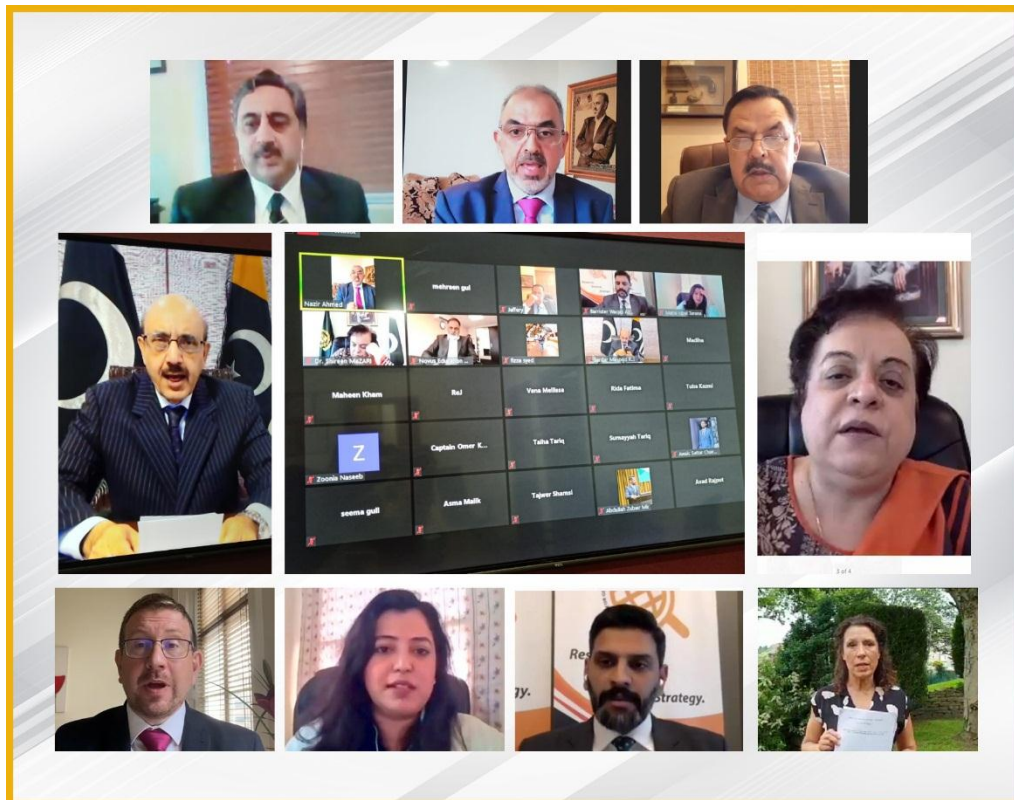




Online International Conference Report

“Role of Human Rights Watch in Thwarting Indian Atrocities in Indian Occupied Jammu and Kashmir”



Organized by
Center for Global & Strategic Studies, Islamabad on
30th September 2020

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Brief Overview

On 30th September 2020, Center for Global & Strategic Studies (CGSS), Islamabad organized an Online International Conference on “Role of Human Rights Watch in Thwarting Indian Atrocities in Indian Occupied Jammu and Kashmir”. The aim of the Conference was to stimulate the International Human Rights Organizations to accentuate the applicability of International Humanitarian Laws in Kashmir.

The session commenced with the opening remarks by Major General Syed Khalid Amir Jaffery HI(M), (Retd), President CGSS and other worthy guest speakers also presented speeches at the occasion.

The panelists of the Conference included the following distinguished personalities:

- His Excellency Sardar Masood Khan - President of Azad Jammu and Kashmir
- Ms. Shireen Mazari, Federal Minister of Human Rights, Government of Pakistan
- Lord Nazir Ahmed, Baron Ahmed, Member of the House of Lords of the United Kingdom
- Mr. Ahmer Bilal Soofi- Former Federal Law Minister
- Ms. Debbie Abrahams, Member of Parliament, United Kingdom
- Mr. Andrew Gwynne, Member of Parliament of the United Kingdom
- Ms. Maria Iqbal Tarana, Human Right Activist and Former Chairperson Commission for Women, Azad Jammu & Kashmir

The Conference was attended by 100 participants and was also streamed live on Facebook. The Conference was moderated by Barrister Waqas Aziz Qureshi, Member Board of Experts, CGSS.

