The Chairperson,
National Human Rights Commission,
Manav Adhikar Bhawan,
Block-C, GPO Complex, INA
New Delhi -110023

2 March 2017

Subject: Petition to the National Human Rights Commission, New Delhi in the matter of imminent threat to the lives and liberty of Rohingya refugees living in and around Jammu city, Jammu and Kashmir

Honorable Chairperson,

The South Asia Forum for Human Rights (SAFHR) and the South Asia Human Rights Documentation Centre (SAHRDC) jointly wish to bring the following facts to your immediate attention and seek urgent remedy for the threat to the lives and liberty of Rohingya refugees in and around Jammu city, in the state of Jammu and Kashmir. There has been a politically engineered discriminatory campaign against Rohingya Muslims who are often called the ‘world’s most persecuted minority’¹ and have taken refuge in India fleeing from the ethnic war waged on them by the Buddhist majoritarian state in Myanmar.

On 3 February 2017, it was reported that hoardings, in and around Jammu city, were placed asking Rohingya and Bangladeshi Muslims to leave the area, while urging local residents to unite to “save history, culture and identity of Dogra”. Carrying photographs of the Jammu and Kashmir National Panthers Party (JKNPP) leaders, including its chairman, one Mr. Harsh Dev Singh and the state president one Mr. Balwant Singh Mankotia; these hoardings incited Jammu to “Wake Up” and threatened the Rohingya and Bangladeshi refugees to “Quit Jammu”.² An article in The Kashmir Times reported on 4 February 2017, has quoted the JKNPP Chairman, referring to the Rohingyas as criminals and saying that “They should immediately leave Jammu. Otherwise, we will force them to leave.” The article also mentions


²https://thewire.in/106280/jammu-rohingya-muslim-myanmar-refugee/
that the party “is likely to start an agitation for ensuring that these Rohingyas and Bangladeshis are thrown out of Jammu.”

On 26 February 2017, a fire broke out at Bhagwati Nagar area (DC Plot) in the outskirts of Jammu city and four hutments were completely burnt down. There was fortunately, no loss of life but the occupants lost all their household belongings. The community affected by the fire has alleged that the fire was an engineered attempt to harass and evict the Rohingyas from the land following the threats by political parties such as JKNPP.

Incidents such as these threaten the lives of the people who are being targeted and we request the NHRC to intervene and take urgent cognizance of the issue. If these threats of eviction continue unabated, it could increase the threat to detention, arrests as well as deportation in some cases. This is in direct contradiction to the principle of non-refoulement in International Law and which has been upheld by the superior courts in India.

We wish to bring the following facts to your attention and seek urgent remedy to address the threat posed to the Rohingya refugees in and around Jammu city, Jammu and Kashmir.

1. That more than 19,000 refugees and asylum seekers from Myanmar are registered with the United Nations High Commissioner for Refugees in India (UNHCR Fact Sheet, October, 2016). About 10,000 of these belong to the stateless Rohingya community who are living in different parts of India such as Jammu, Hyderabad, Delhi, Haryana and Rajasthan.

2. That the Rohingya are a stateless group from Myanmar who have been systematically denied citizenship and human rights by successive governments in Myanmar over the past few decades. They have been subjected to untold misery and violence by the Myanmar’s military, the border police of that country and certain Buddhist extremist groups.

3. A major flare up of violence took place in 2012 when more than 100,000 Rohingya people were displaced within Myanmar. Several of them fled to neighboring countries such as Bangladesh, Thailand, Indonesia, Malaysia and India and sought refuge. Another major phase of violence that started in October 2016 led to more than 66,000 Rohingya fled to Bangladesh while thousands more were forced into IDP camps within Myanmar. A June 2016 report by the United Nations High Commissioner for Human Rights (OHCHR) titled “Situation of human rights of Rohingya Muslims and other minorities in Myanmar” made the following assessment:

\[http://www.kashmirtimes.in/newsdet.aspx?q=63169\]

\[https://indiankanoon.org/doc/168154907/\]

“The information received by OHCHR suggests that minority groups have suffered a wide range of human rights violations and abuses. Moreover, in the context of armed conflicts, reports over many decades have documented violations of international humanitarian law allegedly committed by the military and armed groups. If established in a court of law, some of these violations could amount to war crimes.”

4. That United Nations High Commissioner for Refugees (UNHCR) in India receives applications from the Rohingya asylum seekers. After an exhaustive and thorough Refugee Status Determination (RSD) process UNHCR awards refugee status to individuals. Most Rohingya people living in different parts of the country including Jammu are recognized as refugees by the UNHCR. UNHCR RSD procedures and documentation issued by UNHCR are accepted and respected by the Government of India which forms the basis of their stay in India.

5. Rohingya refugees living in districts of Jammu and Samba in the state of J&K earn a meager living by working as daily wage labourers, factory workers, sanitation workers and cleaners in malls, hotels and shops. They live in squalid jhhuggies (flimsy huts) put up on private lands rented from local landholders.

6. That in written statement made in the J&K Legislative Assembly by the Home Minister of the state clarified that there were 5742 foreigners of Myanmar in the state and that “Rohingyas have been staying in Districts of Jammu and Samba” and further that “No Rohingya has been found involved in militancy related incidents”. On the question of deportation of foreigners from the state of J&K the statement clarifies that “Since a good number of these foreigners are holding Registration Certificates/Identity Certificates issued by TR FRO ITBF/ RPO, New Delhi or UNHCR Cards, initiation of deportation proceedings may not be appropriate as per International Law”. (a copy of the statement annexed as Annex A)

7. Despite the above clear statement from the J&K Government some political parties and other actors are subverting the rule of law and aggressively seeking to evict the Rohingya refugees from J&K. Notably among them is the J&K National Panthers Party (J&KNPP). Please see below links to news coverage of the hoardings and public demonstrations calling for the eviction of Rohingya refugees from Jammu put up by J&KNPP in the heart of the city.

