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Human rights situations that require the Council's attention

Written statement¹* submitted by Union of Northwest Human Rights Organisation, 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.

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* Issued as received, in the language of submission only. The views expressed in the present document do not necessarily reflect the views of the United Nations or its officials.

Human Rights Situation in Pakistan Occupied Jammu & Kashmir and Gilgit Baltistan that Requires HRC Urgent Attention

The Union of North West Human Rights Organization would like to draw the Council's attention to the human rights situation in Pakistan Occupied Jammu & Kashmir and Gilgit Baltistan, and in particular to the role of the Pakistani State in Jammu & Kashmir since 22 October 1947.

After the British colonial rulers departed in 1947, the Princely State of Jammu & Kashmir had the option of joining either India or Pakistan, or remaining independent. Even as Maharaja Hari Singh, the ruler of Jammu & Kashmir, was mulling over his options, Pakistan invaded Jammu & Kashmir on 22 October 1947. As the marauding invaders went on a rampage in Jammu & Kashmir, killing, raping and looting its residents, Maharaja Hari Singh, who had been increasingly inclined towards taking the independent Jammu & Kashmir route, opted to accede to India and sought Indian assistance in driving out the Pakistani invaders. India came to the Maharaja's assistance and drove out the intruders, but was unable to vacate the entire Jammu & Kashmir and about one third of the territory of the Princely State still remains under forcible Pakistani control.

No single event has shaped the uncertainty of the future that the people of Jammu & Kashmir hesitantly envision than those that unfolded on that very day when the seeds were sown for the physical tearing apart of Jammu & Kashmir, for the destruction of the peaceful and inclusive way of life in the region and the crumbling of the long-held social values in Jammu & Kashmir, and for the induction of the ugly head of terrorism into Jammu & Kashmir by Pakistan

Yet worse was to come. That Pakistan coveted only the territory of J&K but cared little for its people became obvious when after having failed to annex Jammu & Kashmir by force in the several wars initiated by it against India, Pakistan's military establishment moved towards a policy of using Islamic militants as an instrument of regional influence. The experience that the Pakistani military, and especially its spy agency Inter-Services Intelligence (ISI), had gathered in guiding and supporting militants during the anti-Soviet resistance in Afghanistan from 1979 to 1988 was promptly redirected to the Jammu & Kashmir theatre from 1989 onwards. Pakistan started by indoctrinating, arming, sponsoring and training youth from within J&K to take up arms, and over a decade inducted committed Islamists from its own territory and from other Islamic countries into the Kashmir Valley. It continues to support and sponsor terrorist groups of all hues in Jammu & Kashmir to this day.

Pakistan's occupation of Kashmir is, without question, purely in pursuit of its own selfish interests with disregard for the lives, liberty and honour of the people living in Jammu & Kashmir. This was made clear by none other than Pakistan's first Foreign Minister, Muhammad Zafarulla Khan, who opined at the UN in the late 1940s that India "does not require Kashmir from the point of view of any necessities. The possession of Kashmir can add nothing to the economy of India. On the other hand, it is vital for Pakistan. If Kashmir should accede to India, Pakistan might as well, from both the economic and the strategic points of view, become a feudatory of India or cease to exist as an independent sovereign State". In reality, Jammu & Kashmir was and remains important for Pakistan solely as a means to ensure its own survival.

Under the farcical 1974 interim constitution of Azad Jammu & Kashmir drawn up by Pakistan to govern Pakistani occupied Jammu & Kashmir, a President elected by the Legislative Assembly serves as head of State, while the elected Prime Minister is the chief executive. The Legislative Assembly has a total of 53 seats, of which 45 are directly elected. The remaining 8 seats are reserved, 5 for women and 1 each for representatives of overseas Kashmiris, technocrats, and religious leaders. Of the 45 directly elected assembly members, while 31 are elected from constituencies carved out within the territory, 12 are meant to represent Kashmiri refugees across Pakistan. However, as the international watchdog Freedom House pertinently points out, "Politics in both AJK and GB are dominated by local

