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# Lockdowns in Jammu and Kashmir: The Human Rights Consequences

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*Abstract: The ethical and behavioural standards that guide a person's behaviour are protected as "human rights" under both domestic and international law. The human rights doctrine has exerted a significant amount of impact on global and regional organisations, in addition to having a significant impact on international law. Human rights are a topic that is actively pursued by governments and non-governmental organisations all around the world. It is nearly impossible to avoid hearing about atrocities and violations of human rights on a daily basis in the news. Crimes committed against children, women, and the disabled are continuing unabated in Covid 19, despite the fact that the Universal Declaration of Human Rights was adopted in 1948 and that special covenants were created to protect their rights. Direct or indirect violations of human rights can also be committed by the state itself. It is possible for the state to intentionally break the law or just fail to take the necessary safety measures. When a state abuses human rights, law enforcement, prosecutors, and other government personnel may be involved in the investigation and prosecution of the state. Even in the absence of direct physical contact, rights such as the right to a fair trial can be infringed upon, as is the case with police brutality. The Universal Declaration of Human Rights is still, sixty years after it was first published, a pipe dream for many people who work to advance human rights. In the event of a pandemic, Jammu & Kashmir suffers from violations of human rights. The purpose of this research is to investigate and evaluate the effects of abuses of human rights that occurred in Jammu and Kashmir during the pandemic.*

**Keywords:** Human Rights, Violations, Pandemic, Internet and Education etc.

## 1. INTRODUCTION

The important question is: Do you believe that humanity has been pushed to the background? A human right is a collection of universal rights and freedoms that apply to all people regardless of their race, colour, or sex. These rights and freedoms are sometimes



referred to as civil rights or political rights. Every single person on the planet belongs to some kind of group or community. This was expressed in the Declaration of Human Rights adopted by the United Nations in 1948. Every human being is entitled to their inherent dignity and rights from the moment of conception onward. They are capable of independent thought and ought to relate to one another in the same manner as brothers and sisters. This statement states that every human being is eligible to exercise all of the rights that are guaranteed to them by the Constitution. One's rights are fundamental, given that one is a human being. There is a possibility of disagreement regarding the particulars of human rights, however there is very little discord regarding the essential components of these rights. In Jammu and Kashmir, there was consistently a disregard for human rights.

The leaders violated the human rights of the people in a significant majority of cases. In the portion of Jammu & Kashmir that is under Indian administration, abuses of human rights remain an on-going problem. Allegations of abuse include but are not limited to the following: murder in huge quantities, kidnapping for ransom, torture, rape, and sexual assault. Since the year 1990, there have been multiple massacres that have taken place in this region.

During the course of the pandemic, members of the Indian Army, other militant organisations, the Central Reserve Police, and the Border Security Force have been accused of committing gross violations of human rights against people. These accusations have been levelled against all of these groups. Human Rights Watch conducts investigations on a consistent basis in more than sixty countries all over the world. Examining the human rights practises of governments of various political shades, geographical alignments, ethnic and religious connections, and so on is something that occurs in all parts of the world. During the course of a civil war, it acts as a record of the violations that have been perpetrated by both the government and the rebels. Human Rights Watch is an organisation that investigates, documents, and condemns abuses of internationally recognised human rights. Some examples of these abuses include censorship and exile, as well as murder, disappearance, and torture. Freedom of expression, due process of law, and equal protection under the law are defended by Human Rights Watch.

For tourists, Jammu and Kashmir is a dream destination, but for the people who call it home every day, it has become a living hell. Because of its stunning nature, the region attracts a large number of tourists each year. The territories of Jammu and Kashmir are recognised across the world for the breath taking natural landscape that can be found in those locations. As a direct consequence of an on-going territorial dispute between India and Pakistan, numerous battlegrounds have sprung up across the entirety of Jammu and Kashmir. Pakistan has tried a number of unsuccessful attempts to take control of land that is now held by India. Large numbers of military personnel have been stationed in Jammu and Kashmir only for the purpose of defending the region and its population in the event that Pakistan launches an attack on the region. This could take place at any given moment.

