

TWO YEARS OF TYRANNY: INDIAN ILLEGALLY OCCUPIED JAMMU AND KASHMIR AFTER AUGUST 5, 2019

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On August 5, 2019, the Republic of India under the right-wing Hindutva-driven premiership of Prime Minister Narendra Modi revoked the Articles 370 and 35A of the Indian Constitution and treacherously abrogated the special status of Indian Illegally Occupied Jammu and Kashmir (IIOJK). The latter was a clear violation of United Nations resolutions and the International Law. The Articles 370 and 35A were guaranteed by the Indian Prime Minister Jawaharlal Nehru in January 1950 and by the virtue of such, IIOJK was allocated four seats in the *Lok Sabha*. Hence, IIOJK was given pseudo internal autonomy and the Centre was to deal only with matters pertaining to “defence, external affairs, and communications.” The Article 370 (originally 306-A), though was the brainchild of Nehru; nonetheless, it was drafted by Gopalaswami Ayyengar along with National Conference’s Sheikh Abdullah.¹

The Articles 370 and 35A

The Article 370 was indeed the deceptive instrument enacted by the Indian government which helped gaining illegal control over the IIOJK. It allowed the region to have its own set of laws and decide for itself in all matters except defence, foreign affairs, and communications. More importantly it gave the region a sense of hollow autonomy.² The Article 35A was also attributed as “permanent residents’ law.” It allowed the local legislature to identify the “permanent residents”

¹ Alastair Lamb, *Kashmir: A Disputed Legacy 1846-1990* (Hertfordshire, UK: Roxford Books, 1991), 190–91.

² “Kashmir Special Status Explained: What Are Articles 370 and 35A?,” *Al Jazeera*, August 5, 2019, <https://www.aljazeera.com/news/2019/8/5/kashmir-special-status-explained-what-are-articles-370-and-35a>.

and was aimed at protecting the demography of the region. It was to make sure that Kashmir remains exclusively to the Kashmiris including privileges related to employment, scholarship, and private ownership. The law was introduced in 1954 through presidential order and it comes under the premises of article 370.³

Abrogation of Articles 370 and 35A

On August 5, 2019, the incumbent Bharatiya Janata Party (BJP) rule had striped IIOJK of the special status that it had for seven decades by abrogating the Articles 370 and 35A. The BJP Home Minister Amit Shah moved a bill to divide IIOJK into two union territories.⁴ The move was clearly an unconstitutional one as it was boldly mentioned in Article 370 that the framers of the constitution should put every provision in the court of constitutional assembly to be approved. If the president of India unilaterally makes an order under Article 370, it would be a clear violation of the constitution. Indeed, it is too bad for the world's largest (sham) "democracy."⁵

The Aftermath of August 5, 2019

Since August 5, 2019, till now for more than two years, the people of IIOJK are witnessing an unending and unparalleled round of the Indian state-sponsored terrorism in IIOJK (see Table 1). It's been more than two years since the indigenous people of IIOJK are deprived of their fundamental rights and to exercise basic civil liberties.

Sr. No.	Nature of Atrocity/Crime	Number of Incidents
1.	Total killings (fake encounter/extra-judicial)	442
2.	Tortured/Injured	2,136
3.	Total pellet gun injured	584
4.	Persons lost complete eyesight	2
5.	Persons lost partial eyesight	24
6.	Civilians arrested	15,324
7.	Arson (houses, shops, etc.)	1,040
8.	Women widowed	26
9.	Children orphaned	67
10.	Women disgraced/molested	116

Table 1: The reported atrocities and crimes committed by Indian Forces 2019-21.⁶
(Source: *Kashmir Media Service* and *Kashmir Institute of International Relations*).

³ "Article 35A: Why a Special Law on Kashmir Is Controversial," *BBC News*, August 5, 2019, <https://www.bbc.com/news/world-asia-india-40897522>.

⁴ "India Revokes Occupied Kashmir's Special Autonomy through Rushed Presidential Decree," *Dawn*, August 5, 2019, <https://www.dawn.com/news/1498227>.

⁵ Justice (r) Fakhar-un-nisa Khokhar, "Abrogation of Article 370 and 35A by India," *The News*, September 7, 2019, <https://www.thenews.com.pk/print/523121-abrogation-of-article-370-and-35a-by-india>.

