

INTRODUCTION

1. Scholars at Risk (SAR) is an international network of higher education institutions and individuals dedicated to protecting threatened scholars, preventing attacks on higher education communities, and promoting academic freedom worldwide. SAR has Special Consultative Status with ECOSOC (2013), and welcomes the opportunity provided by the Office of the High Commissioner on Human Rights to comment on conditions relating to academic freedom and attacks on higher education communities in India.
2. SAR monitors and analyzes attacks on academic freedom around the world. During this UPR period (May 2017-March 2021), SAR received reports from colleagues within and outside India, and from media, describing overall pressures, as well as discreet attacks on higher education throughout the country.
3. This submission is the product of a joint effort between Scholars at Risk's Academic Freedom Monitoring Project and the legal clinic of the Centre for Human Rights and Legal Pluralism at McGill University. SAR gratefully acknowledges the substantial research and drafting work of McGill faculty and students.
4. This submission focuses on India's compliance with its obligations under international law to promote and protect academic freedom within its territory. Against the backdrop of the years-long crackdown on dissent under Prime Minister Narendra Modi and the ruling Hindu nationalist Bharatiya Janata Party (BJP), scholars, students, and higher education institutions throughout India faced violence, wrongful arrests and prosecutions, and other significant pressures, often connected to India's increasingly contentious political conflict.

LEGAL STANDARDS

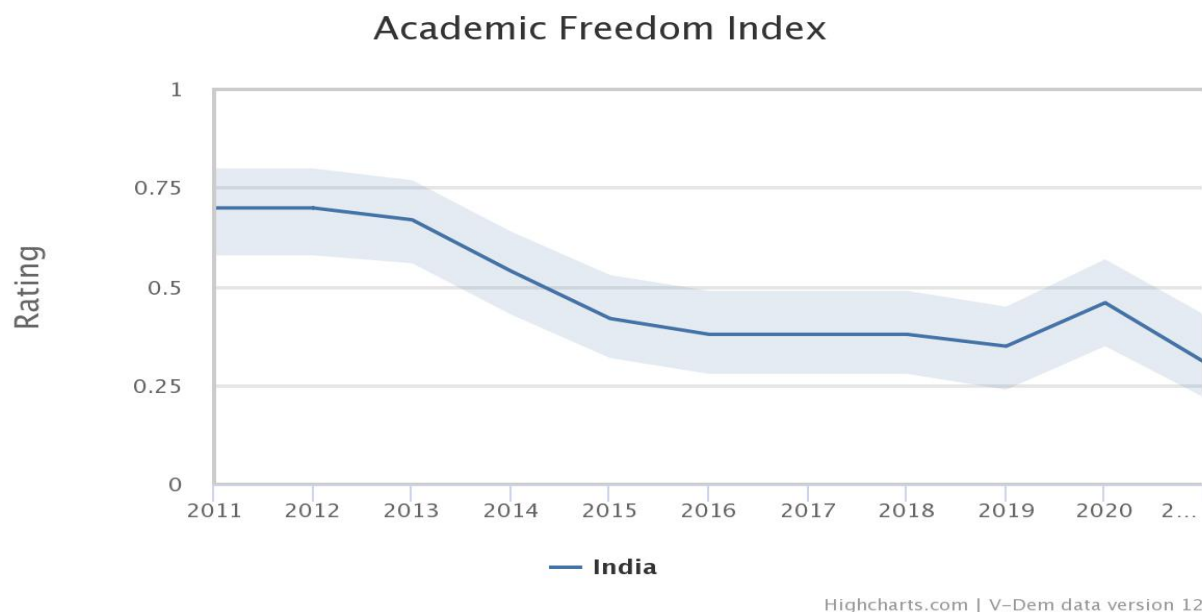
5. India is party to several applicable international human rights instruments including the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Social, Economic and Cultural Rights (ICESCR).
6. Academic freedom is independently and interdependently grounded in rights to freedom of opinion and expression, the right to education, and the right to the benefits of science, as articulated, respectively, in Article 19 of the International Covenant on Civil and Political Rights (ICCPR), Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), and Article 15(3) of the ICESCR.
7. As the Committee on Economic, Social and Cultural Rights (CESCR) has affirmed, "the right to education can only be enjoyed if accompanied by the academic freedom of staff and students."¹
8. In a recent report on academic freedom, the United Nations special rapporteur on the promotion and protection of freedom of opinion and expression adopted and reaffirmed the standards articulated by the CESCR, stating:

