



# General Assembly

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## Human Rights Council

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Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### **Written statement\* submitted by the World Muslim Congress, a non-governmental organization in general consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[12 August 2017]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.17-14946(E)



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## **Restrictions on right to freedom of expression in Indian administered Kashmir**

“Freedom of expression is a fundamental right vital for a functioning democracy and protection of all other rights. Article 19 of UDHR provides that *“everyone has the right to freedom of opinion and expression, this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”*”.

India has imposed prolonged, severe and unreasonable restrictions by blocking and filtering of particular content and means of access, and repeated and complete shutdowns of Internet and telecommunication services, in Indian Administered Kashmir, in the past and continues to do so.

The denial of fundamental human right to freedom of opinion and expression, including the right to seek, receive and impart information by government of India is clear violation of its international obligation and government of India should be made accountable for its grave continuing infringement of international human rights law.

The Indian state’s response to mass uprising in 2016 was to impose an undeclared state of emergency in the region, through acts of violent state repression, including the use of lethal and excessive force against protesters, and a severe crackdown on all forms of political dissent, universal freedoms and civil liberties. The right to freedom of speech and expression was particularly targeted, including through state attacks and restrictions on journalists, bans on newspapers, prohibitions on public assembly including funeral and memorial gatherings for killed civilians, and arbitrary arrests and administrative detentions of human rights defenders and political activists.

It is important to point out that these incidents are not isolated instances but have taken place in the context of draconian legislations, and against a long history of infringements of Kashmiri free speech, political dissent and anti-monarchial activism stretching back to Dogra period and the post-colonial period of the 1950s when the internationally disputed the Indian administered Jammu and Kashmir state was constitutionally incorporated into the in Indian union, in violation of UN resolutions. Instances of prohibitions and restrictions on emerging popular mediums of communication and broadcast including cable news television, short messaging services (SMS) and mobile internet services have been particularly common in recent years.

Jammu Kashmir Coalition of civil societies a local human rights group has documented sixteen instances of arbitrary restrictions and total suspensions of telecommunication and internet rights, between 8 July 2016 and 8 July 2017 on the basis of reliable news reports, and first-hand information. This is however not a comprehensive list of every single incident of such curtailments, as partial and localized restrictions in particular districts were also reported, which could not be independently verified due to the difficulty in establishing contacts with affected communities, due to the continuous curfews and restrictions on telecommunications.

1. 9 July 2016 Following the killing of Burhan Wani on 8 July 2016, mobile telephone services and internet services (except the state owned land line based broadband service, BSNL) were suspended in all districts of the Indian administered Jammu and Kashmir. Internet and phone services were restored in Jammu Division on 26 July 2016 after 17 days, but remained suspended in the ten districts of the Kashmir division. Prepaid telephone services in Kashmir division remained suspended until 14 October 2016.

2. 5 August 2016 Due to a call for a civilian general strike in the Chenab valley districts of Jammu division, to show solidarity with the ongoing violence in Kashmir valley, mobile internet services were suspended in Jammu division on 5 August 2016

3. 13 August 2016 Broadband internet services (including BSNL, the state owned provider) were completely suspended in the Kashmir valley on 13 August 2016 for 5 days during a high security alert for the Indian Independence Day, 15 August.

