

# THE FRONTIERS OF PAKISTAN

A Study of Frontier Problems in  
Pakistan's Foreign Policy

*by*

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**Dedicated to  
the People of Pakistan  
on whose vigilance their liberty rests**



## Foreword

In *The Frontiers of Pakistan*, after providing an able analysis and appraisal of the processes of partition that gave shape to Pakistan and bequeathed it its frontiers and frontier problems, Dr. Razvi has carefully examined and analysed developments and policies in relation to these frontiers from 1947 to present times. In doing so, he has also covered some basic problems of international relations with World Powers who are not immediate neighbours of Pakistan.

Pakistan's two geographical wings—East and West Pakistan—are situated more than a thousand miles apart with Indian territory in between. Pakistan thus consists of two separate land masses, and, unlike most other States, has two sets of frontiers, implying eight rather than four boundaries. Its contiguous neighbours are India, Afghanistan, China, Burma and Iran. Pakistan's relations with Burma, China and Iran have always been cordial and correct and were not disturbed by any frontier problems; on the contrary, the fact that agreements concerning their borders have been amicably arrived at provides cogent and convincing evidence of Pakistan's friendly dealings with its immediate neighbours. However, with India, frontier questions have been the subject of serious disputes.

Dr. Razvi has made a deep and thorough study of the negotiations and ultimate agreements regarding Pakistan's borders with Burma, China and Iran; its unfortunate disagreement with Afghanistan; and its major disputes with India. And while compressing the data and results of this study within the concise

confines of his book, he has also achieved a refreshing clarity of analysis and expression. His concluding criterion, with which I cannot but concur, is:

“Pakistan’s frontier policy must, therefore, be judged in terms of the twin-objective of (i) minimizing the sources of danger to her security and integrity from across its borders, while asserting her freedom and sovereign status, and (ii) developing smooth and co-operative relations with its neighbours, which in turn implies goodwill, sagacity and flexibility in its approach to negotiations on frontier disputes.”

This well-documented treatise thus is a valuable contribution to an understanding of the definition, determination and demarcation of the frontiers and borders of Pakistan. Dr. Razvi’s treatment of the subject as a whole—and especially of the disputes concerning Kashmir, the Rann of Kutch and the Farakka Barrage—is objective, incisive and balanced. I am confident the book will prove invaluable to the general reader as well as to the scholar interested in problems of international frontiers and relations.

*Syed Sharifuddin Pirzada, S.Pk.,*  
Attorney-General for Pakistan  
(Former Minister of External Affairs)

Karachi, March 2, 1971.

## Preface

One of the many opaque truths to be found so often in the standard books served to schoolchildren and to undergraduates around the world is that geography does not change. Every intelligent Pakistani knows that at most this can be only a partial truth. Dr. Razvi's study amply demonstrates this. Indeed, as ideas, events and military alignments and technology change so does the meaning and significance of boundaries. Pakistan is the product of a uniquely large re-drawing, re-definition, and re-legitimizing of boundaries.

International boundaries separate the sovereignty of one State from that of its contiguous neighbours. Boundaries thus must always be seen in and related to their geographical and historical milieu. The significance of frontiers and boundaries have changed over the centuries because the significance of their principal function, the separation of sovereignties, has also changed. A major problem is to discover and practise ways of ensuring that boundaries function as territorial units of government and administration and not merely as barriers to all movement and contact and co-operation between States.

Three features of this book, among many, seem especially noteworthy to me. First, it is in part a contribution to the study of the technicalities and systematics of boundary-making in the contemporary world. The modern art and science of boundary-making owes much to practitioners who first learned and then refined their art and science in the Subcontinent. Holdich,

McMahon and Curzon are names<sup>1</sup> that obviously leap to mind; and Dr. Razvi's study, and some other recent scholarship,<sup>2</sup> reminds us of the contribution and importance in their day of these earlier proconsular figures. The legacies of their work, for better or worse, have been surprisingly durable. The work of the old Frontier Circle of the Survey of India,<sup>3</sup> or the *Imperial Gazetteer*, published under the authority of the Secretary of State for India in 1908, are not entirely only of antiquarian interest nowadays.

Secondly, Dr. Razvi's study is another contribution to the now very active reappraisal and reassessment of the processes of partition that produced the independent State of Pakistan. Here he mostly maintains the difficult standard of scholarly objectivity—for this is very controversial ground indeed.

Thirdly, this book provides an informed and reasonably dispassionate analysis of Pakistan's changing relations with her contiguous neighbours since 1947. Dr. Razvi ably endeavours to distinguish contrivance from what was contingent, and, where possible, to correlate the vicissitudes in Pakistan's frontier relationships with what appear to be the relevant changes in the various domestic and international arenas since 1947.

I would like to offer a few further comments on each of these three aspects.

<sup>1</sup>Sir Thomas Holdich, *Political Frontiers and Boundary Making* (London, 1916).

See "The Perso-Baluch Boundary", *Geographical Journal*, Vol. 9 (1897). "Use of Practical Geography illustrated by Recent Frontier Operations", *Geographical Journal* Vol. 13 (1899). "The Geography of the North West Frontier of India", *Geographical Journal*, Vol. 17 (1901).

Sir Henry McMahon, who wrote an article entitled "The Southern Borderlands of Afghanistan" for *The Geographical Journal* in 1897, though he is remembered by posterity eponymously in the line drawn by the British as the northern boundary of NEFA in 1914 and extending into Burma.

<sup>2</sup>E.g.: A.O. Cukwurah, *The Settlement of Boundary Disputes in International Law* (Manchester University Press, 1967); Alastair Lamb, *Asian Frontiers* (London, 1968); Evan Luard (ed.), *The International Regulation of Frontier Disputes* (London, Thames & Hudson, 1970); and Dorothy Woodman, *Himalayan Frontier. A Political Review of British, Chinese, Indian and Russian Rivalries* (London, Barrie & Rockliff, The Cresset Press, 1969). A reader of this book probably will be most interested in pages 306-313. Professor P.N.S. Mansergh is the editor in chief of a project, now well advanced, to publish seven volumes of British documents on the Transfer of Power, from the India Office Records.

<sup>3</sup>See, e.g., Dr. Razvi's Appendix XIII.



To make a comprehensive and comprehensible study of boundaries requires many talents. It requires the skills of the historian, geographer, political scientist and anthropologist, and perhaps other skills and sensitivities too, if it is to command authority and respect. S.W. Boggs' classical work *International Boundaries* (1940) sketched a rough primary system of classification in terms of four main types of boundary, though each had further subsidiary divisions in his elaborated scheme. Boggs distinguished:

1. *Physical Boundaries*, which follow a particular natural feature, such as a range of mountains, a watercourse, a desert area (e.g., the Karakorum Pass or watershed, the Naaf River, the Rann of Kutch).
2. *Geometrical Boundaries*, meaning such human contrivances as straight lines, arcs of a circle, meridians and suchlike (these are features of Africa's political geography much more than that of Pakistan, though triangulation is important in the North-West).
3. *Anthropo-Geographical Boundaries*, which are related to various features of human settlement and culture; for example: linguistic, religious, economic, historical and cultural boundaries. In this capacious category should be included national boundaries (controversy arises when attempts are made precisely to define them, as Dr. Razvi amply demonstrates that Kashmir is a classical case).
4. *Complex or Compounded Boundaries*, which are compromises between the three previous basic types.

Each of these phenomenological perspectives is of some relevance if one wants to study Pakistan's boundary problems and policies, and Dr. Razvi has made some use of each of them in his analysis of the making and maintaining of his country's national boundaries, of the processes which result in the definition, delimitation and demarcation of boundaries (a technical terminology which he deftly defines and employs), instead of imprecise frontier zones.

Dr. Razvi wisely side-steps those intellectual swamp-lands where loud cries about natural or artificial boundaries exercise their siren charms. International boundaries are never merely artifices. In the contemporary world they must always have some substantial existence and impact. If a ruler, an army, a

government, insists on the maintenance and respect for a particular boundary, and seeks to ensure that it is properly defined, delimited and demarcated, then such action becomes fraught with significance and consequence.

Dr. Razvi has provided his readers with a brief and deft introduction to some of the specialized vocabulary and techniques concerning boundary-making in his opening chapter and by his inclusion of a very interesting Appendix from the Office of the Surveyor-General of Pakistan.

Territoriality is a necessary but not a sufficient condition for independent Statehood. But surely not one of the many States newly achieving independence after World War II had greater problems in defining, establishing and maintaining territorial integrity than Pakistan? What exactly was to be the corporeal shape and extent of Pakistan?

British policy as it affected Partition and the emergence of Pakistan is by now fairly freely open to scholarly scrutiny. A great outpouring of published official documents, and much secondary analysis, from a variety of points of view, has appeared in recent years on, *inter alia*, the Cripps Mission in 1942, the Simla Conference, the Cabinet Mission, and the Mountbatten Viceroyalty.

Further studies in depth of particular personalities and episodes perhaps will increase, or cause us to revise, our understanding of the background to Partition and of the roles of those most involved. New materials and interpretations can quicken the lifeblood of scholars, and perhaps stimulate the arteries of a national body politic and refreshen national faith.

The distinguished British editor of one recently published scholarly symposium asserts that "it seems unlikely that access to the remaining archives which have not yet been opened to scholars will necessitate any fundamental reinterpretation of British policy in this period."<sup>1</sup>

Has, then, a new (for British scholars only?) orthodoxy thus begun to congeal? If so, what is its substance, and how long might it last?

Professor Philips, presenting his sense of this newly emerging

<sup>1</sup>*The Partition of India. Policies and Perspectives, 1935-1947*, edited by C.H. Philips and Mary Doreen Wainwright (London, Allen & Unwin, 1970). All quotation here is from the editorial introduction.

British consensus, and explicitly arguing with some aspects of Chaudhri Muhammad Ali's interpretation (as given in his book *The Emergence of Pakistan*), maintains that accusations of British perfidy are misplaced, that speed and timing were major determinators, and that proper appreciation of these factors dissolves some alleged conspiracies. Virtually all British attempts at exculpation also stress the intrinsic difficulties of performing any partition—"injustice and great hardship could not be avoided, and the awards themselves were sure to be unpopular and to become the subject of controversy".<sup>1</sup>

But the essence of one's appreciation of the Mountbatten time-table for independence and the work of the Radcliffe Boundary Commission still depends very much on the view taken of the fact that the processes were carried through at considerable speed. Professor Philips is at pains to stress that all the major interested parties were associated with the main procedures and decision in favour of a speedy completion, and that where Radcliffe had to act alone this was unavoidable:

"Sir Cyril Radcliffe was selected with the full agreement of both parties (*i.e.* Jinnah and Nehru), and both they and he agreed to the terms of reference". (The boundary commission was originally provided for in the Plan of June 3rd).

"Arriving in Delhi on July 8th Radcliffe at once sought interviews with Nehru, Patel, Jinnah and Liaquat Ali Khan separately, in order to ascertain that in their view the importance of having an award by August 15th, taking into account its inevitable imperfections, outweighed all other considerations. Each said that it did.

"...One suggestion which he (Radcliffe) early made to them (his Commission colleagues) was that any boundary line agreed by them between themselves would have far more weight than any arbitral line drawn by himself, but unfortunately neither of the two groups was able to arrive at a common basis for their judgements, and Radcliffe therefore had to make the awards alone. Moreover, since the requirement was for a continuous line in each province, it was impossible to reserve areas of especial difficulty for more leisurely scrutiny, or to provide for subsequent change, Radcliffe has emphasized that the process of shaping the two continuous boundary lines was

<sup>1</sup> *Ibid.*

carried on throughout the six-week period and that the final definition remained open until the end."

"Mountbatten examined the awards for the first time on his return from Karachi on August 14th and found that the main differences from the notional boundaries concerned the allotment in the Punjab of about three-quarters of the Gurdaspur District and a small part of the Lahore District to India; and in Bengal, besides the allotment of the Chittagong Hill Tracts to Pakistan, various other districts or parts of districts to one or other State. Instructions were at once sent to the Governors of Bengal and the Punjab that the governments of the two halves of the split provinces would have to take charge up to the notional boundaries on August 15th, pending publication of the awards, or failing this, of mutually agreed boundaries.

"The meeting to consider the boundary commission's awards duly took place on August 16th, with both prime ministers and other ministers present. Each side was given three hours to study the awards, and asked to meet at 5 p.m. The indignation of each side was intense. After two hours of bitter complaint, both sides could not but be aware of some of the general advantages of the proposals, and as Mountbatten had foreseen, were more easily able to agree that the awards should be announced and implemented forthwith."<sup>1</sup>

Thus a new Nation-State, Pakistan, was born. Soon afterwards this unique conception and occurrence was commemorated by Wystan H. Auden in his poem *Partition*, as follows:

...in seven weeks it was done, the frontiers decided

A continent for better or worse divided

The next day he sailed for England, where he quickly forgot  
The case, as a good lawyer must. Return he would not,  
Afraid, as he told his Club, that he might get shot.

Some may protest that too much leave is taken here with poetic license, but undoubtedly the English poet here expressed a widely felt Pakistani reaction, as readers of Dr. Razvi's careful account, or of the recent books by Chaudhri Muhammad Ali or by Professor Tayyeb, soon become aware. Whatever poetic fancy might imagine, Lord Radcliffe, as he later became, has stayed publicly silent about his part in the great events of 1947.

<sup>1</sup>*Ibid.*

Whether he has planned a posthumous contribution I do not know. Does not his subsequent reticence deserve respect? It is rare to find a man once involved in great events who remains resolutely unwilling to indulge in public reminiscence and self-justification. Such an attitude does not assist his hagiography, but it does not deserve obloquy. His, will surely not be a name to live in infamy forever, even in the annals of Pakistan's freedom movement. He was an executant not an originator of decisions taken by others.

Finally, Dr. Razvi's book can be warmly recommended as an able summary and guide to much of Pakistan's diplomacy (since 1947), especially with contiguous neighbours. I am tempted to comment on many aspects of this, but must resist treading on his well-tilled ground.

Dr. Razvi has written an admirable guide to the diplomatic geography of Pakistan's international boundaries. It is a welcome contribution to the hitherto meagre but now growing library of significant Pakistani scholarship about Pakistan's role in the world. He deserves swiftly to gain a wide, appreciative and discriminating readership.

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London, February 22, 1971.



## Acknowledgements

This book is a modified version of a thesis presented for the Ph.D. degree of the London School of Economics and Political Science, University of London, early in 1969. The main purpose of the revision has been to enlarge the scope of the book and bring it up to date, covering developments up to 1970-71. In completing this study, I have naturally made extensive use not only of documents but also of articles and books on the subject—which apart from being included in the bibliography have often been quoted in the text or in footnotes—and I express my warm appreciation to their authors and publishers, in particular to Prof. O. H. K. Spate, who has permitted me to make use of his maps giving communal population percentages in Bengal, Assam and the Punjab; according to the 1941 census.

My grateful thanks are first of all due to my research supervisor, Dr. Peter Lyon, who has also been kind enough to write the *Preface*. To Syed Sharifuddin Pirzada, I am especially grateful for his constructive suggestions and for writing the *Foreword*.

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M. R.



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## Introduction

The security of a State depends largely on a vigilant frontier policy. Many mighty empires of Asia and Europe collapsed because of mistaken frontier policies; either by not keeping their frontiers intact from incursions, or by allowing border skirmishes to develop into major conflagrations with neighbours. It was Lord Curzon, shortly after ceasing to be Viceroy of India, who said: "Frontier policy is of the first practical importance. . . Frontiers are indeed the razor's edge on which hang suspended the modern issues of war or peace, of life or death to nations."<sup>1</sup> Frontiers have always proved very resistant to change, and history can record few examples of an alteration in frontiers save through the instrument of war. "Each boundary, whether naturally marked or not, tends to create, by its very existence, certain conditions which are ponderable factors in further boundary-making. The longer a boundary functions, the harder it becomes to alter."<sup>2</sup>

Pakistan consists of two wings, East and West Pakistan, separated by the breadth of India, a thousand miles by air and three times that distance by sea. The two parts differ considerably from each other in terrain, climate, economy, language, ethnic structure, diet, custom and traditions. But Islam and common historical experience link them together.

<sup>1</sup>Lord Curzon of Kedleston, *Frontiers* (The Romanes Lecture, 1907) (London: Clarendon press, 1908), pp. 4 and 7.

<sup>2</sup>Eric Fisher, "On Boundaries", *World Politics*, 1948-9, Vol. I, January 1949, pp. 196-222; ref: p. 197.

West Pakistan comprises an area of 310,403 square miles (85 per cent of the total land area) and supports about 58.5 million<sup>1</sup> people (46 per cent of the total population). It has a southern coastline fronting onto the Arabian Sea and is bounded by Iran on the West, Afghanistan on the north and north-west, the disputed State of Jammu and Kashmir on the north-west and India to the east. West Pakistan has three main topographical sections: the mountain wall along the northern barren, central plain which stretches, mostly as a sandy desert, northward from the Arabian Sea; and the fertile extensively cultivated Indus Valley.

East Pakistan faces the Bay of Bengal and, except for a small strip in the south-east adjoining Burma, is surrounded on three sides by India. This wing of the country comprises an area of 55,126 square miles (15 per cent of the total land area) with a population of about 69.9 million<sup>2</sup> people (54 per cent of the total population), making it one of the most densely populated areas in the world. East Pakistan is a fertile deltaic region formed by the many branches and tributaries of the Ganges and Brahmaputra rivers which criss-cross through it.

This study explains and analyses the character of the frontiers of Pakistan, and attempts to assess their relative importance in her diplomacy, as revealed in the first 23 years of Pakistan's foreign policy. The study is concerned primarily with the nature and location of Pakistan's boundaries, though some attention is paid to the technical processes of frontier delimitation and demarcation. Hence, in discussing these boundaries, one needs only to make a passing reference to Pakistan's common border with Iran, because, notwithstanding its length and strategic importance, it has seldom set any real problems to the policy-makers of Pakistan. Relations between Pakistan and Iran have always been cordial, with the result that both sides have promptly dealt with any questions arising between them. This, unfortunately, cannot be said about Pakistan's borders with India, with whom relations have followed a bumpy course of tension and hostility ever since independence. Similar, if not as serious, tensions have punctuated relationships with Afghanistan. In such situations, border disputes inevitably

<sup>1</sup>According to the Planning Commission estimate for 1969-70.

tend to be at once the basic symptom of a deep malaise and a cause of its further aggravation.

The Soviet Union, though strictly not a neighbour, is nevertheless a neighbourhood State whose importance to Pakistan, as a historical legatee of the 19th century buffer zone system in the North-West Frontier, and in our time as a great world Power, is unquestionable. Pakistan's policy towards the Soviet Union has therefore always displayed a special sensitiveness. China is another case in point. Even though Pakistan joined SEATO, and thus became a party to an alliance which was ostensibly directed against communist China, it seldom, if ever, appeared to deviate from the path of good neighbourly relations with Peking. Indeed, in a curious way, Pakistan's desire to be at peace and maintain good relations with China was given a new urgency in the aftermath of SEATO's inception.

In common usage, an international frontier is synonymous with an international boundary.<sup>1</sup> But many scholars have tried to distinguish them. A 'frontier' denotes a region or zone having width as well as length, whereas a 'boundary' refers to a line. Sir Thomas Holdich, who acquired much experience on British India's boundary questions, states that "a frontier is but a vague and indefinite term until the boundary sets a hedge between it and the frontier of a neighbouring State".<sup>2</sup> In his classic work, *Political Frontiers and Boundary Making*, Holdich further observes that "no limit is set to a frontier until an actual line is defined by treaty; even then it is generally open to dispute until that boundary is actually demarcated".<sup>3</sup> A 'boundary' is not only a legally accepted dividing line between sovereignties, such as may be defined in a treaty, an arbitral award or a boundary commission's report, but also is a line of territorial contact. Adami defines a state frontier (meaning state boundary) as "that line which marks the limits of the region within which the State can exercise its sovereign rights."<sup>4</sup> Thus, the North-West

<sup>1</sup>See Preface to Fawcalt's *Frontier, A Study in Political Geography* (1918), pp. 5-6; Part II of the Treaty of Versailles, June 28, 1912, makes no clear distinction between the two terms in dealing with boundary delimitation.

<sup>2</sup>Thomas Holdich, "Political Boundaries". *Scottish Geographical Magazine*, Vol. 32 (1216), p. 497.

<sup>3</sup>Holdich, *Political Frontiers and Boundary Making* (1216), p. 76.

<sup>4</sup>Adami, *National Frontiers in Relation to International Law* (Rome, 1919), translated by Lt. Col. Behrens (London, 1927), p. 3.

Frontier of Pakistan is a frontier region, adjacent to Afghanistan; whereas the Durand Line is a treaty defined boundary between the sovereignties of Afghanistan and Pakistan. "An explanation of this interchangeability of terminology", according to Moodie, "may be found in the fact that, until comparatively recent times, the limits of States and, with one or two exceptions, of the great empires of the past were ill-defined because of the lack of detailed knowledge of terrain and the absence of its exact cartographical representation. But with the advance in methods of surveying and mapping and with the evolution of the State to its present form, the great majority of the boundaries are now not only clearly defined, but are exactly demarcated on the ground. This differentiation in the meanings of 'frontier' and 'boundary' helps to clarify many of the difficulties associated with the relationships which arise out of the juxtaposition of States."<sup>1</sup>

But no matter how, and to what degree of precision, the terms 'frontier', 'boundary' and 'border' are defined by experts, the fact remains that they play an important role in establishing the identity and defining the territoriality of a State. And, as States often tend to get drawn into conflicts over their frontier alignments, it is only to be expected that the territorial boundaries and frontier systematics should exercise an important, and often a disruptive, influence on the course of inter-State relations in the world. "No aspect of international affairs reveals more clearly the limitations of mankind than the efforts to settle the disposal of these frontiers. Up to the present time decisions have often been reached by the exercise of force, and they have succeeded in sowing the seeds of further antagonisms which are only worsened by the fantastic claims sometimes put forward by the opposite parties. 'Historic rights', 'natural frontiers'. '*terra irredenta*' are shibboleths which have all too often been used as excuses for aggrandisement."<sup>2</sup>

Inter-State boundaries are a development of the recent past; and since the late 19th century Nation-State system first came into being, they have been responsible not only for separating States from each other, but also for a great many conflicts and acts of war among them. Boundaries are perhaps the

<sup>1</sup>A. E. Moodie, *Geography Behind Politics* (London, Hutchinson's University Library, 1947), pp. 72 and 74.

<sup>2</sup>*Ibid.*, p. 80.

most tangible assertion of the personified abstractions called States, although House has observed that "An excessive emphasis seems traditionally to have been placed on the classification of boundaries largely as an end in itself, rather than as an intermediate hypothesis for the understanding and comparison of the character and problems of the frontier contact-zones between distinctive sovereignties."<sup>1</sup> "The location of the boundary therefore determines for millions of people the language and the ideas which children shall be taught at school, the books and newspapers which people will be able to buy and read the kind of money they shall use, the markets in which they must buy and sell, and perhaps even the kinds of food they may be permitted to eat; it determines the national culture with which they shall be identified, the army in which they may be compelled to serve a term, the soil which they may be called upon to defend with their lives, whether or not they would choose to defend it."<sup>2</sup> It is largely for this reason that the question of territorial boundaries has always been paramount in Pakistan's relations with her neighbours.

A boundary-marking process has four main stages: (a) agreements between sovereignties on the allocation of territory; (b) delimitation of the boundary in a treaty; (c) demarcation of the boundary on the ground, and (d) administration of the boundary. The delimitation of an international boundary is a diplomatic procedure, the business of statesmen, who decide on the principles to be applied in determining the line of demarcation.<sup>3</sup> To define a boundary in words in a treaty is delimitation. Demarcation is done by surveying the relevant terrain itself and erecting marking-posts. Curzon, in 1907, followed McMahan "in distinguishing between the demarcation and delimitation of boundaries".<sup>1</sup> He said: "Delimitation signifies

<sup>1</sup>J.W. House, "A Local Perspective on Boundaries and the Frontier Zones. Two Examples from the European Economic Community", in Charles A. Fisher (ed), *Essay in Political Geography* (London, Matheun, 1968, pp. 327-44; ref: p. 329.

<sup>2</sup>S. W. Boggs, *International Boundaries A Study of Boundary Functions and Problems* (New York, 1940), p. See also Evan Luard (ed.), *The International Regulation of Frontier Disputes* (London, Thames & Hudson, 1970)

<sup>3</sup>Holdich, *op. cit.*, p. 179., See also Stephen B. Jones, *Boundary Making. A Handbook for Statesmen, Treaty Editors and Boundary Commissioners* (Carnegie Endowment for International Peace, Columbia University Press, 1945). p. 5.

all the earlier processes for determining a boundary, down to and including its embodiment in a treaty or convention. But when the local commissioners get to work, it is not delimitation but demarcation on which they are engaged."<sup>2</sup> It is not necessary that all the stages should be in strict sequential order. Finally, it is the job of cartographers to depict the demarcated boundary on a small-scale map. All of these various measures are necessary to maintain a sound frontier policy.

Many international lawyers and geographers are of the opinion that maps do not in themselves constitute very reliable evidence of political boundaries. Given the possibility of cartographers' mistakes, inadequate surveying or dictates of rulers, obviously many distortions can occur. "A map maker", as Hyde points out, "may be employed to reveal what a particular State, such as his own, asserts to the full measure of its territorial domain, regardless of the propriety of the assertion and without any intimation that the portrayal depicts the scope of a claim rather than the position of an accepted boundary. . . . and the later portrayals may thus differ sharply from the earlier ones, even though no treaty has in fact extended limits or modified from tiers".<sup>3</sup> "A map", according to Green, affords only an indication—and that a very indirect one. . . ."<sup>4</sup> William Kirk points to another weakness of maps as evidence of claims because of the fact "that the thickness of the boundary symbol itself on maps is often sufficient to cover the actual disputed terrain".<sup>5</sup> Maps are, therefore, best regarded as mere records of borders, which are subject to corroborative evidence that must be scrutinized and analysed carefully, including comparison with cadastral and aerial surveys where they exist. Thus Holdich comments, "Maps, even if more or less accurate are not alone sufficient. In order that full advantage may be taken of them, they must be supplemented by an intimate acquaintance with the physical and political geography of the districts

<sup>1</sup> J.R.V. Prescott, *The Geography of Frontiers and Boundaries* (London, Hutchinson, 1965), p. 13.

<sup>2</sup> Curzon, *op. cit.*, p. 51.

<sup>3</sup> Charles C. Hyde, "Maps as Evidence in International Disputes", *American Journal of International Law*, Vol. 47, 1933, pp. 311-16; ref. 314.

<sup>4</sup> L. C. Green, "Legal Aspects of the Sino-Indian Border Dispute", *The China Quarterly*, July-September 1960, No. 3, pp. 42-58; ref. p. 55.

<sup>5</sup> William Kirk, "The Sino-Indian Frontier Dispute: A Geographical Review", *The Scottish Geographical Magazine*, Vol. 76, No. 1, April 1960, pp. 3-13; ref. p. 11.



they embrace. It is not enough to know the exact course of rivers or streams; one also wants to know their nature and peculiarities.”<sup>1</sup>

But while maps have weaknesses as evidence of boundary lines, it is also a fact that the Radcliffe Line, which covers most of Pakistan's borders with India, was drawn on a map in the first instance. This line was then re-laid on the ground by the survey teams of India and Pakistan. No cadastral or aerial survey preceded the Radcliffe decisions, which were taken only with reference to the guiding principles contained in the Partition Plan of June 3, 1947, and on the basis of existing survey reports. This made the task of the demarcation teams doubly complex.

Pakistan, unequally divided into two parts by a thousand miles of Indian territory, is two landmasses of frontiers. Unlike other States, Pakistan has eight boundaries. The borders with India are long, unnatural and vulnerable, constituting an “inward frontier” of about 4,000 miles, whose security has given Pakistan cause for constant concern. The transport links between East and West Pakistan are limited to (a) the air routes crossing Indian territory and (b) the long sea route by way of the Arabian Sea and the Bay of Bengal, a journey of about 3,000 miles, practically covering the whole coastal region of India. East Pakistan is thus, in a political sense, a promontory surrounded by Indian territory, except for a small section's contiguity with Burma. Not only are most of the frontiers with India ‘unnatural’ (though, as we shall see, the distinction between ‘natural’ and ‘artificial’ frontiers and boundaries is not a simple and straight forward matter), not based on either physical features or strategic considerations, but also every major city is a border outpost. There is no defence in depth for Pakistan, either in the eastern or western wing. An army crossing the Punjab border could soon seek to cut right across West Pakistan, disrupting the whole communications system and thus bringing about a political and economic chaos in which the survival of the State would hang in a precarious balance. Frontiers are important for every country, but for Pakistan they are the outer casings of its two national lungs.

<sup>1</sup>Thomas Holdich in *Geographical Journal*, Vol. 13 (1899), p. 478; Vol. 47 (1916), p. 421.

Pakistan inherited many pre-1947 boundaries of the sub-continent with Afghanistan, Iran and Burma. These may be called old or historical frontiers, as they had existed before Partition. Pakistan's borders with India may be described as new international boundaries or 'inward frontiers', as they had not existed before Partition, but were the direct consequence of the division of the subcontinent between India and Pakistan. Since the end of 1947, Pakistan has continued to control the greater part of the northern frontier of the disputed territory of Jammu and Kashmir. Some of these frontiers had never been properly demarcated. The main historical land invasion routes into the subcontinent pass through the North-West Frontier, which was also recurrently a troublesome frontier region during the days of British rule.<sup>1</sup> But the Japanese assault on Assam in the early 1940s showed that the North-West Frontier cannot be regarded as the only dangerous frontier.<sup>2</sup> Under modern conditions, it would be very hard to defend the borders of Assam and Bengal against a full-scale invasion, and the porous nature of the North-East frontier has been illustrated in recent years by the warlike activities of tribesman and subversives along the eastern frontiers of India and East Pakistan.

<sup>1</sup>Lt. General Sir George Macmunn observed: "It is instinctive in our minds, when the frontier of India is mentioned, to think of the North-West Frontier as the only frontier worthy of the name". *The Romances of the Indian Frontiers* (London, 1931), p. 18.

<sup>2</sup>Toynbee writes: "While its main body in the Indus Valley offered an open road to Karachi from the North-West Frontier of India, its enclave in Eastern Bengal was separated from the main body of Pakistan by the whole breadth of the Indian Union, and offered an equally inviting ingress into India across a North-East frontier which had been opened up in the course of the general war of 1939-45, by the building of the Burma Road..." *A Study of History*, Vol. VIII (London, O.U.P.), p. 691.

Pakistan's strategic importance has been aptly described by Aziz Ahmad, former Ambassador to the U.S.A.: "It lies astride the Indo-Pakistan sub-continent; each of its parts abuts upon a separate geographical region. West Pakistan borders on the Middle East; East Pakistan borders on South-East Asia. Together, the two parts of Pakistan constitute, in more than a mere geographical sense, a bridge between the Middle East and South-East Asia. West Pakistan, further, has a common border with China and is very close to Soviet Russia's southern frontier. Pakistan thus occupies a position of special significance in the Indo-Pakistan subcontinent. West Pakistan stands guard at the entrance to the mountain passes through which all land invasions of the Indo-Pakistan sub-continent have taken place in recorded history. In effect, Pakistan constitutes virtually a protective shield of the Indo-Pakistan subcontinent on its north-west border and a gate way to South-Asia." "Our Response to changing Pressures in Asia", an address given to an American Academy of Political Science Session, Philadelphia, Pennsylvania, April 8, 1960.

Thus Pakistan assumed many of the responsibilities of the British Raj, but without the imperial predecessor's resources. The strategic location of Pakistan involves it intimately in the crucial geopolitical problems of Central West Asia as well as South and South-East Asia. Spykman's remark can aptly be applied to Pakistan: "The geographic location of a State expressed, then, in terms of the facts and significance of its world and regional location is the most fundamental factor in its foreign policy.... It conditions and influences all other factors for the reason that....regional location defines potential enemies and thereby the problem of territorial security and potential allies."<sup>1</sup> After all, a foreign policy is the outward expression of a country's interests, and no foreign policy endeavour is more important than preserving the territorial integrity of the State. Territoriality is a fundamental requisite of Statehood.

This point has been well made by an American scholar, John H. Herz: "What is it that ultimately accounted for the peculiar unity, compactness, coherence of the modern Nation-State, setting it off from other Nation-States as a separate, independent and sovereign power? It would seem that this underlying factor is to be found neither in the sphere of law nor in that of politics, but rather in the substratum of Statehood, where the State unit confronts us, as it were, in its physical, corporeal capacity: as an expanse encircled for its identification and its defence by a 'hard shell' of fortifications. In this lies what will here be referred to as the 'impermeability' or 'impenetrability' or simply the 'territoriality' of the modern State."<sup>2</sup> Territoriality is not in fact always synonymous with 'impenetrability' and 'impermeability' in practice, but all independent States, safeguarding their own national territory, would like to make it so. Pakistan as a Nation-State cannot adopt a different policy.

British imperial frontier policy along the Himalayas (and it was a frontier much more than a boundary policy) actually seemed to aim at exercising control over the 'reverse slopes' facing away from the main power centres. In many respects, Curzon's famous Romanes Lecture was a statement of this view. The British imperial frontier system in the South Asian

<sup>1</sup>Nicholas J. Spykman, "Geography and Foreign Policy II", *American Political Science Review*, Vol. XXXII, February 1938, pp. 28-59; ref: p. 40.

<sup>2</sup>John H. Herz, "Rise and Demise of the Territorial State", *World Politics*, Vol. II, July 1957, pp. 473-93; ref: 474.

subcontinent was intended to be a barrier system of 'buffer zones'. The Indian Empire for more than a century pursued a policy of creating Protectorates and Buffer States. First, British India was surrounded by a belt of Native States with whom alliances were concluded and treaties made. "When the annexation of the Punjab had brought the British power to the Indus, and of Sind, to the confines of Baluchistan; when the sale of Kashmir to a protected chief carried the Strategical Frontier into the heart of the Himalayas; when the successive absorption of different portions of Burma opened the way to Mandalay, a new frontier problem faced the Indian Government, and a new ring of Protectorates was forced. The culminating point of this policy on the western side was the signature of the Durand Agreement at Kabul in 1893, by which a line was drawn between the tribes under British and those under Afghan influence for the entire distance from Chitral to Siestan, and the Indian Empire acquired what, as long as Afghanistan retains an independent existence, is likely to remain its frontiers of active responsibility."<sup>1</sup> Curzon claimed the Indian Frontier system as the 'most highly organized in the world', and compared it point by point with its ancient counterpart and prototype, the frontier system of Rome.<sup>2</sup>

The northern frontiers of the Indian Empire were thus kept broad and flexible, and more often than not, they were frontier zones rather than boundary lines. Pakistan as a successor-State has tried to rectify and to legitimize the imperial legacy by making border agreements with all her neighbouring States, in order to obtain a clear delimitation of her territorial sovereignty. Thus, the new State of Pakistan has sought to provide a clear and logical delimitation of its territorial personality; and its outer-most political boundaries are not only important indicators of political differentiation, but often also of great economic and ethno-cultural significance.

It is in this context of the inner urge of Pakistan to secure a clear and logical delimitation of her territorial personality which is internationally recognized, especially by India, that much of the dispute and the attendant conflict over Kashmir should be viewed. In its origin, Kashmir was of course an off-

<sup>1</sup>Curzon, *op. cit.*, p. 39.

<sup>2</sup>*Ibid.* p. 54.

shoot of the ideological and communal bases of the partition of the subcontinent; but in recent years, it has become an area where several frontier interests have tended to converge.

Kashmir may well be called a subcontinental 'pivot area' (in the terminology of Sir Halford Mackinder)<sup>1</sup> on a miniature scale. Two leading contenders, India and Pakistan, have for the past 23 years been engaged in achieving the pre-partition 'stabilization', modified in places, if necessary, through their unshared control and mastery of the State. Furthermore, the conflicting interests of India, Pakistan and China (if not also Russia and America) have become increasingly entrenched, thus providing a trilateral situation of immense geopolitical complexity. Pakistan and India have each continued to claim the former State of Jammu and Kashmir on strategic and other grounds. China does not lay claim to the whole of Kashmir, but demands the satisfaction of her 'legitimate' interests and the 'stabilization' of this strategic area through a process of frontier adjustment. Because of the complexity and ever-changing character of the conflicting interests of India, Pakistan and China in and around Kashmir, the State may perhaps be described as a political magnet, rather than as a Buffer State: it is an area which does not prevent open conflict between States, but in fact, as an unstable junction of three Powers, provides a focus for inter-State strife.

The redistribution of power that has taken place in Asia following the collapse of the European imperial system, including the emergence of several newly independent Nation-States, has created a situation in which States cannot adequately base their policy on models bequeathed by the departed European Powers. They must rather continuously review the whole question of their common land frontiers, and other factors of potential conflict, in order to replace old imperial systems of territorial control, of peaceful co-existence through Buffer States, of spheres of influence, and of zonal distribution of economic and political influence. India, by its repeated refusal to settle the Kashmir problem with Pakistan, and its boundary problem with China, does not appear to subscribe to this need for a fresh post-imperial stabilization of power of its frontiers.

<sup>1</sup>Sir Halford Mackinder, "The Geographical Pivot of History", *Geographical Journal*, 1904.

In consequence, India is the most inflexible territorial *status quo* Power in relation to its immediate neighbours. But the other two of Kashmir's neighbouring Powers—Pakistan and China—do appear to pursue a policy of frontier review and readjustment as a means of harmonizing and stabilizing geopolitical relations between themselves and other neighbouring States. Both States are also suspicious of India. But the attitude of one is very different from that of the other, and the over-all contrasts of their styles and methods are part of the increasing complexity of the context in which Pakistan's frontier policies are formulated.<sup>1</sup>

<sup>1</sup>Percy Field observes: "It is difficult to assess exactly the role of geography in the foreign policy of any country, especially in contemporary times when the whole conception of political geography is undergoing changes on account of the enormous revolutions in speed and strategy. Nevertheless, the geographical position of any State in relation to other political areas is always a factor of considerable importance and sometimes even a factor of paramount importance." Percy Field *et al*, *World Political Geography* (New York, Thomas Crowell Co., 1948), p. 17.

## CHAPTER I

# The Making of Pakistan's Frontiers

At independence, Pakistan was not merely an ex-colonial territory joining the ranks of sovereign States; it was a new State which had not existed previously. The conclusion that the Muslims of the subcontinent could live in freedom and achieve their own destiny only in their own sovereign State, fortified by the idea, and indeed the ideology, that the Muslims formed a distinct nation (*millat*), led to the creation of this new State. The factors that made this conclusion inevitable are a part of history that can only be touched upon briefly in this study, but the fact that the new State emerged in the face of bitter opposition from the Hindu-dominated Congress Party and the apathy of the British Labour Government remains very relevant to its border issues with India. Most of Pakistan's national boundaries were defined and delimited during the first dawn of Pakistan's existence as an independent State. The communal bitterness and rioting which accompanied and indeed accelerated the Muslim move towards Pakistan did not, unfortunately, disappear in the aftermath of Pakistan, with the result that the Indo-Pakistan borders inevitably became new areas of conflict between the two neighbours. For Pakistan, at least, these frontiers possessed special significance, as they represented a monument to the Muslim's successful defiance of Hindu majority rule, as well as the territorial projection of the ideology of Islam—the basis for the creation of Pakistan.

The ultimately unbridgeable cleavage between the Indian National Congress and the Muslim League led to the division of a British India that had really been a plural society. A 'plural society' has been defined as "a society comprising two or more elements or social orders which live side by side, yet without mingling, in one political unit".<sup>1</sup> Apart from living in the same subcontinent alongside each other, Hindus and Muslims were totally different in all manifestations of religion, and despite certain common features, their cultures were also basically divergent. In fact, some contrasts were such that they might be called the antitheses of each other. The Congress leaders' denial that there was any fundamental incompatibility was largely responsible for the grave underestimation of the Hindu-Muslim problem in Indian politics. As a consequence, the Congress approach to the Indian political problem remained unrealistic till the last.

In 1884, a first step towards popular representation in Government was taken by elected representatives to the Imperial and Local Councils. As the elections for these appointments were held on the basis of joint electorates, the chances of a Muslim being elected were practically non-existent. This situation strengthened the Muslims' belief that they would be submerged in any joint electoral system. This may well have been one reason why Sir Syed Ahmad Khan, the great Muslim leader of the nineteenth century, advised Muslims not to join the Indian National Congress when it was founded in 1885. While making a speech in the council of the Governor-General of India, in 1883, Sir Syed declared that "the introduction of the principle of election, pure and simple... would be attended with evils of greater significance... The larger community would totally override the interests of the smaller community".<sup>2</sup>

Later events which consolidated the Muslim stand were : (a) the announcement of the partition of Bengal, on September 1, 1905; (b) the Simla Deputationists' demand for separate electorates from the Viceroy (1906), which was conceded to the

<sup>1</sup>J. S. Furnivall, *Netherlands India* (Cambridge 1939), p. 445. See also T. Walter Wellbank, *The Partition of India* (Boston, Heath & Co., 1966), p. vii.

<sup>2</sup>Altaf Husain Hali, *Hayat-i-Javid* (Urdu), Lahore, Aina-e-Adab, 1966, 2nd edition of 1902, pp. 276-7. A fuller extract is given in Appendix 11, Part 1, of *The Constitutional Problem in India* by R. Coupland (Madras, O.U.P. 1945).



Muslims in the Indian Councils Act of 1909; (c) the establishment of the Muslim League at Dacca, on December 30, 1906. Though the partition of Bengal was made mostly for administrative reasons, the Muslims were given to understand that a separate province of East Bengal and Assam would bring them 'numerical strength' and a "prepondering voice which they had not enjoyed since the old days of Musalman Viceroys and Kings".<sup>1</sup> The agitation against the partition of Bengal not only further alienated the Muslims from the Hindus, it also brought them closer to the British Government. It was largely for this reason, too, that Dacca was chosen as the venue of the Muslim political gathering that gave concrete shape to the growing belief in the need for a separate Muslim political organization.

The annulment of the partition of Bengal, at the Delhi Durbar of King Emperor George V, in December 1911, marked the end of a close Anglo-Muslim rapprochement. The Muslim League revised its pro-British policy, and this brought the Congress and the League closer to each other. The Congress-League agreement of 1916 (Lucknow Pact) marked the climax of Hindu-Muslim unity. It was largely as a consequence of this Pact that the British Government introduced a form of partially responsible government (Diarchy) in the provinces, in 1919, which continued to function till 1937.

The Hindu-Muslim *entente*, however, lasted for only a short while. During this period a semblance of Hindu-Muslim unity, at the political level, was maintained primarily on account of the anti-British Khilafat agitation of the twenties. Although the strength of this unity began to be sapped already at the beginning of the twenties, first by severe Hindu-Muslim riots and then by revivalist movements, the final break came only after the famous Nehru Committee Report in 1928.<sup>2</sup> This Report gave publicity to a fundamental contrast in the thinking of Hindu and Muslim leaders. The Hindus wanted a uni-

<sup>1</sup>Haridas Mukherjee and Uma Mukherjee, *India's Fight for Freedom* (Calcutta, Firma-K.L. Mukhapadhyay, 1958), p. 20.

<sup>2</sup>R. Coupland, *op. cit.*, pp. 88-89.

The Committee was set up under the chairmanship of Motilal Nehru (with his son, Jawaharlal Nehru as Secretary) in February 1928. The Committee was formed as an answer to the purely British Commission set up in November 1927 under the chairmanship of Sir John Simon, and known after him as the Simon Commission.

tary form of government for India; and they were fearful of Muslim majorities in some of the provinces, in spite of their overwhelming majority in India as a whole. Muslims, on the other hand, suggested that they should at least dominate some parts of India. The Muslims were willing to forego separate electorates in exchange for greater autonomy in a federated State. Maulana Mohammad Ali, the veteran Congress leader, not only criticized the Nehru Report, but actually left the Congress for good. And when the amendments to the Nehru Report suggested by the Muslim League in the All-Parties Convention at Calcutta in December 1928 were rejected, Jinnah, the leader of the League delegation to the convention, exclaimed, "This is the parting of ways".<sup>1</sup> Then the 1930-31 Round-Table Conference, in London, further demonstrated the mistrust between Hindu and Muslim leaders. Dr. B.R. Nanda, the biographer of Gandhi, writes: "The Hindus tended to deal with Muslims as the British Government dealt with Nationalist India: they gave concessions, but it was often a case of too little and too late."<sup>2</sup> The great Indian jurist, C.H. Setalwad, is more frank on this point: "The real parentage of the Pakistan movement can be traced to the Congress leaders, who, by the wrong way in which they handled the communal questions, and by their behaviour when they were in power, created a distrust in the minds of the Muslim community which has driven them to advocate Pakistan."<sup>3</sup>

Under the Government of India Act of 1935, the British Government gave autonomous powers to the provinces without achieving success in forming a representative federal government at the Centre. After the provincial elections in 1937,

<sup>1</sup>Syed Sharifuddin Pirzada (ed.), *Foundations of Pakistan*, Vol. I, p.1xiii. (Karachi, NPH, 1969).

<sup>2</sup>B. R. Nanda, *Mahatma Gandhi*. A Biography (London, Geogre Allen & Unwin, 1959) p. 261.

"Many years before, when the Congress started on the road to mass rebellion under Gandhi's leadership, the Indian Muslims were *not* a nation in the modern sense of the term. But a quarter of a century later, they were on the way to *becoming* one. Had Congress leaders been wiser, they need not have become one." Amaury de Riencourt (New York, Harper Brothers, 1960), p. 343.

K. M. Munshi recalls that "Lord Linlithgow once told me: 'If you do not allow us to introduce the federal part of the scheme, mark you, Pakistan will come, you cannot resist it.'" Munshi, "The New India: The Centre and the Units", *The Asiatic Review*, July 1950, pp. 1017-30; ref: p. 1019.

<sup>3</sup>Chimanlal H. Setalwad, *Recollections and Reflections* (Bombay, Padma Publications, 1947), p. 414.

majority-party governments were formed in the provinces. In the absence of any coalition or co-operation between the Congress and the League, this in practice meant a *de facto* division of British India into Hindu and Muslim zones. Thus, provincial autonomy proved to be a precursor of partition, and the consequent frontiers in the subcontinent.<sup>1</sup>

It was on October 10, 1938, that the Sind Muslim League Conference adopted a resolution to divide India into a "Federation of Muslim States and a Federation of non-Muslim States".<sup>2</sup> The resolution was in fact a prologue to the Lahore Resolution. The League at its Patna Session, December 1938, authorized Jinnah to explore an alternative to Indian federation. On March 26, 1939, the League Working Committee, meeting at Meerut, resolved to appoint a Committee, headed by the President, to examine schemes already propounded by some persons.<sup>3</sup> Jinnah told the Council of the All-India Muslim League, meeting at Delhi in April 1939, that the Committee was examining various schemes in the field, including that of dividing the subcontinent into Muslim and Hindu India.<sup>4</sup>

On March 23, 1940, the All-India Muslim League Session at Lahore passed a resolution which, *inter alia*, stipulated "that no constitutional plan would be workable in this country or acceptable to the Muslims unless it is designed on the following basic principles, *viz.*, that geographically contiguous units are demarcated into regions which should be so constituted *with such territorial readjustments as may be necessary* that the areas in which the Muslims are numerically in a majority, as in the North-Western and Eastern zones of India, should be grouped to constitute Independent States in which the constituent units

<sup>1</sup>Kanji Dwarkadas writes, "This arrogance and lack of political foresight (*of the Congress*) in July 1937 was repeated time and again during the next 10 years, culminating at last in the division of the country into India and Pakistan... if only the Congress had come to terms with Jinnah and his Muslim League, we would have had a different story of India during the last 28 years." *India's Fight for Freedom 1913—1937: An Eye-Witness Story* (Bombay, 1966), p. 473.

<sup>2</sup>*Resolutions of the All-India Muslim League from October 1937 to December 1938* (All-India Muslim League, Delhi, 1944), pp. 78-82.

<sup>3</sup>*Resolutions of the All-India Muslim League from March 1939 to March 1940* (All-India Muslim League, Delhi, n.d.) pp. 1-2. See also, Syed Sharifuddin Pirzada, *The Pakistan Resolution and the Historic Lahore Session* (Karachi, March 23, 1968).

<sup>4</sup>*Ibid.*

shall be autonomous and sovereign.”<sup>1</sup> In this resolution, which came to be known as the Pakistan Resolution, the wording about the boundaries of the State or States, was very vague. In 1930, Dr. Iqbal had propounded a North-West Indian sub-federation, which included the Punjab, the North-West Frontier Province, Sind and Baluchistan.<sup>2</sup> Chowdhary Rahmat Ali, the originator of the term ‘Pakistan’, had conceived of it as a Muslim federation comprising the whole of the Punjab (P), Afghania (North-West Frontier Province (A), Kashmir (K), Sind (S), and Baluchistan (ISTAN, for the last five letters).<sup>3</sup> The Aligarh scheme of 1939 conceived of three wholly independent States: (1) North-West India, including the Punjab, the North-West Frontier Province, Sind and Baluchistan; (2) Bengal, including the adjacent district of Purnea (Bihar) and the Sylhet Division (Assam), but excluding the south-west districts of Howrah and Midnapore; (3) Hindustan, comprehending the rest of British India, with two new autonomous provinces—(a) Delhi, including the divisions of Meerut and Rohaikhand and the district of Aligarh, (b) Malabar, consisting of Malabar and adjoining areas on the Malabar coast.<sup>4</sup> Thus, we see, the Lahore Resolution was not even as specific as the above-mentioned schemes.

In fact, there had been considerable discussion on the Resolution in the Subjects Committee meeting held on March

<sup>1</sup>*Ibid.* (Italics added).

See also C.H. Philips, *The Evolution of India and Pakistan, 1858-1947; Select Documents* (London, Oxford University Press, 1964), pp. 354-55.

Syed Sharifuddin Pirzada, *op. cit.*, p. 14.

Sarwar Hasan (ed.), *Documents on the Foreign Relations of Pakistan: The Transfer of Power* (Karachi, P.I.I.A., 1966), p. 19.

<sup>2</sup>Dr. Muhammad Iqbal, in his Presidential Address to the Muslim League in 1930 declared: “. . . I would like to see the Punjab, the North-West Frontier Province, Sind and Baluchistan amalgamated into a single State. Self-government within the British Empire, or without the British Empire, and the formation of a consolidated North-West Indian Muslim State appears to me to be the final destiny of the Muslims, at least of North-West India.” Dr. Sir Muhammad Iqbal, *Presidential Address, Allahabad Session, December 1930, Delhi, All-India Muslim League, 1943*, p. 12.

<sup>3</sup>Choudhary Rahmat Ali, *Now or Never*. At a later stage, he enlarged the scope of his concept: “Pakistan is both a Persian and Urdu word. It is composed of the letters taken from the names of all our homelands, ‘Indian’ and ‘Asian’. That is Punjab, Afghania (North-West Frontier Province), Kashmir, Iran, Sindh (including Kutch and Kathiawar), Tukharistan, Afghanistan, and Baluchistan. . . .” *Pakistan*, 1947 edition, pp. 224-25.

<sup>4</sup>Propounded by Professor Syed Zafarul Hasan and Dr. Mohammad Afzal Hussain Qadri of the Muslim University Aligarh. Syed Sharifuddin Pirzada, *Evolution of Pakistan* (Lahore, 1963), pp. 183-90,

22-23, 1940, in which Ashiq Husain Batalvi had proposed both the deletion of the phrase 'with such territorial readjustments as may be necessary' and inclusion of specific mention of the provinces of Punjab, Sind, the Frontier and Baluchistan. On this, "Nawabzada Liaquat Ali Khan intervened and said that the omission of the names of the provinces was deliberate, otherwise the territory of the proposed State would only extend up to Godhgaon. He added that by using the expression 'territorial readjustment' it was not intended to surrender portions of the Punjab and Bengal, but to claim areas of Muslim culture like Delhi and Aligarh."<sup>1</sup>

The letter Khaliquzzaman wrote to Jinnah on October 7, 1942, is also quite revealing.<sup>2</sup> It shows the strong fears of a member of the League Working Committee about the Lahore Resolution. Extracts from this letter follow: "If the principle of territorial readjustment on the grounds of the Muslims being in a majority not only in the unit or a province but also in the subdivisions of a province is accepted, the Burdwan and Presidency Divisions will have to go out of the eastern Pakistan. The only area we can legitimately claim in return will be Sylhet Division, wherein the Muslims preponderate. The result will be that our eastern Pakistan will consist of four divisions, namely, Chittagong, Dacca, Rajshahi, and Sylhet. . . ." Continuing, he adds, "Whatever has been said above applies *mutatis mutandis* to Punjab also. The Hindu population in Ambala Division is about 80 per cent as against 19 per cent Muslims. In the Central Punjab, *i.e.*, the area lying between Ambala Division and Lahore, the Sikhs and the Hindus together make the majority. Not being in a majority in the area lying between Saharanpur and Lahore, we shall have to part with it. In this case, we shall not have any portion of any non-Muslim Province to compensate us for the loss, as the Sylhet Division in the case of Bengal."<sup>3</sup>

The seven years following the adoption of the Lahore Resolution of 1940 may well be regarded as a period of struggle, more for the shape and size of the independent State of Pakistan than the principle of the partition of India. Ambedkar, a

<sup>1</sup>Syed Sharifuddin Pirzada, *Foundations of Pakistan*, Vol. II (Karachi, NPH, 1970), xxiv-xxv. *Nawa-i-Waqt*, Lahore, March 23, 1960.

<sup>2</sup>Choudhry Khaliquzzaman, *Pathway to Pakistan* (Lahore, Longmans Pakistan Branch, 1961). App. VIII, p. 242-5.

<sup>3</sup>*Ibid.*

protagonist of the partition of India, considered it a mistake to be under the impression that if a person was committed to the principle of partition he would be bound to accept Jinnah's conception of Pakistan. Ambedkar criticized Jinnah's argument that the boundaries would be a matter of discussion once the principle of Pakistan had been accepted, and saw no reason to concede that the existing boundaries of the Punjab and Bengal might become the new borders of western and eastern Pakistan. He advocated a redrawing of the boundaries of these two provinces. It is interesting to find that there is little difference between Ambedkar's maps of partitioned Punjab and Bengal-Assam—given in his book, *Pakistan or the Partition of India*—and those of the Radcliffe Award.<sup>1</sup>

Though the Congress did not accept the division of India till early 1947, one can read into the formula presented by Rajagopalachari (popularly known as the Rajaji or C.R. Formula) in April 1942, or from the Gandhi-Jinnah talks in 1944, that the conflict between the Congress and the League centred not so much on whether Pakistan should come into being at all as on what territorial shape it should take.<sup>2</sup> The failure of the Gandhi-Jinnah talks was essentially due to their different interpretations of the Lahore Resolution. Gandhi claimed that on the basis of the League's own resolution, the North-Western and Eastern Zones would comprise Baluchistan, Sind, the North-West Frontier Province and those parts of the Punjab, and of Bengal-Assam where the Muslims were in 'absolute majority' over all other elements of their population. In contrast, Jinnah said: "If this term were accepted and given effect to, the present boundaries would be maimed and mutilated beyond redemption and

<sup>1</sup>B.R. Ambedkar, *Pakistan or the Partition of India* (Bombay, Thacker & Co., 1946); see Chapter XIV.

<sup>2</sup>The Cripps Mission in April 1942 had accepted the principle of Pakistan, which was vaguely endorsed at the time by the Congress Working Committee's resolution: "Nevertheless the Committee cannot think in terms of compelling the people in any territorial unit to remain in an Indian union against their declared and established will." Cf. H.V. Hodson, *The Great Divide* (Karachi, O.U.P., 1969), p. 105.

"... Gandhi had previously talked of a 'Himalayan blunder' over some minor lapses of a great national leader. By rejecting Cripps's offer, he was committing a real 'Himalayan blunder' by making the partition of India inevitable... Henceforth there was no turning away from the Pakistan idea and Jinnah's leadership." C.S. Venkatachria, "1937-47 in Retrospect. A Civil Servant's View" in *The Partition of India*, ed. by C.H. Philips & M. D. Wainwright (London, Allen & Unwin, 1970), p. 473.

leave us with the husk..."<sup>1</sup> Thus, Gandhi appeared implicitly to be accepting the principle of the partition of India, but not Jinnah's plan of Pakistan. The Congress came out explicitly for the partition of the Punjab and Bengal when the division of India became certain.

The Cabinet Mission stated on May 16, 1946, that it could see "no justification for including within sovereign Pakistan those districts of the Punjab and of Bengal and Assam in which the population is predominantly non-Muslim. Every argument that can be used in favour of Pakistan can equally, in our view, be used in favour of the exclusion of the non-Muslim areas from Pakistan. . . . Such a Pakistan is regarded by the Muslim League as quite impracticable. . . ." <sup>2</sup> The Mission suggested an alternative plan, which failed, as the Congress and the League accepted, on account of the incompatibility of their motives. The Congress wanted to capture the Central Government and then torpedo the 'grouping scheme', the core of the Plan. The League, on the other hand, was less interested in the scheme of a loose Indian federation, and regarded the compulsory grouping of the six provinces of the Punjab, Sind, Baluchistan (B group), Bengal and Assam (C group) as the stepping stone to the Pakistan of its choice. In other words, it accepted the Plan "inasmuch as the basis and the foundation of Pakistan are inherent in the Mission's Plan by virtue of the compulsory grouping of six provinces". <sup>3</sup> With the failure of this Plan, the chapter for a united India was finally closed.

### *The Mountbatten Plan (June 3, 1947)*

Prime Minister Attlee, speaking in the House of Commons on February 20, 1947, announced that the final transfer of

<sup>1</sup>Extract from Gandhi's letter to Jinnah, September 24, 1944. Extract from Jinnah's letter to Gandhi, September 25, 1944. Cf. Anil Chandra Banerjee, *The Making of the Indian Constitution 1918-1937*, Vol. I (Calcutta: Mukerjee & Co., 1948), pp. 88-92.

<sup>2</sup>Sir Maurice Gwyer and A. Appadorai (Editors) *Speeches and Documents on the Indian Constitution 1921-47*, Vol. II. (London, O.U.P. 1957). See also Mohammad Ashraf, *Cabinet Mission and After* (Lahore, 1946), pp. 593-95.

<sup>3</sup>E.W.R. Lumby, *The Transfer of Power in India, 1945-47* (London, George Allen & Unwin, 1954). p. 94.

power would take place by a date not later than June 1948.<sup>1</sup> The Labour Government's determination to transfer power within a time limit gave an added edge to the struggle for succession. In the statement of February 20, it was said that in the absence of a fully representative Assembly, it would have to consider to whom "the powers of the Central Government for British India should be handed over on the due date, whether as a whole to some form of Central Government for British India, or *in some areas to the existing Provincial Governments*; or in some other way as may seem most reasonable and in the best interests of the Indian people."<sup>2</sup> This evoked the following reaction from Jinnah: "The Muslim League will not yield an inch in its demand for Pakistan." The significant similarity in meaning of the words in italics to the italicized section of the Lahore Resolution would not have escaped the notice of Jinnah. He was later reminded by Mountbatten that the partition of the Punjab and Bengal had been hinted at in that Resolution. It might have been unpalatable to the League Leader to be referred again and again to the logical consequence of the Lahore Resolution, but it could hardly be avoided. About a year earlier, on March 15, 1946, Attlee had warned the League that, "We cannot allow a minority to place a veto on the advance of the majority."<sup>3</sup>

Attlee's announcement had an electrifying effect on Indian politics: a rapid chain of events took place which within six months resulted in both the withdrawal of the British and the partition of British India, including the partition of the provinces of the Punjab, Bengal and Assam.

The Muslim League civil disobedience campaign against the Unionist Coalition Ministry in the Punjab led to the resignation of its Premier, Malik Khizar Hayat Khan Tiwana, on March 1, 1947. He had formed the coalition government with the support of the Congress, Hindus, Akali Sikhs and nine

<sup>1</sup>Attlee writes: "I had come to the conclusion that it was useless to try to get agreement by discussion between the leaders of the rival communities. Unless these men were faced with the urgency of a time limit, there would always be procrastination. As long as Britain held power, it was always possible, to attribute failure to her. Indians must be faced with the fact that in a short space of time they would have responsibility thrust upon them." C.R. Attlee, *As it Happened* (London, William Heinemann, 1954), p. 183.

<sup>2</sup>*Parliamentary Debates* (House of Commons), 1947, Fifth Series, Vol. 433, p. 1395 (India Government Policy). (Italics added.)

<sup>3</sup>*Ibid.*, 1946, Vol. 420, Cols, 1421-22.



'Unionist' Muslim members of the Punjab Assembly, to the exclusion of the largest party in the Legislature, the Muslim League which had 79 seats in a House of 175. This strange coalition, predominantly non-Muslim in character, outraged the great majority of Muslims of the Punjab, who formed 57 per cent of the total population of the province ; and its government proved disastrous for the communal harmony of the Punjab. The Governor, Sir Evan Jenkins, assumed direct administration on March 5. Severe riots took place in the Punjab, particularly in Amritsar, on March 4 and 6, in which the Sikhs were reported to have suffered most. On March 8, the Working Committee of the Indian National Congress passed a resolution demanding the division of the Punjab into two provinces.<sup>1</sup>

Late in April, the Sikh and Hindu members of the Punjab Assembly as well as of the Indian Constituent Assembly met in Delhi and demanded the partition of the Punjab. Nehru, in a speech at the All-India States Peoples Conference in Gwalior on April 18, 1947, declared: "The Muslim League can have Pakistan if they want it, but on the condition that they do not take away other parts of India which do not wish to join Pakistan." He added: "The Punjab and Bengal will be partitioned; I am making this statement with all the responsibility I possess."<sup>2</sup> Rajendra Prasad made an authoritative statement, as the President of the Indian Constituent Assembly, on April 26, 1947: "If there is to be a division of India . . . this may mean a division of the provinces".<sup>3</sup> He drew attention to the Lahore Resolution, which had launched the concept of Pakistan comprising areas where Muslims were numerically in the majority.

While the Muslim League welcomed the prospect of Pakistan, there was thus a parallel move by the Congress and the

<sup>1</sup>*Congress Bulletin*, No. 3 (Delhi), March 8, 1947.

Kanji Dwarkadas observes: "This resolution clearly showed the Congress bankruptcy in statesmanship, for it amounted to nothing short of acceptance of the two-nation theory of Jinnah which was the basis of partition. It was a sad commentary on an organization which had little over 30 years ago opposed the partition of Bengal along the same lines." c.f. Jamil-ud-Din Ahmad, "The Emergence of Pakistan", *Dawn*, Independence Day Supplement, August 14, 1970).

<sup>2</sup>*The Times* (London), April 22, 1947.,

V. P. Menon, *The Transfer of Power in India* (London, Longmans, 1957), p. 354.

Michael Brecher, *Nehru: A Political Biography* (London, O.U.P., 1959), p. 345.

V. P. Menon, *op. cit.*, p. 355.

Sikhs to concede only a 'truncated' Pakistan.<sup>1</sup> Jinnah felt that the Congress Party's proposal for partitioning the Punjab and Bengal was a 'sinister' move to 'unnerve' the Muslims, by stressing that they would get only a 'moth-eaten' Pakistan. He observed that the logical consequence of such a move would be for all other provinces to be similarly broken up. He said that it would be a mistake to compare the basic principles of Pakistan with that of the demand for cutting up the provinces. Jinnah pointed out that Pakistan was a Muslim National Homeland and it would still leave three-fourths of British India for the Hindu National State. He further added that a sovereign Muslim State should control the defence of the subcontinent's vital north-west and north-east frontiers.<sup>2</sup>

However, the Sikhs and the Congress got the Muslim League to accept the division of the Punjab and Bengal.<sup>3</sup> Jinnah now felt that a 'truncated or mutilated, moth-eaten Pakistan' would

<sup>1</sup>*The Times* (London), April 22, 1947, "Truncated Pakistan." *The London Observer* commented on April 17, 1947, that the League should then have "the shadow instead of the substance of Pakistan." See also *The Statesman* (New Delhi), April 22, 1949. E.W.R. Lumby, *op. cit.*

<sup>2</sup>*The Daily Herald* (London), May 1, 1947.

Malik Khizar Hayat Khan, the last Premier of undivided Punjab, commented: "It will be ruinous for all communities to split the Province into bits. . . . The present Punjab boundaries make the Province a self-sufficient economic unit. The irrigation system, the electricity scheme, and the extensive development programme of the future, if torn apart, would lead to an impoverishing of both the western and the eastern Punjab." Feroz Khan Noon, an ex-member of the Viceroy's Executive Council, remarked: "if we divide the land of the five rivers with its common irrigation system, we are laying the foundation for future wars. An unjust peace is likely to force the two Indias to begin to arm themselves in self-defence."

Cf. Khaliqzaman, *op. cit.*, pp. 378-79.

<sup>3</sup>On April 4, 1947, the Executive Committee of the Bengal Provincial Congress passed a resolution that: "If His Majesty's Government contemplates handing over its power to the existing Government of Bengal, which is determined on the formation of Bengal into a separate sovereign State. . . . such portions of Bengal as are desirous of remaining within the Union of India should be allowed to remain so and be formed into a separate province within the Union of India". Cf. Pyarelal, *Mahatma Gandhi: The Last Phase* (2 Vols., Ahmadabad: Navajivan Publishing House, 1956), Vol. II, p. 84.

H. S. Suharwardy, the Chief Minister of Bengal, had demanded a Sovereign United Bengal on the eve of the Partition of India. He was supported by Sarat Chandra Bose, an eminent Congress leader of Bengal. Since the demand was based on the linguistic affinity of Bengal Muslims and Hindus, it meant a repudiation of the basis of Pakistan and the two-nation theory. But both Nehru and Patel were against it. "Suharwardy's move to achieve an autonomous and united province finally died away before the disfavour of the two great Parties". A. Campbell-Johnson, *Mission with Mountbatten* (London, Robert Hale, 1953) p. 139.

be better than no Pakistan.<sup>1</sup> His 'national home' had included Sind, the Punjab, the North-West Frontier Province, Baluchistan, Bengal and Assam. While accepting the June 3 Plan, Jinnah said: "It is clear that the Plan does not meet in some important respects our point of view: and we cannot say or feel that we are satisfied or that we agree with some of the matters dealt with by the Plan. It is for us now to consider whether the Plan should be accepted by us as a compromise or a settlement."<sup>2</sup>

Within a week of the announcement of the June 3 Plan by the British Government, the All-India Muslim League Council

Mountbatten "warned Mr. Suhrawardy that Pandit Nehru was not in favour of an independent Bengal unless it were closely linked with India. . . He (Mountbatten) was distressed to learn that Mr. Roy (Kiran Shanker Roy) had been unable to persuade Congress leaders to allow Bengal to vote for independence." H. V. Hodson, *The Great Divide* (Karachi, O.U.P., 1969), p. 276. (Words in brackets added.)

"What did Mr. Jinnah think", asked the Viceroy, 'about keeping Bengal united at the price of its staying out of Pakistan?' Without hesitation, Mr. Jinnah replied: 'I should be delighted.'" *Ibid.*, p. 246.

"Having resolved his mind on the two vital issues, Mountbatten went up to Simla in the first week of May for a short respite. Nehru arrived as the Viceroy's guest on May 8. On the night of May 10, Mountbatten had a sudden hunch about his Plan which was nearly approved by the British Cabinet. He showed his Plan to Nehru and to his utter surprise, found that Nehru vehemently disapproved of it. It was, in fact, Nehru who had told the Viceroy earlier in one of his interviews that each of the Pakistan provinces should be given the choice to decide whether or not to join the Indian Union. Perhaps Nehru's fear arose from the 'option' of independence the Plan gave to each of the provinces of the Punjab and Bengal. . . the 'independent option' given in the Mountbatten Plan to Bengal and Punjab was dropped". B.N. Pandey, *The Break-Up of British India* (London, Macmillan, 1969), pp. 198-199. The author has cited the view of H. Tinker from the *Partition of India Seminar Papers* (P.I.S.P.) at the School of Oriental and African Studies, University of London. The papers concentrate on the period from 1935 to 1947.

<sup>1</sup>See Lord Ismay, *Memoirs* (London, Heinemann, 196), pp. 420-24.

Ismay, who was with Mountbatten at the crucial interview with Jinnah, writes: "He (Jinnah) was in one of his difficult moods. After describing the Plan as scandalous, he said that he himself would support it and do his best to get the Muslim League Council to do likewise, but he could not commit them in advance. After a good deal of 'horse trading', the most that the Viceroy could squeeze out of him was an admission that Mr. Attlee might safely be advised that he could go ahead with his announcement about the Plan to the House of Commons, on the following day". *Ibid.*, p. 242.

In a speech in the Indian Constituent Assembly in November 1949, Sardar Patel observed: "Mr. Jinnah did not want a truncated Pakistan, but he had to swallow it. I made a further condition that in two months' time power would be transferred". Cf. K.L. Punjabi, *The Indomitable Sardar* (Bombay, Bhartiya Vidya Bhawan 1962), p. 124. In a public speech at Calcutta, in 1950, he declared that Congressmen had agreed to partitioning the subcontinent on the condition that Calcutta would go to India.

<sup>2</sup>June 3, 1947, broadcast from AIR.

met in Delhi on June 9 and 19, 1947 (amidst riotous conditions created by followers of the Khaksar movement, who were against the acceptance of the Plan, and one of whom attempted to assassinate Jinnah on June 9, 1947). The Council gave Jinnah authority 'to accept the fundamental principles of the Plan as a compromise'. There were eight dissenters out of 425 Councillors present. The first speaker in the Council, A. Rahim, attacked the Plan. The division of Bengal, he maintained, would weaken Pakistan. Another speaker, Z.H. Lari, pointed out that the League had rejected the Cabinet Mission Plan as they were not prepared to lose Assam, but by this Plan they would also lose big pieces of the Punjab and Bengal. Hasrat Mohani said, "I emphatically oppose this Plan."<sup>1</sup> The Council meeting thus proved to be a great test for Jinnah's authority, as no other Muslim leader could have managed to persuade his colleagues to agree to the partition of the major provinces of Pakistan.

As envisaged in the Plan, the same pattern of voting was followed in the Punjab and in Bengal. First, the Provincial Assembly voted to join the Pakistan Constituent Assembly; then separate meetings of the members of the Muslim majority and non-Muslim majority districts were held. The Muslim majority meeting voted against and the non-Muslim majority meeting for the partition of the province. As the division of the province had already been announced, the voting of the separate units did not amount to more than a formality. West Punjab and East Bengal decided to join Pakistan. East Punjab and West Bengal decided to join the Indian Union.

The position of the North-West Frontier Province was exceptional. By 1946-47, the Frontier Congressmen, Abdul Ghaffar Khan and Dr. Khan Sahib (the Khan brothers) had lost much of their support from the Muslims who constituted about 95 per cent of the total population of the province. An anomalous situation was thus created, in which while the Congress Ministry of Dr. Khan Sahib, committed to a 'United India' was in power with a majority in the Provincial Assembly and two of the three representatives of the Province participating in the Indian Constituent Assembly—the electors apparently wished to join Pakistan. As Olaf Caroe puts it, "The tribal influence, such as it

<sup>1</sup>*The Indian Annual Register, 1947, Vol. I, p. 258; The Statesman (New Delhi), June 10, 1947.*

was, was cast on the side of Jinnah's forthright appeal to Islam in peril; Abdul Ghaffar Khan's ideas seemed to them at best equivocal and over-subtle, at worst disloyal to the Pathan canon which calls for at least some service to the idea of Muslim solidarity".<sup>1</sup> As Campbell-Johnson could see, "... many who had originally supported Congress were now looking ahead and wondering whether they would come under Hindu control".<sup>2</sup> Mountbatten admitted: "The Frontier position involves particular difficulty for me. I shall be telling the Muslim League that I will not yield to violence. I tell you privately that I think elections are necessary, but I can make no firm guarantee to the Muslims that there will be any. Jinnah's promise is that if there is any election there will be no violence... Jinnah accepts the position, and is asking his followers to call off civil disobedience."<sup>3</sup>

The Khan brothers turned to the issue of an autonomous unit for the Pathans: "Dr. Khan Sahib saw that his only chance of retaining the leadership of the Frontier was to raise the demand for Pakhtoonistan".<sup>4</sup> "Gandhi has for some time been actively interested in this concept, and has lately been stressing its virtues with renewed vigour. If it were to prevail, it would create a new frontier nationalism cutting across the Province's communal and political solidarity with Pakistan."<sup>5</sup> Dr. Khan Sahib did not accept Mountbatten's offer of a coalition government, "If congress want a coalition", warned Khan Sahib, "I shall not remain in".<sup>6</sup> Hence, the June 3 Plan provided that the Viceroy, Lord Mountbatten, in consultation with the Provincial Government, should arrange for a referendum of the whole body of voters for the Provincial Assembly to opt

<sup>1</sup>Olaf Caroe, *The Pathans 500 B.C.-A.D. 1957*. (London, Macmillan, 1962) p. 455.

<sup>2</sup>Alan Campbell-Johnson, *Mission with Mountbatten* p. 86. See also his article, "Reflections on the Transfer, *The Asiatic Review*, July 1952. "The North-West Frontier Province, although predominantly Muslim, was a stronghold of the Congress Party and provided the Congress Party with one of its greatest leaders, Khan Abdul Gaffar Khan. The idea of this Province being lumped together with Punjab, Sind and Baluchistan to create a large Muslim majority area where the Muslim League would be the *de facto* rulers was repugnant to this great nationalist leader... one of Gandhi's closest colleagues." Sudhir Ghosh, *Gandhi's Emissary* (London, The Cresset Press, 1967), p. 153.

<sup>3</sup>Mountbatten cited in Allan Campbell-Johnson, *op. cit.*, p. 86.

<sup>4</sup>Maulana Abul Kalam Azad, *India Wins Freedom* (Bombay, Orient Longmans, 1959), p. 194.

<sup>5</sup>Alan Campbell-Johnson, *op. cit.*, p. 86. <sup>6</sup>*Ibid.*





mission to *boundary-marking* not *boundary-making*—a task of surveyors rather than of High Court judges.

The choice of the Chairman was both crucial and controversial. The original plan was that the Chairman's election would be left to members of each Boundary Commission. The representatives of the Congress and the League had already been approved.<sup>1</sup> In the event of differences, the matter might have been referred to the Viceroy and the Partition Council. But what would then have happened in the Council? Jinnah had suggested that the United Nations should be asked to nominate members to sit with expert assessors from India"<sup>2</sup>; but Nehru objected, on the ground that this would require some "cumbersome procedure and unacceptable delay".<sup>3</sup> Another proposal to refer the matter to the President of the International Court of Justice, was, it seems, also rejected by the Congress leaders. Apparently Jinnah accepted Sir Cyril (later Lord) Radcliffe as the Chairman of both the Boundary Commissions as a result of Mountbatten's persuasion. Jinnah had also "wanted three Law-Lords from the United Kingdom to be appointed to the Boundary Commissions as impartial members. But he was told that the Law-Lords were elderly persons who could not stand the sweltering heat of the Indian summer. Had it not been for the decision to transfer power within two months, the Quaid-i-Azam could have insisted that his suggestion be accepted".<sup>4</sup> On July 4, 1947, Sir Cyril was formally appointed Common Chairman (a double burden) of the Punjab and Bengal Commissions, with the casting vote on both bodies.

As stated above, there were lacunae in the June 3 announcement, and it did not contain an expressed provision as to what

<sup>1</sup>*Punjab Boundary Commission*

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|----|-------------|--------------------|
| 1. | Mr. Justice | Din Muhammad       |
| 2. | " "         | Muhammad Munir     |
| 3. | " "         | Mehr Chand Mahajan |
| 4. | " "         | Teja Singh         |

*Bengal Boundary Commission*

- |    |             |               |
|----|-------------|---------------|
| 1. | Mr. Justice | A.S.M. Akram  |
| 2. | " "         | S.A. Rahman   |
| 3. | " "         | C.C. Bishwas  |
| 4. | " "         | B.K. Mukerjea |

*Partition Proceedings*, Vo. VI, pp. 8-9.

<sup>2</sup>H. V. Hodson, *op. cit.*, p. 346.

<sup>3</sup>Alan Campbell-Johnson, *op. cit.*, p. 145.

<sup>4</sup>Chaudhri Muhammad Ali, *The Emergence of Pakistan* (New York, Columbia University Press, 1957), p. 204.



was to happen in case of differences of opinion between the Chairman and the members of the Commission. By an amendment to the Indian Independence Bill, which was being hustled through the House of Commons in July, the British Government decided to treat the Report of the Chairman as being that of the entire Commission. This deprived the members of their independent status and their right to submit separate reports to the Governor-General. Justice Muhammad Munir, a member of the Punjab Boundary Commission, comments: "This was contrary to the terms of our appointment. Din Muhammad and myself resented this innovation and expressed dissatisfaction to the higher circles of the Muslim League, but we were directed to carry on. . . . Having been deprived of the right to judge and vote, the members had been reduced to the position of advocates of the parties. . . . we had become politicians' advocates, free from all the onerous responsibilities that attach to an advocate in a Court of Justice."<sup>1</sup> "As a result of this quasi-judicial procedure, the claims of each side were represented in a legalistic manner with great gift for subtle analysis of the terms of reference."<sup>2</sup> Thus, the delicate task of boundary-making was to be done within five weeks, in an appalling summer, by a British lawyer who had never visited the subcontinent before.

In spite of a broad anthropogeographic guideline for the drawing of new frontiers between the new States of Pakistan and India, the Radcliffe Commission was given a virtual *carte blanche* to take into account 'other factors' to determine the actual line of division between them. Other factors could include material considerations such as administrative viability, natural boundaries, communications, or water and irrigation systems, but it was also open to the Commissions to take into account less tangible influences.<sup>3</sup> Consequently, all sorts of wild claims and counter-claims were made by both sides, in complete disregard of the spirit, if not strictly the letter, of the June 3 Plan. A more damaging aspect of the quasi-judicial character of the Commissions was the fact that when it came to hard decisions, the Commissions found themselves divided 2-2, leaving the Chair-

<sup>1</sup>Justice Muhammad Munir, "Days to Remember", *The Pakistan Times* (Lahore), June 22, 1964.

<sup>2</sup>O.H.K. Spate, "The Partition of the Punjab and of Bengal", *Geographical Journal*, December, 1947, pp. 201-22; ref: 205.

<sup>3</sup>H.V. Hodson, *op. cit.*, p. 347.

man, Sir Cyril Radcliffe—whose undoubted mastery of legal procedure was badly served by a lack of adequate knowledge of geography and of the Indian subcontinent itself—with the invidious task of settling every point of dispute virtually on his own. The border line that emerged was not a smooth anthropogeographic line drawn on the basis of population along the existing district boundaries. It was not a natural line either, nor could it ever have been one. Instead, it was a patch-work line incorporating certain features of both the natural and the anthropogeographic principles. It was a line of compromise intended to reconcile the apparently irreconcilable claims of both sides, which they accepted grudgingly because they had given an advance undertaking that they would abide by the Commissions' decisions. In the Punjab, in particular, where the communal situation was already desperate, the new border was fraught with grave indications of future conflict. Here the district of Gurdaspur and certain areas of Ferozpur stand out as classic examples of the factor of population being completely disregarded for the sake of 'other factors'. This caused a great deal of panic in the Muslim population of these districts, who, until the Award was announced two days after independence, had taken it for granted that they were on Pakistan's side of the new borders. Besides two important headworks supplying water to Pakistan also went to India—this time in apparent disregard of the economic factors. The loss of virtually the whole of the Gurdaspur district has since been regarded in Pakistan as part of a sinister conspiracy which enabled India to maintain a direct physical link with Kashmir. For this reason, Pakistanis cannot forget Mountbatten's statement of June, 1947, in which it was categorically stated "that the ultimate boundaries would be settled by a Boundary Commission and would *almost certainly* not be identical with those which had been provisionally adopted."<sup>2</sup> In a subsequent press conference on June 4, replying to questions, he added: (a) "The term 'other factors' was put in for the purpose of allowing the Commission maximum latitude in dealing with this problem... (b)... in the

<sup>1</sup>Lord Birdwood observes: "A glance at the map will show that had the District as a whole been awarded to Pakistan, the position of troops, landed by air in Kashmir from India would have been quite untenable." *A Continent Decides* (London, Robert 1953), p. 235.