Opening Remarks

General Syed Khalid Amir Jaffery – President CGSS



The situation in Kashmir has grown from bad to worse especially during the pandemic period when the world is preoccupied in combating the COVID-19 pandemic. Pakistan is making best efforts to highlight the atrocities being committed in the IOK. The demographic changes in Kashmir are being made rapidly and the Indian army in the occupied valley is treating Kashmiris in extremely inhumane manner. Starting from the 1948 when Hyderabad was occupied by Indian occupational forces there were mass rape of Muslim women and very sadly the world remained silent on the shameful act. Moreover, an evident proof is Amnesty International, just recently, has decided to walk out of India because they were being harassed, tortured and not allowed to report the violence done by Indian forces. The Kashmir conflict must be addressed by the International community. The world has witnessed that if conflicts are left festering like a wound, it results in what we see happening between Azerbaijan and Armenia, as the international community failed to resolve the problems between the two countries. If this happens in the sub-continent it will be much more dangerous. The Indians are growing more belligerent day by day ever since the acquisition of the S400, the Rafael aircraft and so on. It is high time that the international community must take notice of the increasing Indian belligerency.

Speaker 1:

His Excellency Sardar Masood Khan - President of Azad Jammu and Kashmir



It's a pleasure for me to talk to this panel of experts and opinion leaders. I will sharply focus on the subject that you have chosen for today's discussion and that is Human Rights. After the Second World War, elaborate human rights instruments have been drafted and promulgated, and therefore you have a human rights regime. We are not working in a vacuum and the UN Charter itself talks about human rights and the threefold responsibility of the Charter of the United Nations is to promote and protect the peace. The second is to promote and protect human rights, and the third is the economic development and the well-being of the nations of the world. When we talk about human rights regime or human rights instruments, the core right is the right to self-determination which was recognized in 1945 as this is the mother of all other human rights. We know that the right to self-determination of the people of Jammu and Kashmir has been denied for the past 73 years despite the passage of a dozen of Security Council resolutions. What are the instruments that we are talking about? Of course, I refer to the Charter but then we have the universal declaration of human rights. We also have two covenants; the covenant on civil and political rights, and economic and socio-cultural rights which also refer to the right to self-determination but there are other conventions for instance convention against torture, convention against disappearances or discrimination against women or racial discrimination, and so on. So, there is this very important convention against torture in all its forms. All these instruments that I have referred to are being violated with impunity by the Indian Occupational Forces in the occupied territory of Jammu and Kashmir and in fact, they have drafted and enforced laws like the Armed Forces Special Pass Act or Public Safety Act and many other laws which give cover to all the crimes against humanity which are committed by the occupational forces against the unarmed civilians. So, in the occupied territory of Jammu and Kashmir, the International Human Rights Law and International Humanitarian Law are being violated. When we talk about International Humanitarian law, we are talking about the three principles even if there is a conflict situation and this is not a proper conflict situation because on one side there are 900,000 Armed Forces and on the other side there are unarmed civilians according to India's own statistics. These instruments that I have referred to and the principles of International Humanitarian Law were systematically violated by India throughout the 73 year period. The difference in the scale is after the August 5th last year, when India re-occupied the territory. Secondly, it invaded it and has taken steps to colonize the territory, and therefore, India's rule in the territory following the International law is illicit and it doesn't have the backing of any International law. What is most horrendous is that after August 5th last year, India bifurcated the territory into two parts and called them Union Territories. This was done without the consent of the people. Their assembly was dissolved and the second step that they took was that

they have started populating the occupied territory with Hindus from all over India and they are doing it at a rapid speed. This, I want to put on the agenda of today's webinar because this is the most serious crime against humanity that is being perpetrated right now. The speed is so rapid that the process which was started by occupational authorities some three months ago has already populated or transferred around 1.8 million people in the occupied territory and if they go with the speed and they continue to import people from India and settle them in Kashmir illegally, in one to two years you will have a non-native Hindu population in Kashmir almost competing with the original inhabitants. It is probable that by the end of two years, they would have imported five to six million people disrupting the demographic balance that was there and changing the demographic composition of the territory. Now, that's not all, they are not just transferring the people but they are transferring the Kashmiris livelihood, businesses to these people. Their properties are being transferred to these people. All the legitimate businesses of the Kashmiri people have been delegitimized and there are people from all over India who own these businesses now and the Indian Armed Forces have been given the right to declare of any part of Kashmir as a strategic territory where they are building these illegal settlements replicating the model of the West Bank at the Gaza Strip. So, we have a huge crisis. In addition to that, you have a crisis of detention (mass detentions). Almost 13,000 boys were detained and they have been put in concentration camps. Women and girls in Kashmir are being harassed and molested and this has been recorded by human rights organizations. India has also violated the Genocide Convention. What India is doing, it has been defined as genocide in Article 2 of the 1948 Genocide Convention. There is also a cultural invasion of the territory. Names of the streets are being changed, temples are being reconstructed. The International Organizations, Think Tanks, Parliamentarians, and the Members of the United Nations Security Council except China have been very cautious in their responses in trying to artificially balance their relationship with Pakistan and India. So, the response of the International Civil Society has been encouraging. It last year opened new doors for the coverage of the Kashmir dispute. Kashmiris found their voices represented in different media portals and media networks all around the world. That was very reassuring. The European Parliament was very active. The United Kingdom parliament has been very active and particularly the All-Party Parliament Kashmir Group has been very active. The US Congress for the first time broke this taboo of not calling out India for its crimes against humanity in Kashmir because many hearings were held there and many testimonies were presented there. Pakistan has been reaching out to the International Community through the multilateral forums. Also, to the world Parliamentarians, Pakistan has been working day in and day out to highlight the issue of Jammu and Kashmir but here I would like to add that while we have made 100 percent effort, the results have not been very encouraging because the massacre in Kashmir has not stopped, killings are going on, the land grab has not stopped although the entire world and the capitals of the world are aware of this mass repopulation the occupied territory. So, we need to have a look at our strategy and go back to the drawing board and try to re-design our Kashmir strategy. India, as it was mentioned by Gen Khalid, has become more belligerent and it thinks that its strategic allies like the US or most of the West are looking at the other way and that this is a green signal for India to go ahead with its illegal steps that it is taking in Kashmir in the brutalization of the Kashmiri people. Here is an agenda that I would like to present to you. One is that there is a possibility of a

