

2019 KASHMIR-EU WEEK REPORT

HUMAN RIGHTS & CIVIL LIBERTIES

EUROPEAN PARLIAMENT | 4-8 NOVEMBER 2019



KASHMIR COUNCIL-EU



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#LETKASHMIRSPEAK

Human Rights and Civil Liberties, including the rights of the Kashmiri civilian population, are protected by a series of International Treaties and Conventions which have been signed and subsequently ratified by the majority of UN member states. This year's theme is important in the light of increasing evidence that the protection envisaged in the 1949 Geneva Conventions and Additional Protocols is no longer fully respected. The situation in Kashmir, like other areas of tension in the world, calls for intense diplomatic work, based on international law and respect for human rights. The aim of the conference was to raise awareness in the EU of the roles played by the different stakeholders and to establish the conditions that must be fulfilled before meaningful exchanges can take place.

A second helpful document has been published on Kashmir by the European Parliament's Research Service in their briefing papers "At a glance". This document provides an [overview of the current situation in Kashmir](#) emphasizing the militarization of Indian-administered Kashmir.

The UN reports published in 2018 and 2019 have reported serious human rights violations against civilians, i.e. kidnappings, assassinations, forced displacement, sexual violence. More recent reports have also highlighted a number of worrying human rights violations. At least five Indian society groups have managed to visit Indian-Administered Kashmir and issued fact-finding reports ([Report 1](#), [Report 2](#), [Report 3](#), [Report 4](#), [Report 5](#)). Amnesty International has documented a [clear pattern of the Indian authorities](#) arbitrarily detaining activists, politicians, and even children if they are thought to hold dissenting opinions, as the crackdown continues. And for the first time, Parvez Imroz, a human rights advocate and the head of the Jammu Kashmir Coalition of Civil Society provided an [interview](#) on the present situation in Kashmir. Reporters Without Borders (RSF) have also issued a report on the [100th days of blackout](#) on all communications in the Kashmir Valley with local journalists about the terrible constraints they have had to work as a result of this blackout.

A US Congressional hearing was held on October 22, 2019 and for the first time focused on the situation in Kashmir, where expert witnesses emphasized the urgency of the [issues at hand](#). A plenary debate on the situation in Kashmir was also held on September 17, 2019 in the European Parliament in Strasbourg.

The unilateral decision of the Prime Minister Modi to scrap Kashmir's special status under the Indian Constitution on August 5, 2019 has served to inflame an already volatile situation. The Kashmir issue cannot be portrayed as an internal bilateral issue between India and Pakistan as the views of the Kashmiri population have never been sought. Life has been derailed for the people of Kashmir. No peaceful resolution to the Kashmir issue can be envisaged while such human rights abuses continue.

In a climate of rising tensions in different regions around the world, the present situation in Jammu & Kashmir should not be ignored.

The 12th Annual Kashmir-EU Week took place from the 4th-8th Nov 2019 in the premises of the European Parliament. The event was hosted Shaffaq Mohammed MEP (Renew Europe). For the fourth year in succession, the Conference was attended by H.E. Raja Farooq Muhammad Haider Khan, Prime Minister of Azad Jammu and Kashmir. Other highlights of the Conference programme were a survey of the current situation on the ground. The Kashmir-EU Week has established itself as an annual feature of the programme of conferences hosted by the European Parliament. The contributions of the MEPs, experts, academics and human rights activists are herewith gratefully acknowledged.

PRESS BRIEFING

Kashmir is in crisis: an international and human rights crisis.

The people of Kashmir have suffered and continue to suffer. The curfew and the restrictions imposed must be lifted immediately and the fundamental rights and freedoms of the people of Kashmir must be restored and upheld in line with the international law obligations.

The situation in Kashmir, like other areas of tension in the world, calls for intense diplomatic work, based on international law and respect for human rights. The European Union as an independent political actor, with autonomy, can dialogue on an equal footing on human rights, multilateral governance, trade and technology with the largest countries, including India.



H.E. Raja Muhammad Farooq Haider Khan
Prime Minister of Azad Jammu and Kashmir

Shaffaq Mohammed
MEP (Renew Europe)



Ali Raza Syed
Chairman Kashmir Council-EU

Andre Barcs
Press Officer, Kashmir Council-EU

HUMAN RIGHTS

The 12th Annual Kashmir-EU Week was chaired by **Shaffaq Mohammed (Renew Europe)**, Member of the European Parliament of Kashmiri origin. The Conference was opened by **Ali Raza Syed, the Chairman of the Kashmir Council-EU**, who welcomed the participants and reiterated the Council's commitment towards finding a peaceful solution to the Kashmir issue and put an end to the systematic human rights violations. The Chairman has briefly described the work carried by the Council and the campaigns aimed at raising awareness in the European Union on Kashmir issue and the situation on the ground. He also expressed his appreciation to the speakers of the conference, wished the participants a productive exchange of ideas and encouraged delegates to engage in active and open discussions.