<sup>2</sup>Mountbatten, *op. cit.*, pp. 10-13. (Italics added).

district of Gurdaspur in the Punjab the population is 50.4 per cent Muslims, I think, and 49.6 per cent non-Muslims. With a difference of 0.8 per cent you will see at once that it is unlikely that the Boundary Commission will throw the whole of the district into the Muslim majority areas...<sup>1</sup> To the south of the Sulemanke Headworks, the Bahawalpur-India border, though strictly not part of the Radcliffe brief, was none the less an additional source of concern and anxiety to Pakistan, as it looked for a time as though the State, despite its preponderant Muslim majority, might not be awarded to Pakistan.

In East Bengal, too, the population distribution was substantially disregarded in a number of Muslim majority districts. Thus, Radcliffe awarded major areas of the districts of Dinajpur, Malda, Murshidabad and Nadia to India and, perhaps by way of compensation, the districts of Khulna and the Chittagong Hill Tracts, with their non-Muslim majorities, went to Pakistan. The Radcliffe boundary in Bengal also created other anomalies. At several places it divided neighbouring villages and was allowed to run through single farm holdings, thus creating a number of pockets and enclaves of Indian territory in Pakistan and *vice versa*. These confused boundaries clearly bore the seeds of trouble between the two countries, which, within a short time, did in fact bear the fruits of protracted conflict.

Unlike most other provinces of British India, the Punjab presented a compact geographical unit, in which it was impossible to achieve a complete division of the interrelated rivers' irrigation system without harm to one or the other side. Leonard Mosley tells us that Radcliffe approached Jinnah and Nehru with the suggestion of a joint Indo-Pakistan venture for the Punjab water system, but he got a 'joint Muslim-Hindu rebuke' for his constructive suggestion.<sup>2</sup> One is inclined to feel that Hindu-Muslim antagonisms had clouded the rational thinking of even these two great leaders. Jinnah was surely not oblivious of the fact that India would be controlling the upper courses of many of the Punjab rivers, and yet perhaps both the bitterness of the bargaining and the factor of the short deadline precluded possibilities of co-operative solutions.

<sup>1</sup>*Ibid.* Actually, according to the 1941 census, Muslims constituted 51.14 per cent of the population and non-Muslims 48.86; so that the difference was 2.28, not 0.8.

<sup>2</sup>Mosley, *op. cit.*, p. 199.

The Congress and the Sikhs had got the Muslim League to accept the division of the Punjab on communal grounds, but demanded a boundary in their favour on economic and other factors. In particular, they raised the issues of 'the integrity of a Sikh homeland',<sup>1</sup> the distribution of river waters and ownership of land and industry. They tried to make the term 'other factors' so flexible as to include territories stretching to the east bank of the Chenab. "The claim to a line on the Chenab amounted to accepting Pakistan in words but denying it in deed. This would have not only adversely affected West Pakistan's communications system, but Pakistan would have become a hopeless proposition with little economic prospect".<sup>2</sup> The Sikh-Congress claim included 85 per cent of the total Sikh population of the Punjab.

The Muslim claim was based essentially on considerations of population. They claimed the whole of Rawalpindi, Multan and Lahore Divisions and portions of Jullundur and Hoshiarpur districts—the areas within the angle of the Beas and Sutlej rivers and further south-east of the Sutlej which were contiguous Muslim majority areas up to Ludhiana town. The League's proposed boundary included the southern half of Pathankot tehsil, retaining the Madhopur Headworks of the upper Bari Doab canal. From here it formed the base of the Beas-Sutlej angle, following the crest of the Siwalik Hills and running south-east, up to the Rupar Headworks, from where it turned west, including portions of the Ludhiana and Ferozpur districts on the south-east banks of the Sutlej. Lastly, the border with Rajputana ran along the Ludhiana-Ferozpur railway and the Bikanir canal, both included.<sup>3</sup>

<sup>1</sup>Henderson, the Under-Secretary of State for India, said in the House of Commons on July 14, 1947, that "the location of Sikh religious shrines might be a factor deserving special consideration of the Panjab Boundary Commission." The *Dawn* retorted: "If the Punjab Boundary Commission harkens to the evil prompting of the British Under-Secretary of State, the people will not accept the award.... No time should be lost in organizing against further partition of Pakistan". Cf. *Manchester Guardian*, July 19, 1947. Justice Mahajan mainly based his arguments on the interpretation of 'other factors' as expressed by the Under-Secretary of State for India. Satya M. Rai, *Partition of the Punjab* (London, 1965), p. 51.

<sup>2</sup>Spate, *op. cit.*, p. 209.

<sup>3</sup>*Ibid.*, p. 210.

Percentages of contiguous Muslim majority population: Gurdaspur district 51.14; Gurdaspur tehsil 52.1; Batala tehsil 55.06; Shakargarh tehsil 51.3; Ferozpur tehsil 55.2; Zira tehsil (Ferozpur district) 65.2; Nakodar tehsil 59.4; Jullundur tehsil 51.1; Ajnala tehsil (Amritsar district) 59.4. Percent-

Like in the Punjab, in Bengal too there was a great divergence between the claims of the Congress and the Hindu Mahasabha, on the one hand, and of the Muslim League on the other. The former demanded Midnapur, Bankura, Birbhum, Burdwan, Hoogly, Murshidabad, 24-Parganas, Jalpaiguri, Darjeeling, Nadia, Dinajpur and Rangpur. The Congress-Mahasabha claim also included the Chittagong Hill Tracts, parts of Faridpur and Bakerganj. This would have comprised about 59 per cent of the area and 46 per cent of the population of the province,<sup>1</sup> which also included the entire tea plantation areas of Sylhet and Cachar in Assam.<sup>2</sup>

The Muslim League contended that the task of the Commission was clearly limited, since His Majesty's Government's June 3 plan had already indicated the basis of the partition, namely the separation of Muslim majority areas. It was pointed out on behalf of the Muslim League that the terms of reference for the Commission were 'to demarcate' these areas, not to make new boundaries. The Muslim League thus claimed Chittagong, Dacca, Rajshahi and almost the entire Presidency Divisions, with the 'contiguity of areas' and 'majority principle' as decisive factors for the division of Bengal. It was pointed out that the sole question before the Commission was to fix a permanent boundary between the two States: a permanent boundary must

ages for other contiguous Muslim majority areas: Fazilka 75.12; Muktasar 66.56; Jagraon 69.32; Ludhiana 68.95; Samrala 70.59; 50.59; Nawanshar 50.59; Phillaur 67.24; Rupar 57.27; Garhshankar 57.11; Hoshiarpur 52.4; Dasuya 58.14; Thana Majitha (tehsil Amritsar) 51.9; Una 55.02.

<sup>1</sup>Partition Proceedings, (Indian Union Case). *The Statesman* (Calcutta), July 17, 19, 20, 22 and 25, 1947.

<sup>2</sup>*Ibid.*, August 5, 1947.

Though Muslims formed only 46.5 and 45.2 per cent of the population in Amritsar and Jullundur, they claimed these districts on the basis of being more numerous than the total of Hindus and Sikhs and of making the boundary strategically sound and natural.

Cf. Sarwar Hasan, *op. cit.*, pp. 309-12.

The Punjab Muslim League Leader, Khan of Mamdot, pointed out: "It is unfair that the Scheduled Castes and the Indian Christians living in Hoshiarpur, Jullundur, Ludhiana and Ferozpur districts should be placed together with Hindus and Sikhs of these areas for the purpose of partitioning the Punjab. These two minorities have already made representation to the Governor of the Punjab that their lot should not be thrown in with either party without giving the opportunity for a free choice." *The Statesman*, June 9, 1947.

The Christian leader, S.P. Singha, had asked the Governor of the Punjab for an open choice for the Christians. *The Statesman*, June 6, 1947.

A member of the Commission, Din Muhammad, protested at the reference terms of Muslim/non-Muslim, as in various tehsils the Christians and Scheduled Castes had a balancing position. S.M. Rai, *op. cit.*, p. 53.

satisfy certain tests, the most important of which are stability and continuity. Throughout long years, the river Hoogly has not changed its course, therefore the League demanded that the river Hoogly and Bhagirathi up to Katwa and Brahmini thereafter should form the boundary line between the Muslim majority and the non-Muslim majority areas of Bengal. The situation of the city of Calcutta, it was contended, made it a part of the Muslim majority area. In this claim for Calcutta, the League's representative stated before the Commission that even according to the popular notion East Bengal began from the eastern side of the Hoogly and West Bengal from the western side. The railway and river routes from East Bengal terminated at Calcutta. The city had been built by the resources of East Bengal, and there was a general concensus that without Calcutta, the eastern part of Pakistan would be a rural slum. The League also argued that since West Bengal contained a smaller area than East Bengal, it could not justly claim the city.<sup>1</sup>

The Muslim League further claimed the whole of the Surma Valley (Sylhet and Cachar), and the district of Goalpara, the Garo and Lushai Hills, three thanas of Kamrup and fringes of the Khasi and Jiantia were demanded in order to achieve a strategic and natural frontier for East Pakistan.

The terms of reference for the Boundary Commission were merely 'to demarcate the Muslim majority areas of the adjoining districts of Assam' and were thus open to differing interpretations. The Muslim members of the Commission were convinced that these terms implied the Muslim majority districts of Assam which were contiguous to both East Bengal and Sylhet. The Chairman, Sir Cyril Radcliffe, however, thought otherwise, and gave his verdict in favour of India—namely, that the 'adjoining districts' in question were only those adjoining East Bengal. This interpretation limited the scope of the mandate of the Sylhet referendum, leaving Muslim majority territories of Assam adjoining Sylhet entirely out of the picture.<sup>2</sup>

The Radcliffe Boundary Award was announced by Lord Mountbatten on the evening of August 17, 1947, in New Delhi<sup>3</sup>—

<sup>1</sup>*Ibid.* (Muslim League's case) July 18, 23, 24 and 25, 1947.

<sup>2</sup>(Assam) Partition Proceedings (The League's case) *The Statesman* (Calcutta) August 6, 1947.

<sup>3</sup>*Gazette of Pakistan Extraordinary* (Karachi, August 17, 1947). See Appendix I—*Radcliffe Award*.

two days after the inception of the sovereign States of the Indian Union and Pakistan, so that for these days the two States remained territorially undefined. It was a two-page document and a line drawn on a map of the subcontinent. The award came as a shock to the Muslims. Since then, it has been criticized for lack of imagination, ignorance of the area, and injustice.<sup>1</sup> Sir Cyril's fairness was said to rest on the equality of the displeasure of the different communities, gaining the merit of 'unanimity' in their 'denunciation of communal injustice'. The Quaid-e-Azam accepted the Award with these words: "No doubt we feel that the carving out of this independent Muslim State has suffered injustice. We have been squeezed in as much as it was possible, and the latest blow that we have received was the Award of the Boundary Commission. It is an unjust, incomprehensible and even perverse award. It may be wrong, unjust and perverse; it may not be a judicial but political award, but we had agreed to abide by it and it is binding upon us. As an honourable people we must abide by it. It may be our misfortune, but we must bear up this one more blow with fortitude, courage and hope."<sup>2</sup>

The delay in the Award and the alleged change in the boundary aggravated by the conflicting accounts of the episode from most authoritative writers,<sup>3</sup> make the Pakistanis feel betrayed. By stretching the latitude provided by the reference to

<sup>1</sup> *Dawn* (August 18, 1947) asserted that the Award was so unfair as to absolve the Pakistan Government of its prior undertaking to accept it, and added that "even if the Government accepts the territorial murder of Pakistan, the people will not." Cited in *Manchester Guardian* August 19, 1947.

The veteran Muslim League leader, Sardar Nishtar, regarded it as "extremely unfair and unjust to Pakistan", and "a parting kick of the British". *The Statesman* (Calcutta), August 19, 1947.

<sup>2</sup> Speech broadcast on October 30, 1947, from Radio Pakistan, Lahore.

<sup>3</sup> Alan Campbell-Johnson wrote on August 9, 1947: "It is rumoured that Radcliffe will be ready by this evening to hand over the Award of the Punjab Boundary Commission to the Viceroy." *op.cit.*, p. 176. On page 177, he writes: "it was suggested that... the Award would in any case be bound to touch off trouble, the best date to release it would be on the 14th August. Mountbatten said that, if he could exercise some discretion in the matter, he would much prefer to postpone its appearance until after the Independence Day celebrations...." Again, on page 178, he says: "Three days have passed since the first warning, and the Award is still not ready."

On August 8, 1947, Sir George Abell, Private Secretary to the Viceroy, wrote to Abbott the Private Secretary to the Governor of the Punjab, Sir Evan Jenkins: "I enclose a map showing roughly the boundary which Sir Cyril Radcliffe proposes to demarcate in his award, and a note by Christopher Beaumont (Sir Cyril's Private Secretary) describing it. There will not be any great change from this boundary, but it will have to be accurately

'other factors', Radcliffe awarded large contiguous Muslim majority areas to the Indian Union, while the same factors were left unconsidered in relation to Pakistan, so that in the Punjab

defined with reference to village and *zail* boundaries in the Lahore district." Therefore the following observation of Hodson is left to the reader's judgement without comment: "Sir Cyril was aware that such correspondence was proceeding but did not see either the letter or the map. Lord Mountbatten knew of Sir George Abell's letter, after it had been sent, but not, until much later, of its contents, and never saw the map, of which no copy was kept in the Private Secretary's files... On or about 11th August Sir Evan Jenkins received a cypher telegram reading 'Eliminate Salient'. He correctly understood this to refer to the Ferozpur area. The two tehsils in question were not thought by him to be of any great significance, but they were subsequently regarded as highly important by Pakistan for military and irrigation-water reasons. Lord Radcliffe, on this and all other points, has steadfastly refused to supplement or discuss his awards." *op. cit.*, pp. 352 and 353).

V.P. Menon wrote, "Sir Cyril was ready with his award on 13 August." *The Transfer of Power*, p. 402. The Award actually bears the date August 12, 1957.

Muhammad Munir, an ex-Chief Justice of the Supreme Court of Pakistan, who was a member of the Punjab Boundary Commission, wrote as follows in the *The Pakistan Times* (Lahore) on June 3, 1964, under the heading "Days to Remember": "The reason given was not in the mind of Sir Cyril on the 8th of August when the contents of the Award were communicated by George Abel to Sir Evan Jenkins... it is a subsequent invention."

Radcliffe wrote in his Award: "I have hesitated long over these not inconsiderable areas of the Sutlej river and the angle of the Beas and Sutlej rivers in which Muslim majorities are found."

Justice Munir added: "The irresistible inference, therefore, is that he must have been prevailed upon by Lord Mountbatten to make the desired alteration."

Chaudhri Mohammad Ali, who was one of the two Secretaries to the Partition Council presided by Lord Mountbatten, writes: "He (Liaquat Ali Khan) asked me, on my return to Delhi (on August 10, 1947), to see Lord Ismay and convey to him, from the Quaid-i-Azam, that if the boundary actually turned out to be what these reports foreshadowed, this would have a most serious impact on the relations between Pakistan and the United Kingdom, whose good faith and honour were involved in this question. When I reached Delhi, I went straight from the airport to the Viceroy's house, where Lord Ismay was working. I was told that Lord Ismay was closeted with Sir Cyril Radcliffe... when after about an hour I saw him, I conveyed to him the Quaid-i-Azam's message. In reply, Ismay professed complete ignorance of Radcliffe's ideas about the boundary and stated categorically that neither Mountbatten nor he himself had ever discussed the question with him... There was a map hanging in the room and I beckoned him to the map so that I could explain the position to him with its help. There was a pencil line drawn across the map of the Punjab. The line followed the boundary that had been reported to the Quaid-i-Azam... Ismay turned pale and asked me in confusion who had been fooling with his map. This line differed from the final boundary in only one respect... the Muslim majority tehsils of Ferozpur and Zira in the Ferozpur district were still on the side of Pakistan in the sketch map." *op. cit.*, pp. 218-9. (Words in brackets added.)

Sir George Cunningham's Diary—1947, p. 34: "Jinnah says he has documentary proof that the Report was in Mountbatten's hands by 7th August and could have been published then if Mountbatten had not held it up. Jinnah was very bitter about the whole thing" (February 9, 1948). Quoted from Khalid bin Sayeed, "Jinnah and His Political Strategy" in *The Partition of India*, *op. cit.*, p. 292.



it lost much and gained not a single area. The reallocation of the greater portion of the Muslim majority district of Gurdaspur to the Indian Union caused the greatest resentment among Pakistanis. They alleged that the Mountbatten-Radcliffe Axis inflicted the greatest damage to the territoriality of Pakistan.<sup>1</sup> It is felt that if the Indian Union had not held Gurdaspur, it could scarcely have intervened in the State of Jammu and Kashmir, for it would then have had no land access to it. When a former Prime Minister of Pakistan, meeting Radcliffe at New York in 1956, asked him why he had changed his Award for the Gurdaspur district, Radcliffe replied, "Because I felt that the river would be a better boundary".<sup>2</sup> But then why not the river Sutlej, or failing that, the Beas as a compromise—why all the way west through Muslim majority areas to the river Ravi?

As Radcliffe had decided to award Calcutta to India, he also assigned nearly one-third of the district of Nadia and a portion of Jessore to West Bengal. The district of Murshidabad was awarded to West Bengal. Nearly 6,000 square miles of territory with a population of 3.5 million Muslims, which had been provisionally assigned to Pakistan, were severed from it and transferred to India. Radcliffe said: "If the city of Calcutta must be assigned as a whole to one or the other of the States, what were its indispensable claims to the control of territory, such as all or part of the Nadia river system or the Kulti river on which the life of Calcutta as a city and port depended."<sup>3</sup>

But the districts of Northern Bengal, which were even more dependent upon the river Teesta for their existence, were severed from the river system by the Award allocating Darjeeling and Jalpaiguri to India. The population affected by the severance was four times that of the city of Calcutta. Pakistan also lost portions of Malda and Dinajpur; but this loss was to some

<sup>1</sup>It may be mentioned here that on the non-acceptance of Mountbatten as the Common Governor-General of India and Pakistan, he had threatened Jinnah: "It may well cost you the whole of your assets and *the future of Pakistan*." (Italics added.) See *Viceroy's Personal Report No. 11, July 4, 1947*, cited in Hodson, *op. cit.*, p. 331.

<sup>2</sup>Feroz Khan Noon, *From Memory* (Lahore, 1966), p. 217.

Radcliffe is also reported to have said at the time of the Indo-Pakistan conflict of September 1965: "I wouldn't dream of defending some of the decisions in detail I made at the time... I wasn't aware of the Kashmir thing at all... If I had been, it might have been a factor to take into account." Cf. Taya Zinkin, "Genesis of War", *The Sunday Times*, September 12, 1965, p. 14.

<sup>3</sup>See *Radcliffe Award* in Appendix.

extent compensated by the award of Khulna, a district with almost evenly balanced Muslim and non-Muslim population. The Chittagoᅡg Hill Tracts, "an area in which the Muslim population was only 3 per cent of the whole", were also awarded to Pakistan because "...it was difficult to assign to a State different from that which controlled the district of Chittagong itself."<sup>1</sup> The population of the Chittagong Hill Tracts was mainly aboriginal animist or Buddhist, and the Hindus represented an even smaller proportion of it than the Muslims.<sup>2</sup>

It has been indicated that, by his ruling, Radcliffe had limited the Commission's consideration to the districts of Sylhet and Cachar; he excluded the territories of Goalpara, Garo, Khasi, Jaintia and Lushai Hills on the ground that they did not have "anything approaching a Muslim majority of population in respect of which a claim could be made."<sup>3</sup> He then proceeded to allot the large Muslim majority areas of Haikandi and Karimganj of the districts of Cachar and Sylhet respectively to India. To justify this he said, "In those circumstances I think that some exchange of territories must be affected if a workable division is to result. Some of the non-Muslim thanas must go to East Bengal, and some Muslim territory and Haikandi must be retained by Assam."<sup>4</sup> But this workability thesis clearly favoured India to the detriment of Pakistan, which received no adequate compensation in the area.

It had been hoped that the Governments of India and Pakistan would set up a permanent boundary commission that would mark out the line by mutual adjustment, but this required a spirit of co-operation and understanding between the two countries which was not forthcoming. A joint appeal was issued by the Chief Ministers of East and West Bengal at the time of the Radcliffe Award, saying that "there is nothing to prevent the leaders of India and Pakistan coming to mutual agreement at

<sup>1</sup>*Ibid.*

<sup>2</sup>Lord Mountbatten wrote to London a few days later about Sardar Patel's outburst: 'The one man I had regarded as a real statesman with both feet firmly on the ground, and a man of honour whose word was his bond, had turned out to be as hysterical as the rest...'. he (Menon) thought they (Congressmen) might well refuse to attend the meeting of the Constituent Assembly which the Viceroy was to address that day." Hodson *op. cit.*, p. 350. (Words in brackets added.)

<sup>3</sup>*Partition Proceedings*, Vol. VI, pp. 153-7.

<sup>4</sup>See *Radcliffe Award* in Appendix.

a future date in order to readjust the present Award if it be that any improvement can be made on it. . . ."<sup>1</sup> H.S. Suhrawardy, the last Chief Minister of United Bengal, suggested referring the matter to some tribunal or the United Nations Organization.<sup>2</sup> It was reported in the press that the Government of India intended to modify the terms of the Bengal and Punjab Boundary Commissions by such methods 'as may be found suitable'.<sup>3</sup>

There are about 4,000 miles of these frontiers between Pakistan and India: some 2,500 miles between East Pakistan and the Indian States of West Bengal, Assam and Tripura, and around 1500 miles between West Pakistan and the Indian territories of Kutch, Rajasthan and East Punjab. Pending the solution of the Indo-Pakistan dispute over the State of Jammu and Kashmir, the cease-fire line between Indian-held and Pakistan-held territories in Kashmir has been an uneasy line of separation since January 1, 1949. This, of course, has lengthened the common border between India and Pakistan and made their mutual and interrelated problems even more complex. Glaring evidence of this was provided when, in September 1965, India crossed the international boundary in the Punjab. When the British jurist, Sir Cyril Radcliffe drew the frontiers of the States of India and Pakistan on paper, he probably had little inkling that 20 years later the frontiers would still be subjected to warlike disputes.<sup>4</sup> But Radcliffe's Award was by its nature bound to raise issues of acute concern to both States, and especially to Pakistan.

It would, however, be wrong to lay the entire blame for Pakistan's post-independence territorial or frontier troubles at Radcliffe's doorstep. The Muslim League leadership must take its share of the responsibility for accepting a Pakistan which neither fully represented the translation of its concept (or that of the two-nation theory) in territorial terms, nor appeared to resemble any of the original territorial schemes for a Muslim homeland in the subcontinent. Economics and geography were never among the strong points of the Muslim League, and the eventual territorial scope of the new State suffered on account of the League leaders' preoccupation with the problem of stat-

<sup>1</sup>Khawaja Nazimuddin and Dr. Ghosh's Joint Appeal, *The Statesman* (Calcutta), August 19, 1947.

<sup>2</sup>*Ibid.*, August 22, 1947. <sup>3</sup>*Ibid.*, September 13, 1947.

<sup>4</sup>Cf. footnote 2 on p. 39.

ing why they demanded Pakistan and why such a State could not remain part of India after independence, to the comparative neglect of its precise shape and size. When first mooted, the idea of Pakistan was so novel, and seemed so impractical that the League leaders themselves were far from convinced that they had a winner in their hands. Had it not been for the mass communal upheaval that set most of North India alight between 1945 and 1947 and virtually forced the pace of events towards partition, Pakistan might never have come into being.

So, the League leaders were caught in an ambivalent situation of wanting Pakistan to fulfil their Islamic purpose and not being sure whether they could ever obtain their Muslim State. This made them all the more prepared to accept alterations and adjustments in their territorial claims if the basic ideology of Pakistan, the principle of the partition of India, was accepted. Thus, from the Lahore Resolution of 1940 through the Cripps Proposals of 1942 to the eventual establishment of Pakistan itself, it was all too obvious that, in these seven fateful years of turmoil and strife before independence, the entire character of the campaign for Pakistan was such that the Muslim League's order of priorities gave ideology the first place and territoriality a poor second.<sup>2</sup> The astonishing thing about the League's politics in undivided India was that it claimed to be the sole political organization of all the 100 million Muslims of the subcontinent, and yet in June 1947 it accepted a Pakistan which, according to the 1941 census, had a total population of only 70 million, of which over 18 million were non-Muslims.<sup>3</sup>

Professor Mujeeb, an eminent Indian Muslim scholar, voices criticism of this aspect of the situation with some bitterness, "If Mr. Jinnah was sincere in regarding the Muslims as a separate nation and demanding a separate territory for them, it was his obvious and inescapable moral duty to define the

<sup>1</sup>Cf. footnote 1 on p. 38.

<sup>2</sup>Liaquat Ali Khan, while Finance Member of the Interim Government, told Mountbatten in April 1947: "If Your Excellency was prepared to let the Muslim League have only the Sind Desert, I would still prefer to accept that and have a separate Muslim State in those conditions than to continue in bondage to the Congress with apparently more generous concessions." Cf. Hodson, *op. cit.*, p. 224.

<sup>3</sup>By 1951, when the next Census was taken, population growth and migrations between Pakistan and India had changed the demographic picture of Pakistan as follows: Total population 75.64 million, non-Muslims 10.68 million. But there were then still over 40 million Muslims in India.

boundaries of Pakistan. He should also have realized that a transfer of populations would be inevitable. In the event, the Indian Muslim 'nation' was entrusted to a commission to be divided up as it thought fit, and the transfer of populations took place under conditions of incredible savagery. And the problem of the Indian Muslims was not solved. They became a much smaller minority in India, physically not less but more vulnerable by the creation of the separate State of Pakistan, with their loyalties obviously open to suspicion and doubt, and their future nothing but the darkness of uncertainty."<sup>1</sup>

But the point is that the Muslim League, haunted though it was by the concept of 'such territorial adjustment as may be necessary', had originally claimed the whole of Bengal and the whole of the Punjab. It fell back from this demand only when the alternative appeared to be a total Balkanization of the sub-continent—or worse still, the victorious emergence of the democratic majority principle of the Congress applied to the sub-continent as a whole.<sup>2</sup> Even later, after agreeing to the division of these provinces, it still laid claim to far more territory than it was awarded by Radcliffe—as indeed, we must not forget, was the case with the Congress claim, too. It seems that under the circumstances more was not possible; and as is all too frequently the case in the history of nations, considerably less than a full solution had to be accepted. The Quaid-i-Azam himself, while ascending the steps of the Governor-General's House at Karachi in August 1947, is reported to have remarked to an

<sup>1</sup>M. Mujeeb, *The Indian Muslims* (London, George Allen and Unwin, 1957), p. 440.

<sup>2</sup>Cf. how Premier Clement Attlee's statement to the House of Commons on February 20, 1947, had made this clear in quite unmistakable terms—p. 21.

B. N. Pandey, in his book, *The Break-Up of British India*, writes: "... Mountbatten, after despatching the Plan to London, was worried whether Jinnah would accept it. What would he do if Jinnah did not accept the Plan? In that case as he was advised by Abell and Ismay, he should transfer power to the Central Government, which was then headed by Nehru, leaving Jinnah to the 'tender mercy of the Hindus', or if Jinnah changed his mind within three years, giving him a much more truncated Pakistan." Pandey, *op. cit.*, p. 197. See also Government of India Records, quoted in Leonard Mosley, *The Last Days of the British Raj* (London, Wiedenfeld & Nicolson, 1961), p. 115.

The purpose of the Demission Plan for which the Viceroy obtained His Majesty's Government's approval "was to hold the sword of Damocles over the Muslim League. The conditions under which partition was being carried out were being made as unfavourable to Pakistan as possible. If the Muslim league should find these conditions intolerable, they would be faced with the worse alternative of being placed in the power of the Hindus." Chaudhri Muhammad Ali, *op. cit.*, p. 140.

aide with tears in his eyes: "Do you know, I never expected to see Pakistan in my lifetime. We have to be very grateful to God for what we have achieved."<sup>1</sup>

<sup>1</sup>S. M. Burke, "Four Successive Steps to Pakistan", *Dawn*, December 25, 1968.

## CHAPTER II

# Pakistan and India

As each of the two zones of Pakistan has its own separate set of frontiers with India, it is naturally convenient to consider frontier relations between the two States under separate headings for their frontiers in the east and in the west.

### *East Pakistan and India*

East Pakistan is like a promontory surrounded by Indian territories. Except for a small stretch of border with Burma in the extreme south-east (which first became a formal international frontier with the separation of Burma from British India in 1937), and with the further exception of Tripura State in the east, all of East Pakistan's land boundaries are those of the Radcliffe Award. The border with Assam, in the territories of the Garo and Khasi Hills, was also adjudged by Sir Cyril Radcliffe, and, with the exception of Sylhet, the old provincial boundary between Assam and Bengal also became the Radcliffe frontier of 1947. The southern frontier, of course, is the Bay of Bengal.

The Radcliffe line required proper definition and demarcation on the ground if future border clashes were to be avoided. Actually the first major incident, after the enormous upsets and migrations immediately following Partition had died down,

took place in the beginning of 1948—in the area of the Patharia Reserve Forest on the East Pakistan Assam border. India alleged that the Armed Forces of Pakistan had seized 43 square miles of territory in Assam.<sup>1</sup> In fact, the situation was quite the opposite<sup>2</sup>: Indian forces had trespassed into the territory of Pakistan.<sup>3</sup> The Indian Prime Minister, Jawaharlal Nehru, had stated that the border clash was due to a dispute over 22 square miles of territory, which “had been awarded to India by the Boundary Commission”. He sent a strong protest to Pakistan, even threatening that India “might have to consider other action”.<sup>4</sup> As was to be expected, Pakistan replied in the tone: “We cannot remain silent spectators, however, if the other side take any step by which we feel the national honour and safety is endangered”.<sup>5</sup> But here belligerence between the two countries did not go any further, and they agreed to call a high-level inter-Dominion Conference to settle the dispute by negotiation.

The Indo-Pakistan Conference, held at Calcutta, in April 1948, brought forth an accord on all points of dispute, political and economic, between East Pakistan and the adjacent provinces of India. The most important decision concerned the easing of border tensions and the encouragement of Indo-Pakistan amity. The Conference, agreed “that any propaganda for the amalgamation of Pakistan and India or of portions thereof, including East Bengal, on the one hand, and West Bengal or Assam or Cooch Behar or Tripura, on the other, shall be discouraged. (The word propaganda shall be taken as including any organization which might be set up for this purpose)”.<sup>6</sup> A campaign had been going on in India, particularly in West Bengal, with the object of either undoing the Partition or disrupting the Radcliffe boundary. Slogans were raised to the effect that “East Bengal must concede territory for evacuees, otherwise India must be prepared for all eventualities”<sup>7</sup>. As we shall see later, this campaign did not stop, and the Indian Central and Provincial Governments did little to honour the pledge.

<sup>1</sup>*The New York Times*, February 8, 1948.

<sup>2</sup>*The Scotsman* (Edinburgh), February 9, 1948.

<sup>3</sup>*Ibid.*

<sup>4</sup>*The Hindu* (Madras), January 22, 1948.

<sup>5</sup>*Ibid.*, January 22, 1948.

<sup>6</sup>*The News Chronicle* (London), November 8, 1948.

<sup>7</sup>*Ibid.*,



The Conference also tried to ease the difficulties of the people of the border areas. Partition had divided many cultivators from their fields. A provision was made to allow cultivators living on either side of the Indo-Pakistan border to take across commodities produced by them for their domestic consumption.

Both Pakistan and India realized that the unhappy situation on the East Pakistan-India border, arising out of the ambiguities of the Radcliffe Award, might lead to intermittent armed clashes between them. In view of this, they concluded an agreement in Delhi on December 14, 1948, to set up a tribunal, not later than January 31, 1949, for the adjudication and final settlement of disputes and thereafter for demarcating the boundary between East Pakistan and India. By the common consent of both parties, Justice Algot Bagge, an ex-member of the Supreme Court of Sweden, was appointed Chairman of the tribunal; Justice M. Shahabuddin, of the Dacca High Court, and Justice C. Aiyer, of the Madras High Court, were nominated by Pakistan and India, respectively. The tribunal in its first meeting at Calcutta, on December 3, 1949, decided to designate itself as 'The Indo-Pakistan Boundary Disputes Tribunal, 1949-1950'.<sup>1</sup> There were four sittings of the Tribunal, two at Calcutta, and two at Dacca. The decision of the Tribunal was announced on February 5, 1950;<sup>2</sup> but the date of the boundary demarcation of the East Pakistan and West Bengal-Assam borders was extended to August 1950.

There were four major disputes (two on the East Pakistan-West Bengal boundaries and two on the East Pakistan-Assam boundaries). (1) The first dispute concerned the boundary between Rajshahi district (East Pakistan) and Murshidabad (West Bengal). (2) The second dispute related to the portion of the boundary located between the point on the Ganges river where the channel of the Matabhanga took off according to Sir Cyril Radcliffe's Award and the northern most point where the channel met the boundary between the thanas of Daulatpur (Pakis-

<sup>1</sup>See Nafis Ahmad, "The Indo-Pakistan Boundary Disputes Tribunal, 1949-59", *The Geographical Review*, July 1953, pp. 329-37.

<sup>2</sup>*Gazette of Pakistan Extraordinary* February 5, 1949, Ministry of Foreign Affairs and Commonwealth Relations, Notification No. 1 A.131-50, Karachi.

See also *The Times* (London), February 6, 1950—"East Bengal Frontier Award"; *The Statesman* (Calcutta), February 6-7, 1950.

tan) and Karimpur (India). (3) The third dispute concerned the Patharia Hill Reserve Forest, situated in the south-eastern corner of the Sylhet district. (4) The fourth dispute arose from the changing course of the Kusiya river, which had been made the Radcliffe boundary between East Pakistan and Assam.

*Dispute 1:* Where rivers form boundaries, it is sometimes difficult to determine their true alignment, as some rivers are liable to change course not only from year to year, but also at different seasons of the same year. At the time of Radcliffe's Award, the flow of the Ganges river coincided with the district boundary between Rajshahi and Murshidabad, so it was convenient to make the river the international frontier between Pakistan and India. A subsequent shift in the course of the Ganges revived the problem of a proper demarcation. Pakistan contended that the boundary had shifted according to the course of the river. India, on the other hand, maintained that the line actually marked by Radcliffe on the map was the line of demarcation. In other words, Pakistan wanted a flexible boundary, India a rigid one. Justice Bagge accepted the view that a fixed frontier rather than one varying with the course of the Ganges should be adopted.

*Dispute 2:* Here again, the confusion arose due to the fact that the thana boundary of Daulatpur (Pakistan) and Karimpur (India) had followed the Matabhanga, one of the main tributaries of the Ganges, which had become non-perennial. As in the first dispute, Pakistan wanted a flexible and India a fixed boundary. In this case, on the basis of aerial maps of 1948 and other documents, Pakistan proved that the course of the Matabhanga drawn by Radcliffe did not exist in reality. The Chairman accepted Pakistan's view and awarded a 'fluid' boundary line further south in terms of the course of the river. By this decision Pakistan gained a small piece of 'char' territory.

*Dispute 3:* Both Pakistan and India claimed additional areas on either side of the Radcliffe line dividing the Patharia Hill Reserve Forest (30 square miles of territory). Radcliffe had partitioned the Sylhet district, which was a part of Assam, between the thana of Barlekha (Pakistan) in the West and Patharkandi (India) in the east, which also divided the Patharia Forest. Pakistan's argument was that the district map of Sylhet prepared by H.H. Creed, Superintendent of Assam Surveys,

in 1937, on which the Radcliffe line was based, had given an incorrect picture of the thana boundary between Barlekha and Patharkandi, and that in fact the whole of the Patharia Forest was a part of Barlekha. India, on the other hand, pleaded that even if the whole Forest was not given to it, in no case could its portion east of the Radcliffe line be transferred to Pakistan. A point of special interest to India was that the Patharia Test Point, where the Burma Oil Company was carrying on prospecting experiments, should remain on the Indian side. The Tribunal maintained the *status quo*.

*Dispute 4:* The last of the four disputes had arisen due to the confusion in the name of the Kusiya river. The Berek river bifurcates at the Sylhet (East Pakistan) and Cachar (Assam) border into the northern stream, called Surma, and the Southern Boglia, or the Kusiya. The Boglia, in turn, divides into two branches. The one that flows westward from the north of Karimganj town (India) continues to be identified on maps as Boglia, whereas the name of Kusiya appears only on the west of the Radcliffe line. The smaller branch in the south-west flows under the changing names of the Natikhal, the Pooran Kusiya or the Sonar. Pakistan submitted that the Radcliffe boundary was based on the southern Kusiya river, not the northern one. To support its contention, Pakistan produced a number of maps (Rennel's 1772, Fisher 1882, Thuiller's Survey). India maintained that Radcliffe's Kusiya was the Boglia, the northern branch of the river. To prove this, India presented the documentary evidence of the *District Gazette of Sylhet, 1905, the Imperial Gazetteer, 1909, and the Sylhet District of May 1937*. The Chairman of the Tribunal accepted India's stand, though he admitted the confusion in regard to the name and course of the Kusiya river. "Although the matter appeared to have been decided, India subsequently raised the issue that additional evidence showed that even the boundary which Radcliffe had accepted as the line between Barisari and Gobindapur was wrong and should be west of the awarded boundary." This assertion held up the demarcation of the Radcliffe-Bagge Award in this sector, and the controversy continued.

Unfortunately, the Bagge Award came at a time when the

1. A. Tayyeb, *Pakistan: A Political Geography* (London, O.U.P., 1966), p. 95.

communal riots in the two Bengals had brought Pakistan and India to the edge of a precipice. Under these circumstances, it would have been over-optimistic to expect that the Award might be fully and effectively implemented. Even the fact that such an award had been made and accepted was a rare example for the peaceful settlement of other Indo-Pakistan disputes.

It has been mentioned that the Indo-Pakistan Agreement of April 1948 (in Paragraph 3 of Section 1) had stated that "Any propaganda for the amalgamation of Pakistan and India or of portions thereof, including East Bengal, on the one hand, and West Bengal and Assam or Cooch-Bihar or Tripura, on the other, shall be discouraged".<sup>1</sup> But the Indian Deputy Prime Minister, Sardar Patel, in a speech at Calcutta on January 14, 1950, remarked "Artificial boundaries cannot separate them (the Hindus of East Bengal) from us. How can we go to their help? If we can express sympathy with the people of South Africa and run to their assistance, it is easier to do so in the case of the people in East Pakistan. Do not forget that important limbs of your mother India have been cut".<sup>2</sup> It was no surprise when, at the beginning of 1950, the Hindu Mahasabha and the Rashtriya Swayam Sevak Sangh (RSS) openly came out with a demand for the forcible seizure of East Pakistan and the repudiation of Partition.<sup>3</sup> The echo of Patel's speech also found expression in the establishment of a 'Provisional Government of East Bengal' in Calcutta. The Hindu extremists even raised an irregular army to take 'police action' against East Pakistan. On February 5, 1950, in a public meeting at Rawalpindi, Liaquat Ali Khan stated that India was making preparations for war.<sup>4</sup>

In the face of such a political atmosphere and consequent severe riots in the two Bengals, Nehru's threat of 'other methods' resulted in a further deterioration of Indo-Pakistan relations. On February 23, 1950, the Indian Prime Minister warned Pakistan in his Parliament: "If the methods we have suggested are not agreed to, it may be that we shall have to adopt *other methods*." He added "To me it appears that what has happened in Kashmir and what is happening in East Bengal are all interlinked and we

<sup>1</sup>*The News Chronicle* (London), November 8, 1948.

<sup>2</sup>*The Annual Register*, 1951, p. 119. (Bracketed words added.)

<sup>3</sup>*The Hindu* (Madras), January 14, 1950.

<sup>4</sup>*Weekly Pakistan News* (London), February 18, 1950.

<sup>5</sup>*India News* (London), March 4, 1950. (Italics added.)

cannot separate them".<sup>5</sup> This unfortunate statement, particularly interlinking a part of sovereign Pakistan with the disputed territory of Kashmir, was taken by Pakistanis as an open threat to the territorial integrity of their State. This was certainly not a step towards peace in the subcontinent, as it generated a war-like atmosphere. Pakistan's Prime Minister, Liaquat Ali Khan, invited "all the peace-loving people of the world to note this threat. . ." He said, "The truth of the matter is that the leaders of India have not accepted Pakistan and keep on devising methods of undoing it. But Pakistan is an unalterable fact. The sooner this is realized by the leaders of India, the better it will be for the stability and progress of this subcontinent."<sup>1</sup>

By the spring of 1950, Pakistan was faced with great threats to its security: Indian Armed Forces were within striking distance on both its eastern and western borders. Major-General J.N. Choudhury, who had the experience of the Hyderabad 'Police action' behind him, was reported to have made a reconnaissance tour of the West Bengal border areas.<sup>2</sup> The grim border situation of that time has been aptly described by Ian Stephens, a former editor of the distinguished newspaper, *The Statesman* (published simultaneously from Delhi and Calcutta): "By the first week of March, whatever Delhi's intentions, war had nearly come: the two countries were within a hair's breadth of it. Troops had been moved, not only in Bengal but—more perturbing—in the Punjab. India's armoured division, to which no real Pakistani counterpart existed, was pushed forward in a way which threatened Lahore."<sup>3</sup> The Indian press and several Indian leaders were demanding a declaration of war on Pakistan.<sup>4</sup> This dangerous situation remained unchanged till the signing of the Liaquat-Nehru Agreement on the Minorities' Security, on April 8, 1950. This Indo-Pakistan reconciliation came as an anticlimax to the war hysteria in the subcontinent. Nehru told the Indian Parliament: "We have stopped ourselves at the edge of the precipice and turned our back to it."<sup>5</sup>

But, to a student of Indo-Pakistan relations, the agreement was merely a temporary lull in the long and tragic conflict bet-

<sup>1</sup>*The Times* (London), February 28, 1950.

<sup>2</sup>*Dawn*, March 18, 1950.

<sup>3</sup>Ian Stephens, *Horned Moon* (London, Chatto & Windus, 1953), p. 33.

<sup>4</sup>*The New York Herald Tribune*, April 11, 1950.

<sup>5</sup>*Ibid.*

ween the two countries.<sup>1</sup> Only a year later, in July 1951, the friction between India and Pakistan on the western frontier became as fierce as it had been on the eastern frontier in March 1950. At that time, Pakistanis were surprised to learn that India, contrary to its assurance under the Delhi Agreement, had not removed its forces from the borders.<sup>2</sup>

In 1958 the East Pakistan-Assam border, where intermittent skirmishes had continued, again became the scene of more serious clashes. The conflict arose over the ownership of some fertile charlands on the Pakistani side of the Surma river. Pakistan had earlier claimed the entire channel of the river, but had later accepted the mid-stream as a compromise boundary. India's objection to Pakistani fishermen fishing on their side of the river was resented by Pakistan. It maintained that half of the river channel was Pakistani territory, and that its nationals had every right to use that part of the river.<sup>3</sup> The Deputy Commissioner of Cachar (Assam) refused to accept the Pakistani claim over any part of the Surma river. On the contrary, he gave a 'river ultimatum' to his counterpart in Sylhet (East Pakistan) to abandon Pakistan's claim over any portion of the Surma.<sup>4</sup> Pakistan regarded this as a serious and highly provocative attitude.<sup>5</sup>

Even then the matter might have been settled at the district level. But Indian leaders' utterances on the issue turned it into a more serious international problem. The Indian Defence Minister, Krishna Menon stated: "The Indian army could go to the aid of police guarding India's frontier in case there should be an attempt by anybody to walk on our soil."<sup>6</sup> He further observed that India had no fears regarding its borders with Burma, China and the Soviet Union. Obviously, Menon thus singled out Pakistan as the only country whose frontiers with

<sup>1</sup>According to the Indian Home Ministry's annual report, in 1969, 519 communal incidents took place in India, as against 346 in 1958. See *Dawn*, May 15, 1970. See also *Dawn*, May 18, 1970: "*The Carnage and its Causes*"; *Ibid.*, May 14, 1970: Pakistan Protest—"It is a matter of great regret that the Government of India seem to have taken no concrete steps under the Liaquat-Nehru Agreement of 1950". *Ibid.*, "Bhiwandi and the Aftermath", May 16, 1970; *Ibid.*, "140 Senas or 'Armies' operate in India...", September 1, 1970.

<sup>2</sup>*Ibid.*, July 16, 1951 (Liaquat's Statement).

<sup>3</sup>*The Times* (London), April 15, 1958.

<sup>4</sup>*Manchester Guardian*, April 18, 1958.

<sup>5</sup>*Dawn*, May 14, 1958.

<sup>6</sup>*The Hindu* (Madras), June 6, 1958.

India could cause trouble. Then the Indian Home Minister, Govind B. Pant, came out with his bellicose utterance: If the wanton shooting across the border did not stop at Assam, then *India's might would have to be shown to Pakistan* in a befitting manner and to teach Pakistan a lesson.<sup>1</sup>

Pakistan's Foreign Office summoned the Indian High Commissioner and handed over an *aide-memoire* asking India to withdraw its Forces from Pakistan's territory immediately. He was told that Pakistan took a serious view of India's repeated acts of aggression and the Indian Home Minister's threat of military action. The *aide-memoire* listed Pakistan's protests at the continued border incidents, both in East and West-Pakistan; the massings of Indian troops at various points of the East Pakistan-Assam border; the forcible occupation of Lakshmipur village in the Teppera district of East Pakistan; and the firing on Pakistan's border patrol.<sup>2</sup> However, Pakistan adopted a sober attitude in spite of severe public reaction. The acting Prime Minister stated that Pakistan would like nothing more than the complete elimination of Indo-Pakistan border disputes, though he had to pacify public feeling by saying that "however peaceful our policies may be, we will not be bullied by India or by anyone else."<sup>3</sup> The tempo of public feeling on the issue was mirrored by *Dawn* in its comment on August 9, captioned, *Expell the Aggressor*: "If a Government cannot fulfil the primary responsibility of defending the country's frontiers, it has no right to be there."<sup>4</sup>

Armed clashes had already begun on the 15-mile Surma sector. They had spread to Kumarshail and Pathkhal (tea estates) of the Sylhet district. In addition to their firing in the Lakshmipur, Patharia and Surma sectors, Indian Forces were reported to have opened fire on outposts at Tamabil, Sonatila, Sonargam, and Punji in the Plyain sector, which had remained calm throughout the earlier border clashes.<sup>5</sup>

India alleged that the border clashes had started in consequence of the 'Operation Closed Door' policy of the Chundrigar Government of Pakistan.<sup>6</sup> This was a military drive to stop

<sup>1</sup>*Ibid.*, June 7, 1958. (Italics added.)

<sup>2</sup>*Dawn*, August 3, 1958.

<sup>3</sup>*Ibid.*, August 8, 1958.

<sup>4</sup>*Ibid.*, August 9, 1958.

<sup>5</sup>*Ibid.*, August 16 and 17, 1958.

<sup>6</sup>*The Hindu* (Madras), August 28, 1958.

smuggling across the East Pakistan border, which was both a lucrative and widespread practice at all times, but particularly so under conditions of general economic stringency and rigid import curbs. Pakistan, on the other hand, considered that the increased border clashes were an Indian technique to convince the American Government of the dangers of continuing its military aid to Pakistan. It was certainly an opportune moment, as there seemed to be the possibility of a change in American policy towards the subcontinent. Pakistan's Prime Minister publicly expressed his doubts about the continuance of American military aid after 1959.<sup>1</sup>

In the atmosphere of an undeclared frontier war the Prime Minister of Pakistan showed his readiness to meet the Indian leaders. At a time when there was political instability in the country and the Prime Minister of Pakistan did not enjoy a comfortable position as the leader of a Coalition Government, his (Feroz Khan Noon's) mission to Delhi was a courageous step. He even risked his popularity on the eve of the first General Elections in Pakistan (later the elections were in fact not held due to the imposition of Martial Law on October 7, 1958). Before his departure for Delhi, Feroz Khan Noon declared at a press conference in Karachi: "We wish to settle the question of the boundary in an amicable way. We are, however, not prepared to yield any part of Pakistan's territory as a result of pressure exercised by force or otherwise. Pakistan's territorial integrity will be defended at all costs."<sup>2</sup>

Feroz Khan Noon was the third Prime Minister of Pakistan to visit the Indian capital in pursuit of peace. Liaquat Ali Khan had gone to New Delhi in 1950 to sign the Minorities' Pact. Mohammad Ali Bogra visited the Indian capital more than once during the years 1953-55 to negotiate a peaceful settlement of the Kashmir dispute. Public opinion in Pakistan was quite sceptical about entering into any agreement with India, in view of its record of not honouring its commitments with Pakistan. To quote but one example, the Bagge Tribunal decisions in regard to the East Pakistan-India frontier had been given little consideration. A public meeting at Karachi condemned

<sup>1</sup>"The Prime Minister said that he had heard rumours that American military aid would end in 1959. He believes that if this is so, it is under the pressures from Bharat (India)", *Dawn*, March 30, 1958.

<sup>2</sup>*The Times* (London), August 18, 1958.



the Prime Minister's forthcoming visit to New Delhi, and warned that the country would not be bound by any commitments. Pakistanis felt that a border settlement with India could only be successful on the basis of simultaneous transfers of territories between the two countries.

### *The Noon-Nehru Agreement*

The Prime Minister of Pakistan visited New Delhi from September 9 to 12, 1958. During this period, Feroz Khan Noon and Jawaharlal Nehru discussed various Indo-Pakistan problems with a view to removing causes of tension and establishing peaceful conditions in the border areas. The two Prime Ministers sorted out 11 disputes in regard to the Radcliffe-Bagge Award. The Indian point of view was that the findings given by the Bagge Tribunal should again be referred to a tribunal which might be set up to resolve border disputes. Pakistan took the view that the sanctity and finality of an award given by an impartial tribunal must be accepted and honoured. If any compromise were made in this matter, no one would have any confidence in any tribunal. Therefore, for Pakistan it was a question of 'implementing', and for India of 'interpreting' the Award.

However, the two Prime Ministers signed an agreement, of which the following were the highlights: (a) The territories covered by the Bagge Award in the East Pakistan-West Bengal sector, where demarcation had been completed, were to be exchanged by January 15, 1959. The other disputes, in the region of East Pakistan-Assam, were left for further consideration. (b) A compromise formula was evolved in the sectors of Jessore-24-Parganas and Khulna-24 Parganas, by taking a mean of the claims of East Pakistan and West Bengal. Ichhamati river was allotted to East Pakistan. (c) India agreed to give a piece of land from Tripura 'in perpetual right' to facilitate the passage of the East Pakistan Railways. Some minor disputes arising on account of certain divergences in the description of the Award were also settled: (i) Pakistan agreed to drop the dispute concerning Hilli on the East Pakistan-West Bengal border, and accepted the description in the Radcliffe Award, instead of the

<sup>1</sup>*Dawn*, September 4, 1958.

Radcliffe line on the map. (ii) Pakistan also dropped its claim to Sholaganj (East Pakistan-Assam border). Both India and Pakistan agreed to provide equal navigation facilities to their nationals in the Plyain and Surma rivers.

In several cases, awkward little enclaves of one country's territory were surrounded by that of the other; and these provided a further potential source for border conflicts. About 130 small Indian enclaves in Cooch Behar (former native State and now a part of West Bengal), having a total area of 20,957 acres and a population of about 13,000, were surrounded by East Pakistan's territory. Similarly, 93 Pakistani enclaves, having an area of 12,152 acres and a population of approximately 11,000 were surrounded by Cooch Behar's territory. The administration of these had been difficult for both India and Pakistan. The only solution was a readjustment of territorial boundaries. Mohammad Ali Bogra and Jawaharlal Nehru had in principle agreed to the exchange of enclaves between East Pakistan and West Bengal in 1953; but it had been found very difficult to translate this into a formal agreement. It took nearly another five years to achieve this. Feroz Khan Noon and Jawaharlal Nehru reaffirmed the agreement in 1958. The only enclave situated on the Rangpur (East Pakistan) and Jalpaiguri (West Bengal) border was divided into two halves. The area between the Pachagar Thana of East Pakistan and Berubari Union No. 12 of West Bengal was allotted to India. Pakistan was given the area lower down between the Boda thana of East Pakistan and Berubari Union 12. The two Prime Ministers agreed to expedite the final demarcation after the exchange of enclaves. Significantly enough, it was also agreed that there should be no exchange of population between the areas exchanged.<sup>1</sup>

The Noon-Nehru Agreement referred specifically to those East Pakistan borders with India where there had been several incidents due to obscure boundaries. Nehru, at this time, said that minor adjustments of the frontiers could be done without any change in the constitution or law as they were in the nature of rectifications of the borders. However, despite mutual assurances of expeditious implementation of the Agreement, the

<sup>1</sup>*The Hindu* (Madras), September 12, 1958; *The Times* (London), September 12, 1958; *The Economist* (London), September 20, 1958, p. 926; Government of Pakistan Press Communique, No. 4976, September 11, 1958.

transfer of Berubari Union remained suspended; and the agreement still remains to be implemented after more than a decade.

The Agreement became an issue of constitutional controversy in India and the subject of a tussle between the Central Government of India and the Provincial Government of West Bengal. The Supreme Court of India ruled, in March 1960, that no part of Indian territory could be transferred to another country without an amendment to the Indian Constitution. It also appears that Nehru preferred to try to persuade Pakistan to absolve him from the pledge rather than to convince the people of West Bengal that their best interest lay (as it still does) in upholding the Indian Government commitment and allowing it to fulfil its treaty obligations. Asked by a press correspondent at Dacca about India's request to modify the agreement, President Ayub retorted that, "If the writ of the Central Government of India did not prevail in West Bengal and Assam then no alternative or agreement would be implemented."<sup>1</sup> The implementation was delayed by one pretext or another. After the Tashkent Declaration in January 1966, India agreed to a joint programme for taking up and completing the demarcation in Berubari within June/July of the same year. During its question hour, Pakistan's Foreign Minister told the National Assembly on March 11, 1966: "that in view of the Tashkent Declaration, the 1958 agreement would now be carried out and 4.36 square miles, being half of the total area of Berubari Union, measuring 8.72 square miles, would be transferred without delay". Pakistan, he added, "made it clear that the implementation of an international agreement could not be made subject to indefinite delay on account of the judicial or administrative processes by any one of the parties".<sup>2</sup> India adopted deliberate dilatory tactics, followed by a Calcutta High Court injunction in a cleverly manipulated writ case,<sup>3</sup> though writ petitions on the subject of the demarcation of Berubari had been rejected by the Indian Supreme Court. The Government of Pakistan, through its High Commissioner in Delhi, asked the Government of India on November 21, 1967, to expedite the demarcation and the transfer of half of Berubari Union. The 92nd Conference of the Survey

<sup>1</sup>*The Hindu* (Madras), December 2, 1960.

<sup>2</sup>*Dawn*, March 12, 1966.

<sup>3</sup>*Ibid.*, September 27, 1967.

Officials of East Pakistan and West Bengal, held on October 17, 1969, for the demarcation of boundaries, reminded the Indians of the efforts Pakistan had made for 11 years to get the Berubari accord implemented by India, but without any positive response.<sup>1</sup> India has yet to transfer Berubari, though Pakistan has fulfilled its part of the bargain.

In December 1958, the Ayub Government had to deal with other border problems of East Pakistan, Armed clashes in the Patharia sector had started again. The Foreign Minister, Manzur Qadir, asked in agony: "What is the use of a tribunal unless there is a guarantee that its award will be accepted?"<sup>2</sup> President Ayub during a brief meeting with Prime Minister Nehru at Palam (Delhi) Airport, on September 1, 1959, discussed the frontier problems between East Pakistan and India. They agreed to have an Indo-East Pakistan Conference at a Ministerial level to devise measures to end disputes and incidents on the Indo-East Pakistan border.<sup>3</sup>

In pursuance of this Ayub-Nehru understanding, a Ministerial Conference (with Sardar Swaran Singh and Lt. General K.M. Shaikh, leading their respective country's delegations) started in Delhi on October 15, 1959, continued its deliberations at Dacca from October 18 to 20, and had its concluding session at Delhi on October 21 and 22. An Indo-East Pakistan Border Agreement was published on October 24, 1959.<sup>4</sup> The delegations, on behalf of their Governments reaffirmed the Noon-Nehru Agreement, expressed their desire to implement it expeditiously, and also endorsed the desirability of devising legal and constitutional procedures for the implementation. Detailed ground rules were framed for the guidance of the Security Forces on the East Pakistan-India frontier. It was decided that the exchange of all areas already demarcated along the East Pakistan-India boundary should take place before June 30, 1960. The disputes in the Patharia Forest Reserve and Kusiara river regions had remained unsettled, in spite of the Bagge Tribunal decisions about them in 1950. There was no agreement about these dis-

<sup>1</sup>*Ibid.*, November 24, 1969.

<sup>2</sup>*The New York Times*, December 11, 1958.

<sup>3</sup>*The Hindu* (Madras), October 1, 1959.

<sup>4</sup>Indo-Pakistan Joint Press Communique on Border Disputes, October 15, 1959.

*Dawn*, October 29, 1959, "Indo-Pakistan Frontier" (Editorial).

putes between Noon and Nehru in 1958. It may be recalled that Pakistan's Prime Minister had not acceded to the Indian Prime Minister's suggestion of appointing another tribunal to adjudicate the Bagge Award. It was decided to settle the Patharia Forest dispute by adopting a rational boundary, and agreed that in the Kusiya river region, the boundaries of Beani Bazar and Karimganj as per notification No. 5133-H, dated May 20, 1940, should be the East Pakistan-India boundary.<sup>1</sup>

Another trouble spot is presented by Dahagram. It is a Pakistani enclave near the East Pakistan border, separated by a strip of Indian territory. On March 16, 1965, Indian Forces entered the enclave. The incident was quickly settled. The Chief Secretaries of East Pakistan and West Bengal signed an agreement on April 10, 1965, providing for the withdrawal of the Indian Forces and the return of the enclave's residents to their homes. The agreement also provided that the residents of the enclave, depending for their daily supplies on the mainland, would be allowed to visit the mainland on 'A' category visas, valid for an unlimited number of journeys, and that Pakistan officials, including police personnel, would be allowed regular and frequent visits to the enclave. The agreement was violated by India during the 1965 fighting: neither were the residents of the enclave allowed to visit the mainland, nor were the officials permitted to go there.<sup>2</sup>

The eviction of Assamese Muslims has recurrently heightened East Pakistan-India border tensions. The problem originated in the pre-independence days, when the Government of Assam checked migrants from the over-populated areas of Bengal: then it was known as the 'Line System'. In the post-independence period, the problem acquired a new dimension, as it became a question of citizenship. Pakistan has been claiming that many of the evictees from Assam were in possession of documents to show that they were not 'infiltrators', as they are dubbed by India, but in fact Indian citizens from the beginning. A member of the Pakistan National Assembly observed, on March 18, 1964: "India was partitioned in 1947. What was the Charter of Partition? Did we commit anywhere that, for eternity,

<sup>1</sup>Shaikh-Swaran Singh Agreement, dated October 23, 1959. (Joint Press Communique. Ground Rules Formulated by the Military Subcommittee, October 17, 1959).

<sup>2</sup>*Dawn*, August 5, 1967.

Pakistan will be accepting the evictions from India? If not, you have got to strike it today and settle it with India whether she is going to stop her people from entering Pakistan or you are going to rehabilitate them on your own soil.”<sup>1</sup> Pakistan took up this issue at the highest level with India, and also raised the question at the United Nations with a suggestion to appoint an international commission for impartial investigation of the eviction of Assamese Muslims, but with no substantial result.

### *The Farakka Barrage Dispute*

The latest in the long series of inter-State disputes arising from the nature of Pakistan's “borders with India is the problem posed by the steps India has taken to build a new barrage on the river Ganges without any regard for East Pakistan's lower riparian rights to the waters of the Ganges. The Ganges, with its origin in Tibet and a course which runs through the Indian provinces of Uttar Pradesh, Bihar and West Bengal before entering East Pakistan and then merging with the Bay of Bengal, is one of the world's truly multi-national rivers. Among its several tributaries from the north are the rivers Gandak and Kosi, whose headwaters lie in Nepal. For several miles the Ganges forms the frontier between East Pakistan and India. As such, the Ganges bestows equal rights in respect of navigation and irrigation to all States through whose territories it flows.

Being a lower riparian State, threatened with what in international law would be termed an imminent disadvantage to her territory and natural conditions, Pakistan has been profoundly concerned about the construction of Farakka Barrage in West Bengal, about 11 miles from East Pakistan's border. This 75 feet high and 7,000 feet long barrage is being constructed with the objective of flushing the Hoogly—an entirely Indian river—in order to improve navigation in the Calcutta Port. The Barrage is destined to divert the following quantities of water from the Ganges: 40,000 cusecs (flow of cubic feet of water per second) of siltless water in summer and 20,000 cusecs in winter, through a 26½ mile-long feeder canal into the Bhagirathi down-stream. This would eventually be discharged into other projects being

<sup>1</sup>*National Assembly of Pakistan Debates*, March, 18, 1964, Vol. 1, No. 4, p. 235.

constructed on the major tributaries of the Ganges, such as the Kesi and the Gandak, near Jangipur (See Map V). According to the official Indian explanation, the Barrage is also designed to improve communication facilities, drainage, sanitation and water supplies in Calcutta, as well as inland transport throughout West Bengal, with a rail and road project over the Farakka.<sup>1</sup>

The effect of the Farakka Barrage, which is scheduled to be completed by the end of 1970, will be to stop between a third and a half of the off-peak flow of the Ganges into East Pakistan, and divert it into the Hoogly. This would, among other things, cause a serious shortage of water for irrigation; reduce the moisture content of the soil by lowering the ground water level; increase the discharge of silt, thereby increasing the threat of floods; adversely affect navigability in the Ganges; and increase the danger of saline water penetration into the coastal areas of the Khulna and Barisal districts of East Pakistan. According to Pakistani experts, seven districts, namely Rajshahi, Pabna, Kushtia, Jessore, Faridpur, Khulna and Barisal inhabited by some 23 million people, would thus be directly and gravely affected by the withdrawal or diversion of the Ganges water. In other words, about 25 per cent of the province's cultivable lands would be deprived of their historical share of water at a time when, with a rapidly increasing population and the consequent growth of pressure on land, the province's food production is facing difficulties enough. Pakistan's Ganges-Kobadak Project, which is aimed at irrigating 2 million acres of land in the Kushtia, Jessore and Khulna districts, also faces serious curtailment of its utility and effectiveness due to the threatened shortage of water. Pakistan has therefore been unable to decide the operational level of the Ganges-Kobadak Barrage, which is dependent on the amount of water that would be available from Farakka.<sup>2</sup>

<sup>1</sup>*The Japan Times (Tokyo)*, August 28, 1968.

See also Syed Sharifuddin Pirzada's (then Pakistan's Foreign Minister) statement in the National Assembly of Pakistan on the Farakka Barrage on June 15, 1967; *Important Speeches and Press Conferences, July 1966 to December 1967*, by Syed Sharifuddin Pirzada, (Published by the Research Division of the Ministry of Foreign Affairs, Government of Pakistan).

<sup>2</sup>*Dawn*, March 28, 1970, "Estimated Losses to Pakistan". *Dawn*, February 24, 1970: "The diversion of the waters of the Ganges through Farakka by India would deprive Pakistan of Rs. 600 crore worth of crops. . .

"The Barrage, which is scheduled to be completed some time this year, is intended to flush the waters of the Hoogly for the improvement of the Port

As early as 1951, when the news of the Government of India's plan in this regard first came to the notice of Pakistan, it was pointed out to the Government of India that Pakistan should be consulted before any schemes likely to prejudice her vital interests were put into operation in India. The Government of India's reply was to the effect that the Farakka Barrage Project was only at a preliminary stage and that Pakistan's apprehensions were 'purely hypothetical'. This, however, failed to allay Pakistan's fear and apprehension. After some correspondence between 1954 and 1957, Pakistan suggested that both countries should approach the United Nations for advisory and technical services in planning the optimum, and mutually beneficial, use of this common river. The Government of India rejected this suggestion, expressing the view that bilateral discussions between engineers and hydrographic experts of both sides would be adequate. Pakistan saw no objection to this, and accordingly, since the beginning of the sixties, several rounds of talks have been held between Indian and Pakistani experts. Far from achieving any result, these meetings have not gone beyond the secretarial level, in spite of Pakistan's insistence on having meaningful talks at the Ministerial level.<sup>2</sup> In the fourth Indo-Pakistan talks at Islamabad on February 23, 1970, Pakistan proposed that an agreement on Farakka should include: (1) guarantees of fixed minimum deliveries of Ganges waters to East Pakistan on a monthly basis at an agreed point; (2) construction and maintenance of such works, if any, as may be necessary in India in connection with the construction of the Ganges-Kobadak Barrage in East Pakistan; (3) setting up a permanent Ganges Commission to implement the agreement; and (4) machinery and procedure for the settlement of differences and disputes consistent with international usage.<sup>1</sup>

of Calcutta. India proposes diverting a quantity equal to 80 per cent of the requirements of Pakistan's Ganges Barrage Project.

"An idea of the value of water, which would go waste (into the Sea) can be had from a comparison with the production benefits of the Ganges Barrage Project of Pakistan.

"This project can annually produce for Pakistan crops worth Rs. 7,500 million, which means that the Port of Calcutta is sought to be improved with water that can produce badly needed foodgrains worth Rs. 6,000 million (i.e. 80 per cent of Rs. 7,500 million).

<sup>1</sup>Cf. Helsinki Rules, concerning the utilization of waters of international rivers, adopted by the International Law Association in 1966 and



The fifth series of talks on Farakka and eastern rivers took place between Indian and Pakistani officials in New Delhi on July 16-21, 1970. At the very outset of the talks, Pakistan charged India with sanctioning new irrigation projects on the Ghagra tributaries of the Ganges river, which would further limit the flow of waters to East Pakistan. However, further discussion seemed to create some understanding, and it was decided to hold another meeting within three to six months to consider the quantum of water to be supplied to Pakistan at Farakka. In a joint communique issued simultaneously at Delhi and Islamabad it was stated that "Both sides agreed to submit to their respective Governments for their consideration the following agreed recommendations:

- (i) The point of delivery of supplies to Pakistan of such quantum of water as may be agreed upon will be at Farakka.
- (ii) Constitution of a body consisting of one representative from each of the two countries for ensuring delivery of agreed supplies at Farakka is acceptable in principle.
- (iii) A meeting to be held in three to six months at a level to be agreed by the two Governments to consider the quantum of water to be supplied to Pakistan at Farakka and other unresolved issues relating thereto and to eastern rivers which have been the subject matter of discussion in the series of talks."<sup>1</sup>

These points of agreement, including, in particular, India's acceptance of the principle of supplying agreed quantities of water at Farakka to East Pakistan, even if not explicitly recognizing its lower riparian rights, bring a new ray of hope for an amicable settlement of this vital issue. But this hope is also partly clouded by the Indian assertion that India cannot take upon itself to fix the quantum of water for Pakistan "without reference to the reasonable needs of a specific project which takes into account the backwater effect on the Indian territory, the

currently under further study towards adoption in the form of an international agreement or convention. See Mohammad Abdus Samad, "Pakistan's Water Problems and the Law of International Rivers" in *Pakistan Horizon*, Vol. XXIII, No. 3, Third Quarter, 1970.

<sup>1</sup>*Dawn*, July 23, 1970.

overwhelming dependence of India on the Ganges and the favourable climate and other factors in East Pakistan.”<sup>1</sup> And India has yet to fulfil the promise to hold Minister-level talks, given by her first Prime Minister, Jawaharlal Nehru, as far back as 1961, when he said, “Officials always have their own limitations. They are tied down to certain policies and cannot move beyond them. Ministers, on the other hand, can always find out the real difficulties and take decisions.”<sup>2</sup> It is thus only a Ministerial meeting that can take the required decisions about the apportionment of the Ganges waters, including its tributaries—Ghagra, Sardah, Kosi, Gandak, Ram Ganga, Sone, etc.

Pakistan contends that the Ganges is a non-national or multinational river, bestowing its benefits on all the countries in whose territories its course lies. For this reason, Pakistan desires an agreement with India to guarantee her historical rights of an equitable share of the common river as the lower riparian; and bases this demand on a long established rule of international law, which Oppenheim states as follow: “The flow of non-national, boundary and international rivers is not within the arbitrary power of one of the riparian States, for it is a rule of International Law that no State is allowed to alter the natural conditions of the territory of a neighbouring State. For this reason a State is not only forbidden to stop or divert the flow of a river which runs from its own to a neighbouring State, but likewise to make such use of the water of the river as either causes danger to the neighbouring State or prevents it from making proper use of the flow of the river on its part.”<sup>3</sup> This principle has gained full recognition in the inter-State relations of modern times, in which the increased exploitation of the natural power of flowing water has led to a contested regulation of the interests connected by international rivers.

To Pakistan, the Farakka Barrage represents yet another link in a long and formidable chain with which India has consistently tried to shackle the economic and political independence of Pakistan. Even so, Pakistan does not reject India’s right, as the upper riparian State, to utilize the waters of the Ganges to its advantage; it only insists that this should be done by mutual

<sup>1</sup>*Ibid.*, July 17, 1970.

<sup>2</sup>*Ibid.*, July 15, 1969: “Talks on Farakka” (Editorial).

<sup>3</sup>Oppenheim, *International Law* (Eighth edition), edited by H. Lauterpacht Vol. I. *Peace* (London, Longman Green Co.,) pp. 474-475.

agreement between the countries, and that, in any event, her own rights as a lower riparian State should be respected and guaranteed. India's reluctance to hold talks at the Ministerial level has tended to reinforce Pakistan's apprehension that India's intentions are oriented towards stalling the issue. In taking this course, India is assisted by the inability of the International Court of Justice at the Hague to apply international law to the Farakka Barrage and other Indo-Pakistan disputes owing to Article 35 of the World Court, barring the Court's jurisdiction over any dispute between India and another Commonwealth country. This was confirmed by Choudhri Mohammad Zafrullah Khan, newly elected President of the Hague Court for a three-year term.<sup>1</sup>

As Pakistan's Foreign Minister, Syed Sharifuddin Pirzada made the following observation in December 1967: "Pakistan has it on the authority of international experts that the Farakka Barrage is not the best way of dealing with the problem of silting in the Port of Calcutta. In pressing ahead with the project, the Indian Government obviously intends to present Pakistan with a *fait accompli*, thus foreclosing the possibility of a reasonable solution of this problem, which would permit each country to make optimum use of the waters of the common river, without harming the interests of the other." He also described the Indian action as a "violation of the well-established principle of the priority of the use of an international river, because in the Ganges and other international rivers, irrigation and food have priority over other issues".<sup>2</sup>

Pakistan wants to settle the Farakka dispute along the lines of the Indus Waters Treaty of 1960. This means that it wants a negotiated treaty concluded on the basis of joint surveys and findings of experts of both sides, and possibly underwritten by interested third parties. With this in view, Pakistan made an impassioned appeal at the 92nd International Water for Peace Conference, held in Washington in May 1967, for an early international agreement on the use of waters of the rivers that flow from India to East Pakistan. For the same reason,

<sup>1</sup>Nasim Ahmed, "World Court Action Forestalled: Zafrullah Explains India's Obsolete Use of Commonwealth". *Dawn*, March 31, 1970.

<sup>2</sup>*Dawn*, December 15, 1967.

Pakistan also favours mediation by the United Nations or the World Bank.

India, on the other hand, regards the river dispute as an entirely domestic issue. The Ganges, India says, is not an international river like the Indus. It flows 1,275 miles through Indian territory and only 100 miles or less through East Pakistan. India, therefore, has not been prepared to accept Pakistan's right as a lower riparian State, and maintains that her willingness to continue to discuss the matter with Pakistan is thus a gesture of good neighbourliness.<sup>1</sup> Until recently, the Indians did not even concede that there is an inter-State problem over the Ganges waters that needs to be solved through an international agreement;<sup>2</sup> but the agreements reached at the above-mentioned fifth series of talks suggest that both this and the previous contention may be undergoing some modification.

The Indian assertion that the Farakka problem is entirely a domestic issue, on the ground that the Ganges has a longer course in India than in Pakistan, appears to have no basis in International Law, and may therefore be dismissed as a mere fabrication. International Law sets no limits to the length of the course of a river. This point was made clear by the 1944 Treaty regarding the distribution of the waters of the Colorado river between the United States and Mexico. Although the Treaty was drafted in haste and was consequently badly deficient in procedural guidelines as to the disposal of future disputes, it did, nevertheless, divide the Colorado waters between the two riparian States, thus recognizing the rights of both, even though the Colorado drains about 242,000 square miles of the United States and a mere 2,000 square miles of Mexico.<sup>3</sup> A more recent example of two countries entering into negotiations and eventually reaching an amicable agreement in respect of the water utilization of their common river is the 1959 Nile Agreement between the United Arab Republic and the Sudan.<sup>4</sup> By this agreement the two countries concurred that the United Arab Republic might construct the High Dam at Aswan as a first link in

<sup>1</sup>"Facing Facts on Farakka", *The Hindu* (Madras), June 1, 1968.

<sup>2</sup>*The New York Times*, July 28, 1968.

<sup>3</sup>Norris Hundley Jr., "The Colorado Waters Dispute", *Foreign Affairs*, April 1964, p. 495.

<sup>4</sup>*Text of the Nile Waters Agreement between the Republic of Sudan and the United Arab Republic, signed on November 8, 1959* (at Cairo).

series of projects on the Nile for continental storage. The rights of the Republic of Sudan were guaranteed, and it was agreed that the Sudan might build similar dams and other projects on the Blue Nile which would allow her to make use of her share of the waters. The United Arab Republic undertook to pay the Sudan a sum of £ 15 million as compensation for damages resulting from the construction of the Aswan Dam.

It is for an agreement along the lines of the Colorado Settlement or the Nile Agreement, of which, happily, a precedent in the form of the Indus Waters Treaty (1960)<sup>1</sup> has since been established, in the sub-continent itself, that Pakistan has been arguing as a means of resolving the Farakka dispute. So far, only in the fifth series of the Farakka talks has India given any indication of her willingness to reciprocate Pakistan's call for a negotiated settlement, and to the possibility of third-party mediation or arbitration, India remains firmly opposed. Commenting on Soviet Premier Kosygin's letter to her, urging an expeditious settlement of the dispute with Pakistan, the Indian Prime Minister, Mrs. Indira Gandhi, told the Executive Committee of the Congress Parliamentary Party that India would not accept any third-party interference in the Farakka Barrage.<sup>2</sup>

There have thus been inter-State disputes on the frontiers of India and East Pakistan largely due to the unnatural Radcliffe boundary. There have also been conflicts on account of confusion about the names of rivers or changes in their courses. The enclaves pose yet another problem which comes under the category of boundary disputes. It is extremely unfortunate that despite a number of attempts, some problems remain far from settled. The enclave of Berubari Union, for example, has yet to be transferred to Pakistan, the legal wrangle within India over the transfer of the Union territory to a foreign country having effectively blocked the implementation of the Indo-East Pakistan agreement regarding the mutual transfer of enclaves in Bengal. Thus in June, 1968, Pakistan's Foreign Minister told the National Assembly that the boundary demarcation between

<sup>1</sup>Aloys Arthur Michel, *The Indus Rivers: A Study of the Effects of Partition*. "The Indus Waters Treaty 1960" (Appendix), pp. 559-572 (Yale University Press, New Haven, 1967).

<sup>2</sup>*The Hindu* (Madras), July 26, 1968. Also see, Rangaswami Satskohan, "India's Holy River Ganges in Dispute", *The Japan Times* (Tokyo), July 14, 1968.

East Pakistan and India had not yet been completed: Out of a total length of 2,542 miles,<sup>1</sup> 1,918 miles had been demarcated. Further borders had been demarcated by June 2, 1970,<sup>2</sup> but the Indo-East Pakistan agreement still remains to be fully implemented.

Again, the construction of a multi-purpose dam undertaken by the Indian authorities on the Gumti river at Damber in the Tripura State, not far from the East Pakistan-Tripura border, has caused concern among the inhabitants of the districts of Comilla and the Chittagong Hill Tracts. It is regarded as another Indian attempt following up on Farakka, to cripple East Pakistan's economy, as it is likely to effect about 30,000 acres of agricultural land in these two districts by reducing the low water flow of the river.

East Pakistan's proximity to China, Burma and the troublesome region of the Nagas and Mizos has increased its strategic vulnerability. The Indian bases at Nicobar Islands further heighten the official concern for security in East Pakistan. During the Indo-Pakistan conflict of September 1965, the Eastern Wing of Pakistan remained practically cut off from the Western Wing, and was regarded in certain circles as a sitting target for a successful invasion. Indeed, how the whole problem of the defence of East Pakistan is going to be tackled in the changing pattern of politics in South and South-East Asia, it is difficult to foretell.

India's rise as a military power in South Asia and her ambition to become the dominant Naval Force in the Indian Ocean, after Britain's withdrawal from the east of Suez, have in recent years also become a source of anxiety to Pakistan and India's other small neighbours. The renowned Indian diplomatic ideologue, Sardar Panikkar, observes: "In fact, in relation to the States in her neighbourhood, the Indian Navy cannot be considered a small navy or her ships outmoded. Except in comparison with the navies of U.S.A., USSR, Britain and France, the Indian Navy, as it is constituted, is a force of considerable strength and significance."<sup>4</sup> He then goes on to advocate Indian

<sup>1</sup>*The Hindu* (Madras), July 3, 1968. 2. *Dawn*, June 2, 1970.

<sup>2</sup>*Dawn*, August 1, 1969.

<sup>3</sup>See Peter Lyon, *War and Peace in South-East Asia* (London, O.U.P., 1969).

<sup>4</sup>K. M. Panikkar, *Problems of Indian Defence* (London, Asia Publishing House, 1960), p. 105.

hegemony over the Indian Ocean, including the responsibility for policing and protecting the Indian Ocean by force of arms.<sup>1</sup>

In one of his recent writings, Frank Moraes, Editor of the *Indian Express*, has claimed: "The huge triangular promontory of India jutting into the Indian Ocean gives her a geographically dominant position in these waters."<sup>2</sup> With the massive aid India has obtained from both the Soviet Union and the Anglo-American Powers, it does in fact hope to build not only "the most powerful under-water fleet in the Indian Ocean", but also "the most powerful navy east of Suez after the 1971 British withdrawal from the area".<sup>3</sup> Fazal Imam rightly forecasts the danger: "The two-fleet Navy based in Bombay and Vishakhapatnam is pointedly aimed at the two Wings of Pakistan. The deployment of most of the attack-type submarines in the Bay of Bengal would give the Indians the capability of imposing and maintaining a blockade of East Pakistan—if and when it suits them. Short of such a drastic step, the peculiar setting can also lend itself to an effective use of relatively small Naval Forces for political objectives."<sup>4</sup>

For the moment, however, the most pressing problem of all on the East Pakistan-India borders, is the Farakka dispute with India, which threatens to destroy a substantial part of the economic life of the deltaic region of East Pakistan, and even overshadows the problem of security.

### *The Punjab*

A frontier about 1,400 miles long, running from the Rann of Kutch on the Arabian Sea to the borders of the State of Jammu and Kashmir, separates West Pakistan from India. Of this, there are 325 miles between the two parts of the pre-1947 Punjab. Like East Pakistan's border with India, this is also a Radcliffe boundary. The Radcliffe line begins near the north-eastern corner of Bahawalpur division and goes along the Sutlej river eastwards to a point 10 miles north-east of Ferozpur

<sup>1</sup>See *Ibid.*, Chap. IX—India's Naval Defence.

