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## **DRAFT REPORT**

on Kashmir: present situation and future prospects  
(2005/2242(INI))

Committee on Foreign Affairs

Rapporteur: Baroness Nicholson of Winterbourne

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### on Kashmir: present situation and future prospects (2005/2242(INI))

*The European Parliament,*

- having regard to its recent resolutions referring to Jammu and Kashmir, in particular its resolutions of 29 September 2005 on EU-India relations: A Strategic Partnership<sup>1</sup>, of 17 November 2005 on Kashmir<sup>2</sup>, of 18 May 2006 on the Annual Report on Human Rights in the World 2005 and the EU's policy on the matter<sup>3</sup>, of 28 September 2006 on the EU's economic and trade relations with India<sup>4</sup>, of 22 April 2004 on the EC-Pakistan Cooperation Agreement<sup>5</sup> and of 22 April 2004 on the situation in Pakistan<sup>6</sup>,
  - having regard to the resolutions of the United Nations Security Council on this issue,
  - having regard to the report on the visits of Parliament's *ad hoc* delegation to Jammu and Kashmir adopted by the Committee on Foreign Affairs in November 2004,
  - having regard to the devastating earthquake which struck Jammu and Kashmir on 8 October 2005,
  - having regard to the visit of President Musharraf of the Islamic Republic of Pakistan to the Committee on Foreign Affairs on 12 September 2006,
  - having regard to the 7th EU-India Summit held in Helsinki on 13 October 2006,
  - having regard to the visits made by Parliament's rapporteur to both sides of the Line of Control (LoC) in June 2006,
  - having regard to Rule 45 of its Rules of Procedure,
  - having regard to the report of the Committee on Foreign Affairs (A6-0000/2006),
- A. whereas the territory which constituted the former Princely State of Jammu and Kashmir is currently administered in separate parts by the Republic of India, the Islamic Republic of Pakistan and the People's Republic of China, and has a total population of 13.4 million,
- B. whereas much of Jammu and Kashmir, in particular Azad Jammu and Kashmir (AJK), suffers from extreme poverty and neglect, with enormous deficiencies in basic literacy and numeracy, access to healthcare, lack of democratic structures and major deficiencies in the rule of law and justice; and whereas the whole of Jammu and Kashmir suffers from exceptional economic decline,

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<sup>1</sup> OJ C 227 E, 21.9.2006, p. 589.

<sup>2</sup> *Texts Adopted*, P6\_TA(2005)0442.

<sup>3</sup> *Texts Adopted*, P6\_TA(2006)0220.

<sup>4</sup> *Texts Adopted*, P6\_TA(2006)0388.

<sup>5</sup> OJ C 104 E, 30.4.2004, p. 988.

<sup>6</sup> OJ C 104 E, 30.4.2004, p. 1040.

- C. whereas the question of water resources is a factor underlying the dispute between Pakistan and India over Jammu and Kashmir and is central to any definitive resolution,
- D. whereas Jammu and Kashmir has been divided by war for nearly 60 years, a period punctuated by armed conflicts between India, Pakistan and China; whereas the conflicts between India and Pakistan now involve international terrorism, and whereas both nations are now nuclear powers,
- E. whereas a ceasefire has been in place on the LoC since November 2003 and, despite a few breaches, has continued to hold,
- F. whereas the ceasefire has enabled India and Pakistan to engage in an on-going dialogue on Jammu and Kashmir which is now starting to be modestly successful, and whereas a number of Confidence-Building Measures (CBMs) are being implemented as part of the peace process; and whereas the Kashmiri people on both sides are being fully involved and integrated into that process, taking local responsibility,
- G. whereas on the morning of 8 October 2005 an earthquake of magnitude 7.6 on the Richter Scale, the most devastating international earthquake in living memory, struck a broad swathe of territory from Afghanistan through Pakistan and India, but with by far the greatest impact felt in Jammu and Kashmir, with exceptional losses in AJK,
- H. whereas in minutes the earthquake claimed over 75,000 lives in AJK, later rising to 88,000, and claimed 6,000 in Indian-administered Jammu and Kashmir, and left tens of thousands of people injured and millions entirely displaced, with minimal basic needs provision and without permanent shelter, employment, health care and education, on the Pakistani side; whereas dozens of towns and villages have been partially or totally destroyed, agriculture decimated and the environment contaminated, and whereas levels of development have been set back centuries,

