

Asian-Eurasian Human Rights Forum

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K.N. Pandita
 Secretary General

Reply to questions put to us by NGO Committee on 26 January 2009

Answer

Q.1 Our organization has not made any statement on "Kashmir dispute" as suggested in the question. As regards the "right of self determination", we have explained our position very clearly in our reply to Q. 3 (b) submitted on 9 January 2009. All that we may add is that we learn the High Court of Pakistani part of the State of Jammu & Kashmir has, in a judgement, decreed "Northern Areas" (Gilgit and Baltistan) as part of the State of Jammu and Kashmir - - - a verdict implying devolution of democratic political power on the people of those regions - - - and that Pakistan government has filed an appeal in its Supreme Court against High Court's decision.

Q 2. Local administrative and judicial authorities were also contacted and informed. Exercising NGO' supportive role for facilitating good governance, we try to gently persuade concerned parties to observe the norms of human rights enshrined in the UN Charter for Human Rights.

Q 3 In archival records of mid 19th century, the territories to the north and north-east of Kashmir, invested by the Dogra rulers were called by their revenue establishment as *Jammu wa Kashmir wa Ladakh wa Tibbet ha* (in vernacular). We have given its English rendering.

Q. 4 Our NGO, like any other responsible NGOs, keeps clear of such areas of inter-state relationship as might be politically contentious. However, since the Honourable Committee desires us to "explain our position on the relevant UNSC resolution on Jammu and Kashmir dispute", we have to submit that our NGO takes no position on "disputes" between parties whatever their nature. This is a matter between the parties concerned and the UN SC. Nevertheless, our NGO has noted the observation of the UN Secretary General, Mr. Kofi Annan on Security Council's Kashmir related resolutions as reflected in a news item of a leading Pakistani newspaper *Dawn* of March 17, 2001 as follows

"UN chief refuses to meet APHC leaders

Correspondent

NEW DELHI, March 16: UN Secretary-General Kofi Annan declined to meet leaders of the All Parties Hurriyat Conference, saying his schedule was too full to accommodate them, APHC leader Abdul Ghani Lone told *Dawn* on Friday.....;..Referring to Mr. Annan's remarks during his visit to Pakistan in which he had expressed the UN's helplessness to intervene directly in the

Kashmir issue Mr. Lone said those remarks were a reflection of the UN's flagging interest in the suffering of Kashmiris. "We know that if you are powerful and America is with you, you stand a better chance of getting justice," the APHC leader, camping here for the meeting with Mr. Annan, said.

(Web(http://www.google.com/search?hl=en&newwindow=1&rlz=1T4SKPB_enIN311IN311&q=The+Dawn+of+17+March+2001+Kofi+Annan&btnG=Search))

This reportage of the *Dawn* was corroborated by rediffmail news of the same date (17 March 2001) as follows

"UN resolutions on Kashmir not 'self-enforcing': Kofi Annan

In a clear rejection of *Pakistan's persistent demand for implementation of United Nations resolutions on Jammu and Kashmir*, UN Secretary General Kofi Annan on Friday said these were not 'self-enforcing' and the only way out was negotiations between the two parties.

Annan, who had turned down Islamabad's persistent plea for third party mediation, said, "The only way out is dialogue" between India and Pakistan and added he was 'encouraged' by the discussions held on this issue in the region.

"There are Security Council resolutions which are important, but they are not self-enforcing," Annan, on the last leg of his four-nation tour of South Asia, told reporters after wide-ranging one-to-one talks with External Affairs Minister Jaswant Singh which were followed by delegation-level parleys." (<http://www.rediff.com/news/2001/mar/17jk1.ht>)

In the light of the above statement of the UN Secretary General qualifying UN SC resolutions as non "self-enforcing", we think it is for the countries concerned and the UN Secretary General to determine their (resolutions) status. Only after that determining is done can we be able to state our NGO's position.

Q 5. We are not aware of any specific criterion NGOs are supposed to formulate on the question of "right of people to self-determination" but knowing that this is one of the much debated subjects in relevant UN bodies and academic circles outside the UN, we go by the norms that have so far been denoted by relevant UN bodies through the instrument of majority opinion on its definition.

However, since the Honourable Committee desires that we elaborate on the "criterion for right of people to self-determination," we cannot do better than invite its attention to the views of an outstanding British authority on International Law, namely Professor Maurice Mendelson, available in Annexure 1 to this letter. The International Commission of Jurists, a highly distinguished NGO with the UN Human Rights Council has incorporated this document in its Report, *Human Rights in Kashmir*, Geneva, 1995, pp. 142-45.

Q. 6 Our organization's close study of the UN Charter does not reveal to us any clause mandating the UN to recognize/acknowledge or de-recognize/not acknowledge "disputes" among parties/contestants that would enjoin upon our NGO to make opinions. We believe that the UN has the mandate to offer its good offices for resolving differences among contestants through peaceful means. Furthermore, our NGO's statutes specifically desire us to concentrate only on human rights aspects of a given situation eschewing its political nuances.

K.N. Pandita
Secretary-General
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