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Written statement* submitted by Partners For Transparency, 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.



The Right of Indigenous Peoples to Self-Determination

The right to self-determination is a fundamental principle of international law. International human rights treaties have enshrined this right and granted it to indigenous peoples, groups, and nationalities. Moreover, it is referred to in the UN Charter and the Universal Declaration of Human Rights. Even ethnic and national groups are entitled to obtain the right to self-determination, provided that they seek it collectively, so that they can preserve their identity, protect their cultural specificity from extinction and not to be excluded from participation in the political, economic and developmental sectors. The calls for the right of indigenous peoples to self-determination are often accompanied by the absence of just and effective guarantees by states under whose jurisdiction these peoples and groups are included and the deliberate marginalization of these groups by states.

Ethiopia, India, and the parties to the internal conflict in Yemen have practiced different forms of discrimination against indigenous groups, peoples, nationalities, ethnic and religious minorities. They ignored these peoples' right to self-determination, restricted basic public freedoms, and deprived them of the equitable distribution of wealth. The self-governing provinces were not exempt from violations by the central governments. This intervention focuses on the right of people in the Benishangul-Gumuz region, the Indian-Administered Kashmir region, and southern Yemen to self-determination. The link between the three peoples is that some of them gained autonomy in earlier times, such as the territory of Indian-Administered Kashmir, and others enjoyed it under the guardianship of their political, economic, and social rights.

Ethiopia, for example, is a country consisting of many federal regions, each region is semi-autonomous, including the Benishangul-Gumuz region. However, the Ethiopian government discriminated against the indigenous people of some of these regions on national and religious grounds. In previous years, the government carved out hundreds of thousands to millions of agricultural acres, and entrusted them to investors to set up projects on it without the participation of the indigenous peoples of this region in those decisions and any real development benefit accruing to them as a result of the investment projects.¹

The military operation launched by the Ethiopian government in December 2020 in the aforementioned region didn't protect the region's residents, especially women, children, and the elderly, from the dangers of indiscriminate shelling and firing live bullets. That was after the widespread wave of violence that continued between September to November 2020, killing more than 200 civilians, whose identities nor that's of the perpetrators have been announced. In this military offensive, the Ethiopian forces haven't spared civilians, particularly the vulnerable groups such as women, children, and the elderly from the arbitrary bombing and live-bullets clashes and used the military operation to carry out identity-based killings and arbitrary detentions against the residents of Benishangul-Gumuz. According to residents' testimonies, the government used Amhara gangs to abuse the different ethnicities in the region. These practices are similar to genocide, ethnic cleansing, and killing based on identity, which contradicts the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.²

On another level, the GERD, which was built on an area of 1,800 square kilometers, has had a severe impact on the indigenous people and ethnicities not represented in the ruling party in Ethiopia. Estimates reveal the forced displacement of over five thousand of the Gumuz and Berta tribes, who have been living for centuries in the dam-building area, next to its watercourse, and they are the original inhabitants of Ethiopia. More than 7,380 indigenous people in the nearby villages are also threatened with displacement after the final construction of the dam is completed. Since stopping the dam construction is no longer an option, the government has to provide the indigenous people in these areas with appropriate

¹ Large-scale agricultural land acquisitions and Ethiopia's ethnic minorities: A test for the rule of law, African Human Rights Law Journal, Available at the following link: <https://bit.ly/3jFsttK>.

² OLF claims civilian rights violations by Eritrean soldiers in Oromia, Benishangul Gumuz regions; no comments from officials in both regions, Standard, 31 May 2021, Available at the following link: <https://bit.ly/3xv4y5b>.

compensation, so that they could continue their lives in other places.³ The Ethiopian government also has to conduct environmental studies to determine the impact of the completion of the dam construction on the surrounding villages. The government's justification of the construction projects for their legitimate right to development doesn't give it the right to violate human rights. The government violated the right of indigenous peoples to leave the lands on which they grew up and obliterate their identity or cultural heritage.⁴

