THE HISTORY OF THE KASHMIR DISPUTE:
AN ASPECT OF INDIA-PAKISTAN RELATIONS

by

HERBERT PATRICK GRANT FRASER
B.A., University of British Columbia, 1963

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ABSTRACT

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The purpose of this thesis is to study and analyse the development of the Kashmir dispute between India and Pakistan, the effect of their respective outlooks upon the various proposals for settlement brought forward by the United Nations or their own leaders, and the reasons for each subsequent failure to resolve the eighteen year deadlock. Twelve years ago, Michael Brecher concluded in *The Struggle for Kashmir* that both India and Pakistan had economic, strategic and political interests in the State; and of the three, those brought about by the two-nation theory and the conflicting religious and secular policies were deemed to be the most important. While one cannot disagree with Brecher's general conclusions, this writer feels that the specific importance of Kashmir to either India or Pakistan at any given time is not a constant factor but instead has been influenced by contemporary foreign and domestic events and has been in a perpetual state of change. What was considered of primary importance in 1947, therefore, does not necessarily hold the same position today. Indeed, to single out one factor as the reason for the continuation of the dispute would not only be inopportune, but incorrect.

Because of the very nature of the dispute and its international and domestic characteristics, one is faced by a plethora of material - including White Papers on correspondence; over one hundred Security Council debates; many pamphlets and some thousands of diplomatic newsletters. It has been necessary, therefore, to sift through all available
evidence and to extract only that which is pertinent to the topic. It must be realized that because of the importance of Kashmir to both India and Pakistan, all the information from governmental sources or written by their nationals contains the type of material calculated to present their case in the best possible light. Thus it becomes necessary in many cases - the Pathan incursions in October 1947, the Jinnah-Mountbatten talks and the Mohammed Ali-Nehru discussions, and the essence of the Nehru-Sheikh Abdullah proposals for federation - to read between the lines in order to trace developments.

In the early stages of the dispute, one can sympathize with Pakistan's claim to Kashmir and her efforts to obtain a "free and impartial plebiscite." Unlike India, she accepted every practical proposal brought forward to settle the dispute. Although neither India nor Pakistan produced a statesman capable of resolving the deadlock, the former Indian Prime Minister Jawaharlal Nehru, must be singled out as the major contributor to the continuation of the dispute. It was not that his actions were incomparable with his Pakistani counterparts; but rather that as a statesman of such magnitude, willing to solve the world's problems - with or without invitation - he could adopt a self-righteous "Babu" attitude when dealing with the State. Indeed, Nehru appears to have become emotionally incapable of treating Pakistan as an equal; hence the dispute continued in deadlock.
India's intransigence has continued in open defiance of the United Nations and in complete contradiction to her earlier promises for self-determination in Kashmir. Notwithstanding the fact that Pakistan, in her effort to gain international support for her Kashmir policy, has virtually talked herself out of any claim to the State, one can now sympathize with the Indian position. It is not that India is more right today than eighteen years ago, but rather that her interest in the State - originally a prestige issue - has now degenerated to the point where a plebiscite could possibly mean her internal collapse through the onslaught of communalism. She accepted and held Kashmir as a showplace for secularism and for the prestige offered by its geographic location; today she controls a monster within which could lie the seeds of her own destruction. The point of view taken in this thesis, therefore, is that the existing stalemate appears to be the only practical solution to the Kashmir dilemma, and that history may prove Nehru's negative attitude towards Kashmir to have been correct. Nevertheless, it is significant to note that the voice of Kashmiri nationalism has yet to be taken into account.
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CHAPTER ONE
INTEGRATION AND BOUNDARIES

(A) Integration of the Indian States.

The transfer of power in India was not simply the matter of lowering the Union Jack and raising in its place the flags of Congress or the Muslim League. Indeed, the transfer of power in August, 1947, apart from administrative difficulties and the problems faced in creating a new state, was further complicated by the historic division of India into two distinct entities - the provinces of British India and the Princely States. To the provinces of British India, which enjoyed by virtue of the Government of India Act of 1935 and the subsequent elections of 1937, virtual internal autonomy; independence would mean the transfer of allegiance from the British in Delhi to the Indian and Pakistani Governments in New Delhi and Karachi respectively. To the 560-odd Princely States, on the other hand, the term independence would mean the lapse of their special relationship with the British Crown and the end of an era.

