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Written statement* submitted by The Next Century 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.

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

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The need for United Nations mediation to uphold human rights and facilitate peace in the Kashmir region

The Next Century Foundation (NCF) regards it as increasingly important to find an appropriate solution to the longstanding dispute in the Kashmir region, severally administered by the Governments of India and of Pakistan. We welcome the comments made by the United Nations (UN) Secretary-General Antonio Guterres on 17th February 2020 asking both countries to show maximum restraint and for the UN to play a mediating role.

The international community has failed to take a substantive stance on the evolving situation in the Kashmir region which has only further contributed to the grave situation faced by Kashmiris. The Next Century Foundation recognises there are several limiting factors to resolving the contemporary Kashmir situation, not simply confined to the tensions between India and Pakistan. However, as a first step, the Next Century Foundation believes that the Line of Control (LoC) separating Indian-administered Kashmir (IaK) and Pakistan-administered Kashmir (PaK) should be adopted as the international border between the two states. Simultaneously, we encourage the international community to make all efforts to champion local leadership and promote Kashmiri culture and increase business opportunities with the region.

Increasing reports of a civilian clampdown in Indian-administered Kashmir since 5th August 2019 are of significant concern to the Next Century Foundation.

We echo the 4th August 2020 statement put forward by the group of 17 UN-designated experts on the need for urgent action by the international community to resolve the current issue. Among the issues raised by the report, we particularly highlight the need for India to reopen its Jammu and Kashmir State Human Rights Commission which was closed in October 2019. Reports indicating a blanket ban on internet access and the lack of medicines afforded to the population of IaK, especially in the current COVID-19 environment is greatly concerning.

The Next Century Foundation believes that far more must be done to address the deteriorating human rights situation in the region.

Additionally, we are deeply concerned with the lack of press freedom in both IaK and PaK. Both India and Pakistan already have a far from ideal record on press freedom, ranking 142 and 145 on the International Press Freedom Index. The curfew imposed in IaK is of great concern and hampers the freedom of the press in the country. Article 19 of the Universal Declaration of Human Rights which promises the right to freedom of opinion and expression, must be upheld by both India and Pakistan in their respective territories of the Kashmir region.

The removal of Article 370 of the Indian Constitution and with it the removal of the semi-autonomous status of the State of Jammu and Kashmir was not welcomed by the population of the state. Reports indicating that protestors voicing their anguish at the decision taken by the Indian government were met harshly with force are distressing.

Moreover, the division of the previous State of Jammu and Kashmir into the two separate union territories, one of Jammu and Kashmir and the other of Ladakh, by the Jammu and Kashmir Reorganisation Act 2019 passed in the Indian parliament only goes further to increase tensions in the region. It is understandable that the Indian government aims to exert more direct influence in the former state, but this shifts the narrative away from finding a cordial peace between India and Pakistan.

There have yet to be any signs of progress made on the July 2019 Office of the UN High Commissioner for Human Rights' (OHCHR) report on human rights violations in IaK and PaK.

India has yet to amend its Jammu and Kashmir Public Safety Act (PSA) of 1978, a law under which individuals are detained without charge or trial for a period up to two years. Indeed, we understand that India has already used this law to put two previous Chief Ministers of Jammu and Kashmir under house arrest. The PSA is fundamentally contradictory to Article 9 of the Universal Declaration of Human Rights.

India has also yet to act in response to concerns expressed by the Office of the UN High Commissioner, on 8th July 2019, regarding the use of the Armed Forces (Jammu and Kashmir) Special Power Act (AFSPA) 1990, effectively deeming the permission to prosecute security force personnel in civilian courts invalid.

On the other hand, Pakistan's refusal to engage in any diplomatic discussions with India to resolve the issue is exasperating. If Pakistan seeks to rightly address and find a solution to the enduring issue of Kashmir, it must use diplomacy as its tool. The OHCHR report has echoed concerns expressed by India and has pointed to the training of armed militias in Pakistan to alleviate Pakistan's strategic deficiencies against India. The Next Century Foundation firmly believes that Pakistan should seek to resolve the issue diplomatically; not clandestinely. Pakistan must welcome any decision by India to engage diplomatically especially in current circumstances.

We appreciate the Indian government's apprehension at any prospect of having a third-party mediator to resolve the conflict especially when unasked for. However, we point to the success of third-party mediators like the United States of America in the 1960 – 1998 Northern Ireland conflict, leading to the eventual success of the Good Friday Agreement. We value the help of a third-party in longstanding disputes like Northern Ireland and Kashmir in which contentious issues can be resolved.

The NCF also points to the success of the World Bank in mediating the Indus Waters Treaty between India and Pakistan by successfully treating partitioning the six rivers (Beas, Chenab, Indus, Jhelum, Ravi and Sutlej) between the two states and aiding the formation of the Permanent Indus Commission for purposes of transparency.

Sadly the United Kingdom of Great Britain and Northern Ireland (United Kingdom) has failed to express any concern for the resolution of the issue or indeed for human rights violations in the region, although the United Kingdom carries significant leverage as the former colonial power. Noteworthy, the Pakistani diaspora in the United Kingdom, comprised mainly of British Kashmiri citizens, have failed to lobby their political representatives effectively to garner any action on resolving the issue of Kashmir. A delegation led by British Members of Parliament was able to visit Pakistan but unable to visit IaK. The visit has however not led to any progress with regard to the United Kingdom's policy towards Kashmir.

Apart from the episodic inclinations of President Trump to mediate the issue between India and Pakistan, the United States of America has likewise been silent on the issue.

So too Europe and indeed the entire international community, much of which seems uninterested in the issue despite the fact that both India and Pakistan are nuclear powers.

Of growing importance and concern is China's role in the Kashmir dispute. The growing relations between China and Pakistan have worried India and makes the prospect of discussions difficult. In addition, the recent border dispute between India and China has worsened relations between the two countries and brought another nuclear-armed country to the brink of conflict in the Kashmir region. China and India must come to a diplomatic agreement and establish an international border between India's Ladakh region and Chinese-administered Kashmir (Aksai Chin).

Although we welcome Pakistan's request for the United Nations and the international community to mediate to resolve the issue, it must be noted that Pakistan has not helped the situation. Indeed, Pakistan's new political map, released on 7th August 2020, includes Indian-administered Kashmir territory west of the Indus River as a part of Pakistan. Furthermore, Pakistan must show progress away from its attachment to the generation of state-supported militancy acts in IaK.

The decisions taken by India and Pakistan oppose United National Security Council Resolution 38 (1948), which calls on both India and Pakistan to refrain from doing or permitting any acts which might aggravate the situation.

At the heart of the issue still remains the lives and future of the people of the Kashmir region. The international community must do more to champion effective leadership among Kashmiri from both sides of the LoC and indeed from the diaspora. An emboldened and

respected leadership would have numerous benefits for the local population and support the region's progress and development.

The Next Century Foundation firmly believes that the United Nations can and should do more in the region. The United Nations should use its power under UN Security Council Resolution 39 (1948) which gives the UN authority to investigate any dispute or any situation which might, by its continuance, endanger the maintenance of international peace and security. The facilitation of discussions between Kashmiris from both IaK and PaK and supported by the two respective states would be greatly welcomed by the Next Century Foundation.
