

## Anti-Muslim hatred and discrimination in Indian-Administered Jammu and Kashmir by India

30 November 2020

Jammu and Kashmir is the subject of a protracted dispute between India and Pakistan since 1947 and its resolution has remained on the United Nations Security Council agenda since 1948. In the Indian imagination, holding on to Indian-administered Jammu and Kashmir (henceforth J&K) is important to symbolize the secular character of the country.<sup>1</sup> J&K is a Muslim majority region with 68.31% of the population being Muslim and 28.44% Hindus, as per the J&K Census 2011.<sup>2</sup>

Over the decades, the attempt to “assimilate” Kashmir<sup>3</sup> and legitimize India’s control occurred through political manoeuvre, rigging of elections, and suppression of all forms of dissent. The armed struggle for right to self-determination in J&K that erupted with mass support by the late 1980s was responded with the brute military force by India. The Muslim-majority population of J&K was subjected to unprecedented human rights violations like extra-judicial executions, torture, enforced disappearances, rapes, blinding and maiming, etc. The violence and the arbitrary human rights violations continue in J&K and have become more pervasive over the decades. Today J&K is the most densely militarized region in the world with the presence of more than 700,000 Indian armed forces and J&K Police personnel.

Although India has dealt with the legitimate political aspirations of the people of J&K through the prism of religion since the beginning, the assault on religious liberties of the Muslim population is overtly used by the current Indian right-wing Hindu government. This overt anti-Muslim bigotry is exemplified by the recent statement of the J&K president of BJP, Ravinder Raina. While referring to the previous pro-India Muslim chief ministers of J&K, he said, “Just wait and watch. Abdullahs, Muftis, Azads, and others shall have to chant *Jai Shri Ram* (Glory to Lord Ram)” while also calling them terrorists.<sup>4</sup>

This also merits a look into the anti-Muslim bigotry that is currently rampant in India. With the rise of Hindu right-wing group, Rashtriya Swayamsewak Sangh (RSS) backed Bhartiya Janata Party (BJP) in India since 2014, the country has been in a free fall into anti-Muslim hatred and discrimination. The bigotry is yelled out constantly at full volumes on prime time television programs and openly displayed on the roads through lynching of the minorities, particularly Muslims.

A perfect example of this anti-Muslim discrimination was displayed in March 2020 when the Prime Minister of India announced the first lockdown for containing COVID-19 pandemic. The members – Indians and foreigners – of *Tablighi Jamaat*, a global Muslim religious group, had gathered at the *Nizamuddin Shrine* in New Delhi for an annual congregation. Accusing them of intentionally spreading

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<sup>1</sup> Outlook. ‘The Symbol of Our Secularism’. January 19, 2005.

<https://www.outlookindia.com/website/story/the-symbol-of-our-secularism/226272>

<sup>2</sup> 2011 J&K Census.

<https://www.census2011.co.in/census/state/jammu+and+kashmir.html>

<sup>3</sup> NDTV. Amend Constitution to ‘Assimilate’ people of Jammu and Kashmir with rest of India: RSS Chief Mohan Bhagwat. October 1, 2017

<https://www.ndtv.com/india-news/rss-chief-mohan-bhagwat-urges-amending-constitution-to-include-jammu-and-kashmir-1757255>

<sup>4</sup> *The Kashmir Monitor*. Farooq, Mehbooba shall have to chant ‘Jai Shri Ram’, ‘Bharat Mata Ki Jai’: BJP J&K chief Ravinder Raina. November 17, 2020

<https://www.thekashmirmonitor.net/farooq-mehbooba-shall-have-to-chant-jai-shri-ram-bharat-mata-ki-jai-bjp-jk-chief-ravinder-raina/>

COVID-19 infection, many cases were filed against them in different police stations across India under Indian Penal Code (IPC) Sections for “negligent” and “malignant” acts to spread the infection.<sup>5</sup>

When the Bombay High Court quashed three such cases, it observed in its judgment that these people were being made “scapegoats” and the action against them was an “indirect warning to Indian Muslims” for the protests against the Citizenship Amendment Act (CAA), 2019<sup>6</sup> that were happening across India at the time the pandemic started.

The CAA 2019 was an amendment to the Citizenship Act, 1955 which seeks to regularize the undocumented immigrants from Pakistan, Bangladesh and Afghanistan that are Hindus, Sikhs, Buddhists, Jains, Parsis or Christians and selectively excludes Muslims. The combination of National Register of Citizens (NRC) and CAA, which the Home Minister of India said will be implemented chronologically, can render millions of Indian Muslims stateless and concomitantly subject them to a fate of trans-generational violence. The OHCHR criticized this law and called it “fundamentally discriminatory in nature”.<sup>7</sup>

While the actions of the ruling Indian dispensation against its Muslim citizens are a clear instance of Islamophobia and bigotry at play, what differentiates it from the violence against Muslims in J&K is the politically disputed nature of the latter. Therefore, in the context of J&K, it needs to be seen not only through the lens of the current ruling party in India but as the strengthening of India’s illegal control over J&K from one regime to another.

