



FIDH – International Federation for Human Rights

Update on human rights violations in Indian-administered Jammu & Kashmir six months on

5 February 2020

Despite the easing of some of the restrictions implemented in Indian-Administered Jammu & Kashmir since 5 August 2019 [see below, *Background*], the situation remains dire and exacerbates an already fragile environment in which human rights violations have been rampant for decades. Although human rights violations have been widespread in Jammu & Kashmir for decades,¹ the clampdown on fundamental freedoms that has accompanied the political and administrative changes implemented starting in August 2019 have illustrated the Indian government's ongoing failure to respect and protect human rights in Jammu & Kashmir. This briefing note highlights some of the human rights concerns that have remained unaddressed since 5 August 2019.

Severe restrictions on freedom of expression and peaceful assembly remain

Despite the restoration of some forms of communication in January 2020, serious restrictions to the rights of freedom of expression and association remain in Jammu & Kashmir.

After a five-month-long unprecedented blackout, access to social networks and personal home broadband connections remained banned.² On 15 January 2020, the internet was restored in some hospitals, government offices, and schools,³ and on 18 January, phone services on pre-paid mobile phones, which are the most widely used types of mobile connection in Jammu & Kashmir, were restored. By 25 January 2020, internet access was restored in all 20 districts of Jammu & Kashmir, but only through a very slow 2G connection and only for 301 government-approved websites.⁴

¹ See FIDH, APDP & JKCCS, *Key human rights issues of concern in Indian-Administered Jammu & Kashmir*, March 2019, https://www.fidh.org/IMG/pdf/20190315_kashmir_briefing_note_-_final.pdf.

² Guardian, *Internet to be partially restored in Kashmir but social media ban stays*, 15 January 2020, <https://www.theguardian.com/world/2020/jan/15/internet-partially-restored-kashmir-social-media-ban-stays>

³ Guardian, *Internet to be partially restored in Kashmir but social media ban stays*, 15 January 2020, <https://www.theguardian.com/world/2020/jan/15/internet-partially-restored-kashmir-social-media-ban-stays>

⁴ Al Jazeera, *Limited internet restored in Kashmir, no access to social media*, 25 January 2020 <https://www.aljazeera.com/news/2020/01/limited-internet-restored-kashmir-access-social-media-200125132533497.html>

These actions followed a 10 January 2020 ruling by India's Supreme Court, which ordered the Indian authorities to review the suspension of internet access, arguing that an indefinite suspension of the internet could be illegal under Indian law.⁵

Timeline of the communications blockade in Jammu & Kashmir

5 August 2019: Internet, mobile phone services, and landlines are shut down.

17 August 2019: 17 of 100 telephone landline exchanges are restored.

4 September 2019: Although officials claim 100 % of telephone landline exchanges have been restored, residents report difficulties in having calls go through. Mobile phone services and the internet remain banned.

14 October 2019: Calling facilities on post-paid mobile phones are restored in the Kashmir Valley.

10 January 2020: The Indian Supreme Court rules that the internet shutdown in Jammu & Kashmir is unconstitutional and orders the authorities to justify any continued restrictions.

15 January 2020: Internet is restored in hospitals, government offices and schools, but access to social networks and personal home broadband connections remains banned.

18 January 2020: Low-speed internet services (2G) is restored in 10 districts of Jammu & Kashmir and in two districts (Kupwara and Bandipora) of North Kashmir, with access to only 301 government-approved websites. Pre-paid (comprising the majority of mobile phone services in the Kashmir Valley) phone and SMS services are also restored.

25 January 2020: Access to the 301 government-approved websites through 2G internet is restored to all 20 districts of Jammu & Kashmir.

The internet shutdown that began on 5 August has been the longest to date in India, and engendered a number of serious violations of the right to freedom of expression and the right to freedom of peaceful assembly.⁶ During the period from 1 January to 4 August 2019, the Indian government blockaded the internet in Jammu & Kashmir 54 times. In addition to the internet being blocked, both landline and mobile phone connections were also disconnected.

In addition to the internet shutdown, a strict curfew was imposed starting on the morning of 5 August under Section 144 of the Criminal Procedure Code, resulting in severe limitations of

⁵ Guardian, *India supreme court orders review of Kashmir internet shutdown*, 10 January 2020,

<https://www.theguardian.com/world/2020/jan/10/kashmir-blackout-indias-supreme-court-orders-delhi-to-review-internet-shutdown>.

