



INTERVENTION UN HUMAN RIGHTS COUNCIL May 31, 2013

Item 3: Report of UN Special Rapporteur on the rights to freedom of peaceful assembly and of association

Friday, 31 May 2013, Geneva - During the interactive dialogue under item 3 on the Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association at the twenty-third session of the Human Rights Council, IHRAAM's Permanent Representative to the UN – Geneva and the Chairman of ICHR - Kashmir Project, Barrister A. Majid Tramboob delivered a speech for the consideration of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the President of the UN Human Rights Council, the UN High Commissioner and the Member States of the UN. Barrister Tramboob said the following:

“Madame Rapporteur,

International Human Rights Association for American Minorities (IHRAAM) would like to thank Madame Rapporteur for her report, especially for her choice of missions. In this "extraordinary year for human rights", broadly speaking, the office of High Commissioner once again played a key role in upholding the universality of human rights.

The Special Rapporteur was informed during her mission to the United Kingdom and Northern Ireland of the adverse impact that counter-terrorism measures have had on non-profit organizations and the disproportionate impact on communities in the region. The counter-terrorism measures have allegedly been proscribed while there was reportedly no proof that these organisations had been active in terrorist activities. Such measures have constrained communities which have on occasion been afraid of expressing themselves publicly.

Regrettably, Madame Rapporteur, the discriminatory effects such measures have over sectors of the population are not restrained to the countries addressed during your missions. The Government of India has attempted to emphasize the normalcy of life in Indian Held Kashmir: but instead Kashmir is a heavily militarized and occupied territory. The existence and enforcement of draconian laws such as the highly criticized by human rights organisations Armed Forces Special Powers Act (AFSPA), grants the army and paramilitary forces sweeping powers; furthermore, due to the Government's ineffective task in controlling the Indian Army, there has been an unleashed reign of terror in the occupied territory, undermining the right of the Kashmiris to express themselves without severe and unlawful consequences.

The Chair of APHC Dr. Mirwaiz Umar Farooq was denied to take out peaceful procession on

the annual death anniversary of his father Mirwaiz Molvi Mohammed Farooq and late Lone just last week. This is a clear example how the leadership and the people of Kashmir are denied their rights to freedom of peaceful assembly and of association.

It is, however, the Jammu and Kashmir Disturbed Areas Act the most comparable one to the counter-terrorism measures in the UK and Northern Ireland. Nonetheless, whereas the restrictions in the UK and N.I take many forms including the inability for Muslim communities to open bank accounts, arbitrary closure of accounts, inordinate delays or termination of transactions, in Indian Held Kashmir, Madame Rapporteur, the restrictions in fact provide a cover to the state machinery for indiscriminate and unprovoked firing at peaceful and unarmed demonstrations, extra judicial killings and the destruction of the property of Kashmiris on suspicion; thus undermining their rights.

The Special Rapporteur reiterated that any restrictions on the right to freedom of association must meet the standards set out in the International Covenant on Civil and Political Rights. This includes any limitations imposed in the context of counter-terrorism measures as elaborated by the Special Rapporteur on the promotion and protection of human rights while countering terrorism. Since one of the missions of the Special Rapporteur is to report on violations, wherever they may occur, of the rights to freedom of peaceful assembly and of association, as well as discrimination, threats or use of violence, harassment, persecution, intimidation or reprisals directed at persons exercising these rights, and to draw the attention of the Council and the High Commissioner to situations of particularly serious concern, IHRAAM wishes to endorse this statement by reporting and condemning the disproportionate draconian laws India enforces in Kashmir.

Madame Rapporteur mentioned in the report that "A balance must be struck between the burden placed on the individual whose rights are limited and the interest of the general public in achieving the aim that is being protected". In IHRAAM's view, Madame, the interest of the general public, when concerning Kashmir, is to be freed from laws deliberately implemented with the purpose to deter Kashmiris exercise of the Article 21 of the ICCPR which recognizes the right to freedom of peaceful assembly to be enjoyed by everyone.

Moreover, the assumption of terrorist activities based on general characteristics such as cultural, ethnic or religion is not only disproportionate, but it constitutes discrimination and is prohibited under international law."