

Open letter to the United Nations High Commissioner for Human Rights: Urgent action needed to end state violence in Indian controlled Kashmir, August 31, 2016

Mr. Zeid Ra'ad Al Hussein
UN High Commissioner for Human Rights
Office of the United Nations High Commissioner for Human Rights
Palais Wilson
52 rue des Pâquis
CH-1201 Geneva, Switzerland.

Re: Urgent action needed to end state violence in Indian-controlled Kashmir

We are writing to you to express our concern about the situation in Indian-controlled Kashmir where the already subjected population is currently living in a state of siege due to the massive violence unleashed by the Indian forces. We appreciate your decision to create a fact-finding mission and deplore the refusal of the Indian government to allow access to UN human rights monitors.[i] In the absence of such a mission, we feel it incumbent upon civil society groups to provide regular updates on the situation.

We, the Kashmir Scholars Action Group, are an interdisciplinary group of scholars of various nationalities engaged in research on the region of Kashmir. Our research on the Kashmir conflict addresses its history, its consequences for the region and beyond, and its possible resolution. It examines the implications for an internationally mediated political solution, and is of relevance to policy makers. Based on our long and active engagement with civil society groups in Indian-controlled Kashmir, we have undertaken to document and communicate the situation on the ground since the Indian state's violence against civilians has continued to mount from July 7th, 2016 onwards. Each of us has written about Kashmiri history, society and politics; and we are particularly concerned about the present conditions of violence. We write to you now as part of our urgent efforts to check the brutality of the state's response to Kashmiris, who have mobilized in support of their demand for azadi (freedom). Even as we will go on to list some of the details of the humanitarian crisis, we wish to make clear that we are calling not only for the resumption of basic civil services, the rule of law, and the restoration of human rights in Kashmir, but, most importantly, for an internationally mediated political solution for this ongoing crisis.

The Kashmir conflict is not an "internal matter" for India to resolve on its own terms. Neither is it a matter to be resolved bilaterally by negotiations between India and Pakistan, if only because they have failed to do so for over seventy years. The conflict cannot be resolved without determining the wishes of the Kashmiri people, through direct means such as the referendum promised by UN Security Council resolutions in 1948, the conditions of which both Pakistan and India have failed to fulfill.[ii]

The demand for self-determination, though denied for decades, has historically kept resurfacing in the region. The militarized Line of Control (L.O.C) adds to the economic, social and political alienation of many communities and divides the people on both sides of Kashmir. Furthermore, each state has strengthened the detachment between the sub-regions; Kashmir, Ladakh, Jammu on the Indian side, and Azad Kashmir and Gilgit-Baltistan on the Pakistani side, through the

continued use of 'divide and rule' policies and propagandist use of mass media, further obscuring the political demands of the people. However, a number of polls, including one conducted by The Chatham House in the UK[iii], routinely affirm the demand for an end to Indian rule in Indian-controlled Kashmir. It is therefore the responsibility of the United Nations to initiate and monitor the processes that would lead to a resolution of the issue.

*

Soon about to enter its third month, curfew continues to be enforced by Indian authorities in major parts of the region. In this period, nearly 70 people have been killed, over 500 blinded by pellet-shotguns, and over 6000 maimed and wounded. There were extensive communication blockades; phones and the Internet were routinely suspended.[iv] Newspapers had their phone lines cut and their editors were required to censor news of the dead and the injured. Food and fuel supplies were also limited in different parts of Kashmir. In sum, Kashmiris have suffered enormously. The region is fast descending into a humanitarian crisis, and needs immediate attention with concrete provisions for an internationally mediated political solution.

