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Agenda item 6

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS,
INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF
APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL
AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE
SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Written statement submitted by the International Educational
Development, a non-governmental organization in consultative
status (category II)

The Secretary-General has received the following communication which
is circulated in accordance with Economic and Social Council
resolution 1296 (XLIV).

[21 August 1990]

QUESTION OF VIOLATIONS OF HUMAN RIGHTS

1. International Educational Development (IED) wishes to draw to the
attention of the Sub-Commission the critical situation of human rights in
Kashmir.

2. We have undertaken an independent investigation of the situation and have met with a number of Kashmiris and non-Kashmiri people who have recently been in the area and whose safety is of great concern.

3. In the course of our work, we have been greatly assisted by the excellent reports of recent missions by prominent Indian human rights organizations, especially the report Situation in Kashmir: an Indian Report, signed by Rajinder Sacher, M. Tarkunde and six others representing the People's Union for Civil Liberties, the Citizens for Democracy, the Radical Humanist Association and the Manav Ekta Abhiyan; Kashmir Under Siege; Massive Violations of Human Rights, reporting on a mission of Mr. Justice A.S. Bains, Major General Narinder Singh (ret.) and two others; and India's Kashmir War, reporting on a mission of the Delhi-based Committee for Initiative in Kashmir.

4. The origin of the current crisis dates from the British withdrawal from colonial India, when the people of Kashmir, granted internal autonomy under British rule, were to choose whether to remain autonomous or to join with either India or Pakistan. It was expected that Kashmir, a Muslim-majority area, would elect to remain independent. However, at the time of election, the Maharajah was Hindu, and he signed an instrument of accession to India in exchange for the entry of Indian troops to put down the Azad Kashmir movement seeking independence and avidly supported by the people. The Azad Kashmir forces resisted the Indian army, and by late 1947 controlled one third of what India called the State of Jammu and Kashmir.

5. The United Nations addressed the situation at the beginning of 1948, and in April of that year the Security Council passed a resolution setting up a process leading to a plebiscite of the Kashmiri people to determine their status. Both India and Pakistan agreed to the process, and in 1948 and 1949 the United Nations Commission for India and Pakistan, set up by Security Council resolution 39/1948, adopted two resolutions mandating a cease-fire and the withdrawal of troops (resolution of 13 August 1948) and a plebiscite to determine the accession of the State of Jammu and Kashmir (resolution of 5 January 1949). Admiral Chester Nimitz (United States of America) was appointed Plebiscite Administrator.

6. Between 1950 and 1957, United Nations representatives General MacNaughton (Canada), Owen Dixon (Australia), Frank Graham (United States of America) and Gunnar Jarring (Sweden) were unable to obtain agreement for the demilitarization of Jammu and Kashmir so as to be able to hold a free plebiscite. The situation became increasingly more tense during the "cold war" period, as Pakistan became party to military pacts sponsored by the United States of America and the Security Council was unable to act. Several wars between India and Pakistan took place in this period because of, inter alia, the Kashmir question. In 1972, the Simla Agreement signed by Indira Gandhi (India) and Zulfikar Ali Bhutto (Pakistan), committed both countries to reach "a final settlement of Jammu and Kashmir ...", as yet unfulfilled. Both countries find themselves in August 1990 poised for yet another war in Kashmir.

7. Meanwhile, the aspirations of the people of Kashmir have been strangled, and the Government of India has answered any movement towards autonomy or independence with, at best, indifference and increasingly with severe repression and violence. All three missions cited here as well as our own

confidential fact-finders were eye-witnesses to numerous serious human rights violations and listened to countless testimony from Muslim and non-Muslim Kashmiris indicating a severe pattern of gross violations of human rights throughout the region.

8. Rather than quash the Kashmiri demands for independence, however, the Indian repression has generated renewed resolve and militancy among Kashmiris. As stated in Situation in Kashmir: an Indian Report:

"When pointed out by some of our members that by and large all the people's movements in Soviet Republics ... have been peaceful and non-violent and that could be considered as one major factor for their success, the people in the valley listened to this observation carefully. But they say that the Government was not allowing peaceful processions and demonstrations and therefore the militants were gaining respectability in the eyes of the common people. They criticized violence on the part of the State which they said must come to an end to bring about non-violence."

9. All three of the cited reports indicate that the mission members found that the overwhelming majority of Kashmiri people, including some of the non-Muslim minority groups, favour independence from either India or Pakistan and the immediate carrying out of the plebiscite promised long ago. Our investigation confirms this conclusion. We cite conclusions reached by two of the missions:

"It would be very difficult to find in the majority community of the Kashmir valley anyone who does not passionately desire complete independence from India. Even local J and K police and the local administration stand completely alienated from the para-military forces on the one hand and the Government of Jaggmohan on the other ... Though deafening slogans were dinned into our ears wherever we went, yet we did not hear a single pro-Pakistan slogan." Situation in Kashmir: an Indian Report.

"The team after scrutiny of the evidence of persons of every walk of life ... has reached the following conclusions: the current situation in Kashmir valley is on account of mass upsurge of the entire Muslim population, which is in overwhelming majority against India. They are totally united for liberation from India. This movement is totally indigenous. The vast majority are for independence." Kashmir Under Siege: Massive Violations of Human Rights.

10. IED urges the international community to work in any way it can to assist in the fulfilment of the promises made to the Kashmiri people by the United Nations and by the Governments of India and Pakistan. In particular, we ask the Sub-Commission to request the Secretary-General to undertake efforts to bring the parties into a productive dialogue so as to carry out in the immediate future the plebiscite authorized by the United Nations.