Sadia Mir, an Academic at City University in Economics, Energy and Environment, and the EU Gender Policy Specialist at Women and United Nations Report Network (WUNRN Europe) used her opening remarks to address the human rights situation in the populist era. The Women and United Nations Report Network have experienced first-hand the shrinking space of women's rights. Working on a global level, WUNRN was the first one to take the situation of Kashmir to the *Commission on the Status of Women* (UNCSW) in New York in 2015. WUNRN also works in collaboration with the Council in getting an effective voice of Kashmiri diaspora to the UN and the EU. The women's rights have been slowly taken off the table and organisations are struggling to survive. There is also the danger of the far right and extremist political parties that are now taking much of the elective space on the European stage. Moving to India and the populist triumph, the populist rhetoric has helped Bharatiya Janata Party (BJP) win the elections again. Kashmiris have been painted as the other, as the foreigners, as the troublemakers. And the systematic erosion of civil rights that populists embrace destroys years of infrastructure and basic human values and norms.

Sajjad Karim, a Former Member of the European Parliament and long standing advocate on the Kashmir issue, spoke about human rights and trade linkage and the practice of including explicit human rights-related obligations in any sort of agreement. The constitutional outrage that has happened in Indian-Administered Kashmir, could have not happened in ordinary times. This proactive action could have not happened unless the International world order established post-WWII had not been dissected and attacked in parts and weakened to an extent that individual nations today feel able to take such steps. The mechanisms put in place to challenge them have been weakened to a large extent. The EU needs to establish itself as a rules-based organisation based upon a legal order as an underpinning. And the EU must also make it clear that they are going to defend the established legal world order. In trade terms, the EU has taken this particular stance. But the EU also needs to take a clear stance on the present human rights situation on Kashmir and not neglect it over trade agreements.

Zeinab Drabu, a political activist of Kashmiri origin addressed global security in relation to human rights. The connection between human rights and global security is recognised as one of profound importance by practitioners in the field of international relations. Although India claims to be the world's largest secular democracy, its subversion of democracy and human rights in Indian-administered Kashmir demonstrates how it has completely failed both its constitution, as well as its obligations under international law. Indian-administered Kashmir is currently the world's most militarised region, with over 700,000 troops occupying the region. While the Indian government justifies its occupation as necessary for the maintenance of law, order and national security, it completely fails to recognise its role as enabler and legitimator of state terror. The *Public Safety Act (PSA)*, as well as the *Armed Forces Special Powers Act (AFSPA)* have prevented accountability for human rights violations committed by members of the Indian security forces for decades. This, in turn, has encouraged the perpetuation of human rights violations. An unending emergency like situation in Indian-administered Kashmir is not a sign of security, but of total insecurity. Kashmir is, and remains, one of the most dangerous centres of conflict in global politics. This conflict is neither a bilateral issue between India and Pakistan nor is it an internal matter of India. It is an internationally recognised dispute, which presents an extremely grave threat to both regional and global security.

Suraiya Siddiqi, Member of the Kashmir Global Council shared the experiences of Kashmiri women in Indian-Administered Kashmir living under curfew. Since the liberation movement started 30 years ago, women have been at the forefront talking about the situation in Kashmir and the human rights abuses that have been going on. The situation has, however, worsen since August 5, 2019 when thousands of men have been detained often under unclear provisions, leaving their wives, mothers and sisters to defend themselves and to support their families. This has also left them vulnerable to the 800,000 thousand army troops stationed in Kashmir. They cannot leave their houses as they are afraid of being molested, assaulted or even worse, raped. Women's rights advocates blame the conflict in Kashmir – which dates back to the 1947 partition of India and has claimed 60,000 lives in six decades – for nursing a culture of impunity that makes women extremely vulnerable to gender-based violence.

CIVIL LIBERTIES

Phil Bennion, Member of the European Parliament (Renew Europe) highlighted the role of the EU and, in particular, the role of the EU when it comes to the present situation in Kashmir. The Kashmir issue needs to be fought on a global level to try and restore the basic rights and civil liberties of the people of Kashmir. On the ground, India still has a free press who is increasingly starting to question the direction of the Indian government. Today, the EU really needs to work on all fronts to help the people of Jammu and Kashmir. It must get stricter with India on this particular issue, including in its trade agreements, and help put an end to the present situation.

