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PETITION OPPOSING INHUMAN CURFEW, PROTECTION AGAINST WORST PHYSICAL & PSYCHOLOGICAL TORTURE, DEGRADING TREATMENT AND TO ASSESS HUMAN RIGHTS SITUATION IN INDIAN OCCUPIED KASHMIR (IOK)

This Petition seeks and requires of the Republic of India to abide by the UNSC resolutions, by holding a plebiscite. The UNSC Resolution of 21 April 1948--one of the principal UN resolutions, pending till date, on Kashmir—stated that “both India and Pakistan desire that the question of the accession of Jammu and Kashmir to India or Pakistan should be decided through the democratic method of a free and impartial plebiscite”. The dispute of Kashmir started after the departure of British rule from the region and leaving the state of Kashmir to decide its own fate. The Maharaja of Kashmir decided against people's wishes, to merge with India. People's demand is a plebiscite to decide their own fate, which India has and continues to deny. There are over 500,000 thousand Indian armed forces besides police and other security personnel to keep a tight control and coerce the innocent Kashmiris in the region by sheer force and might. 100,000+ dead over 7 decades, 3 wars between 2 nuclear-armed states, and countless human rights violations--Kashmir continues to be the heavily occupied and the most militarized region of the world. With the recent spikes in the region, with China and between India and Pakistan breach of peace in the region is imminent.

Additionally, require the Republic of India to restore the status of Indian Occupied Jammu and Kashmir, as a disputed territory, the status of which would be determined based on the UNSC Resolution 47 (1948).

India has used the controversial ‘Instrument of Accession’ for the purposes of gaining supremacy with a view to refute the UNSC resolutions and gloss the continuing atrocities in the Indian occupied Kashmir. India refuses to abide by the Resolution 48, being the oldest of the UNSC resolutions, implementation of which is still awaited. The Resolution calls for a plebiscite in the Indian Occupied Kashmir, so as to determine the will of the people as to its sovereignty. Instead by amending Article 360 of the Indian Constitution, Malafidely, the Indian Occupied Jammu and Kashmir has been made a Union of India, rejecting in totality the UNSC resolution 47 (1948) and the UNSC resolution 91 (1951). India is in violation of the said resolutions. Despite this blatant violation, the United Nation, and the world keeps



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quiet, witnessing the evil and the illegal action. The UN and the world keeps quite despite the known atrocities being committed by India.

Dr. Ghulam N. Mir, President, World Kashmir Awareness Forum said in his speech in Chigago, Illinois on July 7, 2017 that:

“So, what are the Kashmiris under occupation thinking? What do they want? What would they settle for by way of a solution to their future? All you have to do is to read the news stories from Kashmir. Read New York Times, BBC News and Guardian, just to name a few. You will get an idea. 70 years on, Indian is nowhere close to silencing the voices and screams for freedom. It is not even close. Kashmiris have no choice but to hang tough, keep making the sacrifices, keep hope for the best solution to emerge. There is no military solution to Kashmir issue. Indian forces have to leave; Kashmir has to be united to make it whole again. Peace cannot come until Kashmir is demilitarized and a plebiscite held under UN supervision,”

“To deny that right of sovereignty to millions of people of Kashmir is a travesty of justice. It violates the letter and intent of the UN charter. By refusing to implement the UN Security Council resolutions, India violates its international obligation. These resolutions demand cessation of the military actions, demilitarization and allowing the people of Kashmir to decide their future through an unfettered referendum, or plebiscite under UN supervision” said Dr. Ghulam N. Mir, President, World Kashmir Awareness Forum during 55th Annual Convention of the Islamic Society of North America (ISNA). The ISNA Conventions is the past were attended by international dignitaries like President Jimmy Carter and President Khatami of Iran.”

It is since 1948, till date, the aim of India is to keep the unlawful occupation with them. Kashmir is a large, resourceful, cultured, and multicultural nation. It needs no interference. It fulfils all the perimeters of a viable sovereign state as per the United Nation Charter. To deny the right of sovereignty to millions of people of Kashmir is a travesty of justice. It violates he letter and the intent of the UN Charter. By refusing to implement the UN Security Council resolutions, India Violates its international obligations. These resolutions demand cessation of military actions, demilitarization and allowing the people of Kashmir to decide their future through an unfettered plebiscite under UN supervision.

