

LEGAL FORUM FOR KASHMIR - LFK



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To:

Priya Gopalan

Chair- Rapporteur, UN Working Group on Arbitrary Detention

Alice Jill Edwards

UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Margaret Satterthwaite

UN Special Rapporteur on the independence of judges and lawyers

From: Legal Forum for Kashmir

Date: 2024-02-01

Re: Dr Ashiq Hussain Faktoo @Dr Qasim (Incarcerated Political Prisoner)

[Legal Forum for Kashmir](#)-LFK is an International legal advocacy group working on the promotion of Human Rights, International Humanitarian Law, and UN guaranteed Right of self-determination for the people of Indian-occupied Jammu and Kashmir (IOJK). In April 2022, LFK wrote to UN Special Rapporteur on arbitrary detention, UN Special Rapporteur on Torture, and other Human Rights organizations about the Psychological torture faced by Dr Ashiq Hussain Faktoo @ Dr. Qasim a longest-serving political prisoner from IOJK and called that Indian Government to be compelled to take all required measures which guarantee the physical and psychological protection, integrity and security of Dr. Ashiq Hussain Faktoo while he is detained and effect his immediate, unconditional release.

LFK takes the view Qasim has been incarcerated for the last 31 years solely as a result of his affiliation with the National Liberation Movement and his political belief to implement the UNSC resolution in IOJK and is therefore a prisoner of conscience. During his arrest, Qasim was subjected to third-degree torture like electric shocks and other forms of torture in police custody through a program of "[breaking his will](#)." The question of police confession was raised before the Trial court, which resulted in an acquittal in 2001. The Supreme Court of India, set aside the acquittal order of his release and granted

a life sentence to Qasim which was later converted into '[Life until natural death](#)' under the National security law is a glaring example of colonial policing and [bureaucratic classification of laws](#), based on the profiling of Kashmiris based on 'who they are and what they are likely to do'. This is a very important distinction and we urge you to keep it in mind throughout the remainder of this letter. In the last three decades of his incarceration, his health has deteriorated, and is suffering from multiple ailments including advanced-stage glaucoma.

Qasim's [son](#) has confirmed that his life is in turmoil and jeopardy in solitary confinement and are worried that he might meet the same fate as the way Indian jail authorities killed [Muhammad Ashraf Sehrai](#), [Altaf Ahmad Shah](#), and other freedom leaders of IOJK.

We are compelled to repeat our request that the Government of India should be asked to immediately comply with the Universal Declaration of Human Rights and ICCPR, and in particular:

1. Assurances that the treatment of Dr. Qasim, while in detention, would adhere to all principles and conditions set out in the 'Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment, adopted by the UN General Assembly resolution 43/173 of 9 December 1988'.
2. That all required measures be taken to guarantee the physical and psychological protection, integrity, and security of Dr Qasim, while he is detained.
3. That in all the circumstances Dr Qasim and other Kashmir Political prisoners be able to visit their family members and have fair access to the justice system without fear of reprisals and that they be free from solitary confinement and placed in a hygienic jail environment according to the jail manual and international law governing the status of a political prisoner.
4. Conduct full and impartial investigations into all reports that Dr Qasim and other Kashmiri prisoners were held incommunicado, tortured, and forced to confess. Investigations should focus on the arrest, interrogation, and trial of the prisoners and findings should be made public.

In support of our above requests, we continue to remind you that Kashmir is under the prolonged [Military occupation](#) of India and provides a rich history plagued by war, destruction, armed conflict, and Violation of International Humanitarian law. Besides the status of Jammu Kashmir under international law is disputed under the [UNSC resolutions](#). The Government of India on August 05, 2019, unilaterally revoked the [special status](#) of disputed territory aiming to change the demographic status of the Muslim majority through [settler colonialism](#). More than [7,000 Kashmiris](#) including some pro-India politicians were arrested by the occupying authorities before and after the events

of August 5, 2019. Several political prisoners were sent to prisons [outside Kashmir](#). – including people with serious underlying health conditions – remain incarcerated in the country's over populated prisons.

In light of the serious violations of international law highlighted, we call upon:

- Individual member States of the United Nations to call upon the Human Rights Council to address the issue of Dr. Qasim and other Political prisoners at its next session, to appoint a commission of inquiry to investigate the ill-treatment and torture of Kashmiri prisoners.
- The High Contracting Parties to the Fourth Geneva Convention fulfill their legal obligation under Article 1 to ensure that the Government of India respects the provisions of the Convention.
- Members of the European Union to implement the EU Guidelines on promoting compliance with international humanitarian law, to ensure that the fundamental principles of the right to a fair trial are upheld by the Government of India.

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