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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

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.

[25 February 2016]

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



Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

United Nations interest in Jammu and Kashmir is contained in the UN mechanism agreed to resolve the question of political right of self-determination through a free vote under the supervision of the United Nations. The second Secretary General of the United Nations Dag Hammarskjöld visited Srinagar (Kashmir) for two days on 20 March 1959 in a UN plane supplied (with crew) by the Italian air force. He was accompanied by Lieut. General Robert H. Nimo, Chief of the UN Military Observer Group in India and Pakistan (UNMOGIP). UN Security Council continues to remain seized of the “India-Pakistan Question”, previously designated as “The Kashmir Question” in para 13 of UN Security Council document S/641 of 9 January 1948.

United Nations had flagged all human rights, civil, political, economic, social and cultural rights, including the right to development in Jammu and Kashmir as a top priority. Para 12 of UN Resolution of 21 April 1948, while outsourcing duties on the question of Kashmir stipulates that, “The Government of India should themselves and through the Government of the State declare and make known that all subjects of the State of Jammu and Kashmir, regardless of creed, caste or party, will be safe and free in expressing their views and in voting on the question of the accession of the State and that there will be freedom of the press, speech and assembly and freedom of travel in the State, including freedom of lawful entry and exit”.

The UN Resolution had duly considered the State Subject Law of 20 April 1920 and visa requirement for an Indian citizen to enter Jammu and Kashmir until 31 March 1959. The State Subject Law gives a legal personality to the people of the State. Unfortunately, the part compliance of UN mechanism and part-non-compliance by the Government of India and by one of the three Governments of Jammu and Kashmir at Srinagar/Jammu have impeded the enjoyment of “all human rights, civil, political, economic, social and cultural rights, including the right to development”.

Although under the Constitution of Jammu and Kashmir adopted in November 1956, which itself remains under a caution of UN Security Council Resolution of 31 March 1955, the State has a duty to ‘foster equality and secularism’, ‘wherein justice – social, economic and political, shall inform all the institutions of national life’, the ‘Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development’ in Jammu and Kashmir has emerged as a serious cause of concern.

Government of India charged with an obligation in para 13 in respect of human rights, to assist the Government of Jammu and Kashmir, has itself slapped curbs on the dissent by minorities and seems to have turned into a racist nation. The administration of justice is influenced by mob pressures and political compulsions. The latest dissent has come from a Dalit (low caste Hindu) Justice C.S. Karnan of the Madras high court. On Monday 15 February 2016 he had to march out of his chamber situated on the second floor of the court building and reach the gate in quick time to tell the media at the gates that India “is a racist nation” and he was “ashamed to be born here”. He also declared he would “cancel my birth right” and migrate to “a country where there is no racism”.

There are genuine questions about the life of minorities in India and more serious questions about the administration of justice, when it came to Kashmiri Muslims, like Maqbool Bhat, Afzal Guru and Indian Muslim *Yaqub* Memon. The rightful activity to examine the manner of capital punishment awarded in Delhi to a Kashmiri Muslim Afzal Guru organized at JNU has been declared as sedition. India needs to rush fast to a collective soul searching and examine the dark side of its intemperance.

The sedition charges levelled against Kanhaiya Kumar President JNU Students Union (prominent student leader in India), Professor Syed Rahman Gilani a Kashmir Muslim in Delhi, hunt for Umar Khalid a Ph.D. Student (Indian Muslim) at JNU and hunt for many others have shocked all conscientious Indians and other people around the world. People like Kanhaiya Kumar a Hindu and with a huge following at JNU and countrywide strong political support has been falsely framed for shouting Azadi from Casteism, Brahmanism, Feudalism and Manova. The implication is that Kumar was demanding freedom for the state of Kashmir from the nation of India. The sequence of events after Afzal

Guru event at Jawaharlal Nehru University (JNU), in particular unleashing a Taliban type mob justice at Patiala House court complex is more than an alarm.

Residences of scores of Kashmiri students studying in New Delhi were raided by Delhi Police at night and they were being harassed. The parents of these students have expressed grave concern over the raids and harassment of their wards by Delhi Police. The raids have been carried out in Malviya Nagar in South Delhi, Lajpat Nagar, Fareed Abad and other localities.

Life and habitat in Jammu and Kashmir has been passed into the control of Indian security forces and the police. In July 2016 the people of the State will complete 26 years living under Armed Forces Special Powers Act (AFSPA) invoked on 5 July 1990. It is a controversial law and public debate has continued for its revocation. There is a confrontation between the State political leadership and the Indian Army, which remains in violation of the restraints placed on them in the agreement allowing their admission in the State and a violation of the restraints placed on their number, behaviour and location in para 2 {c} - (i) to (iii) of UN Security Council Resolution of 21 April 1948.

In the past 26 years excesses have been committed with impunity under AFSPA. A complete generation of Kashmiri Muslim youth has been killed. International Human Rights body Amnesty International (AI) in its latest Kashmir report has strongly demanded the revocation of AFSPA keeping in view the rights violations being committed under its cover. It is a disturbing situation that Indian authorities are not only targeting the Kashmiri Muslim youth in various institutions or businesses in India but the Kashmiri Muslim youth remains a target population in the Valley. A generation has been killed in the last twenty five years, there is an army of disabled youth, they are unemployed, indexed for security clearance and the majority is nervous and stressed. Conscientious Indians like former Chief Justice of Delhi High Court *Rajindar Sachar* and the "Father of the Civil Liberties movement" in India Justice *Vithal Mahadeo Tarkunde* of Bombay High Court have advocated in their reports the cause of Human Rights situation in Kashmir.

Police have constituted special cells for monitoring social media site. Currently over 100 online groups are under scanner. Youths, mostly minors (juveniles) have been arrested on charges of stone throwing by the police. Police has made a regular feature of their daily discipline to continue a massive search-and-arrest operation in various parts of the Kashmir, Valley. Police has also announced an increase in the reward money to assist in identifying and killing of youth designated under five categories, namely, A++, A+, A, B and C. The reward money ranges from Indian Rupees 2 lakh to Rupees 12.5 lakh. Three Kashmiri youths were lured by counter-insurgents in April 2010 with the promise of Army jobs and handed over to the Army personnel, who shot them at point-blank range in order to earn cash rewards meant for those who eliminate militants. The counter-insurgents were paid off to deliver the youths to the Army personnel for the 'encounter'. From beginning to end the 'encounter' was part of a cynical and ruthless project to claim the monetary rewards set aside to eliminate militants.

The recent encounters with alleged militants in Pulwama and their death and the three-day-long gunfight in EDI building at Sempora, Pampore killing 3 alleged militants in the second encounter carries a strong ring of suspicion that the State has a "well-planned conspiracy to annihilate and wipe out the entire generation of Kashmiri youth." It is for the first time that the three slain alleged militants were not handed over to locals for burial according to Muslim rituals but were buried in the darkness of the night in Gantmohalla Colony, a few meters away from police station Sheeri, near the border. Unless the security forces had to hide the genuineness of the three day gun fight and identities of the three killed, there should have been no need to carry out the burial at midnight and away from peoples reach.

UN Human Rights Council and Human Rights Commission have been listening to the voices of the people of Jammu and Kashmir in regard to Human Rights situation on the Indian side of Kashmir. It is time that the Human Rights Council takes positive steps to monitor the "Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development in the disputed Jammu and Kashmir.