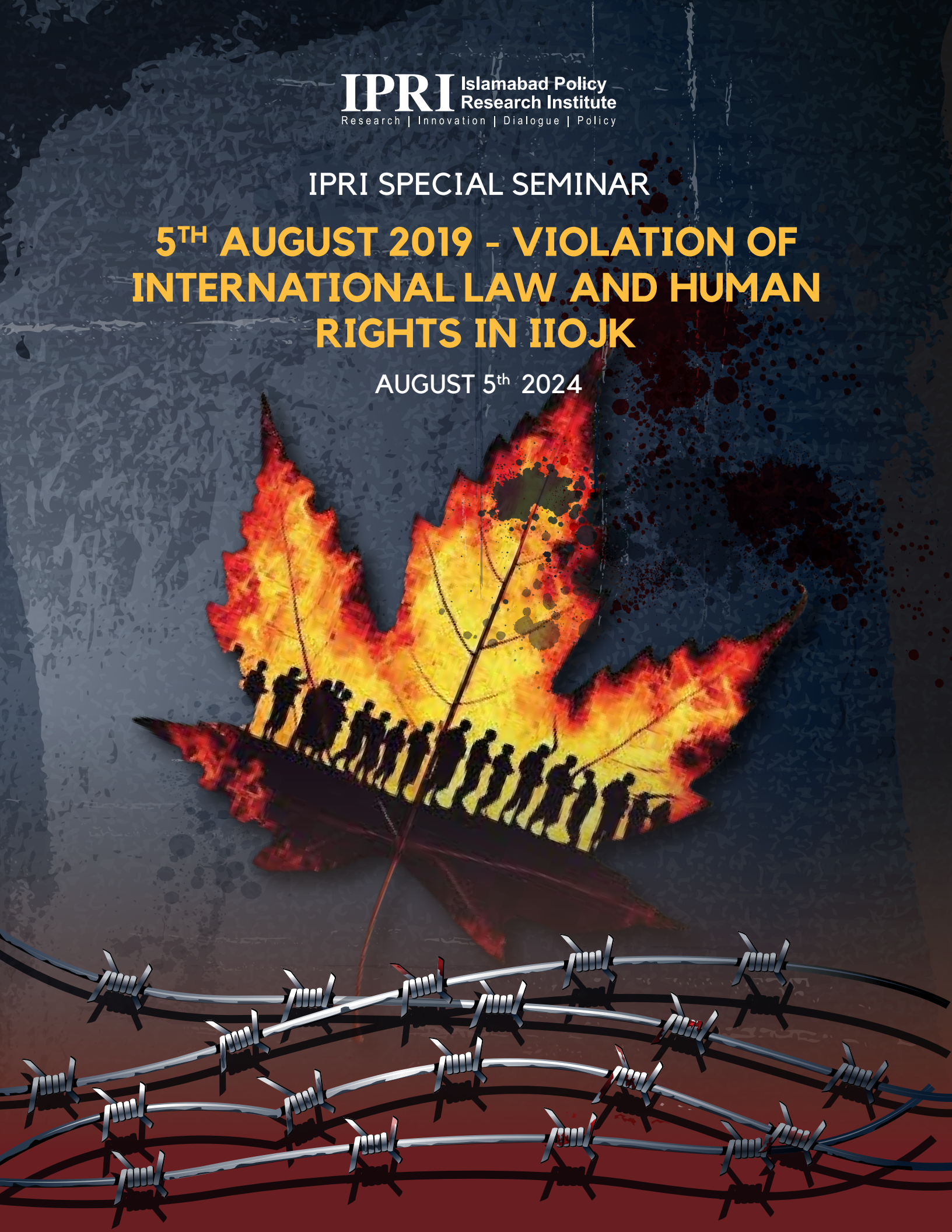


IPRI SPECIAL SEMINAR

**5TH AUGUST 2019 - VIOLATION OF
INTERNATIONAL LAW AND HUMAN
RIGHTS IN IIQJK**

AUGUST 5th 2024



Report on
SPECIAL SEMINAR ON KASHMIR

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CONCEPT NOTE

August 5 2019-Violation of International Law and Human Rights in IIOJK.