## **Introduction**

1. Stresses that both India and Pakistan are important EU partners; notes that the EU has not been invited to take on a mediating role in the Kashmir dispute; nevertheless thinks that the EU may have something to offer based on past experience of conflict resolution in a multi-ethnic, multinational, multi-faith context; therefore offers the present resolution and any meetings that may come out of it as part of a shared experience from which the EU can also learn;
2. Notes that both countries are now members of the nuclear club; draws attention to the fact that India is the world's largest democracy and has a functioning democracy at local level, whereas Pakistan still has to show that it is respecting democratic principles in a great many areas;
3. Notes that the impact of the earthquake on the Pakistani Kashmiris has gravely exacerbated the already exceptionally sparse basic needs provision and has dramatically impaired institution and capacity-building potential;
4. Underlines the common heritage shared by India and Pakistan, exemplified in the ancient culture of Jammu and Kashmir; recognises and values the pluralism, multiculturalism and

multi-faith nature and traditions of the peoples of Jammu and Kashmir;

5. Urges the Governments of Pakistan and India to resolve the crucial riparian issues affecting the head waters and the use of the rivers flowing through Jammu and Kashmir (the Indus, Jhelum, Chenab, Ravi, Beas and Sutlej rivers) as swiftly as possible; nevertheless, urges that the agricultural, fishing, livestock and human water requirements of the local people remain a key priority;

### **Impact of the earthquake of 8 October 2005**

6. Strongly emphasises that the earthquake has had an immense impact on the lives of the people on both sides of the political divide, and that the vast humanitarian situation has completely changed the political conditions on the ground in AJK; regrets that it has made everyday life virtually impossible for millions of people who were already among some of the most disadvantaged in the region; underlines that day-to-day survival is now the overwhelming priority for the people;
7. Regrets that, in addition to the massive loss of life, AJK suffered incalculable material damage to its infrastructure (hospitals, schools, government buildings, communication channels) and to what were in many cases already fragile basic institutions and services;
8. Is deeply saddened that the earthquake had a disproportionate impact on children, nearly wiping out a whole generation of Pakistani Kashmiris, which may well be the most devastating long-term impact of the earthquake; is highly concerned about reports of child trafficking in the aftermath of the disaster, given that even before the earthquake mechanisms for child protection were virtually non-existent;
9. Draws attention to the plight of three million Internally Displaced Persons (IDPs) created by the earthquake in AJK; in the absence of a convention on the rights of IDPs, welcomes the UN's 'Guiding Principles' which offer the basis for a humane response to the insidious assault of forced displacement on human rights; demands that Pakistan respect these principles supported by the international community and strongly recommends that the EU focus consistently on them, as well as on broader issues of democracy, justice and human rights in Pakistan; notes also that on both sides of the LoC long-standing 'refugee' camps should be dismantled, and proper attention paid to their occupants' protection, needs and social integration;
10. Stresses that the disaster struck a region already weakened by 60 years of festering conflict, one which is in the eye of the storm of the war against terrorism, and where fundamental institutions have been constantly undermined by organised crime and terror networks exploiting Pakistan as a major base, using the rugged terrain and institutional deficiencies of that country to undermine regional stability;
11. Is appalled that the already minimal basic "rights" enjoyed by Pakistani Kashmiris before the earthquake (i.e. food, water, shelter, sanitation, schools, and barely adequate health-centres) have been decimated, compounding a situation notable for a lack of democracy and the existence of oppressive and unjust laws, especially those applicable to women;
12. Strongly emphasises that, in the context of the massive destruction and social upheaval wrought by the earthquake on an already weakened democratic base, and given the

