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COMISIÓN DE DERECHOS HUMANOS
60º período de sesiones
Temas 5 y 9 del programa

**EL DERECHO DE LOS PUEBLOS A LA LIBRE DETERMINACIÓN Y
SU APLICACIÓN A LOS PUEBLOS SOMETIDOS A DOMINACIÓN
COLONIAL O EXTRANJERA O A OCUPACIÓN EXTRANJERA**

**CUESTIÓN DE LA VIOLACIÓN DE LOS DERECHOS HUMANOS Y LAS
LIBERTADES FUNDAMENTALES EN CUALQUIER PARTE DEL MUNDO**

**Carta de fecha 23 de marzo de 2004 dirigida al Presidente de la Comisión de
Derechos Humanos por el Representante Permanente de la República Islámica
del Irán ante la Oficina de las Naciones Unidas en Ginebra en su calidad de
Presidente de la Organización de la Conferencia Islámica**

En mi calidad de Presidente de la Organización de la Conferencia Islámica en Ginebra, tengo el honor de adjuntar a la presente una declaración adoptada por el Grupo de Contacto sobre Jammu y Cachemira de la Organización de la Conferencia Islámica, junto con un memorando presentado al Grupo por los verdaderos representantes del pueblo de Cachemira. La reunión se celebró en la Oficina de las Naciones Unidas en Ginebra el 23 de marzo de 2004.

Agradecería que tuviera la amabilidad de hacer distribuir la declaración y el memorando* como documentos oficiales del 60º período de sesiones de la Comisión de Derechos Humanos en relación con los temas 5 y 9 del programa.

(Firmado): Mohammad Reza ALBORZI

* El anexo se reproduce como se presentó, en el idioma original solamente.

Annex

Statement on Jammu and Kashmir adopted by the OIC Contact Group on Jammu and Kashmir at its meeting during the 60th Session of the United Nations Commission on Human Rights in Geneva, March 23, 2004

The OIC Contact Group on Jammu and Kashmir, which met on the occasion of the 60th Session of the United Nations Commission on Human Rights, reaffirmed support to the Kashmiri people in their struggle for the right to self-determination and expressed its deep concern over the situation of Human Rights in Jammu and Kashmir. The Group noted reports of intensification of gross and consistent human rights violations.

The Group was guided by all OIC Summit and Ministerial Declarations and Resolutions on Jammu and Kashmir.

The Group recalled UN Security Council resolutions 47(1948), 51(1948), 80 (1950), as well as the United Nations Commission for India and Pakistan resolutions of 13 August 1948 and 5 January 1949 that stipulate that the final disposition of the State of Jammu and Kashmir will be made in accordance with the will of the people expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations.

The Group affirmed once again the commitment of the OIC to promote a just and peaceful solution to the Jammu and Kashmir dispute in accordance with the United Nations resolutions and expressed the resolve to seek the effective realization of the right of self-determination of the Kashmiri people.

The Group expressed appreciation to the Government of Pakistan for its unilateral ceasefire along the line of control, which has subsequently been observed by both parties.

The meeting welcomed the appointment of the Special Representative of the OIC Secretary General on the Jammu and Kashmir dispute and urged him to continue his endeavours to visit the Indian held Kashmir.

The Group called for an immediate end to the gross and consistent violations of human rights and, in this regard, reiterated the determination of the OIC Member States to continue their efforts for the full protection of the fundamental human rights of the people of Jammu and Kashmir. It called for grant of access to international human rights bodies, the special mechanisms of

CHR and international media in Jammu and Kashmir to regularly monitor the human rights situation.

The Group rejected any attempt to denigrate the Kashmiri people's valiant struggle for self-determination as terrorism. It recognized that recently held elections in Jammu and Kashmir were no substitute to the UN administered plebiscite for enabling the people of Jammu and Kashmir to realize their right to self-determination.

The Contact Group welcomed the 6th January Joint Statement between Pakistan and India which chalks out road map for composite dialogue on all issues including the Jammu and Kashmir dispute and expressed hope that Pakistan-India composite talks would promote a just settlement of Jammu and Kashmir dispute in accordance with the legitimate aspiration of the Kashmiri people and their inalienable self determination as prescribed in relevant United Nations Security Council resolutions.