Over five hundred people, the majority of them teenagers (14%) and many young children under the age of ten, have been blinded by the "non-lethal" pellet guns used by the Indian forces.[v] The number of wounded is estimated to be over six thousand. According to a filing made by the CRPF to the JK High Court, 1.3 million pellets have been used up in 34 days.[vi]

- Indian forces have attacked ambulances and hospitals. Drivers have been shot, while tear gas has been used inside medical wards.[vii]
- Army patrols in cities and towns are breaking into homes and attacking residents.[viii]
- Blanket repression against Kashmiri media. Journalists and photographers have been attacked and beaten.[ix] All pro-freedom political leaders are under arrest.[x] Human rights groups that cover Kashmir are charged with sedition for hosting events with Kashmiri families of victims of Indian state violence.[xi]

- On August 20th, the Jammu Transporters' Union and Oil Tanker Owners' Association formally refused to supply petrol and cooking gas to the Kashmir valley. The only access road to Kashmir since 1947 runs through Jammu.[xii]

- The elected government and civil administration more broadly has been missing through this period, with all decisions seemingly in the hands of Indian security personnel. Nor is there any attempt being made to return to civilian authority; on the other hand, 2600 soldiers of the Border Security Force have been inducted into Kashmir, and they have occupied important college and school buildings.[xiii]

*

We, the Kashmir Scholars Action Group, stress the urgent need for the international community to live up to its responsibility to mediate a peaceful and just resolution in light of the desires of Kashmiri people and the UN mandated guidelines on the conflict with a due representation to Kashmiris.

In practical terms, we recommend that OHCHR does not shelve its plans for a fact-finding mission, but instead, until a visit to Kashmir is possible, it invites representatives of civil society to visit Geneva to testify before such a body. This might include groups like the Association of Parents of Disappeared Persons (APDP), the Srinagar High Court Bar Association, Jammu and Kashmir Coalition of Civil Society (JKCCS), as well as members of the doctors, journalists, photographers and traders associations. We are in touch many of these groups and would be glad to facilitate such visits.

We urge the UN and the international community to take the following steps:

- 1) Demand that the Indian government stop violence against Kashmiri civilians with immediate effect.
- 2) Create a UN Commission of Inquiry that investigates all incidents of firing on unarmed protesters to date and all other cases of human rights violations.
- 3) Work forcefully to demilitarize both sides of the Line of Control between India and Pakistan. Further, to demilitarize all of Kashmir and immediately revoke impunity laws such as the Armed Forces Special Powers Act.
- 4) Create credible mechanisms for accountability and justice, (such as an international criminal tribunal), for human rights abuses in Kashmir over the past three decades, including extrajudicial killings, torture, sexual and gendered violence, enforced disappearances and unknown and mass graves.[xiv]
- 5) Create mechanisms and procedures that will allow Kashmiris on both sides of the Line of Control to meet freely and discuss their political futures
- 6) Recognize the right of the Kashmiri people to determine their own political future, and to mediate a just settlement based on the right to self-determination. In this process, international monitors must ensure that there is no government reprisal or intimidation against the people of Kashmir as they discuss future arrangements and express their political aspirations.

We can be contacted via email at kashmirscholars@yahoo.com. Updates and relevant information will be posted at kashmirscholars.wordpress.com.

Thank you,
Sincerely,
Kashmir Scholars Action Group

Dibyesh Anand
University of Westminster

Mona Bhan
Associate Professor of Anthropology, DePauw University.

Angana Chatterji
Feminist Scholar

Haley Duschinski,
Associate Professor, Ohio University

Hafsa Kanjwal
Doctoral Candidate, University of Michigan, Ann Arbor

Suvir Kaul
A M Rosenthal Professor
Department of English
University of Pennsylvania

Inshah Malik
Ph.D. from Jawaharlal Nehru University, New Delhi, India
Currently Independent Researcher

Shubh Mathur
Independent scholar

Deepti Misri
Associate Professor, University of Colorado, Boulder

Goldie Osuri
Associate Professor, University of Warwick

Idrisa Pandit, Ph.D.
Associate Professor and Director, Studies in Islam
Renison University College
University of Waterloo

Ather Zia
Assistant Professor, University of Northern Colorado

cc.

