

India a constitutional republic and representative democracy law public essay

Law



People of Kashmir seem to have found new media as a platform for their voices to be heard and e-rebellion in the valley seems to be resonating with alternate voices. " When citizens are under curfews, bans on television channels and curbs on newspaper distribution, they turn to cyber media and even street graffiti for the freedom to express themselves", says Fahad Shah, a freelance journalist based in Kashmir (The Hoot, 2010). He also mentioned how today most of the people who don't come on to the street to protest have taken the protests in everyone's heart to social networking sites such as Facebook, Twitter, YouTube, Blogging, etc. Continuing the curbs on freedoms, the government also keeps a check on telecommunication with Short Messaging Services (SMS) permanently banned on prepaid phone connections. According to a report by Freedom House (2012), " There were no reports of government-imposed internet connectivity disruptions in 2011 and 2012. However, in January 2012, mobile phone providers in Jammu and Kashmir shut off their services for one day as part of security precautions in place for Republic Day, reportedly due to fears that mobile phones could be used by militants to remotely detonate bombs." While the same law applies to the rest of India, thousands of violent protestors can be seen protesting for justice for the gang rape victim in Delhi without any sort of online blocking of content or telecommunication gagging. In a jail even a rat hole can be an escape and this applies to Kashmir. The Case: The paper focusses on India as it has ratified, acceded and succeeded in becoming a signatory to the International Covenant on Civil and Political Rights (ICCPR) on 10th April, 1979 (UNICEF, 2013). Paper will examine the restrictions imposed by the Government of India on the Freedom of Expression on the voices of

Kashmiris through blocking online content and telecommunication services post the recent hanging of Kashmir-born Afzal Guru on 9th February, 2013. Afzal Guru was executed over his alleged role in the 2001 attack on the Indian Parliament, after his mercy petition was rejected by Pranab Mukherjee, President of India (Hindustan Times, 2013). Kashmiris believe that Afzal Guru has not received a fair trial and this has contributed to the widespread popularity and support for him among Kashmiris (Sharma, 2013). According to the leading Indian Daily, The Times of India, " The government asked internet service providers to block 55 Facebook pages related to Afzal Guru. The notice by the Department of Telecom was issued a day before internet services were restored in Kashmir Valley after remaining suspended for a week following Afzal's hanging" (The Times of India, 2013). To prevent unrest the Jammu & Kashmir government has progressively used a communication blackout (Sharma and Raina, 2012) and imposed restrictions to freedom of expression to maintain public order. Meenakshi Ganguly, the South Asia director at Human Rights Watch said, " There is always this argument from the top level of government in India that we believe in total freedom of speech but are concerned about law and order. However, whenever certain interest groups attempt to curb freedom of speech the government submits to these threats of violence. Rather than trying to understand and embrace social media as a platform for debate, the Indian government is heavy handed, and is worried about what is said on Twitter while it arrests people for Facebook posts. The ban on YouTube and Facebook in Kashmir and the arrest of two young women in Mumbai for their Facebook activity are two such incidences." (Bagri, 2013). The Objective: The

paper analyses the restriction imposed on the freedom of expression on the grounds of preserving 'public order' in Kashmir and evaluates 'whether the restriction passes the three-part test from Article 19 of the Convention' (Article 19, 2013). The Law: India, on 10th April, 1979 ratified, acceded and succeeded in becoming a signatory to ICCPR (UNICEF, 2013). Article 19 (1) (a) in The Constitution of India 1949 states, "All citizens shall have the right to freedom of speech and expression." (The Constitution of India, n. d.). Owing to the disputed nature of Kashmir, a separate constitution exists for the state of Jammu & Kashmir. The Constitution of Jammu & Kashmir was legislated by a separate Constituent Assembly and it came into force on 26 January 1957 (Noorani, 2011). The constitution of Jammu & Kashmir states, "358. Suspension of provisions of article 19 during emergencies—While a Proclamation of Emergency is in operation, nothing in article 19 shall restrict the power of the State as defined in Part III to make any law or to take any executive action which the State would but for the provisions contained in that Part be competent to make or to take, but any law so made shall, to the extent of the incompetency, cease to have effect as soon as the Proclamation ceases to operate, except as respects things done or omitted to be done before the law so ceases to have effect." (National Portal of India, 2013). This guarantees the right to freedom envisaged by Article 19 to the State without any restrictions except during an emergency. However, Article 370 was adopted in 1949 by the Indian Constituent Assembly warranting a special status and internal autonomy to the state of Jammu & Kashmir. The Indian jurisdiction in Kashmir was limited to three areas of defence, foreign affairs and communications. (Bhat, 2011). A senior lawyer and political

