



fidh

YOUR LAND IS OUR LAND

India's land rights violations in Kashmir

Table of contents

Executive summary	3
Introduction	8
1. Background	10
1.1. The abrogation of Jammu & Kashmir's statehood	10
1.2. Re-engineering Jammu & Kashmir's socio-demographic composition	13
1.2.1. The end of permanent residence	13
1.2.2. New permanent resident criteria	13
1.3. Political rights impacted	15
2. Legislative amendments and land-related rights violations	17
2.1. Reversal of agrarian reforms and repeal of land laws	18
2.2. Designation of "strategic areas" favor land seizures by the military	19
2.3. New land lease regulations negatively impact local businesses	20
2.4. Conversion of agricultural land	21
2.5. Extension of India's laws to Jammu & Kashmir lowers human rights and environmental safeguards	21
2.6. Mass forced evictions and land grabs	22
2.6.1. Evicting "encroachers"	23
2.6.2. Demolitions	26
2.6.3. Evictions targeting tribal and nomadic communities	29
2.7. Investment projects	31
2.8. Tourism	33
2.9. Land transfers lead to increased militarization	36
2.10. House demolitions: A punitive tactic	37
3. Repression of Kashmiri civic space since August 2019	39
3.1. Mass arrests, prolonged internet shutdown, obliteration of human rights bodies	39
3.2. Criminalization of civil society	40
3.2.1. Increased surveillance and monitoring	40
3.2.2. Raids on offices and homes	41
3.2.3. Arrests and detentions	42
3.3. Independent media silenced	44
3.4. Freedom of movement curbed	46
3.5. Dismissal of employees	47
Recommendations	49

Executive summary

Under Prime Minister Narendra Modi and the ruling Bharatiya Janata Party (BJP), India has experienced a sharp rise in human rights violations. Driven by a Hindu nationalist agenda, which is bolstered by widespread support for the *Hindutva* movement, Modi's government has pursued policies that have substantially undermined human rights protections, eroded the independence of various institutions, including the judiciary, and targeted minority communities.

In such a highly repressive context, the people of Jammu & Kashmir saw their autonomy and special status stripped away without any consultation in August 2019. On 5 August 2019, the Indian government unilaterally revoked the special status of Jammu & Kashmir, which had been protected by Articles 370 and 35A of the Indian Constitution since 1950. These constitutional safeguards had been a key feature of Jammu & Kashmir's relationship with India and were also central to the protection of land rights in Jammu & Kashmir.

The revocation of Jammu & Kashmir's special status was accompanied by the reorganization of the administrative structure of Jammu & Kashmir, whereby Jammu & Kashmir ceased to be a state and was split into two union territories - Ladakh; and Jammu & Kashmir - directly controlled by the Indian government in Delhi.

As part of this reorganization, the Indian government issued numerous executive orders concerning Jammu & Kashmir, which led to the amendment or repeal of more than 400 laws and the reversal of progressive land reforms that had resulted in the redistribution of thousands of acres of land to landless farmers between the 1950s and the 1970s.

This report analyzes the consequences of the abrogation of statehood on land-related laws in Jammu & Kashmir and documents the impact of such changes on a range of socio-economic and political rights.

The BJP-led government has often cited the stalled pace of development in Jammu & Kashmir as a key factor driving the decision to revoke Jammu & Kashmir's special status. Various legal changes enacted by the Indian government since August 2019 significantly eased the procedures to confiscate land and to reallocate it for large-scale infrastructure and investment projects that have significant human rights and environmental impacts. In addition to the amendment or repeal of land laws, since August 2019 various executive orders have extended to Jammu & Kashmir many of India's laws characterized by weak human rights and environmental safeguards.

Legal changes were followed by action. In January 2023, the Jammu & Kashmir administration launched a campaign to confiscate land equivalent to roughly the size of Hong Kong, which it claimed had been "illegally encroached" upon in Jammu & Kashmir. This "anti-encroachment" drive led to evictions, destruction of property, and land confiscation that affected thousands of Kashmiris in violation of international human rights laws and standards.

The repeal or amendment of many of Jammu & Kashmir's land laws have also led to evictions and land confiscation to expand military presence in Jammu & Kashmir. In addition, evictions have impacted indigenous tribal and nomadic communities in Jammu & Kashmir, particularly the Gujjar and Bakarwal, who are indigenous, nomadic, and predominantly Muslim communities in Jammu & Kashmir.

Land confiscation has also taken place to pave the way for tourism in Jammu & Kashmir. Since August 2019, religious tourism, notably pilgrimages to Hindu religious sites in Jammu & Kashmir, has significantly increased. Such pilgrimages have an adverse impact on the local environment and generate limited economic benefits to residents.

The revision of various land laws since August 2019 have also provided the legal basis for allowing all Indian citizens to purchase land in Jammu & Kashmir and expanded the criteria for Indian citizens to become permanent residents of Jammu & Kashmir, thereby rendering them eligible to purchase land, apply for jobs, and exercise electoral rights in Jammu & Kashmir. Such developments raised concerns over the potentially significant alterations to Jammu & Kashmir's demographic composition, with severe ramifications for the socio-economic and political rights of Kashmiris.

The report also details the increased repression of civic space and violations of human rights that have taken place in Jammu & Kashmir since August 2019. Five years after the abrogation of statehood, the human rights situation in Jammu & Kashmir has dramatically worsened. Authorities have stepped up the criminalization of members of civil society, leading to increased surveillance and monitoring, raids on offices and homes of human rights groups and media organizations, and restrictions on freedom of movement. Kashmiri human rights defenders and independent journalists have been subjected to frequent harassment, including through arrests and detentions using draconian counter-terrorism legislation. Prominent human rights defender Khurram Parvez and independent journalist Irfan Mehraj, who remain arbitrarily detained without trial on various charges, including under the Unlawful Activities (Prevention) Act (UAPA), exemplify this trend.

The report makes various recommendations to ensure the respect of human rights in Jammu & Kashmir, in accordance with India's international human rights obligations, to reinstate protections and rights to land that existed in Jammu & Kashmir prior to August 2019, and to comply with United Nations (UN) guidelines related to land rights. The report also calls on the international community to put greater pressure on India to respect its international human rights obligations, including through concrete action at the European Union (EU) and the UN Human Rights Council.

Acronyms

APDP – Association of Parents of Disappeared Persons
BJP – Bharatiya Janata Party
BSF – Border Security Force
CAG – Comptroller and Auditor General
CID – Criminal Investigation Department
CJI – Chief Justice of India
CRPF – Central Reserve Police Force
CSO – Civil Society Organization
DIPR – Directorate of Information and Public Relations
EIA – Environment Impact Assessment
ENT – Ecosystem of Narrative Terrorism
EU – European Union
FCRA – Foreign Contributions (Regulation) Act
FIDH – International Federation for Human Rights
FIR – First Information Report
FRA – Forest Rights Act
GDA – Gulmarg Development Authority
HRD – Human rights defender
IAS – Indian Administrative Service
ICCPR – International Covenant on Civil and Political Rights
ICERD – International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR – International Covenant on Economic, Social and Cultural Rights
INR – Indian Rupee
IPS – Indian Police Service
JKCCS – Jammu Kashmir Coalition of Civil Society
KLJP – Kashmir Law and Justice Project
KSCAN – Kashmir Scholars Consultative and Action Network
LAWDA – Lake and Waterways Development Authority
LeT – Lashkar-e-Taiba
LFK – Legal Forum for Kashmir
MoA – Memorandum of Agreement
NGO – Non-Governmental Organization
NHRC – National Human Rights Commission
NIA – National Investigation Agency
OBC – Other Backward Class
OCI – Overseas Citizen of India
OGW – Overground worker
OHCHR – Office of the High Commissioner for Human Rights
PDP – People’s Democratic Party
PMLA – Prevention of Money Laundering Act
PSA – Public Safety Act
SASB – Shri Amarnathji Shrine Board
SHRC – State Human Rights Commission
SIA – State Investigation Agency
SIU – Special Investigation Unit
TTD – Tirumala Tirupathi Devasthanams
UAPA – Unlawful Activities (Prevention) Act
UN – United Nations
UPR – Universal Periodic Review
USD – United States Dollar
UT – Union Territory

Glossary

Hindutva: A right-wing ethno-nationalist political ideology that defines the cultural identity of India in terms of Hinduism and envisions India as an overtly Hindu nation-state, dominated by Hindu culture.

Kahcharai: Common grazing land.

Kanal: A standardized land area measurement used in Jammu & Kashmir. One kanal is equivalent to 505 square meters.

Kuccha: Traditional houses made of basic raw materials, including mud, thatches, straw and/or bamboo.

Marla: Marla is a traditional unit of area equal to 25.29 square meters. Twenty marlas are equal to one kanal.

Mirwaiz: Chief preacher.

Shamilat: Village common land.

District Map of Jammu & Kashmir Union Territory



Caption: This district-level map of the Union Territory of Jammu & Kashmir is provided solely for reference purposes and reflects India's claim to sovereignty over the territory of the erstwhile Princely State of Jammu & Kashmir, a claim which is not internationally recognized. The borders between India and Pakistan, and between India and China – the Line of Control (LoC) and Line of Actual Control (LAC) respectively – are ceasefire lines and not legally recognized international boundaries. Portions of Muzaffarabad, Poonch and Mirpur Districts lie on the Pakistani-controlled side of the LoC. © Sujataj0999 | Dreamstime.com

Introduction

Under current Prime Minister Narendra Modi and the ruling Bharatiya Janata Party (BJP), India has experienced a sharp rise in human rights violations. Driven by a Hindu nationalist agenda, which is bolstered by widespread support for the *Hindutva* movement, Modi's government has pursued policies that have substantially undermined human rights protections, eroded the independence of various institutions, including the judiciary, and targeted minority communities. Many of these policies – such as the enactment of the Citizenship Amendment Act, 2020¹ – have been accompanied by rhetoric that seeks to demonize and marginalize minorities, particularly Muslims.

Moreover, the Modi government has engaged in systematic repression of civil society. Since 2016, Indian authorities have revoked, suspended, or refused to renew the licenses to thousands of civil society organizations (CSOs) under the Foreign Contributions (Regulation) Act (FCRA). Authorities have also used a range of draconian laws relating to counter-terrorism and national security to harass, threaten, and silence human rights defenders and CSOs. Criticism of the government and its policies has been systematically called “anti-national” or “secessionist.”²

The multiplicity of human rights crises in India has long been a concern to FIDH and other human rights organizations. Over decades, in Jammu & Kashmir tens of thousands of people have been killed, thousands have been subjected to enforced disappearances and/or arbitrary detentions, during which torture and other acts of cruel, inhuman, or degrading treatment have been systematically used by the authorities. Human rights defenders and journalists have been systematically threatened and subjected to judicial harassment.³

In this highly repressive context, Kashmiris saw their autonomy and special status stripped away without any consultation in August 2019. Five years after the abrogation of statehood, the situation in Jammu & Kashmir remains fraught with violations of human rights, including arbitrary detentions, extrajudicial killings, and severe restrictions on freedoms of assembly, association, and expression. Amid increased militarization, surveillance, and repression of civil society, the fear and anger among the local population is palpable.⁴

On 21 November 2021, Kashmiri human rights defender Khurram Parvez⁵ was arrested by the National Investigation Agency (NIA) – India's leading counter-terrorism agency – and has been arbitrarily detained without trial since then over a series of politically-motivated charges under the country's main counter-terrorism law, the Unlawful Activities (Prevention) Act (UAPA), 1967. Parvez and his colleagues of the Jammu Kashmir Coalition of Civil Society (JKCCS) and the Association of Parents of Disappeared Persons (APDP), including journalist Irfan Mehraj, who has been arbitrarily detained alongside Parvez since 2023, have for decades documented the grave human rights violations that have been committed in Jammu & Kashmir. As a result, they faced attacks and reprisals by the Indian authorities, who have sought to silence them and criminalize their human rights work.

Since August 2019, the repression experienced by Parvez and other human rights defenders, journalists, lawyers, and politicians in Jammu & Kashmir has further escalated. The abrogation of Jammu & Kashmir's statehood on 5 August 2019 set into motion a series of drastic changes for the region. These legal and policy changes have had a disastrous impact on the human rights of Kashmiris, particularly with regard to land and related human rights issues.

1. See FIDH et al, *International community must condemn crimes against those protesting peacefully against discriminatory law*, 2 March 2020, <https://www.fidh.org/en/region/asia/india/international-community-must-condemn-crimes-against-those-protesting>

2. For a more detailed analysis, see FIDH, Front Line Defenders & World Organisation Against Torture, *Joint submission for the review of India's 5th periodic report*, June 2024, https://www.fidh.org/IMG/pdf/india_ccpr-submission_fidh-omct-fld_june2024_final.pdf

3. See FIDH, APDP & JKCCS, *Key human rights issues of concern in Indian-Administered Jammu & Kashmir*, March 2019, https://www.fidh.org/IMG/pdf/20190315_kashmir_briefing_note_-_final.pdf

4. International Crisis Group, *Flare-Ups and Frustration as Kashmir Waits for a Vote*, 8 March 2024, <https://www.crisisgroup.org/asia/south-asia/india-pakistan-kashmir-india-pakistan/flare-ups-and-frustration-kashmir-waits-vote>; Hindu, *Fear gives way to election fervour*, 24 May 2024, <https://www.thehindu.com/opinion/op-ed/in-kashmir-fear-gives-way-to-election-fervour/article68207662.ece>

5. Khurram Parvez was appointed Deputy Secretary General of FIDH in April 2023; see: <https://www.fidh.org/en/about-us/our-organisation/khurram-parvez-elected-fidh-deputy-general-secretary>

While some of this information has been reported in the media and by some of the Kashmiri diaspora activists and organizations, including reports of land confiscation and environmental degradation, the information is often piecemeal and not available in a contextualized and comprehensive way. This report aims to provide an analysis of the root causes and human rights impacts of the abrogation of statehood since August 2019. This report looks specifically at the consequences of the abrogation of statehood on land rights, and its subsequent effects on selected socio-economic rights, including those of indigenous people.

This report is dedicated to Khurram and his colleagues.

Methodology

This report is based on both primary and secondary sources. The research was conducted between January and August 2024, using qualitative research methods that included interviews and desk research. Desk research involved an analysis of primary sources (including the laws applicable to Jammu & Kashmir before and after August 2019, and available government data regarding land transfers in Jammu & Kashmir) and secondary sources (including news reports from local, national, and international media, and academic literature). Data analyzed included information collected by various Kashmiri advocacy groups, such as the Kashmir Law and Justice Project (KLJP), the Kashmir Scholars Consultative and Action Network (KSCAN), and the Legal Forum for Kashmir (LFK).

FIDH conducted nine in-depth interviews with economists, academics, human rights activists, lawyers, and journalists, seven of whom are Kashmiri. All interviews have been anonymized for the safety of respondents.

This report focuses strictly on the legal framework and human rights violations relating to what is now the Jammu & Kashmir Union Territory, and does not address issues related to the Ladakh Union Territory, which prior to August 2019 was part of the Jammu & Kashmir State. This is due to resource constraints and the fact that the context and current situation in Ladakh are significantly different from that of Jammu & Kashmir.

Terminology

This report uses the terms “confiscate/confiscation” or “seize/seizure” to refer to all instances of land that has been acquired by the Jammu & Kashmir authorities, regardless of the circumstances, reasons, or processes, which vary and cannot always be easily ascertained or verified. The Basic Principles and Guidelines on Development-based evictions⁶ recommend that states “should refrain, to the maximum extent possible, from claiming or confiscating housing or land, and in particular when such action does not contribute to the enjoyment of human rights.”

This report assumes a fundamental right to land. Although the right to land is not explicitly codified under international law, a growing body of soft law instruments recognizes the right to land as “an essential element for the realization of many human rights,”⁷ including those to an adequate standard of living, health, and cultural life.⁸

6. Available at: https://www.ohchr.org/sites/default/files/Documents/Issues/Housing/Guidelines_en.pdf

7. United Nations Human Rights Office of the High Commissioner, *Land and Human Rights*, <https://www.ohchr.org/EN/Issues/LandAndHR/Pages/LandandHumanRightsIndex.aspx>.

8. For a comprehensive analysis of the right to land, see FIDH/FHRI, *New Oil, Same Business? At a crossroads to Avert Catastrophe in Uganda*, September 2020, https://www.fidh.org/IMG/pdf/new_oil_same_business-2.pdf

1. Background

1.1. The abrogation of Jammu & Kashmir's statehood

On 5 August 2019, pursuant to the issuance of two presidential orders, the Indian government unilaterally revoked the autonomous status of Jammu & Kashmir, which had been protected by Articles 370 and 35A of the Indian Constitution for almost 70 years.⁹

Although many Indian political opposition parties expressed strong disagreement with the decision, and particularly with the unilateral way in which the executive proceeded with the amendment of the Constitution,¹⁰ the measure received overwhelming parliamentary backing. The decision was denounced by Kashmir-based political parties, which termed it as “a betrayal of trust,”¹¹ and by leading legal experts, who called it “unconstitutional and deceitful.”¹²

On the same day, the government introduced the Jammu & Kashmir Reorganization Act, 2019, (hereafter the “Reorganization Act”) in the Rajya Sabha (Upper House of Parliament), which swiftly approved it. The Act was then approved by the Lok Sabha (Lower House) the following day. On 9 August 2019, it was signed into law by India's President.

The Reorganization Act, which came into effect on 31 October 2019, reshaped the administrative structure of Jammu & Kashmir.¹³ Jammu & Kashmir ceased to be a state and was split into two union territories: Ladakh, designated as a union territory without a legislature; and Jammu & Kashmir, endowed with a new unicameral legislature. This was the first time in India's history that a state was downgraded to the status of union territory.¹⁴

Jammu & Kashmir's special status

The origins of Jammu & Kashmir's special status within India stem from its past as a Princely State, purchased by Maharaja Gulab Singh of the Dogra Dynasty from the British East India Company in 1846 through the Treaty of Amritsar. In October 1947, in the aftermath of the partition of India and Pakistan, the then-ruler Maharaja Hari Singh signed an Instrument of Accession to India, which granted India limited control over Jammu & Kashmir in the areas of defense, communications, and international relations.¹⁵

In 1949, negotiations between Jammu & Kashmir's interim government and the Indian government resulted in the establishment of a “special status” for the nascent state and culminated in the inclusion of Article 360A (later renumbered as Article 370) in the Indian Constitution in 1950.¹⁶ Article 370 outlined the conditions of Jammu & Kashmir's relationship with India, stipulating that

9. Bar and Bench, *Article 370 has not been abrogated or repealed yet: Then what has the President of India done?*, 5 August 2019, <https://www.barandbench.com/columns/article-370-has-not-been-abrogated-or-repealed-yet-then-what-has-the-president-of-india-done>

10. India Today, *Article 370 revoked: Which political parties supported the bill, which opposed it*, 6 August 2019, <https://www.indiatoday.in/india/story/jammu-and-kashmir-article-370-revoked-political-parties-support-oppose-1577561-2019-08-05>

11. Al Jazeera, *'Darkest day': Uproar as India strips Kashmir of special status*, 5 August 2019, <https://www.aljazeera.com/news/2019/8/5/darkest-day-uproar-as-india-strips-kashmir-of-special-status>

12. Huffington Post, *Kashmir: Scrapping Article 370 "Unconstitutional", "Deceitful" Says Legal Expert A.G. Noorani*, 5 August 2019, https://www.huffpost.com/archive/in/entry/kashmir-article-370-scrapping-constitutional-expert-reacts-noorani_in_5d47e58de4b0aca341206135

13. Available at: https://www.indiacode.nic.in/bitstream/123456789/15242/1/re-organisation_act%2C2019.pdf

14. States are administrative units with elected governments that have the authority to enact their own laws. Each state has its own Legislative Assembly and is led by a Chief Minister responsible for the administration. The Governor, appointed as the President's representative, also plays a role in the state's governance. Sovereign legislative and executive powers are divided between the central government and the states, specifically concerning the state's territory. Union territories, on the other hand, are governed directly by the central government in Delhi. They are administered by a Lieutenant Governor, who acts as the President's representative and is appointed by the Central Government. See: <https://www.thehindu.com/news/national/explained-state-union-territory-and-union-territory-with-a-legislative-assembly/article28837329.ece>

15. For a more in-depth analysis of the legal implications of the Instrument of Accession, see Kashmir Law & Justice Project, *Kashmir & International Law: An Activist's Guide*, November 2023, <https://www.kljp.org/articles/kashmir-international-law-an-activists-guide>

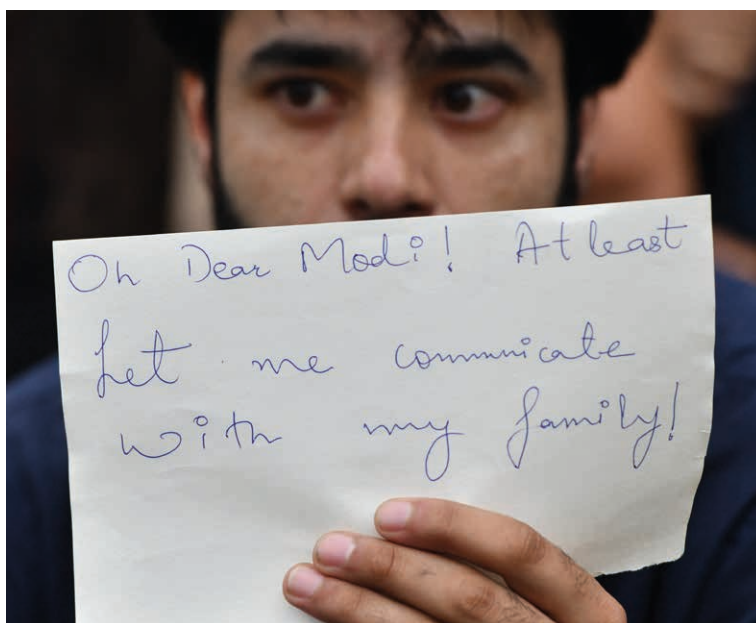
16. A.G. Noorani, *Article 370: A Constitutional History of Jammu and Kashmir* (Oxford University Press), 2011.

agreement of the Jammu & Kashmir government would be required for India's government to enact any legal and/or administrative changes. This meant that any new Indian law would not be applicable to Jammu & Kashmir unless the Jammu & Kashmir Constituent Assembly would adopt it through a vote. The intricacies of this constitutional provision limited the authority of the Indian Parliament, mandating that all decisions regarding the internal administration of Jammu & Kashmir resided within the confines of its Constituent Assembly.

Jammu & Kashmir's special status was further enshrined through a 1954 Presidential Order, which added Article 35A to the Indian Constitution, conferring authority upon the Jammu & Kashmir's legislature to designate a specific demographic as permanent residents and define their corresponding rights [See below, 1.2. *Re-engineering Jammu & Kashmir's socio-demographic composition*].¹⁷

On 8 August 2019, India's Prime Minister Narendra Modi delivered an address to defend the abrogation of Jammu & Kashmir's statehood.¹⁸ "As a country and as a family [...] together we took a historic decision. [...] A system which was [a] huge hurdle in their [the people of Jammu & Kashmir and Ladakh] development has now been eradicated," the Prime Minister said. Mr. Modi declared "a new age" had begun in Jammu & Kashmir and Ladakh and went on to claim that Articles 370 and 35A of the Constitution had given to Jammu & Kashmir "nothing but secessionism, terrorism, nepotism and widespread corruption on a large scale."

Kashmiris saw their autonomy and special status stripped away without any local consultation and amid heightened repression. On 4 August 2019, the eve of the abrogation of Article 370, several military convoys transporting 10,000 Indian Army troops¹⁹ were dispatched to what is already one of the world's most militarized region.²⁰ A complete communication blackout was imposed, shutting down the internet, mobile phone services, and landlines. The internet shutdown lasted for over six months - the longest in the world's history.²¹ A curfew was also imposed, educational institutions were closed down, and Kashmiri political leaders were arrested, detained, or put under house arrest, creating an unprecedented climate of fear and chaos.



