



General Assembly

Distr.: General
21 February 2022

English only

Human Rights Council

Forty-ninth session

28 February–1 April 2022

Agenda item 5

Human rights bodies and mechanisms

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.

[4 February 2022]

* Issued as received, in the language of submission only. The views expressed in the present document do not necessarily reflect the views of the United Nations or its officials.



Conflict prevention and the protection of the human rights of minorities – Indian Administered Jammu and Kashmir

JKCHR welcomes the Report of the Special Rapporteur on minority issues prepared under agenda item 5 for the 49th session of Human Rights Council. The 14th session of the Forum on Minority Issues held on 2 and 3 December 2021 has discussed “Conflict prevention and the protection of the human rights of minorities” conducted under four thematic panel discussions. The focus has remained on the rights of minorities and effective early prevention of conflicts; and on a lasting peace: positive initiatives to better protect the rights of minorities to prevent conflicts.

It is encouraging to note that the Forum discussed a wide range of breaches of the human rights of minorities around the world which are ultimately linked to the root causes of most of today’s violent conflicts; and highlighted the primary responsibility of the State in preventing conflicts involving minorities.

We know that minorities are not a threat but under threat. There is a consensus that most contemporary conflicts are characterized by the insufficient inclusion of minorities, often coupled with disregard for their identities and grievances as well as denial of their human rights. Therefore the importance of the inclusion of minorities and their representatives in policy and decision-making processes affecting them, as well as at all stages of conflict prevention and conflict resolution processes has been established. There is an emphasis on the positive effects of minority women and minority youth leadership on conflict prevention efforts.

On 13 December 2017 the former UN High Commissioner for Human Rights Zeid Ra’ad Al Hussein, addressing the UN Forum on Minority Issues, very rightly said that “Minorities – and minority youth – are not a threat; they are under threat.” Therefore a due attention has to be paid to an insufficient inclusion of minorities, disregard of their identities and grievances as well as denial of their human rights.

Indian Administered Jammu and Kashmir is a case example where we could have profited from the “inclusion of minorities and their representatives in policy and decision-making processes affecting them, as well as at all stages of conflict prevention and conflict resolution processes;”

Indian Administered Jammu and Kashmir dispute pending at the UN Security Council since 01 January 1948 and duly referred in recommendation 17 and 19 made to the Government of India and in recommendation 8 and 10 made to the Government of Pakistan in OHCHR Reports of 14 June 2018 and 8 July 2019, is a highlight of the fact that a failure to take preventative measures and a failure to expedite the process of conflict resolutions, remains the main cause of the exodus of the Kashmiri Pandit Community from the Valley of Kashmir in early 1990. This community had to land in various parts of India or in camps outside Valley – denied of their homes and stripped of their rights.

Kashmiri Pandits observed 19 January as the 32nd year of their exodus from the Valley. Pandits call their displacement as a ‘holocaust’ and demand a return to their homes.

Kashmiri Muslims have allocated 27 October as a black day and continue to observe it as a black day all over the world. They have a grievance against the Government of India and its support mechanism in Indian Administered Kashmir, for the loss of their rights, dignity, security and self-determination. 2.5 million Muslims are living as refugees in the four provinces of Pakistan and they too have a right to return.

Kashmiri Pandits would not have been displaced if the UN mechanism had taken the following steps:

- (i) Promoted awareness around the inclusive definition of the People of Kashmir given in Para 60 of the report of UN Representative for India and Pakistan adopted at the 570th Meeting of UN Security Council on 17 January 1952
- (ii) Had ensured respect for the principle identified in Para 6 of UN Security Council Resolution 47 of 21 April 1948 for the composition of the Government

- (iii) Had ensured a follow up on the duty laid down in Para 14 (a) and (c) of the UN Security Council Resolution 47 of 21 April 1948.
- (iv) UN, India and Pakistan should have educated Hurriyat a Political Alliance in Kashmir around the inclusivity of the definition of the People of Kashmir and the principle of inclusiveness and due regard to the identity and human rights of all minorities (Kashmiri Pandits in particular)
- (v) The non-representation of Kashmiri Pandits and other minorities in the Hurriyat Alliance remained at variance with the principles laid down in Chapters II in the Hurriyat Constitution

