



A Global Movement to Highlight the Human Rights  
Violation in Kashmir

by

Center of Pakistan and International Relations



## **Human Rights in Jammu and Kashmir: Impressions and Thoughts by a Europeanist**

**Prof.Dr.Angelo Santagostino**

Ad. Personam Jean Monnet Chair in European Inte-  
gration - Ankara Yildirim Beyazit University



**COPAIR**

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# Human Rights in Jammu and Kashmir, Impressions and Thoughts by a Europeanist

## 1- BJP's Centralisation of Power and Cultural Intolerance

Aug 5, 2020, marks the anniversary of the revocation of the (already) limited autonomy that the Indian Constitution granted to J&K under its article 370. Twelve months have passed from 5 August 2019, from that decision of the Indian Government which led to deploy nearly one hundred thousand troops in J&K. It was not a military exercise, but a military occupation, as if J&K would be a defeated foreign country. An occupation accompanied by curfew, interruption of any type of communication, mass arrests, tortures, and killings of civilian population, including women and children. One year after the situation does not show any significant improvements. The nightmare continues for J&K's population. Worse the nightmare even aggravated in respect to the previous years. Decades of sufferings stretched over two centuries. Wars, destructions, systematic violations of human rights ravaged a land of a poignant beauty, whose images suggest tranquillity and perpetual peace. However, following a bitter reflection by Immanuel Kant, perpetual peace, in J&K, is only that of cemeteries.

What we witnessed in the past twelve months is a scenario which reminds us the darkest periods of European history. When humanity left humans, as a result all what remains was ferocity, oppression, and persecutions. In the XIX Century, more precisely between 1914 and 1945, Europe lived a tragedy which for a significant number of its countries continued for another 45 years. A tragedy composed of many acts: authoritarianism and war; fascism and national socialism, that resulted in another war; communism with its dictatorships and military interventions, passed off as fraternal help. So many "-isms" turned a continent which elaborated such a concept (and practises), as democracy, freedom, and human rights, into their negations, disdain, and burial. Luckily, we, the Europeans, had the capacity to learn from our mistakes, finding ways and instruments, among which the Charter of Fundamental Values of the EU, to attain perpetual peace and well-being. We learned that disintegration of political and economic systems generates all kind of miseries. Therefore, we looked for integration, for what we call "union in diversity", a far-reaching concept. Filled with implications in terms of mutual understanding and acceptance. The various "-isms" that we have mentioned so far, have a common denominator: nationalism. It was nationalism which broke the European "belle epoque", it was nationalism which animated the rise of fascism and national-socialism, it was nationalism which accompanied the abuses perpetrated by the communists regimes of Europe (and still accompany the politics and actions of those surviving outside Europe). It is nationalist ideology behind the present sovereignist-populist movements in Europe.

To go back to our theme, it is nationalism, mixed with doses of populism, the dominating ideology of the political party, Bharatiya Janata Party, expressing the government of the Indian premier Narendra Modi. A consensus, we must recognize, gained and re-gained through democratic elections, but no less worrying. Modi's nationalism, as any other nationalism, has two characters which are particularly relevant to explain the decision and facts of 5 August 2019: Centralization of power and cultural intolerance. The first explains the repeal of article 370, the second the violation of human rights in J&K. The two are connected. Regional autonomy is seen as detrimental to the imposition of the "single thought" which is the aim of nationalistic views; culture, in the mentality of nationalists, is just the one emanating from the state. Ethics and the overall value system are those indicated by the state. Identity is just the one



homologated by the State, is not a personal issue, but a State issue. Identity is given by the State. Identity is a collective concept, not an individual one. On the contrary the various declarations on human rights, from the French Revolution to the EU Charter, put the individual at the centre of the scene, to protect its freedom, be political, social, economic or religious. Something unacceptable for the nationalists, including Modi's government. The last example is of these last days and is related with religion freedom, or better with the due respect for the believers



of a different religion. The Prime Minister has chosen the date of 5 August to lay the foundation stone in Ayodhya, Uttar Pradesh, for a Hindu temple, whose construction project has divided the country and spilled blood for decades. Almost three thousand people, mostly Muslims, have died because of the temple of Ram of Ayodhya. Hindus consider this site to be the birthplace of the god Ram. They claim that in the 16th century the founder of the Mughal Empire, Babur, built a mosque there on the ruins of the temple of Ram. In 1992, a host of fanatic Hindu nationalists destroyed the Babri Mosque and demanded the reconstruction of the temple. After years of conflict, on November 9, 2019, the Supreme Court ruled in favour of the Hindus, authorizing the building of the temple. Is this a further sign of the implementation of Hindu supremacy and the end of a secular state in India? Both Modi and his party have for years made the temple of Ram a symbol of Indian identity and a weapon to unite Hindus. Modi, as the nationalist leader is stepping up decisions against Muslims, who number around 200 million. It is also worthwhile to mention that the government passed a nationality reform in December, aimed to exclude Muslim refugees from a regularization process.

## 2- EU Charter vis-s-vis Human rights Conditions in IOJK

The conditions of HRs in J&K are well known and well investigated. Therefore, it is not this the place for describing in detail their situation. However, the state of HRs is so dramatic that we cannot but report a few examples, particularly impressive in a Europeanist perspective. We will rely on the "Annual Review of Human Rights situation in Indian administered Jammu and Kashmir", published by the "Association of Parents of Disappeared Persons" and by "Jammu Kashmir Coalition of Civil Society". To highlight the gravity of the situation in term of violation of HRs any example is preceded by the article of the EU Charter protecting that right.

