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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 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.

[20 May 2024]

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



Death in Custody in Indian-Administered Jammu and Kashmir

Deaths in custody are a silent global tragedy. In 2019, the United Nations reported that mortality rates are up to 50% higher for people in prison than for people in the wider community. Except for high-profile deaths or large incidents, deaths in prisons globally remain under-reported and under-investigated.

Prisoner deaths have been the subject of reports and recommendations by the United Nations bodies and special procedures and a focus for the Special Rapporteur on extrajudicial, summary or arbitrary executions since the establishment of the mandate. In his thematic report “Deaths in Prisons A/HRC/53/29” submitted to the Human Rights Council in the 53rd session, the Special Rapporteur on Extrajudicial Summary or Arbitrary Execution, Morris Tidball-Binz, focused on addressing the prevention and investigation of deaths of people under the control of a detaining authority, including deaths in pretrial detention. Also included are deaths that occur outside detention facilities while prisoners are under the control of the detaining authority, for example, home visits, compassionate leave and day release.

Philip Allston, the then Special Rapporteur on extrajudicial, summary or arbitrary executions (2008), the “State has no right to imprison a person to subject him or her to the caprices and arbitrariness of thugs, whether in the name of necessity, realism or efficiency”.

He further stated in the report that it is presumed that states are responsible for the death of prisoners. It follows that all such deaths must be investigated. The death of a person under the control of prison authorities is a prison death. Further deaths are prison-related when prisoners die outside prison, during transportation following the admission to a hospital from prison and should be reported to the investigation authorities. Delayed prison-related fatalities may occur after formal prison release. Indeed, because the early post-release period is a high risk, it should be presumed that all deaths occurring within 30 days of release are prison-related unless that presumption can be rebutted. However, prison-related deaths may also occur after this time.

World Muslim Congress appreciates the report presented by the Special Rapporteur before the Human Rights Council for highlighting the issue of deaths in prisons to raise awareness about an invisible, albeit largely preventable, tragedy of global dimensions, often resulting from a failure in the duty of States to respect and protect the fundamental right to life of those deprived of liberty.

India, the most populated country in South Asia claims to be the largest democracy and a firm advocate of the rule of law has registered an alarming increase in deaths in prisons in the last couple of years mainly due to an increased inhuman treatment of prisoners and detainees. According to the National Crime Record Bureau India, the number of deaths in prisons has increased from 1887 in 2020 to 2116 in 2021, a whopping 17% increase. Moreover, the number of deaths due to natural causes has increased from 1642 in 2020 to 1879 in 2021, an increase of 14%.

Indian-Administered Jammu and Kashmir is the longest conflict and the most militarized zone in South Asia where custodial killings are the order of the day. Since 1989 the conflict consumed more than one hundred thousand Kashmiris. However, the most terrifying fact is that thousands were killed extra-judicially under draconian laws which give impunity to the military forces. The High Commissioner for Human Rights in his report to the Human Rights Council in 2019 mentions that according to the Jammu Kashmir Coalition of Civil Society (JKCCS), 1,081 civilians have been killed by security forces in extrajudicial killings between 2008 and 2018.

In the Indian-Administered Jammu and Kashmir, the brutal and abusive approach of the state towards prisoners is causing critical health issues accelerating the deaths of detainees. In May 2021, Muhammad Ashraf Shari 77-year-old prominent Kashmiri resistance leader died in custody while fighting COVID-19. On his death four UN Special Procedure Mandate-Holders have expressed grave concerns over the re-arrest, followed by torture and death in custody of prominent Kashmiri leader Mr. Ashraf Sehrai; and reported lack of access to adequate medical care while he was in prison, given his fragility and known physical conditions. The mandate-holders have, inter alia, called on India “to undertake a prompt, thorough, independent and impartial investigation into the custodial death of Mr. Sehrai to determine and document the reason for his arrest, its factual and legal basis, his treatment in detention, including any indication that he may have been tortured or otherwise mistreated, and the cause of his death”.

In October 2022, Altaf Ahmad Shah, another pro-freedom leader in his mid-60s died in custody while battling cancer that was not allowed to be treated properly. He died in pain while awaiting medical attention and care. Mr. Shah became the third prominent pro-freedom leader to die in custody in the last three years after Syed Ali Geelani and Muhammad Ashraf Sahrai, both well-known and respected political figures.

There is no denying the fact that the extrajudicial killings in Indian-Administered Jammu and Kashmir have always been a matter of great concern and worry for global human rights watchdogs who have been time and again raising alarm about the impunity given to occupation forces for the crimes against humanity. But regrettably, human rights organizations as well as the international community do not put enough and meaningful pressure on India in any manner other than merely expressing concern.

World Muslim Congress strongly believes that without serious efforts by the United Nations Human Rights mechanisms, there would be no end to extrajudicial Killings in Indian-Administered Jammu and Kashmir and suggests that India should be forced to rectify United Nations Convention against torture and other cruel, inhuman or degrading treatment (CAT) which it has signed on 14 October 1997. The refusal to ratify CAT gives impunity to Indian forces for extra-judicial Killings in Indian-Administered Jammu and Kashmir and justification for not bringing its laws up to international standards.