discussion in the Security Council. After 50 years, the United Nations Security Council (UNSC) held three sessions at the request of Pakistan with the facilitation of China. This is something encouraging and Kashmir has been raised in the chambers of the Security Council contradicting India's stance that it is a bilateral issue. So, there is a new space in the Security Council but the Security Council must do something. They must have an interaction with the Press by the President of the Security Council. The statements by the Permanent members must be made public but I would say there is a scope for referral by the Security Council to the ICJ. It is a complex process and this step has to be taken very carefully because it is possible that if the Security Council refers to this matter regarding settle colonialism in Kashmir to the ICJ, the ICJ may start second-guessing the validity of the Security Council Resolutions and may recommend status quo which is not acceptable to the people of Kashmir. After all, there is no status quo because India is changing the status quo in the occupied territory. I think we can go to the International Law Commission (ILC) and explore the possibility of establishment of a tribunal focusing on India's war crimes, genocide, and ethnic cleansing in the Indian occupied Jammu and Kashmir and the International Criminal Court can look at the third party referral because India and Pakistan cannot make a direct referral. After all, they are not parties to the ICC statutes but a third party can go there. As far as the Human Rights Council is concerned, I think the two reports that are published in 2018 and 2019. These reports of the High Commission for Human Rights made a solid recommendation. I think there is that many human rights mechanisms are working with the Human rights Council about the situation in the Indian Occupied Jammu and Kashmir. We can have a Kashmir specific resolution on the Right to Self-Determination. This resolution will be normative, soft International law but it has an impact. It may not have an operative path like the Security Council Resolution or the fourth committee which is about Decolonization because Kashmir, right now, is under foreign occupation and colonial rule and alien domination. So, it is a subject for the fourth committee. In the sixth Committee, we can challenge the legality of the Indian Action particularly the mass transfer of population to the occupied territory in contravention of the Fourth Geneva Convention and I would say the Geneva Genocide Convention. My suggestions are that if you assess the situation in an impartial manner and look at the realpolitik and the complexed political dynamics that are prevalent, the Security Council is not going to go into the dispute or revive the implementation mechanism for its resolutions unless it gathers a critical mass for mobilizing international opinion. So, we should start and sustain an international civil rights movement or a civil society movement for Kashmir. This should be similar to the international movements that made a difference for instance civil rights movement in the United States, Anti-Vietnam War Movement. Nothing short of that would pressure either the multilateral institutions or India to take any steps. I have suggested it on many occasions that we should start a boycott divestment and sanctions movement against India. The corporate sector and the entrepreneurs of the world should not underweight India's oppression and illegality in IOJK. I will say that we must distinguish between our diplomatic efforts abroad with different governments and different institutions are spearheaded by the Foreign Ministry and the Foreign Minister. When we talk about the political movements, we are talking about the political parties, we are talking about their inter parliamentary union, we are talking about civil societies all around the world. So, we must make that distinction and integrate that understanding into our strategy of Kashmir because the

political parties in Pakistan, for instance, Azad Kashmir, take the lead, they raise their voice and they connect with their peers from all around the world like the diaspora committee. The Diaspora community of Pakistani and Kashmiri extraction has turned the Kashmir movement into the international movement. I think they have their networks in their countries and those political, economic, and social networks can be used. My last point is that by appeasing India and not calling out India is sleepwalking into a disaster zone especially because of the rise of the Hindutva because this is a primordial primitive force which is causing havoc not only in the Indian Occupied Jammu and Kashmir but also in India itself it is fragmenting India and has unleashed war against all its neighbors and of course, it is has violated the right to self-determination.