<sup>2</sup>Fazal Imam, "India's Naval Objectives—I", *Dawn*, October 15, 1969.

<sup>3</sup>*Ibid.*

<sup>4</sup>*Ibid.*, No. IV, October 30, 1969.

See also, *Dawn*, March 12, 1970: "Feverish Build Up of India's War Machine"; *Dawn*, June 2, 1970: "India's Co-prosperity Sphere"; *Dawn*, August 7, 1969: "U.S.-Soviet Bid for Mastery in India"; "America in the Indian Ocean", *The Round Table*, March 1964.

(India). From here it proceeds straight up north till it meets the Ravi about 20 miles north-west of Amritsar (India), then follows the Ravi and later its tributary, the Ujh, until it reaches Kashmir on the western branch of the Ujh. There have been fewer disputes in this region than in the eastern sector of the subcontinent. But border tensions have been severe, and the bulk of the Armed Forces of India and Pakistan are posted here.

The plain of the Punjab has always been significant in the military history of the subcontinent. Now the proximity of disputed Kashmir has made the Punjab frontier particularly sensitive to any political crisis in the territory. For a decade after independence, the Punjab Waters Dispute also subjected this border to intermittent crisis. "Five long years after Partition Indian and Pakistani troops were still facing each other behind sandbags and barbed wire at irrigation headworks along the frontier. . . . this was most likely to lead to all-out war."<sup>1</sup>

The actual possession of western and eastern parts of the Punjab by Pakistan and India respectively did not in certain places correspond with the Radcliffe boundary line, either due to the vagueness of the Award or to different interpretations. These disputed areas became a source of recurrent clashes.<sup>2</sup>

Immediately after Partition in 1947, there was a colossal exchange of population between the two Punjabs; and the Boundary Force failed to stop lawlessness and disorder in the border areas. In such circumstances, an aggressive speech made by the Indian Prime Minister at Guru Nanak's birthday celebrations at Delhi in November, 1947, could only heighten the explosive situation on the Punjab frontier. Nehru is reported to have said: "There were only two courses open to the Dominions. They could either unite or go to war against each other. Even if there is war between the two, it cannot last for ever; and after that they will have to follow the other course of merging themselves into one country."<sup>3</sup> Again, in January, he chose Amritsar, the holy city of the Sikhs located near the border, to address an audience of 100,000 people composed mainly of Sikhs. He declared: "If we have to fight anyone, we have an

<sup>1</sup>Eugene R. Black, cited in "Dividing the Waters", *The Round Table* (London), 1954-55, p. 140.

<sup>2</sup>For a detailed account, see *The Indus Rivers: A Study of the Effects of Partition*, by Aloys Arthur Michel, *op. cit.*

<sup>3</sup>*The Statesman* (New Delhi), November 29, 1947.



army strong enough", and urged the people of the border areas "to organize themselves".<sup>1</sup> Such a pronouncement was bound to have repercussions on relations at the new and still unstable frontier.

It was in this tense situation that the Prime Ministers of Pakistan and India met in Delhi on December 18-20, 1947. The Delhi meeting discussed issues arising out of the mass migration in the Punjab, and decisions were taken about evacuee property on either side of the border. These decisions had a salutary effect on conditions in the border areas. On the eve of Liaquat Ali Khan's visit to Delhi, some foreign observers had speculated about certain important moves towards improving inter-Dominion relations. It was reported by *The New York Times* that Pakistan had offered India a military alliance with the suggestion of making Viscount Montgomery, the then British Chief of the Imperial General Staff, the Chairman of the Joint Staff meetings.<sup>2</sup> Even if the report was mere press speculation, one can see that there had been a sudden improvement in Indo-Pakistan relations, very largely, it seems, due to the Prime Ministers' meeting.

At a time when the Punjab frontier had become comparatively quiet after the cross-migration between the two Punjabs, the Waters' Dispute brought on a new border crisis. On April 1, 1948, after the Arbitral Tribunal had ceased to exist, East Punjab stopped the water supplies to the south-eastern region (the Punjab and Bahawalpur State) of West Pakistan. Many irrigation canals in West Pakistan remained dry for weeks, and at one time it seemed that some areas would become a desert.<sup>3</sup> The dispute regarding the distribution of canal waters arose from the fact that large areas in West Pakistan were irrigated by the canals of the five-river system of undivided Punjab, of which Pakistan received 21 out of 23 perennial canals and seven out of eight non-perennial canals. With the partition of the Punjab, many headworks went to India, including the important headworks at Madhopur on the Ravi and Ferozpur on the Sutlej, and most

<sup>1</sup>*The Daily Telegraph* (London), January 30, 1948.

<sup>2</sup>*The New York Times*, December 8, 1947.

<sup>3</sup>David E. Lillenthal, former Chairman of the Tennessee Valley Authority, who visited the subcontinent in 1951, said: "No army with bombs and shell fire could devastate a land so thoroughly as Pakistan could be devastated by the simple expedient of India permanently shutting off the sources of water that keep the fields and people of Pakistan alive". "Another Korea in the Making", *Colliers* (New York), August 4, 1951.

of the irrigated lands in West Punjab (Pakistan), as those in East Punjab (India), were dependent on water from these sources. In such an emergency, Pakistan, with the bulk of the canals but no control over the water flowing in them, signed an agreement on May 4, 1948, on India's terms. Until the final settlement of the Waters' Dispute in 1960, the Punjab frontier continued to suffer intermittent crises.

Direct negotiations between the Governments of India and Pakistan did not contribute to the settlement of the Dispute, as the interim arrangement of 1948 made India uncompromising towards any agreement. However, in 1951 the President of the World Bank, Eugene Black, took up the suggestion of David Lilienthal, former head of the Tennessee Valley Authority in the United States, and offered his good offices for the solution of the issue. Both India and Pakistan accepted the World Bank Chief's offer.

After protracted negotiation between the World Bank and the Governments of India and Pakistan, assisted by experts, the Bank submitted a Plan, on February 5, 1954, for the consideration of the two Governments, which provided that: "The entire flow of the Western rivers (Indus, Jhelum and Chenab) would be available for the exclusive use and benefit of Pakistan, and for development by Pakistan, except for the insignificant volume of Jhelum flow presently used in Kashmir. The entire flow of the Eastern rivers (Ravi, Beas and Sutlej) would be available for the exclusive use and benefit of India and for development by India, except that for a specified transitional period India would continue to supply from these rivers, in accordance with an agreed schedule, the historic withdrawals from these rivers in Pakistan."<sup>1</sup>

For this purpose, the Bank planned a "transition period (in which) to complete the link canals needed in Pakistan to make transfers for the purpose of replacing supplies from India (and stipulated that) India would bear the cost of such works to the extent of the benefits to be received by her therefrom."<sup>2</sup>

Pakistan was faced with a baffling situation: on the one hand, the Plan permanently deprived her of the waters of the

<sup>1</sup>Cf. Chaudhri Muhammad Ali, *op. cit.*, pp. 321-28.

See Appendix, *Indus Waters Treaty* for details.

<sup>2</sup>*Ibid.*

Eastern rivers; on the other, there was an Indian threat to stop the flow of waters, even without further storage construction. It was felt by Pakistan that the Bank had departed from Lilienthal's proposal to develop the water resources of the Indus Basin as a single economic unit. But for the Bank, it was difficult to do this as it involved two sovereign States. Though the World Bank, in its *aide memoire* of May 21, 1956, made some 'adjustments' concerning reservoir storage facilities, it was difficult for any democratic Government of Pakistan to surrender Pakistan's legal and historic rights to the waters of the Ravi, Beas and Sutlej. Thus, the final settlement of the Waters' Dispute was made after a lapse of a few years—in which consultations continued by the Ayub regime were concluded in September 1960. The replacement works for reservoirs and canals has now been nearly completed, and the implementation of the settlement appears to show that it has worked out to mutual satisfaction in this regard.<sup>1</sup> It is for this reason that Pakistan has repeatedly sought to find a resolution of the Farakka dispute along similar lines.

The Punjab border has also been a barometer of the Kashmir problem since 1947. Twice in 23 years this frontier was the scene of massive armed confrontation between the two countries due to the fighting in Kashmir. When the Indian army started a large-scale offensive in Kashmir in the summer of 1948, it moved within striking distance of the Punjab frontier. With this mainly in mind, the Pakistan Commander-in-Chief Sir Douglas Gracey, submitted a report to the Central Government of Pakistan on April 20, 1948, in which he stated that a general offensive was being planned by the Indian Army in the north and south. Their objectives were likely to be towards the South, (i) Bhimber Mirpur, (ii) Poonch, and the North, Muzaffarabad-Kohla. If Pakistan is not to face another serious refugee problem... 2,750,000 people uprooted from their homes, if India is not to be allowed to set on the doorsteps of Pakistan to the rear and on the flank at liberty to enter it at its will and pleasure; if the civilian and military morale is not to be affected to a dangerous extent; and if subversive political forces are not to be encouraged

<sup>1</sup>See A.A. Michel, *op. cit.*

and let loose within Pakistan itself, it is imperative that the Indian Army is not allowed to advance beyond the general line Uri-Poonch-Naoshera."<sup>1</sup> In August 1948, Pakistan protested to India about the bombing of a convent and the British cemetery at Pindipoint.<sup>2</sup> A subsequent attack was reported to have been made in the areas which lie on the western side of the Jhelum river, 6 miles south-east of Murree. India had locked large forces in Kashmir through a line of communications 100 miles long, with its only exit to Indian territory lying within 6 miles of the Punjab frontier.<sup>3</sup> With the two armies gathering on either side of the Punjab frontier, it was difficult to say how much of the fighting could be confined to the territory of Jammu and Kashmir.

Following the acceptance of a cease-fire in Kashmir on January 1, 1949, both Pakistan and India were in a position to reflect and re-assess their attitudes towards each other. The two countries could reconsider their relations either in the context of the changing geopolitics of Asia, particularly in their neighbouring north, or in that of the economic development of the subcontinent as a whole and its political stability. Both of these considerations equally required the close co-operation of India and Pakistan in a peaceful atmosphere. Pakistan's Prime Minister, Liaquat Ali Khan, perhaps had this in his mind when he stated in the Pakistan Constituent Assembly, in March 1949, that if India and Pakistan became involved in continuing conflict, they would destroy each other.<sup>4</sup> Pakistan suggested the resumption of the rail link between West Pakistan and India which had been disrupted immediately after Partition, to facilitate visits of the nationals of one country to the other, which could considerably improve Indo-Pakistan relations. At the Colombo Conference, convened in January 1950, on regional economic development, both India's Prime Minister, Nehru, and Pakistan's Finance Minister, Ghulam Mohammad, were co-operative and cordial.

However, Indo-Pakistan relations took a turn for the worse in January 1950. Pakistan's decision not to devalue its currency after the devaluation of the Pound sterling in September 1949

<sup>1</sup>*S.C.O.R.*, 5th Yr., No.6, 464th Mtg., February 8, 1950, pp. 26-27.

<sup>2</sup>*The New York Times*, August 21, 1948.

<sup>3</sup>*The Daily Telegraph* (London), September 11, 1948.

<sup>4</sup>*The Hindu* (Madras), March 6, 1949

did not create a favourable reaction in India, which had devalued its currency. Tensions in the subcontinent reached a high pitch with the cancellation of the leave of Indian army personnel in March 1950. War between India and Pakistan was openly canvassed. The bulk of the Indian Army was reported to have been drawn up opposite Lahore. The seriousness of the situation seems to have compelled the Prime Minister of Pakistan to seek a guarantee of Pakistan's territorial integrity from the Commonwealth countries. He explained that this would greatly ease the situation on the Indo-Pakistan frontier, and that there would then be no further need for Pakistan to spend 70 per cent of its national budget on defence. Liaquat Ali Khan desired such a guarantee for both countries, since this would allow them to spend more on economic development and social welfare programmes.<sup>1</sup> As mentioned earlier, the Liaquat-Nehru Agreement of April 1950 eased Indo-Pakistan tensions, and the Punjab frontier also became quieter for the time being.

On July 15, 1951, Liaquat Ali Khan, addressing a press conference in Karachi, disclosed that there were heavy concentrations of Indian Forces near Pakistan's borders, and that, in particular, one armoured division and an independent armoured brigade had moved within striking distance of West Pakistan. Liaquat Ali Khan sent a telegram to Jawaharlal Nehru, asking him, in the interest of peace and neighbourly relations between Pakistan and India, to remove this threat to the security of Pakistan and to international peace<sup>2</sup>; and also brought the situation to the notice of the Security Council. Nehru later accepted that certain troop movements had been made for defensive purposes. To that, Liaquat Ali Khan replied: "This plea of defensive purposes loses all validity in the face of the fact that Pakistan had made no troop moves before the concentration of your forces against Pakistan's borders".<sup>3</sup> Nehru justified India's troop movements on the pretext of "an intense and astonishing campaign of *Jihad* and war against India in Pakistan".<sup>4</sup> In fact, what was thus referred to was only a move-

<sup>1</sup>*The New York Times*, April 13, 1950.

<sup>2</sup>*Weekly Pakistan News* (London), July 21, 1951.

<sup>3</sup>*India's Threat to Pakistan: Correspondence between the Prime Ministers of Pakistan and India* (July 15-August 11, 1951), Government of Pakistan, Karachi.

<sup>4</sup>*Ibid.*

ment directed at liberating the people of Kashmir, which did not imply any Pakistani intention to annex any part of Indian territory. Though Pakistanis cannot easily forget that they have lost Muslim territories under the Radcliffe Award, they have never shown any desire to challenge the Indo-Pakistan boundary. On the other hand, Indian voices raised in favour of undoing the Partition or liquidating Pakistan have not been uncommon.

Leaving aside the mutual accusations of the Prime Ministers of Pakistan and India, which ended with the crisis, one has to assess the reasons for this crisis in the middle of 1951. In 1949-50, acute tension arose mainly on the East Pakistan-India border, which had followed in the wake of minority problems in the two Bengals. An Indian writer observes: "Granted the relative military weakness of Pakistan *vis-a-vis* India in 1951, it is absurd to hold the view that Pakistan wanted seriously to go to war with India. On the other hand, in mid-1951, there was no new issue justifying any Indian military offensive. On the contrary, Indian leaders were emphasizing the state of normalcy in Kashmir in order to block further U.N. action there."<sup>1</sup> It appears, therefore, that Indian military moves in the Punjab were a diversionary tactic to forestall any Pakistani intervention in Kashmir, and in case of a major struggle there, a preparation for an attack on West Pakistan.

Though India and Pakistan did not go to war, the successive crises of the early fifties seemed to have made a crucial impact on Pakistani thinking about an Indian threat to the security of their State. It was seriously considered that Pakistan could not maintain her security with her policy of non-alignment. Consequently, Pakistan's search for allies gathered momentum, and took on the character of a compelling national need. Having, in due course, succeeded in finding allies, Pakistan abandoned her neutrality towards the two Power Blocks, and threw in her lot with the Western Democracies by joining the regional defensive Pacts sponsored by them.

Ever since Partition, certain difficulties had arisen in regard to border villages in West and East Punjab. The boundary line laid down by the Radcliffe Award was not very clear and ignored various physical features. Some Pakistani villages were on the

<sup>1</sup>J. B. Das Gupta, *Indo-Pakistan Relations, 1947-1955* (Amsterdam Djambaton, 1958), p. 229.

Indian side of the river boundary and were not easily accessible from Pakistan. In the same way, there were some Indian villages on the Pakistani side of the river. The areas involved did not comprise more than 100 acres or so, mostly of barren land, but the issue they raised was sufficient to cause intermittent troubles on account of differences in interpretations of the Radcliffe Award. To stave off a deterioration of these troubles, Pakistan and India entered into an understanding in 1949 to maintain the *status quo* pending the final demarcation of the border.<sup>1</sup>

In keeping with the spirit of this understanding, and especially to facilitate an enduring improvement in Indo-Pakistan relations, Pakistan's Premier, Liaquat Ali Khan, sent a five-point plan to Jawaharlal Nehru on July 26, 1951. The five points of the Plan were: (i) The troops concentrated on the Indo-Pakistan border should be withdrawn to their normal peacetime stations. (ii) After that, India and Pakistan should reaffirm their agreement that the question of the accession of the State of Jammu and Kashmir would be decided through the democratic method of a free and impartial plebiscite under United Nations' auspices. (iii) Both the Indian and Pakistan Governments should also declare their renunciation of the use of force in the settlement of any other disputes, and undertake to refer such disputes to arbitration in case of unsuccessful negotiation or mediation. (iv) Both Governments should reaffirm the Delhi Agreement of April 8, 1950, that they would not permit propaganda directed against the territorial integrity of the neighbouring State, or towards inciting war between them. (v) Both India and Pakistan should make a declaration that they would on no account attack or invade the territory of the other.<sup>2</sup>

In his reply to Liaquat Ali Khan, Nehru wrote, "... as long as no aggression takes place on Indian territory on the part of Pakistan, India would not attack her, but I wish to make it clear that *this includes Kashmir*".<sup>3</sup> Not to be outdone by his Pakistani counterpart, Nehru suggested a non-aggression pact

<sup>1</sup>*The Hindu* (Madras), November 25, 1952.

Also see, *No-War Declarations and Canal Waters Dispute: Correspondence between the Prime Ministers of India and Pakistan* (January 18-November 8, 1950) Government of Pakistan, Karachi, 1950.

<sup>2</sup>See *India's Threat To Pakistan*, *op. cit.*

<sup>3</sup>*India News* (London), August 4, 1951. (Italics added.)

between the two countries, including Kashmir in the proposed pact.<sup>1</sup> This inclusion of Kashmir was clearly calculated to imply that Kashmir was an integral part of India. Thus neither of these peace moves proved mutually acceptable. And with the mutual rejection of these proposals for peace, the explosive situation on the Punjab border continued to persist.

It was reported on January 14, 1955, that the demarcation of the Punjab boundary would begin shortly. The Mirza-Pant Agreement of May 1955 (at the time Major-General Iskandar Mirza was the Minister of the Interior in the Government of Pakistan and Pandit Govind B. Pant was the Home Minister of India) laid down a time-table of three months for the completion of the demarcation of the border.<sup>2</sup> However, as Prime Minister Nehru had told the Lok Sabha in November 1952, changes in the courses of the Punjab boundary rivers were a big nuisance, and raised additional difficulties in demarcating the border.<sup>3</sup> And no further steps were taken towards demarcating the border until 1958. By this time, a decade's changes in the course of the Ravi turned Pakistani villages into Indian villages and 15,586 acres of Indian territory in Amritsar into Pakistani territory.

When the Prime Ministers of India and Pakistan met at New Delhi in September 1958, they discussed the border problem between West Pakistan and India. Pakistan's Prime Minister told the Indian Premier that unresolved disputes could be referred to a tribunal only if India agreed to implement its award in toto.<sup>4</sup> There could however, be no agreement to refer the West Pakistan-India border disputes to any impartial tribunal as India had reservations on this point. There were five disputes in the Western region. Of these, the two major disputes related to the Hussainiwala and Sulemanke Headworks. The two Prime Ministers asked their Foreign Secretaries to formulate proposals for the settlement of these disputes in consultation with engineers.

Following up on this, the Ayub regime gave top priority to the settlement of border disputes. In pursuance of the Ayub-

<sup>1</sup>*Ibid.*, November 10, 1951.

<sup>2</sup>*The Hindu* (Madras), May 18, 1955; *Manchester Guardian*, May 18, 1955.

<sup>3</sup>*The Hindu*, November 15, 1952.

<sup>4</sup>See *The Hindu*, September 12, 1958; *The Times* (London), September 2, 1958; *The York Herald Tribune*, September 16, 1958; *Dawn*, September 13, 1953.



Nehru meeting in September 1959, held at Palam (Delhi) Air Port, a Ministerial Indo-Pakistan Conference took place in January 1960 at Lahore. As a result of this Ministerial meeting, a border agreement was signed on January 11, 1960, by J. V. Kharas, Joint Secretary of the Ministry of Foreign Affairs and Commonwealth Relations, for Pakistan, and by M. J. Desai, Commonwealth Secretary, Ministry of External Affairs, for India.<sup>1</sup>

The Agreement disposed of four disputes in this region. Two of these disputes concerned the Lahore-Amritsar border, involving the areas of (a) Chak Ladheke (140 acres) and (b) Theh Sarja Marja (200 acres). There were conflicting interpretations of the Radcliffe Award regarding these two disputes. Under the Agreement, Pakistan gave up its claim to Chak Ladheke, and India withdrew its claim to the three villages of Sarja Marja, Rakh Hardet Singh and Pathanke.<sup>2</sup>

The other two disputes related to the Headworks of Hussainiwala and Sulemanke. Radcliffe had given Hussainiwala to India; but as the Dipalpur canal, taking off from the Hussainiwala Headworks, provided irrigation only for Pakistani lands, he had also suggested joint Indo-Pakistan control of the intake of the water. Under the Agreement, Pakistan withdrew her claim to over 9.3 square miles of disputed territory under Indian control.

As regards Sulemanke, Radcliffe had ruled that the boundary between Ferozpur and Montgomery (now Sahiwal) districts should be the international boundary, but he had awarded the Sulemanke Headworks, which lay in the Ferozpur district, to Pakistan. To that extent he had altered the district boundary. Exactly what constituted the headworks, and consequently to what extent there should be alterations in the existing boundary, became a subject of dispute. According to Pakistan's definition, the headworks covered 25 square miles; but according to the agreement, Pakistan had to be satisfied with only 13 square miles. Moreover, the Military Commanders of India and Pakistan, who attended the Lahore Conference, agreed that pending the determination of the final boundary and the consequent exchange of territories, neither side should station Border Security Forces within 150 yards of the *de facto* boundary.<sup>3</sup>

<sup>1</sup> See Appendix for text of Agreement.

<sup>2</sup> Text of Communique—*Dawn*, January 12, 1960.

<sup>3</sup> *Ibid.*, See also *The New York Times*, January 12, 1960; *The Times* (London), January 12, 1960, "Indo-Pakistan Border Talks", January 5, 1960.

The Punjab frontier remained quiet following the Lahore Settlement. It was in 1965 that the situation changed, first as a result of the Kutch fighting, and then owing to the armed conflict in September. The implied threat of Prime Minister Shastri that India would choose her time and place to attack Pakistan, it seemed, had come true when Indian Forces invaded Lahore on September 6, 1965. But right up to the event Pakistanis had felt that India would not dare to cross the international frontier. Outside observers, too, had not expected it. The British Prime Minister, Harold Wilson's spontaneous reaction was: "I am deeply concerned at the increasingly serious fighting taking place between India and Pakistan, and especially at the news that *Indian Forces have attacked Pakistan territory across the international frontier* in the Punjab..." He added: "The dangerous situation now created may have the gravest consequences not only for India and Pakistan but for the peace of the world."<sup>1</sup>

India claimed that it was a diversionary move to safeguard the Indian position in Kashmir. Pakistan thought that "the enemy plans were to occupy Lahore in one swift move and then launch a major offensive from the direction of Sialkot, cutting down to Gujranwala and Wazirabad".<sup>2</sup> This would have cut West Pakistan into two, a "fatal pincer calculated to paralyse all resistance." It is not necessary to go into the details of the battles in the Punjab plain for the purpose of the present analysis of frontier problems, but it is relevant to note that even though the Tashkent Declaration led to a total disengagement of Armed Forces, activities across the common frontier have yet, even after five years, to return to the level obtaining before September 1965. There is no normal line of communications between the two Punjabs. And so long as the deadlock over Kashmir continues between India and Pakistan, the normalization of the Punjab frontier, too, will remain problematic.

### *The Rann of Kutch*

In April 1965 the Rann of Kutch for the first time attracted international attention when India and Pakistan engaged in

<sup>1</sup>*The Daily Telegraph*, September 7, 1965 (Italics added).

<sup>2</sup>President Ayub's broadcast on the Cease-Fire (Pakistan Publications, September 22, 1965).

armed conflict over this desolate and barren territory which remains under water for half the year. The conflict thus exhibited the deep-rooted hostility between the two countries. It is, however, also to be noted that the Rann dispute was not new like that of Kashmir, but had existed between the Province of Sind and the former State of Kutch long before Partition.

The Rann of Kutch, situated between Sind and the former princely State of Kutch—now incorporated in the Indian Province of Gujrat—is largely an uninhabited area. Pakistan regarded it as being “in the nature of a land-locked sea, or island lake”,<sup>1</sup> whereas India treated it as “marshy land”.<sup>2</sup> The famous geographer, O.H.K. Spate, describes it as “a vast expanse of naked tidal mudflats, a black desolation flecked with saline efflorescences”.<sup>3</sup> The face of the Rann has been changing and still continues to change; but except for a few miles of islands, for half the year the area remains dry and hard, for the other half it is covered by a few feet of salt water. This phenomenon is described as a ‘seasonal visitation’ of the Arabian Sea. “Within this framework of sea and marsh”, to quote Spate again, “the broad outlines of relief and geology are simple enough, but the detail complex. Kutch has a discontinuous backbone (upto 900-1,100 ft.; 275-335 m.) of Jurassic-Miocene rocks, mainly sandstones and interbedded basalts, flanked by alluvial and aeolian deposits; the highest point (1,525 ft.; 465m.) lies away to the north on Pachham Island in the Rann. Physically it is an alternation of little flat-topped steep-edged plateaus, much dissected round the margins, and tiny alluvial basins. The Rann of Kutch appears to be a broken anticline.”<sup>4</sup> It is thus for the most part, a barren, treeless desert drenched and flooded by great seasonal waves of water from the Arabian Sea. There is hardly any population, and agriculture is almost wholly non-existent. About the only form of economic activity in the entire area is grazing. (It was in fact the occupation of the grazing

<sup>1</sup>Text of Pakistan’s letter to the United Nations. (See *Dawn*, April 19, 1965).

<sup>2</sup>*Pakistan’s Aggression in Kutch* (Publications Division, Ministry of Information and Broadcasting, Government of India, May 11, 1965).

<sup>3</sup>O.H.K. Spate, *India and Pakistan: A Regional Geography* (London, Mathuen and Co., 1967), p. 643.

<sup>4</sup>*Ibid.*, p. 645.

tracts of Chhad Bet and Biar Bet which escalated the Rann confrontation into a full armed conflict in 1965.)

Inevitably, on independence Pakistan inherited the old dispute between the State of Kutch and the British-governed Province of Sind. Of the Rann's estimated area of about 8,400 square miles, Sind claimed the northern half of the Rann, an area of about 3,500 square miles situated roughly north of the 24th parallel. The State of Kutch (India), on the other hand, claimed full title to the whole of the Rann. As Alastair Lamb points out, "The Radcliffe Commission of 1947 made no ruling on the Rann of Kutch, which became the subject of some indecisive Indo-Pakistan argument in 1956. The fact that a viable border should not have been devised here at the time of partition is another example of a lack of preparation by the British for independence in the subcontinent."<sup>1</sup>

In 1956, India forcibly occupied a large grazing tract in the Rann, called Chhad Bet. Pakistan immediately suggested a meeting of high officials of the two countries, under the provisions of the Inter-Dominion Agreement of 1948. The Government of India took up the position that 1948 Agreement did not apply to the Rann dispute. At a Ministerial Conference in 1959, Pakistan and India agreed that all outstanding border disputes, including, presumably, the Rann of Kutch, should be settled peacefully. A joint communique issued at the conclusion of a further round of border discussions in January 1960 laid down that the Kutch dispute should be given further consideration. The communique said: "Both Governments have decided to study the relevant material and hold discussions later with a view to arriving at a settlement of this dispute."<sup>2</sup> It was decided that in areas where disputes of title were pending between the Governments of India and Pakistan, the *status quo* (inclusive of defence and security measures) should be strictly maintained until such time as the *de jure* boundary was finalized and the return of territory in adverse possession could be arranged. But due first to the Sino-Indian conflict and then to the rapidly worsening climate of relations between India and Pakistan, these agree-

<sup>1</sup>Alastair Lamb, *Crisis in Kashmir, 1947-1966* (London, Routledge & Kegan Paul, 1966), pp. 115-16.

<sup>2</sup>Shaikh-Swaran Singh *Joint Communique, January 11, 1960*. See *The Hindu* (Madras), January 12, 1960.

ments were not implemented and the dispute was allowed to fester.

In any armed clash it is always difficult to determine who fired the first shot, as the truth is often obscured by the confusion of the disputants' charges and counter-charges. At the beginning of 1965, tensions on the Sind-Kutch border rose constantly, and India ordered full military preparations for an offensive. The headquarters of the Indian Forces in Gujrat were moved from Ahmadabad to Bhuj to facilitate their operational control, and intensive exercises were started. On April 4 and 5, Indian Forces attempted to occupy a Pakistani outpost at Ding, which India claimed to be part of her territory. The Indians repeated their attacks on April 8 and 9, and this seemed to precipitate the major clash between the two countries.<sup>1</sup> *The Economist* wrote on May 1, 1965: "The trouble began around the ruined Kanjarkot. The Indians say their claim line runs nearly a mile to the north. The Pakistanis say that even if the Indian claim were justified, the post is on the other side of it. The Indians say the trouble began because the Pakistanis tried to set up a post at Kanjarkot; the Pakistanis say it began because Indian patrols interfered with theirs on a route south of the post. It looks, in fact, as if the Indians tried to extend their control up to the limit of their territory; and the Pakistanis reckoned that—even on Indian terms—this was an intrusion. It was from a sub-dispute of just this sort that fighting in 1962 on India's north-eastern frontier developed."<sup>2</sup>

Beginning with skirmishes in early April, there developed a full-fledged frontier war between India and Pakistan, which lasted for three weeks. The prelude to the conflict was the Indian assault at Ding. At this critical situation, *The Times of India* pleaded with the Indian leadership "for an examination of Indo-Pakistan relations in their entirety"; and the editor of another influential newspaper, *The Hindustan Times*, in his signed weekly column on April 14, 1965, accused the Home Minister, Gulzarilal Nanda, of whipping up war hysteria over the Kutch

<sup>1</sup>"Rann a Link in Chain of Indian Aggression"—Official Statement (see *Dawn*, May 4, 1965). See also *The Rann of Kutch: Spotlight on War Hysteria in India* (Saifee Printers, Karachi, n.d.); *Indian Aggression in the Rann of Kutch* (Pakistan Publications, Karachi, April 1965).

<sup>2</sup>*The Economist* (London), May 1, 1965: "Barren Battle" pp. 502-503.

incident, which had been blown up out of all proportions.<sup>1</sup> In Pakistan there were cries of 'No War'. Even in Lahore, a few miles from the Indian border, there were no signs of public anxiety.<sup>2</sup> The Government of Pakistan kept public reactions within reasonable limits. The Indian reports of general mobilization of Pakistan were quite baseless. Many foreign journalists who visited the subcontinent during the Kutch fighting bear testimony to this. That is why "Mr. Shastri was reported as saying that the foreign press had carried on a mendacious campaign against India, alleging it was she who had started the war hysteria in India while Pakistan was calm, that India was hindering a peaceful settlement by creating difficulties."<sup>3</sup>

Immediately after India's abortive attempt to capture Ding, Pakistan made a three-point proposal to her, envisaging (a) a cease-fire at a mutually agreed date and time; (b) Official talks to determine and restore the *status quo*; (c) negotiations to settle the Rann dispute. For five days India made no response to these proposals. Meanwhile, Prime Minister Shastri said that he would get the Kanjarkot post vacated by force. In the circumstances, Pakistan's proposals had no chance of being accepted by India.

On April 21, Pakistan again proposed a cease-fire and immediate withdrawal of both countries from the disputed area, in order to open the way to a high-level meeting for a final disposition of the disputed territory. In the mean-time, however, Pakistan moved her Forces to an area lying between Chhad Bet and Bier Bet in order to prevent Indian Forces from advancing further into the Rann to complete their military occupation of it. This brought a sharp reaction from Prime Minister Shastri, who at once threatened to choose India's 'own ground for retaliation' against Pakistan.<sup>4</sup> A few days later, he said "that Pakistan must remember that it had a soft underbelly. If the military command felt that attack of this soft underbelly was necessary in the interest of India's defence, such an attack would have to be made."<sup>5</sup>

In reply to Shastri's threat, Ayub Khan retorted on May 1,

<sup>1</sup>*The Hindustan Times*, April 14, 1965.

<sup>2</sup>See *The Economist*, May 1, 1965: "Storm in a Saltpan", p. 513.

<sup>3</sup>*Observer Foreign News Service*, No. 21422, May 12, 1965.

<sup>4</sup>*The Hindustan Times*, April 29 and May 4, 1965.

<sup>5</sup>Tom Stacey, "War in the Desolate Place", *The Sunday Times* (London), May 2, 1965.

1965: "India has now threatened us with further aggression in a battleground of her own choice... Does she realize this will mean a general and total war between India and Pakistan with all its unpredictable consequences?" He added: "We have been accused of naked aggression. If we had wanted to commit aggression, we would have chosen a better area than the mudflats of the Rann of Kutch. And there were occasions—for instance, when the Indian Forces were on the run after their defeat at the hands of the Chinese..."<sup>1</sup> The Indian Prime Minister did not rest content with mere threats, but caused the bulk of the Indian Forces to be moved close to Pakistan's borders, poised in offensive formations. Pakistan informed the Security Council of this grave situation. However, the forces of nature intervened and the timely start of the monsoon brought about a virtual cease-fire in the Rann, with the result that tensions subsided.

It is difficult to determine the precise reasons behind the Kutch flare-up. The Indians advanced their oft-repeated theme of Sino-Pakistan collusion against India—they even clamoured that there might be another Chinese attack on India's northern border. But, as Rawle Knox pointed out: "The Chinese Embassy in Karachi during these troubled days has appeared less well-informed about the events in the Rann of Kutch... Chinese correspondents were refused permission to visit while their Western colleagues went."<sup>2</sup> On the other hand, "Delhi might well have calculated that Pakistan would get little sympathy from the U.S. just now in any border conflict."<sup>3</sup>

From Pakistan's point of view, the Rann of Kutch seemed to acquire an added significance for national security due to the Indian plan to construct a naval base at Kandla on the gulf of Kutch. This could bring a concentration of Indian warships perilously close to the Karachi harbour. Pakistan was also apprehensive that the Rann might be one of the two places India had earmarked for nuclear experiments. Pakistan expressed her concern in a letter to the United Nations in August 1966, which pointed out the problem of preventing the emergence of a sixth nuclear power.<sup>4</sup> Prospects of oil might have given some fur-

<sup>1</sup> *Dawn*, May 2, 1965.

<sup>2</sup> Rawle Knox, "Pakistan Loses Her Fear", *The Daily Telegraph*, May 5, 1965.

<sup>3</sup> Tom Stacey, *op. cit.*

<sup>4</sup> *The Hindustan Times*, August 4, 1966.

ther impetus to the fight for the possession of the otherwise barren and inhospitable Rann.

In rejecting Pakistan's offer of a cease-fire, on April 24, 1965, India had stated that a territory did not become disputed because one side claimed it to be so. To Pakistan, this seemed the most blatant *volte-face* yet assumed by India in her dealings with Pakistan. It contended that the dispute had arisen not because the boundary was not demarcated, but because the disputed territory was in India's adverse possession. Pakistan, therefore, sought to redeem, by peaceful means, a territory which, on the evidence of history and by precepts, belonged to it.<sup>1</sup> The solution that Pakistan favoured was international arbitration. India's hesitation to accept such an obviously impartial method of resolving the dispute was perhaps due to the apprehension that it might set a bad precedent for Kashmir.

#### *The Rann of Kutch Agreement*

On April 29, 1965, Prime Minister Harold Wilson of Britain appealed to Pakistan and India for a cease-fire in the Rann of Kutch. A *de facto* cease-fire came into effect on May 1, 1965. On May 4, negotiations were started through British good offices to bring about a formal cease-fire, a settlement of the Rann dispute, and a disengagement of Forces on the entire Indo-Pakistan border. The British initiative in bringing about negotiations was held up for a while by Pakistan's refusal to vacate Chhad Bet. Pakistan argued that either all posts should be vacated from the disputed northern half of the Rann, or Pakistan should also retain her posts if India was going to hold hers. India, it appears, was still not inclined to commit herself to adjudication of the dispute if it could not be settled by negotiations. Pakistan insisted on something more definite than India's promise to settle the dispute.

However, a compromise was reached: Pakistan accepted the restoration of the position as it was on January 1, 1965, and withdrew all her Forces accordingly. India for its part, agreed to submit the Rann dispute to adjudication, either through talks at Ministerial level, or through a three-man arbitration tribunal of which one member each was to be nominated by

<sup>1</sup>*Text of Pakistan's Foreign Minister, Z. A. Bhutto's Statement--Dawn, April 16, 1965.*



India and Pakistan, and the third member, to act as Chairman, was to be chosen jointly by both parties or by the Secretary-General of the United Nations. The decisions of the tribunal were to be final and not subject to question on any ground.<sup>1</sup>

The Rann Accord had a mixed reception in India. Prime Minister Shastri felt satisfied that Pakistan had agreed to vacate territory 'gained by aggression', before the proposed talks on the dispute or reference to arbitration. The famous Bhoodhan Leader, Jaya Prakash Narayan, considered the Kutch Pact a way towards an Indo-Pakistan *detente*.<sup>2</sup> But some members of the Indian Parliament criticized the agreement and the idea of a tribunal to arbitrate on the dispute. On this point, there was so much criticism of the Indian Government that Shastri had to reassure Indian public opinion that "there was no question of any arbitration on the Rann of Kutch."<sup>3</sup> This surprised Karachi. The general impression created was that India had agreed to the cease-fire under pressure, and that its agreement either constituted a diplomatic device to secure greater concessions, or was the result of Indian military reverses in the Rann, which made it reconsider its response to the peace overtures of Pakistan. Moreover, India reacted angrily at China's endorsement of Pakistan's case in the dispute. Russia's statement on the dispute possibly also influenced New Delhi's second thoughts. The Soviet Union had expressed the hope that Pakistan and India would both display restraint and settle their dispute themselves, with the interest of both sides taken into consideration. Russia's attitude on Indo-Pakistan conflicts thus appeared to have changed from its previous out-and-out support for India to a position of neutrality.<sup>4</sup>

Pakistan regarded the Rann of Kutch Agreement as a diplomatic triumph, for the reason that India at last not only accepted the Rann as a disputed territory, but also agreed to refer the matter to international arbitration. Many Pakistanis

<sup>1</sup>See *Text of the Rann of Kutch Agreement—Appendix*. See also. *Summary of the Rann of Kutch Dispute, Government of Pakistan* (unpublished). *The Hindu* (Madras), July 1, 1965; *Dawn*, July 2, 1965; *The Times* (London), June 10 and July 1, 1965.

<sup>2</sup>Jaya Prakash Narayan, "Kutch Pact Shows Way for Indo-Pakistan *Detente*", *The Hindu* (Madras), July 20, 1965. See *Eastern Economist*, July 9, 1965: "Ditched in Kutch".

<sup>3</sup>*Dawn*, July 2-4, 1965.

<sup>4</sup>*The Times* (London), May 17, 1965.

entertained hopes that, if successful on Kutch, the arbitration principle might be extended to Kashmir. Such a hope was, to a certain extent, encouraged by the following proposal of the well-known Indian leader, Jaya Prakash Narayan: "Let India and Pakistan jointly announce that hereafter they would adhere to these means and apply them to every dispute, including that of Kashmir."<sup>1</sup> In general, it was felt that the dispute over the Rann of Kutch was merely one symptom of a deeper malaise that affected Indo-Pakistan relations. A settlement of this dispute alone would not only cure the disease: but it might also easily go some way towards reducing tensions and preparing the ground for a solution of Kashmir. Therefore, a progressive disengagement of Forces, massed on either side of the Indo-Pakistan border, was generally welcomed in Pakistan.

Preparations for convening the Kutch arbitral tribunal—officially designated the Indo-Pakistan Boundary Case Tribunal, were set in motion. India nominated Ambassador Ales Bebler, Judge of the Constitutional Court of Yugoslavia, as its representative on the Tribunal, and the Government of Pakistan chose Ambassador Nasrullah Entezam of Iran, a former President of the United Nations. The UN nominated Judge Gunnar Lagergren to preside over the Tribunal, which began its sittings on February 15, 1965, in Geneva.

### *The Tribunal Award*

*Pakistan's Case:*<sup>2</sup> Pakistan contended that the disputed territory consisted of (i) the Rann proper, and (ii) the land area. It regarded the land areas as merely an extension of Sind and an integral part of it. Pakistan, therefore, demanded that the Rann proper, as it existed in 1819, should be divided half and

<sup>1</sup>Jaya Prakash Narayan, *op. cit.*

<sup>2</sup>*Summary of Pakistan and Indian Case: Contentions before Tribunal.* Dawn, February 20, 1968.

"The main contention urged by Pakistan in its memorials was that Sind had exercised jurisdiction continuously in the northern part of the Rann before and after the advent of British rule and right up to 1947, and even until 1956. Pakistan relied upon the exercise of jurisdiction by the former British province of Sind in two ways: (a) as evidence of the title of the British in this area and (b) as an independent source of title to the British, and hence to Pakistan as their successor in Sind.... Pakistan's contention about acts of jurisdiction exercised by the former province of Sind.... could be interpreted either as acts of a territorial sovereign or those of the paramount power." Aziz A. Munshi, "The Background and the Bases of the Rann of Kutch Award", *Pakistan Horizon*, First Quarter, 1970, pp. 37-50; Ref : pp. 39-40.

half between Sind and Kutch. In this connection, Pakistan relied on many precedents from the British period, when portions of the Rann of Kutch, were divided half and half between Kutch and other coastal States. Furthermore, Pakistan considered that the Rann, though unique in itself, had many characteristics of an inland sea, and should be governed by the principle of the median line in International Law. Pakistan also gave instances of Sind exercising jurisdiction in the disputed territory.

*The Indian Case:* India claimed that the whole of the Rann of Kutch had always been a part of Kutch (now in India) and that the border between Sind and Kutch lay roughly along the northern edge of the Rann. In support of this assertion, India relied on a number of documents and maps from the British period, which, according to the Indian view, depicted the Rann as a part of Kutch, and showed that there never was a dispute in so far as the border in this part of the Rann was concerned.<sup>1</sup>

The Tribunal, giving its decision on February 19, 1968, by a two-to-one decision, awarded about nine-tenths of the disputed territory of 3,500 square miles to India, the remainder to Pakistan. Pakistan thus obtained some 350 square miles, including much of the grazing lands, particularly Chhad Bet and Kanjarkot. The Chairman observed: "In respect of those sectors of the Rann in relation to which no specific evidence in the way of display of Sind authority, or merely trivial or isolated evidence of such a character, supports Pakistan's claim, I pronounce in favour of India. These sectors comprise about 90 per cent of the disputed territory. However, in respects of sectors where a continuous and, for the region, intensive Sind activity, meeting with no effective opposition from the Kutch side, is established, I am of the opinion that Pakistan has made out a better and superior title."<sup>2</sup> (See Map VI). Concurring with the Chairman, Nasrullah Entezam observed: "In an early stage I considered that Pakistan had made out a clear title to the northern half of the area shown in the Survey Maps of the Rann. I have now had the advantage of reading the opinion of the

<sup>1</sup>Aziz A. Munshi, *op. cit.*, p. 41: "According to India, the maps did show a boundary lying along the northern edge of the Rann. In the series they produced, they tried to show that Sind *prima facie* ended on the northern edge of the Rann.

<sup>2</sup>*Excerpts from the Kutch Award: Dawn*, February 23, 1968. See Appendix IX.

learned Chairman, and in the light of it I concur in and endorse the judgement of the learned Chairman.”<sup>1</sup>

In his dissenting opinion, Ambassador Ales Bebler observed: “I find that the boundary between India and Pakistan in the West Pakistan-Gujrat border area lies along the northern edge of the Great Rann as shown in the latest authoritative map of this area, *i.e.*, the Index Map of the Province of Sind of 1935 (Indian Map, B-45).”<sup>2</sup>

As the Award accepted part of Pakistan’s case and was based on a majority decision, it was bound to evoke unfavourable reaction in India. The former Foreign Minister of India, M.C. Chagla, described it as a “political gift to Pakistan”, and added that, as such, it had no binding force on India.<sup>2</sup>

Pakistan’s Foreign Minister, Syed Sharifuddin Pirzada, sharply reacted to Chagla’s statement and called the allegations “misconceived, malicious and mischievous, and devoid of legal and moral force.”<sup>3</sup> He added: “Mr. Chagla was India’s Minister of External Affairs at the relevant time when the Rann of Kutch dispute was before the Tribunal. I understand that he visited Geneva during the pendency of proceedings. He is fully aware of the provisions of the agreement between India and Pakistan and the binding character thereof. Of course, knowing Mr. Chagla’s past, it is not surprising that, notwithstanding his judicial and legal background, he should suggest to India not to accept the findings of the Tribunal.”<sup>4</sup>

It had been clearly laid down that the decisions of the Tribunal “shall not be questioned on any ground whatsoever.” The Supreme Court of India in 1968 accordingly rejected seven writ petitions to restrain the Government of India from making over the areas of Kanjarkot, Chhad Bet, etc., to Pakistan. The Court observed: “It may be pointed out that none of the petitioners contends that the Award should be rejected. This was as it should be. India was voluntarily a party to an agreement pledging its honour to respect the Award. According to J.H. Holston (*International Arbitrations from Athens to Locarno*) “Pacific settlements of international disputes through a binding

<sup>1</sup>*Ibid.*                      <sup>2</sup>*Ibid.*

<sup>3</sup>M. C. Chagla’s Statement, *The Hindu* (Madras), February 22, 1965.

<sup>4</sup>*Pakistan Times* (Lahore), February 23, 1968. Also see “Peaceful Settlement of Disputes—Pirzada on Tribunal Award”, *Morning News* (Karachi), February 20, 1968; *The Pakistan Observer* (Dacca), February 21, 1968.

award on the basis of an undertaking voluntarily accepted are founded on the same principles as are to be found in the concept of arbitrations in Municipal Law. The history of such arbitrations began in modern times from the Jay Treaty between Great Britain and the United States of America of November 19, 1794, to settle the boundary disputes after independence in 1776 through mixed commissions. The commissions settled the exact position of the St. Croix river and the decision was regarded by both sides 'as final and conclusive, so that the same shall never thereafter be called in question or made the subject of dispute or difference between them'. The rules of such arbitrations were settled by the Alabama Arbitration in 1877, and the basis of the rules is the maxim, *pacta sunt servanda*. Indeed, the Hague Convention of 1907 (Art. 37) contained the rule: 'Recourse to arbitration implies an engagement to submit loyally to the award'.

"There have been innumerable arbitrations between nations. Several books contain surveys of these arbitrations and awards. Stuyt lists 407 between 1794 and 1938, and writers like Moore, La Fontaine, Lepadrille, Derby, etc., have made compilations, the most complete being by Moore. Nantwi brings the list down to 1967, and also lists separately the awards which were not complied with. An examination of such awards only reveals that generally an award is not accepted when the terms of submission are departed from or there are fatal omissions, contradictions or obscurities, or the arbitrations substantially exceed their jurisdiction. None of these factors obtains here. Since the award has been accepted by our Government it is binding."<sup>1</sup>

But many Indians did not realize that Indian reactions to the Kutch Award might harm their country far more grievously than the loss of 300 odd miles arid of territory. The correspondent of *The New York Times* Joseph Lelyweld, wrote on February 25, 1968: "By any normal standard this was a victory for

<sup>1</sup>The Supreme Court of India—Civil Appellate Original Jurisdiction: 1. *Civil Appeal No. 1528/68*—Maghanbhai Ishwari Patel vs. Union of India; 2. *Civil Appeal No. 1900/68*—Major Ranjit Singh vs. Union of India. 3. *Civil Appeal No. 2118/68*—Shiv Kumar Sharma vs. Union of India. 4. *Writ Petition No. 109 of 1968*—Shri Mainkant Tiwari vs. Union of India. 5. *Writ Petition No. 234 of 1968* (with *C.M.P. No. 4905 of 1968*) Shiv Kumar Sharma vs. Union of India. 6. *Writ Petition No. 402 of 1968*—Madhu Limaya vs. Union of India; 7. *Writ Petition No. 403 of 1968*—Gulab Sarkar Amritlal Dhulaki vs. Union of India.

India, since the Tribunal had accepted the main points of the Indian case and affirmed India's title to more than 90 per cent of the disputed territory. But most Indians seemed convinced that an award of anything less than 100 per cent was proof that the verdict was not judicial but politically motivated and anti-Indian—a reward, therefore, for Pakistani aggression.”<sup>1</sup> The Indian Prime Minister, Mrs. Indira Gandhi, took five days to say publicly that India stood by her commitments.

Immediately after the announcement of the Award, a spokesman of Pakistan's Foreign Office in Islamabad said, “the barest minimum of the essential areas”<sup>2</sup> was awarded to Pakistan. The Government did not take much time to accept the Award. To Pakistan, more important than the disputed territory was the “principle that India should not be allowed to nullify a Pakistani claim by simply moving her administration into the disputed territory and refusing thereafter to recognize the existence of a dispute”.<sup>3</sup> Pakistan's disappointment with the awarded territory seems to have been compensated by the vindication of her stand.

The final phase of the implementation of the Award of the Indo-Pakistan Western Boundary Case (Rann of Kutch) Tribunal—the authentication of agreed border maps and documents and resumption by Pakistan of the areas under adverse Indian control—was completed in the first week of July, 1969, followed by the completion of demarcation in early 1970, thus settling a dispute that had led India and Pakistan to an armed conflict and the brink of war. However, the Rann of Kutch arbitration has not as yet helped to create a suitable climate for similar peaceful solutions of the wasteful and dangerous disputes of Kashmir and Farakka.

### *Kashmir*

The Kashmir dispute lies at the heart of the Indo-Pakistan conflict, for since independence relations between the two countries have pivoted mainly around this issue. It has not only been an important factor in shaping their divergent foreign policies,

<sup>1</sup>Joseph Lelyweld, “Anything for Pakistan Too Much”. *The New York Times*, February 25, 1968.

<sup>2</sup>*The Times* (London), February 20, 1968.

<sup>3</sup>See *Survey of Pakistan Report*, March 11, 1969, Appendix I; “The Rann Accord”, *Dawn*, July 9, 1969.

but has also magnified and compounded their mutual suspicions and fears, which date back to the pre-independence struggle between the Congress and the Muslim League. It is a measure of the significance and deep emotional appeal of this dispute in both States that twice in two decades India and Pakistan have gone to war over it. The outcome of both these armed encounters was a continuing stalemate; but so long as the Kashmir dispute remains unsettled, Indo-Pakistan relations will clearly continue to be troubled even if relations are normalized in other areas.

Pakistan regards Kashmir as a territorial dispute, arising from the non-application of the principle of self-determination to the people of Kashmir. Pakistanis contend that as a logical corollary of the partition of British India, on the basis of Muslim and non-Muslim majority areas, the State of Jammu and Kashmir, having an overwhelming Muslim majority, should have become a part of Pakistan.<sup>1</sup> The Indian leaders challenge this, though they themselves accepted the communal majority principle of the partition of British India, applying it not only for the partition of the Punjab and Bengal, but also in the case of Hyderabad, Jodhpur, Junagadh and Manavadar.<sup>2</sup> Thus it is

<sup>1</sup>"It was natural that if the theory on which India was partitioned, namely that Muslim areas should go to Pakistan, has any validity, Kashmir naturally belongs to Pakistan. But if Kashmir refuses to go that way, then that whole theory falls to the ground and the political pundits of the Congress will have succeeded in breaking up the very basis of the theory on which Pakistan was founded, so that while India can survive the loss of Kashmir, Pakistan cannot." F.D. Karaka, *Betrayal in India* (London, 1950), pp.176-177.

<sup>2</sup>V. P. Menon writes in his book, *The Story of the Integration of Indian States* (New York, Macmillan, 1956), p. 177: Lord Mountbatten "made it clear that from the purely legal standpoint there was no objection to the ruler of Jodhpur acceding to Pakistan; but the Maharaja should, he stressed, consider seriously the consequences of doing so, having regard to the fact that he himself was a Hindu: That his State was populated pre-dominantly by Hindus, and the same applied to the States surrounding Jodhpur. In the light of these considerations, if the Maharaja was to accede to Pakistan, his action surely would conflict with the principle underlying the partition of India on the basis of Muslim and non-Muslim majority areas."

When the Muslim ruler of Junagadh in September 1947 wished to accede his Hindu-majority State to Pakistan. India protested telegraphically to the Security Council: "... possibility of Junagadh's accession to Pakistan Dominion in teeth of opposition from its Hindu population of over 80 per cent has given rise to serious concern and apprehension to local population... Such acceptance of accession by Pakistan cannot but be regarded by Government of India as an encroachment on India's sovereignty and territory and inconsistent with friendly relations that should exist between the two Dominions. This action of Pakistan is considered by the Government of India to be a clear attempt to cause disruption in integrity of India by extending influ-

difficult for Indian leaders to convince the world that India is waging a war of ideals to vindicate her philosophy of secularism.<sup>1</sup>

The rest of the problem lies in the strategic location of Kashmir. On October 25, 1947 (on the first morning of Kashmir's accession to the Indian Union), the Indian Prime Minister said: "Kashmir's northern frontiers, as you are aware, run in common with those of three countries: Afghanistan, the USSR and China. . . Helping Kashmir, therefore, is an obligation of national interest to India".<sup>2</sup> Exactly a month later, on November 25, 1947, Jawaharlal Nehru said in the Indian Constituent Assembly: "We were, of course, vitally interested in the decision the State would take. Kashmir, because of her geographical position, with her frontiers marching with three countries, namely, the Soviet Union, China and Afghanistan, is intimately connected with the security and *international contacts of India*."<sup>3</sup> Nehru's political biographer and admirer Brecher, does not appear to share the Indian Prime Minister's view. He writes: "His (Nehru) primary concern was with India's position as a Central Asian Power rather than with the danger to the security of India arising from the possession of Kashmir by a hostile Power."<sup>4</sup> Gandhi too felt that 'Kashmir had the greatest strategic value, perhaps in all India'.<sup>5</sup> India, it seems, considers it to be her right as the 'real successor to the British Raj' to possess the old British Imperial frontier system in order to have access to Central Asia.

It is a part of national sensibility in Pakistan that the natu-

ence and boundaries of Dominion of Pakistan in utter violation of principles on which Partition was agreed upon and effected." *Security Council Official Records*, 3rd Year, Nos. 16-35, pp. 192-193.

<sup>1</sup>See Josef Korbel, *Danger in Kashmir* (Princeton University Press, 1966) p. 42. Even a great professor, Dr. D. R. Gadgil, in his statement on October 9, 1947, says that "India is a Hindu State, or more fully, a federation of Hindu National States." *The Statesman* (Delhi), October 25, 1947.

<sup>2</sup>*White Paper on Jammu and Kashmir*, pp. 45-46. Exactly the same point was repeated by Gopalaswami Ayyangar, the Indian representative at the United Nations, who transmitted to the President of the Security Council a complaint from the Government of India on January 1, 1948. *S.C.O.R.* 227th Meeting, 1948 (Bombay, Oxford, 1947-50), Vol. I, p. 389.

<sup>3</sup>Jawaharlal Nehru, *Indian Constituent Assembly Debates*. (Italics added.) Also see, S.L. Poplai (Ed.), *Select Documents on Asian Affairs: India* Vol. I, pp. 594-95. (Italics added.) Speaking in the Constituent Assembly of India on March 5, 1948, he also lamented the fact that Partition had "reduced India's importance in Asia and the world generally." *Constituent Assembly Debates*, Vol. III, Part I, 1948, p. 1765.

<sup>4</sup>Michael Brecher, *The Struggle for Kashmir* (Toronto, 1953), p. 46.

<sup>5</sup>D. G. Tendulkar, *Mahatma*, 8 Vols. (New Delhi, Government of India Publication Division, 1960-63), Vol. VIII, p. 69.



ral and rightful frontiers of the country remain incomplete till Kashmir too becomes a part of it. Strategically, too, West Pakistan and Kashmir form an inseparable geographical unit of the Indus Valley. The rivers Indus, Jhelum and Chenab, which flow through Kashmir into West Pakistan, are the life-line of its agricultural economy, and the defence of West Pakistan can be easily outflanked from mountainous Kashmir in the rear. "Should Kashmir become part of India, Pakistan would be left with a long and difficult salient, stretching north of Peshawar and the Khyber, between Afghanistan and Kashmir, to the Wakhan, for the defence of which it would be responsible. . . . Its situation is such, that even a small hostile Military and Air Force would be a threat to a defence facing north-west and would need the detachment of disproportionately large Forces."<sup>1</sup> The two strategic roads and railways from Lahore to Peshawar run close to the State's boundary with West Pakistan. This makes them, nay, indeed the whole of West Pakistan, extremely vulnerable in the event of Kashmir continuing to remain in the hands of an unfriendly India. How Pakistanis feel about Kashmir was portrayed by Pakistan's first Foreign Minister, Zafrullah Khan, at the Security Council in 1950: "The possession of Kashmir can add nothing to the economy of India or to the strategic security of India. If Kashmir should accede to India, Pakistan might as well, from both the economic and strategic points of view, become a feudatory of India or cease to exist as an independent sovereign State."<sup>2</sup> Ex-President Ayub emphasized the crucial importance of Kashmir to Pakistan: "Our communication, our rivers, and even the cease-fire line in Kashmir, one and all, are sufficient factors to indicate that our neck is in the grip of others. . . ."<sup>3</sup> Few would disagree with Alastair Lamb's statement that "Pakistan's most serious problem of frontier policy, there can be no doubt at all, is to be found in Kashmir."<sup>4</sup>

<sup>1</sup>Brigadier D. H. Cole, *Imperial Military Geography* (London, Sifton Praed, 1953), p. 175. Shaikh Abdullah in a statement to the press in Delhi, on October 21, 1947, observed: "Due to the strategic position that the State (Kashmir) holds, if this State joins the Indian Dominion, Pakistan would be completely encircled." Cf. *Chronology of Pakistan, 1947-1957* (Karachi, Kamal Publications, 1957), p. 20. Also see, P.N. Dhar, "The Kashmir Problem, Political and Economic", *India Quarterly*, June 1951, p. 143.

<sup>2</sup>S.C.O.R. 464; the Meeting, 1951.

<sup>3</sup>*Dawn*, October 7, 1960 (Addressing the Kashmiris at a public meeting at Muzaffarabad in Azad Kashmir on October 6).

<sup>4</sup>Alastair Lamb, *Asian Frontiers* (London, Pall Mall, 1968), p. 99.

Early in May 1947, Acharya Kripalani, then President of the Congress, visited the State to persuade the Maharaja (Hari Singh) of Kashmir to join the Indian Constituent Assembly.<sup>1</sup> On June 1 (two days before the announcement of the Partition Plan for the subcontinent), Gandhi, who had never shown a notable interest in Kashmir in his long political career and who had retired from active politics, disclosed his intention to visit Kashmir to solve the political issue there.<sup>2</sup> When he actually visited the State in the first week of August 1947, he added an important link to the chain of visits begun by Nehru's in June 1946. The rulers of the Patiala and Kapurthala States of East Punjab also made successive visits to Kashmir. (Kapurthala, a contiguous State to Pakistan, had a Muslim majority population.)

Preceding a Standstill Agreement between Pakistan and the Government of Jammu and Kashmir, which became operative on August 15, but was subsequently violated by the latter, the All-Jammu and Kashmir Muslim Conference had also passed a resolution on July 19, 1947, regarding the State's accession to Pakistan. After congratulating Jinnah on his achievement, this resolution stated: "On the partition of India, the people of British India have obtained independence, but the announcement of June 3, 1947, has strengthened the hands of the Indian Princes, and unless the Princes respond to the call of the times, the future of the people of the Indian States is very dark. There are only three ways open to the people of Jammu and Kashmir State—(1) to accede to India, or (2) to accede to Pakistan, or (3) to remain independent.

"The Convention of the Muslim Conference has arrived at the conclusion that keeping in view the geographical conditions, 80 per cent Muslim majority out of the total population, the passage of important rivers of the Punjab through the State, the language, cultural, racial, and economic connection of the people and the proximity of the borders of the State of Pakistan, are all facts which make it necessary that Jammu and Kashmir State should accede to Pakistan."<sup>3</sup> The League regarded the

<sup>1</sup>Sisir Gupta writes: "The visit of the Congress President failed to persuade the Maharaja to join the Constituent Assembly" (of India) *Kashmir: A Study in Indo-Pakistan Relations* (London, Asia Publishing House, 1966), p. 95.

<sup>2</sup>Hindustan Times (Delhi), June 2, 1947. See also *The Hindu* (Madras), July 31, 1947.

<sup>3</sup>Sardar M. Ibrahim, *The Kashmir Saga*, p. 27.

attempts to secure Kashmir as part of a border strategy covering Kashmir and the North-West Frontier Province. It was as if Kashmir was being sought as a backdoor to the Congress-dominated N.W.F.P.<sup>1</sup>

M. C. Mahajan, an Indian on the Punjab Boundary Commission and Prime Minister of Kashmir at the time of its accession to India, revealed that "Kabul was suggested by some as a neighbour who may possibly lend a helping hand".<sup>2</sup> The Muslim League leaders suspected a co-ordinated movement in the North-West Frontier Province and Kashmir, and feared that "the new State (Pakistan) might be still-born, crushed by a sort of pincer-movement".<sup>3</sup> Even after the referendum in the North-West Frontier Province, Abdul Ghaffar Khan's elder brother, Dr. Khan Sahib, continued for a crucial period as Chief Minister of the Province. As Birdwood puts it: "If India was to reach Hunza, Nagar, and Gilgit, there would in fact be established a common India-Afghanistan frontier of 50 miles. . . Here we should only recall that in essence it amounts to a suggestion that there has been an understanding between India and Afghanistan for the encouragement of a tribal autonomous State on the North-West Frontier at the expense of Pakistan. If Afghanistan and India were actually in physical contact through Kashmir, Pakistan could claim to be the victim of a 'pincer' operation."<sup>4</sup> Besides, by possessing Kashmir, India was bound to have a position of close proximity to the main rivers and communication arteries of West Pakistan, thus having the ability to exercise, at will and with complete impunity a political and economic strangle-hold on Pakistan. It is largely for these

<sup>1</sup> S. M. Burke writes: "An examination of the files of the *Tribune*, Lahore, the leading Congress mouthpiece of the Congress Party at that time in the Punjab, is quite revealing. In its leading article 'Pathanistan', on May 16, 1947, the *Tribune*, supporting the demand of the Khan Brothers for the independence of the Frontier Province, linked the question with Kashmir: 'This Pathanistan can link itself with Hindustan if it likes through Kashmir which may be converted into a democratic Unit with the popular Nationalist Party exercising governmental authority.' Here then was the first glimmer of the method eventually employed: place Sheikh Abdullah's Party, then pro-Congress, in the seat of power and use it as the instrument for further moves." *Dawn*, August 2, 1970.

<sup>2</sup> M.C. Mahajan, *Accession of Kashmir: The Inside Story* (Sholapur, 1950), p. 16. See also his autobiography, *Looking Back* (London, Asia Publishing House, 1963) for inside story.

<sup>3</sup> Ian Stephens, *op. cit.*, p. 108.

<sup>4</sup> Lord Birdwood, *Two Nations and Kashmir* (London, Robert Hale, 1956), p. 95.

reasons that every subsequent Indian attempt to justify its position on Kashmir has been regarded by Pakistan as a further development of the long-standing Hindu strategy to cripple it and eventually reunify the subcontinent.

There were meaningful parallel political developments in India and Kashmir to reinforce suspicions of the Congress strategy to secure a backdoor to the N.W.F.P. through Kashmir. Mountbatten, under Congress pressure, in spite of Jinnah's opposition, and against the advice of the Political Adviser, Sir Conrad Corfield, created the States Department "to usurp some of the functions of paramountcy, which His Majesty's Government had promised not to transfer to the successor Governments".<sup>1</sup> Hodson writes: "At a meeting between the Viceroy and the chief political leaders on 3rd June, at which the States were discussed and the Political Adviser was present, Pandit Nehru pursued the familiar Congress line that any Indian successor Government was entitled to assume paramountcy after the transfer of power. He vehemently denied that the States had any right to declare their independence, claiming that there was no trace of this in the Cabinet Mission's memorandum. Sir Conrad Corfield quoted the option of 'entering into particular arrangements' with the successor Governments, as the alternative to federal relationship, and argued that the phrase implied relations with autonomous units. On this point, and on Sir Conrad's alleged failure to treat non-paramountcy matters as the concern of the Government of India, Pandit Nehru attacked the Political Adviser to his face, declaring that he ought to be tried for misfeasance."<sup>2</sup> In fact, writes Lord Mountbatten, "as usual he (Nehru) completely lost control of himself".<sup>3</sup> The Political Adviser, Mountbatten ignored with studied thoroughness.<sup>4</sup> Furthermore, Indian leaders used the personality, prestige

<sup>1</sup>Hodson, *op. cit.*, p. 364.

<sup>2</sup>*Ibid.*, 363.

<sup>3</sup>*Viceroy's Personal Report*, No. 10, June 27, 1947. Cf. *Ibid.*, p. 363. (Word in bracket added.)

<sup>4</sup>Sir Conrad Corfield, "Some Thoughts on British Policy and the Indian States, 1935-47" in *The Partition of India*, ed. by C.H. Philips and Doreen Wain Wright (London, George Allen & Unwin, 1970), p. 531: "My main difference with Mountbatten was when he agreed to use his influence as Crown representative and as a royal personage with the rulers to ensure adherence before the lapse of paramountcy. . . . I had allied differences with him over Kashmir and Hyderabad. I suggested that if these two States were left to bargain after independence, it would be quite possible for India and Pakistan to come to an agreement. The two cases balanced each other, with

and Royal connection of the Viceroy as invaluable in dealing with the Princes and their accession to India within six weeks before the transfer of power to the successor Governments of India and Pakistan. As Hodson sums up the situation: "When Mr. V. P. Menon told Sir Conrad Corfield of the decision 'he literally threw up his hands, in surprise.'" He did not then know of the part the Crown Representative himself was to play. Sir Conrad, when he did learn of Lord Mountbatten's intentions, warned him that he was agreeing to recommend to the Rulers a bargain which could not be guaranteed after independence. The Political Adviser also considered the policy of accession within six weeks far too ambitious. He was told on behalf of the States Department that they assumed the responsibility for negotiations with the Rulers, though they would welcome assistance from the Political Department. Nor was the policy of rushed accession agreed with the Pakistan section of the Government. . . Jinnah proclaimed his objection to the accession plan and his intention to guarantee the independence of States adhering to Pakistan."<sup>1</sup> Menon had advised Patel to secure the services of Mountbatten, for apart from his position, his grace and his gifts, his relationship to the Royal Family was bound to influence the rulers."<sup>2</sup> Thus the Mountbatten-Patel-Menon Axis was clearly on the move even before the inception of Pakistan. And in fact, the Mountbatten Plan for the transfer of Power (June 3 Plan) was a 'Menon Plan', at least in so far as he drafted it.<sup>3</sup>

Gopalaswami Ayyangar, who had been Prime Minister of Kashmir from 1937 to 1943 and was known to be an anti-Muslim Brahmin, was appointed Minister Without Portfolio in the Indian Cabinet in September 1947. On September 30, the Government a Hindu ruler over mainly Muslim subjects and a Muslim ruler over mainly Hindu subjects, neither of them having access to the sea and both providing valuable amenities over water and communications to both the new Dominions. But Mountbatten did not listen to me. . . . Anything that I said to Mountbatten about Kashmir carried no weight against the long-standing determination of Nehru to keep it in India."

Sardar Patel is also reported to have said to Liaquat Ali Khan in November 1947: "why do you compare Junagadh with Kashmir? Talk of Hyderabad and Kashmir, and we could reach an agreement." Choudhri Muhammad Ali, *op. cit.*, p. 299.

<sup>1</sup>Hodson, *op. cit.*, p. 368.

<sup>2</sup>V. P. Menon, *The Transfer of Power in India* (Calcutta, Orient Longmans, 1957), p. 93.

"I had only two or three hours in which to prepare an alternative draft plan and I set to work on it at once."

<sup>3</sup>*Ibid.*, p. 247.

of India formed a Defence Committee under the Chairmanship of Mountbatten, which included the Prime Minister, the Deputy Prime Minister, the Defence Minister and the Minister Without Portfolio as members. Sheikh Abdullah, the leader of the pro-India National Conference, was released from the Srinagar Jail, while the pro-Pakistan leader of the Muslim Conference, Choudhury Ghulam Abbas, was not set free at that time. Moreover, M.C. Mahajan, who had served as India's nominee on the Punjab Boundary Commission, was appointed Prime Minister of Kashmir on October 15, 1947. According to the famous Kashmir leader, Premnath Bazaz, a few hours after taking office, Mahajan gave a statement to the press—presumably with the approval of the Maharaja—in which he praised the Indian leaders and denounced Pakistan.<sup>1</sup>

The most serious development of all, however, was the systematic way in which Pakistan was portrayed as a villain bent on disrupting the economic and political stability of the State of Jammu and Kashmir. Pakistan's reaction was that the Prime Minister of Kashmir's "threat to enlist outside assistance shows clearly that the real aim of your Government's policy is to seek an opportunity to join the Indian Dominion, as a *coup d'etat* by securing the intervention and assistance of that Dominion."<sup>2</sup> Subsequently, the forced landing of the plane of Thakore Hari-man Singh, a cousin of the Maharaja at Lahore, revealed that he was carrying a secret draft treaty, in which the Maharaja had promised Kashmir's accession to India and agreed to allow Indian troops and the Indian Air Force to be posted at strategic points in the State, particularly at Gilgit. In return, India was to build good roads from Pathankot to Jammu.<sup>3</sup> It is significant that all this took place at a time when the tribal invasion of Kashmir was still a thing of the future.

<sup>1</sup>Premnath Bazaz, *The History of the Struggle for Freedom in Kashmir* (New Delhi, Kashmir Publishing House, 1954), p. 325.

The Kashmiri Brahmin predecessor, Pandit Kak, had been dismissed earlier on August 11, 1947, because he stood for the independence of Kashmir and would not toe the Congress line. And just before the dismissal, Gandhi wrote to Patel, "He (the Maharaja) wishes to remove Kak . . . the only question (before him) is how . . . in my opinion the Kashmir problem can be resolved. . . ." See Pyarelal, *Mahatma Gandhi: The Last Phase*, Vol. II (Ahmedabad, Navjivan Publishing House, 1958), pp. 357-58.

<sup>2</sup>Cf. Chaudhri Muhammad Ali, *op. cit.*, p. 292.

Quaid-i-Azam's telegraphic reply to the Prime Minister of Kashmir (October 20, 1947).

<sup>3</sup>*The Daily Telegraph*, October 7, 1947.

Before long, the people of Poonch, many of whom had had combat experience in the Second World War, raised the banner of revolt against the Maharaja's rule. Within six weeks they established their control over large areas and organized the Government of Azad (free) Kashmir. Sheikh Abdullah stated in Delhi, on October 21, 1947: "The present troubles in Poonch were caused by the unwise policy adopted by the State. The people of Poonch had started a people's movement for the redress of their grievances."<sup>1</sup> How the Maharaja's Government reacted has been described by the *Times* thus: "In one area, 237,000 Muslims were systematically exterminated, unless they escaped to Pakistan along the border, by the Forces of the Dogra State, headed by the Maharaja in person."<sup>2</sup> This event precipitated the Indo-Pakistan crisis and the tribal incursion into Kashmir. The tribal intervention proved disastrous for Pakistan, as it provided an excuse for the Maharaja to seek India's military assistance to expel the raiders, for which India received the sanction of the "legal technicality of accession", though "Sardar Vallabhai Patel said he saw nothing to prevent India from sending armed assistance whether or not Kashmir acceded, and Pandit Nehru agreed".<sup>3</sup> In view of the preceding hectic attempts by the Congress to secure the accession of Kashmir to India, the final act of accession was not merely a legal technicality; it was a formality which provided India with a foothold on the strategically vulnerable frontier of West Pakistan and an easy access to the historic North-West frontier from the rear.

We get a first-hand account of the political climate of Delhi on the eve of the Maharaja's accession to India and the landing of Indian Forces (October 27, 1947) from the Editor of the *Statesman*, Ian Stephens: "I was startled by their (the dinner hosts, Lord and Lady Mountbatten) one-sided verdicts on affairs. They seemed to have become wholly pro-Hindu. The atmosphere at Government House that night was almost one of

<sup>1</sup>Cf. K. Sarwar Hasan, *Pakistan and the United Nations* (New York, Manhattan Publishing Company, 1960), p. 96.

<sup>2</sup>*The Times* (London), October 10, 1947.

<sup>3</sup>Hodson, *op. cit.*, p. 450.

"I (Nehru) consulted Mahatma Gandhi and had his approval." Nehru's Speech, Constituent Assembly Debates, Vol. III, 1948, p. 1654. "India felt that because of her greater strength and additional advantage of not having to start from scratch like Pakistan, she was superior to Pakistan." *Ibid.*, p. 1768.

war. Pakistan, the Muslim League, and Mr. Jinnah were the enemy. . . Mr. Jinnah, Lord Mountbatten assured me, was waiting at Abbottabad, ready to drive in triumph to Srinagar (subsequent inquiries showed that Lord Mountbatten was wrong, and that Mr. Jinnah spent all the latter part of October in Karachi or Lahore). After the meal Lord Mountbatten took me aside. As Editor of an important paper I should know the facts fully. Because of the Pathan attack, the Maharaja's formal accession to India was at that moment being finalized. Subject to a plebiscite, this great State, its inhabitants mainly Muslim, would now be lost to Jinnah. . . The concept of dividing the sub-continent into Hindu-majority and Muslim-majority areas, the basis of the 3 June Plan, seemed outraged. At a Hindu Maharaja's choice, but with a British Governor-General's backing, 3 million Muslims, in a region always considered to be vital to Pakistan if she were created, were legally to be made Indian citizens."<sup>1</sup> It was significant that the very day the Governor-General signed the Instrument of Accession, Indian troops landed in Srinagar by 9 a.m. Mountbatten made it his "business to override all the difficulties which the Commanders-in-Chief, in the course of their duty, raised to the proposal"<sup>2</sup> of air landing.

The Quaid-i-Azam received news of the landing of Indian Forces in Kashmir at midnight, October 26/27, in Lahore. The Quaid immediately asked the Acting Commander-in-Chief of the Pakistan Army, General Gracey, to send troops to Srinagar, but he refused to carry out the instructions of the Governor-General of Pakistan without prior consultation with British Supreme Commander, Field Marshal Auchinleck. On the other hand, his Indian counterpart, General Lockhart, never raised any such question and took immediate action as ordered—perhaps, one may conjecture, because the order came from or was confirmed by Lord Mountbatten. He must have served his

<sup>1</sup>Ian Stephens, *Pakistan: Old Country New Nation* (Pelican Book, A 697, 1964), p. 247. (Words in brackets added.)

<sup>2</sup>*Governor-General's Personal Report*, No. 5, November 7, 1947. Cf. Hodson, *op. cit.*, p. 452.

Sir George Cunningham's Diary—1947, p. 23: "Messervy came up from Pindi for a talk; just back from England. He was in Delhi two days ago and was surprised to find Mountbatten directing the military operations in Kashmir. M. B. is daily becoming more and more an anathema to our Muslims, and it certainly seems as if he could see nothing except through Hindu eyes." (November 7, 1947). Khalid bin Sayeed, "Jinnah and His Political Strategy", in *The Partition of India*, *op. cit.*, p. 292.



new masters well with his fresh knowledge of the N.W.F.P. and the Pathans.<sup>1</sup> Auchinleck flew to Lahore from Delhi on October 28, and urged Jinnah to withdraw his order. Jinnah agreed and accepted Auchinleck's suggestion for an immediate discussion of the Kashmir situation between India and Pakistan's Governors-General and Prime Ministers.

Jinnah invited Mountbatten and Nehru to Lahore for a conference. Jinnah and Mountbatten met on November 1. But Nehru's deputy (Sardar Patel) did not like "the Prime Minister to go crawling to Mr. Jinnah",<sup>2</sup> when India was the stronger side. Liaquat Ali Khan was sick in bed. Jinnah's suggestion for the withdrawal of Indian troops along with the tribesmen was a first step towards a peaceful solution of Kashmir. As Mountbatten felt unable to accept this basic proposal, nothing came of this meeting.<sup>3</sup> "At the end", reported Mountbatten, "Mr. Jinnah became extremely pessimistic and said it was quite clear that the Dominion of India was out to throttle and choke the Dominion of Pakistan at birth, and that if they continued with their oppression, there would be nothing for it but to face the consequences."<sup>4</sup>

The Indian military position in the Kashmir Valley became stable by the capture of Baramula on November 8, 1947,<sup>5</sup> but in the Poonch sector of Jammu, the Indians continued to face tough opposition. The build-up of the Indian Army for an all-out offensive in Kashmir started towards the end of February at a very rapid rate. On March 15, 1948, the Indian Defence Minister announced in the Indian Constituent Assembly that the Indian Army would clear out the raiders from Kashmir within two or three months. The Indian Army's objective might have been to capture Bhimbar and Mirpur to reach the Pakistan border by crossing the Chenab and Ravi rivers or to take

<sup>1</sup>When Olaf Caroe relinquished his Governorship of N.W.F.P. under Congress pressure, General Lockhart had been appointed in his place and remained Governor till his appointment as Indian Commander-in-Chief after Partition, on August 15, 1947.

<sup>2</sup>Hodson, *op. cit.*, p. 458.

<sup>3</sup>*Ibid.*, pp. 458-59.

<sup>4</sup>*Governor-General's Personal Report*, No. 5, November 7, 1947; Hodson, *op. cit.*, p. 4-59.

<sup>5</sup>The *Manchester Guardian* wrote on December 7, 1947: "Where are India's real intentions? ... To restore Indian unity in this way would be to leave the Muslims irreconcilable... very great difficulties might lie ahead if India were to absorb the large Muslim population of Kashmir."

Muzaffarabad, the capital of Azad Kashmir. In either event it would almost certainly have brought the Indians right up to the border of the North-West Frontier.

Pakistan's Foreign Minister, Zafrullah Khan, summed up the position as follows in 1948: "Pakistan would have been justified in sending her troops in October last, but she had not done so in the hope that an amicable settlement would be arrived at. At least, Pakistan had the desire to avoid a general conflagration. But when the hope of an amicable settlement receded more and more, Pakistan, with a view to keeping the conflict in Kashmir localized, had to take immediate action to stop the Indian Forces from coming into contact with her frontier."<sup>1</sup> The Indian Army had started a new offensive in the summer of 1948, and made a rapid advance towards Pakistan's border. Even so, after they had entered Azad Kashmir, Pakistan's troops were instructed to guard only key points and to avoid direct contacts with Indian Forces. They were bombed, but were given no air cover. "The initial instruction to the Pakistan Army by their Government was 'to prevent India obtaining a decision by force of arms'. Having in view the wider implications of avoiding as far as possible direct conflict between the two armies, this instruction imposed a basically defensive role on the Pak Army."<sup>2</sup> It would in all probability have been extremely difficult to maintain such a role had the Kashmir fighting continued much longer; but a cease-fire was agreed and came into effect on January 1, 1949.

*Solving the Dispute:* India took the Kashmir issue to the United Nations in January 1948. The Security Council, after hearing both India and Pakistan's complaints, passed a resolution on April 21, 1948, appointing a five-man commission and "noting with satisfaction that both India and Pakistan desire that the question of the accession of Jammu and Kashmir should be decided through the democratic method of a free and impartial plebiscite."<sup>3</sup> The United Nations Commission for India

<sup>1</sup>*The Statesman* (Delhi), September 6, 1948.

<sup>2</sup>Lord Birdwood, *A Continent Decides*, *op. cit.*, p. 232.