Mr. David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Mr. Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Ms. Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

Mr. Juan Mendez
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Working Group on Arbitrary Detention

Working Group on Enforced or Involuntary Disappearances

Ms. Dubravka Šimonović
Special Rapporteur on Violence against Women

Mr. Pablo de Greiff
Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence

[i] In 2011, Margaret Sekaggya visited the region and met with a number of civil society groups and leaders. Arif Shafi Wani, Samaan Latif, “Will Report Kashmir situation to UN: Rapporteur,” Greater Kashmir, 21 Jan 2011, Access here: <http://www.greaterkashmir.com/news/news/will-report-kashmir-situation-to-un-rapporteur/88195.html>

[ii] The resolution stated: “Noting with satisfaction that both India and Pakistan desire that the question of the accession of Jammu and Kashmir to India or Pakistan should be decided through the democratic method of a free and impartial plebiscite.” Resolution of 21 April 1948: [http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/47\(1948\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/47(1948))

[iii] 'First' Kashmir survey produces 'startling' results <http://www.bbc.com/news/10161171>

[iv] Raghu Menon, “Kashmir: Communications blockade exacerbates the human rights crisis,” IFEX, 29 July 2016, Access here: https://www.ifex.org/india/kashmir/2016/07/29/comms_blockade/

[v] Peerzada Ashiq, “14% of pellet gun victims in Kashmir are below 15”, The Hindu 22 August 2016, Access here: <http://m.thehindu.com/news/national/other-states/14-of-pellet-gun-victims-in-jk-below-15/article9014946.ece>

[vi] Peerzada Ashiq, “1.3 Million pellets used in 32 days, CRPF tells HC,” The Hindu, 19 August 2016, Access here: <http://www.thehindu.com/todays-paper/13-million-pellets-used-in-32-days-crpf-tells-hc/article9005202.ece>

[vii] Abhishek Saha, “50 Ambulances attacked in Kashmir, activists blame security forces,” The Hindustan Times, 13 July 2016, Access here: <http://www.hindustantimes.com/india-news/50-ambulances-attacked-in-kashmir-activists-blame-security-forces/story-bCmMFbQZl4x6bzzl4jXTwO.html>

[viii] Zahid Rafiq, “A Journey into the Heart of Kashmir’s Crisis,” Al Jazeera English, 15 July 2016, Access here: <http://www.aljazeera.com/indepth/features/2016/07/journey-heart-kashmir-crisis-160715115636351.html>

[ix] “India Kashmir dispute: Newspapers raided by Police,” BBC News, 16 July 2016, Access Here: <http://www.bbc.com/news/world-asia-36815815>

[x] “Kashmir: Arrest of Separatist Leader Causes Uproar,” Al Jazeera English, 26 August 2016, Access here: <http://www.aljazeera.com/news/2016/08/kashmir-arrest-separatist-leader-uproar-160826191015477.html>

[xi] “Amnesty accused of sedition over Kashmir event in Bangalore,” BBC News, 16 August 2016, Access here: <http://www.bbc.com/news/world-asia-india-37091945>

[xii] “Minister warns oil cos against stopping supply to Valley,” Tribune News Service, 20 August 2016, Access here: <http://www.tribuneindia.com/news/jammu-kashmir/community/minister-warns-oil-cos-against-stopping-supply-to-valley/282584.html>

[xiii] “Day46: Day after re-entering Srinagar, BSP occupy SP College Campus,” Kashmir Life, 23 August 2016, Access here: <http://www.kashmirlife.net/day46-day-after-re-entering-srinagar-bsf-occupy-sp-college-campus-115547/>

[xiv] “Alleged Perpetrators: Stories of Immunity in Jammu and Kashmir,” A Report by the International People’s Tribunal on Human Rights and Justice in Indian-Administered Kashmir, JKCCS, Srinagar, Kashmir, December 2012, Access here: <http://www.jkccs.net/wp-content/uploads/2015/02/Alleged-Perpetrators.pdf>; “Structures of Violence: The Indian State in Jammu and Kashmir,” A Report by the International People’s Tribunal on Human Rights and Justice in Indian-administered Kashmir, JKCCS, Srinagar, Kashmir, September, 2015, Access here: <http://www.jkccs.net/structures-of-violence-the-indian-state-in-jammu-and-kashmir-2/>; “Buried Evidence: Unknown, Unmarked, and Mass Graves in Indian-administered Kashmir,” A Report by the International People’s Tribunal on Human Rights and Justice in Indian-administered Kashmir, JKCCS, Srinagar, Kashmir, November, 2009, Access here: http://www.jkccs.net/wp-content/uploads/2015/02/Buried-Evidence-_Report-on-Mass-Graves.pdf