

# Indian state and opinion makers have rushed to trash OHCHR report on Kashmir. It merits a close look

Thursday 28 June 2018, by [KAUL Suvir](#) (Date first published: 26 June 2018).

## **Can they not look beyond the recommendation to ‘fully respect the right of self-determination of the people of Kashmir as protected under international law’?**

On June 14, the Office of the United Nations High Commissioner for Human Rights [released](#) a pointedly titled *Report on the Situation of Human Rights in Kashmir: Developments in the Indian State of Jammu and Kashmir from June 2016 to April 2018, and General Human Rights Concerns in Azad Jammu and Kashmir and Gilgit-Baltistan*. Zeid Ra’ad Al Hussein, the high commissioner, makes clear that its findings are based on documentary evidence in the public domain, including from governmental sources in Kashmir, India and Pakistan. There is little in this report that will come as news to [observers of Kashmir](#), including the fact that the Indian government has steadfastly refused to act upon abuses documented by its own institutions (yes, the Armed Forces Special Powers Act provides a tiny and disreputable fig leaf for such refusals). Equally egregiously, the local police use the Public Safety Act to book thousands of civilians, including children, and to otherwise suborn legal protocols.

Why then have spokesmen for the Indian government rushed to condemn this report, which they might equally easily have downplayed or ignored? Is it because, in closing, the high commissioner makes a recommendation “to the authorities in India” to “fully respect the right of self-determination of the people of Kashmir as protected under international law”? So exercised is the Ministry of External Affairs about this “recommendation” that its [official response](#) is a near-hysterical refusal to see anything of value in the report: “India rejects the report. It is fallacious, tendentious and motivated. We question the intent in bringing out such a report.” The report is labelled a “selective compilation of largely unverified information. It is overtly prejudiced and seeks to build a false narrative”. And the response contains the well-worn claim, which represses the contested history of the “accession” of the kingdom of Jammu and Kashmir to India in 1947 (as well as the subsequent division of these territories in wars fought between Pakistan and India, and ratified by the Simla Agreement of 1972). “The report violates India’s sovereignty and territorial integrity,” the response states.

“The entire state of Jammu and Kashmir is an integral part of India. Pakistan is in illegal and forcible occupation of a part of the Indian state through aggression. We have repeatedly called upon Pakistan to vacate the occupied territories. The incorrect description of Indian territory in the report is mischievous, misleading and unacceptable. There are no entities such as ‘Azad Jammu and Kashmir’ and ‘Gilgit-Baltistan’.”

In fact, it is the report, rather than the Indian government, that takes seriously the post-1947

developments in this region. Paragraph 21 of the report's Executive Summary states:

"OHCHR recognizes the complexity of the historical background and political issues that has led to the current situation in Kashmir, which has been divided between India and Pakistan. People on both sides of the Line of Control have been detrimentally impacted and suffer from limitations or denial of a range of human rights."

The next paragraph goes on to ask, in reasonable - if idealistic - terms for justice:

"There remains an urgent need to address past and ongoing human rights violations and to deliver justice for all people in Kashmir who have been suffering seven decades of conflict...Such a resolution can only be brought about by meaningful dialogue that includes the people of Kashmir."

Herein lies the rub: the Human Rights Council, an institution of the United Nations, has dared produce a report that endorses the historical right of the people of Jammu and Kashmir to define their political future.

### **To the point**

It is important though to make one observation about the report before thinking about the implications of this fact. The bulk of the report follows from the Human Rights Council's mandate to examine the laws and practices that grant impunity to Indian forces in the state as well as those that are invoked to repress fundamental rights, including freedom of expression. Since it is concerned about human rights abuses across the board, the report does not only scrutinise the actions of government agents; it also registers the abuses committed by members of the "armed groups" operating in Kashmir since 1990. (The report also notes: "Despite the Government of Pakistan's assertions of denial of any support to these groups, experts believe that Pakistan's military continues to support their operations across the Line of Control in Indian-Administered Kashmir.") The report also attends to the role of these armed groups in the displacement of Kashmiri Pandits, and insists on the right of the Pandits "to an effective remedy and repatriation". Within its own limitations, as my summary here suggests, this report pays attention to those who have suffered as well as to those who have caused suffering (and yes, Section VII of the report turns at some length to "human rights violations in Pakistan-Administered Kashmir").