It has been argued that the greatest British achievement in India was their ability to consolidate the entire subcontinent under one political umbrella. Whereas many Hindu and Muslim rulers, from Asoka and Muhammad Bin Tughlug to Aurangzeb, had undertaken such a monumental task, all had met with failure. Yet what Aurangzeb and his legions failed to do,
the British accomplished with relatively small numbers by adopting a positive policy based upon treaty rights beneficial to both parties.

As early as 1798, under the Governor-Generalship of Lord Wellesley, a policy of security as the price of dependence vis-a-vis the Indian States was established. Although primarily created at Pitt's insistence because of Anglo-French rivalry in Europe and India, and of political instability throughout the sub-continent (disrupting trade), it soon became one of the underlying facets of British rule.

Through this policy of concentration of political power without responsibility, the British Government established one of the vital pillars of their Raj; and by creating a direct treaty relationship between the Crown and the individual, established a vast pool of wealthy autocratic supporters whose very existence depended upon the continuation of British paramountcy in India. Indeed, the rulers of these States, through their Council of Princes, were so fearful of their status that they adopted an attitude of opposition toward Indian independence or any other political arrangement which would alter their favoured position, and as late as August, 1946, the Nawab of Bhopal pleaded with the Cripps Mission that paramountcy should not be transferred to an Indian Government.

When Indian independence became obvious following the British Labour Party's victory in 1945 and when partition became inevitable following Jinnah's recourse to "Direct Action" in November 1946, the fate of the Princely States was virtually
sealed. The treaties establishing British paramountcy would not be continued by the respective Governments of India and Pakistan - they would lapse. Yet while these States would enjoy de facto independence it was made abundantly clear that they must opt to join either India or Pakistan. Furthermore, it was impressed upon the Princes that their primary consideration must be the welfare of the people and their geographic location. Thus, when the time came to decide the new boundaries of India and Pakistan, its outcome would have a profound effect upon the fringe states and their relationship with the new Dominions.

Isolated from their former benefactors, disunited among themselves and faced with a triumphant and hostile Congress and Muslim League, the majority of the rulers yielded to the inevitable and relinquished their favoured positions on the sub-continent. The Hindu-majority states, it was understood, would opt for India while those with a Muslim majority would choose Pakistan. Oddly enough, given the supposed dawning of democracy in India, the subjects of the states were not consulted and the choice rested with the rulers alone, thus paving the way for bitter controversy and future hardship.

The integration of the Indian States was accomplished skilfully and without incident largely because of the autocratic efficiency of Sardar Patel and his suave civil-servant colleague V. P. Menon, sometimes described as the velvet glove on the iron fist. Major difficulties arose only with three states, Hyderabad, Junagadh, and Jammu and Kashmir; and it
was events leading to the integration of the last named into the Indian Union which were to alter radically the respective outlooks of India and Pakistan towards each other. Furthermore, the attitudes of India and Pakistan vis-a-vis Kashmir were destined to have a profound effect upon the relationship between the two Dominions by inflating the importance of this Princely State to the point where, to both Indians and Pakistanis, it became the very symbol of nationhood.

(B) The Radcliffe Awards.

Of the many committees concerned with the establishment of the new Dominions of India and Pakistan, perhaps none were more important to the population of both countries than the Punjab and Bengal Boundary Commissions. Whereas the division of such items as railway rolling stock or monetary reserves was of extreme importance to the Governments of the two states, only the results of the Boundary Commissions were directly to influence the inhabitants of Northern India. For on the grass roots level, the outcome of the boundary awards were to represent, in territorial terms, national and personal aspirations.