The United Nations Security Council Resolution 47 of 21.04.1948 with a view to restoration of peace and order required the Government of India to undertake to ensure the Government of State invite major political groups to designate



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responsible representatives to share equitably and fully in the conduct of administration at the ministerial level while the plebiscite is being prepared and carried out. The Government of India was directed to hold a plebiscite as soon as possible on the question of accession of the State to India or Pakistan. United Nations Resolution further required the Government of India to ensure that the Government of the State releases all political prisoners and take all steps so that; *“(a) All citizens of the State who have left out on account of disturbances are invited, and are free, to return to their homes and exercise their rights as citizen; (b) There is no victimization; (c) Minorities in all parts of the State are accorded adequate protection.”*

As the Government of India has continued since after the Resolution was passed to senselessly maneuver itself into a strategic *cul de sac*, the present Indian Government under the premiership of Modi with the aid of Hindutva has moved blatantly to annex the Indian occupied Kashmir without holding any plebiscite as required by the UNSC resolution 47 of 1948 and the UNSC resolution 91 of 1951. India continues to violate Paras 2 to 14 of the said Resolution 47 of 1948, *inter alia*, by trying to reduce the citizens of Kashmir, take over their properties, and thereafter have *defacto* annexed the State of Kashmir. The Indian government have bound the people of Kashmir by the imposition of curfew in the entire area of Jammu and Kashmir, which continues till date and as on the date of this petition _____ days have already passed under Lockdown by Government of India. The Government of India acting unlawfully, contrary to the principles of human rights, directions contained in the Resolution 47 of 1948. The disputed territory of Indian Occupied Jammu and Kashmir was taken up in the UNSC after the war between India and Pakistan, thus is a consequence of a war. The 4th Geneva Convention, is applicable where Article 1 categorically provides that: *“The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.”* India violates all the provisions of the said convention, and especially Part III and Part IV thereof, while continuing to violate all international laws and conventions, India continues to victimize the Kashmiris, by using coercive methods, military force, placing unwanted curfew so that the Kashmiris succumb to the pressure of Republic of India, the Modi led government and the Hindutva. Kashmir, admittedly is an occupied territory as a result of war between India and Pakistan, thus the Kashmiris are ‘Protected Persons’ and the treatment of the protected minorities persons of the said State of Kashmir is mandatory under the 4th Geneva Convention and is given adequate protection as required by the said Convention.



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Kashmir is on fire, for the reason of State Terrorism by the Indian occupation forces, who have entered into the said territory of Indian occupied Kashmir contrary to the UN Security Council Resolution 47 of 1948, using brut force, by use of weapons, unlawfully arresting and detaining young Kashmiris and killing innocent people. Innumerable lives have been lost. The Indian Government calculatedly, with motivated intent, to cause terror in the minds of the Kashmiris, continues to authorize the use of deadly weapons, pellet guns and other weapons, to cause serious and grievous injuries to young Kashmiris who have lost their youth in the indigenous Kashmiri Resistance Movement, to secure Kashmir from the occupation forces. India does not want to expose itself, for the brutalities, terrorist activities, the immoral activities and the illegal acts being committed by them through their military deployed there. It is thus that the International Observers are not allowed in the State of Jammu and Kashmir, which is a violation of the UNSC Resolution 91 (1951). Human Rights enshrined in the various resolutions and conventions are being violated. The inexorable clash of intents and wills between the Indian occupation forces and the indigenous Kashmiri resistance movement having gained momentum, the Government of India, contrary to all legal principals and humanitarian norms, violating the UN resolutions have in violation of the Resolutions of the UN and International Law, caused to change the status of Jammu and Kashmir into its Union. The UN watches India violating its resolution and convention but chooses not to take any action.

In the speech made by the Prime Minister of Pakistan on 27th September, 2019 before the General Assembly of the United Nations the Prime Minister urged the global powers to take note of the dangerous and deteriorating strategic environment in the Indian occupied Jammu & Kashmir. In the various speeches made by Prime Minister of Pakistan on 26th September 2014 before the UNGA and 3rd October 1996, similar stance was taken by the world leaders. Unfortunately, the United Nations have failed to take into account the legitimate struggle of the Kashmiris for a right of self-determination, which is a right allowed by the International laws, including but not limited to their right to an armed struggle.

