



# General Assembly

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## Human Rights Council

### Fortieth session

25 February–22 March 2019

Agenda item 2

**Annual report of the United Nations High Commissioner  
for Human Rights and reports of the Office of the  
High Commissioner and the Secretary-General**

## **Written statement\* submitted by World Muslim Congress, a non-governmental organization in general consultative status**

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

[6 February 2019]

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\* Issued as received, in the language(s) of submission only.



## **UN High Commissioners Report on the Situation of Human Rights in Kashmir: June 14, 2018 – The Need for Action by the Human Rights Council**

The Office of the United Nations High Commissioner for Human Rights has highlighted in the 14 June 2018 “Report on the Situation of Human Rights in Kashmir, a long list of human rights violations in Kashmir. The Report recommended to the Human Rights Council “Consider the findings of this report, including the possible establishment of a commission of inquiry to conduct a comprehensive independent international investigation of human rights violations in Kashmir.”

The Report catalogued 14 serious ongoing human rights violations committed by the Indian Armed Forces and government authorities against the people of Indian administered Kashmir. The Report was met with fury and abuse by the Indian Government whose representatives called the report ‘fallacious’ and ‘tendentious’ and ‘not worthy of consideration’, and attempted to discredit the Report, the Human Rights Commission, and the integrity of the High Commissioner. India’s deputy permanent representative to UN described the report in a debate at the Security Council as “reflecting the clear bias of an official who was acting without any mandate whatsoever and relied on unverified sources of information; a document that was not even found fit to be considered by the membership of the forum where it was submitted”.

In his Opening statement and global update of human rights concerns by UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein at 38th session of the Human Rights Council on 18 June 2018, the High Commissioner said, “I encourage the Council to consider establishing a Commission of Inquiry for a more comprehensive investigation of the human rights situation in Kashmir, and reiterate my calls for access.

The Secretary General of the United Nations, António Guterres, in responding to a question on the Report at a press conference at the United Nations Headquarters on 12 July 2018 said, “As you can imagine, all the action of the Human Rights High Commissioner is an action that represents the voice of the UN in relation to that issue.”

The spokesperson of the Office of the High Commissioner for Human Rights, Rupert Colville, in a press briefing statement on 17 July 2018 expressed deep disappointment at India’s reaction to the report. The spokesperson said, “We are disturbed by the sustained attempts to distract and divert the focus away from the human rights violations on both sides of the Line of Control. The UN Human Rights Office has a global mandate and works independently, with a well-established methodology, in its public reporting. Ultimately, our goal in drafting this report was to assist the States and others to identify and address human rights challenges and to give a voice to all Kashmiris who have been rendered voiceless amid the deep political polarization. This is not about politics. It is about the human rights of millions of people in Kashmir. And we will continue to try to engage with Indian and Pakistani authorities on this and other important human rights issues, and press for access to both Indian-administered Kashmir and Pakistan-administered Kashmir.”

In her Opening Address to the 39th Session of the UN Human Rights Council, High Commissioner Michele Bachelet said when addressing issues related to India, “In Kashmir, our recent report on the human rights situation has not been followed up with meaningful improvements, or even open and serious discussions on how the grave issues raised could be addressed. The people of Kashmir have exactly the same rights to justice and dignity as people all over the world, and we urge the authorities to respect them. The Office continues to request permission to visit both sides of the Line of Control, and in the meantime, will continue its monitoring and reporting.”

Recalling the recommendations to the Government of India on Kashmir in the High Commissioner’s Report:

1. Fully respect India’s international human rights law obligations in Indian-Administered Kashmir,

2. Urgently repeal the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990; and, in the meantime, immediately remove the requirement for prior central government permission to prosecute security forces personnel accused of human rights violations in civilian courts;
3. Establish independent, impartial and credible investigations to probe all civilian killings which have occurred since July 2016, as well as obstruction of medical services during the 2016 unrest, arson attacks against schools and incidents of excessive use of force by security forces including serious injuries caused by the use of the pellet-firing shotguns;
4. Investigate all deaths that have occurred in the context of security operations in Jammu and Kashmir following the guidelines laid down by the Supreme Court of India;
5. Investigate all cases of abuses committed by armed groups in Jammu and Kashmir, including the killings of minority Kashmiri Hindus since the late 1980s;
6. Provide reparations and rehabilitation to all individuals injured and the family of those killed in the context of security operations;
7. Investigate and prosecute all cases of sexual violence allegedly perpetrated by state and non-state actors, and provide reparations to victims;
8. Bring into compliance with international human rights standards all Indian laws and standard operating procedures relating to the use of force by law enforcement and security entities, particularly the use of firearms: immediately order the end of the use of pellet-firing shotguns in Jammu and Kashmir for the purpose of crowd control;
9. Amend the Jammu and Kashmir Public Safety Act, 1978 to ensure its compliance with international human rights law;
10. Release or, if appropriate, charge under applicable criminal offences all those held under administrative detention and ensure the full respect of standards of due process and fair trial guaranteed under International law;
11. Treat any person below the age of 18 who is arrested in a manner consistent with the Convention on the Rights of the Child;
12. Investigate all blanket bans or restrictions on access to the Internet and mobile telephone networks that were imposed in 2016, and ensure that such restrictions are not imposed in the future;
13. End restrictions on the movement of journalists and arbitrary bans of the publication of newspapers in Jammu and Kashmir.
14. Ensure independent, impartial and credible investigations into all unmarked graves in the state of Jammu and Kashmir as directed by the State Human Rights Commission; if necessary, seek assistance from the Government of India and /or the international community. Expand the competence of the Jammu and Kashmir State Human Rights Commission to investigate all human rights violations and abuses in the state, including those allegedly committed by central security forces;
15. Ratify the International Convention for the Protection of all Persons from Enforced Disappearance, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol, and introduce enabling domestic laws as recommended during India's UPR in 2008, 2012 and 2017;
16. In line with its standing invitation to the Special Procedures, accept the invitation requests of the almost 20 mandates that have made such requests; in particular, accept the request of the Working Group on Enforced or Involuntary

Disappearances and facilitate its visit to India, including to Jammu and Kashmir;

17. Fully respect the right of self-determination of the people of Kashmir as protected under international law.

To date, not one of these recommendations of the Report have been implemented by the Government of India and the human rights violations against the people of Kashmir continue unabated and have been escalating in recent times. The lives of the people of Kashmir continue to be at risk if the Council and international community look away.

The Human Rights Council must not let the suffering of the people of Kashmir be further prolonged. The Council must take further steps to ensure the Report is not allowed to be buried by inertia or aggressive lobbying, and that the recommendations contained in the Report, and, in particular, the establishment of a commission of inquiry to conduct a comprehensive independent international investigation of human rights violations in Kashmir, are fully implemented.

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