His Excellency, the Prime Minister of Kashmir, Mr Raja Farooq Haider Khan spoke about the present situation in Indian Administered Kashmir. Two major Asian powers, each with a stockpile of nuclear weapons to hand are in dispute over the political future of a small, semi-autonomous territory with which both have a geographic border and which both lays claim to. Despite protestations from both parties that they wish to resolve this dispute not only are there no signs of any real efforts to bring the dispute to an end. Inevitably, although both sides in this dispute suffer casualties amongst security personnel, it is Kashmiri civilians, particularly women and young people, who suffer the most and the level of civilian casualties increases sharply as the tension between the stakeholders' increases. At the same time, the military situation makes living conditions for ordinary citizens more and more difficult with supplies of basic necessities becoming ever more difficult to obtain.

Kashmir should be a region blessed with sustainable peace and therefore prosperous, living in harmony with its three powerful neighbours and, to some extent at least, acting as a bridge for commerce and culture or as a channel of communication between all three. Transforming this vision into a practical reality will demand courage and an ability to take risks.

The European Parliament continues to be a beacon of humanitarian values in a darkening world. It shows that Europe or rather the European Union continues to take as its core values genuine democratic governance involving respect for human rights. As such the European Parliament by example and by focussed actions will continue to have an important role to play in safeguarding the fundamental rights and civil liberties of the people of Jammu and Kashmir.

Khaoula Siddiqi, the Co-founder of SILK spoke about the youth inclusion in Kashmir. The abrogation of Article 370, has implications that are far beyond Kashmir. This can happen to any ethnic minority living in India or other parts of the world. India has unilaterally taken the decision to occupy Kashmir on August 5, 2019, and the stripping of the most fundamental and legal rights is, of course, unconstitutional. India is now committing abhorrent human rights abuses and has imposed a complete communication blockade. India is setting a dangerous precedent, with this nationalistic rhetoric, essentially setting the stage for what may happen in other parts of the world.

In terms of human rights, the statistics are staggering, one in four Kashmiris has been tortured. This has created a climate in which children live in fear. There are approximately 13, 000 children that have been detained, abducted, molested as young as ten years old. These human rights violations occur at such an exponential level right now. Young people are being detained up to 45 days under clear provisions and families have to pay in order for them to be released. Indian authorities are reoccurring to all means to silence these issues. NGOs, international organisations and the media are not allowed to enter Kashmir.

This occupation has to lead to these young children having immense mental traumas. The frustration, anxiety and trauma that the youth in Kashmir have, is something that needs to be healed. And the only way it needs to be healed is through international intervention as it is the only recourse in this situation. The youth cannot be included in the civil society until these human rights violations continue. There needs to be a referendum so that the voices of Kashmiri people are heard. No other nation-state can speak on behalf of the Kashmiri people. Kashmiris need to be asked what they want as they were promised. It is legally binding and it needs to be carried out.

AD-HOC CONTRIBUTIONS

Theresa Griffin, Member of the European Parliament (S&D)

The revocation of the Articles 370 and 35A and the lockdown imposed in Indian-Administered Kashmir are absolutely indefensible. Due to the communication blockade, the Kashmiris people can not get in touch with their own relatives, to know whether there are safe or in good health. It is absolutely unsettling that this can actually be happening in 2019. If we look back in history, since the 1990s there has been systematic persecution of women including rape being used as a weapon of war. The international community has to stand up with our sisters and make sure that these atrocities stop happening as it is a human rights crisis. And this is what has been going on for decades now.

The only solution has got to be reached through dialogue. The only solution has got to be a peaceful solution and it is got to be about self-determination for the people of Kashmir and Jammu.

Baroness Nosheena MOBARIK CBE, Member of the European Parliament (ECR) and the Chair of the South Asia Delegation (DSAS)

"If there is a heaven on earth, it's here, it's here, it's here." Mughal Emperor Jehangir said it all when he visited Kashmir in the 17th century.

It is a creator of civilization, a place that reunites different religions and ethnicities from around Central Asia. It is a place where Muslims, Buddhist, Sichks and Hindus have worked together, and with such diversity, culture and creativity flourished. It is a culture that is so alive, not only in Kashmir but also throughout Pakistan and the world. It is something that should be truly celebrated.