branches of the main Pakistani parties and some local parties, such as AJK's Muslim Conference, that are closely allied with the Pakistani establishment. Small nationalist parties that are opposed to union with Pakistan are actively marginalized or barred outright from the political process. Activists accused of opposition to Pakistani rule have been subject to surveillance, harassment, and sometimes imprisonment. The interim constitution of AJK bans political parties that do not endorse the territory's eventual accession to Pakistan, and similar rules prevail in GB". The fact that every single election in Azad J&K so far has been won by the party in power in Islamabad lends credence to these observations. Pakistani intelligence agencies maintain a prominent and intrusive presence in both so-called Azad Jammu & Kashmir and Gilgit Baltistan and the authorities increasingly monitor social media and severely punish expression of anti-Pakistan or separatist opinions.

The 1974 Interim Constitution of so-called Azad Jammu & Kashmir has been amended 14 times. These 14 amendments have further detracted from the limited rights and freedoms given to the people of Pakistan Occupied J&K, while strengthening the grip of the Pakistani State over the region even more. These amendments have in effect barred the Legislative Assembly of Azad Jammu & Kashmir from deciding upon aspects critical to the very territory that it is supposed to represent. The Legislative Assembly of so-called Azad Jammu & Kashmir has been prohibited from having any role in more than 33 subjects covered under the Third Schedule of the Interim Constitution. These subjects include such basic things as banking and insurance, economic coordination, planning and coordination of scientific and technological research, aircraft and air navigation, post and telegraph, and education. The Pakistani State, and more specifically the military establishment of Pakistan, is the only entity authorized to decide upon these aspects which reeks of a clear colonial mindset.

In reality, the 'Azad Jammu & Kashmir Act 1974' provides two executive forums – The 'Azad Jammu & Kashmir Government' in Muzaffarabad and the 'Azad Kashmir Council' in Islamabad.

Despite Pakistan's de facto treatment of Pakistan Occupied J&K as part of its territory, its legal status has been of a self-governing state that has its own President, Prime Minister and Legislative Assembly. Currently, a six-member committee appointed by the Government of Pakistan is mulling to introduce the 15th amendment to the AJK Constitution. The proposed amendment will transfer even the little remaining, financial and administrative powers of the local government to the Kashmir Council in Islamabad.

If this 15th amendment is implemented, in essence even ceremonial freedoms of the people living in Pakistan Occupied Jammu & Kashmir will cease to exist as the offices of the ceremonial President, Prime Minister will end, Supreme Court will be abolished, Bar councils will be dissolved, and the State of 'Azad' Jammu & Kashmir will cease to exist, even on paper.

Ruthless exploitation of the people and resources of Pakistan Administered Jammu & Kashmir to benefit Pakistan has led to considerable resentment amongst the people of the region. This, combined with the near-total absence of tangible benefits to the region from the several hydro-electric and other Pakistani projects, has led to a feeling of being colonized. This has manifested itself in a long string of protests by the people of Pakistan Occupied Jammu & Kashmir.

The plans of introducing the 15th amendment have also ignited protests in all 10 districts of Pakistani Occupied Jammu & Kashmir, especially in Rawalakot, Bagh, Muzaffarabad, Poonch, and Neelum Valley. Thousands of people have been arbitrarily arrested and long curfews have been imposed upon the people in Pakistan Occupied Jammu & Kashmir. These protests and demonstrations in Pakistan Occupied Jammu & Kashmir have not only targeted exploitation of the region's resources and the proposed legal amendments but have also been directed against the atrocities being perpetrated by the Pakistani Army and intelligence agencies on the people of the region.

Pursuance to the relevant resolutions of the UNSC on Jammu & Kashmir, all actions of Pakistan in Pakistan Occupied Jammu & Kashmir are illegal as is its occupation of the area. Pakistan is obliged to withdraw its military forces out of the region in compliance with these UN resolutions.

Our organization request this Council and the various bodies of the UN to intervene and stop Pakistan from changing the legal status of the State of Jammu & Kashmir and propose that the UN sends a fact-finding mission to Pakistan Occupied Jammu & Kashmir and hold the State of Pakistan accountable for its excesses, exploitation and illegal actions in region.