Speaker 2:

Ms. Shireen Mazari, Federal Minister of Human Rights, Government of Pakistan



There are two aspects to the Kashmir Dispute, one is the conflict resolution through the United Nations Security Council resolutions, through the plebiscite. It is good to remind that if you look at the 1951 and 1957 UNSC Resolutions, they state categorically that constituent assembly is no substitute for a plebiscite. The other is the human rights violations and for that there is a much wider arena to appeal to the world. In the contemporary times, human rights violation has become central to the foreign policy of many countries across the globe, especially the Western countries. However, India has never been questioned and subjected to punitive measures or sanctions by these countries who have taken strict actions against many other states violating human rights. India's blatant violations of human rights violations have been ongoing since 1948 in IOK. The most important thing to focus right now is that the 5th August 2019 qualitatively altered the situation in IOK with India's illegal annexation of an occupied territory. This brazenly showed that India was violating the International Conventions that India itself has been party to, whether it is the 4th Geneva Convention or the ICCPR. India effectively also undermined and violated the Simla agreement which states categorically that neither side will alter the situation as it existed when Simla was signed. Just before 5th August I wrote a letter to the High Commissioner of Human rights, pointing to the use of pellet guns by India and also the cluster bombs that India was using on the Line of control in the Neelum Valley on 30th and 31st July. India is party to the convention on prohibitions and restrictions on the use of certain conventional weapons, basically this is the inhumane weapons convention, so India violated that even before the annexation. We should have taken up this issue more strongly in various UN Forums for example including the

Committee on disarmament in Geneva because India has violated the inhumane weapon convention that it was a party to. PM Imran Khan's narrative has come about very clearly on India linking the RSS and the Modi Government to the ideology of Nazism and pointing out the link between the policies that the Nazis did then and what the BJP government is doing now in IOK and even with its own Muslim citizens. Furthermore, according to the 4th Geneva Convention, the annexation of occupied territories is considered as a war crime. Then there is the continuing use of security forces violations and abuses of Kashmiris in IOK whether it is picking up young men including minors and juveniles and sending them to prisons all across India, targeting women and children etc. In the post Aug 2019 period, the national and international civil society has more actively focused on these human rights abuses. There is a lot more awareness and publicity now on international media such as Al Jazeera, NY Times etc. The siege in IOK still continues, we must take this issue to the UN Forums more strongly, along with the civil society groups, to NGOs that specialize in human right violation, women groups etc. The use of rape as a weapon of war by the Indian forces categorically has been documented for example the Feb 1991 incident where the Indian security forces went into the villages and mass gang raped the women. This has been documented by Indian sources and cases are in Indian courts as well. There is a clear cut UNSC Resolution 1325 of 31st October 2000 on women peace and security in a conflict zone. We need to take this issue with the women groups and groups against the gender based violence all over the world as they have a lot of influence on the governments in especially Western countries. We need to highlight this effectively. Moreover, we also need to take the human rights issue to request tribunals as were created for Yugoslavia and Rwanda because India is moving up the scale of a potential genocide and along with that we see that India also has altered the administrative dynamics of the occupied territory by splitting Jammu and Kashmir into different regions. We now have the Chinese statement refusing to accept the illegal division of Ladakh by India. In addition, the demographic changes is a proof that India aims to destroy Kashmiri identity and population by infiltrating large number of Hindu Indian citizens to Jammu & Kashmir. Under article 49 of the 4th Geneva Convention, an occupying power cannot deport or transfer parts of its own population into an occupied territory. Similarly, paragraph 1 - 2 of the advisory opinion of the ICJ on the wall in occupied Palestine territory clearly indicate that demography cannot be changed and it will be regarded as a war crime. ICJ has a position on this already so there is a precedence and if we can get a majority of even one in the UN General Assembly we can seek the advisory opinion. We need to appeal to civil societies across the world, we need to have our parliamentarians raise these issue not just in the IPU or in the commonwealth but with fellow parliamentarians in different parts of the world wherever parliamentary groups exist in democratic societies. Again coming back to the human rights issues. We have two UN High Commissioner Reports on Kashmir so we need to seek a human rights session on Kashmir. If Burkina Faso could have a whole UN Human Rights Council Session on Black Lives Matter, we can also garner support for a session on Kashmir, in my conversations with the Human Rights High Commissioner, if the President of AJK were to invite her to visit IOJK, I think it will put pressure on her to move the human rights council for setting up the investigative commission which is asked for in both the Kashmir reports. We have to move out of our mode of traditional diplomacy as the world is changing, diplomacy now is not between the foreign offices of two countries there is