[A]cademic freedom should be understood to include the freedom of individuals, as members of academic communities (e.g., faculty, students, staff, scholars, administrators and community participants) or in their own pursuits, to conduct activities involving the discovery and transmission of information and ideas, and to do so with the full protection of human rights law.²

9. The special rapporteur explicitly recognized that academic freedom involves protections for institutional autonomy and self-governance: “States are under a positive obligation to create a general enabling environment for seeking, receiving and imparting information and ideas. Institutional protection and autonomy are a part of that enabling environment.”³ The special rapporteur further observed that peaceful student protests may be a form of protected academic expression.⁴
10. The Indian Constitution recognizes the rights to “freedom of speech and expression.”⁵ However, the Constitution provides that these freedoms may be limited on bases such as national security, public order, decency or morality.⁶ As the last several years have demonstrated, the broad wording of these exceptions “gives the state extensive powers to justify curtailments and to unduly restrict freedom of expression.”⁷ India’s constitution does not provide explicit protection for the right to academic freedom.

DISCUSSION

11. The deterioration of academic freedom during this review period has been significant. According to the Academic Freedom Index (AFi), which assesses the level of respect for academic freedom in 175 countries and territories, India’s ranking has dropped from above the 70th percentile to near the 30th percentile. Indeed, India is one of four countries (alongside Brazil, Hong Kong, and Turkey) that “saw the greatest declines in academic freedom between 2011 and 2021.”⁸ The following chart shows India’s decline.



Detention, Arrest, and Violence in Retaliation for On-Campus Expression

12. During this review cycle SAR has documented over 130 instances of arrest, prosecution or related criminal actions, and violence against scholars, faculty, and students, in retaliation for their public expression on and off campus. The following are just a few of the most severe examples.
13. On September 12, 2018, a group of roughly 100 armed men broke into the campus of **Bidhan Chandra Krishi Viswavidyalaya**, a university where students were engaged in a sit-in demanding the resignation of administrators who had requested police intervention during an earlier protest. The men reportedly attacked protesters with iron rods, bamboo sticks, and chains, and broke into the women's residence and sexually assaulted female students. At least ten students were reportedly injured.⁹
14. On July 22, 2019, violence erupted between police and student demonstrators from the **University of Kerala**, who were demanding a government inquiry into an on-campus stabbing ten days earlier. Reportedly, students threw objects at police, while police beat students and fired tear gas, smoke grenades, and water cannons. It is unclear who instigated the violence, but 13 demonstrators, a police officer, and a cameraman were injured.¹⁰
15. On December 12, 2019, Prime Minister Modi signed the **Citizenship Amendment Act (CAA)**, a controversial piece of legislation that provided for an expedited path to Indian citizenship for Hindus, Sikhs, Jains, Buddhists, and Christians, among others, but intentionally excluded Muslim migrants. The CAA's enactment triggered widespread on-campus protests, many of which were met with violence by police and counter-protesters. In February 2020, a well-known BJP politician insisted at a rally in New Delhi that the city be cleared of anti-CAA protesters. A series of riots followed, which were largely marked by reports of anti-Muslim violence. Overall, 53 people were killed and hundreds injured or displaced in the rioting.
16. SAR recorded 44 separate attacks by state authorities in response to the anti-CAA protests, including the following:
 - **Jamia Millia Islamia (JMI):** On December 13, 2019, police beat and fired teargas at students and faculty protesters, detaining 50 and injuring at least 15.¹¹ Two days later, thousands of JMI students marched to protest the CAA. Police responded by beating and teargassing protesters, leading to clashes with the students. Police then raided the campus, teargassing a library where students had sought shelter. The raid reportedly left hundreds injured, including with alleged gunshot wounds; at least 50 people were detained.¹²
 - **Aligarh Muslim University (AMU):** on December 15, 2019, police beat, teargassed, and fired rubber bullets and stun grenades at students near the campus gates during an anti-CAA march. These attacks led to clashes with students, at which point police entered the campus, where they continued to fire teargas and beat and arrested dozens of protesters.¹³

