



# **How should the European Community respond to the current crisis in Indian Administered Jammu and Kashmir?**

**Policy Document on behalf of the Kashmir Council-EU**

**September 10, 2019  
Brussels, Belgium**

## **An Urgent Appeal to the International Community**

This document is an urgent appeal for intervention using whatever influence is possible with the Indian government **to immediately lift the curfew and open the lines of communication in Indian Administered Jammu and Kashmir (IAJK)**. The Kashmir Council-EU, reflecting the deep concerns and demands of the Kashmiri diaspora in Europe and elsewhere, calls upon all concerned individuals, political figures, human rights organizations, EU institutions and member states to respond to the current crisis.

The following text contains suggestions for a positive response on the part of the International Community to the current desperate situation in Indian-Administered Jammu and Kashmir.

### **Background**

The current situation in IAJK presents the International Community with a serious challenge. For the past 70 years, in fact, since Partition, there has been an [ongoing dispute](#) between India and Pakistan over the status of the territory that was once the Princely State of Jammu and Kashmir.

This Princely State was something of an anomaly in that the ruler was himself a Hindu while 85% of his subjects were Muslim. During Partition, the ruler, fearing for his life, left Kashmir and fled to India. He then proceeded to sign without any consultation an [Instrument of Accession](#) which handed the Princely State to India. The validity of this document has been [challenged](#) due to the unpopularity of the decision of Maharaja to accede with India. The issue of Kashmir was brought before the United Nations Security Council in 1948 by India. The Security Council adopted a [resolution](#) which called for Kashmiris to be given the right of self-determination. The Resolution called for a [UN-supervised plebiscite which never took place](#). Both India and Pakistan voted for this Resolution.

The discussions between the two governments were eventually enshrined in the [Simla Agreement](#) (1972) which defined the Kashmir issue as a bilateral issue between India and Pakistan to be resolved through negotiation. While the principle of a negotiated settlement has general acceptance, two difficulties have emerged. First, there is no place envisaged for the Kashmiris at the negotiating table, which effectively guarantees that any solution emerging from the negotiations will be unsustainable in the long term. Second, relations between India and Pakistan have deteriorated since the Agreement was signed to a level where this region has become a nuclear flashpoint. Apart from fighting four wars (1947, 1965, 1971, & 1999), both countries continue to regularly exchange fire across the contested border, known as the [Line of Control](#) (LOC).

### **Recent developments**

The Indian government<sup>1</sup> has chosen to revoke [Articles 370 and 35A of the Indian Constitution](#) which guaranteed the autonomy of Jammu and Kashmir (1). Furthermore, the Indian government has unilaterally bifurcated the State of Jammu and Kashmir, in the shape of Ladakh Region plus the rest of Jammu and Kashmir as a separate region. These steps nullify the Instrument of Accession signed by the ruler of Kashmir in 1947. This unilateral action has been taken without any consultation with the local population since the Legislative Assembly of AIJK is already suspended.

The present situation is one of great difficulty. Indian-Administered Kashmir has become one of the [most highly militarised societies in the world](#). For a population of approximately 8 million civilians, the Indian government has [deployed](#) more than [seven hundred thousand troops](#) and paramilitary personnel. At the same time, the entitlement to legal redress via the courts has been abolished by means of the [draconian laws](#) which have effectively blocked the development of an independent judiciary. In addition, the civil authorities in Indian-Administered Kashmir have [cut all the major means of communication](#) creating a blackout reinforced by a curfew with the local population being placed under house arrest and unlawful detentions. Despite the failure of negotiations to provide the basis for a long-lasting peace, the International Community has stuck with the central point of the Shimla agreement that the Kashmir question is a bilateral issue that concerns India and Pakistan alone. The question therefore remains: what measures can we envisage that will establish a sustainable peace process which includes the people of Jammu and Kashmir?

---

<sup>1</sup> The Indian Supreme Court will hear legal challenges to the Government's decision to revoke the special status of the disputed Kashmir region. The court ordered the Government of India to respond to more than dozen queries, including questions about media restrictions in the territory. Judges are expected to begin regular hearings on Jammu and Kashmir in October.

This paper provides a set of policy recommendations designed to help the International Community tackle the Kashmir crisis. The Kashmir Council-EU proposes the following measures:

- 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.
  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 which has been in force now for more than one month causing grave hardship to the civilian population;
  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 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. Calls upon to both sides in the dispute to implement the recommendations contained in the OHCHR Reports ([2018](#) & [2019](#)) on Kashmir;
  5. Urges the European Union to appoint a Special Rapporteur for Kashmir who will report regularly on the progress made towards a sustainable peace;
  6. Calls upon the International Community to press for unconditional access to both sides of the Line of Control (LOC) to assess the situation on the ground;
  7. Calls upon the European Council to instruct that any EU trade agreements with India should include a human rights clause;
  8. 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;
  9. Calls upon the Indian government to release all political prisoners or to bring them before the courts for a fair trial.
  10. Urges the Indian government to accept external technical expertise to undertake the DNA testing of the unmarked mass graves that contain the remains of victims of unlawful killings, enforced disappearances, torture, and other abuses;

We are keen to mobilize as much support as possible in this desperate time. If you would like to be kept informed of the latest developments and be involved in our struggle for fundamental human rights. Keep in touch, you may email us on [secretariat@kashmircouncil.eu](mailto:secretariat@kashmircouncil.eu) or contact by phone at +32 22 80 69 94.