"Culture is who we are, and what shapes our identity. Placing culture at the heart of development policies is the only way to ensure a human-centred, inclusive and equitable development." UNESCO

The Kashmir conflict has, sadly, gone unresolved for 70 years and this has had an impact on the cultural heritage as well as the hearts and minds of the Kashmiri people. We should continue to strive for self-determination and to uphold the most fundamental human rights in Kashmir.

John Howarth, Member of the European Parliament (S&D)

Over the last year, a hearing in human rights subcommittee on the situation in Kashmir was held for the first time in many years which represents a degree of progress in the context of ensuring that the issue has a hearing. It was a useful exchange of views in that it has illustrated two things:

1. There is a group of parties who have an extremely anti-Muslim agenda with alarming rhetoric which is heavily linked to the situation in Europe, but they would link it back to any situation either in South Asia or any other part of the world. These are lies, distortions, but they are nonetheless there and we all need to be aware of it and make sure this issue is being tackled.
2. The government of India has a huge reach and massive resources and is putting those resources very heavily into lobbying for its agenda and we can not forget how that influence extends it. We saw these two things come together in the last couple of weeks in a visit to India by a group of members of the European Parliament which has allowed Narendra Modi, the Prime Minister of India to present his Hindu-nationalistic agenda. This visit was not an official visit organised by the European Parliament, although it was portrayed as such in the media. The Parliament must ensure that this does not happen ever again. The Members of the European Parliament must ensure that the EU continues to regard the Kashmir issue as a disputed territory, where Kashmiris have been denied their fundamental rights.



KASHMIR-EU WEEK
2019 EXHIBITION

The Cultural heritage of Kashmir

The Kashmir Council-EU photography exhibition featured a series of photos of Kashmir taken by the Belgian photographer Cédric Gerbehaye.



DRAFT RESOLUTION SUBMITTED TO THE EUROPEAN PARLIAMENT ON THE CURRENT SITUATION IN KASHMIR

The Conference analyzed the human rights situation on the ground and identified a number of issues that need urgently to be addressed if any substantive progress is to be made:

A. whereas the disputed territory which constituted the former Princely State of Jammu and Kashmir is currently administered in separate parts by the Republic of India, the Islamic Republic of Pakistan and the People's Republic of China, and has a total population of 13,4 million.

B. whereas the question of natural resources is also a factor exacerbating the dispute between Pakistan and India over Jammu and Kashmir and is an important element of any definitive resolution The United Nations Commission for India and Pakistan was established as a result of the adoption of resolutions 38 and 39 (1948), by the UN Security Council. In June, by resolution 47 (1948), the UN enlarged the UNCIP, imposed a ceasefire that took effect in January 1949, and established the conditions for a plebiscite. With the July 1949 Karachi Agreement, India and Pakistan agreed that military observers would supervise the ceasefire line; accordingly, these constituted the nucleus of the UN Military Observer Group in India and Pakistan (UNMOGIP), still operational today. The plebiscite did not take place.

B. The Shimla Agreement of 1972 defines the issue of Kashmir as an internal matter for the governments of India and Pakistan to resolve through joint negotiations. The absence of trust and mutual confidence between the parties has prevented such negotiations as have taken place from evolving into a viable peace process.

C. The 1972 Agreement assigns no place at the negotiating table for the Kashmiris themselves who are thus excluded from having a say in the shaping of their political future.

D. The Kashmiri civil society and human rights organisations including the Srinagar-based Association of the Parents of Disappeared Persons, the Asian Federation Against Involuntary Disappearances and the Jammu and Kashmir Coalition of Civil Society have obtained details of a large number of unmarked and/or mass graves. The analysis of the remains found in these hitherto unrecorded graves will be essential if families are to mourn their vanished relatives and if the true cost of the Kashmir conflict in human terms is ever to be known.

E. Due to restricted access, international human rights organisations have been unable to determine whether the newly discovered mass graves contain the remains of victims of unlawful killings or contain evidence of torture and other abuses. A suitable donor needs to be identified who will be cover the costs of the necessary DNA testing.

F. Depending on the source consulted there are significant discrepancies in the figures of the number of killed or wounded in any specific period of the conflict. For example, estimates of the number of persons missing over the period 1989 to 2017 published by associations of the families of victims put the figure at more than 8 000 while official government statistics put the total at less than half that number.