⁶ APDP and JKCCS, *Annual Review of Human Rights situation in Indian administered Jammu and Kashmir (January to December 2019)*, p.100. Available at: <http://jkccs.net/wp-content/uploads/2019/12/2019-Annual-Human-Rights-Review.pdf>.

movement throughout the region, limiting people's ability to go to work, attend school, visit doctors and pharmacies, and more. The 10 January 2020 ruling by India's Supreme Court imposed new requirements for authorities to make public all orders issued under Section 144 of the Criminal Procedure Code, which empowers magistrates to pass temporary orders prohibiting assemblies of more than four persons. As a result, some restrictions, particularly with regards to restrictions on movement, have been lifted. However, the region remains under strict control, with gatherings of more than four persons still banned and the activities of political parties restricted.

Human rights defenders (HRDs) have faced numerous challenges and obstacles in their work since the clampdown, particularly in terms of investigating allegations of human rights violations, reporting on their violations, and seeking redress where necessary. This has been due primarily to the communications clampdown, as well as to the restrictions on freedom of movement, and to the judicial system's slowdown in processing cases [see below, *Access to justice and impunity*].

Although freedom of expression, including freedom of the press, has regularly come under attack in Jammu & Kashmir, violations of the right to freedom of opinion and expression have become more severe since 5 August 2019. As a direct result of the internet shutdown and severe restrictions on freedom of movement newspapers and journalists in Kashmir were cut off from the world and they were unable to fully report on events, transmit the information to their editors, and publish articles. Five months on, journalists are still unable to report freely, particularly on human rights violations, in local media, and the coverage of human rights violations has noticeably decreased.

Soon after 5 August, the central government created a "media facilitation center" in a hotel room in Srinagar, where accredited state government journalists are able to access the internet to file their stories, albeit having to wait for long periods of time for their turn. The center initially only had four computers available, although the number of computers was eventually increased to eight, and each journalist is allowed only 15 minutes with the computer.⁷ The center excludes freelancers and is not accessible to people based out of Srinagar.⁸

Several incidents of harassment, trashing and beating journalists were reported in the aftermath of 5 August by those who were able to cross the border and/or send their files out of Jammu & Kashmir.⁹ On 17 December 2019, two local journalists, Azaan Javaid of *The Print* and Anees Zargar of *News Click*, went to cover a protest on the campus of the Islamia College of Science and Commerce in Srinagar, when they were assaulted by Jammu & Kashmir police personnel. The duo were recording the police's action against students when the police

⁷ RSF, *RSF breaks the silence forced on journalists in Indian-administered Kashmir*, 13 November 2019, <https://rsf.org/en/news/rsf-breaks-silence-forced-journalists-indian-administered-kashmir>.

⁸ Wire, *Srinagar Media Facilitation Centre : Now, Freelancers, Web Journalists Not Allowed*, 11 November 2019, <https://thewire.in/media/srinagar-media-facilitation-centre-freelancers-web-journalists-not-allowed>.

⁹ See FIDH, *Update on human rights violations in Indian-administered Jammu & Kashmir since August 2019*, 26 September 2019, https://www.fidh.org/IMG/pdf/20190926_india_j_k_bp_en.pdf.

snatched their mobile phones and started insulting and beating them.¹⁰ Journalists from Jammu & Kashmir have also been prevented from travelling, both outside of the region of Jammu & Kashmir and outside of India.

Thousands arbitrarily arrested and detained

Arbitrary mass arrests and detentions occurred after 5 August in Jammu & Kashmir and have been used against thousands of people, including political leaders, human rights activists, lawyers, and ordinary citizens. Less than two weeks after the abrogation of Article 370 of the Indian Constitution [see below, *Background*], 4,000 people were reported to have been placed in custody since 5 August.¹¹ On 20 November 2019, the government told Parliament that 5,161 persons had been detained since 5 August, and that 609 of them were still in detention. These figures, however, did not specify the laws under which individuals had been arrested and under which charges. The 1978 Public Safety Act (PSA) allows detention for up to two years without charge and has frequently been used against HRDs and political activities in Jammu & Kashmir. Although establishing accurate figures of arrests and detentions under the PSA since 5 August has been difficult due to the ongoing restrictions on freedom of expression and information, on 6 September 2019, the government claimed to have arrested 3,800 people under the PSA, 2,600 of whom had been released.¹²

