



# General Assembly

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## Human Rights Council

### Fifty-second session

27 February–31 March 2023

Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### **Written statement\* submitted by Citoyens en action pour la démocratie et le développement, 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.

[5 February 2023]

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\* Issued as received, in the language of submission only.



## **Situation in Azad Kashmir, Pakistan Administered Kashmir**

For over seven decades, the legal status of Pakistan Administered Kashmir remains in limbo. In 2022, Azad Kashmir, Pakistan Administered Kashmir, witnessed widespread protests against yet another attempt to dilute its remaining skeletal administrative machinery. The latest trigger was Islamabad's decision to introduce the 15th Amendment Act which proposed the formation of a separate commission for local bodies (LB) elections. Locals saw it as an attempt to dilute the powers of Azad Kashmir, Pakistan Administered Kashmir, Election Commission's exclusive powers to hold elections. The protests were a manifestation of the environment of anger and distrust that has been making for decades now. Except for its notional status as "Azad" (independent), there is hardly any de-facto authority enjoyed by the Azad Kashmir (Pakistan Administered Kashmir) administration. The situation in erstwhile Northern Areas was more uncertain as it was governed by the colonial era Frontier Crimes Regulations till the early 1970s.

After Pakistan-Backed tribal and dissidents brought the region under its control and termed it "Azad Kashmir" (Pakistan Administered Kashmir), the region was put under the Ministry of Kashmir and Northern Areas despite establishing a setup under Prime Minister and President. The Karachi Agreement of 1949 puts defence, foreign policy, UN negotiations and foreign publicity under the purview of Pakistan. Matters within the purview of the Azad Kashmir, Pakistan Administered Kashmir, government are vaguely defined as general administration and economic development.

Rather than offering the people of Azad Kashmir, Pakistan Administered Kashmir, freedom to decide their wishes, the Pakistani constitution assumes they shall be part of Pakistan. Article 257 reflects this attitude, wherein it says, "When [not if] the people of the State of Jammu and Kashmir decide to accede to Pakistan, the relationship between Pakistan and that State shall be determined by the wishes of the people of that State." At best the Azad Kashmir (Pakistan Administered Kashmir) government's administrative powers can be described as that of a municipal authority. A Joint Secretary of the Ministry of Kashmir Affairs exercised more authority than the president of Azad Kashmir, Pakistan Administered Kashmir.

It is well known that the people of Azad Kashmir, Pakistan Administered Kashmir, rarely possessed any emotional affiliation with Pakistan. The prevailing atmosphere of discontent against the Maharaja was exploited and unsuccessful attempts were made to transform it into a pro-Pakistan sentiment. After Pakistan brought Azad Kashmir, Pakistan Administered Kashmir, under its control, the first step it took to delegitimize local authority was to demobilize the local soldiers by applying the Pakistan Army Act.

In the 1950s, the Sudhan community of Azad Kashmir, Pakistan Administered Kashmir, revolted against injustice but was brutally oppressed. Thousands of members from the community took refuge in Indian Administered Jammu and Kashmir. Christopher Snedden rightly sums up the situation of Azad Kashmir, Pakistan Administered Kashmir, when he points out that the Ministry of Kashmir kept the politicians divided and ensured that the Pakistani bureaucracy can maintain its control of the affairs of Azad Kashmir, Pakistan Administered Kashmir. In 1959, KH Khurshid (once secretary to Mohammad Ali Jinnah) was appointed the President of Azad Kashmir, Pakistan Administered Kashmir, under General Ayub Khan's regime. He was removed by the military after he was accused of working for independence from Pakistan.

As against the Azad Kashmir (Pakistan Administered Kashmir) nomenclature, Azad Kashmir (Pakistan Administered Kashmir) never had any international recognition and depends on Pakistan for international representation. The demand for greater power devolution is not new but dates back to the 1960s as a result of which Azad Kashmir, Pakistan Administered Kashmir, for the first time, was granted directly elected legislative assembly in 1970. Later in 1974, the Bhutto government (having fresh memories of the East Pakistan debacle) promulgated the Azad Jammu and Kashmir (Pakistan Administered Kashmir) Interim Constitution Act having a constitution and parliamentary form of government.

According to Human Rights Watch “these provisions are hollow. Under Section 56 of the Jammu and Kashmir Interim Constitution Act (which was drafted by the Federal Ministries of Law and Kashmir Affairs in Islamabad), the Pakistani government can dismiss any elected government in Azad Kashmir irrespective of the support it may enjoy in the AJK Legislative Assembly. The Interim Constitution Act provides for two executive forums—the Azad Kashmir Government in Muzaffarabad and the Azad Kashmir Council in Islamabad”, with power resting with the latter. The interim constitution, rather than empowering Azad Kashmir, Pakistan Administered Kashmir, took away several powers exercised by the legislature set up under the 1970 Act. Even subjects like Tourism, Banking, Highways, and Minerals, which rightfully belong to the people of Azad Kashmir, Pakistan Administered Kashmir, are under the Azad Kashmir (Pakistan Administered Kashmir) Council. The first elections under the new setup became controversial after Bhutto was accused by Sardar Qayum of tampering with polls. In turn, the PPP government’s dissolution by General Zia ul Haq brought Azad Kashmir (Pakistan Administered Kashmir) under military control. Under Zia’s regime, political parties were governed under the Political Parties Ordinance which mandated all parties to profess Azad Kashmir’s (Pakistan Administered Kashmir) inevitable accession to Pakistan.

The other challenge faced by the political structure in the region is the presence of caste and clan-based politics that has kept feudal elements relevant. Till a few years ago, Pakistan was successful in depriving the people of Azad Kashmir, Pakistan Administered Kashmir, of their rights and powers by stoking the Kashmir region sentiment. The people of Azad Kashmir, Pakistan Administered Kashmir, were promised integration with Indian Administered Jammu and Kashmir by the successive civil and military leadership to deflect attention from addressing the severity of the situation in the region itself. This phenomenon is sustained by social engineering efforts that range from communalizing the Kashmir region issue to trapping the locals’ identities warped in distorted versions of past events. Events like Kashmir Solidarity Day or Kashmir Exploitation Day thus become necessary to sustain these narratives. The international community must take cognizance of the constitutional crisis faced by Azad Kashmir, Pakistan Administered Kashmir, for the last decades and take necessary steps to restore the rights of the people of Azad Kashmir, Pakistan Administered Kashmir.

The council is requested to:

- a. Recognise the people of Azad Kashmir, Pakistan Administered Kashmir, as stateless. Both OHCHR and UNHCR have worked together on the issue of statelessness and their combined efforts are needed to redefine the status of these people.
- b. Work with sister institutions to examine the case for derecognition of the two Karachi agreements of 1949 that define Pakistan’s relationship with Azad Kashmir, Pakistan Administered Kashmir.
- c. Ensure that the rights and treatment of the people of Azad Kashmir, Pakistan Administered Kashmir, must be 1954 Convention Relating to the Status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.