The Jammu and Kashmir region was already under the illegal occupation of India when on August 5, 2019 it was stripped of its autonomy granted under Article 370 of the Indian constitution. On 5th August 2019 the Indian government revoked Article 370 and 35 A of Indian Constitution and annexed the Illegally Occupied State of Jammu and Kashmir (IIOJK). The semblance of autonomy granted to IIOJK as a consequence of Nehru-Shiekh Abdullah agreement was unjustifiably seized and the occupied state was divided into two Union Territories i.e Ladakh and Jammu and Kashmir through Jammu and Kashmir Reorganization Act 2019. The revocation of Articles 370 and 35 A, the relegation of the State's status and its division into two Union Territories was protested vociferously by the people as well as the political leadership of IIOJK. The Revocation and the Reorganization Act were subsequently upheld by the Indian Supreme Court which directed the government to restore the statehood of IIOJK by September 2024. After 2019 the BJP government increased its repressive policies by incarcerating the political leadership including two former Chief Ministers and kept the region under an internet blackout for a record 6.213 weeks (nearly 4 years). All major Kashmiri leaders like Mirwaiz Farooq, Yasin Malik, Shabir Shah, Masarat Alam Butt and Asiya Andrabi are in captivity.

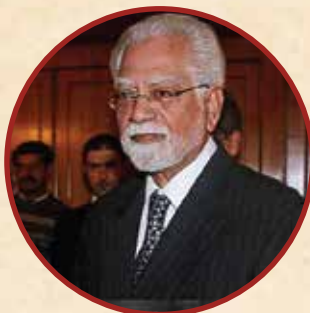
In order to change the demographics approximately 6 million domicile certificates have been issued to the non-subject Kashmiris in the two Union Territories. The delimitation of the constituencies in the State of Jammu and Kashmir has also been done to ensure that the BJP affiliated Hindu candidates win the elections. The latest example of unfair additions to the J&K state assembly seats is that the Kashmir Valley with a population of 6.8 million, has been given one additional seat whereas Jammu with a population of 5.3 million has been given six seats. Over 2 million non-Kashmiris have already been included in the voter lists to rig the elections. In addition, state land has been allotted to 199,550 people on the pretext of helping the homeless when according to official figures there are only 19,047 homeless in the entire state.

5th August is a day that reminds us of another assault amongst a long list of Indian depredations against the political, social and economic rights of the Kashmiris.



5TH AUGUST 2019 - VIOLATION OF INTERNATIONAL LAW AND HUMAN RIGHTS IN IIOJK

SPEAKERS



Ambassador Inam ul Haq
Former Foreign Minister of
Pakistan and seasoned diplomat
with extensive experience in
international relations



Mushahid Hussain Syed
Chairman of the Senate Defence
Committee and seasoned
politician, with expertise in
strategic affairs and foreign
policy



Mushaal Malik
Chairperson of the Peace and
Culture Organization, advocating
for Kashmiri rights and freedom



Ahmer Bilal Soofi
President of the Research
Society of International Law and
former Federal Law Minister of
Pakistan



HISTORICAL & DIPLOMATIC PERSPECTIVE

Ambassador Inam ul Haq

Since the deployment of Indian forces in Jammu and Kashmir in October 1947, there has been a consistent pattern of violations of International Law by India. This occupation has deprived the people of Jammu and Kashmir of their fundamental right to self-determination, as enshrined in the United Nations Charter.

The events of August 5, 2019, marked a critical turning point for the Kashmiri people, as India revoked Article 370 through a presidential order. This action stripped Jammu and Kashmir of its special status, removing the region's autonomy in internal affairs, nullifying its separate constitution, and lifting restrictions on property ownership by non-Kashmiris. The result was a significant loss of rights for Kashmiris, including employment preferences and access to subsidized education.

The aftermath of the revocation has seen a marked deterioration in Kashmir's economy and security, alongside a suppression of press freedom and immense suffering for the population over the past five years. Reports indicate that approximately two million outsiders have been added to Jammu and Kashmir's voter rolls, a move seen as a deliberate effort to alter the region's demographic composition. This has transformed India's only Muslim-majority state into a region increasingly dominated by non-Muslim populations through electoral gerrymandering of constituencies favouring the Hindu-majority Jammu region.

The situation has further worsened for Kashmiris due to the dominance of non-Muslim outsiders in the region's bureaucracy, with 16 out of 20 secretaries being non-Muslims. This shift in administrative control has exacerbated the marginalization of the local population.

