

PPWG Assessment – Kashmir Conflict

Current Situational Assessment

On August 5, 2019, the Government of India passed a constitutional order scrapping Article 370 of the Indian Constitution, which gave special status and restricted autonomy to the state of Jammu and Kashmir. Further, the government withdrew the statehood status, and divided the region into two federally governed Union Territories, Jammu & Kashmir and Ladakh. The decision was immediately followed by a communication clampdown, detentions of mainstream political leaders, and arrests of civil society actors and activists. With the decision, the historical and political conflict in the region still is unresolved. The intercommunity and intraregional divisions have further deepened. Meanwhile, the fragile relationship between India and Pakistan, the two nuclear armed neighbors, remains frayed. Both countries have fought three wars and engaged in an escalated armed conflict over the Kashmir region.

After the August 5, 2019, over 3,800 people, including activists, civil society actors and political leaders were held in preventive detention without any charge, including over 144 minors. While some have been released on case-to-case basis, activists and political leaders continue to be detained under the controversial Public Safety Act. This Act, which is clear violation of human rights, allows the government to detain them without a trial for up to two years.

On April 1, 2020, the government of India issued a new domicile rule for the Union Territory. This gives domicile status to “anyone living in Jammu and Kashmir for 15 years or has studied there for seven years.” The rule is being viewed as an attempt to further change demographics of the Muslim-majority region. The politicking at the time of COVID-19 crisis and restricted communication is further undermining the trust in the government and institutions.

Overall, the Kashmir region at present is in a state of continued political distrust and a challenging humanitarian and health crisis. Military escalation and cross-border exchanges of fire between India and Pakistan continues. The region, particularly Kashmir Valley, is festering with discontent, isolation, fractured

intercommunity relations, and underlying risks of armed violence. With a lack of transparency and communication restrictions, there are high risks of human rights violations and state forces acting with impunity. The discontent also gives space to terrorist groups like Lashkar-e-Toiba and Jaish-E Mohammed to operate and unleash violence. This violence then tends to shift focus from human rights and democratic freedoms of the ordinary people to the global discourse on terrorism.

COVID-19 Jammu and Kashmir

Currently, the Union Territory of Jammu and Kashmir is struggling with COVID-19 outbreak, like rest of the world. Internet access remains restricted to 2G service. In some areas the internet has been shut down intermittently. The restrictions are making it difficult for people to remain informed about the public health response to COVID-19, mitigate risks, and access services. In an area with over 45 percent of population suffering from mental health disorders, there is growing anxiety about this pandemic. The response to COVID-19 crisis, based on censorship and restrictions, is amplifying the health and the humanitarian crises in the region.

Key Recommendations:

- **Release detainees held without charge and without trial:** Over 1,000 people, including a former state head, are still being held and detained by the government without trial and charges, some under the Public Safety Act. While other state governments like Maharashtra are releasing over 11,000 prisoners (undertrials and convicted) on parole in response to COVID crisis, Jammu and Kashmir continues with detentions without charges.
- **Take a human rights approach to the COVID-19 response:** Prevention, mitigation, and treatment in response to COVID-19 should be rooted in a human rights approach, with full access to health information and public health response.

- **Fully restore the communication network and internet:** The internet shutdown that lasted over six months -the longest in any democracy- was partially restored with restricted access, slow 2G service, and intermittent shutdowns. The communication restrictions have affected business, students, and other areas of society and the economy.
- **Prevent execution of Kashmir separatist leader Yasin Malik, founder of Jammu and Kashmir Liberation Front:** Malik is being prosecuted on a fast track basis under Terrorist and Disruptive Activities Act (TADA) for crimes he committed before renouncing militancy. His case was reopened after 30 years. Malik is on a hunger strike in the jail and there is a concern that a verdict, if extreme, could potentially inflame an already-volatile situation on the ground in Kashmir.
- **Revive democratic institutions:** The confidence in election process should be restored by reaching out to local political parties, releasing political actors, and initiating of dialogue with local groups. Subsequently, the process of restoring the Jammu and Kashmir legislature should start. A prolonged political vacuum will only increase the space for militancy, distrust and make the prospects for resolution of the conflict much more challenging.
- **Restore regional stakeholders and intercommunity dialogue:** The Central government needs to reinitiate its dialogue with stakeholders in all regions- including Jammu, Kashmir Valley, and Ladakh- and with the sub-sub-regional groups. Also, restore intercommunity dialogue since the undercurrents between the Hindu-majority Jammu region, and Muslim-majority Kashmir valley continue to exist, and there is a tendency of high polarization on political, social issues.
- **Restore India-Pakistan dialogue and encourage COVID cooperation:** The COVID-19 crisis provides an opportunity for a collaborative pandemic response and reviving dialogue between India and Pakistan. Full diplomatic

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engagement, including the reinstatement of envoys in Delhi and Islamabad, should be encouraged.

- **Maintain pressure on “No First Use” policy and restrict nuclear proliferation:** Monitor nuclear proliferation, maintain pressure on India to continue adherence to “No First Use” (NFU) Policy, and encourage Pakistan to adopt the NFU.