

THE KASHMIR STORY

B. L. SHARMA



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To my Father

PANDIT SHIV DARSHAN

FOREWORD

TO THOSE CONVERSANT with the so-called Kashmir Question, Mr. B. L. Sharma needs no introduction, for chiefly as Officer on Special Duty for Kashmir Affairs in the Indian Foreign Office he accompanied nine Indian delegations to the United Nations between 1948 and 1965 in the capacity of Adviser. In 1952 he was again a member of the Indian delegation which met the U.N. Representative, Dr. Frank P. Graham, for talks in Geneva, and he also attended the Tashkent conference, in January 1966, as Adviser.

Mr. Sharma has thus been in close touch with the Kashmir Question since its inception and his book reflects the tremendous industry and insight he brought to bear on this difficult, delicate, and complicated subject. Here, however, is much more than the official mind at work. Mr. Sharma obviously knows all the minutiae of this tangled controversy but he has also a clear, incisive mind and style which present and interpret not only the facts but the nuances of the problem.

This is inevitably a controversial book. It is critical in many aspects of some of the attitudes adopted by the U.N. in dealing with the Kashmir Question. Mr. Sharma supports his conclusions with a formidable array of facts. The book is heavily documented and the author's ability to sustain his arguments with citations from speeches, discussions, documents, and records makes the end result useful and impressive.

Not all may agree with Mr. Sharma's analysis and interpretation. But here is a book no student of Kashmir affairs can ignore. It constitutes a valuable addition to the growing literature on the subject.

New Delhi

FRANK MORAES

PREFACE

THE KASHMIR ISSUE has now been hanging in the balance for eighteen years. Many people wonder why this should be so. There must be a basic reason which has made the problem intractable.

In this book an attempt is made, on the basis of a study of the official records of the Security Council and the reports of its agencies, to find out whether such a reason exists and, if it does, to analyze its nature and motivating force.

The subject impinges on the competence of the Security Council in maintaining international peace and security. Much more so because of the vital part which Permanent Members, who in fact are the great Powers, play in the Council, particularly in masterminding its attitude and decisions.

As far as I am aware, the subject-matter of this book has not hitherto been so fully explored, and even what I have done cannot be anything more than an introduction to the subject.

I am grateful to the authors and publishers from whose publications I have taken the liberty to give a few brief extracts.

K-77, Hauz Khas Enclave

New Delhi-16

26 January 1967

B. L. SHARMA

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CHAPTER ONE

WHILE INDIA BURNS

ON 22 October 1947, the peace in Jammu and Kashmir, a princely State in north India, was shattered by an invasion from Pakistan territory. Thousands of tribesmen from the tribal belt of the North-West Frontier Province of West Pakistan, with all the panoply of an armed force, swept into the State, mainly along the Rawalpindi-Srinagar road, putting town and village on the way to fire and sword. The small defending army was broken up and scattered. Driven by a lust for loot, rape, and murder, the invaders spread havoc among the innocent and unarmed people, mostly Muslims, and advanced rapidly towards the State's summer capital, Srinagar.

Faced with a grave threat to the life and honour of his people, the ruler as well as the leaders of the National Conference, the largest political party in the State, consisting mostly of Muslims, appealed to India for urgent help which was rushed to the besieged people after the State acceded to India on 26 October and became part of Indian Union territory.

The timely help given by the Government of India saved Srinagar. The raiders were driven back from Baramulla to Uri. Nearly, 19,000 of them faced Indian troops in this area. Meanwhile, pressure by the raiders had built up against the western and south-western border of the State. Several thousand raiders were operating in this sector. In addition, tribesmen and others estimated at 100,000 had been collected in different parts in West Punjab bordering the State. As tribal incursions continued, the booty was collected and carried over to the tribal areas to serve as an inducement to the further recruitment of tribesmen to the ranks of the raiders.

Armed with modern weapons, including mortars and machine-guns, the invaders wore the battle-dress of regular soldiers, fought in regular battle formation, using the tactics of modern warfare.

Man-pack wireless sets were in regular use and even Mark V mines were employed. For transport, the invaders used motor vehicles with ample supplies of petrol which was then a rationed commodity. They were undoubtedly being trained and to some extent led by regular officers of the Pakistan army.¹ Their rations and supplies came from Pakistan territory. For communications they depended on the Pakistan army signals, for treatment of casualties on Pakistan military hospitals, and for propaganda on Pakistan's State-owned Radio and the Pakistan press, which described India as "the enemy."

The weapons captured by the Indian army included .303 rifles, Bren and Sten guns, two- and three-inch mortars, 3.7 howitzers and anti-tank rifles.² Captured vehicles bore Pakistan name plates. Raiders' vehicles were filled with petrol in Pakistan and repaired in Pakistan workshops.³ Armoured cars were seen in the Akhnur sector and four anti-tank mines were located in the same area.⁴

Pakistan leaders were far from being disinterested. The Prime Minister of Pakistan said: "Our heart goes out to them—our brethren [in Kashmir] in this mortal struggle, for the choice before them now is freedom or death."⁵ The Minister of Education in Sind, Pir Illahi Bux, appealed to all trained and demobilized soldiers to proceed as volunteers to the Kashmir front.⁶

The Government of India took up the matter with the Pakistan

1. Commission's First Interim Report (S/1100), Annex 28. Campbell-Johnson, Public Relations Officer to Lord Mountbatten, notes in his diary a conversation between Mountbatten and the Editor of the *Statesman* (Calcutta): "Jinnah at Abbottabad, he [Lord Mountbatten] continued, had been expecting a ride in triumph into Kashmir. He had been frustrated." (*Mission with Mountbatten*, p. 225.) Robert Trumbull, correspondent of the *New York Times*, says in his book, *As I see India*: "... The Pakistan Government has steadfastly denied any official encouragement to the tribes in the invasion of Kashmir. . . . But there was never any doubt that Pakistani provincial authorities, perhaps unofficially but certainly not without the knowledge of Karachi, supplied the bloodthirsty tribal 'lashkars' [war parties] with truck transport. And Pakistani army officers, alleged to be on 'leave,' led the contingents."

2. S.C.O.R., Nos. 1-15, p. 21.

3. *Ibid.*, p. 22.

4. *Ibid.*

5. *Ibid.*, p. 25.

6. *Ibid.*

Government, for India did not desire a military conflict with its neighbour. In a telegram dated 31 October, addressed to the Prime Minister of Pakistan, the Prime Minister of India said:

I have no doubt that you realize that the raiders from the Frontier Province or along the Murree road come from Pakistan territory and it is the easiest thing in the world to stop them at the two bridges which connect Pakistan territory to Kashmir. They were not so prevented and their equipment and arms including artillery and automatic weapons bear witness to every help being given to them. We are credibly informed that regular officers of the Pakistan army are advising the raiders. Even now it should be easy for your government to stop the passage of these raiders or their supplies to Kashmir territory completely.

In his broadcast on 2 November, Prime Minister Nehru reverted to the subject:

We talk about the invaders and raiders in Kashmir, and yet these men are fully armed and well-trained and have competent leadership. All of those have come across and from Pakistan territory. We have a right to ask the Pakistan Government how and why these people continued to come across the Frontier Province or West Punjab, and how they have been armed so effectively. Is this not a violation of international law and an unfriendly act towards a neighbour country? Is the Pakistan Government too weak to prevent armies marching across its territory to invade another country, or is it willing that this should happen? There is no third alternative.

And again in a telegram dated 8 November 1947:

The raiders are either under your control or they are not. If they are under your control, you should withdraw them and in any event stop them coming through Pakistan territory into Kashmir. If they are not under your control and you can do nothing to stop them, then surely we are entitled to deal with them as we think best.

Speaking in the Constituent Assembly (Legislative) of India,

on 25 November 1947, Prime Minister Nehru shed more light on Pakistan's complicity.

We have sufficient evidence in our possession to demonstrate that the whole business of the Kashmir raids, both in Jammu province and in Kashmir proper, was deliberately organized by high officials of the Pakistan Government. They helped the tribesmen and ex-servicemen to collect, they supplied them with implements of war, with lorries, with petrol, and with officers. They are continuing to do so. It is obvious that no large body of men could cross Pakistan territory in armed groups without the goodwill, connivance, and active help of the authorities there. It is impossible to escape the conclusion that the raids on Kashmir were carefully planned and well-organized by the Pakistan authorities with the deliberate object of seizing the State by force and then declaring accession to Pakistan.

Pakistan had denied any hand in the invasion and sought to put the blame on the ruler whose repressive measures, it alleged, had driven the Muslim population to revolt. Not interested in extending the conflict and being anxious for a peaceful settlement, India made a number of overtures to Pakistan, provided—and there was no compromise on this condition—Pakistan stopped giving aid and assistance to the invaders. These overtures included a suggestion for a referendum under international auspices and a joint reference to the United Nations. None of these was accepted by Pakistan. Presumably, Pakistan was confident of seizing the State by force. Pakistan made counter-suggestions to carry out which India would have had to break its own law and constitution, abandon the people of the State to the tender mercies of the invader, and condemn them to political uncertainty. This India refused to do.

The Prime Minister of India made a final appeal to the Pakistan Prime Minister in a letter which he handed over to the latter personally in Delhi on 22 December 1947. In this letter the Government of India formally asked the Government of Pakistan to deny to the raiders:

- (1) all access to and use of Pakistan territory for operations against Kashmir;
- (2) all military and other supplies;
- (3) all other kinds of aid that might tend to prolong the struggle.

The letter went on to say:

The Government of India have always desired and still earnestly desire to live on terms of friendship with Pakistan. They sincerely hope that the request which they have now formally made will be acceded to promptly and without reserve. Failing such response, they will be compelled to take such action, consistently with the provisions of the United Nations Charter, as they may consider necessary to protect their interests and to discharge their obligations to the government and people of Kashmir.

COMPLAINT TO THE U.N.

No reply was received. In view of Pakistan's silence on this letter, proposals and suggestions which India had made from time to time were no longer on the counter. They lapsed. Since then Pakistan leaders and apologists have fondly referred to those offers and suggestions as binding on India, forgetting the fact that Pakistan had rejected them. No offer could remain indefinitely open. Persuasion having failed, the Government of India made its complaint against Pakistan under Article 35 of the Charter which allows a member of the United Nations to bring to the attention of the Security Council any situation the continuance of which is likely to endanger the maintenance of international peace and security. India alleged that such a situation existed between it and Pakistan, owing to the aid which invaders "consisting of nationals of Pakistan and of tribesmen from the territory immediately adjoining Pakistan on the north-west are drawing from Pakistan for operations against Jammu and Kashmir, a State which has acceded to the Dominion of India and is part of India." India requested the Council to call upon Pakistan to put an end immediately to the giving of such assistance "which is an act of aggression against India." The Government of India had exerted persuasion and exercised patience to bring about a change in the attitude of Pakistan. But they had

failed, and were in consequence confronted with a situation in which their defence of the Jammu and Kashmir State was hampered and their measures to drive the invaders from the territory of the State were greatly impeded by the support which they derived from Pakistan. Indefinite continuance of military operations prolonged the agony of the people of Jammu and Kashmir, exposed to the atrocities of the tribesmen, was a drain on India's resources and a constant threat to the maintenance of peace between India and Pakistan. In order that the objective of expelling the invader from Indian territory and preventing him from launching fresh attacks should be quickly achieved, Indian troops would have to enter Pakistan territory. Only thus could the invader be denied the use of bases and cut off from his sources of supplies and reinforcements in Pakistan. As such action might involve armed conflict with Pakistan, India requested the Council to ask Pakistan:

- (1) to prevent Pakistan Government personnel, military and civil, from participating or assisting in the invasion of the Jammu and Kashmir State;
- (2) to call upon other Pakistani nationals to desist from taking any part in the fighting in the State;
- (3) to deny to the invaders: (a) access to and use of its territory for operations against Kashmir, (b) military and other supplies, (c) all other kinds of aid that might tend to prolong the struggle.

Specifically the Indian charges against Pakistan were:

- (a) that the invaders were allowed transit across Pakistan territory;
- (b) that they were allowed to use Pakistan territory as a base of operations;
- (c) that they included Pakistan nationals;
- (d) that they drew much of their military equipment, transportation and supplies (including petrol) from Pakistan; and
- (e) that Pakistan officers were training, guiding, and otherwise actively helping them.⁷

In view of the developing military operations, India in self-

7. Text of India's complaint in Appendix I; S/1100, Annex 28.

defence reserved to itself the freedom to take such military action as the situation might necessitate.

Pakistan took fifteen days to reply to the complaint. Its Foreign Minister, Sir Mohammed Zafrullah Khan, forcibly denied the Indian charges in no uncertain terms.⁸ The Pakistan Government, he wrote, "emphatically deny that they are giving aid and assistance to the so-called invaders or have committed any act of aggression against India. On the contrary and solely with the object of maintaining friendly relations between the two Dominions, the Pakistan Government have continued to do all in their power to discourage the tribal movement by all means short of war." Again, it was "wrong to say that Pakistan territory is being used as a base of military operations. It is also incorrect that the Pakistan Government are supplying military equipment, transport, and supplies to the 'invaders' or that Pakistan officers are training, guiding, and otherwise helping them."

IMPLICATIONS OF DENIAL

This total, unconditional denial deserves careful consideration. It did not claim that Jammu and Kashmir had acceded to Pakistan or that Pakistan had any right to assist the invaders or take part in the so-called "liberation" struggle in Kashmir. It denied giving any form of assistance to the invaders or committing any

8. Commission's First Interim Report (S/1100), Annex 6, Document I, para 3. "That Pakistan is unofficially involved in aiding the raiders is certain. Your correspondent has first-hand evidence that arms, ammunition, and supplies are being made available to the Azad Kashmir forces. A few Pakistani officers are also helping to direct their operation. . . . And however much the Pakistan Government may disavow intervention, moral and material support is certainly forthcoming." (*Times*, London, 13 January 1948.) Another independent observer, Vincent Sheean, in his book, *Nehru—Ten Years of Power*, stated: "By early September of that year [1947] the Pathan tribesmen had been converging on the borders of the Jammu and Kashmir State and the western part of Jammu [the Poonch area] was soon in their hands. In mid-October they began the infiltration of Kashmir proper, armed with modern equipment which could only have come from the Pakistan Army. . . . The Maharajah's accession to India [24 October, made final on 26 October] and the dispatch of the first Indian troops [27 October] were not only next in order but were the direct, inevitable consequences of this invasion. So far as the dates and facts are concerned there can be no dispute."

act of aggression against India. It went further and recognized the need for maintaining friendly relations between the two countries, and claimed that with this object in view it had done everything short of war to discourage the tribal movement. From this it was clear that Pakistan acknowledged the unlawful character of the invasion and its own international obligation to prevent the tribesmen from using its territory to go to Kashmir, and that it had no *locus standi* in Kashmir. Here was also recognition that if it gave any assistance to the invaders that would be an act of aggression against India and that, therefore, Pakistan as a neighbouring Dominion had an obligation to prevent such aggression. The comprehensive denial leaves little room for doubt that, however distasteful it might have been, Pakistan considered Kashmir as Indian territory. This may explain why Pakistan did not choose, on its own initiative, to complain to the Security Council about developments in Kashmir.

In this context Shaikh Abdullah, a member of the Indian Delegation, made a point in the Council on 5 February 1948, which Zafrullah Khan carefully skirted in his lengthy expositions.

I should have understood the position of the representative of Pakistan, if he had come boldly before the Security Council and maintained: "Yes, we do support the tribesmen; we do support the rebels inside the State because we feel that Kashmir belongs to Pakistan and not to India, and because we feel that the accession of Kashmir to India was fraudulent." Then we might have discussed the validity of the accession of the State of Kashmir to India. But that was not the position taken by the representative of Pakistan.⁹

Zafrullah Khan, he continued, had completely denied that any support was given by the Government of Pakistan to the tribesmen. "How am I to convince the Security Council that the denial is absolutely untrue?"¹⁰ Characteristically, in his denials and sly admissions, Zafrullah Khan had described the invaders as "so-called," thereby questioning the description, only to admit in the

9. S.C.O.R., Nos. 16-35, p. 17.

10. *Ibid.*

same breath the reality of a "tribal movement" which he said Pakistan was trying to discourage.

In view of Pakistan's denial, two courses were open to the Council—either to express its inability to do anything in the matter, leaving it to India to deal with the situation best as it could or to send a high-powered representative post-haste to India and Pakistan on an urgent fact-finding mission, suspending all comment in the meantime.

It was also open to the Council to examine whether India had not made out a *prima facie* case against Pakistan. The Pakistan representative had himself added to the evidence against his country. It might be, he stated, that "a certain number" of independent tribesmen and persons from Pakistan were helping the so-called Azad Kashmir government as volunteers.¹¹ Elsewhere he admitted the possibility of "a number of" independent tribesmen and persons from Pakistan joining the so-called Azad Kashmir forces.¹² Did the description "a number of" suggest a larger number than the description "a certain number"? He had admitted the existence of a tribal movement to Kashmir and this could be only across Pakistan territory. Among measures which he recommended to the Council was the "withdrawal" from Kashmir "of all outsiders whether belonging to Pakistan or the Indian Union." Here tribesmen who were not mentioned were treated as Pakistan nationals.¹³

In another place he disclosed that the first outside incursion into the State occurred more than a week after the Prime Minister of Kashmir had threatened to call in outside assistance.¹⁴ The telegram in question was sent by the Premier of Jammu and Kashmir on 18 October to which the Pakistan Prime Minister replied on 19 October. This meant that the first outside incursion took place not more than a week after the receipt of the telegram in question, but in less than a week. Zafrullah Khan did not explain how the contents of a confidential telegram from the Prime Minister of

11. S/1100, Annex 6, Doc. I.

12. S/1100, Annex 6, Doc. II.

13. *Ibid.*

14. S/1100, Annex 6, Doc. III.

Kashmir to the Government of Pakistan found their way to the tribesmen whom he had sometimes disowned and sometimes owned as nationals of Pakistan and who are supposed to have reacted to the telegram. He also did not explain how an invasion could be organized in less than a week. Sometimes no reference was made to any number, as for instance when he said that it was not surprising "if independent tribesmen and persons from Pakistan"¹⁵ were taking part in the struggle for the liberation of Kashmir. Speaking in the Council on 16 January 1948, Zafrullah Khan quoted his Prime Minister who in a broadcast had said:

Kashmir—and especially the inhabitants of Poonch—had many relatives in Hazara and in West Punjab [in Pakistan]. Consequently, feelings in certain parts of Pakistan rose very high and some people from the North-West Frontier Province and the tribal areas, stirred by the atrocities in Kashmir, rushed to the aid of their brethren.¹⁶

Then there were tell-tale denials by the Pakistan Army Headquarters, details of which were furnished to the Council by Zafrullah Khan. On 30 October, General Messervy, C-in-C Pakistan forces, issued a communique: "Rumours have been circulated that troops of the Pakistan Army are being employed within the border of Kashmir. These rumours are entirely untrue. No Pakistani troops have been used in Kashmir." On 12 November, the Pakistan Army Headquarters denied that serving Pakistan army officers were directing operations in Kashmir against State forces. On 15 November, another communique stated that no weapons had been supplied to the tribesmen from the army, nor had any serving army officers played any part in the planning or direction of tribal operations in Kashmir. So it was admitted that there were tribal operations in Kashmir. As for the weapons, it was not denied that they had been given to people other than the tribesmen. Were army officers "on leave" covered by the expression "serving army officers"?

15. *Ibid.*

16. *S.C.O.R.*, 228th meeting.

An interesting communique was issued on 3 January 1948.

The attention of the army authorities has been drawn to a report published in a certain daily newspaper alleging that two battalions of the Pakistan army have deserted and are fighting in Kashmir. The report is absolutely baseless and malicious. No units of the Pakistan army have deserted. Numerous reports incriminating Pakistan army's complicity in Kashmir fighting have appeared in the Indian press for some time past despite categorical denials from Pakistan Army Headquarters. It is well known that thousands of soldiers have been released from the Indian army and large numbers of them belong to Jammu and Kashmir areas. These soldiers on release were provided with one suit of army uniform with their regimental badge on them. If any such persons have been seen, captured, or killed, they are not and cannot be called Pakistan soldiers. The only Pakistan soldiers who are permitted to go to Kashmir are serving soldiers on their normal annual leave. These true soldiers are not being permitted to carry their arms with them.¹⁷

Nor were, for that matter, the demobilized soldiers of the Indian army of the undivided India. Where did the invaders get the arms from? Here was an oblique admission that some of the serving Pakistan soldiers might also be fighting in Kashmir, along with their "demobilized" comrades-in-arms.

All these scattered admissions, together with the mass of evidence which Gopaldaswami Ayyangar, India's representative, put before the Council in his original statement and in his replies to the submissions made by Zafrullah Khan was more than enough to establish a *prima facie* case against Pakistan.

With the passage of time, the evidence in support of the Indian charge of aggression against Pakistan was to grow in volume. To begin with there was the diary maintained by General Scott, Chief of the Staff, Jammu and Kashmir, who submitted a report

17. S.C.O.R., Nos. 1-15, pp. 114-5. "There are also a number of Pakistan officers who have 'unofficially gone on leave' according to army intelligence." (*Dawn*, Karachi, 26 November 1947.)

to his government on border raids from Pakistan. According to the diary of this British officer, the aggressive activities of Pakistan had begun as early as the first week of September. On 6 September 1947, a Pakistan patrol had visited Alibeg, 12 miles west of Bhimber in the State. On 13 September, a Pakistan army patrol visited Alibeg and Jatlai, 14 miles west of Bhimber, both in the State territory. On 18 September, railway service between Sialkot and Jammu was suspended by the Pakistan authorities without announcing any reason. A day earlier, 400 armed raiders had entered the State territory 12 miles south-west of Ranbirsinghpura. On 28 September, hundreds of armed men with service rifles, automatics, and spears, attacked a Kashmir State patrol near Chak Harka. On 30 September, hundreds of armed tribesmen entered Dhirkot Than inside the State territory. From these entries, it is clear that disguised aggression from Pakistan began and escalated in September, a little over three weeks before the full-scale attack by thousands of tribesmen and Pakistan nationals on 22 October. Entries in General Scott's diary for October were no less significant. On 3 October, the Jammu and Kashmir government protested telegraphically to Pakistan against hundreds of armed people from Murree Hills in Pakistan operating in Poonch. On 4 October, armed men renewed their activities in the Chirala area and near the Jhelum river and fighting between the raiders and the State forces began. On 10 October, two sections of the Pakistan army followed by an armed gang attacked Pansar village in Jammu.¹⁸ Thus even before the main tribal invasion came on 22 October, the Pakistan army had committed aggression on Kashmir. Extracts from General Scott's diary were read out by Ayyangar in the Council on 6 January 1948.

More evidence was provided by Pakistan newspapers. The premier of North-West Frontier Province was reported to have announced that firearms would be distributed among the people liberally so that all except "the enemies of Pakistan" could have them. On 13 October, a Pakistan newspaper reported that Pakistan had cut off from Kashmir supplies of petrol, sugar, salt, and kerosine oil

18. *S.C.O.R.*, 762nd meeting.

in spite of the standstill agreement.¹⁹ In his budget speech to the Legislative Assembly of the North-West Frontier Province on 7 March 1949, Premier Abdul Qayyum Khan advocated a special grant for the tribesmen. "The House will recall with pride the fact," he said, "that in our greatest hour of danger the Masuds [a clan of tribesmen] responded to our call by rushing to the rescue of the oppressed Muslims of Jammu and Kashmir."²⁰

In the early part of November 1947 when Lord Mountbatten, then Governor-General of India, met Jinnah, the founder and Governor-General of Pakistan, the latter proposed that the contestants on both sides should be withdrawn. When Lord Mountbatten asked how Jinnah who said he had no control over the tribesmen could take the responsibility for withdrawing them, Jinnah replied: "If you do this, I will call the whole thing off."²¹

In time Pakistan leaders threw all caution to the winds. President Mohammed Ayub Khan announced proudly at a public meeting in Jakarta, on 7 December 1960, that Pakistan had gone to the help of Muslims in Jammu and Kashmir. "Thus began the problem of Kashmir," he said, "where the Muslims were fighting for freedom. Naturally we in Pakistan went to their aid."²²

Evidence of Pakistan's complicity also came from other sources. According to V.P. Menon, one-time Secretary of the States Ministry of the Government of India, it was a fact that several top-ranking British officers serving in Pakistan did have an inkling of these military preparations and plans. The Government of India came to

19. (S/PV.) 762/Add. 1, Annex 1, No. 12. "Pakistan has cut off from Kashmir supplies of petrol, sugar, salt, and kerosene oil, although a standstill agreement between them has been signed," states Norman Cliff in a despatch from Kashmir, published in the *London News Chronicle*, 13 October 1947.

20. *Ibid.*

21. Campbell-Johnson, *Mission with Mountbatten*, p. 229. "Governor-General of Pakistan explained that he had no control over the forces of Azad Kashmir government or the independent tribesmen engaged in the fighting." S/1100, Annex 6, Doc. III.

22. *Pakistan Times* (then officially controlled), 8 December 1960. "When Pakistan volunteers and troops went into Kashmir to aid the armed struggle of its long oppressed people ... even the so-called deed of accession on which India's whole case on Kashmir rests had not yet been signed." (Editorial in *Pakistan Times*, 12 October 1960.)

know later that as soon as the June 3 plan was announced Kashmir became the subject of attention and study in certain military circles. "Why was there a demand on the Survey of India for so large a number of maps of Kashmir? What was the mysterious 'Operation Gulmarg,' copies of orders in respect of which fell into the hands of those who were not meant to receive them."²³ In a letter to General Lockhart, C-in-C of India, from Sir George Cunningham, Governor of the North-West Province in West Pakistan, it was stated that Sir George Cunningham "gave warning of tribal infiltration into Kashmir, and that members of the Government of North-West Frontier Province were actively helping in this."²⁴ During an inquiry against the Khan of Mamdot, a former Chief Minister of the Punjab, regarding the Kashmir Relief Fund, it was said that the Controller of Military Accounts, Pakistan Government, had asked the Nawab to submit an account of the Kashmir Relief Fund. Answering the charge in a court, in December 1949, the Nawab said:

I spent a sum of Rs. 64,000 out of my own pocket for the purpose of Kashmir. The payment of Rs. 20,000 was made by me for purposes for which this fund was maintained. I am fighting this case with my back to the wall and I have to save my honour and reputation. But even at the risk of losing this, I cannot at this stage discuss the reasons why this payment was made, as such disclosure might yet affect the policies of Pakistan in certain matters and even now will jeopardize the very lives of some people living elsewhere. . . . I only submit that the moneys collected were for a secret purpose, and they were placed in my hands to be spent by me at my discretion. It was understood that the expenditure would have to be of a secret and confidential nature requiring single direction.²⁵

A Muslim Leaguer, Abdul Razzaque Khan, claimed from the Pakistan Muslim League President, Sardar Abdur Rab Nishtar, a sum of Rs. 10,480 in respect of expenditure incurred in transporting

23. S/PV. 762/Add. 1, Annex 20.

24. *Ibid.*

25. *Ibid.*

the raiders to Kashmir from Peshawar in accordance with the orders of the Muslim League.²⁶

According to Lord Birdwood, there were "many other bits and pieces of evidence to support the view that Pakistan assistance was substantial."²⁷

At G.H.Q. in Rawalpindi, in so far as they were prepared to discuss the matter, I was assured that no regular unit was moved before May. Yet a battery of mountain guns with an infantry escort were in action in an unsuccessful attack on Poonch on March 17, while on the Indian side General Russel believed that regular Pakistan troops were involved in January. He accordingly asked to be relieved of his command, whereupon on January 20 General Cariappa took over. Cariappa was also convinced that at this stage Pakistan was using regular forces. He based his opinion on the fact that a number of prisoners of regular units had been taken, and he faced his Pakistan friends with the charge.²⁸

In spite of the evidence available to it at the time, the Security Council refused to go into the issue of Pakistan aggression and equally set its face against calling upon Pakistan to desist from aiding and abetting the invaders. Why? The answer to this crucial question can be sought only in the proceedings of the Council. Its evasion was to determine the fate of the issue for years to come.

BRITISH AND U.S. ATTITUDE

The clue to the mystery lies perhaps in what Phillip Noel Baker, then Secretary of State for the Commonwealth and the U.K. representative in the Security Council, said in the Council on 24 January 1948. "To my mind the process of causation is still wrapped in mystery. No doubt these troubles came out of history and I hope they will soon disappear into history again. The interest of everyone is to forget the past and to concentrate on the future." He asked the delegations of India and Pakistan for what reason "this war"

26. *Ibid.*

27. *Continent Decides*, p. 54.

28. *Ibid.*, pp. 229-30.

would be fought and urged: "The alternative to war is agreement in the Council."²⁹ Noble words and not easy for the Council to ignore, for which other country could claim to know India and Pakistan better? After all the British had been in the undivided India for 150 years and, if Britain considered the process of causation wrapped in mystery, few could hope to unravel it. Noel Baker's advice was interesting from more points of view than one. Now it is a fact that communications passed between the British Commander-in-Chief in Pakistan, on the one hand, and the British Commander-in-Chief in India and the British Supreme Commander, on the other. On 25 October 1948, at the Defence Committee, under the Chairmanship of Lord Mountbatten, then Governor-General of India, General Lockhart, C-in-C of India, read out a telegram from the headquarters of the Pakistan army stating that some five thousand tribesmen had attacked and captured Muzaffarabad and Domel, both in Kashmir, and that considerable tribal reinforcements could be expected.³⁰ It is improbable that British Commanders-in-Chief, while keeping each other informed about major military developments on the subcontinent, were withholding such information from the War Office in London or Whitehall through the respective British High Commissioners. Similarly if Sir George Cunningham, Governor of North-West Province in Pakistan, could write to the British Commander-in-Chief of India, surely he must have reported the tribal incursions into Kashmir to the British Government.

Incidentally, coming from the Pakistan Army Headquarters, the telegram established the fact of aggression, the absence of any action on the part of the Pakistan army to prevent it, and the size of the attacking force, not to mention considerable reinforcements which were expected and which soon arrived. The unqualified denials by Zafrullah Khan were thus intended to deceive the Council, since he had withheld information of vital importance.

Noel Baker's own description of the conflict in Kashmir as "this war" showed that he was not so ignorant about the facts. He knew that India's line of communications to Kashmir was unduly long

29. *S.C.O.R.*, Nos. 1-15, p. 256.

30. Campbell-Johnson, *op. cit.*, p. 224.

and poor and that in rushing troops to the defence of the people of Kashmir against marauders from Pakistan, India had taken a calculated risk, but he took no trouble to communicate this basic fact to the members. His advice to the Council was: "It is only by agreement that the governments" of India and Pakistan "can avert common dangers which threaten them both."³¹ In other words, the issue was not Pakistan aggression, or any aggression, the causation of which was wrapped in mystery, but agreement which could be brought about only by reconciling Indian and Pakistan claims. From this to plebiscite was an easy jump. He, therefore, proposed that the President of the Council should confer with the parties and produce a plan. The representatives of Canada, France, China, and Syria supported the proposal.

Warren Austen, the U.S. representative, advised the parties to create conditions "in which a fair plebiscite can be held, arrange an interim government that is recognized as free from the smell of brimstone, as nearly impartial and perfect as two great countries like India and Pakistan can make it, in which the rest of the world will have confidence as being fair."³² General McNaughton of Canada urged that the discussions between the representatives of India and Pakistan under the auspices of the President should continue so that a basis of agreement might be reached to terminate the fighting; to afford security to the people of Jammu and Kashmir under some authority which would be recognized by everyone concerned as strictly impartial; and, most important, to provide for a plebiscite of the people in which all of them would be permitted to express without fear or favour, their wishes as to the future government of the State.³³ The French representative suggested three conditions—the withdrawal of foreign troops from the State of Kashmir, the return of the inhabitants, and the establishment of a free administration which would not exert pressure on the population and would give absolute guarantee of a free vote.³⁴

The principles which all these members suggested to the Council

31. *S.G.O.R.*, Nos. 1-15, p. 260.

32. *Ibid.*, p. 261.

33. *Ibid.*, p. 262.

34. *Ibid.*, p. 263.

were of unusual interest. They were suggesting that the party under the leadership of which the people of Jammu and Kashmir were resisting aggression and which constituted the lawful government of the State smelt of brimstone. Without any evidence, it was taken as axiomatic truth that this government could not be impartial or fair. Indian troops which were in the State lawfully were dismissed as "foreign." It was also assumed, without any evidence, that the people of the State had no confidence in their leaders or government.

Strangely, their approach to the problem was similar to the one which Zafrullah Khan had already recommended. Speaking in the Council on 17 January 1948, he had urged that—whether by joint administration under the two Governors-General by joint occupation of predominantly Muslim areas by Muslim troops from Pakistan and predominantly Hindu areas in Kashmir by Indian troops, by joint occupation in each place by inviting Commonwealth forces, non-Indian forces altogether, or whether through the United Nations—Kashmir should be cleared. The people should then be invited to express the way in which they wished to go.³⁵ On 24 January, before Noel Baker spoke, he reverted to the subject.

Assurances must be given and fulfilled that Indian troops and all outsiders shall withdraw ... all those who have been compelled to leave the State of Kashmir and who are citizens of Kashmir shall be permitted to return. In order to enable a free choice to be made by the people of Kashmir in the matter of accession, that is whether they will accede to Pakistan or whether they will accede to India, a neutral and impartial administration shall be set up.³⁶

ACCESSION

Thus Council members appeared to be setting Zafrullah Khan's words to music, with Noel Baker as the conductor. No mere coincidence could account for so much unison among them. The Indian complaint about Pakistan aggression having already been downgraded, Zafrullah Khan naturally aimed at undoing the State's

35. *Ibid.*, p. 120.

36. *Ibid.*, p. 254.

accession to India, for that was what a neutral administration, which he urged in place of the lawful government, would inevitably mean. Sheikh Abdullah answered some of these points. To quote him:

I was explaining how the dispute arose—how Pakistan wanted to force the position of slavery upon us. Pakistan had no interest in our liberation or it would not have opposed our freedom movement (against the autocratic ruler). Pakistan would have supported us when thousands of my countrymen were behind bars and hundreds were shot to death. The Pakistan leaders and Pakistan papers were heaping abuse upon the people of Kashmir who were suffering these tortures.

Then, suddenly, Pakistan comes before the bar of the world as the champion of the liberty of the people of Jammu and Kashmir....

When we refused the coercive tactics of Pakistan, it started full-fledged aggression and encouraged the tribesmen in this activity. It is absolutely impossible for the tribesmen to enter our territory without encouragement from Pakistan, because it is necessary for them to pass through Pakistan territory to reach Jammu and Kashmir. . . .

It is then said: "Can we not have a joint control? Can we not have the armies of Pakistan and India inside the State in order to control the situation?" This is an unusual idea. What Pakistan could not achieve through ordinary means, Pakistan wishes to achieve by entering through the back door, so that it may have its armies inside the State and then start the fight.

However, it is not a question of internal liberation. The Security Council should not confuse the issue. The question is not that we want internal freedom; the question is not how the Maharajah got his State, or whether or not he is sovereign. These points are not before the Security Council. Whether Kashmir has lawfully acceded to India—complaints on that score have been brought before the Security Council on behalf of Pakistan—is not the point at issue. If that were the point at issue then we should discuss that subject. We should prove before the Security Council that Kashmir and the people of Kashmir have lawfully and constitutionally acceded to the Dominion of India, and Pakistan has

no right to question that accession. However, that is not the discussion before the Council.

Indian and Kashmir forces are ready to deal with the tribesmen, to come to an understanding with the people of Kashmir, and to establish a democratic form of government inside the State. We shall do all that. We do not want Pakistan to lend us support to suppress an internal revolt or to drive out the tribesmen. We do not seek any support from Pakistan in that connexion. Since Pakistan is a neighbouring country, we desire to remain on the friendliest possible terms with this sister Dominion. But we do ask that Pakistan shall have no hand, directly or indirectly, in this turmoil. . . .

This issue has been clouded by very many other issues and interests.³⁷

Though tragic in its consequences, the situation as it developed in the Council was not lacking in humour. India talked about Pakistan aggression; the Pakistan representative about plebiscite. By making a categorical denial of the Indian charge of aggression, Zafrullah Khan sought to assure India that Pakistan was no party to the aggression. Nevertheless, Noel Baker insisted on treating Pakistan as a party to a settlement by negotiation. Members sought perfection and recommended measures in absolute terms. Zafrullah Khan tried to ride twin horses in opposite directions. He professed innocence, on the one hand, and acted as if he held a brief for the invaders, on the other. Though lost on the Council, his fear of a probe by an independent authority was betrayed when he tried to dissuade it from engaging itself in any investigation of facts. On 28 January, he said:

I submit with all respect that the reason why the question of a plebiscite is so important is that irrespective of the views which the parties take of the question I have submitted, this is the one point of agreement which can lead to a settlement without the Security Council having to engage in any investigation of facts, into any investigation of questions of law which might be so

37. S.C.O.R., Nos. 16-35, pp. 21, 24-5.

complex and of so delicate a nature as to necessitate an advisory opinion of the International Court of Justice.³⁸

Pakistan's professions of innocence and its opposition to any investigation of facts could not be reconciled. What was Pakistan afraid of, if its hands were clean?

Noel Baker talked of "this war," but his advice to the Council was to forget the past, treat India and Pakistan with equality, both, according to him, having equal interest in Kashmir, and to press forward with the problem of plebiscite. The reason which he gave for his view was extraordinary. Whatever the Security Council did, he said, must seem fair "to the Government of Pakistan, to the insurgents, to the tribesmen, to the Government of India, to other inhabitants of Jammu and Kashmir, and to the outside world."³⁹ Thus even when Pakistan denied giving any aid or assistance to the invaders, Noel Baker would have the Council satisfy Pakistan and what is more amazing the tribesmen! Evidently to him the issue was how to reward the aggressor, and in the forum of the Security Council he took the opportunity to pat him on the back. Members of the Council talked about justice, but justice to those who had broken the law and to those who had aided the law-breakers against India. Had Britain ever aimed at such an ideal in India? Did any other member-country of the Council ever pursue such an illusory and barren course? What was this except to shield the aggressor and to cloud the basic issue—in brief to play the Pakistan tune?

Here was a completely new picture which slurred over Kashmir's accession to India as also over the breach of international law and the Charter by invaders aided by Pakistan. How was it possible, the U.S. representative had already asked, to "induce" the tribesmen to retire from Jammu and Kashmir without warfare and without driving them out?⁴⁰ He might as well have said that the Council should appear before the warring tribesmen in sackcloth and ashes. Warren Austin had forgotten that the warfare which he was anxious to avoid was, according to Noel Baker, already in progress. Besides,

38. *S.C.O.R.*, Nos. 1-15, p. 274.

39. *S.C.O.R.*, Nos. 16-35, p. 8.

40. *S.C.O.R.*, Nos. 1-15, p. 369.

India had made it clear in its complaint, and through its representative in the Council, that Indian forces were trying to drive out the invaders, an elementary duty (and a right) under the Charter which every sovereign State has to discharge in defence of its territory and freedom. To add insult to injury, the U.S. representative assured India that the Council was not partial, it was not prejudging, it was not discriminating between the parties!⁴¹

Such was the mould in which the Security Council attempted to cast the Kashmir issue. There was a method in its madness. The U.K. whose lead was generally accepted by most members considered Kashmir of vital interest to the Western world. It was through Kashmir that British political officers had in the past made trips to Sinkiang to keep a watchful eye on Russia. After all the memory of Imperial Curzon was only forty years old. Important trade routes to Central Asia passed through Kashmir. Such an important listening post so close to the soft belly of the Soviet Union would be lost if the Indian case was accepted; for India talked about keeping away from military blocs and pursuing a policy of nonalignment. Kashmir, if included in Pakistan, would be a different matter, for a large number of British civil and military officers had already opted for Pakistan which still offered a willing and valuable base for protecting British oil and other interests in West Asia. All these and many other things were to come out in time.⁴²

It is small wonder that India found itself isolated in the Council which was dominated by the Anglo-American Powers. As this bloc controlled the world-wide media of communications—international news agencies, broadcasting organizations, powerful newspapers and journals, and a whole network of official publications, information services, not to mention the channels provided by authors and lecturers—it was the Pakistan case which was projected all over the world, not excluding India. This tremendous barrage of propaganda against India, maintained year after year, was reinforced by the United Nations' own machinery for information and publicity. The inevitable result was the suppression or distortion of facts. Sometimes this distortion was carried to an incredible degree.

41. *Ibid.*

42. Sir Olaf Caroe, *Wells of Power*.

The *New York Times*, for example, persisted in its view, which nothing could shake, that the tribal invasion of Kashmir from Pakistan followed and was not the cause of Kashmir's accession to India! Numerous such distortions, not in a few cases made under official inspiration, found their way into authentic reference books, encyclopedias, and atlases. Thus over the years, a case for Pakistan, which had committed aggression first in disguise and then in broad daylight, was given through the information media of the British Commonwealth, American and European countries a formidable build-up.

PAKISTAN'S APPROACH

The Security Council had created for itself an extraordinary situation. It treated India and Pakistan both as aggrieved parties, when one of them denied that it was a party at all. What is more, the aggressor, in its view, needed every consideration. All this even when some of the members complained that the facts were not clear. Once the Council accepted this confusion as the basis for a solution, the evasive and contradictory presentation of the Pakistan case by Zafrullah Khan was listened to with avidity. He had warned the Council at the start that what he would present to it would not be facts but a doctrine, a thesis, a theory which he euphemistically described as "background." Replying to Ayyangar's statement on 16 January 1947, he said:

I have had to consider within what limits to confine the statement that I am going to submit this afternoon. One choice was to confine myself to a brief reply to the charges made by India against Pakistan and their details, which were elaborated in the statement which was read yesterday. The other choice was to attempt to sketch a background of the whole question and, against that background, to confine my submission this afternoon to the question of Kashmir alone, without adverting to any of the other matters that have been raised in Pakistan's complaint which it has submitted to the Security Council under Article 35 of the Charter.

In adopting either course I was faced with a certain degree of risk. The risk with regard to the first course was the possibility

that, without a somewhat detailed picture of the background, the questions that really arise for determination—or, at any rate, the background against which the questions have to be determined—might in some respects be overlooked. The risk in adopting the second course was that at least in the first part of my submission I might perhaps weary some representatives in the Security Council, certainly the representative of the United Kingdom and his advisers, who would already be familiar with the outlines, and even the details, of the background that I propose to submit.

However, after a good deal of consideration I have decided—and I hope and trust that the Security Council will bear with me in this decision—to adopt the latter course, because not only are the issues involved grave and urgent and delicate, but their decision would have many implications which may not at the present moment be fully apparent.⁴³

Having made his intentions clear, he proceeded to devote the best part of the afternoon of 16 January to this background, clearly endeavouring to create a cloud of confusion to cover up the basic issue raised by India, diverting attention to numerous other subjects. Thus he conjured up the genocide of Muslims in India, referred to the accession of Junagadh, described developments in Hyderabad and other Indian princely States, gave details of the so-called Sikh plan to undo Pakistan and various Indo-Pakistan disputes resulting from the partition of India. It is noteworthy that Pakistan had considered none of these constituent elements of the background important enough for an immediate reference to the Security Council until after India lodged its complaint, but now suddenly, according to Zafrullah Khan, they had assumed vital urgency. Finally, he tried to relate the complex web which he had woven with so much industry to what was happening in Kashmir. Ayyangar had given a detailed description of the havoc which Pakistan tribesmen and nationals, whom Zafrullah Khan described as “liberators,” had wrought in the State. Zafrullah Khan took three meetings to deny the Indian charge and to level countercharges. Replies and counter-replies followed.

43. S.C.O.R., Nos. 1-15, pp. 35-6.

For every charge which India had levelled against Pakistan, Zafrullah Khan had an answer; whether it was convincing or not was a different matter.

Captured vehicles, with Pakistan number plates on them? What was there to show, he countered, that those vehicles were already not in Kashmir on legitimate business? Even then he should have accounted for the fact that an abnormally large number of Pakistan vehicles were operating in the State at that time. Also why did not Pakistan protest to India for seizing Pakistan vehicles if they were on legitimate business?

Petrol? The Pakistan Government maintained no pumps, petrol being distributed by oil companies; if the companies or the managers of the pumps were issuing oil without coupons, they were doing something illegal in the nature of blackmarket activities; the Government of Pakistan was in no way implicated in this matter. Again, he should have disclosed what action his government had taken against this illegal activity, considering that the consumption of petrol must have been abnormally high in those days when thousands of raiders were being transported by road to Kashmir. Besides, foreign exchange, which was then scarce, was needed to purchase petrol and the oil companies were, therefore, directly responsible to the Pakistan Government.

Arms? Tribesmen manufactured them. Besides, after the war, military stores, arms and ammunition were in certain areas of the world floating about loose and a good deal of illicit traffic was going on. "We may pretend innocence in these matters as much as we like but we know what is happening in different parts of the world."⁴⁴ This certainly must have been true of Pakistan, because no one can believe that tribesmen could by illicit traffic in arms equip a force large enough for invasion of Kashmir or that any Pakistan Government could have been unaware of it or tolerated it. Foreign arms could not be purchased without foreign exchange which the tribesmen did not possess.

Uniforms? Upon their demobilization, the troops had been permitted to retain their uniforms and badges; this sort of clothing had been disposed of by the Disposal Department of the Govern-

44. *Ibid.*, p. 107.

ment of India; the raiders might have obtained the material illicitly or illegitimately. But then the tribesmen had not served in the army.

Military training? The tribesmen needed no training in the use of arms. But then they fought in battle formation and used the tactics of modern warfare. Also how did they get Mark V mines, 3.7 howitzers and anti-tank rifles, mountain guns, and other heavy weapons? On top of all this he said: "It has unfortunately become a habit with the Government of India simply to deny whatever they find is inconvenient either to deal with or to answer."⁴⁵

However, he could not escape the consequences of his utterances. All these denials only helped to show, even more forcefully, that Pakistan had no *locus standi* in Jammu and Kashmir and that if the Council, by ignoring these denials, was conferring favours on Pakistan, it was exercising grave discrimination in dealing with India's complaint. In the circumstances, it is hardly surprising that Pakistan took and abandoned many positions in the Council. When confronted with the charge of aiding and abetting the invasion, Zafrullah Khan pleaded that the ruler tried to exterminate his Muslim subjects—three million of them, if you please—to facilitate accession of the State to India. As a matter of fact, the ruler had to do nothing of the sort, considering that he could have acceded to India, if he wanted to, without going through a blood-bath, before 15 August when Pakistan was not yet born.

On being reminded that since his government denied any responsibility for the tribal invasion, Pakistan should have no hesitation in preventing the influx of armed tribesmen across Pakistan territory, he argued that that would crush the "liberation" struggle. In any case, that would not stop the fighting.⁴⁶ He relied on law when it suited him, on morality when it did not, and abandoned

45. *Ibid.*, p. 105. "Certainly these miniature ballistics establishments [the small factories in the tribal areas] would hardly explain the mortars, other heavy modern weapons, and the two aeroplanes with which the invaders were equipped. In Pakistan towns close to the border, arms were handed out before daylight to tribesmen directly from the front steps of Muslim League headquarters." (Margaret Bourke-White, *Halfway to Freedom*, p. 208.)

46. S.C.O.R., Nos. 1-15, p. 348.

both as necessary. When asked why Pakistan should not go to war to prevent tribesmen from going to Kashmir if what Pakistan claimed to have done short of war had not achieved the objective, he said that such a step would mean extension of war, instead of ending it.⁴⁷

Zafrullah Khan seriously suggested that the number of tribesmen in the State was very small; and at the same time he would have everyone believe that attempts to prevent this small number from entering Kashmir would have involved Pakistan in war with the tribesmen. He did not claim that Kashmir had acceded to Pakistan and, of course, denied any complicity in the aggression, but that did not prevent him from acting as an advocate of the tribesmen, of his own nationals fighting in the State, and even of the so-called Azad Kashmir government. He admitted that up to a certain moment of time the ruler did represent the legitimate government of Kashmir, but when, as he alleged, the campaign of extermination began, regardless of the legal position, the moral validity of his continuing to rule over Kashmir disappeared.⁴⁸

His aim was to secure the withdrawal of Indian troops from the State and to replace its lawful government by a "neutral" administration, as a price for the withdrawal of tribesmen. In brief, he was out to nullify the State's accession to India which he knew to be legal and lawful and which effectively prevented Pakistan from acquiring any *locus standi* or legal foothold in the State. At one stage the Council obliged him by suggesting the employment of Pakistan troops in the State for the purpose of pacification, should the need arise. It is not to be wondered at that India rejected the suggestion.

INDIA'S REACTION

Faced with this Alice-in-Wonderland situation, Ayyangar's repeated appeals that the matter was urgent, that every day invaluable lives were being lost, that a member of the United Nations had committed a breach of the Charter, and that in the interest of peace the Council must throw its weight and influence immediately against the aggressor, fell on deaf ears. Disillusioned by futile, contradictory, academic discussion in the Council, he asked one day: "Is this not

47. *Ibid.*, p. 347.

48. *Ibid.*, p. 277.

an illustration of our trying to fiddle here while India is burning?"⁴⁹ He had asked again and again for immediate action calculated to stop the fighting in Kashmir and his case was that Pakistan had helped the raiders in Kashmir.

I have asked that this assistance should be stopped. That main issue of ours, the issue with which we came here on 1 January, has been drowned in a sea of other issues, many of which are irrelevant to the consideration of it, and others which certainly can afford to wait till fighting has stopped There has been a breach of international obligation, and yet an international body like this will not issue the directive which anybody would expect it to issue.⁵⁰

The only concrete action which the Council had taken thus far was to adopt the following resolution on 17 January:

The Security Council,

Having heard statements on the situation in Kashmir from representatives of the governments of India and Pakistan;

Recognizing the urgency of the situation;

Taking note of the telegram addressed on 6 January by its President to each of the parties and of their replies thereto, in which they confirmed their intention to conform to the Charter;

Calls upon both the Government of India and the Government of Pakistan to take immediately all measures within their power (including public appeals to their people) calculated to improve the situation and to refrain from making any statements and from doing or causing to be done or permitting any acts which might aggravate the situation;

And further requests each of those governments to inform the Council immediately of any material change in the situation which occurs or appears to either of them to be about to occur while the matter is under consideration by the Council and consult with the Council thereon.⁵¹

49. *Ibid.*, p. 296.

50. *S.C.O.R.*, Nos. 16-35, pp. 66-7.

51. *S.C.O.R.*, Nos. 1-15, pp. 121-2.

This resolution, except for the words "in which they confirmed their intention to conform to the Charter" in preambular clause 3 which were added at the instance of Colombia,⁵² was drawn up, as Gromyko of the Soviet Union disclosed, before the representatives of India and Pakistan had made their statements! Gromyko observed:

It may be said that the object of this resolution is to ask the governments of India and Pakistan to take measures to prevent the situation in Kashmir from deteriorating. Such an appeal, however, has already been sent by the President of the Security Council to the Governments of India and Pakistan and appropriate answers have been received from these Governments. The Soviet delegation thinks, therefore, that from this point of view such a gesture by the Security Council is of little use. We think that this question should be studied in greater detail and that a resolution should be adopted as soon as possible on the substance of the question, in order to rectify and improve the situation in Kashmir and to settle relations between India and Pakistan.⁵³

Though sound, the proposal was ignored, the Soviet Union abstaining on the draft resolution.

AGGRESSION

Arce of Argentina said that while the Charter did not define aggression, an approximate definition of it existed in Article 9 of the Inter-American Treaty of Reciprocal Assistance binding all the nations of the Western hemisphere. This Article stated :

In addition to other acts which the Organ of Consultation may characterize as aggression, the following shall be considered as such :

(a) Unprovoked armed attack by a State against the territory, the people, or the land, sea or air forces of another State;

(b) Invasion, by the armed forces of a State, of the territory of an American State, through the trespassing of boundaries

52. *Ibid.*, p. 123.

53. *Ibid.*, pp. 123-4.

demarcated in accordance with a treaty, judicial decision or arbitral award, or, in the absence of frontiers thus demarcated, invasion affecting a region which is under the effective jurisdiction of another State.

He then went on to give a warning to the parties. In those circumstances, the Argentina delegation would be obliged to consider as an aggressor either of the two States, India or Pakistan, which adopted an attitude of this nature, and to act accordingly.⁵⁴ Not many suns were to go down on his statement before Argentina was put to the test. Arce's words were forgotten by him and others when the U.N. Commission discovered that Pakistan had committed aggression in Kashmir in May 1948.

The resolution of 17 January had unusual features. Since it was drafted independently of the facts, one cannot help feeling that the Powers which controlled the Council needed no facts to decide what the Council should do. The parties had not spoken and Pakistan's reply to India's complaint was still awaited when the Belgian representative, who was President of the Council, drafted the resolution. Evidently nothing here was wrapped in mystery and, since the Council treated India and Pakistan on a footing of equality, there was no need for any pretence of non-discrimination. Either these Powers knew that Pakistan had committed a breach of the Charter or they did not. If they did, why did they try to cover it up? If they did not, how could they treat Pakistan as a party to the trouble in Kashmir? The resolution was accepted by India because it did not impair India's right of self-defence. In any case, as Jammu and Kashmir was Indian Union territory, India had every right to protect it from external aggression. As for Pakistan, it had little choice in the matter. The resolution had not condemned Pakistan for any violation of international law, and it could not object to a reaffirmation of its intention to observe the Charter. Besides, had not the resolution given Pakistan a right to report to the Council any material change in the situation?