An activist takes part in a protest in Bangalore on August 5, 2019, in reaction to the Indian government scrapping Article 370 that granted a special status to Jammu & Kashmir.
© Manjunath Kiran / AFP

17. Constitution (Application to Jammu & Kashmir) Order, 1954, C.O 48, available at: <https://sprmrf.org/wp-content/uploads/2019/08/Constitutional-Order-1954.pdf>

18. Available at: <https://www.narendramodi.in/prime-minister-narendra-modi-s-address-to-the-nation-on-8th-august-2019-545901>

19. Human Rights Watch, *India: Basic Freedoms at Risk in Kashmir*, 6 August 2019, <https://www.hrw.org/news/2019/08/06/india-basic-freedoms-risk-kashmir>

20. BBC, *Kashmir Profile*, 19 December 2023; <https://www.bbc.com/news/world-south-asia-11693674>

21. Human Rights Watch, *India: Basic Freedoms at Risk in Kashmir*, 6 August 2019, <https://www.hrw.org/news/2019/08/06/india-basic-freedoms-risk-kashmir>

In the immediate aftermath of the 5 August move, a slew of petitions were submitted to the Supreme Court contesting the constitutionality of the abrogation of Article 370 and the division of Jammu & Kashmir State into two union territories. On 28 August 2019, a three-judge bench, headed by former Chief Justice of India (CJI) Rajan Gogoi, referred the case to a five-judge Constitution Bench.²² However, it was not until August 2023 that the Constitution Bench, led by Chief Justice DY Chandrachud, began deliberations on the petitions.²³ The Supreme Court's prolonged delay of nearly four years to hear the legal challenge to the abrogation of Article 370 and the reorganization of the former state into union territories was seen by legal experts as a strategic decision aimed at acknowledging a *fait accompli*.²⁴

On 11 December 2023, the Supreme Court upheld the Indian government's decision to revoke Article 370, ruling that Jammu & Kashmir's special status had been a "temporary provision" and that removing it was constitutionally valid.²⁵ The court's ruling to uphold the removal of Jammu & Kashmir's special status and its downgrading to a union territory was dubbed by critics as unjust, flawed, and bad law.²⁶ Others termed it as an unconstitutional and undemocratic step that undermined the principles of federalism and constitutional procedures.²⁷

The abrogation of statehood drastically changed the governance structure of Jammu & Kashmir, as union territories are directly administered by the central government in Delhi, and resulted in the loss of Jammu & Kashmir's flag, Constitution, and relative autonomy.

The Reorganization Act also empowered the Indian government to issue various executive orders concerning Jammu & Kashmir. At least five orders related to Jammu & Kashmir have led to the amendment or repeal of more than 400 laws.²⁸ The 2020 Jammu & Kashmir Reorganization (Adaption of State Laws) Order alone resulted in the repeal of 153 laws and the introduction of 106 new laws pertaining to Jammu & Kashmir,²⁹ while several other laws that had been often used to repress civil society activists, such as the repressive Public Safety Act (PSA), 1978, were retained.³⁰

The State Human Rights Commission (SHRC) was shuttered. Although India's Ministry of Home Affairs reported in 2023 that at least 765 complaints remained pending at the time of the SHRC's dissolution, human rights activists estimated that number to be at least 2,800.³¹

Despite claims by the Indian government that the abrogation of Jammu & Kashmir's statehood was meant to address harmful and differential treatment of the locals, the move set into a motion a series of drastic legal and policy changes,³² which not only diminished the semi-autonomy of the former state

22. Hindu, *J&K shutdown: 3-judge SC Bench to hear 7 pleas*, 1 October 2019, <https://www.thehindu.com/news/national/sc-tags-petitions-relating-to-kashmir-lockdown-constitution-bench-to-begin-hearing-from-oct-1/article29555148.ece>. A Constitution Bench is a bench of India's Supreme Court, consisting of five or more judges, formed to decide substantial questions of law related to the interpretation of the Constitution, as per Article 145 of India's Constitution. The Chief Justice of India (CJI) decides the formation of a Constitution Bench. See: https://www.business-standard.com/podcast/current-affairs/what-is-a-constitution-bench-122100200043_1.html

23. Hindu, *SC sets up 5-judge Constitution Bench to hear pleas challenging Centre's move on Article 370*, 28 September 2019, <https://www.thehindu.com/news/national/sc-sets-up-5-judge-constitution-bench-to-hear-pleas-challenging-abrogation-of-article-370/article29541386.ece>

24. For example, see: Wire, *By Keeping Article 370 Matter Pending Indefinitely, the Supreme Court is Embarrassing Itself*, 25 May 2022, <https://thewire.in/law/article-370-jammu-and-kashmir-supreme-court-pending>

25. Al Jazeera, *What's Article 370? What to know about India top court verdict on Kashmir*, 11 December 2023; <https://www.aljazeera.com/news/2023/12/11/whats-article-370-what-to-know-about-india-top-court-verdict-on-kashmir>

26. For example, see: Wire, *The Supreme Court's Article 370 Judgment is Injustice Writ Large*, 11 December 2023, <https://thewire.in/rights/supreme-court-article-370-verdict-injustice-writ-large>; LiveLaw, *Article 370 Judgment Constitutionally Flawed, Bad in Law: Fali S Nariman*, 20 December 2023, <https://www.livelaw.in/top-stories/article-370-judgment-constitutionally-flawed-bad-in-law-fali-s-nariman-244941>

27. Hindu, *Ominously anti-federal: On the Supreme Court's judgment on Article 370 and J&K's special status*, 11 December 2023, <https://www.thehindu.com/opinion/editorial/ominously-anti-federal-on-the-supreme-courts-judgement-on-article-370-and-jks-special-status/article67628150.ece>

28. Kashmir Observer, *Operation of J&K's Erstwhile Laws Post Article 370*, 26 September 2021, <https://kashmirobservers.net/2021/09/26/operation-of-jks-erstwhile-laws-post-article-370/>

29. Available at: <https://static.pib.gov.in/WriteReadData/userfiles/218978.pdf>

30. In total, the government introduced five Jammu & Kashmir Reorganization (Adaption of State Laws) Orders in 2020; and three Jammu & Kashmir Reorganization (Adaption of Central Laws) Orders; available at: <https://ibclaw.in/jammu-and-kashmir-reorganisation-acts/?print-posts=pdf>

31. Wire, *Five Years Since Govt Shut Down J&K Human Rights Commission, Victim Families Await Justice*. 31 May 2024, <https://thewire.in/rights/five-years-since-govt-shut-down-jk-human-rights-commission-victim-families-await-justice>

32. Legal Forum for Kashmir, *Colonial Diary: A repository of settler colonial diktats in Indian Occupied Jammu & Kashmir*, October 2022,

but have also had a disastrous impact on the human rights of Kashmiris.

For nearly seven decades, Articles 370 and 35A of the Indian Constitution had been an intrinsic part of Jammu & Kashmir's relationship with India. These constitutional safeguards were also central to the protection of land rights in Jammu & Kashmir, which have been systematically dismantled since August 2019.

1.2. Re-engineering Jammu & Kashmir's socio-demographic composition

Since August 2019, Indian authorities have also implemented policies and actions that risk causing significant alterations to Jammu & Kashmir's socio-demographic composition, with severe ramifications for the socio-economic and political rights of Kashmiris.

A series of legal amendments that followed the abrogation of Jammu & Kashmir's statehood lifted restrictions on non-Kashmiris to become permanent residents and have expanded the criteria for Indian citizens to become permanent residents of Jammu & Kashmir, thereby rendering them eligible to purchase land, apply for jobs, and exercise electoral rights in Jammu & Kashmir.

1.2.1. The end of permanent residence

The abrogation of Article 370 expressly superseded all previous executive orders that had been issued over time with respect to Jammu & Kashmir, and resulted in the abrogation of Article 35A of the Indian Constitution, which had acknowledged the Jammu & Kashmir legislature's mandate to define the classes of persons who were permanent residents of Jammu & Kashmir and to make laws to confer upon them rights to immovable property, settlement, employment, and scholarship.³³

The definition of permanent residents and the rights afforded to them were enshrined in the Jammu & Kashmir Constitution, ratified on 17 November 1956, which defined a permanent resident anyone who was a state subject on 14 May 1954, or who had been a resident of the state for 10 years and had lawfully acquired immovable property within Jammu & Kashmir.³⁴ Those who fell outside of this definition of permanent residents were thus precluded from acquiring land and other property, seeking appointments within the local government, and pursuing higher education within Jammu & Kashmir.

These critical concepts of "state subject" and "permanent resident" predated Jammu & Kashmir's accession to India and were based on two orders issued in 1927 and 1932, respectively, during the Dogra Dynasty, which ruled Jammu & Kashmir from 1846 to 1947.³⁵ These two orders barred non-state subjects from obtaining employment with the Jammu & Kashmir civil service, as well as possessing any land and immovable property there.

1.2.2. New permanent resident criteria

In May 2020, the Indian government introduced the Jammu & Kashmir Grant of Domicile Certificate (Procedure) Rules, 2020 (hereafter the "Domicile Rules").³⁶ Under the Domicile Rules, any Indian citizen who had resided in Jammu & Kashmir for at least 15 years or had completed seven years of schooling and appeared for Class 10 or 12 exams in a registered educational institution in Jammu & Kashmir, would be eligible to become a resident. These individuals would receive preferential admission to public colleges, and their children would be eligible for scholarships.

In July 2021, the authorities passed a further order to amend the Jammu & Kashmir Civil Services Decentralization and Recruitment Act, recognizing the spouse of a civil servant posted in Jammu &

<https://lfkashmir.com/wp-content/uploads/2022/10/Colonial-Diary-2-1.pdf>

33. Leaflet, *Why Article 35A matters: Of demography and the right of self-determination in Indian-administered Kashmir*, 15 August 2018, <https://theleaflet.in/why-article-35a-matters-of-demography-and-the-right-of-self-determination-in-indian-administered-kashmir/>

34. Available at: <https://www.scoobserver.in/wp-content/uploads/2023/08/Rules-Costitution-of-JK.pdf>

35. *J&K State Subject Notification I* - 31st January 1927, available at: <https://kashmirlife.net/jk-state-subject-notification-49778/>; *J&K State Subject Notification II* - 27 June 1932, available at: <https://kashmirlife.net/jk-state-subject-notification-ii-49782/>

36. Newsclick, *J&K: Political Parties Oppose New Domicile Rules, Flag Demographic Fears*, 19 May 2020, <https://www.newsclick.in/Domicile-Law-Kashmir-Reinforces-Fears-Demographic-Changes-Amends>

Kashmir, as a permanent resident.³⁷ Previously, this norm applied only to children of Indian government officials posted in Jammu & Kashmir for at least 10 years.

Changes made to land laws after August 2019, to ease regulations on sales, transfers, and conversions of land – whether commercial, private, or agricultural – [See below, 2.1. *Reversal of agrarian reforms and repeal of land laws*], allow for its acquisition by any Indian citizen.

Such developments intensified fear of demographic changes, with many Kashmiris perceiving them as acts of “demographic aggression” that threaten the identity of Muslim-majority Jammu & Kashmir.³⁸

For example, the Srinagar Master Plan for 2035,³⁹ which was unveiled by the Jammu & Kashmir administration in March 2019, set a target to create over a million new jobs, including within a proposed “Special Investment Corridor,” raising concerns among Kashmiris about its potential to attract non-locals. In August 2021, the Jammu & Kashmir authorities reported that they were seeking ways to find an additional 19,700 acres of land in Srinagar Metropolitan Region to accommodate an expected three million people by 2035.⁴⁰ This plan to more than double the population of Srinagar (which currently stands at approximately two million) in a decade has given rise to significant concerns regarding the evictions and demolitions that would likely take place to build the infrastructure necessary to accommodate such large numbers of new residents.



Save Dal Lake billboard on houses near the Dal Lake in Srinagar, Jammu & Kashmir. © Eric Lafforgue / Hans Lucas

37. Deccan Herald, *J&K amends domicile law; non-local spouses can now get domicile certificate*, 21 July 2021, <https://www.deccanherald.com/india/jk-amends-domicile-law-non-local-spouses-can-now-get-domicile-certificate-1011229.html>

38. Newsclick, J&K: *Political Parties Oppose New Domicile Rules, Flag Demographic Fears*, 19 May 2020, <https://www.newsclick.in/Domicile-Law-Kashmir-Reinforces-Fears-Demographic-Changes-Amends>

39. Available at: <https://bandipore.nic.in/notice/approved-master-plan-2035-of-srinagar-metropolitan-region-smr/>

40. Kashmir Despatch, *Implementation of Master Plan-2035: Identifying 8000 Hectares for 3 million population: Govt*, 21 August 2021, <https://kashmirdespatch.com/implementation-of-master-plan-2035identifying-8000-hectares-for-3-million-population-govt/>

1.3. Political rights impacted

The changes in the permanent residence rules have also had important consequences on the political makeup of Jammu & Kashmir. In August 2022, Jammu & Kashmir Chief Electoral Officer Hirdesh Kumar announced that 2.5 million new voters were expected to be added to the electoral rolls, as voting rights were extended to all residents of Jammu & Kashmir in the aftermath of the abrogation of statehood.⁴¹ This significant expansion in the electorate pool has been accompanied by several moves by the Indian government to fundamentally alter the electoral boundaries. Some critics argued that these combined efforts would lead to the dilution of the Kashmiri Muslim vote.

On 6 March 2020, a Delimitation Commission was set up by the Indian government to redraw the Jammu & Kashmir electoral boundaries for both the Jammu & Kashmir Legislative Assembly and the Indian Parliament, as provided for by the Jammu & Kashmir Reorganization Act.⁴² The Indian government has insisted that such new delimitation of constituencies is imperative for the resumption of the electoral process in Jammu & Kashmir.⁴³

On 5 May 2022, after its initial one-year mandate was extended, the Commission announced the 90 constituencies of the Jammu & Kashmir Legislative Assembly, which included seven additional constituencies: six in Jammu (a traditional BJP stronghold) and one in Kashmir (where the BJP has generally fared much worse in elections).⁴⁴ This is despite the fact that Jammu's population is 5.3 million, around 1.5 million less than Kashmir's population of approximately 6.8 million, according to the last census in 2011.⁴⁵ In the revised electoral map, the average population of a constituency of the Jammu & Kashmir Legislative Assembly would be 140,000 in Muslim-majority Kashmir and 120,000 in Jammu.

In addition to the changes made to electoral constituencies, important changes have been applied to the classification of disadvantaged groups in Jammu & Kashmir, with implications for their political representation.

The Indian government enacted legislative measures that aimed to unduly benefit predominantly Hindu, privileged, high-caste, and pro-BJP ethnic groups under the guise of empowering historically marginalized communities.⁴⁶ It is further viewed as a strategy to woo sections of marginalized Muslim communities in Jammu & Kashmir for electoral gains and boost the BJP's political influence.⁴⁷

On 6 February 2024, the Indian Parliament passed the Constitution (Jammu & Kashmir) Scheduled Tribes Order (Amendment) Bill, extending the "scheduled tribe" status to the Pahari ethnic community and certain other groups in Jammu & Kashmir.⁴⁸ Gujjars contend that Paharis are not a tribal community, and that the majority of them are upper caste Muslims, Hindus, and Sikhs who constitute the rich elite, and that granting them scheduled tribe status will cause Gujjars to suffer and remain poor.⁴⁹

41. Indian Express, *J&K set to get 25 lakh new voters as rolls revised to include 'ordinarily' residents*, 18 August 2022, <https://indianexpress.com/article/political-pulse/jk-to-get-25-lakh-new-voters-as-rolls-revised-to-include-ordinarily-residents-8096073/>

42. On 13 February 2023, India's Supreme Court dismissed a challenge to the constitution of the Jammu & Kashmir Delimitation Commission to readjust constituencies. See: Hindu, *SC upholds the constitution of the J&K Delimitation Commission, extension of tenure of its chairperson*, 13 February 2023, <https://www.thehindu.com/news/supreme-court-dismisses-plea-challenging-delimitation-in-jammu-kashmir/article66503117.ece>

43. Economic & Political Weekly, *Delimitation of J&K: Regional Disparity and Disproportionate Representation*, Vol. 57, Issue No. 28, July 2022, <https://www.epw.in/journal/2022/28/insight/delimitation-jk.html>

44. Wire, *With Delimitation Now Complete, J&K Politicians Allege Further Disempowerment of Kashmir*, 6 May 2022, <https://thewire.in/government/with-delimitation-now-complete-jk-politicians-allege-further-disempowerment-of-kashmir>

45. See: <https://jkplanning.gov.in/profile1.html>

46. Al Jazeera, *Ahead of India election, tension brews in Kashmir over tribal caste quotas*. 27 February 2024. <https://www.aljazeera.com/features/2024/2/27/ahead-of-election-tension-brews-in-kashmir-over-bjps-tribal-quota-move>

47. Article 14, *BJP's Strategic Moves In Kashmir: Altered Political Map Strengthens Hindu Vote, New Tribal Quota Forges Fresh Loyalties*, 24 May 2024, <https://article-14.com/post/bjp-s-strategic-moves-in-kashmir-altered-political-map-strengthens-hindu-vote-new-tribal-quota-forges-fresh-loyalties--665006d13668a>

48. Kashmir Observer, *Bill to Grant ST Status to Paharis in J&K Passed in LS*, 6 February 2024, <https://kashmirobserver.net/2024/02/06/bill-to-grant-st-status-to-paharis-in-jk-passed-in-ls/>

49. Outlook, *Gujjars VS Paharis: How Bill To Expand Jammu And Kashmir's SC, ST Lists Is Gaining Steam*, 9 August 2023, <https://www.outlookindia.com/national/gujjars-vs-paharis-how-bill-to-expand-jammu-and-kashmir-s-sc-st-lists-is-playing-out-news-309130>

Such moves are seen as a deliberate strategy to further disempower Muslims in Jammu & Kashmir while bolstering disproportionate advantages for pro-BJP elements.⁵⁰ The Gujjar and Bakarwal communities, which are predominantly Muslim, have openly voiced their opposition to these initiatives.⁵¹

In addition, after announcing the amendments, the Jammu & Kashmir administration sanctioned a 10% quota for four newly included tribes, namely the Pahari Ethnic Group, Paddari Tribe, Kolis, and Gadda Brahmins.⁵² This increased the overall quota for scheduled tribes to 20%, marking a substantial enhancement in their representation. Additionally, the administration incorporated 15 additional castes into the Other Backward Classes (OBCs) list. This expansion is coupled with an increase in quotas for OBCs to eight percent.⁵³

Legislative amendments have also sought to weaken local grassroots governance. On 5 February 2024, the Indian Parliament adopted the Local Bodies Laws (Amendment) Bill, which included amendments to the Jammu & Kashmir Panchayati Raj Act, 1989, to incorporate quotas for OBCs in the *Panchayat* system and in municipal bodies.⁵⁴ The amendments also included a new mechanism to disqualify membership in *Halqa Panchayat* (a village council that is the lowest unit in the three-tiered rural administrative structure called *Panchayati Raj*).⁵⁵

Lastly, the Indian government has significantly increased the power and remit of the Lieutenant Governor, as its appointed representative in Jammu & Kashmir. On 12 July 2024, India's Ministry of Home Affairs further amended the Transaction of Business Rules of the Jammu & Kashmir Reorganization Act, 2019, to enhance powers of the Lieutenant Governor. As a result of the amendment, the Lieutenant Governor can unilaterally make decisions on matters such as transfers and postings of civil servants, appointment of judicial officers, and law and order, without the need for prior consultation with the Jammu & Kashmir Finance Department.⁵⁶ Under Section 42B of the amended Act, the Lieutenant Governor's approval is required to prosecute any officer of the All-India Services (the Indian civil service), such as the Indian Administrative Service (IAS) and the Indian Police Service (IPS).⁵⁷ Along with matters related to the Jammu & Kashmir Anti-Corruption Bureau, the Lieutenant Governor is also empowered to be the sole authority that can make decisions on issues concerning prisons, the directorate of prosecution, and the forensic science laboratory.⁵⁸

50. Article 14, *BJP's Strategic Moves In Kashmir: Altered Political Map Strengthens Hindu Vote, New Tribal Quota Forges Fresh Loyalties*, 24 May 2024, <https://article-14.com/post/bjp-s-strategic-moves-in-kashmir-altered-political-map-strengthens-hindu-vote-new-tribal-quota-forges-fresh-loyalties-665006d13668a>

51. Al Jazeera, *Ahead of India election, tension brews in Kashmir over tribal caste quotas*, 27 February 2024, <https://www.aljazeera.com/features/2024/2/27/ahead-of-election-tension-brews-in-kashmir-over-bjps-tribal-quota-move>

52. Kashmiriyat, *Admin enhances reservation in Jammu Kashmir, here's everything you need to know*, 18 March 2024, <https://thekashmiriyat.co.uk/admin-enhances-reservation-in-jammu-kashmir-heres-everything-you-need-to-know/>

53. Economic Times, *10 per cent reservation approved for newly added tribes, OBC reservation enhanced to 8 percent in J-K*, 16 March 2024, <https://economictimes.indiatimes.com/news/india/10-per-cent-reservation-approved-for-newly-added-tribes-obc-reservation-enhanced-to-8-percent-in-j-k/articleshow/108542420.cms?from=mdr>

54. Hindu, *Centre moves Bill to provide reservation to OBCs in local bodies in J&K*, 5 February 2024, <https://www.thehindu.com/news/national/centre-moves-bill-to-provide-reservation-to-obcs-in-local-bodies-in-jk/article67814697.ece>

55. Panchayati Raj is a three-tier structure (village, intermediate and district level) of the Indian administration for rural development that aims to develop local self-governments in districts, zones, and villages. Gram Sabha is the primary body and is a village assembly consisting of all the registered voters within the area of the panchayat. It will exercise powers and perform such functions as determined by the state legislature.

56. Hindu, *MHA amends Rules to widen the administrative role of J&K L-G*, 13 July 2024, <https://www.thehindu.com/news/national/jammu-and-kashmir/mha-amends-rules-to-widen-the-administrative-role-of-jk-l-g/article68396963.ece>

57. Business Standard, *Home Ministry gives more powers to J&K L-G on matters of law and order*, 13 July 2024, https://www.business-standard.com/india-news/home-ministry-gives-more-powers-to-j-k-l-g-on-matters-of-law-and-order-124071300271_1.html

58. Wire, *Uproar as Modi Govt Gives More Power to Lieutenant Governor Ahead of J&K Assembly Polls*, 13 July 2024, <https://thewire.in/government/jammu-kashmir-lieutenant-governor-manoj-sinha-more-power>

2. Legislative amendments and land-related rights violations

The repeal or amendment of land protection laws since August 2019 has had a significant impact on Kashmiris' land rights. Since 2019, there have been increasing reports of land confiscation by the Jammu & Kashmir administration to clear land for the alleged purpose of public and private sector development. While most of the land seized has yet to be allocated for a specific purpose, some is already being developed for infrastructure projects. Many of these projects have significant human rights and environmental impacts.

Prior to August 2019, the protection of Jammu & Kashmir's special status provided by Article 370 of India's Constitution had granted the state considerable legislative autonomy, which facilitated legislative initiatives that resulted in significant land use reforms.⁵⁹ These reforms included the abolition of landlordism, land redistribution to tillers,⁶⁰ and the establishment of farmer cooperatives. Notably, Jammu & Kashmir's implementation of extensive land reforms, such as the cancellation of debt on small-land holdings, garnered widespread attention as one of the most prominent instances of land reform in South Asia. By the end of March 1953, an estimated 188,775 acres of land had been transferred to 153,399 tillers,⁶¹ and by the mid-1980s, approximately 300,000 tillers had benefited from the reforms.⁶²

A Kashmiri academic, who specialized in land reforms, told FIDH, "The land reforms protected the interests of the locals historically. Data shows that prior to 2019, Jammu & Kashmir had the lowest rural inequality and poverty in India. This is largely attributed to implementation of land reforms in Kashmir in the 1950s. Once these land rights were eroded in 2019, Kashmiris lost the rights to land which they had historically acquired."⁶³

Land reforms in Jammu & Kashmir

The plight of farmers, who were predominantly Muslims, remained a constant in the history of Kashmir, as they endured exploitation from both the state and the landlords by being subjected to exorbitant taxes, *begar* (forced labor), and denial of autonomy. Addressing the issue of their exploitation became a prominent demand of Kashmir's political movement, led by the Muslim Conference in the first half of the 20th century. When the National Conference, an off-shoot of the Muslim Conference, took power following the end of Dogra rule in 1947, the new government abolished all types of landlordism in Jammu & Kashmir.⁶⁴

Jammu & Kashmir's progressive land reforms were built on two acts that had been promulgated during the Dogra period: the Jammu & Kashmir Land Revenue Regulation No.1, 1923, replaced by the Jammu & Kashmir Land Revenue Act, 1939, and the Jammu & Kashmir Tenancy Act, 1923. These two acts governed the state revenue administration until August 2019. The Jammu & Kashmir Tenancy Act governed the relationship between the landlords and the tillers, while the Jammu & Kashmir Land Revenue Act was central to the preparation of revenue records with

59. Mint, *Opinion: Was special status a development dampened in J&K*, 8 August 2019, <https://www.livemint.com/opinion/columns/opinion-was-special-status-a-development-dampener-in-j-k-1565248797810.html>

60. The term tillers (or cultivators) in Kashmir was primarily used during the Dogra period to refer to those peasants who tilled agricultural lands without ownership or tenancy rights over the land they worked. The term can also refer to landless workers, or sharecroppers (an arrangement whereby a landowner would give a small plot of land in return for a share of the crop or revenue) on lands that were owned by landlords. After land reforms were implemented, some of them became land-owning farmers who also hired farm labour, but most were engaged in subsistence family farming. Under the Big Landed Estates Abolition Act, 1950, a tiller was defined as "a person who tills land with his own hands or a tenant who self-cultivates the land under his proprietorship." The terms tillers and cultivators are used interchangeably in this report.

