

CONGRESSIONAL HEARING ON HUMAN RIGHTS IN SOUTH ASIA

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Alice Wells, Acting Assistant Secretary of State for South and Central Asia

Congressman Brad Sherman, Chairman of the House Subcommittee on Asia

Excellency's,

We, the Kashmir Scholars Action Group (KSCAN), express our gratitude for your concern on the Kashmir crisis and human rights violations in South Asia. We are writing to present to you our analysis of the current situation in Indian-controlled Kashmir, where the already subjected population is currently living in a state of siege since the 5th of August 2019 due to the massive violence unleashed by Indian forces.

KSCAN is an interdisciplinary group of scholars of various nationalities engaged in research on the region of Kashmir. Our research on the Kashmir conflict addresses its history, its consequences for the region and beyond, and its possible resolution. KSCAN examines the implications for an internationally mediated political solution and is of relevance to policymakers. Based on our long and active engagement with civil society groups in Indian-controlled Kashmir, we have undertaken to document and communicate the situation on the ground since the Indian state's violence against civilians has continued to mount from July 7th, 2016 onwards. Each of us has written about Kashmiri history, society and politics, and we are particularly concerned about the present conditions of violence.

We write to you now as part of our urgent efforts to check the brutality of the state's response to Kashmiris, who have mobilized in support of their demand for *azadi* (freedom). Even as we will go on to list some of the details of the humanitarian crisis, we wish to make clear that **we are calling not only for the resumption of basic civil services, the rule of law, and the restoration of human rights in Kashmir but, most importantly, for an internationally mediated political solution for this ongoing crisis.**

The August 5th Siege and contraventions to basic freedoms and rights

In contravention of international law, on August 5, 2019, the government of India unilaterally changed the United Nations recognized disputed nature of the state of Jammu and Kashmir. The government of India nullified Article 370 of the Indian constitution, thereby revoking the long-protected semi-autonomous status of Jammu and Kashmir without consultation of Kashmiri elected leaders or civil society leaders. As you may know, the Indian government has prevented international media, human rights groups, and even its own lawmakers from accessing and reporting on the ongoing human rights and humanitarian crisis in the region. These moves constitute restrictions on fundamental democratic and human rights, including due process, freedom of thought and expression, the right to information, free assembly and freedom of the

press--values that the Indian state, as the world's largest democracy, claims to champion. Through these measures, the Indian government is trying to hide the reality of pain and suffering of the eight million people of Kashmir, who have effectively been caged in their homes since August 5.

Despite the government's repeated statements of "normalcy" in Kashmir, Kashmiris continue to live in a communication blackout (on its 78th consecutive day), cut off from the outside world and from each other, unable to share the most basic details of survival. They are being subject to emergency laws which have already [detained more than 4000 Kashmiris](#) (many of them youth and children) without charge, in addition to politicians, civil society members, human rights activists, women, men, youth and children, many of them in police night raids. A civilian fact finding team reported [13,000 boys](#) have been arbitrarily detained by Indian armed troops without a paper trail since Aug 5.

In contravention of Articles 6, 19, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by India on April 10, 1979, severe restrictions on the rights to freedom of expression and freedom of peaceful assembly and of association, and violations of the right of life have been in place since August 5. There have been [civilian deaths](#) stemming from [attacks by Indian forces](#), lack of access to life-saving medication, night raids, [sexual violence](#), [loss of religious freedom](#), and severe [curtailment of freedom of opinion and expression, assembly and movement](#). The Indian judiciary's actions are no longer consistent with international and impartial legal principles. There have been [delays and obstructions to habeas corpus petitions](#) that would allow family members to meet and know of the whereabouts of their loved ones.

In spite of denying claims of illegal child detentions, the Jammu and Kashmir government's own [Juvenile Justice Committee](#) reported that 144 juveniles, including children 9 and 11, have been arrested and [abused](#) since August 5. [Detainees](#) continue to be sent far away from home. Special rules and laws imposed on the people of Kashmir clearly demonstrate that Kashmir is [not by any means](#) part of that one nation, one constitution claim made by the government of India.