"India made free use of her Air Force against the foe, but Nehru warned that if Pakistan employed planes, the Indians would not hesitate to carry the bombing... into Pakistan territory", Robert Trumbull, *As I see India* (London, 1957), p. 97.

<sup>3</sup>S.C.O.R. (S/726), 3rd Year, Suppl. for April 1948, pp. 8-12.

and Pakistan (UNCIP) came to the subcontinent in July 1948, and adopted a resolution on August 13, 1948. Para B-1 of Part II of the resolution, which is divided into three parts, stated: "When the Commission shall have notified the Government of India that the tribesmen and Pakistani nationals referred to in Part II, A-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 Pakistan Forces are being withdrawn from the State of Jammu and Kashmir, the Government of India agrees to begin to withdraw the bulk of its Forces from that State in stages to be agreed upon with the Commission".<sup>1</sup> The Commission's resolution of January 5, 1949, recorded the Government of India and Pakistan's acceptance of the August 13 proposals.<sup>2</sup> Later, there was much controversy about the quantities and character of the troops to be withdrawn. India insisted upon the disbandment of the Azad Kashmir Forces; Pakistan contended that the resolution did not contemplate the disbanding of these Forces. This was the beginning of protracted and frustrating wrangling at the United Nations, during which India repeated her defiant stand on at least a dozen occasions, and rejected all proposals for a settlement of the Kashmir dispute.

In desperation the UNCIP made a further suggestion, backed by President Truman and Prime Minister Attlee, that the differences over interpretation of the August 13, 1948, resolution be referred to arbitration. The proposal was accepted by Pakistan, but again rejected by India. A similar fate met the scheme for the demilitarization of Jammu and Kashmir put forward by General McNaughton in February 1950. Every subsequent proposal made by Sir Owen Dixon, the United Nations Special Representative, was accepted by Pakistan and repudiated by India. In his report to the Security Council on September 15, he admitted: "In the end I became convinced that India's agreement would never be obtained to demilitarization in any such form, or to provisions governing the period of the plebiscite

<sup>1</sup> *Resolution Adopted by the United Nations Commission for India and Pakistan on August 13, 1948* (S/1100, Para 75), S.C.O.R., 3rd Year, Supplement for November 1948, pp. 32-34.

<sup>2</sup> *Resolution Adopted by the UNCIP on January 5, 1949* (S/1196, Para 5), S.C.O.R., 4th Year, Suppl. for January 1949, pp. 23-25.

of any such character as would in my opinion permit of the plebiscite being conducted in conditions sufficiently guarding against intimidation and other forms of influence and abuse by which its freedom and fairness might be imperilled.”<sup>1</sup> Furthermore, the apprehension Pakistan had conveyed to Josef Korbel in September 1948, “that once the fighting had stopped, India would be satisfied with a *de facto* division of Kashmir (the better part of which was in her possession), the situation would subsequently become stabilized, and India would then obstruct a free plebiscite”,<sup>2</sup> appeared to be justified within a few months of the cease-fire in Kashmir, when India proposed the partition of Kashmir more or less on the basis of the cease-fire line. The *de facto* division of the State of Jammu and Kashmir came about as Mountbatten would have liked on June 21, 1948, the day he left Delhi: “The solution of the Kashmir problem which I would have backed, had Mr. Liaquat Ali Khan come, would have been based on the partition of the State. At my request, Mr. Gopalaswami Ayyangar and Mr. V.P. Menon had worked out a compromise which they said the Indian Cabinet would accept if Mr. Liaquat Ali put it up. It was my intention to have suggested to Mr. Liaquat Ali Khan that he should put this forward as a proposal. I had never dared to have it raised before, because both sides had been clearly committed to an ‘all or nothing’ policy, and once the partition proposal was put forward, and if it failed, it obviously could never be raised again.”<sup>3</sup> But Pakistan would not hear of it, since, in her view, it represented the negation of all basic commitments of both sides to the dispute. Pakistan regarded the cease-fire line as “merely a temporary restraining measure... in removing excess

<sup>1</sup>Sir Owen Dixon's Report to the Security Council (S/1791. Incorporations S/1791/Add. (1), S.C.O.R., 5th Year. Suppl. for September-December 1950, pp. 24-52.

During the Indo-Pakistan conflict of September 1965, the Late Lord Attlee, giving an interview to Wilfred Sendall published in the *News of the World* (September 12, 1965), recalled that at a meeting held in January 1951 at the Savoy, London, between him, the late Premier Nehru, Liaquat Ali Khan, and Robert Menzies of Australia, “We offered Nehru three alternatives for a settlement. He rejected them all.” In Lord Attlee's view, “there is a grim lesson here in international politics. These points of tension cannot just be left. None knows when they may flare up.” Cf. *Dawn*, September 13, 1965.

<sup>2</sup>Josef Korbel, *op. cit.*, p. 144.

<sup>3</sup>Report of the Governor-General (Mountbatten)—Cf. Hodson, *op. cit.*, p. 472.

heat from controversies which have passed the boiling point";<sup>1</sup> and "since January 1, 1949, she is waiting to get a definite settlement of the whole question and to settle the future of Kashmir on the basis of peaceful co-operation and impartial justice"<sup>2</sup> to both parties. Later, when another United Nations Representative, Dr. Frank Graham, made various alternative proposals between March 1951 and September 1952, all were accepted by Pakistan, and all rejected by India. Reporting his failure to resolve the Indo-Pakistan differences, Graham suggested that leaders of the two countries should have direct negotiations in an attempt to reach a settlement of the dispute. At the same time, conditions in both countries appeared to change for the better; and in particular, after Nazimuddin's dismissal as Pakistan's Premier, there was a discernible shift of opinion towards direct negotiations.

The coronation of Queen Elizabeth, in June 1953, provided an opportunity for Mohammed Ali Bogra (Nazimuddin's successor in April 1953) and Jawaharlal Nehru to have informal discussions in London. Following this, the Indian Prime Minister visited Karachi on July 25, 26 and 27, 1953. A Joint Press Communique, issued after the talks on July 28, said: "The major part of the Prime Ministers' meeting was devoted to a discussion of the Kashmir dispute, which was examined in all its various aspects. These talks were necessarily of a preliminary character. They have helped in a clearer understanding of each other's point of view of the issues involved and of the difficulties that stand in the way of a settlement. They have prepared the ground for further talks which the Prime Ministers expect to resume at New Delhi in the near future."<sup>3</sup> The enthusiasm with which Nehru was acclaimed in Karachi led many observers to believe that an atmosphere had been created which would pro-

<sup>1</sup>Gross's (U.S.A.) speech at the 467th Meeting of the Security Council, February 24, 1950. Cf. *United Nations' Thoughts on the Kashmir Dispute* (compiled by Free Kashmir Centre, New York, n.d.), p. 9.

<sup>2</sup>Noel Baker's (U.K.) speech at the 230th Meeting of the Security Council, January 20, 1949. *Ibid.*, p. 35.

<sup>3</sup>See *Negotiations between the Prime Ministers of Pakistan and India regarding the Kashmir Dispute* (Government of Pakistan, Ministry of External Affairs, Karachi, 1954), p. 102.

An analysis of the talks was made by Sir Percival Griffiths in his article "India and Pakistan", published in the *Daily Telegraph* (London), September 10, 1953.

mote the amicable settlement of all outstanding disputes, including Kashmir.

Meanwhile, Sheikh Abdullah's dismissal and arrest on August 9, 1953, reversed the officially encouraged goodwill and cordiality at its source, this inevitably undermined the prospects of direct negotiations, although these seemed to remain hopeful until the beginning of November 1953, when India objected to Pakistan's military pact with the United States, and negotiations did not finally break down until the end of February 1954.

The background to Abdullah's imprisonment was perhaps the most tragic instance of political betrayal in post-independence India. He had been appointed Prime Minister by Maharaja Hari Singh at the behest of the Government of India in the crucial days of 1947. It was through Abdullah's support that India had tried to convince the world that Kashmir's accession to India was not simply an autocratic act of the Maharaja but had popular backing. Sheikh Abdullah—who had been a warm personal friend of Nehru—had developed differences with the Government of India on the question of the constitutional relationship of Kashmir with India. In a public speech made at Jammu on April 24, 1952, Sheikh Abdullah had warned India not to apply the Indian Constitution to Kashmir. The subsequent Abdullah-Nehru 'Special States' Pact of July 1952 did not bring about any improvement in the political situation of Kashmir. Three extremist Indian parties, the Hindu Mahasabha, the Jan Sangh and the Ram Rajya Parishad, in league with the Praja Parishad of Jammu, started a campaign for the full incorporation of Kashmir within India. In view of this, Sheikh Abdullah prepared a statement to be delivered at a public meeting in Srinagar on August 21, 1953, which brought the whole Indo-Kashmir relationship into question. He was deposed and arrested before he could deliver his speech, but in it he said: "...Though the accession of Kashmir to India is complete in all aspects, it is conditional and temporary in the sense that the people of the State have to ratify it. Therefore, it is not final. The Government of India does not consider itself bound to accept any decision of the 'Assembly' (the Constituent Assembly of Kashmir) in regard to the accession. If accession to India is conditional and temporary, in the sense that it is subject to the approval of the people, the Delhi Agreement is also transitory

and temporary and it cannot put an end to the state of uncertainty..."<sup>1</sup> Earlier, on June 14, 1953, in a broadcast from Radio Kashmir, he had also said, "...what is now wanted is that the people of the State be given an opportunity to decide their future freely and without fear."<sup>2</sup> So "Abdullah was removed because he was reluctant to lead Kashmir into the Indian Union".<sup>3</sup>

In this adverse political climate, Mohammed Ali showed the courage of steadfast moderation, and in spite of public sentiment clamouring for the abandonment of negotiations,<sup>4</sup> he telegraphically urged Nehru to hold the agreed talks at Delhi immediately. Admiring Mohammed Ali for his statesmanship, Lord Birdwood observed: "Mr. Nehru has years of established prestige and public recognition behind him. In contrast, Mohammed Ali is an unknown quantity not even claiming the background of a popular election. With him, to pursue the wisdom of compromise through negotiation is to accept a certain risk."<sup>5</sup> Mohammed Ali and Nehru met in Delhi from August 17 to 20, 1953. The communique, issued on August 20, said: "The Kashmir dispute was especially discussed at some length. It was their firm opinion that this should be settled in accordance with the wishes of the people of that State. The most feasible method of ascertaining the wishes of the people was by a fair and impartial plebiscite".<sup>6</sup> The communique recorded that the Plebiscite Administrator should be appointed before the end of April 1954. But subsequently the hopes of agreement on the entire plebiscite procedure degenerated into the monotony of procedural wrangles in exchanges of letters and telegrams,<sup>7</sup>

<sup>1</sup>*The Pakistan Times*, Lahore, February 3, 1954. (Bracketed words added.)

<sup>2</sup>*The Statesman* (Delhi), June 15, 1953.

<sup>3</sup>Russell Brines, *The Indo-Pakistan Conflict* (London, Pall Mall Press, 1968), p. 99. Also see Norman Brown, *The United States and India and Pakistan* (Cambridge, Mass., Harvard University Press, 1963), p. 195.

*The New York Times* wrote on July 31, 1953: "Perhaps this is the inevitable let down after too high hopes. The hopes were fostered, in part, by the very warmth of the reception that was accorded to Mr. Nehru in Pakistan. In such an atmosphere, it seemed that almost anything would be possible."

<sup>4</sup>*Dawn* commented on August 10, 1953: "What good can come of out trying to persuade him (Nehru) to agree to the creation of conditions favourable for an internationally agreed, free and fair plebiscite? What then is to be done? Should Mr. Mohammed Ali pay his return call on Mr. Nehru in New Delhi? Many in this country will answer that question in the negative..."

<sup>5</sup>Birdwood, *A Continent Decides*, op. cit., p. 283.

<sup>6</sup>*Negotiations between the Prime Ministers of Pakistan and India*, pp. 103-4.

<sup>7</sup>Which Lord Birdwood has rather aptly described as a 'battle of letters' in *Two Nations and Kashmir*, op. cit., p. 129.

later published in the form of a *White Paper*.

In the meantime, Bakhshi Ghulam Mohammad (Abdullah's successor) declared that the question of a plebiscite did not arise any more because the 'Constituent Assembly of Kashmir' had 'finally and irrevocably' acceded to India. The way in which Nehru explained Bakhshi's statement to Mohammed Ali clearly displayed his attitude on Kashmir. On March 5, 1954, Nehru wrote to Mohammed Ali: "You have referred to Mr. Ghulam Mohammad Bakhshi's speeches and the decision of the Constituent Assembly of the Jammu and Kashmir State in regard to the State's accession to India. Ever since the Constituent Assembly came into being more than two years ago, our position in regard to it has been perfectly clear and has been stated in the Security Council and elsewhere. We said then that the Constituent Assembly was perfectly free to direct as it liked, in regard to the State's accession or other matters, *but so far as we are concerned, we would abide by our international commitments. There has been at no time any question of our repudiating the decisions of the Constituent Assembly and indeed we have no right to do so... So far as we are concerned, the accession of the Jammu and Kashmir State was legally and constitutionally complete in October 1947, and no question of confirming or ratifying it arises.* Nevertheless, we had said that the people of Kashmir should be given an opportunity to express their wishes about their future, *and we had agreed to a plebiscite under proper conditions...* It is because those conditions have not been agreed to that delay has occurred..."<sup>1</sup> There could not be any better example of double-talk and self-contradiction than this. And the contradiction is quite clear: either the plebiscite was to have no legal status or binding effect, or if it did, the accession of Kashmir was not "legally and constitutionally complete", because the plebiscite could by definition confirm or reject it. There could be no two ways about this. Furthermore, the statement, by direct implication, also admitted that the people of Kashmir's "wishes about their future" had in fact *not* been taken into account in this so-called "constitutionally complete" accession!

It may also be noted here that in his broadcast from New

<sup>1</sup>Letter of Prime Minister Nehru to Prime Minister Mohammed Ali, March 5, 1954. *Ibid.*, pp. 73-74. (Italics added.)



Delhi on November 2, 1947, Nehru had said, "We are anxious *not to finalize anything* in a moment of crisis and *without the fullest opportunity to the people of Kashmir to have their say*. It is for them ultimately to decide. And here let me make it clear that it has been our policy all along that *where there is a dispute about the accession of a State to either Dominion, the decision must be made by the people of the State*. It was in accordance with this policy that we have added a proviso to the Instrument of Accession of Kashmir."<sup>1</sup> And yet in March 1954 he maintains that the accession "was legally and constitutionally complete in October 1947"!

The Mohammed Ali-Nehru correspondence was thus a facade behind which India began the process of completing the annexation of Kashmir.

Apart from procedural wrangles—on the person of the plebiscite administrator, on whether Kashmir refugees should or should not vote, on whether the plebiscite would be on a regional basis or for the state as a whole, on whether after the plebiscite the boundaries of the State might or might not be reconsidered<sup>2</sup>—Nehru found a new evasive device in the military pact under negotiation between Pakistan and the United States towards the end of 1953 and signed as the Mutual Defence Agreement with the United States in 1954. Objecting to this first in a personal letter dated November 10, 1953, as an unfriendly act, he, after repeated critical reference to it, concluded as follows in his letter of March 5, 1954: "I would again repeat to you that the acceptance of military aid by Pakistan from the US has given an entirely new turn to the Kashmir dispute as well as to events in Asia..."<sup>3</sup>; and then on August 23, 1954, "...The present

<sup>1</sup> *White Paper on Jammu and Kashmir*, pp. 52-55. (Italics added.)

<sup>2</sup> In his letter of November 10, 1953, to Mohammed Ali, Nehru came out with the following remarkable observation, "I had suggested that the plebiscite should be for the State as a whole and *the detailed result of the plebiscite would then be the major factor for the decision to be taken*. That detailed result will give us a fairly clear indication of the wishes of the people not only in the State as a whole but in different areas. Obviously one cannot go by that completely, because some absurd result might follow. *Any boundary which is to be an international frontier must take into consideration a number of other factors.*" (*Ibid.*, pp. 50-51.) So, if the plebiscite went against accession for the State as a whole, what Nehru had in mind was another Radcliffian boundary based on Congress/Hindu majority areas to be determined *after* the plebiscite, because, before the elections, "how are we to define the regions". Mohammed Ali, of course, found this proposal unfeasible and unacceptable. (Italics added.)

<sup>3</sup> *Ibid.*, pp. 73-74.

development renders the basis of our discussions on this subject unreal.”<sup>1</sup> Mohammed Ali’s pleas that the issue of American military aid had no bearing on Kashmir, that it was for purely defensive purposes, and that India was spending three times as much on defence as Pakistan, without any protest on this from the latter—all fell on deaf ears. And in his letter of September 21, 1954, to Nehru, Mohammed Ali was obliged to conclude unhappily that: “In the circumstances I am bound to conclude that there is no scope left for further direct negotiation between you and me for the settlement of this (Kashmir) dispute. This case must therefore revert to the Security Council.”<sup>2</sup> Later, Sheikh Abdullah was reported to have said that, when he reminded the late Indian Premier, Pandit Nehru, of the plebiscite pledge, Panditji said: “all that was a *tamasha*”<sup>3</sup>

Pakistan’s defensive alliance with the United States also immediately displeased the Soviet Union, whose Prime Minister hit back at Pakistan by declaring Kashmir to be ‘the northern part of India’. As a permanent member of the Security Council, the Soviet Union had hitherto maintained a neutral stand on Kashmir; but with the forging of Pak-American ties she started vetoing every U.N. resolution that was opposed by India, Russian support to India therefore encouraged Nehru to abandon all pretence of ever holding a plebiscite in Kashmir.

However, before this stand fully crystallized itself, the 1953 Delhi meeting of the Pakistani and Indian Premiers was followed up by another meeting at Delhi on May 15, 1955 (which had originally been scheduled for March, but had been unilaterally postponed by India). In these talks Mohammed Ali Bogra was accompanied by Maj.-Gen. Iskandar Mirza, then Pakistan’s Minister of the Interior; and besides Kashmir, considerable importance was apparently given to other comparatively minor matters like the settlement of outstanding debts and the simplification of visa procedures. It has also been suggested that alternatives to a plebiscite to determine ‘the will of the people of Kashmir’ were discussed, although later Mohammed Ali again stated that “It is still our stand that there should be a plebiscite for the whole of Kashmir”.<sup>4</sup> On the other hand, the Delhi correspon-

<sup>1</sup>*Ibid.*, pp. 84-86.

<sup>2</sup>*Ibid.*, pp. 89-90. (Bracketed word added.)

<sup>3</sup>Interview with Delhi Magazine *Shabistan*. Cf. *Dawn*, February 19, 1968.

<sup>4</sup>Lord Birdwood, *Two Nations and Kashmir*, *op. cit.*, pp. 201-204; ref: 202.

dent of *The Times* wrote on May 18 that "One fact emerged, and that is that a plebiscite as a means for the Kashmiris to express their choice is as dead as all other proposals that have been made in the past. It has now been decided that, while the future of the State still rests with the people, other means must be devised to find out what they really want."<sup>1</sup> But while other possibilities might very well have been reviewed in the talk, the joint communique also showed that little had been achieved—and subsequent events only confirmed the stalemate of negotiations. The Communique said, "In the course of joint talks, the Kashmir problem was discussed in all its aspects. It was decided to continue these talks at a later stage after full consideration had been given by both Governments to the various points that had been discussed in the course of these meetings."<sup>2</sup>

On March 29, 1956, Nehru said in the Lok Sabha: "I have made it clear to the Pakistan Representative that while I am prepared to discuss any aspect of the (Kashmir) question, if they want to be realistic, they must accept and take into consideration all that has happened in the last seven or eight years and not talk in terms of eight or nine years ago. The only alternative is a continuing deadlock."<sup>3</sup> Addressing a public meeting in New Delhi, on April 13, 1956, he said: "I am willing to accept that the question of the part of Kashmir which is under you (Pakistan) should be settled by demarcating the border on the basis of the present cease-fire line. We have no desire to take it by fighting."<sup>4</sup>

Gradually, Pakistan became disillusioned with the West when it realized that its allies were not doing anything substantial to help it on the Kashmir issue. Pakistanis felt particularly aggrieved by the fact that their allies were reluctant to support them for fear of displeasing India, whereas non-aligned India was getting significant encouragement and help from the Soviet Union. Mian Jaffer Shah, a leader from the North-West Frontier Province, said in the Pakistan National Assembly in March

<sup>1</sup>*The Times* (London), May 19, 1955.

<sup>2</sup>This also completed the role Mohammed Ali Bogra played in the Indo-Pakistani negotiations on Kashmir, for in August 1955, Chaudhri Muhammad Ali succeeded him as Prime Minister, with the formation of a new Constituent Assembly and Cabinet.

<sup>3</sup>*Jammu and Kashmir Dispute* (A paper produced by the Communist Party of India (Marxist), n.d.), p. 21.

<sup>4</sup>*Ibid.*, pp. 21-22. (Word in brackets added.)

1956: "Whenever our allies visit us in connection with SEATO, they first go to India to whisper, conspire with and console the Pundits of that country with which we have a quarrel."<sup>1</sup> "The Pakistanis, moreover, carried out their part of the defence agreement faithfully, and in doing so invited strong Soviet counter-action and abuse. Accepting the Pact required more courage than denouncing it."<sup>2</sup> Yet, "...the main motive behind Pakistan's policy was to be found in Kashmir, Pakistan was seeking American diplomatic and military support not so much against the Communists as against the Indians."<sup>3</sup>

In the beginning of 1957, Pakistan requested the Security Council to consider the Kashmir issue. The Swedish President of the Security Council, Gunnar Jarring, visited the subcontinent to arrange a peaceful settlement of the dispute. But like his predecessors, he too failed to bring about any agreement between India and Pakistan on the implementation of the UNCIP resolutions of August 13, 1948, and January 5, 1949, concerning demilitarization prior to a free and fair plebiscite. Jarring reported: "While the Government of Pakistan, after a certain hesitation, fell in with my suggestion in principle, the Government of India, however, did not feel that arbitration, as outlined by me, would be appropriate...It was, furthermore, apprehensive that arbitration even on an isolated part of the resolutions might be interpreted as indicating that Pakistan had a *locus standi* in the question."<sup>4</sup> After the failure of the Jarring Mission, Dr. Frank

<sup>1</sup>*Pakistan National Assembly Debates*, Vol. I, March 1956, p. 70. Dawn editorially commented on December 13, 1955: "Here we have the Soviet leaders coming out openly in favour of Bharat on the Kashmir issue, although it has been proved beyond doubt that Bharat has systematically defied the resolutions of the United Nations and thwarted the mediation efforts of its representatives. But what about our allies? They dare not acknowledge even the truth, far less speak up in support of Pakistan's stand, which they know to be correct." G.H. Jansen, *Afro-Asia and Non-Alignment* (London, February 1966), p. 134: "Pakistan had joined both the Baghdad Pact and SEATO to get arms and political support against India over Kashmir. Besides acquiring modern weapons free of charge, it was Pakistan's hope that by giving the Western Powers what they wanted by way of base facilities and political support, she would draw them to her side over Kashmir, particularly in the voting on this question in the Security Council. These hopes were disappointed, perhaps because, on account of India's size and growing importance, neither the Western Governments separately nor these alliances collectively, were prepared to antagonize her by giving outright support to Pakistan on the issue of Kashmir." See also G. Modolski (ed.): *SEATO: Six Studies* (Melbourne, 1962), pp. 138, 237.

<sup>2</sup>Russel Brines, *op. cit.*, p. 123.

<sup>3</sup>Alastair Lamb, *Crisis in Kashmir, op. cit.*, p. 85.

<sup>4</sup>S/3821 of April 29, 1957, S.C.O.R., 12th Year, Suppl. for April-June.

Graham was again asked to mediate in 1958. Pakistan accepted all his recommendations; but "The Government of India declared themselves unable to agree to my recommendations."<sup>1</sup> The only recommendation to which they were prepared to give acceptance was that on the stationing of UN troops on the Pakistan side of the Pakistan and Jammu and Kashmir border in the following manner: "They would on their part, however, consider it as highly improper and indeed an unfriendly act to promote a suggestion which would involve the stationing of foreign troops in a neighbouring sovereign State with whom they desired nothing but friendly relations. Since, however, this was a matter for decision by the Government of Pakistan in their sovereign competence, they would not be in a position to object to this proposal, though they would regret it."<sup>2</sup> This type of a completely negative attitude could hardly be helpful for any solution of the Kashmir problem.

Meanwhile, India tightened her grip on Kashmir, by gradually eroding the 'Special Status' of Jammu and Kashmir. Pakistan's political instability and its quick changes of Government seem to have made Nehru still more uncompromising. He contemptuously refused to have talks with Iskandar Mirza or Chaudhri Muhammad Ali, saying that their Government was a bureaucracy in power. India thus turned down every solution except a recognition of the cease-fire line as the *de facto* and *de jure* frontier between India and Pakistan in Kashmir. In conformity with this calculated attitude of defiance to any mediation, Abdullah was re-arrested on April 30, 1958, after a short period of freedom. This situation, in turn, created great tension in Azad Kashmir. The veteran Kashmir leader, Choudhri Ghulam Abbas urged the Government of Pakistan to repudiate the cease-fire agreement and allow the Kashmiris to cross the cease-fire line.<sup>3</sup> The Government of Pakistan was thus face to face with an internal upheaval in Azad Kashmir. However, Pakistan's Prime

1957, pp. 13-16.

Also see Kusum Nair, "Kashmir Today—Background Study for the Jarring Report", *Foreign Affairs Reports*, June 1957; "The Kashmir Question", *United Nations Review*, March 1957.

<sup>1</sup>The *Graham Report* (S/3984), S.C.O.R., 13th Year, Suppl. for January-March 1958, pp. 41-45.

<sup>2</sup>*Ibid.*

<sup>3</sup>Choudhri Ghulam Abbas's letter to Feroz Khan Noon, *Dawn*, May 9, 1958.

Minister, Feroz Khan Noon, was still hopeful of a negotiated settlement and determined to stop the liberation volunteers from marching across the cease-fire line. He even threatened to use force for this purpose, if necessary. To check the deterioration in Indo-Pakistan relations, Dr. Graham suggested a summit-talk between the Prime Ministers of India and Pakistan; but this again proved to be totally unacceptable to Nehru. In this connection it may be noted that the Indian Prime Minister was in the forefront of advocates of a similar dialogue between Russia and America in order to ease world tensions!<sup>1</sup>

The introduction of Martial Law and a military government in Pakistan, in October 1958, and the almost coincident Tibetan crisis, early in 1959, were two new significant political developments in the region. Visualizing the increasing strategic significance of the State of Jammu and Kashmir in the context of new developments in the vicinity, President Ayub tried a new approach towards the development of Indo-Pakistan amity. The Chinese had in 1957 linked Sinkiang to Tibet with a highway running for 100 miles through Aksai-Chin territory in Ladakh.<sup>2</sup> The Tibetan crisis increased the importance of this all-weather road for the Chinese, as large-scale movements of troops from China to Tibet were not feasible through any other route. In 1959 skirmishes took place between Indian and Chinese border patrols in the mountainous area of Ladakh. Ayub Khan told newsmen at Rawalpindi, on April 24, 1959, that Pakistan and India should co-operate with each other in defending the subcontinent.<sup>3</sup> Following clashes at Longju and nearby Migytun, Prime Minister Nehru, for the first time, in August 1959, expressed his anxiety in the Indian Parliament on the frontier situation. In his letter of September 8, 1959, to Nehru, Chou En-Lai challenged the entire border, including a claim to 90,000 square kilometres of territory south of the so-called McMahon Line.<sup>4</sup> Nehru regarded this as a "claim to about 40,000 square miles of what in our view has been indisputably Indian territory for decades, and in some

<sup>1</sup>*The Times* (London), April 5, 1958; *Manchester Guardian*, April 5, 1958.

<sup>2</sup>See A. R. Field, "Strategic Developments in Sinkiang", *Foreign Affairs*, Vol. 39, No. 2, January 1961; Margaret W. Fisher, Leo E. Rose and Robert A. Huttenback, *Himalayan Battleground: Sino-Indian Rivalry in Ladakh* (London, Pall Mall Press, 1963), pp. 145-46.

<sup>3</sup>*Dawn*, April 25, 1959.

<sup>4</sup>*Documents on the Sino-Indian Boundary Question* (Peking, Foreign Languages Press, 1960), pp. 1-13.

sectors for over a century..."<sup>1</sup>

Though Nehru had dubbed the Ayub regime a 'naked military dictatorship', the President of Pakistan lost no time in meeting the Indian Premier. At his meeting with Jawaharlal Nehru, in September 1959, the President of Pakistan offered a joint defence agreement between India and Pakistan, once a solution of the Kashmir dispute had been found. Ayub Khan disclosed his thought to Press reporters thus: "My submission is that whatever happened in the past, the time has come when we should be thinking of having a rational and neighbourly relationship with each other. I have a feeling, it will be in each other's interest, to you country and to my country. I, as a military man, can foresee one danger, and that is that if we go on squabbling in this way and do not resolve our problems, we shall be defeated in detail. History tells us that is how invasions have always come to this subcontinent."<sup>2</sup> Nehru rejected the offer and retorted, "Joint defence against whom?"<sup>3</sup>

Ayub stressed his view in public speeches and in an article published in July 1960. What he had said at Palam (New Delhi), and other places previously, he reiterated forcefully in his article in *Foreign Affairs*: "As a student of war and strategy," he declared, "I can see quite clearly the inexorable push of the North in the direction of the warm waters of the Indian Ocean. This push is bound to increase if India and Pakistan go on squabbling with each other. If, on the other hand, we resolve our problems and disengage our Armed Forces from facing inwards, as they do today, and face them outward, I feel we shall have a good chance of preventing a recurrence of this history of the past, which was that whenever this subcontinent was divided—and often it was divided—some one or other invited an outsider to step in."<sup>4</sup>

Pakistani hopes of an Indo-Pakistan understanding were raised after the solution of the vexed problem of the waters of

<sup>1</sup>*The Chinese Threat* (New Delhi, Government of India, Ministry of Information and Broadcasting, 1963), pp. 33-53.

<sup>2</sup>*Hindu Weekly Review*, September 1959; the text of the Communique appeared in *Foreign Affairs Report*, Delhi, September 1959.

<sup>3</sup>*The Round Table* (1962-63), p. 182.

<sup>4</sup>Mohammad Ayub Khan, "Pakistan Perspective", *Foreign Affairs*, July 1960, p. 556.

As early as March 1948, Mohammad Ali Jinnah was reported to have suggested an Indo-Pakistan Defence Treaty, following up on his advocacy of a 'Monroe Doctrine' for the subcontinent in a speech made at the Aligarh Muslim University Union on March 10, 1941: "Let us therefore live as good

the Punjab rivers in September 1960; but soon these were again disillusioned. Few would doubt Ayub's sound military reasons for proposing joint defence; the only criticism which could be advanced against it is that he made the joint defence contingent upon prior settlement of the Kashmir issue. Even so, it is surely not difficult to understand that Pakistan could not join hands with India unless this major problem between the two countries was solved. Moreover, one should not be indifferent to the situation that the Indus Waters Treaty deprived Pakistan of the waters of the three eastern rivers, so that now "Pakistan had to conserve every single drop of water of the remaining western rivers, and the storage of these rivers could only be guarded and guaranteed in the hills of Kashmir.<sup>1</sup> As is evident from Ayub's pronouncements, Pakistan wanted a joint-defence arrangement with India against any possible incursion from the north. India was reluctant to have any collaboration with Pakistan on the plea of divergent foreign policies. In fact, for obvious reasons, India did not like to risk arousing unfavourable reactions from Moscow or Peking. In spite of the undercurrent of tensions in Sino-Indian relations, it was difficult for Jawaharlal Nehru to accept the failure of his much trumpeted *Panch Shila* and the '*Hindi-Chini-bhai-bhai*' slogans, as it would have meant not only a loss to his own international prestige, but also a shock to the Indian public, who had reposed ample faith in his political acumen.<sup>2</sup> Thus nothing came of the proposal of joint defence; and with it, also vanished the temporary goodwill that had

neighbours; let the Hindus guard the South and West and let the Muslims guard the frontiers. We will then stand together and say to the world, "Hands off India, India for the Indians:" *Speeches and Writings of Mr. Jinnah*, ed. by Jamil-ud-Din Ahmad (Lahore, M. Ashraf, 1942), Vol. I, p. 242.

<sup>1</sup>Ayub said: "The very fact that we will have to be content with the waters of three western rivers will underline the importance for us of having physical control on the upper reaches of these rivers to receive their maximum utilization for the ever-growing needs of West Pakistan. The solution of Kashmir, therefore, acquires a new sense of urgency," *Dawn*, September 5, 1960.

<sup>2</sup>"In fact, the Panch Shila was of no more significance in *real politik* than the Kellogg-Briand Pact in the inter-war period—an expression of pious wishes without any sanction." P. C. Chakrawarti, *India's China Policy* (Bloomington, Indiana University, 1962), p. 54.

"The dichotomy of Indian foreign policy was thus compounded. To the world and on world issues, India was the dove of peace, whereas within the region she stood accused of power politics." Wayne A. Wilcox, *India, Pakistan and the Rise of China* (New York, Columbia University, 1964), p. 38.



emerged after a long period of tension, to remain lost who knows for how long, to the considerable disadvantage of both countries.

The Sino-Indian armed clash in October/November 1962 changed the context of the Kashmir dispute and provided substantial, though belated, evidence of the relevance of Ayub's joint-defence proposal, which Nehru had discarded so lightly. It was therefore thought that India might now recognize the importance of co-operation with Pakistan. A settlement of the Kashmir issue could have led to an Indo-Pakistan front to guard against the repetition of a trans-Himalayan invasion. Even at this time, Ayub wrote to Nehru that "the intensive military activity" on India's frontier was "endangering the peace and stability in which Pakistan was vitally interested." He assured the Indian Prime Minister that Pakistan was "wedded to peace and friendly relations, especially with India".<sup>1</sup> Pakistan also gave informal assurances that she would not move her troops against India during the crisis with China.<sup>2</sup> This, for India and Pakistan, was a rare and unique gesture of goodwill, especially when one remembers that (to quote Frank Moraes) "right up to the time of the Chinese aggression in October, India's people were led to believe that the main threat to India's frontiers came from Pakistan".<sup>3</sup> It was on the basis of this gesture that India was able to move the bulk of her troops (of which no less than 80 per cent had been deployed in and around Kashmir)<sup>4</sup> to the battle ground of North-East India to counter the Chinese offensive.<sup>5</sup> President Kennedy, in a private communication, had urged Ayub Khan to inform Nehru confidentially that Indian troops in Kashmir could be safely withdrawn and that Nehru could count on Pakistan taking no action on the frontiers to alarm India.<sup>6</sup> This, apparently, Ayub was only too pleased to do. He said, "... I feel we are at the crossroads, both India

<sup>1</sup>*The Times of India*, November 14, 1962. Cf. Khalid Bin Sayeed, *The Political System of Pakistan* (Boston, 1967), p. 273.

<sup>2</sup>*The New York Times*, November 10, 1962.

<sup>3</sup>Frank Moraes, *Nehru, Sunlight and Shadow* (Bombay, Jaico Publishing House, 1964), p. 118.

<sup>4</sup>*Dawn*, October 14, 1964. Mohammad Ayub Khan confirms this in his autobiography: "He (Kennedy) suggested that perhaps an effective way would be a private message from me to Nehru telling him that he could count on Pakistan's taking no action on the frontiers. *Friends Not Masters: A Political Biography* (London, O.U.P., 1967), p. 141.

<sup>5</sup>*The Economist* (London), September 4, 1965, p. 853.

<sup>6</sup>Theodore Sorenson, *Kennedy* (London, 1965), p. 664.

and Pakistan, and we can settle the Kashmir dispute—and I don't see why we cannot, if there is the will—we can bring happiness to the 540 million people of the subcontinent”, to which Nehru replied: “The problem of Kashmir is complicated and difficult.”<sup>1</sup>

The Government of India, thus once again, did not feel inclined to reciprocate Pakistani overtures of mutual collaboration for the common welfare of the subcontinent. As always, the Kashmir issue was the stumbling block, which the Indians were unprepared to negotiate. As soon as the Chinese pressure on the North-Eastern Border eased, India redoubled her efforts to complete the process of making Kashmir an integral part of India. India extended the jurisdiction of the Supreme Court of India and the Reserve Bank of India to Indian-held Kashmir; the Indian Election and Census Commissions' Jurisdiction had already been extended to the State. There were proposals to merge the National Conference of Kashmir with the Indian National Congress.<sup>2</sup> Later, the merger was accomplished, and thus the symbol of the separate political identity of the State of Jammu and Kashmir was removed. All these steps represented a very substantial erosion of Article 370 of the Indian Constitution, which had granted a 'Special Status' to Jammu and Kashmir within the Indian Union. In Pakistan, naturally, the prospects of a Kashmir settlement with India appeared to become still more bleak, and a situation was created in which the Government, having failed to sustain the momentum of its conciliatory gestures through Indian rebuffs, came increasingly under public pressure for strong action in Kashmir. To give an idea of what was meant by 'strong action', Ghulam Abbas again threatened to cross the cease-fire line, if the Ayub Government failed to take action.<sup>3</sup>

The United States and Britain realized that the situation was delicately poised and could easily lead to a renewed military

<sup>1</sup>Paul Grimes, “China Invasion Puts Kashmir Crisis in New Light”, *The New York Times*, December 2, 1962: “President Kennedy is understood to have written to Field Marshal Ayub Khan last month suggesting a freeze on Kashmir. The Pakistan leader is reported to have refused. There are some unconfirmed indications, however, that, through the United States or Britain, he gave Mr. Nehru to understand that Pakistan would not do anything to make India's military problems worse.”

<sup>2</sup>*Dawn*, November 6, 1962.

<sup>3</sup>*The Times* (London), November 5, 1962.

confrontation between the two Asian neighbours. An Anglo-American Mission consisting of Duncan Sandys, the British Commonwealth Secretary, and Averell Harriman, American Assistant Secretary of State and Special Emissary of President Kennedy, was consequently rushed to the subcontinent. It was through their efforts that the President of Pakistan and the Prime Minister of India issued a joint statement on November 29, 1962, which included agreement "to make a renewed effort to resolve the outstanding differences between their two countries on Kashmir and other related matters."<sup>1</sup> This reduced tensions to a certain extent. But the Mission failed in its main objective of actually bringing the two countries together to settle the Kashmir problem.

Immediately after the joint Communique, Nehru said in the Lok Sabha that any change in the present *status quo* in Kashmir would lead to harmful consequences,<sup>2</sup> which clearly showed that, whatever hopes Pakistan might have attached to the impending talks with India, the Indian Prime Minister was still not prepared to see a situation arising in which Kashmir might become a part of Pakistan. The Anglo-American Mission, however, continued to strike a note of optimism. Averell Harriman, for example, commented on the night of November 30: "Prime Minister Nehru made it quite clear to Mr. Duncan Sandys and to me that he was prepared to enter discussions to resolve the differences between India and Pakistan on Kashmir without pre-conditions. I feel sure he intends to fulfil this undertaking."<sup>3</sup>

However, the Indian Home Minister, Lal Bahadur Shastri, categorically stated that India would not agree to a 'further operation' of Kashmir. Pakistan's Secretary of External Affairs commented that such statements made 'absolute nonsense' of the negotiations between India and Pakistan.<sup>4</sup> In the middle of December 1962, Nehru informed the Indian Parliament that there were strong outside pressures on him to settle the Kashmir dispute. On December 28, 1962, the American Ambassador to India, J. K. Galbraith, denied that any such pressure had

<sup>1</sup>*Ayub-Nehru Joint Communique*, November 29, 1962—*Dawn*, December 1, 1962.

<sup>2</sup>Foreign Minister, Z.A. Bhutto's statement in the Pakistan National Assembly on December 1, 1962. Cf. *Speeches and Press Conferences of Z.A. Bhutto*, October 1957-June 1966 (Karachi, Maaref, 1966), p. 399.

<sup>3</sup>*Ibid.*

<sup>4</sup>Cf. *The Round Table*, March 1963.

been exercised by the United States: "The American assistance is in no way contingent on an India-Pakistan agreement on the Kashmir problem", he said, adding that "The U.S.A. will not put a price on its aid; and it is not out for a bargain when our friends are in trouble..."<sup>1</sup> President Ayub correctly assessed the situation: "Once the United States and other Western countries had decided that they would not link arms aid with a settlement of the Kashmir dispute, the Indians were under no compulsion to enter into serious discussion with Pakistan".<sup>2</sup>

Under these circumstances, the Indo-Pakistan negotiations on Kashmir were foredoomed to failure. In the six rounds of talks which began at Rawalpindi on December 27, 1962, and continued at regular intervals in different towns until May 1963, there emerged the following major points at issue and proposals to settle them. As expected, Pakistan pressed for the right of self-determination for Kashmiris, and consequently advocated a plebiscite under the aegis of the United Nations. India raised various objections to the procedure of a plebiscite, and instead suggested an adjustment of the cease-fire line as an alternative. Pakistan made it clear at the very outset that a settlement on the basis of the cease-fire line's adjustment would be wholly unacceptable to her. India opposed the idea of ascertaining the wishes of the people. As a compromise, Pakistan indicated her willingness to consider a limited plebiscite and the partitioning of Jammu and Kashmir along the lines proposed by Sir Owen Dixon, of Australia, in 1950. Pakistan also proposed that there should be an impartial international agency for 15 months to supervise and control the administration of the Valley, and this agency should be empowered to hold a plebiscite at the end of this period. Pakistan was willing to accommodate India's defence needs in Ladakh; but it was certainly not prepared to confirm the cease-fire line as the international boundary between India and Pakistan.

At the Calcutta meeting in March 1963, Pakistan's representative presented a formal plan for the partition of the State. The significant thing about the plan was that Pakistan had claimed the district of Riasi, Mirpur and Poonch of Jammu,

<sup>1</sup>Quoted by W. M. Dobell, "Ramifications of the China-Pakistan Border Treaty", *Pacific Affairs*, Autumn 1964, p. 292.

<sup>2</sup>Mohammad Ayub Khan, *op. cit.*, p. 152.

and proposed a boundary along the peaks of the Pir Panjal range. Quite apart from possessing the attributes of a natural frontier, the proposed Pir Panjal boundary divided the populations of the province, more or less, on a communal basis. The Pir Panjal line could also function as a natural barrier to invasion from the south-east and thus make Pakistan feel relatively secure on that border. India, too would have the same advantage for security *vis-a-vis* Pakistan. Pakistan was willing to delay decisions concerning the Kashmir Valley to meet the Indian argument that the Srinagar-Leh Road was indispensable for the defence of India, and proposed the internationalization of the Valley for a period of five to ten years. These suggestions were unacceptable to India, as she wanted only a confirmation of the *status quo* in Kashmir.<sup>1</sup> The joint communique issued in New Delhi on May 16, 1963, merely recorded with deep regret that no agreement could be reached on the settlement of the Kashmir dispute".<sup>2</sup>

The Sino-Pakistan boundary agreement of 1963 antagonized the West, particularly the United States—a situation which, in turn, encouraged India to adopt an intransigent attitude. In fact, the last two rounds of talks at Karachi and New Delhi were purposeless. The Observer Foreign News Service reported from New Delhi on May 14, 1963: "Now that India no longer has its back to the wall against China, everybody here expects an early breakdown of the Kashmir negotiations".<sup>3</sup> And in June 1963 the final curtain was brought down by Nehru's assertion: "Kashmir was, is and will continue to be an integral part of India."<sup>4</sup>

It is sometimes suggested that shortly before his death, on May 27, 1964, Nehru had begun to develop doubts about the wisdom of India's policy in Kashmir. In October 1963 Bakhshi Ghulam Mohammad had been forced to resign, after a decade

<sup>1</sup>The *Times* (London), commenting while the talks were on, observed: "To India a settlement means confirming the cease-fire line as the frontier..." January 16, 1963.

<sup>2</sup>*Pakistan Horizon*, Vol. XVI, No. 2, pp. 184-5.

<sup>3</sup>The Observer Foreign News Service (O.F.N.S., New Delhi, May 14, 1963). Cf. G.W. Choudhury, *Pakistan's Relations with India, 1947-1966* (London, Pall Mall Press, 1968), p. 140.

<sup>4</sup>The *Hindu* (Madras), June 16, 1963.

Later, on August 13, 1963, he declared in the Lok Sabha that "concessions which we offered to Pakistan are no longer open and they must be treated as withdrawn." *Dawn*, September 14, 1963.

of power, on charges of corruption. In December 1963, a mass movement broke out in Kashmir over the theft of a sacred relic, said to be a hair of the Holy Prophet. On February 3, 1964, Bakhshi Ghulam Mohammad issued a statement to the press which referred to this episode and said, "I frankly admit that what Sheikh Abdullah said in 1953, I say today after a further 10 years' experiment. Even today I am honest and faithful to India, and if it comes to a plebiscite, I might vote for India; but to keep the Indian Government and the Indian people in the dark about the inner working of the mind of Kashmiri Musalmans is a sin and a disservice."<sup>1</sup> Then on April 8, 1964, after almost 11 years of continuous incarceration, Sheikh Abdullah was released. At Nehru's behest, and in response to Foreign Minister Z.A. Bhutto's invitation of April 5, the Sheikh visited Pakistan in May to have talks with Pakistani leaders.

But the significant thing to observe is the fact that Nehru had asked Abdullah to seek a solution of Kashmir within the framework of a confederal structure of which India, Pakistan and Kashmir would be autonomous units.<sup>2</sup> This was not a new idea; he had advocated a confederation of India and Pakistan before, but this had aroused sharp reaction in Pakistan. President Ayub's retort reflected Pakistani feelings: "The objective of our struggle for Kashmir is to liberate Kashmir and not undo Pakistan".<sup>3</sup> In his autobiography, he has repeated his original objection to Nehru's Confederation idea: "When Sheikh Abdullah and Mirza Afzal Beg came to Pakistan in 1964, they too had brought the absurd proposal of confederation between India, Pakistan and Kashmir".<sup>4</sup> However, on the Kashmir issue, the death of Jawaharlal Nehru aroused mixed feelings in Pakistan. Some thought that his successor would not be so personally involved in the Kashmir dispute and, therefore, might see the wisdom of coming to terms with Pakistan. Others believed, and correctly so, that after Nehru's death, the Indian leadership would not be strong enough to take the risk of making a compromise on Kashmir.

India's new Prime Minister, Lal Bahadur Shastri, at first seemed to have a conciliatory attitude on Kashmir, but soon he

<sup>1</sup>*The Pakistan Times*, February 12, 1964.

<sup>2</sup>*The Times* (London), March 29, 1963.

<sup>3</sup>*The Round Table*, 1963-64, p. 388.

<sup>4</sup>Mohammad Ayub Khan, *op. cit.*, p. 128.

began to move in the opposite direction. His Government then claimed that there was no longer a dispute over Kashmir and the matter had been finally settled in favour of India. In December 1964, India repealed the provision in its Constitution which had granted a 'Special Status' to Kashmir.<sup>1</sup> Sheikh Abdullah, who refrained from taking any initiative until the Shastri Government had firmly established itself, observed: "I, therefore, hoped that the Indian Government would, at least, help in maintaining the *status quo* until the task that we had taken in hand during Panditji's life was resumed..." He added: "The Constitutional changes announced in December 1964 clearly showed that the Government of India, far from going ahead to pursue the revised Kashmir policy initiated by Panditji, was actually moving in the reverse direction, and, in fact, undoing what had been done."<sup>2</sup>

"Militarily, the cease-fire line had become, through the years, an increasingly significant barometer of the political climate between the two nations."<sup>3</sup> Between 1954 and 1961, the number of incidents on the cease-fire line had been on the increase. "This stemmed from the policy of Krishna Menon, then the Indian Defence Minister, that the cease-fire line should become a fixed international boundary".<sup>4</sup> For this, he had evacuated civilians from the 500-yard demilitarized zone on the Indian side of the line. The unsettled situation in Kashmir, and the continuing deadlock between India and Pakistan over its future, had thus turned the cease-fire line into an increasingly dangerous and vulnerable frontier zone. Pakistanis have always

<sup>1</sup>Agreement between the Government of Indian occupied Jammu and Kashmir and the Government of India concluded in New Delhi, July 24, 1952. From the statement of Sheikh Abdullah in the Kashmir Constituent Assembly, 11 August, 1952. Cf. A.G. Noorani, *The Kashmir Question* (Bombay, Manaktalas, 1965), pp. 95-109. For details on internal developments in Kashmir since 1947, see Peter Lyon, "Kashmir," *International Relations*, October 1966, pp. 111-128.

<sup>2</sup>Abdullah's letter to Shastri from London on March 17, 1965. Cf. Russel Brines, *op. cit.*, p. 296.

Abdullah, in a letter dated July 9, 1965, to Shastri (unpublished till July 1967), who had just then returned from a tour of foreign countries "described as 'unfortunate and unwarranted' the feelings expressed by Mr. Shastri in London on June 20, 1965, that the Sheikh's meeting with Mr. Chou En-lai in Algiers had created doubts in the minds of the people that the Sheikh was seeking moral, if not other, support from China." *The Hindu* (Madras), July 7, 1967.

<sup>3</sup>Brines, *op. cit.*, p. 239.

<sup>4</sup>David W. Wainhouse, *et al*, *International Peace Observation, A History and Forecast*, p. 368.

contended that the cease-fire line is not a fixed or permanent boundary between India and Pakistan: and such a move as the evacuation of civilians could only provoke incidents involving the crossing of the line from the Azad Kashmir side, as a gesture of rebuke and defiance to India. Therefore, if the period immediately following the re-arrest of Sheikh Abdullah, in May 1965, saw a dramatic increase in the crossing of the cease-fire line by armed volunteers, it must be regarded as part of Pakistan's determination *not* to accept the cease-fire line as the *de facto* boundary with India, but rather to continue to persuade India, by whatever means, that Kashmir, with its profoundly problematic borders, was a negotiable issue between India and Pakistan, and that it should be negotiated and settled for the sake of peace and stability in the entire South Asian region. The cease-fire was established as part of a political agreement on holding a plebiscite in Kashmir. India, which had not honoured the major part of the agreement, should not have regarded the cease-fire line as a final settlement, as was implied by the following aggressive statement of the Indian Home Minister on July 1, 1965: "Kashmir is an integral part of India. It is a settled fact which cannot be the subject of debate or negotiations. The talk of self-determination is devoid of meaning or relevance."<sup>1</sup>

What were the Kashmiris to do in this situation? And if they crossed the line in the face of such provocation, the cease-fire agreement of January 1949 could also not be invoked as binding upon them, since they had not entered into an international deal to give up their homeland, which they were now being told was not theirs but India's!

The conflict of August/September 1965 thus actually started with the thrusts and counter-thrusts arising from the basic dispute about the status of the cease-fire line in the middle of May (soon after the Rann of Kutch Conflict). It was on May 15, 1965, long before India was able to raise protests and alarms about Pakistani 'infiltrators' in Indian-held Kashmir, that India violated the cease-fire line and subsequently occupied three Pakistani posts in the Kargil sector. Under pressure from the UN, the Indians had to vacate these posts, but re-occupied them on

<sup>1</sup>K. Sarwar Hasan (ed.), *The Kashmir Question* (Karachi, Pakistan Institute of International Affairs, 1966), p. 440.



August 15, before Pakistani Forces moved in. India tried to justify her action on the plea that continued Pakistani occupation of these posts threatened the strategic Srinagar-Leh road. The Indian Defence Minister declared in the Lok Sabha that India had felt it necessary to cross the cease-fire line.<sup>1</sup> The Indian representative of the Observer Foreign News Service wrote from New Delhi: "The principal objective is to capture strategic points in Pak-held Kashmir where the Indian authorities believe guerillas trained by the Pak Army are marshalled, and from which they are sent into Indian territory."<sup>2</sup> On August 23, Indian forces shelled a Pakistani border village in the Awan sector. On August 24, they crossed the cease-fire line in the Tithwal sector, and captured two strategic posts of Azad Kashmir, including the peak of Pir Saheban. A few days later, Indian Forces struck across the cease-fire line in the Uri-Poonch sector; and by the end of August, they captured the strategic mountain pass of Haji Pir (8,600 feet). Pakistan regarded the capture of these places as an Indian move to besiege Azad Kashmir, and to seize it if possible. In an apparent reference to the Indian announcement of the capture of posts on the Pakistan side of the Kashmir cease-fire line, the great philosopher-President of India, Dr. Radhakrishnan, recorded a message in Srinagar on August 26, 1965: "In some circumstances attack becomes the best form of defence."<sup>3</sup> It looked to Pakistan as though India, having already declared the cease-fire line to be the settled border with Pakistan in Kashmir, was now bent upon a war of territorial conquest in order to strengthen her strategic stranglehold on Pakistan. And, therefore, India's protestation that her objective was merely to check 'infiltration' from Azad Kashmir into Indian-held Kashmir may be dismissed as a canard which could not hide India's real motives for its action. Indeed, informed circles in New Delhi saw the aims of this action to be quite as much political as strategic.<sup>4</sup>

India's seizure of Pakistan-held positions in Azad Kashmir

<sup>1</sup>*The Times* (London), August 25, 1965; *The Round Table* 1965-66, p. 77.

<sup>2</sup>Balram Tandon, "India on the Offensive", *Observer Foreign News Service*, No. 21760, August 26, 1965.

<sup>3</sup>*The Times* (London), August 27, 1965.

<sup>4</sup>See *ibid.*, August 26, 27 and 31, 1965. *The Observer* (London), August 29, 1965; *The Guardian* (London), August 27, 1965.

*The Daily Telegraph* wrote on August 23, 1965: "The Pakistan Army could hardly choose this season, when Indian supply routes into Kashmir are open, to challenge India seriously. It was silly to arrest Sheikh Abdullah in May after his Algiers visit and meeting with Chou En-lai."

was a prelude to the massive build-up of her troops in Kashmir and along the Pakistan frontier. It showed that India had embarked upon a calculated plan to have a military show-down with Pakistan.<sup>1</sup> The ease with which the freedom fighters or 'infiltrators' (as India would have them described) moved across the cease-fire line to join the agitators in the Vale of Kashmir embarrassed and angered the Indian authorities. These men breached the tough security cordon along the cease-fire line and made the Indian military machine look ridiculous. The plan that the Indians now set in motion was intended to demonstrate their military superiority as well as to put a stop to the free movement of freedom fighters across the cease-fire line.

Pakistanis believed that the Kashmiris had started a resistance movement against the alien and unpopular Government which they had not freely chosen. They believed that it was their duty to support the just cause of their Kashmiri brethren. Pakistanis wanted to re-activate the Kashmir issue in order to establish the fact that it was neither a closed chapter for the world nor one that could be treated as lying within India's domestic jurisdiction. Pakistan's note of August 26 to the United Nations made this point quite clear. "The concept of restoring quiet along the cease-fire line presupposes making an effort towards a peaceful and honourable settlement of the dispute itself. Certainly it is something quite different from restoring or maintaining the *status quo ante* in Kashmir, which is all that India wants, so that it could fulfil its designs of completely annexing the State."<sup>2</sup> It was because of this basic issue that the Pakistan Government not only turned a blind eye to the movement of freedom fighters across the cease-fire line into Indian-held territory, but also actually encouraged it. The Indian reaction to this was to use force and occupy Pakistani posts, so that Pakistan had to take military action to stop the advance of Indian Forces deep into Azad Kashmir territory.

<sup>1</sup>Ashutosh Lahiry in his letters to the Prime Minister and Home Minister of India, published in his book *Defence of India* (Calcutta, 1965), indicated: "Though the war might start on the issue of Kashmir, it will not entirely end with the conquest of the entire Kashmir territory by either of the Powers. It will be a general war between India and Pakistan; and if India wins, we shall certainly not permit the continuance of any sovereign State within the Indian subcontinent, and Pakistan will be completely eliminated." (pp. 34-35.)

<sup>2</sup>The text of this letter appeared in *Dawn*, August 28, 1965.

On September 1, Azad Kashmir Forces supported by the Pakistan Army moved into the Bhimber sector and siezed Chhamb and Deva, in reply to which India, the same day escalated the scale of the conflict by mounting air attacks on Pakistani Forces. The capture of the village of Jaurian, on September 5, which is 14 miles south of the cease-fire line and 5 miles north of the Pakistan-Jammu border, brought Pakistani troops within 4 miles of Akhnur, the occupation of which would have cut off the Indian Army in Kashmir from the rest of India.<sup>1</sup> Heavy fighting also took place at the Haji Pir Pass between Pakistan Forces and regular troops of the Indian Army. On September 6, India launched a three-pronged attack against Lahore, which is 18 miles from the Indo-Pakistan border in the Punjab. Following the attack on Lahore, hostilities took on the shape of an all but declared war, escalating to Sialkot, the Jammu sector, and the Sind-Rajasthan sector, with the possibility of spreading further to East Pakistan. Indian leaders had previously threatened to hit Pakistan at a place and time of their own choosing; and it seems this was their best effort to carry out the threat.

The Foreign Minister of Pakistan, Z. A. Bhutto, announced in Rawalpindi on September 6, 1965, that Pakistan had invoked the Central Treaty Organization collective security arrangement. He said that Pakistan had approached all those countries with whom she had multilateral or bilateral arrangements.<sup>2</sup> The President of Pakistan, in his telegram to the Secretary-General of the United Nations, dated September 5, 1965, in reply to U Thant's telegram of September 1, pointed out that the concern of the United Nations must extend to the implementation of the UNCIP resolutions as well as to the observance of the Cease-Fire Agreement. The cease-fire was only the first part of an inter-related and integral whole. "Therefore, insistence on a cease-fire can only be meaningful if there is a self-implementing agreement to follow it."<sup>3</sup> Pakistan still expected to get the sup-

<sup>1</sup>*The Observer* (London), September 5, 1965.

<sup>2</sup>*The Guardian* (London), September 7, 1965.

<sup>3</sup>Correspondence between the Secretary-General of the United Nations, U Thant, and President Mohammad Ayub Khan of Pakistan, September 1965. Telegram of the President of Pakistan addressed to the Secretary-General of the United Nations, September 5, 1965 (S/6666), *U.N. Press Release*, 65/20834; Telegram of the Secretary addressed to the President and the Prime Minister of India, September 1, 1965 (S/6647), *U.N.S.C. Press Release*, 65/20526.

port of the Western Powers in the United Nations Security Council. It was therefore shocked when instead these Western allies imposed an embargo on arms for both Pakistan and India. This crippled Pakistan's fighting capacity against India and tilted the balance of power in favour of the latter, as India was still receiving Soviet arms aid in addition to its considerable indigenous production of arms.<sup>1</sup> President Ayub presented U Thant with a three-point Plan on September 13, which envisaged the following: (1) a cease-fire should be followed by the complete withdrawal of Indian and Pakistani forces from the whole of Kashmir; (2) an Afro-Asian Force sponsored by the United Nations should take care of Security in Kashmir pending a plebiscite; (3) the plebiscite in the State should be held within three months, according to the terms of the United Nations resolutions of August 13, 1948, and January 5, 1949.<sup>2</sup> President Ayub, in a Press Conference, urged the United States to use its "immense influence" over India and Pakistan to bring about a peaceful solution of the Kashmir dispute.<sup>3</sup> No previous government of Pakistan had staked so much on Kashmir: the fighting lasted for 17 days, and produced the biggest tank battles since World War II, with full air cover and some naval movements off the shores of the subcontinent. The fighting stopped on September 21, 1965, both accepting the Security Council Cease-Fire Resolution of September 20, 1965.<sup>4</sup>

The September fighting and its aftermath did not help to solve the Kashmir problem.<sup>5</sup> It did not bring about any change in frontiers; and no new sanctity was given to existing frontiers. The conflict had, however, shown quite clearly that Pakistan's security pacts were of no help in relation to India, and perhaps altogether devoid of any relevance they may have had earlier. In fact, Great Britain and the United States had stopped both

<sup>1</sup>*The Daily Telegraph* (London), September 11, 1965, "Pakistan Crippled by Arms Embargo".

<sup>2</sup>*U.N.S.C. Press Release* 65/21501, pp. 7-8

<sup>3</sup>*The Observer* (London), September 19, 1965.

<sup>4</sup>*S/Res. 211/65, U.N.S.C. Press Release* 65/22045; *S/6699, U.N.S.C. Press Releases* 65/22312, 65/22331.

<sup>5</sup>"The more acceptable reason that gradually evolved was that we needed strength to liberate Kashmir and for our defence against India. That twelve years of borrowings, grants, accumulations and hoardings of arms and ammunition did not enable Gen. Ayub Khan, in 1965, to fight beyond seventeen days." Akbar Khan (Ex-Major-General), *Raiders in Kashmir* (Karachi, Pak Publisher, 1970), p. 162.

the supply of arms and all other forms of aid. The Secretary-General of the South-East Asia Treaty Organization declared that the Organization would not intervene in the Kashmir fighting because Kashmir was outside the treaty's terms of reference.<sup>1</sup> The British Prime Minister, Harold Wilson, did come out with a sympathetic statement on September 6, 1965: "I am deeply concerned at the increasingly serious fighting now taking place between India and Pakistan, and especially at the news that Indian Forces have today attacked Pakistan territory across the international frontier in Punjab. This is a distressing response to the resolution by the Security Council on September 4, calling for a cease-fire."<sup>2</sup> But Britain also indicated that it would remain neutral in the Indo-Pakistan conflict.

Then on September 16, a new dimension was given to the conflict when China, in a note to the Indian Embassy in Peking, dated September 16, 1965, after stating that "China will not cease supporting the Kashmiri people in their struggle for self-determination; so long as the Indian Government persists in its unbridled aggression against Pakistan, China will not cease supporting Pakistan in her just struggle against the aggression", went on to give India an ultimatum on her own account: "The Chinese Government demands that the Indian Government dismantle all its military works for aggression on the Chinese side of the China-Sikkim boundary or on the boundary itself within three days of the delivery of the present note and immediately stop all its intrusions along the Sino-Indian boundary and the China-Sikkim boundary, return the kidnapped Chinese border inhabitants and the siezed livestock and pledge to refrain from any more harassing raids across the boundary, otherwise the

<sup>1</sup>*The Statesman* (Delhi), September 1, 1965.

<sup>2</sup>*The Times* (London), September 7, 1965. In spite of India's deep resentment and protest, Wilson reiterated his view (of September 6) in a letter dated December 23, 1965, to a British member of Parliament, Francis Noel-Baker, released to the Press on January 5, 1966: "It has never been finally established or admitted by Pakistan that their troops had crossed the international frontier of Chhamb. . . Pakistan does not. . . recognize this area as a permanent international frontier in the same way as the frontier in the Punjab is permanent." *Times of India* (New Delhi), January 6, 1966.

*The Times* (London), wrote on September 7, 1965: "If there were any grounds for examining India's excuse that the crossing of the frontier was simply a move to forestall Pakistan's plans to do the same, then these grounds were scattered and drowned by the cheering in the Indian Parliament yesterday, when the Defence Minister reported the attack. There could be no doubt in Delhi on how the drive towards Lahore would be interpreted."

Indian Government must bear full responsibility for all the grave consequences arising therefrom.”<sup>1</sup>

Premier Wilson said on September 19, 1965, as reported by *The Times*, “that Britain and the Commonwealth would not act in the crises of the Indian subcontinent while they were before the United Nations Security Council. Britain had an obligation to respond to a request for help from any Commonwealth country under attack, but the situation brought about by China was a major threat to world peace and must first be referred to the Security Council.”<sup>2</sup> He also disclosed that in a letter delivered to President Ayub Khan, he had drawn the President’s attention to the additional danger of third party (China) intervention. Britain accordingly declared itself ready to give aid to India if the scope of the conflict was enlarged by a Chinese attack on India.<sup>3</sup> The United States, in spite of Ayub’s appeal for help to resolve the Indo-Pakistan conflict, “was determined to work through the United Nations in dealing with the new situation created by China’s ultimatum to India”.<sup>4</sup>

But the Soviet Union and China, were soon to have a greater impact on the subcontinent. According to Walter Lippmann, “Kosygin was able to do what neither Harold Wilson nor Lyndon Johnson could have done, not because he was cleverer than they, but in the last analysis he is nearer.... The critical advantage of the Soviet Union has not been due to race, colour or creed, but to geography. The Soviet Union can talk with authority about peace in Asia, because it is a Power with an Asian frontier of thousands of miles.”<sup>5</sup> There has indeed been a definite shift in the Soviet stand on Kashmir since the days of Prime Minister Nikita S. Khrushchev. It was on April 10, 1965, that Moscow, in a joint Pak-Soviet communique issued at the end of President Ayub’s visit to Russia, backed away from its earlier stand that Kashmir was an integral part of India. But this Russian neutrality was put in jeopardy through the combination of the escalation of the Indo-Pakistan fighting and

<sup>1</sup>S/6692, *U.N.S.C. Press Release*, 65/22006, pp. 5-7.

<sup>2</sup>*The Times* (London), September 20, 1965.

<sup>3</sup>*The Guardian* (London), September 20, 1968.

<sup>4</sup>*Ibid.*

<sup>5</sup>*The Indian Express* (New Delhi), January 20, 1966. Cf. Rajan, “The Tashkent Declaration”, *International Studies* (New Delhi), Vol. 8, Nos. 1-2: *India’s Relations with Pakistan* (Special Double Issue) pp. 1-28; ref: p. 22.

the outright support the Chinese were giving to Pakistan, including threatened intervention, albeit on its own account. In the circumstances, which brought the subcontinent's conflict to the Soviet's Asian doorstep, there could not be any remote possibility of its joining China to back Pakistan. "Any action at all", a British commentator observed, "would have to be in support of India, in a manner which could bring her into direct conflict with China".<sup>1</sup> Prime Minister Alexei Kosygin, in a message to President Ayub and Premier Shastri on September 11, 1965, said: "We would not be frank if we did not say that the military conflict in Kashmir also arouses the anxiety of the Soviet Government, because it has flared up in a region immediately adjacent to the frontiers of the Soviet Union."<sup>2</sup> Then on September 19, 1965, Kosygin invited Ayub and Shastri to negotiate a settlement of the Indo-Pakistan conflict on Soviet Soil.<sup>3</sup> (It is significant that Peking at this time extended the time-limit of its ultimatum to New Delhi for three more days). Russia set the stage for the Ayub-Shastri talks in Tashkent, the capital of the Muslim Soviet Republic of Uzbekistan. Neither India nor Pakistan rejected the Russian offer: but there seemed to be no optimism in either country that the talks would end the 19-year old dispute.<sup>4</sup> India had flatly rejected any suggestion that her sovereignty over Kashmir could be a subject for negotiation. For Pakistan, Kashmir and the future of its Muslims was the main issue.

### *Tashkent and After*

Premier Kosygin in his inaugural speech on January 4, 1966, described the Tashkent meeting as one which may make a turning

<sup>1</sup>Edward Crankshaw, "Where Moscow Stands", *The Observer* (London), September 12, 1965.

<sup>2</sup>*Ibid.*

<sup>3</sup>*The Daily Telegraph* (London), January 3, 1966.

<sup>4</sup>*The Guardian* (London) wrote on January 3, 1966: "But although Mr. Kosygin in favourably disposed towards India—and therefore likely to be granted a hearing there—it does not mean that he shares the Indian appreciation of the rights and wrongs of the Kashmir dispute."

Speaking in the debate on foreign affairs, Premier Shastri told the Rajya Sabha on November 23, 1965, that in reply to a new message from the Soviet Union two days before, he had conveyed his willingness to go to Tashkent for talks on Indo-Pakistan relations with President Ayub Khan. He added: "Any suggestion that better relations could come about only if the question of Kashmir was settled was fantastic from our point of view and could never be accepted. If Pakistan withdrew from the Chhamb sector, India would consider the question of withdrawing from the Lahore and Sialkot areas." *India News* (London), November 27, 1965.

point in the relations between India and Pakistan.<sup>1</sup> In the same breath, he stressed that the responsibility for the future of Indo-Pakistan relations rested upon India and Pakistan, and that his country's role was merely to help to achieve that objective. President Ayub pointed out that Kashmir was 'the basic problem' between India and Pakistan, and that he was willing to sign a no-war pact with India, if this basic issue was resolved. Shastri pleaded for peaceful co-existence and a renunciation of the use of force for settling Indo-Pakistan difference. Thus, in a subtle manner, the Indian Premier only wanted a confirmation of the *status quo* in Kashmir, and was intent on opposing any move towards a revision of the position of Kashmir. Pakistan wanted a self-executing machinery on the lines of the Rann of Kutch arbitration to solve the issue. Shastri again pressed that there should be a declaration that the cease-fire line was agreed as inviolable. This proposal was turned down by the Pakistani delegation, as it would have implied that the cease-fire line should become the international boundary. The Indian Premier then urged that Pakistan must at least undertake not to resort to force against India under any circumstances.

Faltering between hope and despair, just when the talks appeared to have reached a deadlock, the nine-clause Tashkent Declaration was finally agreed on January 10, 1966. The actual vicissitudes through which the talks passed have not been made public, and conjecture on them is largely a fruitless operation, though this has not by any means prevented speculation.<sup>2</sup>

The basic points agreed by the Tashkent Declaration in-

<sup>1</sup>Edward Crankshaw discussed Russia's new role as a peace-maker in Asia in "Turnabout in Asia", *The Observer* (London), January 9, 1966: "At this moment, for example, a Russian Prime Minister, the first gentleman of the only Power in the world to have kept in tact its nineteenth-century empire, presides in Tashkent (until lately a far-flung outpost of that empire) as mediator and peace-maker between the warring heirs to British India. And Whitehall is quite pleased... though Mr. Kosygin, if he has any historical sense, must be enjoying, as a bonus, this meeting in the heart of his Muslim imperium with a Hindu Prime Minister and a Muslim dictator, with Britain, inevitably, and America, which so remarkably failed to exploit intelligently the British withdrawal in 1947, excluded."

For another stimulating article on the issue, see "Russia Faces East", *The Economist* (London), January 15, 1960, pp. 165-66.

<sup>2</sup>Frank Giles, "The World After Tashkent", *The Sunday Times* (London), January 16, 1966; *New York Herald Tribune*, January 16, 1967, "Tashkent Aftermath"; *The Daily Telegraph* (London), January 11, 1966; M.S. Rajan, "The Tashkent Declaration, Retrospect and Prospect", *India's Relations with Pakistan*, *op. cit.*



cluded the following: the signatories reaffirmed their obligation under the UN Charter not to have recourse to force and to settle their disputes through peaceful means; they agreed that they would withdraw all armed personnel to positions held prior to August 5, 1965; that relations between India and Pakistan should be based on the principle of non-interference in the internal affairs of each other; that propaganda which was directed against the other country would be discouraged, and propaganda to develop friendly relations would be encouraged; that normal diplomatic relations would be re-established; that the two countries should consider measures towards the restoration of economic and trade relations and communications, as well as cultural exchanges between them, and that they should take measures to implement existing agreements between them; that prisoners of war should be repatriated; that they would continue the discussion of questions relating to the problems of refugees, evictions and illegal immigrations, creating conditions which would prevent the exodus of people, and that they would discuss the return of the property and assets taken over by either side in connection with the conflict; that both sides would continue meetings at the highest and other levels on matters of direct concern to both countries, both sides recognizing the need to set up joint Indian-Pakistani bodies which would report to their Governments in order to decide what further steps should be taken.<sup>1</sup>

*Dawn* commented: "The 'unnegotiable' State of Jammu and Kashmir will be the subject of further negotiations with a view to an ultimate solution in accordance with the United Nations resolution, particularly those of September 20 and November 5".<sup>2</sup> The American Vice-President was reported to have said: "The United States and the Soviet Union met on Indian soil and persuaded India to make her peace with Pakistan an enduring reality."<sup>3</sup>

The Tashkent Declaration has been a controversial subject ever since its announcement. It aroused a storm of protests, in Pakistan, particularly in the western region,<sup>4</sup> and also con-

<sup>1</sup>See text of Tashkent Declaration in Appendix.

<sup>2</sup>*Dawn*, January 14, "Kashmir After Tashkent"; Michael Edwards, "Tashkent and After", *International Affairs*, July-October, 1966; *The Hindu* (Madras), January 7, 1967; Observer Foreign News Service (OFNS), New Delhi, No. 23390, January 1, 1967.

<sup>3</sup>*The Observer* (London), January 16, 1966, "Tashkent Score".

<sup>4</sup>*The Times* (London) wrote on March 7, 1966, under the heading of

siderable criticism within India. In spite of extensive explaining by various Government spokesmen in Pakistan, including the President himself, there was a general feeling of betrayal and the anti-Tashkent sentiment shook the very foundations of the Ayub regime. It was widely believed that what the soldiers had gained in the battle-field had been lost at the Tashkent conference table. In adopting this attitude, people forgot that the Tashkent Declaration was but a logical conclusion to the cease-fire agreement.<sup>1</sup> Since then public debate and controversy—first between Zulfikar Ali Bhutto (Foreign Minister until early 1966) and Khawaja Shahabuddin (Minister of Information until March 1969), and later with others joining in—have created a mystery around the Tashkent Declaration which has accentuated suspicion about the whole agreement with India. In addition, Pakistanis have also become more disillusioned as they found India becoming more intransigent and virtually closing the door to any purposeful negotiations on the Kashmir issue. This became evident in the first Indo-Pakistan meeting at Rawalpindi in March 1966.

*The Daily Telegraph* has recently mentioned a secret protocol allegedly agreed upon during the Ayub-Shastri talks, but both the Pakistan and the Soviet Governments have officially denied that there was any secret deal.<sup>2</sup> While addressing a public meeting at Malir, 13 miles from Karachi, Bhutto (Chief of the People's Party) said: "If any secret clause of the Tashkent

"President Ayub's Dilemma on the Tashkent Pact": "The Tashkent Declaration came as a rude shock to political and public opinion in West Pakistan, and the resulting turbulence shook President Ayub's position badly."

In Lahore, leaders of three opposition parties issued a joint statement condemning the Declaration as a "document which declared peace at the cost of the people of Kashmir and their just cause of self-determination, and at the cost of commitments made by every Government in Pakistan."

*Hindustan Times* (Delhi), January 20, 1966.

Cf. Charles Smith, "President Ayub Khan: Pulling Pakistan Together", *The Financial Times*, November 1966.

<sup>1</sup>President Ayub told the Pakistan National Assembly on November 15, 1965, that Pakistan accepted the cease-fire "because we were given an assurance by the Big Powers—particularly the U.S.A., the Soviet Union and the U.K.—that they would use their influence and good offices to bring about a settlement of the Kashmir dispute." *Dawn*, November 16, 1965.

On February 1, 1966, under the heading "Doubts Dispelled", *Dawn* wrote: "It is very necessary to emphasize that the Tashkent Declaration does not in any way supersede the Security Council Resolutions."

<sup>2</sup>Cf. Mukhtar Zaman, "Thoughts on Indo-Pakistan Relations in the Tashkent Era", *Pakistan Horizon*, Second Quarter, 1969, pp. 125-34; ref: 132. (Continued on next Page.)

Declaration does not forbid the presentation of the Kashmir issue to the World Body, the Government of Pakistan should immediately refer it to the United Nations. He added: "the Government should clearly tell the people if the Tashkent Declaration closes the doors of the Security Council to the Kashmir issue. He said even if it was so, the present regime was not bound to honour an agreement signed by former President Ayub Khan, which did not have the mandate from the people".<sup>1</sup> However, as Pakistan's Foreign Minister and member-delegate to the Tashkent meeting, Bhutto had defended the Tashkent Declaration in the National Assembly on March 16, 1966; he had then said: "...A declaration of intent is this that both the leaders of India and Pakistan declare that they would like to see an end of disputes. It did not, the Tashkent Declaration did not stipulate the various measures which should bring the disputes to an end. If the Tashkent Declaration had said that the dispute of Jammu and Kashmir will be settled on the following lines, stipulated stage by stage all the steps for settlement, it would have been a contractual obligation. But it was only a declaration of intent".<sup>2</sup> Be that as it may, hopes of meaningful talks on Kashmir, as a follow up to the Declaration, had certainly also been aroused. Thus *The Economist* commented quite categorically: "The Indians also agreed to continue talks 'on matters of direct concern to both countries'. The world will certainly interpret that as eventually including Kashmir, and it would be absurd to inter-

In the Preface to his book, *The Myth of Independence* (Karachi, O.U.P., 1969), Bhutto states: "Though tempted to write at greater length about the war of 1965 and the subsequent Tashkent Declaration, I decided, for various reasons, to defer discussion of these and other topics to a later date. The truth of this chapter of history has yet to be told."

On January 17, 1970, Bhutto recalled that he had been prevented from speaking on the Tashkent Declaration at a public meeting held at Rawalpindi on January 11, 1970. He said a man who disclosed his identity as Col. Qureshi approached him at the Chaklala Airport and asked him not to speak on the Tashkent Declaration at the public meeting to be addressed by him.

Bhutto added that he had refrained from speaking on the Tashkent Declaration for the last three and a half years. He said if he were an independent man, he would have taken a decision on his own whether or not to speak on the subject. *Dawn*, January 18, 1970, under the heading "PPP for TD Secrets To Be Disclosed".

Also see "General Sarfaraz Charges Bhutto with Complicity—Conclusion of Tashkent Declaration", *Dawn*, May 19, 1970.

<sup>1</sup>*Dawn*, July 27, 1970, "Bhutto Asks Government to Put Kashmir Issue Before UN."

<sup>2</sup>Cf. Bhutto, *Speeches—op. cit.*, pp. 590-91.

pret it otherwise.”<sup>1</sup> But India has made a mockery of these hopes by stubbornly insisting that Kashmir was an integral part of India.<sup>2</sup> It was indeed clear even in 1966 that a progressive collapse of the ‘Tashkent Spirit’ had set in because of India’s uncompromising attitude on the status of the disputed territory of Jammu and Kashmir. At the end of the first Ministerial Meeting held in accordance with the Declaration, India’s Foreign Minister, Sardar Swaran Singh, said, “We reiterated our well-known position on Kashmir”,<sup>3</sup> and two days later added that the sovereignty of Jammu and Kashmir was not negotiable.<sup>4</sup>

So far as Pakistan is concerned, it accepted the declaratory theme of the agreement, but only with the explicitly stated understanding that “It is against this background that Jammu and Kashmir was discussed and each of the two sides set forth its respective position”.<sup>5</sup> Not only did Pakistan refuse to sign a ‘no-war pact’ at Tashkent, it also did not voice any acceptance of the cease-fire line as permanent and inviolable. All that was said in the Declaration is that “both sides shall observe the *cease-fire terms on the cease-fire line*”<sup>6</sup>—there was no mention of an international boundary or any kind of recognized frontier between India and Pakistan in this region. This in itself implies that the Declaration left the question of Kashmir open and awaiting a negotiated settlement. Pakistan has thus never accepted India’s contention that Kashmir is a part of India and India’s internal affair.

The Security Council Resolution of September 20, 1965, also provided that after the withdrawal of Forces, the Security Council would consider “what steps could be taken to assist towards a settlement of the political problem underlying the present conflict”.<sup>7</sup> In the absence of positive moves towards a basic settlement, the immediate outcome of the Indo-Pakistan fighting of September 1965 and of the Tashkent Meeting was,

<sup>1</sup>*The Economist* (London), January 15, 1966, p. 166.

<sup>2</sup>*Dawn*, January 11, 1967, “The Tashkent Anniversary” (Editorial). See also *The Times* (London), January 12, 1967; *The Egyptian Gazette* (Cairo), January 18, 1967.

<sup>3</sup>*The Times of India* (Bombay), March 3, 1966.

<sup>4</sup>*Ibid.*, March 5, 1966.

<sup>5</sup>Tashkent Declaration, see Appendix.

<sup>6</sup>*Ibid.* (Italics added.)

