



General Assembly

Distr.: General
28 August 2017

English only

Human Rights Council

Thirty-sixth session

11-29 September 2017

Agenda item 4

Human rights situations that require the Council's attention

Written statement* submitted by the World Muslim Congress, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[02 August 2017]

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



Human Rights situation of Indian Administered Kashmir requires council's urgent attention

The principle of self-determination is prominently embodied in Article I of the Charter of the United Nations. "All peoples have the right to self-determination by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development".

Common Article 1(1) International Covenant on Civil and Political Rights (ICESCR) and the International Covenant on Economic, Social and Cultural Rights (ICCPR) provides that everyone has the right to self-determination and that right is inclusive of the right to determine their own political status and pursue their social, economic and cultural development without interference.

The right to self-determination of people of the Indian administered Jammu and Kashmir was recognized by United Nations Security Council soon after the de-colonization of subcontinent, with the emergence of two sovereign states India and Pakistan. Indian military aggression under the garb of so called instrument of accession and subsequent resistance by the people of the Indian administered Jammu and Kashmir landed the Indian administered Kashmir issue in United Nations on January 1, 1948, with Indian complaint of accusing Pakistan of abetting and supporting the people's resistance against Indian aggression.

As a result, the United Nations Commission on India and Pakistan (UNCIP) was established through a Security Council resolution on 20 January 1948. The Security Council adopted another resolution on 21 April 1948, which provided for a plebiscite in the Indian administered Jammu and Kashmir for determining the future status of the State;

After undertaking a survey of the situation, the Commission adopted a resolution, on 13 August 1948, containing proposals for a cease-fire order, truce agreement, and a re-affirmation of the desire for a plebiscite in the Indian administered Kashmir. The Commission decided that it will appoint military observers to supervise the observance of the cease-fire order. The UNCIP resolution of 13 August 1948 was accepted by both India and Pakistan;

The UNCIP sent its final plebiscite recommendations on 11 December 1948, to India and Pakistan. Both the Governments accepted the UNCIP proposals and the recommendations of the Commission were subsequently adopted in UNCIP resolution 5 January 1949.

The Security Council adopted resolutions in 1951 and 1957, reaffirming the right to self-determination of the people of the Indian administered Kashmir. The Kashmir dispute remains on the agenda of the United Nations Security Council. Thus India remains in illegal occupation of the Indian administered Jammu and Kashmir.

After decades of repression by the Indian occupying forces, the people of the Indian administered Kashmir rose to demand their inherent right to self-determination in 1990. This movement has resulted from the continued denial of the right to self-determination to Kashmiri people. The struggle of the Kashmiri people derives its legitimacy from their recognized and unfulfilled right to self-determination. This right was recognized in the United Nations Security Council resolutions. These resolutions are as valid today as they were 70 years ago. The fundamental principle of self-determination which the United Nations, Pakistan and India have pledged to the Kashmiri people is not subject to perceptions.

Since 1990 Indian administered Kashmir has been subjected to repressive laws, like Jammu Kashmir Armed Forces Special Powers Act (AFSPA), Jammu and Kashmir Public safe Act (PSA) and other draconian laws. These laws provide complete impunity to Indian occupation forces to override all fundamental freedoms including right to life. Indian occupation forces over the past 27 years have slaughtered over 100,000 innocent people of all ages and sex. Enforced disappearances, rape, extrajudicial killings, torture, fake encounters, arbitrary detentions, restrictions on freedom of association and assembly, restrictions of freedom of expression and declared and undeclared curfew restrictions constitute the routine part of everyday life.

Despite the oppression, the threats, the unlawful killings and the mass incarceration of political activists and protesters, the Indian administered Kashmir continued to bravely demonstrate against the tyrannical Indian rule. There were various uprisings in 2008, 2010, 2016 and now 2017. These have resulted in huge casualties. Despite employing massive and unprecedented brutality, the Indian armed forces have failed to arrest the momentum of the public uprising. The current uprising which started on 9th of July 2016 not only has sustained but continues to inspire people to exhibit their defiance and hatred towards the Indian occupation. The Indian response to the mass public uprising has been sheer brutality. The statistics reveal a grim reality of wanton state terror: The 2016 uprising was summarized by the local human rights group JKCCS, who released a review in 2017. It detailed 383 killed, more than 10,000 illegal detentions of protesters. "During the unrest, there was the extrajudicial execution of more than 100 civilians; more than 15,000 persons got injured in the State forces action with 4500+ injuries by the use of pellet shotguns with 1000+ civilians receiving eye damage fully or partially. Indian forces used pellet guns to injure [Scars of Pellet Gun], blind and disable thousands of young people. In 2016, the Guardian reported this as the "World's First Mass Blinding," and the New York Times referred to it as an "Epidemic of Dead Eyes".

The occupation authorities have used the Public Safety Act to incarcerate thousands of protesters. The arrested include hundreds of juveniles. These boys are routinely harassed and tortured while in custody and, in some cases even abused.

To halt the spirit of resistance, Indian soldiers have attacked hundreds of villages rampaging thousands of houses with properties worth billions of rupees destroyed. Dozens of mosques have also been desecrated by soldiers. The soldiers have systematically targeted and destroyed crops and fruits, setting fire to rice fields and granaries. They have also vandalized apple orchards – cutting trees or firing pellet guns to damage trees in order to obliterate the mainstay of Kashmiri economy.

Indian forces have also attacked hospitals, beaten doctors and paramilitary staff, stopped medical aid to the injured and even arrested them from their hospital beds. Hundreds of medical ambulances have been attacked and damaged and several ambulance drivers injured as Indian forces ruthlessly beat them or target them with live ammunition for ferrying injured to hospitals.

In its push to militaries every landmark across the Kashmiri landscape, the army has even occupied educational institutions. In addition, soldiers have targeted teachers and students for they are seen as the driving force behind the current mass uprising.

The inventory of occupation does not end here. In order to threaten and stifle voices that could raise or attract international attention, the military backed government has arrested human rights defenders and banned newspapers. From time to time restrictions are imposed on internet services and social media networks. National Investigation Agency (NIA) has been activated to harass the political leaders and business community of Indian Administered Kashmir.

Irrespective of all these repressive measures India failed to suppress the genuine demand of right of self-determination.

The situation is terribly sad for the people have no hope to any recourse to justice under the architecture of occupation. Indian denial to allow the fact finding mission of OHCHR to Indian administered Kashmir is big question mark for the credibility of UNHRC and speaks volumes of Indian arrogant attitude towards international human rights mechanism.

India is determined to stamp out the last vestiges of resistance but the Kashmiri people remain defiant. The portents are grim – not only for Kashmiris but for the whole region if the dispute is not solved amicably and to the satisfaction of the Kashmiri people.

This organization calls upon United Nations secretary and members of Security Council, in order to fulfil their legal and moral obligation that they owe to the people of disputed territory to;

1. Appoint a special rapporteur on the Indian administered Jammu and Kashmir

2. To call upon government of India;
 - a. To end its obduracy and allow fact finding mission of OHCHR to investigate allegations of human rights violations in Indian administered Kashmir.
 - b. Repeal all draconian laws and bring perpetrators of human rights violations to justice.
 - c. Release all political leaders, civil rights activists and other innocent people and end policy of vendetta and hate campaign against people of the Indian administered Kashmir in general and political leaders of decent in particular.
 - d. Facilitate country visits of working group on enforced and involuntary disappearances and special rapporteur on torture and other inhuman and degrading treatment.
 - e. End reprisals against human rights defenders.
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