



**JKCHR – Jammu and Kashmir Council for Human Rights**  
NGO in Special Consultative Status with the ECOSOC of the United Nations  
Established in 1984

**“All human beings are born free and equal in dignity and rights.”  
- Universal Declaration of Human Rights**

14 October 2021

**The Honourable His Excellency**  
**Lt. Governor Shri Manoj Sinha**  
Raj Bhavan,  
Srinagar – Jammu and Kashmir

Dear Sir

**Higher Burden of Responsibilities in Kashmir**

The habitat of Kashmir is duly praised as heaven on earth by foreign visitors and the United Nations has described the inhabitants as “People of legend, song and story, associated with snow-capped mountains, beautiful valleys and life-giving waters”. These people live “on both sides of the cease- fire line, have been, through the centuries, the victims of exploitation and conflict”. It is a plural society.

The State is fractured and the people are divided and distributed. United Nations (India and Pakistan as member nations and as parties) have recognised “the rights and dignity, the security and the self-determination of these historic people”. It is a great honour to represent these people.

Kashmir has lost a generation of Muslim youth at the hands of a multiple violence. It is painful to see members of the minority community are targeted on the streets of Kashmir. JKCHR has always advocated the security of all people and has condemned any kind of loss of life. One of the four duties agreed at the time of admission of Indian army into the State on 27 October 1947 is the protection of ‘life’. We have always flagged these four duties accepted by the Indian army and have been pointing out to a second more important three point discipline, placed on their behaviour, number and location, under the 21 April 1948 UN SC resolution.

These people of ‘legend’ and ‘historic’ people should not be divided into a Muslim ‘majority’ or into a Hindu ‘minority’, for one or the other reason. Pandit Nehru, while addressing the Yuvak Sabha meeting of Kashmiri Pandits in Srinagar in June 1940 cautioned them “not to fall into the trap into which minorities so easily fell”. He told them that, “A popular mass

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movement, especially in Kashmir proper with its 95 per cent Muslim population, was bound to be predominantly Muslim. Otherwise, it would not be popular and would not affect the masses. It was also natural that the Hindu minority of 5 per cent should not view it with favour, both from the communal and the middle-class point of view". (Kashmir Eden of the East, Nehru June 1940).

Nehru advised those present at the Yuvak Sabha meeting that, "While every individual and group deserved equal protection and help from the State, the idea of special safe-guards for a minority group was full of peril for that group. For such safe-guards led to dependence on extraneous help and weakened the group's spirit of self-reliance; the special privileges amounted, in effect, to little, but they created walls of prejudice which injured the group, and barriers which prevented growth".

It would be unhelpful to address Kashmir as a communal problem. Government of India has set out the Kashmir case at the 227<sup>th</sup> meeting of UN SC on 15 January 1948 and at the 230<sup>th</sup> meeting of UN SC held on 20 January 1948. Loss of home by Kashmiri Pandits is a great loss. We have condemned it in our 1996 report and stand for their right to return to their homes in safety and in dignity.

However, it would be unfair to ignore that five generations, that is, 2.5 million Kashmiri Muslims driven out of the State and living as refugees in various provinces of Pakistan. J & K Constitution and the UN Security Council Resolution of 21 April 1948, guarantee their right of return. The loss of home is a shared tragedy between Kashmiri Pandits and Kashmiri Muslims. Unfortunately Kashmiri Pandits have not looked back or enquired about the welfare of Muslim neighbours left behind. Faith should not be used as a weapon and Government of India should not weaponise the exodus of Kashmiri Pandits.

We have advocated good neighbourly relations between India and Pakistan and have been contributing to all efforts that could bring peace in Kashmir. Therefore we advocate the UN template on Kashmir and remind Government of India of her agreement of 27 October 1947 and her prayer made at the UN SC on 15 January 1948.

JKCHR has contributed to good and friendly relations between India and Pakistan and to Peace in Kashmir, at the UN World Conference on Human Rights in Vienna in June 1993. We were elected to represent the Unrepresented Peoples and Nations of the World. The Indian delegation to the Conference was led by Atal Bihari Vajpayee.

Our interaction with the Indian delegation at the World Conference was continuous during the conference and rigorous. As members of UN-NGO Liaison Committee we were responsible for a healthy exchange of views between the Indian and Pakistani delegations.

We have continued with our efforts to help in all manner to bring peace in Kashmir, at the Third Global Convocation on "Human Rights, Global Governance and Strengthening the United Nations" held in Washington in February 1994, at the November 2000 International Seminar on "Next Step in Jammu and Kashmir: Give Peace a Chance" held in Delhi jointly organised by International Centre for Peace Initiatives, Mumbai – India and Institute of

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Regional Studies, Islamabad-Pakistan, at the May 2004 two Day Conference organised by IKA in London and in all our work at the UN and other forums. The IKA Conference of May 2004 held in London brought people from all regions of the State and from India and Pakistan together for the first time since 1990.

As a State Subject and defender of human rights of all, I am aggrieved to see the habitat and people being wronged. The inhabitants have failed to live up to their definition made by the United Nations. It has to be admitted that the Indian and the Pakistani claims are a consequence of the free choice of these people, agreed in the agreement of 27 October 1947 and stated in the Indian prayer at the UN SC on 15 January 1948.