analyst A. G. Noorani said, " While the Constitution recognises in Article 370 the special status of Jammu and Kashmir, the Central Government's policies since 1953 have totally undermined its autonomy... Constitutional abuse accompanied political fraud...Article 370 was intended to guarantee Kashmir's autonomy...The State was put in a status inferior to that of other States." (Noorani, 2000)Section 5(2) of the Indian Telegraph Act of 1885- The state's order, which invoked powers conferred under this act in the interest of public safety and maintaining public order, blocked internet services and social media pages during the case under study. Section 5(2) in The Indian Telegraph Act, 1885 states:"(2) On the occurrence of any public emergency, or in the interest of the public safety, the Central Government or a State Government or any officer specially authorised in this behalf by the Central Government or a State Government may, if satisfied that it is necessary or expedient so to do in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of an offence, for reasons to be, recorded in writing, by order, direct that any message' or class of messages to or from any person or., class of persons, or relating to any particular subject, brought for transmission by or transmitted or received by any tele- graph, shall not be transmitted, or shall be intercepted or detained, or shall be disclosed to the Government making the order or an officer thereof mentioned in the order: Provided that press messages intended to be published in India of correspondents accredited Central Government or a State Government shall not be intercepted or detained, unless their transmission has been Prohibited under this sub- section.]" The very fact that

this act is called The Indian Telegraph Act implies it was meant for "telegraph". Not to forget it came into practice in 1885 whereas we are talking about the digital revolution brought about Web 2.0 and the rise of social media which is on its way to changing social norms with a society that is more open and connected in every respect of communication be sharing, networking or expressing. How can the government use the word "telegraph" in the literal or figurative sense with that of "internet"? The Indian IT Act 2008- This hasn't been revised since 2008 and it states highly technical information with regards to cybercrime and violations that too very vaguely with no mention of a scenario in which the state machinery needs to resort to blocking internet services and social media pages in the case of a curfew, protest, blackouts etc. (The Information Technology (Amendment) Act, 2008). The paper will put to test the restriction imposed on Article 19 (1) (a) of the Indian Constitution which states, "All citizens shall have the right to freedom of speech and expression" and evaluate if the restriction passes or fails the 3-part test of Article 19 (3) of ICCPR. While the Indian IT Act 2008 doesn't spell out any restriction that can possibly be imposed on internet services during or in the absence of an emergency, the Section 5(2) of the Indian Telegraph Act of 1885 which the government employs in Kashmir to block internet services and social media pages will be analysed alongside Article 19 (1) (a). The Restrictions imposed on the Freedom of Expression: According to an article by the human rights body, People's Union of Democratic Rights, "Imposition of curfew was accompanied by blanket gag on all media, including television, print and online, in the Kashmir valley following the secretive hanging of Afzal Guru. On the one hand chief

minister, Omar Abdullah was speaking out against the hanging of Afzal Guru while on the other hand his administration was systematically blacking out information and curbing the basic and inalienable democratic rights of the Kashmiris. Gagging of the media is nothing new in Kashmir, and by and large it goes unreported in Indian media. In fact, India's media watchdogs have acquired notoriety in consistently acquiescing in the throttling of freedom of expression and assembly through their silence, where Kashmir is concerned." (Countercurrents, 2013). It appealed the Indian mainstream media and its apex bodies like the Press Council of India, Editors Guild and the Indian Broadcasters Association to discover courage to speak out against this outrageous attack on the freedom of the press and the systematic throttling of democratic rights of the people of Kashmir (Countercurrents, 2013). The list of 55 Facebook pages blocked included several support groups and fan pages for Afzal Guru in addition to a profile page of a Bahraini journalist and the Facebook page of a Kashmiri news portal. The notice was not made public by the Department of Telecommunication. The IT Rules introduced in 2009 prohibit disclosure about processes involved in blocking of internet sites.' (The Times of India, 2013). Apar Gupta, Delhi-based lawyer was quoted in Times of India saying, " The move seemed to be " calculated" since it came just before restoration of internet services in the Valley. Legally speaking, some of the pages for which the block has been called speak of avenging Guru's death. However, the notice does not specify the reasons why the block has been ordered. It gives an impression that the government has something to hide." Another cyber lawyer Pavan Duggal

added, " The government seems to be growing reliant on blocking as a mode of governance, which is worrying." (The Times of India, 2013)

The 3-part Test in Article 19(3) of the ICCPR:

In the case under study, limitation was imposed to " protect public order".