People in Jammu and Kashmir are not fearful of an attack coming from Pakistan; rather, they are terrified of being arbitrarily arrested, tortured, murdered, or raped by security personnel. The protection of human rights in Jammu and Kashmir can be approached from a number of different angles. There are a great number of untold stories of abuses of human rights in the Jammu and Kashmir region. As a direct consequence of this violence, some



individuals were subjected to cruel and unusual punishment by police, security forces, and various other violent groups.

There are thousands of people who pass away each year as a result of custodial death, and their loved ones are denied access to the bodies of the deceased. When we try to determine how many people have been killed as a result of the violence in Jammu and Kashmir, we come up with an inconceivable number. Tens of thousands or even hundreds of thousands, of families have been left heartbroken by the loss of loved ones. Why have civilians in Jammu and Kashmir been treated in an inhumane manner by military forces because human rights are universal and available to everyone? They were unable to enjoy their fundamental rights to education, access to information, freedom of speech and expression, etc. The Kashmir Valley, of which J&K is a portion, is a democratic country that is located in India. There is no democracy in this area of the continent because people do not treat one another with the dignity and respect that they are due. The people living in the valley had high hopes for a return to peaceful lives following the revocation of Jammu and Kashmir's Special Status.

### **Review of Literature**

The process of conducting research is comprised of several different steps, one of which is the review of previous work. In spite of the fact that this may be thought to be its principal function, the literature review is also an important instrument that serves to inform and develop practise as well as invite discussion in academic work. A document known as a literature review is one that investigates and assesses the body of written work that pertains to a particular subject or question. The purpose of the literature review, in its broadest sense, is to determine what is already known about the subject, the degree to which this information is established, and the areas that could most benefit from further investigation.

The UN has called for an emergency worldwide ceasefire to "shut down armed violence" and protect COVID-19's most vulnerable. Yet, infractions have happened (Aijazi, O., 2020). Crackdowns on Kashmiri journalists, increased police powers, and curfews are on-going. These measures show the Indian government is leveraging the pandemic to advance settler-colonial aspirations in contested area.

Coronavirus COVID-19 is an enormous undertaking for both humans and their governments. This study focused on predicting violence in the Kashmir Valley in relation to Coronavirus infection. There is a new virus known as the Coronavirus (COVID-19) that may infect both animals and humans and cause a variety of respiratory illnesses ranging from the (Amir, S., & Ahmad, F. (2021) ordinary cold to lung lesions and pneumonia, all of which can be life-threatening. The World Health Organization (WHO) has designated it a pandemic because it spreads easily between people, especially in confined spaces like hospitals and households.

Jammu and Kashmir has been a restive Indian region since 1846, especially after 1947. Education has been hit hardest and has received less attention from the State, local population, and civil society. This paper analysed schooling and conflict in the valley. (Bhat, N. A. 2020), notably after Article 370 and COVID-19. The situation is remarkable because



everywhere else the populace suffered a single COVID-19 hit, but State lockdown after 5 August 2019 was unprecedented. Monthly school closures. State intervention disrupted exam patterns and school routines, shocking the concept of the state supplying basic commodities and services and guaranteeing the right to education for millions of pupils. This research assessed the state's 2019 decision and COVID-19 in 2020 on education in Kashmir.

The Covid-19 epidemic has killed millions. The virus targets humans of all races, religions, sexualities, genders, ages, and ethnicities. Kashmir and other emergency situations receive little attention as countries endure lockdowns. The BJP has banned communications, curtailed public mobility, imposed curfews, and jailed local politicians since August 2019. Covid-19 has harmed Kashmir. Kashmir is terrified. People dread the virus, their health, and the uncertainty and unpredictability. This pandemic hits some states more than others, which isn't reflected in death toll estimates (Connah, L. 2021). As will be stated below, India has utilised the pandemic to extend its executive power in Kashmir, quell protestors, increase its influence, censor news on the ground, imprison the opposition, institute curfews, and securitize the situation.