enormous seriousness of the humanitarian situation, continuing calls for a plebiscite on the final status of Jammu and Kashmir are wholly out of step with the needs of the local people and thus damaging to their interests; urges those playing 'big power' politics when millions are in basic need to redirect their energies to fighting the corruption that has wrongly diverted the flow of international funding away from the intended recipients; notes that, even without the earthquake, any plebiscite would have been meaningless without a change in policy from Islamabad, which maintains that all of Kashmir is an integral part of Pakistan's territory; underlines furthermore that a plebiscite without such a policy change could be no more than a rubber stamp on the status quo;

13. Notes that Indian-administered Jammu and Kashmir was less affected by the earthquake than its neighbour (tens of thousands made homeless, as opposed to millions on the Pakistani side) and has been better able to cope; applauds the competence with which the emergency was addressed by the government, the local population and the army; notes that, as a result, of the 30,000 who lost their homes, all now have housing due in large measure to an intelligent self-help policy instituted by the government;

### **Political situation: the aspirations of the people**

14. Congratulates India and Pakistan on the peace moves currently under way, and welcomes the fact that bilateral talks, put on hold for three months after the July 2006 bombings in Mumbai, have re-started; stresses the need for the region, the EU and the international community to support the current bilateral talks and for a further strengthening of exchanges, with the aim of generating a more stable and prosperous future for the people of Jammu and Kashmir;
15. Has warmly welcomed the CBMs initiated by India and Pakistan, which are achieving a moderate degree of success in reducing tension and suspicion on both sides;
16. Draws attention to the fact that ordinary Kashmiris, by virtue of the humanitarian situation after the earthquake, are now becoming intimately involved in the modalities of the peace process, through the exchanges taking place and the free movement (albeit still limited) across the LoC;
17. Regrets, however, that Pakistan has consistently failed to fulfil its obligations to introduce meaningful and representative democratic structures in AJK; notes in particular the continuing absence of Kashmiri representation in the Pakistan National Assembly, the fact that AJK is governed through the Ministry of Kashmir Affairs in Islamabad, that Pakistan officials dominate the Kashmir Council and that the Chief Secretary, the Inspector-General of Police, the Accountant-General and the Finance Secretary are all from Pakistan; abhors the provision in the 1974 Interim Constitution which forbids any political activity that is not in accordance with the doctrine of Jammu and Kashmir as part of Pakistan and obliges any candidate for a parliamentary seat in AJK to sign a declaration of loyalty to that effect; is concerned that the Gilgit-Baltistan region enjoys no form of democratic representation whatsoever;
18. Recognises that Pakistan finds itself in a particularly complex situation with pressure from many sources; nevertheless:
  - deeply regrets that the lack of a national political will to address basic needs

provision, political participation and the rule of law in AJK has left women there in a desperate situation following the earthquake;

