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Report – Public Talk

Human Rights Violations in Indian Occupied Kashmir

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PICTURES OF THE EVENT



The Institute of Strategic Studies Islamabad (ISSI) hosted a Public Talk on December 10, 2018 titled *Human Rights Violations in Indian Occupied Kashmir*. Dr. Shireen M. Mazari, Federal Minister for Human Rights, was the Chief Guest on the occasion. The event coincided with the celebrations marking International Human Rights Day which signifies the adoption of the Universal Declaration of Human Rights (UDHR) by the UN General Assembly in 1948.

Other speakers at the occasion included: Mr. Ghulam Muhammad Safi, Convener All Parties Hurriyat Conference (APHC); Ms. Tahira Abdullah, Human Rights Activist and Mr. Sardar Amjad Yousaf Khan, Executive Director, Kashmir Institute of International Relations (KIIR).

Welcoming the guests, Director General ISSI, Ambassador (Retd.) Aizaz Ahmad Chaudhry spoke about the importance of the day. He stated that December 10 is marked as the Human Rights Day every year. This year, it is particularly a special day because it marks the 70th anniversary of adoption of UDHR in 1948. It also culminates a year-long campaign by the United Nations to highlight the theme of equality, justice and human dignity.

He said that world has made progress in promoting and protecting human rights in the last seventy years, but we still have to cover a long way before we can say that we have stood up for equality, justice and human dignity. Every day, we see human rights trampled upon and sacrifices on the altar of political expediency. Nowhere is this double standard more manifest than in Indian Occupied Kashmir, where the Indian security forces continue to violate the fundamental rights of the Kashmiri people with impunity.

He stated that we all are aware of the fact that the Kashmir cause has been central to Pakistan foreign policy. The people of Pakistan and people of Kashmir have remained connected through lasting bonds of history, culture and faith. What hurts Kashmiris hurts us. On this day, when we are celebrating 70th anniversary of the adoption of UDHR, let us hope that the international community would pledge to grant the people of Jammu and Kashmir their fundamental rights, including the right to determine their destiny.

He stressed that seven decades have passed since the international community promised that right to the people of Kashmir. Countless resolutions, seminars, symposia, memoranda have been prepared and served. The BJP government has tried every method to break the resolve of the

Kashmiri people, including attempts to abrogate or amend Articles 35A and 370 in a bid to change demography and status of Kashmir. Regrettably, the successive Indian governments have refused to listen to the voices of international community. Indian government must know that no country has been able to suppress freedom loving people.

He further stated that the last few years have been particularly hard on Kashmiris. The gross violations of their human rights have created a grave humanitarian situation in Indian Occupied Kashmir. The use of pellet guns to blind hundreds of young men and women is particularly deplorable. Alas, all these years, the world has failed to take notice of brutalities inflicted by the Indian forces on the innocent people of Kashmir.

However, this year we are pleased to see that finally the conscience of international community woke up. The UN High Commissioner for Human Rights issued a report in Geneva to show to the world that how grim the human rights situation has become in Indian Occupied Kashmir.

Dr. Shireen M. Mazari, Federal Minister for Human Rights, in her address expressed her deep gratitude to the ISSI and to other speakers at the occasion. Dr. Mazari spoke about how we can move forward on the issue of Kashmir beyond the platitudes that the government of Pakistan have been offering at international forums. She said that the phrase that we support the Kashmiris in their struggle politically, diplomatically and morally is repeated ad nauseam. Beyond the rhetoric of this phrase, we have literally not done much else in concrete terms to try and push for the resolution of the Kashmir conflict.

She said that generations after generations of Kashmiris have spilled their blood fighting against Indian occupation. She highlighted that today, Kashmir conflict is at center-stage not because we have done anything miraculous, but for two reasons. First, human rights violations by the Indian security forces in Occupied Kashmir have broken all bounds and never before children and women were specifically targeted through the pellet guns, nor were civilians dragged in the streets tied to military vehicles.

Second most important reason is that UN finally did what it should have done many years ago. It finally declared massive human rights violations by publishing a report on Kashmir by the High Commissioner for Human Rights in UN. That report drew the attention of world community on

the issue of Jammu and Kashmir. According to Dr. Mazari, this report is a very creditable account of human rights situation in Jammu and Kashmir.