<sup>7</sup>Resolution, *op. cit.* Also see S/6719—*Report of the Secretary-General on Compliance with the Withdrawal Provision of the Security Council Resolution of September 20, 1965.*

in effect, to leave the frontier between India and Pakistan unaltered in both the Punjab and in Kashmir—and the dispute unchanged, still leaving ahead a difficult struggle for the rights of the people of Kashmir.<sup>1</sup> Worse still, in recent times there have been reports of Indian violations of the cease-fire line, and that Indian Armed Forces in Kashmir have installed Sam-3 missile along the cease-fire line.<sup>2</sup>

It is not strictly within the scope of this essay to describe the internal conditions of Kashmir, but a few facts will serve to belie India's claim that the situation in Kashmir has settled with the passage of time. A correspondent of the *The Japan Times*, described the state of affairs thus: "The unhappiness stems mainly from communal discord between Hindus and Muslims who fought in the streets through most of August. To make matters worse, many Muslims still have a greater sympathy for Pakistan than for India, which is causing headaches for both the State and Central Governments".<sup>3</sup>

Referring to Mrs. Gandhi's speech at Srinagar on July 15, 1970, and her assertion that the Kashmir issue was decided 23 years ago, the Awami Action Committee Chief reminded the Indian Prime Minister that it was exactly 23 years ago that her father had agreed to hold free and fair elections to decide the future of Kashmir.<sup>4</sup> Nehru had repeated the promise in the Joint Press Communique of August 20, 1953, and as late as 29, 1962, in the Ayub-Nehru Joint Communique, it was "agreed that a renewed effort should be made to resolve the outstanding difference between their two countries on Kashmir..."<sup>5</sup>

Inaugurating the Second Convention at Srinagar, in June 1970, Sheikh Abdullah said that the main aim of the Conven-

<sup>1</sup>Joseph Lilyveld wrote, under the heading "A Problem That Just Won't Go Away", in *The New York Times*, on May 21, 1967: "But there is no reason to think that there won't still be a Kashmir problem after another 20 years have passed."

<sup>2</sup>*Dawn*, September 16, 1970 (Editorial). The editorial observes, "The Big Powers should be under no illusion that India is interested in a peaceful settlement of the Kashmir dispute, or, for that matter, any other Indo-Pakistan dispute."

<sup>3</sup>*The Japan Times*, November 5, 1967. See also *Frankfurter Allgemeine Zeitung*, November 15, 1967; *The Statesman* (Delhi), October 25, 1967: "Unhappy Vale"; November 3, 1967: "Investigations into Kashmir Affairs".

<sup>4</sup>*Dawn*, July 19-20, 1970. Also see *ibid.*, July 16, 1970: Mrs. Gandhi's Speech at Srinagar—"Whatever has happened cannot be undone". On December 1, 1970, in a circular letter to UN Members, Pakistan again rejected India's stand on Kashmir. *Dawn*, December 2, 1970.

<sup>5</sup>*Pakistan Horizon*, Vol. XVI, No. 1, p. 88.

tion was to seek a peaceful and just solution of the Kashmir dispute. Explaining the understanding on Kashmir between him and the late Premier Nehru at the time of Independence, he said, Nehru "had eaten his words given to me. It was he who forgot his promises and moral obligations and went back on his word... I was shocked by the colonial and imperialistic tendencies that had developed to make Kashmir a colony of India. To achieve this unjustifiable aim he went back on his commitment not only with me but with the United Nations also."<sup>1</sup> The Sheikh denied the charge that it was he who had gone back on his commitments, and said: "It was the late Jawaharlal Nehru who broke his promises and kept me in prison for 12 years... Is it democracy to keep me behind bars for 12 years? Do you call it secularism over which the whole of India is shedding tears?"<sup>2</sup> Sheikh Abdullah also sent a memorandum to the Secretary-General of the United Nations, U Thant, saying that the august body had lost much of its confidence among the Kashmiris.<sup>3</sup> He appealed to all freedom loving nations to support the just cause of the Kashmiris... for which they had been striving hard for the last several decades.<sup>4</sup> In an obvious reference to the Srinagar speech of Premier Indira Gandhi, President Yahya Khan said in his broadcast to the nation on July 28, 1970: "A mere repetition by one party that the dispute does not exist, or has resolved itself, does not make it vanish into thin air".<sup>5</sup>

With Tashkent, the Soviet Union, for the first time in its history, served the role of an 'honest broker' in the non-communist world.<sup>6</sup> And for Pakistan, the Tashkent meeting was also a diplomatic breakthrough, as it served to cultivate closer understanding between Pakistan and the Soviet Union, which may yet help to bring about a Kashmir settlement. On the other hand, the Russians who rightly took credit for the Indo-Pakistan

<sup>1</sup> *Dawn*, July 19, 1970.

<sup>2</sup> *Ibid.*, July 20, 1970.

<sup>3</sup> *Ibid.*, July 16, 1970.

<sup>4</sup> *Ibid.*, May 30, 1970.

<sup>5</sup> *Ibid.*, July 29, 1970. *Ibid.*, September 2, 1970, "Serious Situation: Liberation League Executive Urges UN to Act".

*Ibid.*, December 3, 1970: "Quit Kashmir Notice to India"—On the 25th Anniversary of the UN, President Yahya suggested the withdrawal of both Indian and Pakistani Forces, so that the People of Kashmir could decide their future freely. *Ibid.*, January 10, 1971: "Rally Teargassed in Srinagar". The rally was taken out in protest against the externment of Abdullah and Afzal Beg and the banning of the Plebiscite Front on the eve of India's General Elections.

<sup>6</sup> Eldon Griffiths in *The Guardian* (London), January 14, 1966.

disengagement, for the moment seem to have given up pursuing the implementation of the Declaration. There are no references to the 'Spirit of Tashkent' in their statements of policy. The result is that India has yet to be convinced that so long as the Jammu and Kashmir dispute remains unresolved, relations between India and Pakistan "will continue to suffer from stress and strains".<sup>1</sup> President Yahya Khan told his Russian hosts on June 23, 1970, "that their (Pakistanis) hopes and aspirations for a peaceful settlement had not been realized", but Premier Kosygin merely "expressed confidence that the Governments of Pakistan and India will persistently continue their efforts in seeking mutually acceptable solutions of disputes", though he regretted that even today one could hear voices criticizing the Tashkent Declaration.<sup>2</sup>

The shift in Soviet policy regarding Kashmir was of course a matter of great comfort and gratification to Pakistan. Nevertheless, it would be a mistake to regard it solely as a Soviet decision to put right the wrong done to Pakistan in the past. The 1965 conflict in the subcontinent was indeed a catalyst in the sense that all the previously held notions of international friendships and alliances were thrown into serious disarray, and all the friends and allies of the belligerents were either forced to speak up and declare their allegiance, or by their silence, obliged to reveal their indecision. It was thus that both Britain and the United States reappraised their relationship with Pakistan as their allies in SEATO and CENTO, and declared their 'determination' not to take sides but to work towards achieving an end to hostilities. China, at the other extreme, in conformity with its new friendship with Pakistan, voiced its full support for the cause of Pakistan and Kashmir. But with Tashkent, China was not too pleased; and in a violent attack on the talks in the *Peking People's Daily*, doubts were cast on Soviet motives: "The course taken by the Soviet leaders in the Viet-Nam, India-Pakistan and Japan questions completely conforms with the requirements of imperialism, especially with the latter's policy of encircling China."<sup>3</sup>

On the other hand, the Chinese intervention in the Kashmir

<sup>1</sup>See Ayub's Message to Kosygin on the First Anniversary of the Tashkent Declaration—*Dawn*, January 10, 1967.

<sup>2</sup>Yahya and Kosygin's Speeches at the luncheon meeting in Moscow on June 23, 1970. *Dawn*, June 24, 1970.

<sup>3</sup>See *Peking Review*, IX, No. 6, February 4, 1966, p. 12.

issue, especially since 1962, had clearly made it imperative for the Russians (a) to review their traditional policy of publicly backing India over Kashmir, and (b) to avoid assuming the role of a passive spectator. Where the Soviet Union was concerned, therefore, the possibility of the Western Powers making diplomatic capital out of the Indo-Pakistan fighting was less of a force dictating a perceptible shift in policy than the danger of Chinese 'irresponsibility' escalating the crisis to suit its own policy. In such circumstances, the Russians had perforce to take a middle course by promoting a cease-fire and peace talks and giving up their support for India in favour of a more neutral stand.

Pakistan, on its part, was pleased that for the first time since 1947, none of the World's major Powers, including the two neighbourhood States of Russia and China, was actively, or even tacitly, hostile to its cause in Kashmir. But the long-term advantages of such a change of fortune in terms of a Kashmir settlement will depend on a variety of factors, in which World Power relations are likely to play quite as big a role as the way in which Pakistan and India continue to play the hands they now hold. Also not to be forgotten is the fact that only strong as well as enlightened Indian Government would ever dream of negotiating the Kashmir issue; for it alone could hope to tackle the public opinion that has been built up within the country over the past two decades—though this public opinion itself is now inevitably being influenced by the intensified struggles of the people of Kashmir. On August 9, 1970, Sheikh Abdullah and Mirza Afzal Beg told their people, "India will have to vacate Kashmir—tomorrow definitely, if not today".<sup>1</sup>

<sup>1</sup> *Dawn*, September 16, 1970 (editorial).

Writing under the caption, "The Indo-Pakistan Arms Race", in the *Swarajya Weekly* (Madras), the official organ of the Swatantra Party, which he heads, Mr. C. Rajagopalachari (Governor-General of India in 1948-50) observed: "The solution of the Indo-Pakistan Problem is tied up with Kashmir...India resists any plan such as I have suggested on the ground that Kashmir is of great 'strategic' importance, to India...The notion ignores the hard reality that the people inhabiting the region must be with us if the region is to be of any military value to us...India must accept a plan under which, for a brief period, Kashmir can be under safe foreign trusteeship and the people can then decide what Government they decide to have... Cf. *Morning News* (Karachi), January 2, 1971.



## CHAPTER III

# Pakistan and Afghanistan

Pakistan and Afghanistan have a common frontier of about 1,200 miles.<sup>1</sup> Named after Sir Mortimer Durand, this boundary, though "illogical from the point of view of ethnography, of strategy and of geography",<sup>2</sup> is regarded "as one of the best defined and most clearly recognized frontiers in the world".<sup>3</sup> On November 12, 1893, Sir Mortimer, on behalf of British India, and Amir Abdur Rahman of Afghanistan signed a treaty agreeing on a boundary demarcation between British India and Afghanistan.<sup>4</sup> This agreement was confirmed by successive Afghan rulers, and the Durand Line has since remained an established boundary of Afghanistan with what is now the North-West Frontier of Pakistan, for more than half a century.

The Durand Line begins at the Sarikol range of the Pamirs in the north, and runs south-west till it reaches the Iranian

<sup>1</sup>Algernon Durand, *The Making of a Frontier* (London, 1899), p. 1.

<sup>2</sup>Fraser-Tytler, *Afghanistan: A Study of Political Development in Central and Southern Asia*, 2nd Edition (London, O.U.P., 1953), p. 188.

<sup>3</sup>L. F. Rushbrook Williams, *The State of Pakistan* (London, Faber and Faber, 1966), p. 63.

<sup>4</sup>See C.U. Aitchison, *A Collection of Treaties, Engagements and Sanads* (Calcutta, 1933), Vol. XIII, No. XII (Afghanistan—pp. 256-57). *Parliamentary Papers, North-West Frontier* (1896), C. 8037, No. 7. *The Life of Abdur Rahman*, by himself, Vol. II, Ch. 6. Sir Percy Sykes, *Sir Mortimer Durand: A Biography*.

For a study of the North-West Frontier problem of British India see: T.H. Holdich, *The Indian Borderland*, 1901; C.C. Davies, *The Problem of the North-West Frontier, 1890-1908* (Cambridge University Press, 1932); Sir William Barton, *India's North-West Frontier* (London, Murray, 1939); G.J. Alder, *British Northern Frontier, 1865-95* (London, Longmans, 1963).

boundary at a rocky eminence, the Koh-i-Malik Siah, in the inhospitable desert regions beyond the Helمند river. Passes in the mountain barrier provide trade and communication land-links between the two countries, and thus the defence of one country is connected with that of the other. The great mountain range of the Hindu Kush in Afghanistan is the natural frontier between Central and Southern Asia. The invaders who crossed the Hindu Kush also found their way into the subcontinent. The Himalayan range which divides Chinese Sinkiang, Soviet Central Asia and Eastern Afghanistan is also known as the Eastern Hindu Kush. To the west of this range, there is an arrow strip or panhandle of Afghan land, about 15 miles wide, called Wakhan, which intervenes between Pakistan and the Soviet Union. If Pakistan is dependent on Afghanistan for its defence against Central Asia, Afghanistan, for its part, gets protection from the barrier Pakistan's territory presents to any maritime power. Afghanistan, obviously, is vitally dependent on the trade and commerce facilities which she has historically enjoyed through Pakistani territory.

Despite this shared interest and their common faith, relationships between Pakistan and Afghanistan have until recently been far from friendly; at times deteriorating to a dangerous level, but since 1970 showing signs of significant improvement and increasing collaboration. The Durand boundary has been a major concern of successive Pakistani Governments, and has therefore been a significant factor in Pakistan's foreign policy since 1947, second only to relations with India.

It is said that history never exactly repeats itself. Even so, there is much continuity between the past and the present, between the problems faced by the British in India on their North-West Frontier Province and those of Pakistan today. The history of the Indo-Pakistan subcontinent shows how vulnerable it had been to attacks from the North, and the British, like the rulers who had preceded them, were much concerned with maintaining control of this northern approach. "The land frontiers of India appeared to the British less secure, especially to the north-west, where Russian expansion in Central Asia, along with her attempts to control the rulers of Afghanistan and Persia, alarmed and preoccupied British opinion. Policy makers in London and Calcutta were perplexed between the advantages of

leaving Persia and Afghanistan as buffer States, or of controlling Afghanistan and pushing British outposts into Central Asia or of standing firm behind a forward Indo-British line of strong strategic outposts."<sup>1</sup> After independence, Pakistan naturally inherited the problem of guarding the North-Western frontier and its passes. Afghanistan today is the same size and shape as she was 100 years ago, despite her great internal turbulence and her involvement in civil and international wars (especially the Anglo-Afghan War) during the past century.

A substantial challenge to the Durand Line followed the announcement of the Partition Plan for the Indo-Pakistan sub-continent on June 3, 1947. It has earlier been seen how the Frontier Congressmen, seeing no possibility of the province remaining a part of India, raised the demand of 'Pakhtoonistan'. This was more in the nature of a device for saving face than a serious attempt to stop the North-West Frontier Province from becoming a part of Pakistan.

The Government of Afghanistan, seeing possibilities of territorial expansion, thought it convenient to take up the 'Pakhtoonistan' issue, as it could fruitfully be exploited to denounce the Treaty of 1893, and to assert claims to a new international frontier, perhaps reaching as far even as the Arabian Sea. On June 21, 1947, the Afghan Prime Minister, Mohammad Hashim Khan, in an interview given in Bombay, said: "if an independent Pakhtoonistan cannot be set up, the Frontier Province should join Afghanistan". He added: "Our neighbour (Pakistan) will realize that our country, with its population and trade, needs an outlet to the sea, which is very essential. . . If the nations of the world desire peace and justice. . . it will be easy for us to get an outlet to the sea."<sup>2</sup> One gets an unavoidable impression that the Afghan Prime Minister adopted a very opportunistic and highly ambitious attitude in this bid for an outlet to the sea for his land-locked country. He might have felt that the partition of the Indian subcontinent would pave the way to its Balkanization; and as Pakistan clearly lacked the resources of the British Raj in India, it might be an easy target, especially if the demand of 'Pakhtoonistan' had the blessings of Indian leaders.

<sup>1</sup>C. H. Philips *et al.* (ed.) *The Evolution of India and Pakistan, 1858 to 1947. Selected Documents.* (op. cit.) "Frontier Problems and External Policy", p. 440.

<sup>2</sup>*The Statesman* (Delhi), June 22, 1947. (Bracketed word added.)

*The Statesman* wrote on July 3, 1947: "While there is no evidence to suggest that the Afghan claim on the N.W.F.P. has been inspired by Russia, such a move is clearly in line with Moscow's views on the desirability of uniting natural entities with national frontiers."<sup>1</sup> It was reported by the United Press of America that it was believed in London that the Afghan Government had suggested that the Pathans of the Frontier should have been given the opportunity to opt for union with Afghanistan and not just to choose between the Indian Union and Pakistan. The observers, therefore, stressed that in demanding self-determination for the Pathans, the Afghan Government might feel encouraged by various Russian comments, including a *New Times*<sup>2</sup> article describing the south-eastern frontier as artificial. They believed, however, that any eventual Russian support for Afghan territorial enlargement in the south might be compensated by increased Russian demands for concessions in northern Afghanistan.<sup>3</sup> However, the British Government of India were not inclined to accept the theory that the Afghan move was Russian inspired. The Afghan Government also sent a note in this connection to His Majesty's Government in the middle of June 1947, which demanded that Britain should induce Pakistan to continue the trade transit rights through the Khyber Pass to Karachi. While this Afghan note to his Majesty's Government did not claim any territory in the N.W.F.P., it did suggest that the referendum in the N.W.F.P. should not restrict the vote to a straight choice between Pakistan and Hindustan, but should also give the Pathans freedom to choose independence from the rest of India.<sup>4</sup> It is significant that Zahir Shah did not mention the Durand Line just four days before (May 30, 1947) the announcement of the Partition Plan of June 3, when he stated that his Government was considering the revision of its boundary

<sup>1</sup>*The Statesman*, July 3, 1947.

<sup>2</sup>*The New Times* (Moscow) article was part of a descriptive series on the countries of the Middle East where certain similar ethnical features were to be found: in Persia between Persians and Russian Azerbaijanians, and in Turkey between Turkish and Russian Armenians. At that, many commentators assumed that it was an aim of Russian policy to unite the ethnical groups—Armenians, Azerbaijanians, Uzbeks—and that, at least in the case of Afghanistan, some compensation might be afforded by reuniting in that country the Afghan tribes said to be within the frontiers of British India.

<sup>3</sup>*The Statesman* (Delhi), July 3, 1947; *The News Chronicle* (London), July 2, 1947; *The Scotsman* (Edinburgh), July 3, 1947; *The Statesman*, July 4, 1947.

<sup>4</sup>*Cf. The Statesman* (Delhi), July 3, 1947.

with the Soviet Union.<sup>1</sup> The denunciation of the Durand Line implicit in the Afghan Premiers claim was an essential preliminary in the prosecution of Afghan irredentism, advancing its territorial claim up to the Arabian Sea.

In an analysis of the progress of Pakistan-Afghan relations in the past 23 years, it is helpful to be clear on the nature of the Afghan claim. The Afghan concept of 'Pakhtoonistan' differed from Abdul Ghaffar Khan's; and in addition, the Afghan Government's own version varied from time to time. The Afghan at one time wanted an outright annexation of large territories from the Khyber to Dera Ghazi Khan and from Gilgit and Chitral to the Arabian Sea, sometimes even claiming Karachi.<sup>2</sup> At other times, Afghanistan advocated the establishment of a 'Pakhtoonistan'. The real considerations behind this demand are revealed by Kabul's complete silence on the inclusion in this 'Pakhtoonistan' of any of the Pakhtoon or Pashto-speaking areas in Afghanistan. "The case for a Pathan State within Pakistan, as put by Abdul Ghaffar Khan and others who support him, is rather different. The picture is obscure, but it seems to be one of semi-autonomy, not playing into the hands of Kabul, but realizing Pathan national consciousness as a force which calls for a separate organism to express it. Such a Pakhtoonistan would no doubt be in relations with the country or countries to the east, possibly both Pakistan and India."<sup>3</sup> Abdul Ghaffar Khan stated in the Pakistan Constituent Assembly in 1948 that he simply wanted "the renaming of his province as Pakhtoonistan, like Sind, Punjab, etc."<sup>4</sup> But on October, 2, 1969, while visiting India, he was reported to have expressed confidence that a separate State of 'Pakhtoonistan' comprising north-western areas of Pakistan would soon be formed.<sup>5</sup>

<sup>1</sup>*The Times* (London), May 31, 1947. See also B. Shiva Rao, "Conflict Beyond The Indus", *The Nation*, July 18, 1949.

<sup>2</sup>The Semi-official Afghan journal, *Anis*, of Kabul produced a map in the autumn of 1951 which showed the boundaries of the proposed new State. These included Chitral, the North-West Frontier Province, and the Pathan areas of Baluchistan up to the Indus.

Cf. Fraser-Tytler, *op. cit.*, p. 310.

<sup>3</sup>Sir Olaf Caroe, *op. cit.*, p. 436.

Sir Olaf further points out that Abdul Ghaffar Khan's idea was that there should be a separate Pakhtoon (Pathan) province in loose relations with India and Pakistan and Afghanistan. "North-West Frontier, Old and New", *The Royal Central Asian Journal*, July-October 1961, p. 296.

<sup>4</sup>*Pakistan Constituent Assembly Debates*, 1948, p. 241.

<sup>5</sup>*Dawn*, October 3, 1969.

The principal argument for creating a 'Pakhtoonistan' was ethnological: the Pathans are different from the rest of the Pakistanis and should have a separate homeland. This was, and is, of course, a potentially explosive proposition. Many modern Nation-States would be dismembered and completely reshaped if this principle were followed at all rigorously; for ethnically no State is altogether homogeneous. Moreover, the Afghan claim's basis of racial homogeneity was spurious, as the area of 190,000 square miles it involved is inhabited by Brohis, Baluchis, Jats and other non-Pathan Pakistanis, as well as by Pakhtoons. The Government of Pakistan in a *White Paper* issued on September 3, 1961, immediately after some Afghan border raids, pointed out: "If the frontier of a country has to be redetermined on linguistic and ethnic bases as claimed by the Afghans, it will result in the disintegration of Afghanistan. There are 12 million people in Afghanistan. Of these only 3.5 million speak Pashto, and the rest speak Persian, Turkish, Tadzhik, and Uzbek. All these non-Pashto-speaking parts of Afghanistan should on this basis be integrated with neighbouring countries."<sup>1</sup>

The Afghans further argued that the Pathans were compelled to join Pakistan in 1947. This is not true. The fact of the matter is that by a referendum held on July 20, 1947, an overwhelming majority of the Frontier electors voted for union with Pakistan. The tribal Malikis, likewise, expressed allegiance to Pakistan through various Jirgas held by the Governor of the North-West Frontier Province.<sup>2</sup> Irritated by the persistent Afghan irredentism, and in order to rebuff Afghan rulers, Pakistan's Foreign Minister, Manzur Qadir, made this suggestion to his Afghan

<sup>1</sup> *White Paper*, published in *Dawn*, September 3, 1961.

<sup>2</sup> "Sir George Cunningham, Governor of the North-West Frontier Province after Partition, has recorded that he held an Afridi Jirga at Khyber House, Peshawar, on November 1, 1947; Jirgas of the North Waziristan tribes at Miran'shah, of the Ahmadzai Wazirs at Wana, and of the Mahsuds at Parachinar on December 1, and a Jirga of the lower Kurrum tribes at Shabqadar on December 7. The Orakzai and 'Pass' Afridi Jirgas were held by the Political Resident on November 1. All these tribes swore allegiance to Pakistan and stated that they wished exactly the same relations to subsist between them and Pakistan as had existed between them and the British Government." Cf. Sirdar Iqbal Ali Shah, "The North-West Frontier Today", *The British Survey*, October 1960, Main Series, No. 139, pp. 1-24; ref: 14.

The Quaid-i-Azam stated in July 1947: "The Government of Pakistan have no desire whatsoever to interfere in any way in the traditional independence of tribal areas." *Dawn*, July 31, 1947.

See Supreme Court of Pakistan's ruling in the Appendix.

counterpart early in 1960: "It is reasonable to assume that Pakhtoons (Pathans), whether they live in Pakistan or in Afghanistan, belonging generally to the same stock, want to be together and under the same flag of Afghanistan or Pakistan... Since a referendum has already been held among the Pakhtoons of Pakistan (preceding the partition of the Indian subcontinent in 1947), who have by an overwhelming majority decided to be in Pakistan, it is logical that we should ask the Pakhtoons in Afghanistan what their wishes are."<sup>1</sup> Now the boot was on the other foot: as Pakistan has the larger Pakhtoon population, her claims could be made to look better than those of Afghanistan. But in pressing the claim for the right of self-determination for Pakistani tribesmen, the Afghan rulers were not willing to concede the same right to tribesmen living within their country.

Another basis of Afghanistan's claim was historical: that the area in question had been ruled by the Afghan, Ahmed Shah Durrani, and that the British had annexed the territory illegitimately. But except for a short Durrani regime, first established in 1747, Afghanistan herself had for a long time been under either Arab or Persian rule. Most of the Afghan land was a part of the Mughal Empire of India. Moreover, the Durrani rule in 1756 extended right up to Delhi! Subsequently, the area between the Sutlej and the Indus was held by the Sikh ruler, Ranjit Singh, after whom Sikh power was subordinated to that of the British in 1849. Late in 1901, Lord Curzon created the North-Western Frontier, which was British administered, and the tribal districts or marchlands, which were indirectly controlled through British Political Agents; and this system continued up to 1947.<sup>2</sup> Re-affirming Pakistan's stand on the issue, President Ayub stated: "Their (Afghan) grievances against us were that the Durand Line they had agreed to with the British was in the wrong place. If you think that was so, I said, then we have no alternative but to think of other lines which had existed in the times of Mahmud Ghaznavi, and of Taimur, of Babur and Ahmad Shah Abdali (Durrani). I asked them which of these lines they would like to see re-established as the border between the two countries." Of course, none of these old lines would have given the Afghans direct access to the sea. Ayub then added

<sup>1</sup>*The Times* (London), March 9, 1961. (Words in brackets added.)

<sup>2</sup>See Olaf Caroe's letter to *The Times* (London), March 21, 1960, on 'Pakhtoonistan',

the undoubtedly true but regrettable point: "Boundaries are made by struggles, and struggles alone can alter them".<sup>1</sup>

The Durand Agreement of 1893 was reaffirmed by the Anglo-Afghan Treaties of August 8, 1919, November 22, 1921, and of 1930. In the 1935 Government of India Act, 'India' was formally defined as including the area known as Tribal Territory, in accordance with its delineation on official maps.<sup>2</sup> With the transfer of sovereignty from Britain to Pakistan the "*res transit cum suo oneri* treaties of the extinct State concerning boundary lines...remain valid and all rights and duties arising from such treaties of the extinct State devolve on the absorbing State."<sup>3</sup>

Often the Afghans assert that a legal basis for their claims rests on Article 11 in the 1921 Anglo-Afghan Treaty and a supplementary letter from the British representative to the Afghan Prime Minister attached to the same Treaty. The Article reads as follows: "The Two High Contracting Parties, being mutually satisfied each regarding the goodwill of the other and especially regarding their benevolent intentions towards the tribes residing close to their respective boundaries, hereby undertake each to inform the other in future of any military operations of major importance which may appear necessary for the maintenance of order among the frontier tribes residing within their spheres..." In the letter the British Government acknowledged that the condition of the frontier tribes under their control were a matter of interest to the Afghan Government and affirmed their determination to treat them generously. But these two documents only recognized "the legitimate Afghan interest in British dealings with the tribes on the common frontier", and did not say a word about the Afghans' rights on the British side of the Durand Line.<sup>4</sup> On the other hand, the same Article reaffirmed the

<sup>1</sup>Ayub Khan's address at a joint meeting of P.I.I.A. and other organizations, October 11, 1964, published in *Pakistan Horizon*, First Quarter, 1965, "Foreign Relations", pp. 9-19.

<sup>2</sup>See Sir Shafaat Ahmad Khan, *The Indian Federation* (London: Macmillan, 1937), pp. 285-89, "The Map of the Indian Provinces and States since 1937".

<sup>3</sup>Oppenheim, *op. cit.*, Chapter 1-82, p. 159.

<sup>4</sup>Cf. Sir Olaf Caroe, "North-West Frontier: A Bone of Contention", *The Times*, Suppl., February 1, 1961; see also "The Implications of Paktoonistan: Prospects for Pakistan-Afghan Relations", *The World Today*, September 1955, Vol. 1, No. 9, pp. 390-98. The British Government had clearly told the Afghans that there existed no 'No-Man's Land' between India and the Durand Line. (See "Afghan Claims against Pakistan", *The Asiatic Review*, July 1950, pp. 1104-7, ref: 1104.)



Indo-Afghan Frontier as accepted by the Afghan Government under Article V of the Treaty of August 8, 1919.<sup>1</sup> Fraser-Tytler, who has examined the Pak-Afghan frontier problem, observes: "The recognition of the existence, the sanctity, and the permanence of frontiers is one of the foundations on which the law of nations has been built. Frontiers are real facts of international law; once negotiated and laid down, they cannot be denounced and torn up, as can many other facts of international law; they are there, on the ground, ascertainable at any time by geographical survey, and unalterable save by bilateral agreement or *force majeure*."<sup>2</sup>

The first formal international reflection of Afghanistan's conflict with Pakistan appeared in the United Nations, on September 30, 1947, when her delegate was the only one to oppose Pakistan's application for admission to the Organization. This delegate, Husayn Aziz, said: "We cannot recognize the North-West Frontier as part of Pakistan so long as the people of the North-West Frontier have not been given an opportunity free from any kind of influence—and I repeat, free from any kind of influence—to determine for themselves whether they wish to be independent or to become a part of Pakistan."<sup>3</sup> Afghanistan seized an opportune moment to denounce her earlier treaties with the British (though they were not unilaterally abrogated), when Pakistan had to withdraw almost all its troops from the North-West Frontier, in the wake of the Kashmir fighting, in December 1947.

After this episode, the King of Afghanistan's personal envoy, Najibullah Khan, came to Karachi to negotiate a treaty of friendship with Pakistan in the beginning of 1948. He discussed with the Governor-General of Pakistan, Quaid-i-Azam Mohammad Ali Jinnah, such questions as the exchange of

<sup>1</sup> The Afghans reaffirmed the validity of the Treaty concluded at Kabul on November 22, 1921: *vide* letter no. 2970/56/57, dated May 6, 1930. Cf. *The British Survey*, October 1960.

<sup>2</sup> Fraser-Tytler, *op. cit.*, p. 308.

<sup>3</sup> *U. N. Official Records of the Second Session of the General Assembly* (Plenary Meetings of the General Assembly), Verbatim Record, Vol. 1, 8th-109th Meetings, September 16 to November 13, 1947 (New York, Lake Success). Admission of Pakistan and Yemen to Membership in the United Nations, Report of the First Committee, Document A/399, p. 314.

Douglas Brown, Correspondent of *The Daily Telegraph* (London), wrote on December 10, 1947: "The recent report suggests that Afghanistan, backed by the Soviet Union, is prepared to make an alliance with the Union of India (Hindustan) if the latter will recognize 'Pathanistan'."

ambassadors and commercial agreements, including transit facilities and border questions. The statement Najibullah broadcast after his return to Kabul was hostile to Pakistan.<sup>1</sup> His demands were that: (a) the tribal areas between Pakistan and Afghanistan must be constituted into a 'sovereign province'; (b) Pakistan must give Afghanistan access to the sea, either by the creation of an Afghan corridor in West Baluchistan or by allotting a 'free Afghan zone' in Karachi; (c) Afghanistan and Pakistan should enter into a treaty which should permit either party to remain neutral in case the other party was attacked. This last point clearly meant that, in the event of further Indo-Pakistan clashes, Afghanistan could maintain a benevolent neutrality in favour of India.

Nevertheless, despite these diplomatic skirmishes and mutual suspicions, Afghanistan established diplomatic relations with Pakistan in 1948. And in Pakistan considerable significance was attached to the appointment of Marshal Shah Wali Khan, the uncle of King Zahir Shah, as the first Afghan Ambassador. It was regarded as a compliment to Pakistan and evidence of both a marked improvement in relations and the intention to develop that improvement.<sup>2</sup> Shah Wali Khan was born in the subcontinent, and had been educated at the famous University of Aligarh. He could speak Urdu fluently and was quite familiar with the freedom struggle of the Muslims of the subcontinent. Speaking at a party given in his honour by the Aligarh Muslim University Old Boys' Association in Karachi, on June 13, 1948, Shah Wali Khan said: "Our King has already stated, and I, as the representative of Afghanistan, declare that Afghanistan has no claims on frontier territory, and even if there were any, they have been given up in favour of Pakistan. Anything contrary to this which may have appeared in the press in the past or may appear in the future should not be given credence at all and should be considered just a canard."<sup>3</sup> About the same time, *Anis*, supported by Kabul Radio, demanded that the territory between the Durand Line and the Indus river should be amalgamated

<sup>1</sup>*The Times* (London), February 9, 1948, "Pakistan-Afghan Treaty Talks". See also I.H. Baqai, "Relations Between Afghanistan and Pakistan", *Pakistan Horizon*, September 1948, pp. 206-21; ref. 215.

<sup>2</sup>*The Statesman* (Delhi), April 24, 1948.

<sup>3</sup>*Pakistan News* (London), June 16, 1948.

See *The Statesman* (Delhi), June 23, 1948, "Policy at Kabul" (editorial).

with Afghanistan.<sup>1</sup> However, a statement supporting the views expressed by his Ambassador was soon issued by the Counsellor of the Afghan Embassy in Karachi. This led to an unusual situation in which Kabul Radio challenged the authority of the Afghan envoy to speak for his own Government! These contradictions not only created an awkward position for the envoy, but also proved to be detrimental to Pak-Afghan relations. It was quite unprecedented for a country's accredited representative to be openly contradicted through a medium of publicity generally identified with his own Government. The upshot of the affair was that the Afghan Ambassador was transferred to another country; and the Embassy at Karachi remained without a senior diplomat for a long time. Thus, even after the opening of formal diplomatic contacts, Afghan relations with Pakistan remained strained.

In July 1949, the Afghan Parliament declared that "it does not recognize the imaginary Durand or any similar line". Kabul Radio and the Afghan press intensified their propaganda, inciting the tribesmen living on the Pakistan side of the Durand Line to revolt in the name of 'Pakhtoonistan'. The Afghan Government sponsored a so-called Pakhtoonistan Government at Tirah in the borderland, which was headed by a Haji Mirza Ali Khan, better known as the 'Faqr of Ipi' and remembered for his anti-British activities in the days before independence. The Afghan campaign against Pakistan for 'Pakhtoonistan' reached its climax when the Afghan King and Prime Minister, in August 1950, flouted all diplomatic convention by making anti-Pakistan speeches at a 'Jashan' celebration in Kabul. 'Pakhtoonistan' flags were hoisted and anti-Pakistan leaflets were dropped by the Afghan Air Force,<sup>2</sup> which was followed by Afghan raids in the frontier region on September 30, 1950.<sup>3</sup>

However, the Afghan rulers had little success in arousing the tribesmen on the Pakistan side of the boundary. The tribes themselves apparently resented this Afghan interference and re-

<sup>1</sup>The Afghan newspaper *Anis* front-paged an article demanding the amalgamation with Afghanistan of the entire 600-mile territory of Pakistan from the Durand Line to the Indus river. The paper asked for the revision of the boundary demarcation made in 1893 and hinted at 'internal trouble' in Pakistan if this was not agreed. Cf. *The Hindu* (Madras), June 12, 1948.

<sup>2</sup>*The Times* (London), October 9, 1950; *The Hindu* (Madras), October 9, 1950.

<sup>3</sup>*The New York Times*, October 7, 1950.

affirmed their loyalty to Pakistan.<sup>1</sup> Pakistan, in fact, had successfully reduced frontier garrisons and had completely evacuated certain forts, which formerly were heavily garrisoned under the British Raj. In January 1950, the North-West Frontier Legislative Assembly repudiated Kabul's propagandistic claim that there was a 'freedom movement' among the people of the province and the tribal areas to establish a 'Pathanistan State'.<sup>2</sup> The Speaker of the Assembly stated that he would not ordinarily have admitted a motion relating to the foreign policy of a foreign Government, but since this propaganda was definitely directed at the people of the province, he had no option but to allow members to freely express the opinion of the people they represented. The mover of the motion stated that he wanted the whole world to know quite clearly that the people of the province had no sympathy with the scheme for 'such a State'.<sup>3</sup> *The Times* wrote: "Taking advantage of the fanatical devotion of the tribes to Islam, the Afghan Government carefully organized those on the British side of the Durand Line into a kind of perimeter defence for itself, inciting them from time to time to rebel against the 'infidels' and to raid settled districts under British administration. When Pakistan stepped into the place of the British Raj this policy collapsed."<sup>4</sup>

After the Afghan raids on Pakistan's borders, Liaquat Ali Khan had to "impress upon the Government of Afghanistan that the feeling of anger and resentment against their hostile policy is mounting high in the tribal area and indeed throughout Pakistan."<sup>5</sup> Replying to a question whether he would send a Force to Afghanistan, Liaquat Ali Khan said: "There is nothing more heinous than that a Muslim should shed the blood of another, but not where the soil of Pakistan is at stake." He added: "The disturbance of peace in an area of such strategic importance is fraught with danger."<sup>6</sup>

Pakistan's Prime Minister asked for a British guarantee on the Durand Line. He was happy to note that the British

<sup>1</sup>Lord Birdwood, *A Continent Decides*, *op. cit.*, p. 182.

<sup>2</sup>The words 'Pakhtoon', Pashtoon and 'Pathan' are variants of the same word. 'Pathan' is the Indian variant of the word which was adopted by the British Government of India.

<sup>3</sup>*The Statesman* (Delhi), January 8, 1950.

<sup>4</sup>*The Times* (London), December 11, 1950: "Pakistan and the Frontier" (editorial).

<sup>5</sup>*The Observer* (London), October 8, 1950.

<sup>6</sup>*Ibid.*

Government had stated that it considered the boundary an international frontier, but said: "It would be useful if the United Kingdom were to announce that any infringement of the Durand Line would be considered a violation of a commonwealth border."<sup>1</sup> The British Secretary of State for Commonwealth Relations, Philip Noel-Baker, had told a press conference in Karachi on January 21, 1950, that under international law Pakistan was the lawful 'inheritor of the rights and duties' of the old India Government of the regions on the Pakistan side of the Durand Line.<sup>2</sup> The British Government reaffirmed this statement in the House of Commons on June 30, 1950: "The Durand Line is the international frontier."<sup>3</sup> But Britain did not promise any help in the event of an Afghan violation of the border.

Before the Cold War began, no Western nation had shown any interest in the immediate issues of the North-West Frontier dispute, except, as an American journal put it, with 'unconcerned concern', to "hope that they would be solved fairly and reasonably"<sup>4</sup>. After the Korean crisis, the Americans began to think differently and took an initiative in repairing the breach between Pakistan and Afghanistan. The United States proposed a Conference of British and American officials along with representatives of Afghanistan and Pakistan.<sup>5</sup> Pakistan welcomed the move with mixed feelings of joy and fear—joy because somebody at last had shown an interest in bringing the neighbouring States of Pakistan and Afghanistan together, and fear because the Conference could conceivably result in giving the 'Pakhtoonistan' issue an added and even more troublesome importance. Pakistan was always willing to discuss economic, cultural and other problems; but it did regard the Afghan claim and the policy based on it as a clear interference in Pakistan's sovereign territory. When the United States' Ambassador-at-large, Philip C.

<sup>1</sup>*The New York Times*, April 13, 1950.

<sup>2</sup>*The Hindu* (Madras), January 23, 1950.

<sup>3</sup>*The British Survey*, October, 1960, p. 16. Also see Eric Downton, "Border Tribes Pro-Pakistan", *The Daily Telegraph* (London), April 19, 1950.

The Correspondent of this British paper wrote from Kabul on September 8, 1950: "Some diplomats in Kabul believe that the question may be taken to the United Nations by Afghanistan, backed by India." *Ibid.*, September 8, 1950.

<sup>4</sup>*New York Herald Tribune*, October 6, 1950, in its editorial on "The Old Frontier". See also *New York Times*, October 6, 1950 "North-West Frontier" (editorial).

<sup>5</sup>See *The Evening Times* (Karachi), December 2, 1950, *British The Statesman* (Delhi), December 3, 1950; *Pakistan News* (London), December 16, 1950.

Jessup, visited Kabul, the Afghan Government gave him a long outline of arguments for an independent 'Pashtoonistan'. Although the document was generally ambiguous, it claimed cultural, racial and linguistic reasons as justifications for creating such a State, and alleged that Britain was using Pakistan to push up towards the Hindu Kush Mountains. Therefore, it was additionally contended, a buffer 'Pashtoonistan' should be set up to block the move. The Afghan rulers argued that although such a new State might not be economically viable, the demand for it was soundly based on the principle of self-determination. In order to make their claim a tempting proposition for the United States, they also argued that Afghanistan could serve as a barrier to Soviet aggression only if a free 'Pashtoonistan' were brought into existence. This was not a masterpiece of logic, since Russia could certainly counter with the demand that the Afghan Uzbeks should join the majority of the Uzbeks north of the Oxus, in the Soviet Union.<sup>1</sup> From this time onwards, any further United States suggestion for an 'amicable' settlement of the 'Pakhtoonistan' issue was in Pakistan taken as a diplomatic pressure to come to terms with Afghanistan. Pakistan was most anxious to avoid a clash with Afghanistan, but was determined not to carry appeasement to the length of alienating part of her territory. Pakistan was seriously concerned about any disorder on the border because of the proximity of the Soviet Union and the trend of political developments in Asia at that time.<sup>2</sup> Pakistan, therefore, not only sent Sardar Nishtar, himself a Pathan, to Kabul for reconciliation, but also accepted the Shah of Iran's mediation.<sup>3</sup>

The Americans desired a reconciliation between Pakistan and Afghanistan as a prerequisite for bringing about a military and political cohesion among the Muslim Powers that would serve their scheme for a Middle-East Defence Organization. *The Pakistan Times* wrote on April 20, 1952: "In recent weeks, following Vice-President Nixon's visit to Kabul and Karachi, the pendulum of Pak-Afghan relations seems to have swung to the other extreme: and it is said that, at America's suggestion, the two Governments are concurrently negotiating an agreement

<sup>1</sup>*The New York Times*, April 23, 1950.

<sup>2</sup>*The Glasgow Herald*, June 10, 1950.

<sup>3</sup>*The Daily Telegraph* (London), August 4, 1950. *The Statesman* (Delhi), December 2, 1950.

which virtually envisages the merger of the two States.”<sup>1</sup> *The New York Times* reported on April 11, 1954, that Nixon’s visit to Kabul was “considered to have been for the express purpose of furthering a closer alliance between Afghanistan and Pakistan”. The paper also reported a move towards an “unpublicized confederation” which envisaged a common foreign policy.<sup>2</sup> But both Afghanistan and Pakistan denied these reports.

The fact that the Turko-Pakistan Pact of 1954 was publicly welcomed by the Afghan rulers, (*viz.*, “If all countries of the Middle East agreed to join such a defence arrangement, Afghanistan could not remain in isolation.”<sup>3</sup>) seemed to suggest a marked shift in Afghan foreign policy. There were renewed hopes of talks on joint defence between Afghanistan and Pakistan. Later on, moves towards a federation of Iran, Afghanistan and Pakistan were made by Iskandar Mirza and Feroz Khan Noon. Feroz Khan Noon said on August 21, 1958: “Pakistan is prepared for a federation with Muslim neighbours, Iran and Afghanistan, if they so desire.”<sup>4</sup> The Shah of Iran also showed keen interest in a scheme of confederation.<sup>5</sup> On August 6, 1962, Ayub Khan proposed the “fusion of the brotherly, neighbourly Muslim States into a greater political unity.”<sup>6</sup> But in the end, none of these projected schemes proved attractive to Afghanistan, and it showed itself unwilling to give up its ‘Pakhtoonistan’ propaganda and withdraw its revisionist claim against the Durand Line. Even as late as 1969, Abdul Qayyum Khan, Convener of the Quaid-i-Azam Muslim League (now President of the Pakistan Muslim League—Qayyum Group) proposed a federation of Pakistan and Afghanistan.<sup>7</sup> And on June 6, 1970, Sardar Bahadur Khan,

<sup>1</sup>*The Pakistan Times* (Lahore), April 20, 1952.

<sup>2</sup>*The New York Times*, April 11, 1954.

<sup>3</sup>*The Scotsman* (Edinburgh), April 3, 1954. Writing under the caption “The Afghan and MEDO”, in the *Eastern World* (London), Sir William Barton said that a close alliance between Afghanistan and Pakistan was essential for the defence of the North-West Frontier. Cf. *Dawn*, June 20, 1953.

<sup>4</sup>*The Times* (London), August 22, 1958.

<sup>5</sup>*Ibid.*, October 6, 1958.

<sup>6</sup>*The Guardian* (London), August 7, 1962. For a detailed description of such schemes, see Donald Wilbur, “Prospects in the Northern Tier (*i.e.* Turkey, Iran, Afghanistan and Pakistan)”, *Middle East Journal*, Autumn, 1958, p. 385-94, and Louis Dupree, “A Suggested Pakistan-Afghanistan-Iran Federation”, *Middle East Journal*, Autumn, 1963, pp. 383-99.

<sup>7</sup>*Dawn*, August 11, 1969.

leader of the Council Muslim League, said he was optimistic about a Confederation between Pakistan and Afghanistan, which, he added, would come through one day. He also voiced hopes of Iran joining such a Confederation.<sup>1</sup> This was described by Abdul Wali Khan, Chief of the National Awami Party, Wali Group, as an "imperialist conspiracy". "Foreign Powers", he said, "were trying to link Pakistan in pacts for their own nefarious designs".<sup>2</sup>

However, Pak-Afghan relations were never consistently poor. For a brief period in 1954, they in fact showed signs of improvement. An envoy of the rank of Minister was posted at Karachi. Moreover, the Afghan Ambassador to India, Najibullah Khan, whom Pakistanis generally regarded as the instigator of anti-Pakistan propaganda, was replaced. In Pakistani official circles this was taken as an indication of a change in the Afghan attitude to Pakistan.<sup>3</sup> Moreover, the appointment of Col. A.S.B. Shah, who had been closely associated with Frontier affairs, as Pakistan's envoy to Afghanistan, was regarded as a good omen for Pak-Afghanistan relations. Negotiations for trade agreements between Pakistan and Afghanistan started in January 1954. It was reported that all bottlenecks which delayed the flow of trade between the two countries were to be removed. It also appeared that negotiations were to start for a new treaty between Pakistan and Afghanistan, to replace the Anglo-Afghan Treaty of 1921, which would cover, among other things, the Pak-Afghan border and the Durand Line.<sup>4</sup> The Afghan call for a revision of the Anglo-Afghan Treaty of 1921 was not regarded as 'sinister' by the Pakistani Ambassador to Kabul, but he denied that any Afghan communication about the Anglo-Afghan Treaty of 1921 had been sent to this Government through him.

Then in 1955 Pak-Afghan relations again took a turn for the worse, when it was proposed to introduce a merger of the provinces of West Pakistan, including the States and tribal territories, into 'One Unit' of West Pakistan. The Afghan rulers felt that this represented a desperate situation for them, and they alleged that by incorporating the Frontier region into 'One Unit',

<sup>1</sup>*Ibid.*, June 6, 1970.

<sup>2</sup>*Ibid.*, July 14, 1970.

<sup>3</sup>*Ibid.*, January 1, 1954.

<sup>4</sup>*Ibid.*, January 18, 1954; *The Hindu* (Madras), January 7, 1954. See also *The Times* (London), January 6, 1954: "The Old Frontier".



Pakistan had set out to deprive the Pakhtoons of their independence. The Afghan Prime Minister threatened that "all undesirable consequences which may arise from such unwise steps will be the responsibility of the Government of Pakistan only."<sup>1</sup> Following this threat, Pakistani Missions in Kabul, Jalalabad and Kandahar were attacked by mobs; Pakistan's flag was insulted; buildings and furniture were damaged. The Afghan Embassy's statement appeared to add insult to injury. It said: "Such a mob demonstration takes place everywhere when the people look and see that the rights of their brothers are banned."<sup>2</sup> A wave of indignation swept across the whole of Pakistan. There were demonstrations in all the big cities, asking the Government of Pakistan to take strong action against Afghanistan. There was danger of public retaliation, particularly in the Frontier region, against the Afghan Missions in Pakistan. In the first week of May 1955, Pakistan informed Afghanistan that it would break off diplomatic relations unless there was a restitution of damaged property and an apology for attacks. Severance of diplomatic relations soon resulted, and Afghanistan ordered 'general mobilization'.<sup>3</sup> An armed conflict was only just averted by Pakistan's forbearance.

The thing which particularly perturbed Pakistan in this situation was that her adherence to the Western-sponsored alliances, the Baghdad Pact (CENTO) and SEATO, had evidently led the Soviet Union to give its support to Afghanistan in challenging the validity of the Durand Line.<sup>4</sup> For a time, it seemed the Durand Line had become an issue of the Cold War between the two major Power Blocs; and Soviet support enabled Afghanistan to adopt a more uncompromising attitude towards Pakistan. Russian military and economic aid reinforced Afghanistan's intransigence; and Soviet spokesmen did not disguise the fact that the Soviet Government was moved, not so much by its love for the Afghans as by the desire to hurt Pakistan, because of the

<sup>1</sup>*The Hindu* (Madras), March 31, 1955.

<sup>2</sup>*Dawn*, April 1, 1955. See comments in "Kabul Asks for It".

<sup>3</sup>*The New York Times*, May 5 and 6, 1955.

<sup>4</sup>The Foreign Minister of Pakistan observed: "It is extraordinary that while Bulganin is prepared to give the right of self-determination to the frontier tribesmen who are part and parcel of the sovereign State of Pakistan and who never wanted it, he denies the same right to the people of Kashmir who are struggling for it." *The Pakistan Times*, December 18, 1955.

latter's alignment with the West.<sup>1</sup>

Pakistan, on its side, naturally wanted its western allies to support Pakistan against the Afghan demand for 'Pakthoonistan'. Much to Pakistan's chagrin, such support came only in words, not in action. The British Prime Minister, Sir Anthony Eden, said in the House of Commons on March 1, 1956: "Her Majesty's Government in the United Kingdom fully supports the Government of Pakistan in maintaining their sovereignty over the areas east of the Durand Line and regarding this Line as the international frontier."<sup>2</sup> The SEATO Conference held in March 1956 at Karachi endorsed the Durand Line as the international frontier between Pakistan and Afghanistan. Pakistan's Foreign Minister, Hamidul Haq Chaudhri, subsequently claimed that the "most notable achievement of SEATO is the joint reaffirmation of the members of our stand on Kashmir and the Durand Line".<sup>3</sup> But the SEATO allies of Pakistan did not agree to go beyond this, as they felt that it was not SEATO's function to intervene in such a threat to peace, which was more properly within the competence of the United Nations.<sup>4</sup> As a result of this, Pakistani leaders came to entertain grave doubts about the value of their allies and the kind of alliance they stood for. They felt that their Western allies were withholding adequate support against a non-aligned Afghanistan for fear that this might push Afghanistan into the arms of the Soviet Union.

Then later in 1956, Prime Minister Adnan Mendres of Turkey mediated to bring Afghanistan and Pakistan back to speaking terms. The visits of Pakistan's President and Prime Minister to Kabul and of the King and Prime Minister of Afghanistan to

<sup>1</sup>*The New York Times*, March 12, 1956: "Guns at the Khyber" (editorial).

<sup>2</sup>*Manchester Guardian*, March 2, 1956. Anthony Eden's successor, Harold Macmillan, reaffirmed this in 1960. *Dawn*, May 21, 1960.

<sup>3</sup>*National Assembly of Pakistan Debates*, Vol. 1, March 26, 1956, p. 96.

<sup>4</sup>*The New York Times*, March 12, 1956: "This, certainly, is a situation that Pakistan might well lay before the U.N. It is a threat to peace and security. It is international in more senses than one. The SEATO Powers expressed their support of Pakistan in the maintenance of the 'Durand Line' frontier, the present boundary. But it is not SEATO's function to examine a threat to the peace such as this. Here is a trouble spot to which the United Nations can and should give attention".

Also see *The Hindu* (Madras), March, 22, 1956, and Sir Olaf Caroe in his article, "North-West Frontier Revisited".

*The Times* (London), June 20, 1956, observed: "The Durand Line is a Commonwealth interest, indeed a land frontier in which the whole free world must show concern."

Karachi helped further understanding between the two countries. Diplomatic relations were restored, and talks on co-operation in trade and communications were again started, especially in regard to transit facilities for Afghan trade through Pakistan. In December 1956, tripartite talks between President Iskandar Mirza, Premier Husain Shaheed Suhrawardy and the Afghan Prime Minister, Sardar Daud Khan, took place in Karachi. The talks failed as the Afghan Prime Minister wanted to discuss the 'Pakhtoonistan' issue first. The joint statement used the word 'Pakhtoonistan' in quotation marks. However, this apparent willingness to discuss the 'Pakhtoonistan' issue was severely criticized by the press and leaders of public opinion. There was a general feeling that Pakistan had entered into talks with Afghanistan under diplomatic pressure from the United States.

In spite of setbacks in the talks, the exchange of visits and further talks between the leaders of the two countries in 1956-57 improved Pak-Afghan relations.<sup>1</sup> Pakistan restored the storage and transit facilities for Afghan goods. She also offered to reserve one-third of the railway wagons on relevant routes for the transport of Afghan goods. Plans of co-operation in other fields—such as the construction of two new highways, one from Tor-kham to Kabul on the eastern border, the other from Kabul to the north across the Hindu Kush range—were made. The extension of the railhead from Chaman into Afghanistan was also planned.<sup>2</sup> But by far the most important outcome was that full diplomatic relations were restored. Zahir Shah's visit to Pakistan early in 1958 further rehabilitated neighbourly relations.

After coming into power, Ayub Khan did not lose much time in expressing his anxiety "that extensive road building and airfield construction in Afghanistan would enable sizable Military Forces to march into West Pakistan's plains at short notice. The time is not far off when these road buildings in Afghanistan can be a real threat to the entire subcontinent."<sup>3</sup> It is clear from this statement that he felt that Russia might be building up Afghanistan as a springboard for its own possible expansion southwards. Thus another aspect of Pakistan's frontier dispute

<sup>1</sup>*Manchester Guardian*, February 1, 1958.

<sup>2</sup>*Dawn*, December 10, 1957.

<sup>3</sup>The Observer Foreign News Service, No. 15299, December 1959.

with Afghanistan was that it involved an interplay of Russian attitudes towards Pakistan and *vice versa*; and from 1955 to 1965 Soviet-Pak relations remained rather cool. To neutralize the danger he apprehended, Ayub Khan invited Afghanistan to join CENTO. The Russian support of 'Pakhtoonistan' in 1960 caused more concern in Pakistan than it had in 1955, which had encouraged Afghanistan to start border troubles. This time the question of 'Pakhtoonistan' was made part of a joint Russian-Afghan communique, issued after the conclusion of Khrushchev's visit to Afghanistan.

With the failure of President Ayub's talks with the Afghan Foreign Minister, Sardar Naim, in the beginning of 1960,<sup>1</sup> Pak-Afghan relations again deteriorated. Strangely enough, the Prime Minister of India told a press conference on September 17, 1961, that he was not clear as to what position India should take regarding the status of the Durand Line, as many new factors had come in, and it had become a complicated issue.<sup>2</sup> In Pakistan, Nehru's remark was received as an unwise statement cashing in on a conflict between two Muslim States. He had apparently forgotten that India's position had been formally stated and reaffirmed in the New Delhi Notification dated August 14, 1947, under the Independence Act (International Arrangement Order), 1947; and that he himself, as Minister for External Affairs, had maintained that any campaign or position to the contrary constituted an unwarranted attempt by Afghanistan to interfere in the internal affairs of India.

Such support from Khrushchev and Nehru must have encouraged the Afghan rulers to precipitate a showdown with Pakistan. Between May 19 and 21, 1961, Afghan *Lashkars* raided Pakistani territory. This time the raids were on a much larger scale than on previous occasions, and Afghan troops crossed the frontier in the mountainous Bajour area, about 70 miles north of Peshawar and the Khyber Pass, on September 23, 1960. Pakistan alleged that these attacks were organized

<sup>1</sup>Writing on the visit of the Afghan Foreign Minister, *The Guardian* (London) observed on February 23, 1960: "The tribes could never look to Afghanistan for the very generous economic aid that they now receive from Pakistan; and such projects as the Warsak Dam—being built within the tribal territory—seem strong evidence of the mutual good faith that exists between the N.W.F.P. and the Pakistan Government.

<sup>2</sup>*Dawn*, September 27, 1961.

by the Afghan Government without any provocation. Pakistan therefore closed its Consulates and Trade Agencies in Afghanistan, and asked Afghanistan to remove its Missions from Pakistan. A *White Paper* explaining the new break in diplomatic relations was issued by the Government of Pakistan on September 3, 1961.<sup>1</sup>

Sardar Daud, who had been the main Afghan exponent of 'Pakhtoonistan', resigned the office of Prime Minister in March 1963 and was succeeded by Dr. Mohammad Yousuf. This was generally interpreted as not just a change of personalities, but a real devolution of power in Afghanistan from the royal family to the commoners. The improved atmosphere paved the way for the success of the Shah of Iran's mediation between Afghanistan and Pakistan, who then signed the Tehran Accord on May 30, 1963. Diplomatic relations were restored; the frontier was re-opened after a closure of 22 months; trade between the two countries was resumed.

As in 1963 Afghanistan and Pakistan had been at loggerheads over 'Pakhtoonistan' for over 15 years, it is not surprising that it was difficult for the Afghan Government to abandon the slogan immediately. However, since the change of Government, Afghanistan has been reorienting her policy towards Pakistan in everything except perhaps for her commitment to the idea of 'Pakhtoonistan', and relations between the two countries have improved steadily.<sup>2</sup> In 1968, King Zahir Shah of Afghanistan visited Pakistan and was given a warm welcome symbolizing brotherly and developing relations between the two countries. A delegation headed by Finance Minister, Muzaffar Ali Khan Qizilbash, visited Afghanistan in May 1970, to explore possibilities of increasing trade and economic collaboration. The two countries identified certain areas where expansion in the exchange of commodities on a bilateral basis was possible.<sup>3</sup> The new

<sup>1</sup>*Ministry of External Affairs Communique, No. 15299, September 3, 1961.*

<sup>2</sup>*Cf. Dawn, January 3, 1966, "Ayub-Zahir Talks End in Full Accord".*

<sup>3</sup>*Ibid.*, May 17, 28 and 29, 1970.

In a broadcast over the Kabul Radio on the occasion of the 52nd Independence Celebrations of Afghanistan, on August 25, 1970, the Afghan Premier, Nur Ahmed Etemadi, welcomed the restoration of the former provinces in West Pakistan. He said this step would help in the establishment of closer Pakistan-Afghanistan relations, including increase in economic co-operation and mutual understanding. *Ibid.*, August 26, 1970.

Prime Minister of Afghanistan hoped that a 'new era of mutual understanding' between Afghanistan and Pakistan would now begin.

There has been evidence, too, of an increasing identity of views on political matters. Thus the concept of a nuclear umbrella over India evoked the same reactions in Afghanistan and Pakistan. During the Indo-Pakistan conflict of 1965, Afghanistan's sympathy was definitely with Pakistan, and there was quite a widespread feeling in Afghanistan that Pakistan was fighting to hold back Indian expansion up to the Hindu Kush.<sup>1</sup>

Nevertheless, the old basis of discord did persist until the end of 1969, even if the 'Pakhtoonistan' objective was pursued in a somewhat more subdued manner. The presence of Abdul Ghaffar Khan in Kabul and the recognition the Government of Afghanistan gave him as the 'undisputed' leader of the Pakhtoon people in Pakistan, for instance, showed that Pakistan could not quite forget its concern about the North-West Frontier.<sup>2</sup> Popular indignation was voiced against the participation of some Pakistani leaders, including Khan Abdus Samad Khan Achakzai and Khan Abdul Wali Khan, in the 'Pakhtoonistan Day' functions held at Kabul on September 2, 1969. King Zahir Shah and Premier Nur Ahmad Etemadi of Afghanistan were also reported to have raised the slogan of 'Pakhtoonistan' in their speeches on the occasion of the Afghan Jashan. On the other hand, the Soviet Union, a former supporter of Afghanistan on the 'Pakhtoonistan' issue, has now for some time followed a policy of benevolent neutrality in regard to Pak-Afghan relations, while inducing Afghanistan to exercise restraint in its dealings with Pakistan.<sup>2</sup> In 1970 there has been a consistent development of co-operation between the two countries—unmarred by any Pakhtoonistan slogans in Afghanistan—which by September 1970 had resulted in serious consideration of joint development enterprises, including the possibility of utilizing Afghan iron ore in Pakistani steel mills, for which purpose a five-man Pakistani delegation, headed by S.M. Yusuf, Chairman of the Pakistan Steel Mills Corporation, visited Kabul

<sup>1</sup>Based on personal interviews and Afghan press reports of 1965-66 (i.e. *Kabul Times*, *Al-Huwaida*, etc.).

<sup>2</sup>A further link in friendly and positive relations with Afghanistan was forged through an accord signed in Kabul for Pakistan-USSR trade through Afghanistan. Cf. *Dawn*, January 27, 1971.

in September.<sup>1</sup>

Thus, although Afghanistan has not explicitly indicated its recognition of the Durand Line, the brotherly feelings of the neighbouring Muslim peoples of Afghanistan and Pakistan, who share a considerable common historical heritage, are now beginning to find more and more practical expression in schemes of co-operation and joint ventures for economic development. It may therefore be foreseen that in so far as there still remains a difference of views, this is likely to be settled amicably in a spirit of goodwill.

<sup>1</sup>*Morning News*, September 14, 1970.

## CHAPTER IV

# Pakistan and China

China and Pakistan share a common frontier of about 400 miles, between Sinkiang and territories to the north of Kashmir, including Hunza, Nagar and Baltistan. This border runs from the Pamir tri-junction of Afghanistan, China and Pakistan to the Karakoram Pass, and was demarcated by a Sino-Pakistan Boundary Agreement of March 2, 1963. East Pakistan's northern border does not touch China, but is very close to it. Thus, China is rather like India, a neighbour of Pakistan in the East as well as in the West.

Pakistan was one of the first countries to recognize the People's Republic of China, three months after its establishment, in October 1949. In 1950, Pakistan concluded a barter agreement with China for the supply of coal against jute and cotton. Until then, India supplied coal to Pakistan in lieu of jute and cotton, but trade between the two countries had come to a halt due to India's refusal to accept the new par value of Pakistan's currency. This was a crucial moment for Pakistan, and China came to her aid.

At the outbreak of the Korean war in 1950, Pakistan expressed its inability to send troops to fight with UN Forces in Korea. It also abstained from voting on the American-sponsored resolution in the UN General Assembly which called for branding China as an aggressor. In the same year, Pakistan supported the unsuccessful resolution to make the People's Republic of China a member of the United Nations in place of Chiang Kai-



shek's National Republic of China (Taiwan). Subsequently, until 1961, Pakistan voted for the postponement of the issue of China's membership. This hardly pleased China, but the two countries continued to maintain formal relations at a cordial level. In the sixties, Pakistan again began to champion China's entry into the UN; and in November 1969, at the UN General Assembly, Pakistan's Permanent UN Representative, Mr. Agha Shahi, made a plea for a simple majority vote instead of continuing to insist on a two-third majority requirement. He warned that continuing efforts to keep China out of the UN were politically unwise, and ignored "trends of opinion of great moment and consequence, which have begun to emerge since this issue was considered by the Assembly last year."<sup>1</sup> Informed sources pointed out on August 19, that Pakistan would extend all-out support to any move seeking the restoration of the legitimate right of the People's Republic of China in the United Nations at the forthcoming session of the UN General Assembly.<sup>2</sup>

Pakistan's membership of the South-East Asia Treaty Organisation (SEATO) did not affect Sino-Pakistan relations significantly, for better or worse; so that despite official Sino-Indian cordiality in the fifties, Sino-Pakistan relations too continued on an even keel. It is on record that only four days after the announcement of Pakistan's participation in the Manila Conference (August 10, 1954), "the Pakistan Ambassador in Peking assured his Chinese hosts, including Chou En-lai, that Pakistan would further develop the happy and harmonious relations now subsisting between the two countries".<sup>3</sup> The Bandung Conference, held in April 1955, enabled the Prime Ministers of Pakistan and China to meet. Chou En-lai, speaking in the Political Committee, repeated the assurances which Mohammed Ali Bogra had given him: "Pakistan had no fear that China would commit aggression against her... The Prime Minister of Pakistan gave further assurances that if the United States should take aggressive action under the military treaty or

<sup>1</sup> *Dawn*, November, 1969.

<sup>2</sup> *Dawn*, August 20, 1970. On November 12, 1970, Pakistan co-sponsored a draft resolution for China's entry into the UN on the basis of a simple majority vote—and later pleaded for future support of this at the Singapore Commonwealth Conference on January 16, 1971.

<sup>3</sup> *Survey of China Mainland Press* (SCMP), 869, p. 21. Cited in George Modelski (ed.), *SEATO: Six Studies*, *op. cit.*, p. 131. Cf. Khalid Bin Sayeed, "Pakistan and China", in A.M. Halpern (ed.), *Policies Toward China: Views from Six Continents* (New York, McGraw Hill, 1965), p. 234.

if the United States launched a global war, Pakistan would not be involved in it, just as it was not involved in the Korean War.”<sup>1</sup> Mohammed Ali confirmed this statement in 1962. Chou En-lai told a correspondent of the Associated Press of Pakistan in 1963 that the Government of Pakistan had often assured the Chinese Government that Pakistan’s participation in SEATO was not a mark of hostility to China.<sup>2</sup> Thus Khalid bin Sayeed rightly points out: “There is clear evidence to suggest that from the very beginning Pakistan was not thinking of a threat from China, but primarily of its defensive position against India. First of all, it is well known that when Pakistan joined SEATO, it tried to persuade SEATO members not to confine the definition of aggression to Communist aggression. In Pakistan’s view, aggression should be defined in general terms and such a view was incorporated in Article 4 of the Southeast Asia Collective Defence Treaty of September 8, 1954”.<sup>3</sup>

In October 1956, Prime Minister Suhrawardy undertook a 12-day visit to China, which was reciprocated by the Chinese Premier almost immediately. This exchange of visits served to confirm the officially held view that despite differences in their political systems and divergence in their outlooks, the two countries also had no conflicts. This certainly was the main gist of the joint communique issued at the end of these visits. It said: “The two Prime Ministers are of the view that the difference between the political systems of Pakistan and China and the divergence of views on many problems should not prevent the strengthening of friendship between the two countries. They reaffirm their earlier conviction that, with a view to promoting further the cordial and friendly relations existing between Pakistan and China, due importance should be given to commercial and cultural relations between the two countries. They are happy to place on record that there is no real conflict of interest between the two countries.”<sup>4</sup>

The thing which probably impressed and gratified Pakistan most was the fact that, even at the height of Sino-Indian cordiality

<sup>1</sup> *Documents on International Affairs for 1955* (London), pp. 421-22.

<sup>2</sup> W. M. Dobell “Ramifications of the China-Pakistan Border Treaty”, *Pacific Affairs*, Vol. XXXVII, No. 3, Fall 1964, pp. 283-95; ref: 284.

<sup>3</sup> Khalid bin Sayeed, “South-East Asia in Pakistan’s Foreign Policy”, *Pacific Affairs*, Vol. XLI, No. 2, Summer 1968, pp. 230-44; ref: 230. Also see, Carol Bell, *Survey of International Relations, 1954* (London, RIIA, 1957), p. 78.

<sup>4</sup> *Pakistan Horizon*, December 1956, pp. 220-22.

in the mid-fifties, China never supported India on the Kashmir dispute. When Chou En-lai visited India in 1956, he was repeatedly pressed by Indian journalists for his views on Kashmir, and he always expressed the view that the Kashmir dispute should be settled peacefully by negotiation.<sup>1</sup>

Though Pakistan's frontier with China did not manifest any special significance until the Tibetan Crisis of 1959, the emergence of the People's Republic of China as a Great Power in 1949 had converted the hitherto comparatively dormant frontier zone into a potentially sensitive border for Pakistan. The ultimate responsibility for guarding this frontier devolved on Pakistan when the Muslim Chiefs of Hunza and Nagar, having renounced allegiance to the Maharaja of Kashmir on his accession to India, joined Pakistan. The Chinese occupation of Tibet in 1950 brought forward the time when the towering Himalayan-Karakoram barrier between Central Asia and Southern Asia would become less effective. We may therefore note that border problems and tensions on this frontier had occurred as early as April 1953, when Pakistan protested against Chinese violations of Pakistan's Gilgit border with China. Pakistan's Foreign Minister, Zafrullah Khan, told the Pakistan Parliament that troops had been reinforced along the frontier as a precautionary measure.<sup>2</sup>

In 1954, maps were published in Peking which showed about 40,000 square miles of Indian-held Kashmir as belonging to China. Most perturbing for Pakistan was the indication that the strategically important passes of Kilik, Mintaka, Khunjerab and Shimsal, which control access routes between Sinkiang and Hunza-Baltistan, were shown as parts of Chinese territory. The Government of Pakistan disclosed in 1957 that certain maps were in its possession which were issued in China between 1952 and 1954.<sup>3</sup> During 1956-57, the Chinese built a highway linking Sinkiang with western Tibet, which passed through Aksai Chin, in the north-eastern corner of Ladakh in Kashmir. This was a

<sup>1</sup>H. C. Hinton observes: "The CPR has never committed itself formally on this question. Its stand is in marked contrast with that of the Soviet Union, which endorsed the Indian position in 1955." *Communist China in World Politics* (The George Washington Institute for Defence Analysis, Washington, 1965), p. 317.

<sup>2</sup>*The New York Herald Tribune*, April 13, 1953.

<sup>3</sup>*Dawn*, February 6, 1957.

most significant development on Pakistan's frontier with China,<sup>1</sup> and Pakistan could not fail to take notice of the new situation.

Ayub Khan, in his first broadcast as Chief Martial Law Administrator, on October 7, 1958, said: "I categorically reiterate that we shall continue to follow a policy which our own interest and geography demand".<sup>2</sup> This reiteration on continuity could not obscure the fact that Pakistan's geography and security were emphatically the main concern of the new leadership in pursuing the country's foreign policy. Pakistan's links with the West were in fashion, but they were increasingly under pressure from the demands of the country's geography and security. The demands of geography could obviously have more than one meaning. It might signify the policy of composing differences with neighbours, or it could mean a serious view of Afghan pressure on the North-West Frontier region. On December 25, 1958, Ayub said: "We need friends for our security",<sup>3</sup> and he did not say anything on what ideological complexion they should have.

Mounting troubles in Tibet, culminating in the flight of the Dalai Lama early in 1959, caused considerable concern in Pakistan, as they did in India, although the Indian apprehension was of a different character.

Pakistan's signing of the United States-Pakistan Bilateral Security Pact,<sup>4</sup> her efforts to resolve Indo-Pakistan differences and conclude a joint defence agreement, were all manifestations of the underlying need of Pakistan's security. In the preamble to the US-Pakistan Pact of March 1959, the United States undertook to support the "independence and integrity of Pakistan". Pakistan's attempts to have a common defensive system for the whole Indo-Pakistan subcontinent was of course prompted by the sense of a common danger from the north, which was highlighted by the Chinese activities in Tibet. Having failed to secure Indian co-operation for the joint defence of the subcontinent, Pakistan decided to cut its losses and turned to developing

<sup>1</sup>See A.R. Field, "Strategic Development in Sinkiang", *Foreign Affairs*, January 1961.

<sup>2</sup>*Dawn*, October 8, 1958.

<sup>3</sup>*Ibid.*, December 26, 1958.

See General Mohammad Ayub Khan, "Strategic Problems of the Middle East", *Asian Review* (London), Vol. 54, p. 221.

<sup>4</sup>*U.S. Department of State Bulletin*, No. 14, 1030, March 23, 1959, pp. 416-18.

closer relations with China. A joint-defence system would have been for the over-all security of the subcontinent. Even so, it would not have been in the interests of the territorial integrity of Pakistan to leave this Sino-Pakistan border undefined. India herself was engaged in border negotiations with China. Hence the Indo-Pakistan joint-defence proposal of Pakistan in 1959-60 and the Sino-Pakistan border negotiations, also started in 1959, were not as contradictory as they might have seemed at first. Pakistan's anxiety for a border agreement was doubtless partly also due to her apprehension that India might take precedence in border arrangements with China to the detriment of Pakistan.

The Indian annexation of Goa in 1961 made Pakistan apprehensive of what India might do next in Kashmir. There were hints that India would attack Azad Kashmir.<sup>1</sup> Several Pakistani newspapers pointed out the failure of the NATO Powers to assist their ally, Portugal, in the Goan crisis, and expressed doubts about the efficacy of SEATO and CENTO in the event of India adopting a similar policy towards Azad Kashmir. The newspaper *Dawn* suggested that Pakistan should withdraw from Western-sponsored military pacts and seek closer relations with China.<sup>2</sup> A similar sentiment had been expressed by Prime Minister Feroz Khan Noon in the Pakistan National Assembly on August 8, 1958: "If they (Pakistanis) find their freedom in jeopardy and threatened by India, they will break all the pacts in the world, in order to save their freedom...they will go and shake hands with the people we have made enemies of for the sake of others. The West was very much mistaken in believing that the Muslims cannot reconcile themselves to Communism. If they were to choose between Hindu domination and Communism, it is Communism they would chose."<sup>3</sup> A scholar of Indo-Pakistan affairs correctly observes: "Pakistan began, shortly after General Ayub's seizure of power in 1958, to test and re-appraise the value of her alliance commitments".<sup>4</sup> Pakis-

<sup>1</sup>At the 67th Session of the Indian Congress at Shri Kishunpuri (Bihar) in January 1962 (see *Dawn*, January 4-7, 1962), the Congress President declared: "The whole country is behind the Government in liberating the one-third of Kashmir under Pakistan's illegal occupation". See also "Goa Occupation Hailed: India Hints Kashmir Next", *The Christian Science Monitor* (Boston), January 8, 1961.

<sup>2</sup>*Dawn*, December 20, 1961.

<sup>3</sup>*Ibid.*, March 9, 1958.

<sup>4</sup>Peter Lyon, *Neutralism* (Leicester University Press, 1963), p. 52. See also *The Times* (London), February 17, 1961, and March 4, 1961; *The Daily*

tan also faced further severe difficulties on the Afghan border in 1961. In such circumstances, Pakistan could not afford to have more troubles with other neighbours.

By October 1959, Pakistan began to give active and publicly noticeable consideration to the Gilgit-Hunza-Baltistan border. Pakistan's Communications Minister and the Governor of West Pakistan visited the Gilgit region and disclosed their plan for the construction of an all-weather metalled road from Malakand to Gilgit *via* Swat which would link this remote area with the rest of West Pakistan. But while the Government of Pakistan maintained an alert vigilance along the Sinkiang border, an amicable border agreement with China remained a top priority.<sup>1</sup>

Meanwhile, the authorities instructed survey officials to draw up detailed charts which might be handy in case China agreed to open border-demarcation talks with Pakistan. Maps published by the Survey of Pakistan had so far shown the northern border as 'undefined', and no detailed survey of these mountainous and uninhabited areas had ever been attempted.

While the Government of Pakistan started collecting internationally accepted materials and evidence to assist the process of demarcating its border with China,<sup>2</sup> the President of Pakistan, in a press conference on October 23, 1959, said that the country would approach China with a view to securing the joint and agreed demarcation of their common frontiers.<sup>3</sup> Pakistan instructed its Ambassador in China, Dr. A.M. Malik, to sound Peking on the question of frontier demarcation. Pakistan's Foreign Minister, Manzur Qadir, disclosed on January 15, 1963,

*Telegraph*, July 14, 1961, and B.C. Rastogi, "Alignment and Non-Alignment in Pakistan's Foreign Policy, 1947-60", *International Studies* (New Delhi), October 1961, pp. 159-80.

"For its part, Pakistan has been so pre-occupied with its disputes with India and Afghanistan that for several years it evidently did not consider the question of the frontier between the CPR and the Pakistan-held part of Kashmir to be a serious problem. The Sino-Indian border hostilities of 1959 seems to have changed this attitude, and they also have given Pakistan additional leverage on India", Harold C. Hinton, *op. cit.*, p. 317.

<sup>1</sup> See *The Economist* (London), October 31, 1959: "India, Pakistan and China", pp. 404-5.

<sup>2</sup> *Pakistan Times*, October 15, 1959.

<sup>3</sup> *Dawn*, October 24, 1959.

Michael Edwards observes: "The first manifestation of a new and fundamentally pragmatic approach to foreign affairs was a consequence of the realization that China's occupation of Tibet had altered the geopolitical balance in the Himalayas." "Policy of Undefined Neutralism", *The Times* (London), Supplement on Pakistan, February 26, 1966.

that China had, in principle, agreed to the demarcation of its border with Pakistan.<sup>1</sup> The Government of Pakistan sent a formal note to China on March 28, 1961, expressing the desire to demarcate the boundary of Chinese Sinkiang with the Gilgit-Hunza-Baltistan territory. The Chinese reply came on February 27, 1962, in which it was proposed to conclude a 'provisional agreement' pending the final settlement of the Kashmir dispute. Finally, a joint communique issued on May 3, 1962, declared that the two countries had "agreed to conduct negotiations so as to attain an agreed understanding of the location and alignment of the Sino-Pakistan boundary".<sup>2</sup>

The fact that the Chinese took more than a year in responding to the Pakistani initiative suggests that at first they were very cautious and hesitant in agreeing to have border talks with Pakistan.<sup>3</sup> There might have been various reasons for the slow response from the Chinese. Pakistan's signing of a bilateral agreement with the United States and the offer of a joint-defence arrangement made to India in 1959 had created an unfavourable reaction in China. Thus, on March 10, 1959, the *Peking Review* had strongly criticized the US-Pakistan Bilateral Agreement of 1959.<sup>4</sup> The *China News Agency*, too, circulated a sharp comment against the agreement.<sup>5</sup> Pakistan might also have annoyed China by participating in the strong UN condemnation of the Chinese reoccupation of Tibet, particularly as India, which was directly concerned, abstained from such a condemnation.<sup>6</sup> When finally China did respond to Pakistan's overtures, it is possible that she might have agreed to the border settlement as a bargaining counter to get Pakistan's support on the question

<sup>1</sup>*Dawn*, January 16, 1961.

<sup>2</sup>*Ibid.*, May 5, 1962; *Peking Review*, May 11, 1962.

<sup>3</sup>Although China has preferred to employ peaceful negotiations in dealing with her frontiers with Burma and Nepal, at the outset of the Sino-Indian border dispute, Pakistan was unclear about the Chinese motives, and she strengthened her Forces stationed in Hunza and Baltistan as a precaution against similar Chinese incursion into these areas", Nasim Ahmed, "China's Himalayan Frontiers: Pakistan's Attitude", *International Affairs* (London), October 1962, p. 428.

<sup>4</sup>*Peking Review*, March 10, 1959.

<sup>5</sup>*New China News Agency* (Peking), March 6, 1959.

