Under Black Skies

The Silencing of Critical Voices in Jammu and Kashmir

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Since the Indian state unilaterally abrogated the autonomous status of Jammu and Kashmir (J&K) in August 2019, human rights defenders (HRDs) have been confronted with an unprecedented closing of civic spaces, forcing them to restrict or stop their engagement. While HRDs have been subjected to state repression for more than 30 years since the onset of the 1989 insurgency in J&K, the developments in 2019 mark a turning point, both in strategy and methods employed by the Indian state. This blog post aims to provide a situational analysis of what is happening in Kashmir by focusing on HRDs and the media (both mainstream and social). We argue that the closing in on civil society in J&K needs to be analyzed in light of the current Bharatiya Janata Party (BJP)-government's territorial ambitions and its larger Hindutva majoritarian project. As J&K is the only Muslim-majority state in India, the BJP-government seeks to fully incorporate the region—legally, politically and religiously—into the Indian union territory. We will show that, in order to advance this goal, the Indian state 1) links human rights work to terrorism in order to prosecute HRDs under repressive laws, 2) prevents reports of human rights violations from being disseminated outside of J&K to influence the representation of J&K in local and international media, 3) tries to homogenize and regulate the media in order to control counter-narratives, disseminate Hindutva ideology and thereby advance assimilation.

Branding Human Rights Work as Terrorism

As J&K is one of the most militarized zones in the world, there is a constant presence of armed forces equipped with unchecked powers to arrest and kill, employing legislation such as the Armed Forces Special Powers Act (AFSPA), the Public Safety Act (PSA) and the Unlawful Activities (Prevention) Act (UAPA). Since 1989, this has led to enforced and involuntary disappearances of more than 8,000 to 10,000 people, widespread torture and extrajudicial killings, with complete impunity of the perpetrators. Human rights groups criticized these 'lawless laws' for their widespread and broad use to arbitrarily detain critical voices. UN human rights experts, including the former High Commissioner for Human Rights, Michelle Bachelet, repeatedly raised concerns about the vagueness of these laws and their use against HRDs.

Since 2019, the Indian state has increasingly portrayed the reporting of human rights violations as a threat to India's national security. According to a Kashmiri lawyer working in one of the district courts in southern Kashmir (who chooses to remain anonymous), "the state is creating a narrative that anyone working or associating with human rights groups outside the country is doing so to defame India and is anti-national". Only recently, Ajit Doval, Prime Minister Modi's National Security Advisor publicly described civil society as the "new frontiers of the war" that could be "manipulated to hurt the interests of a nation". This narrative has become so prominent that it caused the National Human Rights Commission to organize its 2021 annual debate around the question: "Are human rights a stumbling block in fighting evils like terrorism and Naxalism?". Naxalism originally refers to a Maoist movement involved in insurgency in West Bengal. However, in recent years, it has increasingly been used to brand dissidents as extremists conspiring to overthrow the government.

This linking of human rights reporting and national security has given rise to different state agencies pressing charges against HRDs, one of which is the National Investigation Agency (NIA), a federal agency

tasked with the investigation of terror-related crimes. Besides raiding the houses of Hurriyat leaders (pro-freedom leaders) or of people believed to be associated with militancy (insurgency), the NIA is also targeting human rights groups, relief organizations, business-people, and journalists. This clampdown on dissidents by the NIA was condemned both in India and abroad.

On November 22, 2021, the NIA arrested Khurram Parvez on charges of "conspiracy and terrorism" under the Indian Penal Code and the UAPA, branding him as anti-national. Parvez is a Kashmiri human rights defender and program coordinator of the Jammu Kashmir Coalition of Civil Society (JKCCS), a prominent human rights group based in Srinagar. The NIA has raided the offices of JKCCS numerous times, seizing documents and reports. Following Parvez's arrest in November 2021, staff members and associates of JKCCS were summoned to New Delhi for questioning by the NIA. They reported to have been harassed and intimidated for several days.

The crackdown by Indian authorities on HRDs and critics in J&K has instilled a state of fear and control, leading to a dramatic decrease in the documentation of human rights abuses.

Prevention of Human Rights Documentation

Human rights organizations such as JKCCS and the Association of Parents of Disappeared Persons (APDP) have played a leading role in documenting abuses committed by Indian forces in J&K, including surveillance, disappearances, and violence. In order to compile their reports, JKCCS relentlessly pored over court files and official documents and put in applications under the Right to Information Act (RTI) to hold state institutions to account. In several cases, their findings indicted members of the armed forces.

It is such documentation that also informed the 2018 United Nations report on human rights violations in J&K and its update from 2019. The Indian Ministry of Foreign Affairs strongly rejected the 2018 report, saying that it violated India's sovereignty and territorial integrity and calling it "fallacious, tendentious and motivated". It remains to be seen whether and to what extent local HRDs will still be able to put a spotlight on human rights violations in J&K. Organizations like JKCCS and APDP have not published any reports since August 2020 with their staff of volunteers and lawyers laying low, rarely issuing statements, or holding events.