She lamented that the Pakistani Government did not allow the committee from the Human Rights Commissions' office to come and visit Pakistan and AJK before that report was written. She labelled this as a major blunder and stated that we should have allowed the Committee to come, because we have nothing to hide. There are times when we do not have to resort to 'we will do this if India does'. There are times when you do things which are morally and politically correct. According to Dr. Mazari, this was that time and we lost the occasion.

In her view, the recommendation in report made to the Pakistani state are absurd because they have no reality to the situation in Azad Jammu and Kashmir (AJK). She considered this to have been our fault because they have given information which they get by the people in Geneva or elsewhere. Because we were unable to allow them to visit, these are the consequences. According to Dr. Mazari, it was our hesitancy and absurdity at the official level of decision making that has cost Pakistan the good opportunity to show the contrast between AJK and what is happening in Indian Occupied Kashmir (IOK).

She said that another important development is the British parliaments' report on Kashmir, which in her view is one of the biggest developments which is going to take place in January 2019 and will be based on the hearings that will be conducted by the European Parliament on human rights violations in IOK. She credited the members of European Parliament, especially in UK, for this development who spearheaded this initiative in the European Parliament for the first time.

Talking about the way forward, Dr. Mazari stated that we should move the UNHRC as recommended by the report, to establish a commission of inquiry in order to conduct a very comprehensive and independent international investigation into allegations of human rights violations in IOK. We need to have that investigative commission and we should demand it as per the requirement of the report.

Secondly, we need to be more active in drawing attention at all the international forums and legal forums on the human rights violations in IOK. She also highlighted the Indian violation of

Geneva Convention of 1949 and violation of prevailing international humanitarian law. According to Dr. Mazari, the most neglected area is the abuse and violence against woman in IOK. She stated that on October 31, 2000 UNSC had adopted resolution 1325 on women peace and security and this recognized the need to understand the consequences of armed conflict on women and girls so that institutional arrangements could be made to guarantee their safety. She stated that unfortunately, in IOK, women have been affected by the situation of armed conflict, but very little has been said about it. This issue had not been addressed adequately by the previous government. Women organisations abroad were not approached to get them involved into stopping the human rights violations in IOK.

In her view, another important thing is that rape has been highlighted as a weapon of war, especially after the tribunals of Yugoslavia and Rwanda. But still, we have occasionally talked about and have been unable to raise the issue systematically which is being persistently used by Indian security forces against women in IOK. She gave the examples of some incidents that have taken place such as in May 1990, Mobina Ghani was raped, and there was no inquiry conducted and no action was taken against state. There was another rape case in July 1990 and there was also a case filed against Indian border security forces against the rape, but no action was taken. In the villages of Kunan and Poshpora, mass rape was committed by the Indian soldiers. They actually went to the villages and separated the women from the men and then they systematically raped and violated the women of those villages. The survivors of that attack are still fighting for justice, but nothing has been achieved, and unfortunately the international community has not also done much in this regard.

She informed the audience that there was a United Nations Special Rapporteur on violence against women and its causes and consequences. The Rapporteur visited India between April and May 2015, and it was noted that how Indian Armed Forces special powers act 1990 granted special powers to the security forces of India in Jammu and Kashmir. Due to these special powers, there was no accountability of the border security forces and Indian military in what they did and particularly, it emphasized that Army Act of 1950 limited the scope of civil courts to consider the allegations of violence against women perpetrated by the Indian Army officials.

Dr. Mazari said that we need to remind the world that despite the incident of 911, struggles for self-determination are still legal. There is a wrong assumption that after 911, struggle for self-determination has no place and has no legality. The Almaty declaration of 2002 reaffirmed its commitment for the right of self-determination for the people who remained under any kind of foreign occupation. This declaration was adopted by the heads of the states and by the governments who were there, including India and Pakistan.