While in the past, India ruled Kashmir through client politicians installed at the former’s will, the Indian government has taken full control of governance after the elected government in J&K was dissolved in 2018.<sup>8</sup> Today not only the legislature, but the bureaucracy and the judiciary in J&K is controlled by the Government of India.

At present, 46 out of the 58 i.e., 79.3% Indian Administrative Services (IAS) officers serving in the higher bureaucracy of J&K are non-Muslims and only 12 are Muslims i.e., 20.7%.<sup>9</sup> The highest authorities, viz. Lieutenant Governor of J&K and Divisional Commissioners of both Kashmir and Jammu divisions, are non-Muslims and non-Kashmiris. Similarly, of the 12 sitting judges in the J&K High Court, 10 (83.3%) are non-Muslims, including Chief Justice, and only 2 (16.7%) are Muslims.<sup>10</sup> Of the 19 Chief Justices of J&K High Court since 1990, along with the current Chief Justice, 14 (73.7%) have been non-Muslims.<sup>11</sup>

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<sup>5</sup>Scroll: Coronavirus: No Proof to show foreigners attending Tablighi Jamaat spread infection, says Bombay HC. *September 24, 2020*  
<https://scroll.in/latest/973982/coronavirus-no-proof-to-show-foreigners-attending-tablighi-jamaat-spread-infection-says-bombay-hc>

<sup>6</sup> Ibid

<sup>7</sup> *The Hindu BusinessLine*: UN High Commissioner for Human Rights files intervention application in Supreme Court against CAA. *March 3, 2020*.  
<https://www.thehindubusinessline.com/news/un-high-commissioner-for-human-rights-files-intervention-application-in-supreme-court-against-caa/article30970470.ece>

<sup>8</sup> *The Wire*. Plan for grand coalition in J&K prompts governor to dissolve assembly. *November 22, 2018*  
<https://thewire.in/politics/plan-for-grand-coalition-in-jk-prompts-governor-to-dissolve-assembly>

<sup>9</sup> General Administration Department, Government of Jammu and Kashmir.  
<https://jkgad.nic.in/leftMenu/CivilList.aspx#>

*Kashmir Observer*: Imbalance Evident in J&K Bureaucracy: *Mir*. *July 7, 2020*  
<https://kashmirobsrver.net/2020/07/07/imbalance-evident-in-jk-bureaucracy-mir/>

<sup>10</sup>High Court of Jammu and Kashmir.  
<http://jkhighcourt.nic.in/cjik.php>

<sup>11</sup> High Court of Jammu and Kashmir.  
<http://jkhighcourt.nic.in/formercj.php>

The right-wing Government of India has been taking decisions, making and amending laws in J&K to arrive at the “permanent and final solution” of Kashmir issue.<sup>12</sup> In order to reach the said permanent solution, on August 5, 2019, the government of India unilaterally and unconstitutionally revoked Articles 370 and 35 A of the Indian constitution, which granted “special status” as a semi-autonomous state to J&K. Apart from the autonomy, this special status made it impossible for people from outside J&K to buy immovable property in J&K, resulting in fears of demographic engineering in Kashmir. The feelings of anxiety and fear were also fed by misogynistic and overtly sexualized statements by some BJP politicians following the abrogation of Article 370. In one instance, Chief Minister of the state of Haryana in northern India, affiliated to the BJP, said that now they “will bring girls from Kashmir” for marriage.<sup>13</sup>

As part of reorganisation of J&K, many new laws were brought in, and many other laws were repealed or amended. A set of new domicile rules was brought in by Government of India in J&K on May 18, 2020 which replaced the old state subject or permanent residence laws. According to the new rules, among many categories of eligibility, those who have resided for a period of 15 years in J&K are now eligible domiciles. According to calculations based on the 2011 J&K Census, at least 1.74 million migrants from India are eligible for domicile status in J&K as of 2020. This forms 14% of the total population of J&K.<sup>14</sup> A large number of migrants will also become eligible in the next few years as they complete their 15 years of residence in J&K. Added to this number will also be the people eligible under other categories. This will not only change the demography of J&K and changes its Muslim-majority status but also influence the election processes as these domiciles also get the right to vote in the local elections. In a matter of few months, by September 22, 2020 about 60,000 domicile certificates had been issued to people from outside J&K.<sup>15</sup>

While on October 26, 2020, the Government of India brought in new land laws which make it possible for anyone from India to buy land in J&K,<sup>16</sup> the indigenous nomadic and forest dwelling Muslims of the *Gujjar* and *Bakerwal* communities of J&K, which form about 15% of the total population at 2 million, are being evicted from their dwellings, which they use during their seasonal migration.<sup>17</sup> Not only is this in violation of India’s own Forest Rights Act, 2006 but also the UN Declaration on the Rights of Indigenous People (UNDRIP) Articles 8 (2) (b), 10, 26 and 32. As these tribals are being evicted, more and more forest land is being cleared for military use in J&K, destroying the forest ecosystem and bringing about the environmental disaster. This again is in violation of UNDRIP Article 30.

