order of the Jammu and Kashmir Director General of Police (Prisons) which is necessary to move an under experimental trial, one twenty eight, prisoner isolated the state in 2018. Transfer was done to meet any administrative

⁹³Mohiuddin, Lubna. "Human rights violations: a case study of Kashmir." *Pakistan Horizon* 50, no. 2 (1997): 75-97.

⁹⁴ Ibid

demand, courts established that the state was unable to prove. However, observers have expressed doubt that this decision will stop the transfer of PSA internees outside of Jammu and Kashmir. Muslims community of Kashmir were in the favor of both India and Pakistan. It makes confusion since India exposed its portion of the region of its independence and statehood on 5 August, leading to clashes between security forces and residents and increasing tension with Pakistan. India demand for the removal of status that is the part of Pakistan. According to the government report, India arrested more than 38000, people in occupied Kashmir, while 26,000 have been released since. In Indian Occupied Kashmir, people did not know, that why they were arrested, why they were injured why they were killed or why they were released. According to Indian authorities and Police, they kept the Muslims under the Public Safety Act. This law permits for custody up to two years without any reason or charge. First time an Umbrella Organization shows the status of arrests of the different people. According to this data more than 200, political workers, two chief ministers of the State were arrested. More than 3000 were listed as a stone platers and attackers. Eighty five prisoners were shifted from Northern India to Agra Jail. Rights group Reprieve International said the crackdown was separate and unparalleled in the recent history of the region and the detentions had donated to prevalent fear and isolation.⁹⁵

“The communication blackout, security clampdown and detention of the political leaders in the region have made it worse, said Aakar Patel, head of Amnesty international India, said that the further Indian government’s policies like detention of political leaders, lockdown/clamp down and communication blackout have made the conditions of Kashmir worse and it isn’t improving”(Patel, 2018).

In the light of the detention of many important political members, all Indian authorities admit that Indian government’s policies are not favoring any type of political activities, and also, they have declared that the India is democratically very unstable. Indian government also stop the connection between Srinagar and Delhi, which also made things worse.

4.9 Torture and Harassment of Political Activist

Kashmir which is the disputed area between Pakistan and India, inhabitants of this state are suffering violation from authorities from many decades. “Their voices were suppressed by

⁹⁵ Ibid

forces, they were killed and tortured without any reason. Kashmiri people are fighting for their freedom from early Nineties. Due to the torture, people of Indian Occupied Kashmir are made psycho. Torture used by the Indian forces to control the people of Kashmir. Torture has been used for Inflict and mental and physical pain for Kashmiri Muslims, who are fighting for their right to self-determination. They are terrorized, because India want to, intimidate them, debrief them, pressure revelations, or to punish them for being seen as supporters of the resistance movement. Since the beginning of 1947, which shows the civil freedom, and illogical detentions under the emergency Administration, in 1950s and 1960s, terror released against political and religious organizations, and till 2008, period to quell popular uprising, torture deaths, disappearance violence have been marked by the Indian state's ruler over Kashmir.⁹⁶

India has been trying to hide her violations of human rights in Kashmir, so that India can keep representing itself as a secular, modern, democratic and liberal state. We can see an example of human right violation, Farooq Ahmad Dar, an innocent citizen of Kashmir was tied in front of army jeep, and jeep traveled over 28 kilometers in district of Budgam.” The army officers in jeep were shouting that they would treat everyone like this who would try to throw stones. He said that he was traveling to village when he was arrested and he was accused that he led the stone throwing protesters. Indian government responded to this whole event by rewarding the soldier who order to arrest and punish Farooq Ahmad Dar. This was a not only a clear violation of human rights but also it was being supported openly. Farooq Ahmed Dar fought for his right and demanded government for compensation money which were about one million, but Indian government rejected to pay compensation money and said that they were not responsible for any type human right violations.

Target killings of activist and politicians is becoming common in Kashmir since 2016.” In 2016, there were at least five target killings of political activists and the reason behind all these target killings is to oppress all those people who are rising a voice against Indian government and how they are violating human rights. In 2018, Hurriyat Conference and Tehreek e Hurriyat, who are working and rising voice for right to self-determination were brutally killed. Killing activities of political activists are following:

- Muhammad Yousuf, Hurriyat activist, was shot to death at Charangam village on 12 Feb, 2018.

⁹⁶ ibid.

- Ghulam Hassan Dar, Tehreek-e-Hurriyat activist, was shot to death along with his nephew Bashir Ahmed Dar on 5 May, 2018.
- Hakim-ul-Rehman Sultani, Hurriyat activist, was shot to death outside his home in Reshipora.
- Hafizullah Mir, President of Tehreek-e-Hurriyat, was shot to death at his home in Badry-Akingam

During same year 2018, eight activists of political parties namely People's Democratic Party, National Conference and Bharatiya Janata Party were shot to death.

Syed Ali Shah Geelani, chairperson of the Huriyat Conference, Mirwaiez Umar Farooq were arrested in their houses for the most time in 2018. During 2018, Mir Waiez Umar Farooq was put under arrest over 20, times. Many leaders of Jammu and Kashmir Liberation Front leaders were also arrested in Jammu and Kashmir. Chairman of Jammu Kashmir Liberation Front, Muhmmad Yasin Malik was arrested 23 times in 2018. Qazi Yasir and Ashiq Hussain were arrested under public safety act, and shifted to a jail in Jammu. Dukhtran-e-Millat Chairperson Aasiya Andrabi along with Sofi Fahmida, Nahida Naseem and another party activist were arrested at Aanatnag district on 20 April, 2018.” Aasiya Andrabi and two of her associates were later sent to judicial custody after their 10-day National Investigation Agency (NIA) custody expired in July. A fresh public Safety Act, which is 37th in a row was slapped on the chairman of Muslim League Jammu Kashmirat.⁹⁷

4.10 Attacks on Families of Policemen, Activists and Militants

Not only political activist but also their family members have to suffer a lot just because their family member is asking for their rights. Not only they have to suffer but also, they are many times attacked as they are family member of police officer, politician or militant.

