

STATEMENT: FOR IMMEDIATE RELEASE

Srinagar, July 15, 2010

**INTERNATIONAL PEOPLE'S TRIBUNAL ON
HUMAN RIGHTS AND JUSTICE IN INDIAN-ADMINISTERED KASHMIR (IPTK)***www.kashmirprocess.org***From:**

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Permanent “State of Exception” in Indian-administered Kashmir**Advocate Mian Qayoom’s Arrest:**

The People’s Tribunal expresses grave concern regarding the arrest of Advocate Mian Qayoom, President of the Jammu and Kashmir High Court Bar Association, Srinagar, and a human rights defender, under the Jammu and Kashmir Public Safety Act of 1978 (PSA). Advocate Qayoom’s home was raided around midnight on July 7, 2010, and he was taken to Hiranagar Jail in Jammu.

IPTK is concerned for the physical and psychological safety and security of Advocate Qayoom. We ask that Advocate Qayoom be released and due process, as per international humanitarian law, be followed.

Advocate Qayoom’s arrest was made without evidencing due cause under the PSA. The PSA continues to be used arbitrarily in Indian-administered Kashmir to repress dissent without due cause or process. The PSA is a preventive detention law that authorizes incarceration for up to two years on grounds of uncorroborated suspicion, if authorities feel that the detainee may impede peace and order or threaten the security of the state.

Advocate Qayoom is being targeted because of his long-standing work in defence of human rights, and, in particular, because of his legal advocacy for the detained and disappeared in Kashmir, his offer of legal counsel to dissenters against the Indian state, his arguments against the indiscriminate use of the PSA, his investigations into the actions of the Indian military and paramilitary when they have induced harm, his articulation of Kashmir as a disputed territory, and his support of self-determination. The State Administration has refused to relocate Advocate Qayoom from Jammu to Srinagar, while noting that Srinagar jail has a capacity of 300 persons even as 480 persons are currently being held there. Authorities justified their refusal to relocate Advocate Qayoom due to the presence of “some hardcore foreign militants from Pakistan, Sudan, and Afghanistan as also some other persons having same secessionist ideology” in Srinagar jail.

IPTK notes that “national security” and the threat of inciting conduct are being invoked to legitimate detentions and arrests. Since June 2010, hundreds have been arrested for participating in protests, including stone-pelters. Some pro-freedom political leaders have been placed under house arrests and others booked under the PSA. People of Muslim descent, including minors, activists, intellectuals, and political

workers, participating in the Quit Kashmir (people's resistance) Movement in Indian-administered Kashmir are being indiscriminately booked under the PSA. The PSA, the Disturbed Areas Act, and the Armed Forces Special Powers Act (AFSPA) are security related legislation that contravene international humanitarian law by guaranteeing immunity to army and paramilitary forces.

IPTK is concerned that detentions and arrests are being undertaken to intimidate, threaten, and silence those who dissent subjugation to the state and its military and paramilitary forces in Kashmir today, and those who act in support of Kashmir's right to self-determination.

Permanent State of Exception:

On June 29, 2010, IPTK issued a statement characterizing India's rule in Indian-administered Kashmir as "militarized governance," see http://www.kashmirprocess.org/reports/militarygov/20100629_Statement.html. The unmitigated use of force by the military and paramilitary has escalated since. Police and paramilitary, armed with riot gear, open fire on crowds. Along with civilians, Kashmiri journalists are being targeted. Between June 1 and July 14, 2010, Indian forces have killed 15 Kashmiri civilians. There are no accurate counts of detentions and arrests.

Dominant discourse has focused on the use of stone pelting by youth in Kashmir as the reason for armed action on the part of the state. They state that such action is orchestrated by political interest groups. Kashmir youth state that stone pelting is a means of dissent, an expression of rage, by a subjugated people whose political means of expression and demands are systematically limited. Dominant media institutions largely refuse to address the conditions that compel youth to throw stones, in that -- 1: Peaceable civilian protests by women and men (which are widespread across Kashmir in ways that defy orchestration by political or "external" forces) have been systemically repressed by the Indian military and paramilitary. 2: The conditions of everyday life are continuously in jeopardy. 3: Such conditions elicit stone pelting as a medium of resistance, as an expression of desperation, anger, and grief.

What are these youth protesting? They are protesting the relentless conditions of twenty years induced by militarization that has shaped, for numerous youth, their entire lifespan. Stone pelting is not the cause of violence in Kashmir today; it is induced in response to unchecked military and paramilitary brutality that endanger civilian lives.

The charges and actions against Advocate Qayoom evidence that Kashmiris are denied the rights of citizenship, including freedom of speech, assembly, and movement. Such freedoms, when exercised by Kashmiris, are perceived as potential threats to the Indian nation. While India claims that the Kashmir "problem" is an "internal" matter, the militarized governance of Kashmir denies rights to Kashmiris that are understood to be guaranteed to citizens of India as a democratic republic. India cannot simultaneously define Kashmir as an "internal" issue while governing Kashmir as a permanent state of exception.

International Community:

Regularized violence, as perpetrated on Kashmiri civil society by Indian state institutions, must stop immediately. The Indian state has failed to admit to the violence that its institutions enforce. For Kashmiris, the experience of such violence shapes everyday life.

We call on civil society, human rights organizations, and Bar Associations in India, and internationally, to ask the Government of India for accountability, and to halt detentions and arrests without due cause. These and other human rights violations and crimes against humanity must be understood as an imperative of India's hostile governance of Kashmir.

We call on civil society and human rights organizations to require that a political process, inclusive of Kashmiris as primary stakeholders, be sought toward resolution.