4. 12 September 2016 Ahead of Eid (religious Islamic festival), broadband internet services were totally suspended in the Kashmir district and resumed after 5 days on 17 September 2017. In addition, complete curfew was imposed, mosques and graveyards were blockaded, and Eid congregational prayers disallowed.
5. 8 December 2016 Other than the continuing suspension of mobile internet services, mobile telephone services were suspended in Anantnag District on 8 December 2016.
6. 8 April 2017 Mobile and broadband internet services were completely suspended in three districts of Srinagar, Budgam, and Ganderbal ahead of the Srinagar by-polls. Extensive curfews, mass arrests and restrictions by the state on free movement and assembly. This was extended to all ten districts of the Kashmir division on 9 April and was in force till 12 April.
7. 13 April 2017 Mobile and broadband internet services were suspended in all ten districts of the Kashmir division in light of the scheduled re-polling in 38 stations of the Budgam district.
8. 17 April 2017 prepaid mobile internet services were suspended again as videos of torture and human rights violations by forces during the electoral process began to circulate through social media. Students across the ten districts of the Kashmir division held marches, strikes and protests against a violent raid on a college campus district in Pulwama.
9. 26 April 2017 The Jammu and Kashmir government (Home Department) issued an official order (Government Order No: HOME/ISA/476 of 2017 dated 26/04/2017) blocking 22 social media sites and applications including Facebook, WhatsApp and Twitter in the Kashmir division on the public order grounds citing the Indian Telegraph Act, 1885 and rules (2007) for a period of 1 month until 26 May 2017.
10. 28 April 2017 Mobile internet on prepaid connections was partially restored though 3G and 4G mobile internet connectivity remained suspended. Access to the 22 social networking sites named in the Government Order continued to be officially suspended.
11. 29 April 2017 Mobile internet Services were restored to 3G speeds after 12 days.
12. 27 May 2017 a day after the Indian administered Jammu and Kashmir government lifted its month long social media ban in the Kashmir division, mobile internet services were suspended for 7 days until 2 June 2017, after the state forces' killing of a Kashmiri rebel combatant.
13. 6 June 2017 Mobile internet services were suspended in Kashmir division for two days until 8 June 2017 after the killing of a civilian by state forces in Shopian District.
14. 16 June 2017 Mobile Internet was shut down again in Kashmir division after civilian killings by armed forces and widespread street protests. They were restored on 19 June.
15. 1 July 2017 Mobile internet was shut down in the context of an armed encounter between state forces and rebel fighter, and civilian protests at the encounter site.
16. 6 July 2017 A communication dated 6 July 2017 issued to all internet service providers by the Inspector General of Police, Kashmir Zone, Srinagar titled 'Block all social media sites via Lease Line' was issued which directed them to block all social media sites on lease [broadband] lines in the Kashmir division, "in view of the apprehension of misuse of internet services by anti-national elements". It further directed that "if it is not possible, shutdown the services". Access to social media platforms was indefinitely blocked at 10 pm.

They amount to the arbitrary, indiscriminate and prolonged collective punishment of a population, jeopardizing lives, livelihoods, and causing grave hardships in carrying out normal business, educational, and social activities. In a time of curfews and restrictions on mobility, bans on television channels and newspapers, accompanied by mass blinding's, civilian killings in crowd firings, arbitrary arrests and incommunicado detentions, such blanket and indefinite shutdowns fueled a climate of rumors, social insecurity and anxiety.

The acts fail to meet high standard of ‘necessity’ as justification for such restrictions laid down by Human Rights Committee in its General Comment 34 and do not conform to the ‘principle of proportionality’, as a guiding standard. The routine frequency with which restrictions are imposed, as a ‘precautionary measure’ with no precipitating violence, for instance during religious festivals, and Indian national holidays like Republic Day and Independence Day, illustrate their use as a tool of day to day law enforcement mechanism rather than an extraordinary measure.

In addition to preventing public access to information and news these restrictions, particularly those imposed on social networking sites, seek to prevent all forms of political mobilization, expressions of dissent and political opinions that criticize the Indian administration in Kashmir. They have been used in conjunction with censorship measures by private corporations, such as Facebook and Twitter to target social media activists and commentators; and criminal charges on grounds of sedition, and incitement to violence under the Information Technology Act, 2000 on Kashmiris in India for social media posts.

They severely impede efforts to seek access, communicate or disseminate information on the grave and ongoing human rights violations in the region. India has always been averse to international attention and intervention in the Kashmir dispute. Besides direct violations of the rights of Kashmiris, the Indian state uses communication blackouts as means to prevent international observers and commentators and concerned members of the global community from accessing current information about ongoing violations

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