<sup>6</sup>See M.A.H. Ispahani, "The Foreign Policy of Pakistan, 1947-64", *Pakistan Horizon*, Vol. XVII, Third Quarter 1964, pp. 231-52. Prince Aly Khan, Pakistan's Permanent Representative, supported the resolution presented by Malaya and Ireland in the UN General Assembly in its 14th Session, condemning the Chinese action in Tibet.

of China's admission to the United Nations. Two subsequent incidents strengthen this view: (a) In July 1961, President Ayub indicated in Washington that Pakistan would support China's entry into the United Nations at future sessions.<sup>1</sup> (b) The Chinese envoy told newsmen at Rawalpindi on December 7, 1961, that China had shown reasonableness towards Pakistan on the border question, and hoped that Pakistan would treat the question of China's admission to the United Nations with similar 'reasonableness'.<sup>2</sup> In Chinese minds, at least, there seemed to be a basis for *quid pro quo* between the Sino-Pakistan border issues and the question of the Chinese membership of the United Nations. Pakistanis had a further feeling of satisfaction in that the Chinese had refused Indian proposals to discuss the demarcation of the Kashmir border westward from the Karakoram Pass, which appeared to give at least a touch of recognition to Pakistan's control over the northern territories of Kashmir. "This was, for the first time, specific and public refusal by Peking to recognize Kashmir's accession to the Indian Union—a point it had previously been careful to obscure", according to some Western scholars.<sup>3</sup>

From May 1962, China began to pursue border negotiations with Pakistan most earnestly. Coinciding with the Sino-Pakistan talks, there were acute Sino-Soviet border tensions and more troubles in Sinkiang. The Gilgit region seemed to have a key position in the Sino-Soviet rivalry in Sinkiang.<sup>4</sup> "From Gilgit", says Dr. Satyanarayan Sinha, "the whole of the Pamir region could be controlled and Soviet Central Asia threatened.... Military considerations forced them (the Soviets) to join hands with India on the Kashmir question and proclaim Gilgit a part of India. She (the Soviet Union) declared that Pakistan had no right to occupy Gilgit or to allow the Americans to build an anti-Soviet base there (particularly after the U-2 incident)."<sup>5</sup> The

<sup>1</sup>W. M. Dobell, *op. cit.*, p. 284; *The Round Table* (London), September 1961, p. 410.

<sup>2</sup>Margaret W. Fisher, Leo E. Rose and Robert A. Huttenback, *op. cit.*, p. 140.

<sup>3</sup>*Ibid.*, p. 142.

<sup>4</sup>*The Origin and Development of the Differences Between the Leadership of CPSU and Ourselves: Comment on the Open Letter of the Central Committee of the CPSU* (Foreign Languages Press, Peking, 1963). See also Brines, *op. cit.*, pp. 184-85.

<sup>5</sup>Satyanarayan Sinha, *China Strikes* (London, Blandford Press, 1964), p. 151.

See also Geoffrey Wheeler, "Sinkiang and the Soviet Union", *The China Quarterly*, Vol. 16, October/December, 1963, p. 59.



Chinese could not ignore the strategic importance of Gilgit for the security of Kashmir. On October 12, about a week prior to the Sino-Indian border clash, Sino-Pakistan border talks began in Peking. At this stage, two events made Pakistan more anxious to secure Chinese support: (a) In spite of the fact that Pakistan was trying to maintain a positive relationship with the Soviet Union (e.g. Pakistan-Soviet collaboration for the exploration of oil in Pakistan), the latter's stand on the Kashmir issue continued to irritate Pakistan. And this made it all the more imperative for Pakistan to cultivate the friendship of China.<sup>1</sup> On June 22, 1962, the Soviet veto once more foiled an attempt to move the Security Council to bring India and Pakistan to terms on Kashmir and to persuade India to redeem her pledge to let Kashmiris freely decide their own future. Pakistanis also felt rather ignored by their Western allies' continued policy of appeasement towards India. On June 27, 1962, Pakistan's Foreign Minister, Mohammed Ali Bogra (who, as Prime Minister of Pakistan, had linked Pakistan to the Western-sponsored defensive alliance in 1954-55), speaking with considerable mortification in the newly elected National Assembly of Pakistan, now reiterated Pakistan's willingness to forge closer ties with China. By November 1962, Pakistan began to regard Western arms aid to India as a breach of trust towards an ally.<sup>2</sup> On November 21, the Pakistan National Assembly held an emergency secret session, in which President Ayub spoke on Pakistan's foreign policy for three hours. Just before this, President Kennedy had assured Pakistan that the United States would take appropriate action if India misused U.S. military assistance,<sup>3</sup> which meant that there was

<sup>1</sup>Pakistan's Foreign Minister, Z. A. Bhutto, is quoted as saying: "...given geography and the power realities of the nuclear age, the military threat to us, if there is one, would come more from the Soviet Union than from China." See *The New York Times*, June 23 and 26, 1962

<sup>2</sup>A Karachi Journal, *The Outlook*, writing in August 1963, said: "India is now a mistress of the West, but claims chastity. Pakistan, the legal wedded wife, is now threatening divorce action, citing India as a co-respondent." The writer was obviously summing up Pakistan's dismay over the U.S. role of aiding India in her 1962 border fight with China, while failing, at the same time, to extract from India any commitment to accept a compromise solution to the long-standing Indo-Pakistan conflict.

Cf. Frank N. Trager, "The United States and Pakistan: A Failure of Diplomacy", *Orbis*, Vol. IX, Fall 1965, No. 3, pp. 613-29; ref: 615.

<sup>3</sup>The formal assurance of the Government of the United States was contained in a State Department announcement on November 18, 1962: "The United States Government has similarly assured the Government of Pakistan that if our assistance to India should be misused and directed against another

no prior control, only the promise of action. In a joint communique of December 26, 1962, Pakistan and China declared their agreement in principle on the location and alignment of the boundary. The text of the boundary agreement was finalized in February, 1963 and was signed in Peking on March 2.<sup>1</sup>

According to an official Pakistani spokesman, when Pakistan and China first began their discussions on the rival claims to disputed territory, the total area about which they differed was 3,400 square miles. According to China's maps, the border ran southward from the Khunjerab Daban (pass) to the Karakoram mountains before turning eastward; Pakistani maps, on the other hand, showed the border running roughly south-east from the Khunjerab Pass to the sharp bend in Mustagh at the Shaksgam river. The finally agreed border followed Pakistan's claim; the territory to the west of Mustagh (Oprang), where it bends sharply around the town of Sokh Bulaq, was included in Pakistan. A divergence from the principle of the watershed was thus made in Pakistan's favour.<sup>2</sup> As a result of this agreement, out of the disputed 3,400 square miles, Pakistan got 1,350 square miles, including 750 square miles under Chinese control, while China was

in aggression, the U.S. would undertake immediately, in accordance with constitutional authority, appropriate action both within and without the United Nations." *Dawn*, August 3, 1963.

See also Ayub Khan, *op. cit.*, p. 145. "Both the United States and the Soviet Union started competing with each other in supplying arms to India... one to face China and the other to maintain the balance in Asia." *Ibid.*, p. 173.

"At Nassau, on 18-21 December 1962, after the cease-fire on the Indo-China border had taken place, the United States and Britain decided to continue to supply India, on an emergency basis, up to \$ 120,000,000 worth of military aid. The programme included a variety of military equipment, but its central feature was the arming of six Indian Divisions for mountain warfare.

"As a result of the Nassau decision, a United States-British-Canadian Air Mission visited India to examine what would be India's air needs should China attack again.

"Another U.S. Mission went to India to assess the question of India's capacity for the production of arms.

"On 30 June 1963, at Birch Grove, the United States and Britain decided on a further substantial programme of military aid to India over the amount agreed to at Nassau. This enabled India to decide to raise her standing army from 11 to 22 divisions as rapidly as possible and to expand substantially her Air Force and Navy." Z. A. Bhutto, *Myth of Independence*, *op. cit.*, p. 68.

<sup>1</sup> *Dawn*, March 3, 1963, "Chronology of Talks".

The Watershed principle received due recognition in the border agreement. It seems that the treaty makers gave due weight to Holdich's opinion: "Of all the natural features, a definite line of a watershed carried by a conspicuous mountain ridge, or range, is undoubtedly the most lasting, the most unmistakable, and the most efficient as a barrier." T.H. Holdich, *Political Frontiers and Boundary Making* (*op. cit.*), p. 147.

left with 2,050 square miles which were already under its occupation. The territory which Pakistan gained, comprised the valleys of Oprang and Bund Darwaza, including the Kharachanai salt mine (an important asset for the people of Hunza). The Foreign Minister of Pakistan also pointed out that three-fourths of the K-2 (Mt. Godwin-Austen) peak had remained with Pakistan. It was agreed to give due consideration to topography and to the possibility of errors in mapping. It was decided that wherever the boundary follows a river, the middle-line of the river-bed shall be the boundary line, and wherever the boundary goes through a pass its water parting line shall be the boundary line.<sup>1</sup> Pakistan's Ambassador to Peking, General Raza, observed that the boundary coincided with what the British had claimed as far back as 1939.<sup>2</sup>

The Sino-Pakistan Boundary Agreement, unlike China's other border settlements, immediately acquired a good deal of significance for another Power. The Indian Government alleged that Pakistan had "no *locus standi* to enter into negotiations or conclude agreements with any country regarding the boundaries of Jammu and Kashmir" as the latter formed an integral part of the Indian Union and its northern territory was under the illegal occupation of Pakistan: and that furthermore Pakistan had given away extensive areas to China which were really parts of India.<sup>3</sup>

Now, first of all, under Article VI of the Agreement, the two Parties agreed that after the settlement of the Kashmir dispute

<sup>1</sup>Article III of the Sino-Pakistan Boundary Agreement, *Peking Review*, March 15, 1963. See Text in Appendix.

<sup>2</sup>"The alignment west of the Karakoram Pass, which the Chinese were not willing to include in their 1960 discussions with India, was eventually negotiated with Pakistan, and finds its place in the 1964 revision of the map of China. In these negotiations, as we have seen, the Chinese were prepared for some retreat from the extreme positions in the Karakoram region which they had claimed cartographically in 1960. . . . The Chinese Communist claim in their 1960 map (the map which increased their previous official demands in Ladakh) thus represented a very much deeper bite into Kashmir by reference to the outdated and abandoned British alignments than by reference to the frontiers as officially claimed by India in all maps submitted in her dispute with the Chinese." Francis Watson, *The Frontiers of China* (London Chatto and Windus, 1966), p. 187.

<sup>3</sup>*Dawn*, April 9, 1963.

<sup>4</sup>Note of the Ministry of External Affairs, Government of India, to the Pakistan High Commission, March 13, 1965. In *China, India, Pakistan*, edited by K. Sarwar Hasan (Karachi, Pakistan Institute of International Affairs, 1966), pp. 391-92.

between Pakistan and India, the sovereign authority concerned would reopen negotiations on the boundary with the People's Republic of China. Pakistan contended that, to avoid any conflict with a neighbour, it had to delimit and demarcate the boundary on a provisional basis which did not bring about any material change in the status of Kashmir. And even if it did, such a change would, in any case, be of a smaller magnitude than the changes which India had introduced in the State.<sup>1</sup>

Secondly, "By no stretch of imagination could the Gilgit Agency, including the Feudal States of Hunza and Nagar, be considered as owing loyalty to a Government in Srinagar."<sup>2</sup> Though Gilgit theoretically became a part of the Maharaja's domains according to the Amritsar Treaty of 1846, in practice, Dogra authority in Gilgit never became fully effective. It used to be governed by local princes. It was in 1877 that the British, out of their fear of Russian expansion beyond the Pamirs, made Gilgit a Political Agency, in effect an outlying British administrative district. Hunza and Nagar accepted British paramountcy towards the close of the 19th century; but they were only nominally subject to the control of the State of Jammu and Kashmir. In reply to a letter from Gopaldaswamy Ayyengar, dated July 27, 1939, after a delay of two years, the Resident in Srinagar communicated the decision of the Government of India, dated July 14, 1941, regarding the status of the Hunza and Nagar States and the political districts *vis-a-vis* the Kashmir State. It was stated that, though Hunza and Nagar were under the suzerainty of the Kashmir State, they were not parts of the Kashmir State, but separate States.

The British Government withdrew the Political Agent after Independence on August 15, 1947, and the Maharaja of Kashmir sent a Dogra Officer to act as governor of the area. When the Maharaja acceded to India in 1947, the people of Gilgit revolted and requested the Government of Pakistan to take over the administration. The rulers of Hunza and Nagar also acceded to Pakistan and these territories are therefore outside the areas of conflict over Kashmir.

<sup>1</sup>See Bhutto's press conference in reply to India's letter to the President of the Security Council, March 2, 1963—"Unlawful Disposition of Indian Territory", *Dawn*, March 27, 1963.

<sup>2</sup>Lord Birdwood, "The Asian Frontiers of Kashmir", *Royal Central Asian Journal*, July/October, 1952, Vol. XXXIX, pp. 241-45; ref: 242. Also see *Two Nations and Kashmir*, *op. cit.*, p. 120.

Prime Minister Nehru alleged in his Parliament on March 5, 1963, that Pakistan had surrendered over 13,000 square miles of territory to China.<sup>1</sup> The Government of India published a pamphlet which described the boundary west of the Karakoram running "along the watershed dividing the tributaries of the Yarkand river and those of the Hunza river. It lies along the Kilik, Mintaka, Kharachanai, Parpik and Khunjerab passes. It then crosses the Aghil mountains, passing the Aghil, Marpo and the Khagsam passes to the Karakoram pass".<sup>2</sup> *The Times of India* printed maps which showed Pakistan's frontier reaching deep into the Sinkiang Province, while Pakistan regarded the Kashmir border with Sinkiang as an 'undefined' frontier. At a press conference, Pakistan's Foreign Minister, Bhutto, stated that the map published in *The Times of India* on March 7, 1963, purportedly as a reproduction from a map of the *Survey of Pakistan*, was not a genuine copy of any of Pakistan's maps. An official at Pakistan's Foreign Office showed two maps marked as 'frontier undefined' which did not show Hunza's frontier going deep into the Sinkiang Province over a large grazing area.<sup>3</sup> In regard to this particular area, Nehru himself had stated in Parliament on May 7, 1962: "This matter had come up before us too before, and we had examined all the old papers, and we had found that this was an old dispute between the then Tibet Government and the Government of India through the Kashmir Government. The British Government, after due enquiry, had not accepted the Mir of Hunza's claim to that particular grazing area. Therefore, I raised it (the question) with President Ayub Khan and told him of the old papers we had. He agreed with that—that particular area—the grazing area of Hunza. He said we cannot lay claim to that in the circumstances when the British Government had given it up."<sup>4</sup>

The problem of this previously undemarcated border is principally explicable in terms of the uncertain status of Hunza in the past. In the 18th century, Hunza had accepted Sinkiang as a Tributary Power. As a result, there was no definite agreed boundary line between them. Hunza continued to pay a tribute of 1½ ounces of gold dust every year to the authorities in Sinkiang

<sup>1</sup>*Foreign Affairs Record*, Vol. IX, No. 3, pp. 91-92.

<sup>2</sup>*The Hindu* (Madras), March 21, 1963.

<sup>3</sup>*Dawn*, March 12, 1963.

<sup>4</sup>*Foreign Affairs Record*, Vol. VIII, 1962, pp. 105-6 (Bracketed words added.)

as a vassal State, and as such was allowed to have grazing rights in the valleys of Taghdumbash, Pamir and Raskam. On the other hand, China claimed suzerainty over Hunza. In the late 19th century, Hunza also became a vassal State of Kashmir. Either the imperialist considerations of the 'forward school' or Hunza's financial interest in Chinese territory impelled the British authorities to attach little importance to the matter of the demarcation of Hunza's borders. However, the British renounced Hunza's right without getting a collateral renunciation of Chinese suzerainty over Hunza. But British maps continued to show it as part of the Indian subcontinent. The British Government of India in 1936 advised the Mir of Hunza to stop the practice of exchanging presents with the Chinese Government and to relinquish his rights over the Taghdumbash and Raskam areas.<sup>1</sup>

The northern frontier of Kashmir with Chinese Sinkiang did not cause any real concern to the British Empire in India. It served as a buffer zone between British and Russian territory. Lattimore, in his book, *Pivot of Asia*, points out: "The British maps, accordingly, emphasized a meeting of Afghan and Chinese territory that separated British and Russian territory. On the other hand, there had been no formal demarcation of the British-Chinese frontier in this region...It does not seem far-fetched to suggest that the British, by altering their usage in the drawing of maps, were diplomatically making preparations for the possibility either of Soviet expansion into Sinkiang or the coming of a regime in Sinkiang that might be more friendly to the Soviets than to the British regime in India. In either event, it might well have seemed to the British that it would be better to claim as strong as possible a frontier in direct contact with the Russian

<sup>1</sup>Alastair Lamb, in his small book, *The China-India Border: The Origin of Disputed Boundaries* (London, Chatham House, 1964), pp. 88-89, observes: "The problem of the Northern Frontier (as opposed to the North-West Frontier) at this time is easily stated: Between the Russian advance and British India, lay first, a barrier of Chinese territory in Sinkiang, and second, behind Sinkiang, the last line of defence consisting of Kashmir and the territories to Kashmir's north-west, such as Yasin, Hunza, Nagar, Gilgit and Chitral. Some of these were by the 1870's nominally subordinate to Kashmir, and some possessed complex and little understood relationships with Afghanistan and other neighbouring districts. Here, from the British point of view, the boundaries were disturbingly undefined."

See also Gondker Narayana Rao, *The India-China Border: A Reappraisal* (London, Asia Publishing House, 1968), Chapter 7: "Kashmir-Sinkiang Boundary Before 1947".

Holdich, *Report of the Proceedings of the Pamir Boundary Commission* (Calcutta, 1897).

frontier, rather than to try to support a weak, or perhaps even unfriendly, Chinese regime in its claim to territory separating British and Russian territory.”<sup>1</sup> The eventual Anglo-Russian agreement of 1895 on the Pamir boundaries, with its wedge of “neutral territory”, observes Francis Watson, “produced a frontier of about 50 miles between Afghanistan and Chinese Sinkiang. This the Chinese continued to regard, along with rest of the Pamir settlement, as invalid and secretly arrived at.”<sup>2</sup>

The British Government of India, however, had decided before independence to renounce the nominal claim, but did not correct the Survey of India maps accordingly. Finding that decision in the files after independence, the Indian Government acted upon it and corrected their maps in 1959. Then India began negotiations on the border with China, now using the corrected maps.<sup>3</sup> *The Times* wrote on March 4, 1963: “Indian criticism today of Pakistan’s surrender of territory ironically and even tragically underlines the fact that just such a settlement as this would have been fully acceptable in India.”<sup>4</sup> Sheikh Abdullah stated in March 1965 that President Ayub had told him that he had himself shown Premier Nehru the line of demarcation he had proposed to negotiate with China, and Nehru had said, that it would be a wonderful solution if he could get Chinese agreement. This has been confirmed by Ayub Khan in his political autobiography.<sup>5</sup>

The conclusion of the border agreement also led to some misgivings among the Western Powers, particularly in the United States. It was alleged that by signing an agreement with China, Pakistan had somehow weakened its loyalty to SEATO, of which it was a member. Pakistan’s leaders argued that by signing the agreement, a potential cause of friction with China had been eliminated, which helped to fulfil the purpose of SEATO—elimination of the causes of war in the region. They felt that there was no conflict between pursuing closer relations with China

<sup>1</sup>Owen Lattimore, *Pivot of Asia* (Boston Atlantic Monthly Press, 1950). Cf. Todd, “The Sinkiang Hunza-Frontier”, *Journal of the Royal Asian Society*, January 1951, pp. 73-81.

<sup>2</sup>Francis Watson, *op. cit.*, pp. 67-68.

<sup>3</sup>*Dawn*, March 12, 1963.

<sup>4</sup>*The Times* (London), March 4, 1963 (Report from its Correspondent in Delhi). See Alastair Lamb, “Sino-Pakistan Boundary Agreement, March 21, 1963”, *Australian Outlook*, December 1964, pp. 299-312.

<sup>5</sup>Ayub Khan, *op. cit.*, p. 163. See also Rangaswami, “Pakistan’s Opportunistic Pact with China”, *The Hindu* (Madras), March 10, 1963.

and maintaining Pakistan's obligations to SEATO. President Ayub in his answer to a question at a press conference on February 21, 1964, said: "The object of SEATO and CENTO is that war should be prevented from coming to these regions... Well, if this freedom from trouble for this area can be obtained through good offices between neighbours, the object of SEATO and CENTO is being achieved."<sup>1</sup> Pakistanis convincingly argued that if the solidarity of the Western World was said to remain unimpaired after the American-Russian *detente* or the Anglo-American-Soviet Test Ban Treaty (1963), how, by the same token, could a border agreement with China jeopardize Pakistan's relations with the West?

Pakistan-United States relations suffered a further setback when the State Department in July, 1963, questioned Pakistan's air agreement with China. The United States Agency for International Development suspended a \$ 4.3 million loan for the improvement of the airport at Dacca.<sup>2</sup> Pakistan as an aid-receiving nation was not prepared to accept an American supra-national authority which would entitle the State Department to interfere in its political, commercial and cultural affairs. In the same month, a Press Officer of the State Department stated that the air link "could have an adverse effect on efforts to strengthen the security and stability of the subcontinent which the Chinese Communists want to prevent".<sup>3</sup> Pakistani experts had already been directed to study the consequences of aid suspension. In September 1963, U.S. Under-Secretary of State, George Ball, visited the interim capital, Rawalpindi. He told Pakistani authorities that the United States was displeased at the 1963 agreements between Pakistan and China, which had been termed an "unfortunate breach in free world solidarity" by the spokesman of the State Department. George Ball left Pakistan without the usual polite formality of some kind of joint communique.<sup>4</sup> The United States Government expressed anxiety over the Chinese Prime Minister's visit to Pakistan in 1964, though Chou En-lai had in fact already visited Pakistan during the hey day of the Pakistan-American Alliance (1956), apparently without incur-

<sup>1</sup>*Dawn*, February 22, 1964. Cf. S.M. Burke, "Sino-Pakistani Relations", *Orbis*, Vol. VIII, No. 2, Summer 1964, pp. 391-404; ref: 401.

<sup>2</sup>*The New York Times*, July 6, 1963.

<sup>3</sup>*The Times* (London), August 31, 1963.

<sup>4</sup>Cf. Frank N. Trager, *op. cit.*, p. 616.



ring American displeasure. Protesting over the visit, the United States maintained that by inviting the Chinese Prime Minister, Pakistan had enhanced Chinese prestige. This does not seem a very sound argument, as a visit to Pakistan did not mean much to a well-established Power. Again, on March 1, 1964, Ball warned Pakistan that "we very much hope President Ayub will not carry relations with Red China to a point where it impairs a relationship which we have and an alliance which we have".<sup>1</sup>

In spite of Pakistan's efforts to maintain a balance between her friendship with China and loyalty to her Western ally, the year 1965 subjected Pakistan-United States relations to great strains. America used various tactics to bring pressure to bear on Pakistan. Pakistan launched its Third Five-Year Plan on July 1, 1965. For the first year of the Plan, Pakistan had sought a loan of \$ 500 million from the Aid-Pakistan Consortium, of which the United States, West Germany, the United Kingdom, Canada, France, Japan, Belgium, Netherlands, Italy, the U.S. Exim Bank and the World Bank/IDA are members. On the request of the United States, made in July 1965, the Consortium meeting scheduled for July 27 was postponed for two months. Officially the United States took the stand that she could not promise 40 per cent of the \$ 500 million asked for. This evoked bitter reactions in Pakistan, and the plea that Congress authorization was required seemed even less convincing to Pakistan, as the United States had pledged \$ 940 million to India ahead of Congressional authorization. The United States also indicated to Pakistan that 'other problems' should be discussed first. Then in September 1965, the United States suspended all military and economic aid to both Pakistan and India, which was followed by an announcement of the complete stoppage of military assistance to Pakistan on April 12, 1967. Thus when it came to Pakistan's own hour of need, the SEATO alliance with America had come to nothing.

Recently, there seems to have been some indication of a reappraisal by the United States of its policy towards Pakistan. The U.S. Defence Secretary, Melvin Laird, informed the Foreign Relations Committee that the Johnson Administration had approved the terms of the military assistance agreement by which Turkey might transfer 100 U.S. Paton tanks to Pakistan.

<sup>1</sup>Cf. Z.A. Bhutto, *Myth of Independence*, *op. cit.*, p. 69.





all-weather road linking Gilgit with Chinese Sinkiang was completed on September 28, 1968. The road, with a length of 155 miles on the Kashmir side, runs along the river Indus and over the 15,000 feet Mintaka Pass in the Karakoram range, which reduces a journey that otherwise takes two weeks to one of nine hours. The first new trade *via* the Silk Route took place on August 26, 1969, when Chinese and Pakistani trade teams met at Misgar, a small town, at an altitude of over 10,000 feet, 127 miles north-east of Hunza, exchanged goods, and signed necessary documents under the 1967 Pakistan-China Trade Agreement. The Highway is an outstanding feat of engineering and symbolizes the co-operative spirit and efficiency of the peoples of China and Pakistan, which will undoubtedly continue to serve the cause of economic development in this strategic region.<sup>1</sup>

Delhi, however, saw fit to present a protest note on the completion of this Highway, and Pakistan rejected it as irrelevant on June 25, 1969.<sup>2</sup>

The boundary settlement of 1963 thus was a profound historic development in Sino-Pakistan relations, of which the momentum was and is maintained by an identity of views on various political matters of mutual concern and a certain amount of co-operation in the Afro-Asian sphere. Together with Indonesia, the two countries pooled endeavours towards organizing the second Afro-Asian Conference, scheduled for 1965, at Algiers, although the project had later to be given up due to the coincidence of the *coup d'etat* in Algeria. Like Pakistan and other Afro-Asian countries, China has strongly condemned *apartheid* and the racist States of South Africa and Rhodesia. Furthermore, Pakistan and China share similar views on the expan-

<sup>1</sup>Keesing's *Contemporary Archives*, 1967-68, p. 22674; *Dawn*, October 22, 1967.

"Replying to Professor Siddhantalankar, Indian External Affairs Minister, Chagla said, during question time in the Rajya Sabha on November 15, 1966, that India knew that Pakistan's Army Engineers had been building a highway through the Karakoram range to connect Gilgit with Rawalpindi. India, he added, was keeping friendly nations informed of developments in China-Pakistan relations. She had done this in Washington, and asked the U.S.A. to take a global view and not to be restricted by narrow ideas and prejudices. A member asked whether the Soviet Union had been told about the road construction in Gilgit, in view of its interest in the Tashkent Declaration. Chagla replied that the facts had been communicated to the whole world." *India News* (London), November 19, 1966.

<sup>2</sup>See *Dawn*, August 12, 17, 20, 25 and 27, 1969; August 29, 1970, "Trade Caravan" (editorial).

sionist policy of Israel towards the Arab countries. Pakistan is an ardent supporter of China's place in the United Nations as a major Power in place of Taiwan, and is opposed to the two-China policy. Pakistan has also avoided becoming a party to the Soviet's Brezhnev Plan for Asian Security, as this might have been interpreted as an anti-Chinese alliance.<sup>1</sup>

It was, however, on Kashmir that Pakistan had particular cause for satisfaction. Before the border agreement, the Chinese took the position that Kashmir was a disputed area. After the Sino-Pakistan boundary agreement, they came out fully in support of Pakistan's stand on Kashmir. The Ayub-Chou joint communique of February 23, 1964, included an unequivocal Chinese pronouncement on Kashmir: "They expressed the hope that the Kashmir dispute would be resolved in accordance with the wishes of the people of Kashmir, as pledged to them by India and Pakistan. It would be of no avail to deny the existence of these disputes and to adopt a big-nation chauvinistic attitude of imposing one's will on others."<sup>2</sup> The Pakitsan-China joint communique, issued in Peking during Ayub's visit to China, in March 1965, noted with concern that "the Kashmir dispute remains unresolved", and added that "the two countries consider its existence a threat to peace and security in the region".<sup>3</sup> While welcoming Air Marshal Nur Khan on July 17, 1969, Chou En-lai reaffirmed Chinese support to the people of Jammu and Kashmir in their just struggle for the inalienable right of self-determination. This was a source of strength to the people of Kashmir, and was greatly appreciated throughout Pakistan. The Vice-Chairman of the Standing Committee of the People's National Congress, Kuo Mo-jo, also stressed Chinese support for the

<sup>1</sup>A Foreign Office spokesman on July 10, 1969, completely ruled out the possibility of Pakistan's participation in the Conference, reportedly to be convened at Kabul to discuss the idea of regional co-operation and transit trade between India, Pakistan, Afghanistan, Iran and the Soviet Union. As he put it, "The way the proposal has been made and the atmosphere in which it has been mooted give it an appearance which may be interpreted as a step towards the creation of a system of collective security with the scope of it to be directed against China; and Pakistan has no intention of getting involved in any arrangement which may cast doubt on Sino-Pakistan relations. In other words, Pakistan would never join any security arrangements in Asia which may involve her in the Sino-Soviet Confrontation." Public opinion in Pakistan welcomed Pakistan's stand. *Dawn*, July 11, 1969, and 13, 1969.

<sup>2</sup>*Pakistan Horizon*, First Quarter, 1964, pp. 85-86.

<sup>3</sup>*Dawn*, March 8, 1965.

Kashmiri people's just struggle for the right of self-determination.<sup>1</sup>

Then, at a time when Pakistan's allies were arming India, China alone of the Big Powers rendered assistance to Pakistan. Pakistan's Foreign Minister, Bhutto, stated in the National Assembly on July 17, 1963: "The international position being what it is, Pakistan would not be alone. That conflict would not involve Pakistan only. An attack by India on Pakistan would no longer confine the stakes to the independence and territorial integrity of Pakistan. An attack by India on Pakistan would also involve the security and territorial integrity of the largest State in Asia. This new factor that has arisen is a very important one. I would not, at this stage, wish to elucidate it any further... Therefore, a defeated Pakistan or a subjugated Pakistan would not only mean annihilation for us, but also pose a serious threat to other countries of Asia, and particularly to the largest State of Asia."<sup>2</sup> In an interview with reporters at Washington in October 1963, Bhutto denied that any definite understanding existed between Pakistan and China, but he observed: "In case of conflict, the area's geopolitics might come into play."<sup>3</sup> In the same strain, President Ayub said: "If we are attacked by India, then that means India is on the move and wants to expand. We assume that other Asian Powers, specially China, would take notice of that."<sup>4</sup> On June 18, 1963, *Dawn* reported that Prime Minister Chou En-lai assured a visiting Pakistani journalists' delegation that China "would defend Pakistan throughout the world".<sup>5</sup> Since the suspension of American arms aid, China seems to have been the main supplier of military equipment to Pakistan, though since 1968, the Soviet Union, too, has joined the ranks of countries ready to supply arms to Pakistan.

East Pakistan, surrounded as it is by India, and separated by more than a thousand miles from West Pakistan, has always posed questions of great concern for the security of Pakistan. At one time, there was some press speculation that Pakistan's Foreign Minister, Zulfikar Ali Bhutto, had discussions with the Chinese Premier, Chou En-lai, on the problem of the defence

<sup>1</sup>*Ibid.*, July 13 and 18, 1969, March 12 and 25, June 3, 1970. This was reaffirmed in the joint communique issued at the end of President Yahya's five-day visit to China in November, 1970. *Ibid.*, November 15, 1970.

<sup>2</sup>*Pakistan National Assembly Debates*, Vol. III, No. 26, p. 1666.

<sup>3</sup>*Dawn*, October 9, 1963.

<sup>4</sup>*Washington Post*, September 12, 1963.

<sup>5</sup>*Dawn*, June 18, 1963.

of East Pakistan, when he visited Peking to sign the border agreement in 1963. It is possible that Chou En-lai might have given the impression that China was geopolitically involved in the area, and that if there was any intrusion from India, it would be well taken care of. Be that as it may, the force of circumstances also suggests that at the height of the Indo-Pakistan Conflict in 1965, the Chinese ultimatum to India and its threat to the Sikkim border (quite close to the northern border of East Pakistan) kept the Indo-Pakistan armed clash of 1965 almost entirely confined to West Pakistan.<sup>1</sup> Bhutto told a press conference at Rawalpindi on October 5, 1965: "The Resolution of September 20 should be called a 'China Resolution' merely because the improvement made on the resolutions of September 4 and 6 appears to be motivated by the element of the ultimatum issued by the Chinese Government to the Government of India... this ultimatum shook the foundations of the United Nations and caused the Great Powers great concern... They saw, in flesh and blood, the possibility of a conflagration much beyond the frontiers of India and Pakistan, the far-reaching and irreparable consequence disturbing the present equilibrium in Asia."<sup>2</sup>

<sup>1</sup>Frank Giles, in his article, "China: Supreme Test for the UN", in *The Sunday Times*, September 19, 1965, wrote: "... the prospect of the bitter India-Pakistan clash over Kashmir has been given a new and still uglier dimension by the active entry of China into the lists... It is the Chinese threat which strikes the coldest chill into the hearts of anxious men and women everywhere. Is this a bluff, a cynical, propagandistic, but in the last resort, unrealizable feint against India when she is already in difficulties; or is it the beginning of a real assault upon the political and territorial integrity of the largest and most important democracy in the Asian world? No one can reasonably doubt that China is again, as in the autumn of 1962, trying (at the very least) to discredit and weaken India's influence, prestige and economy. She is also probably intent on frontier rectification in a disrupted area; and, last but not least, in creating very cheaply a diversion in favour of her new ally Pakistan."

Cyril Dunn wrote from New Delhi on September 18, 1965, in *The Observer* (London) on September 19, 1965: "Two dawns from now, the Chinese may invade India for the second time in three years. The Chinese ultimatum calling on India to dismantle military positions in the border protectorate of Sikkim expires at midnight tomorrow."

Colin Legum, in his *Observer* column, "China's Long Shadow", of September 19, 1965, commented: "... effective action depends primarily on the willingness of the two Super-Powers to allow the Security Council to act collectively. This does not require that Russia and the United States should vote jointly for actions proposed by the Security Council. What it does mean is that they should be willing to concur in any resolution that is to have any chance of being effectively implemented. The hopeful factor is that the interests of Russia and the West are identical..."

<sup>2</sup>Pakistan's Foreign Minister Z.A. Bhutto's address to a press conference on October 5, 1965, *Important Speeches and Press Conferences of Z. A. Bhutto*, op. cit., p. 650.

Again, Bhutto stated in the Pakistan National Assembly in March 1966: "So far as the defence of East Pakistan is concerned, I am not going to reveal any secrets. What I say is not a revelation. It is known to the Great Powers, it is known to the United States of America, it is known to the People's Republic of China, and perhaps it is known to the Soviet Union, why East Pakistan was insulated from the conflict... And this was the subject matter of discussions which took place between the United States' envoy and the Chinese representative at Warsaw; and it was during this period that the United States' Ambassador to Pakistan came with the proposal that East Pakistan should be insulated and quarantined from the war."<sup>1</sup> And President Ayub's strategy was not to twist America's arm under the menace of a Chinese intervention. His direct appeal to Johnson was to tell India and Pakistan that he would not stand for their quarrel, and this shows that he held back the Chinese trump card.

China aligned herself quite unambiguously with Pakistan during the September conflict. On September 5, the Chinese Foreign Minister, Chen Yi, at a Karachi press conference, expressed "complete sympathy and support" for Kashmir's just struggle. Though he refuted the Indian allegation that China trained Kashmir's guerrillas, he observed: "...it was none the less an honour which China has yet neither the ability nor the qualifications to accept."<sup>2</sup> The Chinese Government's statement of

<sup>2</sup>Speech in the National Assembly of Pakistan on March 16, 1966, *ibid.*, p. 589.

Under the heading, "Kashmir Puts UN in Peril Again", *The Times* (London) commented on September 20, 1965: "The war between India and Pakistan, with its ominous overtones on the Indo-China border, clearly is a real and present threat to world order. It is a grim challenge to the Organization's peace-making powers, a challenge which may involve the very existence of the United Nations.

"If the present conflict between India and China were to develop into hostility on the scale of 1962, it is doubtful whether either the Security Council or the General Assembly would be able to intervene effectively. Because mainland China is not a member of the World Body, any deterrent action may have to come from the two Super-Powers, the United States and the Soviet Union. At this stage, none but their leaders can foresee how far these two countries would be prepared to go, either separately or in concert, to check Chinese expansion.

"But precisely because such expansionism is as much a menace to Russia as to the United States, if not more so, there would seem to be scope for the working of a policy of 'parallel commonality' (as the phrase goes in Washington) between the two. Already they are exercising almost super human self-discipline in the face of the awful implications of nuclear authority. Neither can afford to let the heartland of Asia dissolve into chaos."

<sup>2</sup>*Dawn*, September 6, 1965.



September 7, 1965, voiced whole-hearted support for Pakistan. It labelled India's attack on Lahore "an act of naked aggression" and "a crude violation of all principles guiding international relations". It went on: "The United Nations did not utter a single word when India violated the cease-fire line. But as soon as Pakistan fought back in self-defence, the United Nations came out to mediate... It is inconceivable that the United Nations, which has been unfair for 18 years, should suddenly become fair."<sup>1</sup> The *Peking Review* wrote on October 15, 1965: "...following a joint US-USSR conspiracy, the UN Security Council on September 20 adopted a resolution which brought pressure to bear on Pakistan to affect a cease-fire with the Indian aggressors."<sup>2</sup> The President of Pakistan publicly acknowledged the Chinese support in his Broadcast to the Nation on the day of the cease-fire (September 22, 1965). At the Tashkent Conference, when the Indian Prime Minister, Lal Bahadur Shastri, argued that the Tashkent Declaration should include a clause whereby Pakistan was asked not to have any relations with 'third countries' that might injure the vital interests of India, the President of Pakistan, Ayub Khan, retorted that Sino-Pakistan relations could not be dictated by others.<sup>3</sup> On March 11, 1970, speaking at a dinner given at Islamabad in honour of visiting Vice-Chairman Kuo Mo-Jo, of the Standing Committee of the National People's Congress of China, and recalling Chinese aid in the 1965 conflict, President Yahya Khan reaffirmed that friendship with China was a very important factor in Pakistan's foreign relations. He also described the Sino-Pakistan friendship as a model which could be emulated by other countries in the region,<sup>4</sup> and stressed that it stood for regional stability.<sup>5</sup>

We thus see that the moment Pakistan realized that her undemarcated border with China might be troublesome, she did not lose time in settling it. This was a carefully reasoned and cautiously executed policy of coming out of a virtually self-

<sup>1</sup>*Ibid.*, September 8, 1965.

<sup>2</sup>*Peking Review*, Vol. VIII, No. 42, October 15, 1965, p. 10.

<sup>3</sup>*Dawn*, January 21 and 28, 1966.

<sup>4</sup>*Ibid.*, March 12, 1970.

The Pakistan Air Forces Chief, Air Marshal A. Rahim Khan, said on June 1, 1970: "The People of Pakistan will always remember with deep gratitude the resolute support given by the People's Republic of China at the time of national peril when India launched an aggression against Pakistan in 1965." *Dawn*, June 2, 1970.

<sup>5</sup>*Ibid.*, November 12, 1970, "...Yahya, Chou Review World Situation".

imposed isolation from her northern neighbours, and of developing relations with countries which might be in a position to counteract or decrease India's hostility and provocations towards Pakistan. Starting with the boundary agreement, Pakistan developed close relations with China at a time when both its Western allies (U.S.A. and Britain) and the Soviet Union were set in their policy of arming India and thus increasing the risk to Pakistan's security. Only China could provide a protective umbrella to the eastern part of Pakistan, if the other part were engaged with India.<sup>1</sup>

However, one cannot completely ignore the view among some Pakistanis that Chinese 'overzealousness' and 'overacting' in the Indo-Pakistan crisis hampered Pakistan's diplomatic mobility by bringing the Western Powers and the Soviet Union into sympathy with India, and that accordingly, the Cease-Fire Resolution of the UN and the Tashkent Declaration were manifestations of the diplomatic edge of India over Pakistan. On the other hand, Pakistan had calculated that China's categorical pronouncement on Kashmir might influence a number of Afro-Asian States; and for obvious reasons, China's policy on the Kashmir issue was in the end also bound to create a positive, if not intended, impact on the Soviet Union's one-sided attitude on Kashmir. This has as a matter of fact been coming into evidence and could easily help to unfreeze Pakistan's case within or without the United Nations.

Even so, Pakistan had not, at least in the early sixties, considered that Sino-Pakistan and Indo-Pakistan co-operation were mutually exclusive. Pakistan has always wanted peace and good relations with India, provided it could get them honourably. It is in the same manner that Pakistan is pursuing a composite policy of keeping its friendship with China, maintaining its alliance with the United States, and of cultivating new relations with the Soviet Union. This policy is as realistic as it is ambitious, but its success will naturally depend on a continuation of current political balances and the tendency towards expanding rather than restrictive international relation-

<sup>1</sup>K. Rangaswami, "Motivations of Pindi-Peking Axis", *The Hindu* (Madras), March 29, 1966: "Geographically, Pakistan and China are neighbours and together they can exert considerable military pressure on India. At some time or other in the future if there is a world conflagration, could not Pakistan hope with China's co-operation to sieze Kashmir by force?"

ships—for these are days when even West Germany has begun to look East for better trade relations with its socialist neighbours, and in August 1970 concluded a no-war pact with the Soviet Union.

## CHAPTER V

# Pakistan and Burma

What Iran is to West Pakistan, Burma is to East Pakistan. Not only do East Pakistan and Burma have a common boundary of more than 100 miles, they also share a common climate, have racial and cultural affinities, and of course occupy the same strategic location, with the Bay of Bengal in the south and China to the north.

Burma was annexed to the British Indian Empire in 1886 and governed as a province of India from 1923 to 1935, when the beginnings of responsible government were introduced, followed by quasi-Dominion Status in 1937. Pakistan inherited about a fifth of the subcontinent's frontier with Burma in the Arakan region, which had remained undemarcated right up to the independence of Burma on January 4, 1948. Both countries are secessionist States, each having been a part of India; and in the 1940's they showed a common fear of being forcibly merged within a 'Greater India' dominated from Delhi. It is largely in view of these geopolitical realities that Pakistan looks upon Burma as a *de facto* ally in the common cause of defence against a potentially aggressive India.<sup>1</sup> One can thus appreciate that both geography and strategy call for warm and constructive relations between the two countries. But border problems, with their accompanying disputes about the allegiance of minority peoples,

<sup>1</sup>An eminent scholar of Pakistan expressed the view that "Ceylon and Burma are looked upon as allies, being potentially in the same position as Pakistan is in relation to the great neighbouring India, which is suspected of nursing a growing imperialism against its neighbours." I.H. Qureshi, *The Pakistani Way of Life* (London, 1956), p. 68.

and the different bases of their foreign policies have stood in the way of a full development of such mutually beneficial relations between them. In addition, it is also not to be forgotten that Burma has in the past decade, for various reasons, tended to be somewhat isolationist, with a minimum of attention to the development of external relations. Even so, both countries must be aware that they have a common interest in the defence of this region against common threats, for any large-scale disturbance of peace in East Pakistan cannot but have adverse repercussions in Burma and *vice versa*.

The boundary between Burma and Pakistan is formed by the Naaf river, which has a fluctuating course. The result of this is that some small islands on the Burmese side of the water at one period were washed across to the other side. The area consists of a winding creek with half-submerged islets and shifting channels, and thus, as Hugh Tinker has said, "presents endless possibilities of petty frontier disputes."<sup>1</sup>

Burma claimed 21 of these islets, covering an area of one square mile in the middle of the river, on the ground that the international boundary placed them inside the Burmese frontier. At the time of Independence, only two of these islets were administered by Burma against 19 by Pakistan. This variable river was indifferently demarcated. Even where the frontier is certain, the forest is so dense that it is extremely difficult to arrive at an altogether satisfactory demarcation. Hence, trespassers were frequent, especially in search of insurgents. Pakistan maintained that she had been administering these islets since 1947, and that they were under the jurisdiction of undivided Bengal since Burma was separated from British India in 1937. But the Burmese had their own maps to support their claim.<sup>2</sup>

The conventional rules of international law regard a boundary river as being the joint property of the States of which it constitutes a boundary. The line of division is usually either the middle of the river, if the river has an ever-changing course, or the centre of the mid-channel. In either case the final choice is left to mutual agreement between the States concerned. The joint control and development of the St. Lawrence by Canada and the

<sup>1</sup>Hugh Tinker, *The Union of Burma* (London, O.U.P., 2nd ed., 1959), p. 357.

<sup>2</sup>*Dawn*, December 21, 1952.

United States is a case in point. Traditionally, before Independence, the Naaf had come to be regarded as the border between Burma and that part of British India which is now East Pakistan. But as both Burma and India were then parts of the same imperial system, it was never felt necessary to settle the border problem in all its details, even though a joint Indo-Burma Border Commission was in existence. So that when Pakistan and Burma succeeded the British Raj as sovereign States, they inherited the traditionally accepted but technically unsettled border problem: the Naaf separates East Pakistan from Burma, yes; but where exactly should the dividing line be? On the West bank? On the East Bank? In the middle of the river? In the middle of the mid-channel? This was the problem that the Burmese and Pakistani Governments had to grapple with and resolve. The existence of numerous small islands dotting the length of the Naaf naturally introduced a complicating dimension to the major problem, which caused some irritation and tension in diplomatic intercourse from time to time.

In the last week of 1952, Pakistan and Burma arrived at an agreement to hold a conference to discuss the border islands.<sup>1</sup> The envoys of Pakistan and Burma had just completed a joint tour of the border. An agreement was reached in February 1953, to arrange for frequent meetings of local officials and joint tours of the disputed areas whenever necessary. Having settled the issue provisionally, the two Governments were reported to have examined the position with a view to solving the dispute amicably. At the end of 1953, an attempt was made to survey the river course and to determine an agreed frontier.<sup>2</sup>

But no substantial progress could be made for more than two years, as the issue was linked with other complicated problems connected with the status of people on either side of the border. However, on the suggestion of Burma, Pakistan agreed to revive the Joint Border Commission to deal with the frontier problems between the two countries.<sup>3</sup> The Rangoon Agreement of 1956 provided for periodic meetings of the officials of the two countries to enquire into and settle border issues.<sup>4</sup>

<sup>1</sup>Tinker, *op. cit.*, p. 357.

<sup>2</sup>*Ibid.*

<sup>3</sup>*The Daily Telegraph* (London), July 26, 1955; *The Times* (London), July 27, 1955.

<sup>4</sup>See "Pakistan and Its Neighbour, Burma"—A Staff Study, *Pakistan Horizon*, First Quarter, 1961, Vol. XIV, No. 4.

But this attempt also failed, and the border problem remained festering persistently for quite sometime.

Then in October 1959, talks between President Ayub and the Burmese Prime Minister, General Ne Win, led to agreement on setting up a high-powered joint commission to settle the border dispute. There were two main issues: (i) demarcation of the boundary and (ii) the rehabilitation of refugees.

The Joint Commission met in Rangoon from May 5 to 9, 1960, and recommended measures for maintaining harmony on the border, but achieved little else. Subsequently, President Ayub Khan visited Rangoon in December 1960, when he and the Burmese Prime Minister decided that the Naaf boundary should be discussed between the Foreign Ministers of Pakistan and Burma. In pursuance of this decision, the Foreign Ministers of the two countries met in December 1961. They agreed "to consider whether it would be in the mutual interest of their countries to maintain such a fluctuating boundary or whether these interests might not be better served by adopting a fixed boundary with adequate safeguards to ensure the enjoyment of the right of navigation, etc. by both sides."<sup>1</sup>

In January 1964, the two countries finally agreed to convert the fluctuating Naaf boundary into a fixed one. The officials of the two countries took more than a year to delineate the boundary, based on a hydrographic survey of the Naaf river. Consequent upon the survey, it was agreed that the fluctuating boundary in the Naaf river section of the inherited Burma-Pakistan international boundary, formed by the middle line of the navigable channel (the deepest water course), should be converted into a fixed boundary, as ascertained and determined by a Joint Burma-Pakistan Hydrographic Survey Party. Nationals of both countries were guaranteed the right of navigation in the Naaf river. But they were precluded from using the flow of the Naaf river or its waters for industrial purposes. It was also agreed that if new islands emerged and were intersected by the fixed international boundary line, then either party could take up the question with the other for the purpose of demarcating a fresh boundary. It was further decided to fix reference pillars on the land portion on both banks of the river. The signing of the

<sup>1</sup>Joint Pakistan-Burma Press Communique, dated December 20, 1961.

boundary agreement in May 1966, marked the successful culmination of a long series of discussions and studies conducted by experts of the two countries in a spirit of good-neighbourliness.<sup>1</sup>

One issue which became entrenched with the border question was the Arakan Muslim problem, which was linked with a so-called Mujahid Movement. Although the problem of the Arakanese was not very different from that of other minorities in Burma,<sup>2</sup> the common frontier of Arakan with Pakistan added a new complicating dimension to it. After the Karen (or as more recently termed in Burma, Kayah) Christians, the Arakan Muslims were the second largest religious minority in Burma. In the early fifties, they numbered about 1,500,000 and dominated the Arakan district, especially the areas of Mangdaw and Buthidaung. The Mujahid Movement was a separatist movement of the Arakanese Muslims, who probably wished to join Pakistan.

For a long time, Arakan had been a part of the Muslim Kingdom of Bengal, so it had imbibed much of the influence of Bengal in its culture. Arakan was conquered by a Burmese King at the end of the 18th century, and a large number of Arakanese fled to Bengal. When the British conquered Arakan in 1826, many of them returned to their homes after undergoing religious conversion. This increased the number of Muslims in Arakan. In fact, in the British days, there was a constant seasonal migration of people from Chittagong to Akyab, as there was an additional demand for labour to gather the paddy harvest. This meant that, among other things, the population of North Arakan over the years became predominantly Muslim.

The isolation of the Arakan region from the rest of Burma further helped to promote separatist tendencies in the Muslim population.<sup>3</sup> Added to the religious and cultural factors, there

<sup>1</sup>Agreement between the Government of the Islamic Republic of Pakistan and the Government of the Union of Burma on the Demarcation of the Fixed Boundary, May 9, 1966. See Survey Report, Appendix X; Qutbuddin Aziz, "Burma and Pakistan Agreement." *The Christian Science Monitor* (Boston), May 12, 1966; *Dawn*, May 7, 10 and 11, 1966.

<sup>2</sup>Virginia Thompson and Richard Adloff, *Minority Problems in South-East Asia* (Stanford, 1955), pp. 154-58.

<sup>3</sup>See Charles A. Fisher, *South-East Asia: A Social, Economic and Political Geography* (London, Matheun & Co., 1964), pp. 472-75. See also Geoffrey Fairbairn, "Some Minority Problems in Burma", *Pacific Affairs*, Vol. XXX, 1957, pp. 299-317, ref: 304; W.M. Dobell, "Pakistan's Relations with the Major Powers and Some Minor Agreements", *Pacific Affairs*, Vol. XXXVIII, No. 4, Winter 1964, pp. 304-95, ref: 389.



were other points of difference to accentuate separatist feelings. The Japanese occupation of Burma, from 1942 to 1945, and the British war-time promises of semi-autonomy to the Arakanese encouraged a kind of Arakanese nationalism against 'Burmanization'.

In 1946, the Northern Arakan Muslim League was formed in Akyab, which demanded union with Muslims across the border. This demand was based on considerations of a common culture and faith, and the geographical contiguity of Arakan with Bengal. Before the independence of Pakistan and Burma, the Muslim League leaders, particularly those from Bengal, seemed to be mildly sympathetic towards the Arakanese Muslims' demand. But in 1947 Jinnah asked the Muslims of Arakan to "identify themselves with the Burmese, and if they had any grievances, they were to settle them amicably with their Burmese compatriots."<sup>1</sup> In spite of this categorical statement of Jinnah—which the Pakistan Government, for its part, faithfully adhered to—Burmese leaders were not quite convinced of Pakistan's non-involvement in the Mujahid Movement. Until the collapse of the Movement and the arrest of its leader, Cassim (Qasim), in East Pakistan in June 1954, the Mujahids remained a sore point between Burma and Pakistan.

To Pakistan, it seemed that the Mujahid Movement was exploited by the Indian press to create a rift between Burma and Pakistan. *The Statesman* published the following report in December 1948: "Uniformed guerillas carrying the flag of Pakistan have crossed the Naaf river dividing Burma from East Pakistan, to plunder Burmese villages and loot rice", and "Pakistan's naval boats are approaching the Arakan waters and standing off the St. Martin Islands."<sup>2</sup> The Chief Minister of East Pakistan described the report as "unfounded and mischievous". He regarded it as an attempt to embitter relations between Pakistan and Burma.<sup>3</sup> A spokesman of the Pakistan Embassy at Rangoon declared that Pakistan was "not interested in fostering a religious war". He did not preclude the possibility of Pakistani nationals illegally crossing over into Burma, as it was impossible to maintain effective vigilance along the entire Burmese-Pakistan frontier, especially in the Naaf river section; but

<sup>1</sup>*The Statesman* (Delhi), April 27, 1947.

<sup>2</sup>*Ibid.*, December 22, 1948.

<sup>3</sup>*Dawn*, December 23, 1948.

he asserted that the Muslim guerillas fighting in Arakan were definitely not nationals of Pakistan.<sup>1</sup>

The unrest and confusion in Arakan obliged 5,000 non-political fugitives to escape to East Pakistan by February 1949. The Government of East Pakistan obtained help from the Centre for their rehabilitation. In January 1950, after serious communal strife in Burma, another 30,000 Muslims, mostly from Arakan, migrated to Pakistan.<sup>2</sup> This created a law and order problem on top of the problem of rehabilitation. As a result of the Burmese seeking refuge in East Pakistan, a movement of more than 40,000 of East Pakistan's Buddhists soon ensued in the opposite direction. Inevitably, a situation like this was detrimental to good relations between Pakistan and Burma, as it was dangerous to their mutual security.

In such a confused situation, Pakistan feared Communist infiltration from Burma. At that time, not only were the Communists in the ascendancy in China, but they were also a rising force throughout South-East Asia. Mohammed Ali Bogra, then Pakistan's Ambassador to Burma, stated in Karachi on January 28, 1949, that there was a danger of the spread of Communist activity over the Burmar borders into East Pakistan. He added: "If Burma goes red, the next objective of Burmese Communists may be the neighbouring State." Pakistan's Ambassador further pointed out: "Even if the Burmese Government succeed in suppressing the Communists, it is possible they may shift the centre of Communist effort to Pakistan. In either case, the danger is there."<sup>3</sup> The riots that broke out in East Pakistan in February 1952 were thought to have been incited by the Communists. Because of this suspicion, the Government of Pakistan made a reappraisal of the Pakistan-Burma frontier problem. It is also probable that the apprehension of Communist infiltration was intensified by indigenous political instability in East Pakistan. Indeed, increased concern with Communist infiltration might well have decided Pakistan to join SEATO in 1954.

<sup>1</sup>*The Statesman* (Calcutta), January 31, 1949.

<sup>2</sup>Dr. Mahmud Husain, Deputy Minister of Foreign Affairs and Commonwealth Relations, Statement on January 16, 1950, *Pakistan Constituent Assembly, Debates*, Vol. 11, No. 14, p. 539.

<sup>3</sup>*The Statesman* (Delhi), January 29, 1949.

By 1956 the Pakistan-Burma border situation returned to normal. Pakistan's Foreign Minister stated in the National Assembly on March 26, 1956, that a large number of refugees from Arakan had gone back.<sup>1</sup> But in 1959, another serious situation arose. Some 17,600 refugees from Buthidaung and Mangdaw were reported to have reached Uthai, Gajanio and Teknaf, near Cox's Bazaar in Chittagong.<sup>2</sup> Burma, on the other hand, alleged that 200 Pakistani troops and border police had raided a village inside the Burma border on August 2, 1959, and had looted it and burnt down the police station.<sup>3</sup> The Foreign Office of Pakistan denied Burma's allegation, and made a counter-allegation about a shooting incident on the Pakistan-Burma border.<sup>4</sup> It was further reported that in September of the same year, 13,000 Muslims crossed over to East Pakistan. Pakistan's Foreign Minister then disclosed that Pakistan had proposed to the Burmese Government that an official-level meeting of the two countries should be held to resolve the issue. An earlier agreement between the two States, whereby only those persons whose national status as Pakistanis had been confirmed by Pakistani authorities were to be deported from Burma, had broken down.<sup>5</sup>

President Ayub, during his visit to Burma in 1960, also discussed this problem with Burmese leaders, but no satisfactory solution of it emerged. In 1964, the Foreign Minister of Pakistan expressed the hope that the Burmese Government would solve the question of Muslims in Arakan with sympathetic consideration. Though the Arakanese problem seems to have subsided, there were again some reports of ill-treatment of the Muslim minority in 1967. But publicity of these reports was discouraged in the interest of improving Pak-Burmese relations.

In the late 1960s, the Naga and Mizo rebellion in the North-East Frontier Agency (NEFA) of India and the Sino-Burmese rift considerably added to the strategic importance of the Pakistan-Burma border. India alleged that the Naga and Mizo rebels had complete freedom of movement to and from both Burma and Pakistan, where they obtained arms and money to

<sup>1</sup>*National Assembly of Pakistan (Debates)*, March 26, 1956, pp. 93-94.

<sup>2</sup>*Dawn*, July 7, 1959.

<sup>3</sup>*The New York Times*, August 30, 1959.

<sup>4</sup>*The Guardian* (London), August 31, 1959.

<sup>5</sup>*Dawn*, September 1 and 6, 1959.

sustain their rebellion. India further alleged that Pakistan was supplying arms to the anti-Indian rebels. The Sino-Burmese rift compounded the problem of the Nagas and Mizos, and made East Pakistan's frontier extremely sensitive.<sup>1</sup> The global strategy of the Big Powers in the South-East Asia and the Indo-China crisis further adds to the sensitivity of this region. How China, India, Pakistan and Burma would react, either individually or collectively, in the event of a major crisis in the region and what positions the U.S.A. and the USSR would take in the 1970s is a subject for conjecture. But what is beyond doubt and conjecture is the fact that continuing good and stable relations between Pakistan and Burma, as well as between Pakistan and other States in the region, are essential to the strategic stability of the whole of South and South-East Asia. Old alliances that have proved fruitless have to be reviewed, and new positive and realistic relations have to be established to secure such stability.

<sup>1</sup>See Ulrich Schweinfurth (Professor of Geography, South Asia Institute, Heidelberg), *The Problem of Nagaland*; Charles A. Fisher, *op. cit.*, pp. 161-76.

Under the heading, "Burma to Put Curb on Nagas", the Delhi correspondent, C.P. Ramchandaran, of *The Observer* (London), March 23, 1969, reported on March 22: "The Indian Prime Minister, Mrs. Indira Gandhi, will seek further Burmese co-operation in curbing the movements of Naga guerillas through Burma to China, when she visits Burma on Thursday. The Burmese helped in the recent arrest of the Naga underground leader, General Movi Angami, and 200 of his Chinese-trained troops."

## CHAPTER VI

# Pakistan and Iran

Almost without exception, Pakistan has enjoyed very cordial relations with Iran since its inception in 1947. Iran was the first country to recognize Pakistan as an independent State, and the Shahinshah of Iran was the first Head of State to come on a State visit to Pakistan, in March 1950.<sup>1</sup> And when the Quaid-i-Azam appointed Raja Ghazanfar Ali Khan as the first Pakistani envoy to Iran in May 1948, the Quaid told him that he was going to a country which already had the most cordial relations in the world with Pakistan. The close and warm ties between the two countries have been expressed through their mutual association in the Baghdad Pact (now Central Treaty Organization, CENTO) since 1955, and in the organization known as the Regional Co-operation for Development (RCD) since 1964. In the early fifties, Pakistan deferred consideration of the Middle East Defence Organization until Iran had been satisfied that the British Government was not going to be obstructive on the nationalization of British oil companies in Iran. Probably Pakistan would never have joined the Baghdad Pact had Iran not decided to join it too. Iran came out with strong moral and material support for Pakistan during the 1965 fighting with India.<sup>2</sup> In fact, so mutually satisfactory have their relations been

<sup>1</sup>The Shahinshah of Iran, at the State Banquet given in his honour by the Governor-General of Pakistan on March 1, 1950, said: "The Divine Code states that Muslims are brothers. This, with God's grace, is most true in the case of Iran and Pakistan." *Pakistan Horizon*, First Quarter, 1968, Iran Number, pp. 40-44.

<sup>2</sup>At the State Banquet given in honour of the Shahinshah of Iran on March 6, 1967, The President of Pakistan said: "Iran and Pakistan are

that from time to time there have been suggestions of a still closer confederal type of relationship between the two States.<sup>1</sup>

In addition to their common faith and current shared interests, Pakistan and Iran also have deep cultural and ethnological affinities. Persian was the court language and the principal vehicle of literary and intellectual expression for seven centuries of Muslim rule in the Indo-Pakistan subcontinent. Thus Persian, over the years, strongly influenced most of Pakistan's languages, and left a lasting impact on the culture of Muslim India. It is indeed fair to say that next to Islam, the Iranian cultural tradition exercised perhaps the most decisive and penetrating influence in fashioning the Muslim socio-cultural ethos in both East and West Pakistan. It is also significant to note that Pakistan's national anthem, with the exception of one non-Persian word, is entirely in Persian. Moreover, a large proportion of Pakistanis and Iranians are of the same Aryan stock.

However, despite such cordial relations and close affinities, Pakistan and Iran thought it prudent to carry out a formal demarcation of their frontiers; and such is the delicacy of frontier negotiations that even the relations of Iran and Pakistan passed through some troubled waters during a brief period in 1947-49. Thus, although the Pak-Iran border question was generally regarded as merely a question of prestige, lacking in substance, the Iranian Government wished to settle it before joining any defensive pact in the Middle East.<sup>2</sup>

Pakistan inherited about 590 miles of a common frontier with Iran. The boundary which was partially demarcated, runs

linked together by age-old historical ties and traditions. These have been strengthened by a common faith, culture and outlook. The people of Iran and Pakistan share each other's joys and sorrows, and their hearts beat in unison. The people of Pakistan will always remember with grateful appreciation the spontaneous support and assistance extended to us by Your Majesty, your Government and the people of Iran during those fateful days of September 1965." The Shahinshah replied, "...So it is a mixture of sentiments of affinity, and I add political wisdom, that we have chosen to stand by in good or bad days." *Ibid.*, pp. 40-44.

<sup>1</sup>A scheme of confederation was sponsored by the late President Iskandar Mirza and by a former Prime Minister of Pakistan, Feroz Khan Noon, and supported by the Shah of Iran. (*Dawn*, February 27, 1957). Ambassador Hasan Arafa of Iran disclosed in May 1960: "Pakistan and Iran are favourable to such a solution..." (*Dawn*, May 30, 1960.) In 1962 President Ayub also spoke of the value of such a confederation. In 1970, Abdul Qayyum Khan suggested a confederation of Pakistan, Iran and Afghanistan.

<sup>2</sup>*Dawn*, March 10, 1955.

from the Koh-i-Malik Siah, the tri-junction of Afghanistan, Iran and Pakistan, to Gwatar Bay, in the Arabian Sea.<sup>1</sup> Pakistan's border with Iran is also an imperial British legacy. Some parts of Baluchistan had been under Iranian suzerainty before the advent of the British Raj. Britain, after conquering Baluchistan, entered into border agreements with Iran in 1871, 1896 and 1905. But the Baluch-Irani boundary remained largely undemarcated.<sup>2</sup> There were two reasons for this: First, as the

<sup>1</sup>I.W. Lyde, *The Continent of Asia* (London, Macmillan, 1st Ed., 1933), pp. 345-47.

<sup>2</sup>Col. Yate, Chief Commissioner of Baluchistan from 1900 to 1904, stated before the Central Asian Society on December 14, 1904: "This frontier, too, has had almost as many vicissitudes as the Afghan frontier... From Koh-i-Malik Siah, this Persian frontier commences and runs for some 350 miles in a general southerly direction to the sea at Gwatar... This first portion from Koh-i-Malik Siah to Jalk is only a paper frontier and has yet to be...really demarcated..." Col. Holdich remarked: "I can hardly agree to that statement, seeing the records of that boundary from point to point which were completed by the Perso-Baluch Commission." *Proceedings of the Central Asian Society* (London, India Office Library, 1906), pp. 1-39; refs: pp. 14 and 29.

But Col. Holdich himself had sent the delimitation report of the Perso-Baluch frontier to the Secretary to the Government of India, Foreign Department, with the following comment: "The longer portion of the line from the Mashkal date groves to the Koh-i-Malik Siah passes through a country so inhospitable and so destitute of water and supplies that the exact position of the boundary appears to be a matter of no material concern to either Persia or Kalat... The practical frontier for all this portion of the line is a strip of almost impassable desert. The position of the boundary from the neighbourhood of the Bonsar pass, and thence northward by the eastern watershed of the Kalagan basin to a point midway between Jalk and Ladgost has already been detailed in my telegrams, Nos. 39 of 28th February and 40 of 3rd March." 31/PS/7/88-India Office Library, No. 168 of 1896, dated September 8, 1896, Government of India, Foreign Department, Secret/External Department of the Boundary between Persian Baluchistan and Kalat, Enclosure No. 35, from Col. T.H. Holdich, Commissioner for the Delimitation of the Perso-Baluch Frontier.

Yate's statement is supported by *The Imperial Gazetteer of India*, Vol. VII (Oxford, Clarendon Press, 1908), p. 265: "The western boundary from Gwatar Bay to Kahuk was settled by Colonel Goldsmid in 1871. A line from Kahuk to Koh-i-Malik Siah was defined by the Anglo-Persian Boundary Commission in 1896, and the southern portion of it was demarcated by pillars to the bank of the Talab river. There has been no demarcation north of that point, but the line thence to Koh-i-Malik Siah is governed by the agreement of 1896 and a supplementary agreement concluded in May 1905. The Baluch-Afghan Commission delimited the northern frontier between 1894 and 1896."

The Iran-Pakistan boundary is known as the 'Goldsmid Line' after the name of the Chairman of the Perso-Baluch Commission of 1871, Major-General Frederick J. Goldsmid. See Aitchison, *A Collection of Treaties, Engagements and Sanads*, Vol. XI (Calcutta, 1930), p. 371.

For a detailed map of the Goldsmid Line, see Map of Western Baluchistan drawn under the order of H.M. Secretary of State for India, as determined by the Frontier Commission under Major-General Sir Frederick J. Goldsmid, O.B., K.C.S.I. (India Office Library, Map Section).

border was less troublesome than the Baluchistan-Afghanistan frontier, the British Government showed little interest in a proper demarcation of the boundary. Secondly, with the extension of British influence over Sistan and Persian Baluchistan in 1907, the Perso-Baluch border alignment lost much of its political significance. During the Second World War, Sistan and Persian Baluchistan virtually came under British administrative control. Though the transfer of power in 1947 was not accompanied by a Pakistani domination of Sistan and Persian Baluchistan, there was none the less some Iranian territory—including the town of Zahidan, the terminus of the railway from Quetta—which did come under Pakistani control.

As a result of confusions about boundaries existing in 1947-49, some minor border clashes occurred, which were never serious enough to be reported by the Press. Neither Pakistan nor Iran ever made any public statements on border issues. More serious was the fact that some of the later clashes took place in the mid-fifties at about the time that Pakistan was trying to persuade Iran to join the Turco-Pakistan Pact, and these clashes could have jeopardized the smooth development of the tripartite co-operative relations, which are now so solidly represented by RCD.

One border incident particularly stands out. This clash occurred when a Passport Inspector of Pakistan, with his contingent of Chagai Militia, had occupied a mud-built post, known as Killa Safaid (White Fort), on the 13,000 feet high Koh-i-Tufan (Volcanic Peak), which was the last Pakistani post on the Quetta Tehran Road. The Iranian customs and other officials had their headquarters at Mirjawa town, two miles away from the border. When the Iranian official contested the Pakistani possession of Killa Safaid, the Government of Pakistan immediately decided to withdraw its officials to Nokundi, approximately 87 miles behind the border. After a few months the Chagai Militia was also withdrawn to Jozak, 11 miles inside Pakistani territory. Iranian Scouts advanced and occupied Killa Safaid, and talks between the border officials of the two countries left the situation unclear.

In 1955, on Pakistan's suggestion, the two countries agreed to submit their boundary problem to arbitration if direct negotiations between them failed to produce agreement. Accordingly,



an Iranian mission came to Karachi in the second week of March 1955, to review the Iran-Pakistan border. The following July the two Governments agreed to appoint a joint commission. The Commission was charged with the task of adjudging the Killa Safaid dispute and rectifying the 'Goldsmid Line'.

To expedite the demarcation, large-scale maps of the entire border area, clearly indicating frontier pillars, were approved by the Governments of Pakistan and Iran.<sup>1</sup> Both Governments were equally anxious to remove this block in their otherwise excellent relations. The Iranian envoy observed on December 26, "We will never make boundary matters an issue between the two countries, as we are very friendly."<sup>2</sup> Pakistan's Ambassador to Iran, Major-General N.A.M. Raza, was equally optimistic, and visualized 'no difficulties and no hitches' in the demarcation of the frontier. He added that the frontier was already defined, and hoped that the demarcation would be completed soon.<sup>3</sup> On October 30, 1956, it was reported that complete agreement on the demarcation of their boundaries had been reached between the two countries. By October 1957, the Pakistan Cabinet had completed consideration of the draft agreement, and it was formally approved and signed on February 6, 1958.

The implementation of the unpublicized agreement, however, was delayed until the advent of the military regime in October 1958, which then gave it top priority. The task of demarcating the line by erecting boundary pillars was completed on February 10, 1959, a year after the signing of the accord.<sup>4</sup> Following the successful implementation of this first stage of the Border Agreement, both countries proceeded to conclude several other agreements concerning a wide field of co-operation. On November 17, 1959, an agreement was signed at Tehran to provide facilities to the nationals of Pakistan and Iran in the spheres of residence, occupation, ownership and transfer of property and commercial assets in either country. An agreement relating to the administration of the border areas, which covered arrangements for periodic inspection of the border and the right of fishing in the border areas, was also made. The Government of Pakistan decided to transfer the Mirjawa-Zahidan sector of the

<sup>1</sup>*Dawn*, November 30, 1955.

<sup>2</sup>*Ibid.*, December 27, 1955.

<sup>3</sup>*Ibid.*, January 8, 1956.

<sup>4</sup>See Appendix—Pakistan Survey Department Note.

Pakistan Western Railways to the Iranian Railways. An agreement for close co-operation in air services between Pakistan and Iran, concluded on May 18, 1957, was ratified on May 1, 1960.

The final protocol on the Pakistan-Iran Boundary Accord was exchanged on August 31, 1960. On this occasion, Pakistan's Ambassador observed: "The successful conclusion of this highly intricate work demonstrates once again what can be achieved by peaceful negotiations between two neighbourly nations whose relations are inspired by mutual respect, mutual goodwill and mutual trust. He added: "Pillars of stone and mortar may conceivably fall into disrepair and crumble one day, but I feel sure that the sentiments which inspire the settlement itself will remain untouched by the hands of time, for here is a boundary between two peoples who do not need a boundary: a boundary of love that joins rather than separates."<sup>1</sup> An Iranian writer claimed that the 945-Kilometre-long Iran-Pakistan border was demarcated in a record time of eight months, whereas the 2,000-Kilometre-long Iran-Soviet boundary took seven years to complete.<sup>2</sup> However, the implementation of the final phase of the agreement was further delayed as the Government of Iran decided first to purchase all landed property held by Pakistani nationals in the ceded territory, for under Iranian law, no foreigner can be allowed to hold property in the frontier belt.<sup>3</sup> Then on July 16, 1963, by an exchange of documents, the two countries completed the transfer of territory and all related formalities.

President Ayub Khan described the Pakistan-Iran border accord as a landmark in the history of Pakistan-Iran unity. But some people in Pakistan resented the agreement, as they believed that it involved the cession of a considerable expanse of Pakistani territory to Iran. The Opposition Party moved a motion in Parliament to restrain the Government from transferring Pakistani territory to a foreign country; but it was ruled out of order by the Speaker. The Foreign Minister of Pakistan, explaining the position, stated in the National Assembly: "It is not a fact that Pakistan has given away 3,000 square miles to Iran. We agreed to give to Iran 310 square miles of its territory, which had been forcibly occupied by the British, when they were rulers of the subconti-

<sup>1</sup> *Dawn*, September 1, 1960.

<sup>2</sup> *Ibid.*, January 8, 1960.

<sup>3</sup> *Ibid.*, January 6, 1960.

ment, and against which occupation the Government of Iran had always protested. In 1871, 1896 and 1905, Britain had forced Iran to conclude boundary agreements with it. But the Iranian Government had consistently refused to demarcate the boundary on the basis of these agreements. With the advent of Pakistan, and in view of its friendly and fraternal relations with Iran, a solution of this problem, which had been left over by history, became possible. While the Government of Pakistan will transfer some 310, and not 3,000, square miles of territory which had been in *de facto* occupation of the British Government of India, the Government of Iran has ceded 95 square miles of territory, hitherto under its occupation, to the Government of Pakistan. If the demarcation of the border had taken place in accordance with the 1905 agreement concluded between the British and the Iranians, 300 square miles of territory would have had to be relinquished to Iran..."<sup>1</sup>

Pakistan's attitude to the border settlement provides a sharp contrast with that of India in the case of the Berubari Union. While Pakistan honoured her commitment with Iran, in spite of considerable public resentment, India, mostly because of her public opposition, has not fulfilled her commitment with Pakistan, even after a decade and a half. In addition to arousing nationalistic opposition in Pakistan, the Iran-Pakistan border agreement had also been challenged in a court of law on lines similar to the Berubari case in India.<sup>2</sup> This was both a reminder of the hard reality that the settlement of a border dispute can rarely be accomplished without some friction, which

<sup>1</sup>Foreign Minister Bhutto's Speech in the National Assembly on July 24, 1963. Cf. *Important Speeches and Press Conferences, op. cit.*, p. 443—Boundary Agreement with Iran.

<sup>2</sup>In July 1963, a writ petition was moved in the High Court of West Pakistan (Lahore Branch) by Mir Abdul Baqi Baluch, a member of the West Pakistan Assembly, challenging the Government of Pakistan's action of transferring 3,000 square miles of territory, inhabited by 10,000 Pakistanis, to Iran. The Petitioner claimed it *ultra vires* of the Constitution of Pakistan (1962) read with the Independence Act of 1947. It was pointed out that the area had been a part of British India since 1884, and the Constitution did not contemplate that any portion of the territory of Pakistan might be transferred, except by a majority of two-thirds of the elected representatives of the people. *The Times* (London), July 15, 1963; *Dawn*, July 16, 1963. (It is interesting to note that the case was presented before Chief Justice Manzur Qadir, who had been Foreign Minister of Pakistan from October 1958 to 1962 and had played a major role in the formulation of the 1962 Constitution.) Though, technically, the case is still pending before the Court, as indicated to the author by Pakistan's Attorney-General, Syed Sharifuddin Pirzada, it has not been pursued by the Petitioner.

is inherent in the dispute, and the willingness and ability of the Governments concerned to face more or less widespread unpopular reactions within their countries.

Iran's friendship has been of particular assistance in normalizing Pakistan's relations with Afghanistan and Malaysia. When diplomatic relations between Pakistan and Afghanistan were severed in 1961, the Shahinshah of Iran undertook a special trip to Kabul; and when this did not bear immediate fruit, he continued to pursue his good offices in the matter, and helped to restore Pak-Afghan diplomatic ties after an estrangement of about two years. The Shahinshah also successfully mediated in removing the misunderstanding between Pakistan and Malaysia, which had arisen in the wake of the Indo-Pakistan armed conflict of September 1965, when the Malaysian representative, Radhakrishna Ramani, had injudiciously given full support to India's position in the Security Council of the United Nations, and thus made Malaysia the only country in the world to champion India in this issue. These efforts of the Iranian monarch were much appreciated in both Pakistan and Malaysia. The choice of Nasrullah Entezam of Iran as Pakistan's nominee on the Rann of Kutch Tribunal is another example of Pakistan's reliance on Iran in her international disputes.

In July 1964, the Heads of State of Pakistan, Iran and Turkey met at Istanbul and agreed to work out a scheme of Regional Co-operation and Development (RCD) devoted to peace, economic development and cultural advancement.<sup>1</sup> Since then, the three countries have collaborated in planning and implementing projects in communications, trade, commerce, mutual technical assistance, and industry, including over 60 joint-purpose industrial enterprises. The RCD Secretariat, manned by the three countries, presently with a Pakistani Secretary-General, is working at Tehran. The Twelfth Session of the RCD Council of Ministers was held at Bursa, Turkey, on July 2-4, 1970.<sup>2</sup> During the past six years of its existence, the RCD has made significant

<sup>1</sup>Inaugurating the RCD Ministerial Council meeting in Islamabad, on June 25, 1969, President Yahya said: "The world in which we live today continues to be fraught with international tensions, and I do not see any reduction in the threats to the preservation of peace and security. We in the RCD countries are only too aware of the necessity for peace, for peace is indispensable to progress," *Dawn*, June 26, 1969.

<sup>2</sup>RCD Ministerial Council Communique, *Dawn*, July 8, 1970.

contributions to the economic and industrial growth of the three countries; and in cultural fields, it has further strengthened the existing links between some 190 million people of the three neighbouring Muslim countries. While speaking at a reception given jointly by the RCD Chamber of Commerce and Industry, the RCD Cultural Association of Pakistan and the RCD Committee of APWA, to celebrate the Sixth Anniversary of the alliance on July 22, 1970, the President of the RCD Chamber of Commerce and Industry described the RCD alliance as a people's movement and "an extension of the Pakistan movement beyond our frontiers".<sup>1</sup>

In November 1964, an agreement was made between Pakistan and Iran to provide more facilities to their nationals for movement across the demarcated frontier. The border people were given grazing facilities for their cattle and provided with drinking water for their animals. Again, in June 1966 at Tehran, the Joint Pakistan-Iran Boundary Commission discussed matters pertaining to the property and the status of citizens affected by the adjustment of the boundary between Pakistan and Iran.

Iran has always supported Pakistan in her dispute with India over Kashmir. During the Indo-Pakistan conflict in 1965, when senior CENTO and SEATO allies, especially the United States and Britain, showed coolness towards Pakistan, Iran was prompt to assert that Pakistan had been the victim of aggression.<sup>2</sup> In an interview with the *Washington Post*, the Shahinshah of Iran bitterly criticized American and British policy: "You forced Pakistan to buy arms from the Chinese. Since you and the British dropped Pakistan in the war with India, even though it was a member of CENTO and even though India violated its national integrity, I figure it can happen to me."<sup>3</sup> The Prime Minister of Iran, Abbas Hoveida, flew to Ankara for consultations with the Turkish Government. On September 10, 1965, the Iran-Turkish Joint Communique assured support to Pakis-

<sup>1</sup>*Dawn*, July 23, 1970: "RCD Will Continue To Be Common Platform".

<sup>2</sup>The Institute of Strategic Studies (London) in its annual publication issued in 1969 commented: "For Turkey, Iran and Pakistan, the CENTO arrangements have become far less important than the Regional Co-operation for Development set up by these Countries in 1964." Cf. *Dawn*, September 14, 1969.

<sup>3</sup>Report in *Dawn*, July 10, 1966. Cf. Mushtaq Ahmad, *Pakistan's Foreign Policy* (Karachi, Space Publishers, 1968), p. 142.

tan, and showed these countries' willingness to send troops for a U.N. peace force in Kashmir.

Istanbul, Tehran and Islamabad remained in close touch for co-ordinated action in the diplomatic field—and if necessary, on the battlefield. Iran sent Pakistan nurses, medical supplies and a gift of 5,000 tons of petroleum. Though Pakistan did not need this assistance urgently, the gesture greatly impressed people in Pakistan. Iran also indicated that it was considering an embargo on oil supplies to India for the duration of the fighting. After the suspension of United States military aid to Pakistan, Iran was reported to have purchased 90 Sabre Jet Fighters from West Germany and to have sent them to Pakistan during 1966-67.<sup>1</sup> Earlier, Iran and Turkey were reported to have offered to supply Pakistan with jet fuel, petrol, guns and ammunition, when Pakistan was crippled by the Western arms embargo right in the midst of the September fighting.<sup>2</sup> In April/May 1967, Iran refuted the Indian External Affairs Minister, M. C. Chagla's statement that in the event of another conflict, Iran would not assist Pakistan. Consequently, India's Minister had to apologize in New Delhi for the misleading statement he had made on Iran's position.<sup>3</sup> Addressing pressmen at Tehran's Hilton Hotel in December, 1965, Pakistan's Foreign Minister, Z. A. Bhutto, referred in gratitude to Iran's support during the conflict and said: "It is a debt we owe to the Iranian nation, and as a fraternal country, we shall remember for ever the generous and warm appreciation of a righteous cause that Iran manifested in concrete, unmistakable and tangible terms."<sup>4</sup>

It is thus quite clear that Iran is by far the most consistently cordial of Pakistan's contiguous neighbours,<sup>5</sup> and together with

<sup>1</sup>*The Hindu* (Madras), November 15, 1966; *Dawn*, September 3, 1966.