61. See: Korbil, J., (1954). *The National Conference Administration of Kashmir 1949-1954*. *Middle East Journal*, [online] 8(3), pp.283–294, 1954;. aAvailable at: <https://www.jstor.org/stable/4322613>.

62. See: Rekhi, T.S.,. *Socio-economic Justice in Jammu and Kashmir*. New Delhi: Ideal Publications, 1993.

63. FIDH, *Interview #1*, 19 April 2024. For more details and data related to Jammu & Kashmir's economic status prior to August 2019, see: Newsclick, *Land Reform and Development in J&K*, 20 August 2019, <https://www.newsclick.in/land-reform-development-jammu-kashmir>

64. Prasad, A.K. (2014). *Sheikh Abdullah and Land Reforms in Jammu and Kashmir*. *Economic & Political Weekly*, xlix (31).

respect to the land. In addition, in 1938, the Dogra administration passed the Alienation of Land Act, 1938,⁶⁵ to regulate the transfer of agricultural land. Section 4 of the Act explicitly prohibited the transfer of land to individuals who were not state subjects of Jammu & Kashmir [See above, 1.2.1. *The end of permanent residence*].

In October 1948, significant changes were made to the Jammu & Kashmir Tenancy Act, 1923, to address the hardship faced by tenants in Jammu & Kashmir.⁶⁶ The amendments granted tenants-at-will protected tenancy rights for specified land areas, limiting evictions by landowners, setting maximum rental rates, and replacing the previous requirement of surrendering over half of their produce as rent.⁶⁷ Additionally, tenants who had cultivated their landlords' land for at least seven months prior to the Act's enactment were also granted tenancy rights.

In order to effect a fundamental transformation in land ownership relations and cultivation practices, the National Conference government in April 1949 established a Land Reforms Committee, tasked with formulating a strategy for the elimination of large, landed estates and the redistribution of land to those who cultivated it. On 18 October 1950, as an outcome of the Committee's work, the Jammu & Kashmir Big Landed Estates Abolition Act was enacted. This legislation legalized comprehensive land reforms with the aim of empowering the actual cultivators of the land. The Act defined a "tiller" as someone who personally worked the land. According to its provisions, every landowner, regardless of whether they cultivated the land themselves, could retain a maximum of 22.75 acres of land. Ownership rights to the remaining land were transferred to the actual tillers, without compensation, up to a maximum limit. Non-compliance with the requirement to work on the land could result in expropriation.

The Big Landed Estates Abolition Act, 1950, had extraordinary results for the landless, with as many as 9,000 landowners transferring land held in excess of the maximum limit allowed by the Act to tillers.⁶⁸

The autonomy guaranteed by Article 370 of India's Constitution safeguarded the Big Landed Estates Abolition Act from potential challenges. At that time, the right to property was enshrined as a fundamental right in Article 19 of India's Constitution, but Article 370 shielded Jammu & Kashmir from the applicability of Article 19, thereby protecting the land reform measures.⁶⁹

However, these reforms were tainted by corruption and misallocation.⁷⁰ In response to these challenges, in 1963 the Jammu & Kashmir government established a Land Commission to investigate discrepancies in land tenure. The recommendations of this commission laid the groundwork for the Jammu & Kashmir Agrarian Reform Act, 1972, which underwent further amendment in 1976.⁷¹ Under this Act, the rights associated with landholdings not personally cultivated by the owner were revoked and transferred to the state. Additionally, the ceiling for landholding was reduced from 22.75 acres to 12.5 "standard acres," although this limit could vary depending on the quality of the land, ranging from higher limits for low-quality land to as low as eight acres for the best quality irrigated land.

2.1. Reversal of agrarian reforms and repeal of land laws

Since August 2019, the Indian government has actively worked to dismantle Jammu & Kashmir's history of progressive land reforms that had led to the abolition of the feudal system and the introduction of limits to land ownership, which resulted in the redistribution of thousands of acres of land to landless tillers [See above, *Land reforms in Jammu & Kashmir*].⁷²

65. For details, see: https://prsindia.org/files/bills_acts/acts_states/jammu-and-kashmir/1938/1938J&K5.pdf

66. Dhar, D.N., *Socio-Economic History of Kashmir Peasantry*. Srinagar: Centre for Kashmir Studies, 1989

67. Dhar, D.N., *Socio-Economic History of Kashmir Peasantry*. Srinagar: Centre for Kashmir Studies, 1989

68. See: George Mathews (2011): https://www.publicationsdivision.nic.in/journals/Journalarchives/Yojana/Yojana-English/2011/October/Yojana_2011_October_pdf.pdf

69. Newsclick. *Land Reform and Development in J&K*, 20 August 2019, <https://www.newsclick.in/land-reform-development-jammu-kashmir>

70. Rai, Mridu, *Hindu Rules, Muslim Subjects: Islam, Rights, and the History of Kashmir*. Princeton University Press, 2004,

71. Wani, G.Q. and Taranum, H., *Brief Commentary on Revenue Law: Jammu and Kashmir Land Revenue Act, 1996, J&K Tenancy Act and Agrarian Reforms Act, 1976*, 2019

72. Newsclick, *How Amended Land Laws Undo Historic Reforms in J&K*, 2 November 2020, <https://www.newsclick.in/how-amended->

The Indian government's actions resulted in fundamental changes for land governance in Jammu & Kashmir, including: the removal of limits to landholding; the lifting of restrictions on the purchase and sale of land by non-Kashmiris; and the watering down of occupancy rights of tenants or lessees on land. These changes were met with widespread criticism by local politicians and activists, who saw them as part of a broader initiative by the Indian government to pave the way for big businesses to buy and use large swathes of land in Jammu & Kashmir.⁷³

On 26 October 2020, the Indian government promulgated two orders – the Union Territory of Jammu & Kashmir Reorganization (Adaptation of Central Laws) Third Order and the Jammu & Kashmir Reorganization (Adaptation of State Laws) Fifth Order – which repealed 12 Acts and amended 14 laws related to land.⁷⁴ Among the laws that were repealed were those that defined land rights and ownership, including the Big Landed Estate Abolition Act, 1950 [See above, *Land reforms in Jammu & Kashmir*], the Jammu & Kashmir Agrarian Reforms Act, 1976, and the Jammu & Kashmir Land Revenue Act, 1939, which protected users of state land for grazing purposes.⁷⁵

One of the key changes in the Jammu & Kashmir Reorganization (Adaptation of State Laws) Fifth Order was the removal of the phrase “permanent resident of the state” from the Jammu & Kashmir Development Act, 1970. This amendment provided the legal basis that would allow all Indian citizens to purchase land in Jammu & Kashmir [See above, *1.2.1. The end of permanent residence*]. Additionally, the provision related to the leasing of land from the Jammu & Kashmir Land Grants Act, 1960, which had allowed for the termination of a land lease without compensation in the event that non-permanent residents were introduced as promoters or members of a registered charitable society, was removed.⁷⁶ In addition, the Jammu & Kashmir Property Rights to Slum Dwellers Act, 2012, was amended to remove references to “permanent residents,” thereby facilitating the process for this category of migrants to obtain property rights and subsequently apply for residency in Jammu & Kashmir.⁷⁷

According to a journalist reporting on changes to land laws, “[The previous laws] largely prohibited outsiders from buying land in Kashmir. These laws were the first targeted. Now anybody and everybody [with Indian citizenship] is eligible to buy the land.”⁷⁸

While some of the protections in the amended land-related laws have been reintroduced by the extension of India's laws to Jammu & Kashmir after August 2019 [See below, *2.5. Extension of India's laws to Jammu & Kashmir lowers human rights and environmental safeguards*], significant legislative gaps in terms of protections of land rights remain.

2.2. Designation of “strategic areas” favors land seizures by the military

Another significant consequence of the Jammu & Kashmir Reorganization (Adaptation of State Laws) Fifth Order of October 2020 was the addition of a clause in the Jammu & Kashmir Development Act, 1970, which allowed the government, upon written request from an Indian Army officer not below the rank of Corp Commander, to declare an area as “strategic” for operational and training requirements of the armed forces.⁷⁹

The amended law does not specify the criteria for declaring an area as strategic, only stating that “the government may satisfy itself about the reasons cited for declaring the area as strategic and will have such area notified accordingly with such conditions as may be required.”⁸⁰

[land-laws-undo-historic-reforms-jammu-kashmir](#)

73. Wire, *Modi Govt's New Land Policy for J&K Overturms 7 Decades of Land Reform*, 28 October 2020, <https://thewire.in/government/jammu-and-kashmir-land-policy-reform>

74. Print, *Anyone in India can now buy land in Jammu and Kashmir, but conditions apply*, 27 October 2020, <https://theprint.in/india/anyone-in-india-can-now-buy-land-in-jammu-and-kashmir-but-conditions-apply/531828/>

75. Newslick, *How Amended Land Laws Undo Historic Reforms in J&K*, 2 November 2020, <https://www.newslick.in/how-amended-land-laws-undo-historic-reforms-jammu-kashmir>

76. Print, *12 laws repealed, 14 amended – what exactly changes under new land orders in J&K*, 29 October 2020, <https://theprint.in/judiciary/12-laws-repealed-14-amended-what-exactly-changes-under-new-land-orders-in-jk/533038/>

77. Scroll, *In Jammu and Kashmir, long-marginalised minorities are granted domicile rights*, 6 July 2020. <https://scroll.in/article/966427/in-jammu-and-kashmir-long-marginalised-minorities-are-granted-domicile-rights>

78. FIDH, *Interview #3*, 6 May 2024.

79. Article 14, *Why It's Easier for Army to Take Over Land in J&K*, 29 July 2020, <https://article-14.com/post/2-legal-tweaks-make-it-easier-for-armed-forces-to-take-over-land-in-j-k>

80. See: https://www.indiacode.nic.in/bitstream/123456789/16435/1/development_act%2C_1970.pdf

Effectively, the Indian Army, paramilitary forces and other forces can now identify any area in Jammu & Kashmir as “strategic” and seize it, ignoring possible objections from civilian authorities. The decision to declare an area as “strategic” allows the Indian armed forces to build infrastructure potentially in any area of Jammu & Kashmir, including ecologically fragile areas such as Gulmarg or Sonmarg.⁸¹

As a Kashmiri lawyer told FIDH, “This not only causes dispossession of people from their native lands, but also has serious ecological impacts, as it can lead to the destruction of forests and habitats of indigenous communities.”⁸²

The move was criticized by the Jammu & Kashmir political leadership, who termed it an attempt to disempower residents who would have no role in policy decisions. They labeled the amendments as an initiative that aimed at undermining civilian authorities and transforming the entire region into a military establishment.⁸³

As a Kashmiri journalist told FIDH, “The [military] already had land in Kashmir under the previous defense arrangements. But what they want to do moving forward is to have a documentary and legal backing, so if tomorrow anyone approaches the international forums, they [the Indian government] can claim they have followed the due process.”⁸⁴

2.3. New land lease regulations negatively affect local businesses

Changes in land lease regulations risk having a significantly negative socio-economic impacts in Jammu & Kashmir.⁸⁵ In December 2022, the Jammu & Kashmir administration issued the new Jammu & Kashmir Land Grant Rules, 2022, in replacement of the Jammu & Kashmir Land Grants Rules, 1960, which detailed the special rules to lease land.

The new Rules reduce the maximum lease period to 40 years, from up to 99 years under the previous Rules. Moreover, the new Rules authorize the evictions of all holders of expiring leases —except in the case of subsisting and expired leases for residential purposes— who fail to hand over the land’s immediate possession to the Jammu & Kashmir administration.⁸⁶ This means that hundreds of properties could be auctioned. While the impacts have so far been limited given the recent nature of the changes in the Rules, these drastic changes have resulted in insecurity for current leaseholders, who have been left in the dark about the future of their businesses, as well as the fate of their employees and their livelihood. Residents argued that the new Rules would adversely impact thousands of local small and medium businesses in Jammu & Kashmir.⁸⁷

Moreover, according to the new Rules, the land can be leased for any purpose in the interest of the state to be determined by the Jammu & Kashmir administration.⁸⁸

The new Rules could cause ownership change in significant areas of Jammu & Kashmir, including all of Gulmarg and parts of Srinagar, Pahalgam, and Patnitop.⁸⁹ Business owners, particularly in the tourist industry, face expropriation of their infrastructure and the closure of their businesses, as most tourist facilities were built on leased land.⁹⁰

81. Wire, *Under Fire, J&K Govt Plays Down Decision to Give Armed Forces More Building Rights*, 20 July 2020, <https://thewire.in/government/jammu-and-kashmir-armed-forces-land-construction>

82. FIDH, *Interview #9*, 12 July 2024.

83. Economic Times, *Criticism of strategic zones to facilitate construction by armed forces in J&K unfounded*, 19 July 2020, <https://economictimes.indiatimes.com/news/defence/criticism-of-strategic-zones-to-facilitate-construction-by-armed-forces-in-jk-unfounded/articleshow/77052996.cms?from=mdr>

84. FIDH, *Interview #3*, 6 May 2024.

85. Kashmir Life, *The Lease Row*, 16 December 2022, <https://kashmirlife.net/the-lease-row-vol-14-issue-38-306443/>

86. Kashmiriyat, *Jammu Kashmir’s ‘New Land Grant’ rules explained*, 16 December 2022, <https://thekashmiriyat.co.uk/jammu-kashmir-new-land-grant-rules-explained/>

87. Week, *How Kashmir’s new land-grant rules have put livelihoods in jeopardy*, 9 April 2023, <https://www.theweek.in/theweek/statescan/2023/04/08/effects-of-new-land-grant-rules-in-jammu-and-kashmir.html>

88. Hindu, *Explained: What do the J&K Land Grant Rules, 2022 entail?*, 24 December 2022, <https://www.thehindu.com/news/national/explained-what-do-the-jk-land-grants-rules-2022-entail/article66293191.ece>

89. Al Jazeera, *In 2022, India came for Kashmir’s land, votes and journalists*, 22 December 2022, <https://www.aljazeera.com/news/2022/12/30/2022-india-continues-series-of-controversial-policies-in-kashmir>

90. NDTV, *Concern Over New Rule on Land Lease in Jammu and Kashmir*, 16 December 2022, <https://www.ndtv.com/india-news/new-rule-on-land-lease-in-jammu-and-kashmir-has-hoteliere-in-a-bind-3611076>

Many educational institutions have also operated on leased land and are likely to be affected.⁹¹ Since August 2019, the Jammu & Kashmir administration has refused to renew leases, including those of educational institutions.⁹² According to media reports, some students were unable to register for board exams in the absence of valid land lease documents from their school.⁹³

2.4. Conversion of agricultural land

Legislative changes that have occurred since August 2019 also made the conversion of agricultural land to land that can be used for other purposes easier. The Jammu & Kashmir Reorganization (Adaptation of State Laws) Fifth Order of October 2020 amended the Jammu & Kashmir Land Revenue Act, 1939, easing the process for the conversion of agricultural land to non-agricultural uses,⁹⁴ and allowing non-resident Indian citizens to buy land, including agricultural land, in Jammu & Kashmir.⁹⁵

Section 133-H of the Jammu & Kashmir Land Revenue Act, 1939, limited the purchase or transfer of agricultural land for non-agricultural uses. However, the revised legislation now empowers the government and its designated officers to allow such transfer of land, including to non-Kashmiri Indian citizens, via sale, gift, exchange, or mortgage.⁹⁶ The amended Jammu & Kashmir Land Revenue Act, 1939, prescribes that persons who have had the land transferred to them and intend to use it for non-agricultural purposes are now required to do so within five years from the date of transfer or purchase.⁹⁷

The changes to the Jammu & Kashmir Agrarian Reforms Act, 1976, under the Third and Fifth Orders of October 2020, also opened Kashmir's agricultural lands to contract farming, mortgages, and leases. This was not possible earlier, as landholders with ownership rights under the Agrarian Reforms Act, 1976, could only transfer agricultural land to the Jammu & Kashmir government. Such development raised concern that Jammu & Kashmir's agriculture sector could become controlled by agro-industrial businesses that could lease agricultural land to agricultural workers. As an academic interviewed by FIDH said, "In the future we will also see more [food] dependence of the region on the outside economy, and only a small section [of the population] close to the state [authorities] will benefit from this change at the cost of the majority of farmers who will get dispossessed."⁹⁸

2.5. Extension of India's laws to Jammu & Kashmir lowers human rights and environmental safeguards

In addition to the amendment or repeal of land laws, since August 2019 various orders have been passed that have extended to Jammu & Kashmir many of India's laws characterized by weak human rights and environmental safeguards.

For example, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, commonly known as the Forest Rights Act (FRA), which recognizes the rights of forest-dwelling tribal communities and other traditional forest dwellers to forest resources, was extended to Jammu & Kashmir pursuant to the Jammu & Kashmir Reorganization (Adaption of Central Laws) Third Order of October 2020.⁹⁹ However, in recent years the FRA has been repeatedly weakened. For example,

91. Kashmir Life, *The Lease Row*, 16 December 2022, <https://kashmirlife.net/the-lease-row-vol-14-issue-38-306443/>

92. Telegraph India, *Land crackdown hits top Kashmir school: Students' fate in balance as institution struggles to get lease renewed*, 4 February 2024, <https://www.telegraphindia.com/india/land-crackdown-hits-top-kashmir-school-students-fate-in-balance-as-institution-struggles-to-get-lease-renewed/cid/1998189>; Kashmir Life *The Lease Row*, 16 December 2022, <https://kashmirlife.net/the-lease-row-vol-14-issue-38-306443/>

93. Telegraph, *Land crackdown hits top Kashmir school: Students' fate in balance as institution struggles to get lease renewed*, 4 February 2024, <https://www.telegraphindia.com/india/land-crackdown-hits-top-kashmir-school-students-fate-in-balance-as-institution-struggles-to-get-lease-renewed/cid/1998189>

94. Indian Express, *J&K: New regulations for conversion of agri land use notified*, 15 January 2022, <https://indianexpress.com/article/cities/srinagar/jammu-kashmir-agricultural-land-regulation-7723853/>

95. Daily Excelsior, *No domicile needed: Anyone can now purchase land in J&K*, 28 October 2020, <https://www.dailyexcelsior.com/no-domicile-needed-anyone-can-now-purchase-land-in-jk/>

96. Wire, *Contrary to Government Line, New J&K Land Laws Can Effect Sweeping Changes*, 3 November 2020, <https://thewire.in/rights/jammu-kashmir-new-land-laws-sweeping-changes-government>

97. Print, *12 laws repealed, 14 amended – what exactly changes under new land orders in J&K*, 29 October 2020, <https://theprint.in/judiciary/12-laws-repealed-14-amended-what-exactly-changes-under-new-land-orders-in-jk/533038/>

98. FIDH, *Interview #1*, 19 April 2024.

99. Outlook, *The Road so Far: Forest Rights Act in J&K*, 16 May 2023, <https://www.outlookindia.com/national/the-road-so-far-forest->

in 2019 the Indian government issued a circular that removed the requirement of obtaining prior consent of affected forest dwellers to consider projects on forest land.¹⁰⁰

Moreover, in August 2023, amendments were passed to the Forest Conservation Act, 1980,¹⁰¹ which risk having a disastrous impact on the forests, biodiversity, and natural environment. The Forest Conservation Amendment Act, 2023, exempts certain forests from the purview of the protections under the Act. The amendment is likely to adversely impact indigenous forest-dwelling communities by stripping their right to free, prior, and informed consent.¹⁰² The amendment was met with widespread opposition from former civil servants,¹⁰³ ecologists,¹⁰⁴ and local governments and legislatures in the densely forested northeastern states of India.¹⁰⁵

The Environment Impact Assessment (EIA) Notification, 2006, was another order that has been negatively impacted by amendments. Under the EIA Notification, infrastructure and investment projects (including mines and thermal power plants) were required to obtain environmental clearances from state governments prior to the commencement of work. The EIA Notification specified the procedures for these clearances and provided for post-clearance monitoring of the projects. However, since 2014 the EIA Notification has been significantly weakened through various amendments, including: the introduction of exemptions for certain industries; the removal of certain required steps in the environmental clearance process for specific types of projects; and the exemption of certain projects from the public consultation process, such as those in industrial estates established before 2006.¹⁰⁶ In addition, in March 2017, a procedure was introduced to authorize *post-facto* environmental clearances to regularize projects that had begun without obtaining prior authorizations.¹⁰⁷

2.6. Mass forced evictions and land grabs

The legal changes enacted by the Indian government since August 2019 have significantly eased the process of confiscating and allocating land for large-scale infrastructure and investment projects, including by companies owned by non-Kashmiris [See below, 2.7. *Investment projects*]. This has been done primarily through amendments to the Jammu & Kashmir Development Act, 1970, pursuant to the Jammu & Kashmir Reorganization (Adaptation of State Laws) Fifth Order of October 2020 [See above, 2.1. *Reversal of agrarian reforms and repeal of land laws*].

The changes in Kashmir's land laws have enabled the Indian authorities to forcibly evict and dispossess thousands of Kashmiris from their homes, without due process, and in violation of India's international human rights obligations.

The UN Committee on Economic, Social and Cultural Rights defines forced eviction as the "permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriation forms of legal or other protection."¹⁰⁸

[rights-act-in-j-k-news-286443](#)

100. Indian Express, *Before backing tribals in SC, govt diluted their gram sabha powers in Forest Act*, 10 March 2019, <https://indianexpress.com/article/india/before-backing-tribals-in-sc-govt-diluted-their-gram-sabha-powers-in-forest-act-5618779/>

101. Amended by the Forest Conservation (Amendment) Act, 2023.

102. Scroll, *Amendment to forest conservation act leaves 28% of India's forest cover vulnerable*, 9 August 2023, <https://scroll.in/article/1054010/amendment-to-forest-conservation-act-leaves-28-of-indias-forest-cover-vulnerable>

103. Wire, *More than 100 Ex Civil Servants Question New Forest Conservation (Amendment) Bill*, 13 July 2023, <https://thewire.in/government/more-than-100-ex-civil-servants-question-new-forest-conservation-amendment-bill>

104. Wire, *400+ Ecologists Write to Environment Minister Against Amendments to Forest Conservation Act*, 19 July 2023, <https://thewire.in/environment/400-ecologists-write-to-environment-minister-against-amendments-to-forest-conservation-act>

105. Scroll, *Why states in the North East are opposing the new forest law*, 29 August 2023, <https://scroll.in/article/1054882/why-states-in-the-north-east-are-opposing-the-new-forest-law>

106. Since the amendments are to the EIA Notification and not the Act itself, these amendments are only notified (ie published) and are not subject to parliamentary oversight or approval.

107. For more details on these dilutions and other amendments to other laws, see: Lara Jesani, *Facilitating Businesses through Environment Policy Dilutions: The Contemporary Indian Reality* (Chapter 3 - Status of Corporate Responsibility Report in India, 2018), http://bcfindia.org/Resources/StatusOfCorporateResponsibilityinIndia_2018.pdf

108. Committee on Economic, Social and Cultural Rights, *General comment No. 7: The right to adequate housing (art. 11(1) of the Covenant): Forced evictions*, Sixteenth session (1997), <https://www.ohchr.org/en/forced-evictions-and-human-rights>



Activists hold protest to demand a stay to the Jammu & Kashmir governments circular directing removal of encroachment on state land in Jammu City on 16 January 2023. © Nasir Kachroo / NurPhoto / NurPhoto via AFP

Reports of fresh evictions and land grabs emerged soon after the repeal of Jammu & Kashmir's special status in August 2019. From the outset, Indian authorities justified their actions by extolling the benefits of development [See below, 2.7. *Investment projects*], describing confiscation as a legitimate punishment for ties to the militancy or other opposition, and stressing the need for a greater military presence to counter ongoing external and internal threats to security. The mass removal of Kashmiris from their lands, businesses, and properties has been also justified by the overarching argument by the Indian government that significant portions of land in Jammu & Kashmir are being illegally occupied by so-called "encroachers" and that the Indian government is only reclaiming land from such encroachers [See below, 2.6.1. *Evicting "encroachers"*].