### **Research Objectives**

During the pandemic, to understand and analyse the abuses of human rights that occurred in Jammu and Kashmir.

## **2. RESEARCH METHODOLOGY**

Ex post facto and analytical research are both applicable to the current investigation. As a result, the research is conducted using a historical and descriptive approach. As a result, the research relies on both primary and secondary sources. A qualitative approach has been used to analyse the secondary data that has been gathered from reputable sources such as books and websites on the internet and newspaper articles, as well as various international journals and magazines. In addition, the research is based on personal observations.

## **3. DISCUSSION**

### **Covid 19 and Human Rights Violations in Jammu and Kashmir**

Earlier on that day, the Indian President made the decision to suspend Article 370 as well as the constitution of the state. The city's food stores, schools, and parks were all shuttered for several weeks. After the curfew, authorities in Jammu and Kashmir arrested a large number of teenagers in addition to practically all of the elected legislators (except those from the BJP). It took just five days after the state was partitioned into Jammu and Kashmir Union Territories and Ladakh Union Territories for it to be signed into law. In the months that followed, Srinagar Airport turned away a number of other passengers as well.

Eleven months of damage have been done to the economy as a direct result of these activities. Access to healthcare was restricted as a result of Cure and other limitations, and local and regional media outlets lost their freedom. Because of this, the people of Jammu and Kashmir do not have a representation that was elected by the people. An NDA need not be



signed by each and every one of them. Numerous state commissions dealing with issues pertaining to human rights, women's and children's rights, anti-corruption, and information freedom. Kashmiris have a sense of alienation from the rest of India. Uncertainty regarding a new policy, such as the domicile regulations, can cause economic and as a result, the Jammu and Kashmir Human Rights Forum was established. This report reveals on-going violations of human rights in the country that once held that title (August 4, 2019 to July 19, 2020). It has been discovered that the safety of people, civilians, and individuals has been prioritised over human rights, leading to widespread violations of human rights such as the suspension of constitutional protections like habeas corpus or restrictions on arresting and detaining minors. This has resulted in widespread violations of human rights. The severe legislation such as the Public Safety Act and the Unlawful Activities Prevention Act have proved successful in silencing dissent (UAPA)

In addition to having a negative impact on public health and infringing on citizens' constitutional rights to health and medical care, the 11-month lockdown had a negative impact on public safety and created trauma and stress among Jammu and Kashmir's population. There are no surroundings that are free of trauma for children. It has a significant bearing on the outcome. 2019 and 2020 will each have only 100 school days (the bulk of which was pre-August 2019). Because to the 2G network constraint imposed by the COVID-19 pandemic shutdown, online classes were rendered unfeasible. Equal access to educational opportunities is ensured by the constitutions of both India and Jammu & Kashmir.

Every single local and regional company has suffered a financial loss. The widespread availability of 4G networks across Canada is extremely important for vacationers and people who own cottages. Local media took a severe beating. Reporters have been singled out by the UAPA. Dozens of journalists have been forced out of their jobs due to a lack of audiences, readership, and revenue. Press freedom and expression have been repressed as a result of actions taken by the Directorate of Information and Public Relations (DIPR).

The categorization of certain places as "strategic" by the administration of Jammu and Kashmir suggests that there would be an even greater rise in the military presence in the hinterland and along the border. The recent economic crisis has been devastating to a wide range of industries. Under the new regulations, those who were born and raised in the region that is now Jammu and Kashmir could find themselves unemployed.