There have also been reports of detainee torture, which are also concordant with Indian rule in Kashmir over the last three decades, which indicates that one in six Kashmiris has [experienced torture](#) at the hands of the Indian state. The suppression of Kashmiri people with additional [massive troop deployment](#) in the world's already highest militarized zone on earth is alarming; especially as the military in Kashmir operates with absolute legal and moral impunity.

The threat of nuclear war, and settler-colonial militarization

India claims that the changes will bring economic development and ["restore" Kashmir's "past glory."](#) The truth is that the constitutional changes will result in loss of Kashmiri ownership over land and resources. The nullification of Article 370 in the Indian constitution has meant the abrogation of Article 35A in the Jammu and Kashmir constitution which protected exclusive Kashmiri ownership of land. The Jammu and Kashmir Reorganization Act, 2019, enacted on August 5 at the start of the siege will come into effect on October 31, 2019 allowing for dispossession of Kashmiri ownership or management of land. This is classic settler-colonial dispossession. For example, while the communications blockade remains in Kashmir, the

government of India has already authorized clearance of [125 projects on forest land](#) between August and October of 2019. Settler-colonial style demographic changes in Kashmir may lead to [ethnic cleansing](#), and are [part of India's plans](#). Subramaniam Swamy, a member of the Upper House of the Indian parliament has argued for [a million former servicemen to be provided with funds and weapons to settle in the Kashmir Valley with their families](#). By installing [air defense, radar systems](#) and military infrastructure in Kashmir's prized wildlife sanctuaries, which threaten Kashmir's already fragile ecology, India also signals the possibility of nuclear war. For these reasons, the US-based Genocide Watch has issued a [genocide alert](#) for Indian-administered Kashmir. The [International Federation for Human Rights \(FIDH\)](#), the [World Torture Network \(OMCT\)](#), the [International Commission of Jurists\(ICJ\)](#), [Amnesty International](#), and [Human Rights Watch](#), as well as the British medical journal [Lancet](#) - have expressed concerns about reports of grave threats to Kashmiris and have called for an immediate lifting of the severe restrictions.

Previous reports by the United Nations and European Parliament Human Rights Bodies

The current siege escalates a three-decade long record of India's human rights violations in Kashmir. The methodologically rigorous, credible and impartial [2018](#) and [2019](#) Office of the Human Rights Commissioner reports on Kashmir detail human rights violations in *both* Indian and Pakistan-administered Kashmir. However, the violations in Indian-administered Kashmir as the reports state are disproportionate and striking.

In July 2008, the European Parliament Subcommittee on Human Rights convened a hearing on the investigation undertaken by the International People's Tribunal in Indian-administered Kashmir and the Association of Parents of Disappeared Persons-Jammu Kashmir Coalition of Civil Society (IPTK-APDP) into unknown, unmarked and mass graves and passed a resolution. In 2009, [IPTK- APDP documented 2943 bodies in 2700 unknown, unmarked and mass graves](#). This was [corroborated by the Jammu and Kashmir State Human Rights Commission in August 2011](#). It has been stated since that civil society organizations have found at least [6700 such graves](#).

Current international and Indian human rights fact-finding mission reports, briefings and statements

So far, five Indian civil society groups have been successful in visiting Kashmir and have issued fact finding reports ([Report 1](#), [Report 2](#), [Report 3](#), [Report 4](#), [Report 5](#)) on the ongoing siege. The findings of all reports are uniformly disturbing. They report mass detentions of elected officials, doctors, lawyers, and children as young as five; use of torture and lethal force against civilians; sexual violence and abuse by the armed forces; dwindling supplies of life-saving medical treatments and inability of patients to access hospitals; and curtailing of religious freedoms.

There is a deliberate silencing of people with no right to protest the siege. There are prohibitions on peaceful [assembly](#) and imprisonment for those who attempt to organize. [Written bonds](#) and fines are being employed to force silence. [Lethal pellet guns](#) are routinely used to inflict severe injuries and blindness. Due to poor medical access and fears of arrest, people are forced to treat their injuries and [remove pellets](#) at home. There is a gagging of local journalists through

[harassment, physical harm, and even detention](#) with a great deal of [constraint placed on their reporting](#). No foreign journalists are allowed to enter or report from Kashmir.

