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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 Al Baraem Association for Charitable Work, 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.

[31 May 2021]

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



Indian Custodial Killings in Indian Administered Jammu and Kashmir

The state of Jammu and Kashmir is a conflict zone, a legacy of British colonialism. Despite passage of 73 years, India is not ready to reconcile its illegal occupation over its 67% territory and the bulk of population of the state. In last 72 years India has kept state of Jammu and Kashmir under its illegal occupation. Besides occupying the state, India has perpetrated unparalleled atrocities in Indian Administered Jammu and Kashmir. Unfortunately, despite presence of dozens of UN resolutions about right to self-determination of Kashmiris and its international commitments, India is still reluctant to conduct plebiscite in Indian Administered Jammu and Kashmir. Rather, on August 5, 2019, it has violated its own constitution and constitution of Indian Administered Jammu and Kashmir besides UN resolutions while illegally annexing the state with Indian union territories.

Indeed, after illegal annexation of occupied Kashmir India has started misleading the world primarily to hide the massive human rights violations in occupied Jammu and Kashmir. The US based human rights organization; Genocide Watch had revealed and alert the world that, there are signs of the genocide process in Indian Administered Jammu and Kashmir. According to this organization, India has taken extreme steps of revoking Article 370 and 35A, which indicates that it can undertake killings of Kashmiris, protesting against these illegal acts of India. Under Angela Merkel, the German Government has set precedence for rest of the world by not supplying weapons to India for its worst record of human rights in Indian Administered Jammu and Kashmir.

Drafted in Part XXI Indian Constitution, Article 370 accorded a “Temporary, Transitional and Special Provisions for the Indian Administered Jammu and Kashmir, not like the integral Indian states. It was the only and a temporary link between Indian Administered Jammu and Kashmir and India until resolution of Jammu and Kashmir dispute as per UN resolutions. For over seven decades, Article 370 restricted Indian legality to have its direct rule on Indian Administered Jammu and Kashmir and makes laws for the state, like integral states of India. Indian Administered Jammu and Kashmir had the special status under Article 370 not through Article 35A. Article 35A guarantees the Kashmiris rights over the land of the state. Article 35A restricts Indian position for non-permanent residents to buy property in Jammu and Kashmir. Article 370 was the basic article of the Indian Constitution ratified on 26 Nov.1949 along with other articles, whereas Article 35A was the reinforcing article (for article 370) incorporated through Presidential Ordinance in 1954. After changing the domicile laws in Indian Administered Jammu and Kashmir on April 1, 2020, Indian Government has already started settling non Kashmiris Hindus in Indian Administered Jammu and Kashmir to change the demography of Indian Administered Jammu and Kashmir.

People of Indian Administered Jammu and Kashmir have never reconciled from their traditional stance to become Indian subjects. This can be evidenced from their ceaseless political struggle for their freedom from Indian occupation since last seven decades and particularly their active movement since 1990. During this active struggle of Kashmiri people more than one hundred thousand Kashmiris have lost their lives, over 13000 women were raped and thousands of Kashmiris are still under Indian detention centers, torture cells and many more languishing in Indian jails. Their entire struggle is to get freedom from India. This is despite deployment of over one million Indian Occupation Forces in Indian Administered Jammu and Kashmir, which brutally kills and maltreat Kashmiris with total impunity under special Indian black laws. Nevertheless, Kashmiris are adamant to get their right to self-determination at all costs.

The seventy-eight years’ old senior Kashmiri leader Mohammad Ashraf Sehrai, who dared to challenge Indian rule in Indian Administered Jammu and Kashmir died a few days back under the custody of Indian security forces. The veteran Kashmiri leader was under the custody of Indian occupation forces since July 2020. His only crime was the demand of legitimate right of Kashmiris self-determination from Indian authorities. Like millions of Kashmiris Mr. Sehrai was a peaceful protestor totally unarmed. As per the statement of his

son Mujahid Sehrai, “his father was denied proper medical treatment in jail despite repeated requests to Indian authorities”. Mr. Mujahid talked to his father on telephone ten days before his custodial death. “He told us several times in the last few months during his two phone calls in a week to home that he was not getting proper medical treatment. We moved to a court on April 16 with a petition seeking proper medical assistance for him but the court was yet to review it”. This is very unfortunate Mr. President, that even courts in Indian Administered Jammu and Kashmir are bound to follow the orders of Indian Occupation forces over the genuine cases of essential medical care. There is no such precedence anywhere in the world.

