



General Assembly

Distr.: General
25 June 2019

English only

Human Rights Council

Forty-first session

24 June–12 July 2019

Agenda item 4

Human rights situations that require the Council's attention

Written statement* submitted by 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.

[03 June 2019]

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



Jammu and Kashmir – Merits of Indian refusal to respond to UN Special Rapporteurs

Government of India's letter of 23 April 2019 addressed to the Office of the High Commissioner for Human Rights rejecting any reference to June 2018 report on Jammu and Kashmir and refusal to respond to questions asked about the deaths of 69 civilians between 2016 and 2018 in the Kashmir valley is unfortunate.

Indian allegation that the OHCHR June 2018 report was "false and motivated" and further accusation that the Special Rapporteurs had "individual prejudices" against India, would not help the member nation of UN to undo the massive evidence brought against its human rights record in Indian administered Kashmir.

Indian stand on the report and on the questionnaire of Special Rapporteurs has no merit. The report is based on "reasonable grounds" test and all the sources used are Indian. It has used the official Indian sources, like, information obtained under Right to Information Act, Parliamentary questions in the Indian Parliament, Indian court orders, police reports, reports of the Press Trust of India, J & K Human Rights Commission, National Human Rights Commission of India, research of local, national and international NGOs, and a "smaller number of interviews to corroborate information."

In fact OHCHR June 2018 report did not have the benefit of the testimony of Yashwant Sinha a senior Indian politician and head of a civil society organization – Concerned Citizens Group, which he gave on 26 December 2018 after his visit to Indian administered Kashmir. He has said that "Modi Government had abandoned the Vajpayee policy of 'Consensus, Democracy and Insaniyat', in favour of a "Strong State Policy" in Kashmir, "which meant the use of brutal force to kill as many as they could."

Yashwant Sinha is the recipient of the highest civilian distinction of France - Officier de la Légion d'Honneur and his testimony stands out as an edict carved in the stone. In his TV interview he admitted that, "We have lost Kashmir, there is no question of losing. We hold on to Jammu and Kashmir only by dint of the fact that we have our armed forces there. We have lost the people." Sinha has been a senior Minister in Vajpayee Government and he quit the BJP in April 2018.

This testimony about "Strong State Doctrine" is one more addition to the many other Indian sources used as evidence in the OHCHR June 2018 report on the Human Rights situation in Indian administered Kashmir. OHCHR June 2018 report has confirmed that 500000-700000 Indian soldiers were stationed in Kashmir. India is reported to have inducted 10000 more soldiers after the 14 February 2019 Pulwama suicide attack on security forces and another 70000 soldiers as an alleged supplement to law enforcement agencies during the elections.

India should not be judged by how close it stands to the world's most powerful countries, but how much the State extends itself to the most vulnerable within its own boundaries. More so, people of Jammu and Kashmir are waiting that Government of India discharges its commitment towards a UN supervised vote, to decide their right of self-determination.

OHCHR June 2018 Report, All Party Parliamentary Group on Kashmir in the British Parliament report released on 30 October 2018, hearing conducted on 20 February 2019 in the European Parliament in Brussels on the human rights situation in Indian administered Kashmir, report titled "Torture: Indian State's Instrument of Control in Indian Administered Jammu and Kashmir," compiled by two Srinagar based NGOs - Association of Parents of Disappeared Persons (APDP) and the Jammu Kashmir Coalition of Civil Society (JKCCS) released on 20 May 2019 and the questionnaire sent to Government of India on the deaths of 69 civilians between 2016 and 2018 in the Kashmir valley by the three UN Special Rapporteurs, do not favour India. Individually and in aggregate this voluminous evidence makes a strong case that Indian administered Kashmir is a situation that requires Council's urgent attention.

Indian Government's decision not to respond to the questions asked by the three UN Special Rapporteurs on the deaths of 69 Kashmiri civilians is unacceptable. There are

serious allegation of brutality in the form of electrocution, water-boarding, and sexual torture, of which 26 cases were taken up by the State Human Rights Commission of Kashmir.

