



# General Assembly

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## Human Rights Council

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Agenda item 4

Human rights situations that require the Council's attention

### **Written statement\* submitted by the Jammu and Kashmir Council for Human Rights (JKCHR), a non-governmental organization in special consultative status**

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

[24 August 2014]

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

GE.14-14798 (E)



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## Occupied Palestinian territories

We are not living under Hobbesian and Lockean social contracts or in the times that guided the war machinery in World War I and World War II. The Purposes and the Principles of the United Nations Charter have transformed the world and set the community of nations on the path of a social movement of responsibility towards each other (developed towards developing) and how to meet this responsibility. Progress towards future global civic friendship, is the prerequisite for secure, informed and responsible love of one's country.

Some countries however, have used the influence of "Threat Power". These countries have used threat of power as their prerogative to exercise their power. Actually these countries have to make trouble to preserve the credibility of their threats. United States of America has used this influence of maintaining the credibility of its threats.

US policy of the influence of threats has served some useful purposes and falls into three main categories. American threats are generally sufficiently credible to shape events without actually being implemented. The expectations that a departure from US interests would lead the US to instil rational fear to motivate deference often prevents departure without the need for the US to express a specific threat. Thirdly the enduring threat power of the US can shape structures of incentives within which choices usually conform to US interests without intimidation by threats, express or implied.

Today the mighty and the meek nations all remain subject to Rule of Law, Human Rights and the Humanitarian Law in their conduct within their national borders or borders without. In the case of *Al Shimari v. CACI International Inc.* the Fourth Circuit Court of Appeals in Richmond, VA on 30 June 2014 ruled that victims of torture and abuse in Abu Ghraib prison could pursue legal claims for their abuse against private military contractors. The appeals court ruling overturned a lower court decision that had barred the survivors from suing U.S. corporations involved in the torture in U.S. courts. The decision recognized that CACI could be held liable in U.S. courts under the Alien Tort Statute (ATS) for its role in the torture.

United Nations, has created a Coalition Forum as is the case with the Independent Special Court for Sierra Leone. States may also create a Coalition Forum as was the case with the Nuremberg and Tokyo tribunals. Accountability has continued to progress into international tribunals. Principal among these is the International Court of Justice ("ICJ"). A second kind of international tribunal of great significance is the ad hoc variety established by the Security Council of the United Nations. Under Chapter VII of the United Nations Charter, the Security Council has the power to take measures to protect international peace and security. It was under its Chapter VII authority that the Security Council established the International Criminal Tribunal for the former Yugoslavia ("ICTY") and the International Criminal Tribunal for Rwanda ("ICTR") in order to adjudicate the atrocities committed in those countries.

Most serious crimes of international law, namely, war crimes, crimes against humanity, and genocide are the subject of The International Criminal Court. It was in this regard that The President of the Human Rights Council on 18 July 2014 at 6.00 pm Geneva time received a letter signed by the Permanent Representative of Egypt on behalf of the Arab Group, the Permanent Representative of Pakistan on behalf of the Organization of Islamic Cooperation and the Permanent Observer of the State of Palestine containing a request to convene a special session of the Council on the human rights situation in the Occupied Palestine Territory, including East Jerusalem, on Wednesday 23 July 2014. As required by the General Assembly resolution 60/251, the support of one-third of the membership of the Council (16 members) was required to convene a special session.

The merits of the request were so compelling that Council members, namely, Algeria, Benin, China, Cuba, Indonesia, Kazakhstan, Kuwait, Maldives, Morocco, Pakistan, Peru, Russian Federation, Saudi Arabia, South Africa, the United Arab Emirates and Venezuela (Bolivarian Republic of) and Observer States, namely, Brunei Darussalam, Ecuador, Egypt, Iran (Islamic Republic of), Malaysia, the State of Palestine and Turkey supported the request.

The adoption of Resolution S-21/L1 titled "Ensuring respect for international law in the Occupied Palestinian Territory, including East Jerusalem" passed by 29 in favour, 1 against and 17 abstentions at the 21st special session of the Human Rights Council in Geneva on 23 July 2014 has paved the way of a probe into the alleged 'war crimes' committed by Israeli war machinery on the streets and soil of Gaza.

An investigation into Israeli war crimes in Gaza is to be conducted. The lone vote of USA and support of some countries to frustrate the convening of a special session of UN Human Rights Council, could not save Israel from suffering the most comprehensive condemnation to date by the member States at the UN Human Rights Council, Observers and NGOs for its madness to kill, destroy, turn into debris the infrastructure in Gaza and its disregard for human rights and humanitarian law.

UN High Commissioner for Human Rights in her opening address to the 21st Special Session of the Human Rights Council convened to consider Human Rights Situation in the Occupied Palestinian Territory, including East Jerusalem made out a case for War Crimes against Israel in Gaza. A similar case of war crimes against Israel was made out at the Round Table Conference held in Islamabad, Pakistan on 19 July 2014. The Round Table was organized by Nazriya Pakistan Council (NPC). It was presided over by Mr. Zahid Malik, Chairman of the NPC and Palestinian Ambassador H E Mr. Walid A M Abu Ali was the chief guest. The RTC was attended by ambassadors of many Muslim countries, scholars from civil and military disciplines and members of the judiciary.

The Round Table ended with passing a unanimous resolution condemning the Israeli brutal aerial attack, in particular attack on a Care Home for Orphans and Handicapped in northern Gaza and killing of the disabled children. It urged the UN ,the world and Arab Muslim countries to go beyond the customary statements expressing their concerns over the atrocities and take practical steps to stop Israel from carrying out its aggression. The Round Table Conference called on UN Security Council to convene an emergent session on Gaza situation.

Late in the evening I saw a twitter post and could not resist but to show it to all in JKCHR office in Pakistan. It was a Palestinian child soaked in blood holding on to the collar of a Medic and saying, "Please don't leave me. All my family members are dead". I could not find the manner that could fit for crying on the occasion.

UN High Commissioner for Human Rights in her opening address to the 21st Special Session of the Human Rights Council has made out a case of war crimes as follows:

1. Respect for the right to life of civilians, including children, should be a foremost consideration. Not abiding by these principles may amount to war crimes and crimes against humanity.
2. These are just a few examples where there seems to be a strong possibility that international humanitarian law has been violated, in a manner that could amount to war crimes. Every one of these incidents must be properly and independently investigated.
3. The continued failure to properly ensure accountability on both sides following earlier escalations of hostilities in Gaza is of serious concern. The culture of impunity for alleged violations of international law invites further transgressions and the victims of the past become victims again. War crimes and crimes against humanity are two of the most serious types of crimes in existence, and credible allegations that they have been committed must be properly investigated. So far, they have not been.

JKCHR made its written input to the President of the UN Human Rights Council on Monday 21 July 2014. Israel has turned Gaza into an open air prison. She has restricted the civilians indoors and was denying men, women and children their right to seek safety. Israel was directly and intentionally targeting the civilians. Human Rights Council has done a commendable job and has not allowed the political agenda of some States to take over justice and human rights. It is regretted that some States were trying to equate the victim and the aggressor. The use of lethal weapons, prolonged blockade and belligerent occupation by Israel reverberates the globe.

A new Israel has been exposed to the world. War has replaced politics in Israel. A one-time victim community has turned into a victimiser. It is not only engaged in a genocide but in peace times operates a discriminatory policy against a section of the community. There is a widespread discrimination against Mizrachi Jews, that is, Jews whose families originate in Arab countries. Palestinians in Gaza strip live under different laws than their Jewish neighbours. Gaza needs our attention.