### **Violations and its Nature**

Minors held in violation of their legal rights in the months of August and September 2019, the administrations of the Union and J&K have admitted to detaining 146 youngsters. Between the ages of 68 and 10. According to a report filed by the police in Srinagar, the PSA was used to justify the detention of 79 of the 144 minors. In addition, nine more people were taken into custody for violating Section 107 of the Criminal Procedure Code. The 2013 Jammu and Kashmir Juvenile Justice (Child Protection) Act was not complied with in any of these instances. Shame: On December 9, the Supreme Court stated that petitioners should not be frightened if children are kept indefinitely since there are situations when it is for the



children's own good for them to be detained. 70 Illegal detentions are illegal regardless of duration. On December 13, 2019, the Supreme Court issued an order mandating that all detained children get mental health care. If this order was carried out in Jammu and Kashmir, 69 youngsters between the ages of 10 and 16 would have been imprisoned for their suspected or proven membership with armed groups. It is not known what the comparable number will be for June of 2020.

On August 4, 2019, the state of Jammu and Kashmir was given the authority to implement Section 144. The imposition was challenged before the Supreme Court by Anuradha Bhasin and other individuals. On January 10, 2020, a court of appeals ruled that the unconstitutional installation of Section 144 was unlawful and hence unconstitutional. 72 As a result of the judgement made by the Supreme Court, the Chief Secretary of Jammu and Kashmir has directed that all citations for Section 144 be publicised. It is not obvious what the goal of the publishing is. We only had access to a small number of Section 144 orders, the most of which were issued after COVID-19 was secured. It will be difficult to get Section 144 orders between the months of August 2019 and March 2020. The circumstances surrounding the state prior to August 2019 demonstrate that the Supreme Court's January ruling rules were not adhered to in their entirety. The court explains that Section 144 is a preventative tool that can be employed in emergency situations and enables the state to maintain public order. There is a possibility of injury, yet the actions that might result in injury are impossible to stop. The indeterminate limitations imposed by Section 144 violate the Constitution in their entirety. Judicial review of executive orders issued under Section 144 is made possible by Article 226 of the Constitution. In accordance with Section 144 of the Criminal Procedure Code, the Court has said that there will be "direct implications" on the fundamental rights of all individuals. If it is abused, this kind of power can result in significant problems with the law. When trying to strike a balance between right and obligation and right and restriction, magistrates often use the phrase "never allowed to be excessive in nature or time." 39 The notion of a lawful order cannot be satisfied by commands that are issued in a manner that is either cryptic or automated.

The Supreme Court declared in that the authority conferred under Section 144 cannot be utilised to restrict free speech and that it should only be used where there is supporting evidence from relevant facts. On the other hand, Section 144 orders were implemented state wide before there was a chance for any reasonable opposition to be voiced. 13 ladies were arrested on October 15, 2019, for non-violently protesting the decisions made in August. This took place two months after the state was partitioned and downgraded. The suspects were apprehended in accordance with Section 107 of the Criminal Procedure Code. According to the police, Section 144, which is now in force, was violated. 74 After being detained for 30 hours, they were finally freed after posting a personal bond of Rs. 10,000 and swearing to maintain the peace. The administration in Jammu and Kashmir made an offer to Naeem Akhtar to release him from preventive custody early on the condition that he sign a similar bond and refrain from criticising any choices made by the government. After his release, he was given the order to vacate the government housing within five to six hours.

Deaths and injuries among the population The South Asia Terrorism Portal reports that there were 37 civilian casualties in Jammu and Kashmir over the time period of August 2019 to July 16, 2020. 77 There is a possibility that these numbers are slightly low. At least



nine civilians were determined to have been killed as a result of terrorist acts by the Forum; one of them was a child. According to official government data, thirty civilians were killed as a result of terrorist acts between August 2019 and April 2020.

