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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 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.

[22 August 2021]

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



Stranded non-local women and their children in Indian Administered Jammu and Kashmir

JKCHR is known to the UN Human Rights System for the last 31 years from 10 January 1990, when we reported the first killings in Indian Administered part of Jammu and Kashmir between the night of 8/9 January 1990 and JKCHR was invited to discuss the contents of our telegram and the developing situation in Indian Administered Jammu and Kashmir. A delegation of JKCHR met the Heads of Summary Executions, Torture and Disappearances and UNHCR Asia and Middle East Head on 6 July 1990 in Geneva.

It is very difficult to work on the human rights regimes of a people distributed into three administrations, families fractured on both sides of cease fire line (CFL) and people enduring the controls of five governments and five constitutional arrangements.

Our participation in the UN World Conference on Human Rights in Vienna in June 1993, election to represent the Unrepresented Peoples and Nations of the World and election on the 23 Member UN-NGO Liaise Committee responsible for the procedure and substance of the Conference, helped us to make a robust input in the debates, in particular on the establishment of the office of UN High Commissioner for Human Rights and the budget of his office.

On 10 June 1993 JKCHR participated in the Conference's Working Group C on "Evaluation of the present state of the protection of women's rights" and put forward a Resolution on the plight of Kashmiri women. It was adopted unanimously.

JKCHR had proposed that since UN observers in Indian Administered Jammu and Kashmir were directly accountable to the UN Secretary-General – Women should be included in this structure to look at the issue of Kashmiri women objectively.

On our first contact with UN JKCHR delegation discussed a 13 Item Agenda and lodged a formal complaint against India under ECOSOC Resolution 1503 on her "Gross and Systematic" abuse of human rights. This input was later reflected in Resolution E/CN.4/Sub.2/1997/L.21 submitted by the United Kingdom of Great Britain and Northern Ireland Expert Mme. Palley at the 49th session of UN Sub-Commission on the Promotion and Protection of Human Rights on 20 August 1997 on Gross and Systematic violation of human rights in Indian Administered Jammu and Kashmir.

The issues of Kashmiri women have multiplied ever since. The Kunan Poshpora rape case of 1991 and the issue of half-widows (women whose husbands are missing and cannot re-marry) have continued to remain unresolved.

As a latest development Government of India, in the absence of an elected Kashmiri Government at Srinagar, has used its Delhi appointed representative to amend the law and pave way to take Kashmiris out of the State and lodge them in various prisons all over India. The distance from Indian Administered Jammu and Kashmir to these prisons and economic situation of the families of these prisoners, has been a serious impediment for family members in their efforts to visit these prisoners outside the State. Mohammad Hussain Fazili released on 16 February 2017 from Tihar jail had no family visit in 12 years.

Kashmiri political leadership and activists known to the world since 1990 have been taken out of the State and lodged in various prisons. JKCHR has made representations in regard to these prisoners. We are concerned about the Kashmiri Muslim women held in Tihar jail in Delhi. JKCHR in its Statement A/HRC/39/NGO/138 dated 3 September 2018 has brought to the attention of the Council the plight of three Kashmiri Muslim women, namely, Asiya Andrabi head of Dukhtaraan-e-Milat and her two associates Fehmeeda Sofi and Nahida Nasreen arrested by National Investigation Agency of India.

The climate, culture and the holding place outside Indian Administered Jammu and Kashmir is a shock of their life. These women are from middle class conservative families. It is extremely difficult for families and the communities, to endure the overbearing discrimination and unjust treatment meted out to them. Questioning the merits of Indian rule and protesting against the Indian non-compliance of obligations under UN SC Resolutions on Indian Administered Jammu and Kashmir is no offence.

This NGO has brought to the attention of the Council in its Statement A/HRC/41/NGO/113 dated 18 June 2019 and released at the 41st session of the Council, the issue of non-local women 350-400 in number and their children stranded in Indian Administered Jammu and Kashmir and without any rights.