In this topsy-turvy fashion, the Council tried to grapple with the Indian complaint. The resolution made no impact on the

54. *Ibid.*, p. 124.

fighting in Kashmir and failed to improve Indo-Pakistan relations. Hope for effective action began to fade as Council members appeared to vie with one another in expressing their concern about how best to satisfy the invading tribesmen. Referring to plebiscite, the U.S. representative said: "There is nothing within our vision that will induce the tribesmen to retire except such an arrangement as that."⁵⁵ He went much further and expressed the view that India could not expect the Council to take up a position which would amount to that of an ally in war, and should "pull off" Pakistan and allow India to finish the job by force against the tribesmen.⁵⁶ Here was an admission of Pakistan aggression, for Pakistan could not be "pulled off" if it was not playing some part in the invasion. Why the U.S. representative preferred to support the law-breaker to the law-abiding passes understanding, particularly after he had reaffirmed the legality of Kashmir's accession to India. Speaking in the Council on 4 February 1948, Warren Austin had said: "The external sovereignty of Kashmir is no longer under the control of the Maharaja . . . with the accession of Jammu and Kashmir to India, this foreign sovereignty went over to India and is exercised by India and that is why India happens to be here as a petitioner."⁵⁷

Even when the truth dawned on some of the principal Powers who stage-managed the show, it failed to release the springs of action, as is clear from Warren Austin's view of accession, and from astonishing admissions made by other Council members. Referring to a comment by Ayyangar on the draft resolution presented by the President and the Rapporteur (the Belgian representative) on 10 February 1948, the U.K. representative, Noel Baker, made not one but a series of admissions.

He [the representative of India] said that he wanted drastic action taken by Pakistan to stop the fighting. We all want drastic action taken by Pakistan to stop the fighting. . . . He [the representative of India] said that he wanted specific obligations to be laid on Pakistan about the tribesmen, about the volunteers from

55. *S.C.O.R.*, Nos. 16-35, p. 76.

56. *Ibid.*, p. 75.

57. *S.C.O.R.*, Nos. 1-15, p. 371.

the Punjab, and about the other matters which he mentioned. We all want obligations as specific, as comprehensive, as the Indian delegation could desire.⁵⁸

Thus the Indian case was admitted, Pakistan's complicity in the aggression acknowledged, and yet neither the British nor the U.S. representative was prepared to take any action until there was full agreement on the plebiscite. Why? As Noel Baker quoted Austin with approval, an echo of what he had himself proposed earlier:

How is it possible to induce tribesmen to retire from Jammu and Kashmir without warfare and without driving them out? That is the only way it can be done, unless the tribesmen are satisfied that there is to be a fair plebiscite, assured through an interim government that is in fact and that has the appearance of being non-partisan.⁵⁹

And so those who took to the sword, ignoring their obligations under international law and the Charter, responsible to none, were to have the last word. Facts, the rule of law, the rights of a sovereign State, the democratic urges of a people treacherously attacked—all these had little value in the eyes of the Council.

Thus was a simple issue thrown out of focus. One President of the Council, at the request of Pakistan, had already altered the item on the agenda to India's disadvantage. The original item "The Jammu and Kashmir Question" was changed, over Indian protest, on 22 January to "India-Pakistan Question," throwing the door wide open to any and every difference of opinion between the two countries. Meanwhile, the President of the Council held counsel with the Indian and Pakistan delegations and with some of his colleagues and produced draft after draft for the consideration of the Council. This rather comfortable manner of dealing with aggression was suddenly interrupted by Ayyangar's announcement on 10 February that he had been recalled by his government for consultations.

Immediately there was an uproar in the Council. The U.S. representative advised the Council to say "without equivocation"

58. *S.C.O.R.*, Nos. 16-35, p. 106.

59. *Ibid.*, p. 107.

that in the much-regretted absence of the Indian representative, the Security Council would hold itself in position to act upon any emergency.⁶⁰ The matter was discussed on 10 and 11 February over four meetings. Noel Baker said that it was a very serious matter that while "a war" was going on, while men were being killed, the Security Council should suspend its work which was designed to bring the fighting to an end.⁶¹ Ayyangar replied that it had not been a pleasure for the Indian delegation to sit in the Council to pass an innocuous resolution, to be told to have consultations with the Pakistan delegation, and then return to the Council with perhaps another resolution which did not take any substantial step towards the solution of the concrete problem. Unless more realism was shown, India might have to consider its own position in regard to the matter.⁶² Ayyangar added:

I have been much twitted today by the unnecessary and very unjustified suspicion and reluctance with which this innocent request for an adjournment was made to you. From the beginning this request was made to you in a perfectly open manner. At the time of the informal consultation, it was understood that we were to apply to our Government for their reactions to the resolutions that were placed before us. We communicated with our Government and our Government gave the matter their most anxious consideration. After giving that consideration, they instructed us to come to you and ask for an adjournment so that they may discuss the matter personally with us and see whether they could appreciate any point of view other than the one which they think is right today. And consciously or unconsciously I and my colleagues have been prevented from complying with my Government's wishes. We wanted to do it with the quickest possible speed. Therefore, we had booked our passages for today. As soon as we booked our passages, I thought it my duty to send a message to the President of the Security Council. I thought that this request for adjournment was a simple, formal affair, a thing which my

60. *Ibid.*, p. 79.

61. *Ibid.*, pp. 104-5.

62. *Ibid.*, p. 129.

Government was entitled to in the circumstances in which we find ourselves today. That has been rendered difficult and in fact impossible.⁶³

LIMITATIONS OF THE COUNCIL

Ayyangar has been quoted at length to show how the Council proceedings lacked in a sense of proportion and purpose. A minor procedural matter was magnified into a crisis. The members' sensitiveness was misplaced, for they had already wasted several weeks in unrealistic discussion. Until that morning the contribution of the Council to relieve tension between India and Pakistan, to stop the fighting in Kashmir, or to relieve the sufferings of the people of Jammu and Kashmir, had been next to nothing. They had only succeeded in becoming spokesmen of the tribal invaders, but then the Council did not exist to pat the aggressor on the back. Somebody had to put a stop to self-deception, futility, and frustration.

At least one member of the Council realized immediately that the matter had gone too far. This was the U.S. member who said:

India has established her nobility and her greatness in the minds and hearts of the people of the whole world. . . . I hope that the impression we have evidently given to the representative of India who has just spoken may be softened by tomorrow morning, and that he may not permanently feel that there has been a reflection upon the honour of his great country. I am sure that that is not intended.⁶⁴

The limitations of the Council, of which the incident was an illustration, had already begun to emerge. A few members began to have second thoughts. The representative of Colombia complained that the Council had been working on contradictory reports made by India and Pakistan, and then the members had come to conclusions without their own means of verification.⁶⁵ In other words,

63. *Ibid.*

64. *Ibid.*, pp. 129-30.

65. *Ibid.*, p. 116.

the Council had been acting arbitrarily, without any objective and dependable guidelines.

On 10 February the representative of China, Dr. Tsiang, raised his voice in support of the rule of law and questioned the competence of the Council. Commenting on draft proposals submitted to India and Pakistan by the President, he said:

In order to make the record clear, I should like to say unmistakably that my delegation is not ready to ask, or to recommend that an interim administration should form one of the conditions. . . . As I understand it at the present time the State of Jammu and Kashmir is one of the federal States. The constitution, as it is drafted and as it is in practice in India, limits the powers of the federal Government. I am not sure that the Central Government at New Delhi has the right to order a change of Government in one of its federal States.

Here was a return to basic facts and, therefore, sanity.

I do not like to see the Security Council pass a recommendation which calls into question the constitutionality or the legitimacy of a Government. For that reason, I also stated previously that this recommendation should not deal with legal questions as to the competence of the Security Council.⁶⁶

The law and constitution of a member State were not matters to be trifled with and the Security Council, whatever the claims of its members, could not ignore the law and constitution of a member-country. The advice which the representative of China gave to the Council was sound and unexceptionable.

It seems to me that, in all our proposals, it would be well for us to avoid any impression that we are questioning the right of the Indian Army to be in Jammu and Kashmir. I should make that statement a little more conclusive and inclusive. It would be well for us to avoid any impression that we are questioning the legitimacy, constitutionality, or legality of any steps which have been taken so far by the Government of India in handling this matter.⁶⁷

66. *Ibid.*, p. 72.

67. *Ibid.*

INDIAN PROPOSALS

On the return of the Indian delegation to New York, Ayyangar gave to the Council on 10 March some idea of the result of consultations which he had with his government. There were four basic points on which the Council had stumbled on previous meetings, and he dealt with every one of them in the light of his instructions.

The first and the most important point was the question of bringing the fighting to an end as quickly as possible, and measures to this end needed the utmost priority. The second point related to the substitution of a neutral, impartial administration for the administration then existing. There was a fundamental constitutional issue involved in the suggestion. Any attempt on the part of the Council to demand that the internal administration of a sovereign State should be put into the hands of an agency unconnected with the State, perhaps, or an agency which did not command the support of the people of the State was a proposition which was unthinkable. India would not be able to yield on this question. The third point concerned the retention of Indian armed forces in the State until the completion of a plebiscite. India was prepared to consider any reasonable suggestions for ensuring that the armed forces did not have the opportunity to interfere with voting. Anything short of withdrawing the Indian army from the State could be considered. The retention of the armed forces was an obligation which the Central Government owed the State of Jammu and Kashmir for ensuring its defence from external aggression, and for going to the aid of the civil power for maintaining internal law and order. It was only for these two purposes that India wished to retain armed forces within the State. As for the machinery for a plebiscite, it should have as much independence as possible, consistent only with the maintenance of the sovereignty of the Jammu and Kashmir State and with the maintenance of the proper relations between the federal centre and the government of the State.⁶⁸

In making these proposals, India went to the maximum limit in its desire for a peaceful settlement. This would be clear from a study of India's proposals made on 24 January which the President

68. *S.C.O.R.*, Nos. 36-51, pp. 67-70.

of the Security Council disclosed to the Council on 28 January. The proposals of 24 January gave the highest priority to bringing about the stoppage of fighting. The Government of Pakistan was to use all its efforts to stop the fighting by persuading the tribesmen and others who had invaded Jammu and Kashmir to withdraw from that territory, and to prevent the passage through its territory of such invaders, and the use of its territory, supplies, and other material aid to them. The emergency administration in the State would be converted immediately into a responsible government under Sheikh Abdullah. The new constitution to be framed for the State and the determination of the question of accession were matters entirely for the free decision of the people. The ruler, it was hoped, would convoke a State assembly based upon adult suffrage. A State government based upon the State assembly would proceed to have a plebiscite taken under the advice and observation of persons appointed by the United Nations. The State assembly would then proceed to frame a new constitution on the principle of full responsible government.⁶⁹ After the proposals of 24 January were made and before Ayyangar returned from India in March, the ruler issued a proclamation conceding full responsible government to the people, recognizing the need for suitable machinery for framing a constitution for the purpose, and converting the emergency administration into a Council of Ministers to function, as far as possible, as a responsible executive.

On 18 March, the representative of China, who was President of the Security Council, presented a draft resolution to the Council, pointing out that the language and methods recommended were all related to Chapter VI of the Charter, "Pacific Settlement of Disputes," with no hint of Chapter VII, "Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression."⁷⁰ He also emphasized the need for ensuring full respect for the sovereignty of a member State.⁷¹ The Council could not settle the matter in any arbitrary manner, he said. It was necessary for the Council to observe the Charter. The Council, while endowed

69. *S.C.O.R.*, Nos. 1-15, pp. 266-7.

70. *S.C.O.R.*, Nos. 36-51, p. 112.

71. *Ibid.*, p. 115.

with great powers, had limitations in regard to both procedure and substance.⁷²

The main body of the draft resolution⁷³ consisted of articles of settlement, dealing with the restoration of peace and order, plebiscite and general matters concerning both. The draft resolution recognized the sovereignty of India in Kashmir, and this was reflected in a number of provisions. The Government of Pakistan was asked to use its best endeavours to secure the withdrawal of intruding tribesmen and Pakistan nationals and to prevent any further intrusion. India was to reduce its troops in Kashmir, consistent with its function of maintaining defence and security, the troops being stationed at such points as not to afford any intimidation, or appearance of intimidation, of the inhabitants of the State. The Government of India was to establish in the State a plebiscite administration with the sole and full authority to administer the plebiscite. The director and assistant directors of the plebiscite administration were to be nominated by the Secretary-General of the United Nations, but formally appointed by the Jammu and Kashmir government, which alone could formally promulgate any draft regulations which the director might have to issue. In other words, these officers, as Dr. Tsiang pointed out, had to consider themselves for the time being as officers of the State. The Government of India was to accept an obligation to free the plebiscite from any threat, coercion, or intimidation, and was to make this undertaking known as an international obligation on all public authorities in Jammu and Kashmir. The Government of India themselves and through the government of Jammu and Kashmir had to make it known that all inhabitants of Jammu and Kashmir would be safe and free in expressing their views and in casting their votes. In the composition of the Jammu and Kashmir government, provision was to be made for adequate representation of all major political groups in the State. India was to appoint an official of high standing with the power to secure the fulfilment by the State government of all international obligations arising out of the articles of settlement. Elaborating this provision, Tsiang said:

72. *Ibid.*, p. 117.

73. S/654.

“It is the Government of the Dominion of India which contracts this international obligation. The execution is on the spot in one of the States.” Finally, the Commission of the Council was to certify at the end of the plebiscite whether the plebiscite had been really free and impartial.⁷⁴

Without accepting whatever was contained in the draft resolution, Ayyangar said that it had attempted “a fair solution of the points in controversy,” adding that the proposals were worthy of serious consideration.

Commenting on the draft resolution, the representative of France did not see “any practical possibility of finding another force to replace the armed force which is already in Kashmir.”⁷⁵ As for the Indian administration, he was equally forthright.

Here also there are vital needs to be considered, namely, the maintenance of order, the Government and life of the country. If we take into consideration the plebiscites of the past, wherever they may have been held, I have no knowledge that it was ever said that these plebiscites should be held in areas previously emptied of any kind of force capable of maintaining order, or of any kind of Government.⁷⁶

He said he wanted to state at once his opinion, and advised the Council “to search for guarantees to ensure the impartiality of the plebiscite despite the presence of Indian troops,” rather than seek a solution which seemed to him impossible of realization.⁷⁷

At one stage, even the representative of Syria was torn by doubt. The legal aspect of the problem, he argued, had not been considered at all in the Council, but this aspect, namely, the State’s accession to India, should not be neglected altogether.⁷⁸

Zafrullah Khan’s reaction to the draft resolution was one of bewilderment. Objecting to its provisions, he said he doubted

74. *S.C.O.R.*, Nos. 16-35, pp. 112-7.

75. *S.C.O.R.*, Nos. 36-51, p. 135.

76. *Ibid.*, p. 136.

77. *Ibid.*

78. *S.C.O.R.*, No. 61, p. 2.

whether the draft resolution would be acceptable to the so-called Azad Kashmir government. If a resolution did not appear eminently fair and satisfactory to the Azad Kashmir government, the latter would not be prepared to lay down its arms, and the resolution would fail to achieve anything.⁷⁹

APRIL RESOLUTION

No sooner was the Chinese draft produced than some Council members began to mutilate it. As disclosed by Tsiang in the Council on 17 April, the draft resolution was revised in consultation with the delegations of Belgium, Canada, the U.K., the U.S.A., and Colombia. This draft which, in the main, was based on different principles, contained the following provisions:

First, an administrator of international repute, nominated by the Secretary-General of the United Nations, to head the plebiscite administration.

Secondly, the administrator to have the right to choose his own assistants and subordinates.

Thirdly, the administrator to frame the regulations for the plebiscite.

Fourthly, the plebiscite administrator to have full power concerning the conduct of the plebiscite, including the direction and supervision of the State forces and police.

Fifthly, special magistrates, nominated by the plebiscite administrator, to be appointed to try cases relating to and arising out of the plebiscite.

Sixthly, the Government of India and, through the Government of India, the Government of the State to undertake to prevent any threat, coercion or intimidation, bribery or other undue influence on the voters in the plebiscite, and the Government of India to publicly announce and cause the government of the State to announce this undertaking as an international obligation binding on all public authorities and officials in Jammu and Kashmir.

Seventhly, all subjects to be safe and free in expressing their views and in voting on the question of the accession of the State,

79. S.C.O.R., Nos. 16-35, pp. 118, 124.

with freedom of the press, speech and assembly and freedom of travel in the State, including freedom of lawful entry and exit.

Eighthly, outsiders, people not normally resident in the State and not there for a lawful purpose, to be asked to withdraw.

Ninthly, all political prisoners to be freed and given back their citizenship rights.

Tenthly, the Commission of the Council to station observers in all parts of the State to watch the proceedings in the plebiscite.

Eleventhly, should the local forces be inadequate, the Commission, subject to the agreement of India and Pakistan, to arrange for the use of such forces of either Dominion.

Finally, the Commission at the end of the plebiscite to certify to the Council whether the plebiscite had or had not been really free and impartial.

So much for the plebiscite. As for the military provisions in the revised draft resolution, the Government of Pakistan was to use its best endeavours to secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistan nationals not normally resident therein who had entered the State for the purpose of fighting and to prevent any intrusion into the State of such elements and any furnishing of material aid to those fighting in the State. When the Commission was satisfied that the tribesmen were withdrawing and arrangements for the cessation of fighting had become effective, the Council would ask India to withdraw a part of its army and reduce the remainder to the minimum consistent with the maintenance of law and order. The Indian Government was asked to station the remaining troops in accordance with certain principles. The smallest possible number was to be retained in "forward areas" and any reserve of troops "within their present base areas." Finally, the State government was asked to invite the major political groups to designate responsible representatives to share equitably and fully in the conduct of the administration at the ministerial level while the plebiscite was being prepared and carried out.⁸⁰

The revised draft had made serious departures from the original document. It reflected more the views of the members in January

80. *S.C.O.R.*, No. 59, pp. 6-9.

and February, than those expressed in March. The sovereign rights of India were challenged. Plebiscite had become an obsession with the Council, a plebiscite fair and impartial, held under the aegis of the United Nations and based on a multitude of conditions which would drastically clip the authority of the lawful government of Jammu and Kashmir as well as the federal government of India, giving at the same time to Pakistan and to other unlawful elements in the State a voice in its conduct. The revised draft resolution though providing for the withdrawal of tribesmen and Pakistan nationals was, in other respects, a violation of the Constitution of India and the sovereignty of the Jammu and Kashmir government. The object of the Council, it was said, was to safeguard the freedom of the vote. Its method, in fact, was to destroy it. The representative of China, one of the sponsors, put the matter in a nutshell.

During recent decades, a number of plebiscites have been held in various parts of the world and international bodies have seen to it that the plebiscites were fair and impartial. I do not know of any previous plebiscite where the safeguards for freedom and impartiality have been so numerous and strict.⁸¹

The Council did not take into consideration the obvious fact that by kowtowing to the invaders and the Pakistan Government which was helping them, it was playing into the hands of the lawbreakers who had already seized a large area of the State and set up therein subversive agencies and authorities which would inevitably influence a plebiscite. No less obvious was the encouragement it was giving to communal and, therefore, distintegrating forces by opposing a secular, democratic, and popular movement in the State. The draft resolution, if adopted, would create among the State people a sense of political uncertainty, thereby weakening their unity and aggravating the hardship already created by the widespread destruction of life and property. By throwing its weight behind the invaders, the Council was likely to determine the result of a plebiscite, even though that might not have been the intention of the sponsors.

81. *Ibid.*, p. 7.

Ayyangar informed the Council about what had happened behind the scenes.⁸² Although the original draft would have required some amendments before India could have accepted it, it was a compromise scheme. In subsequent conferences held informally by the President with his colleagues of the Security Council—including the representatives of the United States and the United Kingdom—Dr. Tsiang's scheme was "twisted out of shape." Practically, every amendment of substance to the 18 March draft worsened India's position, and constituted a breach, in some cases a violent one, in India's fundamentals. There were three earlier drafts. India's attempts to secure suitable amendments in them were unsuccessful. The scheme of 18 March had been so attenuated that it was not possible for India to agree to the revised draft resolution. Ayyangar said :

This cold-shouldering of our complain has hurt us, our Government, and my nation deeply. India brought before the Security Council a plain, simple, straightforward, factually foolproof issue, and the action that we suggested the Security Council should take was inescapable. The Security Council has not escaped it either, after all this delay. Instead of taking that action earlier, India's complaint was placed in cold storage for nearly four months, four months of continued bloodshed and economic ruin. And at the end of it all we are exhorted, in appealing language, to agree to a resolution niggardly in its recognition of the merits of the matter, vague and indefinite in the wording of the action to be taken by Pakistan. And in the interpretation of that language the Security Council has gone even further and been apologetic to Pakistan for reminding it of its duty. India cannot in honour agree to this treatment of its case.⁸³

The representative of India informed the Council that a mountain battery of the Pakistan Government, in civilian dress, had been sent to the front. It consisted of some 1,300 personnel, out of which about 600 had been sent to Nowshera front via Bhimber and 700 to Poonch front via Palandhri. The battery had been

82. *S.C.O.R.*, No. 60, pp. 3-5.

83. *Ibid.*, p. 12.

observed in action at one of the fronts.⁸⁴ Zafrullah Khan, in his reply, observed discreet silence on this charge, and the Council paid little attention to it.

The revised draft resolution turned out to be worse than what India had imagined, as the sponsors offered clarifications of some of the provisions. An explanation offered by Noel Baker of the expressions "forward areas" and "base areas," and his statement that the plebiscite administrator should have the power to ascertain the views of the Government of Pakistan concerning the impartiality of the arrangements for the plebiscite, forced Ayyangar to say that if that was so, his objection to the revised draft resolution was even greater.⁸⁵

As both India and Pakistan—the latter for its own reasons—objected to the revised draft resolution, it was, even though adopted by the Council on 21 April 1948, stillborn.

CONSEQUENCES OF THE RESOLUTION

Several months passed, but the Council took no effective step to bring about an immediate cease-fire and the withdrawal of Pakistan invaders. All that it did in the end was to complete the setting up of a fact-finding commission on which it had adopted a resolution on 20 January, and which did not arrive in India and Pakistan till the early part of July 1948, i.e. nine months after the invasion of the State by Pakistan tribesmen and nationals. Noel Baker had claimed that the Council had averted war between India and Pakistan,⁸⁶ after he had himself described the situation in Kashmir as "this war" or "a war." Ironically, he was making this claim when the British Commander-in-Chief in Pakistan was about to submit on 20 April a memorandum to the Pakistan Government, recommending open intervention in Kashmir by the Pakistan regular army, a recommendation which according to an admission by Zafrullah Khan to the U.N. Commission early in July was carried into effect early in May. In other words, while the Council was considering its revised draft resolution which was adopted on 21

84. *Ibid.*, p. 10.

85. *S.C.O.R.*, No. 61, pp. 18, 32.

86. *S.C.O.R.*, No. 59, p. 12.

April, the Government of Pakistan was already considering the preliminary steps towards another and a far more serious act of aggression on Indian territory. And this while the same government was giving an assurance through Zafrullah Khan to the Council about its peaceful intentions. Closing his statement on the revised draft resolution on 19 April, the Pakistan representative said that "if there is any implication that Pakistan is not equally a peace-loving State and is not equally eager and willing to discharge its obligations under the Charter, that is an implication that I very seriously and strenuously contest."⁸⁷ On this development, the U.N. Commission was to comment in its report.

Here was the first fruit of the laborious efforts of the Council. On 10 February, the U.S. representative had told the representative of India that if he felt that his delegation had no hope of getting the Security Council to stop the fighting, then the Indian delegation had certainly made an appraisal of trends that was correct, "because the trend of opinion in the Security Council is against war." "No party coming here to discuss a case like this," he added, "can expect trends in the Security Council towards the application of force, or towards a solution which would ally the United Nations with one side so that it could be successful in a military attack or defence."⁸⁸ India had not asked the Council to apply force or to help India in any military sense. All that it had requested the Council was that it should call upon Pakistan to stop giving aid and assistance to the aggressors. The manner in which the Council treated the problem, as subsequent events were to show, resulted in open application of force by Pakistan, and it is a moot point whether if the Council had taken a more realistic view of the matter, Pakistan would have dared to take the fateful step of military invasion of India. Pakistan not only used force but annexed Indian territory, as it is clear from the fact that, eighteen years after Warren Austin spoke, the Pakistan troops are still in unlawful occupation of Indian territory in Jammu and Kashmir.

Thus not only was war not averted, it was precipitated, and a situation already bad enough became grievous. The Council's con-

87. *S.C.O.R.*, No. 60, p. 49.

88. *S.C.O.R.*, Nos. 16-35, p. 75.

donation of Pakistan aggression and its misplaced interest in a plebiscite was to lead to portentous events. In course of time it led to fresh aggressions by Pakistan and eventually in 1965 to a full-fledged military invasion, supported by tanks and air power, of the Chhamb-Jaurian sector of Jammu and Kashmir. The harvest of violence and successive repudiations of the Charter by a member country of the United Nations are a sardonic tribute to what the Council did in 1948.

If the Council failed to prevent the extension of hostilities, it was equally unsuccessful in bringing about a plebiscite, to the holding of which the withdrawal of Pakistan troops and nationals was an essential condition, which, thanks to the refusal of the Council to call the aggressor to account, was never fulfilled. Thus the Council failed to attain its twin objectives of withdrawals of the invading Pakistani forces, on the one hand, and a fair and impartial plebiscite, on the other.

While these events were still in the lap of the gods, Noel Baker complained that the Council had been "accused by reckless outsiders of favouring one side or the other, of playing politics, of yielding to threats and blackmail." He said he was not always among the representatives on the Security Council and could look at the Security Council with a detached and impartial eye. He ventured to say that all such suggestions as he had quoted were "arrant nonsense."⁸⁹

The impartiality of the Council could not be established by a mere assertion, but only by its record which spoke for itself. The Council followed no principle in dealing with the Indian complaint. It refused to be guided by the law and the provisions of the Charter. Worse still, the Council made suggestions which no Government of India, bound by its own constitution and answerable to an elected Parliament, could accept or carry out. The principle of negotiation which the Council adopted at the instance of Noel Baker was vitiated by the doctrinaire attitude of most of its Presidents and members and their academic views on the subject, freely expressed in the Council, which the mediating President was asked to bear in mind during his talks with the two delegations, and which the representa-

tive of Pakistan treated as commitments which he fondly quoted from time to time. The issue of Pakistan aggression, which was the gravamen of the Indian charge, was ignored. The issue of accession which Pakistan brought up incidentally and which the Council was not competent to consider was treated as basic. The Belgian representative said that the parties had brought their dispute regarding the accession of Jammu and Kashmir to India.⁹⁰ India had done nothing of the sort. To some members, as to the representative of France, the question was one of civil war.⁹¹ This ignored the tribal invasion. The general view in the Council was in favour of pacification which could only have the effect of appeasing the aggressor.

The prejudice and ignorance of Council members recoiled on them. The uncritical support which the Anglo-American Powers gave to proposals like plebiscite, the withdrawal of Indian forces, and the substitution of the lawful government of Jammu and Kashmir by a neutral administration was eagerly quoted by Zafrullah Khan, and was to be quoted in succeeding years by his successors in various debates in the Council. This tended to tie the members down to fixed positions which they would find difficult to give up. Apart from the fact that nothing that India did could explode the Council's prejudice, its impulsive views and acts in January and February 1948 had robbed it of its capacity to face the real problem and of resilience in devising a fair and practicable solution. Having once lost its way in the maze of academic and fruitless discussion, divorced from reality, the Council never succeeded in recovering its balance or vision. The only two countries which refrained from taking part in the murky proceedings of the Council on the substantive aspect of the issue were the Soviet Union and Ukrainian Soviet Socialist Republic.

A POSSIBLE EXPLANATION

India had learnt a bitter lesson. After the Council adopted its resolution of 21 April, Ayyangar said to his colleagues in New York: "I will never advise my government to bring any other case to the Security Council. Yes, if you have a bad case, bring it to the

90. *S.C.O.R.*, Nos. 16-35, p. 12.

91. *Ibid.*, p. 4.

Council." It has been said that the Kashmir issue was the first major problem which the Security Council, then in its infancy, was called upon to resolve. There may be some truth in this. On the other hand, those who have gone through the proceedings of the Council in January and February 1957, ten years after India complained to the Council, will find little change in the views of the ruling majority in the Council or their tactics.

A view which may, perhaps, be more to the point is the attitude of the United Kingdom which for decades had followed a certain policy in India that in the end rent the country in twain. In the undivided India the U.K. Government had kept the Indian National Congress and the Muslim League at loggerheads by supporting the latter, the object being to weaken the former's demand for independence. When the country was partitioned and two sovereign States emerged, to the British Government it was still the same old conflict, the only difference being that a party conflict in a colonial territory had now become a conflict between two independent States in a region of the world where Britain had large colonial and strategic interests. If for the protection of those interests, it could not have the support of India—and India had declared its opposition to colonial Powers and military blocs—it could at least secure the cooperation of Pakistan which needed British assistance in a number of ways. Acceptance of India's charge of aggression against Pakistan would have meant also losing the support of Pakistan in West and South and Southeast Asia. Besides, Britain would have lost an instrument which it was using to realize its long-cherished dream of an Islamic bloc for colonial and imperial reasons. As a step in that direction, Pakistan called on 29 November 1949 a conference of Muslim States in Karachi that ended in smoke.

The U.S. support for such a policy was forthcoming, because the U.S.A. was the successor power to Britain in assuming responsibilities in the areas of the world which Britain could no longer control or administer. As this was a continuous process, American policy, which flowed into former zones of British influence, took on the characteristics of that influence.

Anglo-American opposition to India in the Council was not, therefore, accidental or based on ignorance of facts, but necessitated

by their foreign policies. This explains why their opposition to India was consistent and continuous, irrespective of the passage of time. It was only after the Chinese invasion of India in 1962, which overnight altered the balance of power in South and Southeast Asia with far-reaching consequences, that this policy was reviewed slightly, apart from the fact that its barrenness had by then been established.

CHAPTER TWO

THE FLASH OF TRUTH

THE U.N. Commission which the Council sent to India and Pakistan was of unusual interest, both as regards its composition and the instructions which it received from the Council. Originally, the Commission was to consist of three members, one each to be nominated by India and Pakistan and the third to be designated by the two nominees. Subsequently, the Council enlarged the membership to five. It took the Council four months to set up the Commission the proposal for which was first accepted in a resolution on 20 January 1948. The President of the Council announced India's selection of Czechoslovakia on 10 February, that is within three weeks of the adoption of the Council's resolution of 20 January. On 23 April, Belgium and Columbia were nominated by the Council. The President announced Pakistan's choice of Argentina on 7 May, that is three and a half months after the Council had decided to set up a Commission, and on the same day he nominated the United States as the fifth member. With the exception of Czechoslovakia, all the member-countries of the Commission were members of the Security Council. What is more, of these four, three were representatives of countries which had opposed India in the Council, and Zafrullah Khan had repeatedly pegged Pakistan's case and claims on their statements. None of them—with the exception of the representative of Columbia—had shown any understanding of the Indian complaint. As the Security Council instructed the Commission to take its decisions by a majority vote, it was more or less a pro-Pakistan Commission, a fact which influenced its judgement on some of the most crucial issues which it was called upon to deal with. However, even such a Commission could not shut its eyes to the facts.

On arrival in Karachi on 8 July, when the facts about Pakistan aggression could no longer be masked by denial, as Zafrullah Khan

had done so successfully in the Council, Pakistan admitted its hand in the invasion. The Commission was informed by Zafrullah Khan, who was still the Foreign Minister of Pakistan, that since the first half of May three brigades of regular troops of the Pakistan army had been fighting in Jammu and Kashmir.¹

Immediately not one but several cats were out of the bag! The Commission said it was faced with an unforeseen and entirely new situation² which had not been contemplated by the Security Council. But instead of seeking fresh instructions from the Council, it decided to go ahead on the basis of its old instructions, even though they were no longer relevant to the new situation.³ A confidential cable was despatched, however, informing the Security Council of the presence of Pakistan troops in Kashmir.⁴ It is a noteworthy fact that the Council, faced with an admitted act of aggression by a member-country of the United Nations against another member-country, did nothing. By avoiding confrontation with Pakistan, the Council did not help the cause of peace, much less India, the victim of aggression. Members of the Indian Cabinet told one of the members of the Commission that the admission by Pakistan of the presence of its regular troops in Kashmir had changed the situation considerably. In their opinion, a cease-fire in the circumstances being a difficult affair, the Commission should report to the Security Council.⁵ The Commission took no action on this suggestion.

Its legal Adviser, who was asked by the Commission to examine the issue of accession, came to the conclusion that the accession was legal and lawful and could not be challenged. In spite of this fact, the Commission did not describe the presence of Pakistan troops in Jammu and Kashmir as constituting clear aggression, but what it chose to call "a material change in the situation."

As a result of its investigations, the Commission found enough evidence to prove the original charge in the Indian complaint.

1. S/1100, para 40.

2. S/1100, para 127.

3. S/1100, para 134.

4. S/1100, para 53.

5. S/1100, para 95.

Sir A. Dundas, the British Governor of the North-West Frontier Province of Pakistan, informed the Commission in July 1948 that the incursions of the tribesmen “during the past year” had assumed the character of a religious crusade.⁶ This exploded the earlier statement of Zafrullah Khan in the Council that the number of tribesmen who had entered Kashmir was very small. He had also told the Council that the tribal incursion had taken place not across Pakistan territory but through the State of Swat in the north. This turned out to be another false statement, since according to the British Governor, the movement of tribesmen was canalized through his province.⁷ Thus the statement of the Pakistan Government to the Council that it had done everything short of war to discourage the tribal movement was proven false by Pakistan’s own authorities.

Dundas further disclosed that the tribesmen obtained petrol from local sources in Pakistan and made use of government railway and local motor transport.⁸ Zafrullah Khan had obviously misinformed the Council when he argued that the Government of Pakistan had nothing to do with the supply of petrol. The extent to which he could go in his efforts to mislead the Council is brought out vividly by what he said on the subject in January 1948 and what he told the Commission in July of the same year. Speaking in the Security Council on 17 January, Zafrullah Khan said:

Then the representative of India said that somebody observed that petrol was supplied at Pakistan pumps, without coupons or payment, to motor lorries carrying tribesmen. All that is meant and that could be meant by “Pakistan pumps” is petrol pumps in Pakistan territory. There are no Government pumps maintained by the Pakistan Government, by the Indian Government, or by any other Government. The distribution of petrol throughout India—and here I use the word in the larger sense in which it was employed before 15 August 1947—is arranged by the oil companies themselves under their own organization. There is no

6. S/1100, para 60.

7. S/1100, para 60.

8. S/1100, para 60.

Government organization for the distribution of petrol. That is point number one.

When it is said "without coupons," that in itself is an admission that the Government was not authorizing the issue of this petrol. If the Government had authorized the issue of this petrol, it would have issued coupons for it. When it is said that petrol is being issued without coupons, that means that either the companies or the managers of the pumps were doing something illegal in the nature of black-market activities, or if the petrol was really issued without payment, they were doing something out of their sympathy for the movement. Even if the allegation is taken at its worst—and one does not know whether the allegation is correct or incorrect in itself—they were doing something illegal in order to help this movement which was going on in Kashmir. How is the Government implicated when it is a matter of the issuance of petrol without coupons? If it were said that some governmental department had issued coupons in order to procure petrol for these vehicles, there would be a measure of responsibility to be laid upon somebody.⁹

If what he said was to be believed, Pakistan had been a model of caution and rectitude. But now Zafrullah Khan told the Commission, without turning a hair, that "petrol was obtained by the tribesmen from local sources, repeating the argument that any attempt to stop the petrol supply would have entailed grave consequences for Pakistan."¹⁰

This was only one of the many examples of the ease with which he could invent explanations that he peddled as facts, only to renounce them, without any hesitation, once they became inconvenient. In the Pakistan Government's reply to India's complaint of 15 January 1948, Zafrullah Khan had stated that let alone giving any aid or assistance to the invaders, "and solely with the object of maintaining friendly relations between the two Dominions, the Pakistan Government have continued to do all in their power to discourage the tribal movement by all means short of war."¹¹ He

9. *S.C.O.R.*, Nos. 1-15, pp. 105-6.

10. *S/1100*, para 66 (iii).

11. *S/1100*, Annex 6, Document 1, para 3.

had also solemnly assured the Council that Pakistan was a peace-loving State and was fully aware of its obligations under the Charter.¹² And, yet, only a few weeks later, he told the Commission that "the presence of Pakistan troops in Kashmir did not raise the question of international obligations since Pakistan had never accepted any with regard to non-interference in Kashmir."¹³

In its first interim report, the Commission observed that the Security Council had not contemplated during its debates that the Commission, though entrusted with a delicate and difficult task, should deal with a situation involving military action between the two regular armies.¹⁴

Another element, the significance of which had not been fully appreciated before the Commission's departure for the sub-continent was the Azad movement, which constitutes an organized political and military body, is assisted by the Pakistan High Command, and is engaged in active revolt against the existing Government. This movement has cooperated since October 1947 with invading tribesmen and individual Pakistan nationals.¹⁵

In other words, the Pakistan High Command had assisted the so-called Azad movement which had assisted the tribal invaders and Pakistan nationals.

In view of these revelations by the Commission, what is one to think of the earlier assertions of Jinnah, the Pakistan Governor-General, that he had no control over the so-called Azad Kashmir forces and the tribesmen, no less than the repeated assurance of the Pakistan Foreign Minister in his letter of 15 January 1948, addressed to the Council, or given on the floor of the Security Council, that his government had given no aid or assistance to the invaders?

For its failure to deal with the basic issue, namely, the emphatic denial by Pakistan of the Indian charge of aggression which had been proved to be true, the Commission, like the Council, began to

12. *S.C.O.R.*, No. 60, pp. 48-9.

13. *S/1100*, para 64 (i).

14. *S/1100*, para 124.

15. *S/1100*, para 125.

find itself in an impossible situation. The spokesman of the Pakistan Government declared that its forces would not be withdrawn unless the Indian forces were withdrawn simultaneously in pre-arranged stages.¹⁶ In retrospect, it is now clear why Pakistan took nearly four months to announce its choice of a representative on the Commission. This had given valuable time to Pakistan to assess the attitude of the Council to the parties and to introduce its regular forces into Kashmir. In consequence, the arrival of the Commission on the subcontinent was delayed. There is only Pakistan's word that the Pakistan army moved into Kashmir in the first half of May. According to evidence from other sources, a Pakistan mountain battery was in operation in the State in March and, according to one authority, the Pakistan troops were fighting in the State in January. This does not take into account the earlier contention of India that behind the tribal invaders stood, in the State, the regular troops of Pakistan. While the Council was lost in the dialectics of plebiscite, Pakistan secured for itself several months to strengthen its political and military position in the occupied areas of the State. In these circumstances, it would have been too much to expect Pakistan to inform the Security Council of the introduction of its own troops into Indian territory, as it had undertaken to do, instead of waiting for the arrival of the Commission.

This calculated lapse was described by the Commission in some detail. According to the Security Council's resolution of 17 January the Government of Pakistan was requested to inform the Security Council immediately of any material change in the situation. In a letter addressed to the Security Council, the Pakistan Government agreed to comply with this request. The Government of Pakistan had, however, not informed the Security Council about the presence of Pakistan troops in Kashmir. Zafrullah Khan explained to the Commission that since the Commission had been charged to deal with the problem related to the India-Pakistan question, his government thought that the information should instead be given to the Commission, but he had been unable to do this previously because of the delay in its arrival on the subcontinent.¹⁷ According

16. S/1100, para 132.

17. S/1100, para 128.

to the statement of Zafrullah Khan, commented the Commission, Pakistan troops entered Kashmir early in May 1948. The records of the Security Council showed that the Commission was provided for but not fully constituted at that time. The Commission had its first meeting in Geneva on 15 June, but was informed of the presence of Pakistan troops in the State of Jammu and Kashmir only on 8 July.¹⁸

UNCIP RESOLUTIONS

Unwittingly and largely because of its dilly-dallying tactics, the Security Council thus became, in a sense, privy to Pakistan aggression. Once Pakistan troops were present in the State, Pakistan claimed parity with India and refused to withdraw them unless reasonable satisfaction was forthcoming from the Commission on this point. When, therefore, the Commission addressed itself to the task of bringing about a cease-fire, Pakistan expressed its willingness to agree either to a simple cease-fire¹⁹ without involving any withdrawal of Pakistan troops or a cease-fire as part of a comprehensive plan including the form of settlement of the political problem.²⁰ The former alternative, if accepted, would have wiped away the stigma of aggression which now clung to Pakistan, and treated India and Pakistan as equal parties; the latter alternative would make the withdrawal of Pakistan troops conditional on a plebiscite being held. The aggressor was not only not repentant about his unlawful occupation of a friendly neighbour's territory, but demanded a price for vacating the aggression, as he had done earlier in the Council for the withdrawal of Pakistan nationals and tribesmen. Eventually the Commission produced its draft resolution of 13 August 1948²¹ which was in three parts: Part I provided for a cease-fire; Part II for a truce agreement under which Pakistan would accept an unconditional obligation to withdraw its troops from the State, as well as the tribesmen and Pakistan nationals, the Commission recognizing the necessity for keeping enough Indian

18. S/1100, para 129.

19. S/1100, Annex 10.

20. S/1100, Annex 10. (For text see Appendix 2.)

21. S/1100, para 75. (See Appendix 3.)

forces to ensure law and order including the defence of the State; Part III provided that after Part I was carried out and a truce agreement concluded under Part II the parties and the Commission would consider ways and means of ascertaining the will of the people.

India accepted this resolution subject to a number of assurances which the Commission gave. These assurances were:

(a) The sovereignty of Jammu and Kashmir Government would not be brought into question over the State territory evacuated by Pakistan troops.

(b) No recognition would be afforded to the so-called Azad Kashmir Government.

(c) During the period of truce the territory evacuated by Pakistan troops would not be consolidated to the disadvantage of the State.

(d) The Commission recognized the paramount need for security, and the time when the withdrawal of Indian troops was to begin, the stages in which it was to be carried out, and the strength of Indian forces to be retained in the State, were matters for settlement between the Commission and India.

(e) If a plebiscite was held, the resolution would not in any way recognize the right of Pakistan to have any part in it.²²

In retrospect none of these assurances was implemented by the Commission, Pakistan, or the Security Council. The Government of Pakistan attached to its acceptance certain conditions which, according to the Commission, went beyond the compass of the resolution, thereby making impossible an immediate cease-fire and the beginning of fruitful negotiations to bring about a peaceful settlement.²³

Subsequently, the Commission produced its draft resolution of 5 January 1949²⁴ which enunciated principles for a plebiscite, as supplementary and subsidiary to Part III of its first resolution.²⁵

22. S/1100 paras 78-9. (See Appendix 4.)

23. S/1100, para 5.

24. S/1196, para 15.

25. For text, see Appendix 6.

This time again India accepted the draft resolution, subject to certain assurances, the most important of which was that no action could be taken in regard to the plebiscite proposals until Parts I and II of the Commission's resolution of 13 August had been fully implemented, and that in the event of Pakistan not accepting those proposals or having accepted them, of not implementing Parts I and II of the resolution of 13 August, the Indian Government's acceptance of them should not be regarded as in any way binding upon them.²⁶ Also, the Plebiscite Administrator or the Commission would recommend alternative solutions if the plebiscite procedure was found impossible for technical or practical reasons.²⁷ At this stage, that is in December 1948, Pakistan accepted both the resolutions.

The first interim report of the Commission has some inexplicable features. The first to appear among the annexes to the report is not India's complaint, as one would expect, but Pakistan's reply. The Indian complaint is the subject-matter of the last annex. Thus the communication with which began the work of the Security Council was tucked away in an obscure corner, while the Pakistan reply, in which fantastic charges were levelled against India, was given the pride of place in the report. This meant that the report was drafted in such a way that the Pakistan reply would be mentioned first. Even when the same paragraph in the early part of the report referred to the Indian complaint, the letter of the Government of India dated 1 January 1948 did not follow as annex to the annex giving the Pakistan reply, but as the last annex in the report. Evidently, the members of the Commission were specialists in propaganda—in this case for Pakistan.

Every effort was made to soften the blow dealt by Pakistan aggression and to put that government in as little unfavourable light as possible. The Commission's disclosure of the presence of Pakistan troops in the State, for example, is fragmentary and scattered, and all this does not help a clear understanding of the problem. Thus, in para 2 of its report, the Commission disclosed that

26. U. N. Commission's Second Interim Report (S/1196), Annex 4, Aide Memoire 1, para 2.

27. S/1196, Annex 4, Aide Memoire 2, para 5.

regular Pakistan troops were fighting in the State. In para 40, it is revealed that the strength of the Pakistan army in the State was three brigades and that the troops had been sent to the State during the first half of May. Para 51 gives brief reasons which motivated the entry of Pakistan troops. In vain does one look for details. On 18 July, Zafrullah Khan said to the Commission that he had "previously" stated the reasons for the presence of Pakistan troops in the State,²⁸ but no such reasons are to be found in the record of the previous meeting,²⁹ which gives details of the Commission's first discussion with the Pakistan Foreign Minister. During his second talk with the Commission, Zafrullah Khan disclosed that the troops had moved into Kashmir early in May, a little more precise description than his earlier one, namely, "during the first half of May."

The fact of the presence of Pakistan troops in Kashmir was not communicated to India until 14 August 1948 when the draft resolution of 13 August was sent to the governments of India and Pakistan. This was inexplicable in view of what Sir Girija Shankar Bajpai, Secretary-General to the Government of India, told the Commission in New Delhi on 14 July, long after Pakistan had disclosed the presence of its troops in Kashmir to the Commission. Since the Council had passed its resolution of 21 April, said Bajpai, a great change had occurred in the situation. Indian troops in Kashmir were no longer fighting tribal raiders—their numbers had greatly diminished. Indian troops were fighting the regular armed forces of Pakistan "on all fronts" in Jammu and Kashmir. India had abundant evidence of this and if the Commission so desired, this evidence would be tendered by India's military advisers. What was in progress, Bajpai emphasized, was an undeclared war between India and Pakistan.³⁰ The Commission preferred to maintain silence on this vital development.

Even in the resolution of 13 August, the paragraph regarding the withdrawal of Pakistan troops from the State was, as the late

28. S/1100, Annex 8.

29. S/1100, Annex 7.

30. S/1100, Annex 21, para 5.

Prime Minister Jawaharlal Nehru put it, "rather a feeble and complicated way of saying something very simple." And as Gopalswami Ayyangar added, the Government of India readily accepted the principle that Pakistan troops should be withdrawn, but that it was not in accord with the reasons given in support of that principle.³¹ Even then the resolution specified Pakistan's obligation in unambiguous terms.

As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from that State.

The Commission could not go ahead with the implementation of the resolutions. Contrary to their provisions, Pakistan began to make claims and suggestions which India could not accept. Formidable difficulties arose when Pakistan began to violate the letter and spirit of the Commission's resolutions. Between May 1948 and January 1949, Pakistan committed further aggression by military occupation of the northern areas of the State.³² The Pakistan Government had stated to the Commission that no Pakistan regular troops at any stage had been employed in the operations in the northern areas between May and December 1948; however, by January 1949 (i.e. by the end of January 1949) Pakistan undeniably held military control over the northern areas. In other words, hardly had the cease-fire come into effect when Pakistan committed a serious breach thereof. This was a grave matter because at the time of accepting the resolution of 13 August, the Prime Minister of India had brought up the question of these areas which had not been dealt with in the Commission's proposals, expressing his desire that after the withdrawal of Pakistan troops and irregulars, the responsibility for the administration of these areas should revert to the Jammu and Kashmir government and that for defence to the Union government.³³ The Commission agreed to consider this

31. S/1100, Annex 12.

32. UN Commission's Third Interim Report, S/1430, paras 272-4.

33. S/1100, para 80.

matter in the implementation of the resolution.³⁴

Pakistan had also increased, during the period of cease-fire, the strength of the so-called Azad Kashmir forces to 32 battalions, which the military adviser to the Commission described as a "formidable force."³⁵

There is, indeed, no doubt that the Azad forces now have a strength which changes the military situation, and to that extent makes the withdrawal of forces, particularly those of India, a far more difficult matter to arrange within a structure which considers only the regular forces of two armies. Although it might be a matter of discussion whether the numerical strength of the Azad Kashmir forces has actually increased since August 1948, there is no question that these forces, who have since been working in close cooperation with the Pakistan regular army and who have been trained and officered by that army, have increased their fighting strength. It is reasonable to suppose that, if the Commission had been able to foresee that the cease-fire period would be prolonged throughout the greater part of 1949 and that Pakistan would use that period to consolidate its position in the Azad territory, the Commission would have dealt with this question in Part II of the resolution of 13 August.³⁶

In other words, for the deficiencies of the Commission and for a series of acts of bad faith and violations of the resolutions by Pakistan, India must pay the price.

Failing to take any firm action against Pakistan, the Commission proposed arbitration, a suggestion which was supported, strangely enough, by Premier Attlee and President Truman.³⁷ How did they come to know of the proposal and why did the Commission keep the U.K. and the U.S.A. informed about its work? The proposal which was confidential at that stage had not been communicated to all the members of the Council. Here was evidence of the manner in which

34. S/1100, para 81. (See Appendix 5.)

35. S/1430/Add. 3.

36. S/1430, para 225.

37. S/1430/Add. 3.

the Commission conducted its proceedings, outwardly independent and presumed to be impartial, but in reality guided by two permanent member-countries of the Security Council who had spared nothing to sabotage the Indian case. The proposal was sinister and was to be repeated time and again by these countries directly or through other members of the Council or the United Nations representatives, irrespective of opposition from India and the fact that it struck at the root of the resolutions of the U.N. Commission which India and Pakistan had accepted. Unable to proceed further, the Commission submitted its third interim report to the Council, stating that the investigation of facts had been completed, but in a changing dynamic situation and restricted by long-standing related clarifications which proved to be a real impediment to reaching agreement, the framework of the resolution of 13 August had become inadequate in the light of the factual conditions in the State.³⁸

WHY THE COMMISSION FAILED

Many reasons accounted for the failure of the Commission. As already explained, when the Commission, upon its arrival on the Indian subcontinent, found itself confronted with a situation which the Security Council had not contemplated during its debate, the Commission should have reported the new facts to the Council immediately. The Council might then have asked the Pakistan army to be withdrawn, just as it had asked the tribesmen and other foreign elements to be withdrawn. In such a case neither the subversive Azad forces nor the subversive Azad administration would have had time to be built up. If the Commission's resolution of 13 August had been accepted and carried out by Pakistan at once, some of the subsequent mischief would have been avoided, for the Pakistan army would have had to be withdrawn while the Azad forces were still in an embryonic state and the northern areas were not yet under the effective control of the Pakistan High Command. But while India accepted the resolution, subject to certain assurances, on 20 August 1948, that is, within a week of its

38. S/1430, paras 281, 283.

receipt, Pakistan made various reservations which amounted to rejection. The matter came before the Security Council in November 1948. If, even at this stage, the Council had secured the withdrawal of the Pakistan forces, the situation might have improved. The Council, however, merely desired the Commission to continue its efforts for a peaceful solution.

The presence of Pakistan troops in Jammu and Kashmir and the constitutional relationship between the State and the federal government were facts which the Commission could not ignore without stultifying its own work. Subject to these two compulsions, the Commission did everything to prejudice India's position. It condoned every Pakistan violation of the resolution of 13 August—non-withdrawal of Pakistan troops, tribesmen, and Pakistan nationals, an increase in the fighting strength of the Azad Kashmir forces, occupation of northern areas by Pakistan troops, etc. There is no clear explanation forthcoming for this attitude, except in the Commission's composition which was overwhelmingly in favour of Pakistan and the secret instructions which the Commission or its members presumably received from the U.K. and the U.S. governments. As the support of President Truman and Premier Attlee to the arbitration proposal of the Commission showed, the U.S. member of the Commission had been in communication with his government. On this subject the minority report of the Commission, signed by the Czechoslovak member, threw considerable light. He disclosed that the verbatim text of the arbitration proposal of the Commission came into the hands of the British High Commissioners in New Delhi and Karachi at the same time or even sooner than it was officially presented to the Indian Government, without even an attempt by the Commission—despite urgings by its Chairman at the time—to institute an enquiry into a flagrant breach of the integrity of the confidential proceedings of the Commission. Again, at the instance of the U.S. member, the political conference, agreed to by both India and Pakistan, was cancelled four days before it was due to meet on 22 August 1949, and the U.S. member's proposal for arbitration was adopted by the Commission, the Czechoslovak delegation abstaining. This proposal recommended Admiral Chester W.

Nimitz as arbitrator.

The minority report of the Commission states:

The course of the discussions on the offer of the arbitration of the truce agreement—for which the Commission was not even authorized on the basis of its terms of reference—made it clear indeed that the Commission was not free from outside influence, although it was to act only according to the mandate of the Security Council in the interests of the United Nations Organization as a whole.³⁹

To complete its failure, the Commission expressed the view that the framework of the resolution of 13 August had become inadequate in the light of the factual conditions in the State. Thus not only did it fail to secure the withdrawal of Pakistan troops from the State, the disbandment and disarmament of Azad Kashmir forces, and ensure the defence of the northern areas, but it went back on its own resolution which was hardly one year old. Apart from the cease-fire and the cease-fire line, the Commission left the situation much worse than it had found on its arrival on the Indian subcontinent.

However, the Commission explained the position of India with considerable clarity in its third interim report,⁴⁰ and what it said is worth reproducing.