It is the duty of the United Nations through it Security Council as also the major global powers, who ought to take note of this dangerously deteriorating situation where there is an apparent threat to peace, breaches of the peace and acts of aggression by India. Additionally, the strategic environment in Indian occupied Jammu and Kashmir, particularly when the world is seriously preoccupied with the corona virus pandemic needs to be seriously perused, for the peace to continue in the region. India's reckless brinkmanship and intransigence in Indian



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occupied Jammu and Kashmir (and across the LoC) has forced Kashmiris to take a principled stand on their inalienable rights, being the right to self-determination and their right to armed struggle. If at this time appropriate action is not initiated against the aggressor India, the world would have to accept the consequences of an ill-timed, ill-considered potentially conventional-nuclear war. The choices are stark. The international community must ensure, that peace, good global order and international law reign supreme. The Indians must not be allowed to turn this human tragedy (COVID-19) into an opportunity for them to further suppress the Kashmiris and promote their fanciful regional ambitions.

The motivated Hindutva-laced policies of the BJP government are aimed at only one thing, that they want Indian Occupied Jammu and Kashmir to be a part of India. If this racist juggernaut is not stopped now, the conversion of the State of Jammu and Kashmir into its Union shall become permanent. It will precipitate the Indian Union's implosion along with severe destabilization of the region. PM Modi's hand might be forced to go to war to satiate the frenzied Hindutva rhetoric and deflect public attention from dire economic and social woes at home. The RSS-BJP combine's relentless pogrom of Kashmiri Muslims and the other Indian Muslim as also the other minorities like the Sikhs, Buddhists, Christians, Adivasis, Jains, Dalits (untouchables) etc. are on tenterhooks. The international community has thus far been callously oblivious to the ruthless carnage that the Indians are perpetrating on the Indian Muslims in India and Kashmiri Muslims in Indian Occupied Jammu and Kashmir. Encouraged by this international indifference, the Indians have apparently given domicile rights to about 300,000 aliens to settle in Indian Occupied Jammu & Kashmir. Their modus operandi is absolutely clear, that they will and are forcing the original native Kashmiris to sell their lands to these aliens with a view drive them off their lands/properties and into detention centers along the LOC or even across it? (The Indians must not forget their own experiences with the Mukti Bahini in erstwhile East Pakistan). Further, will they establish new settlements on government land behind barbed wires, security walls, check posts and protective cordons for them? All forced demographic changes will lead to a bitter, discordant, and dysfunctional society. The dispossessed Kashmiris will and do not accept the aliens as social, commercial, political equals/partners. They see them as usurpers, occupiers, and competitors in every field. The aliens are not acceptable to the Kashmiris, which shall cause another upheaval disturbing the peace in the region. The aliens with the support of the Indian government are likely to use force and that shall cause further issues. The Kashmiris do not welcome this act of the Government of India and feel unsafe. The polarisation in Indian Occupied Jammu & Kashmir has become severe, unbridgeable and has evoked a fierce kinetic



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response from the Kashmiris. The first signs of indigenous Kashmiri resistance are already visible. International opprobrium and Pakistan's reactions will add further to instability in the region and the Indian occupied Jammu and Kashmir. India to initiate a war, violate the Pakistan airspace which was responded by Pakistan by downing two Indian aircrafts and capturing one Indian pilot. Sense prevailed on the Pakistani Government due to which war was averted. Should such intrusions continue, it is likely that peace would be breached, which is what the international community would not wish. Additionally, the severe tension between India and China in Ladakh is another sign of such unrest, due to the illegal action by India. These are signs which the International Community needs to look at. The fractures that emanate from Indian occupied Jammu and Kashmir has splintered the Indian Union which the Indians would want to be permanent.

The violation of the UNSC Resolution 47 (1948) on account of the total blockade of State of Kashmir and the conversion of the State of Jammu & Kashmir into a Union by amendment in Article 370 of the Constitution of the Republic of India amounts to an aggression by India. The definition as adopted by United Nations in its UNGA Resolution 3314 categorically requires as a duty of the State not to use the armed force to deprive peoples of their right of self-determination, freedom and independence or to destruct territorial integrity. The Resolution further requires that the territory of a State shall not be violated by being the object even temporarily by military occupation or of other measure of force taken by another State in contravention of the charter, and that it shall not be the object of acquisition by another State resulting from such measures or the threats thereof. Article 5 of the adopted definition of the word "aggression" reads as under :-

"Article 5

- 1. No consideration of whatever nature, whether political, economic, military or otherwise, may serve as a justification for aggression.*
- 2. A war of aggression is a crime against international peace. Aggression gives rise to international responsibility.*
- 3. No territorial acquisition or special advantage resulting from aggression is or shall be recognized as lawful."*



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The annexation of the State of Jammu & Kashmir carrying the special status under UN Resolution 47 (1948) was contrary to the United Nations Resolution and amounted to an aggression within the meaning of 1974 UNGA Resolution 3314.