The Meeting took note of the Memorandum presented by the True Representatives of the Kashmiri people to the OIC Contact Group and decided to transmit it along with the Statement adopted at the meeting to the 60th Session of the Commission on Human Rights to be adopted and circulated as official documents.

Memorandum presented by the True Representatives of the Kashmiri people to the OIC Contact Group on Jammu and Kashmir during the 60th Session of the Commission on Human Rights in Geneva.

We, the True Representatives of the oppressed Kashmiri people:

Recalling the relevant resolutions of the United Nations Security Council and also United Nations Commission for India and Pakistan resolutions of 13 August 1948 and 5 January 1949, upholding the right to self-determination of the people of Jammu and Kashmir;

Recalling also all OIC Summit and Ministerial resolutions on the Jammu and Kashmir dispute specially the historic special Declaration of the Extraordinary Session of the Islamic Summit Conference on Jammu and Kashmir adopted on 23 March 1997 and the Doha summit Declaration of November 2000 which affirm the commitment of OIC Member States support for Kashmiri peoples right to self-determination, all their fundamental rights and their commitment to promote a just and peaceful solution of the dispute in accordance with the relevant resolutions of the United Nations Security Council;

Welcoming the statement of the Secretary General of the OIC at the Sixtieth Session of the Commission on Human Rights, reiterating OIC support for solution of Kashmir dispute through the implementation of the relevant UN Security Council resolutions which provide for the principle of self-determination;

Expressing deep gratitude to the OIC and its Member States for their unequivocal support for the Kashmiri people's right to self-determination and for their condemnation of the repression and massive human rights violations in Indian occupied Jammu and Kashmir;

Reaffirming that Kashmiri people could exercise their right to self-determination only through a plebiscite under the auspices of the United Nations as stipulated in UN Security Council resolutions 91 and 122 and rejecting any other mechanism, elections, acts of constituent assembly imposed by occupying power as an alternative to the plebiscite;

Rejecting any negotiations on the future of Jammu and Kashmir under the framework of the Indian Constitutions;

Strongly Condemning The unabated serious crimes and atrocities, massacres, extra-judicial killings, custodial deaths, reprisal killings, arbitrary detentions, torture, burning of houses, villages and townships and the use of rape as instruments of suppression by the Indian Security forces and intensification of repression after September 11 which have claimed 84,721 innocent lives in Jammu and Kashmir during the last fourteen years and caused over 20,000 women to be widowed, 102,969 children orphaned, 9,000 women raped, 102,275 Kashmiris arrested and more than 100,000 shops and house burned;

Condemning the destruction and desecration of the Islamic holy places in occupied Kashmir by Indian forces including destruction/desecration of Hazrat Bal Shrine (1993 & 1996), Charar-e-Sharif (11 May 1995), Jamia Mosque Srinagar (12 October 1997), shrine of saint Amir Kabsir Syed Ali Hamadani (December 1997), Jamia Mosque Safapur (January 1998), mosque at Shopian town Pulwama district (October 11, 2000), Jamia Mosque, Kishtawar (2 January 2001), Ukhral (11 May 2002) and Srinagar Mosque (14 December 2002);

Reaffirming the Kashmiri people's full support for multi-ethnicity and multiculturalism as essential ingredients of life in Jammu and Kashmir;

Reiterating that Kashmiris condemn terrorism in all its forms and manifestations including state sponsored terrorism; and reject the Indian propaganda on denigrating the noble Kashmiri freedom struggle;

Expressing concern over imposition of draconian laws in Jammu and Kashmir in particular the Prevention of Terrorism Act (POTA) promulgated in March 2002 which confers sweeping powers on occupatin forces to arrest and detain people without trial;

Condemning the incarceration of the APHC leaders and restrictions on the freedom of their movement;

Welcoming the Government of Pakistan's initiative of unilateral ceasefire along the LOC which has been observed both sides;

Appreciating the institution of CBMs such as resumption of air and rail links and sport activities between Pakistan and India, and their decision to facilitate visas for citizens of both countries to boost people to people contact and interaction;

Noting with deep concern the reports of unabated violations of human rights in the Indian Occupied Kashmir and their negative impact on the delicate peace process;

Welcoming the 6th January joint statement between Pakistan and India, which affirms the importance of a composite dialogue for resolution of all issues including the core dispute of Jammu and Kashmir to the satisfaction of both parties;