OHCHR June 2018 Report has made 17 recommendations to India and 7 recommendations to Pakistan. The 17th recommendation made to India and the 7th recommendation made to Pakistan call for “Fully respect the right of self-determination of the people of Kashmir as protected under international law.” United Nations Security Council and UNCIP have finalised a mechanism for carrying out a UN supervised vote in Kashmir. There is an urgency and immediacy embedded in the implementation of UN Security Council and UNCIP package on Kashmir.

A principal recommendation - “establishment of a commission of inquiry to conduct a comprehensive independent international investigation into allegations of human rights violations in Kashmir” has been made to the Human Rights Council. The massive spread of evidence of the gross and systematic violation of human rights in Kashmir valley does not support the Indian stand that the report is “false and motivated” and that UN Special Rapporteurs had any “individual prejudices” against India.

OHCHR June 2018 report has missed out on the history of human rights abuse in Kashmir. United Nations was apprised about the human rights situation in Indian administered Kashmir during the UN World Conference on Human Rights in June 1993 in Vienna. The President of the UN Correspondents Association Michael Kress organised a Press Briefing for the Secretary General of this NGO (JKCHR) at the UN World Conference on Human Rights.

The World Conference heard that although India remained under a series of health checks under UN Security Council Resolutions and UNCIP Resolutions, it was using military repression to humble and control the people of Kashmir. The people and habitat had remained under siege and without any communication with the outside world from mid-October 1992 to April 1993.

Human Rights Council (Human Rights Commission and Sub Commission) has continued to listen to Kashmiri’s woeful tale of violation of human rights and the tide of their miseries has not abated. Countries in the neighbourhood of India and all those who have contributed to a UN mechanism to carry out a UN supervised vote in Kashmir, NGOs and UN bodies do not have any prejudice or a self-motivated case against India. Daily loss of life on the streets of Kashmir and in their own homes merits Council’s attention. The death toll since 1990 has passed 100000.

This NGO has submitted evidence to UN that Indian security forces have profiled the Kashmiri youth. Recent phenomenon of the disappearance of scholars and research scholars and their deaths in alleged encounters needs a probe.

Human Rights Council needs to take note that Indian army has been admitted on certain conditions. It is a sub ordinate army and a supplement to the State forces. United Nations has placed restraints on their number, behaviour and location. Assurances of their good behaviour have been given at the UN Security Council and the most prevailing assurance was that these Indian security forces would be under the watchful eye of the UN Commission. We have UNMOGIP along the cease fire line but the UN Commission supposed to watch these forces, was never allowed to assume its role.

JKCHR has been working on the four components of Kashmir case, namely, ‘rights and dignity’ and ‘security and self-determination’. For the last 4 years we have been focussing on demilitarization and the use of UN force in Kashmir as first proposed by Pakistan at the 761st meeting of UN SC on 16 January 1957. The proposal was carried forward by Australia, Cuba, United Kingdom and Northern Ireland and United States of America in their joint Resolution S/3787 moved on 14 February 1957 at the UN SC. On 30 September 2015 at the 70th session of UN General Assembly Pakistan has reiterated its proposal for a demilitarization in Kashmir.

India and Pakistan are parties to the Kashmir dispute. In regard to ‘equality of peoples’ and ‘right of self-determination’, they carry Charter obligations. On 24th April 2019 at a “Kashmiri Youth and Women” Conference organised by Tehreek-E-Kashmir UK in the

British House of Commons, a leading Kashmiri Parliamentarian Abdur Rashid Turabi MLA (Member of Azad Kashmir Legislative Assembly and Convenor All Parties Kashmir Coordination Council) has urged the international community in particular the UN to critically appreciate and reconcile the differing positions maintained by India and Pakistan on the UN mechanism in Kashmir.

The Conference Declaration among other demands has asked the British Parliament to support, the UN calls made to the Indian government to repeal oppressive laws - the Armed Forces Special Powers Act (AFSPA) and Public Safety Act (PSA), which grant Indian military forces immunity from prosecution for human rights violations.

There is an urgency, that Human Rights Council invests the same concern in Kashmir as was done by UN Secretary General Dag Hjalmar Hammarskjöld in March 1959, when he visited Srinagar for two days 20-22 March to assess the situation. The broad spread of evidence of massive abuse of human rights by Indian security forces, merits an urgent and immediate “establishment of a commission of inquiry to conduct a comprehensive independent international investigation into allegations of human rights violations in Kashmir.”