India considers itself to be in legal possession of the State of Jammu and Kashmir by virtue of the instrument of accession of October 1947, signed by the Maharaja of the State and accepted by the then Governor-General of India. From this basic premise, that is, the legality of its presence in the State and its control over it, there flow logically certain corollary attitudes. The assistance which Pakistan rendered to tribesmen who made incursions into the State constituted, therefore, a hostile act; the entry of elements of the Pakistan regular army into the State was an invasion of Indian territory. India has its armies in

39. UNCIP Minority Report, S/1430/Add. 3.

40. S/1430/Rev. 1, para 200.

Kashmir as a matter of right, and controls the defence, communications, and external affairs of the State as a consequence of the act of accession while Pakistan has no *locus standi* [in Kashmir].

From the fact of accession flows India's claim to be responsible for the security of the State; hence, the problem of demilitarization must take into account the importance of leaving in the State sufficient Indian and State forces to safeguard the State's security. A plebiscite in the State would be for the purpose of confirming the accession which is, in all respects, already complete.

India's claim regarding the northern areas of the State is also based on its fundamental argument. Its refusal to discuss with the Pakistan Government, or even to allow it to know the details of withdrawal of the bulk of the Indian forces, is not only in line with that part of the resolution which provides for the prior withdrawal of Pakistan troops, but follows on India's insistence that Pakistan is illegally in Kashmir and has no rights in the matter. India's position on the question of the Azad forces is not only bound up with India's preoccupation regarding the security of the State, but involves the principle that forces which are in revolt against the Government of the State must be disbanded and disarmed. The cardinal feature of India's position is its contention that it is in Kashmir by right, and that Pakistan cannot aspire to equal footing with India in the contest.

When the Security Council met in December 1949 to consider the report of the Commission, it was proposed, as in 1948, that the President of the Council might bring the parties together to expedite the holding of a plebiscite by treating the problem of demilitarization as a whole. After talks with the parties, General McNaughton of Canada who happened to be the President in December 1949 produced his report which was discussed by the Council in February 1950. The Security Council, its Presidents who acted as mediators, and U.N. representatives have shown an unusual tendency to go back on or ignore the resolutions accepted by India and Pakistan and conversely to act on resolutions which India had rejected. India had made its complaint under Chapter VI of the Charter under which the Council resolutions are

recommendatory, not binding on the parties. The Commission, after giving assurances to India on the basis of which India had accepted its two resolutions, not only failed to implement the assurances, but began to make suggestions which were *ultra vires* of the resolutions. The Commission had been instructed by the Council to act in accordance with the provisions of its resolution of 21 April 1948 which India had rejected. With such scant respect for the Charter and facts, the Council and its agencies adopted courses, mostly designed to help Pakistan. This could only deepen the conflict between India and Pakistan and India and the Council.

MCNAUGHTON PROPOSALS

General McNaughton, who had opposed India and supported Pakistan in the Council in 1948, now produced proposals in which a fresh attempt was made to appease Pakistan, at the expense of India, regardless of the provisions of the U.N. Commission resolutions. His proposals were based on what he called "principal considerations," two of which were:

(a) To preserve the substantial measure of agreement on fundamental principles which had already been reached between the two Governments under the auspices of the United Nations.

(b) To avoid unprofitable discussion of the disputed issues of the past, and to look forward into the future towards the good-neighbourly and constructive cooperation of the "two great nations."

His proposals were distributed to members of the Council as a conference room paper and were not published as a Security Council document.⁴¹

On the basis of these "considerations," he made the following proposals to India and Pakistan.⁴²

(i) There should be an agreed programme of progressive demilitarization the basic principle of which should be the reduction of armed forces on either side of the cease-fire line by withdrawal, disbandment, and disarmament in such stages as not to cause fear

41. S.C.O.R., 458th meeting.

42. *Ibid.*

at any point of time to the people on either side of the cease-fire line. This meant that while the Commission's resolution of 13 August required complete withdrawal of Pakistan forces, regular and irregular, from Jammu and Kashmir, McNaughton recommended their reduction only.

(ii) The programme of demilitarization should include the withdrawal from the State of Jammu and Kashmir of the regular forces of Pakistan; and the withdrawal of the regular forces of India not required for the purposes of security or for the maintenance of local law and order on the Indian side of the cease-fire line; also the reduction by disbanding and disarming of local forces, including on the one side the armed forces and the militia of the State of Kashmir and on the other the Azad forces. Thus the Azad forces which were the irregular Pakistan troops under the control of the Pakistan High Command, according to paragraph B of Part I of the resolution of 13 August, and which were now regular troops, having been fully trained, officered, and armed by the Pakistan army, were equated with the lawful forces of the State. In addition, the State militia to which the Commission's resolutions had made no reference was roped in, without any justification.

(iii) The administration of the northern area subject to United Nations' supervision should be continued by the existing local authorities. Since the local authorities in the northern areas, as already admitted by the Pakistan Government to the Commission, were administered and controlled by the Pakistan Government, the McNaughton proposals sanctified the unlawful and surreptitious occupation of these areas by Pakistan.

Sir Benegal Rau—the representative of India in the Council—with his incisive and lucid mind, showed that the position was much worse, the proposals being no more than the Commission's proposals in disguise which India had already rejected. McNaughton had recommended that discussion of disputed past issues should be avoided. "But in these proposals many of the past issues are decided against India, and we are asked to accept this position."⁴³ According to the Commission, the northern areas were to be administered by the local authorities under the surveillance of the Commission and

43. S.C.O.R., No. 5, p. 13.

without prejudice to the sovereignty of the State.⁴⁴ The Commission was to station observers where it deemed necessary and, if the observers so advised, the Commission might request the Government of India to post garrisons at specified points. McNaughton took no account of these facts.⁴⁵

Rau quoted a letter from the Pakistan Minister to the U.N. Commission:

Ever since May 1948, when Pakistan troops entered Kashmir and overall tactical control was taken over by G.H.Q. Pakistan, the Commandant Gilgit Scouts, a Pakistan Army Officer has been exercising overall tactical and administrative control of Gilgit Scouts, Baltistan Scouts, and local militias.⁴⁶

To show what happened in June and July 1948, Rau said:

I read in paragraph of the same letter that a contingent of 400 so-called volunteers from Chitral go and besiege Skardu, while the Skardu forces go and besiege Leh. All this happened under the auspices of the Pakistan High Command. These are not tribal incursions; they are incursions by so-called volunteers from one part of the State into another part—volunteers recruited and organized by Pakistan authorities. Unless this process is checked, it will go on as in the past and no part of the State will be safe from infiltration and attack.⁴⁷

As years passed, these words proved prophetic.

Summing up his analysis, Rau said: "In effect, therefore, in crucial respects the new proposals are the old proposals minus some of the small concessions previously made to India plus certain new concessions made to Pakistan."⁴⁸ The "existing local authorities," mentioned in McNaughton proposals, drew their powers from Pakistan. They were, therefore, merely instruments of the Pakistan Government. By sanctioning the administration of the

44. S/1430, Annex 17, Appendix, para 3, Section A.

45. S.C.O.R., No. 5, pp. 13-6.

46. S/1430, Annex 24.

47. S.C.O.R., No. 5, pp. 16-7.

48. *Ibid.*, p. 17.

northern areas by the existing local authorities, McNaughton, in effect, recognized and helped to perpetuate the unlawful occupation of those areas by Pakistan.⁴⁹

McNaughton proposals sprang from an assumed false analogy between the Pakistan army and the Indian army, as also between the so-called Azad forces and the Kashmir State forces. They completely ignored the legal and moral aspects of the question. The Indian army had gone into the State at the request of the lawful government of the State, in order to repel an actual admitted invasion by tribesmen and Pakistan nationals. The request had emanated not only from the ruler of the State but also from the leaders of the largest political party in Jammu and Kashmir. The Pakistan army, on the other hand, invaded the State, although the Pakistan Government had previously denied giving any aid to the invaders and had promised to apprise the Security Council of any material change that might occur in the situation. As for the Azad forces they were no more than a limb of the Pakistan army, built up for the most part by that army after its unlawful invasion of the State, and they could therefore in no way be put on the same level as the lawful forces of the Kashmir State.⁵⁰

Finally, McNaughton proposals sought to repudiate all the assurances given to India by the Commission to which, with the agreement of the Commission, India had pegged its acceptance of the resolutions of the Commission. These proposals sought to set aside the sovereignty of the Jammu and Kashmir government over the areas on the other side of the cease-fire line, in other words, from nearly one half of the entire area of the State. Secondly, the administration of those areas by "existing local authorities," an expression then interpreted in certain quarters to mean the Azad Government authorities when the Commission had refused to accord any recognition, *de facto* or *de jure*, to the so-called Azad Kashmir government, was recognized. Thirdly, the consolidation effected by Pakistan troops to the detriment of the State was allowed to remain. Fourthly, the disarming and disbanding of the Azad Kashmir forces was neutralized by similar disarming and disbanding of the State forces

49. *Ibid.*, p. 10.

50. *Ibid.*

and the State militia. Fifthly, the claim made by the Government of India in respect of the northern areas was dismissed.⁵¹

McNaughton proposals, which were rejected by India, have been examined in some detail to show how the professions of the members of the Council of bringing about a fair settlement were belied by their actions. Besides, McNaughton proposals were to come up again and again in some form or another in the succeeding years in the proposals of Dixon and Graham and in various draft resolutions of the Council. The agreement which these members sought to bring about between India and Pakistan was usually made impossible by their partisan proposals, almost invariably in favour of Pakistan. When the two countries did achieve some agreement, as they did in the case of the resolutions of the Commission, efforts were made to undermine it, as in McNaughton proposals.

These proposals were not produced by an individual member of the Council. They had been hatched by the U.K. and the U.S.A. and their allies in the Council. This explains why these countries gave uncritical support to the proposals in the Council, not one of the members offering any criticism of them. However, India was adamant, and the nefarious proposals fell through. Even then, while approving the appointment of Sir Owen Dixon as the U.N. representative, the Council asked him to bear in mind the proposals made by McNaughton.⁵² The Council had forgotten nothing and learnt nothing. It is difficult to resist the conclusion that what the Council was interested in was not a fair and lasting solution of the problem but a settlement favouring Pakistan which it tried again and again to impose on India.

As he had done in 1948, Zafrullah Khan attempted to cloud the issue in the Security Council, though with a difference. In his statements on 8 and 9 February 1950, he asserted that Pakistan had assumed no international obligation as regards Kashmir except the resolutions of the U.N. Commission.⁵³ He could not have forgotten that in 1948 he had said again and again that Pakistan had given no aid or assistance to the invaders whom it had tried to res-

51. *Ibid.*, p. 11.

52. *S.C.O.R.*, No. 11, p. 2.

53. *S.C.O.R.*, No. 6 and No. 7.

train by every means short of war, thereby admitting its international obligation under the Charter not to assist in any act of aggression against India in Kashmir. In contrast, he now felt emboldened to proclaim the inability of the people of Pakistan to remain indifferent while, as he alleged, their brethren were being massacred and compelled to leave their homes to seek refuge in Pakistan. "Therefore, that movement started from Pakistan in the tribal areas into Kashmir; they had to go to their assistance."⁵⁴ So "the movement started from Pakistan." Did he remember that he had rejected this suggestion in 1948 when Ayyangar charged Pakistan with aiding and abetting the tribal invasion?

Not content with going back on what he had said no less passionately in 1948, he argued seriously why Kashmir was essential to Pakistan.

The possession of Kashmir can add nothing to the economy of India or to the strategic security of India. On the other hand, it is vital for Pakistan. If Kashmir should accede to India, Pakistan might as well, from both the economic and the strategic points of view, become a feudatory of India or cease to exist as an independent sovereign State. That is the stake of the two sides; these are the considerations.⁵⁵

And yet when Benegal Rau asked him whether, since apparently what he desired was possession not accession, it was the position of Pakistan that in the event of the plebiscite resulting in favour of India, Kashmir should nevertheless be allocated to Pakistan on the grounds Zafrullah Khan had mentioned,⁵⁶ the latter replied that Pakistan would take the risk.⁵⁷ In other words, Pakistan was prepared to take the risk of becoming a feudatory of India and ceasing to exist as an independent sovereign State! Only members of the Security Council could swallow this kind of logic and reasoning. If Kashmir was vital to the security and existence of Pakistan, plebiscite was obviously of no consequence; if, on the other hand,

54. S.C.O.R., No. 6, p. 12.

55. *Ibid.*, p. 8.

56. S.C.O.R., No. 536, para 71.

57. *Ibid.*, para 74.

Pakistan believed in plebiscite, its argument about Kashmir being vital to Pakistan was nothing but an attempt to annex the State.

During the debates in 1950, the Pakistan Foreign Minister made assertions and denied them, as it suited the occasion. The new debates demonstrated that his capacity for this type of performance had suffered no diminution. On 9 February, he tried to disprove the charge that Pakistan had increased the strength of the so-called Azad Kashmir forces, which were under the overall control of the Pakistan High Command, and claimed that as a matter of fact their strength had undergone no change ever since the Commission's arrival. It was 32 battalions both when the Commission arrived in July 1948 and when it took its final leave in 1949.⁵⁸ This, as already shown, was at complete variance with the Commission's finding. Because of this fact, the situation, according to the minority report of the Commission, had undergone an absolute change.⁵⁹ To Zafrullah Khan the number of the battalions was more important than their training, arms, equipment and reorganization.

In 1948, he had told the Council that tribesmen had gone to Kashmir, not across Pakistan territory but via Swat, a Princely State in the north of West Pakistan,⁶⁰ and from Swat to the northern areas of Kashmir. Having presumably forgotten that statement, he now exposed the absurdity of any such suggestion which had arisen out of India's claim to garrison the northern areas to prevent any further aggression from Pakistan. If any tribal invasion took place at all, he said, it would not take place in the northern areas, which had very high valleys and were sparsely populated. What would the tribesmen wish to do there even if they could get over the high passes? If the object was to get into the valley, they could not come through the northern areas.⁶¹

In a subsequent debate, the Pakistan Foreign Minister was to excel almost all his previous performances. He claimed that, by being in Kashmir, Pakistan was carrying out the object of the

58. *S.C.O.R.*, No. 7, p. 4.

59. *S/1430/Add. 3*.

60. *S.C.O.R.*, Nos. 1-15, p. 242.

61. *S.C.O.R.*, No. 7, p. 20.

Security Council's resolution of 17 January 1948.⁶² In other words, a resolution of the Security Council, he suggested, had authorized Pakistan to commit aggression! The Pakistan Government had never before made such a statement in the Council or to the Commission. He was fully aware of the Commission's own view of the matter.⁶³ He gave no reasons for his extraordinary assertion and the Security Council obliged him by not asking for any.

As in earlier years, whenever threatened with instant and unavoidable exposure, Zafrullah Khan admitted facts, thereby recanting whatever he had said earlier to the contrary. In a statement before the Council on 15 January 1948, Gopaldaswami Ayyangar had referred to the atrocities committed by tribal raiders in the town of Baramulla which was sacked on 27 October.⁶⁴ Zafrullah Khan had denied any knowledge of these atrocities. "I have no knowledge," he said, "and my government has no knowledge with regard to what has actually been happening inside the Kashmir State, except so far as reports have appeared or communications have been directly addressed to my government."⁶⁵ On 8 February 1950, however, he admitted in the Council that "all sorts of regrettable incidents did occur in Baramulla."⁶⁶ This was because by then facts had become widely known and could no longer be denied. On 10 February he went further and said: "We have not denied that the tribesmen were guilty of that kind of thing."⁶⁷ So much for the so-called "liberators."

Facts, logic, consistency—nothing seemed to matter. The Council proceedings touched a new low when Zafrullah Khan, after having rejected the resolution of 21 April 1948, announced on 10 February 1950, nearly two years after it was adopted, that the Pakistan Government accepted the same resolution!⁶⁸ By making this statement, Pakistan simultaneously accepted two kinds of resolutions which in vital parts destroyed each other, namely,

62. *S.C.O.R.*, No. 534, para 72.

63. *S/1100*, paras 127-9.

64. *S.C.O.R.*, Nos. 1-15, p. 17.

65. *Ibid.*, p. 115.

66. *S.C.O.R.*, No. 6, p. 16.

67. *S.C.O.R.*, No. 8, p. 24.

68. *Ibid.*, p. 28.

the resolution of 21 April 1948 of the Security Council and the resolutions of 13 August 1948 and 5 January 1949 of the U.N. Commission. In thus trying to make the best of both worlds, Pakistan could take its position on one or the other resolution, depending upon the circumstances and the subject under discussion. The Council paid no attention to this important, though ludicrous, development. If Pakistan accepted the resolution of 21 April 1948 which made no provision for the withdrawal of Pakistan armed forces from Kashmir, then it had repudiated the U.N. Commission's resolution of 13 August to which the withdrawal of Pakistan troops from the State was essential. Similarly, the resolution of 21 April provided for a coalition government for Jammu and Kashmir including the elements to which Pakistan had given aid and assistance, while the resolutions of the U.N. Commission not only made no such provision but upheld the authority of the lawful government of Jammu and Kashmir. And yet at no time had Zafrullah Khan declared that his country was no longer bound by the resolutions of the Commission.

Neither the Council nor the Commission took the trouble to examine an inherent contradiction in the Commission's view, based on the Pakistan contention, according to which, for instance, any extension of India's military control to the northern areas would mean extension of military operations.⁶⁹ What both forgot was that, according to the Commission itself, it was during the period of cease-fire that Pakistan had acquired military control of the northern areas. Obviously, Pakistan could not have done this without extending military operations to those areas. How could extension of military operations by Pakistan on Indian territory be considered to help the cause of peace but extension of military operations by India over its own territory as helping the cause of war? The Pakistan Foreign Minister asked whether, even if India's claim to occupy those areas under the control of the Azad Kashmir government was based on "legalistic conception of sovereignty," such an extension would help the people of Kashmir to record their views freely in a plebiscite or would retard such a development.⁷⁰

69. S/1430, para 259.

70. S.C.O.R., No. 11, p. 7.

Obviously no less, and perhaps more, than the extension of Pakistan military control over the same areas. The Commission had never said it was the so-called Azad Kashmir government which had extended its control over the northern areas. According to the Commission, it was Pakistan. Dixon confirmed this. One could legitimately ask Zafrullah Khan whether, according to his own logic, the extension of Pakistan military control over the areas had helped the people of the areas to record their views freely or did it not retard such a development?

As part of the same web of confusion which Zafrullah Khan desperately strove to weave was the insistence of Pakistan, on the one hand, on the Azad Kashmir forces being operationally under the control of the Pakistan army, responsible for the overall command of those forces,⁷¹ and, on the other, on the political control over those forces, which he would have the Commission believe, vested in the so-called Azad Kashmir government that, he said, alone had the authority to issue a cease-fire order to those forces.⁷² The Commission had already decided that "it should avoid any action which might be interpreted as signifying *de facto* or *de jure* recognition of the 'Azad Kashmir government.'"⁷³ Even the Pakistan Government, according to Zafrullah Khan, had not granted legal recognition to the Azad government "in view of the implications which might ensue."⁷⁴ Pakistan objected to any control over or interference with the so-called Azad Kashmir administration in the area to be vacated by Pakistan troops.⁷⁵

In contrast with this solicitude for subversive administrations which it had set up in the areas under its unlawful occupation, Pakistan pressed for the substitution of a neutral administration for the lawful government of Jammu and Kashmir. A government, which had denied any responsibility for the tribal invasion and denied committing any aggression against India, now claimed special dispensation in the affairs of the State, in the direction and control

71. S/1100, Appendix to Annex 27.

72. S/1100, p. 42.

73. S/1100, para 69.

74. S/1100, para 132.

75. S/1100, p. 43.

of subversive agencies of its own creation, and in the disposal of all troops under its command. Even though Pakistan had turned down the resolution of 21 April 1948, at one stage it insisted on the Commission obtaining India's acceptance of plebiscite as detailed under that resolution, fully aware that India had rejected it.⁷⁶

As in 1948, the confusion was worse confounded by members of the Council. McNaughton, like Noel Baker, advised the parties not to go into the past. The U.K. representative was not in favour of considering "legal claims of doubtful value."⁷⁷ The French and the U.S. representatives expressed similar views. In dealing with the problems of India and Pakistan, said the representative of Ecuador, the Council need not concern itself unduly with what had happened over the previous two years.⁷⁸ Thus Pakistan violations of the resolution of 17 January 1948 of the Security Council and the resolutions of the U.N. Commission were of little account, as also were India's claims. In the view of these estimable gentlemen, the invasion of Indian territory first by Pakistan irregulars and then by the Pakistan army had made no difference to the basic problem, whatever it might be.

In sub-paragraph 2(b) of his proposals, McNaughton said: "The northern area should also be included in the above programme of demilitarization and its administration should, subject to United Nations supervision, be continued by the existing local authorities." Commenting on this proposal, Sir Terrence Shone, the U.K. representative, said during his statement on the draft resolution moved by Cuba, Norway, the U.K., and the U.S. on 8 March 1950: "The sponsors have therefore assumed, as Gen. McNaughton appeared to assume in paragraph 2 of his proposals, that there could be no question of making any change in the civil administration in the northern area."⁷⁹ In this way, not only was India prevented from occupying the northern areas, even though the Commission admitted that Pakistan had extended its control over them after the cease-fire, the existing authorities were to continue. Since those

76. S/1100, p. 44.

77. S.C.O.R., No. 9.

78. S.C.O.R., No. 10, p. 3.

79. S.C.O.R., No. 11, p. 91.

authorities were directly appointed by and answerable to the Pakistan Government, McNaughton and the Council sought to introduce a grave element of discrimination into the matter. It is hardly surprising that Zafrullah Khan said that the view expressed by Shone was "completely satisfactory" to him.⁸⁰

DIXON'S REPORT

Just as the Council had ignored the far-reaching changes brought about by Pakistan aggression and its violations of agreed resolutions, as reported by the U.N. Commission, it set aside the Dixon report, particularly his recommendation that the matter had been discussed threadbare and it should now be left to India and Pakistan. After discussing a series of proposals in which he, like McNaughton, went beyond the provisions of the resolution of 13 August and the assurances given to the Prime Minister of India by the Commission, Dixon recorded his views as follows:

I ascertained from the Prime Ministers that they considered that, with such a plebiscite in view, there was no longer any hope of agreement upon demilitarization or upon the conditions which would follow demilitarization or upon any modified form of demilitarization or upon any course that would advance the position towards a settlement.⁸¹

He admitted that under the resolutions of the Commission the agreement of India to the course to be pursued in matters of plebiscite was a condition precedent to carrying out a plebiscite.⁸² This arose out of the fact that the resolutions were based upon the recognition of the sovereignty of the Union Government in the field of defence and of the Jammu and Kashmir government in matters of internal administration. He had himself expressed an opinion on the issue of Pakistan aggression.

Upon a number of occasions, in the course of the period beginning with the reference on 1 January 1948 of the Kashmir dispute

80. S.C.O.R., No. 11, p. 9.

81. Dixon's report, S/1791 para, 53.

82. *Ibid.* (incorporating S/1791/Add. 1), para 98.

to the Security Council, India had advanced not only the contention to which I have already referred that Pakistan was an aggressor, but the further contention that this should be declared. The Prime Minister of India at an early stage of the meeting made the same contention and referred to it repeatedly during the conference. I took up the positions, first that the Security Council had not made such a declaration; secondly, that I had neither been commissioned to make nor had I made any judicial investigation of the issue; but thirdly that, without going into the causes or reasons why it happened, which presumably formed part of the history of the subcontinent, I was prepared to adopt the view that when the frontier of the State of Jammu and Kashmir was crossed, on I believe 20 October 1947, by hostile elements, it was contrary to international law, and that when, in May 1948, as I believe, units of the regular Pakistan forces moved into the territory of the State, that too was inconsistent with international law.⁸³

Pakistan representatives have tried to dismiss this view expressed by a judge of the Australian Supreme Court as a superficial opinion not based on any investigation of facts and evidence. They forget, as Krishna Menon was to point out, that even without making an investigation, the facts were so clear that the aggression stuck out a mile, and Dixon, with his judicial mind, could not help calling a spade a spade.

His considered view was that the State of Jammu and Kashmir was not really a unit geographically, demographically, or economically. It was an agglomeration of territories brought under the political power of one ruler. If as a result of an overall plebiscite, the State as an entirety passed to India, there would be large movements of Muslims and another refugee problem would arise for Pakistan. If the result favoured Pakistan, a refugee problem, although of not such dimensions, would arise for India, because of the movement of Hindus and Sikhs. He added:

Almost all this would be avoided by partition. The interest of the people, the justice as well as the permanence of the settle-

83. *Ibid.*, p. 21.

ment, and the imperative necessity of avoiding another refugee problem all point to the wisdom of adopting partition as the principle of settlement and of abandoning that of an overall plebiscite. But in addition the economic and geographic considerations point in the same direction.⁸⁴

But strangely enough, like McNaughton, he began to make proposals which were *ultra vires* of the Commission's resolution of 13 August, so much so that at one stage the Prime Minister of India was forced to write to him that his proposal would involve the supersession of the lawful government of the State, the participation of Pakistan in the plebiscite, and the calling in of Pakistan troops, all three constituting, in effect, a surrender to aggression.⁸⁵

In the end Dixon advised the Council that since the whole question had been thoroughly discussed by the parties with the Security Council, the Commission and himself, and the possible methods of settlement had been exhaustively investigated, it was perhaps best that the initiative should pass back to the parties. At all events he was not prepared to recommend any further course of action on the part of the Security Council.⁸⁶

SOVIET INTERVENTION

The Council paid no heed to his recommendations and, significantly, in this matter, the lead was given by the U.K. representative. Even before the report could be considered, the U.K. and the U.S.A. introduced a draft resolution, criticizing a resolution of the National Conference about convening a constituent assembly for the framing of a constitution. Sir Gladwyn Jebb, the U.K. representative, said on 21 February 1951 that "no reference to the people of Kashmir regarding the future accession of the State made otherwise than under the auspices and with the free consent of the United Nations can be regarded as constituting a settlement acceptable to this Council."⁸⁷ In other words, whatever the circumstances,

84. *Ibid.*, para 101.

85. *Ibid.*, Annex 1, p. 49.

86. *Ibid.*, para 104.

87. *S.C.O.R.*, No. 532, p. 7.

however fair the method, the U.K. and the U.S.A. would not consider any other way of ascertaining the wishes of the people as constituting a settlement except the one satisfactory to them and their supporters. This despite the fact that the U.N. Commission and Sir Owen Dixon had put on record grave violations by Pakistan of the resolutions of the Security Council and the U.N. Commission and that McNaughton and the Council themselves had tried to undermine the position of India under these resolutions, thereby making their implementation impossible. The Council clung to its own cherished illusions and partisanship. As in 1948 and 1950, the Council refused to face the facts or respect the rule of law or the rights of sovereign member-States under the Charter, and thus introduced a further element of rigidity which was to defy all subsequent attempts to bring about a fair and rational solution.

The draft resolution made a provision for the introduction of a neutral armed force into Kashmir and for arbitration if necessary—two proposals on which India had never left the Council in any doubt about its opposition. The draft resolution tried to short-circuit the UNCIP resolutions and the resolution of 17 January 1948 of the Security Council, all this in the name of fair and impartial plebiscite. Contrasting the draft resolution with the resolutions of the U.N. Commission, Benegal Rau said that in vital matters affecting the security of the State, Pakistan would have a right to be consulted. Furthermore, if Pakistan was not in full agreement with India, the point would have to be decided by arbitrators in whose selection again Pakistan would have the right to be consulted. Thus the U.K.-U.S. draft resolution sought to reopen, in favour of Pakistan, issues which had been settled by the Commission's resolution of 13 August 1948. First, it sought to give Pakistan a voice in matters in which Pakistan, as an invader of the State, had been rightly denied any voice under the older resolution and, secondly, it sought to transfer to arbitrators the right to make vital decisions which, under the older resolution, required India's agreement.⁸⁸

The Council by now had demonstrated its lack of realism and objectivity and it is not to be wondered at that India looked with

88. *S.C.O.R.*, 538, pp. 3-7.

suspicion on everything proposed by the U.K. and the U.S.A. All these proposals had initially been advocated by Pakistan which brought them up on almost every occasion. A feeling grew in India that the Council, thanks to the lead given by the U.K., held a brief for Pakistan and was not interested in the merits of the case or in the well-being of the people of India, including the people of Kashmir. The Council's doctrinaire approach to the problem made it insoluble.

The U.S. representative, Gross, advocated an admirable principle to which neither the U.K. nor the U.S.A. ever adhered. He said:

The United States Government firmly believes that there can be no real and lasting settlement of the Kashmir dispute which is not acceptable to both parties. Any attempt to decide the issue without the consent of both parties would only leave a constant and explosive irritant in the relations between these two Governments, an irritant which would effectively prevent the bringing about peace and security in South Asia.⁸⁹

This excellent principle was ignored when the U.S.A. and the U.K. voted for the resolution of 21 April 1948 of the Security Council, which both India and Pakistan had rejected; when the U.K. and the U.S.A. recommended the McNaughton proposals, which India had rejected; when they recommended again and again the replacement of Indian troops by neutral troops, including Pakistan troops; and finally when they supported arbitration, which India had repeatedly expressed its inability to accept. They also ignored the fact that India was the complainant and that its complaint had been proved to be true, not only as originally lodged but in an aggravated form. Not content with assisting the invaders, Pakistan itself had become an invader.

Benegal Rau minced no words in opposing the draft resolution.

While my government stands by all its commitments, it insists that all the commitments made to India contained in the resolutions of the United Nations Commission for India and Pakistan

89. *S.C.O.R.*, No. 532, p. 11.

and the connected assurances must also be honoured. The present draft resolution unsettles what has already been settled, and, if passed, would amount to a repudiation by the Security Council of the U.N. Commission's decisions previously made with the agreement of the parties, and of the Commission's assurances given to India.⁹⁰

Strong words coming from a man who had a reputation for being soft-spoken in the United Nations.

Zafrullah Khan made much of the assurance his government was prepared to offer to India to prevent any future incursion of tribesmen into the State. In the the first place, a guarantee and an assurance of that kind should be enough, he said. But, in the second place, Pakistan was eager to obtain a settlement of the question through a fair and impartial plebiscite. Would Pakistan be the first to destroy every chance of that settlement being arrived at by mounting an invasion of the State after the cease-fire had taken place and the truce had been settled? Would it not, he asked, completely put itself out of consideration for ever in the dispute? Would any reasonable government lend itself to an action or a policy of that kind?⁹¹ Pakistan had done exactly what Zafrullah Khan said no reasonable, and one might add responsible, government would do. Pakistan was to do it yet again in 1965. Pakistan had not honoured a single understanding or agreement or assurance. It violated the standstill agreement with the Ruler by an invasion in disguise and the Security Council resolution of 17 January 1948 by direct invasion; it violated the resolution of 13 August by annexing the northern areas and putting teeth in the Azad Kashmir forces, both during the period of cease-fire; by accepting the McNaughton proposals which destroyed the resolutions of the Commission; by accepting the resolution of 21 April 1948, two years after it was adopted by the Council. In their vital provisions, the two resolutions were contradictory. The UNCIP resolution of 13 August had superseded the Council's earlier resolution of 21 April. The resolution of the Commission had been accepted by both parties; the Council's resolution had not been so accepted. Belated acceptance

90. *S.C.O.R.*, No. 533, p. 12.

91. *S.C.O.R.*, No. 534, para 77.

by Pakistan of the resolution of 21 April, two years after its adoption by the Council, was, therefore, *ultra vires* of the resolution of the Commission or was intended to annul it. Obviously, Pakistan was wriggling out of the Commission's resolution of 13 August 1948.

Benegal Rau's statements in the Council in 1950 on the reports of the Commission are a classic. In their analytical clarity, terse and concise exposition, and comprehension of essentials, they are unrivalled. From time to time he would put in a paragraph the essence of the whole problem. Giving a history of developments in Kashmir, where he had served as Prime Minister, he said:

Today, the position is that Pakistan, which throughout the discussions here in 1948 denied giving any aid either to the invaders or to the Azad Kashmir forces, is now itself not only an invader but is in actual occupation of nearly half the area of the State without any lawful authority from any source. This is naked aggression of which no one can approve, but there is no hint or sign of disapproval in the present proposals [i.e. McNaughton proposals]. Indeed the very reverse is the case. By sanctioning the administration of the northern areas by the existing local authorities, these proposals, in effect, recognize and help to perpetuate the unlawful occupation of these areas by Pakistan.⁹²

He showed how the McNaughton proposals eliminated one by one all the assurances which the Commission had given to India.

When the case left the Security Council in April 1948, there were only two things standing between Kashmir and the plebiscite. The invaders had to withdraw and then the Indian army was to be reduced. In May 1948, Pakistan created a new complication by sending in its army. As the price of withdrawing this army, which never should have been there, Pakistan obtained, under the Commission's resolution of 13 August 1948, the concession that the evacuated territories, then confined to the south-western part of the State, would be administered by "local authorities under the surveillance of the Commission" subject to the sovereignty of the State. But Pakistan was not content. It did

92. S.C.O.R., No. 5, p. 10.

not accept the resolution until 25 December 1948. Meanwhile, it created another complication by building up the Azad Kashmir forces. As the price for the disbanding and disarming of these forces, it obtained a further concession in the resolution of 5 January 1949. Under the McNaughton proposals it is now to receive some more concessions.⁹³

Benegal Rau also focussed attention on several points on which Zafrullah Khan had slipped up rather badly, further proving the falseness of statements which he had made in 1948 on behalf of the Pakistan Government. An appraisal of the military situation from Pakistan's British Commander-in-Chief, General Gracey, dated 20 April 1948, justifying invasion of the Indian territory of Kashmir, which Zafrullah Khan read out, included the following paragraph:

An easy victory of the Indian army in any of the above-mentioned sectors, particularly in the Muzaffarabad area, is almost certain to arouse the anger of the tribesmen against Pakistan for its failure to render them more direct assistance, and might well cause them to turn against Pakistan.⁹⁴

The words "more direct assistance," Benegal Rau pointed out, was a most damaging admission, proving that in spite of the Pakistan representative's protestations, Pakistan had in fact rendered the tribesmen, even before 20 April 1948, some kind of assistance, direct or indirect.⁹⁵ He further asked Zafrullah Khan whether, before the Pakistan army was actually sent into Kashmir, the U.K. Government had been consulted or informed. He asked this question because, in his view, the recommendation involved a serious offence against the British Foreign Enlistment Act. Zafrullah Khan was also asked whether the Pakistan C-in-C had cautioned the Pakistan Government that the step which he was recommending might constitute a breach of international law. No direct reply was forthcoming to these questions. The U.K. representative observed discreet silence.

93. *Ibid.*, pp. 12-3.

94. *S.C.O.R.*, No. 6, p. 29.

95. *S.C.O.R.*, No. 8, p. 2.

The justification pleaded by Pakistan was that the sending of the Pakistan troops into Jammu and Kashmir was necessitated by considerations of self-defence. Dealing with this particular point, Benegal Rau drew the attention of the Council to Article 51 of the Charter. This article imposes two limitations upon the right of self-defence: first, there must be an armed attack upon the member that exercises the right; and, secondly, measures taken in the exercise of the right of self-defence must immediately be reported to the Security Council. In this case, there was no armed attack by India on Pakistan, and admittedly the sending of the Pakistan army into Kashmir was not reported to the Security Council.

Zafrullah Khan had said that the dispatch of Pakistan troops was necessitated by India's mounting an offensive against the raiders. In reply, Benegal Rau said that the Security Council knew that the Indian army had gone to Kashmir to repel the invaders, but it was curious to learn that, although Pakistan, according to its defence before the Council, had been rendering no assistance whatever to the raiders, nevertheless when it found that India was on the point of expelling the raiders, sent its army into Kashmir in order to hold the line. Pakistan had stated that it did not do anything more, whereas both from the majority and from the minority reports of the Commission, Pakistan not merely held the line but extended its military control over the northern areas between August 1948 and January 1949. This was not a case of merely holding the line, but of occupying as large a part of the State as Pakistan's military strength permitted.⁹⁶

Reputed for making an understatement, Benegal Rau always took a stand on facts which were put simply but with crystal clarity. On the question of Kashmir, he said:

Indian public opinion cannot forget the fundamental facts that India voluntarily offered a plebiscite under United Nations auspices; that in spite of this Pakistan chose to invade the State and occupy nearly half of it by force in violation of international law, as Sir Owen Dixon himself has found; that to allow this occupation or its fruits to continue is wrong enough; and that

96. *Ibid.*, pp. 4-5.

to grant Pakistan any further concessions would be to aggravate the wrong and therefore would be completely unjustifiable.⁹⁷

Under the guise of arbitration, issues which had already been closed by the resolutions of 13 August 1948 and 5 January 1949 and by the assurances given to India by the United Nations Commission could not be reopened.⁹⁸

The Commission had turned its back on the implications of its own findings. McNaughton tried to drag the matter further away from the facts recorded by the Commission. The Council lent a helping hand and made an attempt to bring about a divorce from the resolutions of the U.N. Commission and even its own resolution of 17 January 1948. When Dixon struck a note of realism, the Council would have nothing to do with it, and continued to veer away from the agreed resolutions. It was not a mere accident that even before India and Pakistan had spoken, the U.K. and the U.S.A. introduced a draft resolution recommending measures which they knew India had repeatedly rejected in the past and was bound to reject again. They also knew that those measures had been advocated by Pakistan and would be welcomed by it. The Council's prejudice against India and partiality for Pakistan stood self-exposed.

By his exposure of the draft resolution, Benegal Rau drove home the point that the draft resolution if adopted would destroy the resolutions of the Commission. The Council which at the instance of Pakistan, the U.K., and the U.S.A. was inclined to roam where it liked, forgetting its limitations and even the obligations imposed upon it by the parties' acceptance of certain resolutions, suddenly found itself in chains. The devious manner in which it had tried through the McNaughton proposals and the U.K.-U.S. draft resolution to modify the UNCIP resolutions in favour of Pakistan failed, but these efforts were to sow the seeds of a more violent conflict in the years to come. Its insistence on demilitarization in disregard of the provisions of the UNCIP resolution of 13 August 1948, as a prelude to a free and impartial plebiscite, was matched only by its incapacity to appreciate the people's effort

97. *S.C.O.R.*, No. 533, p. 5.

98. *S.C.O.R.*, No. 536, p. 9.

to solve the problem in their own way and to their own satisfaction through a constituent assembly, a democratic constitution, and successive general elections. The known views of 75 per cent of the people of Jammu and Kashmir were rejected by the Council in favour of the unknown wishes of the remaining 25 per cent living under Pakistan military occupation. The Council went lyrical over the rights of the people of Jammu and Kashmir in academic debates thousands of miles away from the scene of conflict, but protested vigorously when the same people tried to exercise those rights.

There was, therefore, some ground for the Soviet representative's attack on the U.K. and the U.S.A. in Paris on 17 January 1952. The Soviet Union had taken no part in the Council debates in 1950; in fact its representative was absent from all meetings called to discuss Kashmir. When voting took place on the U.K.-U.S.A. draft resolution on 14 March 1950, its representative was absent. In 1951, the Soviet representative attended the meetings but abstained when the U.K.-U.S.A. draft resolution was put to vote on 30 March 1951. Making his major intervention in the debate, Malik said:

The United States of America and the United Kingdom are continuing as before to interfere in the settlement of the Kashmir question, putting forward one plan after another. . . . These plans in connection with Kashmir are of an annexionist, imperialist nature, because they are not based on the effort to achieve a real settlement. The purpose of these plans is interference . . . in the internal affairs of Kashmir, the prolongation of the dispute between India and Pakistan on the question of Kashmir, and the conversion of Kashmir into a protectorate of the United States of America and the United Kingdom under the pretext of rendering assistance through the United Nations. Finally, the purpose of these plans in connection with Kashmir is to secure the introduction of Anglo-American troops into the territory of Kashmir and convert Kashmir into an Anglo-American colony and a military and strategic base.⁹⁹

The U.S.S.R. Government, he said, considered that the Kashmir

99. S.C.O.R., 570th meeting.

question could be resolved successfully only by giving the people of Kashmir an opportunity to decide the question of the constitutional status of Kashmir by themselves without outside interference. This could be achieved if that status was determined by a Constituent Assembly democratically elected by the Kashmir people.¹⁰⁰

India rejected the resolution. Because of the partial ways of the Council, the parties found themselves in a blind alley, unable to withdraw or break through. The deadlock was complete.

CHAPTER THREE

BACK TO FUNDAMENTAL FACTS

SIX YEARS passed. Two of these were taken by Dr. Frank P. Graham, the U.N. representative who succeeded Sir Owen Dixon, to record his failure to bring about an agreement on demilitarization, a term wrongly conceived and equally wrongly applied in practice.

It was the area under the military occupation of Pakistan, which had seized it by aggression against India, that had to be demilitarized, not the area of Kashmir under the administration of the lawful government of Jammu and Kashmir, a constituent State of the Indian Union. The efforts of Graham to bring about an agreement on his 12-point proposal was, therefore, foredoomed to failure, since Pakistan was not prepared to be a party to such a demilitarization and India refused to accept any proposal which sought to reward the aggressor either by permitting him to retain some of his armed forces in the occupied area or by reducing the Indian troops to a point which could guarantee no insurance of the State against any further threats from Pakistan. The Council's intention was that Graham should deal only with the question of demilitarization. He was not, therefore, concerned with anything else.¹

Some of the points which Graham suggested were no more than a mere reiteration of the provisions of the U.N. Commission's resolutions of 13 August 1948 and 5 January 1949 and the cease-fire agreement between India and Pakistan of 27 July 1949—e.g. reaffirmation by India and Pakistan not to make war on the question of Kashmir, not to make warlike statements, and reaffirmation of the cease-fire line. India had not violated any one of those resolutions

1. Graham's first report, S/2375 (incorporating S/2375/Corr. 1), paras 9 and 11.

or the agreement, though Pakistan had. Their reiteration was, therefore, unnecessary to India, but a concession to Pakistan whose previous violations were sought to be condoned.

The 12-point proposal foundered largely on the quantum and character of forces to be retained on either side of the cease-fire line. India was willing to agree, after Pakistan troops had been withdrawn and Azad Kashmir forces disbanded and disarmed, to the creation of a small civil police force for the areas evacuated by Pakistan troops. This was not acceptable to Pakistan. Graham recorded in his fifth report that India was prepared "to consider avenues of peaceful negotiations which did not violate the basic principles and standards of the two resolutions of UNCIP."² He made another admission: "It appears obvious that India under the two resolutions has some larger responsibilities on her side of the cease-fire line than the local authorities have in the evacuated territory on the other side of the cease-fire line."³ At one stage Graham proposed the stationing of U.N. troops in the State, a clear indication of Anglo-American pressure on India, exercised through the U.N. representative.

This proposal was recommended in unambiguous terms by Sir Gladwyn Jebb, the U.K. representative, who speaking in support of a U.S.-U.K. draft resolution in the Council said on 6 November 1952:

The force on each side of the cease-fire line should be, broadly speaking, *of the same kind*. I should make it clear that the United Kingdom Government has never thought that the proposal to limit the forces on the Pakistan side of the cease-fire line to be an armed civil police force while leaving a military force on the other side of the cease-fire line was consistent with a free plebiscite⁴ [*italics mine*].

In other words, a free plebiscite, according to the U.K. representative, could not be held without the presence of a military force of the aggressor in the area of Kashmir unlawfully occupied by Pakistan or if India insisted on a civil armed police in the occupied

2. S/2967, para 37.

3. S/2967, para 19.

4. S.C.O.R., 607th meeting.

territory, with the retention of the Indian army by law and choice of the people; for, by November 1952, the Delhi Agreement between the government of Jammu and Kashmir and the Government of India had been concluded and approved by the Jammu and Kashmir Constituent Assembly with a strong recommendation from Shaikh Abdullah who described the accession of the State to India as complete. The statement of Jebb made nonsense of the U.N. Commission's resolutions and the assurances given by the Chairman of the Commission to the Indian Prime Minister. The U.K. and the U.S.A. were thus determined to have a plebiscite on their own terms which favoured Pakistan and penalized India, seeking to determine the vote in advance. For a humiliated India, robbed of all its legal and political rights, and opposed by a strong combination of powers, in the world, would inevitably have a deep influence on the voters. The plebiscite which the U.K., the U.S.A., and Pakistan sought was clearly a partial one, loaded in favour of Pakistan. The leading members of the Council were back at the old game. Graham was right when he stated in his fourth report that the same difficulties that had existed as early as 1949 were still the main obstacles.⁵ The members refused to face those difficulties.

Meanwhile, in the State, Shaikh Abdullah began to have visions of an independent Kashmir developing into a Switzerland of the East with economic aid from the U.S.A. He began to go back on the fact of accession and even the Delhi Agreement. His political differences with his colleagues, who opposed his repudiation of the State's accession to India, developed rapidly. Matters came to a head and the Sadar-i-Riyasat, fearing a breakdown of the administrative machinery, dismissed him and appointed Bakshi Gulam Mohammed, the Deputy Prime Minister, as Prime Minister of Jammu and Kashmir. The new Prime Minister ordered the arrest of Shaikh Abdullah.

Another development during these six years was a series of meetings between the Prime Minister of India and the Prime Minister of Pakistan. They first met in London in May 1953, then in July and again in August of the same year. As explained in a joint

5. S/2967.

communique issued on 20 August,⁶ the Prime Ministers said that the most feasible method of ascertaining the wishes of the people was by a fair and impartial plebiscite, and they decided that the plebiscite administrator should be appointed by the end of April 1954, and though this was not put in the joint communique, the Prime Minister of India proposed the selection of the plebiscite administrator from a small country.⁷ On this important suggestion, the Prime Minister of Pakistan, it appears, was let down by his colleagues in his own Cabinet. The proposal fell through, as did Nehru's suggestion about regional plebiscite⁸ with which the Pakistan Prime Minister found fault. Mohammed Ali had also second thoughts about dropping Admiral Nimitz who had been cooling his heels as plebiscite administrator.

U.S. MILITARY AID

But what torpedoed these talks was the announcement of a military aid agreement between Pakistan and the U.S.A. As Prime Minister Nehru pointed out in a number of letters he wrote on the subject to the Prime Minister of Pakistan, this was a portentous development. It made all talks between the two countries about demilitarization absurd when the object of the military aid agreement was militarization of Pakistan. The whole issue would change its face completely if heavy and rapid militarization of Pakistan was to take place. It was a relatively small matter what force Pakistan maintained within the State of Kashmir. It could be withdrawn 30 or 40 or 50 miles into its territory, but could come back at a few hours' notice. If, however, it was backed by an increasing armed power in Pakistan itself, that was of far greater moment than the so-called demilitarization of Kashmir State.⁹ Any such military aid necessarily changed the situation in South Asia. Nehru said:

It means that Pakistan is tied up in a military sense with the U.S.A. and is aligned to that particular group of powers. It

6. *White Paper on Kashmir, 1953-54*, p. 7.

7. *Ibid.*

8. *Ibid.*

9. *Ibid.*, pp. 46-8.

affects the situation in the Middle East, and you will have noticed the adverse reactions to this in the countries of the Middle East. India is, of course, even more interested in this as it is likely to produce an entirely new situation. That new situation does not depend so much on the quantity of military aid received, but more so on the fact of such free aid coming to Pakistan. This produces a qualitative change in the existing situation and, therefore, it affects Indo-Pakistan relations and, more especially, the Kashmir problem.¹⁰

Meanwhile, the Prime Minister of Pakistan had stated that the military aid would help in solving the Kashmir issue. "This can only mean that you wish to settle this issue by force of arms or by threat to use arms," said Nehru in another letter, "unless the preliminary issues still outstanding, such as the quantum of forces, are settled to the satisfaction of Pakistan. . . . Similar references have been made by others also, which indicate that it is in connection with India that Pakistan has asked for and received this military aid."¹¹

The Indian Prime Minister dealt with this matter at some length in his statement in the House of the People on 1 March 1954. He referred to the argument that the aid was merely meant to strengthen Pakistan so that it could defend itself against aggression and also to ensure security and peace.

It is not clear to me what kind of aggression and from what quarter it is feared. I am unable to see any danger of aggression on Pakistan from any quarter; but perhaps to throw light on this question, the Pakistan delegate to the United Nations, Mr. Ahmed Bokhari, only a day or two ago spoke in New York and made it clear as to what his fears were. He said: "We want the guarantee that the two biggest countries in Asia will leave us alone." He referred to China and India. . . . Whatever, as I said, the motives may be, the result, the fact is there, that there has been in India, in Pakistan, an upsetting of things as they were and a sense of insecurity. In other countries in Asia, West and others, there

10. *Ibid.*, p. 58.

11. *Ibid.*, p. 72.

has also been a sense of the situation becoming, if I may say so, "fluid," and a certain apprehension as to what the consequences might be.¹²

General Eisenhower, President of the United States, assured India that if the aid given to Pakistan was misused and directed against another in aggression, he would undertake to thwart such aggression. India had no doubt that the President was opposed to aggression. Said Nehru:

We know from experience that aggression takes place and nothing is done to thwart it. Aggression took place in Kashmir six and a half years ago with dire consequences. Nevertheless, the United States have not thus far condemned it, and we are asked not to press this point in the interests of peace! Aggression may take place again and be denied as the previous aggression was denied till it could not be hidden. If conditions are created for such an aggression to take place it may well follow, in spite of the desire of the United States to prevent it. Later, long arguments will be carried on as to whether it was aggression or not. The military aid given by the United States to Pakistan is likely to create the conditions which facilitate and encourage aggression.¹³

Nehru's words were to prove prophetic. Pakistan had wanted a guarantee against the two biggest countries in Asia, but in course of time improved upon even the U.S. military aid agreement by lining up with the biggest country in Asia, namely, China. Not satisfied with this, Pakistan became a link in the Peking-Jakarta-Rawalpindi axis, a military and diplomatic weapon forged by Mao Tse-tung. The U.S. failed to prevent Pakistan aggression against India in 1965 and the Security Council, as in 1948, shied off the word "aggression."

The U.S. military aid agreement was a serious threat to the settlement of the Kashmir situation by peaceful negotiation, for it could not be freed from the suggestion that Pakistan intended to use it to dictate terms to India from a position of strength. The balance

12. *Ibid.*, p. 75.

13. *Ibid.*, p. 76.

of power on the subcontinent and in South and South-East Asia was upset. The great power entanglement, from which Nehru had been anxious to keep the Kashmir issue free, now became part of it, casting its long and disruptive shadow across the peaceful countries in this part of the world. The cold war entered the subcontinent by the backdoor. Hitherto, Pakistan had enjoyed the political support of the Western powers in the Security Council. Now in its dispute with India, Pakistan would also be backed by their military might. This was an intervention by the U.S. in Indo-Pakistan relations. "The military aid being given by the United States to Pakistan," said Nehru, "is a form of intervention in these problems which is likely to have more far-reaching results than the previous types of interventions." In view of these developments, the presence of American observers attached to the United Nations team on either side of the cease-fire line in Jammu and Kashmir could no longer be treated as neutral and hence their presence was improper.¹⁴

As time passed, Pakistan also joined the SEATO and the Baghdad Pact, now called CENTO, both designed to contain the Soviet Union and China in Asia, but exploited by Pakistan to pressurize India. Western members of these military pacts raised no objection when Pakistan began to inject Kashmir into their deliberations. Thus died plebiscite an inglorious death! While President Eisenhower had assured India that the military aid was not intended to be used against her, the Pakistan Government reassured Peking that it was. As Premier Chou En-lai said to the correspondent of the Associated Press of Pakistan:

After the formation of SEATO in 1954 the Pakistan Government often declared to the Chinese Government that its participation in that organization was not for the purpose of being hostile to China and would not prejudice Pakistan's friendship with China. Since Mohammed Ayub Khan assumed leadership of your country as your President, facts have further proved that Pakistan's policy toward China is one of friendship and not one of hostility.¹⁵

Incidentally, it now became clear why Pakistan had set its face against

14. *Ibid.*, pp. 76-7.

15. *Dawn*, Karachi, 11 April 1963.

India's repeated offer of a no-war declaration to relax tension, to avoid needless expenditure on arms, and to facilitate the settlement of their differences in an atmosphere of tranquillity and mutual confidence. Although another attempt was made in 1955 to bring about a settlement of the Kashmir issue by direct talks, the problem had already undergone a profound change and it was no longer possible to think of a solution on old lines. Pakistan did not want to forget plebiscite which was past revival. It was equally opposed to India's suggestion for the partition of the State along the cease-fire line.¹⁶ In the circumstances, the two countries drifted farther and farther apart. As Nehru said, the problem could be examined from the legal and constitutional point of view, on the one hand, or practical considerations, on the other. Legally and constitutionally, the State was Indian Union territory and Pakistan had no *locus standi* in Kashmir. From the practical point of view, the situation as it existed could not be ignored.¹⁷

SOVIET POLICY

No less significant in its influence on the Kashmir issue was the official visit to India by Khrushchev and Bulganin. During their tour of the country they visited Kashmir and on 9 December 1955 Khrushchev declared in Srinagar that the question of Kashmir as one of the States of the Republic of India had already been decided by the people of Kashmir.¹⁸

While in the Republic of India we find an ally in the struggle for peace and for the peaceful solution of unsettled problems, unfortunately we cannot say the same about Pakistan. . . . We do not like the Baghdad Pact at all, the most active participant of which is Pakistan even though her participation is without any benefit to her and her people.¹⁹

After keeping silent for a long time on the substantive aspect of the

16. Nehru at a public meeting in New Delhi on 13 April 1956.

17. In an interview on 13 June 1956 to Dr. Michael Brecher in *Kashmir and Indo-Pakistan Relations*, New Delhi.

18. *Russian Leaders' Visit to Kashmir*, Lalla Rookh Publications, Srinagar, 1955.