A member of the Indian Parliament, Mr. Ghulam Nabi Azad. Mr. Azad, a native of Jammu and Kashmir, was refused entry to the state thrice, and eventually had to seek intervention of the Supreme Court of India to enable his visit. Mr. Azad in a press conference held on September 30, 2019, reported that his visit to Kashmir was completely guarded and he was not allowed to move freely to places he intended to visit. He said that an atmosphere of terror, constant surveillance, intimidation, and threat of imprisonment, was used to dissuade residents from speaking to him. Mr. Azad affirmed that there is a complete collapse of the economy of Jammu and Kashmir, and all basic freedoms and human rights. He confirmed that there is no sense of normalcy in Jammu and Kashmir. His All India Congress Committee press briefing can be accessed [here](#).

Nearly [fifty members](#) of the US Congress have expressed concern over the situation in Kashmir. As you may already know, during his recent trip to India, US Senator Chris Van Hollen expressed a desire to make a firsthand assessment of the situation. Unfortunately, his visit to Kashmir was also [blocked](#) by the Indian government.

Women Against Sexual Violence and State Repression, another Indian civil society group, also visited the Valley recently and interacted mostly with women and children there. They travelled across four districts of Kashmir and also [issued a report](#). Among other human rights violations, they describe the constant threat of molestation and abuse faced by the women of Kashmir at the hands of the Indian armed forces.

In her opening statement at the 42nd session of the Human Rights Council, High Commissioner Bachelet expressed deep concern regarding the human rights of Kashmiris, and argued that Kashmiris need to be ‘consulted and engaged in any decision-making processes that have an impact on their future.’

We reiterate that the people of Kashmir are the only true representatives and custodians of Kashmir. Kashmir is **not** a bilateral issue. Instead, it is a call for the implementation of the right to self-determination, which the international community has promised Kashmiris via UN Resolution 47(1948). India has been unable to govern Kashmir peacefully and has ruled through the ‘illegal use of force’ and by subjecting Kashmiris to gross human rights violations, which is unacceptable within international law and amounts to a contravention of *Jus cogens* norms.

As regional tensions escalate, there is a genuine possibility of war between Pakistan and India. Two nuclear-armed rivals, going to war, is unthinkable - but, unfortunately, an increasing reality. This will have grave repercussions for the region and beyond. The international community must intervene, lift the ongoing siege of 8 million Kashmiris, and support the right of self-determination for the people of Kashmir as outlined in the UN Charter.

There is a human rights and humanitarian crisis unfolding in Kashmir and the United States must take notice. We urge you to continue to speak out for Kashmir and Kashmiris and urge the US Congress and Senate to adopt a resolution asking India to immediately ensure the following:

1. Lift the communications blackout and restore fundamental human rights and dignity of the people of Kashmir

2. Release all detainees immediately without condition
3. Restore freedom of the press and assembly

Furthermore, we urge the US Congress and Senate to ask the Indian government to:

1. Demilitarize Jammu and Kashmir
2. Uphold the right of self-determination guaranteed by the United Nations
3. Revoke all draconian laws which grant impunity to the Indian armed forces
4. Allow international human rights agencies to investigate crimes of gendered and sexual violence, torture, enforced disappearances, unknown mass graves and other crimes
5. Hold violators of human, civil and political rights to account

For a just resolution to the Kashmir dispute, we draw your attention to a [policy brief](#) that our collective has recently released. It contains a number of resources, including recent human rights reports. We hope you will find these resources useful in your advocacy on the Kashmir issue. Attached, please find a [fact sheet](#) on the Kashmir conflict and the ongoing siege, as well as [responses by subject-area experts](#) to the most common arguments used by the Indian government to justify the recent unilateral annexation and division of the state of Jammu and Kashmir. We also direct your attention to our [website](#) where we post regular updates on the current crisis.

We hope you will encourage the Indian government to resolve the Kashmir issue peacefully by engaging all parties to the dispute, allowing the people of Kashmir their fundamental right to decide their future.

Please let us know if you require any other information. We will be glad to assist you in any way we can.

Sincerely,

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