It is crucial for Pakistan to continue raising the Kashmir issue at International foras such as, the UN General Assembly, the Economic and Social Council, and the Human Rights Council. There is a pressing need to defend the Kashmiri liberation struggle against India's attempts to portray it as terrorism. Historical parallels can be drawn with other UN-backed liberation movements, such as those in Namibia and Zimbabwe, raising the question of why similar support has not been extended to the people of Jammu and Kashmir.



There is a deep skepticism regarding the resumption of Dialogue with India. The current Indian leadership, under Prime Minister Modi, consistently seeks to isolate Pakistan through unfounded accusations of interference and terrorism. Any future dialogue is likely to be on terms dictated by India, with little substantive discussion on Jammu and Kashmir. A change in the Indian government is not expected to significantly alter its policy toward Kashmir.

The rationale behind resumption of trade with India is questionable, given the disproportionate trade imbalance that would favor India. While some trade is currently conducted through third countries, powerful lobbies within Pakistan, particularly in the manufacturing and farming sectors, oppose the resumption of direct trade with India. It is critical to avoid compromising Kashmir's sovereignty for minimal economic gains.

A more robust response to Indian threats of invading Kashmir and Gilgit-Baltistan is necessary. Pakistan must reaffirm that any attack on its territories will be met with all available means. Additionally, there is a need to empower the people of Azad Kashmir and Gilgit-Baltistan by granting them representation in Pakistan's National Assembly and Senate, ensuring their rights are protected.

Internal cohesion and the strengthening of relationships with the Islamic world are vital to Pakistan's foreign policy. India has made significant inroads in establishing ties with key Muslim-majority countries, such as the UAE and Saudi Arabia. Pakistan must counter these developments by reinforcing its own alliances and diplomatic efforts.

The prospect of third-party mediation on Kashmir is dismissed, as no external party can be expected to deliver Kashmir to Pakistan. Instead, Pakistan must persist in its diplomatic, political, and moral support for the Kashmiri people until they achieve their rightful self-determination.



LEGAL PERSPECTIVE

Ahmer Bilal Soofi

India's repeated threats to invade Pakistan's Gilgit-Baltistan region and other areas are serious breaches of International Law, particularly under Article 24 of the UN Charter. These threats, whether explicit or implicit, clearly contravene established International legal norms and require a robust legal response.

To address the broader implications of the Kashmir issue, Pakistan should consider involving China in discussions, given China's significant legal, commercial, and strategic interests in the region. The Indian presidential order of August 5, 2019, which impacted both Pakistani and Chinese territories, presents a shared legal challenge that necessitates coordinated action. Pakistan should engage with Chinese diplomats, legal experts, and government officials to develop a unified strategy to counter India's actions effectively.

India's territorial claims over Ladakh and other Chinese regions highlight the need for joint legal deliberations between China and Pakistan. Additionally, India's diplomatic efforts to obstruct Chinese investments in Gilgit-Baltistan, particularly in dam and infrastructure projects, present further legal challenges that both nations must address collaboratively.

The recent Indian notice regarding the renegotiation of the Indus Water Treaty is closely linked to the August 5, 2019 developments. India's intent to terminate the treaty aligns with prior political declarations, such as Prime Minister Modi's statement that "blood and water cannot flow together." Although Article 12 of the treaty stipulates that it can only be terminated through mutual agreement, Pakistan must remain vigilant and prepare for potential legal challenges arising from India's actions.

Pakistan should actively extend legal assistance to Kashmiris, particularly those detained for their involvement in the struggle for self-determination. The right to legal aid is a fundamental entitlement under International Law, especially in the context of self-determination struggles. Providing legal support to those fighting for their rights is not only legally permissible but also a moral obligation that Pakistan must uphold.

It is imperative for Pakistan's executive branch to ensure that all legal avenues are thoroughly explored in addressing the Kashmir issue. Several critical legal aspects have been overlooked, and a more comprehensive legal strategy is needed to effectively counter India's actions and protect the rights of the Kashmiri people.



HUMAN RIGHTS PERSPECTIVE

Mushaal Hussein Mullick

The revocation of Articles 370 and 35A through a presidential order has had a profound impact on the people of Kashmir, effectively rendering them refugees in their own land. These Articles had previously granted Jammu and Kashmir special status, and their abrogation has led to the escalation of human rights violations, acts of genocide, and widespread suffering. The economic, social, and environmental consequences of this legal shift have been severe.

