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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 World Muslim Congress, a non-governmental organization in general consultative status

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

[01 February 2017]

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

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Protection of Right to Health an International Obligation

The right to health is contained in Article 12 of the International Covenant on Economic, Social and Cultural Rights. In both peacetime and in times of armed conflict or internal unrest, states must maintain essential primary health care, access to minimum essential food, basic shelter, housing, and sanitation, and an adequate supply of safe and potable water, as well as provide essential drugs; they must ensure equitable access to the highest attainable standard of care without discrimination based on socioeconomic status, geographic location, ethnicity, or any other factor.

The state's obligation to maintain a functioning health care system, and to protect medical personnel's ability to fulfill their professional duties according to their ethical responsibilities, remains the same during peacetime and in situations of armed conflict or internal unrest. Governments should protect health professionals' independence and impartiality in treating the sick and injured.

The obstacles to accessing health care, including deliberate attacks on health care transport and personnel – run counter to India's obligations under international human rights law. In all situations, from peacetime to situations of unrest or violence, Indian authorities are obligated to ensure access to emergency health care as well as to refrain from interfering with health care workers' ability to provide care for all.

India's obligations under international human rights law further require that it respect the right to health by not allowing any kind of interference with access to medical care.

Where any of these rights are infringed, the authorities must investigate and bring perpetrators to justice. Government of India has systematically ignored these obligations in Indian administered Kashmir.

Physicians for human rights US based expert body produced a report in Dec, 2016, Blind to Justice: Excessive Use of Force and Attacks on Health Care in Jammu and Kashmir, India. This report from expert body has established how Indian state has failed to respect its international obligation in crowd management in Indian administered Kashmir, causing deaths and serious injuries leading to lifelong disabilities.

Accounts from doctors and media reports show that, starting on July 8, 2016, Indian security forces deliberately obstructed access to urgent medical care for protesters and harassed medical workers attempting to treat protesters, including by preventing doctors from reaching the hospitals where they work. Impositions of days-long curfews, attacks on ambulances, and police presence in hospitals all impeded access to medical care for those injured. It is clear that Indian authorities disregarded their obligations under international human rights law to ensure access to health care, even in situations of violence or civil unrest. The state has also failed to investigate reported incidents in which security forces blocked access to emergency health care for protesters.

Injuries inflicted by "less than lethal" weapons like pellets, rubber bullets, and shot guns require early medical intervention to avoid permanent or debilitating injury, including loss of life. In Kashmir, delays in accessing medical care for hundreds of injured protesters increased the risk of permanent damage, including for those with eye injuries.

Doctors at Sri Maharaja Hari Singh (SMHS) Hospital and Bone and Joint Hospital in Srinagar said the majority of the cases they received were referred from hospitals in other districts, often an hour or more away from Srinagar. They said delays in transport, long waitlists for treatment, and challenges in following up with patients who feared giving correct identification information for fear of reprisal from law enforcement meant that treatment in many cases was delayed or incomplete. Studies conducted in other parts of the world have shown that delays, including those caused by checkpoints, curfews, and fear of arrest or reprisals associated with participating in a protest, are significant factors in decreasing the likelihood of a full recovery from wounds inflicted by pellets and rubber or plastic bullets, especially for eye injuries.

During July and August 2016, Indian security forces carried out both targeted and indiscriminate attacks on medical staff, and, in particular, on ambulance drivers as they transported those injured by police action to hospitals in Kashmir. Medical workers providing assistance to the wounded and sick are afforded special protections under international law. Various civil society organizations and media in Kashmir have independently documented assaults on health care

workers and ambulances attempting to provide care to the sick and wounded. These incidents must be investigated in accordance with India's obligations under international law to protect medical personnel from violence and ensure justice for human rights violations.

The Doctors Association of Kashmir has compiled a number of reports that detail attacks and restrictions on movement for both ambulances and medical personnel attempting to travel during curfews. Doctors Association President Dr. Nisar ul Hassan issued a statement on Facebook on August 19, 2016, following the shooting of an ambulance driver in Srinagar: "In the last few weeks we have witnessed repeated attacks on medical staff. These attacks on medical staff have become a routine now. This new pattern of attacks against medical personnel is a matter of serious concern."

Ghulam Mohammad Sofi, 32, an ambulance driver, told Physicians for Human Rights (PHR) how security forces fired at his ambulance as he transported two patients to SMHS Hospital on August 18, after they were injured during protests in Srinagar.

Sofi said that, as he approached a Central Reserve Police Force (CRPF) checkpoint, one CRPF personnel raised his gun and shot at the ambulance. Sofi turned his ambulance around and drove along another route to SMHS Hospital. When he arrived, the doctors told him he had a large number of pellets in his right arm. He has since had a series of surgeries on his arm to remove the pellets. "During the five weeks in which I drove the ambulance and ferried patients around," he said. "I was stopped many times by the forces."

Indian authorities have used excessive forces in responding to the peaceful and widespread protests held by Kashmiri civilians by repeatedly firing on protestors killing almost 115 people and severely injuring 15000 others. Nearly 1200 peaceful protestors and bystanders received eye injuries and most of them have lost partial or total vision. The weapons Indian forces used on the protestors included tear gas grenades, pepper gas shells, live ammunition and pellet guns causing deaths and serious permanent injuries.

Physicians of Human Rights report, PHR experts and other independent policing expert concluded that 12 gauged shotgun firing weapon is lethal and cannot be used safely for crowd control. The use of pellet guns had made 2016 a year of absolute darkness for many Kashmiris. Pellets guns have caused blindness for an average of 8000 men, women and children disabling them and their dreams, making their lives their worst nightmare. Brushing aside all the international concerns and expert advises, government of India continues to use pullets and bullet to suppress Kashmiris right to protest peacefully, freedom of expression and opinion and to continue to remain in denial mode to acknowledge Kashmiris' right to self-determination.

United Nations Security Council and Human Rights Council has responsibility towards the people of Jammu and Kashmir and is duty bound to take steps and make India accountable for its violation of International human rights and humanitarian law in Kashmir.