2.6.1. Evicting "encroachers"

Many evictions and land seizures carried by the authorities since August 2019 in Jammu & Kashmir have been justified by the claim that state land is illegally occupied by encroachers. The authorities asserted that they were reclaiming land from powerful individuals who had unlawfully acquired land through their influence, and claimed that the recovered land would be repurposed for infrastructure and investment projects, including hospitals, schools, playgrounds, bus stands, parking spaces, and industries.¹⁰⁹

This trend accelerated in early 2023, when the authorities launched what they termed an "anti-encroachment drive" to dispossess locals of agricultural and non-agricultural land that they had used for generations. On 9 January 2023, the Jammu & Kashmir administration issued a circular directing the Deputy Commissioners of the Union Territory to ensure that "all encroachments on state land" were removed "to the extent of 100% by 31 January 2023."¹¹⁰

The Jammu & Kashmir administration claimed that they were acting pursuant to a 2020 ruling of the Jammu & Kashmir High Court, which had declared the Jammu & Kashmir State Land (Vesting of

109. Hindustan Times, *Land eviction drives panic, razes confidence in Jammu and Kashmir*, 12 February 2023, <https://www.hindustantimes.com/cities/chandigarh-news/land-eviction-drives-panic-razes-confidence-in-jammu-and-kashmir-101676057275101.html>

110. Scroll, *Why a demolition drive has sparked panic and anxiety in Jammu and Kashmir*, 9 February 2023, <https://scroll.in/article/1043516/why-a-demolition-drive-has-sparked-panic-and-anxiety-in-jammu-and-kashmir>

Ownership to the Occupants) Act, 2001, also known as the Roshni Act,¹¹¹ to be “illegal, unconstitutional, and unsustainable.”¹¹²

Reports claimed that dozens of politicians from various political parties, former Jammu & Kashmir ministers and lawmakers, prominent hoteliers, and other businessmen were among the beneficiaries of the Roshni Act.¹¹³ In reality, most of the Roshni Act beneficiaries were non-Muslims, and several of them were prominent BJP leaders.¹¹⁴ Of the 604,602 kanals (approximately 75,300 acres) of land that had been regularized under the Roshni Act across Jammu & Kashmir, 571,210 kanals (approximately 70,400 acres), or nearly 95%, were allotted in Jammu, which is predominantly Hindu, and only 33,392 kanals (approximately 4,200 acres), or five percent, in Muslim-majority Kashmir.¹¹⁵

When the Jammu & Kashmir administration launched its anti-encroachment campaign in January 2023, purportedly to free about 2.24 million kanals¹¹⁶ (approximately 1,112.8 sq km or roughly the size of Hong Kong) of land they claimed had been illegally encroached upon in Jammu & Kashmir, the authorities gave assurances that the poor would not be targeted. However, media reports highlighted that many of those impacted by the evictions were poor who possessed small holdings.¹¹⁷ Kashmir-based political parties, business federations, farmer unions, and locals decried that the impact of the eviction drive was felt most by the poor segments of the population of Jammu & Kashmir.¹¹⁸ In Baramulla District alone, a reported 34,000 people were placed on a list of alleged encroachers; 7,000 were placed on the list in Srinagar.¹¹⁹ In February 2023, the drive was abruptly put on hold after a public outcry. News reports indicated that between 9 January and 11 February 2023 as many as two million kanals (250,000 acres, or approximately 1,011.7 sq km) of land had been confiscated, including *shamilat* (village common land) and *kahcharai* (common grazing land).¹²⁰

Thousands of people were negatively impacted, even if the government did not release official data on the number of structures demolished or seized, the number of trees the revenue authorities felled, or crops that were destroyed during the campaign.

Many affected residents reported the loss of their shops and homes without prior notification from the authorities.¹²¹ Even those in possession of documentation substantiating their ownership were frequently denied the opportunity to contest the demolitions. In numerous instances, eviction notices were issued only a few hours before the scheduled demolitions, depriving individuals of adequate time

111. The Roshni Act had been introduced in 2000 by the National Conference government with the aim to transfer ownership of 2.044 million kanals (approximately 1,112.8 sq km) of land to private individuals in exchange for a premium, which was projected to generate INR 250 billion (approximately USD three billion). However, only approximately 600,000 kanals (approximately 303.5 sq kms), with 570,000 kanals (approximately 288.3 sq km) located in Jammu alone, received approval for transfer, and the actual land transfer amounted to 348,000 kanals (approximately 176 sq km). Consequently, the anticipated revenue drastically fell to about INR 765 million (approximately USD nine million), leading to accusations of financial and political misconduct. In 2018, the Roshni Act was declared “null and void” by the Jammu & Kashmir administration, which claimed that the Act “failed to realize the desired objectives and there were also reports of misuse of some its provisions.” In 2014, a report by India’s Comptroller and Auditor General (CAG) alleged that the Jammu & Kashmir administration had arbitrarily reduced the premium for land under Roshni Act to benefit politicians and influential individuals.

112. LiveLaw, ‘Have Not Come Across Any Such Legislative State Action Legitimizing Criminal Activity’: J&K HC Holds ‘Roshni Act’ Unconstitutional, 11 October 2020, <https://www.livelaw.in/news-updates/aggrieved-judges-insulting-behaviour-lawyers-allahabad-high-court-bar-association-abstain-work-262858?infinitiescroll=1>

113. Wire, *Why the J&K Admin’s ‘Anti-Encroachment Drive’ Is Being Met With Opposition*, 22 January 2023, <https://thewire.in/government/why-the-jk-admins-anti-encroachment-drive-is-being-met-with-opposition>

114. Caravan, *BJP’s “land-jihad” bogey in J&K backfires with members accused of encroaching state land*, 10 March 2021, <https://caravanmagazine.in/politics/bjp-land-jihad-backfires-state-land-encroachers>

115. Caravan, *BJP’s “land-jihad” bogey in J&K backfires with members accused of encroaching state land*, 10 March 2021, <https://caravanmagazine.in/politics/bjp-land-jihad-backfires-state-land-encroachers>

116. See: <https://www.newindianexpress.com/nation/2023/Apr/03/huge-chunks-of-land-freed-in-jk-encroachment-drive-2562198.html>

117. Nakhtoo Media, *Poor Kashmiris targetted in anti-encroachment drive despite governor’s assurance*, 21 February 2023, <https://makttoobmedia.com/india/kashmir/poor-kashmiri-targetted-in-anti-encroachment-drive-despite-governors-assurance/>; Frontline, *Bulldozer raj: Now in Jammu and Kashmir*, 23 February 2023, <https://frontline.thehindu.com/politics/the-alarmed-rise-of-bulldozer-raj-in-jammu-and-kashmir/article66516194.ece>

118. Polis Project, *Echoes of destruction: An eviction drive to retrieve Kashmir’s state land*, 24 February 2023, <https://www.thepolisproject.com/read/echoes-of-destruction-an-eviction-drive-to-retrieve-kashmir-s-state-land/>

119. Newsclick, *J&K Parties Emphasise Eviction Drive Puts Tens of Thousands at Risk, Seek Safeguards*, 22 January 2023, <https://www.newsclick.in/jk-parties-emphasise-eviction-drive-puts-tens-thousands-risk-see-safeguards>

120. NDTV, *Jammu and Kashmir’s Eviction Drive Put On Hold Amid Row, Says Official*, 19 February 2023, <https://www.ndtv.com/india-news/controversial-bulldozer-drive-put-on-hold-in-jammu-and-kashmir-3795631>

121. Pandow, B. A., *Bulldozing freedom*, Vol. 52, Issue 1, pp.78-79, 2023, <https://doi.org/10.1177/03064220231165395>

to pursue legal recourse.¹²² In most cases of land confiscation through the demolition of structures, residents were neither consulted nor given adequate compensation by the authorities. In a few cases, authorities seized or demolished a structure even though a dispute between the occupants and the authorities was still being considered by a court.¹²³ According to a journalist interviewed by FIDH, “People are not being served notices. If at all notices are served, they are given a day or two, which is not sufficient time for them to challenge it.”¹²⁴

The mass eviction campaign left people terrified and fearful of losing their land and property,¹²⁵ with critics terming it as part of the Indian government’s ethno-nationalist project of targeting Muslim households, dispossessing locals of land, and engineering a demographic change.¹²⁶ The Kashmir-based People Democratic Party (PDP) in a statement underscored: “Such measures will further add to the apprehensions of the people about the government’s intent to alter our demography by dispossessing the locals and incentivizing outside settlers to take their place.”¹²⁷

Colonialism in disguise

The abrogation of Article 370, and, to a lesser extent, Article 35A, was central to the demands of *Hindutva* nationalist organizations, which had fervently advocated for the complete assimilation of Jammu & Kashmir into India for decades.¹²⁸

The ruling BJP, as the *Hindutva* movement’s leading political party, had long opposed the special status for Jammu & Kashmir. The repeal of Articles 370 and 35A regularly featured in BJP manifestos and the party had repeatedly argued that Jammu & Kashmir’s special status was “discriminatory to non-locals” and “an obstacle in the development” of the state.¹²⁹

The Indian government has often emphasized development as a central justification for its policies in Jammu & Kashmir [See below, 2.7. *Investment projects*]. However, the development agenda has also been invoked to increase Jammu & Kashmir’s economic reliance on India,¹³⁰ with critics terming it a colonial mechanism to dispossess the local Kashmiri people.¹³¹

The BJP had also accused Kashmir-based political parties of criminal intentions by engaging in “land jihad,”¹³² suggesting that Muslims forcibly took over land belonging to Hindus in Jammu.¹³³ Such assertions provided the ideological backing for the campaign of forced evictions, demolitions, and land grabs the authorities conducted in Jammu & Kashmir after August 2019 [See above, 2.6.1. *Evicting “encroachers”*]. While the Indian government asserted that the lands it seized were

122. New Internationalist, *Kashmiris are living in fear of demolitions*, 24 May 2023, <https://newint.org/features/2023/05/24/kashmiris-are-living-fear-demolitions>

123. Article 14, *At A Time Of Economic Distress, J&K Land Eviction Drive Imperils Livelihoods*, 13 March 2023, <https://article-14.com/post/at-a-time-of-economic-distress-j-k-land-eviction-drive-imperils-livelihoods-640ea6bd0db85>

124. FIDH, *Interview #4*, 13 May 2024.

125. Print, *J&K anti-encroachment drive triggers fear & panic, ‘razes livelihoods’ in Valley*, 12 February 2023, <https://theprint.in/india/jk-anti-encroachment-drive-triggers-fear-panic-razes-livelihoods-in-valley/1366419/>

126. Business Standard, *Anti-encroachment drive in J-K attempt to seize land, cause changes: PDP*, 5 February 2023, https://www.business-standard.com/article/politics/anti-encroachment-drive-in-j-k-attempt-to-seize-land-cause-changes-pdp-123020500467_1.html

127. Deccan Herald, *J&K anti-encroachment drive trying to change demography: PDP*, 5 February 2023, <https://www.deccanherald.com/india/jk-anti-encroachment-drive-trying-to-change-demography-pdp-1188083.html>

128. Indian Express, *Article of faith: History of the RSS and BJP opposition to Article 370*, 6 August 2019, <https://indianexpress.com/article/explained/article-of-faith-history-of-the-rss-and-bjp-opposition-to-370-kashmir-special-status-5881052/>

129. Times of India, *BJP manifesto reiterates Kashmir stand, promises to repeal Articles 370 & 35A*, 8 April 2019, <https://timesofindia.indiatimes.com/elections/news/bjp-manifesto-reiterates-kashmir-stand-promises-to-repeal-articles-370-35a/articleshow/68778784.cms>

130. Kaul, Nitasha, *Coloniality and/as Development in Kashmir: Econonationalism*, *Feminist Review* Vol 128, Issue 1 (July 2021); <https://journals.sagepub.com/doi/full/10.1177/01417789211016490>

131. See: Harvard Law Review, *From Domicile to Dominion: India’s Settler Colonial Agenda in Kashmir*, May 2021, <https://harvardlawreview.org/print/vol-134/from-domicile-to-dominion-indias-settler-colonial-agenda-in-kashmir/>

132. *Land jihad*, literally translated as holy war for land, is an expression used since 2017 by *Hindutva* proponents to refer to Muslims settling down in Hindu-majority areas and constructing mosques or madrasas in the vicinity to allegedly change the demographics of that area.

133. Article 14, *J&K’s ‘Land Jihad’ Bogey Stoked Islamophobia. But mainly Hindus Benefited*. 26 January 2021. <https://article-14.com/post/j-k-s-land-jihad-bogey-stoked-islamophobia-but-mainly-hindus-benefited>

“encroachments” stemming from corruption, Kashmiri advocacy groups argued that it was imperative to recognize the connection between the anti-encroachment drive and India’s “broader settler-colonial objectives” in Kashmir.¹³⁴ In a statement released following the abrogation of Jammu & Kashmir’s statehood, the PDP noted: “It’s no secret that GOI’s [government of India’s] Kashmir policy emulates the Israeli model in Palestine.”¹³⁵

The enactment of new Domicile Rules [See above, 1.2.2. *New permanent resident criteria*], has also been characterized by critics as a “quasi-colonial project,”¹³⁶ particularly with respect to amendments to various land acquisition laws, which have eliminated barriers for non-Kashmiris to the purchase of land and other property in Jammu & Kashmir. “The larger purpose definitely is settler colonisation in the region by going for demographic changes,” a Kashmiri researcher told FIDH.¹³⁷

Months after halting the anti-encroachment drive in February 2023 due to widespread public and political backlash, it was reported that the Jammu & Kashmir administration was planning to seek fresh approval from the Indian government to restart the campaign to reclaim an estimated 75,000 to 87,500 acres of land that had been allegedly encroached on, encompassing residential, commercial, agricultural, and other types of property.¹³⁸

On 6 May 2023, Jammu & Kashmir authorities confiscated land from “encroachers” over a canal at Pattan town in Baramulla District, with locals alleging that the land was being reclaimed because of a personal grudge and rivalry to provide road connectivity to an affluent family.¹³⁹

Furthermore, the Jammu & Kashmir Reorganization (Adaptation of State Laws) Fifth Order of October 2020 introduced amendments to two crucial land laws, the Jammu & Kashmir Agrarian Reforms Act, 1976, and the Jammu & Kashmir Land Revenue Act, 1939. These amendments changed the guidelines governing the encroachment of land, resulting in weaker safeguards to protect tenants from immediate eviction.¹⁴⁰

Prior to its amendment, Section 133(2) of the Jammu & Kashmir Land Revenue Act, 1939, stipulated that if an encroacher of a land had built any structure on it, the evicted persons would be granted “an area of 10 marlas (approximately 253 square meters) under and adjacent to the structure.” Moreover, once the authorities served a notice, the persons affected would be given the choice of either dismantling the structure standing on such land or providing “a suitable equivalent area” in the same village.¹⁴¹

The Indian government also completely scrapped Section 26 of the Jammu & Kashmir Agrarian Reforms Act, 1976, which provided an option to those who had “unauthorizedly raised an orchard or a plantation of trees” to clear such land within six months from the issuance of a notice by a revenue official or provide an equal area to the government.¹⁴²

2.6.2. Demolitions

In January 2023, officials from the Jammu & Kashmir Revenue Department, accompanied by the Jammu & Kashmir police to deter any resistance or protest, used bulldozers to dismantle structures erected on contested land.

134. Stand with Kashmir, *Militarization, Surveillance, and Silencing: the 75th Year of Indian Occupation in Kashmir*, May 2023, https://standwithkashmir.org/wp-content/uploads/2023/04/2023-Report_Final.pdf

135. Deccan Herald, *J&K anti-encroachment drive trying to change demography: PDP*, 5 February 2023, <https://www.deccanherald.com/india/jk-anti-encroachment-drive-trying-to-change-demography-pdp-1188083.html>

136. Crisis Group, *Raising the Stakes in Jammu and Kashmir*, 5 August 2020, <https://www.crisisgroup.org/asia/south-asia/kashmir/310-raising-stakes-jammu-and-kashmir>

137. FIDH, *Interview #1*, 19 April 2024.

138. Deccan Herald, *Anti-encroachment drive to resume in Jammu and Kashmir after Center’s nod*, 18 April 2023, <https://www.deccanherald.com/india/anti-encroachment-drive-to-resume-in-jammu-and-kashmir-after-center-s-nod-1210787.html>

139. Kashmir Despatch, *Pattan: Renji locals allege ‘anti-encroachment’ drive carried over personal grudge; tehsildar denies*, 6 May 2023, <https://kashmirdespatch.com/pattan-renji-locals-allege-anti-encroachment-drive-carried-over-personal-grudge-tehsildar-denies/>

140. Scroll, *How evictions in Kashmir are linked to the loss of special status*, 20 February 2023, <https://scroll.in/article/1044085/how-evictions-in-kashmir-are-linked-to-the-loss-of-special-status>

141. Proprietary land refers to land on which the owner has exclusive rights.

142. Scroll, *How evictions in Kashmir are linked to the loss of special status*, 20 February 2023, <https://scroll.in/article/1044085/how-evictions-in-kashmir-are-linked-to-the-loss-of-special-status>

From 25 January 2023 onwards, Jammu & Kashmir authorities demolished structures belonging to current and former Kashmiri politicians.

On 25 January 2023, authorities demolished an outer wall and the guard room at the residence of senior National Conference leader Ali Muhammad Sagar near Srinagar airport.¹⁴³

On 28 January 2023, Jammu & Kashmir authorities demolished a four-shop commercial complex owned by former Jammu & Kashmir lawmaker Ghulam Hassan Khan in Shopian District.¹⁴⁴ On the same day, 40 shops run by locals were sealed in the same district.¹⁴⁵

On 29 January 2023, 15 kanals (approximately two acres) of orchard were seized by authorities from the former Jammu & Kashmir Finance Minister and PDP leader Haseeb Drabu in Shopian District.¹⁴⁶

On 30 January 2023, Anantnag District administration officials seized an alleged illegal commercial structure that National Conference lawmaker Majid Larmi had constructed over *shamilat* on the national highway.¹⁴⁷ Part of the complex, including 60 shops, was demolished and the rest was taken over by the authorities.

On 31 January 2023, Jammu & Kashmir officials confiscated two kanals and seven marlas (approximately 680 square meters) of *shamilat* (village common land), owned by PDP leader and former legislator Syed Farooq Andrabi in Shistergam Village, Anantnag District.¹⁴⁸

On 1 February 2023, the Jammu & Kashmir authorities confiscated one kanal (approximately 500 square meters) of *kahcharai* (common grazing land) in Kokernag Village, Anantnag District, from former Jammu & Kashmir Congress President Peerzada Mohammad Sayeed.¹⁴⁹

On 2 February 2023, the government demolished a shopping complex owned by Kashmiri pro-self-determination leader and former *Mirwaiz* (chief preacher) Qazi Yasir. Additionally, over 40 kanals (approximately five acres) of land were reclaimed from Srinagar's well-known Nedou's Hotel, owned by a relative of former Jammu & Kashmir Chief Minister Farooq Abdullah.¹⁵⁰ According to Jammu & Kashmir officials, of the total 153 kanals (20 acres) of land on which the hotel was built, 40 kanals (five acres) were illegally occupied land, while the rest was leased land. In the Pahalgam area of Anantnag District, authorities reclaimed Green Acker, a guesthouse at Laripora that former municipal councilors Bashir Ahmad Dar and Manzoor Ahmad had built.¹⁵¹

On 3 February 2023, Jammu & Kashmir authorities sealed Srinagar's Aftaab market comprising about 20 shops, mostly selling white goods. The closure came amid reports that the property was being illegally reclaimed from a rightful owner.¹⁵²

143. Greater Kashmir, *Outer wall of house of NC Gen Secy and former minister, Ali Sagar's wife, who had 'grabbed' state land, demolished*, 25 January 2023, <https://www.greaterkashmir.com/kashmir/govt-runs-bulldozer-on-most-powerful-land-grabbers-outer-wall-of-house-of-nc-gen-secy-and-former-minister-ali-sagars-wife-who-had-grabbed-state-land-demolished/>

144. Hindustan Times, *Anti-encroachment drive: Commercial complex owned by former Kashmir minister razed*, 28 January 2023, <https://www.hindustantimes.com/cities/chandigarh-news/antiencroachment-drive-commercial-complex-owned-by-former-kashmir-minister-razed-101674846610504.html>

145. Rising Kashmir, *40 shops sealed in Shopian Town, 406 Kanals of state land retrieved*, 28 January 2023, <https://risingkashmir.com/40-shops-sealed-in-shopian-town-406-kanals-of-state-kahcharie-land-retrieved/>

146. Greater Kashmir, *15 kanal land gobbled by former finance minister and PDP leader Haseeb Drabu retrieved*, 28 January 2023, <https://www.greaterkashmir.com/kashmir/budget-in-an-envelope-had-come-home-15-kanal-land-gobbled-by-former-finance-minister-and-pdp-leader-haseeb-drabu-retrieved/>

147. Rising Kashmir, *Illegal structure erected by Ex. MLA.NC Leader Abdul Majeed Larmi taken over by Revenue Authorities at Anantnag*, 30 January 2023; <https://risingkashmir.com/illegal-structure-erected-by-ex-mla-nc-leader-abdul-majeed-larmi-taken-over-by-revenue-authorities-at-anantnag/>

148. Kashmir Observer, *Land Retrieved from Two Former Ministers, Heirs Of Mir Qasim In Anantnag*, 31 January 2023, <https://kashmirobsviewer.net/2023/01/31/land-retrieved-from-two-former-ministers-heirs-of-mir-qasim-in-anantnag/>

149. New Indian, *Anti-encroachment drive at hotel linked to Farooq Abdullah's kin leads to drama*, 1 February 2023, <https://www.newindian.in/anti-encroachment-drive-at-hotel-linked-to-farooq-abdullahs-kin-leads-to-drama/>

150. ETV Bharat, *J&K: 40 Kanals of State Land Retrieved From Historic Nedou's Hotel in Srinagar*, 31 January 2023, <https://www.etvbharat.com/english/state/jammu-and-kashmir/nedous-hotel-in-srinagar-demolition-farooq-abdullah-encroachment-drive/na20230131162058900900792>

151. Hindustan Times, *Illegal Structure raised by former MLAs, Biz Families demolished in J&K*, 1 February 2023, <https://www.hindustantimes.com/cities/chandigarh-news/illegal-structures-raised-by-former-mlas-biz-families-demolished-in-jk-101675191099067.html>

152. Greater Kashmir, *Aftab Market Row – Shops were sealed due to misunderstanding, all issues cleared: KTMF*, 3 February 2023, <https://www.greaterkashmir.com/srinagar/aftab-market-row-shops-were-sealed-due-to-misunderstanding-all-issues-cleared-ktmf/>

Between 4 and 5 February 2023, District Municipal Corporation and Jammu & Kashmir Revenue Department officials in collaboration with the police demolished several homes and properties of residents in at least four districts: Srinagar, Budgam, Anantnag, and Baramulla.¹⁵³ Many of the residents alleged that they had documents proving ownership of their properties, but the authorities did not give them an opportunity to present their claims before running bulldozers over their homes.

In numerous instances, Jammu & Kashmir authorities invoked the need to make way for infrastructure projects, such as new roads, trains, and urban development, as the primary basis for the demolition of residences, shops, and other buildings. These initiatives have resulted in the displacement of locals, the destruction of their properties, and/or evictions from land.

In February 2020, a total of 29 shops were demolished in Pulwama town to pave the way for road widening.¹⁵⁴ In March 2020, Jammu & Kashmir authorities began issuing notices following which nearly 50 shops were demolished in Pulwama District's Tral town, allegedly to seize land for road widening.¹⁵⁵ The shop demolition rendered dozens of shopkeepers jobless. The authorities claimed to have confiscated around 120 kanals (approximately 15 acres) of land during the four days of demolition drive in Tral town and other areas of Pulwama District, including Deewar and Batagund. The outbreak of the COVID-19 pandemic and the ensuing lockdown paused the demolitions until November 2020, when the Pulwama District administration demolished houses, shops, and business establishments in Awantipora for road widening.¹⁵⁶

In December 2021, residents of Humhama locality in Srinagar protested the demolitions carried out by the Budgam District administration as part of its anti-encroachment drive.¹⁵⁷ The district administration officials had issued a notice to around 1,700 households in the area to vacate the land to make way for construction related to Srinagar's airport.