19. *Ibid.*

issue, the Soviet Union had given an indication of its developing policy, through its representative Malik, in the Security Council on 10 January 1952. In a sense that was a warning to the U.S.A. and the U.K. not to meddle in the affairs of India and Pakistan. Once Pakistan signed a military aid agreement with the U.S.A. and joined SEATO, the fear which Malik had expressed in the Council in 1952 tended to become real. Khrushchev's statement in Srinagar was the Soviet reaction. The Soviet Union was not prepared to abandon South and South-East Asia to Western pressure. Henceforth, the position in the Security Council would not be quite the same and the balance which, thanks to Western powers, had always tilted heavily in favour of Pakistan would be subject to a corrective. The monopoly of power which these countries had enjoyed in the Council and misused over the Kashmir issue was at an end.

Krishna Menon's statements of 1957 in the Security Council are a watershed in India's exposition of its case. Hitherto the approach had been genteel and sometimes even obsequious to the Council. Too much restraint was exercised in presenting facts and offering comment, more so in dealing with the intemperate language used by Pakistan representatives. India was generally counselled moderation by the U.K. and the U.S.A. as well as their colleagues, though they offered bitter opposition to India in the Council. In private conversations with India's representatives, they described Zafrullah Khan's long diatribes as undesirable, without doing anything in the Council to discourage them. India adhered to diplomatic proprieties and its representatives were courteous in their address, while the Pakistan representatives used immoderate and even insulting language. In consequence, in almost every debate in the Council, India, the complainant, appeared to be on the defensive. Polite address was mistaken for weakness; a brief, factual statement, as evasive. For nine years India was treated as a political shuttlecock by Council members in disregard of facts, of the Charter, and of international law.

In 1957, as in 1948, India had few friends in the Council. In a sense, the position was much worse, for in pursuit of its policy of nonalignment, India had collided violently with Western powers on major developments in international affairs—the Anglo-

French-Israeli aggression in Egypt, Dulles's policy of containment of the Soviet Union and China, Western military blocs like the Baghdad Pact and SEATO, and U.S. military aid to Pakistan. This was the period when nonalignment was condemned by Western powers as "immoral," when India was accused of observing double standards and adopting a "holier than thou" attitude, of being soft on China and the Soviet Union but hard on the U.S.A. and the colonial powers. A debate on Kashmir showed the Council in a new and ugly mood. Objectivity had never been the Council's *forte*. Now proprieties and decorum were also abandoned. An excuse was provided by an announcement in Srinagar that the Jammu and Kashmir Constituent Assembly, having completed its work, would be wound up on 26 January 1957.

The introduction of a democratic constitution in Kashmir, framed by popular representatives, elected on the basis of adult franchise, was taken as a challenge to the prestige of the Council and to past resolutions. This constitution, under which—when promulgated—the government would be responsible to a popularly elected legislature, was condemned as creating a grave crisis. Evidently, the Council would have preferred to see Kashmir without any constitution, without fundamental rights enforceable through courts, without a responsible executive answerable to a popularly elected legislature until a plebiscite was held, irrespective of all the impediments which Pakistan had already put or might in future put in its way. In the absence of a plebiscite, life must come to a stop in Kashmir. And yet Pakistan and its Western supporters talked about self-determination, the right of the people of Kashmir to go their own way, without fear or favour. At the request of Pakistan, the Council began its new series of meetings in January 1957.

Krishna Menon's sharp-edged and flinty exposition was aimed at making the Council realize that India had had enough of its partial ways, its indulgence in power politics, and its platitudinous claim to maintain peace when by its own discriminatory attitude it had partly been responsible for violence and aggression. To rescue the position of India which had almost been lost in the Council, he went to the basic facts in great detail, perhaps sometimes in too much detail, in hard-hitting statements, often unpleasant, but out-

spoken. "I look around this table and I know that I have got to fight my battles,"²⁰ he said in the Council on 24 January 1957. India had suffered in the Council discussions "by trusting too much to the good sense of all around."²¹ With the United Kingdom, India had had relations of one kind, but those relations had been strained considerably by "the British adventure in the Middle East and now their adventure in regard to Kashmir."²² On 15 February, he asked the Council :²³

How is it that no questions had been asked by the eleven nations represented around the table—I ask this question only because my people will ask and because the Security Council does not represent only these eleven countries but, as we understand it, all the member-States of the United Nations—about the apparent, gross, obvious, continuous, persistent, and flagrant violations of the cease-fire agreement, of international law, of commitments contained in Security Council resolutions and Commission's resolutions, and solemn undertakings given by representatives of member-States to our Government, which are in writing and which have been made public?

His country had deliberately chosen the path of an independent foreign policy. No pressure would elbow India into alignment in one direction or another.²⁴ How could it be a friendly act, he asked, when the United States intervened in an area, along with its allies, in what was called area defence? How did this differ from the kind of protectorate proclaimed by Britain and France in the past, in which they had taken those territories under their protection?²⁵

Such was the temper in the Council. Pakistan, at whose instance the Council had met, was represented by Firoz Khan Noon who presented the Pakistan case on familiar lines. He demanded two

20. S.C.O.R., No. 764, para 63.

21. *Ibid.*, para 67.

22. S.C.O.R., No. 769, para 52.

23. *Ibid.*, para 78.

24. *Ibid.*, para 182.

25. S.C.O.R., No. 773, para 101.

things from the Council—first, an immediate call upon India to refrain from accepting the changes envisaged by the new constitution and, secondly, since direct negotiations between India and Pakistan had failed, the Council should take upon itself the task of resolving the deadlock over the question of demilitarization. The best way to do this would be to call upon all forces of India and Pakistan to withdraw from the State, demilitarize the local militia on both sides of the cease-fire line, and enable the people of Kashmir to decide whether they wished to accede to India or Pakistan.²⁶ The Council members acted on both.

Even while Krishna Menon was in the middle of his statement, a draft resolution²⁷ under the names of Australia, Colombia, Cuba, the United Kingdom, and the United States of America was tabled, carrying the inescapable suggestion that what India had to say was irrelevant. Sir Pierson Dixon, the U.K. representative, argued subsequently that since the subject-matter of the draft resolution was the Constituent Assembly of the State on which Krishna Menon had already spoken, the sponsors concluded that India's views on the subject had already been expressed. This was an after-thought as is clear from one of the preambular paragraphs of the draft resolution which stated: "Having heard statements from representatives of the Governments of India and Pakistan concerning the dispute over the State of Jammu and Kashmir." Plainly this was not so at the time the draft resolution was tabled, because Krishna Menon had not concluded his statement on the entire question of Jammu and Kashmir. The draft resolution reaffirmed the principle of a free and impartial plebiscite under the auspices of the United Nations, and declared that the convening of a Constituent Assembly and any action taken by that Assembly would not constitute disposition of the State in accordance with that principle. On 24 January, the draft resolution was put to vote and adopted, the Soviet Union abstaining.

The furore over the dissolution of the Jammu and Kashmir Constituent Assembly was nothing but propaganda. Nothing new had happened which was not already known to the Council.

26. *S.C.O.R.*, No. 761, paras 108 and 112.

27. S/3778.

Constitutionally and legally, no change had taken place. The legal and constitutional position had been explained in the Council by representatives of India on various occasions. As early as 1948, Gopalswami Ayyangar had put the position of India in clear language, saying that there could really be no provisional accession, though that expression had been loosely used. The instrument of accession was a document complete in itself. It did not contain any conditions and it did not state that the accession was provisional.²⁸ The effect of India's commitment in regard to the plebiscite was that if, on the plebiscite being taken, the vote went against accession to India, India would release Kashmir from accession. Upon such release, the accession, which up to that point must be considered to be valid and effective, would as it were cease.²⁹ "The accession therefore subsists today and will subsist even after the fighting ceases and peace and order have been restored."³⁰ Benegal Rau, an admitted authority on constitutional law, had said that the accession would continue to be effective and it would inevitably so continue unless and until the people of Kashmir settled the question otherwise.³¹

Krishna Menon now explained the position at length. The actions of the Constituent Assembly were merely declaratory, not creative, and did not make anything new. These were merely in pursuance of the accession.³²

I hope that the Security Council is not going to find itself in a position where it will subscribe to a decision which is so devoid of reality, which will expose it to ridicule, which is so unconnected with the events of the day, and which is contrary to the constitutional procedures of a sovereign State, of a member-State whose constitution is presumed to be known to the United Nations in international law.³³

28. *S.C.O.R.*, Nos. 16-35, p. 31.

29. *Ibid.*, p. 37.

30. *S.C.O.R.*, No. 60, p. 13.

31. *S.C.O.R.*, No. 538, p. 2.

32. *S.C.O.R.*, No. 763, p. 34.

33. *Ibid.*, p. 36.

The resolution reminded India of the Council's previous resolutions which India had rejected, e.g. the resolutions of 21 April 1948 and 30 March 1951. The Security Council, he said, appeared to be willing to sit long hours, even at night, in order to register its objections to what might appear in a constitution on the ground that it changed the existing status. Why did not the Security Council show concern about the incorporation of a part of Kashmir into Pakistan by the Pakistan Constitution?³⁴

Firoz Khan Noon demanded the introduction of an international force into Kashmir to bring about demilitarization. Australia, Cuba, the U.K., and the U.S.A. again obliged him by tabling a draft resolution which specifically referred to the proposal of the Pakistan representative for the use of a temporary United Nations force in connection with demilitarization, and the preamble of which stated that the use of such a force would deserve consideration. The draft resolution authorized the United Nations representative, Dr. Gunnar Jarring, who was President of the Council, to take into account in his discussion with the two governments the possibility that any forces required for the purpose of facilitating demilitarization and the holding of the plebiscite might be provided from member-States of the United Nations or raised locally.³⁵ Krishna Menon warned the Council that the introduction of United Nations forces would not only be a violation of the Charter but also a violation by each member-State that contributed the troops, because India had bilateral relations with them. If a member-State were to send troops to India in violation of the Charter, then they were not protected by the Charter. Their protection disappeared on account of the illegality.³⁶

The Colombian representative said that the idea of United Nations force was excellent, but only if and when India accepted it.³⁷ The Chinese representative felt that the suggestion might cause considerable complications. The Council was considering the matter under Chapter VI of the Charter and had not come to the stage of

34. *S.C.O.R.*, No. 765, p. 24.

35. S/2017.

36. *S.C.O.R.*, No. 769, p. 43.

37. *S.C.O.R.*, No. 768, p. 19.

imposing any solution on either party. Therefore, the proposal could be submitted to the parties only for their consideration.³⁸ According to the French representative, any objections which the parties of the members might have to any given formula were fully reserved.³⁹ The Soviet intervention was the signal for a basic change in the Security Council. India was no longer friendless. The Kashmir question, the Soviet representative said, had already been settled by the people of Kashmir who considered their territory an integral part of the Republic of India. He, therefore, saw little purpose in including in the draft resolution a clause providing for the holding of a plebiscite, and opposed the introduction of a United Nations force into Kashmir. The draft resolution was put to vote on 20 February 1957. Neither the Soviet nor the Colombian amendment was adopted. The Soviet Union then, by voting against the draft resolution, vetoed it.

The representatives of the U.S.A., the U.K., and Australia thereupon tabled another draft resolution requesting the President of the Council, the representative of Sweden, to examine with the governments of India and Pakistan, which in his opinion were likely to contribute towards the settlement of the problem, having regard to the previous resolutions of the Council. The draft resolution was adopted on 21 February 1957, the Soviet representative abstaining.

The Soviet Union forced something on Western powers in the Council which, so far as the Kashmir question was concerned, they had always lacked—some semblance of poise and balance. Helplessness against the Soviet veto now compelled them to exercise some caution and restraint. Here was an opportunity to take a bold realistic step, in harmony with the realities of the situation and in the interest and stability of the people of the subcontinent. But in their days of absolute power, unchallenged by the Soviet Union, the Western members of the Council had gone too far and taken to courses from which they did not have the courage or desire to withdraw.

The form and features of India's case were etched forcefully.

38. *Ibid.*, pp. 28-9.

39. *S.C.O.R.*, No. 769, p. 8.

Rejecting Pakistan's claim to Kashmir on the pretext of religion, Krishna Menon said:

We refuse to recognize what is called the "two-nation theory." India is a secular State, where any person, Hindu, Muslim, Christian, Buddhist, or whatever he is, is an equal son or daughter of India, with rights of citizenship guaranteed by our constitution. India claims Islam as one of the Indian religions, just as it does Christianity or any other. Therefore, we refuse to accept the thesis that because the population of any particular area is of one religion, some political issue is involved.⁴⁰

Pakistan had claimed Kashmir on the basis of geographical contiguity. But Kashmir also had a frontier and communications with India, and a frontier with China and Tibet. Geographical contiguity, said Menon, was very often governed to a considerable extent by the historical past, and Kashmir's economic and commercial relations had been much more with India than with Pakistan. To put it at its worst contiguity was a common factor.⁴¹

Pakistan had also referred to its strategic interests in Kashmir. It was odd to talk about the strategic interests of Pakistan in Kashmir, said Krishna Menon, while Pakistan also referred to the Kashmiris' right of self-determination. Even then, the strategic interests of a country like India, with its big land mass in the Indian ocean, was at least as vital as its neighbour's.⁴²

On accession, he asked the President of the Council to look at Chapter VI of the Charter or even Chapter VII and to point out the provision which challenged the merits of accession.⁴³

As for plebiscite, India's commitment was contingent upon the performance of Part II of the resolution of 13 August 1948, and even if Part II was performed, the only promise India had made was to confer with the other side. But conferring with the other side did not necessarily mean that India or Pakistan had to do what anybody else said. People were likely to be misled by the enormous amount of

40. S.C.O.R., No. 763, para 84.

41. *Ibid.*, paras 80-3.

42. *Ibid.*, para 89.

43. *Ibid.*, para 147.

wordage in the Commission's resolution of 5 January 1949, but it was only a supplementary resolution, an implementing resolution of the minutiae and mechanism of election. Therefore, there were no commitments that could be laid at the door of India with regard to the carrying out of a plebiscite.⁴⁴

On 24 January 1957, he told the Council that India was not in the dock but in the Council to state its rights under the Charter.

Have we the right for the security of our territory? Have we the right to be free from threat? Have we the right to feel assured that the machinery of the Security Council and its resolutions are not going to be used as a smoke-screen for the preparation of aggression against us? Have we the right so far as the Council is concerned—and I say that it cannot impose it—to live side by side with our neighbour, free from the threats of a holy war.⁴⁵

Benegal Rau had pulled the straying Council back to the UNCIP resolutions of 13 August 1948 and 5 January 1949 together with the assurances given by the Commission to India. Krishna Menon based his whole case on the simple fact that Pakistan had not implemented even Part I of the resolution of 13 August; what was worse, Pakistan had violated it and continued to violate it. He did much more than giving a mere indication of some of the violations recorded by the U.N. Commission. Part I of the 13 August resolution provided for more than a cease-fire. It also required the parties not to increase their military potential in the State (para B) and to create and maintain a helpful atmosphere for the implementation of the resolution (para E). Krishna Menon went all out to prove that Pakistan had increased its military strength in the occupied area, built new roads, bridges, and airfields, all under the U.S. military aid agreement, which its Prime Ministers, Ministers, and officials regarded as a stick with which to beat India into submission. The evidence consisted of authoritative statements, official announcements, and testimony of independent observers. In other words, apart from the cease-fire, the determination of the cease-fire line and the stationing of U.N. observers to maintain the cease-fire,

44. *Ibid.*, para 178.

45. *S.C.O.R.*, No. 764, para 186.

Pakistan had done everything to prevent the implementation of other paragraphs of Part I.

Meanwhile, eight years had passed and a number of developments had taken place. Pakistan could hold up the implementation of a resolution, but it could not stop the march of time. Not having honoured Part I of the resolution, Pakistan made the implementation of Part II, which provided for the withdrawal of Pakistan forces, impossible; because this part could not be taken independently of Part I, which had to be carried out first, in the same way as a roof could not be put without the supporting walls. All this had a vital effect on the holding of a plebiscite which had to be considered under Part III of the 13 August resolution. The people of Jammu and Kashmir had not resisted the Pakistan invaders to mortgage their own political future until Pakistan allowed them to decide it. They convened a Constituent Assembly and gave to themselves a democratic constitution under which they had already undertaken an economic and social programme of far-reaching consequence. The passage of time and the changed conditions had thus altered the original problem out of recognition. The only recognizable feature was Pakistan aggression which needed to be vacated.

JARRING REPORT

How effectively these two points were put will be clear from the fact that Jarring, who went to India and Pakistan as the United Nations' representative, drew pointed attention to them. In his statement in the Council on 29 October 1957, he said that he had established that a deadlock had been reached between India and Pakistan on Part I of the resolution of 13 August 1948, and in particular on paragraphs B and E of that part.⁴⁶ In his report, he also said:

In dealing with the problem under discussion as extensively as I have during the period just ended, I could not fail to take note of the concern expressed in connection with the changing political, economic, and strategic factors surrounding the whole

46. S.C.O.R., No. 798, para 40. For text see Appendix 7.

of the Kashmir question, together with the changing pattern of power relations in West and South Asia. The Council will furthermore be aware of the fact that the implementation of international agreements of an *ad hoc* character, which has not been achieved fairly speedily, may become progressively more difficult because the situation with which they were to cope has tended to change.⁴⁷

Once these two points were established, the conclusion was inescapable that plebiscite was no longer practicable or even desirable. Theoretically, India's conditional engagements still stood but since Pakistan had made it impossible, by its serious acts of omission and commission, to implement the resolutions, they had only an academic value. The basic issue was aggression which Pakistan had denied in January 1948; since this denial was proved to be false by Pakistan's own Foreign Minister, what remained was aggression and its vacation, the only issue to which the Council could and should address itself.

But no resolutions either these or the ones that we have not accepted or anything that the Council may pass hereafter will shift my country from the position that we are here on the basis of a complaint about aggression. We are appealing to the Security Council to do its minimum and its elementary duty in pronouncing on the matter and asking the other parties to vacate the aggression. Because under the United Nations Charter, under which we are here, there cannot be any gains for any country arising from aggression, and no claims can be based upon that.⁴⁸

To meet the Indian argument that Pakistan had no *locus standi* in Jammu and Kashmir, Noon claimed such *locus standi* on the strength of the two U.N. Commission resolutions. To this Krishna Menon replied:

How does Pakistan come into Kashmir either physically or politically? What is the *locus standi*? Fortunately for me, in

47. S/3821, paras 20 and 21.

48. S.C.O.R., No. 795, para 17.

his statement, the Foreign Minister of Pakistan has a paragraph in which he refers to *locus standi*. He says that the *locus standi* of Pakistan in Kashmir is these two resolutions. At least he limited it to that extent. If it is these two resolutions, they definitely laid down the sovereignty of the Jammu and Kashmir government over the whole State, the right and obligation of India for the external defences and the maintenance of internal order of Jammu and Kashmir, and the exclusion of Pakistan from any operation under these resolutions. The Plebiscite Administrator, even if there was a plebiscite, was to have reported to the Government of Jammu and Kashmir and the Security Council. All Pakistan had to do was to hear the results.⁴⁹

Under what title, under what right, under what law, under what conception did Pakistan have any *de facto* or *de jure* authority in the territory it had seized by force, he asked.

The fact of Pakistan aggression was established by the UNCIP resolutions. Any one who strictly adhered to them would not only by implication but by logical sequence have to admit the fact of Pakistan aggression. In these resolutions the reference was only to the Government of India or to the government of Jammu and Kashmir. The whole of the resolution of 13 August was based on the integrity of Kashmir as part of the Indian Union, and the acceptance by implication of a violation of Union territory.⁵⁰

While Jarring referred to the "grave problems which might arise in connexion with or as a result of a plebiscite" in Kashmir, he proposed to the two governments at one stage if they would be prepared to submit the question, whether Part I had been implemented or not, to arbitration. He explained that what he was proposing, while termed arbitration, in all likelihood would be more in the nature of a determination of facts which in the Indian view were incontrovertible.⁵¹ This showed that even an independent member like the representative of Sweden could not resist Western pressure. India refused to accept the suggestion because Pakistan violations were not a matter of opinion on which

49. *Ibid.*, para 18.

50. *Ibid.*, para 27.

51. S/3821, para 18.

there might be a doubt but facts which the U.N. Commission had taken the trouble to record in its reports and which could also be found in the Council's own record. Dixon had also recorded Pakistan violations in his report. In view of the unchallengeable evidence, carefully sifted and set out in the reports of the Council's own agencies and in its debates, any suggestion for arbitration was obviously intended to evade the basic issue. Besides, the sovereignty, security, and independence of a country could not be put into the hands of an arbitrator or arbitrators. The UNCIP resolutions provided their own procedure and there was no room in them for arbitration. All these facts went some way in having their effect. Even Pierson Dixon admitted that augmentation of military potential made removal or reduction of forces difficult,⁵² and that the passage of time had added to the difficulties about the implementation of paragraph B of Part I; in the further eight years since 1949, new difficulties had arisen; armies had become more efficient; old equipment had been replaced.⁵³ Similarly, the representative of the Philippines emphasized the fact that the agreements of the commission had reached—if they had not already passed—the point of diminishing returns.⁵⁴

Krishna Menon argued that those who were reopening closed issues were those who tried to justify annexation, because the issue of sovereignty was a closed issue. The right of defence was a closed issue. The fact that Pakistan had no place in Kashmir was a closed issue. That there were no two States of Jammu and Kashmir was a closed issue.⁵⁵ "My Government has a right to expect that the Security Council will not permit the reopening on any pretext of issues that are already closed."⁵⁶ On another occasion he warned the Council that the time would come when the great countries which were permanent members of the Council and had a great responsibility would regret encouraging political banditry, that is to say the disregard of ordinary canons of justice.⁵⁷

52. *S.C.O.R.*, No. 797, para 12.

53. *Ibid.*, para 13.

54. *S.C.O.R.*, No. 798, para 29.

55. *S.C.O.R.*, No. 801, para 103.

56. *Ibid.*, para 116.

57. *Ibid.*, para 20.

Krishna Menon also revived the Council's resolution of 17 January 1948 so successfully that the sponsors of the draft resolution, which was adopted on 2 December 1957—asking Graham to proceed to India and Pakistan for a further mediatory effort—were compelled to mention it in the draft. He put before the Council a documented account of the deplorable conditions in Pakistan-occupied Kashmir, an account based almost entirely on the statements of leaders of the occupied area, in particular on their memorandum submitted to the Pakistan Constituent Assembly. Spelling out the meaning of the phrase "vacation of aggression" in considerable detail, he brought to the notice of the Council the new aggression which Pakistan had started in the State—an organization of subversion and sabotage and tension by planting bombs and booby traps across the cease-fire line, particularly in places of worship, and village schools and clubs, destroying and maiming innocent lives, an aggression which in course of time was to escalate into another invasion in disguise in 1965. Finally, he swept aside the debris of intermediate discussions, hypothetical views, floating commitments and all kinds of suggestions made in exploratory talks and correspondence which Pakistan had not accepted at the time but which Pakistan and its supporters now held aloft as binding on India. India was committed to nothing to which it was not a party.

Meanwhile the U.K., the U.S.A., Australia, Colombia, and the Philippines introduced a draft resolution,⁵⁸ asking Graham to proceed to India and Pakistan and to formulate an early agreement on demilitarization procedures, and to make suitable recommendations to the parties for further action which he considered desirable in connection with Part I of the resolution of 13 August 1948. India opposed it on the ground that the draft resolution gave moral support to the aggressor. "And I submit that any moral support that is given to the aggressor in this business will result in greater trouble in Kashmir,"⁵⁹ said Krishna Menon. The draft resolution was an incitement, in its effect, to subversion. When Pakistan intelligence, money, and ammunition were being used

58. S/3911.

59. S.C.O.R., No. 805, para 54.

to blow up Indian territory, how could members of the Council subscribe to the draft resolution?

The Soviet representative said that the Security Council could not disregard the statement of the Government of India and warned the Council that U.S.S.R. would vote against it.⁶⁰ Although five years previously Graham had admitted that his proposals were unacceptable to India and Pakistan, the authors of the draft resolutions had again put forward the same proposals as a basis for discussion.⁶¹ Thereupon the representative of Sweden moved an amendment⁶² which proposed the omission of operative paragraph 2 which referred to the implementation of Part I and demilitarization and merely asked the U.N. representative to make any recommendations to the parties for further appropriate action with a view to making progress towards the implementation of the U.N. Commission's resolutions and towards a peaceful settlement. A reference to the Council resolution of 17 January 1948 was also proposed. The amended draft was adopted on 2 December 1957.

Significantly, the amended draft bypassed Jarring's conclusion that an obstacle to the implementation of the resolution of the U.N. Commission was the deadlock reached in carrying out Part I of that resolution,⁶³ said the Soviet representative.

For the second time the Anglo-American powers in the Council had brushed aside the report of a U.N. representative. In 1951 majority members of the Council treated Sir Owen Dixon's recommendations with contempt; in 1957 the same majority meted out a similar treatment to a major finding by Jarring. Earlier they had ignored the fact of Pakistan aggression as recorded by the U.N. Commission. All this showed that these members were not interested in facts or the Charter. Their principle objective was to settle their own scores with India.

For the first time the Council adopted a resolution on the resolutions of the U.N. Commission without making any reference to

60. *Ibid.*, paras 79 and 81.

61. *Ibid.*, para 74.

62. S/3920.

63. *S.C.O.R.*, No. 808, para 13.

demilitarization in the operative paragraphs. As in the case of the previous resolution of the Council on the appointment of Jarring as U.N. representative, India did not accept the resolution but expressed its willingness to offer its traditional hospitality to Graham if he went to India. "The resolution that we could accept—and one which I hope the Council will in time adopt—would be a resolution in terms of the United Nations Charter, calling upon the aggressor to vacate the aggression,"⁶⁴ said Krishna Menon.

The Graham report was stillborn. He too could not resist the temptation of proposing arbitration though the form in which he put it was his chairmanship under which the Prime Ministers of India and Pakistan were asked to negotiate. Needless to say, the proposal was rejected by India. However, Graham did point to an inevitable change in conditions, namely, the inability of the U.N. representative to recreate conditions obtaining before Pakistan troops invaded the State. "Whether the United Nations representative would be able to reconstitute the *status quo* which had obtained some ten years ago would seem to be doubtful."⁶⁵ This meant that the Commission's resolution of 13 August could no longer be carried out. Like his predecessor, Jarring, his report in this respect vindicated India's view that Pakistan violations of Part I of this resolution had made it impossible to carry out the resolutions, the responsibility for this being that of Pakistan and, one might add, to some extent that of the Council, which had made it a policy to condone them.

BEGINNING OF NEW AGGRESSION

In the summer of 1958, a group of civilians in Pakistan-occupied Kashmir, largely under official inspiration and with a fanfare of propaganda, attempted to cross the cease-fire line. The Government of Pakistan did nothing to stop them. They were arrested by the Indian army authorities and handed over to the Jammu and Kashmir government. A few months later General Mohammed Ayub Khan, supported by the Pakistan army, seized the reins of power, dismissed the Governor-General and the government, and

64. *Ibid.*, para 43.

65. Graham's Sixth Report, S/3984, para 13.

suspended the Pakistan Constitution. But little change was visible in the new regime towards India. Threatening statements on Kashmir were made from time to time. General Ayub Khan declared that American arms would not be kept in cotton wool but used if the need arose and that the Indo-Pakistan situation, so far as Kashmir was concerned, was not far from a flash point, if it was not defused quickly. President Eisenhower who visited India and Pakistan in December 1959 refused to touch the problem, and paid a fine tribute to the democratic State of India and the protection it offered to minorities. A brief meeting between Ayub Khan and Nehru at Palam Airport on 1 September 1959 followed by the signing of the Indus Waters Treaty in Karachi brought about no substantial change in Indo-Pakistan relations in regard to Kashmir. Nehru declined to open Pandora's box, insisting, as he had done in Lahore in 1960, that any proposal which upset the *status quo* was no solution and that the well-being of the people and political and economic stability of the two countries were not matters to be lightly ignored.

Meanwhile, to keep the problem in the public eye, Pakistan had been engineering since the beginning of 1958 more and more incidents across the cease-fire line. These included firing, encroachments on territory, stoppage of water channels flowing across the line, incidents at harvest time, spurious claims to property, commando raids by soldiers disguised as civilians, planting of bombs and booby traps, cutting off telegraph and telephone lines, night attacks on pickets, posts, and villages, distribution of literature inciting people to religious hatred, etc. Month after month, year after year, this carefully planned violence was built up and enlarged, the object being to create an atmosphere of fear and alarm and dislocation of life and economy along and in the vicinity of the cease-fire line. Pakistan usually took care to prepare the ground or wait for a suitable opportunity for a request to the Council for a meeting on Kashmir. In 1950, such an opportunity was provided by the announcement about the convening of the Constituent Assembly in Jammu and Kashmir. In 1957, it was the inauguration of the Constitution. In 1962, the liberation of Goa provided Pakistan with an excuse to exploit the anger of Western powers against India. In 1964, Pakistan was to exploit the Hazratbal

incident. On every occasion the situation was misrepresented as one of grave emergency, requiring immediate action by the Council. It does not pay to cry wolf too frequently and the Council and Pakistan exposed themselves to considerable ridicule in 1962 and 1964, when in spite of the alleged grave emergency the meetings dragged on and were even adjourned for several weeks to suit the Pakistan representative's convenience.

To relax tension, President Kennedy proposed mediation by Eugene Black,⁶⁶ Chairman of the World Bank, a suggestion which India, bitten by so many mediators in the past, could not accept. In fact, India turned its back on third party mediation of any kind. This was what Pakistan was waiting for and falsely alleging that India had massed troops along the Indo-Pakistan border, thereby threatening Pakistan's security, the Pakistan Government asked for an early meeting of the Council to discuss the Kashmir issue.

The new series of meetings began in February 1962, Pakistan being represented by Zafrullah Khan. C.S. Jha, India's Permanent Representative, said in the Council on 1 February 1962 that the convenience of the Indian Government had not been taken into account and overriding India's objections, the validity and force of which had been acknowledged by many members in conversation, the Council had thought fit to hold a meeting. He also said that a grievance had been made by Pakistan of the fact that India called the occupation of a part of Kashmir by Pakistan an aggression, pointing out that this was the basis of India's complaint to the Security Council.

Zafrullah Khan had come back not only to the Council but also to his old tactics. As he had done previously, he made more revelations, went back on some of his own statements or statements made by other representatives of Pakistan, and made assertions for which no support could be found in facts or documents. To give a few examples. He stated that in 1947 tribesmen had "poured" into the vale of Kashmir.⁶⁷ By saying this he recanted his previous statements in the Council in which he had belittled the strength of tribes-

66. Adlai Stevenson disclosed this in the Security Council on 15 June 1962. *S.C.O.R.*, No. 1012, p. 4.

67. *S.C.O.R.*, No. 990, para 25.

men in Jammu and Kashmir. There was no mention any longer of the Pakistan Government having used every means short of war to discourage the tribal movement. In contrast, his reference to the movement of Pakistan troops into Kashmir was put in vague and almost casual terms. Pakistan "put in its regular army to hold the line,"⁶⁸ slurring over the natural questions, which line and where. He went on to say how helpful he had been to the U.N. Commission to whom he had explained everything with the aid of maps! "I have referred to this matter inasmuch as it will be found later on in the discussions that a good deal of reference is made to this fact in order to build up the charge that Pakistan is an aggressor in Kashmir."⁶⁹ If the entry of Pakistan troops into Kashmir was a fact, as he asserted, the charge of aggression stood self-established and needed no build-up. "The Indians now generally say—particularly the Defence Minister of India—that Pakistan is in forcible and illegal occupation of part of Kashmir."⁷⁰ In other words, India had not generally charged Pakistan with aggression before and, therefore, by implication it was an after-thought. He was fully aware of his own elaborate attempts to meet this charge in the Council in 1948, 1950, and 1951.

On 1 February 1962, he said that the problem of the Princely States was resolved through the machinery, the foundation of which was laid in Section 7 of the Indian Independence Act; that is to say, Britain withdrew or renounced its suzerainty over the Princely States and left them free to accede either to India or to Pakistan, as they desired.⁷¹ A few weeks later, on 27 April 1962, he argued that the Indian Independence Act did not define accession,⁷² and incidentally made no mention of the factor of geographical compulsion which was so vital to accession.⁷³ Referring to Junagadh, he remarked that when the people of Junagadh came to know of the ruler's accession to Pakistan "quite a substantial number of them

68. *Ibid.*, para 32.

69. *Ibid.*, para 34.

70. *Ibid.*, para 53.

71. *Ibid.*, para 22.

72. *S.C.O.R.*, No. 1007, para 11.

73. *Ibid.*, para 23.

apparently did not like it,"⁷⁴ a statement which made hay of his earlier assertions to the contrary in the Security Council in 1948. One of the more amazing statements he made was that, according to Benegal Rau, Kashmir had acceded tentatively to India in October 1947.⁷⁵ Benegal Rau had never made any such statement. Zafrullah Khan admitted augmentation of military potential,⁷⁶ which Firoz Khan Noon had denied, and confessed that according to some members of the Security Council the people of Kashmir, in principle or effect, had expressed their wishes freely concerning the question of accession in the election that had been held in Kashmir and that, therefore, a plebiscite was no longer necessary,⁷⁷ thereby indicating that the monolithic support which Pakistan had enjoyed in the Council in the early years was cracking up.

On occasions he complained that the Defence Minister of India had appeared to attribute to him the statement, or the claim, or the argument, that because Kashmir had a majority of Muslims in its population, therefore, it should belong to Pakistan. "To the best of my recollection, I have never, throughout the course of these discussions, advanced this argument or this claim, and this applies to my last submission to the Council also."⁷⁸ This was a categorical statement made by a former judge of the International Court of Justice. And yet he must have known that he had made such a statement. In his submission to the Council on 8 February 1950, after explaining that the State was vital to Pakistan for economic, geographical, and strategic reasons, he said:

Apart from these—it does not matter whether they exist or do not exist—the decision should be based upon the principle upon which the partition of India was agreed to and was effected, that is to say, upon the basis of the population. . . . In the whole of the State of Jammu and Kashmir . . . the Muslim proportion of the population is over 77 per cent.⁷⁹

74. *Ibid.*, para 54.

75. *S.C.O.R.*, No. 1008, para 17.

76. *Ibid.*, para 84.

77. *Ibid.*, para 104.

78. *S.C.O.R.*, No. 1011, para 10.

79. *S.C.O.R.*, No. 6, p. 8.

Zafrullah Khan, therefore, protected himself by limiting his statement to two submissions only, the one in which the assertion was made and the previous one, although the phrase "throughout the course of these discussions" suggested all his past submissions. Faced with Zafrullah Khan's many statements of this type, Krishna Menon said:

I submit that it is the very same representative who has told this Council time after time that they [Pakistan] neither aided nor abetted the tribesmen, but that the tribesmen would go in and they were not able to stop them.⁸⁰

On another occasion, he was even more sarcastic:

Then, one of my countrymen asked me why Sir Mohammed Zafrullah Khan was coming here. I told him, not in jest, not in ridicule, after he has been Foreign Minister of Pakistan, after he has been a Judge at the International Court, he has matured in years, and, even more, he has come to understand all these matters. It may well be that the Pakistan Government is going to tell the Security Council that it proposes to vacate the aggression.⁸¹

Zafrullah Khan's skill in manoeuvrability did not find full play in the new environment. By omitting altogether any reference to what had happened in the Council in 1957, with special reference to the Jarring report, he created a serious handicap for himself. His exposition of the Pakistan case did not advance essentially beyond the Dixon report. This showed that he did not relish dealing with the Indian charge that Pakistan had committed serious violations of Part I of the resolution of 13 August or that changed conditions had altered the UNCIP resolutions. His arguments against the Indian view that Pakistan had no *locus standi* in Kashmir, and therefore India and Pakistan could not be treated as equal parties, did not carry conviction. Even Dixon and Graham had admitted that the parties were not equal. The facts were obvious. Pakistan was an invader; India the protecting power. The invaders used

80. S.C.O.R., No. 1011, para 166.

81. S.C.O.R., No. 1009, para 234.

violence against the people of Jammu and Kashmir; the Indian army used violence against the invaders. The invaders, who were not invited by the people, came to kill and loot though calling themselves "liberators"; while the Indian army was invited by the people and fought the invaders side by side with them. The entry of Pakistan troops into Kashmir was illegal; the Indian army entered the State lawfully.

Zafrullah Khan tried to make much of the Pakistan view that once the parties had accepted the U.N. Commission resolutions, the issue of aggression became irrelevant. The resolutions had been accepted in spite of the aggression, he said. To begin with, this was not supported by the provisions of the resolution of 13 August. Besides, as Krishna Menon pointed out, the same resolutions recognized the constitutional relationship between India as the federal government and Kashmir as one of its constituent units, a relationship flowing from the accession of the State to India. Zafrullah Khan could not have it both ways: use the UNCIP resolutions to deny aggression and at the same time fight shy of the constitutional position of India in Kashmir arising from the accession on which the UNCIP resolutions were based.

Continuing to press his argument about Pakistan violations of Part I of the resolution of 13 August, the representative of India said that further augmentation of military potential had taken place in Pakistan-occupied Kashmir and in its vicinity. There was evidence from Pakistan and other sources of the construction of additional military bases along the western border of Jammu and Kashmir—one at Kharian, built with United States military aid, where the Pakistan armoured division was stationed; and another, a cantonment at Domel in Kashmir, which was opened in 1961; further construction and extension of airfields and airfield controls at Skardu, Gilgit, and Askardas, south-west of Hunza, and one near Mangla; the construction of strategic roads and bridges to ensure safe lines of communications; the construction of an all-weather road from Swat to Gilgit.⁸² Drawing attention to the fact that in contrast with the position in 1957, there were two aggressors in Kashmir, Pakistan and China, and to various parts of Kashmir annexed by

82. *Ibid.*, para 121.

Pakistan, Krishna Menon said that Pakistan had begun to look almost like a colonial power of the nineteenth century seeking an expanding frontier.⁸³ According to the representative of the Soviet Union, the basic fact was the continuing occupation by Pakistan of one-third of the territory of Kashmir which was an integral part of India. On the other hand, not one objective investigator could adduce, in respect of that period, a single fact to indicate that India had used, or proposed to use, force in that region.⁸⁴ The Pakistan representative, on the other hand, openly threatened to repeat the invasion of Kashmir and, moreover, on an even larger scale.⁸⁵

A development which began to cast doubt on the *bona fides* of Pakistan, and the possibility of holding any plebiscite at all, was the fact of negotiations between Pakistan and the Republic of China on the demarcation of the border of the State of Jammu and Kashmir with that of Sinkiang. How could a country which talked about the UNCIP resolutions and plebiscite, committed to the withdrawal of its own forces from Jammu and Kashmir, seek to negotiate the State's border with the Government of China?

That is to say, in a territory where they had no sovereignty, which they occupy illegally, in regard to which they had a dispute with another country—to put it mildly—they are willing to barter away our freedom in order to create embarrassment for us, irrespective of their professions in other directions. May I say that in either case the common ideology is expansionism.⁸⁶

This was the beginning of a rift between Pakistan, on the one hand, and the U.S.A. and CENTO and SEATO, on the other. A military ally of the Western powers had started flirting with a country against which Western military aid and alliances were directed. On behalf of the Government of India it was made clear by Krishna Menon that Pakistan had no authority to barter away or negotiate any part of Indian territory and that any agreement Pakistan might reach would have no validity.⁸⁷

83. *Ibid.*, paras 16 and 68-9.

84. *Ibid.*, paras 5 and 44.

85. *Ibid.*, para 16.

86. *Ibid.*, para 213.

87. *Ibid.*, para 210.

With all these vital changes, there was no question of a plebiscite. Twelve years had passed and India was not prepared to do anything in any part of its territory that would shake its stability, undermine its economy or create conditions of trouble in South-East Asia.⁸⁸ The Security Council could hold two hundred meetings, but in no condition would India trade its sovereignty.⁸⁹ According to the Soviet representative, the question of holding a plebiscite had lapsed, since the basic condition for holding it had never been fulfilled by Pakistan.⁹⁰ At one time it was thought that a plebiscite would indeed take place. If it had been possible, if Pakistan had honoured its obligations, if it had not concealed facts from the Security Council, if it had not indulged in provocations and initiated disturbances, and if the local authorities had remained as local authorities, if the Government of India had been able to garrison the northern area, in those circumstances, a plebiscite could have taken place—but time had taken its inexorable course and the conditions had changed.⁹¹

IRISH RESOLUTION

The burden of Zafrullah Khan's theme was that direct talks between the two countries having failed, it was the responsibility of the Council to resolve the deadlock over demilitarization, Pakistan **being** prepared to make prompt rectification if it was found that it had in any way failed to carry out its part. He still believed that it was possible to go back to 1953 when Graham submitted his fifth report. Adlai Stevenson set the ball rolling. The larger interest of peace and security in South Asia required prompt settlement of the Kashmir dispute. He was confident that other members of the Security Council shared his conviction that the Council had a definite responsibility to use its best efforts to ensure that such a settlement was attained.⁹² The representative of China favoured negotiations between India and Pakistan with the help of a third

88. *Ibid.*, para 228.

89. *Ibid.*, para 239.

90. *S.C.O.R.*, No. 1010, paras 27 and 33.

91. *S.C.O.R.*, No. 1011, para 148.

92. *S.C.O.R.*, No. 1012, para 16.

party, if possible, the Acting Secretary-General of the U.N.⁹³ Sir Patrick Dean of the U.K. expressed his country's view that the dispute could be settled by negotiations between the parties. Neither the Security Council nor any other outside body was in a position to dictate a solution; nevertheless, the Council could not wash its hands off the affairs.⁹⁴ The Council might be able to help by acting as a catalyst. The representative of France referred to Article 33 of the Charter which includes arbitration as one of the pacific methods of settling disputes.⁹⁵ The representative of Ghana recommended third party assistance, without prejudice to the rights and claims of the parties.⁹⁶ Riad of the U.A.R. told the Council that he would not be able to support any proposal to which a party entertained serious and valid objections.⁹⁷ According to the representative of Rumania the legality of the act of association of the State to India was not and could not be questioned by any one.⁹⁸ Boland of Ireland supported the idea of direct talks between India and Pakistan with or without the intervention of others, as the parties might decide.⁹⁹ The representatives of Venezuela and Chile were in favour of direct negotiations.¹⁰⁰

The meetings of the Council had been in progress since 1 February, exploding the myth that there was any urgency. The representative of India mentioned the "lackadaisical" manner in which the discussion had proceeded. On 21 June, the U.S. representative, Plimpton, indicated the lines on which a draft resolution was likely to be tabled. The "overwhelming majority" of Council members, he said, had dwelt on five major points. First, most members were gratified by the assurances given by both parties that they would refrain from the use of force in the settlement of the dispute. The second point was the continued applicability of the resolutions of the United Nations Commission and the

93. *Ibid.*, para 26.

94. *Ibid.*, para 35.

95. *Ibid.*, para 49.

96. *S.C.O.R.*, No. 1013, para 19.

97. *Ibid.*, para 29.

98. *Ibid.*, para 36.

99. *Ibid.*, para 57.

100. *S.C.O.R.*, No. 1014, paras 20 and 30.

resolutions of the Council to the problem of Kashmir. Third, members had expressed views on the need for India and Pakistan to enter into negotiations which would lead to a peaceful settlement. Fourth, a number of members had commented on the possibility of having the parties avail themselves of the services or good offices of an impartial third party to assist in such negotiations. Finally, members had not failed to comment on the responsibility of the Security Council in the matter.¹⁰¹ Factually, some of these statements were not correct. On the second point Ghana and Venezuela had entered their caveats to Plimpton's statement, the Soviet Union had not spoken and the Rumanian representative had considered the UNCIP resolutions impracticable. This was not overwhelming majority. On the fourth point, Ambassador Plimpton quoted five members in support of the idea about the good offices of a third party. But two of them—Ireland and Ghana—had qualified their statements. In either case, this was not a majority. As for the fifth point, namely, the responsibility of the Security Council, Ambassador Plimpton quoted seven members in support of the view. But four members—the U.A.R., Ireland, Chile, and France—had qualified their statements in this respect. The remaining three constituted a minority.

As anticipated, on 22 June the representative of Ireland tabled a draft resolution on the lines of Plimpton's statement. Efforts had been made earlier to rope in as many Afro-Asian sponsors as possible but without success. The draft resolution urged India and Pakistan to enter into direct discussions at the earliest convenient time with a view to the ultimate settlement of the Kashmir question in accordance with Article 33 and other relevant provisions of the Charter. It also requested the Secretary-General to provide the two governments with such services as they might request for the purpose of carrying out the terms of the resolution. Thus once again the draft resolution sought to introduce arbitration to which India had always objected and tried to involve the Afro-Asian Secretary-General in it. India opposed the draft resolution and when it was put to vote the Soviet Union voted against it, thus vetoing it. For the first time in the history of the Kashmir question, the

101. S.C.O.R., No. 1015, para 3.

Council adjourned without adopting any resolution, a development of far-reaching significance.

The Pakistan case based on denials and admissions suffered serious erosion. Most members had expressed the view that a settlement could only be brought about with the consent of the parties and could not be imposed upon them. The passage of time and change of circumstances and their effect on the resolutions could not be evaded. The representative of Venezuela pointed out that from the time the instrument of accession was signed, the accession of Kashmir to India produced all the juridical effects of accession.¹⁰² Pakistan had no authority to aid the rebels or invaders, far less intervene directly in Kashmir with its regular forces.¹⁰³ The fact of change was recognized in one form or another by France, Ghana, Rumania, Venezuela, Ireland, Chile, and the Soviet Union. In the course of discussion, Council members gave hardly any time to demilitarization, much less plebiscite. The emphasis was on settlement, though in the context of UNCIP resolutions, which did not necessarily contemplate plebiscite as the only form of settlement. The status of these resolutions was considerably lowered by the growing admission of change in conditions. From the manner in which the Council adjourned, it was not unreasonable to infer that Council members had begun to have doubts about the utility of third party mediation or good offices.

What happened in the Council was not brought about overnight. A change had begun in 1957, following Krishna Menon's forceful exposition of India's case, the use of the Soviet veto, and the Jarring report. The Pakistan case suffered from serious limitations. A military dictatorship advocating self-determination for Kashmir, while denying it to its own people; an ally of Western military alliances negotiating with a communist country at which these alliances were aimed; a border agreement about a territory which Pakistan considered was in dispute; and the peddling of a myth of emergency—all these did not help Pakistan. Meanwhile, the largest democratic State in the world had held its third general elections. Zafrullah Khan's performance was poor; he had too many

102. *S.C.O.R.*, No. 1014, para 12.

103. *Ibid.*, para 14.

previous statements to account for; and this explains why he was mostly apologetic. "I am not making this as a grievance," "We are not objecting," "I am not apportioning blame," "I am not making a complaint"—his submissions were interspersed with such remarks. A long period in the history of the question was drawing to a close.

The frustration of Pakistan can be judged best by what Zafrullah Khan had asked the Council to do and what he had failed to achieve. Winding up his statement on 2 May 1962, he said:

In the first instance, it would be most proper and fitting that the United Nations representative, who has laboured so hard to carry out the directives of the Security Council and to secure an agreement between the parties through the implementation of the resolutions of the United Nations Commission for India and Pakistan so that a settlement might be reached, as laid down by the Security Council, through the democratic method of a fair and impartial plebiscite, should be requested by the Council to introduce his report formally and make such comments and observations as he might consider necessary or desirable, more particularly having regard to the period of over four years which has elapsed since the date of his report. Thereafter, one way of proceeding would be to start with the recommendations made by the United Nations representative in paragraph 20 of his report. ... Pakistan is quite agreeable to any method that may be suggested for determining (a) the obligations of the parties under the UNCIP resolutions; (b) what is holding up progress on their implementation; (c) whether either of the parties is in default with regard to the fulfilment of its obligation; and (d) what needs to be done by either side to move the matter forward towards implementation.¹⁰⁴

Having destroyed the UNCIP resolutions by its acts of omission and commission, Pakistan now tried to resurrect the ghost. The attempt was doomed to failure.

CHAPTER FOUR

HOW PAKISTAN AVOIDED A PLEBISCITE

INDIA WAS the first to suggest plebiscite as a peaceful method for resolving the Junagadh dispute with Pakistan. India made a similar offer for settling the Kashmir situation in 1947. The offer was reaffirmed in 1948 and when the U.N. Commission suggested plebiscite, India accepted the proposal. When Graham went to the subcontinent in 1951, it was India which not only wanted a plebiscite but wanted it as quickly as possible. In 1953, India reaffirmed its adherence to plebiscite as the best way of resolving the Kashmir problem in a joint communique issued by the Prime Ministers of India and Pakistan in New Delhi on 20 August. And yet a plebiscite could not be held.

The fact of the matter is that Pakistan never wanted a plebiscite. In spite of a plethora of statements of its leaders to the contrary, acceptance of plebiscite by its government was insincere. All available evidence goes to show that it did everything in its power to prevent a plebiscite from being held. In this endeavour, it achieved complete and unqualified success. Not that the double aggression it committed against India, together with its denial and concealment, was not condoned and, in fact, rewarded by the Security Council. Many of Pakistan's unreasonable demands were accepted; most of India's reasonable ones were rejected. The initial rejection of the 13 August resolution by Pakistan, and its subsequent violations thereof, were ignored. Nonetheless, nothing could make Pakistan take the steps laid down in that resolution towards the holding of a plebiscite. The mass of evidence in support of this view, though piling up year after year, awaits examination.

It is worth noting that Pakistan encouraged and wangled the accession of the State of Junagadh surrounded by Indian territory, a State which was not contiguous to Pakistan territory. This was done on the ground that the matter was for the ruler, in this case a

Muslim, to decide, irrespective of the wishes of the people, the geographic location of the State, economic considerations and markets and communications, all of which were inextricably tied up with the surrounding Indian territory. Pakistan thus initiated an entirely unnecessary and trouble-making interference in Indian affairs. By underhand means Pakistan also endeavoured to secure the accession of Jodhpur and Bikaner which by no stretch of imagination could be considered desirous of joining Pakistan. No justification whatever could be offered by Pakistan for its folly, for if India or Pakistan were to accept the accessions of Princely States in such a way as to create enclaves of one country in the other, it would have made nonsense of the partition. Geographical compulsions were real and had to be accepted. In conversations at a high level between responsible personages on both sides, the leaders of the future Pakistan had justified the impression that Pakistan also intended to recognize this principle, and not to enter into a competition with India in obtaining accessions. Sardar Abdur Rab Nishtar, subsequently a member of the Government of Pakistan, was at the time a member of the coalition Cabinet of the United India, and was in charge—at the time Lord Mountbatten referred to the principle of geographical compulsion in his address to the Chamber of Princes—of the States Department of the future Government of Pakistan. He actually expressed his agreement with this principle in official records. Following this principle when a large Princely State, Kalat in Baluchistan, which had obvious geographical compulsions to accede to Pakistan, approached the Government of India for political relationship, it was refused. Certain unofficial overtures were made from another Princely State, Bahawalpur, and they were similarly discouraged, although in this case the State was also contiguous to Indian Union territory. In the circumstances, the leaders of India naturally assumed that this principle would be scrupulously honoured by Pakistan also.¹

Imagine their surprise, when Pakistan accepted the accession of Junagadh. As this accession came long before the trouble began in Kashmir, Pakistan cannot use one wrong to justify another wrong which it committed in Kashmir. Anxious to settle the matter

amicably, the Government of India in a telegram on 11 September 1947 asked the Pakistan Government to reconsider their decision, treat the accession of Junagadh as provisional and agree to a settlement of the problem by a plebiscite.³ No reply was received until 5 October 1947, when, in a telegram, the Prime Minister of Pakistan proposed considerations and discussions, conditions and circumstances "in which plebiscite should be taken by any State or States at our next meeting."³ Even now there was no acceptance of plebiscite but only an offer to consider it at a future meeting. However, the reference to "any State or States" was cryptic and inexplicable. The cat jumped out of the bag on 24 October 1947 when, in another telegram, the Pakistan Government stated:

Our position was and still is that we are prepared to discuss conditions and circumstances in which a plebiscite or referendum should be held in any State or States. You must have no doubt realized that Junagadh is not the only State regarding which the question arises, and that is why we advisedly said "any State or States."⁴

By 24 October, the State of Jammu and Kashmir had been invaded from Pakistan. The mention of "any State or States" in the Pakistan telegram of 5 October now became clear and was intended to refer to a future event which was to be brought about by Pakistan invasion of Kashmir which was then partly under way, though not yet in a big way, as subsequent events revealed. Refusing to be fooled by these tactics, India held a plebiscite in Junagadh in which the number of voters who polled was 190,870 out of a total of 200,569. Of these 190,779 voted for India and only 91 for Pakistan.⁵ Zafrullah Khan admitted that the Government of India had "insisted that this question should be decided by a plebiscite."⁶ He also admitted that "it is unlikely that the fairest plebiscite in Junagadh would result in the people of Junagadh deciding to accede to Pakistan—and I myself

2. S.C.O.R., Nos. 16-35, p. 332.

3. *Ibid.*

4. *Ibid.*

5. S.C.O.R., Nos. 36-51, p. 47.

6. *Ibid.*, p. 62.

concede that as unlikely.”⁷ Then why did Pakistan accept Junagadh’s accession, unless it was to poison Indo-Pakistan relations? Years afterwards, in 1962, he made another significant admission, namely, that when the people of Junagadh came to know of the ruler’s accession to Pakistan, “quite a substantial number of them apparently did not like it.”⁸

KASHMIR LEADERS’ APPEAL

Meanwhile, Shaikh Abdullah who had been incarcerated by the Ruler for organizing and conducting his “Quit Kashmir” movement, under which the Ruler was asked to hand over authority to the people and quit the State, was released on 29 September 1947. Soon after his release, he defined his attitude about the accession of the State to either Dominion. Speaking in Delhi on 9 October, he said that the people’s first concern was “attainment of self-government, so that people armed with authority and responsibility could decide for themselves where their interests lay.”⁹ A few days later he reverted to the subject.

