Jammu & Kashmir: One Year after Abrogation of Art. 370
Increasing Alienation, Relentless Repression, Simmering Conflict

- PUCL appeals that the Government of India urgently listen to the people of J&K, initiate dialogue and restore peace
- Withdraw the police state: Restore freedom and democracy in the region

Part A: Overview

It has been over a year since 5th August, 2019, when Amit Shah, the Union Home Minister abruptly introduced a Constitutional Amendment in the Indian Parliament abrogating Article 370 of the Constitution, invalidating the autonomy of Jammu and Kashmir and splitting the state into the two centrally governed Union Territories of Jammu & Kashmir and Ladakh. Simultaneously, Article 35-A, which provided demographic safeguards for residents of J&K, was revoked. The official justification was that the abolition of Article 370 would herald the dawn of a new era in Kashmir bringing peace, security and development.

One year after the undemocratic move, the situation in Kashmir is far from being peaceful, secure and normal. Instead what prevails is a deep sense of alienation and suffused anger at being treated in an undignified, cavalier and brutal manner by the Centre and its security forces. All along, attempts were made to silence the people of J&K by throwing a stifling security blanket accompanied by a state wide lockdown. The hard and muscular policy followed by the Indian Government began by transporting over 38,000 fully armed troops on 04th August, 2019, the eve of takeover, to enforce very severe and crippling lockdown, involving closure of all economic and business activities, total internet shutdowns, detention of hundreds of leaders of Kashmir based political parties, organisations and groups including former CMs and Ministers (barring of course, members of the ruling BJP party), closure of all educational institutions and enforcing a complete curfew type situation stretched over many months. The killings of civilians, militants and that of army personnel, continued unabated, Cordonning, search and destroy operations were at their peak. Many of the democratic and citizenship rights that the Constitution grants to citizens were brazenly denied to them.
The control by the Government of India through its administrators and security forces resulted in a lockdown in every sphere of life, which continues even today. The physical lockdown resulted in disruption to access to education, health and other basic needs, including religious spaces. A complete internet shutdown – the world’s longest – was imposed; it took more than six months for telephone lines to be restored. Restoration of restricted internet services – that too only 2G – took even longer making provision of 4G and 5G facilities a distant dream for the Kashmiris. Access to information is tightly controlled, including newspapers and access curtailed only to a curated list of websites. The J & K media has not been able to operate freely and independently with policing of media content apart from the lack of internet impacting the profession completely.

Indiscriminate imposition of Section 144, CrPC which violates people’s basic rights of assembly, meeting, association and expression has ensured that democratic articulation of people’s grievances is not possible. Most importantly, the widespread use of the draconian J&K Public Safety Act and the mass use of UAPA and other laws leading to the continued detention of 3 Ex-chief ministers, political leaders lawyers, journalists and others, has effectively silenced democratic voices, preventing the voicing of dissent.

The continued lockdown stretching over the entire year has had a hugely damaging and disastrous impact on the economy of the State. Almost all the major industries in the state, including tourism and handicrafts sector, have suffered blows pushing individual enterprises into loss, loan defaults, closure and consequent loss of lakhs of jobs.

The lockdown has meant that students across the entire State, both in schools and colleges, have been very seriously affected, adding to the burden of students and parents both in terms of scholastic learning as also in employability.

Unfortunately, the judiciary too has remained silent. Apart from the lower courts, the Constitutional courts - the High Court of J & K, and sadly even the Supreme Court, have refused to intervene in habeas corpus petitions, illegal detentions - including that of children, and restoration of 4 G services, apart from keeping the issues of the abrogation of Article 370 and 35A of the Constitution pending adjudication. In effect, the courts have abdicated their constitutional responsibility of safeguarding the constitutionally mandated rights of citizens by referring in many cases, issues raised before the apex court to Government Committees or the J&K High Court to look into.

The disappointment at all levels, first by the Parliament, then the judiciary, and finally the national media highlights the complete collapse of institutional structures to safeguard the constitutionally mandated rights of the people of Jammu & Kashmir, resulting in the build-up of a strong sense of alienation amongst the Kashmiri people, from the Indian state and people.
Despite the security clampdown and the attempt by the Centre to suppress voices from exposing the true situation in the valley, a number of reports have been published by very experienced, credible and independent organisations and individuals.

PUCL acknowledges the importance of the following Reports which have brought to the attention of the civil society of India the prevailing situation in the valley consequent to the lockdown in place since 05\textsuperscript{th} August, 2019.

