



India: Call on government to immediately reinstate fundamental freedoms in Jammu & Kashmir

Prime Minister Narendra Modi

New Delhi

12 August 2019

Dear Prime Minister Modi,

We, the undersigned civil society activists and organizations, human rights defenders, lawyers, journalists, and academics from around the globe, write to express our deep concern regarding the recent actions your government has taken over the past week in the State of Jammu & Kashmir.

The state's unilateral repeal of the special status of Jammu & Kashmir, the reconfiguration of the State of Jammu & Kashmir, and the process through which these legislative changes were imposed in the midst of a complete lock-down of the region, are egregious. These actions violate the people of Jammu & Kashmir's fundamental right to self-determination under international law and their right to participate in crucial decisions that affect their lives. Further, these actions have sent shock waves of fear and uncertainty among the people of Jammu & Kashmir and contravene both domestic and international law.

Beyond the questionable legality of your actions with regard to the Constitution, we are concerned over reports that over 500 people have been arbitrarily arrested or placed under house arrest in Jammu & Kashmir over the past days and such treatment appears to be continuing. We understand that some of these may include activists, academics, and opponents, who have been detained under the Jammu & Kashmir Public Safety Act (PSA) of 1978 or the Jammu & Kashmir Preventive Detention Act of 1964.

We recall that the PSA has been widely criticized for violating international human rights law, as it operates outside normal judicial safeguards and oversight and thus denies due process to individuals arrested under it. Concerns regarding abuse of the PSA, as well as the Armed Forces (Jammu & Kashmir) Special Powers Act of 1990 and the Disturbed Areas Act, have been raised repeatedly over the years by local and international civil society organizations, as well as the United Nations. Regrettably, your government has continued to abuse these laws and has taken no action to align the above laws with India's international human rights obligations.

We are extremely worried about the ongoing curfews and curfew-like conditions and the shut-down of communications inside Jammu & Kashmir. The violations of rights to freedom of expression and freedom of movement that these restrictions entail create conditions of psychosocial trauma. These curbs constitute severe violations of the International Covenant on Civil and Political Rights (ICCPR), which India ratified in 1979, and under no circumstances can be justified in the guise of public order.

We strongly believe that for India to be able to continue to define itself as a democracy it must allow public discourse and debate on these issues. This includes ensuring that the people of Jammu & Kashmir are able to exercise their right to take part as primary stakeholders in the critical decisions regarding their future. This certainly cannot be achieved by blocking communications, detaining political leaders and civil society activists, and restricting movements within Jammu & Kashmir.

In line with these concerns, we respectfully request that your government take the following measures with the utmost urgency:

- o Immediately revoke the curfew and its attendant conditions and reinstate communications in and out of Jammu & Kashmir;
- o Immediately and unconditionally release from detention all those who have been arbitrarily detained or arrested under the PSA or other legislation over the past several days;
- o Immediately and unconditionally restore the status of Jammu & Kashmir under Article 370 of the Constitution of India; and
- o Implement in full the recommendations made in 2018 and again in 2019 by the UN High Commissioner for Human Rights with regards to Jammu & Kashmir, including respecting the right to self-determination, and guaranteeing fundamental freedoms.

We hope that you will heed these recommendations.

Please note that this letter will be made public.

Yours sincerely,

Signed, in alphabetical order:

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