Originally it was the Government's intention to refer the delicate subject of boundary demarcation to the United Nations but this plan was rejected by Nehru who correctly felt that such a tribunal could not be constituted quickly enough. It was proposed by Jinnah, therefore, that Sir Cyril Radcliffe (a British judge) be appointed to head both the Bengal and Punjab Boundary Commissions, and that he be given a casting
vote on both. This proposal met with rapid approval from the Partition Council. Nehru managed to obtain very simple terms of reference, thus allowing the Commission a free hand in the demarcation of the boundaries.

By the end of June 1947, the procedure for deciding upon the unity or partition of Bengal and the Punjab had been evolved. In Bengal, following a vote of 120 to 90 in favour of joining the Pakistan Constituent Assembly, the Legislative Assembly split into two parts - the non-Muslims voting 58 to 21 in favour of Partition and the Muslims voting 106 to 35 against. Under the terms of reference from the Partition Council, however, Bengal was to be partitioned.¹

Whereas the Bengal Assembly met in an atmosphere of relative tranquility, the Punjab Assembly was forced to determine the province's fate behind barbed wire barricades and a strong police guard. But in spite of unstable conditions in the Punjab, the legislators followed the same path as their Bengal colleagues. The whole Assembly voted 91 to 77 in favour of joining the Pakistan Constituent Assembly, and when divided into Muslim and non-Muslim areas, the vote was 69 to 27 against Partition and 50 to 22 in favour of creating an East and West Punjab.² Thus, as in Bengal, partition was assured because the non-Muslims did not wish to live within the confines of a Muslim state. The only remaining factors,

however, were the detailed demarcations of the respective boundaries.

Under the terms of reference announced by the Viceroy on June 30, 1947, the Bengal Boundary Commission was instructed to demarcate the boundaries of the two parts of Bengal 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.

Thus the terms of reference for the Bengal Commission were purposely left vague, and hence the responsibility for the actual demarcation of the boundaries rested heavily on the shoulders of its chairman, Sir Cyril Radcliffe and his Muslim League and Congress-sponsored colleagues.

In addition to the above-mentioned terms of reference, the Bengal Boundary Commission was also required to demarcate the Muslim majority areas in Sylhet and the contiguous Muslim areas of the adjoining Districts of Assam. Their task, however, was a difficult one, for the Commission was faced with an impassioned flood of facts and figures from such groups as the India National Congress, the Hindu Mahasabha and the New Bengal Association on one hand, and the Muslim League on the other.

In Bengal, only the non-Muslim areas of Midnapore, Bankura, Hooghly, Howrak, and Burdwan; and the non-Hindu areas of Chittagong, Nookhali, Tippera, Dacca, Mymen Singh, Pabna and Bogra

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3. cited in Ibid., p. 59.
4. These were: Mr. Justice Bijan Kumar Mukherjee, Mr. Justice Charu Chandra Biswas, Mr. Justice A.S.M. Ahram, and Mr. Justice S.A. Rahman.
were free from communal discord. The remainder of the province, including the city of Calcutta itself, was aflame with communal strife, as Hindus and Moslems clashed openly in the streets.

In the Punjab, on the other hand, the communal issue was of no less importance, the major areas of controversy being the cities of Lahore, Multan and Jullundar. In addition, the difficulty of demarcating the boundaries of the Punjab was increased by the presence of a third group, the Sikhs, whose membership was scattered throughout the province and who wanted nothing to do with the new state of Pakistan. Indeed, the roots of the communal frenzy which reached its peak in the Punjab can be traced to Sikh-Muslim hatred.

As was expected, the Punjab and Bengal awards were made by Radcliffe, for in the face of the communal tension neither the Congress nor the League appointees were prepared to jeopardize their future standing in the two countries by accepting the awesome responsibilities of partition. Furthermore, the ultimate responsibility for publication of the Boundary Awards rested with the Viceroy (Mountbatten) who, foreseeing a possible communal deadlock, had issued explicit instructions that Radcliffe was to remain in complete isolation while carrying out his difficult and delicate task.  