(i) The reports of the \textit{`Jammu and Kashmir Coalition of Civil Society'} (JKCCS) and the Association of Disappeared Persons, called the \textit{`Annual Human Rights Review 2019'}\textsuperscript{1} and the \textit{`Six monthly Report of the Human Rights situation in Indian Administered Kashmir, January to June 2020'}\textsuperscript{2};

(ii) The report of the \textit{`Forum for Human Rights in Jammu and Kashmir'} called \textit{`Jammu and Kashmir: The Impact of Lockdowns on Human Rights, August 2019-July 2020 Report'}\textsuperscript{3}. It is important to point out at this juncture that the Forum has as its members former SC and HC judges like Justices, Madan Lokur, Ruma Pal, AP Shah, Bilal Nazki, Hasnain Masoodi, Anjana Prakash and former member of Group of Interlocutors for J & K, Radha Kumar, Nirupama Rao, former Foreign Secretary and others as an independent initiative \textit{“so that continuing human rights violations do not go unnoticed”}.

(iii) These two reports apart, the report titled \textit{“Imprisoned Resistance: 5\textsuperscript{th} August and Its Aftermath”} of various individuals in which a number of PUCL members also participated as also the Report- \textit{“(Dis)Integration at Gunpoint”} by the Kashmir Reading Group released on 5\textsuperscript{th} August, 2020.

\textsuperscript{1} http://www.sacw.net/article14389.html
\textsuperscript{3} https://jkccs.net/annual-human-rights-review-2019-2/
\textsuperscript{4} http://www.pucl.org/reports/imprisoned-resistance-5th-august-and-its-aftermath
\textsuperscript{5} https://jklpp.org/kashmir-reading-room-report-aug-2019-aug-2020/?fbclid=IwAR1Mf7SUzA3z-dlyIpayahPRQppeVLHAF5WS1m6UBDKnm07fXM7CZneC9Q
**Part B: The Human Rights Violation in the last one year**

To what extent have the government’s claim of bringing ‘peace, security and development’ to the region been realised a year after the abrogation of Art. 370 on 5th August, 2020? A factual appraisal of the ground situation in the Valley indicates that the situation a year later is a far cry from normalcy, peace and development.

**Killings**

According to the JKCCS report, **between January** to June, 2020, there have been at least 229 killings in different incidents of violence which included the killings of at least 32 civilians in J&K, besides killings of 143 alleged militants and 54 armed forces personnel. Children and women continued to be victims of violence in J&K as 3 children and 2 women were killed in the first half of 2020. While total killings have dipped in the first half year, the number of alleged “militants” being killed is on the increase, which is a worrying trend as it shows that more youth are taking on to armed struggle, who are mostly from within the Kashmir Valley.

According to the data sheet put out by the South Asian Terrorism Portal more than 153 alleged militants were killed of which 120 were youth from the Indian side of the Kashmir valley apart from the prosecution and the arrest of more than 250 ‘over-ground workers’ who constitute their logistics lifeline. (Forum for Human Rights in Jammu and Kashmir).

However, as stated by the report of the Forum For Human Rights in Jammu and Kashmir that the instances of attempted and estimated net infiltration have both seen a substantial rise. Cease-fire violations escalated sharply from 449 in 2016 to 3,168 in 2019.

**Cordon and Search Operations (CASOs) and Cordon and Destroy Operations (CADO’s)**

Post August 2019, the security force intensified both Cordon and Search Operations (CASOs) and Cordon and Destroy Operations (CADO’s) which resulted in at least 57 encounters between the Indian armed forces and the militants following CASOs. (JKCCS six monthly report, 2020). According to the report of the ‘Forum for Human Rights in Jammu and Kashmir’, the CASOs were conducted every single day from the beginning of June 2020 to around mid-July – exacerbating the pain and suffering that the people of Kashmir have endured over three long decades.

**Damage to Properties**

In J&K, the destruction of civilian properties by armed forces personnel during encounters or while dealing with the protestors saw an increase in the first six months of 2020. From January 1 to June 30, at least 48 cases of destruction of civilian properties were reported in Jammu and Kashmir. The destruction of civilian properties during encounters saw an increase during the COVID-19 lockdown enforced by the government, rendering many families homeless and without shelter. (Forum for Human Rights in Jammu And Kashmir).
Mass Arrests of Politicians and Activists and lawyers under PSA and UAPA