multilateral diplomacy. There are non-state actors like human rights defenders, civil societies groups, diaspora etc. that have become critical players now. We need to widen our scope of interaction and expose what India is doing. Also, now there is a whole lot of information and reports by Amnesty International, by Human rights watch, for the first time we had the previous European Parliament holding hearings on Kashmir, we have had the UK Parliament talking on Kashmir, we have had new friends of Kashmir groups made in the UK and European Parliament. So the actors are there but we have to move proactively. If India is allowed to comfortably settle and strengthen its annexation and demographic changes, the right to self-discrimination of the Kashmiri people will be suppressed and Kashmir identity will be tarnished. That is what Fascist Modi is trying to do, playing for time and as time goes by they think that everything will quieten down in IOK. However, India is mistaken because if you look at the history of J&K, generation after generation of Kashmiris have sacrificed and their spirit will go on. India is now climbing up the ladder of potential genocide and this is the high time to support Kashmir. India has violated the ICCPR, the convention on all forms of discrimination against women, anti-racism convention etc. The individual Kashmiris should go to the ICC and a third party should take India to the ICC and to the ICJ also. We should call on EU for sanctions against India for grave human rights violations. In 2015, the EU DG for External Policies provided very clearly that in cases concerning occupation and illegal annexation, certain actions will be taken by the EU if the occupation is in breach of International law, if the occupying power is changing the status of the occupying territory and it has advocated sanctions announcing Visa ban etc against individuals and we know that Indian army officials can be identified. We need to build our diaspora support. The grave situation in IOK requires a thematic approach towards the human rights abuses on the international level and we need to move beyond the traditional state forums where we tend to restrict our diplomacy.

Speaker 3

Lord Nazir Ahmed, Baron Ahmed, Member of the House of Lords of the United Kingdom



It is very important to speak about human rights and the Center is right to hold this conference today as its timely because Amnesty International has just decided that in last couple of days to close their office because of the harassment and because they are not allowed to work. Now this is a big news internationally many newspapers and also Amnesty International is also running a campaign which I am delighted to be sharing with other people too because Amnesty International and many other human rights organizations including the UN Commissioner for Human Rights, who have asked to go and visit the Indian Occupied Kashmir (IOK) and they have not been allowed to do so. I think we also should remember that the first two speakers have mentioned a lot of work that has been done. People like Angana P. Chatterji along with her husband Richard and their organization who uncovered the mass graves, unmarked graves and also produced reports for international organizations at a time when it was very difficult for others to visit Indian Occupied Kashmir (IOK). So in my view, I think all of us are on a same line, not because in any way that we come from similar background but the fact is that when you have (as Prime Minister Imran Khan is right to say) the Hindutva Fascist government which is governing India right now and you have the Dovel doctrine you have Amit Shah's policies and you have Modi and others who apart from starting from Gujrat to Kashmir and other areas in the IOK but also on the line of control (LOC). Now here you have a country which was supposed to be the largest democracy in the world which is not a democracy anymore. You have Dalits who are third class citizens, you have Muslims who are being pushed you have no democracy whatsoever in Kashmir after revocation of Article 370 and 35A and imposition of governor rule but more importantly when you have the political leaders still under arrest and house arrest and even you would never have thought that Farooq Abdullah would say that Kashmiris prefer Chinese rule than Indian rule, I would have thought that Kashmiris would want to have right of self-determination to decide their own future but in any case that shows frustration and also their relationship with Delhi. Right now the situation is as previously been mentioned that Chinese don't recognize the Indian state controlling Ladakh or occupying other parts of Kashmir so it should be interesting in the coming months because China not only has military build up to defend themselves but in fact India which was actually pointing fingers at Pakistan and saying that Pakistan is not a peace with its neighbors and Pakistan has so many problems in the region and yet today Pakistan is partner with all regional states. I am glad Prime Minister Imran Khan was able to reach out to Bangladesh as well as good relations with China. The situation with the BJP - RSS fascist government is that they are almost at war with China, Nepal, Bangladesh and they are certainly trying to fight a war with Pakistan in Azad Kashmir. Sri Lanka is not so happy with previous history of India with all its neighbors. We tend to make a lot of suggestions but nobody sort of takes

the responsibility and say I will do this and I think that perhaps government of Pakistan, foreign office or somewhere they should have been able to organize a regional peace conference on dangers posed by the BJP fascist government in Delhi to peace in the region and also what it means to world peace as well. We can't have a better advocate than Amnesty International right now because they are the ones who have closed down their office because of the harassment in India. We see regular reports and I know previous speakers have mentioned in international media from Al-Jazeera to Guardian and New York Times and Washington Post but we also need to mention the Turkish media including the TRT that has compiled reports indicating human rights abuses in IOK. In fact India is making allegations that Turkish media is infiltrated by Kashmiris. Similarly, the RT – Russian news agency also reported on Kashmir matters. With these efforts, there is a strong need of an official English newspaper from Azad Kashmir along with official websites, journals and other platforms to give information to the world about the ground realities of the Indian oppression in Kashmir. We need to have information for the parliamentarians, for the diaspora that is working around the world. A coordinated information between Islamabad and Muzaffarabad is required on the latest issues. We pick up the facts of Indian atrocities on the Line of Control from Twitter rather than from any government department. So it is important to share the information to put pressure on authorities to question India. We need to have boycott of Indian products, massive campaigns about ethnic cleansing and genocide but we really need to have evidence. Indian government is issuing illegal domicile papers to Indian army soldiers and the Hindus who are being transferred, but to have the evidence about these crimes to present it to the world and that can be done by first-hand information from official sources. The government of Pakistan can be the advocate of Amnesty International.