She stressed that we should not be hesitant in reiterating the Security Council Resolutions on Kashmir. There is a trend in Pakistan to say that UNSC resolutions are out dated this is not correct. Because the legitimacy of Pakistan's positions as party to the dispute in Kashmir rest purely on the UNSC resolutions, therefore, whatever we decide it will always have to be according to the central principle of UNSC resolutions and it is always good to remind the world how absolutely the UNSC resolutions were similar in case of East Timor and where UN, US and other powerful states pushed East Timor to get its self determination. But unfortunately, nobody moves on Kashmir yet the resolutions are identical. In this case, according to Dr. Mazari, the only difference is that the power occupying was Indonesia which is a Muslim state, and in case of Kashmir the power is India which is not a Muslim state. We need to talk about it and we need to publicise it.

She further stated that in case of Kashmir before the UN, the position of Pakistan is even stronger because India itself took the issue to the UNSC. It took it under Chapter Six of the Charter. So it never declared Pakistan as an aggressive state. Chapter Six is based on the resolution of disputes, which means that India admitted that this is a dispute between two members of UN and required specific and peaceful settlement. So in that context, we need to reemphasise that Pakistan at no stage was declared as an aggressor by India in case of Kashmir when it took the issue to the UNSC.

Finally, she suggested that there is valid conflict resolution model the "Good Friday Agreement Model" she suggested this model be used for a number of reasons. First, it is premised on principle of self-determination that the people fighting for their self-determination are the final arbiters of their fate and no two powers are going to decide about their fate. Second important thing about the model is the de-weaponisation following agreement. So you don't have to make

demands to freedom fighters to lay down their arms until agreement is reached and implemented. Third important thing is about the overall agreement that there are two separate agreements: one is overarching agreement that is between the UK and Republic of Ireland. Within that there is another agreement between UK, Ireland and all the militant groups who are fighting are party to the agreement.

According to Dr. Mazari, there is need to present this model to the international community which can push and almost compel India to accept the format and come to the dialogue table. Parallel dialogue should be opened simultaneously between Pakistan and India and between all other stake holders in Kashmir.

Suggesting ways for this, Dr. Mazari said that Pakistan should talk to stakeholders on its side such as AJK or representatives of APHC in AJK, and India can also have dialogue with APHC and with those people who support India in IOK. And then, we can have a bigger group for the dialogue. It is not impossible as in past we led the dialogue to the Geneva agreements when both parties were not even talking to each other. But we have this feature of proximity talks where UN went from room to room carrying messages that this side has agreed upon this and what do you want. So at least Pakistan and India can do this even if they are not talking to each other, but there should be some kind of dialogue process.

Even before commencing parallel dialogues, certain Confidence Building Measures should be taken. For instance we need to ask UN to push India to accept the UNMOGIP on its side of the Line of Control. Along with that, we need to ask UN to establish a monitor of all Kashmiris who are eligible to participate in the plebiscite and who will support and vote for the plebiscite. Furthermore, India is trying to change the demography of IOK and we should not allow it to happen because it will distort the whole concept of having the plebiscite

She also talked about constitution of a Referendum Committee to define the geographical parameters of the disputed territory. Because if you are going to have a settlement in the plebiscite then these parameters must be clear and well-defined.

Dr. Mazari also stressed that we should do something concrete instead of giving statements that we support Kashmir politically, diplomatically and morally. We should let India be on the

defensive side and should show the world that Pakistan has done something and we are serious about resolving the issue and are actually putting some work for resolution of the Kashmir conflict because we have borne a huge loss of too many generation and too many people and we can't afford it anymore.

Mr. Ghulam Muhammad Safi in his address stated that we are observing the international human rights day today with a pledge that we shall stand up for our rights and with those of others. In many countries, we witnessed human rights violations on individual level, but there are countries that are violating these rights as a state policy. For example, Indian forces in IOK are equipped with sophisticated weapons and are also provided with an umbrella of impunity and immunity with legislation like Armed Forces Special Power Act which makes these violations systematic, wide spread and crimes against humanity.

