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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 the 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.

[11 September 2012]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

India and human rights co-operation

A vibrant and vocal discourse on rights is integral to the development and growth of any civil society. In countries that have not fully embraced international conventions and agreements on fundamental human rights, this discourse is often stifled as both media and human rights defenders are discouraged – sometimes under threat – from speaking out and reporting on infringements. India's persistent and irrational fear of criticism has had detrimental repercussions for the work of the United Nations and non-governmental actors in their pursuit of reporting on human rights violations. This has been made clear by the measures taken, both official and unofficial, to exclude, intimidate and terrorise those who are working to bring real change to the country in terms of basic rights.

The United Nations Human Rights Council in Resolution 12.2 expressed its concern over such tactics and condemned any intimidation or harm sustained by human rights workers, both those in and beyond the UN mechanisms. The Council stressed the need for states to protect these individuals and encouraged civil society to become more proactive in the pursuit of human rights, including the infringements made – or blindly accepted – by authorities in relation to the work of human rights defenders. The International Human Rights Association of American Minorities (IHRAAM) supports the Council's Resolution, but adds that in Indian Administered Kashmir any actions taken in assembly by the civil society to voice their discontent or spur discussion on the strategies undertaken by Indian authorities in the region are swiftly stifled. People become afraid to report instances that violate their human rights, express excessive violence, and damask any transgressions made by the armed forces, even when these are very serious and breach international agreements. The situation thus becomes more complicated –while some human rights NGOs are not permitted in the region at all, others are unable to gather adequate and comprehensive information on the true state of play due to the societal apprehension of repercussions that they may face from the security personnel.

India and the United Nations

As a founding member of the United Nations, India was expected to not only speak about being a democratic state but to truly enact standards that would foster human rights in the country. Instead it is often the case that the Indian government makes statements that do not correspond to their actions.

The UN Special Rapporteurs have had a standing invitation into the country to pursue their work, yet in reality many do not receive the necessary consent from the government to enter the country. Among the Special Rapporteurs who are currently not permitted to work in the country are the Special Rapporteur on human trafficking and the Special Rapporteur on torture and other cruel, inhuman and degrading treatment. The latter has not been granted access for 18 years.

Those that are granted permission to conduct a survey in the country provide a worrisome portrait, one that begs for more attention from human rights defenders and the Indian government. As the United Kingdom noted during India's Second Universal Periodic Review (UPR) 2012, the concerns raised by Special Rapporteurs have clearly stated the violations to human rights lay, but this has not spurred the government to react with appropriate amendments to legislation. In fact, external and internal pressure for a reaction to the recommendations made by the Special Rapporteur on the rights of human right defenders, Margaret Sekaggya, after her visit in 2011, have yet to be addressed.

IHRAAM believes that the Indian government must allow for Special Rapporteurs to enter the country and facilitate rather than hinder any research that needs to be done. Opening

itself up to criticism and transparency is a responsibility of all nations who claim they are democratic.

Non-UN human rights defenders

Following Sekaggya's visit, she issued a statement proclaiming that it is up to the Indian government to give clear provisions to security personnel that will allow them to carry out their work. IHRAAM would like to add that the responsibility also rests with the mainstream media, which should refrain from scaremongering and strategically invoking language that places human rights defenders in the same category as individuals or groups that threaten the security of the state, such as insurgents or anti-nationalists. The former label is used too often in Indian Administered Kashmir. Due to the region's tumultuous history, it is easy to evoke images of violent rebels, but the reality of those who are arrested is often much different. Police and military authorities crack down on peaceful protests, online activists, and students voicing their discontent with the human rights situation. They are all caught under the broad reach of the Public Safety Act (PSA) and Armed Forces Special Powers Act (AFSPA), which indirectly encourages the use intimidation, detention, torture or even death to silence those who express any form of criticism of the state.

When a young man was killed in the first week of August 2012 near Sringar, peaceful marches were organised in protest by two opposing political groups. Before they could take place, the primary organisers of each was taken into police custody based on what the officials later called 'preventative' action. The detention was hardly surprising and it has become clear over recent years that there is very little freedom of assembly and freedom of speech that is actually permitted when it comes to human rights defenders. Young people have been forced into the shadows if they wish to protect their safety while still discussing issues of human rights, touchy topics for the Indian government.

The situation is especially sensitive in Indian Administered Kashmir as activists press for a wide array of rights, including the right of Kashmiris to participate in the decision-making that is guiding the territory's fate. IHRAAM believes that a two pronged approach is not the appropriate solution and supports the UN's suggestion of holding a referendum across all of Kashmir, as this would empower citizens to designate their own fate. Yet the continual pressure from human rights defenders to involve the United Nations may be part of the problem behind why both they and the UN Special Rapporteurs are constantly subject to intimidation, threats, detentions, and, in the case of the latter, prevented from entering the state at all.

This silencing of human rights workers and activists cannot be tolerated nor can India's mechanisms for ensuring that any dissenting opinions are kept outside of the media and their holders presented as dangerous specimen of society. IHRAAM believes that the Indian government must accept voices of opposition and encourage debate as well as voices of criticism. It should also encourage transparency and to do so, India will need to allow the Special Rapporteurs to enter the country and permit peaceful assembly in Indian Administered Kashmir. Without human rights defenders and workers, violations of freedoms and violence on the citizens of Kashmir will continue unabated. It is in the interest of India to know the details of the situation on the ground and to understand the people that are under its administration. Without giving them a voice and preventing their co-operation with human rights organisations, the government is making them into secondary citizens and stripping them of rights that the remainder of the country is entitled to.