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COMMISSION DES DROITS DE L'HOMME

Soixante et unième session

Points 5 et 9 de l'ordre du jour

LE DROIT DES PEUPLES À DISPOSER D'EUX-MÊMES ET SON APPLICATION
AUX PEUPLES ASSUJETTIS À UNE DOMINATION COLONIALE
OU ÉTRANGÈRE, OU À L'OCCUPATION ÉTRANGÈRE

QUESTION DE LA VIOLATION DES DROITS DE L'HOMME ET DES LIBERTÉS
FONDAMENTALES, OÙ QU'ELLE SE PRODUISE DANS LE MONDE

Lettre datée du 6 avril 2005, adressée à la Haut-Commissaire des Nations Unies aux droits
de l'homme par le Représentant permanent de la Turquie

En ma qualité de Président de l'Organisation de la Conférence islamique (OCI) à Genève, j'ai l'honneur de vous faire tenir ci-joints le texte d'une déclaration que le groupe de contact de l'OCI a adoptée sur le Jammu-et-Cachemire à la réunion qu'il a tenue à l'Office des Nations Unies à Genève, le 22 mars 2005, et celui d'un mémorandum qui lui a été présenté à cette occasion par les vrais représentants du peuple cachemirien.

Je vous serais reconnaissant de bien vouloir faire distribuer la déclaration et le mémorandum* en tant que documents officiels de la soixante et unième session de la Commission des droits de l'homme, au titre des points 5 et 9 de l'ordre du jour.

L'Ambassadeur,
Représentant permanent
(Signé) Türkekul **Kurttekin**

* La déclaration et le mémorandum sont reproduits en annexe tels qu'ils ont été reçus, dans la langue originale seulement.

Annex

Statement on Jammu and Kashmir adopted by the OIC Contact Group on Jammu and Kashmir at its meeting during the 61st Session of the United Nations Commission on Human Rights in Geneva, 22 March 2005.

The OIC Contact Group on Jammu and Kashmir, which met on the occasion of the 61st 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 took note of 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 Group 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 ongoing Composite Dialogue process between Pakistan and India and expressed the hope that the 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 Contact Group appreciated the historic decision by the Governments of Pakistan and India to allow travel across the LoC between Muzaffarabad and Srinagar by bus without passports and visas.

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 61st Session of the Commission on Human Rights to be circulated as official documents of the Commission.

**Memorandum Presented by the True Representatives of the Kashmiri People to the OIC
Contact Group on Jammu and Kashmir during the 61st Session of the Commission on
Human Rights in Geneva
22 March 2005**

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;

Also Recalling the OIC Resolution on Jammu and Kashmir adopted at the Tenth Session of the Islamic Summit Conference (Session of Knowledge and Morality for the Progress of Ummah), held in Putrajaya, Malaysia, from 16-17 October 2003, which Condemns the continuing massive violations of human rights of the Kashmiri people and calls for the respect of their human rights including the right of self-determination and also calls upon Member states to take all necessary steps to persuade India to cease forthwith the gross and systematic human rights violations of the Kashmiri people and to enable them to exercise their inalienable right to self-determination as mandated by the relevant resolutions of the Security Council;

Also Recalling the OIC Resolution on The Escalation of the Tensions in Jammu and Kashmir adopted at The Tenth Session of the Islamic Summit Conference (Session of Knowledge and Morality for the Progress of Ummah), held in Putrajaya, Malaysia, from 16-17 October 2003, which requests the Secretary General and the OIC Contact Group on Jammu and Kashmir to remain seized of the developments of the situation.

Welcoming the statement of the Secretary General of the OIC at the Sixty First 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;

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, 2001 which have claimed 89,440 innocent lives in Jammu and Kashmir during the last fifteen years and caused over 22,000 women to be widowed, 106,275 children orphaned, over 9,000 women raped, and more than 100,000 shops and houses 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, Kishtwar (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 continuation of draconian laws in Jammu and Kashmir

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 by both sides;

Appreciating the institution of CBMs such as resumption of air and rail links and support 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 unabated violations of human rights in the Indian Occupied Kashmir and their negative impact on the peace process;

Also Noting that since January 2004, human rights violations in Indian Occupied Kashmir have been intensified;

Welcoming the ongoing Composite Dialogue process between Pakistan and India aimed at the resolution of all issues including the core dispute of Jammu and Kashmir;

Expressing hope that the composite Dialogue process between Pakistan and India aimed at the resolution of all issues including the core dispute of Jammu and Kashmir to the satisfaction of both parties;

Endorsing Pakistan's position that Kashmir are a principal party to the Jammu and Kashmir dispute and that they must be associated with the Pakistan-India dialogue process;

Appreciating the historic decision to allow travel across the LOC through bus between Muzaffarabad and Srinagar without passports and visas, as a CBM;

Noting that resolution of the Jammu and Kashmir dispute in accordance with the wishes of the Kashmiri 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 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 the leaders of All Parties Hurriyat 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 Hurriyat 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 Kashmiri dispute in the agenda of OIC’s dialogue with regional 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.