According to him, in 2004 Mr. John Kushman led a delegation of European Union to Kashmir. On his return, he described Kashmir as worlds' most beautiful prison where people continue to suffer and sufferings went unnoticed. After lapse of 14 years of his visit, UNHCHR released a report at UNHR Office at Geneva. He stated that this report is first of its kind which vindicates the stance and stand of Pakistan, Kashmiri human rights defenders and leaders of mass movement in Jammu and Kashmir regarding Indian highhandedness in the territory which has been defined as disputed territory of Jammu and Kashmir by the UN.

He stressed that the report highlights the impunity and lack of access to justice and excessive use of force, civilian casualties and use of pellet firing shot guns. According to the official figures presented in the Indian parliament, 17 people were killed by pellet injuries between July 2016 and August 2017. The report also shed light on the cases of torture, involuntary disappearances, mass graves, violations of the rights to health, restrictions on the right to assembly and freedom of expression, reprisal against human rights defenders, restrictions on journalists, sexual violence and ban on the publication of newspaper.

He further highlighted that the UN report drew appreciation from various quarters and sharp criticism and reaction from Indian government, Indian political parties and Indian media. He stated that while answering the critics, the spokesperson of the high commission made it clear that violations inside Pakistani Line of Control are of different calibre, nature and magnitude.

These violations are of structural nature. He also stated that in this report we don't talk about two identical situations in IOK, AJK and Gilgit-Baltistan.

He mentioned that the report focuses on killings, sexual violence and use of pellets which is by and large committed in Indian occupied Kashmir authorities, and has been acknowledged by Indian parliament, Supreme Court, Ministry of Defence and Vice President of India. He also mentioned that one of the critics said that UN office of high commissioner should have asked India first whether to publish such a report or not. While answering this, he stated that agreement of India for the preparation of such report was not necessary because our mandate is to promote and protect human rights everywhere and that includes Jammu and Kashmir also.

In his view, this comprehensive report calls upon India to fully protect the right of self-determination of the people of Jammu and Kashmir under international law, and India should positively respond to the recommendation regarding establishment of the commission of inquiry and to repeal Arm Forces Special Power Act. But India has rejected the report on the grounds that it is biased and motivated.

Mr. Safi stated that we endorse the view of independent human rights commission by the report and it will help to persuade the Indian government to come out of its persistent denial of the human rights of the Kashmiri people and galvanize international effort to bring to an end to the persistent human rights violations as part of a comprehensive and everlasting solution guaranteeing to Kashmiris their right to self-determination .

He also stated that newly elected High Commissioner of Human Rights Michelle Bachelet has also stated that our recent report on the human rights situation has not been followed up with meaningful improvements on even open and serious discussions on how the grave issues raised could be addressed. The people of Kashmir have exactly the same rights to justice and dignity as people all around the world have. We urge the authorities to respect them. This report has provided us an opportunity.

He concluded that office of the UN High Commissioner is unambiguously clear that violations in Azad Kashmir and Gilgit-Baltistan are of structural nature and massive human rights violations in IOK needs to be addressed in an adequate manner.

Ms. Tahira Abdullah was of the view that Pakistan, to retain its moral high ground, should not brush aside what the UN report has said about Azad Jammu & Kashmir and Gilgit-Baltistan. The report has clearly pointed out that there are curbs on right to expression, assembly, dissent and information. These curbs are present all over Pakistan, which is also clearly stated in latest report of Human Rights Commission of Pakistan. There is a need for some soul searching. There is a gender dimension also which only get passing remarks when Indian atrocities in Kashmir are talked about. Rape is termed as a weapon of war by India, but the trauma of half widows is neglected. This issue did get attention in the UN report, but more needs to be done. She said that United Nations Military Observer Group in India and Pakistan must be stationed across LoC. India must allow human rights defenders from Pakistan to visit Kashmir. She stressed that Kashmiris must be part of any negotiations that take place between India and Pakistan particularly, women from both sides of Kashmir should be part of any such deliberations. She said that it's been more than 22 years that the slogan of azadi is heard in the Valley. Kashmiris are suffering all sorts of atrocities. Perhaps it is time to think over a third option.

