



General Assembly

Distr.: General
15 February 2012

English only

Human Rights Council

Nineteenth session

Agenda item 4

Human rights situations that require the Council's attention

Written statement* submitted by the Jammu & 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.

[9 February 2012]

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

Human rights situations that require the Council's attention**

UN Security Council Resolution 91 (1951) of 30 March 1950 has addressed the question of the people of the State of Jammu and Kashmir and has cautioned the three administrations that “any action that assembly 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 principle...that the future of the State of Jammu and Kashmir shall be decided through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations”

A UN mechanism based on the principle of equality of all people, fairness and free transfer of will has been enshrined in the provisions of United Nations Commission for India and Pakistan resolution of 13 August 1948. India and Pakistan accepted the provisions of UNCIP resolution. It embeds the collective interest of all member nations of UN.

It is unfortunate that the people of Jammu and Kashmir as a unique exception across the globe continue to remain distributed under three administrations on both sides of cease fire line (Line of Control). A common man and woman are forced to endure the burden of five administrations (three Kashmiri and two of India and Pakistan), restraint of five constitutions (three Kashmiri and two of India and Pakistan) and remain under the surveillance of five security apparatuses ((three Kashmiri and two of India and Pakistan).

The administration of Kashmir (AJK) under the administration of Pakistan and described as Local Authority in UN resolutions, has assumed a responsibility under UNCIP resolutions “to provide a better Government and administration of Azad Kashmir until such time as the status of Jammu and Kashmir is determined ... in accordance with the freely expressed will of the people of the State through the democratic method of free and fair plebiscite under the auspices of the United Nations as envisaged in the UNCIP Resolution adopted from time to time,” drifted away from its Constitutional duties and became an instrument to support a militant (violent) movement in the Indian administered part of Kashmir. In the last 22 years since 1990 it disturbed the normal life in the area and affected life, honour, property and State's growth and development.

The induction and support of a militant struggle and of an unaccountable and undemocratic character of politics in addition to its innate lack of sensitivity for the interests of the common people, became a reason for the Indian security forces to assume a punitive role in conflict with their duty to protect ‘life’, ‘honour’, and ‘property’ under the terms of the agreement with the Government of Jammu and Kashmir and became a cause for them to ignore the restraints stipulated in UN resolutions on their ‘number’, ‘behaviour’ and ‘location’.

Development and growth can take place only in an environment of normalcy and peace. Agitations and confrontations have already caused enormous human and economic losses and the recurring disruption of the educational system at all levels has done irreparable damage to the career prospects of Kashmiri youth. In a climate of fear and violence political parties, social, cultural and religious organizations, and all other segments of society, in the three regions of the State, held back from taking steps for the resolution of all remaining issues through dialogue and discussion. A prolonged period of militancy adversely affected the development process and the generation of job opportunities which are required for absorbing the growing number of qualified youth.

** The MWA – Muslim Women's Aid, an NGO without consultative status, also shares the views expressed in this statement.

It is important that the question of a generation of lost job opportunities lost in Kashmir is taken up as part of the annual report produced on global employment by United Nations International Labour Organization (ILO) stating that the world needs to create 600 million new jobs over the next decade to sustain economic growth and maintain social stability.

According to the report entitled 'Global Employment Trends 2012: Preventing a deeper jobs crisis,' the world faces the additional challenge of creating decent jobs for the estimated 900 million workers who subsist on less than \$2 a day, most of them in developing countries.

Due to a continuous crisis conditions in global labour markets and against the prospect of a further deterioration of economic activity, there is a backlog of global unemployment of 200 million. More than 400 million new jobs will be needed over the next 10 years to absorb a labour force expansion of an estimated 40 million people. The report states that "Despite strenuous government efforts, the jobs crisis continues unabated, with one in three workers worldwide – or an estimated 1.1 billion people – either unemployed or living in poverty." Juan Somavia, the ILO Director-General has said that "What is needed is that job creation in the real economy must become our number one priority."