G. Women and children continued to be vulnerable to human rights abuses. Examples of this vulnerability are the tragic story of Insha Mushtaq who was blinded by a shot from a pellet gun even though she had merely gone to the window to see what was happening in the street, outside her house. Even more disturbing is the rape and murder of Asifa Bano aged 8 years who was searching for lost cattle when she was kidnapped and held the prisoner for ten days before being killed;

H. The Conference also noted that both India and Pakistan have nuclear weapons available for rapid deployment;

CONCLUSIONS AND RECOMMENDATIONS

The Conference noted the extensive and detailed work done by OHCHR and presented in the 2018 and 2019 reports on the human rights situation in Kashmir. During the drafting of the Final Statement, the Conclusions and Recommendations of the OHCHR report were scrutinized and a list of immediate priorities drawn up in line with the resources and mandate of the European Parliament. The following points summarise the priorities established during the work of the Conference:

1. The Conference recognizes that India, Pakistan, and China are all three important EU partners. The view was expressed that a resolution of the continuing conflict along the Line of Control can best be achieved by a constant engagement between the governments of India and Pakistan, involving the peoples of all parts of the former princely state; nevertheless, thinks that the EU has something to offer based on past experience of successful conflict resolution.
2. The Conference calls on representatives of the governments of both India and Pakistan to take further steps to create neutral platforms where all the parties involved in the conflict could explore new options for increased self-governance, the protection of fundamental freedoms and human rights, demilitarisation and intergovernmental cooperation on issues such as water, tourism, trade, and the environment and promote a genuine breakthrough in seeking a resolution of the Kashmir dispute.
3. The Conference calls on the governments of India and Pakistan to acknowledge that Kashmir is a disputed territory, and should allow Kashmiris themselves to decide their future.
4. The Conference has endorsed the conclusions and recommendations of the OHCHR report and noted that neither the Governments of India nor of Pakistan have taken clear steps to address and implement the recommendations made in OHCHR's June 2018 report, those recommendations are reiterated and restated in the June 2019 OHCHR report.
5. The Conference fully supported the recommendation to the Human Rights Council that the UN considers the establishment of a Commission of Enquiry to conduct a comprehensive and international investigation into allegations of human rights violations in Jammu and Kashmir. In this context, the European Parliament may wish to consider what measures might be taken to support such an initiative including sending an independent fact-finding mission to Jammu & Kashmir.
6. The Conference underlined the common cultural heritage shared by India and Pakistan, exemplified in the ancient culture of Jammu and Kashmir; recognizes and values the pluralism, multiculturalism and multi-religious nature and secular traditions of the Kashmiri peoples which have been so far kept alive in Indian Administered Kashmir.
7. The Conference believes that the EU's respect for regional identities and efforts to ensure that its own decisions are taken at the most appropriate administrative level are relevant to the aspirations of the Kashmiri people for devolved decision - making structures and recognition of their unique cultural identity.
8. The Conference urges the Indian Administration to repeal the Draconian laws (Armed Forces, Jammu and Kashmir, Special Powers Act 1990 (AFSPA) and the Jammu and Kashmir Public Safety Act 1978) which gives security personnel immunity from prosecution in the case of human rights abuses.

MEPs may wish to consider the following measures and actions:

- Whereas, both sides in the Kashmir dispute should consider the social, political, and economic benefits of solving the conflict
- Whereas, the Indian government should reflect on the huge costs of its military deployment in Kashmir and the blemish to its international reputation caused by the deteriorating human rights situation
- Demilitarization of the region is the first step towards achieving permanent peace in the region

1. Condemns the unilateral changes made to the status of Jammu and Kashmir by India

2. Urges the International Community to encourage India to lift the curfew and lockdown which has been in force now for more than three months, and which deprives Kashmiris of the fundamental human rights of freedom of speech, freedom of information and freedom of assembly all as recognized under international human rights legislation

3. Calls upon the EU and the member states to promote the implementation of United Nations Security Council Resolutions on Jammu and Kashmir, in particular, the establishment of a commission of inquiry to conduct a comprehensive and international investigation into allegations of human rights violations in India Administered Jammu & Kashmir. In this context, the European Parliament may wish to consider what measures might be taken to support such an initiative including sending a fact-finding mission to Jammu & Kashmir

4. Urges the European Union to appoint a Special Rapporteur for Kashmir who will report regularly on the progress made towards a sustainable peace

5. Calls upon the International Community to press for unconditional access to NGOs, Human Rights, and Civil Society Organizations to access the situation on the ground

6. Calls upon the European Council to instruct that any EU trade agreements with India should include a human rights clause

7. Condemns the inhumane treatment of the Kashmiri political prisoners and calls for their immediately release