<sup>2</sup>*Ibid.*, May 3, 7, 31, 1967.

<sup>3</sup>*Dawn*, May 3, 7 and 31, 1967.

*The Hindu* (Madras), May 7, 1967: "A Spokesman of the External Affairs Ministry said today that following Foreign Minister Chagla's statement last month on the Iranian attitude to Pakistan, Iran and India had had further diplomatic exchanges which had led to clarification of the question."

<sup>4</sup>Bhutto, *op. cit.*, p. 673, *Egyptian Gazette*, January 1, 1966.

<sup>5</sup>Thus in a recent speech at Tehran, President Yahya said: "In fact the love and affection which the people of Pakistan have for the great ancient Iranian people has become an element in our national and historical consciousness. Our two countries have maintained close and friendly ties since the early beginnings of history and the evolution of society, culture and civilization, and the rise of the national State.

"These fraternal links are prominently visible all over Pakistan and occur in our literature and historical works...Today, over 200 million Mus-

Turkey, the three countries form a family of nations—whose joint endeavours are manifested through the RCD—which presents great potentialities for the future of each of its members.<sup>1</sup> Moreover, all three countries feel that they form part of the wider Islamic Millat, which makes them all the more determined that they should pursue common policies in order to achieve common objectives.<sup>2</sup>

lims in the subcontinent are a living testimony to the great work of the Iranian pioneers spread over centuries...The young Pakistani nation today as the heir and guardian of a noble heritage, feels proud of the affinities of history, religion and geography with the great Iranian nation." Extract from the speech of General Agha Mohammad Yahya Khan at the Iran-Pakistan Cultural Association, Tehran, on October 31, 1969. Cf. *Dawn*, November 1, 1969.

On January 16, 1971, ships of the Iranian Navy and the Pakistani Navy concluded the third phase of the Iran-Pakistan Joint Maritime Exercises in the Arabian Sea, in which the Air Forces of the two countries also participated.

<sup>1</sup>The 13th Session of the Ministerial Council of RCD held at Dacca in January 1971, among other measures for developing further collaboration, also recommended steps towards the relaxation of tariff barriers and the development of preferential trade arrangements between Iran, Pakistan and Turkey. Cf. *Dawn*, January 27 and 29, 1971.

<sup>2</sup>Which, of course, does not exclude other advantageous bilateral or multilateral relations entered into by these countries separately.

## Conclusion

Conscious of the fact that historically inherited as well as new frontier disputes could be particularly enervating for a new State, Pakistan has, right from the start, sought international recognition and legitimacy for her national boundaries, and has made every effort to ensure that these become clearly delimited and demarcated frontiers.

Relations with Iran and Burma have not been impaired by frontier disputes; on the contrary, the fact that agreements concerning their mutual borders have been amicably arrived at has provided evidence of the general friendliness of Pakistan's relations with Iran in particular, and to a lesser but significant extent with Burma. However, with Afghanistan, and, even more markedly, with India, frontier questions have been matters of serious dispute. With Afghanistan this happened primarily because of the so-called Pakhtoonistan issue. In the case of India there are several basic reasons: (i) the scale of the issue of Kashmir, the critical consequences of Farakka and the recurring eruption of boundary disputes; (ii) the frontier issues and disputes are the legacy of a partition that was contested at various levels with considerable bitterness—and whose implementation was accompanied by no little bloodshed; (iii) they are influenced by the general context of the psycho-social factors of the Hindu-Muslim relationship, characterized by a clear sibling rivalry and Hindu resentments towards past Muslim rule in the subcontinent. Thus Pakistan became engaged in Kashmir and had other boundary problems with India right from independence.



In comparison, while Pakistan was naturally concerned about all its other boundaries as well, these did not present major difficulties. However, the fact that Pakistan gave quick and due consideration to the rather unpublicized border problem with Iran shows that it recognized the dangerous possibilities of frontier problems, even with a most cordial neighbour. With Burma also, Pakistan showed its willingness to seek a clear border settlement in the early fifties, but as the border dispute remained entwined with a Muslim minority problem in Burma, it could only be settled when the Arakanese Muslim issue had subsided. Undoubtedly, Pakistan's policy-makers would have liked a border settlement with China before 1958, but this was obviously not possible. Serious and practical moves towards concluding a boundary settlement with China were only initiated after the advent of the Ayub regime, which became possible largely because of the rapid deterioration of Sino-Indian relations, beginning at about the same time.

Border settlements with neighbouring States were sought not merely to set the outer limits of Pakistan's territory in relation to them. They were also pursued because, through their significance in international law, they would serve as recognized and tangible symbols of Pakistan's existence as a sovereign State. Pakistan's anxiety to resolve all outstanding disputes with India was thus also, in part, a reflection of her Government's continuing concern about the territorial personality of the country—of the feeling that once these territorial disputes were settled, the Nation-State of Pakistan would emerge in its full territorial integrity, which would then no longer be questioned or questionable, even by India, with its rival territorial claims. As some of the Indo-Pakistan disputes, nevertheless, remain unsettled, Pakistan continues to fear that India might yet again attempt to march across Pakistan's frontiers, as it did in 1965, towards a unilateral imposition of its own territorial aims—and indeed, the undermining of the very sovereignty of Pakistan.

Relations with Afghanistan have also been influenced by boundary disputes involving major territorial claims—in this case, on the basis of ethnic considerations advanced by Afghanistan. Pakistan's clear attitude on the questions of 'Pakhtoonistan' and the Durand Line have consistently been combined with practical efforts to develop good neighbourly relations with

Afghanistan and to promote co-operation with that country. Because Afghanistan is both weaker and largely dependent on Pakistan for her trade, Pakistan was not at first particularly perturbed when, in 1947, Afghanistan opposed Pakistan's membership of the U.N., even though a certain feeling of hurt and disappointment at Afghan opposition, to what was proudly proclaimed to be the largest Muslim State in the World, was noticeably present. But Soviet influence in Afghanistan, especially the supply of arms to this country, has, from time to time, made Pakistan nervous about the potential danger to its security from across the North-West Frontier.

Then as its relations with the Soviet Union improved after 1965, Pakistan began to relax its concern with the North-West Frontier. And in recent years, Pakistan's positive diplomacy towards Afghanistan has borne promising fruit which in time should lead to a complete understanding between these two Muslim neighbours—trade between the two countries has trebled since 1962, an air pact has been signed, a bus service between Peshawar and Kabul is now in operation, plans for the construction of new rail links are being finalized, and discussions on joint industrial enterprises are under way.

The border settlement with China offers a good example of mutually satisfactory negotiations to define and demarcate borders between neighbours, and of the salutary effect this has on the continuing development of co-operative relations between Pakistan and China.

Pakistan's frontier policy, must, therefore, be judged in terms of the twin-objective of (i) minimizing the sources of danger to her security and integrity from across its borders, while asserting her freedom and sovereign status, and (ii) developing smooth and co-operative relations with its neighbours, which in turn implies goodwill, sagacity and flexibility in its approach to negotiations on frontier disputes.

Pakistan's frontier relations with India, Afghanistan and China have always had cultural and economic as well as political ramifications. With India especially, border problems have been linked with religious and minority problems, with the use of river waters, and with smuggling (particularly over the East Pakistan border).

Apart from the Kashmir problem, the major issues between

India and Pakistan since 1947 have included: (a) border disputes arising from inadequately defined or demarcated borders between the two countries, (b) the division of waters from rivers flowing into Pakistan from Indian-controlled territory, (c) economic and financial problems arising from the nature of the 1947 Partition, and (d) the problem of the settlement of refugees who continue to move from one country to the other. Obviously, only the first of these comprises boundary disputes properly so called; but the others have had consequences or implications for boundary policies. Several disputed sections of the Indo-Pakistan border have been demarcated since 1961—*e.g.*, the entire length of the boundary of the Punjab sector and the Sind-Rajasthan sector; the Sind-Kutch border; and considerable portions of the East Pakistan-West Bengal border, although agreed territorial adjustments have not yet been fully implemented by India. The Farakka dispute is under negotiation and India's acceptance of the principle that Pakistan has some right to water supplies here may still lead to a reasonable settlement. The fact that the Kashmir issue remains quite intractable thus serves to emphasize the fact that it is much more than a frontier dispute.

Pakistan, as it emerged in 1947, represented a substantial abridgement of the original demands for Pakistan; and was therefore described as truncated and mutilated. And yet, while Pakistan could not have come into existence without some kind of division and sub-division of the subcontinent, there also appeared to be some point to the Congress reasoning that Pakistan in its final size and shape could not survive for long, which probably made it easier for the Congress—in particular, its more bitter opponents of Pakistan—to accept the division of the subcontinent. Events immediately following Partition did not make the difficult tasks facing the new State of Pakistan any easier; and in the last 23 years of Pakistan's existence, there have been many statements by responsible Indian leaders which have fostered Pakistan's apprehensions that the ultimate aim of Indian policy towards Pakistan was to annul the Partition and reabsorb Pakistan as part of a greater India. The authorities in India have from time to time, also suggested a confederation of India and Pakistan, which in Pakistan is regarded as a clever device to undo the Partition.

The process of 'truncating' Pakistan, started through the

principle of the division of the provinces of Bengal and Punjab, was taken still further by the way in which the Radcliffe Award implemented this principle. Whether judged on communal, economic or strategic grounds, the Award strongly favoured India at the expense of Pakistan. The Radcliffe boundary in the Punjab, as Spate rightly suggests, has many weaknesses and few merits.<sup>1</sup> Its chief weakness is that in reaching it Radcliffe some times applied the criterion of population, sometimes the principle of geographical contiguity—and at still others, he attempted to dispose of a particularly sensitive issue by reference to 'other factors'. Under the prevailing conditions of communal conflict in 1947, no boundary could possibly avoid the division of the irrigation system in the Punjab. But by following more consistent and rational criteria, Radcliffe could at least have made the apportionment of canals and their headworks more equitable. In East Pakistan, the Radcliffe Award was even more illogical. In West Pakistan, it at least favoured one religious community, the Sikhs; in East Pakistan, there were several cases where it favoured neither of the major communities. Various ambiguities surrounding these vital exercises in boundary 'systematics' provided the foundations for future border disputes between Pakistan and India. These disputes, apart from creating serious concern on their own account, also turned into emotion-ridden symbols of deeper problems involved in the whole structure of relations between the two countries.

On the other hand, the actual *boundary line* of the Radcliffe Award, as distinct from the over-all character of the Award, has, with very few exceptions, not been a source of serious discord between India and Pakistan. These exceptions include a small, albeit important, section of the Radcliffe line in Northern and North-Eastern Bengal, which unnecessarily created a number of obtrusive salients, and thus laid the basis of a series of disputes. This situation was further complicated through conflicting interpretations of the Radcliffe Award, which were made possible by the fact that the Award was not preceded by an adequate survey of the area. The line Radcliffe had drawn on a map therefore just could not be demarcated on the ground without divergent views on its character. The line cut across

<sup>1</sup>O.H.K. Spate, "The Partition of India and the Prospects of Pakistan", *Geographical Review*, 1948, pp. 5-29; ref: 10.

then existing units of territory, lines of communications, and even single villages, dividing them irrationally and impractically between the two newly independent countries. The disputes were, however, referred to arbitration by mutual agreement, and most of them were settled. The Bagge Tribunal settled the boundary disputes between the Rajshahi (Pakistan) and the Murshidabad (India) districts. But the 1958 Agreement on the Berubari enclave, near Rangpur in Northern East Pakistan, still awaits implementation.

Thus whereas Pakistan met its unpopular commitment on the border agreement with Iran, India has so far failed to do the same with regard to Berubari. Pakistan's action was made possible by the fact that its Government at the time was strong enough to face public displeasure, and that, in addition, the basic attitude towards Iran, of both people and Government, was imbued with friendship and a sane desire for neighbourly co-operation. In the case of India, whether or not its Government was in fact strong enough to face negative public reactions, it certainly has not given any practical evidence of its avowed goodwill towards Pakistan by any noticeable efforts to educate public opinion on Berubari in all the past 15 years.

The dispute over the construction of the Farakka Barrage is, strictly speaking, not a border dispute; but being close to the Pakistan border, it could easily become one in the future. In objecting to the scope of the Farakka Barrage project, Pakistan has asserted her rights as a lower riparian State, and it maintains that this project would inevitably create enormous problems for the economy of East Pakistan. India's largely uncompromising attitude has revived Pakistan's fears and apprehensions that its big neighbour is determined to damage, and perhaps destroy, its independence and integrity. Pakistan would like to see this problem settled on the pattern of the Indus Waters Treaty of 1960, but at present there seems to be no indication that India might agree to this course of action. On the other hand, India has now at least conceded the principle of Pakistan's claim to the Ganges waters; it is the question of the quantum of water that is left in dispute, and this is the crux of the problem.

The process of the demarcation of West Pakistan's border with India has also not been without its attendant problems, even though these have been far fewer than in East Pakistan.

The dispute over the allocation of a few hundred square miles of land in the vicinity of the Hussainiwala and Sulemanke Headworks was one outstanding instance of a disputed boundary line. This lingered on for years, until it was finally resolved by mutual agreement in the early 1960's. The Rann of Kutch was not a dispute created by Partition; it was the continuation, in a new political setting and with new principal opponents, of the ancient feud between Sind and the State of Kutch over the possession of the Rann. This too, was settled by agreement in 1968.

The Indus Waters Dispute sprang from the very nature, if not the location, of the Radcliffe boundary in the Punjab, and it is probable that if Radcliffe had chosen a more natural line, such as the one suggested by O.H.K. Spate, this dispute could have been avoided.<sup>1</sup>

East Pakistan feels more vulnerable to India than does West Pakistan, even though any large-scale fighting between Indian and Pakistani troops since 1947 has been in the West. In the September 1965 fighting with India, East Pakistan's contact with West Pakistan was cut off for 17 days,<sup>2</sup> and during this time East Pakistan was defended, by little more than one Army Division. Surrounded as it is for the most part by Indian territory, this has enhanced East Pakistan's feeling that its Armed Forces have not been adequately developed. Under these circumstances, the settlement of continuing disputes with India becomes a matter of additional anxiety and acute concern in East Pakistan.

The fact that virtually all the boundary problems of India and Pakistan have strong undercurrents of history and emotion, and involve other than territorial issues, in no way lessens the intrinsic importance of the boundaries themselves as factors in their mutual relationship: The over-all pattern of Pakistan's borders with India is generally flat. There are acres of good agricultural land, as in the Punjab and Bengal, or miles of burning desert, as in Sind and Rajasthan, offering no natural defensive features of any strategic significance. Thus, in the absence of an

<sup>1</sup>O.H.K. Spate, "The Partition of the Punjab and Bengal", *Geographical Journal*, December 1947, pp. 201-22; ref: 209.

<sup>2</sup>On February 4, 1971, India banned Pakistan flights over Indian territory between East and West Pakistan, following the hijacking of an Indian plane by two Kashmiris to Lahore on February 2, 1971. Pakistan consequently had to re-route its inter-wing flights *via* Ceylon. *Dawn*, February 5, 1971.

enduring *modus vivendi* between the two countries, Pakistan deems it vital to have a vigilant frontier policy towards India, not least because she lacks depth in defence. Every place in Pakistan is, in some sense, part of a frontier zone and all areas adjacent to India are subject to occasional skirmishes and armed raids across the border.

Given the prevailing pattern of relations between India and Pakistan, therefore, any prognosis made for the future can only be tentative and far from optimistic. It seems certain that Pakistan and India will, at least in the foreseeable future, continue to carry the tragic and crippling burden of their respective defence budgets and confront each other across their common borders, with attendant problems of mutual suspicion and volatile tensions. And this situation will continue so long as the deeper malaise that afflicts them remains uncured. It is thus that in the whole range of Pakistan's international relations, those with India have outstanding economic implications as well as being the most critical and difficult. Both countries will continue to suffer seriously from inordinate defence expenditure and the lack of economic co-operation between them until their diplomacy rises to the occasion and resolves their frontier disputes. And the longer the two subcontinental neighbours take to achieve such a settlement, the higher the price they shall both be paying in wasted time and opportunity.

In its disputes with India and Afghanistan, Pakistan's first and, in the circumstance, natural recourse was to seek the support of her traditional associate and predecessor, Britain. As both India and Pakistan were members of the Commonwealth, Britain was most reluctant to take sides in their disputes. Even in the Afghanistan-Pakistan dispute, Britain did not go beyond reiterating her earlier declarations that the Durand Line was an internationally agreed boundary and that Pakistan was a Successor-State to British India, in fact and in law. This was useful, but left Afghanistan unconvinced. Thus disappointed, Pakistan took her security problems and requirements elsewhere and joined the American-backed defensive alliances of SEATO and CENTO (formerly the Baghdad Pact) in the mid-fifties. Pakistan's motive in joining these pacts was to safeguard her territorial security *vis-a-vis* India and get support for the Durand Line. The principal results of this alignment of Pakistan emerged in

the form of successive military aid agreements with the United States from 1954 onwards. On the other hand, it was only after this alliance that the Soviet attitude to the Indo-Pakistan dispute on Kashmir and to the Durand Line changed from strict neutrality to public support for Indian claims on Kashmir and Afghan demands for 'Pakhtoonistan'. On balance, Pakistan's original motives for joining the pacts were largely frustrated because, on one side, Soviet hostility exacerbated the country's security problem without any countervailing relaxation of tensions, and on the other, Pakistan's hopes and expectations of getting unequivocal support from its allies were not fulfilled. Disillusioned and taken for granted by its allies, Pakistan also saw itself looked upon with suspicion by almost all non-allies.

The Sino-Indian dispute and the consequent deterioration in Sino-Indian relations (quite clear by 1959 and more pronounced from 1962 onwards) heightened Pakistan's anxiety for border settlements with all her neighbours. Pakistan's efforts were partly rewarded: border agreements were made with China, Burma and Iran. Pakistan's policy-makers, and specially President Ayub, showed considerable concern for the actual and possible repercussions on Pakistan of the geopolitical changes in the region. In the circumstances, three moves were devised to meet the situation at different levels: (a) an attempt was made to conclude a joint defence agreement with India, which would also include or be preceded by mutual agreement concerning Kashmir; (b) new security arrangements were sought with the United States; and (c) steps were taken to eliminate the possibility of border disputes with China. The first move did not succeed; the second appeared, at first, to succeed, but then soon proved hollow under the pressure of events and conflicting views of its purpose; only in the third did Pakistan achieve substantial success by concluding a mutually satisfactory border agreement with China.

When the Western Powers, particularly the United States and Britain, began to supply massive arms aid to India after the Sino-Indian armed clash, Pakistan's immediate cry that this created a serious military imbalance in the subcontinent's power situation went unheeded. However, responding to Anglo-American pressure, India agreed to have talks on Kashmir with Pakistan. These began in late December 1962 and lasted until May 1963,



when the effect of the publication of the Sino-Pakistan boundary agreement, in March 1963, spelled the end of any serious prospect of an Indo-Pakistan agreement. But the talks were doomed to fail in any case, as India had not changed her basic attitude on Kashmir. Large Indian forces continuously patrolled the Indo-Pakistan frontiers. There was a feeling in Pakistan that India was simply trying to exploit the Western Powers' fear of China in her favour by propagating assertions about the strategic value of Kashmir for forward defence against that country. Pakistan was asked to compose her differences with India, even to the point of 'freezing' the Kashmir issue. It was a curious reversal of recent history that alliances with the West were now advocated by the erstwhile supporters of neutralism and the *Panch Shila* in India, while in Pakistan there was a pronounced feeling in favour of a non-aligned foreign policy, and within this context, a sound friendship with China.

Between the mid-fifties and the mid-sixties, the international politics of the Indo-Pakistan subcontinent thus appeared to come full circle, along with the change in the Big Powers' relationships and their global strategy. The Soviet Union, which had earlier shown hostility towards Pakistan by her pronouncements on the Kashmir and the 'Pakhtoonistan' issues, now came forward to mediate over Kashmir, abandoning its previous stand in favour of India. In marked contrast, Pakistanis felt bitter about their Western Allies' massive arms aid to neutralist India, in complete disregard of their 'most allied ally in Asia' and its problems with India. Since the Indo-Pakistan Conflict of September 1965, Britain and the United States, perhaps in tacit agreement with the Soviet Union, of which the Tashkent Meeting was a practical demonstration, seem to be trying to avoid the inherent dangers of an unbridled arms race in the subcontinent. Pakistan, on its part, has never sought armed superiority for its own sake, but only as a sufficient defence against the massive threat from India. The stresses and strains in Pakistan's relations with the Anglo-American Powers, particularly with the United States, now seem to be abating. Instead, mutual understanding, based on a better appreciation of Pakistan's 'geopolitical compulsions', appears to be growing. There is greater realization in the United States that Pakistan's good neighbourly relations with both China and Russia need not adversely affect its long-standing ties of friend-

ship with America.

The present Government in Pakistan is continuing endeavours to maintain cordial relationships with all three major centres of power—Moscow, Peking and Washington; and assiduously tries to pursue a policy of constructive bilateralism in international relations. Thus in his address to the Iranian Parliament on October 31, 1969, President Yahya Khan said, Pakistan has “the unique distinction of being surrounded by three of the world’s largest nations, *i.e.* the Soviet Union, China and India. There is no escape from one’s geography and from its impact on one’s policies. Pakistan is no exception. It must find an equation with its big neighbours and with the U.S.A., which has global interests. Through a process of evolution we have settled down to a policy of bilateralism, which, in essence, means the conduct of our relations with other countries on the basis of mutuality of interests, independent of our and their relations with third countries. This policy also postulates staying out of the rivalries of the Great Powers”.<sup>1</sup> Continued success in this kind of international tight-rope walking would be no mean achievement for Pakistan’s diplomacy.

Thus, Pakistan’s foreign policy, in the past years, has very largely revolved around the problem of defining and defending her territorial integrity. Ideologies can change, socio-political systems may change, but a State must maintain a territorial personality. The circumstances of Pakistan’s origin and composition, as well as her unique geographical features, make her a particularly frontier-conscious country.

<sup>1</sup>*Dawn*, November 9, 1961.

# Appendices

I—XIII

## APPENDIX I

### Sir Cyril Radcliffe's Award<sup>1</sup>

*August 12, 1947*

New Delhi, August 17th—The Punjab and Bengal Boundary Commissions were constituted by the announcement of the Governor-General on June 30th. The members of the Punjab Commission were Mr. Justice Din Muhammad, Mr. Justice Muhammad Munir, Mr. Justice Mehr Chand Mahajan and Mr. Justice Teja Singh.

The members of the Bengal Commission were Mr. Justice B. K. Mukherjea, Mr. Justice C. C. Biswas, Mr. Justice Abu Saleh Mohammed Akram and Mr. Justice S. A. Rahman. This Commission was also to demarcate the Muslim majority areas of Sylhet district and the contiguous Muslim majority areas of the adjoining districts of Assam, in the event of the referendum in the district of Sylhet resulting in favour of amalgamation with Eastern Bengal.

The following is the full text of Sir Cyril Radcliffe's reports:

#### *Bengal Award*

The terms of reference of the Bengal Boundary Commission, as set out in the announcement, were as follows:

“The Boundary Commission is instructed to demarcate

<sup>1</sup>Sources: *Gazette of Pakistan Extraordinary*, Karachi, August 17, 1947; *Partition Proceedings*, Vol. VI; *The Statesman* (Delhi), August 18, 1970.

the boundaries of the two parts of Bengal on the basis of ascertaining the contiguous areas of Muslims and non-Muslims. In doing so, it will also take into account other factors."

We were desired to arrive at a decision as soon as possible before August 15th.

After preliminary meetings, the Commission invited the submission of memoranda and representations by interested parties. A very large number of memoranda and representations was received.

### *Diverse Solutions*

The public sittings of the Commission took place at Calcutta and extended from Wednesday July 16th to Thursday July 24th, inclusive, with the exception of Sunday, July 20th. Arguments were presented to the Commission by numerous parties on both sides, but the main cases were presented by counsel on behalf of the Indian National Congress, the Bengal Provincial Hindu Mahasabha and the New Bengal Association, on the one hand, and on behalf of the Muslim League, on the other. In view of the fact that I was acting also as Chairman of the Punjab Boundary Commission, whose proceedings were taking place simultaneously with the proceedings of the Bengal Boundary Commission, I did not attend the public sittings in person, but made arrangements to study daily the record of the proceedings and all material submitted for our consideration.

After the close of the public sittings, the remainder of the time of the Commission was devoted to clarification and discussion of the issues involved. Our discussions took place at Calcutta.

The question of drawing a satisfactory boundary line under our terms of reference between East and West Bengal was one to which the parties concerned propounded the most diverse solutions. The province offers few, if any, satisfactory natural boundaries, and its development has been on lines that do not well accord with a division by contiguous majority areas of Muslim and non-Muslim majorities.

In my view the demarcation of a boundary line between East and West Bengal depended on the answers to be given to certain basic questions which may be stated as follows:

1. To which State was the City of Calcutta to be assigned,

or was it possible to adopt any method of dividing the city between the two States?

2. If the City of Calcutta must be assigned as a whole to one or other of the States, what were its indispensable claims to the control of territory, such as all or part of the Nadia river system or the Kulti rivers, upon which the life of Calcutta as a city and port depended?

3. Could the attractions of the Ganges-Padma-Madhumati river line displace the strong claims of the heavy concentration of Muslim majorities in the districts of Jessore and Nadia without doing too great a violence to the principle of our terms of reference?

4. Could the district of Khulna usefully be held by a State different from that which held the district of Jessore?

5. Was it right to assign to Eastern Bengal the considerable bloc of non-Muslim majorities in the District of Malda and Dinajpur?

6. Which State's claim ought to prevail in respect of the districts of Darjeeling and Jalpaiguri, in which the Muslim population amounted to 2.42 per cent of the whole in the case of Darjeeling, and to 23.08 per cent of the whole in the case of Jalpaiguri, but which constituted an area not in any natural sense contiguous to another non-Muslim area of Bengal.

7. To which State should the Chittagong Hill Tracts be assigned, an area in which the Muslim population was only 3 per cent of the whole, but which it was difficult to assign to a State different from that which controlled the district of Chittagong itself?

#### *No Agreed View*

After much discussion, my colleagues found that they were unable to arrive at an agreed view on any of these major issues. There were of course considerable areas of the province in the south-west and north-east and east which provoked no controversy on either side; but, in the absence of any reconciliation on all main questions affecting the drawing of the boundary itself, my colleagues assented to the view at the close of our discussions that I had no alternative but to proceed to give my own decision.

This I now proceed to do; but I should like at the same time to express my gratitude to my colleagues for their indispens-

able assistance in clarifying and discussing the difficult questions involved.

The demarcation of the boundary line is described in detail in the schedule which forms Annexure A to this Award, and in the map attached thereto, Annexure B.<sup>1</sup> The map is annexed for purposes of illustration, and if there should be any divergence between the boundary as described in Annexure A and as delineated on the map in Annexure B, the description in Annexure A is to prevail.

I have done what I can in drawing the line to eliminate any avoidable cutting of railway communications and of river systems, which are of importance to the life of the province; but it is quite impossible to draw a boundary under our terms of reference without causing some interruption of this sort, and can only express the hope that arrangements can be made and maintained between the two States that will minimize the consequences of this interruption as far as possible.

#### *Annexure A*

1. A line shall be drawn along the boundary between the thana of Phansidewa in the district of Darjeeling and the thana of Tetulia in the district of Jalpaiguri from the point where that boundary meets the province of Bihar and then along the boundary between the thanas of Tetulia and Rajganj; the thanas of Pachagar and Rajganj; and the thanas of Pachagar and Jalpaiguri, and shall then continue along the northern corner of the thana of Debiganj to the boundary of the State of Cooch-Bihar. The district of Darjeeling and so much of the district of Jalpaiguri as lies north of this line shall belong to West Bengal, but the thana of Patgram and any other portion of Jalpaiguri district which lies to the east or south shall belong to East Bengal.

2. A line shall then be drawn from the point where the boundary between the thanas of Haripur and Raiganj in the district of Dinajpur meets the border of the province of Bihar to the point where the boundary between the districts of 24 Parganas and Khulna meets the Bay of Bengal. This line shall follow the course indicated in the following paragraphs. So much of the province of Bengal as lies to the west of it shall belong to West Bengal. Subject to what has been provided in

<sup>1</sup>Not printed.

Para I above with regard to the districts of Darjeeling and Jalpaiguri, the remainder of the province of Bengal shall belong to East Bengal.

3. The line shall run along the boundary between the following thanas: Haripur and Raiganj; Haripur and Hemtabad; Ranisankail and Hemtabad; Pirganj and Hemtabad; Pirganj and Kaliganj; Bochaganj and Kaliganj; Biral and Kalighat; Biral and Kushmundi; Biral and Gangarampur; Dinajpur and Gangarampur; Dinajpur and Kumarganj; Chirir Bandar and Kumarganj; Phulbari and Kumarganj; Phulbari and Balurghat. It shall terminate at the point where the boundary between Phulbari and Balurghat meets the north-south line of the Bengal Assam Railway in the eastern corner of the thana of Balurghat. The line shall turn down the western edge of the railway lands belonging to that railway and follow that edge until it meets the boundary between the thanas of Balurghat and Panchbibi.

4. From that point the line shall run along the boundary between the following thanas: Balurghat and Panchbibi; Balurghat and Joypurhat; Balurghat and Dhamairhat; Tapan and Dhamairhat; Tapan and Patnitala; Tapan and Porsha; Bamangala and Porcha; Habibpur and Porsha; Habibpur and Gomastapur; Habibpur and Bholahat, Malda and Bhalshat; English Bazar and Bholahat; English Bazar and Shibganj; Kaliachak and Shibganj; to the point where the boundary between the two last mentioned thanas meet the boundary between the districts of Malda and Murshidabad on the River Ganges.

5. The line shall then turn south-east down the River Ganges along the boundary between the districts of Malda and Murshidabad; Rajshahi and Murshidabad; Rajshahi and Nadia; to the point in the north-western corner of the district of Nadia where the channel of the River Mathabanga takes off from the River Ganges. The district boundaries, and not the actual course of the River Ganges, shall constitute the boundary between East and West Bengal.

6. From the point on the River Ganges where the channel of the River Mathabanga takes off, the line shall run along that channel to the northern-most point where it meets the boundary between the thanas of Daulatpur and Karimpur. The middle line of the main channel shall constitute the actual boundary.

7. From this point, the boundary between East and West



Bengal shall run along the boundaries between the thanas of Daulatpur and Karimpur; Gangani and Karimpur; Meherpur and Tehatta. Meherpur and Chapra; Damurhuda and Chapra; Damurhuda and Krishnaganj; Chaudanga and Krishnaganj; Jibannagar and Krishnaganj; Jibannagar and Hanskhali; Maheshpur and Hanskhali; Mahespur and Ranaghat; Maheshpur and Bongaon; Jhikargacha and Bongaon; Sarsa and Gaighata; Gaighata and Kalaroa; to the point where the boundary between those thanas meets the boundary between the districts of Khulna and 24-Parganas.

8. The line shall then run southwards along the boundary between the districts of Khulna and 24-Parganas, to the point where the boundary meets the Bay of Bengal.

### *Sylhet Award*

I have the honour to present the report of the Bengal Boundary Commission relating to Sylhet district and the adjoining districts of Assam. By virtue of Section 3 of the Indian Independence Act, 1947, the decisions contained in this report become the decision and award of the Commission.

After the conclusion of the proceedings relating to Bengal, the Commission invited the submission of memoranda and representations by parties interested in the Sylhet question. A number of such memoranda and representations was received.

The Commission held open sittings at Calcutta on August 4-6 for the purpose of hearing arguments. The main arguments were conducted on the one side by counsel on behalf of the Government of East Bengal and the provincial and district Muslim Leagues, and on the other side, by counsel on behalf of the Government of the province of Assam and the Assam Provincial Congress Committee and the Assam Provincial Hindu Mahasabha. I was not present in person at the open sittings as I was at the time engaged in the proceedings of the Punjab Boundary Commission which were taking place simultaneously, but I was supplied with the daily record of the Sylhet proceedings and with all material submitted for the Commission's consideration. At the close of the open sittings the members of the Commission entered into discussions with me as to the issues involved and the decisions to be come to. These discussions took place at New Delhi.

There was an initial difference of opinion as to the scope of the reference entrusted to the Commission. Two of my colleagues took the view that the Commission had been given authority to detach from Assam and to attach to East Bengal any Muslim majority areas of any part of Assam that could be described as contiguous to East Bengal, since they construed the words the "adjoining districts of Assam" as meaning any districts of Assam that adjoined East Bengal. The other two of my colleagues took the view that the Commission's power of detaching areas from Assam and transferring them to East Bengal was limited to the district of Sylhet and contiguous Muslim majority areas (if any) of other districts of Assam that adjoined Sylhet. The difference of opinion was referred to me for my casting vote, and I took the view that the more limited construction of our terms of reference was the correct one and that the "adjoining districts of Assam" did not extend to other districts of Assam than those that adjoined Sylhet. The Commission accordingly proceeded with its work on this basis.

It was argued before the Commission on behalf of the Government of East Bengal that on the true construction of our terms of reference and Section 3 of the Indian Independence Act, the whole of the district of Sylhet at least must be transferred to East Bengal and the Commission had no option but to act upon this assumption. All my colleagues agreed in rejecting this argument, and I concur in their view.

We found some difficulty in making up our minds whether, under our terms of reference, we were to approach the Sylhet question in the same way as the question of partitioning Bengal, since there were some differences in the language employed; but all my colleagues came to the conclusion that we were intended to divide the Sylhet and adjoining districts of Assam between East Bengal and the province of Assam on the basis of contiguous majority areas of Muslims and non-Muslims, but taking into account other factors. I am glad to adopt this view.

The members of the Commission were, however, unable to arrive at an agreed view as to how the boundary lines should be drawn, and after discussion of their differences, they invited me to give my decision. This I now proceed to do.

In my view, the question is limited to the districts of Sylhet and Cachar, since of the other districts of Assam that can be said

to adjoin Sylhet, neither the Garo Hills nor the Khasi and Jaintia Hills nor the Lushai Hills have anything approaching a Muslim majority of population in respect of which a claim could be made.

*Cachar and Hailakandi*

Out of 35 thanas in Sylhet eight have non-Muslim majorities; but of these eight, two—Sulla and Amiriganj (which is in any event divided almost evenly between Muslims and non-Muslims)—are entirely surrounded by preponderatingly Muslim areas, and must therefore go with them to East Bengal. The other six thanas comprising a population of over 530,000 people stretch in a continuous line along part of the southern border of Sylhet district. They are divided between two sub-divisions, of which one, South Sylhet, comprising a population of over 515,000 people, has in fact a non-Muslim majority of some 40,000, while the other, Karimganj, with a population of over 563,000 people, has a Muslim majority that is a little larger.

With regard to the district of Cachar, one thana, Hailakandi, has a Muslim majority and is contiguous to the Muslim thanas of Badarpur and Karimganj in the district of Sylhet. This thana, forms with the thana of Katlichara immediately to its south, the sub-division of Hailakandi, and in the sub-division as a whole, Muslims enjoy a very small majority, being 51 per cent of the population. I think that the dependence of Katlichara on Hailakandi for normal communications makes it important that the area should be under one jurisdiction, and that the Muslims would have at any rate a strong presumptive claim for the transfer of the sub-division of Hailakandi, comprising a population of 166,536 from the province of Assam to the province of East Bengal.

But a study of the map shows, in my judgement, that a division on these lines would present problems of administration that might gravely affect the future welfare and happiness of the whole district. Not only would the six non-Muslim thanas of Sylhet be completely divorced from the rest of Assam if the Muslim claim to Hailakandi were recognized, but they form a strip running east and west, whereas the natural division of the land is north and south and they effect an awkward severance of the railway line through Sylhet, so that, for instance, the junction for the town of Sylhet itself, the capital of the district,

would lie in Assam, not in East Bengal.

In these circumstances, I think that some exchange of territories must be effected if a workable division is to result. Some of the non-Muslim thanas must go to East Bengal and some Muslim territory and Hailakandi must be retained by Assam. Accordingly I decide and award as follows:

A line shall be drawn from the point where the boundary between the thanas of Patharkandi and Kulaura meets the frontier of Tripura State and shall run north along the boundary between the thanas of Patharkandi and Barlekha, then along the boundary between the thanas of Karimganj and Barlekha, and then along the boundary between the thanas of Karimganj and Beani Bazar to the point where that boundary meets the River Kusiya. The line shall then turn to the east taking the River Kusiya as the boundary and run to the point where that river meets the boundary between the districts of Sylhet and Cachar. The centre line of the main stream or channel shall constitute the boundary. So much of the district of Sylhet as lies to the west and north of this line shall be detached from the province of Assam and transferred to the province of East Bengal. No other part of the province of Assam shall be transferred.

For purposes of illustration, a map marked A<sup>1</sup> is attached on which the line is delineated. In the event of any divergence between the line as delineated on the map and as described, the written description is to prevail.

### *Punjab Award*

The terms of reference of the Punjab Boundary Commission as set out in the announcement were as follows:

“The Boundary Commission is instructed to demarcate the boundaries of the two parts of the Punjab on the basis of ascertaining the contiguous majority areas of Muslims and non-Muslims, in doing so, it will also take into account other factors.”

We were desired to arrive at a decision as soon as possible before August 15th.

After preliminary meetings, the Commission invited the submission of memoranda and representation by interested parties. Numerous memoranda and representations were received.

<sup>1</sup>Not printed.

The public sittings of the Commission took place at Lahore, and extended from Monday July 21st to Thursday July 31st inclusive, with the exception of Sunday July 27th. The main arguments were conducted by counsel on behalf of the Indian National Congress, the Muslim League, and the Sikh members of the Punjab Legislative Assembly; but a number of other interested parties appeared and argued before the Commission. In view of the fact that I was acting also as Chairman of the Bengal Boundary Commission, whose proceedings were taking place simultaneously with the proceedings of the Punjab Boundary Commission, I did not attend the public sittings in person, but made arrangements to study daily the record of the proceedings and of all materials submitted for our consideration.

After the close of the public sittings, the Commission adjourned to Simla, where I joined my colleagues, and we entered upon discussions in the hope of being able to present an agreed decision as to the demarcation of the boundaries. I am greatly indebted to my colleagues for their indispensable assistance in the clarification of the issues and the marshalling of the arguments for different views; but it became evident in the course of our discussions that the divergence of opinion between my colleagues was so wide that an agreed solution of the boundary problem was not to be obtained. I do not intend to convey by this that there were not large areas of the Punjab in the west and in the east, respectively, which provoked no controversy as to which State they should be assigned to; but when it came to the extensive but disputed areas in which the boundary must be drawn, differences of opinion as to the significance of the term "other factors", which we were directed by our terms of reference to take into account, and as to the weight and value to be attached to those factors, made it impossible to arrive at any agreed line. In those circumstances my colleagues, at the close of our discussions, assented to the conclusion that I must proceed to give my own decision.

This I now proceed to do. The demarcation of the boundary line is described in detail in the schedule which forms Annexure A to this award, and in the map attached thereto, Annexure B.<sup>1</sup> The map is annexed for purposes of illustration, and if there should be any divergence between the boundary as described in

<sup>1</sup>Not printed.

Annexure A and as delineated in the map in Annexure B, the description in Annexure A is to prevail.

Certain representations were addressed to the Commission on behalf of the States of Bikaner and Bahawalpur, both of which States were interested in canals whose headworks were situated in the Punjab Province. I have taken the view that an interest of this sort cannot weigh directly in the question before us as to the division of the Punjab between the Indian Union and Pakistan, since the territorial division of the province does not affect rights of private property, and I think that I am entitled to assume with confidence that any agreements that either of those States has made with the Provincial Government as to the sharing of water from these canals or otherwise will be respected by whatever government hereafter assumes jurisdiction over the headworks concerned. I wish also to make it plain that no decision that is made by this Commission is intended to affect whatever territorial claim the State of Bahawalpur may have in respect of a number of villages lying between Sulemanke Weir and Gurka Ferry.

The task of delimiting a boundary in the Punjab is a difficult one. The claims of the respective parties ranged over a wide field of territory; but in my judgement the truly debatable ground in the end proved to lie in and around the area between the Beas and Sutlej Rivers, on the one hand and, the River Ravi, on the other. The fixing of a boundary in this area was further complicated by the existence of canal systems, so vital to the life of the Punjab but developed only under the conception of a single administration, and of systems of road and rail communication, which have been planned in the same way. There was also the stubborn geographical fact of the respective situations of Lahore and Amritsar, and the claims to each or both of those cities which each side vigorously maintained. After weighing to the best of my ability such other factors as appeared to me relevant as affecting the fundamental basis of contiguous majority areas, I have come to the decision set out in the schedule which thus becomes the award of the Commission. I am conscious that there are legitimate criticisms to be made of it: as there are, I think, of any other line that might be chosen.

I have hesitated long over those not inconsiderable areas east of the Sutlej River and in the angle of the Beas and Sutlej

Rivers in which Muslim majorities are found. But on the whole, I have come to the conclusion that it would be in the true interests of neither State to extend the territories of the West Punjab to a strip on the far side of the Sutlej, and that there are factors such as the disruption of railway communications and water systems that ought in this instance to displace the primary claims of contiguous majorities. But I must call attention to the fact that the Dipalpur Canal, which serves areas in the West Punjab, takes off from the Ferozepore headworks and I find it difficult to envisage a satisfactory demarcation of boundary at this point that is not accompanied by some arrangement for joint control of the intake of the different canals dependent on these headworks.

I have not found it possible to preserve undivided the irrigation system of the Upper Bari Doab Canal, which extends from Madhopur in the Pathankot tehsil to the western border of the district of Lahore, although I have made small adjustments of the Lahore-Amritsar district boundary to mitigate some of the consequences of this severance; nor can I see any means of preserving under one territorial jurisdiction the Mandi hydro-electric scheme which supplies power in the districts of Kangra, Gurdaspur, Amritsar, Lahore, Jullundur, Ludhiana, Ferozepore, Sheikhpura and Lyallpur. I think it only right to express the hope that, where the drawing of a boundary line cannot avoid disrupting such unitary services as canal irrigation, railways, and electric power transmission, a solution may be found by agreement between the two States for some joint control of what has hitherto been a valuable common service.

I am conscious that the award cannot go far towards satisfying sentiments and aspirations deeply held by either side, but directly in conflict as to their bearing on the placing of the boundary. If means are to be found to gratify to the full those sentiments and aspirations, I think that they must be found in political arrangements with which I am not concerned, and not in the decision of a boundary line drawn under the terms of reference of this Commission.

#### *Annexure A*

1. The boundary between the East and West Punjab shall commence on the north at the point where the western branch of the

Ujh River enters the Punjab province from the State of Kashmir. The boundary shall follow the line of that river down the western boundary of the Pathankot tehsil to the point where the Pathankot, Shakargarh and Gurdaspur tehsils meet. The tehsil boundary, and not the actual course of the Ujh River, shall constitute the boundary between the East and West Punjab.

2. From the point of meeting of the three tehsils above mentioned, the boundary between the East and West Punjab shall follow the line of the Ujh River to its junction with the River Ravi, and thereafter the line of the River Ravi along the boundary between the tehsils of Gurdaspur and Shakargarh, the boundary between the tehsils of Batala and Shakargarh, the boundary between the tehsils of Batala and Narowal, the boundary between the tehsils of Ajnala and Narowal, and the boundary between the tehsils of Ajnala and Shadara, to the point on the River Ravi where the district of Amritsar is divided from the district of Lahore. The tehsil boundaries referred to, and not the actual course of the River Ujh or the River Ravi, shall constitute the boundary between the East and West Punjab.

3. From the point on the River Ravi where the district of Amritsar is divided from the district of Lahore, the boundary between the East and West Punjab shall turn southwards following the boundary between the tehsils of Ajnala and Lahore and then the tehsils of Tarn Taran and Lahore, to the point where the tehsils of Kasur, Lahore and Tarn Taran meet. The line will then turn south-westward along the boundary between the tehsils of Lahore and Kasur to the point where that boundary meets the north-east corner of the village of Theh Jharolian. It will then run along the eastern boundary of that village to its junction with the village of Chathianwala, turn along the northern boundary of that village, and then run down its eastern boundary to its junction with the village of Waigal. It will then run along the eastern boundary of the village Waigal to its junction with the village of Kalia, and then along the southern boundary of the village of Waigal to its junction with the village of Panhuwan. The line will then run down the eastern boundary of the village of Panhuwan to its junction with the village of Gaddoke. The line will then run down the eastern border of the village of Gaddoke to its junction with the village of Nurwala. It will then turn along the southern boundary of



the village of Gaddoke to its junction with the village of Katluni Kalan. The line will then run down the eastern boundary of the village of Katluni Kalan to its junction with the villages of Kalas and Mastgarh. It will then run along the southern boundary of the village of Katluni Kalan to the north-west corner of the village of Kalas. It will then run along the western boundary of the village of Kalas to its junction with the village of Khem Karan. The line will then run along the western and southern boundaries of the village of Khem Karan to its junction with the village of Mahewala. It will then run down the western and southern boundaries of the village of Mahewala, proceeding along the boundaries between the village of Mahaidepur on the north and the villages of Shiekhpura, Khuna, Kamalpura, Fatehwala and Mahewala. The line will then turn northward along the western boundary of the village of Sahjra to its junctions with the villages of Mahaidepur and Machhike. It will then turn north-eastward along the boundaries between the villages of Machhike and Sahjra and then proceed along the boundary between the villages of Rattoke and Sahjra to the junction between the villages of Rattoke, Sahjra and Mabbuke. The line will then run north-east between the villages of Rattoke and mabbuke to the junction of the villages of Rattoke, Mabbuke, and Gajjal. From that point the line will run along the boundary between the villages of Mabbuke and Gajjal, and then turn south along the eastern boundary of the village of Mabbuke to its junction with the village of Nagar Aimanpur. It will then turn along the north-eastern boundary of the village Nagar Aimanpur and run along its eastern boundary to its junction with the village of Masteke. From there it will run along the eastern boundary of the village of Masteke to where it meets the boundary between the tehsils of Kasur and Ferozepore.

For the purpose of identifying the villages referred to in this paragraph, I attach a map of the Kasur tehsil,<sup>1</sup> authorized by the then Settlement Officer, Lahore district, which was supplied to the Commission by the Provincial Government.

4. The line will then run in a south-westerly direction from the Sutlej River on the boundary between the districts of Lahore and Ferozepore to the point where the districts of Ferozepore, Lahore and Montgomery meet. It will then continue

<sup>1</sup>Not printed.

along the boundary between the districts of Ferozepore and Montgomery to the point where this boundary meets the border of Bahawalpur State. The district boundaries, and not the actual course of the Sutlej River, shall in each case constitute the boundary between the East and West Punjab.

5. It is my intention that this boundary line should ensure that the canal headworks at Sulemanke will fall within the territorial jurisdiction of the West Punjab. If the existing delimitation of the boundaries of Montgomery district does not ensure this, I award to the West Punjab so much of the territory concerned as covers the headworks, and the boundary shall be adjusted accordingly.

6. So much of the Punjab province as lies to the west of the line demarcated in the preceding paragraphs shall be the territory of the West Punjab. So much of the territory of the Punjab province as lies to the east of that line shall be the territory of the East Punjab.

## APPENDIX II

# Bagge Tribunal's Award Decisions on Four Disputes<sup>1</sup> *February 4, 1950*

There will be no major territorial changes in India or Eastern Pakistan as a result of the Bagge Tribunal's decisions.

Of the four disputes, however, two have been decided in accordance with the views expressed by the Indian nominee on the Tribunal and the result is in India's favour.

Unanimity of opinion was reached in the third dispute, and the decision, therefore, represents the joint conclusions of the Chairman and the Indian and Pakistani nominees.

In the absence of agreement between the Indian and Pakistani nominees and the Chairman's disagreement with both, the remaining dispute has been settled by the Chairman's Award, which is largely in favour of Pakistan.

Seen in general terms, the position arising from the Tribunal's decision in regard to the four disputes may be summed up as follows:

*East and West Bengal:* The Indian nominee's contention about the boundary between Murshidabad and Rajshahi has been conceded by accepting the view that a fixed frontier rather than one varying with the course of the Ganges should be adopted.

<sup>1</sup>Sources: *Gazette of Pakistan Extraordinary*, Karachi, February 5, 1950 (Notification No. A. 1/3160); *The Statesmen* (Delhi), February 5, 1950.

The river portion of the boundary will be the midstream of the main channel as on August 12, 1947, but if that cannot be determined, it will be represented by the position at the time of demarcation, which should be completed within one year.

In the second dispute, the Pakistani nominee's demand for a fluid boundary line further south in terms of the course of the Mathabhanga river which the Indian nominee questioned, has been accepted.

This decision is a gain for Pakistan and will result in the loss to India of a small piece of 'char' territory, compared with her own interpretation of the Radcliffe Award.

*East Bengal and Assam:* Both India and Pakistan claimed additional areas on either side of the Radcliffe line dividing the Patharia Hills Reserve Forest, but in view of the unanimity of opinion within the Tribunal, the *status quo* will continue.

A point of special interest to India is that the Patharia Test Point where prospecting experiments were carried out by the Burmah Oil Company, remains on the Indian side as a result of this decision.

In the dispute over the boundary between East Bengal and Assam which related to the course of the Kusiyara river, the Indian nominee's stand was accepted by the Chairman, and the decision results in Indian's continued occupation of the disputed territory.

According to the Tribunal's decision, demarcation of the boundaries will be completed within one year, but meanwhile, there will be no unilateral action by either side.

The Tribunal consisted of Lord Justice Algot Bagge (Sweden) who was the Chairman, Mr. Chandrasekhara Aiyer, a retired judge of the Madras High Court, and Mr. Justice Shahabuddin, of the Dacca High Court.

Set up under the authority of the Delhi Agreement between India and Pakistan of December 14, 1948, the Tribunal commenced its sittings in Calcutta on December 3, 1949, and concluded its work in Dacca, where the report was signed on January 26, 1950.

Its functions were defined as "adjudication and final settlement" of specific boundary disputes "arising out of the interpretation of the Radcliffe Award and for demarcation of the boundary accordingly".

Under the terms of the Indo-Pakistani Agreement, in the event of disagreement between the members, the decision of the Chairman was to be considered final in all matters.

The following is the text of the Tribunal's decisions:

### *Dispute I*

The dispute concerns the boundary between Murshidabad district (West Bengal) and Rajshahi district, including the thánas of Nawabganj and Shibganj of the pre-partition Malda district (East Bengal).

The conclusion of Mr. Justice Aiyar is as follows:

The district boundary on the date of the Award must be ascertained and demarcated. If this is impossible, the midstream line of the river Ganges and the land boundary will be demarcated within one year from the date of the publication of this Award.

The conclusion of Mr. Justice Shahabuddin is as follows:

The construction put by Pakistan on the Award in connection with this dispute is correct and reasonable and the boundary in this area, except over the Asmpur-Boalia Char, is flexible and not rigid and the boundary line shall run along the course described in the Pakistan statement on the case, subject only to such geographical variations as may result from changes occurring in the course of the river Ganges.

The conclusion of the Chairman is as follows:

In the area in dispute, the district boundary line, consisting of the land boundary portion of the district boundary, as shown on the map Annexure B.<sup>1</sup> and as described in the Notification No. 10413-Jur., of November 11, 1940, and the boundary following the course of the midstream of the main channel of the river Ganges as it was at the time of the Award given by Sir Cyril Radcliffe in his report of August 12, 1947, is the boundary between India and Pakistan to be demarcated on the site.

If the demarcation of this line is found to be impossible, the boundary between India and Pakistan in this area shall then be a line consisting of the land portion of the above-mentioned boundary and of the boundary following the course of the midstream of the main channel of the river Ganges as determined on the date of demarcation, and not as it was on the date of the Award. The demarcation of this line shall be made as soon

<sup>1</sup>Not printed.

as possible, and at the latest, within one year from the date of the publication of this decision.

Having regard to the fact that the two members have disagreed in their views and that the Chairman has agreed with Mr. Justice Aiyer, and giving effect, therefore, to the terms of Section 5 of the Delhi agreement, under which the view of the Chairman has to prevail, the Tribunal gives its decision in terms of the Chairman's conclusion on Dispute I given in the preceding paragraphs.

### *Dispute II*

The dispute concerns that portion of the common boundary between the two countries, which lines between the point on the river Ganges where the channel of the river Mathabhanga takes off according to Sir Cyril Radcliffe's Award and the northernmost point where the channel meets the boundary between the thanas of Daulatpur and Karimpur according to that Award.

The conclusion of Mr. Justice Aiyer is as follows:

(A) Sir Cyril's line in the Award Map (Document No. 72) showing the Mathabhanga river in red ink is to be adopted as the boundary.

(B) If this is not possible, the river Mathabhanga shall be taken as that which commences from the loop of the Ganges as found in the congregated air map (Document No. 164) and the boundary shall be along the middle line of the main stream from the point of the said off-take to the northernmost point where the line meets the boundary of Daulatpur and Karimpur thanas; the off-take point of the river as now demarcated shall be connected by a shortest straight line with the point nearest to it on the midstream of the main channel of the river Ganges. The centre line shall be a rigid boundary and demarcated accordingly as on the date of Sir Cyril's Award or, if this is found impossible, as on the date of this decision.

The conclusion of Mr. Justice Shahabuddin is as follows:

The boundary line in this case is a fluid boundary and not a rigid one, and it shall run on water along the course described in the statement of the case of Pakistan, subject only to such geographical variations as may result from changes occurring in the course of the river Mathabhanga.

The conclusion of the Chairman is as follows:

The boundary between India and Pakistan shall run along the middle line of the main channel of the river Mathabhanga which takes off from the river Ganges in or close to the north-western corner of Nadia district at a point south-west of the police station and the camping ground of Jalangi village as they are shown on the air photograph map of 1948, and then flows southwards to the northern-most point of the boundary between Daulatpur and Karimpur thanas.

The point of the off-take of the river Mathabhanga shall be connected by a straight and shortest line with a point in the midstream of the main channel of the river Ganges, the latter point being ascertained as on the date of the Award, or if not possible, as on the date of the demarcation of the boundary line in Dispute I. The said point so ascertained shall be the south-eastern-most point of the boundary line in Dispute I, this point being a fixed point.

Having regard to the fact that the members have disagreed and that the Chairman has disagreed with both of them, and giving effect, therefore, to the terms of Section 2 of the Delhi Agreement, under which the view of the Chairman has to prevail, the Tribunal gives its decision accepting the Chairman's conclusion on Dispute II given in the preceding two paragraphs.

### *Dispute III*

The dispute concerns the Patharia Hills Reserve Forest. The conclusion of Mr. Justice Aiyar is as follows:

The portion to the west of the forest boundary line, as drawn by Sir Cyril Radcliffe, Document No. 184, and shown in white in India's index map, Document No. 185, shall belong to East Bengal, but the rest of the forest lying to the east of the said line shall belong to Assam.

The conclusion of Mr. Justice Shahabuddin is as follows:

The boundary line delineated on the map of the Award accords with the description given in the Award and that line shall be the boundary line in this area and the portion of the forest to the west of that line, *i.e.* the portion shown in white in the index map shall be awarded to East Bengal (Pakistan) and the portion to the east of the line, *i.e.* the portion shown in blue in the index map to the State of Assam (India).

The conclusion of the Chairman is as follows:

The line indicated in Map A attached to the Award is the boundary between India and Pakistan.

Now, therefore, in view of the unanimous conclusions of the Chairman and the members, the Tribunal gives the following decision:

The red line indicated in Map A attached to the Award given by Sir Cyril Radcliffe in his report of August 13, 1947, is the boundary between India and Pakistan.

#### *Dispute IV*

The dispute concerns the course of the Kusiara river. The conclusion of Mr. Justice Aiyar is as follows:

The line drawn by Sir Cyril from the north-western corner of the Patharia Hills Reserve Forest up to Point B in the Award Map, Document No. 342, is the correct boundary line.

The line B-C in the Award Map is correctly shown as the Kusiara river and will constitute the boundary between East Bengal and Assam.

The conclusion of Mr. Justice Shahabuddin is as follows:

The boundary line in this area shall run along the southern river, *i.e.* the river wrongly described as Sonai in the Award Map, from the point where the land boundary running from the south to the north meets the said river, to the point from where that river takes its water through Noti Khal from the northern river, *i.e.* the river named on the said Map as Boglia, and thence along the latter river to the boundary between Sylhet and Cachar districts.

The conclusion of the Chairman is as follows:

From the point where the boundary between Karimganj and Beani Bazar thanas meets the river described as the Sonai river on Map A attached to the Award given by Sir Cyril in his report of August 13, 1947 (Gobindapur), up to the point marked B on the said map, is the boundary between India and Pakistan.

From Point B, the boundary between India and Pakistan shall turn to the east and follow the river which, according to the said map, runs to that point from Point C marked on the said map on the boundary line between Sylhet and Cachar districts.

Having regard to the fact that the two members have disagreed in their views and that the Chairman has agreed with Mr. Justice Aiyar, and giving effect, therefore to the terms of



Section 2 of the Delhi Agreement under which the view of the Chairman has to prevail, the Tribunal gives its decision accepting the Chairman's conclusion on Dispute IV given in the preceding two paragraphs.

### APPENDIX III

## Indo-Pakistan Joint Communiqué on the East Pakistan-West Bengal Border<sup>1</sup>

*(Text of the joint communiqué on border disputes and  
exchange of enclaves signed by the Prime Ministers  
of Pakistan and India on  
September 11, 1958)*

On the invitation of the Prime Minister of India, the Prime Minister of Pakistan visited New Delhi from the 9th to the 11th September, 1958. During the visit, the Prime Ministers of Pakistan and India discussed various Indo-Pakistan border problems with a view to removing causes of tension and establishing peaceful conditions along the Indo-Pakistan border areas.

The Prime Ministers had frank and friendly discussions about these border problems. They arrived at agreed settlements in regard to most of the border disputes in the eastern region. They also agreed to an exchange of enclaves of the former Cooch Behar State in Pakistan and Pakistan enclaves in India.

Some of the border disputes—namely, two regarding the Radcliffe and Bagge Awards in the eastern region, and five in the western region—require further consideration.

The Prime Ministers agreed to issue necessary instructions to their survey staff to expedite demarcation in the light of the settlements arrived at and to consider further methods of settl-

<sup>1</sup>Sources: *Dawn*, September 13, 1958; *The Hindu* (Madras), September, 12, 1958.

ing the disputes that are still unresolved. In regard to the Husainiwala and Sulemanke disputes, the Foreign Secretary of the Government of Pakistan and the Commonwealth Secretary of the Government of India, will, in consultation with their engineers, submit proposals to the Prime Ministers.

The Prime Ministers agreed that when areas are exchanged, on agreed dates, as a result of settlement and demarcation of these disputed areas, an appeal should be made to the people in the areas exchanged to continue staying in their present homes as nationals of the State to which the areas are transferred. The Prime Ministers further agreed that, pending the settlement of unresolved disputes and demarcation and exchange of territory by mutual agreement, there should be no disturbance of the *status quo* by force, and peaceful conditions must be maintained in the border regions. Necessary instructions in this regard will be issued to the respective States and to the local authorities on the border.

The Prime Ministers agreed to keep in touch with each other with a view to considering various steps to be taken to further their common objective of maintaining and developing friendly and co-operative relations between their two countries.

## APPENDIX IV

# Indo-Pakistan Joint Communique on Border Disputes<sup>1</sup>

*October 22, 1959*

At their meeting on 1st September, 1959, the President of Pakistan and the Prime Minister of India agreed in pursuance of their desire to promote good neighbourly relations between their two countries on a rational basis, to an Indo-Pakistan conference at Minister-level to devise measures to end disputes and incidents on the Indo-East Pakistan border. This Minister-level Conference, with Sardar Swaran Singh and Lt-General K. M. Shaikh, leading their respective delegations, started in Delhi on 15th October, 1959, continued its deliberations at Dacca from 18th to 20th, and had its concluding session at Delhi on 21st and 22nd October.

2. The Delegations approached the various questions discussed in a positive and constructive spirit and, while they had a full and frank exchange of views, the objectives of arriving at agreed decisions and procedures to end disputes and incidents and establishing and maintaining peaceful conditions on the Indo-East Pakistan border regions throughout guided the deliberations of the Conference.

3. The fact that there has been no settlement of the res-

<sup>1</sup>Sources: *United Nations' Treaty Series*, Vol. 375, 1960—Nos. 5351-5371, No. 5364; *Dawn*, October 24, 1959.

pective claims of India and Pakistan in the areas of the Patharia Forest Reserve and the Kusiya river in accordance with the Radcliffe Award, in spite of these disputes having been referred to an international tribunal which gave awards in 1950, has been one of the principal causes of conflict and tension along these Indo-East Pakistan border areas. The leaders of the two Delegations agree that these and other disputes between the two countries should be resolved in a spirit of give and take in the larger interest of both countries. With a view to avoiding dislocations in the life of the population of these border areas and promoting friendly relations, the following agreed decisions have been reached in respect of these disputes:

- (i) The dispute concerning Bagge Award No. III should be settled by adopting a rational boundary in the Patharia Forest Reserve region;
- (ii) The dispute concerning Bagge Award No. IV in the Kusiya river region should be settled by adopting the thana boundaries of Beani Bazar and Karimganj as per Notification No. 5133-H, dated 28th May, 1940, as the India-East Pakistan boundary.
- (iii) The *status quo* should be restored in Tugergram.

4. It was also agreed that detailed procedures should be worked out to maintain peace on the Indo-East Pakistan border and to bring immediately under control any incident that may occur.

Detailed ground rules to be observed by the border security forces of both sides, which, among other things, provide that no border outposts will be located within 150 yards of the border, on either side, and other procedures laid down in the ground rules regarding frequent contacts between those in charge of border security forces and other officials of the Governments concerned at various levels, will secure maintenance of peaceful conditions on the Indo-East Pakistan border and ensure that immediate action is taken to re-establish peace should any incident unfortunately occur.

5. Detailed procedures for expediting progress of demarcation work and for orderly adjustment of territorial jurisdiction, due regard being had to local agricultural practices and the interests of the local border population, have been worked out. It was also agreed that, in their quarterly review, the Govern-

ment of East Pakistan, West Bengal, Assam and Tripura will ensure that the target dates for progressing demarcation work are observed.

6. Both Governments reaffirmed their determination to resolve border disputes by negotiation and agreed that all outstanding boundary disputes on the East Pakistan-India border and the West Pakistan-India border, raised so far by either country, should, if not settled by negotiation, be referred to an impartial tribunal for settlement and implementation of that settlement by demarcation on the ground and by exchange of territorial jurisdiction if any.

7. Both Governments agreed to appeal to the press to exercise restraint and assist in the maintenance and promotion of friendly relations between India and Pakistan. In furtherance of this objective, both Governments agreed to take early action for a meeting of the Indo-Pakistan Information Consultative Committee which is being revived.

8. Both Governments are resolved to implement, in full and as expeditiously as possible, the Noon-Nehru Agreement and the present agreement on India-East Pakistan border settlements and to that end to devise expeditiously the legal and constitutional procedures necessary for implementation. Both Governments agreed to maintain contact with each other continuously on the progress of implementation of these agreements and to carry out periodical reviews of the working of the procedures adopted to maintain peaceful and friendly relations in the border regions.

## APPENDIX V

# Indo-Pakistan Agreement on West Pakistan-India Border Disputes<sup>1</sup> *January 11, 1960*

Agreed decisions and procedures to end disputes and incidents along the Indo-Pakistan border:

1. West Pakistan-Punjab Border: Of the total of 325 miles of the border in this sector, demarcation has been completed along about 252 miles. About 73 miles of the border has not yet been demarcated due to differences between the Governments of India and Pakistan regarding interpretation of the decision and Award of the Punjab Boundary Commission presented by Sir Cyril Radcliffe as Chairman of the Commission. These differences have been settled along the lines given below in a spirit of accommodation:

- (i) Theh Sarja Marja, Rakh Hardit Singh and Pathanke (Amritsar-Lahore border): The Governments of India and Pakistan agree that the boundary between West Pakistan and India in this region should follow the boundary between the Tehsils of Lahore and Kasur as laid down under Punjab Government Notification No. 2183-E, dated 2nd June, 1939. These three villages, in consequence, fall within the territorial jurisdiction

<sup>1</sup>Source: *United Nations Treaty Series*, Vol. 3-5, 1950: Nos. 5351-5371, 5364.

of the Government of Pakistan.

- (ii) Chak Ladheke (Amritsar-Lahore border): The Governments of India and Pakistan agree that the delimitation of the boundary will be as shown in the map of the Kasur Tehsil by Sir Cyril Radcliffe and Chak Ladheke will, in consequence, fall within the territorial jurisdiction of the Government of India.
- (iii) Ferozpur (Lahore-Ferozpur border): The Governments of India and Pakistan agree that the West Pakistan-Punjab (India) boundary in this region is along the district boundaries of these districts, and *not* along the actual course of the river Sutlej.
- (iv) Sulemanke (Ferozpur-Montgomery border): The Governments of India and Pakistan agree to adjust the district boundaries in this region as specified in the attached schedule and as shown in the map appended thereto as Annexure I.

2. Exploratory discussion regarding the boundary dispute in the Kutch-Sind region showed that the differences between the Governments of India and Pakistan could be settled. Both Governments have decided to study the relevant material and hold discussions later with a view to arrive at a settlement of the dispute.

3. Detailed ground rules for the guidance of the Border Security Forces along the Indo-West Pakistan frontier, prepared as a result of the deliberations of the Conference (Annexure II), will be put into force by both sides immediately. These rules will be revised and brought up to date after the boundary has been finally demarcated and the return of areas in adverse possession of either country has been effected in the West Pakistan-Punjab (India) sector. Similar action will be taken in respect of the other two sectors in due course.

4. The Governments of India and Pakistan agree to give top priority to completion of demarcation along the West Pakistan-Punjab (India) sector in accordance with the settlement arrived at during the Conference. Both Governments will direct their Surveyor-Generals to complete the demarcation and the fixing of pillars in this sector by the end of April, 1960. Return of areas held in adverse possession by either country in the sector will be



completed by 15th October, 1960. Necessary work to this end should be undertaken immediately by all concerned.

J. G. Kharas,  
Joint Secretary,  
Ministry of Foreign Affairs  
and Commonwealth Relations,  
Government of Pakistan.

M. J. Desai,  
Commonwealth Secretary,  
Ministry of External Affairs,  
Government of India.

New Delhi, January 11, 1960.

## APPENDIX VI

# The Indus Waters Treaty<sup>1</sup>

*September 19, 1960*

A treaty governing the use of the waters of the Indus system of rivers, entitled 'The Indus Waters Treaty 1960' was signed on September 19 in Karachi, by Shri Jawaharlal Nehru (Prime Minister of India) on behalf of India and by Field Marshal Mohammad Ayub Khan (President of Pakistan) on behalf of Pakistan. The Treaty was signed by Mr. William Iliff (Vice-President of the Bank) in the unavoidable absence of Mr. Eugene R. Black, who is convalescing from a recent illness.

Signature of the Treaty marks the end of a critical and long-standing dispute between India and Pakistan, and opens the way to the peaceful use and development of water resources on which depend the livelihood of some 50 million people in the two countries.

Simultaneously with the signing of the Indus Waters Treaty, an international financial agreement was also executed in Karachi by representatives of Australia, Canada, Germany, New Zealand, Pakistan, the United Kingdom and the United States, and of the World Bank. This Agreement creates an Indus Basin Development Fund of almost \$900 million to finance the construction of irrigation and other works in Pakistan consequential on the Treaty settlement. The fund will be financed with the equivalent of about \$640 million to be provided by the participating Govern-

<sup>1</sup>Source: *Dawn*, September 20, 1960.

ments, with a contribution of approximately \$174 million payable by India under the Waters Treaty and with \$80 million out of proceeds of the World Bank loan to Pakistan.

The Indus, with its five main tributary rivers, comprises one of the great river systems of the world. Its annual flow is twice that of the Nile and three times that of the Tigris and Euphrates combined: it amounts to almost 170 million acre-feet, or enough water to submerge, to a depth of one foot, the whole area of the State of Texas or the whole of France.

### *Indus River*

All of the six main rivers of the system rise in the high Himalayas. Fed chiefly by melting snow and ice, and by the monsoon rains, they descend through the mountains and the hills of West Pakistan and north-western India.

Rainfall is scanty in the plain area, and without the rivers and the irrigation system, the plains of the Indus basin would be a desert. But, with the system of irrigation developed in the last 100 years, the rivers support a population of about 40 million people in Pakistan and about 10 million in India—approximately one-tenth of the combined population of the two countries. The area of irrigated land is about 30 million acres. This is the largest irrigation system in the world: it feeds a larger area than is irrigated in Egypt and the Sudan by the Nile.

Up to now the system has been developed entirely from river flow and without reservoir storage; in consequence, water supplies are precarious to the extent that they are subject not only to the seasonal variations, but also to the year-by-year variations in the flow of the rivers.

The sharing of the waters of the Indus system has been a matter of dispute for many years. Until the Subcontinent was partitioned in 1947 between India and Pakistan, there were conflicting water claims continuously in dispute between the Sind and Punjab provinces of undivided India. Pakistan drew the border between India and Pakistan right across the Indus system. Pakistan became the downstream riparian, and the headworks of two of the main irrigation canals in Pakistan were left on the Indian side of the border. The sharing of the use of the waters thereupon became an international issue, and has been a principal cause of strained relations between India and Pakistan.

In 1951, an article written by David Lilienthal (former Chairman of the Tennessee Valley Authority) appeared in a popular American magazine. The article suggested that a solution of the dispute might possibly be found if Indian and Pakistani technicians would together work out a comprehensive engineering plan for the development of the waters of the system on a joint basis, and if the World Bank would undertake to assist in financing the necessary works.

Inspired by the idea, Mr. Eugene R. Black, the President of the World Bank, suggested to the Governments of the two countries that, with the good offices of the Bank, they might be able to resolve their differences on the use of the Indus waters. His suggestion was accepted in March 1952.

There followed two years of study by a technical group consisting of Indian, Pakistani and World Bank engineers, under the direction of General Raymond A. Wheeler. The purpose of this study was an endeavour to prepare a comprehensive plan for the development, on a joint basis, of the water resources of the system. But it became apparent that no progress could be made towards a settlement until there was agreement on the basic issue—namely, how was the use of the waters to be divided between the two countries? Accordingly, in February 1954, General Wheeler was authorized by the Bank Management to make a Bank Proposal for consideration by the two Governments. The elements of the Bank Proposals were:

- (a) the waters of the three Eastern Rivers (Ravi, Beas and Sutlej) should be for the use of India;
- (b) the waters of the three Western Rivers (Indus, Jhelum and Chenab) should be for the use of Pakistan;
- (c) there should be a transition period, during which Pakistan would construct a system of link canals to transfer water from the Western Rivers to replace the irrigation uses in Pakistan hitherto met from the Eastern Rivers; and ●
- (d) India should pay the cost of constructing those replacement link canals.

The Bank proposal was accepted by India, with some reservations, as the basis of a settlement. Pakistan, however, felt unable to accept the proposal unless it underwent substantial amendment, mainly related to the inclusion of some reservoir storage

in the replacement plan to meet irrigation uses in Pakistan during the critical period of short-flow supplies.

There then followed more than four years of discussion and negotiation in Washington between an Indian delegation, led by Mr. N. D. Gulhati (Additional Secretary to the Government of India, Ministry of Irrigation and Power) and a Pakistani delegation, led by Mr. G. Mueenuddin (Secretary to the Government of Pakistan, Ministry of Fuel, Power and Natural Resources). The Bank was represented by Mr. Iliff, assisted by a small group of technical experts led by General Wheeler.

By May 1959, the main issues standing in the way of a settlement had crystallized, and Mr. Black and Mr. Iliff visited New Delhi and Karachi to hold conversations with the Prime Minister of India and the President of Pakistan. In the course of this visit, agreement was reached on the general principles on which a water treaty should be based, including the system of works to be constructed as part of the settlement arrangements, and the financial contribution to be made by India.

The drafting of the Treaty began in August 1959, and entailed further negotiations, under the auspices of the World Bank, directed towards agreement on the many complicated technical and financial details which had to be specifically incorporated in any final document.

Meanwhile, it had become apparent that the cost of financing the system of works in India and Pakistan, to which the two Governments had agreed as one of the features of an acceptable settlement, was far beyond the capacity of India and Pakistan to meet. The Bank therefore, undertook the formulation of a plan envisaging financial participation by a number of other friendly Governments interested in promoting the orderly economic development of the Subcontinent, and in bringing about a settlement of this troublesome and contentious water dispute. The basis of this participation entailed an independent series of negotiations—and the preparation of the Indus Basin Development Agreement.

### *Waters Distribution*

The texts of the Indus Waters Treaty and of the Indus Basin Development Fund Agreement were finally agreed in August 1960.

The Preamble to the Treaty recognizes the need for "fixing and delimiting in a spirit of goodwill and friendship the rights and obligations" of the Government of India and the Government of Pakistan concerning the use of the waters of the Indus River System.

The Treaty allocates the waters of the three Eastern Rivers—Ravi, Beas and Sutlej—to India, with certain exceptions specified in the Treaty. The main exception is that during a transition period, while the works are being constructed in Pakistan for the replacement of the Eastern River waters, India will continue to deliver water to Pakistan from the Eastern Rivers in accordance with a schedule set out in an annexure to the Treaty. The transition period will be 10 years, but may, in certain circumstances, be extended by a further one, two or three years.

The waters of the three Western Rivers—Indus, Jhelum and Chenab—are for the use of Pakistan, and India undertakes to let flow for unrestricted use in Pakistan all the waters of these three rivers, subject to the Treaty provision that some of the water may be used by India in areas upstream of the Pakistan border for the development of irrigation, electric power and certain other uses spelled out in detail in Annexures to the Treaty.

Pakistan undertakes to construct, during the transition period, a system of works, part of which will replace from the Western Rivers those irrigation uses in Pakistan which have hitherto been met from the Eastern Rivers.

India is to contribute to the Indus Basin Development Fund about £62 million (about \$174 million) in 10 equal annual instalments.

Both countries recognize their common interest in the optimum development of the rivers, and declare their intention to co-operate by mutual agreement to the fullest possible extent. Meteorological and hydrological observation stations are to be established, and the Treaty provides for a complete exchange of information from these stations. It also provides for an exchange of information about proposed river works to enable each party to estimate the effects these works may have on its own situation.

The Treaty sets up a Permanent Indus Commission composed of two persons, one appointed by each of the Governments. The Commission will have general responsibility for implementing the provisions of the Treaty, and will seek to recon-

cile any points of disagreement that may arise. Once every five years, the Commission will make a general tour of inspection of all the works on the rivers, and the Commission may, at the request of either Commissioner, at any time visit any particular works in either country. The Commission will report at least once a year to each of the Governments. Each Government undertakes to give to the other Government the immunities and privileges extended under the Convention on Privileges and Immunities of the United Nations.

Where differences or disputes cannot be resolved by agreement between the Commissioners, the Treaty establishes machinery for resort to a 'Neutral Expert' (who is to be a highly qualified engineer) for a final decision on technical questions, and for resort, in certain circumstances, to a Court of Arbitration.

The Treaty has nine Annexures. The principal matters covered in these Annexures are: Agricultural Use by Pakistan of Water from the Tributaries of the Ravi River; Agricultural Use by India of Water from the Western Rivers; Storage of Water by India on the Western Rivers; Questions that May Be Referred to a Neutral Expert; Appointment and Procedure of a Court of Arbitration; and Transitional Arrangements relating to the Deliveries of Water to Pakistan from the Eastern Rivers during the Transition Period.

The Treaty will come into force on the exchange of ratifications, which will take place in New Delhi.

### *Works Programme*

The division of waters provided for in the Treaty necessitates the construction of works to transfer water from the three Western Rivers to meet the irrigation uses in Pakistan hitherto met by water from the three Eastern Rivers. The effect of the transfer will be eventually to release the whole flow of the three Eastern Rivers for irrigation development in India.

The system of canals and reservoirs that will actually be constructed will, however, provide further substantial irrigation development and will develop important hydro-electric potential, in both India and Pakistan. It will also make a much-needed contribution to soil reclamation and drainage in Pakistan, and provide a measure of flood protection in both countries.

The programme will be the largest of its kind ever to be

undertaken anywhere. The total cost of the programme will be approximately the equivalent of \$1,070 million (or £380 million), of which approximately \$870 million (or £310 million) will be spent on works in India. It calls for the excavation of about 700 million cubic yards of earth, for instance, and will require the use of 2 million tons of cement, 250,000 tons of steel and 1,000 million bricks and tiles.

### *Works in Pakistan*

The following works are to be built in Pakistan:

1. A system of eight link canals nearly 400 miles in total length, transferring water from the Western Rivers to areas formerly irrigated by the Eastern Rivers. The total area to be thus irrigated is about 5 million acres. The total annual volume of water to be transferred is 14 million acre-feet, about equal to the entire flow of the Colorado River in the United States. Three of the canals will each be big enough to carry twice as much water as the average flow of the Potomac River of Washington or 10 times as much as the average flow of the Thames at Teddington.
2. Two earth-filled storage dams, one on the Jhelum River (with a live reservoir capacity of 4.75 million acre-feet) and the other on the Indus (with a live reservoir capacity of 4.2 million acre-feet). These two reservoirs will provide the water storage potential to meet on a firm basis the irrigation supplies of the Pakistan canals during critical periods of fluctuating short-flow supplies, and, as well, will make possible substantial new irrigation development.
3. Power stations will be installed at the Jhelum Dam with a capacity of more than 300,000 kilowatts.
4. Works to integrate the present canal and river system into the new inter-river link canals. These works include three barrages to carry new canals across rivers, and the remodelling of five existing barrages and of eight existing canals.
5. Tube-wells and drainage to overcome water-logging and salinity in irrigated areas totalling 2.5 million acres. The number of tube-wells to be installed is 2,500.

The general scheme of works was drawn up by an Indus Basin Advisory Board set up by the Government of Pakistan, which in addition to Pakistani irrigation engineers, included representatives of American and British engineering firms, and in consulta-



tion with the Water and Power Development Authority of West Pakistan (WAPDA).

The cost of the works in Pakistan will be financed out of the Indus Basin Development Fund.

### *Works in India*

The Indus settlement also envisaged the construction of a large earth-filled dam on the Beas River in India. This dam will create a reservoir with a live capacity of 5.5 million acre-feet, and a hydro-electric potential of generating 200,000 kilowatts of power. Together with the Bhakra Reservoir on the Sutlej River (now nearing completion) and with the newly constructed Rajasthan canal system, it will serve as the basis for irrigating large areas in the Punjab and in the Rajasthan desert. The Beas project will not be financed from the Indus Basin Development Fund. The foreign exchange cost will be met by a loan of \$33 million from the United States Government and by a loan of \$23 million from the World Bank. The rupee expenditure will be borne by the Government of India.

### *Development Fund*

The Indus Basin Development Fund is established by the Indus Basin Development Fund Agreement which will become effective on the ratification of the Indus Water Treaty by India and Pakistan.

The Agreement provides the Fund with the following resources of foreign exchange:

A. Treaty Contribution by India	£ 62,060,000
B. Contribution in Grants from each of the following Governments in the amounts shown:	
Australia	£A 6,965,000
Canada	Can. \$ 22,100,000
Germany	DM 126,000,000
New Zealand	£ NZ 1,000,000
United Kingdom	£ 20,860,000
United States	\$ 177,000,000
C. Proceeds of a United States Government loan to Pakistan	\$ 70,000,000
D. Proceeds of a World Bank loan to Pakistan	\$ 80,000,000

E. Contribution by Pakistan £ 440,000

All of the above contributions will be freely usable or convertible for purchase in member countries of the Bank and in New Zealand and Switzerland.