According to the Ministry of Home Affairs (MHA), after August 4, 2019, more than 6,605 people, including “miscreants, stone-pelters, over ground workers (OGWs), separatists”, were taken into preventive custody, 444 of them under Jammu and Kashmir’s Public Safety Act (PSA) of 1978, under which an individual can be detained for two years, without charges and trial. The Indian State shamefully put an end to all political processes. Most leaders of the mainstream political parties, including three former Chief Ministers – Farooq Abdullah, Omar Abdullah and Mehbooba Mufti – were amongst those detained, as were at least 144 minors. A majority of detainees were released, one by one, over the next six months, but over 400 people still remain in preventive custody. In March 2020, 437 people continued to be detained, 389 of them under the PSA. Even today, except for the father and son duo of the Farooq Abdullah and Umar Abdullah and Sajjad Lone, most politicians including former Chief Minister Mehbooba Mufti remain in detention. The sense of impunity and brazenly indifference to the judicial process on the part of the government officials was recently on national display when in the SC in the petition seeking release of veteran political leader and former Minister Mr. Saifuddin Soz, the central government informed that they had not detained him and he was a free man; which contrasted by visual images of Mr. Soz being confined to his house by a police cordon which wouldn’t allow him to leave his house.

The Internet Ban

Except for a BSNL landline phone all telecommunication facilities including mobiles, and the internet were completely shut for the first six months, following which mobile phones were restored by December, 2019r with only restricted 2G facility. The first six months of 2020 witnessed the continuation of the banning of the 4G mobile internet services. The right to access information continues to be severely restricted in J&K on the ground that it is a necessary part of the ongoing counter-insurgency measures by the government of India. There were 55 instances of internet blockades recorded from January 1 to June 30 2020. (JKCCS).

Despite many appeals by all sections of the people of Jammu and Kashmir, to the Central Government and Court interventions, the restrictions on 4G internet continues to remain in place making it extremely difficult for sectors which depend upon 4G connectivity for its professional requirements. For example, the medical community in the Valley very urgently requires to access new research and information about the pandemic. Access to timely information can act as a preventive measure against the COVID-19 and the absence of high speed internet does have an impact of the health of the entire community. With schools having remained shut for most of the year, the non- restoration of internet has hampered the online education possibility, during COVID times. (JKCCS)
Media

The media was on the radar of authorities before 5th of August, 2019. It continues to be at the receiving end of pressure, intimidation and harassment by security officials. There have been also several incidents of manhandling and beating up of journalists. Besides physical assaults, a few Kashmir based journalists were also booked under stringent charges and cases were filed against them. Young photo journalist Masrat Zahra and Gowhar Geelani along with others were even booked under UAPA. Ashiq Peerzada of The Hindu was subjected to 12 hours of questioning by the Jammu and Kashmir police over filing what they claimed was ‘fake news’. Two other journalists were thrown into jail.

Along with the new media policy which has censorship as its fulcrum, the Right to Freedom of Expression and the Right to Freedom of Press is completely jeopardised, the message is clear that if the State (i.e., the Government’s) narrative is not adhered to, then your act will be criminalised and detention and prosecution will follow.

Domicile Rules and other laws

The strident way in which the Ministry of Home Affairs (GOI) has brought in a domicile law since March, 2020, without consultation or discussion with the people of Jammu and Kashmir is condemnable and raises suspicion about the real agenda behind changes to domicile law. For most Jammu and Kashmiri people, the demographic changes being rammed through, has ominous portents. According to the new rules anyone who has lived in the state for 15 years, or studied there for 7 years, will be eligible for domicile status. Children of central government officials who have served in Indian-administered Kashmir for a total period of 10 years and to those who are registered as migrants by the Relief and Rehabilitation Commissioner (Migrants) will be eligible for domicile and become permanent residents of the state. According to many people of the region, it is a step to ensure demographic changes in the valley. This will impact the already worsening unemployment situation and also cause greater economic distress and disaffection.

With the GOI replacing all laws of the state of Kashmir with that of the Centre, along with the inclusion of 109 new laws including the Land Acquisition Act, the fear is about, tyrannical acquisition of land by outside interests and converting the landscape into industrial and real estate region deeply affecting the already fragile ecology of the region.

There are many more troubling questions about the adverse economic impact of the lockdown and policies adopted by the Central Government which need to be examined and addressed before there is an irretrievable collapse of the economy and influx by external economic forces which will side line local Kashmir interests. These include the sectors related to fruits production, processing, and marketing of the Fruits economy for which Kashmir is globally famous; tourism industry, handicrafts and textile industry and agriculture sector.
It will be a very tragic situation if the social and political alienation of the people of the Valley is accompanied by an economic colonisation process which is constructed over the destruction of local economic players and industry. As the Forum for Human Rights consisting of former Judges, bureaucrats and academics point out:

“Local and regional industries have suffered large losses in every sector. Many companies that are heavily or solely reliant on 4G networks that are available in the rest of the country, such as tourism and cottage industries, have been forced out of business. The new domicile rules introduced by the Ministry of Home Affairs and the Jammu and Kashmir administration, moreover, erode prior employment protections for permanent residents of the former state ...