Speaker 4

Mr. Ahmer Bilal Soofi- Former Federal Law Minister



There is need for legal diplomacy. Legal diplomacy means that you connect to the legal community of other states so that you are able to communicate your stance in a better way because legal community has a central role in the policy making sphere of any state. For example the EU has a separate legal division, the office of the Foreign Commonwealth they have a separate legal division, the Pentagon, the CIA, they all have very large legal divisions and they provide legal input to the policy makers. I believe that Pakistan needs to connect with the legal community of the states to better communicate its stance on the Kashmir issue, as they are formally a part of the policy making institutions. A lawyer to lawyer can work and we can conveniently reach out to such people. Kashmir issue is one of the most potential legal cases in the international law as it has the potential to get to the center stage of the world attention. We have also tried the diplomacy through intelligence linkages, our ISI have reached the CIA we have been talking to MI or other bodies communicating information and facts and evidence. However that has not worked very effectively. Given that I believe that legal diplomacy is one area that has not been tapped in Kashmir. The young bright lawyers in Kashmir and among the Pakistani and Kashmiri diaspora worldwide, if given the right direction, can prove to be a huge resource in this regard. We have young lawyers graduating from Oxford, Cambridge, Harvard, Stanford and they have a network in their respective countries. Explaining the concept of self-determination of Kashmiris to a counterpart lawyer is far more convenient than a diplomat who will regard it as an old concept. Thus Pakistan needs to evolve a centralized mechanism for legal diplomacy on Kashmir as it has enormous potential. We need to make a strong case of Kashmir by identifying the instances, and then packaging those instances as parts and specific violations of international law treaties, provisions and case laws. Lots of opportunities exists in raising the issues regarding the human rights violations in the Indian Courts. Pakistan can pass a domestic law or provincial law that permits any person to register FIR in Pakistan in respect to any atrocity that has come to his knowledge inside Kashmir. For example you come to know something has happened and 200 people have died in any city, so you could register an FIR by virtue of passing that legislation undertaking a formal proper investigation under mutual legal assistance. Pakistan can connect to the legal divisions and provide them insights related to violation of human rights in Indian Occupied Kashmir. By developing this network, we can address this issue at international level.

Speaker 5

Ms. Debbie Abrahams, Member of Parliament, United Kingdom



Many of us are familiar with the United Nations reports on human rights abuses in Indian Occupied Kashmir. Report in 2019 identified 19 areas of concern in the Indian Occupied Kashmir. Since then, it has only gotten worse. On 5th of August 2019, we remember the revocation of Article 370 and 35A by the Indian Government, one year before. We remember the impact that this had on Kashmiri people and the violence they have experienced and the humanitarian issues that they are going through. We remember the people who have been detained without a trail and we don't know where they are. So I am calling on the Indian Government to respond to these areas of concern from the United Nations and do the right thing. I am calling on the international community to stop sitting on your hands. You have a duty to do what is right and to support human rights across the world. I, for one will not stop until there is a just and sustainable peace for all of Kashmir and I wish everybody well.

Speaker 6

Mr. Andrew Gwynne, Member of Parliament of the United Kingdom



The time is absolutely right for us to be raising the issues of human rights abuses in Kashmir. It is atrocious what is happening in IOK to ordinary citizens and the conflict across the Line of Control needs to end. This has to be seen as a global issue, as a human rights issue and the most basic human right for the people of Kashmir is to be able to live freely and to be able to decide by whom they are governed and how they are governed. We need to ensure that not just India and Pakistan are talking to another about Kashmir but the ordinary Kashmiris are involved in those discussions too. We need to ensure that the international community stands firm alongside the Kashmiri people in their plight for freedom. To champion at a global stage, there is a need for international community to come together and resolve this 7 decade long dispute.

Speaker 7

Ms. Maria Iqbal Tarana, Human Right Activist and Former Chairperson Commission for Women, Azad Jammu & Kashmir



Four generations of Kashmiris have been witnessing Indian atrocities in Kashmir which have increased over the time. India is very openly violating human rights in Kashmir but are not being highlighted internationally. We need to knock the doors of international human rights organizations. We need to lobby and campaign and make friends to highlight this issue in international arena.