The plight of Kashmiri Pandits has been described in significant detail in Paragraphs 137, 138 and 139 of OHCHR 14 June 2018 Report. It is the first major report after the March 1959 visit of Srinagar by the UN Secretary General Dag Hammarskjöld, to assess the Kashmir situation. He was accompanied by Lieut. General Robert H Nimo, Chief of the UN Military Observer Group in India and Pakistan (UNMOGIP), Wilhelm Wachtmeister, Personal Assistant, and William Ranallo, Personal Aide to the Secretary-General.

The habitat and the People of Kashmir have been gravely wronged and each community has its own tale to tell. UN and its mechanisms need to educate these people to think and reconcile within the definition given in Para 60 of UN Representative for India and Pakistan's Report adopted at the 570th Meeting of UN Security Council on 17 January 1952.

There is an urgent need that the Special Rapporteur working on Minority Issues and the Minority Forum enlarges its constituency of work and takes an initiative to repair the wrong done to the communities. Human Rights Council should consider to help in rehabilitating the trust of Kashmiri Pandits, which constitutes an essential ingredient in the process to resolve the conflict.

The important step in this community rebuild would be that there is a UN supervised dialogue between Hurriyat (duly represented by Kashmiri Pandits), other principal elements, Gupkar Alliance and other principal elements outside it, Civil Society Groups working on the rights regime, representatives from Azad Kashmir, Pakistan Administered Kashmir, Gilgit-Baltistan and Principal Elements in Kashmiri Diaspora.

Kashmiri Pandit Community has many sub manifestations of their representation. Kashmir Policy and Strategy Group has a broad influence across the board. Their leaders, namely, Ashok Bhan Advocate Supreme Court of India, Kapil Kak Retired Air Vice Martial of Indian Air Force and Babu Singh ex legislator/Minister are State Subjects and duly respected in all the communities and on both sides of the cease fire line.

These three personalities defend the inclusivity of the People and have been actively involved in various peace processes between India and Pakistan to seek a peaceful resolution of the conflict. Ashok Bhan has contributed at the Human rights Commission in Geneva and Kapil Kak has challenged the Government of India's action of 5 August 2019. Council could invite Mr. Bhan, Mr. Kak and Mr. Singh (and others) in the initiation of a process of repair and resolution.

Human Rights Council could follow upon the United States of America argument made at the 227th Meeting of the Security Council on 15 January 1948, that the debates at the UN Security Council would place the views of both sides before the public and before the Security Council at approximately the same time, which is of some advantage from the point of view of the parties.

Government of India has also made it clear at the 227th Meeting of UN Security Council on 15 January 1948, that, "We desire only to see peace restored in Kashmir and to ensure that the people of Kashmir are left free to decide in an orderly and peaceful manner the future of their State. We have no further interest, and we have agreed that a plebiscite in Kashmir might take place under international auspices after peace and order have been established. Everything that we have done has been in discharge of our legal, constitutional, and moral responsibilities and obligations."

The people of Indian Administered Jammu and Kashmir described at the 570th Meeting of UN SC on 17 January 1952 as "A people of legend, song and story, associated with snow-

capped mountains, beautiful valleys and life-giving waters. These people, Moslems, Hindus, Sikhs and Christians, as farmers, craftsmen and artists, small shopkeepers, boatmen, bearers and other workers in areas now on both sides of the cease- fire line, have been, through the centuries, the victims of exploitation and conflict. The recognition of the rights and dignity, the security and the self-determination of these historic people, under the auspices of the United Nations, might well become a challenging example of the progressive values of self-determination to the dependent peoples of the earth,” merit an urgent interest of Human Rights Council.

A repair and rebuild process needs an urgent assisted engagement of all the communities. The Human Rights Council could recommend to the General assembly for the creation of a Special Fund for the displaced Kashmiri Pandits and Kashmiri Muslims, for their return and rehabilitation.
