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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 Himalayan Research and Cultural Foundation, a non-governmental organization in special consultative status

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

[19 August 2014]

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

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Freedom of opinion and expression in Jammu and Kashmir

It is universally recognized that freedom of opinion and expression is at the core of the philosophy of the promotion and protection of human rights. This freedom enables the human beings to form their opinions and express themselves on variety of issues concerning their lives. In a modern civilized world in which democracy has been recognized as the nucleus to promote and protect the right of freedom of opinion and expression. Thus, the strengthening of a democratic order and freedom of opinion and expression supplement and compliment each other.

The right to freedom of opinion and expression is organically related to diverse issues which enable the human beings to an orderly, decent, safe and secure existence. The exercise of this fundamental human right is linked to the right of democratic and transparent governance, freedom of faith and ideas, enjoyment of cultural, linguistic and other related rights. These concerns are highlighted by the Human Rights Council, as contained in the Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression in electoral process (Document A/HRC/26/30, 30 May 2014), which is a valuable commentary and provides effective guidelines for the realization and protection of the right to freedom of opinion and expression in the electoral process. As the quest to realize the dream of a world order free from the violation of human rights goes on, the right to have a transparent, normative and legally oriented electoral process is the fundamental requirement to claim the prevalence of a democratic order in a society. The report of the Special Rapporteur is a milestone in ensuring a fair and transparent electoral process in realizing the dream of a democratic order. It is equally gratifying to know that the Special Rapporteur was able to visit the countries she choose, except one country (Pakistan) which did not respond to her request.

The challenges to the right of freedom of opinion and expression emanate from diverse sources. The main sources and directions point to state and non-state actors. The Special Rapporteur has emphasized that legal and structural instruments regulating communications during electoral processes should be in place to ensure that the freedom of opinion and expression is not impinged during the electoral process. The report re-emphasizes, as brought out in earlier reports, the responsibility of the state to prohibit incitement of hatred, hostility, discrimination and violence. The report lays great emphasis on the protection of journalists from violence which according to it is central to ensuring that the press exercises its crucial role in informing the public about candidates, their platforms and the ongoing debates. The report says that “unfortunately, attacks against the press often increase during electoral periods”.

Though the report of the Special Rapporteur, although specifically pertains to the promotion and protection of the right to freedom of opinion and expression during electoral processes, the concerns expressed and guidelines provided in the report, by extension, apply to overall situations in societies. The report rightly maintains, while introducing the theme that the “free flow of ideas is core requirement for the promotion of democratic spaces”. There are several reports of the Council which stress and underline the same principle and theme. This has equally been a perpetual concern of human rights defenders across the globe. However, by and large, all the concerns which are expressed and the obligations which are underlined are state-specific. The new challenge which is emerging as a menacing threat to the fundamental human right to freedom of opinion and expression is being posed by the non-state actors. This challenge is particularly coming from the militant groups promoting fundamentalist religious ideologies in different parts of the world. These groups in their quest to establish theocratic religious order are opposed to democracy and democratic order. In this quest they threaten the people and political parties and coerce them to abstain from participating in the political process. Many a political leader and political activists have been assassinated by these outfits in different parts of the world. In their reckoning the democracy and democratic order is the greatest impediment in establishing a theocracy. It is an irony that this objective of establishing theocracy has different brands and diverse varieties. This divergence of perceptions has led to internecine wars among different groups in which innocent lives are lost.

The state of Jammu & Kashmir in India has been witnessing this phenomenon for over two decades now. Many respectable and popular political leaders have been assassinated. In this mayhem a popular Kashmiri religious leader representing moderate Islam incorporating local Kashmiri traditions, Mirwaiz Maulvi Farooq was not spared and was mercilessly assassinated at his residence in Srinagar, the summer capital of J&K state. The journalists have been targeted equally. The process of silencing the journalists and muzzling the press started with the brutal killing of Lassa Kaul, Director, Kashmir Television on 19 February 1990, for daring to continue the station’s telecasts despite the militant threat. His slaying led to the closure of Srinagar Doordarshan production facilities for three years. Terrorists

would periodically fire rockets at radio and television stations in Srinagar. P.N.Handoo, Assistant Director and Syed Ghulam Nabi, Joint Director in State Information Department were gunned down on 1 March 1990 and 30 October 1992 respectively. In December 1993 S.P.Singh, station engineer at Srinagar Doordarshan was killed and S.P.Bajad, a Director in Radio Kashmir was severely injured in separate terror attacks.

As a result of their terror campaign against the non-Muslim minorities in Kashmir which started in late 1989, all non-Muslim media persons and reporters working for the local, national and international newspapers were forced to leave the Valley. Now the militant and separatist groups began controlling the local media by issuing threats, circulation bans and forced closures to coerce the local newspapers to publish their statements on a routine basis. On 31 March 1992 George Joseph, Srinagar correspondent of the Indian Express, who had stayed put, was ordered by the Hizb-ul-Mujahideen to leave the Valley within 48 hours. On 2 October 1990 a powerful bomb blast was made at the office of leading local Urdu daily newspaper Srinagar Times. Mohammad Shaban Wakil, Editor-in-Chief of Al Safa newspaper was shot dead by the militants on 23 April 1991 at his Srinagar office, for his muted criticism of the militant activities. Ghulam Hassan Zia, Assistant Director of Radio Kashmir was kidnapped by members of Al-Inqilab Mujahideen on 7 March 1992. He remained in their captivity till 26 May 1992. On 17 June 1993 the Jamiat-ul-Mujahideen asked for the resignation of news readers and analysts working for Radio Kashmir and Doordarshan television. Mohammad Shafi Bhat of Radio Kashmir was shot dead on 2 October 1993 by members of the Jamiat-ul-Mujahideen for not heeding their call. On 29 August 1994 Ghulam Mohammad Lone, a freelancer and his 7 year old son were shot dead in their home in Kangan by masked gunmen. Other Kashmiri journalists who were brutally killed by the terrorists include Mushtaq Ali, press photographer (on 1 September 1995), Sheikh Ghulam Rasool Azad, Editor, Saffron Times (in June 1996), Farooq Ahmed Faktoo, newscaster Doordarshan, Srinagar (on 1 June 1997), Saidan Shafi, freelance journalist (on 16 March 1997) and Tariq Ahmad, private television producer (on 89 April 1997). The objective has been to silence the press and coerce it to follow the dictates of the militant and separatist groups and not to allow the expression of free opinion.

At the same time local press in Kashmir saw a mushrooming of new publications after 1990 including the English daily Greater Kashmir and its sister publication Mirror, many of them having a pro-separatist outlook. Militant groups would coerce the local newspapers to reproduce their statements failing which they were subjected to threats, ban orders and physical attacks. In early October 1994 the Jamiat-ul-Mujahideen sealed the offices of two leading local newspapers Al Safa and Srinagar Times., for printing announcement of electoral roll revisions in the run-up to 1995 elections. The closure which lasted for two months, was lifted on 17 December 1994 only after the two newspapers carried identical statements of 'apology' for their action. Correspondents for the local, national and international press are drawn exclusively from the local Muslim community who are under immense ideological and political pressure and threat of militant separatist groups to project their views and activities in the press.

This new challenge is not being addressed by the human rights defenders adequately. It needs to be recognized that this menace is a great impediment in enjoying the unhindered freedom of opinion and expression. Moreover, in the modern day international order, states are responsible for their behavior in upholding and defending human rights. There are mechanisms available to ensure that states have to respect and allow the free exercise of core human right of freedom of opinion and expression. However, the challenge posed by non-state actors and groups remains and there is an urgency to address it.