

## 9. 210 days of Shutdown: 'A desolation called Peace' reset

### 1. Introduction

It has been 210 days since what can only be described as declaration of Emergency in Kashmir, on 5<sup>th</sup> August 2019: largescale arrests and detentions, suspension of all modes of communication, including landline and mobile phones, press clampdown, and lockdown of all movement. These accompanied abrogation of Article 370 of the Constitution and removal of Article 35A.<sup>280</sup> Some of the restrictions have been eased in these past weeks, but life in the Valley remains harsh – with ongoing detentions; restricted communication, including Internet; press under close watch; businesses and economic activity in doldrums; education suffering, and medical services under strain. Despondency is high, especially among youth. Below is a quick update of the situation.

### 2. Detentions

People arrested around 5<sup>th</sup> August continue to remain mostly in detention – especially politicians, community leaders, civil society actors and the youth. Where detentions initially were informal or under minor charges, these have now been formalised, and brought under draconian regulations. Government claims approximately 5161 preventive arrests have been made in the Kashmir Valley since 4<sup>th</sup> August 2019 and that 609 persons remain under detention<sup>281</sup>. Lawyers and civil society groups claim the number is closer to 8000. Initially people were only arrested under Section 107 of the Criminal Procedure Code (CrPC)<sup>282</sup>, but over the 6 months many arrested persons have been booked under the Public Safety Act (PSA) that allows for preventive detention without trial or charge for up to 2 years. In conversations with locals, it was noted that many people, including minors are detained in police stations every week or on days when protests are organised – in irregular forms of detentions, which are nowhere on record. Human rights groups claim, based on data accessed from J&K High Court Registry, that 662 fresh habeas corpus petitions (challenging detentions under PSA) were registered in 2019 out of whom the majority (412) were registered after 5<sup>th</sup> August, 2019.<sup>283</sup> Most of those detained belong to economically poor families. They also find it difficult to access the judicial process. This is made

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<sup>283</sup> <http://jkccs.net/annual-human-rights-review-2019-2/>

worse by the fact that there is little trust and hope for justice from the judiciary. Both Supreme Court of India and J&K High Court have been unenthusiastic about habeas corpus applications filed by those in detention. The J&K Bar Association has been an active voice in the state standing for rights of wronged citizens. The President of the association, Mian Abdul Qayoom, is one of those detained by authorities since 5<sup>th</sup> August 2019. Application challenging his detention was dismissed by J&K High Court that claimed “a court is not a proper forum to scrutinize the merits of administrative decision to detain a person.”<sup>284</sup> Former state Chief Minister, Omar Abdullah, also in detention under PSA, challenged his detention in the Supreme Court. No immediate relief was provide, and the case is yet to be decided.<sup>285</sup>

### 3. Communication and Internet restrictions

Kashmir has experienced the world's longest internet shutdown in a democracy.<sup>286</sup> A petition challenging the shutdown in the Supreme Court delivered in August 2019, as adjudicated only in January 2020. The court recognised that right to Internet was a fundamental right (Art 19[1] [a]), but failed to provide any relief to Kashmiris who have been under communication shutdown for more than 5 months.<sup>287</sup> It set a dangerous precedent by holding that “reasonable restrictions under Article 19(2) can extend to complete prohibition of speech in certain circumstances.” It also left the determination of proportionality completely to the Executive, dangerous handout by the courts. Currently only restricted access to Internet is allowed, some 1674 ‘whitelisted’ websites are available to users, and no access to social media such as WhatsApp and Facebook allowed to common users. The Jammu and Kashmir administration on 14<sup>th</sup> January 2020 issued an order banning all social media sites.<sup>288</sup> This was ostensibly to curb their misuse by “miscreants for propagating false information and rumours”. The charges under the misuse were under the draconian Unlawful Activities Prevention Act (UAPA). According to police officials, there have been no arrests directly under the cyber police's FIR. But it has kicked into motion several arrests under FIRs filed at the district level. The online news portal Scroll.in tracked down at least five cases of

284 <https://theprint.in/india/jk-high-court-dismisses-plea-against-detention-of-bar-council-chief-mian-qayoom-under-psa/361537/>

285 <https://www.firstpost.com/india/omar-abdullahs-detention-case-sc-sends-notice-to-jammu-and-kashmir-admin-on-sisters-plea-challenging-psa-charges-8041201.html>