What this paper analyses is how the restriction on freedom of expression was enforced and if it was: 1. Provided by law meeting standards of clarity and precision so that people can foresee the consequences of their actions and the law wasn't vaguely worded edicts, with unclear scope; 2. Legitimate aim to limit the right to freedom of expression which is not open-ended and provided for in Article 19(3) of the ICCPR: '...respect for the rights and reputations of others, and protection of national security, public order, public health or morals'. They are exclusive. 3. Necessity- Even if a limitation is in accordance with a clear law and serves a legitimate aim, it will only pass the test if it is truly necessary for the protection of that legitimate aim. If the limitation was not needed, it shouldn't have been imposed. Applying 3-part test, it can be analysed:

1. '...PROVIDED BY LAW...'

Analysis: Article 19 basically is the genesis of all that is wrong with free speech and dare I say Indian Democracy. Article 19(1) (a) of the Indian Constitution states that: (1) All citizens shall have the right (a) to freedom of speech and expression. Juxtaposing the first amendment in US, which states:-Amendment I: " Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people

peaceably to assemble, and to petition the Government for a redress of grievances." (Charters of Freedom, n. d.) We in India under the influence of Jawaharlal Nehru, the first Prime Minister of independent India, went exactly the opposite direction, our first amendment besides other things added the following under article 19(2):- " Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence." Could we get vaguer than that?! Besides this we have section 144 that prohibits peaceful assembly of people and schedule 9 of the constitution that prohibits judicial review of any laws made under it (Used for land reform in 50s, however in 2007 judicial review was granted if the law violated fundamental rights under articles 14, 15, 19 and 21). Post the hanging of Afzal Guru, the right to freedom of speech and expression on the internet and social media was limited by blocking internet services and social media pages in Kashmir (such restrictions are usually not applicable to Jammu, hence the reference is only Kashmir in this paper). The orders and directives for the same are always given by the government of India which at its whims and fancies chooses to block, control and monitor content and usage with no clear law guiding such a restriction. In India as well as in the state of Jammu and Kashmir, the government under the Section 5(2) in The Indian Telegraph Act, 1885 exercises control to block the internet services. The absurdity of the

government in applying the word " telegraph" in the literal or figurative sense with that of " internet" not only calls for some serious judicial review of the acts but also illustrates their backwardness in terms of judicial laws for the internet and new media technologies. The Indian IT Act which hasn't been revised since 2008 states highly technical information with regards to cybercrime and violations that too very vaguely with no mention of a scenario in which the state machinery needs to resort to blocking internet services and social media pages in the case of a curfew, protest, blackouts etc. (The Information Technology (Amendment) Act, 2008). This screams out to attention for a clear law to be in place for this restriction to be applied. The restriction mutilates people's fundamental right to free speech online without spelling out a law which gives this sort of power to the government to do so. The absence of a law and the exercise of this form of governance based on blocking of a communication medium, calls to question the authoritarian treatment of the government towards the people of Kashmir. A clear and precise law when imposed on people enables them to foresee the consequences of their actions but in this case protesting or simply communicating on the internet and social media is assumed to cause a law and order situation and resorting to blocking of internet and social media is perceived by the government as a means to maintain " public order". No doubt the state is classified as a " disputed area" and a " disturbed land" but snatching their freedom to express themselves in no way qualifies as provided by law. The IT Act of India (2008) is the only official document on IT provisions and restrictions which doesn't under its scope cover when and why internet services and social media can be blocked by the government.

Therefore, this sort of blocking of a means of communication is illegitimate and not provided by law. Therefore, this restriction on freedom of speech and expression in this case, fails the part ' provided by law' as specified in the 3-part test in Article 19(3) of the ICCPR. Interpretation: The government cannot at its whim and fancies block internet services and social media pages which is today's times is a vital means of communication. For people of Kashmir, it is also the only platform to communicate with people outside Kashmir (what with the government ban on SMS in the state) and to stay in touch with the world just like every other Indian does. If India proudly claims Kashmir as a part of it; then India must exercise the same laws and regulations to Kashmir in terms of communication as are applicable to the rest of the country. Why are their voices blocked or the means to express halted? It is hypocritical of the government of India to allow citizens of India to support a cause such as Anna Hazare though the use of social media because of urban public power and pressures from international communities while illegitimately keeping Kashmir cut from world news and thereby, scrutiny from international communities and human right associations. Disconnecting the people in such a manner is unacceptable in today's age. Internet is a basic facility and blocking it is as good as a state crime. Blocking the content on social media is infringement of privacy and illegitimate interference with freedom of speech. Therefore, to be fair and to justify its actions, the government needs to provide a good justification to the people of Kashmir to know what is prohibited with a valid reason for that prohibition so that they can act accordingly. A law is formulated in the best interest of citizens and not to wield unnecessary power in the hands of the

