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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.

[28 August 2016]

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

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

The debate on the Promotion and protection of all human rights at the 33rd session of UN Human Rights Council would further improve and set standards of a civilised narrative for people around the globe to follow in the interests of building a constituency favourable to the enjoyment of a full regime of human rights. The geographic distribution of the Council's membership follows the representation of different civilizations and legal systems. JKCHR wishes the Council a useful inter-active session which would cause an improvement in the human rights situation on the ground in many parts of the world.

One such situation where the human rights have continued to occupy time and attention since the UN World Conference on Human Rights held in Vienna in June 1993 is the habitat of Jammu and Kashmir and its people. These people were clubbed with the Unrepresented Peoples and Nations and were represented at the Plenary and the Main Committee accordingly. JKCHR had the honour to be elected to represent the Unrepresented Peoples and Nations.

The question of equality and self-determination of the people of Jammu and Kashmir, currently distributed and living on either side of the cease fire line, supervised by UNMOGIP since January 1949, is pending for holding a free vote under the supervision of the United Nations. United Nations has described these people as, "a people of legend, song and story, associated with snow-capped mountains, beautiful valleys and life-giving waters". Very little would the elders of world diplomacy in January 1952 attending the 570th, 571st and 572nd meetings of the UN Security Council, have known that these people shall have to suffer a 50 days continued curfew in July and August 2016. It would never have crossed their imaginations that there would a UN Code of Conduct for Law Enforcement Officials in 1979 and it would be violated in the Indian controlled part of Jammu and Kashmir in 2010 onwards.

It merits the attention of this Council that right of peoples to equality and self-determination entertained by the United Nations in favour of the people of Jammu and Kashmir, has remained a cause of gross and systematic violations of Human Rights of these people. Curfew and shutdown has been in force in the Valley since 9 July 2016 a day after the killing of a young State Subject Burhan Wani by Indian security forces. People of Kashmir Valley face 50th day of curfew today on 28 August 2016. They have been braving the bullets, pellets, tear gas shells and the stone pelting by Indian security forces and by the state police.

So far 88 people have died at the hands of police and paramilitary forces, 8500 civilians have sustained injuries, 3812 people have been hit by pellets, 547 people have been hit by bullets, 2343 people have been injured after being hit by tear smoke canisters fired by police, 354 persons have sustained injuries in beating, 880 are injured in stone pelting by forces, 1405 have sustained pellet injuries in the eyes, 47 persons have sustained injuries during stampede and 7472 patients have been discharged from the hospitals as on 27 August 2016.

Police have fired live ammunition including bullets, pellets and thousands of tear gas shells. Pellet guns were introduced by police and paramilitary forces in 2010. Indian security forces and Kashmir police have violated the Code of Conduct set by United Nations for the use of firearms.

Life under curfew restricts movement, which results in the infringement of all Human Rights. Curfew in itself is a Human Rights abuse, as people are not permitted to lead their lives according to their own choice. Therefore a state is not protecting or promoting Human Rights if movement is restricted.

Social and Cultural rights are being violated - people are unable to attend social gatherings or get together. By not being able to interact with others on a daily basis, Kashmiris are facing a life of isolation, which can have a negative impact, which can have repercussions both mentally and physically. Mental health condition can be developed due to the strain caused on the mind and body.

Something as trivial as shopping is affected under curfew. People are unable to browse markets freely and at their own pace and leisure. But this can have serious repercussions when someone is in dire need of medication or anything related to health. This could result in a matter of life and death.

People are unable to perform religious duties as they are unable to attend the Mosque, due to restricted movement. This goes against the right to religious freedom. Political rights are virtually nonexistent in Kashmir. Elections may be held but there is restriction on any form of protest or demonstration that is politically motivated. Crowds and protestors are either aggressively dispersed, or hit with pellets. Right to protest is disregarded and labelled as anti-state activity.

Right to development can be seen on two levels. One is economic development through trading and the other is development of individuals as part of a nation. If a curfew is enforced continuously then that has a direct effect on local businesses and trading. People's livelihood is at stake, forcing people to sit at home idly. And this restricted lifestyle hampers the development of individuals as well. People cannot develop individually if their routine remains the same day in and day out, and it is a hindrance to their progression.

We are faced with a situation where the people of Indian controlled Kashmir have been reduced to a process of life and are denied a quality of life. It is not only in normal circumstances that there have been serious issues with the "Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development" but in particular the rights guaranteed in Para 12 of the UN Security Council Resolution of 21 April 1948 to the people of Kashmir are being denied. Indian Government has deployed one soldier for every twenty Kashmiris and while as it has one teacher available for every hundred children. A tug of war has been going on between the people of Jammu and Kashmir who want to exercise their freedom of vote as resolved by the United Nations and the Indian Government's use of military forces to humble an unwilling people against their choice.

Council needs to consider the merits of Para 14 of the UN Security Council Resolution of 21 April 1948 and note how violently the rights of the people of Kashmir guaranteed by the United Nations have been denied by the Indian state. Para 14 directs Indian state that, "The Government of India should ensure that the Government of the State releases all political prisoners and take all possible steps so that:

- (a) All citizens of the State who have left it on account of disturbances are invited, and are free, to return to their homes and to exercise their rights as such citizens;
- (b) There is no victimization;
- (c) Minorities in all parts of the State are accorded adequate protection.

In violation of this guarantee Indian Government has continued to deny 2.5 million Kashmiri refugees, that is, five generations the freedom of a lawful entry and exit as guaranteed in Para 12 of the UN Security Council Resolution of 21 April 1948. As against this Pakistan continues to allow these Kashmiri refugees settled in various provinces of Pakistan a freedom of vote in their Kashmir assembly at Muzaffarabad, Azad Kashmir and in the National and Provincial assemblies of Pakistan.

People of Jammu and Kashmir, in particular those living under Indian control and their human rights could not be abandoned by the Council and the United Nations in aggregate. There is an urgent need that the Council visits the 4 stipulations entered in the temporary agreement allowing entry of Indian forces as a sub-ordinate force into Kashmir and the other three stipulations entered in Para 2 (c) of the UN Security Council Resolution of 21 April 1948 on their behaviour, number and location. The current situation is at variance with all the seven stipulation governing the temporary entry and the presence of the Indian army in the State. It is at war with a people and in the process we continue to lose lives and suffer atrocities. Council has to take a proactive and an imaginative step to remove this threat to the enjoyment of human rights in Kashmir.

JKCHR would recommend that the Council seeks to visit the jurisprudence of UN Resolutions on Kashmir. Para 5 of UN Security Council Resolution of 21 April 1948 provides an interim solution. The current presence of local and Indian forces is savaging the life, honour and the property of the people and is inadequate to meet the challenges. People of Kashmir have a grievance against the Indian army and it is viewed to have committed crimes against humanity as well. Council should recommend to the UN Security Council and the General Assembly, that until there is a free vote under the supervision of the United Nations, an agreement has to be made to use the forces of both Dominions of India and Pakistan, for the purpose of 'pacification'.