Kashmir to be a joint Raj [rule] of all communities. Our first demand is complete transfer of power to the people in Kashmir. Representatives of the people in a democratic Kashmir will then decide whether the State should join India or Pakistan.

Of course, we will naturally opt to go to that Dominion where our own demand for freedom receives recognition and support. We cannot desire to join those who say that the people must have no voice in the matter. . . .

At this time Kashmiris must come forward and raise the banner of Hindu-Muslim Unity.¹⁰

In order to secure the cooperation of Pakistan in the pursuit of such a policy, some of the leaders of the National Conference went to Lahore. One of them, Bakshi Ghulam Mohammed, subsequently, disclosed that the Pakistan leaders

7. *Ibid.*

8. *S.C.O.R.*, No. 1008, para 17.

9. *Statesman*, 10 October 1947.

10. *People’s Age*, 26 October 1947.

were unwilling to let the Kashmir issue be decided by a referendum. The Pakistan leaders were reported to have said that unless Shaikh Abdullah pledged to Pakistan that the National Conference would solidly vote for the State's accession to Pakistan, they could not agree to a referendum. That suggestion was totally unacceptable to the leaders of the Conference.¹¹

This was confirmed by Ghulam Mohammed Sadiq, another prominent leader of the National Conference.

Before the invasion, the National Conference deputed me to approach the Pakistan Government at the highest level to recognize democratic rights of the Kashmiri people for self-determination and abide by the sovereign will of a free people on the question of free association with either of the Dominions. I met Pakistan's Prime Minister and other Ministers, but it was of no use. We see finally put into operation a programme of first enslaving and then securing "yes" in their favour from an enslaved people.¹²

When the invasion of Kashmir from Pakistan began, Shaikh Abdullah reacted. "The invasion of Kashmir is meant to coerce and compel the people of Kashmir to act in a particular way, namely, to accede to Pakistan. Every Kashmiri resents this compulsion on his will."¹³

This is how Pakistan treated popular leaders of Kashmir who had only asked that their right to self-determination should be respected by Pakistan, as India had agreed to do. Pakistan was not interested in referendum and had no desire to leave the Kashmiris alone to decide their own future.

Consistent with its policy on Junagadh and in spite of its legal, political, and strategic rights, India offered to settle the problem of Kashmir by a referendum. In a broadcast on 2 November 1947, Prime Minister Nehru said that India was prepared, when peace and law and order had been established, to have a referendum

11. *Dawn*, Karachi, 17 November 1947.

12. *S.C.O.R.*, Nos. 1-15, pp. 213-4.

13. *Times of India*, 28 October 1947.

held under international auspices like the United Nations.¹⁴ The offer was rejected by Pakistan. Referring to the proposal in a broadcast on 4 November 1947, Liaquat Ali Khan, the Prime Minister of Pakistan, ridiculed it. If the plans of the Kashmiris' "enemies" succeeded, he said, they (the Kashmiris) would be exterminated. "It is presumably after such extermination that the Indian Government propose that a referendum should be held. What use is a referendum after the voters have been driven away from their homes, or silenced in death?"¹⁵

If, according to Pakistan leaders, the Kashmiris had their hearts set on acceding to Pakistan, where was the necessity of organizing an invasion of Kashmir in disguise? Time would be on the side of Pakistan and the people of Kashmir sooner or later would get an opportunity of taking a decision in the matter. In spite of an attempt by Pakistan to seize the State by force, India offered to settle the issue, in the interest of friendly relations between the two countries, by a referendum. Here was an opportunity which one would have imagined Pakistan would seize with both hands.

Mountbatten's talk with Jinnah in Lahore further confirms the suspicion that Pakistan would favour plebiscite only in conditions which it considered would guarantee success for Pakistan. Mountbatten proposed a plebiscite under U.N. auspices, whereupon Jinnah asserted that only the two Governors-General could organize it. Mountbatten at once rejected the suggestion, stressing that whatever Jinnah's prerogatives might be, his own constitutional position allowed him only to act on his government's advice.¹⁶

And yet when India placed its complaint of aggression by Pakistan before the Security Council, Pakistan's denial of any aid or assistance to the invaders was matched only by its insistence on a plebiscite, which it had already rejected twice. It might be argued that Pakistan preferred a plebiscite under international auspices, with ample safeguards to ensure its fairness and impartiality. Even if this is conceded for the sake of argument, it passes understanding why Pakistan, after denying that it was a party to the tribal invasion, should

14. *Hindustan Times*, 3 November 1947.

15. *Dawn*, Karachi, 5 November 1947.

16. *Mission with Mountbatten*, pp. 229-30.

have clandestinely mounted an invasion of the State with its regular army, thereby jeopardizing the chances of holding a plebiscite for which it had pressed in the Council between January and April 1948. It is not easy to brush aside the suspicion that Pakistan had more faith in the arbitrament of force than in the will of the people, and that the second invasion was undertaken to strengthen its military position in the State. This aggression was to prove in course of time an insuperable obstacle to the organization of a fair and impartial plebiscite even under international auspices.

True to type, when the U.N. Commission produced its draft resolution of 13 August 1948, aiming at bringing about a cease-fire, Pakistan once again insisted on a plebiscite and refused to accept the draft resolution until the details of a plan for a plebiscite were worked out and incorporated in this or a supplementary resolution. This meant further delay. The Secretary-General of the Government of Pakistan, Mohammed Ali, expressed the view to the Commission that it was impracticable to arrange for a plebiscite in 1948.¹⁷

Eventually, the principles of plebiscite were set out by the Commission in its resolution of 5 January 1949. Pakistan was now fully aware of India's position, namely, that if having accepted this and the Commission's resolution of 13 August, Pakistan did not implement Parts I and II of the latter resolution, the Commission's plebiscite proposals would not be binding on India. The Commission agreed to this view and recorded it in its second interim report.¹⁸ This was the fourth occasion on which plebiscite had come up and it was hoped that this time Pakistan would go out of its way to bring about its early consummation. But history repeated itself and by raising all kinds of needless problems about the withdrawal of its troops and the disbandment and disarmament of Azad Kashmir forces, it created a series of vexatious and intractable difficulties which pushed plebiscite farther and farther away. Not satisfied with this, Pakistan extended its military control to the northern areas and increased the striking power of the Azad Kashmir forces, both during the period of cease-fire. Pakistan could not

17. S/1100, p. 151.

18. S/1196, Annex 4, Aide Memoire I.

have been unaware of the fact that this was hardly the way of expediting a plebiscite, and that India would never compromise on these developments. As in the case of its tribal and military invasions, the new violations were committed clandestinely and were recorded by no less an authority than the U.N. Commission. Instead of simplifying the problem for India and the Plebiscite Administrator, Pakistan appeared to be working overtime to make a plebiscite impossible. A series of denials and admissions by Pakistan had already brought her motives under suspicion in India. Her invasion of the northern areas seemed to emphasize the view which many Indians held that the slogan of plebiscite was only a smokescreen behind which Pakistan consolidated its position in the occupied territory, seizing new areas as opportunity offered.

REVELATION BY COLOMBIA

In so far as India's sincerity in this matter is concerned, the Colombian representative in the Security Council has put the whole question beyond any shadow of doubt. Colombia was a member of the U.N. Commission and its representative had recorded the proceedings of the Commission for the information of his government. Urrutia, who had studied these records, said in the Security Council on 15 February 1957:

When the Security Council appointed the Commission which went to India and Kashmir in 1948, it committed without design the same error as we are about to commit with the present draft resolution: the Commission's sole terms of reference being to negotiate within the framework of the resolution of 21 April 1948 (S/726) which one of the parties—India, in this case—had denounced before the Commission left New York. Thus on its arrival in India the Commission found itself in the following rather absurd position: it was acting in accordance with Chapter VI of the Charter, in other words, it was engaged in conciliative procedure, and was required, in doing so, to keep strictly to a resolution that had been denounced by one of the parties. Despite this completely illogical situation, the Commission scored an unexpected success by getting the Indian Govern-

ment to agree, subject to certain conditions, that the question of Kashmir's future should be submitted to decision by its inhabitants by means of a plebiscite ... what was arrived at, therefore, was a compromise solution whereby it was possible to elicit an offer from India to submit the final disposition of Kashmir to a plebiscite. Two points have to be made clear, however: first, the Commission accepted the sovereignty of the State of Jammu and Kashmir as a fact and avoided entering into a discussion of the legality or illegality of the act of accession, which meant that it recognized the *de facto* sovereignty of India. Secondly, the Commission never recognized the legality of the presence of Pakistan troops in Kashmir. These points must be stressed in order to appreciate why the Commission ordered the complete withdrawal of the Pakistan forces but only requested India to withdraw part of its forces, while permitting it—and even giving it special rights—to maintain internal order and take charge of external defence. For the same reason, the Commission, when the idea of a plebiscite was discussed, was the first to recognize that Pakistan had no right to take part in drawing up the rules and regulations for the plebiscite, except in an advisory capacity, whereas India was recognized as having the right to be consulted.... The Chairman of the Commission, during these discussions, was the representative of Colombia, and therefore I felt it was my duty to examine the records. And of course I found, first of all, that when the Commission was asked whether it wanted to enter into a discussion on the legality of India's sovereignty over Kashmir, the Commission said it would prefer not to do so; second, that when Mr. Nehru asked Mr. Lozano whether the offer to hold a plebiscite would, in the Commission's view, entail an unconditional commitment if the first and second parts of the resolution of 13 August 1948 were not carried out, Mr. Lozano replied very definitely, "No." It is very clear that there would be no commitment on India's part until after the first and second parts of the August resolution have been complied with.¹⁹

19. S.C.O.R., No. 768, paras 63, 65, and 67.

After giving this background to the subject, Urrutia went on to explain what followed:

Unfortunately, the atmosphere of confidence that had been achieved was lost owing to a series of errors and incidents which it is advisable to recall so that they will not recur. The first was the appointment of the Plebiscite Administrator. As it is now nine years ago, I think it is now worth while to explain what happened. In the Commission the Colombian delegation urged that the Plebiscite Administrator should be a neutral, that being the only way to induce India to abide by the offer which had been obtained with such difficulty. Unfortunately, other delegations had explicit instructions to urge that the Plebiscite Administrator should be a United States citizen. My delegation suggested in private conversations also that we should accept the Indian Government's suggestion that the President of the International Red Cross should be appointed Plebiscite Administrator. If, at that time, we had accepted the Plebiscite Administrator proposed by India, the President of the International Red Cross, the plebiscite would already have been held. Instead of that, Admiral Nimitz waited nine years in New York for an opportunity to organize the plebiscite. But these errors are delicate matters, because an apparent diplomatic victory, obtained at a certain time, secured propaganda purposes, but in reality undid all the work the Commission had accomplished.

Urrutia emphasized that what the Commission had in view was a very early plebiscite.

The Commission had provided for an arrangement, system, or procedure that was to be carried out in six weeks or three months at the most. Advantage should have been taken of the favourable atmosphere of the climate that had been brought about in India: Mr. Nehru's acceptance, and the confidence with which the Commission had inspired him to accomplish all this in three months.²⁰

Aggression against India by the Pakistan army had stiffened

20. *Ibid.*, paras 72-4.

the attitude of India to any proposal for a plebiscite. In these circumstances, a conditional acceptance of the proposal by India was a major concession to a peaceful settlement. But in the matter of rights, Pakistan began to claim parity with India which the resolutions of the Commission had denied to the invader and sought to foist obligations on India which the same resolutions had placed firmly on Pakistan. Had Pakistan really wanted a plebiscite, it would not have raised these irrelevant issues, particularly when the plebiscite had to be held, as Urrutia had disclosed, in a maximum period of three months, and when India, shaken by the disclosure of aggression by the Pakistan army, had no reason to agree to a plebiscite at all. Pakistan should have helped the Commission and India in every possible way to bring about an early plebiscite, which it said was its supreme objective. In the light of all that has come to pass, it is difficult to believe that Pakistan was serious about its acceptance of the UNCIP resolutions, much less about a plebiscite.

UNFAVOURABLE FACTORS

The reasons for the Pakistan attitude are not difficult to fathom. Pakistan raiders and troops had indulged in loot, arson, rape, and murder in the State. Scores of villages and towns were destroyed and hundreds of thousands of people uprooted. A large number of women were abducted and sold in Gujrat, a town in West Pakistan, and in North-West Frontier Province. These were hardly the ways of winning the votes. As Shaikh Abdullah said at the time, the invaders who, according to Pakistan, were "liberators" had liberated the people from life. Pakistan wanted to mark time, pinning its faith on the hope that memories are short, time might heal the wounds, and better opportunities might come in the future.

According to a writer, by no means friendly to India, Jinnah did not like the plebiscite at all because he was convinced that its result would be determined by Shaikh Abdullah.²¹ In the early stages of the Kashmir problem "when the memory of the horrors of the tribal invasion of October 1947 was still fresh in Kashmiris' minds, thoughtful Pakistan leaders cannot have been convinced

21. Alastair Lamb, *Crisis in Kashmir*, Routledge & Kegan Paul, London, p 50.

that the vote would in fact go in their favour.” “At this period, 1948-49, a Kashmir plebiscite would have involved a considerable Pakistan gamble.”²² This shows that Pakistan’s interest in Kashmir was not to ascertain the will of the people or to ensure their well-being but purely one of tactics by which it could secure possession of the State.

The UNCIP resolutions aimed at the holding of a plebiscite. Having accepted them, Pakistan nevertheless supported the McNaughton proposals which struck at the very root of those resolutions. These proposals endeavoured to modify the agreed resolutions when agreement between the parties was of the essence of the matter and something extremely difficult to achieve. And yet Pakistan was provoking doubts in India about its own *bona fides* by seeking to undermine the very resolutions which only a year before it had accepted. Apart from anything else, any new proposal would consume time, thereby postponing the plebiscite. On the other hand, if there was no other way of avoiding a plebiscite, the Pakistan move made sense, and it worked.

More reasons for postponement were provided by what was happening in the State under its lawful government. On 13 July 1950, the government declared its policy of liquidating the big landed estates and transferring land to the tillers of the soil. On 17 October 1950 was enacted the Big Landed Estates Abolition Act by which the right of ownership in respect of lands in excess of 22½ acres of land—excluding orchards, grass and fodder farms, and fuel reserves—was abolished, and such land was transferred to the actual tillers. Estates were abolished without payment of compensation. This was a revolutionary piece of legislation, in conflict with the provisions of the Constitution of India, but badly needed in the State and undertaken at a time when Pakistan was ruled, as it still is, by feudal interests. Similarly, rural indebtedness was drastically scaled down. The hereditary princely rule was abolished. These changes were far-reaching in character, the impact of which on the people was immediate. Finally, popular elections based on adult franchise were held and a Constituent Assembly, which also functioned as a legislature, convened. These

22. *Ibid.*, p. 57.

were factors which obviously discouraged Pakistan from forging ahead under the Commission's resolutions to accelerate the holding of a plebiscite.

All that it did was to send frequent letters to the Security Council, objecting to this or that step taken by the Government of India or the Jammu and Kashmir government. Political and economic instability had begun in Pakistan and was to lead in the end to another period of political servitude, though under its own government which relied for sanction, not on popular support but on the army and the services. Conditions in Pakistan-occupied Kashmir held out little hope of winning a plebiscite, where government followed government, sometimes at short intervals. Years were to pass before details of the iron repression and popular revolts in this part of Kashmir were disclosed by leaders of its tormented people. In 1955 the All-Jammu and Kashmir Muslim Conference, the political party nominally in power in Pakistan-held Kashmir, submitted a memorandum to the Pakistan Constituent Assembly. This memorandum stated:

For the past few years the people of Azad Kashmir in general, and those of Poonch in particular, have been subjected to great torture and terrorization. Account of this terrorism is very heart-rending. . . .

Martial law was imposed in Poonch last time without any justification. . . . About a dozen houses were blasted with dynamite, a number of poor families rendered homeless. Ruthless shelling and random firing by mortar guns took place, resulting in many deaths. . . .

After the Civil Disobedience Movement [of 1950-51, launched by the people against the authority], the Government of Pakistan had come to an agreement with the All-Jammu and Kashmir Muslim Conference that all cases of political nature, and even criminal cases with any political background, would not be prosecuted. But the present regime have so shamefully gone back on these commitments and the old cases have been revived. . . .

The people have been arrested, without any warrants of arrest, on mere suspicion or personal vendetta, in all the three districts of Azad Kashmir. They are rotting in the concentration camps

at Bagh, Bari, Pullandri, and Saraswah. They are forced to live under subhuman conditions....

Shelling and firing has been resorted to in the various parts of Azad Kashmir, at least a dozen times, from 1950 onwards....

This territory has been reduced to the position of a colony.²³

Enough extracts have been given from the memorandum to show the relationship that existed between the "liberators" and the "liberated" in this part of Kashmir. No Pakistan Government would in these circumstances commit the folly of taking a decisive step towards the holding of a plebiscite. Inevitably it must temporize, raise a host of irrelevant issues, advocate measures known to be unacceptable to India and harp on India's "intransigence," so that the responsibility for postponement could always be fastened on India.

Pakistan began to make a fuss over plebiscite after the arrest of Shaikh Abdullah, evidently in the belief that the new turn of events would divide the people of Kashmir, the majority of whom might retaliate by turning to Pakistan.

Even assuming for the sake of argument that the circumstances were more favourable to Pakistan, one would have thought that Pakistan would cut its losses and make up for the lost time by taking immediate action on its own obligation under the resolutions of the Commission, and by accepting India's proposal, throw the whole responsibility for holding an immediate plebiscite on India and the Security Council. Pakistan took no such step. The *bona fides* of the Government of India are proved by the joint communique issued by the Prime Ministers of India and Pakistan in New Delhi on 20 August 1953 which stated *inter alia* that the most feasible method of ascertaining the wishes of the people was by fair and impartial plebiscite. Prime Minister Nehru suggested the replacement of Admiral Nimitz by a Plebiscite Administrator from one of the smaller States and a regional plebiscite. Had Pakistan the slightest interest in a plebiscite, its government should have jumped at these suggestions and put India to the test. Instead the Government of Pakistan rejected both proposals.

One reason for this strange attitude was the fact that while outwardly Pakistan talked about a plebiscite, as a matter of fact it was negotiating a military aid agreement with the U.S.A. By signing this agreement and by joining SEATO, Pakistan instead of demilitarizing its forces in Kashmir as required under the resolutions of the Commission began to militarize them, thereby reversing the process envisaged in these resolutions. Obviously what Pakistan was aiming at was not the ascertainment of the wishes of the people in Kashmir but to dictate terms to India from a position of strength. This was proved by a number of authoritative statements made at the time. The *U.S. News and World Report*, for instance, carried a significant interview with the Prime Minister of Pakistan, Mohammed Ali, in its issue of 5 January 1954, from which the following extracts are taken:

Q. How would a military agreement with the U.S. affect your relations with India?

A. At first they might become slightly strained but eventually I am convinced that our relations would improve as the military strength of the two countries becomes more nearly equal.

Q. Wouldn't a settlement of the dispute with India over the State of Jammu and Kashmir then be more difficult to reach through?

A. Yes, at first. But, again, I am convinced that ultimately it would make a settlement easier. At present we can't get a settlement, mainly because India has greater military strength and Nehru is not much interested in a fair settlement. When there is more equality of military strength, then I am sure that there will be greater chance of settlement.

Similarly, Chaudhuri Mohammed Ali, Prime Minister of Pakistan, said: "The hope of resolving the Kashmir tangle to Pakistan's satisfaction through the acquisition of military strength by joining the Baghdad Pact and SEATO is the very *raison d'être* for Pakistan to remain a member of these pacts."²⁴

Thus the weapon in which Pakistan believed was force. As the military strength of Pakistan grew, conditions began to deteriorate

24. S.C.O.R., No. 795, para 98.

along and across the cease-fire line, and Mohammed Ali's public assurance that U.S. military aid would eventually improve Indo-Pakistan relations proved to be both a blind and a snare.

PAKISTAN'S NEW TUNE

Ten years after the first invasion of the State from Pakistan, the attitude of Pakistan showed little change. Speaking in the Security Council on 18 February 1957, the Foreign Minister of Pakistan revealed that what Pakistan was after was not a peaceful plebiscite but a religious holocaust. He said:

It would be perfectly legitimate in the case of a plebiscite to draw attention to religious, cultural, linguistic, economic, geographic, strategic, and other ties, affinities, and considerations that might sway the choice ... whereas in an election it is the duty of a Government to see that it is free and no religious arguments are brought in, in the matter of a plebiscite, wherever it is held, it is held because of religious differences or of ethnic differences or of geographic, linguistic, or other differences. Therefore, in a plebiscite it is quite legitimate for people to appeal to the electorate for these reasons before they decide whether to accede to one side or the other.²⁵

From this statement it was clear that in spite of the tragic experience of the partition, the leaders of Pakistan were determined to inflame religious and communal passions in a plebiscite. This was another violation of an assurance which the U.N. Commission had given to India. Nehru had exactly this type of danger in mind when he asked the Commission on 21 December 1948 that India and United Nations being secular in their policies, an appeal to religious fanaticism in a plebiscite could not be regarded as legitimate political activity. Lozano on behalf of the Commission agreed that any political activity which might tend to disturb law and order could not be regarded as legitimate. This assurance was made public in the Commission's second interim report.²⁶

25. S.C.O.R., No. 770, pp. 31-2.

26. S/1196, Annex 4, Aide Memoire 1, para 3.

In 1960, Pakistan changed its tune. President Ayub Khan and Foreign Minister Manzur Qadir began to refer to methods other than plebiscite. On 26 September 1960, President Ayub Khan said that any international agreement worth its name must be a compromise.²⁷ On 14 November 1960, he observed that only a sensible solution of Kashmir would be acceptable to Pakistan.²⁸ On 22 March 1961, he reiterated that Pakistan would be prepared to consider an alternative to plebiscite.²⁹ On the following day, he said at Dacca: "Plebiscite is the only solution because Kashmir belonged to the people of Kashmir. . . . We have gone further to say if there is any other reasonable solution so as to satisfy the legitimate aspirations of the people of Kashmir, we should be prepared to listen."³⁰ Similarly, the Pakistan Foreign Minister, Manzur Qadir, stated on 26 March 1961 that Pakistan was willing to consider fresh proposals for the solution of the Kashmir problem.³¹ In spite of all these and many other similar statements, Pakistan switched back to plebiscite when the joint talks between the two countries began in December 1962, a posture which was abandoned during the second round of talks, after which the delegations of the two countries devoted their time and energies to considering other forms of settlement. Once again it was clear that Pakistan favoured plebiscite no more than a hungry man worships his hunger.

Pakistan is fully aware that plebiscite in any shape or form is no longer feasible or practicable. The elected representatives of the people of Jammu and Kashmir framed and promulgated a democratic constitution which might serve as a model for Pakistan. They have had three general elections based on adult franchise and two five-year plans under which the State has been keeping step with the other States of the Indian Union in economic and social development. Besides, there has been progressive extension of provisions of the Constitution of India to the State of Jammu and Kashmir as required under Article 370 of that Constitution. None

27. *Dawn*, Karachi, 27 September 1960.

28. *Ibid.*, 15 November 1960.

29. *Ibid.*, 23 March 1961.

30. *Ibid.*, 24 March 1961.

31. *Ibid.*, 27 March 1961.

of these developments is reversible. As Benegal Rau pointed out in the Security Council, Pakistan believed in possession, not plebiscite, President Ayub Khan left no one in any doubt about it. In December 1959, he said: "Kashmir is vital for Pakistan, not only politically but militarily as well. Kashmir is a matter of life and death." Speaking at the National Press Club, Washington, on 13 July 1961, he said: "You might say, 'Why can't you give up Kashmir?' Well, we cannot give up that dispute not because we are bloody-minded but ... for example, for the reason that Kashmir is connected with our physical security. Thirty-two million acres in Pakistan are irrigated from rivers that start in Kashmir."³² Again: "Kashmir is important to us for our physical as well as economic security."³³

Commenting on these statements in the Security Council on 10 February 1964, Mahomedali Currim Chagla, then the Education Minister of India, said that this showed that Kashmir was not vital for human reasons; it was vital to Pakistan for its own reasons, namely, its own security and its own defence. During the joint talks, as revealed in an official publication, Pakistan had claimed Kashmir on similar grounds.³⁴ The delegates of Pakistan considered that their country should have control of the watersheds and catchment areas of the rivers in Jammu and Kashmir, because Pakistan could not otherwise store water for irrigation or produce hydro-electric power. If such an argument were to be accepted, every lower riparian could claim the watershed of a common river in the territories of upper riparian States. Another no less strange argument advanced by Pakistan delegates was that Kashmir was essential for the Security of Pakistan, for without control of the State, Pakistan could not protect its rail and road communications which passed through important centres of population and ran parallel to the States' western border with Pakistan. This meant, by implication, that any country could claim the territory of its neighbours in the name of safeguarding its border roads and railways.

More evidence was forthcoming that the aim of Pakistan was no

32. *Pakistan Times*, 14 July 1961.

33. *Ibid.*, 20 July 1961.

34. *Aggression in Kashmir*, Ministry of External Affairs, Government of India, 1963.

other than possession of Kashmir. When, in 1964, Shaikh Abdullah during his talks with President Mohammed Ayub Khan in Rawalpindi proposed an independent Kashmir, the latter turned it down on the ground *inter alia* that such a proposal would make the State a cockpit of international intrigue. So far as India is concerned, under its Constitution de-accession of the State can hardly be contemplated; the people of Kashmir settled the matter by throwing in their lot with India and by ratifying the accession. Pakistan opposed the suggestion made by Abdullah apparently because it ruled out the merger of Kashmir with Pakistan.

For any plebiscite, the territorial unity of the State was of capital importance and this vital fact was emphasized by the Commission in its resolutions. In violation of those resolutions and the Council's resolution of 17 January 1948, Pakistan began to break up this unity. It accepted the accession of component territories of the State of Jammu and Kashmir, such as Hunza and Nagar. It extended its administration to the northern areas of the State which were made part of its own territory by its Constitution. It gifted away over 2,000 square miles of Indian territory to appease expansionist China and to give a semblance of reasonableness to China's spurious claims on Indian territory. Unilaterally and despite opposition from India, it placed all the areas of Kashmir under its unlawful control within the jurisdiction of Lahore Flight Information Range, instead of leaving it, as had originally been agreed, under Delhi Flight Information Range. It is now clear that this was done to prepare the ground for Pakistan's military operations, including bombing in Kashmir by its Air Force planes, in 1965.

The leaders of Pakistan in and outside the Council have made much of offers of plebiscite made by Nehru and reiterated by Gopaldaswami Ayyangar and Benegal Rau. They argue that India wriggled out of its commitment to hold a plebiscite because of its fear that Kashmir would not vote for India. Hence, they say, one excuse by India after another; hence progressive "integration" of the State under Article 370 of the Constitution of India; hence dismissal, arrest, and detention of Shaikh Abdullah. Assuming all this to be true for the sake of argument and assuming every other conceivable motive which Pakistan can attribute to India for pre-

venting a plebiscite, was this not all the more reason why Pakistan should have strained every nerve to expedite the holding of a plebiscite, instead of spending all its time in building a rampart of insurmountable difficulties? If Pakistan was serious about a plebiscite, it would have taken advantage of numerous opportunities which India had offered of bringing one about. Instead Pakistan dragged its feet, and seemed to be content with accusations of "intransigence" against India, when all that it needed to do was to pull its troops out of the State. A plebiscite would have become inevitable as the basic condition stipulated and agreed to by the parties would have been fulfilled. Having failed in this, Pakistan embarked on the propagandist and futile course of either resisting or condemning democratic changes in Jammu and Kashmir resulting from people's aspirations, which were both inescapable and irresistible.

Once people have political aspirations, change, which Pakistan resisted, is inescapable. Unable to prevent political changes in its own territory, the Government of Pakistan resisted every popular change in Kashmir. As Chagla asked in the Council, did Pakistan expect that while it continued its aggression, India would sit with folded hands and do nothing whatever in Kashmir to improve the lot of the people? A plebiscite is only a machinery for ascertaining the wishes of a people. There is nothing sacrosanct about it. There are other methods which are equally efficient. The possibility of a plebiscite was envisaged because at that time no elections had been held in Kashmir. The whole picture changed after Kashmir had three general elections with universal adult franchise, and at all the three elections a party was returned to power which had finally and emphatically supported Kashmir's integration with India.³⁵ Tribal invasion from Pakistan, invasion by the Pakistan regular army, consolidation of its military position in Pakistan-held Kashmir, military aid, agreement with the U.S., participation in military pacts, collusion with China against India, continuous threats of Jihad or holy war—these could only consign the proposal for a plebiscite to oblivion. All the weapons in Pakistan's armoury, including subversion and sabotage, organized crossing of the cease-fire line by trained civilians and the creation and maintenance

35. S/PV. 1088, paras 29 and 31.

of tension along the cease-fire line, were used against India. Holding the key to a plebiscite, Pakistan refused to use it, preferring to let it rust. The first step, namely, the withdrawal of Pakistan troops, had to be taken by Pakistan and India did nothing to prevent it. At every meeting of the Council, the Indian representative complained that Pakistan had not honoured its unconditional commitment—withdrawal of Pakistan troops—without which the resolution of 13 August could not be geared into action. It was not until 1957 that India's attitude changed, the moral duty which India had towards the people of Kashmir having been discharged meanwhile.

When, at the instance of Pakistan, the issue came up again in the Security Council in 1964, the context had changed. Krishna Menon, in spite of serious and continuous violations by Pakistan of Part I of the resolution of 13 August, had not made it clear in the Council that India was no longer bound by the UNCIP resolutions, except the cease-fire agreement of 27 July 1949. At one stage he said that if Pakistan vacated the aggression, India would then consider what was to be done with the resolutions. The agreement between Pakistan and the Republic of China on the boundary of Kashmir with Sinkiang completely changed the position of the parties. By choosing to line up with China which had invaded India and seized Indian territory in Kashmir and by claiming, as its Foreign Minister Bhutto did, that the defence of Pakistan involved the security of the largest State in Asia, Pakistan's professions of seeking friendly relations with India and harbouring no aggressive designs against its territory sounded insincere. Besides, there was no doubt that Pakistan was not interested in the realities of the situation, but only in exploiting every tension in India.

The objectives of Pakistan and China vis-a-vis India were similar and their methods of achieving them identical. Both assumed that India was breaking up socially, politically, economically, and ideologically, and that it was only a matter of time before they could satisfy their territorial lust to their hearts' content. Their press and radio propaganda against India was planned, coordinated, and conducted on identical lines. Both installed powerful transmitters for broadcast to the border areas of India. Pakistan constantly probed the cease-fire line and the number of incidents in its vicinity

began to rise rapidly from month to month. The theft of a holy relic from a mosque in Srinagar which led to popular demonstrations against the local government was worked up in Pakistan newspapers, broadcasts, and official statements, and presented as a grave crisis which demanded immediate attention. And although, with the recovery of the relic, conditions returned rapidly to normal in Srinagar, Pakistan propaganda showed no diminution in its virulence.

In these circumstances, Chagla took the plunge and told the Council that the resolutions of the Commission had lapsed and that on no account would India agree to hold a plebiscite.³⁶ This was necessary in the interest of peace and progress of the people of India and Pakistan and above all in the interest of the people of Jammu and Kashmir. "Pakistan talks glibly of a plebiscite. Does it realize what its consequences will be?" asked Chagla.

In the place of peace and quiet, we may have bloodshed. If the theft of the sacred relic could be exploited to produce riots 1,500 miles away [in East Pakistan], the stirring of communal passions on a large and massive scale may lead to serious communal riots all over India and Pakistan and to migrations. The only people who would suffer are not the politicians in Pakistan who preach a holy war but millions of innocent people who are not interested in politics and who want to be left in peace to carry on their normal avocations. So, if we are thinking only in terms of maintenance of peace, respect for human beings, then we should think a thousand times before we would disturb a situation which has existed since India became independent.³⁷

Thus plebiscite which India had offered time and again to Pakistan and for which Pakistan had no appetite was buried seventeen years after it was first suggested.

PAKISTAN-CHINA COLLUSION

For the first time the significance and implications of the Sino-Pakistan collusion, which had completely changed the Indo-

36. S/PV. 1088, p. 31; S/PV. 1090, p. 31.

37. S/PV. 1090, p. 6.

Pakistan picture, were explained in some detail, and the threat which this development posed to the security of India in general and to Kashmir in particular.

We have been witnessing with amusement, and also with a certain amount of disgust, the greatest tight-rope act ever seen in international affairs. Pakistan has achieved this with extraordinary skill by keeping one foot in the South-East Asia Treaty Organization and the Central Treaty Organization and the other in the Chinese camp. She is getting closer and closer into the Chinese embrace, and the latest incident of this touching affection between the two countries is what happened in Djakarta, when Pakistan, China, and a few other countries “ganged up”—I am sorry about using the expression, but it is the only way to describe what has happened—“ganged up” to deny the Soviet Union a place in the Asian world and refused Malaysia admittance to the next Asian-African conference as an Asian country, although Malaysia has an undoubted right to it. Pakistan tells the United States that it is an ally and wants arms in order to fight communism. It tells China that if China attacks India, Pakistan will stab India in the back. Pakistan preaches democracy to us and asks us to hold a plebiscite in Kashmir, but it does not permit even a vestige of democracy in its own territory. It has suppressed the democratic movement in East Pakistan. It has refused the principle of self-determination which it professes to consider so sacred to Pakhtunistan and Baluchistan. I must emphasize a fact that the representative of Pakistan has conveniently overlooked, namely, that in the context of what has recently happened there, Kashmir is vital to India not only for recovering the territory which China has unlawfully occupied, but also for resisting future aggression by China. The defence of Ladakh, which is in the north-east of Kashmir, against the continuing menace of China is impossible except through Kashmir.³⁸

Chagla's statements in the Council are a major landmark in the history of the issue. On a reduced and therefore easily compre-

38. S.C.O.R., No. 1113, paras 4 and 5.

hensible scale, he presented the Indian case with a refreshing and unequivocal clarity and precision. For the first time the basic conditions, without which no talks with Pakistan would be possible or fruitful, were indicated.

I want Pakistan to accept certain basic positions which India takes up and it will always take up. One is that Kashmir is an integral part of India; that is a basic position. The second is that no country can be a party to giving up part of itself, that no country can agree to the self-determination of a part of the country. It would break up India, and if this dangerous principle were to be applied to other parts of the world, it would break up Africa, it would break up many parts of Asia, and it would break up many parts of the Middle East.³⁹

Both the conditions were to become major planks of India's policy.

Chagla's forthright exposition had its effect. A striking feature of the debates in 1964 is the casualness with which members mentioned plebiscite, if they referred to it at all. Even the representative of Pakistan, Bhutto, appeared to have lost much of his zest for it. His emphasis was mostly on the right of self-determination, whatever that might mean. Plebiscite was already dead, but Bhutto repudiated it by putting an impossible interpretation on the UNCIP resolutions, namely, that Pakistan's obligation to withdraw its armed forces from Kashmir was conditional.⁴⁰ He knew that no one would accept such a blatant perversion of the resolutions, but it did indicate that Pakistan was determined to continue with its aggression and that therefore plebiscite was no longer a practical proposition. He also went back on statements made by his predecessors, namely, that Pakistan was committed to the withdrawal of its troops.

Bhutto's emphasis on the right of self-determination was misplaced. He had no answer to the questions which Chagla put to him.

Did Pakistan permit the people of the princely States in Pakistan to exercise the right of self-determination after the ruler acceded to Pakistan? As disclosed in the West Pakistan High Court a few

39. S/PV. 1117, p. 12.

40. S/PV. 1089, p. 33.

years earlier, the accession of Bahawalpur had been forced on the ruler of that State. The Khan of Kalat revolted against accession and was arrested and detained in 1958. In neither case was the principle of self-determination applied. When Pakistan purchased the territory of Gwadar from the Sultan of Muscat, what happened to its solicitous regard for the people's right to self-determination? No opportunity was given to the people of Gwadar to say whether they wished to be bought like chattel.⁴¹

Was the Foreign Minister of Pakistan prepared to concede the right of self-determination to the Pakhtoons, the Baluchis, or to East Pakistan whose people, as a matter of common knowledge, racially, ethnically, and linguistically, are different from the people of the rest of Pakistan?

Chagla said that it was futile for the representative of Pakistan to talk of the principles of the Charter and of a scrupulous discharge of international commitments, when his country had flagrantly violated the Charter and had perpetrated aggression upon another country in which she persisted. It was equally obvious that Pakistan had failed to discharge its international commitments by not complying with the directives given by the Council to Pakistan to withdraw its troops from two-fifths of Kashmir. Pakistan had failed to realize that the significance of its treaty with China, by which it had given over two thousand square miles of Kashmir, was not its territorial aspect nor the arithmetical calculation by which Pakistan claimed to have made a net gain, but the fact that Pakistan had no common border with China and had negotiated with regard to a territory to which internationally it had no claim. Pakistan stood self-condemned of aggression, because in no view of the case was the territory part of Pakistan. It was not correct to say that the treaty was provisional. As far as Pakistan was concerned, it was bound because the treaty provided that if Kashmir came to Pakistan, Pakistan would be committed to the agreement it had made with China.⁴²

41. S/PV. 1090, para 39.

42. S/PV. 1115, paras 7 and 8

Chagla drew pointed attention to the policies of the theocratic State of Pakistan. He said:

When I said that the representative of Pakistan has learnt nothing, I meant that he still believes that we are living in the mediaeval age and not in modern times. One of the most serious problems that is facing us and which the Security Council will be discussing very soon is racial apartheid. But there is an equally serious problem, equally vicious and evil, and that is religious apartheid. In principle there is no difference between the two. Both discriminate between man and man and do not respect human dignity. Pakistan was founded on the principle of religious apartheid, and that principle is still observed today, the most eloquent testimony to which is the fact that no less than 300,000 members of the minority communities from East Pakistan have sought refuge in India since the beginning of this year. They have fled from persecution and insecurity of the worst type, involving their lives and property and even the honour of their women.⁴³

CONSENSUS

All this tended to make the position somewhat fluid. The familiar pattern in the Council of a restricted discussion on the UNCIP resolutions and the ways and means of implementing them began to crack up under the realization that the passage of time and change of circumstances could no longer be ignored. Members talked about the responsibility of the Council, but had to admit at the same time that no solution could be imposed on the parties, which would have to seek it by negotiation. Even Adlai Stevenson of the U.S.A. felt that what was needed was a fresh attempt "in the light of today's realities."⁴⁴ The problem of minorities, the secular and democratic character of Indian society, the danger of inciting religious passions, and the importance of a calm and friendly atmosphere for the resolution of Indo-Pakistan differences, inclined the members of the Council to view the relations between India and Pakistan as a

43. S/PV. 1113, para 6.

44. S/PV. 1116, para 11.

whole, and to emphasize their interdependence and common ties of history and culture—facts which were not to the liking of leaders in Pakistan. Kashmir was no longer the dominant theme, but Indo-Pakistan problems and relations. Some members still talked about the resolutions and the need for third party assistance, if the parties agreed to it or asked for it, but the past bullying tactics and truculence of the Council were not so much in evidence. Chagla opposed all suggestions for a resolution or mediation.⁴⁵

The Kashmir question will not be solved by interminable discussions and debates in the Council. It will be solved only when Pakistan realizes that Kashmir is not a political shuttlecock in the game of anti-Indian politics which she has for the time being adopted. The Kashmir question will be solved when Pakistan realizes that India wishes her well and has no designs on her independence and that, in the prosperity of the two countries, lies the prosperity of the whole subcontinent. In this prosperity, the people of Kashmir must have a share as an integral part of India. India has always stood, and stands, for a just solution, a peaceful solution, an early solution to the Kashmir question. It is Pakistan which has blocked the way to such a solution. There cannot be a just solution in international affairs if aggression is either condoned or rewarded. There can be no just solution of the Kashmir question if Pakistan does not vacate her aggression and while the Pakistan army still keeps two-fifths of the State of Jammu and Kashmir in her unlawful possession.⁴⁶

The Soviet representative reaffirmed the position of its government on Kashmir, as he had done in 1957 and 1962.

The Soviet Union's position of principle on the substance of the Kashmir problem has already been stated more than once by the Head of the Soviet Government, Mr. Khrushchev. As is well known, our position is that the question of the ownership of Kashmir has already been solved by the people of Kashmir themselves.⁴⁷

45. S/PV. 1088, p. 67.

46. S.C.O.R., No. 1115, paras 30-7

47. S.C.O.R., No. 1116, para 18.

He questioned Bhutto's statement that there existed no truce agreement between India and Pakistan and that "even a cease-fire between them could in present conditions be considered obsolete."⁴⁸

The Security Council gave up the idea of considering a draft resolution and devoted more time to a consensus. Even this eluded its members. As the representative of France who was President for the month told the Council, despite every effort the members had been unable to reach complete agreement, and it was not possible to reach unanimity on one of the important points under discussion. The Foreign Minister of Pakistan gave vent to his disenchantment.

We asked for prompt and tangible assistance from the Security Council in the effort toward an early settlement, and it was our expectation that the Security Council would be a positive and material factor in the situation. We had hoped that the Council would finally lay down the framework within which contacts between India and Pakistan should be carried on for a solution of the problem of Jammu and Kashmir. We would also have liked a definite role to be assigned to the Secretary-General to enable him to facilitate the progress and to ensure a fruitful result of these contacts.⁴⁹

For the first time the Security Council did not oblige Pakistan. Also for the first time the Council adjourned not only without adopting any resolution but also without a consensus. The Council had exhausted its utility. Its partiality, its condonation of aggression, and its contradictory resolutions had ground its own activities, so far as the Kashmir issue was concerned, to a halt. For eighteen years it had grappled with wrong issues and advocated wrong remedies. The original complaint of India against aggression by Pakistan had led to nothing. On the other hand, the party that had denied any hand in the invasion of Indian territory ended up by entrenching itself firmly in the territory it had seized by aggression. The position was worse than what it was on 1 January 1948.

Chagla could not help drawing attention to the mess which the Council had made of India's original complaint.

48. *Ibid.*, para 22.

49. S/PV. 1117, pp. 8-10.

Permit me to say in all frankness that our government and people have a grievance to the effect that during the years the Kashmir question has been before the Security Council, most members of the Council have turned a blind eye to the patent fact of Pakistan's aggression. It is that attitude, together with the indulgence that Pakistan's allies have shown it in the Council, that has been the greatest obstacle to the solution of this question which has bedevilled relations between ourselves and our neighbour ... members have made this suggestion or that, but the vital question brought before the Security Council has remained unanswered. Our people expect an answer from the Council. So long as it is not answered, the Council will be unable to grapple with the basic elements of the Kashmir situation. My delegation hopes that even at this late hour the members of the Council will give careful thought to the matter and give an answer to these questions which I now pose: (1) How is it that Pakistan occupies two-fifths of Kashmir and by what right? (2) Has it any legal right to be in the possession and control of any part of Kashmir territory? (3) Has it any right to negotiate and give away any part of Kashmir to China, which it has admittedly done. . . ? (4) What steps should the Council take to make Pakistan vacate its aggression?⁵⁰

None of the questions was answered by the Council. To have answered them would have meant self-condemnation.

Such was the culmination of Noel Baker's advice to the Council in 1948, advice which led it away from facts, away from the Charter, away from the rule of law, away from justice. Whether the Council succeeded in satisfying the tribesmen from Pakistan, which Noel Baker and Warren Austin so passionately desired, is known best to the Council or to the tribesmen. However, it is on the record that the Council never uttered one word of condemnation of the tribal invasion of India from Pakistan. This was the Council's way of ending war, not extending it. As a matter of fact, the only success it ever achieved was in its extension.

50. S.C.O.R., No. 1113, paras 12-3.

CHAPTER FIVE

NEW AGGRESSION BY PAKISTAN

ON 17 August 1948, when the U.N. Commission discussed its draft resolution of 13 August 1948 with the Government of India, Nehru referred to a consideration which had been bothering his government, namely, that in view of the vicinity of the Pakistan frontier to the cease-fire line, in a short time ranging from one half to two hours, the tribesmen or the Pakistan army itself could overrun the positions held by garrisons left by the Indian army. He contended that India needed to have certain strategic points for defence against sudden attack.¹ The Commission gave him a categorical assurance on this matter. "Should the eventuality envisaged by the Prime Minister occur, the whole weight of the United Nations would be turned against Pakistan," said the representative of the Commission.² The U.S. member of the Commission remarked that the Commission had reason to believe that if the resolution were agreed to, incursions such as feared by the Government of India would not take place.³ These were weighty assurances given on behalf of the Security Council and on the basis of which India accepted the Commission's draft resolution.

Three days later, on 20 August, the Prime Minister of India wrote to the Commission, claiming the right to maintain garrisons at selected points in the northern areas "for the dual purpose of preventing the incursion of tribesmen, who obey no authority, and to guard the main trade routes from the State into Central Asia."⁴ The Commission agreed to consider the matter in the implementation of the resolution,⁵ but commenting on this request in its third interim report stated: "The situation in the northern

1. S/1100, p. 103.

2. *Ibid.*

3. *Ibid.*, p. 104

4. S/1100, para 80, Appendix 5

5. *Ibid.*, para 81, Appendix 5

area today is such that the posting of garrisons by the Indian army at any point beyond those which are now held by it would result in an extension of military activities by the Government of India.”⁶ By its refusal to agree to India garrisoning certain key points in the northern area and considering the fact that the cease-fire line is 470 miles long, India was prevented from taking adequate steps to prevent future infiltrations. The Commission had recognized the sovereignty of the Jammu and Kashmir government over the State’s entire territory, and the responsibility of India for its defence; it had also decided not to accord any recognition, *de jure* or *de facto*, to the unlawful government in Pakistan-held Kashmir, not to mention its refusal to admit that Pakistan had any *locus standi* in the State. Considering all these facts, no less the extension of military activities by which Pakistan seized the northern areas during the period of cease-fire, this was not only a grave error of judgment on the part of the Commission but also a major, and completely indefensible, concession to Pakistan. Since most of the strategic passes along the cease-fire line were held by Pakistan, the Commission put a premium on future infiltrations.

To complete the picture, the President of the United States had given an assurance to the Prime Minister of India that its military aid to Pakistan would not be used against India. It was backed by similar assurances from the Secretary of State and the U.S. Ambassador in India. Finally, the supervision of the cease-fire line was the responsibility of the U.N. Military Observer Group which had been set up under the cease-fire agreement of 27 July 1949. A group of U.N. Observers posted on both sides of the cease-fire line at selected points was expected to keep the U.N. Secretary-General, and through him the Security Council, informed of any serious infringements of the agreement or the cease-fire line to ensure prompt prevention of an attempt by either party to resume hostilities.

PREPARATION OF INVASION

Coming events had already begun to cast their long shadows. The President of Pakistan had warned the U.S.A. about his

6. S/1430, para 273

intention not to keep the American arms in cotton wool. It was admitted by Defence Secretary McElroy in the U.S. Senate Committee on Foreign Relations on 6 May 1959 that Pakistan's military strength was in excess of the strength required to meet communist aggression on Pakistan. Between 1959, when this statement was made, and 1965, the Pakistan armed forces received a further accession of strength. Pakistan had told Chou En-lai that the U.S. military aid was not aimed at China but India. It is not, therefore, surprising that with the passage of time, the cease-fire line became hotter and hotter. Not only were more violations committed by Pakistan troops but heavier weapons were brought into play. Subversion and sabotage, organized by Pakistan, was stepped up. Not one of the assurances given by Pakistan to India to prevent breaches of the cease-fire agreement, details of which were given in a letter from India's Permanent Representative in the U.N. dated 20 August 1964, addressed to the U.N. Secretary-General, was honoured.⁷

The U.N. Chief Military Observer made a number of suggestions to bring down the temperature, all of which, though accepted by India, were rejected by Pakistan.⁸ In October 1963, the Chief Military Observer proposed to treat the activities of armed civilians and armed police within 500 yards on either side of the cease-fire line as a breach of the cease-fire agreement. India agreed; Pakistan rejected the suggestion. On 24 June 1964, the Chief Military Observer proposed a meeting between the military representatives of India and Pakistan to work out agreed principles for the control of civilians in the area of the cease-fire line. While India accepted the suggestion, Pakistan rejected it. On 8 March 1965, the Chief Military Observer again proposed a meeting between military representatives of India and Pakistan in order to work out agreed principles for controlling the activities of the civilians in the area. On 26 March, India agreed to the proposal. On 5 April, India was informed by the Chief Military Observer that a meeting would not be possible, Pakistan being opposed to it. India's own proposal

7. Also *S.C.O.R.*, No. 1011, paras 135-7.

8. *S/PV.* 1237, p. 58.

for a gentleman's agreement to ensure tranquillity along the cease-fire line was first ignored by Pakistan, then accepted, and finally put on the shelf by its unilateral decision to postpone the meeting at which the proposal was to be discussed by the representatives of the two countries.

The statements of the leaders of Pakistan, particularly President Ayub Khan and Foreign Minister Bhutto, breathed fire. The latter had been preparing the ground in the Pakistan Assembly, in the Security Council and the U.N. General Assembly, where threats were hurled at India for its failure to solve the Kashmir problem to Pakistan's satisfaction. As a matter of fact, since 1948, officially inspired propaganda in Pakistan for war against India had figured in every major statement of India's representatives in the Security Council. This insidious campaign intended to appeal to religious fears tended to keep up tension which was not easy to relax and which made a rational solution of Indo-Pakistan problems extremely difficult. Over the years, several attempts were made to defuse this propaganda, but with only limited and transitory success. The Council resolution of 17 January 1948, Part I of the resolution of 13 August, some of Graham's proposals, and the joint communique issued by the Prime Ministers of India and Pakistan on 20 August 1953—all carried a provision for discouraging incitement to war. How little effect these measures had on Pakistan over a period of eighteen years will be clear from a few illustrative statements.

Speaking in Karachi on 8 September 1948, Zafrullah Khan, Pakistan Foreign Minister, said: "Pakistan is under no obligation, international or otherwise, that prevents her from sending her troops to Kashmir."⁹ The Chief Minister of West Pakistan said on 16 January 1952 that Pakistan would "prove that we can liberate Kashmir with the strength of our arms."¹⁰ According to Dr. Mohammed Yusuf, India did not know that "the Muslims have made the oceans red with blood."¹¹ Khan Jalaluddin Khan believed that Kashmir "would never join Pakistan without

force.”¹² A member of the Legislative Assembly of West Pakistan urged:

If we want to live according to the dictates of Islam and mould ourselves in the true Islamic pattern, we will have to test our enemies with the might of our sword. . . . I warn Nehru that if he does not change his attitude, Pakistanis will not hesitate to march to Delhi and teach a lesson to the Indians.¹³

Khan Abdul Qayyum Khan, President of Pakistan Muslim League, said at a public meeting in Dacca on 6 June 1958: “We shall never develop friendship with India—our sworn enemy.” Firoz Khan Noon, then Prime Minister of Pakistan, made a confession in the Pakistan Parliament which provoked a Pakistan newspaper to say: “It is difficult to believe that a Prime Minister of Pakistan can stand up in Parliament and say that for eleven years we have given nothing but threats of war to India to settle the Kashmir dispute. And yet Mr. Noon did it on Monday.”¹⁴

When Mohammed Ayub Khan came into power, this type of propaganda died down somewhat but only to raise its head again as time passed, the President himself contributing to it by making unseemly and insulting remarks about Hindu religion and society. Agitation was also worked up against the cease-fire line. President Ayub Khan emphasized that the people of Pakistan could not forget Kashmir because the cease-fire line was a constant source of danger to Pakistan rail, river, and road system, and provided innumerable defence problems.¹⁵ Bhutto told the press at Dacca on 19 May 1962 that “the Kashmir problem would have to be settled by our intrinsic strength and . . . the Kashmiris may rise to the same heights as the Algerians.” The Home Minister of Pakistan, Habibullah Khan, was expressing his government’s view when he said:

Pakistan would give all possible assistance to the Azad Government of Jammu and Kashmir to meet Indian aggression against

12. *Pakistan Times*, Lahore, 13 February 1956.

13. A. M. Quraishi, reported in *Mussalman*, Karachi, 8 March 1956.

14. *Leader*, Karachi, 3 September 1958.

15. *Dawn*, Karachi, 29 August 1961.

Azad territory. The cease-fire agreement is a truce between the two armies of Pakistan and India and is no bar against the exercise of basic human rights by the people of Kashmir.¹⁶

Pakistan gave a peculiar twist to even plain and simple facts. India's resistance to Chinese aggression was condemned as Indian aggression on China. Western military aid, if given in massive doses to Pakistan, was treated as a contribution to peace; if given in a small measure to India, as a contribution to war. For Pakistan to be a member of Western military alliances and at the same time to be an ally of Communist China was unexceptionable, for India to accept limited military aid from U.S. and the Soviet Union for defence against China was tantamount to a repudiation of the policy of nonalignment. Assurances, if given by Pakistan, must be accepted without reserve; if given by India, they were suspect. Thus India's sincere offer of a no-war pact to Pakistan was dismissed as a blind and a snare.

