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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.

[25 May 2023]

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



Human Rights Defenders in Indian Administered Jammu and Kashmir

The Declaration on human rights defenders as adopted by the General Assembly in 1988, identifies “human rights defenders as individuals or groups who act to promote, protect or strive for the protection and realization of human rights and fundamental freedoms through peaceful means” for protection.

The environments in which the human rights defenders work on either side of the UN brokered cease fire line in the state of Indian Administered Jammu and Kashmir, currently fragmented as Indian administered Jammu and Kashmir, Pakistan administered Azad Kashmir, Pakistan Administered Kashmir and Gilgit-Baltistan, are explained in the two reports issued by UN High Commissioner for Human Rights of June 2018 and July 2019. The work of human rights defenders is very arduous, full of risks and life threatening in all the three administrations.

Although UN Security Council Resolution 47 of 21 April 1948 insulates the regime of Human Rights and apportions duties to India and Pakistan yet, the situation on the ground is quite disappointing. Para 42 of the OHCHR report of June 2018 describes the environment in Indian-Administered Kashmir as “Impunity for human rights violations and lack of access to justice are key human rights challenges in the state of Indian Administered Jammu and Kashmir, Special Laws in force in the state, such as the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990 (AFSPA) and the Jammu and Kashmir Public Safety Act, 1978 (PSA), have created structures that obstruct the normal course of law, impede accountability and jeopardize the right to remedy for victims of human rights violations.”

Para 40 of the OHCHR report has quoted the presence of 500000-700000 Indian soldiers, making Kashmir (Indian Administered part) as “one of the most militarised zones in the world.” This number has increased to 900000 after the Indian action of 5 August 2019.

The environment in the Pakistani administered two administrative regions of Azad Kashmir (AJK) and Gilgit-Baltistan is described in Para 141 of the report. According to the report it is the Constitutional and Legal structures that impact the enjoyment of human rights. Para 141 describes the situation as, “Pakistan Administered Kashmir comprises of two administrative regions: Azad Jammu and Kashmir (AJK) and Gilgit-Baltistan. In 1948, UNCIP acknowledged the existence of “local authorities” (as distinct from the Government of Pakistan) on the Pakistani side of the cease-fire-line in Jammu and Kashmir. These two administrative regions have remained distinct “territories” since then and have not been formally incorporated into Pakistan as they are considered to be part of the disputed state of Jammu and Kashmir.”

Human Rights defenders who have tried to bring international attention to the human rights situation in Jammu and Kashmir (Indian-Administered) have faced and continue to face reprisals while access has been obstructed to journalists. Four prominent human rights activists H. N. Wanchoo, a retired trade unionist and a communist, was assassinated by unidentified gunmen on December 5, 1992. Wanchoo was a Hindu. The government found his work particularly embarrassing; it could not dismiss him as a militant. Dr. Farooq Ashai, a medical doctor who documented cases of torture and other abuses, was shot and killed by the CRPF on February 18, 1993. Dr. Abdul Ahad Guru, a renowned Kashmiri cardiothoracic surgeon, was abducted and later shot dead on March 31, 1993. He was outspoken critic of human rights abuses by Indian security forces in the Indian Administered Jammu and Kashmir. He met frequently with the international press and international human rights groups.

On 8 March 1996 Jalil Andrabi a lawyer of Indian Administered Jammu and Kashmir High Court, was driving home from the High Court with his wife Rifat when his car was stopped at Parraypora by a waiting army truck. A few government gunmen dragged him out of the car, threw a blanket on his head and drove away. Andrabi’s trussed-up, decomposed body was recovered from the Jhelum river on March 27, 1996. His eyes had been gouged out. The autopsy report said Andrabi had probably been killed 14 days before his body was recovered. He had participated at the UN Human Rights Commissions session in Geneva.

Jammu and Kashmir Council for Human Rights (JKCHR), World Society of Victimology (WSV) and World Muslim Congress (WMC) organised a reference in his memory at Palais des Nations on 1st April 1996.

The situation in the Indian Administered Kashmir for Human Rights Defenders continues unchanged and there is very little improvement. People are under surveillance and monitored on social media. An important community dedicated to promote, protect and defend Human Rights has either disappeared in thin air or have been taken out of circulation by the system.

A prominent human rights defender Khurram Parvez, coordinator of the Jammu Kashmir Coalition of Civil Society (JKCCS), a prominent rights group in Indian-administered Jammu and Kashmir and Ahsan Untoo chairman of the International Forum for Justice and Human Rights Jammu and Kashmir have been arrested and continue to remain under arrest. The two reports of UN High Commissioner for Human Rights on the Human Rights Situation in the state of Indian Administered Jammu and Kashmir, have benefited from the research of JKCCS.

Human Rights defenders, photo journalists and anyone seen or believed to be involved in the documentation of human rights abuses are placed on the “look out” register by the authorities. It is a form of intimidation and reprisal against anyone involved locally or with international human rights mechanisms. People are arrested on the excuse that their phone numbers were “persistently” located at places where counter-terrorist operations were in progress.

French journalist and documentary film maker Paul Comiti was arrested on 9 December 2017 in Srinagar for allegedly violating Indian visa conditions. The FIR argued that he had violated his business visa conditions by meeting pro-independence leader Mirwaiz Umar Farooq and filming an event related to people injured by pellet-firing shotguns. Paul Comiti was released on bail on 13 December 2017. (Para 117 OHCHR Report).

There is a wide range of ongoing serious human rights violations and patterns of impunity in Indian-Administered Jammu and Kashmir. There is an urgent need to address past and ongoing human rights violations and to deliver justice for all people in the Kashmir region who have been suffering seven decades of conflict. Any resolution to the political situation in the Kashmir region should entail a commitment to ending the cycles of violence and accountability for past and current human rights violations and abuses committed by all parties and redress for victims. Such a resolution can only be brought about by meaningful dialogue that includes the people of the Kashmir region.

In order to correct the human rights situations in the three administrations on either side of cease-fire-line and to protect the human rights defenders, India should be encouraged to adopt the 17 recommendations made in the OHCHR Report of June 2018 and rehabilitate an environment vitiated by the presence of 900000 soldiers and by a lack of access to justice and impunity. The Human Rights Council should urgently take steps and establish “a commission of inquiry to conduct a comprehensive, independent, international investigation into allegations of human rights violations in Kashmir.”

Government of India should urgently undertake to implement the 17 recommendation made in the OHCHR Report. India and Pakistan should both adopt the common recommendation made in the OHCHR Report to “Fully respect the right of self-determination of the people of Kashmir as protected under international law.” It is equally important that Government of India keeps its pledge made at the 608th meeting of UN Security Council that “on the complete disbandment and disarmament of the Azad Kashmir forces, and as a further contribution towards a settlement, the Government of India is prepared to effect a further reduction of 7,000 (soldiers) to a figure of 21,000 which is absolute and irreducible minimum...It should further be emphasised that this force will have no supporting arms such as armour or artillery.”

This action would not only improve the human rights situation in the Indian Administered Jammu and Kashmir, it would bring the stationing of the remaining forces within the discipline set out for their behaviour, number and location in UN Security Council Resolution 47 of 21 April 1948.