Deeply appreciates the resumption of diplomatic contacts between Pakistan and India to prepare grounds for a composite dialogue;

Expressing hope that the composite dialogue would culminate in the Kashmir people's valiant quest for realization of their inalienable right to self-determination;

Noting that resolution of the Jammu and Kashmir dispute in accordance with the wishes of the Kashmiris people would open new avenues of trade and economic cooperation and synergy for socio economic development, of peoples of Pakistan, India and Jammu and Kashmir;

Resolve that: The people of Jammu and Kashmir shall continue their just and heroic struggle for the realization of their right to self-determination as sanctioned in the United Nations Security Council resolutions through a free and impartial plebiscite conducted under the auspices of the UN;

Urge members of the OIC to:

- i) Call upon India to sincerely address the core dispute of Jammu and Kashmir in the composite dialogue for its

resolution in accordance with the United Nations Security Council resolutions;

- ii) Stress upon the Indian Government to take immediate steps to reduce Kashmiri sufferings perpetrated by its security forces,
- iii) Call upon India to withdraw its troops and revoke all draconian laws from the internationally recognized disputed area of Jammu and Kashmir,
- iv) Call upon India to hold free and fair plebiscite in Jammu and Kashmir under UN auspices as stipulated in the United Nations Security Council resolutions of 13 August 1948 and 5 January 1949,
- v) Persuade India to create conditions for the resumption of peaceful, genuine political process in Jammu and Kashmir by removing the restrictions on the freedom of movement of the Kashmiri leadership and to conduct peaceful political activities;
- vi) Reject past, present and future Indian efforts to impose sham and farcical elections on the people of Jammu and Kashmir since these are no substitute to a free and fair plebiscite under the auspices of the United Nations as prescribed in the relevant Security Council resolutions;
- vii) Call upon India to accept the OIC fact finding mission to be headed by Secretary General's Special Representative on Jammu and Kashmir,
- viii) Call upon India to allow impartial, neutral and international third party inquiries to determine responsibility for the killing of civilians in occupied Kashmir in several attacks that have taken place in recent years,

- ix) Call upon India to accept the demand made by the True Representatives of the Kashmiri people for holding tripartite talks to resolve the long-standing dispute of Jammu and Kashmir in accordance with the relevant resolutions of the UN Security Council,
- x) Reject Indian attempt to denigrate noble Kashmiri freedom struggle as terrorism,
- xi) Call upon India to allow access to major Human Rights NGOs such as Amnesty International, Human Rights Watch to monitor and document the human rights situation in Jammu and Kashmir,
- xii) Urge the United Nations to take steps for the appointment of a Special Rapporteur on Jammu and Kashmir by the Human Rights Commission,
- xiii) Urge the United Nations to hold a plebiscite in Jammu and Kashmir, without further delay, in accordance with the UN Security Council resolutions,
- xiv) Support that leaders of All Parties Hurriyet Conference and Kashmiri Human Rights activists should be declared as "Internationally Protected Persons",
- xv) Support the right of Freedom of Movement of Kashmiri people and the leaders of All Parties Hurriyet Conference and seek their guaranteed protection,
- xvi) Extend all possible humanitarian assistance to the suffering people of Kashmir,
- xvii) Encourage the OIC to play a more active role, including extending humanitarian help to Kashmiri widows and children.

Request the OIC Secretary General to:

- i) Communicate to India the readiness to send his Special Representative on Jammu and Kashmir on a fact finding mission to Indian occupied Jammu and Kashmir.
- ii) Convey the OIC resolutions on Jammu and Kashmir dispute to the Indian Government, the UN Secretary General, the governments of P-5 and President of the UN Security Council in order to convey the Islamic world's concern over the situation in Jammu and Kashmir and seek their role in its resolution.
- iii) Include the Kashmir dispute in the agenda of OIC's dialogue with regional and international organizations such as the UN and EU.

Appeal to all peace loving people and the nations of the world in general, and the Islamic Ummah in particular, to, on the one hand, urge the Indian Government to put an end to the egregious violations of the human rights of the Kashmiris, and on the other, help and support the people of Jammu and Kashmir in their struggle for the realization of their right to self-determination as promised to them under the relevant UN Security Council Resolutions.

Request the OIC to communicate this memorandum of the true representatives of the Kashmiri people to the United Nations High Commissioner for Human Rights.
