

OHCHR Report on Jammu and Kashmir

May 30, 2019

Manifest Pedagogy

Human Rights as a topic is highly relevant this year across disciplines. In polity NHRC celebrated its 25 years of formation last year. India became the member of UNHRC the third time. And now comes the issue of Kashmir. Hence one needs to study the topic thoroughly from both Polity and IR perspectives

In news

India's anger towards OHCHR report on Jammu and Kashmir

Placing it in the syllabus

Important international institutions, agencies and fora the structure and mandate

Static dimensions

UNHRC and India

Current dimensions

- What is the issue?
- India's reaction to it
- Impact
- Way forward

Content

UNHRC and India: Timeline

The Human Rights Council is an inter-governmental body within

the United Nations system made up of 47 States responsible for the promotion and protection of all human rights around the globe.

The Council was created by the United Nations General Assembly in March 2006 by resolution 60/251. Its first session took place from 19 to 30 June 2006. One year later, the Council adopted its “Institution-building package” to guide its work and set up its procedures and mechanisms.

2011: India was elected to HRC in 2011. It committed to, including a “Standing Invitation” signed in 2011 to all special rapporteurs to visit India. Special Rapporteurs are appointed by UNHRC on specific issues and with specific mandates, Sanitation in J and K for instance. They report on those matters

2016–2018: UN sources also said that between 2016-2018, the OHCHR Special Rapporteurs had sent as many as 58 communications, and had received no response other than the April 23 letter on Jammu and Kashmir. According to the UN records, more than 20 such visit requests, including to Jammu and Kashmir, are pending at present.

2017: India was recently elected to UNHRC for the third consecutive time (2011-14,2014-17,2017–20) with the highest number of votes in the Asia-Pacific category.

What is the issue?

The current Special Rapporteurs on Extrajudicial Executions, Torture, and Right to Health – Agnes Callamard, Dainius Puras, and Nils Melzer – had referred to a June 2018 report of the Office of the High Commissioner of Human Rights (OHCHR) and written to the government in March 2019, asking about steps taken by New Delhi to address the alleged human rights violations listed in the report.

In addition, the Special Rapporteurs had listed 13 cases of

concern from 2018 alone, in which four children were among eight civilians killed by members of the security forces.



India's reaction to it

Rejecting all the claims, the Indian Permanent Mission to the United Nations in Geneva replied to the OHCHR in April, said that India does not intend to engage further with these mandate-holders or any other mandate-holders on the issue.

India had also rejected the OHCHR's report on the 'Situation of Human Rights in Kashmir' – the first-ever such report on Jammu and Kashmir that came out in June 2018 – and accused the High Commissioner of Human Rights Zeid Ra'ad Al Hussein of clear bias in bringing it out.

Impact

Following are the impact of India's reaction

India's record in Human Rights historically has been way better than many countries and it is a matter of great pride as India believes in protecting the fundamental rights of every citizen respecting the democratic principles. This position of India is hands down seconded by many democratic countries. What better proof than India getting elected to UNHRC 3 times consecutively and in 2017 with the highest number of votes (188) in the Asia-Pacific category.

From the above Timeline what we see is that from 2016 onwards our relationship with UNHRC and OHCHR is not healthy. Is it a cause of concern for India? Does it dent India's image world over? Yes, it does.

HRC does not have penalizing powers though but **can rescind the membership of a country violating the rules.** India loss of membership may puncture the pride and prestige of India.

Way forward

If the government is of the opinion that the report is biased it needs to disprove it through facts on the ground and resolve it through communication with the panel. In case India undercuts the argument of the panel India can score points over the panel.