Many of those arrested and detained were transferred to jails outside of Jammu & Kashmir, including district jails in Agra, Varanasi, Bareilly, Lucknow, Ambedkar Nagar, and Prayagraj Naini (all in Uttar Pradesh State), and the Tihar Prison Complex in New Delhi. This has been especially the case of youth and low-ranking political activists.¹³ During the total communication blockade, families were kept in the dark as to the location of their relatives who had been arrested, and locations of detention centers were not made public. The communication blockade made it particularly difficult for family members of detainees to obtain information regarding their location and health conditions. The location of approximately 45% of the 635 cases of individuals from Jammu & Kashmir detained under the PSA that local human rights organizations have been able to verify remains unknown to these organizations.¹⁴

According to a petition filed by the Juvenile Justice Committee of the Jammu & Kashmir High Court before India's Supreme Court on 26 September 2019, 144 under-aged boys, including a child as young as nine years old, had been arrested since 5 August, as of the date of the filing of

¹⁰ RSF, *Police violence against journalists covering protests in India*, 19 December 2019, <https://rsf.org/en/news/police-violence-against-journalists-covering-protests-india>.

¹¹ Hindu, *About 4,000 people arrested in Kashmir since August 5 : govt sources to AFP*, 18 August 2019, <https://www.thehindu.com/news/national/about-4000-people-arrested-in-kashmir-since-august-5-govt-sources-to-afp/article29126566.ece>.

¹² Reuters, *Thousands detained in Indian Kashmir crackdown, official data reveals*, 12 September 2019, <https://www.reuters.com/article/us-india-kashmir-detentions/thousands-detained-in-indian-kashmir-crackdown-official-data-reveals-idUSKCN1VX142>.

¹³ APDP & JKCCS, *Annual Review of Human Rights situation in Indian administered Jammu and Kashmir (January to December 2019)*, p. 24.

¹⁴ APDP & JKCCS, *Annual Review of Human Rights situation in Indian administered Jammu and Kashmir (January to December 2019)*, p. 25.

the petition. However, field investigations conducted by local human rights organizations seem to indicate that there were significantly more cases of juveniles being illegally detained, many of whom for over 24 hours.¹⁵

Cases of torture remain frequent in Jammu & Kashmir, and continued to be reported after 5 August. Many of the individuals, particularly youth, who were arrested during night raids reported being subsequently tortured while in detention. Many of the boys and young men alleged to have been sexually tortured during their detention.¹⁶ Despite many serious allegations of torture in custody, it is not known whether any investigations into these reports have been carried out.

Raids and excessive use of force continue

Armed forces and the police have continued to conduct regular raids on homes and businesses in Jammu & Kashmir, including during so-called Cordon and Search Operations (CASOs), during which an area is cordoned off and military personnel conduct searches of people's homes allegedly to look for insurgents and/or weapons. While local human rights organizations and media have historically conducted accurate monitoring of these raids and the ensuing human rights violations, this type of documentation has been particularly difficult since 5 August. In fact, only six CASOs have been reported in the media since 5 August.

However, reports from the ground indicated that there may have been hundreds of CASOs undertaken since August 2019. Residents of Gulmarg, in Baramulla District, reported that nearly 400 such operations were undertaken in the first month of the clampdown alone.¹⁷ The few reports of raids that have come to light indicate that the army and police inflicted severe violence upon individuals during these raids, including beatings, electric shocks, and forcing people to eat dirt, as well as threatening people with further violence or repercussions, and killing their livestock.¹⁸

There were also reports of women being subjected to gender-based violence during these raids. For example, women in Habak Shanpora in Srinagar accused police and Central Reserve Police Force (CRPF) of having harassed and molested them during late-night raids of their homes in the week following 5 August. According to their testimony, the CRPF personnel pointed guns at their chests and tried to molest them when they ran out of their houses.¹⁹

¹⁵ APDP & JKCCS, *Annual Review of Human Rights situation in Indian administered Jammu and Kashmir (January to December 2019)*, p. 27.

¹⁶ APDP & JKCCS, *Annual Review of Human Rights situation in Indian administered Jammu and Kashmir (January to December 2019)*, p.48.

¹⁷ APDP & JKCCS, *Annual Review of Human Rights situation in Indian administered Jammu and Kashmir (January to December 2019)*, p.21.

¹⁸ Al Jazeera, 'Electric shocks, beatings': Kashmiris allege abuse by India army, 10 September 2019, <https://www.aljazeera.com/news/2019/09/shocks-beatings-kashmiris-allege-abuse-india-army-190910114145774.html>.

¹⁹ APDP & JKCCS, *Annual Review of Human Rights situation in Indian administered Jammu and Kashmir (January to December 2019)*, p.40.