- **Delhi University:** on December 16, 2019, counter-protesters, apparently including members of a right-wing student group known as Akhil Bharatiya Vidyarthi Parishad (ABVP), physically attacked students protesting the violent crackdowns by police against anti-CAA protesters.¹⁴
 - **Jawaharlal Nehru University (JNU):** on January 5, 2020, after students had been protesting the CAA as well as increases in student fees for several weeks, roughly 50 masked individuals—allegedly ABVP members—stormed the JNU campus with iron rods, sticks, and broken bottles, vandalizing property. They then entered residence halls where they beat leftist students and faculty.¹⁵
17. On September 5, 2020, police detained more than 100 faculty and staff at **Delhi University** for peacefully protesting to demand payment of unpaid salaries; the police claimed they did not have a permit to hold the protest.¹⁶
 18. On February 23, 2021, at least 15 **Dhanamanjuri University** students were injured during a protest demanding the resumption of classes during a faculty strike. Police fired tear gas at the students as they attempted to march from campus toward the state assembly.¹⁷
 19. On January 10, 2022, a student was killed amid clashes between members of rival student factions, affiliated with national political parties, at the **Government Engineering College, Idukki**.¹⁸
 20. State authorities have investigated and prosecuted numerous individual scholars and students in retaliation for public expression, frequently under the **Unlawful Activities (Prevention) Act (UAPA)**. The law is purportedly intended to protect national security, but has often been used to punish and silence human rights activists and other members of the political opposition. Among these are:
 - **Gokarakonda Naga (G.N.) Saibaba**, a former professor of English literature at Delhi University and human rights activist. He was arrested in 2014 in connection with allegations that he was connected to the banned Communist Party of India (Maoist), charges he has consistently denied. He was convicted under the UAPA three years later and sentenced to life in prison. He has repeatedly been denied urgent medical treatment for long-standing and more recent complications, including acute pancreatitis.¹⁹
 - JMI student **Asif Iqbal Tanha**,²⁰ and JNU PhD candidates **Natasha Narwal** and **Devangana Kalita**,²¹ were arrested in May 2020 in connection with their alleged participation in anti-CAA protests. The evidence used to support the charges included text messages and evidence of membership in an organization that had organized the anti-CAA protests. All three were later charged under the UAPA, with Tanha and Narwal accused of inciting the Delhi riots as part of a conspiracy to defame Prime Minister Modi.

- **Hany Babu**, a professor in the English Department of Delhi University;²² **Varavara Rao**, a literature scholar;²³ **Shoma Sen**, an English professor from Rashtrasant Tukadoji Maharaj Nagpur University;²⁴ and **Anand Teltumbde**, a scholar-activist from the Goa Institute of Management;²⁵ were jailed under the UAPA between 2018 and 2020 based on allegations that they instigated violent clashes at the 2018 Bhima Koregaon memorial. The memorial commemorates an 1818 battle in which Dalit soldiers of the British army fought upper-caste Hindus. Evidence used to support the allegations in these cases—which reportedly includes files that were planted on one defendant’s computer—has been called into question for its veracity and relevance. The scholars implicated in these cases are known for their human rights and anti-caste activism.
- On November 9, 2020, police opened a criminal investigation of **Shilpa Singh**, a professor of political science at V.M. Salgaocar College of Law, after a member of a far-right Hindu-nationalist group complained to police that Singh had mocked Hindu traditions on Facebook. The activist posted the allegations on Facebook, leading to harassment and threats against Singh.²⁶

Loss of Position/Administrative Attacks

During this review cycle SAR documented more than 40 cases involving terminations, expulsions, or administrative pressures targeting academic expression.

21. **Central University of Kerala (CUK):** On May 17, 2021, the CUK suspended Gilbert Sebastian, an assistant professor in the International Relations department, for stating that the BJP and an affiliated, Hindu-nationalist organization known as the Rashtriya Swayamsevak Sangh, were a “proto-fascist organization.” The remarks led to complaints by ABVP members and a member of the National Monitoring Committee on Education.²⁷
22. **Visva Bharati University (VBU):** On August 23, 2021, the VBU administration suspended three postgraduate students from campus for three years for participating in a January 9, 2021 protest, accusing VBU’s Vice Chancellor, Bidyut Chakrabarty, of using his authority to advance Hindu-nationalist views and policies.²⁸
23. **Jawaharlal Nehru University (JNU):** JNU is a central public university established by a 1969 act of Parliament, funded by the central government. On October 29, 2021, JNU’s administration ordered the cancellation of a webinar on Kashmir organized by the university’s Centre for Women’s Studies, apparently based on political considerations. The webinar, titled “Gender resistance and fresh challenges in post-2019 Kashmir,” was to have featured Ather Zia, an activist and political anthropologist. JNU Vice-Chancellor Jagadesh Kumar published a statement calling the webinar’s topic “a highly objectionable and provocative subject, which questions the sovereignty and territorial integrity of our country.” The ABVP and others filed complaints with the Delhi Police alleging that the webinar violated India’s constitution and territorial sovereignty.²⁹
24. **Dr. Hari Singh Gour University (HSGU):** Prior to a webinar to be co-convened on July 30, 2021 by HSGU and Montclair State University in the United States, ABVP members