In addition, the Fund will be provided with the following resources of Pakistan rupees to finance expenditure in Pakistan currency:

F. A contribution by the United States in Pakistan rupees equivalent to \$ 235,000,000

This contribution will be in the form of grants, or loans, or both, to Pakistan.

G. A contribution by Pakistan in Pakistan rupees equivalent to £ 985,000

The aggregate resources of the Fund in foreign exchange and in Pakistan rupees will be of the order of the equivalent of \$894 million (about £320 million).

The Fund will be administered by the World Bank. As Administrator, the Bank will be responsible, under the Fund Agreement, for calling up half-yearly contributions to the Fund and for regulating disbursement from the Fund to meet approved expenditures incurred by WAPDA on the works in Pakistan as the construction programme progresses.

The United States Development Loan Fund Agreement for a loan of \$70 million to Pakistan, of which the proceeds will accrue to the Indus Basin Development Fund, has been signed on behalf of Pakistan by Mr. Mohamed Shoaib, Finance Minister, and on behalf of the Development Loan Fund by the United States Ambassador, Mr. William Rountree. Repayment will be made in Pakistan rupees over a period of 30 years from the date of the first disbursement, and interest will be at the rate of 3.12 per cent per annum.

The Agreement covering the World Bank Loan was signed in Karachi by Mr. Shoaib, Finance Minister, on behalf of Pakistan, and by Mr. Iliff, on behalf of the Bank. The amount of the loan is \$90 million, of which \$80 million will be paid into the Indus Basin Development Fund and the balance of \$10 million will be available to meet interest and other charges on the loan during the first eight years of the period of construction of the works.

The loan is to be repaid over a period of 20 years beginning

in 1970. Each portion of the loan, as it is made available for disbursement, will carry interest at the rate then in effect for long-term loans being made by the Bank.

## APPENDIX VII

# Indo-Pakistan Cease-Fire Agreement on Gujarat-West Pakistan Border<sup>1</sup>

June 30, 1965

WHEREAS both the Governments of India and Pakistan have agreed to a cease-fire and to restoration of the *status quo* as at 1st January 1965, in the area of the Gujarat/West Pakistan border, in the confidence that this will also contribute to a reduction of the present tension along the entire Indo-Pakistan border;

WHEREAS it is necessary that after the *status quo* has been established in the aforesaid Gujarat/West Pakistan border area, arrangements should be made for determination and demarcation of the border in that area;

NOW THEREFORE, the two Governments agree that the following action shall be taken in regard to the said area:

### *Article I*

There shall be an immediate cease-fire with effect from 00:30 hours GMT, i.e. 05 : 30 hours WPST (06:00 hours IST) on 1st July 1965.

### *Article II*

On the cease-fire:

(1) All troops on both sides will immediately begin

<sup>1</sup>Source: Handout of the Government of Pakistan, Karachi, June 30, 1965.

to withdraw;

- (2) This process will be completed within seven days;
- (3) Indian police may then re-occupy the post at Chhad Bet in strength no greater than that employed at the post on 31st December, 1964;
- (4) Indian and Pakistan police may patrol on the tracks on which they were patrolling prior to 1st January 1965, provided that their patrolling will not exceed in intensity that which they were doing prior to 1st January 1965 and during the monsoon period will not exceed in intensity that done during the monsoon period of 1964;
- (5) If patrols of Indian and Pakistan police should come into contact they will not interfere with each other, and in particular will act in accordance with West Pakistan/India border ground rules agreed to in January 1960;
- (6) Officials of the two Governments will meet immediately after the cease-fire and from time to time thereafter as may prove desirable in order to consider whether any problems arise in the implementation of the provisions of paragraphs (3) to (5) above and to agree on the settlement of any such problems.

### *Article III*

(i) In view of the fact that:

- (a) India claims that there is no territorial dispute as there is a well-established boundary running roughly along the northern edge of the Rann of Kutch as shown in the pre-partition maps, which needs to be demarcated on the ground;
- (b) Pakistan claims that the border between India and Pakistan in the Rann of Kutch runs roughly along the 24th Parallel as is clear from several pre-partition and post-partition documents and therefore the dispute involves some 3,500 square miles of territory;
- (c) At discussions in January 1960, it was agreed by Ministers of the two Governments that they

would each collect further data regarding the Kutch-Sind boundary and that further discussions would be held later with a view to arriving at a settlement of this dispute; as soon as officials have finished the task referred to in Article II(6) which in any case will not be later than one month after the cease-fire, Ministers of the two Governments will meet in order to agree on the determination of the border in the light of their respective claims, and the arrangements for its demarcation. At this meeting and at any proceedings before the tribunal referred to in Article III(ii) and (iv) below, each Government will be free to present and develop their case in full.

(ii) In the event of no agreement between the Ministers of the two Governments on the determination of the border being reached within two months of the cease-fire, the two Governments shall, as contemplated in the Joint Communique of 24th October 1959, have recourse to the tribunal referred to in (iii) below for determination of the border in the light of their respective claims and evidence produced before it and the decision of the tribunal shall be final and binding on both the parties.

(iii) For this purpose there shall be constituted, within four months of the cease-fire, a tribunal consisting of three persons, none of whom would be a national of either India or Pakistan. One member shall be nominated by each Government and the third member, who will be the Chairman, shall be jointly selected by the two Governments. In the event of the two Governments failing to agree on the selection of the Chairman within three months of the cease-fire they shall request the Secretary-General of the United Nations to nominate the Chairman.

(iv) The decision of the tribunal referred to in (iii) above shall be binding on both Governments, and shall not be questioned on any ground whatsoever. Both Governments undertake to implement the findings of the tribunal in full as quickly as possible and shall refer to the tribunal for decision any difficulties which may arise between them in the implementation of these findings. For that purpose the tribunal shall remain in being until its findings have been implemented in full.

IN WITNESS WHEREOF

On behalf of the Government  
of Pakistan

Mr. Aziz Ahmed,  
H.Q.A., S.Pk., CSP,  
Secretary to the Government  
of Pakistan,

On behalf of the Government  
of India

His Excellency,  
Mr. G. Parthasarathi,  
High Commissioner for  
India in Pakistan.

## APPENDIX VIII

# Tribunal Award on the Rann of Kutch<sup>1</sup>

*February 19, 1968*

*(Excerpts from the Award of the Indo-Pakistan  
Western Boundary Case Tribunal—Constituted  
Pursuant to the Agreement of June 30, 1965)*

In the case concerning the Gujarat (India)-West Pakistan boundary between the Republic of India, represented by Mr. B. N. Lokur, Special Secretary to the Government of India in the Ministry of Law, and Member of the Law Commission of India, as Agent, and by Dr. K. Krishna Rao, Joint Secretary and Legal Adviser, Ministry of External Affairs, Government of India, as Deputy Agent, assisted by Mr. C. K. Daphtary, Attorney-General of India, as Leading Counsel; and the Islamic Republic of Pakistan, represented by Mr. I. U. Khan, Chairman, West Pakistan Public Service Commission, as Agent, and Mr. Shahid M. Amin, Director, Ministry of Foreign Affairs, as Deputy Agent, assisted by Mr. Manzur Qadir, Senior Advocate, Supreme Court of Pakistan, as Leading Counsel;

The Tribunal, composed of Gunnar Lagergren, Chairman; Nasrollah Entezam, Member; Ales Bebler, Member, delivers the following Award:

### *Introduction*

The Indian Independence Act of 18 July 1947, enacted by

<sup>1</sup>Source: *Dawn*, February 23, 1968.



the British Parliament, set up, with effect from 15 August 1947 two independent Dominions, known as India and Pakistan. The suzerainty of the British Crown over the Indian or Native States (or Estates) of Kutch, Santalpur, Tharad, Suigam, War and Jodhpur lapsed and they eventually acceded to and merged with India.

The territory allotted to Pakistan included the Province of Sind. It had formed part of British India which was under the sovereignty of the British Government.

### *Two Republics*

In the course of time, the two Dominions became the Republic of India and the Islamic Republic of Pakistan.

The mainlands of Sind and of the above-mentioned Indian States all abut upon the Great Rann of Kutch; Sind in the north and west and the States to the south and east.

From July 1948 and onwards, Diplomatic Notes were exchanged between the Governments of India and Pakistan concerning the boundary between the two countries in the Gujarat-West Pakistan region. The dispute led in early 1965 to a tension which ultimately resulted in the outbreak of hostilities in April 1965.

### *Constitution of the Tribunal Proceedings*

On 30 June 1965, the Government of India and the Government of Pakistan concluded an Agreement, reading as follows:<sup>2</sup>

\* \* \*

The cease-fire came into effect as provided in Article I of the Agreement.

The Ministerial Conference provided for in sub-paragraph (i) of Article III of the Agreement did not take place. The High Contracting Parties decided to have recourse to the Tribunal referred to in sub-paragraph (iii) of that Article.

*Chairman's Selection:* The Government of India nominated as Member of the Tribunal Ambassador Ales Bebler, Judge of the Constitutional Court of Yugoslavia, and the Government of Pakistan Ambassador Nasrollah Entezam, Iran, former President of the General Assembly of the United Nations. As the two Governments failed to agree on the selection of the Chairman

<sup>2</sup>See Appendix VII for this Agreement.

of the Tribunal, they did request the Secretary-General of the United Nations to nominate him. On 15 December 1965 the Secretary-General of the United Nations nominated as Chairman Judge Gunnar Lagergren, now President of the Court of Appeal for Western Sweden.

Dr. J. Gillis Wetter was appointed as Secretary-General and Treasurer of the Tribunal and Mr. Jan De Geer as Deputy Secretary-General.

The First Meeting of the Tribunal was held on 15 February 1966 in the Hotel de Ville at Geneva.

In the Course of the subsequent four Meetings of the Tribunal held in February 1966 at the Palais des Nations, Geneva, procedural rules were adopted.

In the course of June and July 1966, a delegation from Pakistan visited New Delhi for the purpose of inspecting and obtaining copies of maps and documents in Government archives, and a delegation from India visited Islamabad for the same purpose. Thereafter, during the preparation of the counter-Memorials and Final Memorials, and throughout the proceedings before the Tribunal, both Parties through direct communications continuously requested the production of maps and other documentary evidence from each other and assisted one another in searching for and producing such evidence.

The oral hearings began on 15 September 1966. They continued with a few interruptions until 14 July 1967. The oral hearings were held at the Palais des Nations in Geneva.

On 13 July 1967, the Parties reached an Agreement on the procedure for the demarcation of the boundary to be determined by the Tribunal. This Agreement is attached as Annexure I to this Award.

The Minutes of the Proceedings of the Tribunal, containing decisions of the Tribunal on procedural matters, and important statements and submissions of the parties, were all shown to the Parties for comments, before being signed. In addition to these Minutes, Verbatim Records of the proceedings were made. They cover over 10,000 pages. The number of maps exhibited in the case is about 350.

The Tribunal wishes to pay tribute to the spirit of co-operation and courtesy prevailing between the Parties. They have in unique measure assisted the Tribunal and one another in the production

and search for the unusually rich and complex documentary evidence.

During the Meetings of the Tribunal in February 1966, the question arose whether the Tribunal was invested with power to adjudicate *ex aequo et bono*. On this issue, after hearing the Parties, the Tribunal, on 23 February 1966, rendered the following decision:

The Tribunal cannot find that the Agreement of 30 June 1965 does authorize it clearly and beyond doubt to adjudicate *ex aequo et bono*.

Therefore, and as the Parties have not by any subsequent agreement consented to confer the power upon the Tribunal to adjudicate *ex aequo et bono*, the Tribunal resolves that it has no such power.

#### *Submissions*

The following submissions are made by the Parties:

On behalf of the Government of India:

That the Tribunal determine the alignment of the entire boundary between West Pakistan and Gujarat—from the point at which the blue dotted line meets the purple line in Indian Map B-44 in the west to the North-Eastern Trijunction in the east—as it appears in the Indian Maps B-44, B-37, B-19 and B-20 where the correct alignment is shown by appropriate boundary symbols.

On behalf of the Government of Pakistan:

That the Tribunal determine that the border between India and Pakistan is that which is marked with a green-yellow, thick broken line in the Pakistan Claim Map.

Each Party states that the boundary claimed by it is the traditional, well-established and well-recognized boundary.

Pakistan submits:

(a) that during and also before the British period, Sind extended to the south into the Great Rann up to its middle and at all relevant times exercised effective and exclusive control over the northern half of the Great Rann;

(b) that the Rann is a 'marine feature' (used for want of a standard term to cover the different aspects of the Rann). It is a separating entity lying between the

States abutting upon it. It is governed by the principles of the median line and of equitable distribution, the *bets* in the Rann being governed by the principle of the 'nearness of shores';

- (c) that the whole width of the Rann (without being a condominium) formed a broad belt of boundary between territories on opposite sides; that the question of reducing this wide boundary to a widthless line, though raised, has never been decided; that such widthless line would run through the middle of the Rann and that the Tribunal should determine the said line.

India contends that the boundary runs roughly along the northern edge of the Rann as shown in the pre-partition maps. This is the traditional well-established and well-recognized boundary between Sind, on the one hand, and Kutch and the Indian States of Jodhpur, Wav and Suigam, on the other hand, which, in the course of time, became crystallized and consolidated. This boundary was acknowledged, recognized, admitted and acquiesced in by the Paramount Power. The Paramount Power explicitly settled a part of the Sind-Kutch boundary by a Resolution of the Government of Bombay in 1914. The same Resolution implicitly confirmed the rest of the boundary. The Index Map (Ind. Map B-45) used by the Government of India, the Government of Bombay and the Sind authorities for the preparation of the definition of the boundaries of Sind, and the definition of the boundaries of Sind as proposed by the Government of India and slightly modified by the Government of Bombay in consultation with the Sind authorities, have the force of an official description of the territory of Sind and are binding on Pakistan; they show that at the time of the creation of Sind as a Governor's Province the Rann was not included in the territory of Sind and the southern boundary of Sind lay along the northern edge of the Rann as conceived by India. The alignment of this boundary is shown in Map A, which is composed of the most accurate of available pre-Partition maps.

#### *Agreement*

Both Parties agree that, should the Tribunal find that the evidence establishes that the disputed boundary between

India and Pakistan lies along a line different from the claim lines of either Party, the Tribunal is free to declare such a line to be the boundary.

Agreement on the rules of procedure for the demarcation of the boundary to be determined by the Tribunal (Annexure I).

The Agent of India and the Agent of Pakistan have agreed to the following procedure for demarcation of the boundary between India and Pakistan in the Gujarat-West Pakistan sector in accordance with the Award of the Indo-Pakistan Western Boundary Case Tribunal.

The Representatives of the two Governments shall meet at Delhi not later than two weeks after the Award is rendered to discuss and decide upon the following matters...

If the Representatives of the two Governments do not agree upon any of the above matters, either Government shall immediately report to the Tribunal the matters in difference for the decision of the Tribunal.

#### *Chairman's Opinion*

As stated at the outset in this Opinion, the territorial dispute which the Tribunal is called upon to decide is one in which opposing claims have been made with reliance upon conflicting testimony, and where a judgment has to be given on the relative strength of the cases made out by the Parties. The dispute is one of great complexity. It is also one in which the claims and the evidence adduced in support of them are in respect of certain parts of the territory at issue almost evenly balanced. The ultimate determination therefore is both difficult and in exceptional measure dictated by considerations which do not heavily outweigh those considerations that would have motivated a different solution.

Reviewing and appraising the combined strength of the evidence relied upon by each side as proof or indication of the extent of its respective sovereignty in the region, and comparing the relative weight of such evidence, I conclude as follows. In respect of those sectors of the Rann in relation to which no specific evidence in the way of display of Sind authority, or merely trivial or isolated evidence of such a character, supports Pakistan's claim, I pronounce in favour of India. These sectors comprise about 90 per cent of the disputed territory. However, in respect of sectors where a continuous and, for the region, intensive Sind

activity, meeting with no effective opposition from the Kutch side, is established, I am of the opinion that Pakistan has made out a better and superior title. This refers to a marginal area south of Rahim ki Bazar, including Piral Valo Kun, as well as to Dhara Banni and Chhad Bet, which on most maps appear as an extension of the mainland of Sind.

These findings concern the true extent of sovereignty on the eve of Independence. I do not find that the evidence presented by the Parties in relation to the post-Independence period is of such a character as to have changed the position existing on the eve of Independence.

For the reasons now given, and with due regard to what is fair and reasonable as to details, I conclude on the great issue before me that the boundary between India and Pakistan lies as follows. Reference is made here to the Award Map (Map C). Because of the imprecise topographical features in the region and the impossibility of exactly delimiting many acts of State authority, the boundary must sometimes be represented by approximate straight lines.

The portion of the boundary between the Western Terminus (marked as 'WT') and the Western Trijunction (marked as Point 'A') shall lie along the vertical line as demarcated on the ground. In the sector between the Western Trijunction and Point 'B' on Map C, the boundary will be that which was laid down in the most recent survey of that region, being Erskine's Survey; in that sector the maps of Erskine form part of the composite Map C. From Point 'B', which is the western-most point of the eastern loop as appearing in Indian Map B-11, the boundary shall go in a straight line to Point 'C', which is indicated as 'Sadariaja Cot' on Map C, and from there straight east-north-east until at Point 'D', in the vicinity of the reported Karali outpost, it shall reach the boundary symbols appearing on a recent map of that sector, Indian Map B-26, which also forms part of Map C. From Point 'D' it shall follow the boundary symbols until Point 'E', which is defined in the next paragraph.

The boundary around Dhara Banni and Chhad Bet will be straight lines drawn from or through certain basic points. These shall be the southern-most (G) and eastern-most (H) points of Chhad Bet, as appearing on Indian Map B-33, and two traverse stations marked on Indian Map B-48 as small circles, one lying

at a distance of approximately 5.8 miles south of Baliari next to the mark '5 R', and the other lying at a distance of approximately 1.7 miles south of the letters 'D' and 'H' in Dhara Banni. The boundary shall go in a straight line through the middle of the first-mentioned circle and touch the second circle as depicted on Map C. Point 'E' lies where that line reaches the boundary symbols on the northern edge of the Rann. From Point 'G', the boundary shall go straight west until at Point 'F' it reaches the straight line originating at Point 'E'. From Point 'G' it shall proceed to Point 'H', touching the outer points of the two tongues of land as depicted on Map C. From Point 'H', the boundary shall go in a straight line north-north-east until it reaches the boundary symbols appearing on the most recent survey map of that sector, Indian Map B-33. The point is called Point 'E'.

As from Point 'K', and until the Eastern Terminus, the boundary shall follow the boundary symbols appearing on the other maps and the plane-table section which form part of Map C, being Indian Maps B-33, B-34, B-35, Pakistan Map 103 and Indian Map TB-28, with the following deviations (Indian Map TB-28 of 1938 being chosen in preference to Pakistan Map 137 of 1881, which choice, in my opinion, finds support in the "Minutes of the Meeting held at Lahore and Amritsar from 25th to 28th March 1959 in connection with the Demarcation of the Rajasthan (India)-West Pakistan Boundary").

(a) The two deep inlets on either side of Nagar Parkar will constitute the territory of Pakistan. Already in 1885, the Deputy Commissioner of Thar Parkar pointed out that if these inlets were to be considered Kutch territory, "a glance at the map shows that Parkar would be a peninsula almost entirely surrounded by Kutch territory. The Kutch State could erect fortifications and establish Custom Houses at places situated many miles within the district, for instance close to Veerawah, or on some of the roads which, crossing inlets of the Rann, lead from one part of this district to another." (Pak. Doct. B. 9.)

In my opinion, it would be inequitable to recognize these inlets as foreign territory. It would be conducive to friction and conflict. The paramount consideration of promoting peace and stability in this region compels the recognition and confirmation that this territory, which is wholly surrounded by Pakistan territory, also be regarded as such. The points where the boundary

will thus cut off the two inlets are these:

At the western inlet, the boundary will leave the boundary symbols indicated on Indian Map B-34 at the point marked thereon as '26', more precisely where the cart track is indicated as departing from the edge of the Rann in a south-easterly direction. This point is indicated as Point 'L' on Map C. On the other side of the inlet, the point will be that where the camel track is indicated on Indian Map B-34 to reach the edge of the Rann: that point is indicated as Point 'M' on Map C. Between Points 'L' and 'M 2', the boundary shall be a straight line.

The boundary will cross the eastern inlet at its narrowest point in a straight line between Points 'N' and 'L' marked on Map C.

(b) The boundary marked by symbols along the outer edges of the peninsula of Nagar Parkar and up to the Eastern Terminus is a jagged one. As such it is unsuitable and impracticable as an international boundary. The boundary shall accordingly lie in conformity with the depiction on Map C between the outer points on jutting-out tongues of land from Point 'M' and until the Eastern Terminus, marked as 'ET' on Map C.

At no point between the two Terminals shall the alignment of the boundary as above described be such as to include in India territory not claimed by India, as defined by the depicting of India's claim line on Map A.

It might be added that the boundary proposed by me for the greater part of its length roughly coincides with the boundary proposed by my learned colleague, Mr. Bebler.

#### *Concurring Opinion of Mr. Nasrellah Entezam*

In an early stage I considered that Pakistan had made out a clear title to the northern half of the area shown in the Survey Maps as the Rann. I have now had the advantage of reading the opinion of the learned Chairman, and in the light of it I concur in and endorse the judgment of the learned Chairman.

#### *Dissenting Opinion of Mr. Ales Bebler*

International boundaries have usually emerged by custom. They have become gradually well determined by mutual acquiescence and or recognition by the neighbours concerned. Beginning with the second half of the 19th century, some such boundaries



or parts of them were defined by treaties which contained their description and depiction. Mutual acquiescence and mutual recognition are therefore the most general origin of existing international boundaries. Very many of them still nowadays have no other legal foundation for their validity, *ex facto jus exitur*.

Boundaries between British Indian territory and territory of Indian States were international boundaries and as such subject to rules of International Law governing boundary matters. As for the Sind-Kutch boundary—with an exception in one sector—there never existed a formal and express agreement for its definition. It was agreed upon through the usual mechanism of mutual acquiescence and mutual recognition.

Every express agreement and express recognition of the British Government in favour of Indian States was binding upon the British Government and, similarly, every agreement and recognition of Indian States in favour of the British Government was binding upon those Indian States.

On the Kutch side, the Great Rann was officially treated as Kutch territory in Kutch Administration Reports. On the British side, the same was done in a number of official notes, letters and publications of the Government of Bombay, the Government of India and the Secretary of State. The most eloquent documents of the Government of India on the alignment of the Sind-Kutch boundary, roughly along the northern edge of the Great Rann, are the official maps published by a Department of this Government, the Survey of India Department. These documents are authoritative statements from both sides on the common boundary between Kutch and British India. It has therefore to be held as proved that the boundary alignment along the northern edge of the Rann was agreed upon by mutual acquiescence and mutual express recognition.

While the treatment of the Great Rann as belonging to Kutch meant that the boundary ran roughly along the northern edge, it became more precisely defined through a process of crystallization and consolidation. In this process, scientific surveying of the border areas played a prominent part. It was brought to an end with the first survey of the whole of Sind by a party of the Survey of India in 1855-1870, the survey known as MacDonald's Survey, and the publication of its final product by the Survey of

India in 1871 and 1872.

Since then, the Sind-Kutch boundary as drawn by MacDonald, for its main portion strictly along the northern edge of the Rann, has been repeated in all subsequent official maps. This alignment was checked by survey parties three more times—in 1881-1886, in 1904-1905 and in 1937-1938 and was confirmed in its entirety with insignificant variations. The great care in checking the whole alignment is clearly illustrated by the survey of 1904-1905 when a slight correction of the alignment was introduced. The MacDonald alignment appeared in all known editions of the map of the highest standing, the 32-mile map of India, which were produced by the Survey of India Department in consultation with all relevant Departments of the Government of India, one of the editions had the approval of the Secretary of State for India. The last reprint of the last edition is dated 1928. The MacDonald line appears also in the Index Map of the Province of Sind of 1935. It was repeated thereafter in all official maps till the end of British Rule in India.

Thus, the MacDonald alignment of the boundary stood the test of time and withstood all vicissitudes of the internal history of the British Indian Empire from the time it first appeared, in 1870, till the end of British rule in India in 1947, *i.e.*, for 77 years. Throughout this period, its correctness was never challenged or doubted either by the Government of India, or by the Government of Bombay, or, after 1935, by the Government of Sind.

On two occasions, in 1885 and 1905, the Sind Commissioners raised doubts about the alignment along the northern edge of the Rann, but the Government of Bombay did not support them. The alignment was generally accepted as perfectly correct before as well as after these incidents. On a few occasions, the MacDonald boundary alignment was questioned by lower authorities on the Sind side, who, at times, expressed the opinion that the boundary lay inside the Rann. But these authorities did not press the question with the Government.

A serious doubt appeared, on the contrary, about the MacDonald alignment of the boundary in its western-most portion, *i.e.*, the portion where the alignment does not follow the northern edge of the Rann. Here the alignment drawn in 1870 was rectified in 1914 through a compromise based on proofs about display of State authority by the Rao of Kutch and by Sind. This com-

promise confirmed implicitly the rest of the boundary alignment. It was followed up, in 1924, with erection of boundary pillars on the ground along the new portion of the boundary and also along a portion of the previous, *i.e.*, of the not rectified boundary. Thus the MacDonald alignment was, for this portion, confirmed explicitly by its demarcation on the ground.

On the eve of the creation of Sind as a Governor's Province under the Government of India Act, 1935, the definition of the boundaries of Sind and an Index Map showing the territory of Sind were prepared. These had the tacit approval of the Government of India and the express approval of the Government of Bombay and the Commissioner in Sind. Although they were not actually used, they form conclusive evidence of the boundary between Sind and the States of Western India.

It is inconceivable that the boundaries of Sind were kept vague and uncertain when Sind was created a Governor's Province; the Under-Secretary of State declared in the British Parliament that the boundaries of Sind were 'clear'. He no doubt had in mind the boundaries of Sind as shown in all official maps.

The inhabitants of Sind villages lying beyond the northern edge of the Rann used to graze their cattle on three *bets* in the Rann, lying close to the northern edge of it. In this activity Sind authorities were not involved, while Kutch authorities levied a symbolic grazing tax (*panchari*) from 1926 on, although the recovery of this tax was resisted by the graziers. Kutch established in 1941 a police outpost (*thana*) on one of these *bets*, on Chad Bet; a revenue officer (*tajviidar*) was also appointed by Kutch.

The grazing of Sind cattle on the three *bets* in the Rann, being a purely private activity, would not constitute display of State authority. It might constitute the basis of a claim for an international servitude on the neighbour's territory; but Pakistan did not formulate such a claim.

The boundary line between two neighbouring States is the line where the display of State authority of the two neighbours meets. In this case, the Sind-Kutch boundary as agreed upon through mutual recognition of the two neighbours and depicted in all official maps, widely distributed and continuously used for the purpose of administration over decades, would be the meeting point of the display of State authority of Sind and Kutch. Pakistan, however, contends that the display of authority by Sind actually

extended to the middle of the Rann, contrary to the recognized and depicted boundary along the northern edge of the Rann.

The display of British State authority in the Rann, as far as it was not an activity of the British as the Paramount Power over the whole of India—as in the case of patrolling by customs officials—was sporadic, both in time and in space, and evidently lacked the most elementary requirements for the establishment of a historic title, *i.e.*, continuity, intention and possession 'a *titre de souverain*'. It is, therefore, far from sufficient to disturb the recognized and depicted boundary.

On the other hand, the instances cited by India regarding display of authority by Kutch confirm the boundary as recognized by the two neighbours and depicted in official maps.

On all the above grounds, respectfully dissenting from the opinion of my two colleagues, I find that the boundary between India and Pakistan in the West Pakistan-Gujarat border area lies along the northern edge of the Great Rann as shown in the latest authoritative map of this area, *i.e.*, the Index Map of the Province of Sind of 1935 (Indian Map B-45).

### *Majority Decision*

The alignment of the Boundary described in the opinion of the Chairman and endorsed by Mr. Entezam has obtained the required majority. It is therefore the boundary determined by the Tribunal.

## APPENDIX IX

# The Tashkent Declaration<sup>1</sup>

*January 10, 1966*

The President of Pakistan and the Prime Minister of India, having met at Tashkent and having discussed the existing relations between Pakistan and India, 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 Pakistan and India.

### *I*

The President of Pakistan and the Prime Minister of India agree that both sides will exert all efforts to create good neighbourly relations between Pakistan and India 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 Subcontinent and, indeed, the interest of the peoples of Pakistan and India 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.

<sup>1</sup>Source: *Tashkent Declaration*, pp. 16-19.

*II*

The President of Pakistan and the Prime Minister of India have agreed that all armed personnel of the two countries shall be withdrawn not later than 25 February 1966 to the position they held prior to 5 August 1965, and both sides shall observe the cease-fire terms on the cease-fire line.

*III*

The President of Pakistan and the Prime Minister of India have agreed that relations between Pakistan and India shall be based on the principle of non-interference in the internal affairs of each other.

*IV*

The President of Pakistan and the Prime Minister of India 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 President of Pakistan and the Prime Minister of India have agreed that the High Commissioner of Pakistan to India and the High Commissioner of India to Pakistan 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 Inter-course.

*VI*

The President of Pakistan and the Prime Minister of India have agreed to consider measures towards the restoration of economic and trade relations, communications, as well as cultural exchanges between Pakistan and India, and to take measures to implement the existing agreements between Pakistan and India.

*VII*

The President of Pakistan and the Prime Minister of India have agreed that they give instructions to their respective authorities to carry out the repatriation of the prisoners of war.

*VIII*

The President of Pakistan and the Prime Minister of India have agreed that the sides will continue the discussion 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 President of Pakistan and the Prime Minister of India 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 Pakistani-Indian bodies which will report to their Governments in order to decide what further steps should be taken.

The President of Pakistan and the Prime Minister of India 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.

PRESIDENT OF PAKISTAN  
Mohammad Ayub Khan

PRIME MINISTER OF INDIA  
Lal Bahadur Shastri

Tashkent, 10 January 1966.

## APPENDIX X

# Constitutional Position of the Tribal Areas of Pakistan

*Ruling of the Supreme Court of Pakistan on the Case  
of the Superintendent of Land Customs, Torkhem  
(Khyber Agency)-Appellant versus Zewar Khan  
and others—Respondent  
August 26, 1969<sup>1</sup>*

These conclusions of the High Court raise very important questions as to the Constitutional position of the tribal territories and the applicability of laws prevailing in other parts of Pakistan to such territories. It is contended by the learned Attorney-General, appearing on behalf of the appellant, that the High Court of the tribal areas had misconstrued the relevant Constitutional documents made for the purpose of incorporating such territories within Pakistan. Its conclusions were, therefore, wholly erroneous and untenable. This necessitates an examination of a number of Constitutional documents relating to the history, both administrative and legislative, of the tribal areas and we propose to do so now.

It is true that the tribal territories were never a part of British India as such. Nevertheless the Crown in the United Kingdom had acquired jurisdiction therein by grants, usages, sufferances and other lawful means, and with regard to such

<sup>1</sup>PLD 1969—S.C. 485.



territories over which the Crown had acquired such jurisdiction, although they were territories outside the dominions of the Crown, a Foreign Jurisdiction Act was passed by the British Parliament in 1890 which empowered the Crown in England to hold, exercise and enjoy a jurisdiction which it then had or may at any time thereafter have within a foreign country, "in the same and as ample a manner as if Her Majesty had acquired that jurisdiction by the cession or conquest of territory".

Section 5 (1) of this Act also gave power to the Crown by Order in Council to direct that "all or any of the enactments described in the First Schedule to this Act, or any enactments for the time being in force, amending or substituted for the same, shall extend with or without any exceptions, adaptations, or modifications in the Order mentioned to any foreign country in which for the time being Her Majesty has jurisdiction". Subsection (2) of this section further provided that upon such extension being made by Order in Council "those enactments shall, to the extent of that jurisdiction, operate as if that country were a British possession and as if Her Majesty in Council were the legislature of that possession".

Section 4 of the said Act prescribed that if any question arose in any proceedings, civil or criminal, as to the existence or extent of the jurisdiction of Her Majesty in any foreign country, the question was to be submitted to the Secretary of State for his decision and his decision was to be final for the purposes of the proceedings.

In exercise of the power given by this Act, an Order in Council was made in 1902, called the Indian (Foreign Jurisdiction) Order in Council, 1902, which delegated the power of the British Crown to the Governor-General of India-in-Council to make such rules and orders as may seem expedient, in particular, "for determining the law and procedure to be observed, whether by applying with or without modifications all or any of the provisions of any enactment in force elsewhere, or otherwise". The territories to which this order was to apply were the territories of India outside British India, which included the tribal territories.

In exercise of the powers delegated to him by this Order the Governor-General-in-Council in his turn on the 22nd Sep-

tember 1926, by Notification No. 443-F, applied to all the Political Agencies of the North-Western Frontier Province certain provisions of law then prevailing in British India, including the Sea Customs Act, 1878. The section of the Sea Customs Act thus applied included, amongst others, Sections 19 and 167(8).

It will thus be observed that the laws extended to such tribal areas under these powers were to operate as if they were territories in the possession of the Crown, and in effect it amounted to this that the Governor-General was exercising his powers as a competent legislature in respect of these areas.

The next development came with the passing of the Government of India Act, 1935. Section 8 of this Act gave powers to the executive authority of the Federation "to exercise all such rights, authority and jurisdiction as are exercised by His Majesty by treaties, grants, usages or sufferances in or in relation to the tribal areas".

The powers formerly delegated to the Governor-General under the Indian (Foreign Jurisdiction) Order in Council, 1902, now came to be vested by a constitutional document in the executive authority of the Federation, *i.e.*, the Governor-General of India, and Section 123 thereof empowered the Governor-General to direct a Governor of a Province to discharge as his agent, generally or in any particular case, his functions in or in relation to the tribal areas as may be specified in the direction. Section 311 defined a tribal area as an area "along the frontiers of India or in Baluchistan which is not part of British India or of Burma or of any Indian State or of any foreign State." Then Section 313 (2) (c) provided that until the establishment of the Federation the Governor-General-in-Council was to be the executive authority for this period—subject to the provisions of the said Act—and was "to exercise all such rights, authority and jurisdiction as were exercisable by His Majesty by grant, treaty, usage, sufferance or otherwise in and in relation to the tribal areas".

Since the powers of the Crown in England which were under the Foreign Jurisdiction Act of 1890 delegated to the Governor-General by the Indian (Foreign Jurisdiction) Order in Council, 1902, had now come to be vested by the above-mentioned provisions in the Governor-General of India in Council,

the Indian Foreign Jurisdiction Order, 1937, was passed on the 18th March 1937. Section 3 of this Order provided that the Indian (Foreign Jurisdiction) Order in Council of 1902 shall cease to have effect as respects the tribal areas in India and Burma, without prejudice to the validity of anything previously done thereunder and provided further that any rules, orders, delegations, appointments or other instruments made or issued under the Order in Council of 1902 shall "continue in force except so far as revoked or varied by the authority competent for the purpose under the Government of India Act, 1935". Section 4 of this Order of 1937 reiterated that the powers conferred by the Order in Council of 1902 on the Governor-General-in-Council shall continue to be exercisable by the Governor-General-in-Council until the establishment of the Federation of India and shall thereupon become exercisable on behalf of His Majesty by the Governor-General of India.

This order does not, therefore, make any change but merely regularizes the position resulting from the enactment of the Government of India Act, 1935.

It will be observed from the above that although the tribal areas did not form part of the territories of the Dominion of Pakistan, yet Subsection (3) of Section 2 and the proviso to Section 19 (3) of the aforementioned Act clearly contemplated that areas not forming part of the territories specified as the territories of the Dominion of Pakistan could be included in it with the consent of the Dominion and arrangements made with the representatives of the tribal areas. Again although under Section 7 (1) (c) treaties or agreements in force with respect to the tribal areas lapsed, yet agreements relating to customs, transit and communications, posts and telegraphs or other like matters continued to have effect until the provisions thereof were denounced either by a person having authority in the tribal areas or by the Dominion or a province or any other part thereof or were superseded by subsequent agreements, under the proviso to Clause (c) of Subsection (1) of Section 7. The *non-obiter* clause therein clearly has the effect of making an exception to the general provision that all such treaties or agreements with tribal areas will lapse from the coming into force of the Indian Independence Act, and amongst the matters so excepted were treaties relating to customs. It is difficult to appreciate,

therefore, as to how the High Court could have, in the face of these provisions, come to the conclusion that the treaties and agreements relating to customs also lapsed in the tribal areas. The contention that the above-mentioned proviso related only to agreements and not to laws extended to these areas does not take into account the fact that the relevant laws were extended in pursuance to the jurisdiction acquired under the agreements. Therefore the proviso had the effect of continuing not only the agreements but also the laws extended in pursuance thereof. The contrary view was clearly opposed to the clear intention of the proviso appended to Clauses (b) and (c) of Subsection (1) of Section 7 of the Indian Independence Act, 1947. There is also nothing to show that these treaties were ever denounced either by any authority in the tribal areas or by the Dominion of Pakistan. On the contrary it appears that the Government *status quo* in the tribal areas was the successor to His Majesty's Government in respect of those areas. On the 31st July 1947, the Quaid-i-Azam as the Governor-General designate of Pakistan issued a statement which was published in the *Dawn* newspaper, appealing to all the different elements in the Frontier Province and in the tribal areas to forget past disputes and differences and join hands with the Government of Pakistan in setting up a truly democratic Islamic State, and assuring the tribesmen that "Pakistan would like to continue all treaties, agreements and allowances until new arrangements are negotiated".

Then on the 17th April 1948, when the Quaid-i-Azam visited the Frontier Province as the first Governor-General of Pakistan. A historic Jirga of all the tribes of the North-West Frontier Province waited upon him at the Government House of Peshawar, and the tribesmen, including those of the Khyber Agency, pledged their loyalty to Pakistan and desired that they should be placed "directly under the control of the Central Government". The Quaid-i-Azam in his reply noted with approval that the tribesmen had pledged their loyalty to Pakistan and had promised that they would help Pakistan with all their resources and ability, and then asked the tribesmen to realize: "It is now the duty of every Musalman, yours and mine, every Pakistani, to see that the State which we have established is strengthened in every department of life and made prosperous

and happy for all, especially the poor and the needy". He also assured them that "Pakistan has no desire to unduly interfere with your internal freedom. On the contrary, Pakistan wants to help you and make you, as far as it lies in our power, self-reliant and self-sufficient, and to help your educational, social and economic uplift, and not to be left, as you are, dependent on annual doles as has been the practice hitherto"; and concluded by again thanking the tribesmen for their "whole-hearted and unstinted declaration" of their pledge of loyalty and their assurance to support Pakistan.

These speeches contain abundant indication of the fact that the *de facto* accession of the tribal areas to the territories of Pakistan had taken place by the agreement of the tribal Jirgas, but in order to give this *de facto* position *de jure* Constitutional status, the Governor-General, on the 31st March 1949, issued two Orders called "The Extra-Provincial Jurisdiction Order, 1949" (G.G.O. No. 5 of 1949) and "The Pakistan Provisional Constitution (Amendment) Order, 1949" (G.G.O. No. 6 of 1949). The Governor-General's Order No. 5 extended to all the territories in Pakistan outside the Provinces which may be declared by the Governor-General of Pakistan to be the territories in which jurisdiction is being exercised by him. This came into force with retrospective effect from the 15th day of August 1947, and in effect re-enacted the provisions of the Indian (Foreign Jurisdiction) Order in Council of 1902 as well as Sections 3 and 4 of the Foreign Jurisdiction Act of 1890.

We are unable, in the circumstances, to agree with the High Court that the laws which were made applicable to the tribal areas before the 15th August 1947, in exercise of the powers given to the Governor-General under the Indian Foreign Jurisdiction Order of 1937, lapsed with the coming into force of the Indian Independence Act, or that the tribal areas had not become part and parcel of the territories of Pakistan with effect from the 15th August 1947.

On general principles, too, such a result must follow, for the laws of a State or territory do not disappear by a change in its sovereignty. Laws governing or regulating the relations, the rights and obligations of the residents of a ceding or acceding territory do not lapse by a mere change in the sovereignty but continue to remain operative until changed by a competent

authority. The laws, as pointed out by Lord Mansfield in the case of *Campbell v. Hall* (1), of an acquired or ceded territory continue in force until they are altered by the conqueror or the country to which it has been ceded or acceded. Cession, of course, is not restricted to cases where the possession is acquired by conquest; it also includes cases of voluntary cession by the general consent of the people.

In the case of *Vorisimo Vasouez Vilas v. City of Manila* (2), it was observed by Lurton, J., while delivering the opinion of the Court, that it is a general rule of public law, recognized and acted upon by the United States, that whenever political jurisdiction and legislative power over any territory are transferred from one nation or sovereign to another, the municipal laws of the country, that is, laws which are intended for the protection of private rights, continue in force until abrogated or changed by the new government or sovereign.

It is patent, therefore, that once it is found that the tribal areas had acceded to Pakistan, then the right to legislate for the governance of those areas must necessarily be vested in the authority that was, both before the 15th August 1947 and after the 15th August 1947, vested with those powers, namely: the Governor-General until other provision is made in that behalf by a competent legislature.

It now remains to consider whether any further change was made in the Constitutional position of the tribal areas after the Governor-General's Orders Nos. 5 and 6 of 1949.

In International Law, too, Pakistan was accepted and recognized as a Successor Government and the inheritor of his Majesty's Government in the United Kingdom. This was made abundantly clear by the following statement of the then Secretary of State for Commonwealth Relations, made in the British House of Commons on the 30th June 1950:

“His Majesty's Government in the United Kingdom have seen with regret the disagreements which there have been between the Governments of Pakistan and Afghanistan about the status of the territories on the North-Western Frontier. It is His Majesty's Government's view that Pakistan is in International Law the inheritor of the rights and duties of the old Government of India and of His Majesty's Government in the United Kingdom in these territories,

and that the Durand Line is the international frontier." This was followed in 1956 by a statement of Sir Anthony Eden, the then Prime Minister of the United Kingdom to the following effect:

"In 1947, Pakistan came into existence as a new sovereign independent member of the Commonwealth. The British Government regard her as having, with full consent of the overwhelming majority of the Pushto-speaking peoples concerned, both in the administered and non-administered areas, succeeded to the exercise of the powers formerly exercised by the Crown in the Indian North-West Frontier of the subcontinent."

Again the Council of Foreign Ministers of the South-East Asia Treaty Organization, who met in Karachi from 6th to 8th March 1956, declared in their communique as follows:

"The members of the Council severally declared that their Governments recognized that the sovereignty of Pakistan extends up to the Durand Line, the international boundary between Pakistan and Afghanistan, and it was consequently affirmed that the Treaty Area referred to in Articles IV and VIII of the Treaty includes the area up to that Line."

Both under International Law as well as the Municipal Law, therefore, the tribal territories became part and parcel of Pakistan and were duly recognized as such by the United Kingdom and the Member Nations of the South-East Asia Treaty Organisation. The Dominion of Pakistan through its Constitutional Assembly also formally accepted it as such. In the circumstances it was not for the Municipal Courts to hold otherwise. It is important to remember that in such matters of a political nature, namely accession or cession of territory, it is not for the Courts to take a different view. The executive authority of the State has in the exercise of its sovereign power the right to say as to which territory it has recognized as a part of its State and the Courts are bound to accept this position. Indeed, this was the principle that was given statutory effect in Section 4 of the Foreign Jurisdiction Act, 1890, and Section 6 of the Governor-General's Order No. 5 of 1949. If the Courts felt any doubt with regard to the status of such a territory, then it was incumbent upon them to make a reference to the Government and to accept its opinion.

APPENDIX XI

**Sino-Pakistan Agreement<sup>1</sup>**

*March 2, 1963*

*(Text of the Border Agreement between the Government of the People's Republic of China and the Government of Pakistan.)*

The Government of the People's Republic of China and the Government of Pakistan,

Having agreed with a view to ensuring the prevailing peace and tranquillity on the border, to formally delimit and demarcate the boundary between China's Sinkiang and the contiguous areas, the defence of which is under the actual control of Pakistan in a spirit of fairness, reasonableness, mutual understanding and mutual accommodation and on the basis of Ten Principles as enunciated in the Bandung Conference;

Being convinced that this would not only give full expression to the desire of the peoples of China and Pakistan for developing good neighbourly and friendly relations but also help safeguard Asian and world peace;

Have resolved for this purpose to conclude the present Agreement and appointed as their respective plenipotentiaries the following:

Marshal Chen Yi, Minister for Foreign Affairs for the

<sup>1</sup>Source: *Peking Review*, March 15, 1963, pp. 67-70; *Dawn*, March 3, 1963.



Government of the People's Republic of China;

Zulfikar Ali Bhutto, Minister of External Affairs for the Government of Pakistan;

Who, having mutually examined their full powers and found them to be in good and due form, have agreed upon the following:

### *Article I*

In view of the fact that the boundary between China's Sinkiang and the contiguous areas the defence of which is under the actual control of Pakistan has never been formally delimited, the two parties agree to delimit it on the basis of the traditional customary boundary line including natural features, and in a spirit of equality, mutual benefit and friendly co-operation.

### *Article II*

I. In accordance with the principle expounded in Article I of the present Agreement, the two parties have fixed as follows the alignment of the entire boundary line between China's Sinkiang and the contiguous areas the defence of which is under the actual control of Pakistan.

(1) Commencing from its north-western extremity at height 5,630 metres (a peak, the reference co-ordinates of which are approximately longitude 74 deg. 34' E and latitude 37 deg. 03' N) the boundary line runs generally eastward and then south-eastward strictly along the main watershed between the tributaries of the Tashkurgan River of the Tarin River system on the one hand and the tributaries of the Hunza River of the Indus River system on the other hand, passing through the Kilik Daban (Dawan), the Mintaka Daban (Pass), the Kharachanai Daban (named on the Chinese map only), the Kutejilga Daban (named on the Chinese map only), and the Parpik Pass (named on the Pakistan map only) and reaches the Khunjerab (Yutr) Daban (Pass).

(2) After passing through the Khunjerab (Yutr) Daban (Pass), the boundary line runs generally southward along the above-mentioned main watershed up to a mountain-top south of the Daban (Pass), where it leaves the main watershed to follow the crest of a spur lying generally in a south-easterly direction, which is the watershed between the Akjilga River (a nameless corresponding river on the Pakistan map), on the one hand,

and the Taghdumbash (Oprang River) and the Keliman Su (Oprang Jilga), on the other hand. According to the map of the Chinese side, the boundary line, after leaving the south-eastern extremity of this spur, runs along a small section of the middle line of the bed of the Keliman Su to reach its confluence with the Kelechin River. According to the map of the Pakistan side the boundary line, after leaving the south-eastern extremity of this spur, reaches the sharp bend of the Shaksgam or the Muztagh River.

(3) From the aforesaid point the boundary line runs up the Kelechin River (Shaksam or Muztagh River) along the middle line of its bed to its confluence (reference co-ordinates approximately longitude 76 deg. 02' E and latitude 36 deg. 26' N) with the Sorbulak Daria (Shimshal River or Braldu River).

(4) From the confluence of the aforesaid two rivers, the boundary line according to the map of the Chinese side ascends the crest of a spur and runs along it to join the Karakoram Range main watershed at a mountain-top (reference co-ordinates approximately longitude 75 deg. 54' E and latitude 36 deg. 15' N), which on this map is shown as belonging to the Shorbulak Mountain. According to the map of the Pakistan side, the boundary line from the confluence of the above-mentioned two rivers ascends the crest of a corresponding spur and runs along it, passing through height 6,520 metres (21,390 feet) till it joins the Karakoram Range main watershed at a peak (reference co-ordinates approximately longitude 75 deg. 57' E and latitude 36 deg. 03' N.)

(5) Thence, the boundary line running generally southward and then eastward strictly follows the Karakoram Range main watershed which separates the Tarim River drainage system from the Indus River drainage system passing through the East Mustagh Pass (Muztagh Pass), the top of the Chorgi Peak (K2), the top of the Broad Peak, the top of the Gasherbrum Mountain (8,068) Indirakoli Pass (named on the Chinese map only) and the top of the Teram Kangri Peak, and reaches its south-eastern extremity at the Karakoram Pass

II. The alignment of the entire boundary line, as described in Section I of this Article, has been drawn on the 1/one million scale map of the Chinese side in Chinese and the 1/one million scale map of the Pakistan side in English, which are signed and attached to the present Agreement.

III. In view of the fact that the maps of the two sides are not fully identical in their representation of topographical features, the two parties have agreed that the actual features on the ground shall prevail, so far as the location and alignment of the boundary described in Section I is concerned; and that they will be determined as far as possible by joint survey on the ground.

### *Article III*

The two Parties have agreed that:

I. Wherever the boundary follows a river, the middle line of the river bed shall be the boundary line; and that

II. Wherever the boundary passes through a Daban (Pass) the water-parting line thereof shall be the boundary line.

### *Article IV*

I. The two Parties have agreed to set up, as soon as possible, a Joint Boundary Demarcation Commission. Each side will appoint a Chairman, one or more members and a certain number of advisers and technical staff. The Joint Boundary Commission is charged with the responsibility, in accordance with the provisions of the present Agreement, to hold concrete discussions on and carry out the following tasks jointly:

(1) to conduct necessary surveys of the boundary area on the ground as stated in Article II of the present Agreement, so as to set up boundary markers at places considered to be appropriate by the two Parties and to delineate the boundary line on the jointly prepared accurate maps.

(2) to draft a Protocol setting forth in detail the alignment of the entire boundary line and location of all the boundary markers and prepare and get printed detailed maps to be attached to the Protocol with the boundary line and the location of the boundary markers shown on them.

II. The aforesaid Protocol upon being signed by the representatives of the Governments of the two countries, shall become an Annex to the present Agreement and the detailed maps shall replace the attached maps to the present Agreement.

III. Upon the conclusion of the above-mentioned Protocol, the tasks of the Joint Commission shall be terminated.

*Article V*

The two Parties have agreed that any dispute concerning the boundary which may arise after the delimitation of the boundary line actually existing between the two countries shall be settled peacefully by the two sides through friendly consultations.

*Article VI*

The two Parties have agreed that after the settlement of the Kashmir dispute between Pakistan and India, the sovereign authority concerned will reopen negotiations with the Government of the People's Republic of China on the boundary, as described in Article II of the present Agreement, of Kashmir, so as to sign a boundary treaty to replace the present Agreement.

Provided that in the event of that sovereign authority being Pakistan, the provisions of this Agreement and of the aforesaid Protocol shall be maintained in the formal boundary treaty to be signed between Pakistan and the People's Republic of China.

*Article VII*

The present Agreement shall enter into force on the date of the signature.

Done in duplicate in Peking on the Second Day of March 1963, in the Chinese and English languages, both texts being equally authentic.

Sd. (Marshal) Chen Yi, Plenipotentiary of the Government of the People's Republic of China.

Sd. Zulfikar Ali Bhutto, Plenipotentiary of the Government of Pakistan.

## APPENDIX XII

# Sino-Pakistan Joint Communiqué<sup>1</sup>

March 4, 1963

*(Text of a joint communique of the Government of the People's Republic of China and the Government of the Republic of Pakistan, issued in Peking on March 4, 1963, on the conclusion of the visit to China of Mr. Zulfikar Ali Bhutto, Pakistan Minister for External Affairs.)*

1. The Government of Pakistan and the People's Republic of China reached an agreement in principle in December 1962, regarding the alignment of the boundary between China's Sinkiang and the contiguous areas the defence of which is under the actual control of Pakistan. The Government of the People's Republic of China extended an invitation to the late Mr. Mohammed Ali, as the Minister of External Affairs of Pakistan, to visit China for signing the formal boundary agreement. Due to the tragic demise of Mr. Mohammed Ali, his visit could not materialize. The Government of the People's Republic of China renewed the invitation to Mr. Zulfikar Ali Bhutto, Minister of External Affairs of Pakistan.

2. Accompanied by the members of his delegation, Mr. Zulfikar Ali Bhutto arrived in China on 26th February 1963. He left China on 4th March 1963. During his stay in China Mr.

<sup>1</sup>Source: *Peking Review*, March 15, 1963, pp. 66-67.

Bhutto visited Canton, Shanghai and Peking. He was warmly welcomed by the Chinese Government and the Chinese people.

3. The Chairman of the Central Committee of the Chinese Communist Party, Mr. Mao Tse-tung, and the Chairman of the People's Republic of China, Mr. Liu Shao-chi, received Mr. Bhutto and his delegation and held cordial and friendly conversations with them. Talks were held in a friendly and frank atmosphere between the Premier of the State Council of China, Mr. Chou En-lai, and Vice-Premier and Foreign Minister, Marshal Chen Yi, and Mr. Bhutto, Minister of External Affairs of Pakistan.

4. The boundary agreement between Pakistan and China was signed by the two Foreign Ministers on the 2nd of March 1963, at 3:00 p.m. at the Great Hall of the People. The Chairman, Mr. Liu Shao-chi, Premier Chou En-lai, and other Chinese leaders, were present at the ceremony.

#### *Boundary Commission*

5. It was agreed that a joint boundary demarcation commission charged with the responsibility of implementing the agreement will be established as soon as possible in accordance with Article Four of the above-mentioned agreement.

6. In the talks, the representatives of the two Governments reviewed the development of friendly relations between China and Pakistan since the establishment of diplomatic relations between them. They were particularly satisfied at the fact that the Governments of China and Pakistan, in the spirit of equality, co-operation, mutual understanding and mutual accommodation, have settled the question of the boundary actually existing between the two countries through friendly consultations and have signed the boundary agreement. This demonstrated that friendly consultation, on the basis of mutual respect and goodwill, is the effective way to settle boundary differences, and other international issues. They expressed their conviction that the conclusion of the boundary agreement has a significant bearing on the consolidation and development of friendly and good-neighbourly relations between China and Pakistan, and has contributed to the consolidation of peace in Asia and in the world.

7. The representatives of the two Governments reaffirmed

their belief in the national sovereignty and equality of all countries and in the basic right of all peoples to decide their own destinies in accordance with their free will. They expressed a common desire to promote co-operation between China and Pakistan on the basis of equality and non-interference in each other's internal affairs.

### *Kashmir*

8 With regard to the Kashmir dispute between Pakistan and India, the Pakistan Minister of External Affairs reiterated that Pakistan has consistently worked and will continue to strive for an equitable and honourable settlement of this dispute with India through peaceful negotiations. The Chinese Government expressed its appreciation of the attitude of the Pakistan Government in seeking a peaceful settlement of the Kashmir dispute and was of the belief that expeditious settlement of this question would be conducive to peace in Asia and in the world.

9. With regard to the Sino-Indian boundary dispute, the two Governments expressed the hope that a fair and reasonable settlement would be achieved through direct negotiations between China and India. The Chinese Government reiterated that there would be no change in the Chinese Government's determination to strive for a peaceful settlement of the Sino-Indian boundary question through negotiations.

APPENDIX XIII

Survey Department Note on  
Boundary Demarcation<sup>1</sup>  
*March 11, 1969*

The following letter is in reply to a letter sent by the author to the Office of the Surveyor-General of Pakistan, requesting information about the cartographic and surveying methods used by the Government of Pakistan. The following reply, enclosure and map were sent to the author, and have been used, where appropriate, in the study. The author records his thanks to the Surveyor-General's Office for their courtesy.

No. 174/11-C-Misc/PS

Surveyor-General's Office,  
Victoria Road,  
Post Box No. 3906.  
Karachi, the 11 March, 1969

Mr. S. M. Mujtaba Razvi,  
839, Fulham Road,  
London, S.W. 6.

The replies to your letter seriatim are as below:—

1. The Department was founded on the 14th August 1947. The old Frontier Circle of the Survey of India formed the nucleus.

<sup>1</sup>Source: Office of the Surveyor-General of Pakistan.



Its Surveyor-Generals were:

	<i>Years</i>
1. Mr. R. C. N. Jenney	1947-1950
2. Mr. C. A. K. Wilson	1950-1954
3. Mr. M. N. A. Hashmie	1954-1961
4. Mr. A. R. Quraishi	1961-1963
5. Mr. A. Ahad	1963-1966
6. Mr. G. H. Khan	1966 . . .

2. No particular policy is adopted by this Department for demarcation of the boundary, but this is done by the Government and the Department implements the decisions of the Government on the ground by placing pillars and preparing maps of the border. A note giving the progress of demarcation is enclosed herewith.

3. No deviations from the principles laid down by the Government.

4. No such problems are known to us, as these are decided on political grounds by the Government of Pakistan.

5. In the British time the boundaries with neighbouring countries were mostly vague and undefined (except the Durand Line). This was clearly defined and laid down by the Government of Pakistan after entering into treaties with the neighbouring countries.

6. First the line on the map on principles forming the decision is laid down by the Government. This line is relayed on the ground by erecting pillars. The geographical co-ordinates of the pillars are then worked out by scientific observation and computation.

7. A map of Pakistan is attached herewith.

(DAUD SHAH SYED)

*for Surveyor-General of Pakistan*

11/3

*A Note on Boundary Demarcation*

Pakistan has common boundaries with India, Iran, Afghanistan, Burma and China. On Independence, none of the boundaries, except with Afghanistan and a small portion of Iran, were demarcated. The demarcation of the undemarcated boundary was a pressing national need ever since Independence.

It is well known that certain disputes arose out of the inter-

pretation of the Radcliffe Award in both Eastern and Western Sectors of our boundaries with India. The boundary demarcation in case of West Pakistan-India was entrusted to this Department, but in case of East Pakistan, D. L. R. & S. was entrusted with the task of demarcating areas where no dispute existed. Due to certain legal disputes on the East Pakistan-India boundary, the interpretation of demarcation of the boundaries was a specialized technique, and this was entrusted to the Survey of Pakistan.

(a) The Bagge Award in case of Dispute I and II regarding demarcation of the boundary between Murshidabad (India) and Rajshahi (Pakistan) Districts, along the off-take of the Mata-bhanga river, was accepted by India. A joint team of both the survey of India and Pakistan undertook the demarcation work in 1950, and the work was completed in the 1950-51 season. In case of Dispute III and IV regarding the boundary in the Patharia Hill forest along the course of the Kusyara River, the interpretation of the Bagge Tribunal was again questioned by India, and a little work carried out jointly with India, was given up. This position remained unattended till October 1959, when the Indo-Pakistan Ministerial level conference arrived at a decision in respect of these disputes; and the boundary demarcation, according to their decision, being a straightforward process, was again entrusted to D.L.R. & S. East Pakistan.

Besides the above work, the Survey of Pakistan carried out joint traversing with the Indian Survey Department to fix geographical control of boundary pillars along the West Bengal-East Pakistan and Assam and East Pakistan borders. In case of the East Pakistan-Assam Sector, the Department has also undertaken large-scale maps based on air photography jointly with India. The Survey of Pakistan continues to extend technical advice to the Provincial Government whenever an occasion demands it.

The demarcation of the boundary in the Chittagong Hill Tracts (Pakistan) and the Mizo District (India) Sector was entrusted to both Central Survey Department of India and Pakistan and the joint work was done up to the field season of 1964-65, but thereafter the work remained suspended. The work is yet to be taken up, as no response from the Survey of India was received. The issue has now been taken up diplomatically.

(b) The entire length of the boundary of the West Pakistan-Punjab (India) Sector and the West Pakistan-Rajasthan (India)

Sector was finally demarcated and maps authenticated in 1961-62. Missing pillar or pillars in the riverian areas in the former Sector have partly been fixed and some will be fixed after the normalization of relations with India.

**West Pakistan-India Boundary in the Rann of Kutch Sector:** The work to provide ground control for subsequent demarcation of the above Sector, which was taken up jointly, was closed on the 31st of May, 1968, after which, completion of the first phase has been resumed and the work is in progress. It is expected that the whole work would be finished by the end of next year.

(c) **Pakistan-Iran Boundary:** The demarcation of the boundary between West Pakistan and Iran was completed by the Survey Department of both the countries, and final protocols were exchanged between the two countries in 1959. This sector—stretch of 590 miles from Koh-i-Malik Siah to Gwatar Bay—was completed in record time.

(d) **Pakistan-China Boundary:** The demarcation of the Pak-China boundary which was a major undertaking was completed in 1964. The final maps as stipulated in the agreement were published and the boundary protocol and maps were signed by the two Governments on the 26th of March, 1965. Photogrammetric techniques were employed in the mapping of the area, which, with such a high altitude as that of the Karakorum range, was unique.

(e) **Pak-Burma Boundary:** An Agreement between the Governments of Pakistan and Burma on the demarcation of the fixed boundary along the Naaf River was signed in Rawalpindi on the 9th of May, 1966, by the President of Pakistan and the Chairman of the Revolutionary Council of Burma. This work, in the form of fixation of reference pillars on the land portion on both banks of the River, has taken place. The demarcation of this boundary further up on the land will be taken up when feasible.



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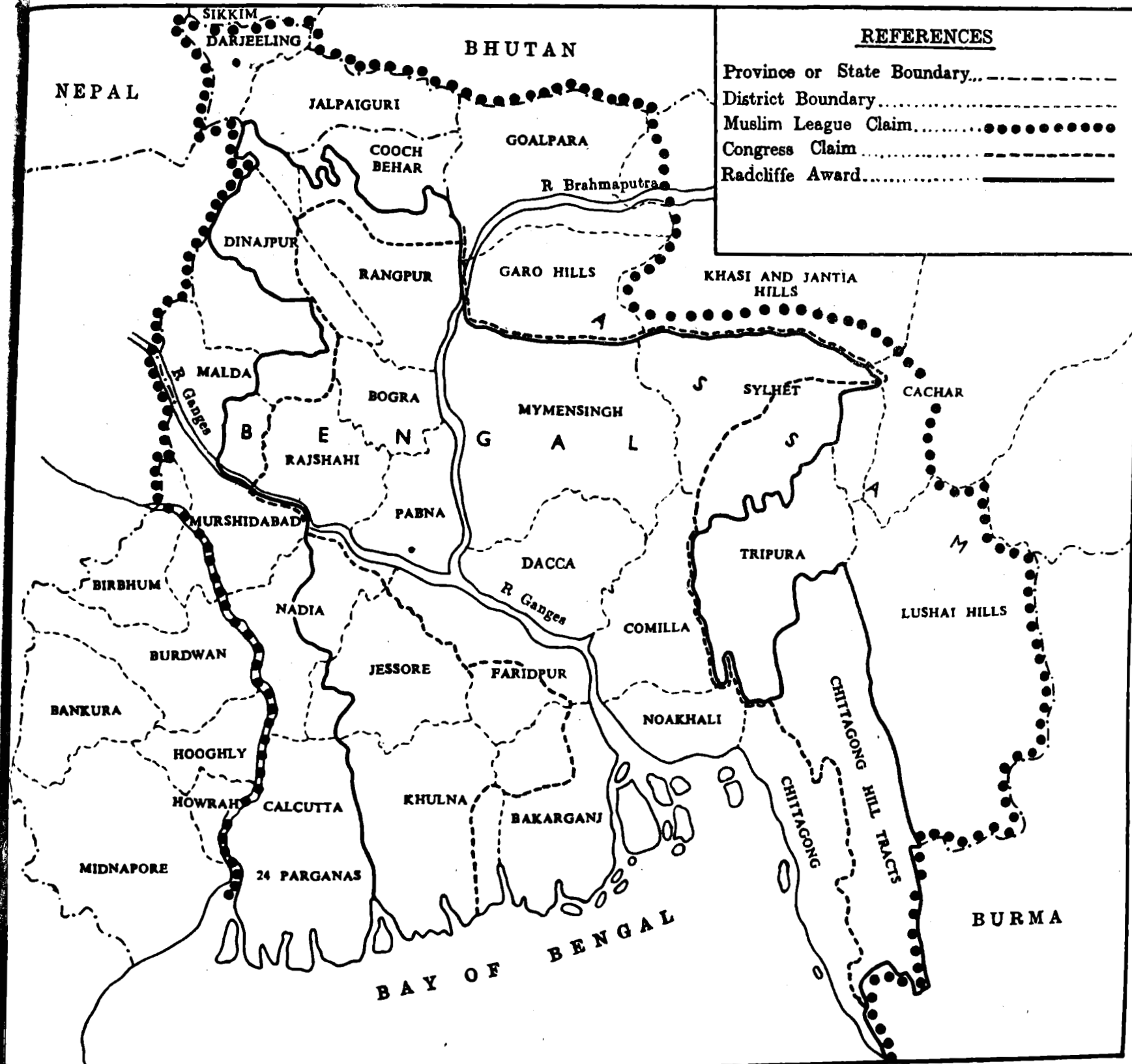
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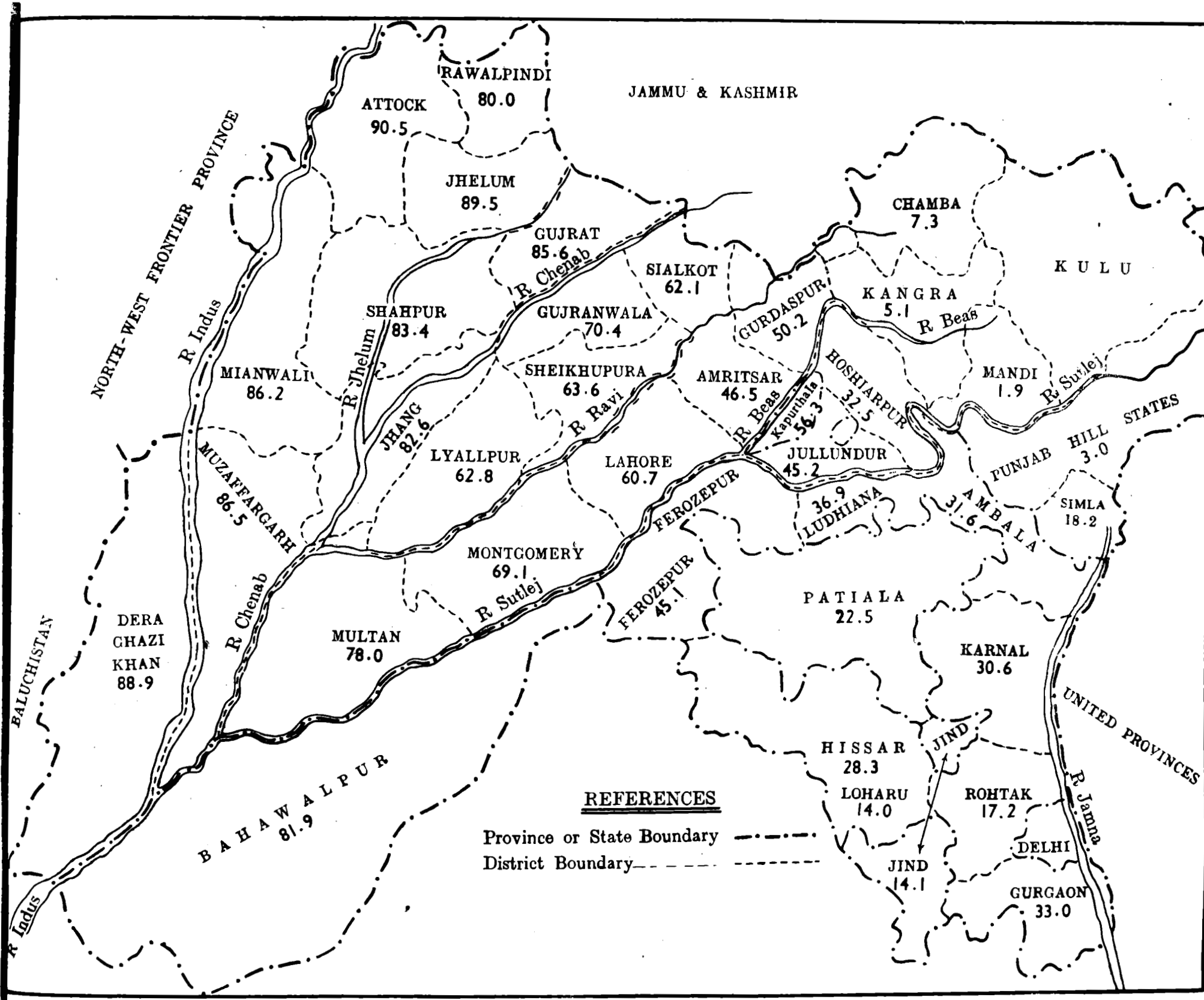
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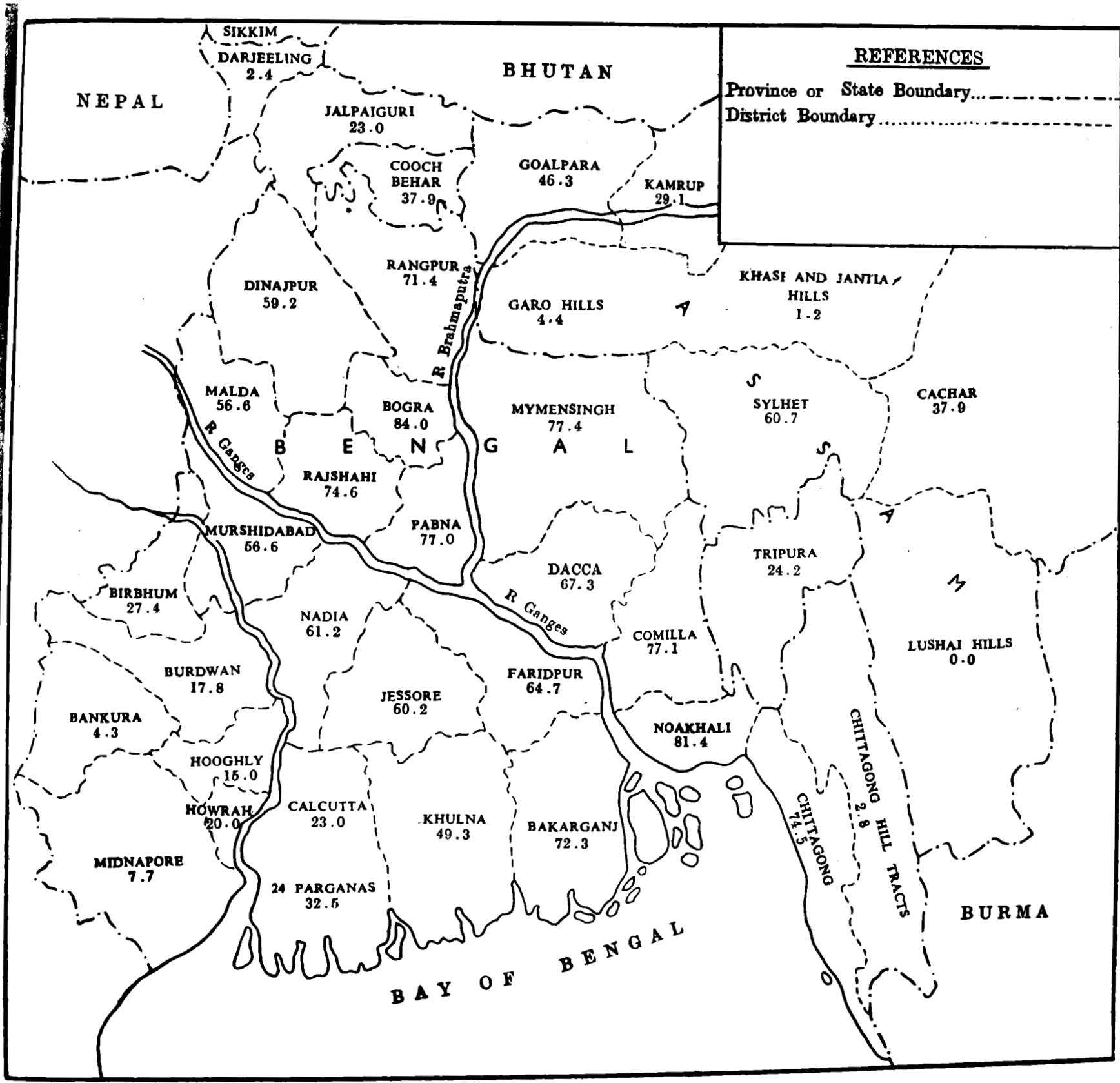
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I. A  
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 (1941 Census)



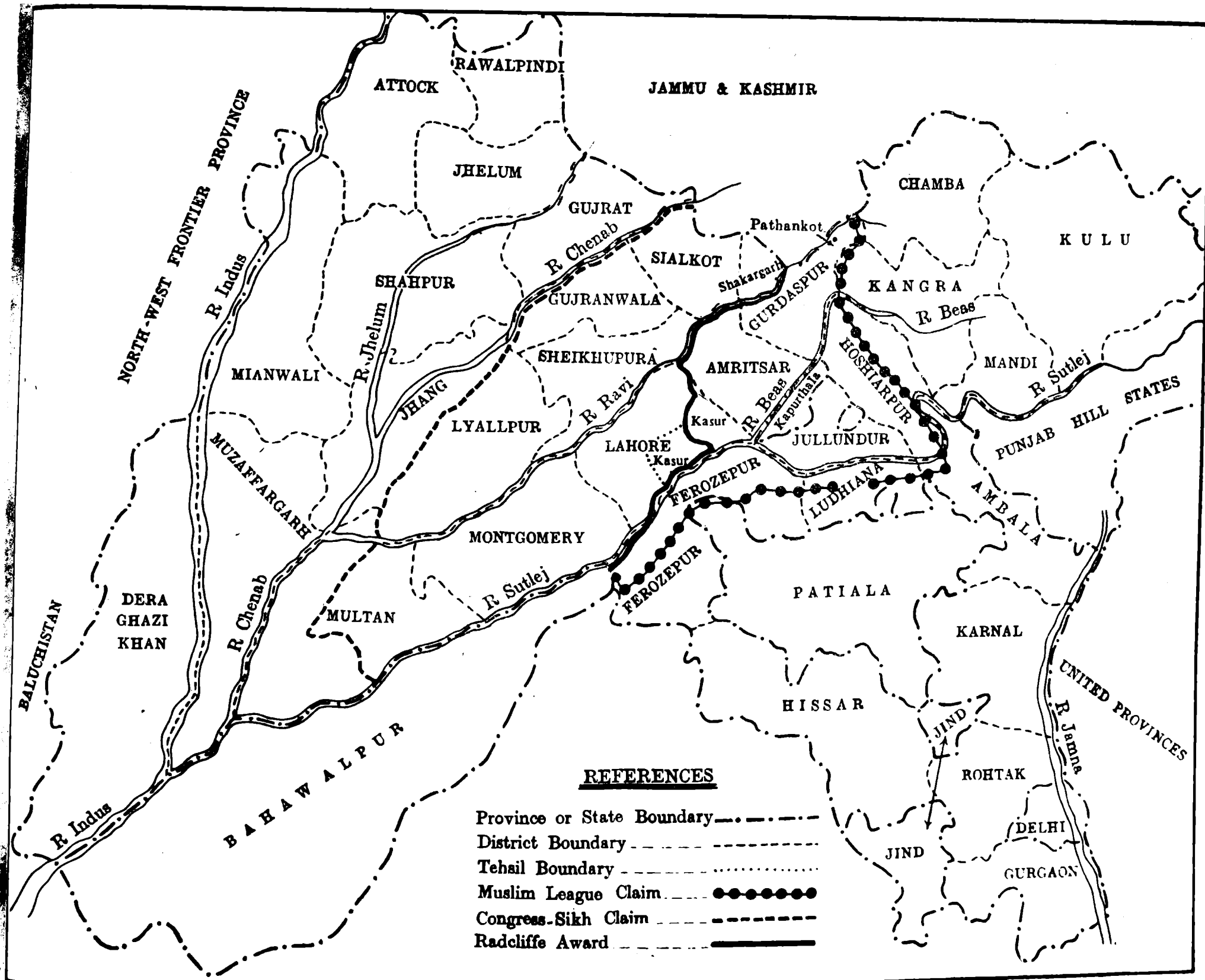
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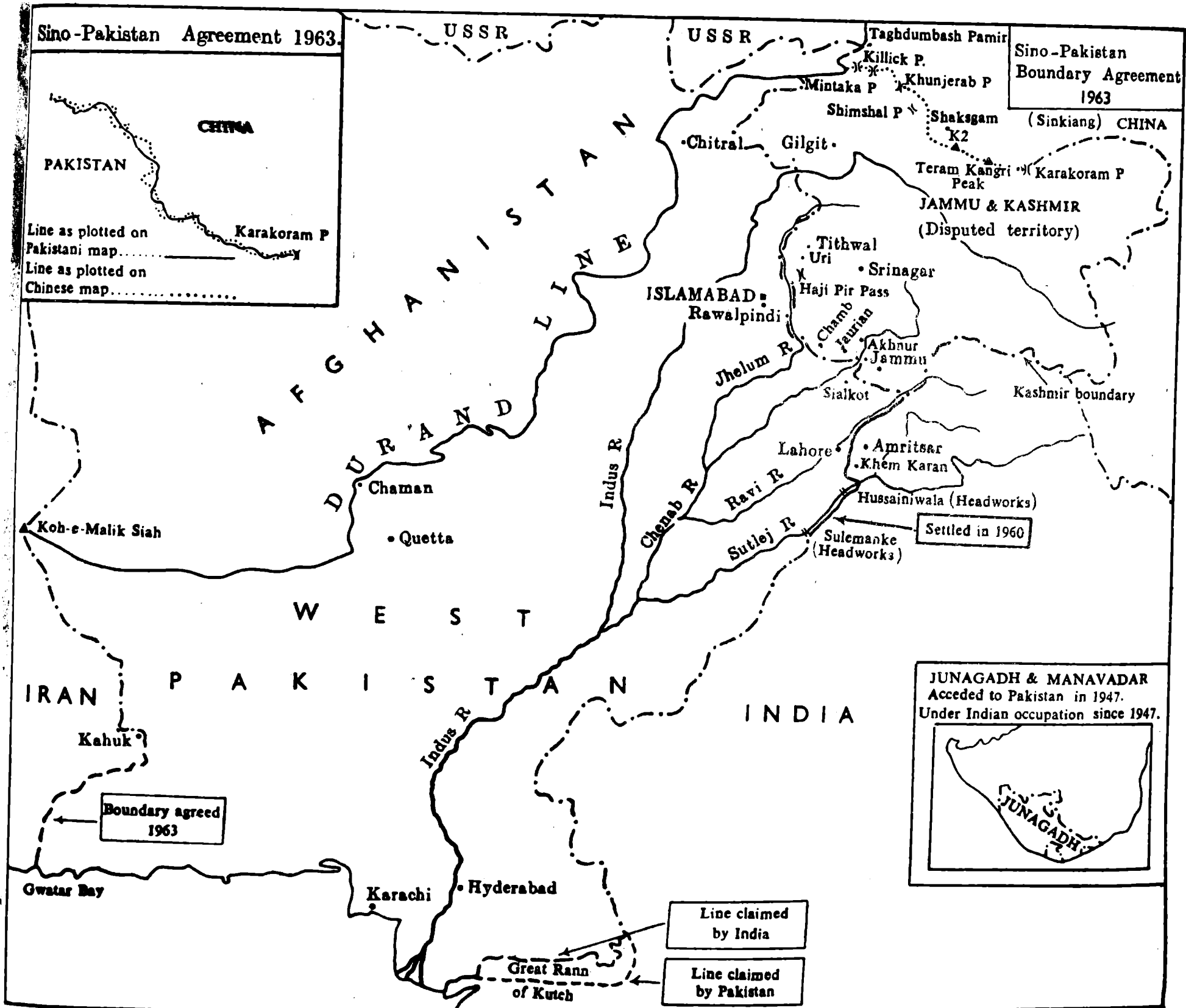
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**II. A**  
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**BENGAL AND ASSAM**





II. B  
CLAIM MAP  
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THE PUNJAB



IV.  
THE FRONTIERS  
OF  
WEST PAKISTAN



## VI. THE RANN OF KUTCH