Originally the Radcliffe Awards were to have been released

on August 13, but because of Mountbatten's journey to Karachi
to inaugurate Jinnah as the Governor-General of Pakistan, and
his very real belief that the announcement of the Awards would
be inopportune prior to independence, he wisely withheld pub-
lication. On Saturday, August 16, Mountbatten announced the
Awards, and, as was expected, neither the Indians nor the
Pakistanis were pleased. The Sikh leader, Baldev Singh was
stunned by the partition of his ancestral land, while the
dismay of Liaquat Ali Khan (the Pakistani Prime Minister) over
the inclusion of the Gurdaspur in East Punjab and the loss of
Calcutta was immediately offset by Patel's resentment over
the awarding of the Chittagong Hill Tracts to Pakistan. Yet
no one rejected the awards. Indeed, no one dared, for al-
though there was a provision for altering the boundary,
neither Patel nor Liaquat was prepared to repudiate its terms.

The Radcliffe Awards, and indeed Radcliffe himself, have
been the subject of bitter controversy by both Indians and
Pakistanis. Yet of the two, only the charges from Pakistan

6. Under the Radcliffe Awards, the territories were divided
as follows:

\begin{tabular}{ll}
\hline
                   & India & Pakistan \\
\hline
(1) Bengal        &        &        \\
West Bengal       &        &        \\
36\% - area       &        & 64\% - area \\
35\% - population &        & 65\% - population \\
16\% - Muslims    &        & 42\% - non-Muslims \\
\hline
(2) The Punjab    &        &        \\
East Punjab       &        &        \\
38\% - area       &        & 62\% - area \\
45\% - population &        & 55\% - population \\
\hline
Rivers:           &        &        \\
'Beas, Sutlej, Upper Ravi. &        & Chénab, Jhelum, Indus.
\end{tabular}
are directly related to Kashmir. One Pakistan writer, K. Sarwar Hasan, in a scathing attack on Campbell-Johnson’s Mission With Mountbatten goes so far as to charge that the awards were part of a "master plan" to give India control of Kashmir. His arguments, although not convincing, do merit some attention, for they most clearly indicate the ill-feeling caused by the Awards.7

Hasan charges that the final outcome of the Radcliffe Awards were part of a Mountbatten-Radcliffe-Government of India conspiracy designed to give Kashmir territorial contiguity with India. Thus Radcliffe, considering not districts as the basic unit, but tahsils (sub-districts), "handed over to India the following tahsils, with Muslim majority populations and contiguous to Muslim majority areas in Pakistan: Gurdaspure (52.1% Muslims); Batala (55.96% Muslims); Ferozepur (55.2% Muslims); Zera (65.2% Muslims); Nahadar (59.4% Muslims; Ajnala (59.4% Muslims); and Jullunder (51.1% Muslims)".8 The first two tahsils, Hasan claims, "were given away so that India should have access to Kashmir,"9 and the remainder so as to disrupt the supply of water running into Pakistan.10 Furthermore, "the Government of India always intended that Kashmir should accede to India and took concrete steps in pursuance of it."11

8. Ibid., p. 101
9. Ibid.
10. Ibid., p. 102
11. Ibid., p. 103
What Hasan overlooks, however, is the actual significance of the Gurdaspure district and its importance in the Kashmir dispute. The award of Gurdaspure to India gave Kashmir territorial contiguity with India, without which, it would have been impossible for Indian troops to arrive in Kashmir without violating Pakistani airspace. Furthermore, it was the award of the Gurdaspure and Batala tahsil to India "which rendered possible the maintenance of an Indian force at Jammu based on Pathankot as railhead, and which enabled India to consolidate her defences southwards all the way from Uri to the Pakistan border".\(^{12}\) Thus, it may be argued, the award of this area to India, not only caused intensified bitterness in Pakistan, but also made it possible for a war to be fought in Kashmir.

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CHAPTER TWO
EVENTS LEADING TO ACCESSION

The crux of the Kashmir dispute has been aggression and its consequences. India, on one hand, has consistently maintained that Pakistan conspired to overthrow Hari Singh, the Maharaja of Kashmir, or coerce him into acceding to Pakistan. Pakistan, on the other, has also consistently claimed that she is innocent of any complicity, and that in fact India is guilty of aggression. It thus becomes necessary to sift the evidence to determine both the basis of the Indian charge, and the reasons, if any, for Pakistani complicity. For only in this manner can the reactions of India and Pakistan towards the Kashmir crisis be determined.