Some 74.8 million young people between the ages of 15 and 24 were unemployed last year, an increase of more than 4 million since 2007, according to the report. Young people are nearly three times as likely as adults to be unemployed. The global youth unemployment rate, at 12.7 per cent, remains a full percentage point above the pre-crisis level.

The figure of unemployed young people between the ages of 15 and 24 in ILO report by and large does not reflect the situations like Jammu and Kashmir. Human Rights situation in these three administrations, namely, Jammu and Kashmir (Indian administered), Azad Kashmir (Pakistan administered) and Gilgit Baltistan (Pakistan administered) varies in character and manner on the basis of the respective administrations. In Jammu and Kashmir we have lost a generation in the last 22 years. The human rights situation in the Pakistani administered parts of Jammu and Kashmir is disturbing and very rarely understood by the UN Human Rights Council or other organs of the United Nations. The Human Rights Council since the last few years has been listening to four voices on Kashmir, namely, from Jammu and Kashmir, Azad Kashmir, Gilgit and Baltistan and a fourth voice of State Subjects (Kashmiris) living as Diaspora. The administrations of India and Pakistan are duly reflected in these expressed opinions on the human rights situation in these areas.

It should be the duty of educated and well informed people to help the Council to be able to differentiate between, facts, hearsay and propaganda. Kashmiri leaders have remained victims of an overbearing control of establishment and it has lost them respect and trust of the people and in the world community. The relationship between Kashmiri leaders and the establishment is like the interdependence of a blind man and a lame man. However, the relationship has outlived its usefulness.

We have to help Kashmiri leaders to start preparing for an informed dialogue with India and Pakistan. Kashmiri leaders could not act as equal and free people. Free transfer of will in an election in the Pakistani administered part of Kashmir is a criminal offence (article 4.4.7 of the AJK Constitution Act 1974). Without any reference to people or due cause the politicians in AJK (Muslim Conference) gave away Gilgit and Baltistan into the administration of Pakistan and gradually surrendered all interests in the territory as stipulated in the Karachi Agreement of April 1949.

As regards any political, moral and diplomatic support from Pakistan, one would welcome it and hope to expand the constituency of this support in other member nations of the United Nations. Unfortunately, the establishment has succeeded to bluff the people of Kashmir and Kashmiri leaders have provided their shoulders to carry this bluff.

The claim that Pakistan (establishment) has been providing political, moral and diplomatic support to the people of Kashmir is a self-serving statement and the Constitutional arrangement of Pakistan with AJK disproves this claim. Kashmiri leaders in Jammu & Kashmir and Azad Jammu and Kashmir have been helping Pakistan to continue with this bluff. Article 31 (3) overrides all the provisions of the AJK Constitution Act 1974. This article takes away all the advocacy of the right of self-determination from the elected representatives in AJK Assembly and makes them irrelevant for any work on self-determination. Any expression on the right of self-determination under UNCIP Resolutions has been reserved by Pakistan (non-Kashmiris) as its private turf.

Human Rights Council has to intervene and assist the Kashmiri leaders in the Valley to negotiate with AJK politicians in respect of their loss of representative character in the AJK Constitution. There is a need to reconcile the inclusive character of self-determination defined in 'Hurriyat' Constitution with the restraints placed on the character of politics in AJK under Section 4.4.7 in AJK Constitution Act 1974.

Human Rights Council has to address its attention to an exceptional situation prevailing in AJK where the people that were required to have a system of Government under UN supervision have been forced to accept a pre-approved politics and Government by the Government of Pakistan. Section 31 (3) in AJK Constitution Act 1974 has continued to strip the people in AJK and their elected representatives in the AJK Assembly of all authority provided under UNCIP Resolutions. Section 4.4.7 of AJK Constitution Act 1974 does not allow the common citizen the freedom of expression.