These tribals have been at the receiving end of the violence by the Hindu right wing leaders from Jammu for many years now. In January 2018, a minor Muslim girl from *Bakerwal* community was raped and murdered in Jammu by 7 Hindu men, one of whom was a police officer. The crime was planned a month before, in December 2017, to “teach the *Bakerwals* a lesson”. When the accused were arrested,

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<sup>12</sup>*Outlook*: Explain “permanent solution” for Kashmir: Cong to Rajnath. *May 29, 2017*

<https://www.outlookindia.com/newscroll/explain-permanent-solution-for-kashmir-cong-to-rajnath/1062721>

<sup>13</sup> *The Hindu*: Haryana CM Khattar stokes controversy with remark on Kashmiri women. *August 10, 2019*

<https://www.thehindu.com/news/national/haryana-cm-khattar-stokes-controversy-with-remark-on-kashmiri-women/article28973262.ece>

<sup>14</sup> *NewsClick*. Why J&K’s demography will change beyond belief. *May 31, 2020*

<https://www.newsclick.in/why-jks-demography-will-change-beyond-belief>

<sup>15</sup> *The Wire*. Jammu and Kashmir Govt issues 18.52 lakh domicile certificates. *September 22, 2020*

<https://thewire.in/government/jammu-and-kashmir-govt-issues-18-52-lakh-domicile-certificates>

<sup>16</sup> *The Wire*: Contrary to Government line, new J&K land laws can effect sweeping changes. *November 3, 2020*

<https://thewire.in/rights/jammu-kashmir-new-land-laws-sweeping-changes-government>

<sup>17</sup> *Article-14*: The Central law that isn’t being allowed to J&K Muslim Tribals. *November 19, 2020*

<https://www.article-14.com/post/the-central-law-that-isn-t-being-allowed-to-j-k-s-muslim-tribals>

huge rallies were taken out in their support which were backed by sitting BJP ministers in the then government, Lal Singh Chaudhary and Chander Prakash Ganga.<sup>18</sup>

Earlier, in 2016, Lal Singh Chaudhary, the then forest minister, threatened a group of Muslim farmers who had gone to him with their grievances, saying, “You Gujjars, have you forgotten 1947?”<sup>19</sup>, referring to year 1947 when more than 200,000 Muslims from Jammu were massacred by Hindu mobs.

The assault on religious liberties in Kashmir has been ongoing for many years. Religious congregations are regularly prohibited, mosques and *Imams* are under surveillance and socio-religious organisations like *Jamaat-e-Islami* banned under draconian laws like Unlawful Activities (Prevention) Act (UAPA). The congregational Friday prayers in the historical *Jamia Masjid* are regularly barred. In 2019, no prayers were allowed in *Jamia Masjid* for 24 Fridays. It was kept under complete lockdown from August 5 to December 18, for 19 consecutive weeks. In 2018, for 12 Fridays, prayers were disallowed in the *Jamia Masjid*. In 2017, the prayers were not allowed for 18 Fridays and in 2016, following the civilian uprising, *Jamia Masjid* was locked down for 19 weeks.<sup>20</sup>

*Muharram* processions by Shia Muslims have been met with brute force by the armed government forces. In 2018 and 2019, teargas, pepper gas and pellets were fired upon the procession participants in Srinagar city. In 2019, dozens suffered serious pellet injuries.<sup>21</sup> In 2020, 200 people were detained as part of preventive arrests during *Muharram*, with many booked under UAPA.<sup>22</sup>

In addition to such violence, surveillance and transgressions on the right to privacy by the state in J&K have also become a part of life. When the lockdown due to the COVID-19 pandemic started this year, some government officials boastfully admitted how the surveillance mechanisms in place were utilized to track people who did not reveal their travel histories.<sup>23</sup> When the *Tablighi Jamaat* members were being hounded in India, at least 1900 members of the group from Kashmir were tracked using their phone records.<sup>24</sup> In August 2019, Senior Superintendent of Police Srinagar asked five Zonal SPs to provide details of mosques (including ideological affiliation) and their managements falling within their respective jurisdictions.<sup>25</sup> Around the same time a group of close to 40 clerics from northern Kashmir was summoned to the local army camp for a “counselling session” on benefits of Article 370 revocation. They were also asked to advise youngsters to not partake in protests and avoid large congregational prayers on Eid.<sup>26</sup> This kind of interference, surveillance, and control results in a sense of siege prevailing over mosque spaces.

