



Prime Minister of India, Narendra Damodardas Modi
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21 November 2019

Dear Prime Minister Modi,

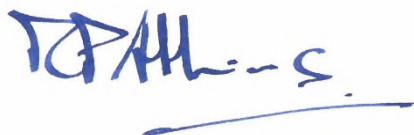
The Bar Council of England and Wales and the Bar Human Rights Committee of England and Wales express serious concern about multiple reports of the detention of over 3,000 civilians, including high ranking legal professionals, in the Kashmir Valley since the decision to abrogate Article 370 of the Indian constitution in early August 2019. We are disturbed to hear of the arrest of both the President of the High Court Bar Association of Jammu and Kashmir, Mian Abdul Qayoom, and its former president, Nazir Ahmad Ronga, in addition to the arrest of other senior legal professionals including advocates Abdul Salam Rather (President, Baramulla District Bar Association) and Fayad Sodagar (President, Anantnag District Bar Association), under the controversial Public Safety Act. We understand that at least 300 people, including lawyers and civilians, have been detained under the Act and can be held by the authorities for up to two years without trial. Moreover, the government's failure to publish the number detained adds further cause for alarm about their security.

The UN Basic Principles of the Role of Lawyers (1990) require states to ensure that lawyers are free to perform their professional functions without intimidation, hindrance, harassment or improper interference. Lawyers should not suffer or be threatened with sanctions for any action taken in accordance with their professional duties. The security of lawyers should be adequately safeguarded by the authorities. Lawyers should not be identified with their clients' causes, and like other citizens, lawyers are entitled to freedom of expression, belief, association and assembly.

We remain very concerned about the effect of the reported communications blackout in Jammu and Kashmir and the difficulties in securing free access to the region. While restrictions on landline telephones and some mobile services have been lifted, all internet services remain blocked in the Kashmir Valley.¹ This has seriously affected the routine functions of the courts and we have received reports of the justice system in the Kashmir Valley being in a state of near collapse. This has been exacerbated by the collective impact of the militarisation, the restrictions on movement, the communications lockdown and an atmosphere of 'fear' in which lawyers are said to be operating. It has been reported that there are an estimated 500 habeas corpus cases pending for 2019, with over 330 of these filed after 5 August 2019.² All of this has resulted in a lack of availability of effective legal representation and hindered the right to a fair and speedy trial. In circumstances in which grave and widespread human rights violations are being alleged, disabling the justice system substantially compounds the crisis. We are also concerned that the speed of access to justice on critical human rights' concerns may defeat the essence of the rights in question.

Moreover, the failure to allow independent investigators into the Kashmir Valley means that the urgent steps that are needed to ensure accountability for any alleged violations of domestic and international law are being impeded. India has ratified the UN International Covenant on Civil and Political Rights, which enshrines many of the fundamental human rights engaged by this situation. We call on the Indian government to allow in independent, investigative teams without further delay.

We urge you to ensure and safeguard the rights outlined above in accordance with your international obligations. We further urge you to lift all restrictions, restore internet and full communications access to the region, and to publish the names of all those individuals, including lawyers, who have been detained. Those who remain detained must be afforded access to proper legal representation.



Richard Atkins QC
Chair of the Bar



Schona Jolly QC
Chair of the BHRC

¹ <https://ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25219&LangID=Edef>

² <https://thewire.in/law/kashmir-justice-system-limbo>

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