286 [https://www.washingtonpost.com/world/asia\\_pacific/indias-internet-shutdown-in-kashmir-is-now-the-longest-ever-in-a-democracy/2019/12/15/bb0693ea-1dfc-11ea-977a-15a6710ed6da\\_story.html](https://www.washingtonpost.com/world/asia_pacific/indias-internet-shutdown-in-kashmir-is-now-the-longest-ever-in-a-democracy/2019/12/15/bb0693ea-1dfc-11ea-977a-15a6710ed6da_story.html)

287 <https://frontline.thehindu.com/dispatches/article30542427.ece>

288 <https://www.indiatoday.in/india/story/govt-slaps-uapa-on-those-misusing-social-media-in-kashmir-owaisi-says-new-records-of-cruelty-1647469-2020-02-18>

arrest since February 17, all for social media and VPN use.<sup>289</sup>

Press freedoms too remain suspended. Local journalists speak of extensive control by authorities of the material that is published, including scrutiny of content, occasional interrogations, as well as through leveraging of advertising revenue. There seems a concerted campaign by authorities to prevent publication of any news that might be construed antithetical to the official line.

#### 4. Effect on business and economy

Core sectors of the J&K economy have witnessed a steep decline after the abrogation of Article 370. It is estimated that till December 2019, the economy of Kashmir lost Rs. 179 billion, which included various sub-sectors like tour operators (inbound and outbound), house boats, hotels, tourist transport, shikaras, adventure sports and other allied sectors. The manufacturing section alone suffered a loss of Rs. 25.2 billion.<sup>290</sup> Kashmir Chamber of Commerce and Industry (KCCI) has stated that the present disruption has resulted in loss of hundreds of thousands of jobs. Government intervention in the horticulture sector for which Rs 80 billion was earmarked for purchase of apples has come a cropper and caused price turmoil and panic sales.<sup>291</sup> The impact on saffron crop has been much worse: this year the yield is expected to be between 1/6th to 1/8th of the average production.<sup>292</sup> According to reports, the apples industry in Kashmir, worth Rs. 80 billion which contributes eight percent of J&K's GDP, has been worst affected.<sup>293</sup>

An Industry source explained to us how this works at micro level – for small and big businesses. Immediately after 5<sup>th</sup> August, banks remained closed for over 10 days, and even after they reopened, it was only for a few days for weeks from then on. With Eid on the 12<sup>th</sup> of August, this was the peak retail season, with advance orders and large bank of stocks. But with movement and communication shut down, much of the retail activity never took off. This resulted in cash drying up. Markets remained closed and payments by businesses were not made. But Rent and electricity bills continued to accumulate. Those businesses which had taken out loans stood devastated as they did not have the means – sales – to service their loans. As a result, they have all become defaulters. According to these industry sources, 90 per cent of all business accounts in the state are under

289 <https://scroll.in/article/954711/in-kashmir-a-spreed-of-arrests-for-alleged-misuse-of-social-media-and-vpns>

290 <https://www.news18.com/news/india/kashmir-economy-suffered-loss-of-rs-17878-crore-in-4-months-after-abrogation-of-article-370-2428417.html>

291 <https://thewire.in/economy/after-august-5-kashmirs-economy-has-suffered-rs-17878-crore-in-losses>

292 <https://economictimes.indiatimes.com/news/politics-and-nation/declare-apple-crisis-in-kashmir-valley-as-national-calamity-demands-aiksc/articleshow/72084795.cms?from=mdr>

293 <https://www.orfonline.org/research/life-in-kashmir-after-article-370-60785/>

stress.<sup>294</sup> Feeble efforts by authorities for a reconstruction package have done little ameliorate matters, it is claimed. Alongside, attempts by the authorities to attract investors from outside the state are, according to sources, likely to come a cropper, due to the security situation.<sup>295</sup>

## 5. Impact on education

The continuing internet blockade has severely affected college and university students. College students and research scholars, for instance, have not been able to fill the online forms for competitive exams, scholarship grants and research papers. Most of the hostels in the Kashmir University are shut indefinitely. Internet access to university libraries has been disrupted and limited to low speed now, increasing the stress levels of students. The students see this as a "deliberate policy of New Delhi" to keep them out of contention for national- and international-level competitions. The respondents also complained that with personal access to Internet services cut, they have had to queue for long hours outside district headquarters, the only government offices where public access to internet services is being provided. Besides wasting precious time, each student has had to shell out INR 100 to 200 per online submission at these offices. In any case, schools have only recently opened and teaching resumed after 6 months – resulting in big loss to students.

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294 <https://kashmirilife.net/stressed-assets-doubled-issue-44-vol-11-223101/>

295 <https://www.thehindu.com/news/national/jk-woos-investors-with-6000-acre-land-bank/article30854607.ece>