state. Therefore, in the wake of Article 19 (1) (a) and the absence of a law or an act prohibiting blocking of internet services and social media pages, the government ought to communicate to the citizens why such a blockage is required with such frequency at the outset of new strife in the region. Such conflicts occur in other states, still internet services aren't clogged. If so, then during the Mumbai Terror attack the government in the name of public order should have imposed similar restrictions. But, Mumbai is a completely different ball game with urban masses wielding powers to shake the government's reputation on a global platform. The fourth estate of the India democracy- the mainstream media does an excellent job at not just ignoring Kashmir but reporting news from the region in a passing reference. Forget questioning the political dogmas in the region, it doesn't even question if a law or a regulation exists for the government to be imposing this restriction! The IT Act of 2008 is vague and has no provisions stating the internet blackouts but then the state of J&K can make its own laws as per the constitution. Though true on paper, the state government is a mere agent in the hands of the government of India. Therefore, a scenario like this, gives the government discretionary powers that leave too much room for arbitrary decision-making. This is done to create a situation of uncertainty about what is permitted and what is not, with the aim of keeping the voices of Kashmiris gagged and suppressed, resulting in people steering far clear of any controversial topic for fear that it may be illegal, even if it is not. And for those who are ready to overlook the repercussions through their rebellion, the state exercises the restriction clearly not " provided by law".

2. '...LEGITIMATE AIM...'

Analysis: The list of legitimate aims is not open-ended and is provided for in Article 19(3) of the ICCPR: '...respect for the rights and reputations of others, and protection of national security, public order (ordre public), public health or morals' which are exclusive. In this case, the legitimate aim to limit the right to freedom of expression was in the name of protection of public order. But, when there is already a curfew imposed by the state, how does blocking internet services (which is nowhere provided by any law) and thereby limiting communication via social media sites disrupt public order?

Imposition of curfew would be a legitimate aim subject to the socio-political situation of the region in order to maintain public order. But in the case of the overnight hanging of Afzal Guru, the government clearly knew there would be protests for several reasons such as him being a Kashmiri, him not receiving a fair trial (as alleged by people of Kashmir), refusal of his family members to meet him before he was hanged and his mercy petition being denied by the President. The decision was that of Supreme Court which is the apex body of Indian Judiciary, but that in no way can deter a community from protesting in a democracy. The underlying motives of the government to limit movement in Kashmir was clear from the imposition of curfew few hours after the news of his hanging came out, but the underlying motive of the government to limit freedom of expression by plugging out internet services and blocking social media pages were incompatible with the notion of democracy India prides itself in. The aim was curbing voices and curbing movement with the effect of maintaining public order. It was considered important to take such means to not have an incidental effect which clearly

is an assumption the government made. Therefore, this sort of blocking of a means of communication is illegitimate and clearly the government did not have a "legitimate aim". Therefore, this restriction on freedom of speech and expression in this case, fails the part 'legitimate aim' as specified in the 3-part test in Article 19(3) of the ICCPR. Interpretation: The freedom of speech and expression is curbed under Section 5(2) in The Indian Telegraph Act, 1885 which is a provision created for another reason in an age and era when India was not independent and which in no way aligns itself to the digital revolution in the world, India is very much a part of. This limitation therefore, is not legitimate in its purpose and effect. This move by the government also creates suspicion with regards to the blockage seen as a part of a larger campaign to curtail the flow of information and to interfere with their access to online media. The Internet brings with it reporting opportunities thanks to citizen journalism, Twitter and the blogosphere dominating the social media scene. Many Kashmiris have mobile devices that allow them to capture images and videos, and share information. Hundreds of videos have been uploaded and shared on the Internet by people in the state. While they may lack context and a sense of impartiality, they provide snapshots of a society mired in conflict. In the past, Facebook and YouTube have been used by Kashmiris to highlight police abuse. For example, in 2012 when a video showing Kashmiri men being stripped and humiliated by police went viral, the government blocked the video (First Post, 2012). A special rapporteur to assess the condition of 'human rights defenders' in the Kashmir Valley appointed by the Geneva based Human Rights Council arrived in India in 2011 to file a report to the United Nations

