



# General Assembly

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## Human Rights Council

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Human rights situations that require the Council's attention

### **Written statement\* submitted by the Jammu and Kashmir Council for Human Rights, 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.

[14 May 2013]

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

## **Elections: Jammu and Kashmir\***

The world community represented in the United Nations shares the incredible massive interest shown by all citizens of the member nation Pakistan, in May 11, 2013 elections. The election of May 11, 2013 has put Pakistan back on the radar as a country which in addition to Muslims is a home for seven non-Muslim communities namely Hindus, Christians, Sikhs, Parsis, Qadiyanis, Bahais and Buddhists.

Except for the boycott of some 200,000 members of the Ahmadi community, 1.40m Hindus, 1.23m Christians, 5,934 Sikhs, 3,650 Parsis, 1,452 Buddhists and 809 Jews played a crucial role in 96 constituencies. Of the seven minority communities living in the country Hindus constitute the largest group. A change through ‘vote power’ has been denied to the people of Pakistan since 14 August 1947. These polls will mark the first time that a civilian Government has completed a full five-year term and handed over to an elected successor since Pakistan was created in 1947.

Two days before the elections on May 9, 2013, UN Secretary General Ban Ki-moon on behalf of 195 countries of the world urged all eligible Pakistanis to peacefully take part in the country’s upcoming elections while also expressing concern about the recent wave of violence and attacks aimed at disrupting preparations for the 11 May polls.

On 25 April 2013 over 300 clerics belonging to different schools of Islamic thought issued the fatwa in Islamabad nearly two weeks ahead of the parliamentary elections and declared that casting vote was ‘compulsory under Islamic injunctions’. The fatwa views casting vote as an ‘Islamic obligation’ of the people and the action of those who avoid casting vote will be considered a ‘sin’. The edict was in contrast with the stance of the Taliban, who view the democratic system as un-Islamic and also asked the people to stay away from casting votes.

UN chief expressed his hope “that all eligible Pakistanis peacefully take part, regardless of their religious affiliation, ethnic background, or gender and carry out their civic duty on this important day.” Muslim scholars had described the casting of vote as a religious duty and UN Secretary General described it as a ‘civic duty’.

It happened for the first time in the post-Independence politics of Pakistan, that 60% registered voters came out to vote. There was a generational stir and every citizen, eligible to vote or not, decided to resurrect hope by undertaking their civic duty to vote or facilitate a voter to vote in the interests of their present and future. They rose from the ashes of neglect, oppression and disadvantage. None other than the cricket legend Imran Khan raised the slogan for a ‘change’. Pakistani youth and the women responded to his call and have shaken the entrenched politics in Pakistan.

After noting the 60% turn out at the polls, UN Secretary General would be justified in his appreciation of “the efforts of the Government, the Election Commission of Pakistan, political parties, civil society and religious leaders to encourage voter turnout, particularly amongst women.”

At variance with the perpetuated habit of being above law, the Election Commission under article 245 of the Constitution was able to summon the army in aid of civil power to maintain law and order during the polls in various parts of the country. It has been a good beginning as soldiers under oath under the Constitution.

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\* Muslim Women’s Aid (MWA) UK, an NGO without consultative status, also shares the views expressed in this statement.

Military has been driven back, though at a slower pace, to their Constitutional duties by an assertive superior judiciary. Civil society and emerging free press have equally contributed to the debate of a military adhering to its oath of non-interference in the politics of the country. The exile, return and court cases of General Musharraf remain on the side of the general debate, that a soldier is there to serve according to his oath and under article 245 of the Constitution. All other actions beyond these parameters would attract treason under article 6 of the Constitution.

The new Government shall have to respond to its regional and international obligations. Nawaz Sharif had pioneered a new start to resolve the various pending issues with the Government of India. Kashmir remained as one of the issues. Atal Bihari Vajpayee had reciprocated in his distinguished style as a humanist on the issue of Kashmir. Unfortunately, Musharraf sabotaged the process and punished not only the people of Pakistan but equally disturbed the Kashmiri narrative. A new start has to be made by the Governments of India and Pakistan to save the people from becoming proxies and casualties.

The question of free participation in elections in Kashmir constitutes a challenge in a situation that requires the attention of the Human Rights Council. The Clerics in Pakistan have declared casting vote a ‘religious duty’ and United Nations has described it as performing a ‘civic duty’. It is therefore important to support the right to empowerment of people in all parts of Jammu and Kashmir. Political schools that have been opposing the free participation in elections need to revisit their wisdom and stop opposing the participation in Kashmir Elections in 2014. United Nations resolutions on Kashmir have clarified the status of elections as a basic human right and that the process does not prejudice the disposition of the question of Plebiscite under the UN mechanism.

Elections in Pakistan have set a new example, that the youth and the women have a special role in any change in the society. Unfortunately Kashmiri leadership does not regard or encourage the role of women at all. Their participation is symbolic and unimpressive.

As far as Kashmiri youth is concerned, a generation was lead to the grave. A large number is disabled. Some have been tagged as renegades, some as surrendered militants, some are stranded in Azad Kashmir (Pakistan administered Kashmir) or in Pakistan trying to settle down and others are trying hard to return and benefit from the rehabilitation policy of the State government.

We have a large number of educated unemployed employable youth, a large number of educated unemployed unemployable youth, a large number of un-educated unemployed employable youth and a large number of un-educated unemployed unemployable youth without a future. They have reached a dead end in their life. Our youth who were encouraged to take up arms against the world’s third largest army as rag a tag soldiers, are trying hard to be recruited in State police, BSF, CRPF and other visible and invisible forces. Quite a few fortunate have started finding their way into Indian Administrative services.

The manner of politics of leaders has made Kashmiri youth less attractive as a proxy for Pakistan and a suspect in various parts of India. He is seen limping between devil and the deep sea. Pakistan is administering part of the State on its side in accordance with its responsibilities under UNCIP resolutions. India administers its part of Kashmir in accordance with the terms of the instrument of Accession made between the Government of India and the Government of Jammu and Kashmir. The respective positions of India and Pakistan on Jammu and Kashmir are stated in the Indian complaint of January 1948, Pakistan’s counter claim and the UN debates. The two Governments of the part of Kashmir administered by Pakistan at Muzaffarabad and Gilgit are provisional arrangements to provide for the time being a “better Government and administration until such time as the

status of Jammu and Kashmir is determined in accordance with the freely expressed will of the people of the State through the democratic method of free and fair plebiscite under the auspices of the United Nations as envisaged in the UNCIP Resolutions adopted from time to time”.

Government of India has rest its case at the UN stating that, “The question of the future status of Kashmir vis-a-vis her neighbours and the world at large, and a further question, namely, whether she should withdraw from her accession to India, and either accede to Pakistan or remain independent, with a right to claim admission as a Member of the United Nations – all this we have recognised to be a matter for unfettered decision by the people of Kashmir, after normal life is restored to them”.

There is a need to turn the page in Kashmir and clear the confusion that right to participate in the elections to elect representatives to conduct the day to day affairs of life and right to self-determination are two different human rights. United Nations has to step in and encourage the process of empowerment. The status quo in Hurriyat and in Main Stream politics has to be challenged. Pakistani common citizen of all faiths, all ages and in particular women and youth came out to sack an old system. We need to import this experience for Kashmir – a situation which requires the special attention UN Human Rights Council.

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