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Human rights situations that require the Council's attention

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.

[29 January 2021]

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



The human rights situation of Indian administered Jammu and Kashmir requires Council's special attention

Jammu and Kashmir

Jammu and Kashmir is a United Nations (UN) recognized disputed territory for which UN had passed a number of resolutions for its final disposition. Amongst these, the resolutions of 13th August 1948 and 5th January 1949 provides basis and structure for final disposition of Jammu and Kashmir according to the will of the people to be expressed in a free and fair plebiscite conducted under the auspices of the United Nations. Besides, these resolutions were agreed upon by India and Pakistan, thus making these resolutions as international agreements of binding force, in addition to being UN resolutions.

In 1948 the UN Security Council (UNSC) passed unanimous resolutions under which the people of Jammu and Kashmir were to determine their own future through a "fair and impartial plebiscite under the auspices of the United Nations". The Government of India has persistently refused to permit the Kashmiris to exercise this right. Consequently, the Kashmiris continue to sustain devastation and gross human rights violations inflicted upon them by the Indian military and para-military forces.

India undemocratically and unlawfully claims the territory of Jammu and Kashmir as its "integral part". This claim is belied by India with the use of massive force, one of the largest military deployments in the world and the consistent abuse of human rights.

It is research study that there have been as many as 10,000 disappearances along with a great number of summary executions. Rape and torture are commonplace; freedom of speech is curtailed as is freedom of expression and the right to free assembly is seen nowhere.

Kashmiris are seeking their right to self-determination, as promised to them by the international community through the UNSC resolutions and the UN Charter. General Assembly resolution 62/144 passed on the 28th of February 2008 reaffirms that, for the effective observance of human rights there must be universal access to the right to self-determination; recalls the relevant resolutions regarding the violation of the right of peoples to self-determination and other rights as a result of foreign military intervention, aggression and occupation. Critically it: "calls upon those states responsible to cease immediately their military intervention in and occupation of foreign countries and territories and all acts of repression, discrimination, exploitation and maltreatment, in particular the brutal and inhuman methods reportedly employed for the execution of those acts against the people concerned."

The Office of the UN High Commissioner for Human Rights June 2018 report has called upon India and Pakistan to "fully respect the right of self-determination of the people of Kashmir as protected under international law." Pakistan is demanding the implementation of UN resolution but India is continuously rejecting the UN resolutions and on 5th August 2019 has unilaterally annexed Jammu and Kashmir as Union territories in two parts. This action is against the UN resolutions and international law. This is done with the policy to change the demographics of the disputed Jammu and Kashmir. By changing the demography of Kashmir, India is seeking to create new facts on the ground in pursuit of its forcible integration of the state. The Indian moves are in violation of the international status of Kashmir as disputed territory and of India's obligations under Security Council resolutions.

Indian disregard to medical neutrality

Indian forces have exhibited blatant disregard for international laws protecting the medical neutrality of health care workers and medical facilities in Kashmir. Their actions have made an already dangerous situation for health care workers in the state increasingly desperate and have contributed to the deaths of those needing medical care in the region.

The Indian forces have deliberately prevented injured persons from receiving medical care. Doctors, ambulance drivers and other health care workers have testified that Indian forces have shot ambulance drivers, arrested patients from hospitals over the objections of doctors, and even removed them from intravenous medications or other treatments, and opened fire within hospitals.

The Indian forces have not only prevented health care workers from carrying out their duties, but have arrested and tortured medical professionals because they have carried out those duties.

Preventing medical personnel from transporting the wounded

Indian forces in Kashmir have systematically violated these provisions by preventing medical personnel from evacuating injured persons for medical treatment.

Ambulance drivers have been among the principal victims of these actions. Drivers are frequently stopped while on duty, and a number have been fired on and beaten by security personnel. In some cases, the drivers have been detained, tortured and killed.

Persecution of Kashmiris

Persecution of Kashmiris in different parts of India is part of Indian state policy. The object behind this is to create insecurity and fear among Kashmiris, especially students at various Indian universities.

According to the data compiled by Association of Parents of Disappeared Persons and Jammu Kashmir Coalition of Civil Society, at least 22 incidents of harassment and persecution of Kashmiris in India were reported this year in which 24 Kashmiri students were assaulted and 19 were arrested.

Violation of children rights

The children in Kashmir under Indian occupation, have become the worst victims of violence. The children have been arrested, assaulted and killed by the Indian troops. Children in Kashmir have been disappeared for years together and their parents still wait for their back. The Indian forces arrest children from the school and jailed in different parts of India, thousands of kilometres away from homeland - the Kashmir, this all is done to deprive them from legal aid and also to deprive their parents to see their children. This situation has created a mental syndrome for the parents in Indian administered Kashmir.

Freedom of assembly

The right to assemble peacefully is an essential condition for the exercise of other human rights such as the freedom of expression. As a true foundation of democracy, the right to assemble is guaranteed by major human rights treaties.

Human rights defenders face reprisal

In administered Kashmir, human rights defenders face reprisal by Indian Government for cooperating with UN procedures. Human rights defenders are labelled as insurgents and facilitators of anti-national elements. This is an attempt to discredit their work and justify their targeting.

The Indian government scrapped a 70-year-old law of the Indian Constitution on 5 August last year, Article 370, which guaranteed the region autonomy in its internal affairs. The government also struck down another crucial legal protection, Article 35A, which forbade Indians from becoming domiciled in Jammu and Kashmir and barred them from settling in the region. The Indian authorities imposed severe restrictions on people's movement –

ailing medical patients and school going children included and blocked communication completely in Indian administered Kashmir, halting cell phone and internet service.

Kashmiri detainees in overcrowded prisons

In Indian administered Jammu and Kashmir, Kashmiri detainees have been lodged in overcrowded prisons with lack of sanitation and health care. The Central Jail there has become COVID-19 epicenter as 35 fresh cases were reported in Srinagar Central Jail. The life of Kashmiri detainees are at very high risk as there is neither social distancing or medicine or mask given to detainees.

Violations of human rights standards

- Attacks on ambulances are a clear violation of international humanitarian laws.
 - The duty of treating the wounded / sick and protection of medical facilities and personal has been at the core of international humanitarian laws.
 - These attacks by State forces are against the Geneva Convention of 1949 and the two additional Protocols of 1977.
 - These attacks are against the UN Security Council Resolution 2286 (2016) that strongly condemns attack on medical facilities.
 - The excessive use of force and use of live ammunition on protestors by Indian armed forces is violation of UN Basic Principles on the Use of Force and Firearms by the Law Enforcement Officials.
 - Attacks and restrictions on peaceful assembly is violation of right to freedom of expression (Article 19 of the Universal Declaration of Human Rights) and free assembly (Article 20 of the Universal Declaration of Human Rights and International Covenant on Civil and Political Rights - Article 21).
 - The state sanctioned impunity is against international human rights law.
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