The campaign of evictions, demolitions, and land seizures was in line with long-term plans that the authorities had conceived even before August 2019. In March 2019, the Jammu & Kashmir administration unveiled the Srinagar Master Plan for 2035, aiming to transform the urban landscape of Srinagar, including an expansion of the metropolitan planning area by 84%, the redevelopment of Dal Lake into a tourist zone [See below, 2.8. *Tourism*], the creation of a Special Investment Corridor (to be populated by IT parks and industrial units), and housing colonies.¹⁵⁸ It also designated land for nearly 200,000 new houses to replace existing settlements labeled as "encroachments."

In February 2022, the Jammu & Kashmir authorities authorized a transfer of 2,318 kanals (approximately 290 acres) of land in 17 different locations in Srinagar and Budgam Districts to the Jammu & Kashmir Housing and Urban Development Department for the development of housing colonies.¹⁵⁹ These gated, fenced, and heavily securitized housing colonies are typically built to house former military and police officials¹⁶⁰ and to resettle Kashmiri pandits (i.e. Kashmir Hindus who left Kashmir in the early 1990s and have been returning to Jammu & Kashmir),¹⁶¹ often segregated from the local Muslim populations.¹⁶²

153. Rediff, *Anti-encroachment drive intensified in Kashmir*, 4 February 2023, <https://www.rediff.com/news/report/anti-encroachment-drive-intensified-in-kashmir/20230204.htm>

154. Kashmir Life, *Kashmir's New Landmarks*, 19 February 2023, <https://kashmirilife.net/kashmirs-new-landmarks-vol-14-issue-46-309965/>

155. Greater Kashmir, *50 illegal shops demolished in Tral: Official*, 4 March 2020, <https://www.greaterkashmir.com/kashmir/50-illegal-shops-demolished-in-tral-official/>

156. Kashmir Life, *Kashmir's New Landmarks*, 19 February 2023, <https://kashmirilife.net/kashmirs-new-landmarks-vol-14-issue-46-309965/>

157. Kashmir Talk, *Humhama residents protest against demolition drive*, 29 December 2021, <https://thekashmirtalk.com/humhama-residents-protest-against-demolition-drive>

158. Available at: <https://sdasrinagar.jk.gov.in/planning/MasterPlan>

159. Hindustan Times, *J&K L-G transfers land for construction of housing colonies in Srinagar, Budgam*, 3 February 2022, <https://www.hindustantimes.com/cities/chandigarh-news/jklgtransfers-land-for-construction-of-housing-colonies-in-srinagar-budgam-101643832241283.html>

160. Anadolu Agency, *Kashmir residents say they won't allow soldiers colony*, 1 January 2021 <https://www.aa.com.tr/en/asia-pacific/kashmir-residents-say-they-won-t-allow-soldiers-colony/2095766>; Kashmir Observer, *Army Proposes Housing Colony for Serving, Retired Soldiers In Jammu*, 14 January 2023, <https://kashmirobservers.net/2023/01/14/army-proposes-housing-colony-for-serving-retired-soldiers-in-jammu/>

161. Al Jazeera, *India's push to resettle Kashmiri Hindus exposes old fault lines*, 1 April 2022, <https://www.aljazeera.com/news/2022/4/1/india-push-to-resettle-kashmir-hindus-exposes-old-fault-lines>

162. Indian Express, *Kashmiri Pandit colonies in Valley safe, fenced and gated: 'It's like dividing us again'*, 31 January 2020, <https://indianexpress.com/article/india/kashmiri-pandit-colonies-valley-homeless-at-home-series-6243495/>; Print. *LG Sinha lays*

2.6.3. Evictions targeting tribal and nomadic communities

Evictions have had a notable impact on indigenous tribal and nomadic communities in Jammu & Kashmir. Primarily impacted have been the Gujjar and Bakarwal, who are indigenous, nomadic, and predominantly Muslim communities in Jammu & Kashmir. The Gujjar and Bakarwal communities have been listed as Scheduled Tribes¹⁶³ since 1991.¹⁶⁴

In mid-November 2020, invoking the outdated Indian Forest Act, 1927, the Jammu & Kashmir administration began issuing eviction notices that affected a large part of Jammu & Kashmir's tribal community, estimated to be 1.5 million (12% of the population of Jammu & Kashmir) as per the latest census conducted in 2011.¹⁶⁵ Some Gujjar huts in villages that were close to forests were also demolished. The government claimed that 63,000 people encroached on more than 37,000 acres of forest land illegally.¹⁶⁶ According to official data, 4,984 acres in Ramban, 4,877 in Rajouri, 3,639 in Poonch, 3,696 in Anantnag, 2,537 in Shopian, 1,618 in Pir Panjal, 1,428 in Kamraj, and 1,235 in Jammu would have to be cleared from forest encroachments.¹⁶⁷

These evictions have been inconsistent with both domestic legislation and international standards related to indigenous communities. On the domestic front, Article 3(a) of the Forest Rights Act (FRA), 2006, which was implemented in Jammu & Kashmir starting in September 2021, recognizes the "right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood for a member or members of a forest-dwelling Scheduled Tribe or other traditional forest dwellers."¹⁶⁸ At the time of the FRA's extension to Jammu & Kashmir, its Lieutenant Governor stated that the FRA application was meant to confer "due rights" on the tribal communities.¹⁶⁹

At the international level, Article 10 of the UN Declaration on the Rights of Indigenous Peoples, states: "Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return."¹⁷⁰ Article 32 provides that: "States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources."

foundation stone of 936-flat accommodation for Kashmiri Pandits in Srinagar, 20 January 2023, <https://theprint.in/india/lg-sinha-lays-foundation-stone-of-936-flat-accommodation-for-kashmiri-pandits-in-srinagar/1325908/>

163. Scheduled Tribes are communities that experience severe social, educational, and economic disadvantages due to traditional agricultural practices, inadequate infrastructure, and geographical isolation. To address these challenges, they are granted reservation status, ensuring political representation, university quotas, subsidized education, scholarships, and access to various government schemes. Additionally, their land rights are protected under the Forest Rights Act (FRA), which grants forest-dwelling Scheduled Tribes rights to forest lands and their occupation. See: <https://ncst.nic.in/content/frequently-asked-questions>

164. Early Times, *Gujjar Bakarwal from Mountains to Schedule Tribes*, 31 July 2018, <https://www.earlytimes.in/newsdet.aspx?q=238914>

165. Leaflet. *Jammu and Kashmir has made a travesty of Forest Rights Act*, 26 January 2021, <https://theleaflet.in/jammu-and-kashmir-has-made-a-travesty-of-forest-rights-act/>

166. Print, *J&K names over 63,000 'encroachers' of forest land, say they're occupying 15,000 hectares*, 2 December 2020, <https://theprint.in/india/jk-names-over-63000-encroachers-of-forest-land-say-theyre-occupying-15000-hectares/555716/>

167. For detailed information, see: <https://jkforest.gov.in/encroach.html>

168. Available at: <https://forestrights.nic.in/pdf/FRAAct.pdf>

169. Hindu, *J&K to implement Forest Rights Act, 2006*, 14 September 2021, <https://www.thehindu.com/news/national/other-states/jk-to-implement-forest-rights-act-2006/article36446427.ece>

170. Available at: https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2019/01/UNDRIP_E_web.pdf



A woman is seen outside a damaged structure in Roop Nagar, Jammu City on 16 January 2022. © Nasir Kachroo / NurPhoto / NurPhoto via AFP

Since August 2019, several instances of evictions of tribal and nomadic communities have been reported in Jammu & Kashmir.

In November 2020, a demolition drive in rural areas surrounding Pahalgam hill station, Anantnag District, primarily targeted temporary dwelling places of nomadic Gujjar and Bakarwal communities. One hundred and ten kanals (approximately 14 acres) of forest land was confiscated from alleged encroachers and *kuccha* houses (made of basic raw materials, including mud, thatches, straw, and bamboo) were razed to the ground.¹⁷¹

On 24 May 2021, over two dozen houses belonging to the Gujjar community were demolished to clear forest land in the Chotimarg area of Zampathri Village, Shopian District.¹⁷² While forest officials claimed that the villagers were illegally occupying the land, the community members said they had been living there for generations and had been taking care of forests for a long time.

In January 2022, Jammu & Kashmir authorities demolished homes of nearly a dozen families belonging to the Gujjar-Bakarwal community during an eviction drive on the outskirts of Jammu City on land that the authorities claimed was being illegally occupied.¹⁷³

In September 2021, the Jammu & Kashmir authorities handed over titles under the FRA to members of the Gujjar, Bakarwal, Gaddi, and Sippi communities, thereby recognizing the rights of these forest-dwelling Scheduled Tribes to forest resources.¹⁷⁴ However, authorities arbitrarily excluded the Kashmiri Chopans, another semi-nomadic community, from the purview of the FRA. The Chopans are pastoralists, but most of them own neither livestock nor land.

171. Wire, *J&K: Ahead of Winter, Demolition Drive Leaves Gujjars, Bakarwals Out of Temporary Houses*, 17 November 2020, <https://thewire.in/government/jammu-and-kashmir-gujjar-bakarwal-pahalgam>

172. Newsclick, *Over a Dozen Injured During Eviction Drive by Forest Officials in South Kashmir*, 24 May 2021, <https://www.newsclick.in/over-dozen-injured-during-eviction-drive-forest-officials-south-kashmir>

173. Newsclick, *Protest Erupts as Authorities Demolish Tribal Families' Homes in Jammu*, 12 January 2022, <https://www.newsclick.in/Protest-Erupts-Authorities-Demolish-Tribal-Families-Homes-Jammu>

174. IDR, *Kashmir's Chopans denied the right to graze freely. ND.* <https://idronline.org/ground-up-stories/the-forest-rights-act-must-be-implemented-for-the-chopans-in-jammu-and-kashmir/>

Activists emphasized that the Jammu & Kashmir Forest Department was initially hesitant to enforce the FRA¹⁷⁵ and in 2020, prior to its implementation, department officials demolished numerous huts of forest dwellers in the Pahalgam area of Anantnag District and in other districts. Such demolitions resulted in the uprooting of thousands of apple trees in Budgam District and were carried out under the pretext of compliance with the Jammu & Kashmir High Court order of July 2019, which mandated the removal of alleged forest land encroachments.¹⁷⁶ These actions led to counter allegations from Gujjar and Bakarwal families of forcible evictions from their traditional forest areas. In November 2020, the Jammu & Kashmir authorities set a deadline of 15 January 2021 for receiving applications from pastoral communities for registration as forest dwellers.¹⁷⁷ However, in December 2020, the Jammu & Kashmir Forest Department released a list that identified around 63,000 individuals allegedly living and farming illegally on approximately 37,000 acres of forest land and issued eviction notices to many families.¹⁷⁸ As a Kashmiri lawyer told FIDH, “Therefore, the law so far has not been helpful to recognize marginal and tribal communities’ rights over forest lands over which they were traditionally dependent.”¹⁷⁹

Another contentious issue that has been raised by the Gujjar-Bakarwal leaders concerning the implementation of the FRA is that the implementing agency of the FRA is the Jammu & Kashmir Forest Department. “According to the Forest Rights Act (FRA), the Ministry of Tribal Affairs appoints a nodal officer [an official tasked with a specific project or set of tasks]. However, in Jammu & Kashmir, the Forest Department was asked to act as the nodal agency.”¹⁸⁰ Experts and activists asserted that such practice was in blatant contravention of the FRA.¹⁸¹

2.7. Investment projects

The BJP-led government has cited the stalled pace of development in Jammu & Kashmir as a key factor driving the decision to revoke Article 370 of India’s Constitution. India’s Home Minister Amit Shah claimed that the removal of Articles 370 and 35A had set Kashmir “peacefully on its path to development.”¹⁸² Days after the revocation of Article 370, Prime Minister Narendra Modi further noted that both state and privately-owned companies would be encouraged to create jobs for the local youths in Jammu & Kashmir.¹⁸³

The amendments to land laws in Jammu & Kashmir and the adoption of new policies and plans have facilitated the purchase of land for investment purposes in Jammu & Kashmir and paved the way for the creation of new industrial estates.¹⁸⁴

One key amendment to the Development Act, 1970, under the Jammu & Kashmir Reorganization (Adaptation of State Laws) Fifth Order of October 2020, resulted in the creation of the Jammu & Kashmir Industrial Development Corporation (hereinafter the “Corporation”) – a state-owned enterprise mandated with expediting industrial growth, attracting investment, establishing industrial estates, and promoting corporate farming.¹⁸⁵ The Corporation is authorized to confiscate land for industrial purposes.¹⁸⁶ The

175. FIDH, *Interview #9*, 12 July 2024.

176. Kashmir Reader, *Not an ideal start to Forest Rights Act in J&K*, 5 March 2021. <https://kashmirreader.com/2021/03/05/not-an-ideal-start-to-forest-rights-act-in-jk/>

177. Al Jazeera, *Kashmir forest dwellers hope long-delayed law will stop evictions*, 15 January 2021, <https://www.aljazeera.com/news/2021/1/15/kashmir-forest-dwellers-hope-long-delayed-law-will-stop-evictions>

178. Kashmir Reader, *Not an ideal start to Forest Rights Act in J&K*, 5 March 2021, <https://kashmirreader.com/2021/03/05/not-an-ideal-start-to-forest-rights-act-in-jk/>

179. FIDH, *Interview #9*, 12 July 2024.

180. FIDH, *Interview #9*, 12 July 2024.

181. Kashmir Observer, *Forest Department is Respondent Party under FRA*, 12 January 2021, <https://kashmiobserver.net/2021/01/12/forest-department-is-a-respondent-party-under-fra/>

182. Economic Times, *Kashmir on way to development after Article 370 revocation: Amit Shah*, 26 October 2019, <https://economictimes.indiatimes.com/news/politics-and-nation/kashmir-on-way-to-development-after-article-370-revocation-amit-shah/articleshow/71774463.cms?from=mdr>

183. Business Today, *Article 370, Kashmir issue: Key quotes from PM Modi’s address to the nation*, 9 August 2019, <https://www.businesstoday.in/latest/economy-politics/story/narendra-modi-address-nation-article-370-future-jk-10-major-points-219262-2019-08-09>

184. FIDH, *Interview #1*, 19 April 2024.

185. Jammu and Kashmir Development Act 1970 (amended October 2020), Chapter VII-A, available at: https://www.indiacode.nic.in/bitstream/123456789/16435/1/development_act%2C_1970.pdf

186. Economic Times, *Centre amends law to establish Jammu and Kashmir Industrial Development Corporation*, 27 October 2020, <https://economictimes.indiatimes.com/news/economy/policy/centre-amends-law-to-establish-jammu-and-kashmir->

amended Act also requires the government to keep land at the Corporation's disposal and confiscate land under the Central Land Acquisition Law, 2013, should the Corporation need it.¹⁸⁷

In October 2020, soon after the amendment to the land laws came into effect, the Jammu & Kashmir government transferred 24,000 kanals (approximately 3,000 acres) of land to the Jammu & Kashmir Industries and Commerce Department for investment purposes.¹⁸⁸ In June 2024, it was reported that investors were seeking an estimated 62,000 kanals (approximately 7,700 acres) of land for industrial estates.¹⁸⁹

In addition, in January 2021, the Jammu & Kashmir administration approved the Industrial Land Allotment Policy (2021-2030), which aimed to identify land across Jammu & Kashmir that would be allocated to businesses for investment projects, such as the creation of industrial estates.¹⁹⁰ Land would be allotted to the investors on lease for an initial period of 40 years, extendable to 99 years.¹⁹¹

As of July 2024, the Jammu & Kashmir administration had received a total of 6,909 applications for allotment of land to set up industrial estates.¹⁹² While Kashmir registered 5,007 proposals, primarily for medium and small-scale enterprises, requiring 29,375.89 kanals (3,671.98 acres) of land, Jammu received 1,902 applications, principally for larger industrial projects seeking 39,484.94 kanals (4,935.61 acres). Prominent Indian and foreign investors included: India-based Kandhari Beverages (bottling plant), Welspun Group (residential colony for employees), Haldiram (manufacturing unit) and Bloomtex (textile manufacturing unit); Sri Lanka's Ceylon Beverages (can manufacturing and beverage filling facility); and UAE's Emaar Group (shopping malls and IT towers).¹⁹³

According to a February 2023 report by the Kashmiri advocacy organization Legal Forum for Kashmir (LFK), land measuring 178,005 acres in Jammu & Kashmir – including 25,159 acres in Jammu – had been earmarked for land seizures by Indian authorities. The LFK report underlined that Indian authorities were confiscating alleged encroached land to facilitate the creation of private industrial estates under the Indian government's New Central Sector Scheme for Industrial Development of the Union Territory of Jammu & Kashmir, which was issued under the Jammu & Kashmir Industrial Policy, the Jammu & Kashmir Private Industrial Estate Development Policy (2021-2030), and the Jammu & Kashmir Industrial Land Allotment Policy.¹⁹⁴

In December 2019, local authorities said that they had started identifying land for companies from outside of Jammu & Kashmir that showed willingness to invest there.¹⁹⁵ They claimed to have earmarked around 17,000 kanals (approximately 2,100 acres) of land, with at least 10,000 kanals (approximately 1,250 acres) in Kathua and Samba Districts of Jammu and another 5,000 to 7,000 kanals (approximately 625-875 acres) in Ganderbal, Kupwara, and some other districts of Kashmir.

Soon after the revision of Jammu & Kashmir's land laws, in December 2021, the Indian government organized a real estate summit,¹⁹⁶ where it launched a real estate portal and Memorandums of Agreement

[industrial-development-corporation/articleshow/78895053.cms?from=mdr](https://www.industrial-development-corporation/articleshow/78895053.cms?from=mdr)

187. Scroll, *Explainer: What exactly are the changes to land laws in Jammu and Kashmir*, 29 October 2020, <https://scroll.in/article/977057/explainer-what-exactly-are-the-changes-to-land-laws-in-jammu-and-kashmir>

188. Deccan Herald, *New land laws: J&K govt transfers 3,000 acres of land to Industries & Commerce Department*, 31 October 2020, <https://www.deccanherald.com/india/new-land-laws-jk-govt-transfers-3000-acres-of-land-to-industries-commerce-department-909512.html>

189. Kashmir Observer, *62,000 Kanals in J&K Eyed For Private Industrial Estates*, 7 June 2024, <https://kashmirobserver.net/2024/06/07/62000-kanals-in-jk-eyed-for-private-industrial-estates/>

190. For reference, see: <https://jkindustriescommerce.nic.in/Orders%202023/Proposed%20revisions%20to%20Policies%20of%20I&C.pdf>

191. Kashmir Observer, *Govt Approves J&K Industrial Land Allotment Policy*, 22 January 2021, <https://kashmirobserver.net/2021/01/22/jk-industrial-land-allotment-policy-2021-30-approved/>

192. Indian Express, *Muralitharan to Emaar, big players queue for land to set up shop in Jammu and Kashmir*, 7 July 2024, <https://indianexpress.com/article/india/muralitharan-to-emaar-big-players-queue-for-land-to-set-up-shop-in-jk-9437543/>

193. Greater Kashmir, *From Emaar to Murali, global giants sprint for J&K's business pitch*, 8 July 2024, <https://www.greaterkashmir.com/front-page-2/from-emaar-to-murali-global-giants-sprint-for-jks-business-pitch/>

194. Legal Forum for Kashmir, *The Great Land-Grab: Disempowering People in Indian Occupied Jammu & Kashmir*, February 2023, <https://lfkashmir.com/wp-content/uploads/2023/02/LFK-Factsheet-The-Great-Land-Grab.pdf>

195. Wire, *Govt Starts Identifying Land in J&K as 'Outside' Companies Queue With Investment Proposals*, 19 December 2019, <https://thewire.in/business/jammu-and-kashmir-land-investment>

196. Indian Express, *Day after realty summit, Kashmir parties slam attempt to 'change demography'*, 28 December 2021, <https://indianexpress.com/article/india/kashmir-realty-summit-7695174/>

(MoAs) with India's National Real Estate Development Council to encourage Indian companies and investors to buy real estate in Jammu & Kashmir. Some Jammu & Kashmir-based political parties labeled the summit as an event to put Kashmir "up for sale."¹⁹⁷ Prior to the real estate summit, the Jammu & Kashmir Industries and Commerce Department had designated approximately 60,000 kanals (approximately 7,500 acres) of land for investment purposes in Jammu & Kashmir, including 50,000 kanals (approximately 6,300 acres) in Jammu and 10,000 kanals (approximately 1,200 acres) in Kashmir.¹⁹⁸

In January 2022, officials met with major United Arab Emirates (UAE) realtors in Dubai and inked Memorandums of Understanding (MoUs) with Emaar Properties and Lulu Group International estate developers.¹⁹⁹ In a statement following the MoU signing, Emaar Properties announced plans to develop a 46,400-square-meter shopping mall in Srinagar and further indicated its interest to invest in real estate, hospitality, and commercial and residential projects in Jammu.²⁰⁰ Lulu Group International committed to establishing a food processing and logistics hub in Srinagar.²⁰¹

In February 2023, the Jammu & Kashmir Administrative Council approved the development of seven new industrial estates across Jammu & Kashmir, covering 5,290 kanals (approximately 660 acres) of land with an investment of INR three billion (USD 35.7 million).²⁰² These new industrial estates are located in: Bandipora District; Budgam District; Bhagthali, Kathua District; Karandi, Samba District; Trenz, Shopian District; Hariparigam Tral, Pulwama District; and Sempora Medicity, Khunmoh, and Pantha Chowk, Srinagar District.

In January 2024, the Jammu & Kashmir administration amended the Industrial Development Policy to offer a range of incentives to private enterprises willing to establish new industrial clusters in Jammu & Kashmir.²⁰³ Under the revised policy, private developers and new industrial clusters would receive incentives, such as up to 100% reimbursement of stamp duty on land purchases, change of land use charges, and registration fees. Additionally, the revised policy aims to develop approximately 2,000 kanals (approximately 250 acres) of land through private industrial estates.²⁰⁴

2.8. Tourism

Land expropriations have also taken place to pave the way for tourism, including religious tourism, in Jammu & Kashmir. The importance given by the Indian authorities to developing Jammu & Kashmir as a tourist destination is not a new phenomenon. For long before August 2019, Jammu & Kashmir was depicted as a paradise for tourists, often referred to as the "Switzerland of the East" and revered for its beautiful scenery and mild climate.²⁰⁵ After August 2019, such plans gained new momentum, facilitated by the changes in land laws.

Developing Jammu & Kashmir for religious tourism has been central to the Indian government's plans in the region post-August 2019. As one interviewee explained: "Since the 1990s, Kashmir was promoted as a land where a lot of Hindu gods live, a Holy Land for Hindus. Since the BJP has come to power, they have given subsidies for pilgrimages, making it a real big event for Hindus in India to visit Kashmir. This is all to build that religious, spiritual connection with Kashmir and tie it to the broader psyche of Hindus.

