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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 the Jammu and Kashmir Council for Human Rights (JKCHR), a non-governmental organizations 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.

[8 February 2010**]

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

** This statement was printed late and out of numbered sequence due to a technical problem.

UN General Assembly resolution 62/141 and Council resolutions 7/29 and 11/1 provide a broad spread of wisdom to incorporate into Council programme of work sufficient time to discuss different specific themes on the rights of the child, including the identification of challenges in the realization of the rights of the child, as well as measures and best practices that can be adopted by the States and other stakeholders, and to assess the effective integration of the rights of the child in its work.

The Universality of this interest embeds in article 21 of Jammu and Kashmir Constitution on the Rights of children. Under this article the State shall strive to secure (a) to all children the right to happy childhood with adequate medical care and attention and (b) to all children and youth equal opportunities in education and employment, protection against exploitation and against moral or material abandonment.

The territories of the State of Jammu and Kashmir are defined under article 4 of the Constitution. The present division of the territory and distribution of the people on either side of cease fire line supervised by UNMOGIP since 24 January 1949 established in 1948 by Security Council resolutions 39 (1948) and 47 (1948) fall under the Constitutional responsibility of the Jammu and Kashmir Government. Government of Azad Kashmir has assumed responsibilities under UNCIP resolutions.

The State (Government) which finds a reference of its duties and obligations in UNCIP Resolution of 21 April 1948 and is cautioned in UN Security Council Resolution of 30 March 1950 has remained exposed to a multiple manner of violence during the last 20 years. According to a survey by UNICEF, about one lakh (100,000) children are estimated to have been rendered orphans in Jammu and Kashmir during the past two decades of armed fighting for the realisation of self determination. The post 1990 generation has fashioned its physical and mental reflexes in an environment of overwhelming violence and sickening bloodshed. Over 100,000 orphans have surfaced as a specific group. The process of life of this group causes a duty upon the State Government and the Council on Human Rights to take immediate remedial measures to achieve a quality of life and a standard of care.

The decision of the Chief Minister, Mr. Omar Abdullah to constitute a Task Force headed by Minister for Social Welfare and involve reputed NGOs, besides Save the Children and other humanitarian organizations to give suggestions for improving community care mechanism aimed at welfare of orphans and other destitute children is a welcome step. The provision of 'Quality Standards of care' for orphanages in Jammu and Kashmir' falls under article 21 of the Jammu and Kashmir Constitution and the broad spread of people and territory is covered under article 4 of the Constitution.

It is important that the community care mechanism is energised in accordance with the related obligations set out under UNCIP Resolution of 13 August 1948 and Security Council Resolution of 30 March 1951. Human Rights Council needs to address this situation and find means and work out a modus operandi so that all the three administrations of Kashmir, represented at Srinagar, Muzaffarabad and Gilgit contribute their share towards assuring (a) to all children the right to happy childhood with adequate medical care and attention and (b) to all children and youth equal opportunities in education and employment, protection against exploitation and against moral or material abandonment. All the three Kashmiri administrations should be encouraged to play their collective role to promote the best interests of the 'child' in general and the specific group of children rendered 'orphans' by the violence in particular.

India and Pakistan the two member nations of UN have obligations in accordance with article 1 (2) of UN Charter and as party to UN Resolutions on Kashmir. Both countries are currently using Water which is a natural resource embedded in the natural habitat of Kashmir, without due regard to the primacy of the welfare of the people. It is important and

fair that the two countries are required to divert a reasonable share of profit from this resource for the care and quality of life of the orphans and the youth of Kashmir. Human Rights Council could play a lead role in providing necessary impartial wisdom to India and Pakistan so that the welfare of the child covered under National Family Benefit Scheme and Rehabilitation of Militancy Affected Families in particular and other youth in general is energised on a broad and transparent basis.

It is equally important that various bodies of the United Nations, in particular UNICEF, Save the Children and other humanitarian organizations are encouraged to form a 'Task Force' to give suggestions for improving community care mechanism and welfare of orphans and other destitute children in Kashmir. Chief Minister of Jammu and Kashmir Mr. Omar Abdullah, Prime Minister of Azad Kashmir, Mr. Raja Mohammad Farooq Haider Khan and Chief Minister of Gilgit-Baltistan Syed Mehdi Shah, need to be encouraged to discharge their obligations under UN Security Council Resolutions and UNCIP Resolutions to enhance the political and social benefit of the people of the State.

The two armies of India and Pakistan currently stationed in the three administrations of Jammu and Kashmir could also be encouraged to contribute a certain percentage from their budgets to the welfare and development of the 'child' in Jammu and Kashmir. UNMOGIP also needs to be encouraged to contribute a certain percentage of its budget either directly or through the participating countries towards the welfare of the child and youth.

State is full of orphans and the scenes of misery and hardship are common place in Kashmir. For thousands of orphans and widows, the world as they once knew it has come to a halt. Cut off from the rest of the society, these unfortunate souls are largely left to fend for themselves. Human Rights Council's interest would assist the three administrations of the State to depoliticise and demilitarise their scope of work and agree on the promotion of the welfare and quality of life of the 'child' rendered 'orphan' during the last 20 years of multiple violence used as a weapon of compliance against the common man and woman. The universality and neutrality of the Council could assist to evolve a frame work which could accommodate the five governments, namely three Kashmiri administrations, Governments of India and Pakistan, NGOs and community for the welfare and care of orphans. These special children carry a scar - a feeling of deep hurt and irreparable loss - the loss of their parent. With inaccurate data to accurately register the enormity of the orphan issue here and with so few advocates, the suffering of Kashmir's special children goes unseen. The society in Kashmir is over-politicised. It is less forthcoming in its response to its social conscience and work with special children.

Orphans are an unfortunate by-product of violent conflict in Kashmir. Orphanage culture is the last resort for those who have none to look after them. A report, "Psychiatric disorders among children living in orphanages - Experience from Kashmir" has concluded that children, who have lost family members, witnessed the murder of their loved ones are likely to suffer from a longer trauma. The report concludes that many of these children land in orphanages after their social support network disintegrates. Unfortunately these homes are no more than a shelter. These children need more than a shelter. If the society and system fails them, they may be sucked into an ever increasing cycle of violence. When children have no support, we need to evolve support institutions.

There are more than 3,000 registered NGOs (and many unregistered ones) operating in the Kashmir Valley. The growth of special homes without any accountability has mushroomed. The present state of affairs embeds an increased risk of child exploitation. There is an urgent need to have a regulatory mechanism and all aspects of work need to remain transparent. Therefore, the decision of the Chief Minister, Mr. Omar Abdullah to constitute a Task Force headed by Minister for Social Welfare and involve NGOs, besides Save the Children and other humanitarian organizations to give suggestions for improving

community care mechanism aimed at welfare of orphans and other destitute children is a welcome step.

In view of UN General Assembly resolution 62/141 and Council resolutions 7/29 and 11/1 the Council could play a lead role by bringing together the three administrations of Kashmir and the two governments of India and Pakistan and various NGOs who continue to subscribe their interest in the promotion and protection of human rights in Kashmir, to evolve a frame work for the welfare of Kashmiri 'orphans' and the youth. Chief Minister of Jammu and Kashmir Mr. Omar Abdullah, Prime Minister of Azad Kashmir, Mr. Raja Mohammad Farooq Haider Khan and Chief Minister of Gilgit-Baltistan Syed Mehdi Shah, need to be encouraged to discharge their obligations under UN Security Council Resolutions on Kashmir.
