



Violations of Law in Indian Occupied Jammu & Kashmir

Legal Forum For Kashmir - LFK



VIOLATIONS IN INDIAN OCCUPIED JAMMU & KASHMIR

RELIGIOUS RIGHTS/ CURBING THE RELIGIOUS GATHERING

International Laws

- Article 18 ICCPR
- Article 18 UDHR
- Article 5 ICERD
- Article 2(2) ICESCR
- 1981 Declaration of the General Assembly Art. 1(1), Art.1 (2), Art 1 (3),
- Art 6 Human Rights Committee General Comment 22 Para.3, Para.4 and Para 5
- **Commission on Human Rights**
- **Resolution 2005/40 (para 4 (d))**
- Human Rights Council Resolution 6/37 (paragraph 9 (g))
- General Assembly Resolution 65/211 (Paragraph 12 (g))

Indian Law

- Art 25-28 of the Indian Constitution



VIOLATIONS IN INDIAN OCCUPIED JAMMU & KASHMIR

ILLEGAL ANNEXATION BY INDIA

International Laws

- A crime of aggression under Article 8 bis 2(a) of the Rome Statute
- A.47 and A.49 of the Fourth Geneva Convention
- UNSC Resolution 497(1981)
- ICJ Advisory Opinion (2004)
- Article 42 of the Hague Regulations 1907
- UNSC Resolution 1483 (2003)
- UN Resolutions Res 157
- UNSC Resolutions 1948

Indian Law

- Art 3, 370 of the Indian Constitution
- Instrument of Accession



VIOLATIONS IN INDIAN OCCUPIED JAMMU & KASHMIR

Torture

International Laws

- Article 7,14 ICCPR
- UN Convention against Torture (CAT) Art 1,3,4 and 16
- Commission on Human Rights Resolution 2005/39
- Commission on Human Rights Resolution 2003/32
- General Assembly Declaration 48/104
- Article 5 UDHR
- Article 3 of the Geneva Convention
- Article 31 Fourth Geneva Convention
- Article 32 GCIV, Article 75 (2 a 86 e) of Additional Protocol I and Article
- 4 (2 a 86 h) of Additional Protocol II constitutes war crimes
- European Convention for the Protection of Human Rights 86 Fundamental Freedoms
- African Charter on Human and Peoples' Rights
- American Convention on Human Rights.
- Article 2 of the Inter-American Convention to Prevent and Punish Torture

Indian Laws

- Prisons Act 1894 of Indian Constitution
- Article 21 of the Indian Constitution
- Indian Penal Code 1890 Section 330 and 348

Arbitrary Detention

International Laws

- Article 7,9,10,11,13, UDHR
- Article 9,10, 12,14 ICCPR
- Commission on Human Rights Resolution No. 1997/50
- UNGA Res 35/177 1980
- Human Rights resolutions 1991/42, 1992/28, 1993/36, 1994/32, 1995/59, 1996/28, 1997/50
- Commission on Human Rights resolution 1991/42.

Indian Law

- Article 21 of the Indian Constitution



VIOLATIONS IN INDIAN OCCUPIED JAMMU & KASHMIR

Pellet Guns/Tear Gas

International Laws

- Convention on Certain Conventional Weapons (CCW) 1980.
- UDHR
- Art 1 UN Charter

Enforced Disappearance

International Laws

- United Nations Declaration on the Protection of All Persons from Enforced Disappearance (1992)
- Statute of the International Criminal Court (1998)
- Article 1, 2, 6, 24 (4), 24 (5) International Convention for the Protection of all Persons from Enforced Disappearances 2006

Freedom of Speech and Expression

International Law

- Article 18, 19, 20, 21 and 22 ICCPR
- Article 19 UDHR • Commission on Human Rights 2005/40

Indian Law

- Article 19 (1) (a) of the Indian Constitution



VIOLATIONS IN INDIAN OCCUPIED JAMMU & KASHMIR

Right to Life and Liberty

International Laws

- ICCPR Art 6,9,12
- Commission on HR Res 2005/40 (paragraph 4(f))
- Human Rights Council 6/37 (Paragraph 9 (i)),
- Economic and Social Res 1984/50
- Articles 7, 13, 14, 18, 19, 20 and 21 of the Universal
- Declaration of Human Rights

Indian Laws

- Article 21 Indian Constitution, Fundamental Rights under Chapter III
- Under Art 6 (ICPPED) defined as Crimes against Humanity
- Crimes Against Humanity under ICC

Demographic Changes

International Laws

- Article 49 paragraph 6 GCIV
- 1949
- Additional Protocol 1 of 1977
- under 85(4)(a)
- 'Article 8(2) (b)(viii) of Rome
- Statute
- Article 7 (1) (d) Crimes Against
- Humanity

Indian Laws

- Article 35 (A) of the Indian Constitution



VIOLATIONS IN INDIAN OCCUPIED JAMMU & KASHMIR

Intimidation & Illegal Attacks on Journalists

International Law

- Art. 19 UDHR
- ICCPR Article 19
- **UN Security Council Resolution 1738 (2006)**
- Article 79 of the Additional Protocol I
- Geneva Conventions of 1949 and the two Additional Protocols of 1977.
- **Geneva Conventions (Art. 49/50/129/146** respectively of the four Conventions) and Protocol I (Art. 85)
- UNESCO resolution 29 1997

Indian Law

- Art. 19 (1) (a) of Indian Constitution

Half widows

International Laws

- Article 1,2,6, 24 (4), 24 (5) International Convention for the Protection of all Person from Enforced Disappearance 2006 (ICPPED)
- **Under Art 6 (ICPPED)** defined as Crimes against Humanity
- Crimes Against Humanity under ICC