⁶ "Agenda Item 68 (a) Promotion and Protection of the Rights of Children," *United Nations*, May 6, 2021, https://www.un.org/ga/search/view_doc.asp?symbol=S/2021/437&Lang=E&Area=UNDOC; "UN Chief

The unconstitutional abrogation of article 370 and 35A had immediately been followed by strict lockdown, several arrests, and restrictions in all spheres of life. After August 5, 2019, in just 3 days more than 500 people were arrested and a petition was filed in India's top court by Tehseen Poonawalla, an activist from Indian National Congress challenging the curfew in IIOJK. Before fortnight, almost 4000 people were also arrested under the Public Safety Act (PSA), a nasty BJP manufactured law that allows the state to imprison anyone without a trial. The exact numbers had been provided by a magistrate who liked to stay anonymous. In barely over a month, approximately 722 protests had been recorded with an average of 20 taking place on a daily basis. The statistics speak loudly of the fact that the locals of the Kashmir would settle for nothing less than independence. "*Hum le k rahen Ge Azadi*" continues to be the word on the tongue of millions of Muslims in IIOJK.

The Amnesty International had begun a campaign *#LetKashmirSpeak* exactly a month after the curfew.⁷ In a world of extreme connectedness imagine the misery the Kashmiris had been put into by placing restrictions on communications, the basic need of life. Many voices were raised in America, the Indian strategic ally in the Asia-Pacific. The American Lawmaker Alexandria Ocasio-Cortez had tweeted in support of Kashmiris and urged an end to the communications blockade in the region.⁸

Demographic changes

The BJP left no stone unturned in trying to alter the demography of the region in the pursuit of toxic Hindutva ideology. In a document released by the Indian Government, it was claimed that 4 million domiciles have been issued to people to settle in IIOJK. Almost 3000 similar certificates were allocated to Gurkhas from Nepal and some from the Ignored Valmiki community.⁹ Alas, the policy finds its resemblance in the illegal settlement of Israel too when after 1948 the Jews from all around the world were invited to stay in Palestine.

Asks India to End Use of Pellet Guns on Kashmir Children," *Al Jazeera*, June 30, 2021, <https://www.aljazeera.com/news/2021/6/30/un-chief-pellet-guns-kashmir-children>.

⁷ "One Year of India's Clampdown in Occupied Kashmir — Here's Everything You Need to Know," *Dawn*, August 13, 2020, <https://www.dawn.com/news/1514652>.

⁸ "Communications Blockade in Occupied Kashmir Must End: US Lawmaker Alexandria Ocasio-Cortez," *Dawn*, October 1, 2019, <https://www.dawn.com/news/1508376>.

⁹ Rifat Fareed, "Two Years of Kashmir Unrest, Political Void and a Sinking Economy," *Al Jazeera*, August 5, 2021, <https://www.aljazeera.com/news/2021/8/5/kashmir-special-status-india-two-years-human-rights-economy>.

Horrific use of pellet guns

Since August 5, 2019, a total of 446 Kashmiris have become victims of pellet shotguns used by the Indian army. 19 of them became partially visually impaired. 144 have got their one or both eyes injured. The pellet victims in Kashmir include people from all age groups. A call has been made by UN general secretary Antonio Guterres to end the use of pellet guns against children. A report released by the United Nations on 6th of May this year provides the following data: a total of 39 (33 boys and 6 girls) children became victims of the pellet guns. 9 of them died and 30 were maimed.¹⁰