The puppet leaders of the so-called Azad Kashmir talked about an independent State of Kashmir, denying the reality of the cease-fire line. In the Security Council on 7 February 1964, Bhutto remarked:

For India, the situation is simple. It is in possession of the major part of the State of Jammu and Kashmir and would like nothing better than to be left alone. But we, seeing our kith and kin, our flesh and blood, suffer tyranny and oppression, shall we remain silent spectators?

Nothing was done by the Security Council or the military allies of Pakistan to check Pakistan's mad drift towards conflict and chaos. In 1964, President Ayub Khan said that the "alternative solution of the Kashmir issue is war."¹⁷ Addressing a public meeting in Dacca on 20 August 1964, he expressed the view that Muslims were far from Hindu mythology and that the two philosophies could never become one in any circumstances. In 1965, Pakistan newspapers openly cried for war. "Pakistan blood must be avenged by

16. *Ibid.*, 21 October 1963.

17. Interview with a B.B.C. correspondent reported in *Pakistan Times* 5 March 1964.

sharpened steel and molten lead.”¹⁸ “Let us prepare for war, a jihad.”¹⁹ This chorus for war was kept up by Pakistan’s leaders. “With massive military aid India has become a serious threat to Pakistan. I am confident that the people of Pakistan, and especially the armed forces, are aware of the danger and realize their responsibilities,” said President Ayub Khan addressing the Armed Services.²⁰ On another occasion, President Ayub Khan said: “We shall go full out, and smaller though we are than India, we shall hurt India beyond repair.”²¹

The odds were against India and nothing could stem the advancing tide of venomous hate from Pakistan. The Indo-Pakistan conference of Home Ministers, which was intended to deal with various Indo-Pakistan problems, was postponed indefinitely by the Pakistan Government. The Government of India’s repeated invitations to the Pakistan President to pay visit to India were politely declined. The Rawalpindi-Peking-Jakarta axis, with wider ambitions, was forged, with the object of exerting triple pressure on India. In the summer of 1965, ostensibly carrying foodgrains but most likely military arms and equipment, Indonesia’s military aircraft flew sorties from Rawalpindi to Gilgit. In the early part of the year, Pakistan used American tanks to commit aggression in Kutch, part of the Gujarat State of the Indian Union.

According to reports in the Pakistan press, military preparations were in progress on a considerable scale. The Pakistan Commander-in-Chief paid two visits to the forward areas near the cease-fire line in May. In his second tour, accompanied by his planning staff, he met a number of senior field formation commanders and their staff officers in a conference to discuss with them the state of preparedness of Pakistan troops in the field.²² The Pakistan Commander-in-Chief was confident that all steps had been taken to deal with “any eventuality.” Compulsory military training was ordered for students and youth between the ages of sixteen and twenty-

18. Editorial in *Azad*, Dacca, 16 March 1965.

19. *Dawn*, Karachi, 22 March 1965.

20. Reported in *Pakistan Times*, Lahore, 24 March 1965.

21. *Dawn*, Karachi, 20 June 1965.

22. *Ibid.*, 31 May 1965.

five in Pakistan-held Kashmir for the "liberation of Jammu and Kashmir."²³ The Pakistan Government promulgated an ordinance in June making it obligatory on employers to release military reservists on recall and to ensure their re-employment or promotion on return. Another ordinance, promulgated at the same time, provided for the recall of Air Force reservists. Finally, an ordinance setting up a Mujahid Force as an integral part of the Pakistan army was promulgated on 8 June 1965. Approved by the Pakistan National Assembly on 21 June, the strength of the force was fixed at 150,000.

5 AUGUST

The blow fell on 5 August. Several thousand Pakistan soldiers in civilian disguise, armed with automatic weapons, supplied with rations and large amounts of Indian currency, carrying transistors and propaganda literature, began to infiltrate across the CFL and the international border. Their immediate objects, according to the documents captured from them and statements made by prisoners, were to destroy bridges, police stations, petrol dumps, and other important installations, and also to cut roads. They were to capture the summer capital of the State, Srinagar, especially the adjacent airfield, assassinate political and other leaders, terrorize the population by setting fire to schools, hospitals, etc., and attack places of worship. Seeking concealment in the forests and mountainous terrain, some of the parties managed to reach the outskirts of Srinagar. There were attempts to cut the Srinagar-Leh road. Large groups of these armed troops clashed with Indian security forces within a depth of five to ten miles of the CFL from Poonch to Naoshera on the western sector of the line.

According to the U.N. Secretary-General, who submitted a report on the infiltrations to the Security Council on 3 September, the cease-fire agreement collapsed.²⁴ General Nimmo, Chief Military Observer, had pointed out to him that

the series of violations that began on 5 August were to a con-

23. *Khyber Mail*, Peshawar, 29 May 1965.

24. U.N. Secretary-General's report of 3 September 1965; S/6651.

siderable extent in subsequent days in the form of armed men, generally not in uniform, crossing the CFL from the Pakistan side for the purpose of armed action on the Indian side. This is a conclusion reached by General Nimmo on the basis of investigations by the United Nations Observers, in the light of the extensiveness and character of the raiding activities and their proximity to the CFL, even though in most cases the actual identity of those engaging in the armed attacks on the Indian side of the Line and their actual crossing of it could not be verified by direct observation of evidence.

As regards violations by artillery, there was heavy and prolonged artillery fire across the Line from the Pakistan side in the Chamb-Bhimber area on 15-16 August, and on 19 and 26 August the town of Poonch was shelled from the Pakistan side, some of the shells hitting the building occupied by U.N. military observers. Pakistan artillery again shelled the town of Poonch on 28 August. As of 24 August, continued the Secretary-General's report, armed elements from Pakistan were still occupying Indian positions (pickets) north of Mandi in the Poonch sector of the CFL.

The prisoners and documents captured from them revealed that the headquarters for the training of infiltrators was located near Murree, close to the capital of Pakistan, under the command of Lieutenant-General Akhtar Hussain Malik, G.O.C. 12th Infantry Division of Pakistan. The organization was known as Headquarters Gibraltar Forces. Why Gibraltar Forces? The curious expression is related to Islamic history and contained an element of religious incitement. Gibraltar is named after the Arab General, Jabar-ul-Tariq who conquered Spain and who on landing on Spanish soil had all his ships destroyed to make retreat impossible. It was a "do or die" force, as the Pakistan force was intended to be. All commanders connected with Operation Gibraltar were summoned to Murree during the second week of July 1965. President Ayub Khan addressed them personally to explain to them their task of creating confusion and chaos in Jammu and Kashmir. Then these infiltrators were organized into eight forces, each of them composed of six companies of 110 men each. In most cases they were commanded by regular Pakistan army officers of the

rank of Major, while the platoon commanders were either junior commissioned officers or senior non-commissioned officers. The Indian security forces captured vast quantities of arms and ammunition from the infiltrators. Some of the arms and ammunition bore the marking POF (Pakistan Ordnance Factories). A number of the captured officers held emergency commissions in the Pakistan army.²⁵

There were further revelations in the Secretary-General's report, which showed that Pakistan had no intention of listening to reason. In view of the growing threats to the Srinagar-Leh road in May, Indian troops had occupied Pakistan positions in the Kargil area. This road is India's life-line to Ladakh where its troops face the Chinese invaders who have occupied nearly 14,500 square miles of Indian territory. However, on the Secretary-General's appeal, the Government of India withdrew its troops on an assurance from him that the U.N. observers would be stationed on both sides of the line in the area. Subsequently, there were military attacks on the road by armed elements from the Pakistan side.

On 9 August, the Secretary-General asked the Pakistan Permanent Representative to convey to his government his serious concern about the situation in Kashmir, involving the crossing of the CFL from the Pakistan side by numbers of armed men and their attack on Indian military positions on the Indian side of the line, and his strong appeal that the CFL be observed. He also saw the Permanent Representative of India and appealed to his government through him for restraint as regards any retaliatory action. He later reported:

I have not obtained from the Government of Pakistan any assurance that the cease-fire and the CFL will be respected henceforth or that efforts would be exerted to restore conditions to normal along that line. I did receive assurance from the Government of India conveyed orally by their Representative at the United Nations that India would act with restraint with regard to any retaliatory acts and will respect the cease-fire agreement and the CFL if Pakistan does likewise.²⁶

25. S/PV. 1239, pp. 26-7.

26. S/6651.

Faced with continuing deterioration in the situation as of 16 August, he gave consideration to a further step in the form of a draft statement about the cease-fire violations which was designed for public release. The Government of India had no objection to the release of the statement but at first wished certain modifications which, in part at least, he regarded as unacceptable. The Government of Pakistan, on the other hand, was strongly negative about the statement in general.²⁷

In response to the Secretary-General's appeal, India held its hand perhaps too long. Not until after the first eleven incidents engineered from the Pakistan side, and spaced between 5 August and 14 August, had occurred, each with increasing intensity and severity, did the Indian troops for the first time cross the cease-fire line and reoccupy the position north-east of Kargil, from which previously in May, upon the appeal of the Secretary-General, they had withdrawn. In these eleven incidents, described in the Secretary-General's report of 3 September, there were to be found confirmations by General Nimmo's observers of attacks within the Indian side of the cease-fire line by large armed groups varying from forty and seventy to as many as "exceeding 1,000," leaving large quantities of arms with tell-tale markings. As the representative of Malaysia pointed out in the Council, this could not go on with impunity and indeed provoked self-defensive reaction. Subsequently, the pace of the response kept in step with the pace of infiltration.²⁸

By the end of August it was plain that the Pakistan invasion in disguise had failed. Instead of raising a banner of revolt on which Pakistan had pinned its hopes, the people fully cooperated with the authorities, particularly in reporting the movements and activities of infiltrators and tracking them down. On 1 September, Pakistan, therefore, struck another blow at India. In the early hours of the morning, the Pakistan regular army with armour, supported by artillery, crossed the cease-fire line and the international border. No declaration of war was made. The object of this move was to cut the road to the CFL in the west and another to Srinagar and Ladakh in the east.

27. S/6651.

28. S/PV. 1241, p. 17.

According to the U.N. Secretary-General, UNMOGIP received on 1 September an Indian complaint of Pakistan shelling of pickets and a battalion headquarters in the Chamb area of the Jammu-Bhimber sector of the cease-fire line. The complaint stated that at 0230 hours on that date one and a half Pakistan tank squadrons crossed the CFL in that area, supported by artillery. Pakistan artillery was also said to have fired on a battalion headquarters near Poonch from 1630 hours on 1 September and on an Indian battalion headquarters in the Jhangar area. The substance of these complaints, according to the Secretary-General, was subsequently confirmed by U.N. observers. On 2 September, the Jammu team of UNMOGIP received an Indian complaint that Pakistan aircraft had attacked the road between Chamb and Jaurian during the morning of 2 September and that Jaurian village was in flames. The air attack on Jaurian was confirmed by U.N. military observers. The complaint also alleged that Pakistan troops had crossed the border, as distinguished from the CFL, with approximately 90 tanks and were moving from Chamb sector toward the east. Pakistan artillery fired in the Poonch area during the night of 1-2 September and in the afternoon of 2 September.²⁹ As a result of the Pakistan action in the Jammu-Bhimber area, its troops occupied, as of 2 September, an area of approximately 30 square miles.³⁰

Faced with a grave threat to its security in the north, the Indian army acted on 6 September by taking positions in the Lahore and Sialkot districts of West Pakistan, thereby breaking the force of the armour thrust in the Jammu area.

In his report of 16 September, the Secretary-General disclosed that a sizable number of Pakistan infiltrators continued to operate on the Indian side of the CFL. Also, in addition to the regular forces engaged, tribesmen from the north-west frontier were becoming involved in the conflict, arriving at the front for the most part through Rawalpindi, the capital of Pakistan. Around the borders of East Pakistan, the Pakistan Air Force had made a number of attacks on airfields and other targets in Indian territory. After

29. S/6651.

30. S/6651.

Sialkot became an area of hostilities, the United Nations observer team there found it difficult to keep in contact with the Pakistan local command which appeared reluctant to keep the team informed of the situation and gave the impression that they had no further requirements for the observers. The team addressed a message to the C.G.S., Pakistan, on 11 September to bring the matter to his attention and to call on him to rectify the state of affairs. In his reply received on 13 September, the C.G.S. recalled that the function of the U.N. observer team was to supervise the cease-fire line in Jammu and Kashmir and that the observer team at Sialkot had been stationed there at Pakistan's specific request. Since India and Pakistan were at war, the U.N. team could no longer perform its duties until the war ended. Sialkot being in an operational area, Pakistan, he stated, could no longer guarantee the safety of the team. Therefore, he asked the team to withdraw immediately from Sialkot. On 14 September, the Sialkot team which was proceeding from its temporary base of Bhimber toward Sialkot was stopped by Pakistan military police.³¹

Pakistan leaders went out of their way to suggest that the trouble began not on 5 August when infiltrations from Pakistan started, not even on 1 September when Pakistan armour invaded Indian territory, but on 6 September when Indian troops took defensive action in the Sialkot and Lahore sectors. This was obviously an evasion because, as Chagla and the representative of Malaysia emphasized in the Council, the date of 5 August was a vital date. This date was mentioned at least seven times in the Secretary-General's first report.³² The Council resolution of 6 September also pinpointed the date of 5 August,³³ as did the Council resolution of 20 September.

Like a desperate gambler, Pakistan tried to better its fortunes by widening and intensifying the conflict. It had introduced its Air Force in the fighting in Chamb and later in indiscriminate strikes on civilian population at many places. It extended the conflict to other parts of India by intruding into Indian air space across

31. S/6687.

32. S/PV. 1241, p. 16.

33. M. C. Chagla, S/PV. 1239, p.22.

the border at Wagah and by firing rockets at an Indian Air Force base at Amritsar. By impounding Indian merchant ships it took the fighting to the sea. Pakistan naval units bombarded the port of Dwarka. In the eastern sector its planes struck near Calcutta, Bagdogra, and other places, and shelled Cooch-Bihar.

It is obvious that the method and technique of the new aggression as well as Pakistan public postures were the same as in 1947. In 1947, Pakistan violated the standstill agreement with the government of Jammu and Kashmir; in 1965, it violated the cease-fire agreement. Until 1 September, the waves of invaders were in mufti as they were in the early phases of the invasion in October 1947; on 1 September, all pretence of non-involvement was given up and the Pakistan army with its armour and air power moved into the Chamb-Jaurian sector of the State, both across the cease-fire line and the international border. Denials were followed by admissions. As in 1948, there was resistance to unconditional cease-fire, the object being delay, as in 1948, to secure a decision by arms, particularly after the Chinese ultimatum to India. The same stories were related for world consumption—an internal revolt by desperate people, India's military threat to Pakistan, Islam in danger.

In spite of all the inciting statements that Pakistan leaders made in 1964 and 1965, they completely denied, as they had done during 1947-48, any responsibility for the infiltrations. The Indian High Commissioner in Karachi was asked to see the President of Pakistan immediately to impress upon him the gravity of the situation. He was given an appointment which was not kept. Instead Foreign Minister Bhutto met him and told him that Pakistan knew nothing about the massive aggression; it was an internal revolt of the people of the State against India. On 10 August, Bhutto said that "the responsibility for whatever is happening in Kashmir could not by any stretch of imagination be attributed to Pakistan."³⁴ Independent observers rejected this profession of innocence as no more than a posture, for Pakistan leaders spoke out of turn. On 8 August, President Ayub Khan had already praised the so-called freedom fighters, a cover name for Pakistan soldiers:

34. *Dawn*, Karachi, 11 August 1965.

The successes achieved by the freedom fighters have been striking and their heroic deeds will be a source of inspiration to all those engaged in the struggle for freedom in different parts of the world. The torch of freedom lit by these patriots has been carried from village to village and city to city.

To Chaudhuri Ali Akbar, Pakistan's Home Minister, "it was natural that the people of Azad Kashmir should have the fullest sympathy for their brethren in occupied Kashmir: who can question their right to go to their help?" adding that they had a right to be there.³⁵ Even Bhutto found it impossible to keep up the pretence of detachment. The cease-fire line, he said, was drawn only temporarily and it was there by an accident of history; it should have been further down in Kashmir.³⁶ "It is foolish and hypocritical to say that Pakistan has committed aggression in Kashmir. How can Pakistan commit aggression against her own people?"³⁷ Here was a new image of Zafrullah Khan.

Perhaps one reason why Pakistan was forced to show itself in true colour was the fact that the world at large had refused to accept the Pakistan version of events. "There is no indication of any armed revolt by the people from the Indian side as announced by the Pakistan Radio," said the London *Times* correspondent.³⁸ According to the Srinagar correspondent of the *Baltimore Sun*, there was no evidence in or near the city to support the report from Pakistan of a popular uprising against India nor of repressive measures against the population.³⁹ The correspondent of the *Chicago Daily News* in a despatch on 12 August reported that Pakistanis had infiltrated at several points along the 475-mile-long, sixteen-year-old cease-fire line; the U.N. observers had established the existence of the heavily armed infiltrators. According to the *Washington Post* (14 August), at least 1,500 Pakistan officer commandos had crossed the cease-fire line since 5 August. The Rawalpindi correspondent of the *London Times* reported in the issue of 31 August 1965:

35. *Dawn*, Karachi, 19 August 1965.

36. *Ibid.*, 20 August 1965.

37. Bhutto in *Pakistan Times*, Lahore, 20 August 1965.

38. *Times*, London, 11 August 1965.

39. *Baltimore Sun*, 10 August 1965.

There can be no doubt that this guerilla action in Kashmir results from infiltration from this [Pakistan] side in an operation conceived, planned, and directed by the Government of Pakistan. ... Pakistan has played its last card and seems determined to stake everything, even war, upon it, whatever the consequence for millions of people in both countries.

The *New York Times* correspondent in Srinagar said: "Reports from Pakistan that the trouble in India-held Jammu and Kashmir is a popular revolt against Indian rule appear to be without foundation."⁴⁰ The B.B.C. correspondent reporting from Srinagar on 21 August said: "If the guerillas had come expecting any welcome or cooperation from the local population, they did not get it." Similar reports appeared in other leading newspapers all over the world. This was long before the U.N. Secretary-General added his authority to the fact of Pakistan aggression.

As in 1947, the "liberators" from Pakistan tried to strike terror in the hearts of the people, particularly when they found that little cooperation was being offered. Several people reported the presence and movements of the infiltrators to the Indian Security forces. In retaliation, the infiltrators set fire to two high schools in the village of Badgam and, when the villagers tried to put out the fire, opened fire on them. On the night of 13 August, they started a fire in Batmallu, a suburb of Srinagar, resulting in the destruction of 300 houses. A Pakistan Radio broadcast admitted that the outrage was committed by Pakistan infiltrators, and a leading Pakistan newspaper featured this report on its front page.⁴¹ In other places they committed arson, looted houses, and shot and killed villagers.

THE SECURITY COUNCIL INACTION

Strangely, while all this was going on and being widely reported in the world press, the Security Council was stricken with paralysis. For nearly a month the Council pretended not to be aware of Pakistan aggression and even when the U.N. Secretary-General focussed attention on it in his report of 3 September 1965 and the

40. *New York Times*, 14 August 1965.

41. *Pakistan Times*, Lahore, 14 August 1965.

Council met on 4 September on its President's initiative, it adopted a resolution treating India and Pakistan on a par and calling upon both of them to observe the cease-fire line.* This was the height of partiality for Pakistan. Treating the U.S. President's assurances to India with contempt, Pakistan used Patton tanks and F-86 and F-104 jet fighters, without provoking a single word of indignation or condemnation from the U.S. Government. As the Pakistan army's massive attack across the cease-fire line as well as the international border posed a grave threat to India's life-line to the cease-fire line in the west and to the Kashmir valley and Ladakh in the east where the Indian army faces the Chinese aggression, the army was left no option but to act in self-defence by making diversionary moves towards Lahore and Sialkot. Immediately this act of self-defence was condemned by the British Prime Minister. The old tale was repeating itself, even in detail. The Security Council's handling of the problem since 1948 and its partisan approach had proved the futility of its agencies and the bankruptcy of its methods. Either the U.N. Military Observer Group had failed to warn the Security Council about the mounting tension along the cease-fire line and the augmentation of military potential in Pakistan-held Kashmir or, if it had done so, the Council had failed to act in time. The assurance given earlier to the Prime Minister of India by the Council's own Commission that, should infiltrations feared by the Prime Minister occur, the whole weight of the United Nations would be turned against Pakistan was now conveniently forgotten by the Council.

Since 1948 every Indian representative in the Council had urged it to recognize the basic issue of aggression by Pakistan on Indian territory. The first to do this was Gopalaswami Ayyangar. Said he: "... the real question for our purpose here is this: is Pakistan not blameworthy in letting these fiends loose on the innocent Muslim and non-Muslim population of Kashmir? One looks in vain . . . for even a mere mention of Pakistan's dereliction of duty in this regard."⁴² On 1 March 1951, Benegal Rau stressed the same point in the Council.

*For text see Appendix 8.

42. S.C.O.R., No. 59, pp. 8-9.

The Kashmir case has now been before the Security Council for more than three years. No solution has yet been found, because the root cause of the trouble, namely, the unlawful occupation of nearly half the State and the creation of subversive forces and authorities therein by Pakistan has been allowed to continue . . . so long as the root cause of the trouble continues, there can be no solution to the problem.⁴³

Later, Vijaya Lakshmi Pandit reverted to this point in the Security Council.

Despite Pakistan's denials and protestations of innocence, the regular Pakistan army also invaded the State on 8 May 1948, according to the later admission of the Pakistan authorities themselves. This unprovoked aggression and invasion of the territory of a neighbour and a Member State is a gross violation of the Charter of the United Nations as well as of International Law. . . . Until the Council is prepared, firmly and courageously, to face this central issue, no just and lasting solution can be found.⁴⁴

Krishna Menon took up this matter again and again in his various interventions in 1957. "Have we the right to feel assured that the machinery of the Security Council and its resolutions are not going to be used as a smoke-screen for the preparation of aggression against us?"⁴⁵ And again: "We came here on a charge of aggression and we expected you, the eleven members of the Security Council, to stand up and say the Charter should be defended."⁴⁶

Chagla was even more emphatic in drawing the Council's attention to the basic issue.

It is often forgotten that when Pakistan approaches the Security Council, it does so as an aggressor which has not vacated its aggression. My submission to you is that Pakistan has been guilty

43. *S.C.O.R.*, 533rd meeting, para 18.

44. *S.C.O.R.*, 608th meeting, paras 4 and 5.

45. *S.C.O.R.*, No. 764, para 186.

46. *S.C.O.R.*, No. 1011, para 187.

of gross contempt of this august body and it has no right to be heard till it comes with clean hands.⁴⁷

He reverted to the subject in May 1964.

The aggression which was committed in 1947 still continues. If the Council wishes to discuss Kashmir at all, it should discuss the question of Pakistan's aggression and find ways and means of Pakistan vacating the aggression. A burglar who breaks into a house and takes possession of the ante-room cannot ask the owner of the house to prove his title to the remaining portion of his property while he calmly squats in that part which he has unlawfully occupied.⁴⁸

And again:

There cannot be a just solution in international affairs if aggression is either condoned or rewarded. There can be no just solution of the Kashmir question if Pakistan does not vacate her aggression and while the Pakistan army still keeps two-fifths of the State of Jammu and Kashmir in her unlawful possession.⁴⁹

It cannot, therefore, be said that the Council had not been told about the likely consequences of what it was doing. Indian representatives had drawn attention to the danger at every meeting of the Council which paid no heed to them. Yet, all that the resolutions of the Council had done was to encourage Pakistan to commit further breaches of the Charter, although that might not have been the Council's intention.

Speaking in the Council on 6 September, C.S. Jha, India's Foreign Secretary, asked some pertinent questions.

Is it permissible for a State, a neighbouring State, to send thousands of armed personnel into another State to commit illegal acts? Does that not amount to aggression? Does that not amount to a flagrant violation of the Charter? Is it not against all principles of peaceful co-existence? Is it not contrary to the numerous

47. S/PV. 1088, pp. 24-5.

48. S.C.O.R., No. 1113, para 11.

49. S.C.O.R., No. 1115, para 37.

international declarations—the Bandung Declaration, the Charter of the Organization of African Unity, the Cairo Declaration, and numerous other declarations—which have been adopted by nations and which today embody the ethos, the ethics of international life? Surely, that sort of action cannot be permitted.⁵⁰

Not a single member offered one word of sympathy to the Government of India or to the people of India, including the people of Jammu and Kashmir, whose territory had been attacked, or one word of censure to the Government of Pakistan which had taken to force. Members talked about the futility of using force for the settlement of the issue, suggesting thereby that both India and Pakistan were equally to blame. Even though no civilians from the Indian side of the CFL had crossed the line, the representative of Netherlands asked the Council to urge India and Pakistan to prevent “civilians from both sides of the cease-fire line,” from crossing it.⁵¹ Lord Caradon of the U.K. made a perfunctory reference to the crossing of the CFL by armed men from the Pakistan side, but immediately went on to refer to that part of the Secretary-General’s report in which it was stated that acts of violence “now”—that is a month after armed infiltrations began from Pakistan—“come from both sides of the line,” and, to emphasize that both sides were equally involved, quoted the report to the effect that “regular troops from both countries” were engaged in military activities.⁵² The U.S. representative said that as reported by the Secretary-General the cease-fire had been broken and there had been serious breaches of the cease-fire line in Jammu and Kashmir.⁵³ From the members’ statements no one could say what the trouble was, who had started it or who had suffered. Members seemed obsessed with the complex of equating the aggressor and the victim of aggression.

In contrast with its vacillations in 1948, the Council sent the Secretary-General immediately to the subcontinent to exert every

50. S/PV. 1238, p. 31.

51. S/PV. 1237, p. 87.

52. S/PV. 1237, p. 88.

53. S/PV. 1237, p. 102.

possible effort to give effect to its resolution of 6 September* and the earlier one of 4 September, the immediate object of both being to bring about a cease-fire and withdrawals. In 1948, India had insisted on an immediate cease-fire but was frustrated in achieving this objective by the Council and Pakistan. In 1965, India accepted the Secretary-General's appeal for unconditional cease-fire; but Pakistan laid down, as it had done in case of the resolution of 13 August 1948, impossible conditions, thereby stamping his efforts with failure.

On 17 September, after the Secretary-General's return from India and Pakistan and his statement in the Council, one would have expected that the members having had enough time to study the Secretary-General's earlier report would no longer feel any embarrassment in condemning aggression. With the exception of Malaysia, Council members showed no desire to say a word against the aggressor. The Council proceedings thus bore little relation to the facts.

The representative of Jordan tried to free the Council resolution of 6 September, which fixed 5 August as the date on which the trouble began, of any suggestion that the real trouble began on that date.⁵⁴ In this way he sought to remove from Pakistan the stigma of aggression which the Secretary-General had fastened firmly on that country. The U.S. representative announced that his government had suspended arms shipments to both countries.⁵⁵ And yet eleven years earlier President Eisenhower had assured India that if Pakistan used U.S. military aid against India, the U.S. would come to India's help. A strange way of honouring President Eisenhower's word! On the following day, that is on 18 September, the representative of Jordan expressed the view that the enforcement of a cease-fire in such a way as to seal the basic issue would amount indeed to a political gain to one party and a loss to the other.⁵⁶ In other words, as Zafrullah Khan had done in the Council in 1948, he was suggesting that India should be asked to pay a price for a cease-fire. Netherlands, France, and Uruguay also referred to

*For text see Appendix 9.

54. S/PV. 1239, pp. 52-6.

55. S/PV. 1239, p. 57.

56. S/PV. 1241, pp. 3-5.

the substantive aspect of the issue. The representative of Netherlands, after referring to the Secretary-General's report of 3 September, said: "... we must therefore assume that extensive infiltrations across the cease-fire line did take place from the Pakistan side from 5 August on."⁵⁷ Even now he was not prepared to take the infiltrations as anything more than an assumption! At the same time he argued that it was an uncontested fact that Indian armed forces crossed the international border between Pakistan and India on 6 September. Thus chronology had no meaning, least of all responsibility for the infiltrations, and for the invasion of the State by the Pakistan regular army. To the latter fact, he made no reference. He also said that each side wished the other to be branded as aggressor. "The task of the Security Council is to maintain peace and security, not to sit in judgement like a tribunal and award damages after weighing the seriousness of the mutual claims and counter-claims,"⁵⁸ he said. Honied words for Pakistan ears!

20 SEPTEMBER RESOLUTION

The Council resolution of 20 September* had one or two unusual features. For the first time in the history of the Kashmir, problem, the Council *demand*ed a cease-fire and *decid*ed to consider, after cease-fire and withdrawal had become effective, "what steps could be taken to assist towards a settlement of the political problem underlying the present conflict, and in the meantime calls on the two Governments to utilize all peaceful means, including those listed in Article 33 of the Charter, to this end." This was a concession to Pakistan. It also asked the Secretary-General to exert every possible effort to give effect to this resolution and "to seek a peaceful solution." The words "demand" and "decides" in the resolution smacked of Chapter VII of the Charter. Article 33 refers also to arbitration which India had rejected again and again. Nevertheless, the operative part of the resolution made no reference to Kashmir although one of the preambular paragraphs did, and no effort was made to spell out the political problem which, according to Chagla,

57. S/PV. 1241, p. 33.

58. S/PV. 1241, p. 36.

*For text see Appendix 10.

was not Kashmir but the conflict between theocracy in Pakistan and secular democracy in India. At any rate it was clear that the Council still clung to some of its old illusions and was reluctant to face the realities of the situation. In this resolution again there was not a word about Pakistan having committed aggression.

In the new series of meetings in the Security Council, Chagla who again represented India, spoke with disarming candour.

What is the utility of this Council if it will not condemn aggression on these facts? If you are satisfied—and I ask you to say that you are satisfied—to respect the Secretary-General's report and if you are satisfied that aggression was committed by Pakistan on 5 August, I say that it is your duty to condemn this aggression. Otherwise, international law has no meaning and international society cannot exist. Not only must this aggression be condemned, but also Pakistan must be asked to vacate this aggression. An aggressor cannot get away with the fruits of his aggression. I beg of you, Mr. President, and members of the Council: do not equate the aggressor and the victim, do not bracket them together. My one objection to the resolutions of 4 and 6 September, if I may say so with respect to the Security Council, is that you treat both India and Pakistan alike, that you call upon both of them to do something without distinguishing in any way whatsoever the role played by Pakistan and the role played by India. . . . You are the judges, and I think that it is wrong for the Security Council to say that it is going to be impartial as between India and Pakistan. It is an entirely wrong attitude, a weak attitude; it is an attitude which will completely destroy the utility of this Council.⁵⁹

Chagla went further, and commenting on the Secretary-General's suggestion made in his report of 16 September 1965, namely, that the Council could order the two governments concerned, pursuant to Article 40 of the Charter of the United Nations, to desist from further hostile military action and to this end to issue cease-fire orders to their military forces, questioned his attempt to bracket India and Pakistan together, in the light of the fact that

59. S/PV. 1239, pp. 27-30.

the Prime Minister of India had accepted unconditional cease-fire. The Secretary-General had also suggested that the Council might declare that failure by the governments concerned to comply with this order would demonstrate the existence of a breach of the peace within the meaning of Article 39 of the Charter. Commenting on these proposals, Chagla said:

I say that the Council must call upon Pakistan to desist from carrying out hostilities, and I ask it, under Article 39 of the Charter, to which the Secretary-General referred, not to declare that there is a breach of the peace but to determine the existence of an act of aggression on the part of Pakistan.⁶⁰

The Council did nothing of the sort, the argument put forward by its members being that under Chapter VI of the Charter the Council's resolutions had to address themselves to both the parties. Thus the hand must fit the glove. No greater reward could be offered to an aggressor. A country could commit aggression and be no worse off than the victim of its aggression, so far as the Council was concerned. Hypothetical as it is, it is interesting to ask what the Council would have done if the Pakistan army had overrun Jammu and Kashmir. Would it have asked Pakistan to withdraw its forces to its own side of the cease-fire line and if Pakistan had refused, would it have taken military action against Pakistan? Not likely. The chances are that it would have called upon the parties to cease fire, thus preventing India from recovering its territory even on its own side of the cease-fire line.

It is not surprising that Chagla felt compelled to state India's position unequivocally once again:

I do not want this Council to be under any misapprehension as to the attitude of my Government with regard to Kashmir; nor do I want the representative of Pakistan to be under any misapprehension. Kashmir is an integral part of India. Kashmir is a unit of the Indian Federation; and we will not permit our Federation to be broken up. The separation of Kashmir from India means the break-up of our Federation of India. It would

60. S/PV. 1239, p. 48.

mean as much a break-up as if any other part of India were separated from India. Therefore, as far as the position of Kashmir is concerned, it has been stated by the representatives of the Government of India on more than one occasion and, as I said, I myself stated it clearly and categorically at our last meeting.⁶¹

It would be a serious thing for the Security Council, for international relations, and for international peace, if Pakistan could get a settlement of the Kashmir problem at the point of a gun. This was blackmail.

You invade a country, you spread terror in the country, you bomb civilians, you do everything that is in your power and then you turn around and say: I agree to a cease-fire provided you settle the problem of Kashmir and hold a plebiscite in Kashmir. That is not the way to settle international problems; there are other ways of settling them.⁶²

The Pakistan representative warned the Council that if it adopted the draft resolution "another and wider conflagration is bound to follow,"⁶³ and asked the Council not to adopt it.

If there were striking resemblances with the situation in the Council in 1948, some equally interesting differences emerged. India, though a complainant, did not ask for a meeting of the Security Council in 1965. All the meetings which took place prior to 4 September 1965, and after the first series of meetings in January 1948, were called at the request of Pakistan except a few formal meetings to approve the appointment of U.N. representatives or to hear their reports. Conceding for the sake of argument that the evidence of Pakistan's abetment in the tribal invasion placed by India before the Council, as well as scattered admissions by Pakistan, were not decisive enough to enable the Council to judge India's complaint, it is inexplicable why the Council continued to persist in a partisan attitude after the U.N. Commission had

61. S/PV. 1241, p. 67.

62. S/PV. 1241, p. 77.

63. S/PV. 1242, p. 23.

established India's charge and Sir Owen Dixon had reinforced it. The partiality for Pakistan, initiated and encouraged as a matter of policy by the U.K., vitiated the case. It could not be an accident that all the resolutions which India had opposed for valid reasons were nevertheless sponsored and vigorously supported by the U.K. and the U.S.A. There is not an instance of these powers introducing or supporting a draft resolution taking into account the substance of India's proven complaint. What a crusade to whitewash aggression!

For the first time in regard to Kashmir, the permanent members of the Council had acted with remarkable unanimity. The Council resolutions of 4 and 6 September were adopted unanimously; that of 20 September by all members with the exception of Jordan which abstained. The emergence of growing understanding and accord between the Soviet Union and the Western powers on the Kashmir issue was a new factor the significance of which could not be overlooked. The monopoly of support which Pakistan had hitherto enjoyed in the Council was broken. It also meant, perhaps, that the Council might not put itself again in a position in which the Soviet veto might become unavoidable. This large measure of accord was based on the acceptance of the essentiality of the cease-fire line until there was a permanent settlement. It also avoided controversial approaches to the problem which in the past had wrecked all efforts to bring about a solution. Hence the vague language of para 4 of the Council resolution of 20 September. The reference to Article 33 was still-born and was known to be infructuous even when it was made. None of the resolutions recalled past resolutions of the Council, a major change in the Council's attitude and one which was apparently necessitated by the need for unity among the permanent members. At the same time, they failed to acknowledge India's ready acceptance of the Council's call for a cease-fire; they did not regret that Pakistan had felt unable to agree to an unconditional cease-fire; they did not deplore Pakistan's recourse first to large-scale armed infiltrations and then to its regular forces, as a design by no means consistent with a desire to settle all disputes with India on peaceful terms; and they did not call on Pakistan to cease hostilities as of a particular date

and a particular time, such a call on India being uncalled for since India had twice accepted the Secretary-General's proposals for a cease-fire—vital points which were made by Ramani, the representative of Malaysia.⁶⁴

The Council was slow in learning from its past experience, as it is clear from what the representative of the Netherlands said while introducing the draft resolution of 20 September.

It is a draft resolution which neither condemns nor condones; it deals with the past less than with the future; it does not try to look backward but forward; it does not assess fault to the parties, but offers assistance to them: assistance in supervising the carrying out of the cease-fire, and assistance in subsequent negotiations. . . . This means that neither India nor Pakistan gets all that it wanted. All I can say is that this is the essence of compromise; it is inevitable in any peaceful settlement.⁶⁵

A Noel Baker in disguise!

The resolution, according to the representative of Malaysia, was like the curate's egg—good in parts and not so good in other parts. The preambular part, specifically the fourth paragraph, read: "Noting the differing replies by the parties"—it was, as pointed out by the representative of Malaysia, amended to read "differing replies" instead of "different replies" which some might regard as a distinction without difference—"to an appeal for a cease-fire as set out in the report of the Secretary-General but noting further with concern that no cease-fire has yet come into being." Said Ramani:

Now, that "but" there rather gives the meaning that, whatever might have been said by the parties, the thing is going on. It therefore suggests a rather derogatory attitude, it is almost a pejorative reference to the replies from both parties. One may deserve it, the other may not; both may deserve it, both may not. But I think that "but" there is not something that is conducive to a clear understanding of what we intended to convey. I think it was Cleopatra that said: " 'But' is like a gaoler that brings

64. S/PV. 1241, p. 27.

65. S/PV. 1242, p. 17.

forth the malefactor," and the malefactor is there. I would have preferred to have that expanded and put in plainer language, but I understand also that, as all feeble compromises must do, they hide themselves and nobody can manage to find either their lineaments or their form.⁶⁶

The cease-fire, according to the Council resolution of 20 September 1965, was to take effect on 22 September at 0700 hours GMT. Pakistan had opposed the resolution but its Foreign Minister Bhutto, who could have announced Pakistan's acceptance of the resolution at any time in Rawalpindi before 0700 hours on 22 September, preferred to do it dramatically in the Council to which he rushed posthaste before the time expired. As, in the new circumstances, India needed notice and to avoid the necessity of introducing a fresh draft resolution, the Council extended the time limit by a few hours. Thus as in 1948, so in 1965, Pakistan rejected a resolution, only to accept it after some delay, which, in this case, enabled its aircraft to bomb the Indian town of Amritsar.

Thanks to the compromise to which Ramani had referred, the Council could not extricate itself from the quagmire of confusion and helplessness. After 20 September, it devoted its energies to reiterating para 1 of the operative part of its resolution of 20 September, first in its resolution of 27 September and once again in its resolution of 5 November, using stronger and stronger language. The words of the representative of Malaysia on 20 September proved to be prophetic.

With reference to operative paragraph 4 of the resolution, in the context of my own statement made to the Council yesterday, we should have liked not to have this resolution cluttered up with a reference to the political settlement. I have all the time understood that all views that had been expressed in this Council had to be taken into account, but to the extent to which we have had the pleasure and the privilege of listening to the Law Minister of Pakistan even before we voted, I almost ventured to think that the child had been killed even before it was born, and that we were listening to an inquest of paragraph 4—that it will not work.

66. S/PV. 1242, pp. 31-2.

and it is not intended to work. Therefore, had my friend from the Netherlands not objected to the resolution being put to the vote in separate parts, we would have voted against paragraph 4 of the operative part. In any case, we have a forecast now of what is going to happen to operative paragraph 4.⁶⁷

SOVIET INTEREST

The Soviet interest in the debate which had been developing since 1957 took a new turn some evidence of which had already appeared in 1964. In that year while the Soviet representative reaffirmed what Khrushchev had said in 1955, as Soviet representatives had done in 1957 and 1962, he focussed some attention on the common history, culture, and other ties of the two countries. This was a new note for the Soviet representative to strike although to be fair to him, this note had been struck again and again by Nehru and other Indian leaders. On 4 September Morozov, the Soviet representative, said:

In the Indian State of Jammu and Kashmir gunfire is heard, human blood is being shed, events are taking place which arouse serious concern among all peace-loving nations. In view of our feelings of sympathy and friendship towards the peoples of both India and Pakistan, we cannot remain indifferent before the suffering of the peaceful inhabitants of Kashmir and the exacerbation of relations between the two States.⁶⁸

Thus while Jammu and Kashmir as an "Indian State" was emphasized, the attitude towards Pakistan was different.

It is known that the Soviet Union is maintaining its traditional friendship with India. We greatly value India's adherence to the policy of nonalignment and its loyalty to the principles of the peaceful co-existence of States. The Soviet Union supports the courageous struggle of the Indian people against colonialism. Similarly, the strengthening of the bonds between the Soviet Union and Pakistan is part of the general policy of the Soviet

67. S/PV. 1242, p. 32.

68. S/PV. 1237, p. 96.

State aimed at the consolidation of peace in Asia and throughout the world.⁶⁹

Winding up his statement, Morozov said the settlement of the conflict in Kashmir would be an important contribution to the maintenance of peace.

Fedorenko dealt with the Soviet Union's attitude to India and Pakistan in greater detail. Speaking after the draft resolution of 20 September was adopted by the Council, he said:

It is well known that we are bound to India by a friendship which has now become traditional. The Soviet Union values highly the peace-supporting foreign policy of India and its loyalty to the principles of peaceful co-existence and nonalignment, to the principles of national freedom and friendly cooperation among peoples. It is well to recall here that our country has made a substantial contribution to assist friendly India in the progress it is making in its economic development and in the strengthening of its independence. At the same time, we are in favour of the development of good neighbourly relations with Pakistan, inasmuch as such relations are in the mutual interests of both our countries. The Soviet Union, therefore, has noted with satisfaction on many occasions that such an endeavour on the part of our Government has met with understanding on the part of the Government of Pakistan. . . . At the same time, we cannot fail to take into account the fact that the conflict naturally causes us concern also because military action is taking place in a region which is immediately close to the borders of the Soviet Union.⁷⁰

At the same time, India and Pakistan themselves must and could resolve the conflict.

This attitude was to have an important bearing on subsequent events, including Indo-Pakistan discussions in Tashkent in January 1966 and on the Tashkent Declaration.

Bhutto had not flown to New York to quench the flames of war but to inject further poison into Indo-Pakistan relations. The state-

69. S/PV. 1237, p. 97.

70. S/PV. 1241, pp. 57-60.

ment which he made before announcing his country's acceptance of the Council's resolution of 20 September, in which he threatened India with war for a thousand years, was bad enough. On 25 October, he surpassed all his previous efforts at abuse and vituperation, calling members of the Indian delegation, including the Foreign Minister of India, "Indian dogs." Although he won the battle of abuse in which no one participated except himself, he suffered a major defeat on the substantive aspect of the issue. On 25 October, Bhutto, at whose request the Council had met, began to deal with matters of internal law and order in Jammu and Kashmir. The representative of Uruguay, who was the President of the Council, had already made it clear that he was not called upon to consider or pass judgement on the contents of the Pakistan Permanent Representative's letter⁷¹ in which a request had been made for a Council meeting. He was only concerned with paras 1 and 2 of that letter which referred to the deterioration of the situation and the position with regard to the withdrawal of troops.

When Bhutto began to stray from the subject, the President asked him to confine his comments to matters dealing with implementation of the resolutions of the Security Council of 20 and 27 September. In reply to the Pakistan Permanent Representative's letter, the Permanent Representative of India had already made the position of his government clear in regard to the raising of matters which amounted to gross interference in the internal affairs of India. This compelled Sardar Swaran Singh, then Foreign Minister of India, to tell the Council that India was participating in the discussion on the distinct understanding that the only two issues to be discussed in the Council would be the stabilization of the cease-fire and what further steps, if any, could be taken for the withdrawal of troops and the withdrawal of armed personnel. Upon this the President appealed to the Foreign Minister of Pakistan "to refrain from making any comments which deal with matters of the domestic jurisdiction of another State."⁷² As Bhutto ignored the President's appeal, the Indian delegation walked out of the Council.

71. S/6821.

72. S/PV. 1247, pp. 47-50.

Two things had happened. For the first time a President of the Council had asked the Pakistan representative to refrain from discussing matters within the domestic jurisdiction of India. Also for the first time India had made an issue of it and its delegation walked out of the Council. Hereafter India's position *vis-a-vis* the Council would never be the same. Debates might still take place in the Council, but they would have to be limited strictly to matters not concerned with the domestic jurisdiction of India. The freedom with which Pakistan had exploited internal developments in Jammu and Kashmir, in order to wangle meetings of the Council, was drastically curtailed. It was also plain that India's cup of patience was full and that its participation in Council debates in any circumstances, or on any terms, could no longer be taken for granted. Here was a great divide brought into existence by Pakistan which determined a new relationship between India and the Security Council.

It was after the walk-out that Bhutto used the offensive words "Indian dogs," which incidentally do not appear in the record of the debate as issued by the Security Council Secretariat. The spoilt child of the Security Council who had received every indulgence at its hands had created a situation for himself and the Council which neither could remedy. Bhutto now tried to hold the Council to ransom. He said:

The long history of the Jammu and Kashmir dispute is sufficient proof of how India's wilfulness has been encouraged by the seeming helplessness of this Council. Should this process have no end? Is the Council powerful enough to tell Pakistan, "the blood you have shed shall not be in vain," and so powerless as to tell India that it cannot come to a settlement? You cannot approbate and reprobate. Either you are powerful enough to put your force, morality, strength, will and law behind the settlement or else you tell us, "we cannot settle the problem; it is beyond our competence; we cannot do it, unless the Indians agree." In that case, why do you stop us from the ultimate sacrifice? If you have the power to stop us, to bring about a settlement, with all the experience that you have of the dispute, then you should have the strength and courage to fulfil your promise and your pledge and

bring about a settlement between the people of India and the people of Pakistan by settling the dispute in Jammu and Kashmir. Why these double standards—one standard applicable to Pakistan and the other applicable to India. . . ?⁷³

This was a far cry from the attitude which the Pakistan Foreign Minister, Zafrullah Khan, had taken in his letter to the Council dated 15 January 1948: "... the Pakistan Government emphatically deny that they are giving aid and assistance to the so-called invaders or have committed any act of aggression against India." Thanks to the Council's indulgence, at last Pakistan had come right out into the open from the dark shadows of deception and pretence. There was no more mystery about Pakistan's refusal to accept India's offer of a no-war pact. Bhutto pushed aside the veil from the face of Pakistan's real intentions.

I repeat with all the solemnity at my command that the hundred million people of Pakistan will not and shall not allow Indian tyranny and Indian oppression to be perpetrated against them. We shall face absolute desolation, extinction, but we will not allow these absent warlords to perpetrate horror and crimes against the people of Jammu and Kashmir. It is a part of our duty, it is a part of our faith, it is a part of our religion, it is a part of our tradition, it is a part of our culture, it is a part of our life, that we shall honour our commitments to the people of Jammu and Kashmir. This you must know.⁷⁴

It is small wonder that Pakistan committed serious breaches of the new cease-fire, as it had done earlier after 1 January 1949. Its use of force had failed. This did not mean, however, that Pakistan had abandoned its faith in the arbitrament of arms. Force was still its favourite weapon. The Council had to wait for the Tashkent Declaration to end the stalemate and restore some little normalcy. Having undermined its own authority and prestige, it had to wait for the healing touch to come from the Soviet Union and that too outside the Council. Meanwhile, being a victim of aggression, India refused to contribute towards the cost of expanding the

73. S/PV. 1247, p. 106.

74. S/PV. 1247, p. 101.

U.N. Military Observer Group in Kashmir (UNMOGIP) and a new observer group (UNIPOM) for supervising the cease-fire and withdrawals in areas outside Kashmir.

In military terms, Pakistan losses were heavy. What is even more ironical for Pakistan, the cease-fire line, which the President of Pakistan had tried to erase, became deeper and more striking, as it is clear from the Council resolutions of September 1965, and the Tashkent Declaration which is a bilateral agreement registered with the United Nations. Pakistan's military alliances are in the doldrums. The arms and equipment which were received from the U.S.A. and other allies to meet communist aggression had been used against a non-communist country with which the donors have friendly relations.

Meanwhile, in appearance, the problem is what it was in 1949, when the U.N. Commission submitted its third interim and final report, but in substance it is hardly recognizable, except for Pakistan's continuous aggression on Indian territory, now being committed in military collusion with China.

CHAPTER SIX

ELEMENTS OF A SETTLEMENT

ONLY a bold man would speculate on the pattern of a lasting settlement of the Kashmir situation. Such a pattern would depend on many factors prevailing at the time. If the experience of the past eighteen years is any guide, the next 18 or 80 years may not produce anything new. This is not to suggest that in the present situation there are not elements which, without necessarily determining the form of a settlement, may impose conditions not easy to ignore. It may, therefore, be profitable to examine some of these elements. They fall into three broad categories—Indo-Pakistan elements, international elements, and elements peculiar to India or Pakistan—although to some extent they overlap and merge in one another.

A major element is Pakistan aggression which has been burnt into the minds of the people by its repetition in 1965. For many years past India has been insisting on the vacation of Pakistan aggression in Jammu and Kashmir. Since 1957 every Indian representative in the Council has dwelt on the subject. Benegal Rau had made a similar demand. Even earlier Nehru never tired of saying that, in evolving any settlement of the Kashmir situation, the fact of Pakistan aggression must be taken into account. One reason why the Council failed in its efforts was that it refused to take cognizance of this basic element. Indian leaders have said again and again that aggression should not be condoned or rewarded. This element has two sides—withdrawal of Pakistan troops, regular and irregular, from Jammu and Kashmir, and the status of the State as a constituent State of the Indian Union.

Agitation has been growing in India for erosion of Article 370 of the Constitution of India which, apart from Article I under which the State is included among territories comprising the Union of India, determines the State's relations with the Union Government. Under this Article several Central Acts on matters corres-

ponding to items mentioned in the schedule to the instrument of accession have been extended to the State in consultation with its government. Similarly, several provisions of the Constitution of India have been extended to Jammu and Kashmir at the request or with the consent of the State government. The process is continuous and irreversible. The designation of the Prime Minister has been changed to Chief Minister and of the Sadar-i-Riyasat to Governor and in many other ways the State is coming in line with other States of the Union. While Article 370 is not likely to atrophy too soon, pressure for continuous action under its provisions is bound to grow within and outside the State.

Agitation has also been growing for the recovery of areas of Kashmir under Pakistan's unlawful and forcible occupation. The movement is based on the increasing awareness that the entire State of Jammu and Kashmir being a constituent State of the Indian Union and therefore being Indian territory, no part of it can be surrendered to Pakistan. Future development of this movement will depend on Indo-Pakistan relations and political, economic, and strategic changes in the region. While the Government of India has declared that it will not use force to recover Pakistan-occupied Kashmir, it is doubtful whether Indian opinion takes this to mean that, if peaceful methods fail, the territory will be written off. If Portuguese territories in India could not be liberated and nationally reunited with India by peaceful methods, it is extremely doubtful that Pakistan-held Kashmir will somehow be liberated by the same methods and reunited with India. No one can, therefore, say with certainty what shape this particular element will assume in the days to come, since apart from regional and international factors much would depend on political developments.

Chagla and the late Prime Minister Shastri made it abundantly clear that Pakistan must accept Jammu and Kashmir as a constituent State of the Indian Union in any negotiations for a permanent settlement, as also that aggression cannot be condoned or rewarded. On these two points India's position has justifiably hardened in recent years. According to India, Pakistan has no claim whatever to Jammu and Kashmir, least of all after it has committed two major aggressions. The only point for settlement

between the two countries is the vacation of Pakistan's continuing aggression.

Another important element is the cease-fire line which the Pakistan Government tried to erase by force in August and September 1965. Until last year's aggression, this was the only solution of the Kashmir problem which had worked in practice. All possible methods of arriving at a settlement had been repeatedly tried but without success—discussions in the Security Council, mediation by Council Presidents and Council agencies, direct talks between the two countries. Various solutions were proposed and considered, and at least one of them was agreed to, but had to be abandoned for one reason or another. Plebiscite, condominium, partition-cum-plebiscite, confederation, an independent Kashmir, U.N. trust territory, partition—none of them enabled the parties to break through the blind alley. As Pakistan considered the continued existence of the cease-fire line a threat to what it conceived to be a fair solution, its government began to repudiate its allegiance to the cease-fire line and the cease-fire agreement.

Dr. Jarring, Sweden's representative in the Security Council, said in the Council on 24 January 1957: "Thus, for the time being the present demarcation line must be respected. This implies that the use of force aimed at changing the *status quo* must be excluded."¹ Even the Pakistan Government publicly held a similar view and recognized its obligation to honour the cease-fire line and the cease-fire agreement. Din Mohammed, Adviser on Kashmir Affairs to the Government of Pakistan, declared in 1958: "There is no legal, constitutional or international justification on the part of Chaudhuri Ghulam Abbas and his followers to cross the cease-fire line in Kashmir."² Three days later the *Pakistan Times* (10 July 1958) reported him as saying that "the Government of Pakistan was committed to maintain the integrity of the cease-fire line and could not allow anyone to violate it so long as it was pursuing the dispute in the Security Council."³ Feroz Khan Noon, then Prime Minister of Pakistan, had announced his Government's policy earlier on 3 July 1958.

