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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by International Human Rights Association of American Minorities (IHRAAM), a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 August 2019]

* Issued as received, in the language(s) of submission only.



The People of Jammu & Kashmir's Right to self determination! and abrogation of article 370 of the Indian Constitution! and the total blockade of India-administered Kashmir with the rest of the world!

The right of people to self-determination and its application to people under colonial or alien domination or foreign occupation!

Article 1 of the United Nations Charter calls upon States to develop friendly relations among nations, based on respect for the principle of equal rights and self-determination of peoples and to take other appropriate measures to strengthen universal peace and security.

Article 55 of the United Nations Charter underlines the significance of respect for equal rights and self-determination of peoples for the creation of conditions of stability necessary for peaceful and friendly relations among nations.

“All peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.” Article 1, International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR).

“Democracy is based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and their full participation in all aspects their lives.” Vienna Declaration and Programme of Action, paragraph 8.

The UN General Assembly’s Declaration of 1960 categorically states that the subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights which is contrary to the Charter and it is an impediment to the promotion of world’s peace, cooperation and security.

This follows that the right to self-determination enjoys centrality in international law and the United Nations Charter. Therefore, the key to lasting world peace and security rests on the collective membership of the United Nations, including the Human Rights Council by recognizing the responsibility to implement the right to self-determination and protect the nations and unrepresented peoples from occupation and oppression.

Professor Alfred De Zayas, First Independent Expert on the Promotion of a Democratic and Equitable International Order, in his report of 7 August 2013 at the Sixty-Eighth session said at paragraph 69(n) “The General Assembly may consider revisiting the reality of self-determination in today’s world and refer to the Special Committee on Decolonization and/or other United Nations instances and communications by indigenous and unrepresented peoples wherever they reside, inter alia, Alaska, Australia, Canada, Chile, China, the Dakotas, French Polynesia, Hawaii, Kashmir, the Middle East, the Moluccas, New Caledonia, Northern Africa, Sri Lanka and West Papua, with reference to Chapter XI of the Charter of the United Nations. The General Assembly may also consider amending its rules and procedures to allow for the participations of indigenous and non-represented peoples, marginalized and disempowered peoples, and peoples under occupation have a genuine opportunity to participate in decision-making processes”.

In 1948, the United Nations Security Council passed unanimous resolutions under which the people of Jammu & Kashmir are to determine their own future through a “fair and impartial plebiscite under the auspices of the United Nations”. The Government of India (GOI) has persistently denied the Kashmiris to exercise this right. The people of India-administered Kashmir, frustrated by India’s force and fraud launched a genuine and popular uprising, nearly 13 years ago, for freedom and peace. Consequently, the Kashmiris sustained, and continue to sustain, devastation and gross human rights violations inflicted upon them by the Indian regular military and paramilitary forces. It is an unequal struggle bearing in mind that Kashmiris are defying the third largest army in the world.

Linked with the UN recognised conflict and in line with the princely state of Jammu & Kashmir’s council of ministers through an official notification in 1922 imposing total prohibition on “all grants of land for agricultural and house building purposes and grant of houses and other state property shall be made to State Subjects only”. The GOI extended

special status (prohibition on buying any property there) to Jammu & Kashmir (J&K) together with a certain degree of autonomy.

The GOI, which is administered by the Bharatiya Janata Party (BJP - widely known as a Nationalist Party) has implemented its election manifesto pledge to abrogate Articles 35A and 370 of the Indian Constitution. This unconstitutional change (in contravention of the international law as the India-administered Kashmir conflict is in the United Nations Security Council's agenda), is to ensure the demographic change in the state of Jammu and Kashmir by establishing settlements in the names of Sanik colony (to give land to ex-soldiers who served in India-administered Kashmir), West Pakistan Refugees colony (here India relives 1947 to offer land to fundamentalist Hindus) and Pandit colony (in the grab of Pandits giving land to additional Hindu fundamentalists). This demographic change is designed to install hundreds of thousands Hindutva fundamentalists in India-administered Kashmir; also through the Reorganisation Bill passed in both the houses of the Indian Parliament. India has confiscated Ladakh from Jammu & Kashmir and declared Jammu & Kashmir as a union territory by unilateral unlawful annexation; this brazen violation of the Constitutional and International Law by the GOI must be rejected.

The GOI has announced closure of all educational institutions, evacuation of all tourists, complete prohibition on freedom of assembly and expression, imposition of Section 144 of the Indian Penal Code (no more than 4 people to stand at a public place), and complete shutdown of mobile and landline phones, internet services and social media. The Kashmir valley is under siege and cut off from the rest of the world.

It needs to be noted that on the occasion of Eid-UI Adha (a religious festival), the entire India-administered Kashmir remained locked down denying the whole Kashmiri population their right to offer Eid prayers.

Incredibly, the GOI is running state terrorism in India-administered Kashmir which is upheld in the United Nations Reports on Kashmir 2018 and 2019; <https://www.ohchr.org/Documents/Countries/IN/DevelopmentsInKashmirJune2016ToApril2018.pdf> and https://www.ohchr.org/Documents/Countries/IN/KashmirUpdateReport_8July2019.pdf;

It is feared that India may embark on genocide of Kashmiris as indicated by the current changes and fast developments there. This may lead to military escalation between Pakistan and India and that may advance to nuclear confrontation between the two countries engulfing the entire region with catastrophic consequences.

However, the fact of the matter remains that the Kashmiri freedom struggle is just and legitimate because:

One – The people of Kashmir are struggling for their Right to Self-Determination as promised to them by the international community through the United Nations Security Council's resolutions. India's disobedience of the United Nations resolutions has denied the Kashmiri people's Right to Self-Determination, thus increasing the plight of the Kashmiri people;

Two – The Kashmiri struggle is simply indigenous;

Three – The State of Jammu & Kashmir has never been under the domination of India until the Indian forces entered into the State of Jammu & Kashmir on 27th October 1947;

Four – The division of the State of Jammu & Kashmir is simply unlawful and unjust; and

Five – It will bring, the brutal occupation and repression, to an end.

IHRAAM believes that the UN should play its role, as there is a serious need to call a special session of the Council. IHRAAM, with other NGOs, has written to the Council's President on this. Indeed, this would be a step in the right direction. The UN must heed to the call of the NGOs in addressing this nuclear developing situation by resolving the India-administered Kashmir issue.