197. Indian Express. *Day after realty summit, Kashmir parties slam attempt to 'change demography'*, 28 December 2021, <https://indianexpress.com/article/india/kashmir-realty-summit-7695174/>

198. Newsclick, *J&K Admin to Identify 7,500 Acres of State Land for Industrial Development*, 29 January 2020, <https://www.newsclick.in/jk-admin-identify-7500-acres-state-land-industrial-development>

199. Kashmir Observer, *J&K Received USD 2.5 Billion In Investments: LG*, 7 January 2022, <https://kashmirobsvr.net/2022/01/07/jk-received-usd-2-5-billion-in-investments-lg/>

200. Forbes, *Emaar Properties Plans to Develop Shopping Mall in India's Srinagar*, 4 January 2022, <https://www.forbesmiddleeast.com/industry/real-estate/emaar-properties-to-develop-shopping-mall-in-indias-srinagar>

201. Kashmir Observer, *J&K Received USD 2.5 Billion In Investments: LG*, 7 January 2022, <https://kashmirobsvr.net/2022/01/07/jk-received-usd-2-5-billion-in-investments-lg/>

202. Greater Kashmir, *AC approves 7 new industrial estates, Startup Policy 2024-27*, 23 February 2024, <https://www.greaterkashmir.com/front-page-2/ac-approves-7-new-industrial-estates-startup-policy-2024-27/>

203. Kashmir Observer, *J&K Govt Amends Industrial Development Policy*, 18 January 2024, <https://kashmirobsvr.net/2024/01/18/ac-extends-several-benefits-under-pvt-industrial-estate-development-policy-to-stakeholders/>

204. Tribune India, *J&K: Incentives for private industrial clusters*, 20 January 2024, <https://www.tribuneindia.com/news/j-k/incentives-for-private-industrial-clusters-582849/amp>

205. For example, see: Hafsa Kanjwal, *"Colonizing Kashmir" (Stanford University Press, 2023), Chapter 3 [Producing and Promoting Paradise: Tourism, Cinema, and the Desire for Kashmir], pp.95-126.*

That in turn justifies any drastic major change [by the government] in Kashmir [which will argue that] 'we cannot give up Kashmir because it is religiously tied to us.'²⁰⁶

The number of pilgrims for the annual Amarnath Yatra - a Hindu pilgrimage to an ice formation believed to represent Lord Shiva - has exponentially increased from 2,000 in 1980 to the 450,000 visitors in 2023.²⁰⁷ The yatra, which was initially held for two weeks, has now been extended to over two months, with over 40,000 military and administrative personnel dispatched to oversee the pilgrimage.²⁰⁸



Security personnel stand guard as Hindu devotees begin their pilgrimage to the cave shrine of Amarnath from a base camp in Pahalgam, Kashmir on 27 June 2024. © BILAL BAHADUR / The Times of India / The Times of India via AFP

Pilgrimages to Hindu religious sites in Jammu & Kashmir have long been controversial due to their impacts on the local environment and the heavy presence of military personnel.²⁰⁹ According to a human rights activist interviewed by FIDH, "Dispossession through religious tourism is happening. For example, in these mountains in Chenab they are digging, cutting into these mountains to make roads and tunnels just for the religious tourism. This is having a huge impact on the local ecology."²¹⁰ In addition to the pilgrimage's adverse environmental impact,²¹¹ residents have remained a marginal economic actor in the event.²¹²

Moreover, the Shri Amarnathji Shrine Board (SASB), which manages the pilgrimage, has been granted land to build infrastructure to facilitate the event and promote tourism. In August 2021, the Jammu & Kashmir administration transferred 25 kanals (approximately three acres) of land in Srinagar District on lease to SASB for office and hostel construction.²¹³ In December 2021, the Jammu & Kashmir

206. FIDH, *Interview #2*, 26 April 2024.

207. For details, see: <https://jkccs.wordpress.com/wp-content/uploads/2017/05/amarnath-report-2017.pdf>; Hindu, *Amarnath Yatra concludes, over 4.4 lakh pilgrims offer prayers at cave shrine*, 31 August 2023, <https://www.thehindu.com/news/national/amarnath-yatra-concludes-over-44-lakh-pilgrims-offer-prayers-at-cave-shrine/article67257102.ece>

208. Wion, *Amarnath Yatra begins in Kashmir Valley amid high security*, 29 June 2024, <https://www.wionews.com/india-news/pilgrims-begin-amarnath-yatra-leave-for-cave-shrine-in-batches-736187>

209. For example, see: JKCCS, *Amarnath Yatra: A Militarized Pilgrimage*, March 2017, <https://jkccs.wordpress.com/wp-content/uploads/2017/05/amarnath-report-2017.pdf>

210. FIDH, *Interview #2*, 26 April 2024.

211. News Internationalist, *Pilgrimage at a Price: Impact of Amarnath Yatra on the fragile Himalayan ecosystem*, 1 July 2024, <https://www.thenews.com.pk/print/1205163-pilgrimage-at-a-price-impact-of-amarnath-yatra-on-the-fragile-himalayan-ecosystem>

212. See: <https://jkccs.wordpress.com/wp-content/uploads/2017/05/amarnath-report-2017.pdf>

213. Daily Excelsior, *Govt Land transferred to SASB*, 22 August 2021, <https://www.dailyexcelsior.com/govt-land-transferred-to-sasb/>

Administrative Council approved the transfer of 15 kanals (approximately two acres) land to SASB in Jammu District on lease for 40 years for “boosting religious tourism” in the territory.²¹⁴

In March 2021, the Indian government allotted 496 kanals and 17 marlas (approximately 62 acres) of land to the Tirumala Tirupathi Devasthanams (TTD) Trust to build a temple and related pilgrim infrastructure in Jammu, for which the Trust pays INR 4,960 (USD 67) in annual rent to the Jammu & Kashmir administration.²¹⁵ In June 2023, the newly constructed Sri Venkateswara Swamy temple (also known as Balaji) in Majeen, Jammu District, was opened for devotees, as part of its program to open replica temples across the country.²¹⁶

In August 2023, Jammu & Kashmir Tourism Secretary Syed Abid Rashid Shah told reporters that the Jammu & Kashmir administration had earmarked 75 destinations for “fostering spiritual experiences, and another 75 to enhance religious tourism within Jammu & Kashmir.”²¹⁷

In March 2024, the Maharashtra State government purchased 2.5 acres of land in Srinagar City to construct a tourism facility for Maharashtra residents.²¹⁸

Additionally, as early as December 2019, the Jammu & Kashmir administration unveiled plans to relocate thousands of families living in and around Dal Lake, in Srinagar, to secure the lake’s “health and beauty.”²¹⁹ Thousands of Dal Lake dwellers, which include the indigenous fishing communities such as the Ga’ed Hanji, have since been relocated to different parts of Srinagar,²²⁰ including the Rakh e Arth colony, which is built on marshy wetland unsuitable for housing.²²¹

Local authorities claimed that the evictions were necessary in the absence of adequate lake conservation plans and sewage treatment plants and tasked the Lake and Waterways Development Authority (LAWDA) to clean the lake. However, given that, in addition to tourism, the lake area is a major economic zone for the cultivation of vegetables and other crops, the planned evictions gave rise to significant concerns about the impacts this would have on the local communities’ livelihood. Although the Srinagar Master Plan 2035 acknowledged the historical connection of the Dal Lake dwellers with the lake, it did so solely in the context of meeting its tourism and aesthetic requirements.²²²

In June 2022, the Indian government announced it would be developing five “tourist villages” in the Dal Lake area, among a total of 75 villages, which would have “basic facilities for inhabitants as well as tourists and local villages” and would include homestay options for tourists.²²³

214. Daily Excelsior, *AC approves transfer of State land to SASB, CRC*, 16 December 2021, <https://www.dailyexcelsior.com/ac-approves-transfer-of-state-land-to-sasb-crc/>

215. Hindu, *TTD gets 62 acres for temple in J&K*, 1 April 2021, <https://www.thehindu.com/news/national/other-states/ttd-gets-62-acre-land-for-temple-in-jk/article34215810.ece>

216. Times of India, *TTD’s new Balaji temple in Jammu opens for devotees*, 9 June 2023, <https://timesofindia.indiatimes.com/city/vijayawada/ttds-new-balaji-temple-in-jammu-opens-for-devotees/articleshow/100865805.cms>

217. Times of India, *Religious Tourism: Jammu & Kashmir marks 75 new destinations to attract religious travellers*, 28 August 2023, <https://timesofindia.indiatimes.com/travel/travel-news/religious-tourism-jammu-kashmir-marks-75-new-destinations-to-attract-religious-travellers/articleshow/103130755.cms>

218. Indian Express, *Maharashtra to buy land in Kashmir for Rs 8.16 crore to build bhawan, first state to do so*, 15 March 2024, <https://indianexpress.com/article/india/maharashtra-buy-land-in-kashmir-build-bhawan-9213757/>

219. Newslick, *Dal Lake ‘Beautification’: Thousands of Families Fear Relocation by UT Admin*, 5 December 2019, <https://www.newslick.in/dal-lake-beautification-thousands-families-fear-relocation-ut-admin>

220. Quint, *‘The Dal is Our Life’: In Srinagar, a Fishing Community’s Struggle for Survival*, 31 March 2024, <https://www.thequint.com/news/india/dal-lake-in-srinagar-a-fishing-communitys-struggle-for-survival#read-more>

221. FirstPost, *How Rakh-e-Arth resettlement colony for Dal Lake dwellers became a quagmire with no end*, 28 August 2019, <https://www.firstpost.com/long-reads/how-rakh-e-arth-resettlement-colony-for-dal-lake-dwellers-became-a-quagmire-with-no-end-7215271.html>

222. Newslandry, *Was Kashmir being readied for demographic change even before Article 370 was scrapped?*, 7 September 2020, <https://www.newslandry.com/2020/09/07/was-kashmir-being-readied-for-demographic-change-even-before-article-370-was-scrapped>

223. Times of India, *Kashmir’s Dal Lake to get five new tourist villages*, 16 June 2022, <https://timesofindia.indiatimes.com/travel/travel-news/kashmir-dal-lake-to-get-five-new-tourist-villages/articleshow/92251333.cms>

2.9. Land transfers lead to increased militarization

Since August 2019, taking advantage of the repeal and amendment of many of Jammu & Kashmir's land laws, the Indian authorities have seized land in order to expand Indian military presence in Jammu & Kashmir.

Kashmir has long been referred to as the world's most militarized²²⁴ place with nearly 700,000 Indian troops stationed there.²²⁵ In January 2018, then-Jammu & Kashmir Chief Minister Mehbooba Mufti told the former Jammu & Kashmir Legislative Assembly that about 53,800 acres of land were under the illegal occupation of the Indian military.²²⁶

According to a 2015 report by JKCCS, the exact extent of land under the control of the Indian armed forces was difficult to determine, as large tracts of land remained illegally occupied by the armed forces, having never been formally demarcated, leased, requisitioned, mutated, or acquired under the Jammu & Kashmir Land Acquisition Act, or other applicable laws.²²⁷ The JKCCS report found that, according to data disclosed in 2009 by the Jammu & Kashmir administration, 1,054,721 kanals (approximately 131,840 acres) of land were occupied by various Indian military and paramilitary forces. Of this, 128,257 kanals (approximately 16,032 acres) were illegally occupied in the Kashmir division, 313,266 kanals (approximately 39,158 acres) in Jammu, and 400,055 kanals (approximately 50,007 acres) in Ladakh; and an estimated 199,314 kanals (approximately 24,194 acres) were legally occupied across Jammu & Kashmir based on leases, licenses, and acquisitions under the provision of the Jammu & Kashmir Land Acquisition Act.²²⁸

Following the amendments in July 2020 to the Jammu & Kashmir Control of Building Operations Act, 1988, and the Jammu & Kashmir Development Act, 1970, the Jammu & Kashmir administration declared the ecologically fragile areas in two popular tourist destinations as "strategic" [See above, 2.2. *Designation of "strategic areas" favors land seizures by the military*].²²⁹ In an order dated 31 December 2021, the Jammu & Kashmir Tourism Department declared 1,034 kanals (approximately 128.5 acres) of land in Gulmarg and 354 kanals (approximately 44.5 acres) in Sonmarg as "strategic areas" for operational and training requirements, following a request made by the Indian Army.²³⁰

In November 2021, locals in Kakapora Village, Pulwama District, held a demonstration against the transfer of agricultural land for the construction of a military camp for the Central Reserve Police Force (CRPF).²³¹ The villagers said the move would put an end to their farming rights and put them at risk of losing their only source of income.

In January 2022, the Jammu & Kashmir administration transferred around 130 acres of land to the Indian Army near Gulmarg.²³² This land belonged to the Gulmarg Development Authority (GDA), which operates under the administrative control of the Jammu & Kashmir Tourism Department. This large area of land had already been under the occupation of the Indian Army since 1991.

224. SBS News, *Explained: Kashmir, the most militarised zone in the world*, 6 August 2019, <https://www.sbs.com.au/news/article/explained-kashmir-the-most-militarised-zone-in-the-world/z9s3tx5cq>

225. Al Jazeera, *India imposes Kashmir lockdown, puts leaders 'under house arrest'*, 4 August 2019, <https://www.aljazeera.com/news/2019/8/4/india-imposes-kashmir-lockdown-puts-leaders-under-house-arrest>

226. Wire, *Under Fire, J&K Govt Plays Down Decision to Give Armed Forces More Building Rights*, 20 July 2024, <https://thewire.in/government/jammu-and-kashmir-armed-forces-land-construction>

227. JKCCS, *Occupational Hazard: The Jammu and Kashmir Floods of September 2014*, April 2015, <https://jkccs.wordpress.com/wp-content/uploads/2017/05/occupation-hazard-jkccs.pdf>

228. JKCCS, *Occupational Hazard: The Jammu and Kashmir Floods of September 2014*, April 2015, <https://jkccs.wordpress.com/wp-content/uploads/2017/05/occupation-hazard-jkccs.pdf>

229. Economic Times, *70 ha land in Gulmarg, Sonamarg declared 'strategic areas', Army can take control of the patch now*, 6 January 2022, <https://economictimes.indiatimes.com/news/defence/70-ha-land-in-gulmarg-sonamarg-declared-strategic-areas-army-can-take-control-of-the-patch-now/articleshow/88735252.cms?from=mdr>

230. Tribune India, *70 hectare land in Sonamarg, Gulmarg, declared 'strategic area'*, 6 January 2022, <https://www.tribuneindia.com/news/j-k/70-hectares-of-land-in-sonamarg-gulmarg-declared-strategic-areas-358885/>

231. Kashmiriyat, *'Is this the 'Naya Kashmir' PM Modi Talks About?' Pencil Village of Kashmir Protests Against Land Transfer to CRPF*, 29 November 2021, <https://thekashmiriyat.co.uk/is-this-the-naya-kashmir-pm-modi-talks-about-pencil-village-of-kashmir-protests-against-land-transfer-to-crpf/>

232. Newsclick, *J&K Govt Declares 1388 Kanals of Land in Gulmarg, Sonmarg as 'Strategic Areas'*, 6 January 2022, <https://www.newsclick.in/J%26K-Govt-Declares-1388-Kanals-Land-Gulmarg-Sonmarg-Strategic-Areas>

FIDH documented at least 38 cases of land transfers for various military and security infrastructure projects by the Jammu & Kashmir administration between August 2019 and June 2024.²³³ In December 2022, the Jammu & Kashmir Administrative Council approved land transfers for various projects.²³⁴ This included the transfer of land measuring six kanals and 12 marla (less than an acre) situated in Jammu District for the establishment of a border observation post by the Border Security Force (BSF) and 335 acres of land for the establishment of a small arms firing range in the Bahu Conservation Reserve.²³⁵

2.10. House demolitions: A punitive tactic

Demolitions and razing of houses during alleged “encounters” (armed clash between the Indian security forces and militants)²³⁶ have often been employed as punitive measures by Indian armed forces in Jammu & Kashmir. Between August 2019 and 31 March 2024, numerous instances were reported of properties being demolished by the Jammu & Kashmir authorities because they were owned by individuals or relatives of individuals allegedly linked to militant groups.

For instance, on 6 May 2020, the Indian armed forces completely demolished the houses of 20 families in Jammu & Kashmir’s Pulwama District during a gunfight in which a top commander of the Kashmiri militant group Hizbul Mujahideen was killed along with an associate.²³⁷ On 19 May 2022, over a dozen homes were set on fire and destroyed in Srinagar, and many others were plundered by security forces involved in an operation that resulted in the killing of two Hizbul Mujahideen militants.²³⁸

On 10 December 2022, Jammu & Kashmir authorities demolished a house belonging to a Jaish-e-Mohammed (JeM) (a Pakistan-based militant group) member in Pulwama District, claiming that the structure was built on encroached state land.²³⁹

In addition to demolitions in the context of encounters, authorities also confiscated properties of alleged militants who were on trial under the UAPA and, in some instances, the Prevention of Money Laundering Act (PMLA), 2002. Under the UAPA, courts may pass orders to forfeit or “attach”²⁴⁰ property equivalent to, or, the value of the “proceeds of terrorism involved in the offense” (Article 24A), and an officer investigating offenses under the UAPA may, if they have “reason to believe any property in relation to which an investigation is being conducted, represents proceeds of terrorism,” issue an order seizing or attaching the property (Article 25).

As explained by a Kashmiri lawyer, “The attachment of properties is a new thing they [the Indian government] are doing. This attachment has serious consequences. For example, if the allegation is that a Kashmiri militant was involved in money laundering offenses [equivalent to] INR 500,000 (USD 5,953), the authorities may attach his ancestral home.”²⁴¹

On 24 March 2022, the Jammu & Kashmir police said it would seize properties of people who “willfully” gave shelter to militants.²⁴² On its official Twitter account, the police said that they had started the

233. For detailed information, see: <https://jkrevenue.nic.in/orders.html>

234. Free Press Kashmir, *JK Admin approves land transfers for various purposes*, 21 December 2022, <https://freepresskashmir.news/2022/12/21/jk-admin-approves-land-transfers-for-different-public-purposes/>

235. Free Press Kashmir, *JK Admin approves land transfers for various purposes*, 21 December 2022, <https://freepresskashmir.news/2022/12/21/jk-admin-approves-land-transfers-for-different-public-purposes/>

236. Insurgents in Kashmir are referred to as “militants” by local media and the public, while the Indian government and the Jammu & Kashmir authorities term them as “terrorists.” See: News Laundry, *Kashmir’s press is being forced to replace ‘militant’ with ‘terrorist’. It’s dangerous*, 7 August 2021, <https://www.newslandry.com/2021/08/07/kashmirs-press-is-being-forced-to-replace-militant-with-terrorist-its-dangerous>

237. Newsclick, *J&K: Days After Encounter, Pulwama’s Beighpora Lies in Ruins*, 11 May 2020, <https://www.newsclick.in/Jammu-kashmir-says-encounter-pulwama-beighpora-lies-ruins>

238. Newsclick, *Over Dozen Homes Burned, More Looted During Nawakadal Encounter, Allege Residents*, 20 May 2020, <https://www.newsclick.in/over-dozen-homes-burned-looted-nawakadal-encounter-residents>

239. Economic Times, *JeM militant commander Ashiq Nengroo’s house demolished in J&K’s Pulwama*, 10 December 2022, <https://m.economictimes.com/news/defence/jem-militant-commander-ashiq-nengroos-house-demolished-in-jks-pulwama/articleshow/96131307.cms>

240. Under the PMLA, authorities are allowed to “attach” properties, defined as the “prohibition of transfer, conversion, disposition or movement of property by an order issued under Chapter III [of the PMLA]” (Section 2). Available at: https://fiuindia.gov.in/files/AML_Legislation/pmla_2002.html

241. FIDH, *Interview #5*, 17 May 2024.

242. Indian Express, *J&K Police says will attach property of those who ‘willfully’ shelter militants*, 27 March 2022, <https://indianexpress.com>

process of attachment of properties that had been used for the purpose of terrorism, pursuant to Sections 2(g) & 25 of the UAPA. While the police claimed that such actions would not be taken against those who were being forced to shelter militants “under duress,” police put the onus on house owners to prove duress and cases of forced entry.²⁴³

Since August 2019, an increasing number of properties of suspected militants, or of alleged affiliates with proscribed political outfits like Jamaat-e-Islami Jammu & Kashmir, have been seized or attached by the State Investigation Agency (SIA), the National Investigation Agency (NIA), or the Special Investigation Unit (SIU): three in 2020; one in 2021; 19 in 2022; 36 in 2023; and 16 from January to April 2024.²⁴⁴ While FIDH independently documented these cases, the Jammu & Kashmir police said that in 2023 it seized and attached a total of 99 properties, including land, orchards, commercial buildings, and houses of individuals with alleged links with militant networks.²⁴⁵

According to a human rights activist who spoke with FIDH, “They [the SIA] are confiscating properties of so-called separatists, people who are living in Pakistan. This is one of the other tactics of dispossession. It has to be seen in the broader context, that this land in many cases doesn’t even belong to those people, it belongs to their families who are still in Kashmir.”²⁴⁶

[com/article/cities/srinagar/jk-police-attach-property-of-those-who-wilfully-shelter-militants-7837666/](https://www.ndtv.com/article/cities/srinagar/jk-police-attach-property-of-those-who-wilfully-shelter-militants-7837666/)

243. NDTV, *Will only attach property of those wilfully harbouring terrorists, clarify J&K Police*, 26 March 2022, <https://www.ndtv.com/india-news/will-only-attach-property-of-those-wilfully-harbouring-terrorists-clarify-jammu-and-kashmir-police-2844602>

244. FIDH documentation.

245. Hindu, *Local militants all-time low in J&K, war majorly against foreign intruders, pro-militancy narrative: J&K Police Chief*, 31 December 2023, <https://economictimes.indiatimes.com/news/defence/local-militants-all-time-low-in-jk-war-majorly-against-foreign-intruders-pro-militancy-narrative-jk-police-chief/articleshow/106409110.cms?from=mdr>

246. FIDH, *Interview #2*, 26 April 2024.

3. Repression of Kashmiri civic space since August 2019

The widespread and far-reaching legal changes implemented since August 2019 have taken place against a backdrop of severe repression of civic space and violations of the rights to freedom of expression, peaceful assembly, and association in Jammu & Kashmir.

Indian authorities have a long history of depicting Kashmiri civil society activists and human rights defenders as “anti-national” or “secessionist,” and/or as “terrorist sympathizers” or “enablers.” These attacks have worsened under the BJP-led government, which has engaged in a country-wide drive to paint all forms of criticism as anti-national or secessionist.

In Jammu & Kashmir, human rights activists have been routinely accused of being pro-Pakistan or of supporting local insurgencies (or both). Journalists, scholars, and civil society members, and even doctors, teachers, businessmen, have been labeled as “white collar terrorists” or “overground workers (OGWs).”²⁴⁷ Journalists, along with human rights activists, lawyers, and academics, have often been portrayed as contributing to propaganda or “narrative terrorism,” and blamed for allegedly fomenting dissent against India.²⁴⁸

Many of the legal changes that have been implemented since 5 August 2019 occurred in a context where the affected communities have not been able to freely express their opinions and potential objections to these changes. Furthermore, the human rights violations that these legal changes have caused have gone, in many cases, unnoticed as local civil society and media have been unable to document and report on them as a result of the repression they have suffered. In the years since the abrogation of Article 370, the situation for civil society and, in particular, human rights defenders and journalists, has continued to worsen. Not only has there been a sharp escalation in surveillance and censorship, but journalists and civil society organizations have been operating under a climate of fear, in which threat of physical assaults, raids, confiscation of their equipment, arbitrary questioning, and arrests remain high.

3.1. Mass arrests, prolonged internet shutdown, obliteration of human rights bodies

This explicit intent by the Indian authorities to silence potential opposition to the abrogation of Article 370 of India’s Constitution was immediately apparent. In the wake of 5 August 2019, local authorities in Jammu & Kashmir arbitrarily arrested thousands of people,²⁴⁹ including politicians, leaders of Kashmiri pro-self-determination groups, and members of civil society - including 144 minors – purportedly to prevent large-scale protests over the decision to repeal Jammu & Kashmir’s special status.²⁵⁰ By January 2020, over 600 people had been kept in detention under the draconian Jammu & Kashmir Public Safety Act (PSA), 1978, which allows for administrative detention without charge and effective judicial review for up to two years.²⁵¹ There were also numerous allegations of torture and ill-treatment by security forces in connection with those detentions.²⁵²

247. For example, see: New India, *White Collar Terrorism: Plaguing the Valley of Kashmir*, 26 November 2021, <https://www.newindian.in/white-collar-terrorism-plaguing-the-valley-of-kashmir/>; India Times, *It is no longer ‘glamorous’ to become terrorist in Jammu and Kashmir: Lt Gen Pandey*, 10 April 2022, <https://economictimes.indiatimes.com/news/defence/it-is-no-longer-glamorous-to-become-terrorist-in-jammu-and-kashmir-lt-gen-pandey/articleshow/90761317.cms?from=mdr>. Overground workers (OGWs) is a term used by the Indian military to refer to civilians who allegedly provide financial and logistical support to militant and terrorist groups in Jammu & Kashmir.