The events surrounding the Pathan invasion of Kashmir, the Poonch Revolt and Pakistan's alleged complicity in the invasion, culminating in the accession of Kashmir to India, evoked various reactions in India and Pakistan. On the Indian side, only the tribal invasion and Pakistan's complicity were publicly discussed, little or no mention being made of the Poonch Revolt. Pakistani statements, on the other hand, not surprisingly denied any official participation in the invasion, and concentrated on the actions of the Pathan tribesmen and the Poonch Revolt. Thus it becomes necessary to separate these three factors and discuss them against the background of Independence and Partition.
(A) The Pathan Incursions

The actions of the Pathan tribes of the North-West Frontier Province and their involvement in the Kashmir dispute must be kept apart from the main stream of Indo-Pakistan relations. Although later Pakistani military activities in Kashmir cannot be denied, and indeed Karachi admitted this to the world, it is the writer's contention that originally, that is on October 22, 1947, there was no connivance between the Government of Pakistan and the Pathan tribes over actions to be taken in Kashmir.

The Pathans, proud, fiercely independent, firmly devoted to Islam and no strangers to violence, had been kept under loose control by the British Government through annual grants and the constant threat or use of force. Now it was the very lack of this force, or the creation of a power vacuum in the North-West Frontier Province, which was to make possible the unleashing of the Pathans upon Kashmir.

When the British withdrew their garrisons from the tribal areas on the eve of Independence, leaving the control of the tribal areas to the Frontier Corps and locally-recruited forces the balance of power began to deteriorate rapidly. This unstable situation was further increased by the frequent reports arriving in the tribal areas of Sikh atrocities against Muslims in the Punjab which soon brought the already high-religious fervour of the Pathans to fever pitch. In spite of the attempts of British and Pakistani officials to overcome passion
with reason, cautious preparations were made for a religious expedition against the Pathan's traditional enemy the Sikhs; to be accompanied of course, by the usual prospects of plunder. Yet, as L. Rushbrook Williams notes, only the more adventurous souls were prepared to undertake such an adventure because of the traditional fear of British reprisals. The tribesmen, therefore, were poised and eager; yet they hesitated - requiring only a spark to start the flames of communal hatred. The Poonch Revolt provided the necessary stimulus to unleash the full fury of the Pathans upon any Hindu or Sikh unfortunate enough to be within striking distance.

(B) The Poonch Revolt

As previously mentioned, the Indian Government has constantly maintained that the arrival of Pathan tribesmen in Kashmir aided both morally and materially by Pakistani officials, marked the beginning of the conflict between the two. Pakistan, on the other hand, insists that a vigorous freedom movement was already growing in the Kashmir jagir of Poonch, and that the conditions arising from events in Poonch sparked the tribes into action.

In this connection, several important factors must be noted. In 1933, proprietary rights had been granted by the Maharajah to landholders throughout Kashmir. The jagir of Poonch, however, was not included in this fundamental reform. This resulted in deep-rooted resentment which found expression

on August 9, 1947, when, after an attempt by the Maharajah (a Hindu) to impose taxes upon the predominantly Muslim Inhabitants of Poonch, the Poonchis revolted. The Maharajah immediately dispatched troops to Poonch, but the Muslim element of the Kashmir State Forces deserted and thereafter the tiny jagir "became a secure base for a movement known as 'Azad (Free) Kashmir', to secure an independent government under one Sardar Mohammed Ibrahim."\(^2\)

By drawing upon the inhabitants of Poonch and Mirpur, who traditionally had served in the Indian Army, the Azad Kashmir Government was quickly able to field a poorly-equipped force of some 30,000 men - many of whom had recently been demobilized from the Indian Army.\(^3\) It should be kept in mind that this Azad army was formed prior to the later Pathan invasion and that "they were a body of men quite distinct from the more loosely organized tribesmen."\(^4\)

Indeed, even Sheikh Abdullah the pro-Congress Kashmiri nationalist recognized the existence of these forces prior to the invasion, when at a Press Conference on October 21, 1947, at Delhi he stated:


\[^3\] It is interesting to note that personnel demobilized from the Indian Army were allowed to keep their uniforms complete with insignia. This fact and the number of deserters from the Kashmir State Forces could possibly account for the number of uniformed personnel in Kashmir during the initial tribal incursion.