- highlights particularly, in this context, the recent threats aimed at derailing planned amendments to the rape laws, and the repugnant Hudood Ordinances themselves which, despite the will of President Musharraf, have recently been reconfirmed by a national parliament in which neither the women nor the men of AJK have any representation; nonetheless welcomes and wholeheartedly supports the efforts made by reformist parliamentarians to repeal these abhorrent laws;
  - notes too the difficult situation faced by homosexuals;
19. Urges the EU to take a firm stance against the abomination of the Hudood Ordinances and to revisit, critically, the 3rd Generation Cooperation Agreement it signed with Pakistan in 2004, Article 1 of which states very clearly that the Agreement must be based on a true respect for human rights and the upholding of true democratic principles, given that it is pre-eminently clear that Pakistan is not living up to its commitments, especially in AJK;
  20. Urges Pakistan to revisit its concept of democratic accountability, minority and women's rights in AJK, which as elsewhere are key to improving conditions for the people and tackling the menace of terrorism;
  21. Deplores documented human rights violations by the armed forces of India and the all too frequent incidents of terror and violence perpetrated by armed militant groups based in Pakistan; strongly urges both sides to do all they can to address these violations; welcomes Pakistan's public commitments to curb infiltration across the LoC by militants operating out of territory under its control, but believes it must take much stronger and more effective measures; welcomes the continued and determined commitment by President Musharraf to fighting terrorism, which, it is widely recognised, presents enormous challenges; approves and supports multilateral and bilateral EU Member State aid to assist Pakistan in fighting terrorism and in making determined efforts to improve the lives of the people of AJK;
  22. Recognises and supports the aspiration of the Kashmiri people for a significantly reduced military presence in the area; points out, however, that meaningful demilitarisation can only take place alongside genuine action to neutralise the threat of infiltration of Jammu and Kashmir by militant outfits operating out of Pakistan;
  23. Notes that while Indian-administered Jammu and Kashmir enjoys a unique status under Article 370 of the Indian Constitution, granting it greater autonomy than other states in the Union, there remain deficiencies in practice with regard to human rights and direct democracy; is pleased, therefore, to see recent moves in Jammu and Kashmir to strengthen democracy (as evidenced by the 75% turnout in recent local elections); urges India's National Human Rights Commission (NHRC) to exercise its full mandate with regard to any suspected or documented violations and, to lend it even greater credibility, urges the NHRC to make good the absence of any human rights professionals on its governing board; looks forward to enhanced progress in this area, and to positive outcomes from the new laws on child labour and on women and violence;

24. Recognises the difficult living conditions of a number of groups, such as the migrant Pandits of the Kashmir Valley; urges that discrimination against them and other groups, particularly in employment, be addressed head on; suggests that such groups seek to empower themselves by establishing committees of their own elected representatives, ensuring that women and under-25s are properly represented;
25. Suggests that India consider granting Ladakh the same provincial status as that enjoyed by Jammu and Kashmir; hopes that the Kargil-Skardu trade route can be re-established as part of the CBM process and that the Ladakh/Northern Areas division can be bridged by crossing points similar to those already established elsewhere along the LoC; suggests that India re-examine the issue of whether the people of Ladakh could also enjoy representation in the Rajya Sabha;
26. Urges India to renew its focus on Jammu and Kashmir, including job creation and measures to promote tourism, and to examine how the (forthcoming) EU-India partnership could help with the creation of new skills-based jobs, especially for youth;

### **Response to the earthquake of 8 October 2005**

27. Acknowledges that the response to the earthquake from the international community, India and Pakistan (with some initial exceptions due to bureaucratic rigidity and lack of coordination) was swift: there were immediate contacts at the highest level between India and Pakistan; domestic and local NGOs responded well, working with the local and central administrations;
28. Congratulates all those involved in identifying and addressing the public health needs of earthquake survivors in camps, which, despite the challenges associated with the provision of clean potable water and appropriate sanitation facilities in post-disaster situations, have not seen major outbreaks of water-borne diseases;
29. Notes that Pakistan established a Federal Relief Commission within days of the disaster to coordinate search and rescue and relief operations; regrets, however, that Pakistan declined Indian offers of helicopters, on the grounds of their pilots' nationalities, as well as cross-LoC joint relief operations, medical relief teams and repair of telecom infrastructure, all of which could have significantly contributed to reducing casualties;
30. Welcomes the funds so speedily pledged by Pakistan's neighbouring states (India, China, Iran, Afghanistan) and, on a wider regional basis, by Turkey and the Organization of the Islamic Conference (OIC), and by the international community as a whole; congratulates the European Commission, and, in particular DG ECHO, already present in Pakistan, for its immediate and effective response; encourages donors to deliver as swiftly as possible on their original pledges;
31. Highlights the fact that the initially hesitant reaction to the disaster by the Pakistani military created a needs vacuum in the immediate aftermath, which was exploited by militant organisations on the ground, such as the Jamaat-i-Islami, and Jamaat-ud-Dawa, the renamed Lakshar-e-Tayyaba (declared a terrorist organisation and, as such, banned by the Musharraf government in 2002), who swiftly became *de facto* providers of food, lodging, schooling for children and welfare for widows; is very concerned that this has bolstered the credibility of such polarising groups in the eyes of the local population,



