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Human rights situations that require the Council's attention

Written statement* submitted by 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.

[18 August 2020]

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

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Indian impunity and lawlessness results endless torture in Indian administered Jammu and Kashmir

August 5 is a day of mourning in Indian Administered Kashmir. On this date in 2019, Kashmir's autonomy was countermanded by the Indian government. Conditions on the ground in Indian Administered Kashmir are in a state of emergency. It is a place of no rights, shackled in concertina wire, suffocating in a state of interminable lockdown. Kashmiris live in a context akin to collective internment. Every neighborhood is impaired and each life is impacted. A complex system of impunity laws is used to enforce occupied governance. These laws extend immunity to one of the largest occupation forces in the world. Across Kashmiri civil society, where Muslims are in majority, India is viewed as an occupying power. India's State forces have reportedly carried out extrajudicial executions, targeting and killing Kashmiri civilians for unproven offenses. The rule of law has long since collapsed. Unrelenting militaristic and legal hostility to social dissent targets Kashmiri civilians; journalists, lawyers, laborers, academics, health professionals, students, and their allies. The alignment of national security with aggressive majoritarianism in Indian Administered Kashmir prohibits reflection on why Kashmiris resist. Such reflection is represented as seditious.

Since 1990, Kashmir attested to extraordinary human rights crimes, including enforced disappearances, gendered and sexualized violence, killings, displacement, torture, extrajudicial executions, the death penalty, and the burial of civilians in unknown, unmarked, and mass graves. Non-governmental sources estimate more than 1 hundred twenty thousand people have died. More than 8,000 have been involuntarily disappeared and 12,000 women have been raped.

The Hindu Right's election in 2014, and its re-election in 2019, has profoundly impacted Indian Administered Kashmir. Casteist-racist and heteronormative, the government led by Narendra Modi incorporates populism, nationalism, authoritarianism, and majoritarianism. Its actions against vulnerable communities and minority groups has evidenced abject disregard for so called democracy. Hindu nationalists have sought to weaponize religion and politics to incite the Hindu majority. Kashmiris have been repeatedly depicted as terrorists, because they are demanding for their right to self-determination.

In response to chronic oppression, Kashmiri civil society continues to take to the streets in large numbers. The protests bear expression to profound grief, fatigue, heartbreak, rage, resilience and resistance. Local social movements for justice and accountability are routinely met with extreme repression from Indian forces. According to the United States of America State Department, in 2018, many civilians were killed extra judicially, the most in over a decade. Kashmir's population lives with recurrent psychosocial trauma. Individual and collective mourning is truncated, forcing loss and trauma to be internalized.

In revoking Kashmir's autonomy on August 5, 2019, the Indian government unilaterally nullified Article 370 and revoked Article 35A of the Indian Constitution, to disestablish the state of Indian Administered Kashmir and divide it into separate union territories under the direct rule of the central government.

In parallel, between August and December 2019, prejudicial citizenship laws, akin to the Nuremberg Laws instituted in September 1935 in Germany, were configured for implementation across India. These laws grant privilege to Hindus in defining citizenship and place the rights and protections of religious minorities at grave risk, particularly targeting Muslims. In July and August 2019, tens of thousands of additional troops were deployed in Indian Administered Kashmir.

Following August 5, 2019, Kashmir witnessed the torture of children, the elderly and women; sexualized violence; illegal and mass detentions; house arrests of political leaders; curtailment of freedom of speech, movement, and dissent; falsification of social facts by the State; and closure of sacred places. People were afraid to approach the courts lest the extra-legal detention be converted into formal detention. The impact on Kashmir's political economy was devastating, leading to a loss of US\$2.4 billion.

In August, Indian soldiers reportedly forced 12 civilian men to remove their clothes and line up, naked, on the main road in Pulwama, beat them severely, and electrocuted their genitals. The tortured were reportedly forced to lie naked atop each other. Additional and similar acts of torture were also reported. Fehmeeda Bano died from inhaling tear gas and pepper gas grenades fired by police personnel during a civilian protest near her home in Srinagar. At the 44 Rashtriya Rifles camp in Shopian, armed forces personnel tortured three men and broadcast their cries over loudspeaker(s). In September, police reportedly shot pellets and teargas at religious processions in Srinagar during Muharram, injuring more than 100 people.

After March 2020, amid COVID-19, Indian State forces, identified by Kashmiris as perpetrators of abuses against civilians, were given extended impunity to commit more human rights violations. Internet services remained restricted and civilians were denied access to information from non-State regulated sources. Persons detained, including warrantlessly, were not released. Journalists continued to be denied access and targeted. Health services, already strained, reached a breaking point. Between January and June, more than 100 civilians were killed, as documented by an advocacy group.

In May, Hazim Shafi Bhat, a teenager with disabilities, was killed by Central Reserve Police Force personnel in Kupwara. Police and paramilitary raided Nasrullah Pora Village in Budgam, attacking residents and looting and vandalizing properties. They assaulted women and tied men to trees and assaulted them too. Armed forces personnel shot bullets and pellets at a civil society demonstration in Awantipora protesting the killing of Riyaz Naikoo and Jahangir Yousuf Wani, injuring at least 25.

Also in May, the Indian government removed certain legal barriers to permanent residency in Kashmir, which can potentially reconstitute Kashmir's demographic makeup and render Muslims, a minority. This proposed deprivation of the right to land is intensified by the seizure of land, including private property, by Indian forces in Indian Administered Kashmir. Two new decrees; the Jammu and Kashmir Reorganization (Adaptation of State Laws) Order, 2020, and the Jammu and Kashmir Grant of Domicile Certificate Rules, 2020, expanded the parameters for residency. Following May, the powers conferred by Article 35A on the Jammu and Kashmir legislature to determine and guarantee rights and privileges to permanent residents were transferred to the government of India. These extend to the right to acquire immovable property, reside lawfully in Jammu and Kashmir, and seek employment in the public sector.

The new rules permit Indian citizens living for 15 years in Indian Administered Kashmir to receive a domicile certificate with residency benefits. Eligible persons who may become lawful permanent residents of Kashmir now include long term inhabitants and their children, government officers and their children, and registered migrants and their children. For Kashmiris demanding the right to self-determination guaranteed by the United Nations in his several resolutions, this is especially damaging. Demographic reconstruction stands to diminish the integrity of Kashmiris as a people. It imperils their rights to place and language. This endangers their claims to internal self-determination, and in turn, claims of external self-determination from alien exploitation and subjugation.

The 2019 and 2020 decrees were implemented without the consent of Kashmiris. The actions of the Modi government were based on the violent assertion that the government of India possesses unilateral authority to rescind Jammu and Kashmir's constitutionally secured autonomy. This autonomy was authorized through Articles 370 and 35A.

Our organization urge the august United Nations Human Rights Council to call for lifting the internet shutdown; repeal of black laws which allow arbitrary internet disruptions and arrest and halt disproportionate and indiscriminate use of force especially pellets against Kashmiris.