SUMMARY AND RECOMMENDATIONS

1. Brief Overview

- a. The Charter of the United Nations affirms to promote and protect peace, human rights, economic development and the well-being of the nations of the world. Under the human rights regime, the core right is the right to self-determination which was recognized in 1945. However the right to self-determination of the people of Jammu and Kashmir has been denied for the past 73 years despite the passage of a dozen of Security Council resolutions.
- b. In the contemporary times, human rights violation has become central to the foreign policy of many countries, especially in the West. However, India has never been questioned and subjected to punitive measures or sanctions by these countries for its blatant violations of human rights in IOK since 1948.
- c. There are many conventions against torture, against disappearances or discrimination against women or racial discrimination, and so on. All these instruments are being violated with impunity by the Indian Occupational Forces in the occupied territory of Jammu and Kashmir and in fact, they have drafted and enforced laws like the Armed Forces Special Powers Act or Public Safety Act and many other laws which give cover to all the crimes against humanity which are committed by the occupational forces against the unarmed civilians.
- d. Appeasing India is sleepwalking into a disaster zone especially because of the rise of the Hindutva because this is a primordial primitive force which is causing havoc not only in the Indian Occupied Jammu and Kashmir but also in India itself. If India is allowed to comfortably settle and strengthen its annexation and demographic changes in the occupied valley, the Kashmir identity will be tarnished.
- e. If the conflicts are left festering like a wound, it results in what we see happening between Azerbaijan and Armenia, as the international community failed to resolve the problems between the two countries. If this happens in the sub-continent it will be much more dangerous.
- f. India claims to be the largest democracy in the world, yet there is no democracy in Kashmir after revocation of Article 370 and 35A and the imposition of governor rule. The political leaders are still under arrest and freedom movement of Kashmiris is being suppressed by the fascist BJP government. India, always accusing Pakistan for disrupting regional peace, today is almost at war with China, Nepal, Bangladesh and they are certainly trying to fight a war with Pakistan in Azad Kashmir whereas Pakistan has cordial relations with all the regional states.

2. India's Human Rights Abuses in the Light of International Law

- a. India has invaded and taken steps to colonize the territory. India's rule in the territory is illicit and it doesn't have the backing of any International law.
- b. Recent evidence of India's growing belligerency is Amnesty International walking out of India because of the harassment and torture at the hands of Indian authorities for reporting human rights abuses in the country and also in the IOK.
- c. International Humanitarian law pledges the provision of human rights even in a conflict situation while in IOK there are over 900,000 Armed Forces Personnel on one side against the unarmed civilians according to India's own statistics.
- d. India has violated the Genocide Convention. Indian actions in Kashmir are defined as genocide in Article 2 of the 1948 Genocide Convention.
- e. There is also a cultural invasion of the territory by Indian occupational forces. The names of the streets are being changed depicting Hindu culture and figures, and temples are being reconstructed.
- f. Women and girls in Kashmir are being harassed and molested and this has been recorded by human rights organizations. The use of rape as a weapon of war by the Indian forces categorically has been documented by even the Indian sources. There is a clear UNSC Resolution 1325 of 31st October 2000 on women peace and security in a conflict zone.
- g. In addition there is a huge crisis of mass detentions. Almost 13,000 men have been detained and put in concentration camps.
- h. Indian Occupational Forces have used pellet guns and also the cluster bombs on the Line of control in the Neelum Valley while India is party to the inhumane weapons convention that it has continuously violated even before the annexation. RSS and Modi Government are pursuing policies of Nazism i.e. what Nazis did then and what the BJP government is doing now in IOK and even with its own Muslim citizens.

3. The demographic changes in the Occupied Valley: A Horrendous Violation of International Laws and Conventions

- a. India on 5th August 2019 qualitatively altered the situation in IOK with illegal annexation of an occupied territory, which is in stark violation of the International Conventions that India itself has been party to, whether it is the 4th Geneva Convention or the International Covenant on Civil and Political Rights. According to the 4th Geneva Convention, the annexation of occupied territories is considered as a war crime.
- b. The most horrendous step is the demographic changes being made in Kashmir. India bifurcated the occupied territory into two Union Territories, without the consent of the people. Their assembly is dissolved and Indian authorities have started populating the occupied territory with Hindus from all over India at a rapid

speed. This is the most serious crime against humanity that is being perpetrated right now.