As of 2018, the army has apparently made the decision to expand CASO use<sup>94</sup> to include explosives in order to target insurgent hideouts. This follows the destruction of houses in the course of counterinsurgency operations. It appeared that standard operating procedures for counterinsurgency operations were being relaxed, which allegedly allowed for the use of civilians as human shields in Awantipura in 2017, as was the case in 2016. The claims are quite serious and ought to be thoroughly investigated, despite the fact that they are very uncommon. On the 19th of May, 2020, terrorists from Hizbul Mujahedeen and soldiers from the army engaged in gunfire in Nawakadal in Srinagar. Despite the guarantees given by the District Commissioner, no compensation sums have been disclosed at this time. During this time, the local mosque established a fund to assist those in need. 96 Army explosives damaged or destroyed 18 homes in Awantipura during a gun fight that lasted for 42 hours and resulted in the death of Riyaz Naikoo, the commander of Hizbul Mujahedeen. It is stated that the police utilised children from the area to detonate devices and lead them to locations where militants might be hiding.

The media and activists are the targets of discriminatory laws due to its strictness. On June 29, 2020, he was charged with sedition for advocating for a boycott of non-Kashmiris attempting to buy land using newly-issued domicile certificates from the government. This action resulted in the charges being brought against him. <sup>98</sup> Following his placement in preventive custody on the 7th of August, 2019, Shah was "temporarily released" on the 7th of December for a term of three months in accordance with Section 20(2) of the PSA. On December 9, the PSA that had been issued against him was finally and permanently cancelled. Regardless of how chauvinist his post was, it did not constitute sedition. On April 21, a journalist and novelist named Gowher Geelani was charged with "illegal acts through social media posts" by the same cyber police cell that had previously accused other individuals. <sup>99</sup> Masrat Zahra, a Kashmiri photojournalist, was taken into custody on April 18 by the Jammu and Kashmir cyber police for uploading content that was deemed "anti-national" on social media.

Closed schools during times of armed conflict are traumatic for both children and their parents. This is a typical occurrence in the valley, where communication during armed conflict is commonplace. After an encounter, the area where the militants were killed and the area where the encounter took place are both disconnected from the internet for a period of two to three days. Therefore, the shutdowns are determined by the number of interactions... The entire valley is cut off from the rest of the world for several days whenever high-profile extremists are eliminated. We are unable to predict whether or not we will have internet connectivity within the next hour, day, or week.

According to the testimony of a student who is a regular attendee at DPS Athwajan, one of the nation's most prestigious and expensive private schools, online education has caused problems for the institution. It breaks the connection and does not make it back. The majority of children attend online classes on their parents' mobile devices. Due to the high cost of individual phones, it was impossible for families to share phones when children were in different grades. In addition to that, they were required to pay for data and phone calls,



both of which quickly became unaffordable. Even for parents, it can be challenging to navigate or explain presentations to their children. When their parents arrive home from work, children as young as six are hesitant to approach them and beg to use their parents' mobile phones. We participated in live lectures, attended tutorials, and were given tasks. It is a barrier in both public and private institutions of higher education.

Be mindful of any lockdowns or school cancellations that may be issued by COVID. They were aware of the lockdown as well as the school being closed. The government issued guidelines for maintaining one's safety during a lockdown, but these were not widely disseminated to the public. Children attending public schools in the surrounding areas verbally shared information with one another. In addition to that, there is the DD Channel, which is the government's own web show. In order to register for exams, nearly 100,000 pupils utilised the internet centres that were made available by the local administration in Srinagar. After the resumption of rail services in November 2019, the majority of Kashmiris in only Banihal, which is located in Jammu, were able to use broadband internet. "Yakoob had previously made two trips. The previous day, Banihal's Internet connection was unreliable. She was unable to get online at the district offices close to her house because there were so many people waiting in line, despite the fact that there were only four machines available for one million people. Three hours were spent waiting for Yaqoob and her mother at an Internet cafe. She had put in two years of preparation and was almost ready to submit her application for the exam. She was so relieved when she finally handed in her application that she broke down into tears.