1. S.C.O.R., No. 765, para 79.
2. *Dawn*, Karachi, 7 July 1958.
3. *Pakistan Times*, 10 July 1958.

Supporting the Government policy, the Prime Minister said that crossing of the cease-fire line even by unarmed persons was a breach of the cease-fire line. . . . He said it would be dishonourable on the part of the Government of Pakistan if it were, as suggested by some, to allow people surreptitiously to cross the cease-fire line.⁴

It was this official attitude to the cease-fire line which President Ayub Khan repudiated, thus leading inexorably to the tragic events of 1965. But the cease-fire line reappeared as a reality and was reinforced in the Security Council resolutions of September 1965 and in the Tashkent Declaration. The question is to what extent, if any, the Security Council would accept or refuse to accept any future modifications of the cease-fire line by force. Hitherto the Council has proved, at least in this case, to be singularly incapable of protecting the victim of aggression. As Pakistan, like China, has dishonoured its obligations in the past, there is no guarantee that it will not do so again. Although what happened after Pakistan aggression in 1965 is a precedent, it would be foolish to assert that should Pakistan march its army again across the cease-fire line and occupy large areas of Indian territory in Kashmir, the Security Council would insist on Pakistan restoring the seized territory to India. Had India not taken strategic passes across the cease-fire line in August and September 1965, and areas in Sialkot and Lahore sectors, it is a moot point whether the Security Council would have forced Pakistan to give up the areas it had occupied in the Jammu province, if the Council's past record is to be a guide.

Nevertheless, the problem is not a simple one. Another attempt by Pakistan to cut up the cease-fire line might also mean serious threat to the unity and territorial integrity of Pakistan. In spite of the element of surprise and superior weapons, Pakistan suffered military reverses in 1965. The Indian army is unlikely to be caught by surprise again; nor will it be less prepared to deal with another challenge. Should the Indian army in retaliation take areas across the cease-fire line or in Pakistan, Indian opinion may not be willing to restore them to Pakistan after a cease-fire. Already there is a

4. *Dawn*, Karachi, 4 July 1958.

feeling in a section of the people that India should not have given up the strategic passes which it was forced to capture to seal infiltrations. Along with this possibility must be taken into account the growing demand for recovery of those areas of Jammu and Kashmir which Pakistan has occupied by force. Even a militarily weak India with its resources stretched along a border of over 3,000 miles in length did not fare badly in the armed conflict with Pakistan. India's position is bound to improve as years pass. True, Pakistan has more than doubled its expenditure on defence, but it cannot match India's allotment of Rs. 600 crores to Rs. 700 crores⁵ a year and her increasing reliance for arms, ammunition, and oil on internal resources. How long India will be able to keep up this pace of expenditure remains to be seen, but a similar problem faces Pakistan.

The military balance which the U.K. and the U.S.A. had arbitrarily imposed on India and Pakistan, largely to the disadvantage of India, has been upset and unless political and economic conditions in India deteriorate to an unmanageable degree, the old balance may not be easy to restore. Besides, in the face of the growing Pakistan-China collusion, even in the field of arms and ammunition, if an attempt is made to force it on India, such a move may not be acceptable to Indian national opinion.

It is often forgotten that the cease-fire line is in fact a linguistic and cultural watershed. By and large none of the languages spoken to the north of the CFL is spoken in Ladakh, Kashmir or Jammu, and vice versa, and at least two religions, Buddhism and Hinduism, do not exist in Pakistan-occupied Kashmir. The main languages spoken in the whole State of Jammu and Kashmir are Kashmiri, Dogri, and Punjabi. To these must be added western Pahari, which is spoken in the hilly districts west of the valley, and the frontier languages of Shina, Burushaski, and Bhotia.

Kashmiri is spoken in the valley, and Dogri in the south of the State below the Pir Panjal range, whereas in the district of Ladakh the predominating language is Bhotia which occurs in two main dialects, viz. Balti, spoken mainly in the Tehsils of Skardu and Kargil, and Ladakhi spoken in Ladakh. Away to the north,

5. A crore is equal to ten million.

Shina is spoken in parts of the Gilgit Agency, Gilgit Wazarat and Astore, and Burushaski in Yasin, Hunza, and Nagar. Along the western boundaries of Muzaffrabad, Poonch, Mirpur, and Jammu districts, the predominant language is Punjabi. In the eastern parts of Muzaffrabad and Poonch and northern parts of Riasi are the western Pahari speaking people. Western Pahari comprises a number of dialects, and is mainly a mixture of Dogri and Punjabi.

The cease-fire line changed this picture. Thus, on the Indian side of the CFL, Ladakhi is spoken only in Ladakh, though Balti is still spoken in Kargil. Kashmiri predominates in the valley, Doda and Bhadarwah as well as the western and southern foothills of the Pir Panjal range. The position of Dogri is unaffected, but Punjabi and western Pahari speaking areas have been reduced by the CFL. However, the CFL has left a number of linguistic groups intact—e.g. groups speaking Shina and Burushaski in the northern areas and Ladakhi, Kashmiri, and Dogri on the Indian side of the CFL. Ladakhi and Dogri speaking people have little in common with the people in the northern areas, the so-called “Azad Kashmir” or Pakistan, while they have strong ties with the people in other parts of India. This is equally true of the Kashmiri speaking people in the valley.

The residents of Ladakh who are Buddhists are particularly hostile to China with which Pakistan has developed close political and military relations.

Linguistic and cultural compactness is also supported by facts of economy and defence. Ladakh, the valley, and the province of Jammu constitute one integral whole, with its own peculiar lines of communication, economy, and defence, inseparable from other parts of India. The loss of Ladakh would pose a serious Chinese threat to the Kashmir valley, to Himachal Pradesh and other vital parts of northern India. Each area has its own economy and a system of communications, related to the economy and communications of the other two areas which have survived nineteen years of division of the State. Economically, Ladakh is dependent on the valley which is dependent on Jammu, which in turn is dependent upon the valley as upon other parts of India. There is a regional distribution of industries and handicrafts. The Pathankot-Jammu-Srinagar-Leh

route is the lifeline of the whole area. Tourists provide sustenance to both Jammu and the valley.

In brief, the linguistic and cultural groups in Ladakh, in the valley, and in the Jammu province are compact except for a small Kashmiri speaking group in Pakistan-held Kashmir. Strategically and economically also they constitute a compact area. Political, economic, strategic, linguistic, and cultural factors would thus appear to strengthen the cease-fire line rather than weaken it. Irrespective of the rights of India and the claims of Pakistan this is a situation which to all appearances has come to stay, particularly when it has been reaffirmed by international opinion, as in the Council resolutions of September 1965, and even by India and Pakistan in the Tashkent Declaration.

Another element of a settlement of the Kashmir situation is the internal unity and strength of India. This unity and strength has already been tested thrice during a period of three years—once by China and twice by Pakistan. What Pakistan and China confidently expected did not take place. The Indian political parties, which devote their time to meaningless squabbles, suddenly closed their ranks and stood up behind the government. The people's response was no less dramatic. There was no break-up of Indian economy, no disintegration of Indian society. The disillusionment for Pakistan was even greater. Misreading internal political and economic conditions in India, Pakistan leaders relied on an internal revolt in Kashmir and on an explosion of Indian polity. Neither materialized. Once again the parties and people became one to resist aggression. If the intentions of the Pakistan Government are reflected in the Pakistan press, the hope is still fondly nursed that the day may not be far off when the centrifugal forces will prove too much for the fabric of the Indian State. In Chinese statements it is more than a hope—it is a conviction.

No one can be dogmatic about the future of India, any more than one can be dogmatic about the future of Pakistan or China or of most other States. Inflation, strikes, demonstrations, students' rowdyism, derailment of trains, drought and scarcity conditions, static or falling production, foreign exchange difficulties—these are no indices to a people's determination to forge ahead. Neverthe-

less on two occasions, outwardly alarming symptoms proved to be deceptive. The palm of India's multilingual and multicultural society is not easy to read, even at the best of times. Therefore, while dangerous internal stresses and strains cannot be ruled out, it would hardly be realistic to assume that they are bound to develop or, if they do develop, they are bound to be decisive in their effect. The point which is often ignored in the heat of controversy is perhaps that the political, economic, and social struggle of a society in an atmosphere of political freedom has a different significance from the one which is waged in conditions of political subjugation as prevail in China and Pakistan. Freedom by permitting licence may degenerate into chaos. Political freedom may lead organized groups to defy the law or commit arson or destroy public and private property, but the people as a whole can have no such desire. Whether one breathes the air of slavery or of freedom makes all the difference. There is no other way of accounting for the closing of ranks by Indians first against the Chinese and then against the Pakistanis. After all, economic and political conditions when the two invasions took place were not different *sui generis*. The difference was one of degree rather than of kind. A free people would inevitably make experiments occasionally even risking the crossing of the safety line, but the fact that they are seeking a constructive and meaningful future, and not merely struggling to shake off subjugation, lends a different tone and purpose to their struggle and even excesses, which they would themselves seek to rectify. Such evidence as is available rather justifies the confidence that the unity and strength of India will endure than the fear that India will collapse.

PAKISTAN AND CHINA

Could one say the same thing about Pakistan and China? The so-called Basic Democracy designed to suit the rulers rather than the people, the authoritarian regime which believes in clipping the wings of liberty, the emphasis on the dividing instead of the unifying urges of religion, propagation of hatred and intolerance of India, are a greater threat to the cohesion and territorial integrity of the State of Pakistan than adult franchise, popular legislatures, and freedom of expression would be. It may not be an exaggeration to

say that the future of Pakistan, if present conditions continue, is perhaps more problematic than the future of India. The intelligentsia in Pakistan has still to secure its political freedom before it can begin to cast its hopes and dreams in the mould of national unity. The people in Pakistan cannot elect whomsoever they want, they cannot speak or write freely, they cannot kick out the government they do not like. In other words, they are still in a state of political subjection, though it is clamped on them by a junta consisting of their own nationals.

This explains why for years the Pakistan Government has been diverting its resources, mostly of East Pakistan, to the economic development and defence of West Pakistan. No national government interested in protecting and developing the national interests of Pakistan as a whole would have adopted such a policy of discrimination against the majority of its own people. The Pakistan Government has upset the economy of the eastern wing by uprooting non-Muslims and pushing them across the border into India, by Islamizing education, and by various other acts of discrimination, neither conducive to economic development nor productive of social well-being. All this led to a separatist movement in East Pakistan which has been gathering momentum and the leaders of which have been put in prison, their newspapers suppressed and their printing presses seized. The imposition of non-Bengali speaking civil servants and the army from West Pakistan on the people in East Pakistan has provided further grounds for discontent.

The Indo-Pakistan conflict of 1965 brought out the precarious existence of East Pakistan which had no communications with West Pakistan, overland and air communications over Indian territory having been cut off by the Government of India. When the Pakistan National Assembly met after the cease-fire, a member from East Pakistan, to show the importance he attached to the meeting of the Assembly, emphasized that he had to travel over 4,000 miles to attend it, thereby indicating that the distance between the two wings of Pakistan in the event of a hostile India was over four thousand miles! Bhutto's sleight of hand, when the Assembly met in Dacca after the signing of the Tashkent Declaration in January 1966, that Pakistan had an understanding with China about the defence of East Pakistan,

proved to be a boomerang. Members from East Pakistan hit back by declaring that they expected the Government of Pakistan to look after its defence, not a foreign government. Unnatural political conditions in Pakistan encourage unscrupulous leaders to dabble in adventurism and to sacrifice major interests for achieving illusory triumphs. No greater danger can be imagined for any country.

Such a dichotomy hardly exists in India, at least not of so marked a character, for the simple reason that popular demands if seriously pressed have to be conceded by a popular government, thus providing a safety valve to political discontent. The success of such a policy became evident when, after the Pakistan invasion of Kashmir, Indian Muslims condemned it without qualification and gave all support to their government. For years Pakistan had claimed to speak on behalf of Indian Muslims, seeking to subvert their loyalty to their country and inciting them to assert themselves against the majority community which consists of Hindus. Whenever trouble broke out, as a result of poisonous propaganda, thousands of innocent Hindus and Muslims suffered. In 1964, Pakistan used the same weapon to set Muslims upon their Hindu compatriots in East Pakistan to show how, even as far away as East Pakistan, Muslims had reacted strongly to the theft of the holy relic from a mosque in Srinagar, in sympathy with the Muslims of Kashmir. Thousands of Hindus and Christians were forced to flee to India. Similarly, it is a part of the policy of the Pakistan Government to keep pushing people from East Pakistan as infiltrators into the Indian State of Assam and into Tripura, the object being to create and maintain undercurrents of tension between India and East Pakistan, to prevent the latter from having any intercourse with the Bengali speaking people in the neighbouring Indian State of West Bengal and to impress upon East Pakistan the menace which, in their opinion, India poses to their life and culture.

Pakistan has gone further. Its government has supported and assisted subversive activities in India by training and arming the Nagas and the Mizos. Its Radio and the officially controlled press have exploited every internal movement towards autonomy or separation—a Sikh State, an independent Nagaland, Dravidistan, etc. What Pakistan is engaged in is a gamble, often in collusion

with China, and while the results might well, in theory at least, be what Pakistan earnestly hopes for, they could also be quite different and, what is more, more dangerous to Pakistan. Only a government which has no roots in the hearts of its people could afford to play for such dangerous stakes. In seemingly trying to protect its own unity and integrity, it is indulging in activities which could threaten both.

The position in China is different from that in Pakistan. The size of the canvas alone staggers the imagination. A mortal internal struggle is in progress, with a leader determined to wipe the mental and spiritual slate of man clean of all that the human heart and mind have learned and made their own in the course of millennia, a struggle in which the greatest human institutions, like the family, and the highest human emotions, like compassion, have no place. No one can say how the struggle will end. Like Pakistan, China has already demonstrated its blind disregard for realities. The collapse of its ambitions in Africa and recently in Indonesia and now its pursuit of nuclear power show the limitations of the one-eyed giants of China. Years would be needed to stabilize internal conditions at a new level, if they can be stabilized at all by the present leadership. By hitching its wagon to such a wayward star, Pakistan has introduced further instability into its own political and economic existence. Its close relations with Portugal and South Africa and now with Saudi Arabia, from which it is reported to have received large aid for purchase of arms for use against India, not to mention the unhealthy interest it takes in the conflict between socialist Arab States and feudal Arab monarchies in West Asia, encouraged by colonial powers, can only contribute towards opportunist and adventurist policies which are inimical to stability. In contrast, hitherto at least, every external threat has resulted in closer integration of the people of India who in their wide spectrum, in spite of their domestic quarrels, feel, thanks to Nehru, that they have something to live and die for.

TWO-NATION THEORY

Pakistan's policies are apparently based more on religious and emotional complexes than on any objective appreciation of realities. One of these realities is the existence of numerous ties which bind

the people of India and Pakistan together. They have common languages, common history, common culture and, in many ways, common problems and possibly a common destiny. The Pakistan Government has done its best to snap these ties, to some extent with success. It has refused to liberalize the visa system to facilitate the periodic reunion of families on both sides of the border, families whose number runs into hundreds of thousands. The Pakistan authorities appear to be afraid of the peoples of the two countries coming together. When some years ago President Ayub Khan proposed some sort of a loose confederation of India, Pakistan, and some other countries, the Muslim League leaders and their newspapers, not the people of Pakistan, read in the suggestion the likely doom of Pakistan, for they feared that it might undo the partition and abolish the sovereignty and territorial integrity of Pakistan. As the partition and the birth of Pakistan, according to these leaders, were based on religion and on the need of Muslims in certain areas of undivided India for a homeland, anything which tended to bring India and Pakistan together might sound the death-knell of Pakistan as a separate State. Similarly, when Shaikh Abdullah proposed to President Ayub Khan a confederation of India, Pakistan, and Kashmir in 1964, the Pakistan President rejected the suggestion on the grounds, *inter alia*, that in a federation the central government tended to assume greater and greater power at the expense of the constituent units and that this might be inimical to the integrity of Pakistan. This attitude of mind needs a careful study.

Pakistan leaders had demanded a separate State, for they believed Hindus and Muslims were two separate nations, a view which confused religion with citizenship and which was rejected by the Indian National Congress. And yet this is what the father of the two-nation theory and the founder of Pakistan had in mind. In an interview given to Edward Thompson, Jinnah showed how far he was prepared to go in this matter.

“Two nations, Mr. Jinnah! Confronting each other in every province? every town? every village?”

“Two nations. Confronting each other in every province. Every town. Every village. That is the only solution.”

“That is a very terrible solution, Mr. Jinnah.”

“It is a terrible solution. But it is the only one.”⁶

The Indian National Congress rejected Jinnah’s theory precisely for the reason that its acceptance would have meant the division of every village in India, since Hindus and Muslims did not live in separate compartments but together in towns and villages, although one or the other group might be in a majority in a given area. The partition did not seek to separate Muslims from Hindus in every town and village and to transfer them to Pakistan. Thirty-five million Muslims were still left in India when Pakistan took birth. A logical pursuit of this pernicious theory would have meant the extermination of Muslims in India and Hindus in Pakistan. The Pakistan Government has been trying to do this in East Pakistan where the number of Hindus has already been reduced by over four million. In contrast, the number of Muslims in India has risen to fifty million.

Jinnah realized the potential danger of his own pet doctrine. Having succeeded in creating Pakistan, he condemned what he had fought for, not hesitating to adopt the arguments of the Indian National Congress which he had contemptuously rejected in the past. Speaking on 11 September 1947, less than a month after Pakistan came into existence, he said: “You may belong to any religion or caste or creed; that has nothing to do with the business of the State.” A Prime Minister of Pakistan, Suhrawardy, was even more emphatic. Referring to the subject in the Pakistan National Assembly in October 1956, he said:

The two-nation theory was advanced by the Muslims as a justification for the partition of India and the creation of a State made up of geographically contiguous units where the Muslims were numerically in a majority. Once that State was created, the two-nation theory lost its force even for the Muslims.

But the successive governments of Pakistan did not share these views and the two-nation theory instead of dying a natural death became the supreme justification for the continued existence of Pakistan. The obvious fact that the Pakistan State had come to stay, that nobody threatened it, that it no longer required any artificial props for support and existence, was ignored. Successive Pakistan

6. Quoted in *Enlist India for Freedom*, London, 1940, p. 52.

governments have sought to create the impression among their people that Pakistan as a State cannot survive except in opposition and hostility to India.

If such a view were accepted, it would inevitably imply that any close, friendly relationship with India would be the end of Pakistan, and that salvation for Pakistan lies in maintaining tension with its neighbour. In the circumstances to hope for anything more than a superficially cordial relationship with Pakistan is to cry for the moon. It is a failure of Pakistan leadership which has confused the passing with the permanent, the means with the end. Entangling themselves in a theory which could not be sustained even by its founder, Pakistan leaders are forced to nurse a dangerous illusion, riddled with contradiction and inner discord. This is clear in their foreign policy and their policy towards India. But realities cannot change simply because Pakistan leaders insist on viewing them through a coloured glass. If they can find no escape from the clutches of a monster of their own creation, they are disabled from conceiving and carrying out rational policies. Pakistan was created with the weapon of religious hatred, but instead of throwing away the weapon after independence was achieved, its leaders continue not only to hug it but to mistake it for independence.

If close friendly relations with India are considered by Pakistan leaders to be fatal to their country's very existence, it is clear that their expression of friendly sentiments and desire for mutual goodwill and cooperation with India cannot be taken seriously. Any such desire, if genuine, would inevitably tend to bridge the gulf between the two countries, a possibility which the Pakistan Government would appear to be anxious to prevent. This means that so far as Pakistan is concerned, the two countries are condemned to hate each other and plan policies for mutual destruction, the vital though evilly conceived assumption being that in no other way can Pakistan protect its national interests. Hostility and hate as an instrument of national policy are not something entirely new in history, but in no case has such a policy proved to be a success in the final analysis. Hate must provoke hate, and attack retaliation.

Again, does not Kashmir become utterly irrelevant to Indo-Pakistan relations in such a context? It does not matter how many

Indo-Pakistan conferences are held or how many Indo-Pakistan problems are resolved, if they can be resolved at all with such an attitude of mind, for the underlying objective, namely, mutual friendship and goodwill, will never be achieved. The argument often put forward by Pakistan that, once the Kashmir problem is settled, the way will be opened to a lasting and fruitful understanding between the two countries can have no possible basis in view of its advocacy of the two-nation theory. A more effective way of preventing India from seeking a solution is hard to imagine. Could this perhaps be the reason why Pakistan continues to scorn and reject India's offer of a no-war pact?

No matter how one looks at it, the policy which Pakistan has adopted is self-destructive. What is to happen to the minorities? Pakistan continues to push out non-Muslims from East Pakistan and already more than four million have been uprooted and thrown across the border into India. Such a process cannot go on indefinitely. The Pakistan authorities, by expelling all minorities, hope to reduce East Pakistan population to establish and maintain parity between the two wings, so far as any representation in the central legislature, Cabinet or services based on the population of each wing is concerned. But there is no guarantee that the restraint which India has imposed upon itself, because of its secular democratic State, will always endure or will not break down under the impact of so large an influx, particularly in view of its intolerable pressure on India's economy and law and order in the country.

Fifteen years ago fourteen prominent Muslim leaders of India led by Dr. Zakir Husain dealt with this dangerous problem in a memorandum which they submitted to Dr. Frank P. Graham, United Nations Representative. The memorandum stated:

If Hindus are not welcome in Pakistan, how can we, in all fairness, expect Muslims to be welcomed in India? Such a policy must inevitably, as the past has already shown, result in the uprooting of Muslims in this country and their migration to Pakistan, where, as it became clear last year, they are no longer welcome, lest their influx should destroy Pakistan's economy. . . .

In its oft-proclaimed anxiety to rescue the three million Muslims from what it describes as the tyranny of a handful of Hindus in

the State, Pakistan evidently is prepared to sacrifice the interests of 40 million Muslims in India—a strange exhibition of concern for the welfare of fellow-Muslims. Our misguided brothers in Pakistan do not realize that if Muslims in Pakistan can wage a war against Hindus in Kashmir why should not Hindus, sooner or later, retaliate against Muslims in India?

Does Pakistan seriously think that it could give us any help if such an emergency arose or that we would deserve any help, thanks to its own follies? It is incapable of providing room and livelihood to the 40 million Muslims of India, should they migrate to Pakistan. Yet its policy and action, if not changed soon, may well produce the result which it dreads....

In the event of a war, it is extremely doubtful whether it will be able to protect the Muslims of East Bengal who are completely cut off from western Pakistan. Are the Muslims of India and eastern Pakistan to sacrifice themselves completely to enable the 25 million Muslims in western Pakistan to embark upon mad, self-destructive adventures?

Since this was said, and in spite of Pakistan's machinations, Indian unity has acquired a new vitality, as was demonstrated by the Muslims of India during the Indo-Pakistan armed conflict in 1965. However, what they said cannot be ignored, least of all by Muslim countries in West and South-East Asia, since the Pakistan Government continues to pursue the policy which the Muslim leaders of India condemned a decade and a half ago and which is fraught with grave danger to Pakistan's own existence as a sovereign State.

The tragic consequences of the Pakistan's policy are more apparent in the economic field. Whatever Pakistan economists might say, the two countries are economically interdependent. Pakistan refused to admit this simple fact and what is more has been trying its best to hitch its fortunes to the countries of the Middle East, and even to Portugal and South Africa. It requires little effort to imagine that the economic independence which Pakistan seeks through dependence on far off countries is illusory. In a grave international crisis involving a complete breakdown of maritime transport, the result of such a policy could be serious indeed to Pakistan. Economic independence can realistically be thought of only in relation to the

subcontinent as a whole, and not Pakistan or for that matter India alone.

The motives of Pakistan were revealed by Bhutto in his broadcast of 3 September 1965.

Let India not be complacent in waging war in Kashmir. Let them not disregard the lessons of history. Let them not forget that if Pakistanis have hitherto shown the patience of a Solomon, they are also the descendants of the heroic soldiers of Islam who have never shown any hesitation in laying down their lives in defence of their honour and the pursuit of justice. . . . I want to tell Mr. Shastri and India that after all justice is sure to prevail. We are not alone in this. Our religion is spreading all over the world.

In the thinking of its responsible leaders the war was one of religion. Commenting on the suicidal character of this ideology, Chagla said in the Council:

Then, this is a war between two ideologies. Let us face it. On the one hand, there is the religious State; and, on the other, the secular State. This is the conflict; it is not Kashmir. Kashmir is merely the symptom; it is not the disease. The disease is that Pakistan believes in a religious State; it believes in religion as the nexus between citizens. We believe in a secular State, in a multiracial society. And it is also a fight between a free society and democratic institutions, on the one hand, and dictatorship and regimentation, on the other. These are the issues involved in this war. And I think, if I may say so, that it is in the interests of Asia and the world that our free society, our multicomunal federation should survive. The attack on Kashmir is an attack for the purpose of breaking up our federation, of breaking up our way of life, of preventing us from carrying on our great experiment of men of different religions and different languages living peacefully together. . . . What we are defending today is not merely the territorial integrity of our country—which is important enough. What we are defending today is the existence of a free, democratic nation.⁷

7. S/PV. 1239, p. 47.

The conflict arises out of a canker in the body politic of Pakistan. If any movement towards India is a movement away from Pakistan, as Pakistan leaders believe, then it is an open invitation to conflict. Fortunately, it is extremely doubtful whether the great majority of the people of Pakistan subscribe to such a view of neighbourly relations. On the contrary, there is yet hope that they may succeed in rescuing Indo-Pakistan relations from the drift towards a tragic end. The view that friendship and cooperative relations with India would spell the doom of Pakistan is patently perverse and, while the ruling clique may persist in this view for its own purposes, it is hard to imagine that the people of Pakistan do not realize that the well-being and prosperity of the two countries can only help in mutual friendship and cooperation.

In sum, the present posture of the Government of Pakistan seems to be based on its belief that India as constituted at present cannot endure and that, therefore, in so far as Kashmir is concerned, time is on its side. It forgets that even if this were so, the conflict inherent in the ideology it professes introduces in its own polity a fatal element of instability and disintegration. At least on three occasions during a period of three years, India has survived and emerged stronger from external challenge. The State of Jammu and Kashmir is a part and parcel of India by the free choice of its people. The storms India has successfully weathered have awakened in her people a new and stronger awareness of the sanctity of the country's territorial integrity. Pakistan's alliance with China, apart from posing dangers to the stability and cohesion of Pakistan, can no longer be considered as decisive in resolving Indo-Pakistan differences.

U.S.-SOVIET RELATIONS

Another important element of a settlement of the Kashmir situation is the growing U.S.-Soviet rapprochement coupled with the fading out of British power and influence, which, from India's point of view, could only be described as partisan and obstructive. The increasing collaboration between the two opens up new possibilities and may bring about new pressures not so much through the Security Council as outside it. Their interests have begun to

coincide, a development which is likely to have an increasing influence on Indo-Pakistan relations. A precise measurement of these interests vis-a-vis India and Pakistan may not be easy, but their broad features are discernible. It is unlikely that the Soviet Union would drive India to a point where its defence against China is put in serious jeopardy, or where it is unable to stand up to Western powers or their pressures; such a policy, if adopted, would undermine India's policy of nonalignment, and its alignment with the U.S.A. in desperation would be a major disaster for Soviet foreign policy objectives. At the same time, it would be too much to assume that the Soviet Union would not be anxious to wean Pakistan away from China as well as the U.S.A., for in this way it might not only deprive China of a willing instrument of blackmail but also weaken CENTO and SEATO, apart from weakening the new Anglo-American idea of an Islamic group in West Asia to counterbalance the Arab group led by President Nasser. Similarly, American anxiety not to let Pakistan slip irrevocably into Chinese arms, without endangering its friendly relations with India, would be understandable. Having invested billions of dollars in Pakistan's military machine and economy, the U.S.A. can hardly afford to write off Pakistan, unless Pakistan should leave it no other choice. What is more, it is compelled by the same circumstance to continue that investment, in one form or another, even if on a reduced scale, else how would it face its own Congress and public opinion and account for the conduct or misconduct of a military ally? The stakes in the case of India are of different order—the far-ranging consequences of the largest democratic State in the world getting submerged in the rising tide of Chinese violence and territorial expansionism. Such a development, if it came to pass, would seal the fate of South and South-East Asia and extinguish the flame of freedom in a vital region of the world.

The Soviet-U.S. attitude to China is, therefore, the crux of the problem. Recent happenings in China, the unrestricted violence of the Red Guards, Mao's new and desperate effort to destroy China's cultural roots and its peoples' human aspirations show the new menace which is rising on the Asian horizon. In this context the Chinese attitude to Kashmir deserves special attention.

PAK-CHINA COLLUSION

As it has developed in the course of time, the Chinese attitude is both revealing and instructive. Like the chameleon, it has shown an amazing capacity for change, moving from moderation to complete recklessness. At a press conference in Calcutta on 9 December 1956, Premier Chou En-lai considered the Kashmir question "an outstanding issue between India and Pakistan."⁸ At a press conference in Karachi on 24 December 1956, he observed: "I hope Pakistan and India will settle the question directly between themselves."⁹ Again, in a joint statement issued by Premier Chou En-lai and Prime Minister Cyrankiwicz of Poland in Peking on 11 April 1957, it was stated that the Kashmir question "should be settled by the countries concerned through peaceful negotiations and should not be allowed to be made use of by external forces to create new tensions."¹⁰ In a note addressed to the Government of India dated 31 May 1962, the Chinese Government stated:

This attitude of the Chinese Government of never getting involved in the dispute over Kashmir can in no way be distorted and is well known throughout the world. . . . The Chinese Government only hopes that the dispute between India and Pakistan will be settled by them peacefully, and has always been against anyone taking advantage of it to sow discord in the relations between the two countries.¹¹

Thus, according to China, the question was one for India and Pakistan to settle peacefully without any interference from outsiders. Meanwhile, an interesting development took place on 16 May 1959, when the Chinese Ambassador in Delhi called on the Foreign Secretary and made a statement which contained a veiled threat. Dealing with Sino-Indian relations, the Chinese Ambassador said:

On the whole India is a friend of China, this has been so in the past thousand and more years and we believe will certainly conti-

8. *Indian White Paper*, No. VI, p. 100.

9. *Ibid.*, p. 104.

10. *Ibid.*

11. *Ibid.*, p. 100

nue to be so in one thousand, ten thousand years to come. The enemy of the Chinese people lies in the East—the U.S. imperialists have many military bases in Taiwan, in South Korea, Japan and in the Philippines which are all directed against China. China's main attention and policy of struggle are directed to the East, to the west Pacific region, to the vicious and aggressive U.S. imperialism, and not to India or any other country in the South-East Asia and South Asia. Although the Philippines, Thailand, and Pakistan have joined the SEATO which is designed to oppose China, we have not treated these three countries as our principal enemy; our principal enemy is U.S. imperialism. India has not taken part in the South-East Asia Treaty; it is not an opponent, but a friend to our country. China will not be so foolish as to antagonize the United States in the East and again to antagonize India in the West.¹²

And then he went on to ask the Foreign Secretary: "It seems to us that you too cannot have two fronts. Is it not so?"¹³

Obviously, the two fronts referred to Pakistan in Kashmir and China. Here was a clear hint, in spite of all the expressions of goodwill and friendliness, that if India did not toe the line, it should be prepared to face two enemies. This is the real beginning of a Sino-Pakistan collusion against India. Which party took the first step may be a matter for speculation. As far as Pakistan statements go, it appears Pakistan broached the subject first, but then the Chinese Government may have suggested it informally to the Pakistan Ambassador in Peking or through its own Ambassador in Karachi.

This showed how little respect the Chinese Government had for its own declarations on Kashmir. Three years later the veiled threat held out by the Chinese Ambassador to the Indian Foreign Secretary became a reality. In a communique issued on 3 May 1962 by the Government of the People's Republic of China, it was revealed that the Government of China and Pakistan had entered into an agreement "to locate and align their common border."¹⁴ The border was

12. *White Paper, 1954-59*, pp. 75-6.

13. *Ibid.*, p. 76.

14. *Indian White Paper*, No. VI, p. 96.

between that part of the Indian State of Jammu and Kashmir which Pakistan has occupied by force and Sinkiang, Pakistan having no common border with China. What was this if not interference and taking advantage of Indo-Pakistan differences to sow discord between the two, against which the Chinese Government had expressed itself so categorically? Nevertheless, the Chinese Government argued that it "has never involved itself in the Indo-Pakistan dispute over Kashmir, the Sino-Pakistan boundary negotiations and the related agreement have not at all touched on the question of the ownership of Kashmir."¹⁵ The cession of 2,050 square miles of Indian territory in Kashmir to China by Pakistan under the so-called border agreement had, in Mao's logic, nothing to do with the question of the ownership of Kashmir. What is more, this interference in Indian affairs was trotted out by the Chinese Government as being "in the interests of Asia and world peace."¹⁶

But obviously the position in which the Chinese Government found itself was not a happy one. The interference in Indo-Pakistan problems was real and, therefore, had to be denied, and this was done by re-asserting the principle of non-interference, even though the assertion was without any substance. "The dispute over Kashmir," said a note to the Government of India, "is solely the business of India and Pakistan themselves, which should be settled by India and Pakistan through negotiations and in which China will never interfere."¹⁷ And then the Chinese Government took the offensive. "Why is it that India on her part should insist on interfering with the boundary negotiations between China and Pakistan?"¹⁸ How typical of the Chinese Government's logic! An Indian remonstrance against Chinese interference is presented as Indian interference in Chinese affairs!

Even then China swung violently away from the assurances which it had given to India, when Pakistan committed fresh aggressions on Kashmir in August and September 1965. A new definition of interference was now put forward. On 16 September 1965, the Chinese

15. *Indian White Paper*, No. IX, p. 1.

16. *Ibid.*, p. 2.

17. *Ibid.*, p. 9.

18. *Ibid.*

Government explained this in a note addressed to the Government of India.

The Chinese Government has consistently held that the Kashmir question should be settled on the basis of respect for the Kashmir peoples' right of self-determination, as pledged to them by India and Pakistan. That is what is meant by China's non-involvement in the dispute between India and Pakistan.¹⁹

Having made categorical declarations on Kashmir in 1956 and 1962, China now rejected them unhesitatingly with contempt.

Three days later China sprang another surprise, this time on both India and Pakistan. In another note, the Chinese Government said: "The Chinese Government gives all-out support to the people of Kashmir in their struggle for the right of national self-determination."²⁰ Thus China converted Indian citizens of Kashmir into a nation with a right to have an independent, sovereign existence! It is not known how Pakistan responded to this fraternal embrace. The expression "national self-determination" was repeated by Premier Chou En-lai in a statement on 30 September 1965. The Chinese people, he said, "firmly support the people of Kashmir in their struggle for the right to national self-determination and firmly support the people of Pakistan in their struggle against aggression." On 24 September 1965, the Chinese Government stated that "India had perfidiously deprived the people of Kashmir of their right to self-determination, attempting to seize the whole of Kashmir for herself."²¹ When the Pakistan Foreign Minister, Pirzada, visited China, Marshal Chen Yi at a banquet given in his honour in Peking on 23 October 1966 assured him that "in the struggle of the Kashmiris to achieve self-determination, the Chinese Government and people will stand together with you in future as in the past."²²

Thus by 1966 China had travelled far from its declarations of 1956, converting a plea of neutrality into a claim for the right of interference in Indian affairs. How startlingly similar to Pakistan

19. *Indian White Paper*, No. XII, p. 43.

20. *Ibid.*, p. 48.

21. *Ibid.*, p. 58.

22. *Dawn*, Karachi, 24 October 1966.

in technique and objective! The unblushing ease with which the Chinese Government goes back on its own word makes one wonder whether it takes what it says seriously or expects others to take it seriously. For if it feels no hesitation in repudiating what it said so solemnly in the past, there is no guarantee that it will not disown in the future what it so passionately asserts or advocates today. It possesses obviously an unusual skill in the game of opportunism and has as little regard for others' opinion as for its own. The pronouncements of the Chinese Government do not appear to be based on any principle or convictions but purely on tactics, with the result that however absurd the position it takes, history, law, custom, and morality, if it believes in any such things, are always and inevitably on the Chinese side!

In any case one or two features of their ever-shifting stand on Kashmir are clear. Whatever territory China has seized in eastern Kashmir, it is unlikely to give up. This is equally true of the Indian territory of which Pakistan has made a gift to it. It is also clear that it is determined to keep India and Pakistan apart. China's advocacy of "national self-determination" for the Kashmiri people betrays a design rather more for a pliable independent Kashmir than to a Kashmir nestling comfortably in Pakistan's lap. Mao is adept at leaving all doors open but permitting entry only through one of his choice. The expression could be interpreted to mean, if and when considered necessary by China, that Kashmir has nothing to do with India or Pakistan. Thus has Mao created in the minds of Pakistan leaders a feeling of reassurance matched, perhaps, by an uncertainty about Chinese support, which must be wooed all the time.

GREAT POWER INTERESTS

As Sino-Indian relations deteriorated, Pakistan-China relations improved. In the National Assembly on 26 November 1962, Bhutto, then Central Minister for Fuel, Power and Natural Resources, announced that Pakistan's friendship with China was unconditional and would not be bartered or bargained away for anything.²³

23. *Ibid.*, 27 November 1962.

Pakistan leaders also declared that even if the Kashmir problem was settled, Pakistan would not come to the defence of India if attacked by China. The late John Strachey, Labour M.P., who visited India and Pakistan as a member of a parliamentary delegation, addressed a letter to the editor of *Observer*, London, in which he disclosed that a Pakistan public man in a key position assured the delegation that if China attacked India again, he and his friends “would not miss the opportunity this time” but would immediately attack India.²⁴ On 17 July 1963, Bhutto, then Foreign Minister, made a significant statement. He said:

God forbid if there was to be a clash, if India were in her frustration to turn guns against Pakistan, the international situation is such that Pakistan would not be alone in that conflict. A conflict does not involve Pakistan alone. Attack from India on Pakistan today is no longer confined to the security and territorial integrity of Pakistan. An attack by India on Pakistan involves the territorial integrity and security of the largest State in Asia and, therefore, the new element and this new factor that has been brought in the situation is a very important factor. I would not, at this stage, like to elucidate any further on this matter. But suffice it to say that the national interest of another State itself is involved in an attack on Pakistan.²⁵

A week later he disclosed in the National Assembly that Pakistan had an assurance from “our friend” and from other countries that they would help Pakistan in the event of an aggression.²⁶

In their hostility towards India, Pakistan supported China and vice versa. Marshal Chen Yi told a Pakistan correspondent at Lahore in February 1964: “Pakistan and China will continue to be friends even after you get Kashmir and we get Taiwan.” When Pakistan armour moved into Kutch, the Hsinhua News Agency stated that the Chinese Government and people fully sympathized with and supported the solemn and just stand of the Pakistan

24. *Observer*, London, 16 June 1963.

25. *Dawn*, Karachi, 20 July 1963.

26. *Ibid.*, 25 July 1963.

Government.²⁷ Chen Yi had already told Pakistan pressmen in Peking: "Rest assured, we will not disappoint you."²⁸

Thus Bhutto had already expressed his government's confidence of support from "our friend" as well as from other countries in case of any armed conflict between Pakistan and India. Proof of this was furnished when Pakistan armour and air force attacked the Chamb-Jaurian sector of Jammu and Kashmir on 1 September 1965, after armed infiltrations from Pakistan had failed to achieve their objective. Three days later the Chinese Foreign Minister was in Karachi where he stated: "We support the just action taken by Pakistan to repel the Indian armed aggression."²⁹ On 9 September, Premier Chou En-lai warned the Indian Government "that it must bear full responsibility for all consequences arising from its extended aggression." On 16 September, China gave an ultimatum to India threatening it with grave consequences if certain works on the Chinese side of the China-Sikkim border or on the boundary itself were not dismantled within three days. Thus Pakistan and China, belonging to opposite military camps, teamed up against a non-aligned Afro-Asian country.

After the cease-fire, President Ayub Khan and Foreign Minister Bhutto expressed their gratitude to the Chinese Government for its support. The moral support, according to President Ayub Khan, "will ever remain enshrined in our hearts."³⁰

So much for the triangle of relations among India, Pakistan, and China. But in fact it is not a triangle, but a pentagon, with the U.S.A. and the Soviet Union supplying the fourth and fifth side of the figure. The pentagon has unusual features. The Chinese policies have come into conflict with the policies of the Soviet Union, the most progressive communist State, the U.S.A., the wealthiest and technologically the most advanced country in the world, and, India, a nonaligned State. In a sense China's hand is raised against everyone else. The only country in the pentagon with which it has friendly relations is a member of

27. *Pakistan Times*, Lahore, 5 May 1965.

28. *Dawn*, Karachi, 7 March 1965.

29. *Ibid.*, 5 September 1965.

30. *Ibid.*, 23 September 1965.

Western military blocs and recipient of U.S. military aid. Thus the Kashmir problem has become entangled in the interests of major powers whose alliances and antipathies cannot be of a permanent character and who are playing a momentous part in South and South-East Asia. At present China is busy isolating itself from the rest of the world and the continued association of Pakistan with such a power may not be an asset to it in the long run.

This pentagonal alignment of interests is in favour of the *status quo* and the discouragement of any armed conflict between India and Pakistan. In spite of the Chinese policy of promoting such a conflict and Pakistan's ready acceptance of Chinese aid against India, the fact remains that Pakistan cannot turn its back on the Western powers and the Soviet Union, if its economy is not to suffer and its defence requirements of Western arms and equipment are to be met. Undoubtedly, it is a restraining influence on Pakistan, although there might be a difference of opinion on its effectiveness in an emergency.

TASHKENT DECLARATION

Limitations of the Security Council no less than those of the parties will inevitably affect a future settlement. While the Council may persevere in futile courses, it cannot impose a settlement on India and Pakistan. It can only make recommendations to the parties under Chapter VI of the Charter, which they may or may not accept. Besides, a lasting solution can only be one to which the parties agree and which, if past experience is a guide, may emerge rather through negotiation than by third party intervention. The limitations of the Council become more grievous because of its unwillingness to face facts and to call a spade a spade. The Tashkent Declaration³¹ has further reduced the initiative of the Council in the matter. While in theory the Council can always meet to discuss the Kashmir question, it is difficult to see what it can hope to achieve except to leave the initiative to the parties: that is what the Tashkent Declaration has done.

The Declaration lays down basic conditions for promoting and restoring friendly relations between India and Pakistan—their

31. For text see Appendix 11.

obligation not to have recourse to force, to settle their disputes through peaceful means, the ending of tension between them, the observance of the cease-fire terms on the cease-fire line, non-interference in the internal affairs of each other and discouragement by both sides of any propaganda directed against the other country and encouragement of propaganda by both which promotes friendly relations between India and Pakistan. The Declaration also records that the Kashmir issue was discussed and each side set forth its respective position, there being no agreement between the parties.

The Security Council can do no more than this, with the difference that the Declaration has already been registered with the United Nations and is an international agreement, while Council resolutions, unless they are accepted unconditionally by the parties, cannot be.

The Declaration prohibits the use of force in settling Indo-Pakistan differences. It is, therefore, a no-war pact between the two countries. It is open to a country to repudiate a pact or agreement and Pakistan has done this on many occasions but, in so far as an agreement has any sanctity at all, Pakistan cannot get away from the fact of renunciation of the use of force to settle Indo-Pakistan problems. The Pakistan Information Secretary, Altaf Gauhar, attempted to whittle down the significance of the Tashkent Declaration. Addressing the Pakistan Institute of International Affairs on 4 March 1966, he repudiated the notion that by reaffirming its obligation under the Charter not to have recourse to force, Pakistan had through the Declaration entered into a no-war pact with India. He argued that an agreement such as India wanted was one thing, while reaffirming a collective obligation under the Charter was quite another. The Charter conceded to member-States the inherent right of individual or collective self-defence. This, he said, was a basic difference between a bilateral no-war pact and the reaffirmation of a collective obligation not to use force for the settlement of disputes under the Charter as envisaged in Clause 1 of the Tashkent Declaration.

In this context paras 3 and 4 of Article 2 of the Charter are worth examining. These paras read:

3. All members shall settle their international disputes by

peaceful means in such a manner that international peace and security and justice are not endangered.

4. All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations.

To Altaf Gauhar, there is a vital difference between a collective obligation not to take recourse to force, as under the Charter, and a similar obligation arising from a bilateral agreement, on the ground that the former recognizes a member-State's right of self-defence, while the latter does not. It stands to reason that, even under a bilateral agreement, the moment a party commits aggression against the other, it is guilty of violation of the agreement, restoring to the party attacked its natural right of self-defence. It is true that countries have signed non-aggression pacts in the past only to invade the territory of a signatory. When Hitler invaded the Soviet Union, the latter was not robbed of its right of self-defence because it had signed a non-aggression pact with Germany.

Curiously, Pakistan itself has never accepted such a distinction in the past. With reference to its being a signatory to the U.S. military aid agreement, it has always claimed that the agreement in no way restricts its right of self-defence in any way, as is clear from President Mohammed Ayub Khan's statement that U.S. arms would not be kept in cotton wool. In fact, Pakistan repudiated the agreement by using American arms to commit aggression against India. Nothing stops a country from repudiating any obligation, collective or individual, under the Charter or in a bilateral agreement, but the Pakistan Information Secretary's attempt to wriggle out of a commitment under the Tashkent Declaration is ingenuous. If it has any respect for an international agreement at all, Pakistan is no more free to resort to force under the Charter for the settlement of any difference with India than under any bilateral agreement for the renunciation of force. The plea of self-defence cannot justify aggression and Article 51 of the Charter is not intended to support acts of international delinquency.

The Information Secretary also recalled that Pakistan had made its viewpoint known to the world much before the Tashkent

Declaration was signed, namely, that Pakistan was always prepared to reaffirm its obligation under the Charter but that it was not prepared to go outside the provisions of the Charter. Now affirming or reaffirming any obligation under the Charter is not the same thing as honouring it. Pakistan did not honour its obligations in 1947, 1948, 1949, or 1965. On all these occasions, the Charter did not prevent Pakistan from going outside its provisions. This clearly shows that Pakistan's acceptance of the Charter is as much subject to mental reservations as is its acceptance of the Tashkent Declaration. The Information Secretary's address betrayed some of these reservations. For example, the term "armed personnel" mentioned in Article II of the Declaration was not intended, he said, to cover "irregular forces and armed individuals," much less the Mujahids "who have a right to be where they are"; the cease-fire line was no more than a temporary arrangement; non-interference in the internal affairs of each other did not affect the position of Pakistan on Jammu and Kashmir. Thus, as on Security Council resolutions, Pakistan has two postures on the Tashkent Declaration.

One may ask why, in view of so many mental reservations, Pakistan accepted the Declaration at all or, to put it differently, what then did Pakistan accept in the Declaration? If this Pakistan official reflects the policy of the Pakistan Government, the future of the Tashkent Declaration is dim indeed. It also raises a more fundamental issue, namely, whether acceptance by Pakistan of any proposal or agreement can in future be taken at its face value and whether negotiations with such a country, which is not prepared to honour anything that it accepts, is worth all the trouble it involves. The latest pronouncement on the subject by Ayub Khan only confirms these doubts. At Hamburg on 16 November 1966, he said: "It [the Tashkent Declaration] settled nothing. All it did was it enabled the two countries to disengage their armies from each other." This is in contrast with the laudatory statements which Ayub Khan made after the Declaration was signed.

However, until the Government of Pakistan officially chooses to go back on the Tashkent Declaration, it must be presumed to be binding on Pakistan. The Declaration offers an opportunity for the development and maintenance of close and friendly relations between

the two countries. Only time will show whether Pakistan desires such an objective. Thus far its attitude has been negative. In any case, it is not easy to devise a pattern for Indo-Pakistan relations radically different from the one laid down in the Tashkent Declaration. The principles enshrined in the Declaration will outlive the Declaration even if it is repudiated by Pakistan. Meanwhile, the view widely held on the Tashkent Declaration was voiced by President de Gaulle in a toast at a luncheon for President Mohammed Ayub Khan, in Paris on 29 November 1966. President Ayub Khan, he said, had taken upon himself "to subscribe to the Tashkent agreement, happily suggested to the two States by the Soviet Premier and approved throughout the world."³²

Responsible non-official opinion in Pakistan which has had ample opportunity to look at the Indo-Pakistan armed conflict of 1965 in perspective is at variance with the view expressed by Pakistan officials and appears to be more in line with what General de Gaulle had said. As a leading newspaper of East Pakistan, the *Sangbad* (Dacca), in an article, almost a year after the Declaration was signed, stated:

The historic Tashkent Declaration, signed on 10 January last, is a priceless treasure of the 600 million people. The Tashkent Declaration has presented us with a solid foundation, a great ideal and correct directive to build a happy, prosperous, peaceful, and democratic future and also to restore friendly relations between the peoples of this subcontinent.... The greatest achievements of the Tashkent Declaration are the rejection in principle of war and use of force as the means to settle inter-State disputes, acceptance of the principle of peaceful negotiation and indispensability of Indo-Pak friendship.

Such are some of the elements of a settlement; some offer hope, others are rather grim in their working. What chances of improvement do they offer in their totality? The cease-fire line, in spite of its earlier success, death, and resurrection, is no barrier against further Pakistan aggression, irrespective of its likely consequences. A country which has snapped the line so many times, overtly or

32. *Dawn*, Karachi, 30 November 1966.

covertly, may do it again. The internal unity and strength of India are not likely to be measured except in an emergency. If Pakistan violates the CFL, it would presumably do so after taking fully into account the visible symbols or their absence of such unity and strength. An aggressor takes a risk and in doing so might proceed on the assumption that internal unity is not there. Also the denial of political freedom in Pakistan might be one of the reasons for further aggression which could be a weapon to divert public attention from political grievances to a trumped-up threat to national existence. It is true that the separatist movement in East Pakistan might discourage Pakistan from embarking on another invasion of Indian territory but if as the Chinese leaders assured the people of East Pakistan in Dacca of their support in the event of any armed conflict with India, the Pakistan Government might ignore the political rumblings in East Pakistan, confident of dealing with the situation with an iron hand. The bonds which still hold the people of India and Pakistan together have little value for policy makers in Pakistan and on the basis of available evidence it is hardly possible to say that the people of Pakistan will take the matter in their own hands. The two-nation theory incites conflict and collision. The Pakistan-China collusion tips the balance in favour of contention. India's sovereignty over the whole State, the Constitution of India, and the demand for the vacation of Pakistan aggression are other elements on which no Indian political party would be able to compromise.

Some people feel that Shaikh Abdullah is also a factor to reckon with. Undoubtedly, Pakistan has been leaning heavily on him since 1953, especially since 1964. But it is extremely doubtful that his waywardness and ambitions can justifiably be regarded as anything more than a domestic problem. So long as he pursues a treasonable course, his conflict with the law is inevitable. Apart from some stray voices in his support, Abdullah has ceased to command the confidence of the people of India. While Pakistan may continue to find him of some use for propaganda purposes, the public in India no longer regards him as a material factor in the situation particularly since Pakistan's abortive aggression of 1965.

This still leaves the fact of growing collaboration between the U.S. and the Soviet Union, the two Titans with whom both India and Pakistan have friendly relations. The U.S. by itself could not prevent Pakistan aggression in 1965, although there is reason to believe that it put pressure on the Pakistan Government to accept the cease-fire under the Security Council resolution of 20 September, which the Law Minister of Pakistan had asked the Council not to adopt, threatening it with dire consequences if it did. Perhaps no further pressure was put or, if it was exercised, it proved to be ineffective. Significantly, the Pakistan Government accepted Premier Kosygin's proposal for Indo-Pakistan discussions at Tashkent which he had first made in his letter of 4 September to the Prime Minister of India and the President of Pakistan and which he subsequently repeated. It is also significant that on the eve of the Tashkent Declaration, the British Prime Minister's correspondence with a Member of Parliament on the Indo-Pakistan conflict was released, throwing, according to some, a spanner into the works. Even more significant is the relief with which the Tashkent Declaration was received in the U.S. and supported by its government, as indeed it was welcomed all over the world except in China. The subsequent dismissal of Bhutto was widely regarded as having been brought about under American pressure.

The Security Council cannot hope to improve upon the principles agreed to by India and Pakistan in the Tashkent Declaration. Any attempt by the Council at this stage to favour Pakistan at the expense of the Declaration may only create for itself a situation of further confusion and helplessness. This is where increasing collaboration between the Soviet Union and the U.S.A. can act as a powerful lever in preventing further breaches of the peace by Pakistan and by keeping the issue out of the Security Council, which, if past experience is any guide, may only succeed in aggravating Indo-Pakistan relations. The late Prime Minister Lal Bahadur Shastri put the matter in a nutshell in his speech at the opening session of the Tashkent meeting on January 1966.

The only justification for the use of force in international relations is to repel aggression. Our assurance to each other not to use force would mean, therefore, that each agrees to respect the

territorial integrity of the other. We have always said, and I say it today also, that we unreservedly accept Pakistan's sovereignty and territorial integrity. Equally, we have to preserve our own territorial integrity and sovereignty. Respect for each other's sovereignty is essential for peace and good relations. Once this has been clearly accepted, the whole character of Indo-Pakistan relationship could be transformed to the benefit of the people of both countries.³³

No miraculous solution of the problem is in sight. Public debate has achieved little in the past and is likely to achieve less in the future. Even direct talks have been infructuous. What is needed is to change hostility into mutual goodwill. The process is not easy and will take time. As friendly relations develop, resources at present employed in defence against each other will be devoted to more pressing and fruitful purposes. The resolutions adopted by the Council in September 1965, the Tashkent Declaration, the growing U.S.-U.S.S.R. cooperation, and awareness of the need for social and economic development in Pakistan and India—all favour the maintenance of the *status quo*, for even keeping things as they are is an insurance against armed conflict. Elimination of the conflict is in the interests of both India and Pakistan. In this context, the Soviet Union and the U.S.A. together may have a major role to play.

33. *The Tashkent Declaration*, Publications Division, Ministry of Information and Broadcasting, Government of India, New Delhi.

Appendixes

APPENDIX I

INDIAN COMPLAINT TO THE SECURITY COUNCIL

Letter dated 1 January, 1948, from the Representative of India to the President of the Security Council (S/628).