wrote to the organizers, threatening to disrupt the event and take legal action against them, claiming the guest list included “anti-nationals.” At the ABVP members’ behest, local police then issued a letter to university authorities, stating that they had “references to anti-national mentality and caste-related statements of the speakers attending the webinar” and that the university might face action under Indian Penal Code Section 505, as the webinar was being “perceived as targeting a particular caste or community.” Consequently, HSGU pulled out of the event; it went forward without HGSU as a convener.³⁰

25. In early 2021, the Ministry of Education announced guidelines mandating that publicly funded higher education institutions and their members receive advance approval from the Ministry of External Affairs (MEA) before holding online virtual conferences, seminars, and trainings on any topic relating to state security, certain border issues, or “India’s internal matters.” The order was later revoked.³¹ However, similar subject matter-based guidelines are in effect requiring MEA approval of in-person gatherings.³²
26. In July 2019, ABVP-affiliated individuals reportedly stormed a meeting of **Delhi University’s** Academic Council, demanding the council remove materials from syllabi that the activists considered offensive. The university responded by forming an oversight committee to scrutinize syllabi.³³ In July 2021, the committee revised syllabi for the English, history, political science, and sociology departments despite its members lacking expertise in those subjects, and without consulting department members. Revisions, later approved by the university, included the removal of works by Dalit and Tamil feminist authors from an English syllabus and their replacement with works by upper-caste writers.³⁴

Pressures in Jammu & Kashmir

27. On August 5, 2019, the government repealed Article 370 of the Indian Constitution, which had granted special status—that is, limited autonomy—to Jammu and Kashmir (J&K), an Indian-controlled, Muslim-majority territory over which the governments of India and Pakistan have asserted claims. The repeal of Article 370 left the Indian government in full control over the territory. In the weeks that followed, Indian authorities imposed university closures, telecommunications shutdowns, and arrests and other coercive force.
28. The Indian government ordered the temporary closure of most universities and colleges in Kashmir, as a means of quashing anticipated protests over the resolution.³⁵ The closures reportedly disrupted the educations of roughly one hundred thousand students. In addition, Indian police and military troops reportedly occupied universities and schools as military barracks during the shutdown.³⁶
29. On the eve of the repeal of Article 370, Indian authorities shut down all internet services in J&K indefinitely. Officials argued that this was necessary to maintain public order, and have reportedly utilized this tactic frequently—especially in J&K.³⁷ The impacts on higher education quickly became clear: much academic communication became impossible; university websites went dormant; students and professors could not conduct

online research, apply for scholarships, or submit theses or journal articles. Despite a January 2020 Supreme Court decision holding that the shutdown was illegal, it continued in some form through at least early 2021.³⁸ As the Covid-19 crisis took hold, continued restrictions (i.e. only 2G internet was available) meant that students and scholars could not access online lectures or download large files needed for research and learning.³⁹

CONCLUSIONS AND RECOMMENDATIONS

As noted above, levels of respect for academic freedom in India have dropped precipitously over the last decade. India is now among the worst performing democracies when it comes to protecting this vital right, in clear violation of India's obligations under international human rights treaties to which it is a party. Accordingly, SAR respectfully urges UN member states to call on India to:

- A. abstain from direct or indirect violations of academic freedom or attacks on higher education, including through encroachments upon university autonomy, violence or coercion, legislative or administrative attacks, withholding of funding, censorship of academic curricula, or targeted internet shutdowns;
- B. conduct effective and transparent investigations of attacks on higher education communities, take all reasonable efforts to hold perpetrators accountable, and introduce strong legislation prohibiting attacks against scholars, students, and higher education institutions;
- C. contribute to efforts aimed at reinforcing principles of academic freedom and institutional autonomy, including by reaffirming their commitment in public statements, policies, and practices to the principles that ideas are not crimes, and critical discourse is not disloyalty;
- D. work with universities and government bodies to build recognition of the importance of academic freedom, freedom of expression, and freedom of association on campus;
- E. guarantee freedom of expression, association, and peaceful assembly for all individuals, including scholars, students, and other academic and research actors;⁴⁰
- F. reform or otherwise ensure that the UAPA is not used to criminalize the peaceful exercise of academic freedom, free inquiry, or expression;
- G. refrain from interfering with the peaceful exercise of academic freedom, free inquiry, or expression in J&K, including by refraining from disruption, slowdown or other interference with the internet or related information communications technologies necessary for higher education activities.⁴¹

¹ CESCR, General Comment No. 13: The Right to Education (Article 13) (8 December 1999), para. 38.

² A/75/261, 28 July 2020 at para. 8.

³ A/75/261, 28 July 2020 at para. 9.

⁴ A/75/261, 28 July 2020 at para. 52.

⁵ *The Constitution of India*, 1950, s 19(1)(a).

⁶ *The Constitution of India*, 1950, s 19(2).

⁷ Amit Singh, “Conflict between Freedom of Expression and Religion in India—a Case Study” (2018) 7:7 Soc Sci at 3. Moreover, the Constitution includes national emergency provisions which may suspend fundamental rights. A national emergency can be declared if there is a threat to the security of India or a part of India. If approved by Parliament, all fundamental rights under the Constitution (except the rights to life and personal liberty) are automatically suspended. See Mofidul Islam, “Position of Fundamental Rights During Emergency in India” (2020) 11:0 Intl J Management 729 at 730.

⁸ *Academic Freedom on the Decline, Researchers at the University of Gothenburg and FAU Erlangen-Nürnberg publish the Academic Freedom Index 2022*, available at

<https://www.fau.eu/2022/03/03/news/research/academic-freedom-on-the-decline/>

⁹ SAR Academic Freedom Monitoring Project (AFMP), September 12, 2018,

<https://www.scholarsatrisk.org/report/2018-09-12-bidhan-chandra-krishi-viswavidyalaya/>

¹⁰ SAR AFMP, July 22, 2019, <https://www.scholarsatrisk.org/report/2019-07-22-university-of-kerala/>

¹¹ SAR AFMP, December 13, 2019, <https://www.scholarsatrisk.org/report/2019-12-13-jamia-millia-islamia/>

¹² SAR AFMP, December 15, 2019, <https://www.scholarsatrisk.org/report/2019-12-15-jamia-millia-islamia/>

¹³ SAR AFMP, December 15, 2019, <https://www.scholarsatrisk.org/report/2019-12-15-aligarh-muslim-university/>

¹⁴ SAR AFMP, December 16, 2019, <https://www.scholarsatrisk.org/report/2019-12-16-delhi-university/>

¹⁵ SAR AFMP, January 5, 2020, <https://www.scholarsatrisk.org/report/2020-01-05-jawaharlal-nehru-university/>

¹⁶ SAR AFMP, May 17, 2020, September 5, 2020, <https://www.scholarsatrisk.org/report/2020-09-05-delhi-university/>

¹⁷ SAR AFMP, February 23, 2021, <https://www.scholarsatrisk.org/report/2021-02-23-dhanamanjuri-university/>

¹⁸ SAR AFMP, January 21, 2022, <https://www.scholarsatrisk.org/report/2022-01-21-government-engineering-college-idukki/>

¹⁹ SAR AFMP, May 9, 2014 <https://www.scholarsatrisk.org/report/2014-05-09-delhi-university/>

²⁰ SAR AFMP, May 17, 2020, <https://www.scholarsatrisk.org/report/2020-05-17-jamia-millia-islamia/>

²¹ SAR AFMP, May 23, 2020, <https://www.scholarsatrisk.org/report/2020-05-23-jawaharlal-nehru-university/>

²² SAR AFMP, July 28, 2020, <https://www.scholarsatrisk.org/report/2020-07-28-delhi-university/>

²³ <https://www.frontlinedefenders.org/en/profile/varavara-rao>

²⁴ SAR AFMP, June 6, 2018, <https://www.scholarsatrisk.org/report/2018-06-06-rashtrasant-tukadoji-maharaj-nagpur-university/>