The economic toll on Kashmir following the abrogation is significant, with an estimated loss of \$5.3 billion within the first 10 months. Key sectors such as agriculture, horticulture, handicrafts, and tourism have been particularly hard-hit. Jammu and Kashmir now suffers the highest unemployment rate in India, at 16% compared to the national average of 7.8%, with Kashmiri youth being disproportionately affected. Additionally, the issuance of 5 million domiciles to non-Kashmiris over the past five years has drastically altered the region's demographics, displacing the local population.

There is growing concern over the strategic allotment of land to influential Indian conglomerates, such as the Ambanis and the Adanis. Tourist destinations and cultural landmarks, once symbols of Kashmiri pride, are increasingly falling under the control of external forces. Moreover, the rising influx of pilgrims is severely disrupting Kashmir's ecological balance and contributing to environmental degradation, including an increase in flooding.

The imposition of Draconian Laws such as the Armed Forces Special Powers Act (AFSPA) and the Unlawful Activities (Prevention) Act (UAPA) have exacerbated human rights abuses in the region. Detainees, including political leaders, have faced inhumane treatment, including physical, mental, and psychological torture. The systematic silencing of Kashmiri political voices, either through imprisonment or marginalization, has further deepened the crisis.

The use of colonial-era Sedition Laws that contravene both International Law and India's Constitution has been a significant factor in the repression of Kashmiri rights. The transition from administrative control under Article 370 to an occupying force has been marked by actions that can be described as genocide, ethnic cleansing, and war crimes. Political voices advocating for Kashmiri rights have been forcefully suppressed.



The suppression of dissent within India, exemplified by the adversities faced by author Arundhati Roy for supporting Kashmir's right to self-determination, is indicative of a broader trend. The current governments aggressive, expansionist agenda, rooted in Hindutva ideology, not only stifles domestic voices but also poses a significant threat to regional stability.



SOCIAL & POLITICAL PERSPECTIVE

Mushahid Hussain Syed

The ongoing struggles in occupied Kashmir and Palestine are of profound significance, drawing parallels between the two regions in terms of the resistance against oppression and the pursuit of self-determination. The courageous efforts of Kashmiri leaders and their families, particularly in advocating for the rights of the Kashmiri people, are vital in maintaining International attention on these issues.

The ideological and operational parallels between Israel and India, particularly in their approaches to Palestine and Kashmir, highlight a broader pattern of state-sponsored terrorism. The ongoing genocide in Palestine, as televised and reported, bears similarities to the slow-motion genocide being perpetrated in Kashmir, as identified by International observers like Dr. Gregory Stanton of Genocide Watch. These parallels underscore the gravity of the situation and the need for a unified global response.

The Indian government's decision on August 5, 2019, to revoke Articles 370 and 35A is aimed at suppressing Kashmiri resistance, bolster domestic political support for Prime Minister Modi, pressurising Pakistan into accepting the status quo, and counterbalance China. However, these objectives have largely backfired, particularly with China becoming a de facto party to the Kashmir dispute. This geopolitical shift has intensified regional tensions, as evidenced by military clashes between India and China, such as the 2020 Galwan Valley incident.

China's involvement in the Kashmir dispute, particularly its role in raising the matter at the United Nations Security Council alongside Pakistan, underscores its strategic importance. China's consistent position that the Kashmir dispute must be resolved in accordance with UN Security Council Resolutions reflects its commitment to regional stability and its broader geopolitical interests. The actions taken by the Indian government have not only heightened tensions with Pakistan and China but have also contributed to the instability across the region.

India's disinformation campaign against Pakistan, as exposed in the 2020 dossier and further corroborated by the findings of the EU DisinfoLab, reveals a systematic effort to undermine Pakistan's International standing. This campaign of information warfare is a critical aspect of India's broader strategy to isolate Pakistan diplomatically.

The struggle of the Kashmiri people is fundamentally about self-determination, rather than a mere territorial dispute. Pakistan's unwavering commitment to supporting the



Kashmiri cause until a just resolution is achieved, in line with the International Law, remains a cornerstone of its foreign policy. Continued vigilance and the strategic use of legal and diplomatic channels are essential in countering India's aggressive posturing.

The reliance on third-party mediation should be avoided, as such entities often align with India's interests. Instead, the focus should be on sustained resistance and diplomatic efforts, drawing inspiration from the leadership and determination exemplified by Pakistan's founder, Quaid-e-Azam Muhammad Ali Jinnah, in securing the country's independence.









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