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Follow-up and implementation of the Vienna Declaration and Programme of Action

Written statement* submitted by International Muslim Women's Union, 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 January 2024]

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



Vienna Declaration and Programme of Action and Right to Child

World Conference affirms the commitment to the UN Charter and the Universal Declaration of Human Rights along with the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights and states that “the Conference affords a unique opportunity to carry out a comprehensive analysis of the international human rights system and of the machinery for the protection of human rights, to enhance and thus promote a fuller observance of those rights, in a just and balanced manner.

The deceleration expressed grave concern about massive human rights violations in the form of genocide, ethnic cleansing, and the systematic rape of women in war situations as well as “continuing human rights violations in all parts of the world in disregard of standards as contained in international human rights instruments and international humanitarian law and about the lack of sufficient and effective remedies for the victims.” It then “calls upon States and all parties to armed conflicts strictly to observe international humanitarian law, as outlined in the Geneva Conventions of 1949 and other rules and principles of international law, as well as minimum standards for protection of human rights, as laid down in international convention. Concerning the rights of the child, the Declaration:

- urges “universal ratification of the Convention on the Rights of the Child by 1995 and the universal signing of the World Declaration on the Survival, Protection, and Development of Children and Plan of Action adopted by the World Summit for Children (1990), as well as their effective implementation” and urges States to withdraw reservations concerning the Convention;
- urges all States to place priority on “reducing infant and maternal mortality rates, reducing malnutrition and illiteracy rates and providing access to safe drinking water and to basic education” and to take effective action against female infanticide, harmful child labour, sale of children and organs, child prostitution, child pornography and other forms of sexual abuse; and
- supports measures to protect and facilitate assistance to children in war zones.

Conflicts have a devastating impact on children's well-being across the globe. An estimated 420 million children today, live in conflict zones including the Middle East, Indian-Administered Jammu and Kashmir, and the State of Palestine. They continue to suffer from extreme violence and abuse. Perpetrators of violence are committing atrocities with impunity which puts the lives of millions of children at risk.

Generations of Kashmiris have known nothing but violence, detentions, killings, imprisonments, displacements, rape and abuse. The impact of such an environment is profound and shapes lifetime attitudes. Children in Indian Administered Jammu and Kashmir have also come under direct attacks of such abuses. Their schools and homes are bombed, and their families are tortured and killed which impinges on their physical and mental health.

The Kashmiri children have been heavily affected by the presence of heavy militarization which has deeply impacted them, their entire lives as well as impeded their development. The structural changes in society have immensely obstructed their values and they have entirely lost a sense of security and peace of mind.

Having grown up amidst the cycle of violence, today they are trapped by the horrors of violence that have left them traumatized and bereaved. Living under the heavy blockades and extreme economic hardships, they are amongst those who have been hit the hardest. Ever since the revocation of Article 370, the children of Indian-Administered Jammu and Kashmir have been beaten up and tortured in custody, leaving them scared and their families helpless. In 2019 only, Indian forces detained 144 minors under the Public Safety Act (PSA) and Armed Forces Special Powers Act (AFSPA) for ‘protesting against the Indian decision.’ Self-accounts of some of the children who were released testified to abuse and torture.

Article (7) of the International Covenant on Civil and Political Rights (ICCPR) and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) prohibits torture. Article 37 (a) of the Convention on the Rights of the Child specifically obliges states to ensure that “No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.”

According to the ‘Institute of Mental Health and Neurosciences Kashmir’ (IMHANS-K), it has seen around 200 mental trauma cases among children in the year 2020, marred by repeated crackdowns, encounters, tortures, detentions, and killings in Indian-Administered Jammu and Kashmir. According to their statistics “around 80% of the affected children belonged to pre-adolescence and early adolescence age groups. Most children identified the presence of forces as a trigger for anxiety, petulance, and anger. Many were having flashbacks, inducing episodic sightings of trauma, fright, scary dreams, and sleep disorders.”

A 2018 study ‘Prevalence of Childhood Mental Disorders Among School Children of Kashmir Valley’ from Community Mental Health Journal uncovered the ratio of school-going children with mental disorders in the valley stating, “The most commonly found mental disorders were of anxiety (8.5 percent), followed by mood disorders (6.3 percent) and then behavioral disorders (4.3 percent).”

According to the report released by the research section of ‘Kashmir Media Service’ on the occasion of World Children’s Day, “Children are the worst victims”. It revealed that 919 children are among more than one hundred thousand people martyred by army, paramilitary, and police personnel since 1989 to date. Furthermore, the killing of civilians by the forces rendered 107,934 children orphaned in Indian-Administered Jammu and Kashmir. It added that hundreds of persons including 19-month-old Hiba Jan, 4-year-old Zuhra Majeed, 8-year-old Asif Rashid, 8-year-old Owais Ahmad, 10-year-old Asif Ahmad Sheikh and 13-year-old Mir Arafat lost their eyesight totally and partially due to pellets fired by Indian forces in the territory.

Rampant use of weapons like cluster munitions and shotguns makes no distinction between adults and children. The use of shotguns time and again has caused thousands of injuries and blinded hundreds. According to Human Rights Watch, from July 2016 to February 2019, 6221 people were injured by shotguns, 139 were blinded and 782 had eye injuries including children. The youngest pellet victim in Indian-Administered Jammu and Kashmir was 18-month-old H. N. who was struck inside her house by the Indian forces.

Article 3 of the Code of Conduct for Law Enforcement Officials (1979) clearly states that: “Law enforcement officials may use force only when strictly (reasonably) necessary and to the extent required for the performance of their duty.” Furthermore, Special Provisions of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990) set basic principles for the use of arms and non-lethal weapons and states that: “In any event, intentional lethal use of firearms may only be made when strictly unavoidable to protect life.” Hence such or any weapons can thus only be used if there is grave danger of death or injury that cannot be averted otherwise. This brings into question the harm an 18-month-old would have possibly inflicted on the forces that pushed them to hit her to the extent that her life was endangered.

Article 6 (1) of ICCPR declares and compels that “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”

Exposed to all kinds of violations and a sense of injustice, many children have to live with shattered families. The profound loss of a parent(s) or family member(s) and separation in childhood increases their hardships. The absence of peace and spectra of violence has caused depression leading to anorexia nervosa (an eating disorder) and phobic anxiety.

The extent, intensity, and impact of the violence inflicted upon children in Indian-Administered Jammu and Kashmir hint at systematic breaches of international civil and criminal law.

Nevertheless, India systematically violated the fundamental rights that the Indian government is morally and legally obliged to provide to the children of Indian Administered Jammu and Kashmir with impunity.

The evaluation and screening of mental health issues for the population affected by conflicts is generally difficult. In the case of Indian-Administered Jammu and Kashmir, where communication blackouts and lockdowns are rampant, access to information and services is a challenge.

Research on children's mental health, especially in Indian Administered Jammu and Kashmir, has not been a priority, therefore, the research targeting children who need it the most is lacking. There is a dire need to prioritize and establish mechanisms to assess and support the needs in Indian-Administered Jammu and Kashmir.

A combined universal integrated approach is required to compel India for the implementation of mechanisms for the protection of children's rights. To uphold international laws and standards, the restrictions that avert necessities of life and healthcare shall be removed. Keeping in view the harms and casualties of children in Indian-Administered Jammu and Kashmir, strong monitoring and mechanisms are required to hold the violators accountable.