Higher education is open to everyone who wants to pursue it. In addition to its two federal institutions and nine state universities, Jammu and Kashmir is home to a campus of the National Sanskrit Sansthan (deemed university). There are around 80 private colleges that are connected in some way to one of two state universities that are run by the state. These universities are the University of Kashmir and the University of Jammu. These educational institutions are home to around three million undergraduate and graduate students, including those pursuing master's degrees and doctorates. Because of the pandemic caused by COVID-19 in March 2020, lessons are now being offered online. However, due to the poor internet connectivity provided by the 2G service, users were unable to engage in daily or extended online sessions. Some educational institutions made the decision to administer tests online, which led to increased levels of student anxiety. Although a lack of internet access was detrimental to the functioning of a great number of other industries, the damage done to the educational systems of K-12 and higher education is immeasurable and irreparable. Students who lived in more remote areas or in steep terrain were unable to engage in online classes because services such as WhatsApp, Zoom, and Google Classroom were only available in big cities. On many occasions, live classes broadcast by the Department of Education are not available on networks owned by the government or local cable TV systems. The inability of many university instructors to connect to 4G has been a source of significant frustration. "Disruptions to my Internet connection make it difficult to communicate with my pupils." There are no 4G networks; only 2G networks are available. It is challenging to stay up with the latest developments in medical research, particularly for COVID-19 treatment, due to the sluggish speeds of 2G networks and the absence of crucial applications on those networks. Patients who are already dealing with several, serious health conditions would suffer



significant harm if videoconferencing is prohibited. An online meeting was convened by the Ministry of Health and Family Welfare to provide COVID-19 patients with instructions on how to use ventilators properly. However, many working in healthcare claimed that they were unable to take part.

#### **4. CONCLUSION**

As a result of the government placing a higher priority on counterinsurgency than human security, numerous human rights have been violated across the board. These violations include the right to habeas corpus, the prevention of illegal detention, restrictions on the arrest and detention of children, the right to bail, and fair and speedy trials for everyone. During the 11 months that the residents of Jammu and Kashmir were subjected to a lockdown that included barricades and checkpoints as well as restrictions on mobile phone and internet connectivity, it violated their constitutional right to health and medical care, which resulted in negative effects on public health and contributed to trauma and stress among those living in the region. Children's trauma-free settings have been disregarded.

As a result, education has deteriorated considerably. In 2019 and 2020, there were just 100 days of school. After the pandemic lockdown, networks were restricted to 2G, making online lessons ineffective. Graduate students and professors in India and Jammu & Kashmir have been denied access to professional conferences and publications, putting their careers in jeopardy. Small and regional enterprises have seen their profits drop in almost every area. Tourism and small-scale manufacturing businesses that rely on 4G networks available elsewhere in the country have been forced out of business. One of the hardest hit was the local media. Journalists have faced intimidation and possibly criminal prosecution as a result of the Unlawful Activities Prevention Act (UAPA). As a result of the decline in traffic, readership, and money, dozens of journalists have been compelled to resign. Free speech and independent media are doomed under the new media strategy. Any organisation or state that breaches human rights must be held accountable. Whatever the purpose, such acts of violence against human rights, fundamental freedoms, and democracy must be strongly condemned. The expanding linkages between terrorist organisations and people who perpetrate violence must worry Indian officials. Some of the crimes committed include rape, kidnapping, extortion, burning, and looting.

According to Human Rights Watch, the government of India should take immediate action to protect human rights by restoring full internet access, releasing political detainees, upholding the right to free speech (including by withdrawing cases against journalists and activists), and holding officials accountable for rights violations. "Even while the pandemic is compelling governments around the world to face issues of prejudice and injustice, the Indian government continues its mistreatment of Kashmiri Muslims," "The government ought to reverse its abusive policies and make reparations available to those whose constitutional rights have been infringed upon."

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Nil

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