Human Rights Council in Geneva. The Indian forces are responsible for grave human rights violations in the valley but such violations are not brought to justice or unknown to world. In the recent shocking leaks of whistle blowing website Wikileaks a U. S. diplomatic cable written concluded that the government of India overlooked torture of suspects held in detention centres in J&K. India always rejects any such claims of torturing detainees in Kashmir but the suffered people are still in poignant past. India has never been able to give space to any special justice courts here. No courts for ten thousand disappeared persons. No justice for custodial killings. No trials in rape cases. (Countercurrents, 2011). For Kashmir justice delayed is justice denied. In the wake of this, such restriction is not a " legitimate aim" and also illustrates clearly a desire to shield the government from criticism from international communities. This can never justify limitations on free speech especially for the people of Kashmir who have for long been silenced from voicing their opinions and feelings.

3. ‘...NECESSITY...’

Analysis: Media and internet blackout in Kashmir is neither provided by law nor does it have a legitimate aim as mentioned above. A ban on communication by ordering blocking of several Twitter and Facebook accounts and websites, blocking internet services and gagging media does not result in peace but instead curtails the basic right of citizens to exchange messages and communicate. If anything it causes discontent and challenges the faith of citizens in its government who should ideally be working in their best interest. Censorship and blockades of this sort is unnecessary in the absence of a clear law which has a legitimate aim. " Government can ban

certain class of messages and certain class of users, but definitely not a blanket ban of all services," said Sunil Abraham, executive director of Bangalore-based research organisation, the Centre for Internet and Society (The Economic Times, 2013). The government's move shows how it is taking content on the internet and posts on social media messages seriously. But, it fails to understand the nuisances of the internet. Blocking it today but not tomorrow will not deter people from voicing themselves post the blockage is lifted. During the times of public disruption, ban of communication services will only make things worse. Enlightened governments know this and act accordingly. According to some media reports, the State Home Department issued an order under Section 5 (2) of the Indian Telegraph Act 1885 to block the websites. " In the interest of public safety and for maintaining public order, the government directed all licensed telecom service providers and internet service providers to make arrangements to ensure that their subscribers in J&K should not be allowed to upload or download the contents." Because the government acted merely out of convenience and when analysed on a scale between ' useful' and ' indispensable', ' necessity' in this case will not be close to ' indispensable'. Especially, when this case is not a one off case but a routine behaviour adopted by the government, which is, to put a blanket ban on media and internet communication in Kashmir. The ban drastically hit people associated with academics, business, IT, economy and journalism. The Government and the Internet Service Providers should have come clean on the issue and told the users why the undeclared ban was imposed on Facebook and YouTube. The Internet Service Providers ought to be answerable considering users pay for such

facilities and are entitled for justification. The jamming triggers a debate in the light of freedom of speech and expression. The fact that the government, which is known to suppress voices in Kashmir is not even sparing internet services speak volumes about the state of affairs in Kashmir. There was no reason whatsoever for affecting the internet services and unfortunately, what the government doesn't realise is that it is pushing people to the wall by taking such drastic steps unreasonably. The government can resort to less intrusive measures to accomplish its objective of maintaining public order by imposing fine or penalty to the agitators who bring online debates and protests on ground. The point is when the entire India can protest against corrupt Indian government then why can't Kashmiris protest against what they feel? Why are their voices suppressed and not the rest of India's? The law should be universally applied to the entire country with Kashmir claimed as a part of it in the holistic sense of similar laws applying to it. It fails the test on grounds of the measure totally impairing free expression and restricting a broad and targeted audience in their legitimate expression as humans. The blanket ban on internet was too broad in anticipation of a possible protest offline and online when there is already curfew imposed and people are jailed inside their homes. Therefore, this sort of blocking of a means of communication is unnecessary. Therefore, this restriction on freedom of speech and expression in this case, fails the part 'necessary' as specified in the 3-part test in Article 19(3) of the ICCPR. Interpretation: The government doesn't deem it necessary to care about the voices of Kashmiris and acts as per its whims and fancies. Therefore, it fails even the third test as in a democracy such a situation can never be classified as necessary. The