The worst part of the killings, rapes and torture in Indian Administered Jammu and Kashmir is that, the killers (men of Indian security forces) are not charged for their brutal offence. The brutal and discriminatory laws imposed in Indian Administered Jammu and Kashmir since 1990s allow the personnel of Indian Army and other security force to imprison anyone in Indian Administered Jammu and Kashmir for a period, ranging from 3 months to 2 years even without any trial. Ashraf Sehrai was arrested in July 2020 under the Public Safety Act. He remained in jails for over 16 years in various Indian prisons during his political career. He lost one of his sons at the hands of Indian security forces in 2020. In Indian Administered Jammu and Kashmir deaths of innocent Kashmiris under custody of Indian security forces are a routine matter. This is happening ever since 1990 and after 2016 there has been an upsurge in the custodial killing of Kashmiris as the revised strategy, devised by General Bipan Rawat, the incumbent Indian Chief of Defense Staff (CDS).

The crux of the strategy was; planned killings (genocide) of the Kashmiri youth who protest Indian rule in Indian Administered Jammu and Kashmir or for that matter any act of India in the occupied state. While the Kashmiri youth were continued to be killed through torture, custodial killings and fake encounters (genocide), the Kashmiri leadership leading the movement of self-determination was massively arrested under National Investigation Agency (NIA). NIA acts as the Central Counter-Terrorism Law and authorized to investigate any so-called-terror-related matter anywhere without any special permission of the state authorities. Dozens of Kashmiri leaders were arrested under NIA just over the fake charges of having links with anyone in Pakistan or having costly household.

NIA acted as an open license to arrest the Kashmiri leaders and keep them under the custody of Indian security for years and years without any investigation. Yasin Malik, the leader of Jammu and Kashmir Liberation front is languishing in Indian jail under NIA without any legal evidence for the last several years. The policy of genocide of Kashmiri youth and custodial killings were mainly implemented while General Rawat was the Indian Army Chief, therefore the General was rewarded accordingly. For these brutal acts (genocide) and custodial killings of Kashmiris General Rawat was elevated to the status of first Indian Chief of Defense Staff (CDS) upon his completion of his term as Indian Army Chief.

As per various international pacts, covenants, Geneva Conventions, International Humanitarian Law and other provisions of international laws, these Indian acts come under war crimes. Indeed, Indian Administered Jammu and Kashmir is an active war zone ever since 1990 and there are over one million men of Indian occupation forces are deployed there since August 5, 2019. “According to the article 2 of the 1948 Genocide Convention, “Killing members of the group” constitute genocide when “committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group”. The Indian security forces are specially targeting and torturing the ethnic Kashmiri Muslims in Indian Administered Jammu and Kashmir making a classic case against Indian state, Indian army and personnel of all Indian paramilitary forces who have been involved in the rapes and killings of innocent Kashmiris.

The United Nations Human Rights Council and all international organizations must take a note of Indian human rights violations in Indian Administered Jammu and Kashmir. On their part Kashmiris are not ready to surrender their legitimate right; the right to self-determination. Mr. President just condemnation is not sufficient to attract the international attention towards Indian Custodial Killings in Indian Administered Jammu and Kashmir. Kashmiris refer the custodial killing of Mr. Sehrai and thousands of other Kashmiris to

United Nations Human Rights Council as this UN body is bound to promote and protect human rights around the world if pursued seriously.

European Institute for Economics political and social research, Conseil international des droits de l'homme- France, NGO(s) without consultative status, also share the views expressed in this statement.