Human dignity is at the top of the EU Charter, in article 1 we read: "Human dignity is inviolable. It must be respected and protected." As we read in the report: "Serious cases of sexualized torture and gendered violence were reported post August 5. The Independent reported on September 1 a case of torture from Parigam area in Pulwama district in south Kashmir. Mohammad Yasin Bhat and 11 other men were detained during the cordon and search operation and tortured. They were stripped naked and kept



in a queue on the main road. All of them were electrocuted in their genitals. When the physical torture ended, they were made to lie face down on top of each other, in a pile".

According to Article 10 of the EU Charter. Everyone has the right to freedom of thought, conscience and religion. We read in the report: "In 2019, no prayers were allowed in the historic Jamia Masjid for 24 Fridays. The Jamia Masjid was kept under complete lockdown from August 5 to December 18 [...]. During the month of Ramadhan, congregational prayers on two Fridays were not allowed.[...] On the occasion of Eid Milad, which is traditionally celebrated in Kashmir

by thousands of people observing night long prayers in Hazratbal shrine, only a small gathering of people was allowed as restrictions were put in place to prevent people from reaching to the shrine and assembling in large congregation.” According to article 17, Right to property. [...] No one may be deprived of his or her possessions, except in the public interest and in the cases and under the conditions provided for by law, subject to fair compensation being paid in good time for their loss. [...] We read in the report: [...] cases of civilian properties damaged due to encounters certainly occurred as in the encounter in Pulwama [...] Due to the restrictions and communication blockade enforced on August 5 by the authorities, the allegations of destruction and vandalism of civilian properties by armed forces during night raids were not reported. However, while surveying several areas in many districts of Kashmir valley, where it was possible to visit, in the light of the restriction imposed post August 5, people generally complained of destruction and vandalism of civilian property by forces personnel. We could go on and find grave violations of HRs for almost any chapter of the EU Charter from freedom of opinion to that of association, from violence against children and persons with disabilities to sexual violence and use of torture. Now crucial questions. What could do the EU? Has the EU any mean to, at least, reduce such a violence? The last official pronouncement of the EU on the J&K issue goes back to 30 September 2019, when the then High Representative Federica Mogherini met with the Indian Foreign Minister, Subrahmanyam Jaishankar.

“Mogherini and Minister Jaishankar discussed the situation in Kashmir and in the region. [...] The High Representative reaffirmed the EU’s support to a peaceful solution to the crisis in Kashmir through bilateral dialogue between India and Pakistan. She also reiterated the call to avoid an escalation of tensions and stressed the importance of steps to restore the rights and freedoms of the population in Kashmir”. Europe repeats incessantly her litany: peaceful solution, bilateral dialogue, avoid escalation. In how many other different opportunities, face to a political-military problem, this therapy has been proposed! Intentions are noble, and they go back many years. The first expression of this manifestation of “soft power” is the Barcelona Declaration of 1995. The one who started the EU’s Mediterranean Policy. The aim of the Declaration signed by representatives of the EU Institutions and Member States and by the Arab leader of that time, wanted to create a space of peace, democracy and prosperity. We know how things went. The last example is the position, reiterated even in these days (July 2020), on the Libyan issue. The result is that Turkey has put the EU in the corner, becoming the most important supporter of Al Serraj, and putting an option on the future of Libya.

At the same time, it is difficult to think that the EU could do something more, having neither a foreign policy nor an army. Europe is a “normative power” as far as economics is concerned. Through her bilateral trade agreements can transfer her single market regulations to other countries. But this is not the case with politics and International Relations. The EU Charter is surely an advanced defense of HRs, but what is lacking is the transmission mechanism to third countries.

However, EU could be seen as an example by countries who are facing the problems that Europe had to cope with the aftermath of WW II. Face to the economic disintegration of the thirties, Europe chose economic integration and forms of political union. We thus went for union, union in diversities, a form of federalism, and we managed to create a space of peace, freedom, and justice. When the fall of the iron curtain allowed it, we put an end, through the Fifth Enlargement, to the unnatural partition of the European Continent into Western Europe and Oriental Europe. Years before, always as a consequence

of the fall of communism, Germany had put an end to its unnatural partition between East and West Germany. The 1947 partition of the Indian sub-Continent into India and Pakistan, led to a war, which be under the form of high intensity war or low intensity war, has been going on for more then seventy years. We must put the question how European integration and lessons of Franco -German détente could be replicated in case of India and Pakistan and how can Kashmir and its sufferings be put to an end!





Center of Pakistan and International Relations is a strategic think tank working on policy advocacy and project implementation along with the provision of a vision based on contemporary scenarios. Center of Pakistan and International Relations is also engaged in policy advocacy of Kashmir and philanthropic movements within the country. COPAIR host a series of webinars to highlight the Human Rights violations and neglected right of self-determination of Kashmiri people.. COPAIR believes that robust diplomatic outreach and forging a national narrative of the Kashmir as illegally annexed territory by India is need of the hour and thus the non-profit organization is hosting a series of dialogues to highlight the transgressions of human rights in Kashmir and to draw the attention of the world towards the neglected plight of Kashmiri people. Under the dynamic leadership of President Amna Malik COPAIR focuses on human rights issues, youth skill development, Green energy business solutions, gender equality, women rights, economic empowerment, global peace, Sports, democracy, inter-faith harmony, trade, investment and diplomacy. In the wake of providing an insight into the situation regarding many aspects COPAIR, has published several reports. These reports are an amalgamation of historical perspectives along with the current trend while adopting the futuristic approach. Awais Siddique-Research Associate of COPAIR had compiled these reports.

Office # 408/407, 4th Floor, Evacue Trust, Agha Khan Road F/5-1 Islamabad, Pakistan

Email: [amgmmg.2020@gmail.com](mailto:amgmmg.2020@gmail.com)

Website: <https://www.copair.org>