VIOLATIONS IN INDIAN OCCUPIED JAMMU & KASHMIR

Cluster Bombing

International Laws

- Additional Protocol I of 1977 to the Geneva Conventions "Protocol I, Art. 48
- Article 57(2)(a)(ii) of Protocol I
- Article 51(4)(c) of Protocol I
- Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons
- Protocol I; Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949
- 'Geneva Conventions, Common Art. 2; Protocol I, Art. 1 (3).
- CCW Protocol V on Explosive Remnants of War 2003

CASO (Military/Cordon and Search Operation)

International Laws

- ICCPR Article 17

Education

International Laws

- ICESCR Article 10 and 13



VIOLATIONS IN INDIAN OCCUPIED JAMMU & KASHMIR

Violence Against Children

International Law

- Article 77(2), Additional Protocol I to the Geneva Conventions
- Common Article 3 of the Geneva Conventions
- UNSC 1882 (2009)
- CRC
- African Charter on the Rights and Welfare of the Child (1990)
- ICCPR
- UN convention on the Rights of the Child 1990 under Article 11, 15, 16, 17, 19, 28, 34, 35, 36, 37, 38, 39

Indian Laws

- Article 14, 39 (e) of the Indian Constitution
- Probation of Offenders Act 1958
- Juvenile Justice Act 2000

Human Shield

International Laws

- **Rule 97 CIHL**
- Fourth Geneva Convention, Article 28
- Additional Protocol I, Article 51(7)
- ICC Statute Elements of Crimes, Article 8(2)(b)(xxiii),
- ICC Statute Article 8 (20) (f)



VIOLATIONS IN INDIAN OCCUPIED JAMMU & KASHMIR

RAPE/ SEXUAL VIOLENCE

International Laws

- **Rule 94 ICC**
- Article 7 (2) (1), Article 8, Crime against humanity war crimes ICC
- ICCPR
- CEDAW 1979
- DEDAW 1967, 1993,

- Vienna Declaration and Programme of Action 1993
- Common Article 3 under all four Geneva Conventions
- Geneva Convention relative to Protection of Civilian Persons in Time of War Art 27(2)
- Additional Protocol I - Article 75(2) (b), 76(1), 77(1),
- Additional Protocol II - Article 1, 4 (2) (c)
- International Committee of the Red Cross
- Article 3 (g)(i) International Criminal Tribunal for Rwanda 1994
- Article 5 (g) (i) Crimes against Humanity International Criminal Tribunal for former Yugoslavia (ICTY) 1993
- Article 2 Statute of the Special Court for Sierra Leone (2000)
- UNSC Res 1325 (2000)
- UNSC Res 1820 (2008)
- UNSC Res 1888 (2009)
- UNSC Res 1960 (2010)
- UNSC Res 2106 (2013)

Indian Law

- **Sec 376 (2)(b) Indian Penal Code**



VIOLATIONS IN INDIAN OCCUPIED JAMMU & KASHMIR

Communication Shutdown

International Laws

- ICESCR Article 15
- ICCPR Article 19

Self-Determination

International Laws

- 1907Hague Convention (X) Art 16
- **Common Article 3 of the Geneva Conventions**
- Statute of the International Criminal Court
- Additional Protocol I, Art 8, 4 (2)(a) ICC Statute, Art 8 (2) (c)(ii)

Mutilation of Dead Bodies

International Laws

- UNGA resolutions 1514, 1541 and 2625
- ICCPR 86 ICESCR Article 1(1)
- UN General Assembly resolution of 1960
- UN Charter Art 1 (2)
- UNGA Resolutions 637A(VII) 195

Economic Blockade

International Laws

- ICESCR Article 6, 7,8,11,12
- ICCPR Article 1(2)



VIOLATIONS IN INDIAN OCCUPIED JAMMU & KASHMIR

DESTRUCTION OF CIVILIAN PROPERTIES

International Laws

- Hague Regulations Article 23(g) (1907)
- IMT Charter (Nuremberg) Article 6 (b)
- Rule 9 of CIHL
- Article 50 Geneva Conventions I, Article 51 Geneva Convention II
- Article 53 86 147 Geneva Convention IV
- Additional Protocol (1) to the Geneva Convention, 1977
- Articles 33 and 53 of the IVGC and by Article 52 of Protocol I
- Article 8 (2)(a)(iv), 8 (2) (b)(ii) (xiii), Article 8 (2)(e)(xi) I of the Rome Statute 1998, amounts to war crime
- Article 13 (g) of the 1874 Brussels Declaration
- Article II (1)(b) of the 1945 Allied Control Council Law No. 10
- Principle VI (b) of the 1950 Nuremberg Principles
- Article 22(2)(e) of the 1991 ILC Draft Code of Crimes against the Peace and Security of Mankind
- Article 20(a)(iv) and Article 20(e)(ii) of the 1996 ILC Draft Code of Crimes against the Peace and Security of Mankind
- Article 2(d) and 3 (b) of the 1993 ICTY Statute
- Section 6(1)(b)(xiii) UNTAET Regulation No. 2000/15
- Australia's LOAC Manual (2006)
- Belgium's Law of War Manual (1983)
- Burundi's Regulations on International Humanitarian Law (2007)
- Central African Republic's Disciplinary Regulations (2009)
- ***UK Military Manual (1958)**
- UNGA Res 58/99 (2003)
- UNGA Res 60/233 (2005)
- UNGA Res 61/232 (2006)
- ***UN Commission on Human Rights 2003/12 (2003)**
- UN Commission on Human Rights 2004/61 (2004)
- UN Commission on Human Right 2005/10 (2005)

Indian Laws

- India's Geneva Conventions Act (1960)
- Art 300 (A) Indian Constitutional

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