The economic, social and political impacts of these actions, and their long duration – eleven months thus far – have been disastrous". (emphasis ours)

The immediate steps that need to be taken

Despite the claims of the Central Government about peace, calm and development in the Valley, the reality is very different for calm is maintained only by barbed wire, concertina barriers and armed forces covering almost every inch of the Valley. Many key leaders of political parties and organisations are still in jail or have been effectively silenced. In such a grim situation the role of democratic groups, civil society organisation, human rights movements and concerned citizens becomes very crucial.

PUCL appeals to all democratically and constitutionally minded citizens of India to collectively demand that the political process must be restored in Kashmir in order to hear what the people want, aspire and hope for. The police state that the valley has become, must end. The restrictions imposed on people’s freedom must be lifted. Human Rights abuse by the Indian forces must be immediately stopped and democratic rights restored.
**Part C: Demands**

1. We urge the Government of India to Review and give up the current policy of approaching the Kashmir issue as a counter-insurgency and a security or military problem to be tackled using force and security forces. It is important to acknowledge that at its very core, the Kashmir problem is a political issue which requires a political solution, which in turn requires treating the people of the Kashmir Valley with dignity, respect and humaneness. Peace cannot be obtained through the barrel of a gun.

2. PUCL believes that it is only through a policy of peaceful dialogue and discussion which permits and allows people to openly and freely articulate their views, opinions, experiences, aspirations and vision that the basis of finding a problem to the Kashmir problem be found. PUCL believes that it is only when the different players engage in meaningful conversations with the people of Kashmir, listening to the people and sharing their responses can the process of rebuilding bridges of human concern and solidarity as human beings be built.

3. PUCL wishes to point out that as the more powerful force, there is greater responsibility on the Government of India to take the first initiative to launch the process of rapprochement and peace building with the people of the Valley. We urge the Government to scale down the military presence in the valley and permit freer movement of people so that they can begin to improve their economic situation by resuming their normal economic avocations and professions.

4. PUCL calls upon the Government to withdraw the social, economic and electronic lockdown in force in the Valley in some form or the other since 04th August, 2019. In particular PUCL urges the government to immediately restore 4G telecommunication services in the entire Valley on par with the rest of India.

5. PUCL demands that the Government immediately release all the political leaders who have been detained under the J& K PSA, UAPA and other laws in various jails and prisons in Kashmir and outside, and those who have been detained under house arrest also. Equally, the vast number of juveniles who have been detained should be released forthwith and charges dropped. The PSA and other preventive detention laws which are now routinely being abused should be repealed.

6. Special economic support programmes and coaching activities should be immediately introduced for both school and college students in Kashmir Valley so as to make up for the loss of almost an entire academic year for the students. Apart from restoration of 4G services to enable access to e-learning modules, special teachers should be employed to make up for the lost months of classes.

7. The Government should acknowledge and recognise the important democratic role played by an independent and free media and desist from following the current practice of imposing censorship through the DIPR in coordination with the security services. All criminal cases launched against media professionals should be
immediately withdrawn and dropped. Local media, like the media elsewhere in India, should be allowed free access to national and international media and no censorship or control should be imposed.

8. The highly controversial domicile policy introduced by the Government some months back should be immediately withdrawn and all actions undertaken under the policies should be revoked. If at all the government is keen on coming out with such a policy, the government should initiate a broad based discussion with different sections of the people of Jammu and Kashmir so as to incorporate the concerns and requirements of the people. Any attempt to unilateral form or announce policy should be avoided.

9. A common demand across the political spectrum in both Jammu as also in Kashmir is the restoration of statehood. The Government of India should immediately initiate the process of bringing about such restoration through necessary legislative changes.

10. PUCL calls upon the Government of India to evolve a special economic package for Jammu and Kashmir so that all local businesses and enterprises which suffered economic loss and were forced to shut down are enabled to resume functioning. It will also spur the return to economic activities in the Valley which have been seriously affected since the beginning of the Lockdown in the Kashmir Valley, imposed from 04th August, 2019.

PUCL Appeals to the GOI, all political parties in the country, and all sections of Indian society to ensure an open and democratic dialogue with the people of Kashmir. It is not only our duty but our historical responsibility to ensure that peace, development and democracy is allowed a chance in the Valley.

Sd/-

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