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**Submission to the 27th UPR Working Group session on India**

### **Annexure 3**

#### **The Unlawful Use of Pellet Guns – The Lethal Use of Allegedly Non- Lethal Weapons**

The Government of India and the state government in Kashmir must immediately order police forces to halt forthwith the usage of Pellet Guns and the lethal cartridges that they use. Any further usage of such weapons would not just be callous, but a criminal act.

Since 9 July 2016, in the aftermath of the killing of Mr. BurhanWani, a Hizbul Mujahedeen leader, large scale protests and funeral gatherings have been taking place across the Kashmir Valley. The apparently indiscriminate usage of allegedly “non-lethal” weapons, such as pellet guns, to control the crowds has resulted in 87 civilians having lost their lives so far. Hundreds have been blinded and a few thousand injured.

At the current time, a curfew remains intermittently in effect across the Kashmir Valley. Additionally, mobile telephone networks and Internet services remain shut down.

#### *Domestic Procedures and A Recent Supreme Court Decision*

In an unnamed document, provided by a confidential source, it is dictated that crowd control tactics must aim to minimize collateral damage and avoid the loss of human life, and that during training an emphasis should be placed on a respect for human rights. On paper, these procedures should protect Kashmiris, but in reality these procedures are given the go by.

Additionally, the document states that when firing becomes necessary, which is only after efforts are made to disperse a crowd without force, every attempt should be made to fire below the waist. With the number of eye injuries Kashmiri citizens are facing, it is hard to believe that any attempt was made to fire below the waist.

Moreover, if shooting is resorted to firing must be in single shot mode, yet pellet guns fire hundreds of tiny shots with each cartridge. This goes hand in hand with the requirement that fire only be directed towards the most violent sections of a stone-pelting mob, not the mob in its entirety. Pellet guns do not offer effective aim to target the crowd accordingly and many peaceful protestors and bystanders have been injured during their use.

Ironically, the same day that BurhanWani was killed the Supreme Court of India handed down a decision in *Extra Judicial Execution Victim Families Association v. Union of India* discussing fake encounters in Manipur, and “the illegality of the use of excessive and retaliatory force by the army, security forces, and police.” The Supreme Court noted that, the rule of law applies “even when dealing with the enemy,” however this commitment is breached daily in Kashmir.

### *A Violation of International Standards*

The Indian Government is violating the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials with its current response to protests in Kashmir. The Basic Principles state that, “Law enforcement officials... (must) apply non-violent means before resorting to the use of force.” Additionally, provision five dictates, “whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall: (a) exercise restraint in such use and act in proportion to the seriousness of the offence... (b) minimize damage and injury... (c) ensure that assistance and medical aid are rendered to any injured or affected person at the earliest moment...” Moreover, under Article Three of the UN Code of Conduct for Law Enforcement Officials, “law enforcement officials may use force only when strictly necessary.”

In Kashmir, restraint is not being exercised, injury is not being minimized, and medical assistance is not ensured. Pellet guns are not a proportional response and not strictly necessary. Far too much harm has been inflicted, particularly involving people’s eyesight, far too many bystanders, including children, have been injured, and medical assistance comes only at the risk of being arrested and prosecuted.

When the police are involved in crowd control efforts, they must distinguish between violent protestors, peaceful protestors, and bystanders. The pellet gun cartridges in Kashmir fire a large number of small pellets, over a wide range, and they are not targeted. Even the Inspector General of the Jammu and Kashmir police acknowledged that pellets do not have a predictable trajectory.

Further, under Basic Principle Nine firearms can only be used in the conditions stipulated – “self-defense or defense of others, against the imminent threat of death or serious injury, to prevent serious crime involving grave threat to life...” All of the conditions stipulated pose a much greater risk than stone throwing. The magnitude of the circumstances is hardly comparable, yet pellet guns are being used.

Moreover, the Basic Principles require that, “in cases of death and serious injury or other grave consequences, a detailed report shall be sent promptly to competent authorities.” Hence, authorities should be investigating every instance of serious injury resulting from the use of

pellet guns. However, instead of investigating these injuries, authorities are attacking ambulances and searching hospitals to make arrests.

In 2013, the J and K State Human Rights Commission (SHRC) stated that, “the use of pellet guns by government forces was a serious threat to life.” The SHRC declared that the petitions submitted regarding serious bodily injury from pellet guns made out a prima facie case of a human rights violation. The Commission also reminded law enforcement agencies that they must follow Standard Operating Procedure (SOP) and use minimum force.

That same year the Jammu and Kashmir High Court rejected a petition filed seeking a ban on the use of pepper gas and pellet guns for crowd control.

*Pellet Guns Must Be Banned*

The use of pellet guns as a crowd control tactic must be banned. Since 2010, these “non-lethal” weapons have caused serious injury and severe harm to thousands of Kashmiris. The use of pellet guns in Kashmir in reaction to the current protests is a clear violation of human rights and humanitarian law. These weapons have neither been used proportionally nor in compliance with international standards on the use of force or domestic standards on crowd control.