The 05 August 2019 actions of the Government of India, are at variance to the jurisprudence of the Kashmir case. The lack of a popular consent makes these actions without any merit. The merits of any such departure have been explained by Netherlands at the 611 meeting of UN SC held on 23 December 1952. It has been made clear at the UN Security Council that “The party that would dare to violate an agreement thus reached would load upon itself a very grave offence against the other party, against the United Nations, and against the right of the people of Jammu and Kashmir to self-determination, a right which, in other contexts, both parties have so often and so eloquently defended.” Government of India has loaded upon itself “a very grave offence”.

Government of India has explained the limits placed on its authority in Jammu and Kashmir at the 533<sup>rd</sup> meeting of the UN SC held on 01 March 1951. Maghar Singh case decided in May 1953 by Janki Nath Wazir CJ and Shahmiri J explains the relationship between the State and Union of India. It has been argued at the 773<sup>rd</sup> meeting of the UN SC held on 20 February 1957 that “..pending the holding of a plebiscite, neither India nor Pakistan can claim sovereignty over the State of Jammu and Kashmir.”

State is responsible for the safety and protection of minorities. Para 14 (c) of UN SC Resolution 47 flags the ‘adequate protection’ of the minorities in all parts of the State. Therefore we do not see any merit in any effort to use the minorities as an exit ramp to run away from the trust responsibilities that Government of India have accrued from 27 October 1947.

India has explained “the human aspect of the problem” at the 533<sup>rd</sup> Meeting of Security Council held on 01 March 1951. It has stated that, “The people of Kashmir are not mere chattels to be disposed of according to a rigid formula; their future must be decided in their own interests and in accordance with their own desires.”

The people waiting for a UN supervised vote are currently living under five governments, five constitutions and under the control of two armies. We have a caution in the UN SC resolution of 30 March 1951. The resolution has made it clear that J&K Assembly is elected from only a part of the territory of the State and would not qualify as a representative government unless established as provided under Para 6 of UN SC Resolution 47.

The action taken on 5 August 2019 on the Indian side of the cease fire line and in isolation of people living on the Pakistan side of CFL and around the world has no merit. The

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constituency that supports a future with the Indian union, has rejected the actions in Gupkar Declaration of 4 August 2019 and in the PAGD statements.

Engagement and dialogue is the civilised instrument to settle disputes. We have a UN template to resolve the Kashmir Question. Government of India needs to keep its sense of honour, envisaged in, her prayer made at the UN SC, in her statement that ‘sky is the limit’, in the principles of “Kashmiriyat, Jamhooriyat and Insaniyat” and on the basis of the five working groups set up on Kashmir.

The UN High Commissioner for Human Rights has in his report of June 2018 (July 2019) made recommendation 17 and 7 to India and Pakistan respectively to “Fully respect the right of self-determination of the people of Kashmir as protected under international law”.

Profiling the Kashmiri youth into five categories for killing and the use of a military force is no answer. Indian army is engaged in peace keeping and community building around the world. It would be un-Indian and unfortunate to see them being communalised and criminalised in Kashmir. As a representative of the President of India and one who has assumed duties on behalf of the elected Government of Kashmir, you have a higher burden of responsibilities in Kashmir.

We would respectfully request your Honour to take up the following issues with the Government of India:

1. Government of India to return to its status in Kashmir as explained at the 533<sup>rd</sup> meeting of UN SC held on 01 March 1951 and as explained by the Court in Maghar Singh case of May 1953. It should revive a political process as envisaged in the five working groups set up on Kashmir.
2. Indian army to perform the four duties agreed in the agreement of 27 October 1947. The stationing of the forces to be carried out in accordance with Para 2 (c) (i) (ii) and (iii) of UN SC Resolution of 21 April 1948
3. Keep the number and status (non-arms bearing) of the forces as proposed by India at the 608<sup>th</sup> meeting of UN SC held on 8 December 1952.
4. Allow the political activities of Hurriyat under its constitutional discipline adopted on 31 July 1993 and allow the political activities of PAGD.
5. Release all political prisoners.
6. Consider the Human Rights situation described in the two reports of UN High Commissioner for Human rights of June 2018 and July 2019 and in the Report of UN Secretary General of May 2018 and act on the recommendations made in the interests of the welfare of the people and peaceful quality of life in the habitat.

In the interim it would be highly appreciated if the administration duly recognised under UN template discharges its duties envisaged in Para 12 of UN SC Resolution 47. In particular

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ensure that that there “will be freedom of the press, speech and assembly and freedom of travel in the State, including freedom of lawful entry and exit”.

Excellency kindly rest assured of my best regards and highest considerations.

Yours Sincerely



**Dr. Syed Nazir Gilani**  
**President-JKCHR**

**Cc**

UN Secretary General – New York  
UN High Commissioner for Human Rights – Geneva  
British Foreign and Commonwealth Office - London  
Foreign Office of Pakistan - Islamabad  
Prime Minister of Azad Jammu and Kashmir

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