A further aggravating factor is that individuals affected by human rights abuses are increasingly deterred from approaching human rights organizations, media, lawyers or courts in fear of reprisals by state authorities, including harassment, intimidations, detention or arrest. According to the district court lawyer quoted above, there were instances of victims having been harassed and tortured by the state after their cases were highlighted through human rights advocacy or media reports.

As human rights documentation on the ground is becoming increasingly difficult to produce, there is an over-reliance on media to detail and document human rights abuses and violations in J&K. However, since August 2019, there has been a severe clampdown on media in the region.

Clampdown on Media in J&K

There have been multiple cases of Kashmiri journalists being censored, harassed, physically abused, summoned for questioning by the NIA, and even charged under anti-terror laws. As reported by The Caravan, at least 180 journalists have been called by the J&K police for interrogation since August 2019. The reportage lists 10 journalists booked under UAPA or PSA, further 10 journalists booked under other charges and 12 journalists raided by the J&K police or NIA, noting that there may be further cases.

In its India Press Freedom Report 2021, the Rights and Risks Analysis Group (RRAG), an independent think-tank based in New Delhi, rated Jammu and Kashmir the Indian state with the highest number of journalists or media organizations being targeted by state authorities: Out of the total of 121 documented targeted attacks on media in 2021, 25 occurred in J&K. The report further notes that, out of the 17 documented arrests of journalists in India in 2021, J&K topped the number of arrests with five journalists.

As of now, at least three journalists in Kashmir are imprisoned under stringent laws. On February 4, 2022, Fahad Shah, the editor of a local news website The Kashmir Walla, was arrested. Shah had been summoned to the police station in Pulwama, after his website ran a story questioning the police's version of an encounter in Pulwama in January this year: while the police reported to have killed prominent militants, the Kashmir Walla told the story of locals who were beaten, arbitrarily charged under UAPA and innocently killed. The police also accused Shah of posting anti-national content on social media and "glorifying terrorist activities, spreading fake news, and instigating people." Shah was charged under the PSA and the much-criticized sedition law (124A of the Indian Penal Code, criminalizing any activity that "brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, the Government"). The other two journalists currently under detention are Aasif Sultan, who has been arrested under UAPA and has been in prison since August 2028, and Sajad Gul, who was charged under the PSA in January of this year.

The discomfort of the Indian state with critical media is well reflected in its Media Policy 2020, published in 2018 with the goal to "ensure a synchronized and effective use of all forms of media to build public trust, foster a genuinely positive image of the Government based on performance and strengthen [the] relationship with key stakeholders." The new media policy aims at "creating a sustained narrative on the functioning of the Government in [the] media" and to "thwart mis-information, fake news and be alert to any attempts to use media to incite communal passion, preach violence, or to propagate any information prejudicial to the sovereignty and integrity of India". The policy thus endows state officials with broad discretion to decide what constitutes fake news or anti-national news. Journalists and media bodies have from the outset criticized the policy for violating the freedom of speech and press. The international Committee to Protect Journalists (CPJ), a nonprofit organization that promotes press freedom, has termed the media policy as a "nail in the coffin" for the free press.

Silencing of Social Media in Kashmir

When social media spread in J&K in the mid-2000s, many Kashmiris tried to fill the information vacuum left by many years of conflict and repression, sharing information from the region with the world. However, it soon became a tool of surveillance. The Indian government increased its monitoring and tabulating of the dissenting content shared across social media. According to the JKCCS report "Kashmir's Internet Siege", there have been instances of Kashmiris being imprisoned after posting on social media platforms including WhatsApp, Twitter and Facebook. In some instances, criminal cases were lodged. The report notes that in February 2020, the Cyber Cell of J&K police filed an "open" First Information Report (FIR) against social media users "defying Government Orders and misusing Social Media platforms". Soon after, two men were arrested.

Another strategy to control the flow of information was employed between August 2019 and August 2020 through a large-scale digital crackdown. There were repeated shutdowns and network disruptions without warning or justification, effectively blocking any communication. UN human rights experts described the blackouts as "a form of collective punishment of the people of Jammu and Kashmir, without even a pretext of a precipitating offence".

Conclusion

We have shown various means by which the Indian government is trying to silence critical voices in J&K. Activists, human rights organizations, journalists, and, in fact, anybody too vocal about human rights violations or misconduct by state authorities, is marked as "anti-national" and a threat to the Indian state. Excessively vague and broad legislation serves as legal basis to prosecute suspects arbitrarily and with impunity. The lack of democratic principles and rule of law is striking, yet there is no audible international outcry nor are there any noticeable repercussions by the international state community. Quite the opposite,

India is Germany's strategic partner and both India and the EU just agreed to resume talks regarding a common free trade agreement. But history reminds us that the systematic deconstruction of democratic mechanisms and the silencing of dissenting voices for the sake of a majoritarian project requires a loud and clear reaction by the international community. It's time to speak up against the widespread human rights violations in J&K and the silencing of dissent.

ABOUT THE AUTHOR

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The India Justice Project is a diaspora-led collective in Germany that works for the promotion of human rights and democracy in India.

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