The United Nations Resolution 47 (1948) clearly defines that the people of Jammu & Kashmir will decide their own fate through plebiscite. India claims that there has been a Regional Agreement *interse* India and Pakistan for maintenance and restoration of international peace and security where, it was categorically provided that the matter shall be resolved mutually by the two countries, thus admitting the fact that the issue of Jammu & Kashmir was and continues to be a live issue and was required to be dealt with and resolved through peaceful means. Having violated the Regional Agreement and UNSCR 47 (1948) and the UNSCR 91 (1951) as also the Regional Agreement, a clear case of threats of peace, breach of peace and acts of aggression have been made out which action, United Nations Security Council is liable to take under Chapter 7 of the Charter of the United Nations which we, through this petition, call upon the United Nations to act.

The UNSC resolution 47 (1948) was passed for the purposes of reducing tensions and bringing peace in the region. Conversely, it is the Indians who are trying to cause another war to break out in Kashmir. Pakistan claims that the resolution of the Kashmir dispute should be in the manner as provided by the UNSC resolution 47 (1948). India has rejected the same and all the resolutions. This itself is a cause for mounting tension, which can be seen. Both Pakistan and India possess nuclear arsenal. Wars are not conducive to the region. The UN and the world should act to prevent such an action.

Pakistan supports the Kashmiri Muslims, unambiguously. It has raised the issue with the UN and all concerned international fora and major capitals of the world. In particular, it has taken up the case of the settlement of aliens in Indian occupied Jammu and Kashmir at the relevant UN and other international platforms under the pertinent international laws. This is the age of 5th generation warfare. The Indians have applied it ruthlessly against Pakistan. Pakistan needs to respond likewise. Pakistan must get the UNSC to take up the Kashmir issue once again and to publicly proclaim, acknowledge and reiterate the Kashmiris' rights to self-determination and armed struggle – along with the right to seek and receive support therefor.

Pakistan and India, it is reiterated, are both nuclear powers and a trigger in the present situation could lead to a potential conventional/nuclear war. The peace



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of the region shall be seriously undermined specially, in the present situation where the world faces the human tragic act COVID-19. In fact, the Indians are using COVID-19 unfortunately to further crush the Kashmiris right of self-determination to promote their fanciful occupational ambition. UNSC Resolution 47 (1948) was passed, with a view to avoid war and to restore peace and order in the region. One feels ashamed, that a huge organization having come into existence for the purposes of maintaining peace and order in the world, refuses to act, where; India blatantly violates UNSC's Resolutions, violates the international laws and takes away the Kashmiris right of self-determination and the proclaimed human rights, determined by the various international conventions and resolutions. United Nations being cognizant of the said violations by India, the deplorable human right situation in the Indian occupied Jammu & Kashmir for the past ____ months and continuing, it must publicly acknowledge and reiterate its commitment to the 1974 UNCA Resolution 3314, which explicitly supports the peoples' right of self-determination and their right to armed struggle, including but not limited to their right to seek and receive external support. The OIC has endorsed the said Resolution through its 1988 Convention of combating international terrorism. Article 49 of the 4th Geneva Convention forbids the occupation force to travel or deport any part of its population into the occupied territory, for any reason whatsoever. It is incumbent on United Nations (UNSCP-5) and the OIC to unambiguously uphold the International Law (UNSCP-5) Resolution on Kashmir and more decisively to forestall all Indian attempts to deny the Kashmiris of their right of self-determination and further restrain the Indian Government from violation of the various human right conventions perpetrated against the Kashmiris and further to restrain the Indian Government to refrain in their unlawful designs to demographic engineering in the Indian occupied Jammu & Kashmir, which has to be forestalled. It is patently inhumane.

We, therefore, not only call upon the United Nations, but also the OIC, the Commonwealth, as also EU, USA, UK, China and Russia, as interested world powers and parties in the Kashmir issue, to play their cardinal role in resolving this serious issue.

We also call upon the entire Muslim Ummah, the Arab brethren and all the major powers of the world to come forth and pressurize the Government of India and to stop them from persecuting the Kashmiris of the State of Kashmir and the Muslims of India. We call upon the world to pressurize the Government of India to hold a plebiscite under the United Nations so that the Kashmiris would be able to determine their fate in terms of Resolution 47 of 1948.