- further undermining any potential for genuine democratic representation;
32. Urges the international community to use its massive reconstruction pledges to, among other things, support Pakistan's democratic transition; is deeply concerned about corruption and especially recurring reports that these funds may be being diverted to support armed jihadi groups; urges the international donor community to do all it can to implement safeguards and to monitor closely the use of funds delivered;
  33. Urges the EU and its institutions not to let the plight of the people of Jammu and Kashmir disappear from the radar screen and to ensure that aid and other programmes are designed and implemented with long-term recovery and institution-building in mind;

### **Confidence-Building Measures**

34. Particularly welcomes the steps taken to reunite families divided by the LoC through the opening of five crossing points; is aware that the opening-up of meeting points on the LoC has been described as being demonstrably slow and not responding to the urgency of the situation on the ground; none the less, encourages and looks forward to increasingly frequent crossings; would like to see these extended to all citizens on both sides and recommends that India and Pakistan instigate measures to facilitate travel, e.g. increased consular services;
35. Believes it is vital to increase the frequency of cross-LoC exchanges at all levels of civil society and across all walks of life; suggests that exchange programmes be created between professional associations, schools and academics, including a common University with a campus on either side of the divide; to help reduce levels of mutual suspicion between the armies on either side, suggests that military-to-military contacts be initiated through exchanges between National Defence Colleges;
36. At the political level, recommends that a Joint India-Pakistan Parliamentary Committee be established to foster greater parliamentary exchanges and dialogue; similarly, that joint local government working parties be established to explore trade and tourism issues;
37. Encourages EU multinationals to recognise the investment potential of Jammu and Kashmir, and in particular the existence of a skilled, educated workforce on the Indian side; suggests that European businesses might enter into joint ventures with local companies and that investment insurance schemes be created to boost investor confidence;
38. Recognises the outstanding work being undertaken by the Commission's delegation in Islamabad;
39. Stresses that tourism has considerable potential to bolster the local economy; therefore encourages EU Governments to keep a close eye on the security situation, with a view to ensuring up-to-date, coordinated travel advice to those wishing to travel to Jammu and Kashmir;
40. Underlines that, as the EU's own experience demonstrates, one of the keys to improving relations between countries is through increasing bilateral trade flows; believes that, in the case of Jammu and Kashmir, cross-LoC trade is particularly vital to generating

economic growth, development and the unlocking of its economic potential; recommends that road and infrastructure projects be made a priority;

41. Warmly welcomes the forthcoming initiative to open a road trade route between Srinagar and Muzaffarabad; strongly encourages both sides to move rapidly to significant volumes of trade; urges swift agreement on the modalities of road freight, with an emphasis on simplifying them as far as possible;
42. Strongly supports continuing initiatives by the political establishments on both sides and at all levels and urges them to give priority to the needs of the people of Kashmir, both materially and institutionally, so that their political, economic, social and cultural disadvantages can be redressed; recommends that the EU be available to respond to requests from either government;
43. Notes that natural disasters sometimes create the political conditions for peacemaking; recalls that in a BBC interview on 21 October 2005 President Musharraf wanted the LoC to be made 'irrelevant' so that it could handle the groundswell of human misery from the aftermath of the earthquake; regrets that while the immediate aftermath of the earthquake offered India and Pakistan a chance to take joint and sustainable action, this opportunity was only partially taken up; urges the two sides to look upon the quake as a wake-up call that nature knows no borders and that it is only together that they can offer the people of Kashmir any hope of rebuilding a future;
44. Instructs its President to forward this resolution to the Council, the Commission and the Member States of the European Union, to the Governments of the Republic of India, the Islamic Republic of Pakistan and the People's Republic of China, and to the United Nations.