²⁵ SAR AFMP, April 14, 2020, <https://www.scholarsatrisk.org/report/2020-04-14-go-a-institute-of-management/>

²⁶ SAR AFMP, November 9, 2020, <https://www.scholarsatrisk.org/report/2020-11-09-v-m-salgaocar-college-of-law/>

²⁷ SAR AFMP, May 17, 2021, <https://www.scholarsatrisk.org/report/2021-05-17-central-university-of-kerala/>

²⁸ SAR AFMP, March 8, 2021, <https://www.scholarsatrisk.org/report/2021-03-08-delhi-university/>

²⁹ SAR AFMP, October 29, 2021, <https://www.scholarsatrisk.org/report/2021-10-29-jawaharlal-nehru-university/>

³⁰ See Gauhar Raza Apoorvanand, “The bully that is destroying India’s academic culture,” *The Indian Express* (6 August 2021) online: *Indian Express*, <https://indianexpress.com/article/opinion/columns/the-bully-that-is-destroying-indias-academic-culture-abvp-7440441/>, <https://indianexpress.com/article/india/madhya-pradesh-university-pulls-out-of-webinar-after-abvp-protests-sp-sends-warning-7431035/>

³¹ Sruti Bala, “Anti-Nationalism: The Spectre Haunting Indian Higher Education,” *New Internationalist* (13 January 2022) online: < <https://newint.org/features/2022/01/13/anti-nationalism-spectre-haunting-indian-higher-education/>>.

³² <https://www.scholarsatrisk.org/wp-content/uploads/2021/12/Scholars-at-Risk-Free-to-Think-2021.pdf> at 69.

³³ See Rudrashish Chakraborty, “Modi govt’s National Education Policy, steamrolled without discussion, encouraging politics of exclusion” (3 Sep 2021) online: *National Herald India* <https://www.nationalheraldindia.com/opinion/modi-govts-national-education-policy-steamrolled-without-discussion-encouraging-politics-of-exclusion/>.

³⁴ See Aranya Shankar, “Dalit Authors, Mahasweta Devi removed from English syllabus, DU comes under fire” (26 Aug 2021) online: *Indian Express* <<https://indianexpress.com/article/cities/delhi/du-committee-mahasweta-devi-two-dalit-authors-english-syllabus-faces-flak-7470324/>; https://peoplesdemocracy.in/2021/0905_pd/syllabus-revision-du-assault-academic-autonomy/>.

³⁵ <https://www.universityworldnews.com/post.php?story=20191010132944342>

³⁶ Bisma Bhat, “Kashmir’s schools, colleges double up as bunkers for military; students forced to depend on tuitions, notes in absence of classes,” *First Post*, November 30, 2019, www.firstpost.com/india/kashmirs-schools-colleges-doubleup-as-bunkers-for-military-students-forced-to-depend-ontuitions-notes-in-absence-of-classes-7720351.html.

³⁷ See Shadab Nazmi, “Why India shuts down the internet more than any other democracy”, *BBC News Delhi* (19 December 2019), online: <<https://www.bbc.com/news/world-asia-india-50819905>>. See also “India”, online: *Internet Shutdowns* <<https://internetshutdowns.in/>>, Ankita Chakravarti, “India saw highest number of internet shutdowns in the world in 2020”, *India Today* (4 March 2021), online: <<https://www.indiatoday.in/technology/news/story/india-saw-highest-number-of-internet-shutdowns-in-the-world-in-2020-1775608-2021-03-04>>

³⁸ <https://indianexpress.com/article/india/jk-4g-internet-mobile-timeline-7176408/>

³⁹ “India restores internet in Kashmir after 7 months of blackout,” Associated Press, March 5, 2020, <https://www.aljazeera.com/news/2020/03/india-restores-internet-kashmir-7-monthsblackout-200305053858356.html>; Niala Mohammad, “HighSpeed Internet Ban Keeps Kashmir in Dark, Journalists Say,” *Voice of America*, May 13, 2020, <https://www.voanews.com/press-freedom/high-speed-internet-ban-keeps-kashmir-darkjournalists-say>

⁴⁰ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/193/56/PDF/G1719356.pdf?OpenElement> pp 19

⁴¹ See UNHRC, General Assembly Agenda Item 3, 17th Sess, “Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue” (16 May 2011), 1 at para 24, 31, 76–77, online: https://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf.