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Human rights situations that require the Council's attention

Written statement* submitted by the 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.

[26 May 2016]

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

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Human rights situations that require the Council's attention - Jammu and Kashmir

It is encouraging to note that Human Rights Council has broadened its constituency of interest and has adopted Syrian Arab Republic, Eritrea, Belarus and South Sudan as situations that require the Council's attention. It may equally be said in the working interests of the Council that it has been hearing for the past 26 years in detail about the human rights situation in the Indian controlled part of the disputed State of Jammu and Kashmir and yet has failed to adopt the habitat in the constituency of its regular interest. Resolutions L40 and L21 moved at the Human Rights Commission and Sub Commission on the human rights situation in the Indian controlled part of Kashmir flagged the need to declare the situation serious and urgent for the attention of the human rights body.

JKCHR has welcomed the interest of United Nations Peace Building Commission in Kashmir and has hoped that Commission's recent April visit to Kashmir would advance peace. However, JKCHR the Commission has to correct its imbalance by meeting all sections of the community in the Indian controlled Kashmir, undertake a similar visit of Azad Kashmir, meets the five generations of Kashmiri Muslims displaced since 1947 by Indian administration and meet the Kashmiri diaspora living in Europe and other countries.

It is important to point out that the chairman of the Peace Building Commission does not have the competence to either interpret or suggest any solution to the dispute which is at variance to UN Resolutions on Kashmir, in particular, wishes expressed through a free vote under the supervision of the United Nations.

The three-fold approach identified at the press conference by the Commission's chairman Macharia Kamau for the resolution of Kashmir issue should not be rejected outright but examined on merit. The primacy of politics and the local conditions as referred by Macharia Kamau, would not improve or be regarded of any consequence, unless Indian army, security forces and secret agencies stop treating the Kashmiri people as a colonial people and unless they stop committing the massive violation of human rights.

JKCHR fully supports the United Nations Peace Building Commission in its efforts to reach out to as many of the institutions within the subcontinent to support the peace process move forward, yet would sincerely trust that the Commission remains mindful of the equality of people and the principle of self-determination which is the basis of UN Charter.

We ask the UN Peace Building Commission to encourage India to respect the UN restraints placed on the number, behaviour and location of its security forces, during their temporary stay in the State. The Commission needs to build on the proposal of demilitarization proposed by the Prime Minister of Pakistan at the 70th session of UN General Assembly.

The Commission would be misdirecting its efforts if it fails to take into account a low intensity war that Indian army has been waging against the civilians since early 1990. The army temporarily admitted into Kashmir under four terms of reference has continued to disregard these terms of references and have been killing the local Muslims. It has set a financial reward to kill or assist to kill a local Muslim accused of challenging the Indian rule in the Valley. Any peace process facilitated by the Commission should address the right of self-determination of the people of Jammu and Kashmir.

JKCHR respectfully calls upon the Human Rights Council to examine the situation in Jammu and Kashmir that has continued to exist between the visit of UN Secretary General Dag Hammarskjold to study the work of UNMOGIP in March 1959 and the visit of UN Peace Building Commission in April 2016. Human Rights Council has a duty to fairness towards all communities alike. It needs to take a serious notice of the fact that Indian government is in full action to introduce demographic changes in Kashmir to influence UN supervised referendum. To carry it through, it has to ambush the people of Kashmir, Government of Pakistan and the United Nations.

If India has any case in Jammu and Kashmir it is pending adjudication of the right of self-determination under UN supervised free vote of the people. The Indian entry into the State in October 1947 is temporary and sub ordinate. Indian entry has been successfully questioned by the Government of Pakistan at the UN and people of Jammu and

Kashmir have established the sovereignty of their free vote. It is in regard to this choice of the people that Indian Government has been facing a political and a militant resistance to its imposed presence in the State.

Indian government is engaged in moves to disturb the demographics of Kashmir. The death of a generation since 1990 has helped Indian interest in creating a serious number deficit in the State. In May 2008 Indian government attempted to grab 99 acres (0.40 km²) of forest land of Kashmir for non-State Hindu population. The attempt failed after people took to streets. Indian government is trying to settle non-State retired army officers in Sainik Colonies, settle West Pakistan Refugees, non-State beggars in temporary shelters, non-State white collar officers serving in the State and non-State students studying in various institutions in Kashmir. Indian administration has plans to parachute non-State Hindu colonies in the State.

Delhi is working on a fast track basis to finalise the acquisition of 350 Kanals of land for Rajya Sainik Board, to settle non-State retired army people in district Srinagar and district Budgam. Government has plans to settle the Kashmiri Pandits in separate colonies away from the normal contact of Kashmiri Muslims.

Government of India is all out to overwhelm Kashmir in all aspects of its status and dignity. It has proposals to lease out land in Jammu and Kashmir to outsiders through their local contacts for industrial development. The local investors would act as frontmen to tie-up with non-state subjects for new industrial venture. It is a repeat of the notorious business arrangements that were introduced by British East India Company prior to the occupation of Indian sub-continent.

India wants to seek a massive incursion of non-State Hindus into the State through a number of seemingly innocent proposals to overcome the Muslim majority status in Kashmir. Emboldened by the lack of monitoring and understanding against this sinister move, Modi Government has embarked upon a dangerous coercive move through a proposed legislation in the Parliament. Modi government is preparing to introduce a controversial "Geopolitical Information Regulation Bill" in its parliament aimed to coerce people through a heavy fine and imprisonment to accept Indian narrative on Jammu and Kashmir, currently pending adjudication under UN supervision through a free vote of the people. It is unlawful and a violation of UN Resolutions on Kashmir.

BJP lead Government has started using all foul means to coerce and subjugate the people of the disputed State of Jammu and Kashmir and is using coercion to seek co-operation from others on her narrative against the wishes of the people of Kashmir. Indian designs aimed at changing the status of the State are a violation of the UN writ contained in the UN Security Council Resolution of 30 March 1951. The Human Rights Council on behalf of the UN needs to reiterate that 'any action that the assembly in Indian controlled part, elected from only a part of the State might attempt to take to determine the future shape and affiliation of the entire State or any part thereof would not constitute a disposition of the State in accordance with the principles laid down by the United Nations'. India has to be reminded of UN Security Council caution of 6 January 1948 'to refrain from any step incompatible with the Charter and liable to result in an aggravation of the situation...".

The decision of the Government of Pakistan as a member nation of the UN and as a party to the Kashmir dispute to refer to the UN Security Council the Indian unlawful attempt to show disputed State of Jammu and Kashmir as part of its territory, is a wise decision and the contestation needs full support. Indian breaches of International law applicable in the settlement of Kashmir dispute need to be agitated for the attention of the world.

Indian Government is satisfied with the demographic arithmetic of Jammu province, where the Muslim majority has been trashed into a Hindu majority, by massacring around 5 lakh Muslims in 1947. Indian administration has to live with an annoying discomfort of Muslim majority in the Valley and an aggregate Muslim majority in the entire State

Human Rights Council needs to take an urgent notice of the Indian designs to influence the demography in the Muslim majority State and consider various options to seek compliance from India. Council should also seek to scrutinise the work of J&K State Subject Inquiry Commission, established to investigate the fake State Subject Certificates, so that India fails to influence the demography of the disputed State.