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<sup>18</sup> *The Print*. ‘Inside Story’ of how one of the most horrific rape-murders of J&K was planned and executed. April 10, 2018 <https://theprint.in/india/governance/inside-story-of-how-one-of-the-most-horrific-rape-murders-of-jk-was-planned-executed/48129/>

<sup>19</sup> *Greater Kashmir*. Lal Singh in trouble over ‘1947 remarks’. May 22, 2016 <https://www.greaterkashmir.com/news/kashmir/lal-singh-in-trouble-over-1947-remarks/>

<sup>20</sup> JKCCS & APDP. Annual Human Rights Review 2018. A review of Human Rights in Jammu and Kashmir. <https://jkccs.net/wp-content/uploads/2018/12/Annual-Report-2018.pdf>

<sup>21</sup> JKCCS & APDP. Annual Human Rights Review 2019. A review of Human Rights situation in Jammu and Kashmir. <https://jkccs.net/annual-human-rights-review-2019-2/>

<sup>22</sup> *The Print*. Muharram Restrictions have Kashmir on edge, 200 detained as clashes with police break out. August 28, 2020. <https://theprint.in/india/muharram-restrictions-have-kashmir-on-edge-200-detained-as-clashes-with-police-break-out/491342/>

<sup>23</sup> The Economic Times. How to catch a Covid patient, Sherlock-style. March 29, 2020 <https://economictimes.indiatimes.com/news/politics-and-nation/how-to-catch-a-covid-patient-sherlock-style/articleshow/74870995.cms>

<sup>24</sup> WION. Jammu and Kashmir identifies 1900 people linked to Tablighi Jamaat, being tested for COVID-19. April 10, 2020. <https://www.wionews.com/india-news/jammu-and-kashmir-identifies-1900-people-linked-to-tablighi-jamaat-being-tested-for-covid-19-291796>

<sup>25</sup> JKCCS & APDP. Annual Human Rights Review 2019. A review of Human Rights situation in Jammu and Kashmir. <https://jkccs.net/annual-human-rights-review-2019-2/>

<sup>26</sup> *The Scroll*. In Kashmir, a quiet crackdown- on mosques and clerics. September 6, 2019.

The targeting of Kashmiri Muslims – through attacks on their lives, liberties, homes, livelihoods, religious congregations – does not remain restricted to J&K alone, but students, businessmen or professionals from J&K living in different cities of India are met with suspicion and sometimes subjected to physical violence as well. In 2019, at least 43 incidents of attacks on Kashmiris across India were reported throughout India.<sup>27</sup> The spate of violence increased exponentially after the Indian paramilitary convoy was attacked in southern Kashmir in which 48 paramilitary personnel were killed. Thousands of Kashmiris living in different Indian cities came under attack. The Governor of Meghalaya (a state in North Eastern India) called for a social boycott of Kashmiris and Kashmiri products. While calling for revenge, an Indian professor called for “public execution of 40 Kashmiris for 40 soldiers.”<sup>28</sup> On April 10, 2020, three Kashmiri boys working in Jaipur, Rajasthan were beaten up severely by local police while calling them traitors.<sup>29</sup>

In December 2019, the president of Genocide Watch observed that “Muslims in Kashmir were just one step away from extermination”. If India is not held accountable for the anti-Muslim bigotry, particularly in Kashmir, where its illegal control, widespread violence and Islamophobia intersect to produce devastating conditions for Kashmiris, the gross human rights violations will continue and demographic genocide in Kashmir is not a distant possibility.

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<https://scroll.in/article/936380/in-kashmir-a-quiet-crackdown-on-mosques-and-clerics>

<sup>27</sup> JKCCS & APDP. Annual Human Rights Review 2019. A review of Human Rights situation in Jammu and Kashmir.

<https://jkccs.net/annual-human-rights-review-2019-2/>

<sup>28</sup> NewsClick. JNU professor Amita Singh demands execution of 40 Kashmiris. *February 20, 2019*

<https://www.newsclick.in/jnu-prof-amita-singh-demands-execution-40-kashmiris>

<sup>29</sup> *The Wire*. Jaipur Lockdown: 3 Kashmiri Boys 'Beaten Up' by Police While Out on Delivery Duty. *April 30, 2020*

<https://thewire.in/rights/kashmiri-delivery-beaten-up-police-jaipur>