8. That these hoardings, public demonstrations and other activities being carried out by J&KNPP and other actors such as Dogra Front and Shiv Sena threaten the lives and liberty of Rohingya refugees living in Jammu and Samba districts.

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7 A Hindu fundamentalist party
9. That hate messages and rumors aiming to incite violence against the Rohingya refugees in Jammu and Samba districts of J&K and evict them forcibly are being circulated by above named non-state actors and others on social media platforms like Facebook and Twitter.

10. Due to the hate campaign and an environment of fear created by the above named actors and others the Rohingya workers are unable to attend their duties in their places of employment and thus face starvation and risk of losing their jobs.

11. That it is pertinent to note that in the case of National Human Rights Commission Vs. State of Arunachal Pradesh and Another [WP (C) 720 of 1995] that referred to eviction notices served on the Chakma people in that state by the All Arunachal Pradesh Students Union (AAPSU), the Supreme Court, among other orders, also directed the respondents by way of a writ of mandamus, as under:

“(1) the first respondent, the State of Arunachal Pradesh, shall ensure that the life and personal liberty of each and every Chakma residing within the State shall be protected and any attempt to forcibly evict or drive them out of the State by organised groups, such as the AAPSU, shall be repelled, if necessary by requisitioning the service of para-military or police force, and if additional forces are considered necessary to carry out this direction, the first respondent will request the second respondent, the Union of India, to provide such additional force, and the second respondent shall provide such additional force as is necessary to protect the lives and liberty of the Chakmas;

(2) except in accordance with law, the Chakmas shall not be evicted from their homes and shall not be denied domestic life and comfort therein;

(3) the quit notices and ultimatums issued by the AAPSU and any other group which tantamount to threats to the life and liberty of each and every Chakma should be dealt with by the first respondent in accordance with law;

[…] The petition shall stand so disposed of”

12. We therefore submit that the threat of eviction being issued to the Rohingya refugees living in Jammu and Samba districts of the state of J&K constitutes threat to their lives and liberty and creates a climate of hate that could incite violence upon them.

a. While recognizing NHRC’s scope of intervening in ongoing matters in the J&K High Court, we request the NHRC to intervene in the petition. What is of

8https://thewire.in/106280/jammu-rohingya-muslim-myanmar-refugee/
express concern is that the petition is filed by one Mr. Hunar Gupta, of the legal cell of the Bharatiya Janata Party, (BJP). The BJP is a partner in the ruling coalition in Jammu and Kashmir.

13. Its earlier initiative in the case of National Human Rights Commission Vs. State of Arunachal Pradesh and Another [WP (C) 720 of 1995] to protect the rights of the Chakma people was path breaking.

14. We therefore seek intervention of the NHRC with following prayers:
   a. Immediately direct the Government of J&K to provide all possible protection and assistance to the Rohingya refugees living in Jammu and Samba districts to prevent any violence or coercion aimed at forcibly evicting them;
   b. Immediately direct the Government of J&K to restrain the J&K National Panthers Party (J&KNPP), Dogra Front, Shiv Sena or any other group from displaying any type of visual material in public or on social media that could incite hate against Rohingya refugees;
   c. Direct the local administration to pull down or remove the hoardings put up by J&K National Panthers Party or any other non-state actor that is of the nature of hate speech and intimidation.
   d. Direct the local police to file First Information Reports against the J&K National Panthers Party (J&KNPP), Dogra Front and Shiv Sena under Section 153-A of the Indian Penal Code.
   e. Conduct an inquiry by a retired judicial officer into the non-state actors who are involved in threatening eviction by force of the Rohingya refugees from Jammu and Samba in J&K.
   f. Award suitable compensation to the Rohingya refugees for the loss of livelihoods they have suffered due to the ongoing hate campaign against them in Jammu and Samba of J&K and issue a public notice through the mass media cautioning state and non-state employers against denying employment to the refugees due to the intimidation by non-state actors.
   g. Direct the local police to establish strict patrolling and ensure that the sites of residence of the Rohingya refugees are not attacked and they continue to reside in safety and security.
   h. Ensure that the Rohingya refugees have access to Municipal services such as access to health services, education and employment under the MNREGA.
   i. Issue any other order that will protect the lives and liberty of the Rohingya refugees in J&K allowing them to live without fear.
   j. Consider intervention in the petition filed by one Mr. Hunar Gupta, of the legal cell of the Bharatiya Janata Party, (BJP). The BJP is a partner in the ruling coalition in Jammu and Kashmir.

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9 The BJP, a Hindu fundamentalist party is the principal partner in the ruling coalition in India. It is also an equal partner in the ruling coalition in Jammu and Kashmir State of Indian Union.
The Human Rights Law Network has intervened in said petition the J&K High Court.

k. To urge all courts in Jammu to draw from the Supreme Court judgment in National Human Rights Commission Vs. State of Arunachal Pradesh and Another [WP (C) 720 of 1995] in order to protect the rights of the Rohingyas.

l. Uphold domestic law and international law in order to ensure and extend safety to the Rohingya refugees.

We shall be happy to call you at your convenience if any further information or clarifications are required.

With respectful regards,

Yours sincerely,

Mr. Tapan Bose
South Asia Forum for Human Rights

Mr. Ravi Nair
South Asia Human Rights Documentation Centre