248. For example, see: Chanakya Forum, *J&K Battle of Narratives*, 20 June 2023, <https://chanakyaforum.com/jk-battle-of-narratives/>

249. Hindu, *About 4,000 people arrested in Kashmir since August 5: govt sources to AFP*, 28 November 2021, <https://www.thehindu.com/news/national/about-4000-people-arrested-in-kashmir-since-august-5-govt-sources-to-afp/article61582905.ece>

250. Reuters, *Nine-year-old among nearly 150 children briefly held in Indian Kashmir: court probe*, 1 October 2019, <https://www.reuters.com/article/us-india-kashmir-children/nine-year-old-among-nearly-150-children-briefly-held-in-indian-kashmir-court-probe-idUSKBN1WG47W/>

251. Indian Express, *PSA on more than 600 people in 2019, says J&K rights body*, 1 January 2020, <https://indianexpress.com/article/india/psa-on-more-than-600-people-in-2019-says-jk-rights-body/>; for more analysis on the PSA, see FIDH et al, *Joint submission for the review of India’s 5th periodic report*, 3 June 2024, https://www.fidh.org/IMG/pdf/india_ccpr-submission_fidh-omct-fld_june2024_final.pdf

252. UN Special Procedures, *AL IND 6/2020*, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=25208>; also see: Al Jazeera, *Kashmir lockdown: Stories of torture and arbitrary arrests*, 4 September 2019, <https://www.aljazeera.com/news/2019/9/4/kashmir-lockdown-stories-of-torture-and->

The process of abrogation of Article 370 was also accompanied by the imposition of an internet shutdown that lasted nearly seven months.²⁵³ Journalists were forced to work in a state-run media center in Srinagar so that news flow from the region could be strictly monitored and regulated, effectively forcing journalists to self-censor any critical reportage.²⁵⁴

In addition, the Indian government disbanded a key state human rights body, the Jammu & Kashmir State Human Rights Commission (SHRC) and replaced it with the National Human Rights Commission (NHRC) of India.²⁵⁵ Consequently, there is no longer a distinct independent human rights institution for Jammu & Kashmir. When the SHRC was disbanded in 2019, there were at least 765 complaints pending before it, according to official statistics.²⁵⁶ Likewise, the State Commission for Protection for Women and Child Rights, along with several other autonomous bodies, such as the Commission for Persons with Disability, the Information Commission, and the Consumer Commission, were dissolved.²⁵⁷

3.2. Criminalization of civil society

Although Kashmiri civil society has routinely faced severe repression from the Indian authorities, attacks and threats escalated after August 2019. The raids on the offices of the Jammu Kashmir Coalition of Civil Society (JKCCS) and other organizations in October 2020, and the arrest and detention of Khurram Parvez in November 2021 [See below, 3.2.3. *Arrests and detentions*] signaled the end of free speech in Jammu & Kashmir and sent the message that no Kashmiri activist would be safe from reprisals. At the time of publication of this report, independent human rights organizations are unable to operate in Jammu & Kashmir.

3.2.1. Increased surveillance and monitoring

Since August 2019, the Indian government's direct control over the local administration has enabled it to deepen its campaign against civil society. The police created several new investigative task forces with a mandate to specifically investigate and monitor Kashmiri activists and journalists, including the State Investigation Agency (SIA) [See below].²⁵⁸

Another task force is the Ecosystem of Narrative Terrorism (ENT).²⁵⁹ This entity has been working with another unit called "Dial 100."²⁶⁰ According to media reports, the ENT carries out "the profiling of human rights activists, civil society, lawyers, academics and other associated people."²⁶¹ "Dial 100" mainly focuses on conducting "background updates" on journalists.²⁶² This involves verifying their professional careers, examining their body of work, scrutinizing their family relationships, and tracking their foreign

arbitrary-arrests

253. New York Times, *India Restores Some Internet Access in Kashmir After Long Shutdown*, 26 January 2020, <https://www.nytimes.com/2020/01/26/world/asia/kashmir-internet-shutdown-india.html>; Al Jazeera, *India restores internet in Kashmir after 7 months of blackout*, 5 March 2020, <https://www.aljazeera.com/news/2020/3/5/india-restores-internet-in-kashmir-after-7-months-of-blackout>

254. Newslandry, *Panopticon of fear and rumours: Inside Kashmir's media centre during lockdown*, 5 February 2020, <https://www.newslandry.com/2020/02/05/a-panopticon-of-fear-and-rumours-inside-kashmir-s-media-centre-during-lockdown>

255. Wire, *J&K No Longer Has its Own Rights Body. Here's Why Experts Think That's a Bad Idea*, 17 April 2020, <https://thewire.in/rights/kashmir-human-rights-nhrc>

256. Wire, *Five Years Since Govt Shut Down J&K Human Rights Commission, Victim Families Await Justice*, 31 May 2024, <https://thewire.in/rights/five-years-since-govt-shut-down-jk-human-rights-commission-victim-families-await-justice>

257. Wire, *Who Will Do the Work of the 7 Commissions Dissolved in J&K?*, 9 November 2019, <https://thewire.in/government/jammu-and-kashmir-commissions>

258. Deccan Herald, *J&K government sets up separate investigation agency for terrorism related cases*, 1 November 2021, <https://www.deccanchronicle.com/nation/politics/021121/separate-investigation-agency-for-terrorism-related-cases-to-come-up-i.html>; also see: Haris Zargar & Goldie Osuri, *The Distinct Disposessions of Indian Settler Colonialism in Kashmir: Land, Narrative and Indigeneity, Development and Change Volume 54, Issue 6*, November 2023, <https://onlinelibrary.wiley.com/doi/full/10.1111/dech.12809>

259. Wire, *Summoned, Raided, Censored: Crackdown on Journalists Is the New Normal in Kashmir*, 22 September 2021, <https://thewire.in/media/summoned-raided-censored-crackdown-on-journalists-is-the-new-normal-in-kashmir>

260. Article 14, *A Newspaper Op-Ed Calls Journalists Terror Sympathisers: Paints A Target on the Backs of What is Left of Kashmir's Free Press*, 14 July 2022, <https://article-14.com/post/a-newspaper-op-ed-calls-journalists-terror-sympathisers-paints-a-target-on-the-backs-of-what-is-left-of-kashmir-s-free-press-62cf8d66468eb>

261. Wire, *Summoned, Raided, Censored: Crackdown on Journalists Is the New Normal in Kashmir*, 22 September 2021, <https://thewire.in/media/summoned-raided-censored-crackdown-on-journalists-is-the-new-normal-in-kashmir>

262. Wire, *Summoned, Raided, Censored: Crackdown on Journalists Is the New Normal in Kashmir*, 22 September 2021, <https://thewire.in/media/summoned-raided-censored-crackdown-on-journalists-is-the-new-normal-in-kashmir>

travels. Concurrently, the Criminal Investigation Department (CID) carries out investigations,²⁶³ frequently summoning for questioning Kashmiri journalists, scholars, and other civil society actors who Indian officials and pro-government media referred to as “white collar jihadis” or “white collar terrorists.”²⁶⁴

Indian authorities have also enhanced their technological surveillance tools, including CCTV cameras,²⁶⁵ facial recognition systems,²⁶⁶ and spyware, such as the infamous Pegasus.²⁶⁷ Police and military also intensified their social media surveillance of Kashmiris through dedicated police resources.²⁶⁸ Dozens of Kashmiris deleted their Twitter accounts after they were summoned for questioning by the Jammu & Kashmir police’s Cyber Wing, which monitors content posted on social media.²⁶⁹

In November 2021, the Home Department of the Jammu & Kashmir administration approved the creation of the State Investigation Agency (SIA), with the mandate to coordinate with the counter-terrorism National Investigation Agency (NIA) and other agencies on what the Indian government considers to be counter-insurgency cases, and to investigate and prosecute individuals involved in terrorism-related cases.²⁷⁰

“These agencies are just there to harass [people]. The SIA specifically is doing a lot of that. The SIA over time is going to become very powerful because it’s a bunch of goons from the police, from these different agencies that they are going to put together.”²⁷¹

3.2.2. Raids on offices and homes

Local law enforcement often conducted raids on people’s homes and offices in order to intimidate and silence them.²⁷² In October 2020, a year before Khurram Parvez’s arrest [See below, *The arbitrary arrest and detention of Khurram Parvez*], the offices of two prominent Kashmiri civil society organizations - the Association of Parents of Disappeared Persons (APDP) (a member organization of FIDH) and the Jammu Kashmir Coalition of Civil Society (JKCCS) - and several other NGOs, trusts, foundations, and journalists were raided as part of a crackdown against alleged “terror funding.” The NIA also searched the premises of: *Agence France-Presse* Kashmir correspondent Parvaiz Bukhari; the Greater Kashmir Trust, which runs Kashmir’s leading English daily newspaper, the *Greater Kashmir*, and Urdu publication *Kashmir Uzma*; and the offices and homes of Khurram Parvez, APDP Chairperson Parveena Ahangar, and JKCCS members Parvez Ahmad Matta and Swati Sheshadri.²⁷³ The office of another NGO, Athrout, which provides education and medical aid to vulnerable communities, was also raided. A day later, the NIA raided more NGOs and foundations.²⁷⁴

263. Haris Zargar and Goldie Osuri, *The Distinct Disposessions of Indian Settler Colonialism in Kashmir: Land, Narrative and Indigeneity*, 4 January 2024, <https://onlinelibrary.wiley.com/doi/full/10.1111/dech.12809>

264. For example, see: *New Indian, White Collar Terrorism: Plaguing the Valley of Kashmir*, 26 November 2021, <https://www.newindian.in/white-collar-terrorism-plaguing-the-valley-of-kashmir/>

265. DW, *Kashmir: CCTV order raises concerns over surveillance*, 21 April 2022, <https://www.dw.com/en/kashmir-cctv-order-raises-concerns-over-privacy-and-surveillance/video-61546296>

266. Rest of World, *Kashmir police will use facial recognition to 'pre-empt and prevent' attacks*, 22 December 2021, <https://restofworld.org/2021/kashmir-police-will-use-facial-recognition-to-pre-empt-and-prevent-attacks/>

267. Wire, *Forensic Evidence Shows Attempts Were Made to Infect Phones in Kashmir With Pegasus*, 23 July 2021, <https://thewire.in/rights/kashmir-pegasus-project-phones-spyware>

268. Kashmir Observer, *Core Group Terms Social Media in Kashmir a Challenge*, 21 January 2022, <https://kashmirobserver.net/2022/01/21/core-group-terms-social-media-in-kashmir-a-challenge/>

269. Article 14, *Police Question Kashmir Twitter Users For 'Anti-Gov' Posts*, 17 September 2020, <https://www.article-14.com/post/the-real-cyber-bully-police-in-kashmir-question-twitter-users>

270. Hindustan Times, *J&K home department gives go-ahead for formation of State Investigation Agency*, 2 November 2021, <https://www.hindustantimes.com/india-news/jk-home-department-gives-go-ahead-for-formation-of-state-investigation-agency-101635839974205.html>

271. FIDH, *Interview #2*, 26 April 2024.

272. The use of raids as a tool to intimidate human rights defenders has been documented in other parts of India; see FIDH et al: *India: Arrests, Raids Target Critics of Government*, 13 October 2023, <https://www.fidh.org/en/region/asia/india/india-arrests-raids-target-critics-of-government>

273. Observatory for the Protection of Human Rights Defenders, *India: Simultaneous NIA raids on human rights defenders' home, NGOs and newspaper's offices*, 28 October 2020, <https://www.fidh.org/en/issues/human-rights-defenders/india-simultaneous-nia-raids-on-human-rights-defenders-home-ngos-and>

274. NIA, 29 October 2020, https://x.com/nia_india/status/1321773128486473730?t=OE7Yu_HaHuomv3vqL2BLwA (last accessed 28 August 2024)



Indian Army soldiers and other security forces stand alert at a roadblock set up after three militants were killed in an alleged encounter in Baramulla on 16 September 2023. © Nasir Kachroo / NurPhoto / NurPhoto via AFP

3.2.3. Arrests and detentions

The harassment of human rights defenders and civil society organizations often culminated in the arrest and detention of prominent defenders. In Jammu & Kashmir, authorities frequently used repressive counter-terrorism laws, such as the Unlawful Activities (Prevention) Act (UAPA), to arrest and detain activists and human rights defenders. The UAPA was amended in July 2019, significantly increasing the scope of the law by allowing the authorities to designate individuals, and not just organizations, as terrorists under its Sections 35 and 36.

In August 2024, India's Minister of Home Affairs informed Parliament that 2,615 cases had been registered under the UAPA nationwide from 2020 to 2022, with the highest number of such cases during this period reported in Jammu & Kashmir. According to the ministry's figures, 947 cases, or one-third of the total UAPA cases across India, had been registered in Jammu & Kashmir between 2020 and 2022: 287 in 2020; 289 in 2021; and 371 in 2022.²⁷⁵

The arbitrary arrest and detention of Khurram Parvez

Over a year after his home and offices were raided by the NIA [See above, 3.2.2. *Raids on offices and homes*], on 22 November 2021, Khurram Parvez was arrested by the NIA, and detained under the UAPA, on accusations of being involved in terror-related activities.²⁷⁶ On 13 May 2022, the NIA filed a charge sheet²⁷⁷ before the NIA Special Court in Delhi against Khurram Parvez under Sections 120B and 121A of the Indian Penal Code ("criminal conspiracy" and "punishment for conspiracy to wage war against the government of India", respectively), Section 8 of the Prevention of Corruption Act ("taking gratification, in order, by corrupt or illegal means, to influence public servant"), and

275. Kashmir Life, *Jammu Kashmir Tops UAPA Cases List in India*. 1 August 2024, <https://kashmirlife.net/jammu-kashmir-tops-uapa-cases-list-in-india-362097/>

276. Observatory for the Protection of Human Rights Defenders, *India: Arbitrary detention of Khurram Parvez in Jammu and Kashmir*, 23 November 2021, <https://www.fidh.org/en/issues/human-rights-defenders/india-arbitrary-detention-of-khurram-parvez-in-jammu-and-kashmir>

277. NIA, 13 May 2022, https://x.com/NIA_India/status/1525101640818122753 (last accessed 5 June 2024).

Sections 13, 18, 18B, 38, and 39 of the UAPA (“unlawful activities”, “conspiracy”, “recruiting any person or persons for commission of a terrorist act”, “offence relating to membership of a terrorist organization” and “giving support to a terrorist organization”, respectively).²⁷⁸ The NIA accused Khurram Parvez of “running a network of over ground workers of the [Pakistan-based militant group] Lashkar-e-Taiba (LeT) for furthering activities of LeT and to commit terrorist attacks in India.”²⁷⁹

In March 2023, while imprisoned, Khurram Parvez was arrested again in a separate case, registered in 2020 by the authorities on further charges of “terror financing,” along with independent journalist Irfan Mehraj, who had previously worked with JKCCS. A charge sheet was filed by the NIA in this case in September 2023. The case specifically targets JKCCS and anyone associated with the organization, which the NIA claimed publishes “anti-national and incriminating material to bring hatred, contempt and disaffection towards the government of India.”²⁸⁰

Both Khurram Parvez’s and Irfan Mehraj’s pre-trial detention has been extended over 30 times by the courts.²⁸¹ The first substantive hearing of Khurram Parvez’s case took place at the NIA Special Court in Delhi on 6 July 2022. In June 2023, the UN Working Group on Arbitrary Detention adopted an opinion on Khurram Parvez’s deprivation of liberty, ruling that his detention was arbitrary and calling on the Indian authorities to immediately release him.²⁸² The NIA has detained Khurram Parvez in New Delhi’s Rohini Central Prison. Like many other Kashmiri prisoners, Khurram Parvez is being incarcerated thousands of kilometers from home in inhuman conditions.²⁸³

According to one informed person who was interviewed by FIDH, after August 2019, a new trend emerged in the enforcement of counter-terrorism legislation in Jammu & Kashmir. As part of this new trend, the number of young Kashmiris who are being detained and transferred to Delhi and charged under the UAPA based on “fairly innocuous” allegations, such as having a photo of a militant on their cell phone or having searched for online information about militant groups, significantly increased, sending the message that any potentially suspicious activity is likely to be punished.²⁸⁴

Legal professionals also faced arrest and detention. On 26 July 2024, the SIA arrested Kashmiri human rights lawyer Mian Abdul Qayoom in connection with the assassination of advocate Babar Qadri, who was fatally shot in September 2020.²⁸⁵ Days later, the police arrested Jammu & Kashmir High Court Bar Association ad hoc Chairperson Nazir Ahmad Ronga, after a midnight raid on his house in Srinagar and charged him under the PSA.²⁸⁶ Both arrests occurred days after the Jammu & Kashmir Bar Association decided to conduct its elections, which had been halted since 2020, after the Indian government objected to the Bar’s constitution, citing its alleged “secessionist ideology.” On 18 July 2024, police arrested Mohammad Ashraf Bhat, a senior attorney and former Jammu & Kashmir High Court Bar Association General Secretary, and charged him under the PSA.²⁸⁷

278. Observatory for the Protection of Human Rights Defenders, *India: Prominent rights defender Khurram Parvez is still in prison*, 17 May 2022, <https://www.fidh.org/en/issues/human-rights-defenders/india-prominent-rights-defender-khurram-parvez-is-still-in-prison>

279. NIA, 13 May 2022, https://x.com/NIA_India/status/1525101640818122753 (last accessed 5 June 2024).

280. NIA, *Money transfer to J&K by NGOs through Hawala Channel for terrorist activities in Kashmir valley, Case RC-37/2020/NIA/DLI*, 08 October 2020, <https://www.nia.gov.in/case-detail.htm?363> [NIA webpages inaccessible outside of India].

281. For example, see: Observatory for the Protection of Human Rights Defenders, *Raids on the house of Khurram Parvez and extension of his pre-trial detention period*, 29 March 2022, <https://www.fidh.org/en/issues/human-rights-defenders/india-raids-on-the-house-of-khurram-parvez-and-extension-of-his-pre>

282. UN Human Rights Council, *Opinion No. 8/2023 concerning Khurram Parvez (India)*, 5 June 2023; UN Doc. A/HRC/WGAD/2023/8, <https://www.ohchr.org/sites/default/files/documents/issues/detention-wg/opinions/session96/A-HRC-WGAD-2023-8-AEV.pdf>

283. Wire. *A Solitary Fan: For Kashmiri Prisoners in Overcrowded Tihar, Delhi’s Summer Was Brutal Torture*. 8 July 2024, <https://thewire.in/rights/tihar-jail-kashmir-political-prisoner-heatwave-summer-brutal-torture>

284. FIDH, *Interview #5*, 17 May 2024.

285. Economic Times, *Former J&K High Court Bar Association Srinagar president Mian Qayoom detained for questioning, elections put on hold*, 26 July 2024, <https://economictimes.indiatimes.com/news/india/former-jk-high-court-bar-association-srinagar-president-mian-qayoom-detained-for-questioning-elections-put-on-hold/articleshow/111267307.cms?from=mdr>

286. Hindustan Times, *J&K HC Bar association ad-hoc chairman Nazir Ronga arrested under PSA*, 11 July 2024, <https://www.hindustantimes.com/cities/chandigarh-news/jk-hc-bar-association-ad-hoc-chairman-nazir-ronga-arrested-under-psa-101720693421908.html>

287. Kashmir Life, *Senior Advocate Mohammad Ashraf Bhat Booked Under PSA*, 18 July 2024, <https://kashmirilife.net/senior-advocate-mohammad-ashraf-bhat-booked-under-psa-360753/>

Mian Abdul Qayoom and Nazir Ahmad Ronga, as well as their colleague Ghulam Nabi Thoker (Shaheen), had previously been summoned by the Jammu & Kashmir and Ladakh High Court in November 2022, based on a complaint of alleged misconduct under the Advocates Act, 1961. The lawyers were accused of being “anti-national, [...] transforming the working of the High Court Bar Association into a secessionist group and supporting anti-government activities.”²⁸⁸ All three men had also been detained under the PSA in August 2019.²⁸⁹

The Indian government’s use of threats of arrest and detention in reaction to speech related to Kashmir extended beyond the region. As a result, Indian journalists, scholars, and activists, including some who are abroad, have increasingly refrained from speaking out about the situation in Jammu & Kashmir due to fear of reprisals, against both themselves and their families. In October 2023, Delhi Lieutenant Governor Vinai Kumar Saxena personally sanctioned the reactivation of a case filed in 2010 against famed Indian author Arundhati Roy (and Kashmiri academic Sheik Showkat Hussain) on charges of sedition, filed after she gave a speech relating to Kashmir.²⁹⁰ The reactivation of the case came on the heels of Arundhati Roy’s participation in a protest meeting following the arrest of *Newslick* founder Prabir Purkayastha in October 2023.²⁹¹

3.3. Independent media silenced

Since August 2019, reporting from and about Jammu & Kashmir has been increasingly difficult, with Kashmiri journalists forced into silence and to follow the Indian government’s narrative about Kashmir, and the international press largely restricted from accessing the region. Kashmiri journalists and other media professionals working for independent media have been subjected to increased violence and harassment by the authorities.²⁹² At least 35 of them have been summoned for questioning, often being forced to reveal their sources or subjected to extensive background checks, held in pre-trial detention, and/or charged with various criminal offenses.²⁹³ In many cases, these summons and detentions occurred after the publication of articles expressing a dissenting point of view or criticism of the authorities’ actions. Some of the senior journalists who were summoned included *Hindu* correspondent Peerzada Ashiq, *Economic Times* correspondent Hakeem Irfan, *Indian Express* journalist Basharat Masood, and *Outlook* reporter Naseer Ganai.

In addition, police raided the homes and offices of at least a dozen of media professionals, often seizing electronic devices, such as cell phones, computers, and other materials.²⁹⁴ Kashmiri journalists reported they were barred from international travel [See below, 3.4. *Freedom of movement curbed*].

The local press has increasingly come under the control of the government, particularly due to its reliance on state advertising and subsidies. This dependency has effectively turned many critical newspapers into extensions of government-paid advertisements. Concurrently, many professional journalists have been forced into silence, moved away from journalism, or faced extensive threats and intimidation. Some were forced to relocate outside of Jammu & Kashmir, placed on no-fly lists, or had their passports revoked. “It’s extremely dark. It’s an absolute silence.”²⁹⁵

At least three journalists are currently in pre-trial detention: Sajad Gul of *Kashmir Walla*, detained since January 2022 on charges of “spreading disinformation and false narratives” on social media and

288. Kashmir Life, *High Court Summons Mian Qayoom, Two Other Advocates Over Misconduct*, 23 November 2022, <https://kashmirilife.net/high-court-summons-mian-qayoom-two-other-advocates-over-misconduct-304703/>

289. Observatory for the Protection of Human Rights Defenders, *India: Arbitrary detention and deteriorating health of Mr. Miyan Abdul Qayoom*, 5 February 2020, <https://www.fidh.org/en/issues/human-rights-defenders/india-arbitrary-detention-and-degradation-of-health-condition-of-mr>

290. Wire, *Why is the Indian State Reigniting a 13-Year-Old Case Against Arundhati Roy?*, 11 October 2023, <https://thewire.in/rights/why-is-the-indian-state-reigniting-a-13-year-old-case-against-arundhati-roy>

291. Wire, *‘More Dangerous Than Emergency’: Arundhati Roy on Raiding of Journalists*, 4 October 2023, <https://thewire.in/rights/more-dangerous-emergency-arundhati-roy-raids-journalists-newslick>

292. Wire, *Summoned, Raided, Censored: Crackdown on Journalists is the New Normal in Kashmir*, 22 September 2021, <https://thewire.in/media/summoned-raided-censored-crackdown-on-journalists-is-the-new-normal-in-kashmir>

293. Article 14, *Long Walk to Freedom Cut Short: A Chronicle Of Kashmir Journalist Aasif Sultan’s Captivity For Over Five Years*. 15 April 2024, <https://article-14.com/post/long-walk-to-freedom-cut-short-a-chronicle-of-kashmir-journalist-aasif-sultan-s-captivity-for-over-five-years-661c9bf110cca>

294. People’s Dispatch, *Journalists and media organizations condemn crackdown on press in Kashmir*, 14 September 2021, <https://peoplesdispatch.org/2021/09/14/journalists-and-media-organizations-condemn-crackdown-on-press-in-kashmir/>

295. FIDH, *Interview #4*, 13 May 2024.

“provoking” the residents to “resort to violence;” and independent journalists Majid Hyderi and Irfan Mehraj since September 2023 and March 2023 on charges of criminal conspiracy and “funding raising for terrorism,” respectively.²⁹⁶

As a Kashmiri journalist told FIDH, “These are cases that are a deterrent for others. While many journalists are terrorized into silence, for others it’s also self-imposed censorship. ‘If I speak, there will be consequences.’ They have created a climate in which it’s very difficult for any journalist to speak.”²⁹⁷

The judicial harassment of Aasif Sultan

On 29 February 2024, police rearrested²⁹⁸ Kashmiri journalist Aasif Sultan, two days after he had been freed from more than five years of arbitrary detention.²⁹⁹ Sultan, an assistant editor and reporter with the now-defunct monthly magazine *Kashmir Narrator*, was first arrested in Srinagar in August 2018 and accused of “harboring known militants” in a case marred by procedural delays and evidentiary irregularities. After languishing in Srinagar Central Jail for more than three years, a local court granted him bail on 5 April 2022, after the prosecution failed to provide sufficient evidence linking Sultan to the offense with which he had been charged.³⁰⁰

Before his release, the Jammu & Kashmir administration used the PSA to bring new charges against him and he was rearrested on 10 April 2022. On 11 December 2023, the Jammu & Kashmir High Court dismissed the PSA case, ruling Sultan’s detention “illegal and unsustainable.”³⁰¹ Despite the court’s order, Sultan was not released until 27 February 2024 because he required security clearance from the Jammu & Kashmir administration to return home from Uttar Pradesh State, where he had been detained since May 2022. He was arrested again on 29 February 2024, after responding to summons for questioning at Srinagar’s Rainawari police station in relation to a First Information Report (FIR) filed in 2019.³⁰² He was released on bail on 10 May 2024 under strict conditions, including a prohibition on using encrypted messaging applications or proxy networks.³⁰³

On 2 June 2020, the Jammu & Kashmir administration issued a new 53-page media policy, which required mandatory background checks of newspaper publishers, editors, and key staff members before “empaneling” (appointing a group to serve on a committee, or panel) or making them eligible for government advertisements or any other official recognition.³⁰⁴ The new policy also allowed the Jammu & Kashmir Directorate of Information and Public Relations (DIPR) to “examine” the content of print, electronic, and various other forms of media for “fake news, plagiarism and unethical or anti-national activities.”³⁰⁵ Under this new media policy, the authorities can arrest and charge journalists under either the Indian Penal Code or the Information Technology Act, 2000.