Shakeela, wife of Abdul Majeed , He was the worker of People's Democratic Party, both husband and wife were attacked by two masked man, with sharp edged weapon.Later woman

⁹⁷ Osuri, Goldie. "reflections on witnessing with the Association of Parents of Disappeared Persons, Kashmir." *Feminist Review* 119, no. 1 (2018): 144-153.

could not bear the injuries and died after some time. Government forces arrested many leaders on big occasion of the year. Father and brother of an active Hizbul Majhdeen was arrested on 7th August,2018. Student of 11th grade and his brother was also arrested on same day. On 30 August 2018, police arrested Asadullah Naikoo, father of the Hizbul Mujahideen. 97

4.11 Violations of the right to health

India being the part of many human right organization should respect, fulfill and protect human rights in its own country but India is doing everything opposite to get in Indian Occupied Kashmir. They not only failed in protecting human rights but they are also violating all those human rights in their own country. Right to health is one of the most important right is being violated by many means like use of pellet guns, which result in severe injuries, permanent blindness and sometime death, the right to health is also violated by blocking roads so that injured people cannot be moved to hospitals and results in their death, injured people are also arrested by security officers by patrolling hospitals. Also, the communication blockade like blockage of internet and networks, and curfews also impact the timely medical assistance of ill or injured person. In 2016, one association reported that due to communication blockades there is increase in depression and anxiety among patients, this can lead to many new problems like increase in rate of suicides.

According to JKCCS, security forces destroyed 200, ambulances, in 2016. Security forces also attacked ambulance and ambulance drivers, several doctors were killed by forces, and physically assaulted by security forces as well as by protesters. In one incident, security forces allegedly targeted an ambulance driver with a pellet-firing shotgun that injured him seriously while he was ferrying patients to the hospital. Due to several cases of medical services personnel being targeted during the 2016 unrest, the Doctors Association Kashmir appealed to the security forces and protesters to ensure free and safe passage to ambulance drivers and medical staff so that everyone could get access to health services.⁹⁸

⁹⁸ Lone, Fozia Nazir. "Incorporation of Kashmir into the Indian Union: An International Assessment on Human Rights and Democratic Government." In *Historical Title, Self-Determination and the Kashmir Question*, pp. 239-314. Brill Nijhoff, 2018.

Tear gases were shot near the hospital by police officers while dealing with protestors. Tear gas affected many people inside the hospitals, which affected many patients and working staff inside the hospital, it also affected the ability. Curfews are also the hurdles for medical staff as they get stopped by security forces.

Conclusion

In the above all discussion, the researcher concludes that the India keeps on violating the human rights despite of being part of many human right organizations especially UN. Kashmiri people face many difficulties because of all this propaganda against them to suppress their voices for their right. I salute all Kashmiri because even after facing so many difficulties, getting arrested without any reason, tortured they are still fighting for their rights and want to be with Pakistan. I salute them!

CHAPTER 5

Conclusion and Recommendations

In the above discussion, the research concludes that the Kashmiris are robbed of basic rights: right to live, right to health, right of self-determination and many more basic rights. India has implemented many laws in Kashmir, which are objectionable to the basic human rights. This type of laws can never be allowed to be implemented in any part of world, but Kashmiri are facing them from the very start.

Kashmir conflict arose when the humiliating treaty of Amritsar was signed between Gulab Singh (Raja of Jammu) and by Harding, Frederick Currie and Henry Lawrence from the British side. English people know for their so-called obedience for human rights. This act of British, selling the Kashmir, escalated real quake and was convicted by many countries. Treaty of Kashmir is basically a recorded document to highlight the atrocity of British towards Kashmir.

Even after the introduction of partition plan, the matter of princely state wasn't solved, Kashmir was also part of it. These princely states were causing clash between India and Pakistan. India reported matter to the UN and blamed Pakistan for the whole conflict. UN ordered both parties to call back their forces and the whole matter was supposed to be solved in democratic way but it was never the case as India denied to do so and took over the Kashmir. Although, the demand of plebiscite was very logical as it was fulfilling all the human rights. But sadly, the right of self-determination of Kashmir was robbed by India by the use of power.

India not only stopped there but also introduced many draconian laws, these laws clearly violated human rights and are being used against Kashmiris. In the light of all discussion, I would like to say that the only way to solve this problem is to give Kashmiri people right of self-determination and they should be allowed to choose by way of democracy. All International forces should ensure Kashmir its basic rights, and both India and Pakistan should cooperate to solve this problem.

Recommendations

In view of this study, the following recommendations are hereby made over Kashmir for the protection of human rights violation in Indian Held Kashmir.

- India and Pakistan should follow the resolution of UN
- India should move back its force from Kashmir.
- UN and other human right organizations should be allowed by India to visit Kashmir.

- An investigation should be done under judiciary authority and the reports should be made public
- India should depart and revisit its draconian laws as they are clear violation of Human rights.
- All activists working on protection of human rights should be allowed to investigate and public those reports.
- Kashmiri people should be made free and all kind of illogical laws and restriction should be removed.
- Kashmiri people should be given the right of self-determination and there should be a plebiscite in order to know the will of Kashmiri people.
- All the violence on Kashmiri people should be highlighted by NGO's and other human right organizations.

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