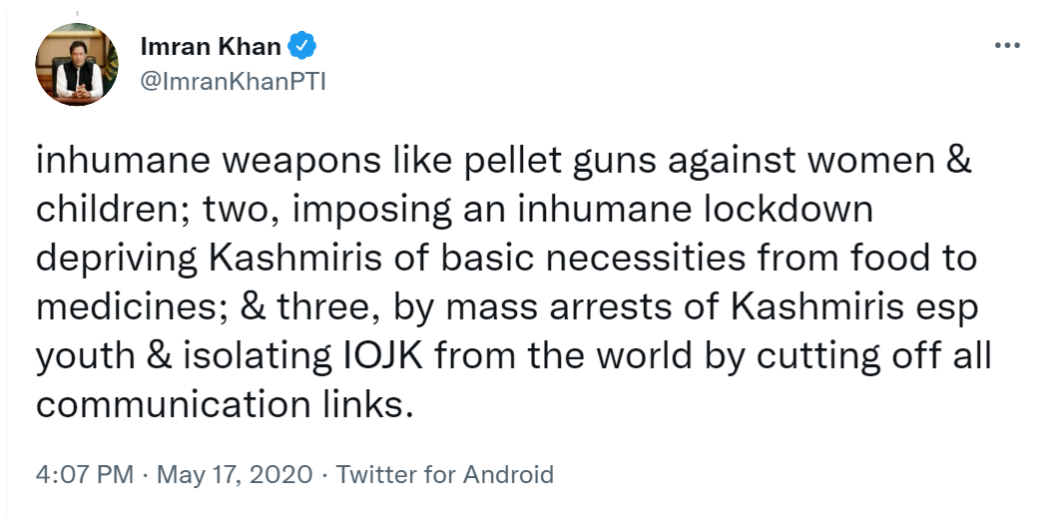


Figure 1: Tweet by Prime Minister Imran Khan condemning the use of pellet guns.¹¹

Draconian Laws

In the last two years the government has frequently used the unlawful activities prevention act (UAPA), 1967 and public safety act (PSA), 1978 for political purposes. From the beginning of 2020 till the end of May 94 FIRs have been registered under UAPA in Srinagar alone. 2021 has not been any different as 847 cases have been registered in the first 5 months under the UAPA. The United Nations has expressed concern over such conduct and demanded the Indian government to react to these allegations. The demand had been made by highlighting cases of three particular Kashmiri men named Irfan Ahmed Dar, Waheed Para and Naseer Ahmed.

Custodial killings

Many have died over the years in police custody in IIOJK. Since the beginning of uprisings in 1989 7,169 is the reported number of custodial killings in Kashmir. A lot of them were young boys who were a great hope to their families. Irfan Dar, serving as one example, had been detained by the

¹⁰ "UN Chief Asks India to End Use of Pellet Guns on Kashmir Children."

¹¹ "Imran Khan," *Twitter*, May 17, 2020, <https://twitter.com/ImranKhanPTI/status/1261976542806192129>.

Special Operations Group (SOG) on September 15, 2020, and was declared dead the next day. Petition had been filed by the family for the enquiry report on the alleged killing, but no data could be provided on the case. According to the numbers documented by Kashmir Institute of International Relations (KIIR) there were 27 and 31 killed in the months of April and May this year.

Assault on culture

The Indian authorities have been deciding on imposing a ban on an ordinary Kashmiri dress called *Pheran*. It covers the lower body and is donned throughout the year. It symbolizes Kashmiri culture. It is such a shame should it be abolished. A combination of despicable domicile laws such as CAA, NRC after revoking Kashmir's special status and now putting a ban on culture pushes the people of Kashmir in a black hole of identity crisis.

Conclusions

It's been more than two years that Kashmir has been deprived of its special status. But the Hindutva inspired BJP's treatment of the Kashmiris has only been from bad to worse. Kashmir is blessed with a landscape that many places on the planet Earth would envy. The Mughal Emperor Jahangir had once cited a Persian couplet to describe the beauty of Kashmir as "If on earth there be a paradise of bliss, it is this, it is this, it is this."¹² Now imagine for the same place to be referred as where only graveyard breeze blows and where killing and torturing is the order of the day. The shift exhibits clearly that someone is responsible for all of it and who could be that entity than the Indian Prime Minister Narendra Modi and its BJP Government.

It's been more than 7 decades that the Kashmiris are fighting for their basic rights. The world community has time and again failed the people of Kashmir. Pakistan on the other hand has consistently pushed the case of Kashmir at international forum but the rectification of this long-time dispute demands collective decision making and the granting the people of IIOJK their inalienable right of self-determination, as it was envisaged by the United Nations.

¹² Tariq Ali et al., *Kashmir: The Case for Freedom* (London, UK: Verso, 2011), chap. 2.