Indian authorities have also increased media censorship relating to Jammu & Kashmir and particularly reports of human rights violations. The website and social media accounts of the Kashmiri independent

296. CPJ, *7 Journalists Imprisoned in India (as of 1 December 2023)*, https://cpj.org/data/imprisoned/2023/?status=Imprisoned&cc_fips%5B%5D=IN&start_year=2023&end_year=2023&group_by=location

297. FIDH, *Interview #4*, 13 May 2024.

298. Frontline Defenders, *Aasif Sultan*, [https://www.frontlinedefenders.org/en/case/human-rights-defender-and-journalist-aasif-sultan-released-bail#:~:text=court%20in%20Srinagar-.Released%20on%2027%20February%20after%20nearly%20six%20years%20of%20incarceration,Activities%20Prevention%20Act%20\(UAPA\)](https://www.frontlinedefenders.org/en/case/human-rights-defender-and-journalist-aasif-sultan-released-bail#:~:text=court%20in%20Srinagar-.Released%20on%2027%20February%20after%20nearly%20six%20years%20of%20incarceration,Activities%20Prevention%20Act%20(UAPA))

299. CPJ, *Kashmiri journalist Aasif Sultan re-arrested hours after arriving home from jail*, 4 March 2024, <https://cpj.org/2024/03/kashmiri-journalist-aasif-sultan-re-arrested-hours-after-arriving-home-from-jail/>

300. Maktoob Media, *“Process as punishment”: Press Club of India condemns arrest of Kashmiri journalist Asif Sultan*, 4 March 2024, <https://maktoobmedia.com/india/process-as-punishment-press-club-of-india-condemns-arrest-of-kashmiri-journalist-asif-sultan/>

301. Quint, *‘Illegal, Unsustainable’: J&K HC Quashes Scribe Asif Sultan’s Detention Order*, 12 December 2023, <https://www.thequint.com/news/law/jammu-kashmir-high-court-detention-order-of-journalist-asif-sultan>

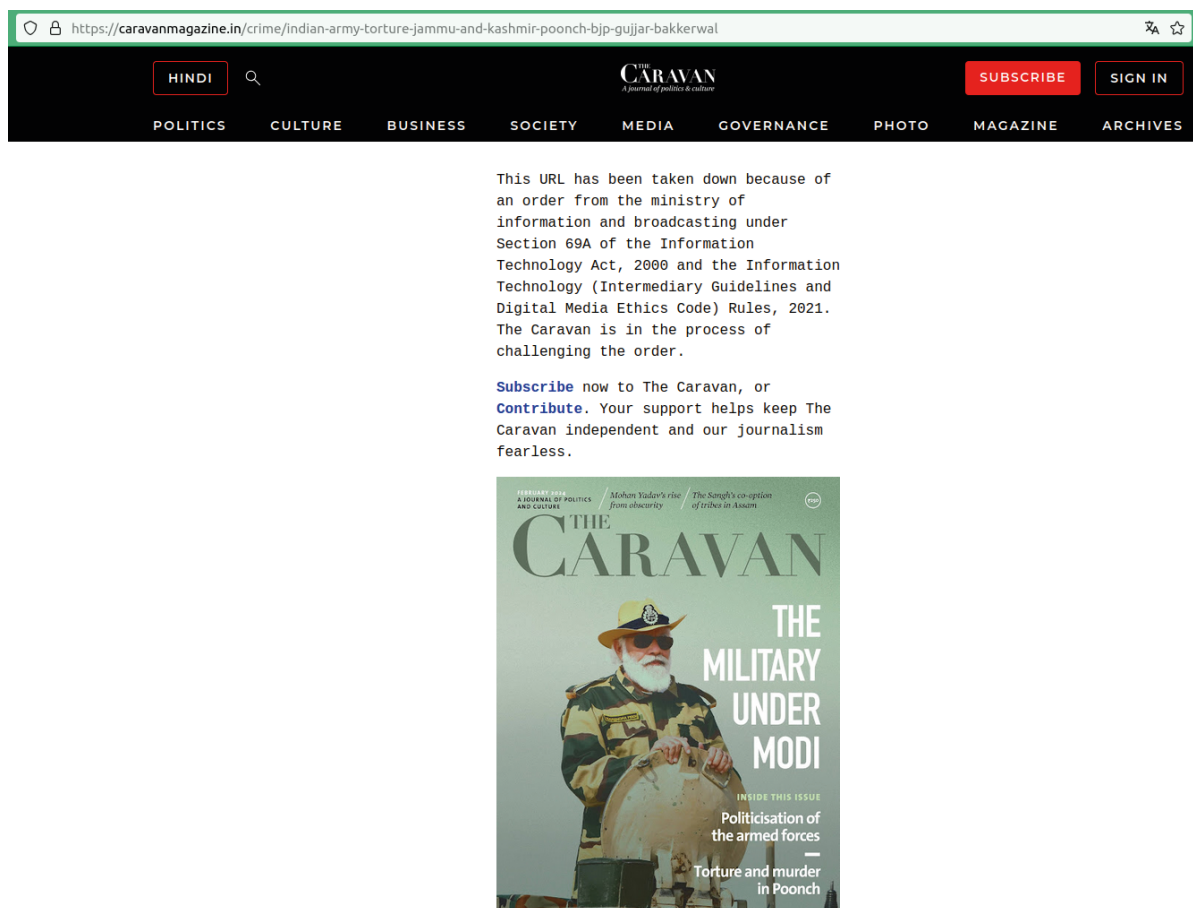
302. CPJ, *Kashmiri journalist Aasif Sultan re-arrested hours after arriving home from jail*, 4 March 2024, <https://cpj.org/2024/03/kashmiri-journalist-aasif-sultan-re-arrested-hours-after-arriving-home-from-jail/>

303. Wire, *Kashmiri Journalist Aasif Sultan Granted Bail After Years Behind Bars*, 15 May 2024, <https://thewire.in/rights/kashmiri-journalist-aasif-sultan-granted-bail-after-years-behind-bars>

304. Article 14, *Kashmir’s New Media Policy Menaces Its Media*, 6 July 2020, <https://www.article-14.com/post/kashmir-s-new-media-policy-menaces-its-media>

305. EPW, *Kashmir Media Policy: Accentuating the Curbs on the Freedom of Press*, 19 August 2020, <https://www.epw.in/engage/article/kashmir-media-policy-accentuating-curbs-freedom-press>

news outlet *Kashmir Walla* have been inaccessible in India since August 2023, following an order under the Information Technology Act.³⁰⁶ In February 2024, the Ministry of Information and Broadcasting ordered the media outlet *Caravan* to remove an article detailing allegations of torture and murder committed by Indian Army soldiers in Poonch District in Jammu & Kashmir, under Section 69A of the Information Technology Act, 2000.³⁰⁷ The article remains offline at the time of publication of this report, and efforts by other media, including *Wire*, to reproduce portions of the article were also subject to removal orders from the government.³⁰⁸



Screenshot taken on 9 September 2024 from <https://caravanmagazine.in/crime/indian-army-torture-jammu-and-kashmir-poonch-bjp-gujjar-bakkerwal>

3.4. Freedom of movement curbed

The Indian government frequently used curbs on freedom of movement, including placing individuals on “no-fly” lists or revoking their passports, to punish those critical of the government or to prevent human rights activists and journalists from speaking about violations while abroad. The use of these tactics against Kashmiri human rights defenders and journalists has significantly increased since August 2019. The majority of individuals affected by these measures have been hesitant to report them publicly or to challenge the bans in court out of concern they could face further reprisals, such as detention under the PSA, making it difficult to assess the extent to which these measures have been used

In the immediate aftermath of the abrogation of Jammu & Kashmir’s statehood, many Kashmiri human rights defenders were prevented from leaving India. Many of them were informally told by local

306. Al Jazeera, *India blocks independent news outlet The Kashmir Walla*, 21 August 2023, <https://www.aljazeera.com/news/2023/8/21/india-blocks-independent-news-outlet-the-kashmir-walla>

307. Caravan, <https://caravanmagazine.in/crime/indian-army-torture-jammu-and-kashmir-poonch-bjp-gujjar-bakkerwal>. The Information Technology Act, 2000, (as amended) is available at: https://www.indiacode.nic.in/bitstream/123456789/13116/1/it_act_2000_updated.pdf

308. Wire, *Read: The Caravan’s Article on Army Torture the Union Government Wants Taken Down*, 13 February 2024, <https://thewire.in/rights/read-the-caravans-article-on-army-torture-the-union-government-wants-taken-down>

authorities that they had been placed on no-fly lists and thus did not attempt to travel out of precaution. Others who attempted to leave the country were stopped at the airport. For example, in October 2019, Kashmiri human rights activist Bilal Bhat was stopped from boarding an international flight to Malaysia at Delhi airport. Indian immigration authorities stamped his passport saying that his visa was “cancelled without prejudice.”³⁰⁹

In September 2021, media outlet *Wire* published an article that confirmed the existence of a “look out” circular list on the basis on which journalists, human rights defenders, and academics were barred from traveling outside of India. The article also revealed the names of several individuals who had faced such restrictions, including journalist Gowhar Geelani, journalist and academic Zahid Rafiq, and scientist Shabir Hassan. In October 2022, Pulitzer Prize winner photojournalist Sana Irsha Mattoo was stopped by Indian immigration officials at Delhi airport and prohibited from flying to France, without being given a reason for the ban. Her passport was stamped “cancelled without prejudice” by the authorities.³¹⁰ Jammu & Kashmir police officials confirmed that she had been placed on a no-fly list,³¹¹ and she was again prohibited from flying to the US in October 2022, despite having a valid US visa and a plane ticket.³¹²

On 31 July 2021, the Special Branch of the Criminal Investigation Department (CID) of the Jammu & Kashmir police issued a circular that ordered local police units to ensure that passport applicants be screened for any “involvement in law and order, stone-pelting cases and other crimes prejudicial to the security of the state.” The circular also instructed police to use CCTV footage, photographs, videos, audio clips, and drone images to corroborate involvement in potential incidents.³¹³ Any involvement would result in a denial of police approval for passport applicants, with the consequent rejection of their applications. According to media reports, between 2019 and 2022, the Jammu & Kashmir police rejected 805 passport applications due to alleged “terrorism-related antecedents.”³¹⁴

In August 2023, it was reported that Indian authorities had suspended the passports of at least 10 Kashmiris, including journalists, academics and students, in Jammu & Kashmir and overseas.³¹⁵ According to the report, the Jammu & Kashmir passport office in Srinagar claimed that the individuals were a “threat to Indian security” and referred to Section 10(3) of the Passports Act, 1967. FIDH is also aware of several cases of foreign nationals of Kashmiri origin who had their Overseas Citizens of India (OCI) status revoked since August 2019.³¹⁶

3.5. Dismissal of employees

Since August 2019, at least 64 government employees have been dismissed from service over alleged links to terrorism or supposed anti-national activities.³¹⁷ In February 2024, Jammu & Kashmir Lieutenant Governor Manoj Sinha claimed that 154 government employees had been dismissed due to alleged anti-national activities.³¹⁸ In many cases, the administration used Article 311(2)(c) of the Constitution, which

309. *Wire*, *Kashmiri Human Rights Activist Stopped From Travelling to Malaysia*, 14 October 2019, <https://thewire.in/rights/kashmiri-human-rights-activist-malaysia-flight>

310. Al Jazeera, *Pulitzer winner Kashmir journalist says barred from flying abroad*, 2 July 2022, <https://www.aljazeera.com/news/2022/7/2/pulitzer-winner-kashmir-journalist-says-bared-from-flying-abroad>

311. Outlook, *Pulitzer-Winning Kashmiri Photojournalist Sanna Irshad Mattoo Stopped From Flying Abroad*, 2 July 2022, <https://www.outlookindia.com/national/pulitzer-winning-kashmiri-photojournalist-sanna-irshad-mattoo-stopped-from-flying-abroad-news-206376>

312. @mattoosanna, 18 October 2022, <https://twitter.com/mattoosanna/status/1582402752579514368?cxt=HHwWgMDR8ey66fUrAAAA>

313. Article 14, *Next in New Delhi's Playbook to Quell Kashmir Dissent: No Passport for Protestors*, 16 August 2021, <https://article-14.com/post/next-in-new-delhi-s-playbook-to- quell-kashmir-dissent-no-passport-for-protestors-6119cd30a304c>

314. Indian Express, *From 2019-22, passport denied to 805 in J&K over 'terror'*, 1 May 2023, <https://indianexpress.com/article/cities/srinagar/from-2019-22-passport-denied-to-805-in-jk-over-terror-8584745/>

315. Middle East Eye, *India strips passports from several Kashmiris as Modi tightens grip on dissent*, 1 August 2023, <https://www.middleeasteye.net/news/indian-government-strips-passports-kashmiri-dissent-modi>

316. Indian authorities have revoked the OCI status of many Indians, not limited to Kashmir. See: Human Rights Watch, *India: Authorities Revoke Visa Privileges of Diaspora Critics*, 14 March 2024, <https://www.hrw.org/news/2024/03/17/india-authorities-revoke-visa-privileges-diaspora-critics>

317. Indian Express, *4 J&K govt employees dismissed without inquiry for being 'threat to state security'*, 24 July 2024. <https://indianexpress.com/article/india/jammu-kashmir-govt-employees-dismissed-inquiry-threat-state-security-9472616/>

318. Kashmir Life, *154 Government Employees Dismissed Over Anti National Activities: JK Govt*, 11 February 2024, <https://kashmirlife.net/154-government-employees-dismissed-over-anti-national-activities-jk-govt-341755/>

gives the government the authority to fire employees without conducting an inquiry if “the President or the governor is satisfied that in the interest of the security of the state, it is not expedient to hold such an inquiry.” Prior to the withdrawal of Article 370 of the Constitution, Article 311(2)(c) had not been applicable to Jammu & Kashmir.

In August 2020, a special committee was constituted by the Jammu & Kashmir administration to investigate government employees for alleged anti-national activities, “in the backdrop of intelligence reports which suggested that a section of government employees was proactively promoting anti-India hatred, assailing New Delhi’s decisions of 5 August 2019, trolling and threatening politicians, officers and businesspersons on social media.”³¹⁹

In June 2021, the Jammu & Kashmir Civil Services (Verification of Character and Antecedents) Instructions, 1997, were amended to include a mandatory step for hiring agencies to send information concerning applicants for government jobs to the Jammu & Kashmir’s Criminal Investigation Department (CID), which has then one month to verify and clear candidates before they can be appointed.³²⁰ The application form to be completed by candidates and verified by the CID includes an extensive set of questions, ranging from details about extended family members, visits to foreign countries, membership in associations or charities, and “participation in any political activity.”³²¹

319. Deccan Herald, *J&K govt to terminate jobs of 500 employees for alleged involvement in ‘anti-national’ activities*, 4 August 2020, <https://www.deccanherald.com/india/jk-govt-to-terminate-jobs-of-500-employees-for-alleged-involvement-in-anti-national-activities-869428.html>

320. Government Order No.528-JK(GAD) of 2021, dated 21.06.2021, available at: <https://jkgad.nic.in/En/OrderCircular.aspx#>

321. “Description Roll for CID Verification for fresh appointment as per GAD Order No. 528-JK(GAD) of 2021,” available at: <https://jkgad.nic.in/En/Form.aspx#>

Recommendations

The following recommendations seek to provide a pathway for ensuring the respect of fundamental rights and freedoms in Jammu & Kashmir.

To the Indian government

General recommendations

- Fully respect India's international human rights obligations in Jammu & Kashmir, including:
 - ◊ The rights of Kashmiris to self-determination in accordance with Article 1 of the International Covenant on Civil and Political Rights (ICCPR).
 - ◊ The fundamental rights to freedom of opinion and expression, freedom of peaceful assembly, freedom of association, and freedom of movement, in accordance with the ICCPR.
 - ◊ The right to an adequate standard of living, in accordance with Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).
- Implement recommendations received during the latest Universal Periodic Review (UPR) of India in March 2023, in particular those calling for the amendment or repeal of counter-terrorism legislation and for the release of human rights defenders.
- Implement recommendations made by the UN Human Rights Committee during the latest review of India in July 2024, in particular those related to the use of counter-terrorism legislation, internet shutdowns, and the harassment of human rights defenders.
- Allow full and unfettered access to Jammu & Kashmir to UN human rights bodies and representatives, foreign and domestic human rights organizations, and foreign and local journalists, including by honoring India's standing invitation to UN Special Procedures mandate holders.
- Ratify key international human rights treaties, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention for the Protection of All Persons from Enforced Disappearance, and accept the individual complaints procedures for all international human rights treaties, including by ratifying the First Optional Protocol to the ICCPR, the Optional Protocol to ICESCR, and issuing a declaration under Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

Related to land rights

- Ensure that the protections and rights to land that existed in Jammu & Kashmir prior to August 2019 are restored and guaranteed to all Kashmiris.
- Protect and promote the right to an adequate standard of housing in accordance with Article 11(1) of the ICESCR, including through providing legal security of tenure as elaborated in General comment No. 4 of the UN Committee on Economic, Social and Cultural Rights.³²²
- Ensure that all land seizures are conducted in full compliance with international law and standards, including by following the appropriate procedural protection and due process as enumerated in General comment No. 7 of the UN Committee on Economic, Social and Cultural Rights,³²³ which include:
 - ◊ Ensuring genuine consultations with those affected;
 - ◊ Providing adequate and reasonable notice for all affected persons prior to the scheduled date of the eviction;
 - ◊ Providing timely information on the proposed evictions and how the land will be used;
 - ◊ Ensuring the presence of community representatives during the eviction;
 - ◊ Properly identifying all individuals carrying out the eviction;
 - ◊ Prohibiting evictions during periods of bad weather or at night;
 - ◊ Providing legal remedies to those affected; and
 - ◊ Providing legal aid to those who need it in order to seek redress from the courts.

322. Committee on Economic, Social and Cultural Rights, *General comment No. 4: The right to adequate housing (art. 11(1) of the Covenant)*, Sixth session (1991), <https://www.ohchr.org/en/special-procedures/sr-housing/human-right-adequate-housing>

323. Committee on Economic, Social and Cultural Rights, *General comment No. 7: The right to adequate housing (art. 11(1) of the Covenant): Forced evictions*, Sixteenth session (1997), <https://www.ohchr.org/en/forced-evictions-and-human-rights>

- Comply with the Guidelines for the Implementation of the Right to Adequate Housing provided by the UN Special Rapporteur on adequate housing in 2020³²⁴ and the Basic Principles and Guidelines on Development-Based Evictions and Displacement issued by the UN Special Rapporteur on adequate housing in 2007.³²⁵
- Conduct full, independent, and transparent investigations into all allegations of unlawful land seizures and provide compensation and redress to all individuals and communities whose rights were violated in the process of such seizures.
- Ensure the rights to land use of indigenous and forest-dwelling communities in Jammu & Kashmir are fully protected under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, and other relevant legislation, and that recent amendments to legislation that violate the Forest Rights Act are repealed or amended.
- Ensure compliance with the UN Declaration on the Rights of Indigenous People, in particular on the right to free, prior, and informed consent.
- Ratify the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labor Organization.

Related to civil society

- Put an end to all threats, intimidation, and other acts of harassment, including at the judicial level, against human rights defenders, civil society activists, and journalists.
- Immediately release all currently detained human rights defenders and journalists, including Khurram Parvez and Irfan Mehraj, and ensure that the charges against them are dropped.
- Allow freedom of movement of human rights defenders and journalists, including their freedom to travel overseas.
- Lift all undue restrictions on Kashmiri media and ensure that media outlets are able to freely and independently report on the situation in Jammu & Kashmir.
- Refrain from all acts of censorship of modes of communication, including internet shutdowns.
- Repeal the Unlawful Activities (Prevention) Act, the Jammu & Kashmir Public Safety Act (PSA), and the colonial-era sedition law.
- Repeal the Foreign Contributions (Regulation) Act.
- Ensure that human rights defenders and civil society organizations are allowed to receive both public and private funding, including foreign funding.
- Comply with the UN Declaration on Human Rights Defenders.

To the European Union (EU) institutions and its member states

- Publicly express support for the Kashmiri people and their rights to fundamental freedoms.
- Ensure that the EU-India human rights dialogue is held annually, led by the office of the EU Special Representative for Human Rights, that is accompanied by specific measurable objectives for success, and that the situation of human rights in Jammu & Kashmir is included as an agenda item.
- Publicly call on the Indian government to release Kashmiri human rights defenders, including Khurram Parvez and Irfan Mehraj.
- Ensure that ongoing negotiations with India on an EU-India Free Trade Agreement are conducted in consultation with both EU and Indian civil society representatives, and that the full range of human rights are taken into consideration and protected under the agreement; ensure specifically that Kashmiri civil society representatives are consulted and that the agreement reflects concerns specific to Jammu & Kashmir; and that the Trade & Sustainable Development chapter is robust and enforceable and in line with international human rights standards notably related to the right to self-determination, the rights of indigenous peoples, the right to an adequate standard of living, and the protection of human rights defenders.

324. UN Human Rights Council, *Guidelines for the Implementation of the Right to Adequate Housing: Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*, UN Doc. A/HRC/43/43, December 2019.

325. UN Human Rights Council, *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living*, UN Doc. A/HRC/4/18, February 2007.

To the UN Human Rights Council and its member states

- Provide a mandate to the Office of the High Commissioner for Human Rights (OHCHR) to regularly report on human rights violations in Jammu & Kashmir to the UN Human Rights Council, and ensure that OHCHR is given sufficient resources to do so.
- Call on the Indian government to allow immediate and unfettered access to OHCHR to Jammu & Kashmir, and to fully cooperate with UN Special Procedures, including by allowing mandate holders to visit Jammu & Kashmir and implementing the recommendations made thereafter.
- Establish an independent investigative mechanism to monitor human rights violations and promote accountability in Jammu & Kashmir.



This document was produced with the support of the European Union. The sole responsibility for the content of this publication lies with FIDH, and it cannot be considered to reflect the views of the European Union.

Keep your eyes open

fidh

Establishing the facts - Investigative and trial observation missions

Supporting civil society - Training and exchange

Mobilizing the international community - Advocacy before intergovernmental bodies

Informing and reporting - Mobilizing public opinion

For FIDH, transforming societies relies on the work of local actors.

The Worldwide Movement for Human Rights acts at national, regional and international levels in support of its member and partner organizations to address human rights abuses and consolidate democratic processes. Its work is directed at States and those in power, such as armed opposition groups and multinational corporations.

Its primary beneficiaries are national human rights organizations who are members of the Movement, and through them, the victims of human rights violations. FIDH also cooperates with other local partner organizations and actors of change.

Director of publication:

Alice Mogwe

Editor:

Éléonore Morel

Author:

FIDH

Design:

FIDH/CB

fidh

CONTACT

FIDH

17, passage de la Main d'Or

75011 Paris - France

Tel: (33-1) 43 55 25 18

www.fidh.org

Twitter: @fidh_en / fidh_fr / fidh_es

Facebook:

<https://www.facebook.com/FIDH.HumanRights/>



FIDH is an
**international human rights
NGO**
federating **188** organizations
from **116** countries

fidh

ABOUT FIDH

FIDH takes action for the protection of victims of human rights violations, for the prevention of violations and to bring perpetrators to justice.

A broad mandate

FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights: civil and political rights, as well as economic, social and cultural rights.

A universal movement

FIDH was established in 1922, and today unites 188 member organizations in 116 countries around the world. FIDH coordinates and supports their activities and provides them with a voice at the international level.

An independent organization

Like its member organizations, FIDH is not linked to any party or religion and is independent of all governments.