Majority of these non-local women are from Azad Kashmir (Pakistan Administered part of Kashmir) and some from Pakistan. They had married the Kashmiri youth who had crossed into Azad Kashmir, Pakistan Administered Kashmir during the uprising in the Indian Administered Jammu and Kashmir. Government of Indian Administered Jammu and Kashmir had announced a rehabilitation policy for them on their return. They returned with their wives and children to their homes on the other side of the cease fire line.

Some of these returned men (youth) have died and women have become widows. Some women could not adjust with their in-laws and in the local community and have been divorced. They all have children. Unfortunately the local administration has dragged feet on their rehabilitation and these women have no local support, no rights and no future.

JKCHR has been able to track down 200 stranded women who are citizens of Azad Kashmir, Pakistan Administered Kashmir and their 300 children. The number of stranded women who are citizens of Pakistan is 40 and they have 120 children. There have been 3 suicides, 5 divorces and the total number of widows is 15. All these women are not contactable and their number and the number of their children could be higher.

Government of India which rules the State directly from Delhi, has failed to accept these women and their children within the fold of local community. These women and their children do not have an identity, in the Indian Administered Jammu and Kashmir.

These women face police violence whenever they protest and demand to be either rehabilitated as announced by the State Government in 2010 or be allowed to return to their families in Azad Kashmir, Pakistan Administered Kashmir and Pakistan. They are called in by the police, harassed and intimidated.

The non-local women whose husbands have died in the Indian Administered Jammu and Kashmir, are left without any travel document. They desire to visit (or return) their families living in Azad Kashmir (Pakistan administered part of Kashmir). It is important that Human Rights Council intervenes so that these women are granted citizenship rights and travel documents. They have not been able to travel, for the last many years.

It is high time that Human Rights Council addresses the question of sexual violence committed against Kashmiri women as detailed in Paras 125 to 133 of OHCHR Report of 14 June 2018. The Kunan-Poshpora mass rape victims have not received any justice for the past 30 years. Many of the victims have died while waiting for justice.

Although in July 2014 on the findings and recommendations of State Human Rights Commission, the High Court of Jammu and Kashmir has asked the government “to consider paying monetary compensation within three months, the State government has challenged this order in the Supreme Court of India.” It is unfortunate that judicial system of India has a case to answer in Indian Administered Jammu and Kashmir. It has been serving the common sentiment and has failed in the administration of justice.

The UN Special Rapporteur on violence against women, its causes and consequences has said that Armed Forces Special Powers Act (AFSPA) “allows for the overriding of due process rights and nurtures a climate of impunity and a culture of both fear and resistance by citizens”. Special Rapporteur has urged the Indian authorities to repeal the AFSPA as “a matter of urgency” and “ensure that criminal prosecution of members of the Armed Forces is free from legal barriers”.

Women of Indian Administered Jammu and Kashmir have descended into a ravine of helplessness from 1990. JKCHR has highlighted the plight of Kashmiri women in its Statements released in the Council, in particular the Statement A/HRC/37/NGO/113 dated 13 February 2018 released at the 37th session.

JKCHR has spoken to two stranded women Saira Javed who is from Karachi Pakistan and Bushra Farooq who is a citizen of the State from Bagh Azad Kashmir, Pakistan Administered Kashmir. Although they have endured dislocation from their respective families and have

landed in uncertain circumstances, one could see in them the courage that helps them to endure the pain of the present adversity.

The State has failed to honour its commitment of rehabilitating these families. A Kashmiri journalist and respected activist Wahid Kashar has done a detailed programme on JK TV on these stranded women and Council could benefit from his findings.

The Council and the United Nations High Commissioner for Human Rights could consider involving International Committee of Red Cross and negotiate with the Government of India a safe return of these women and children to their respective families in Pakistan and Azad Kashmir (Pakistan Administered Kashmir). Council could take urgent steps to secure these women from a loss of their rights and from indignity.

Pakistan High Commission in Delhi could play an important role and issue provisional travel documents.