purpose of the limitation clearly illustrates the government's efforts to shield itself from criticism and peaceful opposition. In the past, the government of India had urged private telecom operators to provide a mechanism for " fool-proof monitoring of internet traffic in the state of J&K especially for smart-phone users." The order was issued after the Indian Department of Telecom had found that monitoring equipment of at least two service operators did not comply with standards. The directives were issued at the behest of Indian secret agencies, which wanted to monitor the internet traffic in the occupied territory. A complaint was submitted to the Indian Home Ministry for action against the operations not willing to install the Internet monitoring system (Dawn. com. 2012). The impact of such measures by the government is in no way proportionate to its benefits and the harm it is causing to free speech is outweighing the benefits. Not only are Kashmiris living in a monitored internet environment but their connectivity is snapped at the drop of a hat. If this will not estrange them, then don't know what will? The Findings: The restriction on freedom of expression in Kashmir mars the very idea of democracy on which India always positions itself on the global political platforms. The restriction fails the 3 part-part test of Article 19(3) of the ICCPR. The restriction imposed in this case, was based on: An obsolete Indian Telegraph Act of 1885 which cannot be synonymously applied to internet, The IT Act of 2008 which states no provisions for blocking of internet services and social media pages, and, There being no state of emergency for Article 19 (1) (a) which gives freedom of speech and expression to the people of Kashmir to be curbed. Therefore, the restriction was not provided by law, had any legitimate aim or necessary. The ease,

with which webpages are blocked with or without emergency in Kashmir, is a straightforward clue to how susceptible to misinterpretation the law is in this case. The fact that means of communication can be blocked anytime should come as an alarm signal not just against freedom of expression, but crucially to depict the government's attitude towards Kashmir itself. The issue is no longer about exercising control over internet and social media but we ought to acknowledge that restriction of the law is controlled by those in power and needs to be framed more precisely if its misuse has to be stopped.

Proposed Solution:

Currently no law clearly provides for the broadcasting of the information online or the blocking or disruption of internet services and social media. The absence of the law in this case, leads to restriction imposed on the freedom of speech and expression as provided by the Article 19 (1) (a). There needs to be guidelines with regards to internet usage, consumption and operations both in times of emergency and without an emergency so that people understand what is expected out of them and what can be the consequences of their actions. But, the guidelines in no way should compromise free speech. In a democracy, free speech is an important tool for the country's citizenry which must not be curbed. Internet as a medium of communication is a revolutionary phenomenon enabling individuals across the globe to access, exchange, analyze, and create vast amounts of information and thereby enabling them to express themselves. India as a democracy needs to understand how important it is for it to give equal legislative status to the people of Kashmir as is enjoyed by the rest of India for them to perceive India as their country. There is a sense of alienation amongst the people of

Kashmir and the government needs to realise the sensitivity of the issue at hand to remove this feeling from the minds and hearts of the people of Kashmir. To eliminate this feeling the government should follow the laws in place, take calls on the basis of laws and not as per what its fancy chooses, amend vague laws if it wants to come out transparent to the people of Kashmir and allow people to vent out on social media which is a peaceful form of protest than the street protests. But, for these steps to be taken by the government, it needs to realise there is an issue and only then the solution can be sought by it in a sincere manner.

Conclusion:

" The smart way to keep people passive and obedient is to strictly limit the spectrum of acceptable opinion, but allow very lively debate within that spectrum - even encourage the more critical and dissident views. That gives people the sense that there's free thinking going on, while all the time the presuppositions of the system are being reinforced by the limits put on the range of the debate." (Noam Chomsky, 1998) Kashmir is created to be an amazingly complex issue by India and the freedom of speech and expression automatically becomes part of that complexity. This paper doesn't delve into all those complexities but analyses Kashmir from the single purpose of free speech. Therefore, this restriction should be done away with and the provision of freedom of speech and expression must be aligned with what is followed for the rest of India. This restriction is undemocratic to say the least. Right to freedom of expression and dissent has always been suppressed on the pretext of emergencies whether they were real or concocted (Farooq, 2012). People would have thought that with the advent of satellite TV and <https://assignbuster.com/india-a-constitutional-republic-and-representative-democracy-law-public-essay/>

internet, media would be free from regulations, censorship, and blackouts. Applicable elsewhere, this for sure, doesn't apply to Kashmir. For many citizens of Kashmir, Facebook is also an inexpensive form of communication with their friends and relatives in India or abroad as well as important as far as business is concerned. Personally, I feel this restriction is a gag on personal communication as Facebook, Twitter and YouTube have become sources of passing messages and information in today's world. Time and again, reports, whether from media or from various commissions appointed by the government, have stressed that there is a sense of alienation among the people of Kashmir which needs to be addressed and such restrictions will not help in alleviating this sense of estrangement.