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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.

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

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

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 worlds 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 Commission on Human Rights by recognizing the responsibility to implement the Right to Self-Determination and protect the nations and unrepresented peoples from occupation and oppression. Indeed, the U.N. Commission on Human Rights has examined that non-implementation of peoples Right to Self-Determination inevitably leads to human rights violations, oppression and cycles of violence and counter-violence.

International Human Rights Association of American Minorities (IHRAAM) and the International Commission for Human Rights (ICHR) sponsored the “First International Conference on the Right to Self-Determination and the United Nations” in Geneva in August 2000 and the “Second International Conference on the Right to Self-Determination and the United Nations” in August 2004. The Conference, with a view to secure peace and security for Humanity, and acknowledging that there is a need for the establishment of a body similar to the De-Colonization Committee, but with wider mandate to explore the realization of all aspects of the Right to Self-Determination, unanimously passed the following resolutions:

“(a)The establishment of an Office of the High Commissioner for Self-Determination; and (b) The establishment of a Self-Determination Commission comprised of representatives of the United Nations member states.”

It is evident that the conferences recognized the importance of the Human Right to Self-Determination.

Indeed, one can not ignore major wars, economic crisis, floods of refugees, human rights violations of all types and the wasteful expenditure of resources on weapon purchases, which are the result of, not conflict between states, but of civil conflicts referred to as low intensity warfare, usually involving national groups or unrepresented peoples or nations and states in which they live. Among the many indicators of this devastation is the fact that during the period of 1998 through 2001, there are at least 34 states involved in serious civil conflicts related to the search for, or the prevention of, some form of Self-Determination

which has led to widespread death and destruction. Quite contrary to the earlier Clausewitz concept of war, the line between civilians, soldiers and governments is disappearing and violation of the most fundamental humanitarian laws are likely to increase in these types of conflicts, in so far as well equipped armies find it difficult to prevail in low intensity civil conflicts without attacking the civil population and its services and survival social economic infrastructures.

Clearly, many of the current threats to international peace and security, stem from the struggles of various minorities, indigenous populations, unrepresented peoples and nations to claim their Right to Self-Determination. Therefore, the "*notion of a continuing process*" and a popular participation is especially significant to the human right of Self-Determination.

Professor Alfred De Zayas, 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 participated in decision-making processes".

Quite the contrary, "*the notion of continuing process and a popular participation*" is not working with regard to the people of Jammu & Kashmir who have been denied their Right to Self-Determination by India for more than 56 years.

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 has persistently denied the Kashmiris to exercise this right. The people of 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.

In the aftermath of 9/11, the Government of India, having taken undue advantage of the UN Security Council's resolution 1373 (2001), has launched a massive disinformation, through its propaganda machinery, concerning the freedom struggle of the Kashmiri people. The current wave of state terrorism in India Administered Kashmir has dramatically manifolded.

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.

The issue of the right of the Kashmiri people to Self-Determination is not in need of any discussion or debate insomuch as it is in need of work to end the obstacles and hindrances which stand in the way of implementing international legitimacy, so that the Kashmiri people can exercise their Right to Self-Determination. It is therefore, responsibility of the United Nations to ensure the realization of the Kashmiris Right to Self-Determination and to devise mechanism for the same.

IHRAAM believes that the U.N should play its role as there is a dire need for a new mechanism on one crucial issue of human right to Self-Determination. Indeed, this would be a step in the right direction and a step long awaited. The U.N. must heed to the call of the NGOs and to the resolutions of the IHRAAM International Conferences on the right to Self-Determination.