In India, the government didn't respect the right of Indian-Administered Kashmir to remain under self-rule. It abolished Article 370 of the Indian Constitution, which had previously given the territory the right to manage its affairs, then changed the legal status. Indian-Administered Kashmir became a federal state of India. This decision ended any aspirations of the people of Indian-Administered Kashmir for self-determination or for a referendum to be held,⁵ however, it was followed with consequences such as internet cut-off, lack of basic foodstuffs, lives loss, and the death of elderly due to lack of health care services. Over 200 civilians were killed after that decision.⁶ Meanwhile, the Indian security forces, which deployed in the region, didn't respect freedoms. It restricted the work of journalists, arbitrarily detained many opposition figures, subjected journalists and human rights defenders to investigation and imprisoned them without fair trials for engaging in Anti-national activities.⁷

According to local reports, after the Indian curfew was imposed on Indian Administered Jammu and Kashmir, the government banned Islamic religious practices and restricted religious freedom, inconsistent with the right to freedom of religion and belief guaranteed by international treaties ratified by India. Peaceful protests broke out after India decided to change the legal status of Indian-Administered Kashmir.⁸

In South Yemen, the right to self-determination and independence also remains the goal of the majority of the population. It is an inseparable demand from the principles of international law and international human rights treaties according to the Independent Expert on the promotion of a democratic and equitable international order, Alfred-Maurice de Zayas. In light of the catastrophic humanitarian situation in Yemen, over 24% of the population requires humanitarian assistance, protection, and the arbitrary practices have affected all southern governorates in the past years since the union with North Yemen.⁹ South Yemen was deprived of humanitarian aid or revenues from oil sales, and fuel was pumped only in small quantities. It was also deprived of access to freshwater resources,¹⁰ which impacted the standard of living and increased poverty. It exacerbated the situation at all levels in South Yemen especially in the health sector as it encouraged the outbreak of pandemics and diseases, such as the Coronavirus, malaria, and cholera; and endemic diseases still widespread in all governorates in South Yemen. The right of South Yemen to self-determination is a legitimate right of its residents that may mitigate the deterioration in South Yemen, and make the south responsible for solving its crises without relying on other parties that have deliberately marginalized it during past years.¹¹

³ Ethiopia's water policy stirs up human rights violations and fear of war, The Society for Threatened Peoples (STP), 6 October 2013, Available at the following link: <https://bit.ly/3An42bm>.

⁴ Ibid.

⁵ What does it mean for India to abolish the constitutional article granting Kashmir a special status?, BBC Arabic, August 5, 2019: <https://bbc.in/3jwZOqO>.

⁶ Human Rights Abuses in Kashmir—An Urgent Call for The International Community To Act, Human Rights Pulse, 1 December 2020, <https://bit.ly/37rABIP>.

⁷ Amnesty International Report 2020/2021, p. 31, at the following link: <https://bit.ly/3xEezNK>.

⁸ Jammu and Kashmir: Self-determination is the key to the solution, Anadolu Agency, January 25, 2021: <https://bit.ly/3s1A3ml>.

⁹ Former UN Special Rapporteur calls on the United Nations to support the self-determination of the people of the South, Aden Leng, March 17, 2021: <https://bit.ly/3s1ACfX>.

¹⁰ Self-determination and peace processes: pathways and stumbling blocks for conflict resolution, Conciliation 29 September 2020, <https://bit.ly/3ArmL5G>.

¹¹ The independence of South Yemen from the perspective of the Southern Transitional Council, Fikra Forum, September 8, 2020: <https://bit.ly/37u8jgK>.

Recommendations:

- The international community and the HRC should consider the claims of the tribes and people of the Benishangul-Gumuz region regarding their right to self-determination;
 - The UN special procedures, including the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment and the Special Rapporteur on the rights of indigenous peoples, should request a visit to the Benishangul-Gumuz region, especially the area around the GERD to estimate the harmful environmental effects on the indigenous people;
 - Allowing a free and independent referendum on the right to self-determination in Indian-Administered Kashmir, under the UN supervision;
 - India must stop all arbitrary practices that promote discrimination based on religion and belief in the Muslim-majority region of Indian-Administered Kashmir;
 - The international community should respect southern Yemen's right to self-determination and establish a mechanism to pass humanitarian aid to south Yemen in a way that ensures it reaches the affected population.
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