Sardar Amjad Yousaf Khan said that United Nations Office for High Commissioner for Human Rights (OHCHR) asked permission for a fact finding mission in both Azad Jammu and Kashmir and Indian Occupied Kashmir in 2016. Pakistan made this permission conditional to similar permission granted by India. Ultimately, in 2018, OHCHR released its report based on remote monitoring mechanism. This was a very comprehensive report that mentions each and every violation of human right and methods used to commit those violations. He said that the terms Azad Jammu & Kashmir and Indian Occupied Kashmir are used because Pakistan still maintains the United Nations security Council resolutions. AJ&K and Gilgit-Baltistan are not constitutional parts of Pakistan. It was India that went to the United Nations. The initial application was that Maharaja of Kashmir has done a temporary accession and requested the Indian forces to land in Kashmir. Later, they went to the Security Council and surrendered their application. Security Council resolutions placed certain restrictions. Indian army was there to protect the life and honour of Kashmiris but instead, Indian army resorted to worst human rights violations in the Valley. He referred to the Association of Parents of Disappeared persons as one of the example of human rights violations in Indian occupied Kashmir. He said that India reacted angrily to the report and dubbed it as "motivated". He suggested that Pakistan should make a more proactive effort to highlight the plight of Kashmiris. He also suggested that government of Pakistan should

give OHCHR access to Azad Jammu and Kashmir. There are no human rights issues in AJ&K and hence, there is nothing to hide. He also said that Kashmir is not an issue between India and Pakistan as it is the people of Kashmir who have to decide their future. He also suggested that if leaders from Indian Occupied Kashmir could be given access to international forums, it would go a long way in highlighting the issue globally.

A number of questions were raised during the question and answer session.

A question was raised how Good Friday deal would reconcile with UNSC resolutions. Dr. Mazari replied that UNSC resolutions focus on plebiscite and so does the Good Friday deal. Besides, UN resolutions do not give details of how this plebiscite should be held. It is up to the parties to the dispute to give such details which can only come through dialogue and agreement. There is a provision whereby Republic of Ireland had to change its constitution to accommodate the Good Friday deal. Similarly, India would also have to make amendments to its constitution to get rid of Article 370.

Another guest asked how government of Azad Jammu and Kashmir can play a leading role to highlight human rights violations in Indian occupied Kashmir?

Another guest commented that any peace process is a long process. Foreign office worked day and night, but did not achieve desired results mainly because there is no international pressure on India. There is a need to mobilise public opinion, especially in the West in addition to government to government talks.

Another guest raised a question regarding granting status of provisional province to Gilgit-Baltistan area and asked whether it would have any negative impact on Kashmir cause?

Dr. Mazari said that so far no decision has been taken by the government regarding granting Gilgit and Baltistan status of provisional province. It had been under discussion because it is also about giving people their rights. However, no final decision has been taken in this regard

Dr. Mazari was of the view that Pakistan had not been doing enough for Kashmiris, particularly the Kashmiri women. Pakistan should reach out to women's organisations abroad. Pakistan has not taken Kashmir's case anywhere other than the UN. She agreed that public opinion in the

West need to be mobilised and for that she highlighted the importance of the Kashmiri diasporas. She also said that there used to be Kashmir centres around the world, but under US pressure all these centres were closed except in Brussels. This is why European Union Parliament is well aware of the Kashmir issue. There are too many issues like issue of half widows or pellet guns that need to be taken to the international community.

She also informed the audience that the government of Azad Jammu and Kashmir is playing its part in highlighting the issue of human rights abuses. The President and Prime Minister of Azad Jammu and Kashmir travel extensively and take the issue to world capitals.

In his concluding remarks, Chairman, Board of Governors ISSI Ambassador (Retd.) Khalid Mahmood said that in Indian Occupied Kashmir, human rights of men, women and even children are at stake. The United Nations Human Rights Commission came out with a report and UN Secretary General endorsed that report. There is growing awareness about the situation in Indian Occupied Kashmir. A question arises about what is the way forward. Some very good examples and ideas have been floated during the course of discussions which are food for thought. Pakistan is trying its best to keep the issue alive. Pakistan has also always endorsed the idea that Kashmiris should be part of any negotiations that take place between India and Pakistan. He thanked the speakers for taking out time from their busy schedule and the audience for their keen interest in the subject and active participation.