There have also been reports of excessive use of force against civilians by police forces. Local human rights organizations have documented numerous cases of injuries suffered by civilians at the hands of law enforcement authorities, including at least 100 victims of pellet guns during the first 10 days of September 2019.²⁰ Some journalists were also able to speak to several people who claimed to have been beaten with sticks and cables, and subjected to electric shocks by army and police personnel.²¹ To date, at least six individuals have been killed by the police since 5 August during physical altercations or because of the excessive use of tear gas during demonstrations.²²

Access to justice more difficult

The abrogation of Article 370 and the ensuing clampdown in Jammu & Kashmir have had serious consequences regarding both judicial processes that were ongoing at the time of the abrogation and processes that were triggered in response to violations since 5 August.

The judicial system in Jammu & Kashmir has, since 5 August, slowed to a halt. Legal aid to victims has not been provided, individuals have not been able to file complaints before the courts, and court hearings have been delayed. This has been due, in part, to many lawyers being detained under the PSA, but also to the inability of people to travel to the courts during the lockdown and for lawyers and clients to communicate with each other.²³

The total number of *habeas corpus* petitions filed before the Jammu and Kashmir High Court since 5 August until the end of the year was 412 – nearly 50% more than those filed from the beginning of the year to 4 August (250).²⁴ Most of these cases have not been heard as of the time of publication.

Another particularly problematic development that is likely to result in even greater impunity for human rights violators in the region has been the disbandment of the State Human Rights Commission (SHRC) of Jammu & Kashmir, effective 31 October 2019. The SHRC, an autonomous state body tasked with the investigation of human rights violations, was widely used to investigate a number of issues, including cases of torture, extrajudicial killings, and enforced disappearances, as it was easily accessible and affordable for victims. More than 500 cases of enforced disappearances were pending before the SHRC when it was disbanded.

Background

²⁰ APDP & JKCCS, *Annual Review of Human Rights situation in Indian administered Jammu and Kashmir (January to December 2019)*, p. 52.

²¹ BBC, “Don’t beat us, just shoot us”: Kashmiris allege violent army crackdown, 29 August 2019, <https://www.bbc.com/news/world-asia-india-49481180>.

²² APDP & JKCCS *Annual Review of Human Rights situation in Indian administered Jammu and Kashmir (January to December 2019)*, p.19.

²³ APDP & JKCCS, *Annual Review of Human Rights situation in Indian administered Jammu and Kashmir (January to December 2019)*, p.29.

²⁴ APDP & JKCCS, *Annual Review of Human Rights situation in Indian administered Jammu and Kashmir (January to December 2019)*, p.22.

On 5 August 2019, the Rajya Sabha and Lok Sabha, respectively the Indian Parliament's upper and lower houses, adopted the Jammu and Kashmir Reorganisation Act, scrapping the special status of the now-former state of Jammu and Kashmir. The law abolished Articles 370 and 35(A) of the Indian Constitution, which had granted special autonomy to the Muslim-majority state, with its own Constitution and laws preventing any person who did not have a state subject certificate from acquiring immovable property.

The day before, several military convoys transporting 10,000 additional troops²⁵ were deployed to what is already the world's most militarized region. A complete communication blackout was implemented, the longest in both India's and the world's history.²⁶ A curfew was also imposed, educational institutions were closed down, and political leaders were put under house arrest, creating an unprecedented climate of fear and chaos. Those actions took place without prior notice by the Indian government, led by the Bharatiya Janata Party (BJP), and were mostly justified by the authorities as measures to strengthen internal security and fight terrorism.²⁷

The repeal of Article 370 was followed by the measures to reorganize the region administratively. The state was split in two Union Territories (UT) of Jammu & Kashmir and Ladakh, which came into effect on 31 October 2019. These developments drastically changed the nature of the region, because Union Territories are directly governed by the central government in New Delhi, and resulted in the loss of its flag, Constitution, and relative autonomy. The Jammu and Kashmir Reorganisation Act also resulted in the repeal of more than 150 state laws and the introduction of 106 new laws, while several controversial laws, such as the 1978 Public Safety Act (PSA), were retained.

²⁵ FIDH, CHRI & People's Watch, *India: Government must immediately reinstate fundamental freedoms in Jammu & Kashmir*, 6 August 2019,

<https://www.fidh.org/en/region/asia/india/india-government-must-immediately-reinstate-fundamental-freedoms-in>

²⁶ APDP & JKCCS, *Annual Review of Human Rights situation in Indian administered Jammu and Kashmir (January to December 2019)*, p. 31.

²⁷ Human Rights Watch, *India: Basic Freedoms at Risk in Kashmir*, 6 August 2019,

<https://www.hrw.org/news/2019/08/06/india-basic-freedoms-risk-kashmir>