- c. The demographic changes is a proof that India aims to destroy Kashmiri identity and population by infiltrating large number of Hindu Indian citizens to Jammu & Kashmir. Under article 49 of the 4th Geneva Convention, an occupying power cannot deport or transfer parts of its own population into an occupied territory.
- d. In duration of just three months around 1.8 million people have been populated in the occupied territory and if it continues at the same pace, in one to two years, the non-native Hindu population in Kashmir will be competing with the original inhabitants, thereby, disrupting the demographic balance and changing the demographic composition of the territory. India is not just transferring the people but also the Kashmiris' livelihood, businesses and their properties.
- e. The Indian Armed Forces have been given the right to declare of any part of Kashmir as a strategic territory and are building illegal settlements replicating the model of the West Bank at the Gaza Strip.
- f. India effectively also undermined and violated the Simla agreement which states categorically that neither side will alter the situation as it existed when Simla was signed.

4. Response of the International Community In Post Aug 5, 2019 Period

- a. After Aug 5 last year the response of the International Organizations, Think Tanks, Parliamentarians and the International Civil Society has been encouraging. Kashmiris found their voices represented in different media portals and media networks all around the world.
- b. The European Parliament and the United Kingdom parliament has been very active, particularly the All-Party Parliament Kashmir Group. The US Congress for the first time broke this taboo and pointed at India for its crimes against humanity in Kashmir.
- c. Pakistan has been reaching out to the International Community through the multilateral forums. It has been highlighting the issue of Jammu and Kashmir.

Recommendations

- a. We can go to the International Law Commission and explore the possibility of establishment of a tribunal focusing on India's war crimes, genocide, and ethnic cleansing in the Indian occupied Jammu and Kashmir. Nevertheless, the International Criminal Court can look at the third party referral because India and Pakistan cannot make a direct referral.
- b. We can have a Kashmir specific resolution on the Right to Self-Determination. This resolution will be normative, soft International law and will have a strong impact.
- c. In the sixth Committee, we can challenge the legality of the Indian Action particularly the mass transfer of population to the occupied territory in

contravention of the Fourth Geneva Convention and the Geneva Genocide Convention.

- d. By assessing the situation in an impartial manner and looking at the realpolitik and the complexed political dynamics that are prevalent, the Security Council will only be able to revive the implementation mechanism for its resolutions when it gathers a critical mass for mobilizing international opinion. So, we should start and sustain an international civil rights movement or a civil society movement for Kashmir.
- e. We should start a boycott divestment and sanctions movement against India. The corporate sector and the entrepreneurs of the world should not underweight India's oppression and illegality in IOJK.
- f. The Diaspora community of Pakistan and Kashmir has the potential to turn the Kashmir movement into an international movement. Their political, economic, and social networks in their host countries can be utilized in this regard.
- g. We need to take the human rights issue to request tribunals as were created for Yugoslavia and Rwanda because India is moving up the scale of a potential genocide and has altered the administrative dynamics of the occupied territory by splitting Jammu and Kashmir into different regions.
- h. Paragraph 1 – 2 of the advisory opinion of the ICJ on the wall in occupied Palestine territory clearly indicate that demography cannot be changed and it will be regarded as a war crime. ICJ has a position on this already so there is a precedence and if we can get a majority of even one in the UN General Assembly we can seek the advisory opinion.
- i. We need to widen our scope of interaction and expose what India is doing by engaging platforms of human rights defenders, civil societies groups, diaspora community, women rights groups etc. that have become critical players now.
- j. India has violated the International Covenant on Civil and Political Rights (ICCPR). The individual Kashmiris should go to the International Criminal Court (ICC) and a third party should take India to the ICC and to the International Court of Justice (ICJ) also.
- k. We should call on EU for sanctions against India for grave human rights violations.
- l. In 2015, the EU Director General for External Policies provided very clearly that in cases concerning occupation and illegal annexation, certain actions will be taken by the EU if the occupation is in breach of International law and if the occupying power is changing the status of the occupying territory. Therefore, announcing sanctions and Visa ban etc. against Indian army officials, who can be identified, should be done.
- m. Pakistan needs to connect with the legal community of the states to better communicate its stance on the Kashmir issue, as they are formally a part of the policy making institutions. There is need for legal diplomacy which means that you connect to the legal community of other states so that you are able to communicate your stance in a better way because legal community has a central role in the policy making sphere of any state.

- n. Kashmir issue is one of the most potential legal cases in the international law as it has the potential to get to the center stage of the world attention. The young bright lawyers in Kashmir and among the Pakistani and Kashmiri diaspora worldwide, if given the right direction, they can prove to be a huge resource in this regard.
- o. Pakistan needs to evolve a centralized mechanism for legal diplomacy on Kashmir as it has enormous potential. We need to make a strong case of Kashmir by identifying the instances, and then packaging those instances as parts and specific violations of international law treaties, provisions and case laws.
- p. Pakistan can pass a domestic law or provincial law that permits any person to register FIR in Pakistan in respect to any atrocity that has come to his knowledge inside Kashmir. It should allow a person to register an FIR by virtue of passing that legislation undertaking a formal proper investigation under mutual legal assistance.