It is also important to note that Al Hussein's introduction to the report [speaks of](#) his concern that "the Universal Declaration of Human Rights" is now the subject of global skepticism, if only because powerful member nations of the UN have no qualms about manipulating its operations. Any reader of Al Hussein's statement will see it as haunted also by the perception that the UN is home to self-serving, careerist bureaucrats who are unwilling to speak forcefully for the principles that underlie the institutions of the UN. But it also contains a poignant passage that is worth repeating:

"I have spent most of my career at, and in, the UN. What I have learned is this: the UN is symptomatic of the wider global picture. It is only as great or as pathetic as the prevailing state of the international scene at the time. I also have come to understand how weak human memory is. That to many people history matters only in so far as it can be unsheathed and flung into political battle: they do not view it as a service to deeper human understanding."

Al Hussein's slide away from bureaucratese into a more philosophical idiom stems from his awareness that the report has been written without being able to send observers to the unstable territories on which it comments. He rues "the troubling failure by a number of countries to grant access". He does not back away though, and insists that "where there is sustained denial of access, and serious reasons to believe violations are occurring, we will consider the option of remote monitoring. The Office's mandate to conduct such monitoring is unassailable, and if the Government concerned fears there may be inaccuracies it should permit us in to see the situation on the ground".

Al Hussein makes clear that this has been the case with Kashmir:

"I have sought to engage substantively with both India and Pakistan over the past two years regarding the situation in Kashmir, on both sides of the Line of Control. Refusals by both India and Pakistan to enable unconditional access have led us to conduct remote monitoring, with a first report issued last week. I encourage the Council to consider establishing a Commission of Inquiry for a more comprehensive investigation of the human rights situation in Kashmir, and reiterate my calls for access."

### **Need to listen**

Instead of paying attention, the Indian government has condemned the report. Worse, [important opinion-makers](#) in our mainstream press have offered simplistic denunciations of the motivations, findings, and recommendations of this report (and indeed of Zeid Ra'ad Al Hussein himself). The fact that Al Hussein is Muslim has not escaped comment, with a former Indian ambassador to the UN asking the [genteelly Islamophobic](#) question: does Al Hussain have "the same obsession with Kashmir as the Organisation for Islamic Cooperation?" Should we not have hoped for more thoughtful, more genuinely democratic and *nationalist* responses, particularly since journalists, government servants, members of the armed forces and politicians will in private conversations admit that Kashmiris have been treated violently and condescendingly, as unwilling and threatening conscripts to the Republic of India?

In the last three decades and more, the actions of the security apparatus have so brutalised and alienated ordinary Kashmiris that few can think of any form of political rapprochement with India (it is not for nothing that tens of thousands of people gather to mourn the killing of local men who have turned to militancy, with each funeral becoming a venue for political protest). Given these developments, should we not be reading such a report to see what we can learn from it, even if it only confirms what we know – but refuse to admit – that Indian and Pakistani power represses the political aspirations of people in the component parts of the erstwhile state of Jammu and Kashmir?

This is particularly important now that the elected government of Jammu and Kashmir has collapsed, and governor's rule has been imposed. Our media is full of reports of the armed forces acting even more forcefully against militants and the civilians who sympathise with them, and we read of the commandos and snipers of the [National Security Guard](#) being moved to Srinagar in order to enhance firepower. We are told that we should expect more violence, for as Indian political parties prepare for the next general elections, they will vie with each other to demonstrate their muscular hold over a Muslim-majority state. Kashmir, and Kashmiris, will once again be held hostage to the dictates of Indian domestic politics. As violence escalates (it is my fervent hope that it will not), we might do well to remember the intense histories of suffering compressed into this report. When we learn to read, and to *listen*, we might even see our way forward to imagining a future of lands and peoples released from the punitive stranglehold of modern nation-states.

---

**Suvir Kaul**

*[Click here](#) to subscribe to our weekly newsletters in English and or French. You will receive one email every Monday containing links to all articles published in the last 7 days.*

---

**P.S.**

Scroll.in

<https://scroll.in/article/884086/indian-state-and-opinion-makers-have-rushed-to-trash-unhrc-report-on-kashmir-it-merits-a-close-look>