The Government of India have instructed me to transmit to you the following telegraphic communication:

“1. Under Article 35 of the Charter of the United Nations, any Member may bring any situation whose continuance is likely to endanger the maintenance of international peace and security to the attention of the Security Council. Such a situation now exists between India and Pakistan owing to the aid which invaders, consisting of nationals of Pakistan and of tribesmen from the territory immediately adjoining Pakistan on the north-west, are drawing from Pakistan for operations against Jammu and Kashmir, a State which has acceded to the Dominion of India and is part of India. The circumstances of accession, the activities of the invaders which led the Government of India to take military action against them, and the assistance which the attackers have received and are still receiving from Pakistan are explained later in this memorandum. The Government of India request the Security Council to call upon Pakistan to put an end immediately to the giving of such assistance, which is an act of aggression against India. If Pakistan does not do so, the Government of India may be compelled, in self-defence, to enter Pakistan territory, in order to take military action against the invaders. The matter is, therefore, one of extreme urgency and calls for immediate action by the Security Council for avoiding a breach of international peace.

“2. From the middle of September 1947, the Government of India had received reports of the infiltration of armed raiders into the western parts of Jammu Province of the Jammu and Kashmir State; Jammu adjoins West Punjab which is a part of the Dominion of Pakistan. These raiders had done a great deal of damage in that area and taken possession of part of the territory of the State. On

24 October, the Government of India heard of a major raid from the Frontier Province of the Dominion of Pakistan. These raiders had done a great deal of damage in that area and taken possession of part of the territory of the State. On 24 October, the Government of India heard of a major raid from the Frontier Province of the Dominion of Pakistan into the Valley of Kashmir. Some two thousand or more fully armed and equipped men came in motor transport, crossed over to the territory of the State of Jammu and Kashmir, sacked the town of Muzaffarabad, killing many people, and proceeded along the Jhelum Valley road towards Srinagar, the summer capital of the Jammu and Kashmir State. Intermediate towns and villages were sacked and burnt, and many people killed. These raiders were stopped by Kashmir State troops near Uri, a town some fifty miles from Srinagar, for some time, but the invaders got around them and burnt the power house at Mahora, which supplied electricity to the whole of Kashmir.

“3. The position, on the morning of 26 October, was that these raiders had been held by Kashmir State troops and part of the civil population, who had been armed, at a town called Baramulla. Beyond Baramulla there was no major obstruction up to Srinagar. There was immediate danger of these raiders reaching Srinagar, destroying and massacring large numbers of people, both Hindus and Muslims. The State troops were spread out all over the State and most of them were deployed along the western border of Jammu Province. They had been split up into small isolated groups and were incapable of offering effective resistance to the raiders. Most of the State officials had left the threatened area and the civil administration had ceased to function. All that stood between Srinagar and the fate which had overtaken the places *en route* followed by the raiders was the determination of the inhabitants of Srinagar, of all communities, and practically without arms, to defend themselves. At this time Srinagar had also a large population of Hindu and Sikh refugees who had fled there from West Punjab owing to communal disturbances in that area. There was little doubt that these refugees would be massacred if the raiders reached Srinagar.

“4. Immediately after the raids into the Jammu and Kashmir

State commenced, approaches were informally made to the Government of India for the acceptance of the accession of the State to the Indian Dominion. (It might be explained in parenthesis that Jammu and Kashmir form a State whose ruler, prior to the transfer of power by the United Kingdom to the Dominions of India and Pakistan, had been in treaty relations with the British Crown, which controlled its foreign relations and was responsible for its defence. The treaty relations ceased with the transfer of power on 15 August last, and Jammu and Kashmir like other States acquired the right to accede to either Dominion.)

“5. Events moved with great rapidity, and the threat to the Valley of Kashmir became grave. On 26 October, the ruler of the State, His Highness Maharajah Sir Hari Singh, appealed urgently to the Government of India for military help. He also requested that the Jammu and Kashmir State should be allowed to accede to the Indian Dominion. An appeal for help was also simultaneously received by the Government of India from the largest popular organization in Kashmir, the National Conference, headed by Shaikh Mohammed Abdullah. The Conference further strongly supported the request for the State’s accession to the Indian Dominion. The Government of India were thus approached not only officially by the State authorities, but also on behalf of the people of Kashmir, both for military aid and for the accession of the State to India.

“6. The grave threat to the life and property of innocent people in the Kashmir Valley and to the security of the State of Jammu and Kashmir that had developed as a result of the invasion of the Valley demanded immediate decision by the Government of India on both the requests. It was imperative on account of the emergency that the responsibility for the defence of the Jammu and Kashmir State should be taken over by a government capable of discharging it. But, in order to avoid any possible suggestion that India had utilized the State’s immediate peril for her own political advantage, the Government of India made it clear that once the soil of the State had been cleared of the invader and normal conditions restored, its people would be free to decide their future by the recognized democratic method of a plebiscite or referendum which, in order to

ensure complete impartiality, might be held under international auspices.

“7. The Government of India felt it their duty to respond to the appeal for armed assistance because:

“(1) They could not allow a neighbouring and friendly State to be compelled by force to determine either its internal affairs or its external relations;

“(2) The accession of the Jammu and Kashmir State to the Dominion of India made India really responsible for the defence of the State.

“8. The intervention of the Government of India resulted in saving Srinagar. The raiders were driven back from Baramulla to Uri and are held there by Indian troops. Nearly 19,000 raiders face the Dominion forces in this area. Since operations in the Valley of Kashmir started, pressure by the raiders against the western and south-western border of the Jammu and Kashmir State has been intensified. Exact figures are not available. It is understood, however, that nearly 15,000 raiders are operating against this part of the State. State troops are besieged in certain areas. Incursions by the raiders into the State territory, involving murder, arson, loot, and the abduction of women, continue. The booty is collected and carried over to the tribal areas to serve as an inducement to the further recruitment of tribesmen to the ranks of the raiders. In addition to those actively participating in the raid, tribesmen and others, estimated at 100,000, have been collected in different places in the districts of West Punjab bordering the Jammu and Kashmir State, and many of them are receiving military training under Pakistani nationals, including officers of the Pakistan Army. They are looked after in Pakistan territory, fed, clothed, armed and otherwise equipped, and transported to the territory of the Jammu and Kashmir State with the help, direct and indirect, of Pakistani officials, both military and civil.

“9. As already stated, the raiders who entered the Kashmir Valley in October came mainly from the tribal areas to the north-west of Pakistan and, in order to reach Kashmir, passed through Pakistan territory. The raids along the south-west border of the State, which had preceded the invasion of the valley proper, had

actually been conducted from Pakistan territory, and Pakistan nationals had taken part in them. This process of transmission across Pakistan territory and utilization of that territory as a base of operations against the Jammu and Kashmir State continues. Recently, military operations against the western and south-western borders of the State have been intensified, and the attackers consist of nationals of Pakistan as well as tribesmen. These invaders are armed with modern weapons, including mortars and medium machine-guns, wear the battle dress of regular soldiers and, in recent engagements, have fought in regular battle formation and are using the tactics of modern warfare. Man-pack wireless sets are in regular use and even mark V mines have been employed. For their transport the invaders have all along used motor vehicles. They are undoubtedly being trained and to some extent led by regular officers of the Pakistan Army. Their rations and other supplies are obtained from Pakistan territory.

“10. These facts point indisputably to the conclusion:

“(a) That the invaders are allowed transit across Pakistan territory;

“(b) That they are allowed to use Pakistan territory as a base of operations;

“(c) That they include Pakistan nationals;

“(d) That they draw much of their military equipment, transportation, and supplies (including petrol) from Pakistan; and

“(e) That Pakistan officers are training, guiding, and otherwise actively helping them.

“There is no source other than Pakistan from which they could obtain such quantities of modern military equipment, training or guidance. More than once, the Government of India had asked the Pakistan Government to deny to the invaders facilities which constitute an act of aggression and hostility against India, but without any response. The last occasion on which this request was made was on 22 December, when the Prime Minister of India handed over personally to the Prime Minister of Pakistan a letter in which the various forms of aid given by Pakistan to the invaders were briefly recounted and the Government of Pakistan were asked to put an end to such aid promptly; no reply to this letter has yet been received in spite of a telegraphic reminder sent on 26 December.

“11. It should be clear from the foregoing recital that the Government of Pakistan are unwilling to stop the assistance in material and men which the invaders are receiving from Pakistan territory and from Pakistan nationals, including Pakistan Government personnel, both military and civil. This attitude is not only un-neutral, but constitutes active aggression against India, of which the State of Jammu and Kashmir forms a part.

“12. The Government of India have exerted persuasion and exercised patience to bring about a change in the attitude of Pakistan. But they have failed, and are in consequence confronted with a situation in which their defence of the Jammu and Kashmir State is hampered and their measures to drive the invaders from the territory of the State are greatly impeded by the support which the raiders derive from Pakistan. The invaders are still on the soil of Jammu and Kashmir and the inhabitants of the State are exposed to all the atrocities of which a barbarous foe is capable. The presence, in large numbers, of invaders in those portions of Pakistan territory which adjoin parts of Indian territory other than the Jammu and Kashmir State is a menace to the rest of India. Indefinite continuance of the present operations prolongs the agony of the people of Jammu and Kashmir, is a drain on India's resources and a constant threat to the maintenance of peace between India and Pakistan. The Government of India have no option, therefore, but to take more effective military action in order to rid the Jammu and Kashmir State of the invader.

“13. In order that the objective of expelling the invader from Indian territory and preventing him from launching fresh attacks should be quickly achieved, Indian troops would have to enter Pakistan territory; only thus could the invader be denied the use of bases and cut off from his sources of supplies and reinforcements in Pakistan. Since the aid which the invaders are receiving from Pakistan is an act of aggression against India, the Government of India are entitled, under international law, to send their armed forces across Pakistan territory for dealing effectively with the invaders. However, as such action might involve armed conflict with Pakistan, the Government of India, ever anxious to proceed according to the principles and aims of the Charter of the United Nations, desire

to report the situation to the Security Council under Article 35 of the Charter. They feel justified in requesting the Security Council to ask the Government of Pakistan:

“(1) To prevent Pakistan Government personnel, military and civil, from participating or assisting in the invasion of the Jammu and Kashmir State;

“(2) To call upon other Pakistani nationals to desist from taking any part in the fighting in the Jammu and Kashmir State;

“(3) To deny to the invaders: (a) access to any use of its territory for operations against Kashmir, (b) military and other supplies, (c) all other kinds of aid that might tend to prolong the present struggle.

“14. The Government of India would stress the special urgency of the Security Council taking immediate action on their request. They desire to add that military operations in the invaded areas have, in the past few days, been developing so rapidly that they must, in self-defence, reserve to themselves the freedom to take, at any time when it may become necessary, such military action as they may consider the situation requires.

“15. The Government of India deeply regret that a serious crisis should have been reached in their relations with Pakistan. Not only is Pakistan a neighbour but, in spite of the recent separation, India and Pakistan have many ties and many common interests. India desires nothing more earnestly than to live with her neighbour-State on terms of close and lasting friendship. Peace is to the interest of both States; indeed to the interests of the world. The Government of India's approach to the Security Council is inspired by the sincere hope that, through the prompt action of the Council, peace may be preserved.

“16. The text of this reference to the Security Council is being telegraphed to the Government of Pakistan.”

APPENDIX 2

RESOLUTION ADOPTED AT THE 229th MEETING OF THE SECURITY COUNCIL, 17th JANUARY, 1948 (S/651)

THE SECURITY COUNCIL having heard statements on the situation in Kashmir from representatives of the Governments of India and Pakistan;

RECOGNIZING the urgency of the situation; taking note of the telegram addressed on 6th January by its President to each of the parties and of their replies thereto; and in which they affirmed their intention to conform to the Charter;

CALLS UPON both the Government of India and the Government of Pakistan to take immediately all measures within their power (including public appeals to their people) calculated to improve the situation and to refrain from making any statements and from doing or causing to be done or permitting any acts which might aggravate the situation;

AND FURTHER REQUESTS each of those Governments to inform the Council immediately of any material change in the situation which occurs or appears to either of them to be about to occur while the matter is under consideration by the Council, and consult with the Council thereon.

APPENDIX 3

U.N.C.I.P. RESOLUTION OF AUGUST 13, 1948 (S/1100, PARA 75)

The United Nations Commission for India and Pakistan having given careful consideration to the points of view expressed by the Representatives of India and Pakistan regarding the situation in the State of Jammu and Kashmir, and

Being of the opinion that the prompt cessation of hostilities and the correction of conditions the continuance of which is likely to endanger international peace and security are essential to implementation of its endeavours to assist the Governments of India and Pakistan in effecting a final settlement of the situation,

Resolves to submit simultaneously to the Governments of India and Pakistan the following proposal:

PART I

Cease-Fire Order

A. The Governments of India and Pakistan agree that their respective High Commands will issue separately and simultaneously a cease-fire order to apply to all forces under their control in the State of Jammu and Kashmir as of the earliest practicable date or dates to be mutually agreed upon within four days after these proposals have been accepted by both Governments.

B. The High Commands of the Indian and Pakistani forces agree to refrain from taking any measures that might augment the military potential of the forces under their control in the State of Jammu and Kashmir.

(For the purpose of these proposals "forces under their control" shall be considered to include all forces, organized and unorganized, fighting or participating in hostilities on their respective sides.)

C. The Commanders-in-Chief of the forces of India and Pakistan

shall promptly confer regarding any necessary local changes in present dispositions which may facilitate the cease-fire.

D. In its discretion and as the Commission may find practicable, the Commission will appoint military observers who, under the authority of the Commission and with the cooperation of both Commands, will supervise the observance of the cease-fire order.

E. The Government of India and the Government of Pakistan agree to appeal to their respective peoples to assist in creating and maintaining an atmosphere favourable to the promotion of further negotiations.

PART II

Truce Agreement

Simultaneously with the acceptance of the proposal for the immediate cessation of hostilities as outlined in Part I, both Governments accept the following principles as a basis for the formulation of a truce agreement, the details of which shall be worked out in discussion between their Representatives and the Commission.

A

1. As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from that State.

2. The Government of Pakistan will use its best endeavour to secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistan nationals not normally resident therein who have entered the State for the purpose of fighting.

3. Pending a final solution, the territory evacuated by the Pakistani troops will be administered by the local authorities under the surveillance of the Commission.

B

1. When the Commission shall have notified the Government of India that the tribesmen and Pakistan nationals referred to in Part

IIA-2 hereof have withdrawn, thereby terminating the situation which was represented by the Government of India to the Security Council as having occasioned the presence of Indian forces in the State of Jammu and Kashmir, and further, that the Pakistani forces are being withdrawn from the State of Jammu and Kashmir, the Government of India agrees to begin to withdraw the bulk of their forces from that State in stages to be agreed upon with the Commission.

2. Pending the acceptance of the conditions for a final settlement of the situation in the State of Jammu and Kashmir, the Indian Government will maintain within the lines existing at the moment of cease-fire the minimum strength of its forces which in agreement with the Commission are considered necessary to assist local authorities in the observance of law and order. The Commission will have observers stationed where it deems necessary.

3. The Government of India will undertake to ensure that the Government of the State of Jammu and Kashmir will take all measures within its power to make it publicly known that peace, law and order will be safeguarded and that all human and political rights will be guaranteed.

C

1. Upon signature, the full text of the truce agreement or a communique containing the principles thereof as agreed upon between the two Governments and the Commission will be made public.

PART III

The Government of India and the Government of Pakistan reaffirm their wish that the future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people and to that end, upon acceptance of the truce agreement, both Governments agree to enter into consultations with the Commission to determine fair and equitable conditions whereby such free expression will be assured.

APPENDIX 4

*LETTER FROM THE PRIME MINISTER OF INDIA TO
THE CHAIRMAN IN REPLY TO THE COMMISSION'S
RESOLUTION OF AUGUST 13, 1948
(S/1100, PARA 78)*

*New Delhi,
20 August 1948.*

EXCELLENCY,

On 17 August, my colleague, the Minister without Portfolio, and I discussed with you and your colleagues of the Commission now in Delhi the resolution which you had presented to us on the 14th instant. On the 18th, I had another discussion with you, in the course of which I tried to explain to you the doubts and difficulties which members of my Government, and representatives of the Government of Kashmir whom we consulted, had felt as the result of a preliminary but careful examination of the Commission's proposals.

2. During the several conferences that we had with the Commission when it first came to Delhi, we placed before it what we considered the basic fact of the situation which had led to the conflict in Kashmir. This fact was the unwarranted aggression, at first indirect and subsequently direct of the Pakistan Government on Indian Dominion territory in Kashmir. The Pakistan Government denied this although it was common knowledge. In recent months, very large forces of the Pakistan regular army have further entered Indian Union territory in Kashmir and opposed the Indian Army which was sent there for the defence of the State. This, we understand now, is admitted by the Pakistan Government, and yet there has been at no time any intimation to the Government of India by the Pakistan Government of this invasion; there has been a continual denial and the Pakistan Government have evaded answering repeated inquiries from the Government of India.

In accordance with the resolution of the Security Council of the United Nations adopted on January 17, 1948, the Pakistan Government should have informed the Council immediately of any material change in the situation while the matter continues to be under the consideration of the Council. The invasion of the State by large forces of the regular Pakistan Army was a very material change in the situation, and yet no information of this was given, so far as we know, to the Security Council.

The Commission will appreciate that this conduct of the Pakistan Government is not only opposed to all moral codes as well as international law and usage, but has also created a very grave situation. It is only the earnest desire of my Government to avoid any extension of the field of conflict and to restore peace, that has led us to refrain from taking any action to meet the new situation that was created by this further intrusion of the Pakistan Army into Jammu and Kashmir State. The presence of the Commission in India has naturally led us to hope that any arrangement sponsored by it would deal effectively with the present situation and prevent any recurrence of aggression.

3. Since our meeting of August 18, we have given the Commission's resolution our most earnest thought. There are many parts of it which we should have preferred to be otherwise and more in keeping with the fundamental facts of the situation, especially the flagrant aggression of the Pakistan Government on Indian Union territory. We recognize, however, that if a successful effort is to be made to create satisfactory conditions for a solution of the Kashmir problem without further bloodshed, we should concentrate on certain essentials only at present and seek safeguards in regard to them. It was in this spirit that I placed the following considerations before Your Excellency:

(1) That paragraph A-3 of Part II of the resolution should not be interpreted, or applied in practice, so as:

(a) to bring into question the sovereignty of the Jammu and Kashmir Government over the portion of their territory evacuated by Pakistan troops;

(b) to afford any recognition of the so-called "Azad Kashmir Government"; or

(c) to enable this territory to be consolidated in any way during the period of truce to the disadvantage of the State.

(2) That from our point of view the effective insurance of the security of the State, against external aggression, from which Kashmir has suffered so much during the last ten months, was of the most vital significance and no less important than the observance of internal law and order and that, therefore, the withdrawal of Indian troops and the strength of Indian forces maintained in Kashmir should be conditioned by this overriding factor. Thus at any time the strength of the Indian forces maintained in Kashmir should be sufficient to ensure security against any form of external aggression as well as internal disorder.

(3) That as regards Part III, should it be decided to seek a solution of the future of the State by means of a plebiscite, Pakistan should have no part in the organization and conduct of the plebiscite or in any other matter of internal administration in the State.

4. If I understood you correctly, A-3 of Part II of the resolution does not envisage the creation of any of the conditions to which we have objected in paragraph 3(1) of this letter. In fact, you made it clear that the Commission was not competent to recognize the sovereignty of any authority over the evacuated areas other than that of the Jammu and Kashmir Government.

As regards paragraph 3(2), the paramount need for security is recognized by the Commission, and the time when the withdrawal of Indian forces from the State is to begin, the stages in which it is to be carried out and the strength of Indian forces to be retained in the State, are matters for settlement between the Commission and the Government of India.

Finally, you agreed that Part III, as formulated, does not in any way recognize the right of Pakistan to have any part in a plebiscite.

5. In view of this clarification, my Government, animated by a sincere desire to promote the cause of peace, and thus to uphold the principles and prestige of the United Nations, have decided to accept the resolution.

Accept, Excellency, the assurances of my highest consideration.

*REPLY FROM THE CHAIRMAN OF THE COMMISSION
TO THE LETTER FROM THE PRIME MINISTER
OF INDIA, DATED AUGUST 20, 1948*

*New Delhi,
August 25, 1948.*

EXCELLENCY,

I have the honour to acknowledge the receipt of your communication dated August 20, 1948, regarding the terms of the resolution of the United Nations Commission for India and Pakistan which the Commission presented to you on August 14, 1948.

The Commission requests me to convey to Your Excellency its view that the interpretation of the resolution as expressed in paragraph 4 of your letter coincides with its own interpretation, it being understood that as regards point (I) (c) the local people of the evacuated territory will have freedom of legitimate political activity. In this connection, the term "evacuated territory" refers to those territories in the State of Jammu and Kashmir which are at present under the effective control of the Pakistan High Command.

The Commission wishes me to express to Your Excellency its sincere satisfaction that the Government of India has accepted the resolution and appreciates the spirit in which this decision has been taken.

I wish to avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

APPENDIX 5

*LETTER DATED 20th AUGUST, 1948, FROM THE PRIME
MINISTER OF INDIA TO THE CHAIRMAN OF THE
U.N.C.I.P. CONCERNING NORTHERN TERRITORIES
(S/1100, PARA 80)*

EXCELLENCY,

You will recall that in our interview with the Commission on the 17th August, I dealt at some length with the position of the sparsely populated and mountainous region of the Jammu and Kashmir State in the north. The authority of the Government of Jammu and Kashmir over this region as a whole has not been challenged or disturbed, except by roving bands of hostiles, or in some places like Skardu which have been occupied by irregulars of Pakistan troops. The Commission's resolution, as you agreed in the course of our interview on the 18th, does not deal with the problem of administration or defence in this large area. We desire that, after Pakistan troops and irregulars have withdrawn from the territory, the responsibility for the administration of the evacuated areas should revert to the Government of Jammu and Kashmir and that for defence to us. (The only exception that we should be prepared to accept would be Gilgit.) We must be free to maintain garrisons at selected points in this area for the dual purpose of preventing the incursion of tribesmen, who obey no authority, and to guard the main trade routes from the State into Central Asia.

Accept, Excellency, etc.

JAWAHARLAL NEHRU
Prime Minister of India

*LETTER DATED 25th AUGUST, 1948, FROM THE
CHAIRMAN OF THE U.N.C.I.P. TO THE PRIME MINISTER
OF INDIA, CONCERNING NORTHERN TERRITORIES
(S/1100, PARA 81)*

EXCELLENCY,

I have the honour to acknowledge receipt of your letter of 20 August 1948, relating to the sparsely populated, and mountainous region of the State of Jammu and Kashmir in the north.

The Commission wishes me to confirm that, due to the peculiar conditions of this area, it did not specifically deal with the military aspect of the problem in its Resolution of 13 August 1948. It believes, however, that the question raised in your letter could be considered in the implementation of the Resolution.

Accept, Excellency, etc.

JOSEF KORBEL

APPENDIX 6

U.N.C.I.P. RESOLUTION OF JANUARY 5, 1949

(S/1430, PARA 143)

The United Nations Commission for India and Pakistan, having received from the Governments of India and Pakistan, in communications dated December 23 and December 25, 1948, respectively, their acceptance of the following principles which are supplementary to the Commission's resolution of August 13, 1948:

1. The question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite.

2. A plebiscite will be held when it shall be found by the Commission that the cease-fire and truce arrangements set forth in Parts I and II of the Commission's resolution of August 13, 1948, have been carried out and arrangements for the plebiscite have been completed.

3. (a) The Secretary-General of the United Nations will, in agreement with the Commission, nominate a Plebiscite Administrator who shall be a personality of high international standing and commanding general confidence. He will be formally appointed to office by the Government of Jammu and Kashmir.

(b) The Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers he considers necessary for organizing and conducting the plebiscite and for ensuring the freedom and impartiality of the plebiscite.

(c) The Plebiscite Administrator shall have authority to appoint such staff of assistants and observers as he may require.

4. (a) After implementation of Parts I and II of the Commission's resolution of August 13, 1948, and when the Commission is satisfied that peaceful conditions have been restored in the State, the Commission and the Plebiscite Administrator will determine, in consultation with the Government of India, the final disposal of Indian and State armed forces, such disposal to be with due regard

to the security of the State and the freedom of the plebiscite;

(b) As regards the territory referred to in A-2 of Part II of the resolution of August 13, final disposal of the armed forces in that territory will be determined by the Commission and the Plebiscite Administrator in consultation with the local authorities.

5. All civil and military authorities within the State and the principal political elements of the State will be required to co-operate with the Plebiscite Administrator in the preparation for and the holding of the plebiscite.

6. (a) All citizens of the State who have left it on account of the disturbances will be invited and be free to return and to exercise all their rights as such citizens. For the purpose of facilitating repatriation there shall be appointed two Commissions, one composed of nominees of India and the other of nominees of Pakistan. The Commissions shall operate under the direction of the Plebiscite Administrator. The Governments of India and Pakistan and all authorities within the State of Jammu and Kashmir will collaborate with the Plebiscite Administrator in putting this provision into effect.

(b) All persons (other than citizens of the State) who on or since August 15, 1947, have entered it for other than lawful purpose, shall be required to leave the State.

7. All authorities within the State of Jammu and Kashmir will undertake to ensure, in collaboration with the Plebiscite Administrator, that:

(a) There is no threat, coercion or intimidation, bribery or other undue influence on the voters in the plebiscite;

(b) No restrictions are placed on legitimate political activity throughout the State. All subjects of the State, regardless of creed, caste, or party, shall be safe and free in expressing their views and in voting on the question of the accession of the State to India or Pakistan. There shall be freedom of the press, speech and assembly and freedom of travel in the State, including freedom of lawful entry and exit;

(c) All political prisoners are released;

(d) Minorities in all parts of the State are accorded adequate protection; and

(e) There is no victimization.

8. The Plebiscite Administrator may refer to the United Nations Commission for India and Pakistan problems on which he may require assistance, and the Commission may in its discretion call upon the Plebiscite Administrator to carry out on its behalf any of the responsibilities with which it has been entrusted.

9. At the conclusion of the plebiscite, the Plebiscite Administrator shall report the result thereof to the Commission and to the Government of Jammu and Kashmir. The Commission shall then certify to the Security Council whether the plebiscite has or has not been free and impartial.

10. Upon the signature of the truce agreement the details of the foregoing proposals will be elaborated in the consultations envisaged in Part III of the Commission's resolution of August 13, 1948. The Plebiscite Administrator will be fully associated in these consultations;

Commends the Governments of India and Pakistan for their prompt action in ordering a cease-fire to take effect from one minute before midnight of January 1, 1949, pursuant to the agreement arrived at as provided for by the Commission's resolution of August 13, 1948; and

Resolves to return in the immediate future to the subcontinent to discharge the responsibilities imposed upon it by the resolution of August 13, 1948, and by the foregoing principles.

APPENDIX 7

AGREEMENT BETWEEN MILITARY REPRESENTATIVES OF INDIA AND PAKISTAN REGARDING THE ESTABLISH- MENT OF A CEASE-FIRE LINE IN THE STATE OF JAMMU AND KASHMIR (ANNEX 26 OF U.N.C.I.P. THIRD REPORT—S/1430 AND ADD 1 TO 3)

29 July, 1949

I. INTRODUCTION

A. The military representatives of India and Pakistan met together in Karachi from 18 July to 27 July, 1949, under the auspices of the Truce Sub-committee of the United Nations Commission for India and Pakistan.

B. The members of the Indian delegation were: Lieutenant-General S. M. Shrinagesh, Major-General K.S. Thimayya, Brigadier S.H.F.J. Manekshaw. As observers: Mr. H.M. Patel, Mr. V. Sahay.

C. The members of the Pakistan delegation were: Major-General W.J. Cawthorn, Major-General Nazir Ahmad, Brigadier Mr. Sher Khan. As observers: Mr. M. Ayub, Mr. A.A. Khan.

D. The members of the Truce Sub-committee of the United Nations Commission for India and Pakistan were: Mr. Hernando Samper (Colombia), Chairman; Mr. William L.S. Williams (United States); Lieutenant-General Maurice Delvoie, Military Adviser; Mr. Miguel A. Marin, Legal Adviser.

II. AGREEMENT

A. Considering:

1. That the United Nations Commission for India and Pakistan, in its letter dated 2 July, 1949, invited the Governments of India and Pakistan to send fully authorized military representatives to

meet jointly in Karachi under the auspices of the Commission's Truce Sub-committee to establish a cease-fire line in the State of Jammu and Kashmir, mutually agreed upon by the Governments of India and Pakistan;

2. That the United Nations Commission for India and Pakistan in its letter stated that "The meetings will be for military purposes; political issues will not be considered," and that "They will be conducted without prejudice to negotiations concerning the truce agreement";

3. That in the same letter the United Nations Commission for India and Pakistan further stated that "The cease-fire line is a complement of the suspension of hostilities, which falls within the provisions of Part I of the resolution of 13 August, 1948, and can be considered separately from the questions relating to Part II of the same resolution";

4. That the Governments of India and Pakistan, in their letters dated 7 July, 1949, to the Chairman of the Commission, accepted the Commission's invitation to the military conference in Karachi;

B. The delegations of India and Pakistan, duly authorized, have reached the following agreement:

1. Under the provisions of Part I of the resolution of 13 August, 1948, and as a complement of the suspension of hostilities in the State of Jammu and Kashmir on 1 January, 1949, a cease-fire line is established.

2. The cease-fire line runs from *Manawar* in the south, north to *Keran* and from *Keran* east to the glacier area, as follows:

(a) The line from *Manawar* to the south bank of the *Jhelum* River at *Urusa* (inclusive to India) is the line now defined by the factual positions about which there is agreement between both parties. Where there has hitherto not been agreement, the line shall be as follows:

(i) In *Patrana* area: *Kohel* (inclusive to Pakistan) north along the *Khuwala Kas* Nullah up to Point 2276 (inclusive to India), thence to *Kirni* (inclusive to India).

(ii) *Khambha*, *Pir Satwan*, Point 3150 and Point 3606 are inclusive to India, thence the line runs to the factual position at *Bagla Gala*, thence to the factual position at Point 3300.

(iii) In the area south of *Uri* the positions of *Pir Kanthi* and *Ledi Gali* are inclusive to Pakistan.

(b) From the north bank of the *Jhelum* River the line runs from a point opposite the village of *Urusa* (NL 972109), thence north following the *Ballaseth Da Nar* Nullah (inclusive to Pakistan), up to NL 973140, thence northeast to *Chhota Qazinag* (Point 10657, inclusive to India), thence to NM 010180, thence to NM 037210, thence to Point 11825 (NM 025354, inclusive to Pakistan), thence to *Tutmari Gali* (to be shared by both sides, posts to be established 500 yards, on either side of the *Gali*), thence to the northwest through the first "R" of *Burji Nar* to north of *Gadori*, thence straight west to just north of Point 9870, thence along the black line north of *Bijidhar* to north of *Batarasi*, thence to just south of *Sudpura*, thence due north to the *Kathagazinag* Nullah, thence along the Nullah to its junction with the *Grangnar* Nullah, thence along the latter Nullah to *Kajnwala Pathra* (inclusive to India), thence across the *Danna* ridge (following the factual positions) to *Richmar Gali* (inclusive to India), thence north to *Thanda Katha* Nullah, thence north to the *Kishanganga* River. The line then follows the *Kishanganga* River up to a point situated between *Jargi* and *Tarban*, thence (all inclusive to Pakistan) to *Bankoran*, thence northeast to *Khori*, thence to the hill feature 8930 (in Square 9053), thence straight north to Point 10164 (in Square 9057), thence to Point 10323 (in Square 9161), thence northeast straight to *Guthur*, then to *Bhutpathra*, thence to NL 980707, thence following the *Bugina* Nullah to the junction with the *Kishanganga* River at Point 4739. Thereafter the line follows the *Kishanganga* River to *Keran* and onwards to Point 4996 (NL 975818).

(c) From Point 4996 the line follows (all inclusive to Pakistan) the *Jamgar* Nullah eastward to Point 12124, to *Katware*, to Point 6678, then to the northeast to *Sarian* (Point 11279), to Point 11837, to Point 13090, to Point 12641, thence east again to Point 11142, thence to *Dhakki*, thence to Point 11415, thence to Point 10301, thence to Point 7507, thence to Point 10685, thence to Point 8388, thence southeast to Point 11812. Thence the line runs (all inclusive to India) to Point 13220, thence across the River to the east to Point 13449 (*Durmat*), thence to Point 14586 (*Anzbari*), thence to Point

13554, thence to Milestone 45 on the *Burzil* Nullah, thence to the east to *Ziankal* (Point 12909), thence to the southeast to Point 11114, thence to Point 12216, thence to Point 12867, thence to the east to Point 11264, thence to *Karo* (Point 14985), thence to Point 14014, thence to Point 12089, thence following the track to Point 12879. From there the line runs to Point 13647 (*Karobal Gali*, to be shared by both sides). The cease-fire line runs thence through *Retagah Chhish* (Point 15316), thence through Point 15889, thence through Point 17392, thence through Point 16458, thence to *Marpo La* (to be shared by both sides), thence through Point 17561, thence through Point 17352, thence through Point 18400, thence through Point 16760, thence to (inclusive to India) *Dalunang*.

(d) From *Dalunang* eastwards the cease-fire line will follow the general line Point 15495, *Ishmam*, *Manus*, *Gangam*, *Gunderman*, Point 13620, *Junkar* (Point 17628), *Marmak*, *Natsara*, *Shangruti* (Point 17531), *Chorbat La* (Point 16700), *Chalunka* (on the *Shyok* River), *Khor*, thence north to the glaciers. This portion of the cease-fire line shall be demarcated in detail on the basis of the factual position as of 27 July, 1949, by the local commanders assisted by United Nations Military Observers.

C. The cease-fire line described above shall be drawn on a one-inch map (where available) and then be verified mutually on the ground by local commanders on each side with the assistance of the United Nations Military Observers, so as to eliminate any no-man's land. In the event that the local commanders are unable to reach agreement, the matter shall be referred to the Commission's Military Adviser, whose decision shall be final. After this verification, the Military Adviser will issue to each High Command a map on which will be marked the definitive cease-fire line.

D. No troops shall be stationed or operate in the area of the *Burzil* Nullah from south of *Minimarg* to the cease-fire line. This area is bounded on the west by the ridge leading northeast from *Dudgaikal* to Point 13071, to Point 9447, to Point 13466, to Point 13463, and on the east by the ridge running from point 12470 to Point 11608, to Point 13004, to Point 13976, to Point 13450. Pakistan may, however, post troops on the western of the above ridges to cover the approaches to *Kamri Bal* Pass.

E. In any dispositions that may be adopted in consequence of the present agreement troops will remain at least 500 yards from the cease-fire line except where the *Kishanganga* River constitutes the line. Points which have been shown as inclusive to one party may be occupied by that party, but the troops of the other party shall remain at a distance of 500 yards.

F. Both sides shall be free to adjust their defensive positions behind the cease-fire line as determined in paragraphs *A* through *E*, inclusive, subject to no wire or mines being used when new bunkers and defences are constructed. There shall be no increase of forces or strengthening of defences in areas where no major adjustments are involved by the determination of the cease-fire line.

G. The action permitted by paragraph *F* above shall not be accompanied or accomplished by the introduction of additional military potential by either side into the State of Jammu and Kashmir.

H. Except as modified by paragraphs *A* to *G*, inclusive, above, the military agreements between the two High Commands relating to the cease-fire of 1 January, 1949, shall continue to remain operative.

I. The United Nations Commission for India and Pakistan will station Observers where it deems necessary.

. The delegations shall refer this agreement to their respective Governments for ratification. The documents of ratification shall be deposited with the United Nations Commission for India and Pakistan not later than 31 July, 1949.

K. A period of thirty days from the date of ratification shall be allowed to each side to vacate the areas at present occupied by them beyond the cease-fire line as now determined. Before the expiration of this thirty-day period there shall be no forward movement into areas to be taken over by either side pursuant to this agreement, except by mutual agreement between local commanders.

In faith whereof the undersigned sign this document in three original copies.

Done in Karachi on 27 July, 1949.

For the Government of India:

S. M. SHRINAGESH

For the Government of Pakistan:

J. CAWTHORN
Major-General

For the United Nations Commission for India and Pakistan:

HERNANDO SAMPER
M. DELVOIE

APPENDIX 8

TEXT OF SECURITY COUNCIL RESOLUTION OF 4 SEPTEMBER, 1965

The Security Council,

Noting the report of the Secretary-General (S/6651) dated September 3, 1965,

Having heard the statements of the representatives of India and Pakistan,

Concerned at the deteriorating situation along the cease-fire line in Kashmir,

1. *Calls upon* the Governments of India and Pakistan to take forthwith all steps for an immediate cease-fire.

2. *Calls upon* the two Governments to respect the cease-fire line and have all armed personnel of each party withdrawn to its own side of the line.

3. *Calls upon* the two Governments to cooperate fully with the United Nations Military Observer Group in India and Pakistan in its task of supervising the observance of the cease-fire.

4. *Requests* the Secretary-General to report to the Council within three days on the implementation of this resolution.

APPENDIX 9

RESOLUTION 210 (1965) ADOPTED BY THE SECURITY COUNCIL AT ITS 1238th MEETING, ON 6 SEPTEMBER, 1965

The Security Council,

Noting the report by the Secretary-General on developments in the situation in Kashmir since the adoption of the Security Council cease-fire resolution on 4 September, 1965, [S/RES/209 (1965)] being document S/6661 dated 6 September, 1965,

Noting with deep concern the extension of the fighting which adds immeasurably to the seriousness of the situation,

1. *Calls upon* the parties to cease hostilities in the entire area of conflict immediately, and promptly withdraw all armed personnel back to the positions held by them before 5 August, 1965;

2. *Requests* the Secretary-General to exert every possible effort to give effect to this resolution and the resolution of 4 September, 1965, to take all measures possible to strengthen the UNMOGIP, and to keep the Council promptly and currently informed on the implementation of the resolutions and on the situation in the area;

3. *Decides* to keep this issue under urgent and continuous review so that the Council may determine what further steps may be necessary to secure peace and security in the area.

APPENDIX 10

RESOLUTION 211 (1965) ADOPTED BY THE SECURITY COUNCIL AT ITS 1242nd MEETING, ON 20 SEPTEMBER, 1965

The Security Council,

Having considered the Reports of the Secretary-General on his consultations with the Governments of India and Pakistan,

Commending the Secretary-General for his unrelenting efforts in furtherance of the objectives of the Security Council's resolutions of 4 and 6 September,

Having heard the statements of the representatives of India and Pakistan,

Noting the differing replies by the parties to an appeal for a cease-fire as set out in the Report of the Secretary-General (S/6683), but noting further with concern that no cease-fire has yet come into being,

Convinced that an early cessation of hostilities is essential as a first step towards a peaceful settlement of the outstanding differences between the two countries on Kashmir and other related matters,

1. *Demands* that a cease-fire should take effect on Wednesday, 22 September, 1965, at 0700 hours GMT and calls upon both Governments to issue orders for a cease-fire at that moment and a subsequent withdrawal of all armed personnel back to the positions held by them before 5 August, 1965;

2. *Requests* the Secretary-General to provide the necessary assistance to ensure supervision of the cease-fire and withdrawal of all armed personnel;

3. *Calls* on all States to refrain from any action which might aggravate the situation in the area;

4. *Decides* to consider as soon as operative paragraph 1 of the Council's resolution 210 of 6 September has been implemented, what steps could be taken to assist towards a settlement of the political problem underlying the present conflict, and in the mean-

time calls on the two Governments to utilize all peaceful means, including those listed in Article 33 of the Charter, to this end;

5. *Requests* the Secretary-General to exert every possible effort to give effect to this resolution, to seek a peaceful solution, and to report to the Security Council thereon.

APPENDIX 11

TASHKENT DECLARATION

THE Prime Minister of India and the President of Pakistan, having met at Tashkent and having discussed the existing relations between India and Pakistan, hereby declare their firm resolve to restore normal and peaceful relations between their countries and to promote understanding and friendly relations between their peoples. They consider the attainment of these objectives of vital importance for the welfare of the 600 million people of India and Pakistan.

I

THE Prime Minister of India and the President of Pakistan agree that both sides will exert all efforts to create good neighbourly relations between India and Pakistan in accordance with the United Nations Charter. They reaffirm their obligation under the Charter not to have recourse to force and to settle their disputes through peaceful means. They considered that the interests of peace in their region and particularly in the Indo-Pakistan Sub-Continent and, indeed, the interests of the peoples of India and Pakistan were not served by the continuance of tension between the two countries. It was against this background that Jammu and Kashmir was discussed, and each of the sides set forth its respective position.

II

THE Prime Minister of India and the President of Pakistan have agreed that all armed personnel of the two countries shall be withdrawn not later than 25 February, 1966, to the positions they held prior to 5 August, 1965, and both sides shall observe the cease-fire terms on the cease-fire line.

III

THE Prime Minister of India and the President of Pakistan have agreed that relations between India and Pakistan shall be based on

the principle of non-interference in the internal affairs of each other.

IV

THE Prime Minister of India and the President of Pakistan have agreed that both sides will discourage any propaganda directed against the other country, and will encourage propaganda which promotes the development of friendly relations between the two countries.

V

THE Prime Minister of India and the President of Pakistan have agreed that the High Commissioner of India to Pakistan and the High Commissioner of Pakistan to India will return to their posts and that the normal functioning of diplomatic missions of both countries will be restored. Both Governments shall observe the Vienna Convention of 1961 on Diplomatic Intercourse.

VI

THE Prime Minister of India and the President of Pakistan have agreed to consider measures towards the restoration of economic and trade relations, communications, as well as cultural exchanges between India and Pakistan, and to take measures to implement the existing agreements between India and Pakistan.

VII

THE Prime Minister of India and the President of Pakistan have agreed that they will give instructions to their respective authorities to carry out the repatriation of the prisoners of war.

VIII

THE Prime Minister of India and the President of Pakistan have agreed that the two sides will continue the discussions of questions relating to the problems of refugees and evictions/illegal immigrations. They also agreed that both sides will create conditions which will prevent the exodus of people. They further agreed to discuss the return of the property and assets taken over by either side in connection with the conflict.

IX

THE Prime Minister of India and the President of Pakistan have agreed that the sides will continue meetings both at the highest and at other levels on matters of direct concern to both countries. Both sides have recognized the need to set up joint Indian-Pakistani bodies which will report to their Governments in order to decide what further steps should be taken.

The Prime Minister of India and the President of Pakistan record their feelings of deep appreciation and gratitude to the leaders of the Soviet Union, the Soviet Government, and personally to the Chairman of the Council of Ministers of the U.S.S.R. for their constructive, friendly and noble part in bringing about the present meeting which has resulted in mutually satisfactory results. They also express to the Government and friendly people of Uzbekistan their sincere thankfulness for their overwhelming reception and generous hospitality.

They invite the Chairman of the Council of Ministers of the U.S.S.R. to witness this Declaration.

Prime Minister of India
LAL BAHADUR SHASTRI

President of Pakistan
MOHAMMED AYUB KHAN

Tashkent, 10 January, 1966

APPENDIX 12

TEXT OF MEMORANDUM, DATED AUGUST 14, 1951, SUBMITTED BY FOURTEEN MUSLIM LEADERS OF INDIA TO DR. FRANK P. GRAHAM, UNITED NATIONS REPRESENTATIVE

IT is a remarkable fact that, while the Security Council and its various agencies have devoted so much time to the study of the Kashmir dispute and made various suggestions for its resolution, none of them has tried to ascertain the views of Indian Muslims nor the possible effect of any hasty step in Kashmir, however well intentioned, on the interests and well being of the Indian Muslims. We are convinced that no lasting solution for the problem can be found unless the position of Muslims in Indian society is clearly understood.

Supporters of the idea of Pakistan, before this sub-continent was partitioned, discouraged any attempt to define Pakistan clearly and did little to anticipate the conflicting problems which were bound to arise as a result of the advocacy of the two-nation theory. The concept of Pakistan, therefore, became an emotional slogan with little rational content. It never occurred to the Muslim League or its leaders that if a minority was not prepared to live with a majority on the sub-continent, how could the majority be expected to tolerate the minority.

It is, therefore, small wonder that the result of partition has been disastrous to Muslims. In the undivided India, their strength lay about 100 million. Partition split up the Muslim people, confining them to the three isolated regions. Thus, Muslims number 25 million in Western Pakistan, 35 million to 40 million in India, and the rest in Eastern Pakistan. A single undivided community has been broken into three fragments, each faced with its own problems.

Pakistan was not created on a religious basis. If it had been, our fate as well as the fate of other minorities would have been

settled at that time. Nor would the division of the sub-continent for reasons of religion have left large minorities in India or Pakistan.

This merely illustrates what we have said above that the concept of Pakistan was vague, obscure, and never clearly defined, nor its likely consequences foreseen by the Muslim League, even when some of these should have been obvious.

When the partition took place, Muslims in India were left in the lurch by the Muslim League and its leaders. Most of them departed to Pakistan and a few who stayed behind stayed long enough to wind up their affairs and dispose of their property. Those who went over to Pakistan left a large number of relations and friends behind.

Having brought about a division of the country, Pakistan leaders proclaimed that they would convert Pakistan into a land where people would live a life according to the tenets of Islam. This created nervousness and alarm among the minorities living in Pakistan. Not satisfied with this, Pakistan leaders went further and announced again and again their determination to protect and safeguard the interests of Muslims in India. This naturally aroused suspicion amongst the Hindus against us and our loyalty to India was questioned.

Pakistan had made our position weaker by driving out Hindus from Western Pakistan in utter disregard of the consequences of such a policy to us and our welfare. A similar process is in operation in Eastern Pakistan from which Hindus are coming over to India in a larger and larger number.

If Hindus are not welcome in Pakistan, how can we, in all fairness, expect Muslims to be welcomed in India? Such a policy must inevitably, as the past has already shown, result in the uprooting of Muslims in this country and their migration to Pakistan, where, as it became clear last year, they are no longer welcome, lest their influx should destroy Pakistan's economy.

Neither some of those Muslims who did migrate to Pakistan after partition, and following the widespread bloodshed and conflict on both sides of the Indo-Pakistan border in the north-west, have been able to find a happy asylum in what they had been told would be their homeland. Consequently some of them

have had to return to India, e.g. Meos who are now being rehabilitated in their former areas.

If we are living honourably in India today, it is, therefore, certainly not due to Pakistan which, if anything, has by her policy and action weakened our position.

The credit goes to the broadminded leadership of India, to Mahatma Gandhi and Pandit Jawaharlal Nehru, to the traditions of tolerance in this country, and to the Constitution which ensures equal rights to all citizens of India, irrespective of their religion, caste, creed, colour, or sex.

We, therefore, feel that, tragically as Muslims were misled by the Muslim League and subsequently by Pakistan and the unnecessary suffering which we and our Hindu brethren have had to go through in Pakistan and in India since partition, we must be given an opportunity to settle down to a life of tolerance and understanding to the mutual benefit of Hindus and Muslims in our country—if only Pakistan would let us do it. To us it is a matter of no small consequence.

Despite continuous provocation, first from the Muslim League and since then from Pakistan, the Hindu majority in India has not thrown us or members of other minorities out of Civil Services, Armed Forces, the judiciary, trade, commerce, business, and industry. There are Muslim Ministers in the Union and State Cabinets, Muslim Governors, Muslim Ambassadors, representing India in foreign countries, fully enjoying the confidence of the Indian nation. Muslim members in Parliament and State legislatures, Muslim judges serving on the Supreme Court and High Courts, high ranking officers in the Armed Forces and Civil Services, including the police. Muslims have large landed estates, run big business and commercial houses in various parts of the country, notably in Bombay and Calcutta, have their share in industrial production and enterprise in export and import trade. Our famous sacred shrines and places of cultural interest are mostly in India.

Not that our lot is entirely happy. We wish some of the State Governments showed a little greater sympathy to us in the field of education and employment. Nevertheless, we feel we have an

honourable place in India. Under the law of the land, our religious and cultural life is protected and we shall share in the opportunities open to all citizens to ensure progress for the people of this country.

It is, therefore, clear that our interest and welfare do not coincide with Pakistan's conception of the welfare and interests of Muslims in Pakistan.

This is clear from Pakistan's attitude towards Kashmir. Pakistan claims Kashmir, first, on the ground of the majority of the States' people being Muslims and, secondly, on the ground of the State being essential to its economy and defence. To achieve its object it has been threatening to launch "jihad" against Kashmir and India.

It is a strange commentary on political beliefs that the same Muslims of Pakistan who would like the Muslims of Kashmir to join them invaded the State, in October 1947, killing and plundering Muslims in the State and dishonouring Muslim women, all in the interests of what they described as the liberation of Muslims of the State. In its oft-proclaimed anxiety to rescue the 3 million Muslims from what it describes as the tyranny of a handful of Hindus in the State, Pakistan evidently is prepared to sacrifice the interests of 40 million Muslims in India—a strange exhibition of concern for the welfare of fellow-Muslims. Our misguided brothers in Pakistan do not realize that if Muslims in Pakistan can wage a war against Hindus in Kashmir why should not Hindus, sooner or later, retaliate against Muslims in India?

Does Pakistan seriously think that it could give us any help if such an emergency arose or that we would deserve any help, thanks to its own follies? It is incapable of providing room and livelihood to the 40 million Muslims of India, should they migrate to Pakistan. Yet its policy and action, if not changed soon, may well produce the result which it dreads.

We are convinced that India will never attack our interests. First of all, it would be contrary to the spirit animating the political movement in this country. Secondly, it would be opposed to the Constitution and to the sincere leadership of the Prime Minister. Thirdly, India by committing such a folly would be playing straight into the hands of Pakistan.

We wish we were equally convinced of the soundness of Pakistan's policy. So completely oblivious is it of our present problems and of our future that it is willing to sell us into slavery if only it can secure Kashmir.

It ignores the fact that Muslims in Kashmir may also have a point of view of their own, that there is a democratic movement with a democratic leadership in the State, both inspired by the progress of a broadminded, secular, democratic movement in India and both naturally being in sympathy with India. Otherwise, the Muslim raiders should have been welcomed with open arms by the Muslims of the State when the invasion took place in 1947.

Persistent propaganda about "jihad" is intended, among other things, to inflame religious passions in this country. For it would, of course, be in Pakistan's interests to promote communal rioting in India to show to Kashmiri Muslims how they can find security only in Pakistan. Such a policy, however, can only bring untold misery and suffering to India and Pakistan generally and to Indian Muslims particularly.

Pakistan never tires of asserting that it is determined to protect the interests of Muslims in Kashmir and India. Why does not Pakistan express the same concern for Pathans who are fighting for Pakhtoonistan, an independent homeland of their own? The freedom loving Pathans under the leadership of Khan Abdul Ghaffar Khan and Dr. Khan Sahib, both nurtured in the traditions of democratic tolerance of the Indian National Congress, are being subjected to political repression of the worst possible kind by their Muslim brethren in power in Pakistan and in the NWFP. Contradictory as Pakistan's policy generally is, it is no surprise to us that while it insists on a fair and impartial plebiscite in Kashmir, it denies a fair and impartial plebiscite to Pathans.

Pakistan's policy in general and her attitude towards Kashmir in particular thus tend to create conditions in this country which in the long run can only bring to us Muslims widespread suffering and destruction. Its policy prevents us from settling down, from being honourable citizens of a State, free from the suspicion of our fellow-countrymen and adapting ourselves to changing conditions to promote the interests and welfare of India. Its

sabre-rattling interferes with its own economy and ours. It expects us to be loyal to it despite its impotence to give us any protection, believing at the same time that we can still claim all the rights of citizenship in a secular democracy.

In the event of a war, it is extremely doubtful whether it will be able to protect the Muslims of East Bengal who are completely cut off from Western Pakistan. Are the Muslims of India and Eastern Pakistan to sacrifice themselves completely to enable the 25 million Muslims in Western Pakistan to embark upon mad, self-destructive adventures?

We should, therefore, like to impress upon you with all the emphasis at our command that Pakistan's policy towards Kashmir is fraught with the gravest peril to the 40 million Muslims of India. If the Security Council is really interested in peace, human brotherhood, and international understanding, it should heed this warning while there is still time.

DR. ZAKIR HUSAIN

(Vice-Chancellor, Aligarh University)

SIR SULTAN AHMED

*(Former Member of Governor-General's
Executive Council)*

SIR MOHAMMED AHMED SAID KHAN

*(Nawab of Chhatari, former Acting Governor of United
Provinces and Prime Minister of Hyderabad)*

SIR MOHAMMED USMAN

*(Former Member of Governor-General's Executive
Council and Acting Governor of Madras and Vice-
Chancellor of Madras University)*

SIR IQBAL AHMED

(Former Chief Justice of Allahabad High Court)

SIR FAZAL RAHIMTOOLA

(Former Sheriff of Bombay)

The Kashmir Story

MAULANA HAFZ-UR-REHMAN, M.P.
(General-Secretary of Anjuman-i-Jamiat-ul-Ulema)

COLONEL B. H. ZAIDI, M.P.
(Former Prime Minister of Rampur State)

NAWAB ZAIN YAR JUNG
(Minister, Government of Hyderabad)

A. K. KWAJA
(Former President of Muslim Majlis)

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*(General-Secretary, West Bengal Bohra
 Community)*

H. QUAMAR FARUQI
(President, Jamiat-ul-Ulema, Hyderabad)

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(United Provinces)

HASHIM PREMJI
(Former Sheriff of Bombay)

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