The present troubles in Poonch were because of the unwise policy adopted by the State. The people of Poonch who suffered under their local ruler, and again, under the Kashmir Durbar /the Maharajah/ who was overlord of Poonch, had started a people's movement for the redress of their grievances. It was not communal.

Yet, as was so often the case throughout the sub-continent, political aspirations were soon overshadowed by communal violence. Indeed, as violence spread throughout the state the very nature of the revolt against Dogra (the ruling house in Kashmir) oppression changed radically, degenerating into a communal bloodbath. Religion became the war-cry, used by Dogra and Muslim alike, to gather support be camouflaging the real issues of the revolt.

The Commander-in-Chief of the Pakistan Army, General Gracie, recognized the danger of the conflict in Poonch, and in a memorandum to the Pakistan Minister of Defence on October 11, 1947, wrote:

The matter is important as Pakistan Army recruits large numbers from Poonch. If urgent action is not taken we may expect many deserters with arms from the army and a consequent intensification of the trouble in Poonch. Would Hon'ble Defence Minister please consider making an immediate complaint to the Kashmir Government and give the incident every possible publicity in Pakistan so that troops know that Government is taking action.

A complaint was sent by the Pakistan Government to the Maharajah on October 12, but it had no effect.

In similar vein, the London Times correspondent reported

In the remaining Dogra 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 Maharajah in person and aided by Hindus and Sikhs. This elimination of two-thirds of the Muslim population of Jammu province has entirely changed the present composition of Eastern Jammu province.

This and many similar charges formed the basis of the Pakistani allegation of genocide against both the Maharajah and the Government of India.

Faced with the very real possibility of extinction, members of the newly-formed Azad Kashmir Government, including Sardar Mohammed Ibrahim, slipped across into the Pakistan North-West Frontier Province with the intention of obtaining arms from the tribal arsenals. Again on October 21, Sheikh Abdullah notes

The Kashmir State Forces sent their troops and there was panic in Poonch. But most of the adult population were ex-servicemen in the Indian Army who had close connections with the people in Jhelum and Rawalpindi. They evacuated their women and children, crossed the frontier, and returned with arms supplied to them by willing people.

Indeed, the inhabitants of the North-West Frontier Province were only too willing to give both material and moral assistance to their beleaguered co-religionists in Poonch, or in fact, throughout Kashmir. Large numbers, from peasant to government officials, demonstrated their support. "The House will recall with pride", declared Premier Khan Sahib

8. Kashmir Question, p. 16
before the North-West Frontier Province Legislature Assembly, "the fact that in Islam's greatest hour of danger the Masauds responded to our call by rushing to the rescue of oppressed Muslims in Jammu and Kashmir."  

Events in Kashmir, therefore, completely overshadowed those in the Punjab. The Poonch revolt was in full swing, with rumors of harsh reprisals against the Muslim Poonchis. The size of the revolt, combined with the absence of any British forces to enforce stability convinced the Pathans that the British were gone for good. Throwing caution to the wind and excited by prospects of loot, they began attack on Kashmir. The plight of their co-religionists in the Punjab was soon forgotten, as the Pathans swept unopposed over the Pakistan frontier into Kashmir and embarked upon an orgy of savage destruction.

That the Pathans were primarily interested in plunder and rape cannot be denied; and even though opposition crumbled as the Maharajah's Muslim troops deserted and joined the invader, their advance towards Srinagar slowed to a crawl because of the intense desire for loot rather than territorial gains. Eye-witness reports from Kashmir, moreover, indicated that captured raiders were heavy-laden with booty. The nature of the atrocities against both Hindu and Muslim Kashmiris strongly suggests that the jihad (Holy War) in favour of plunder in the early stages of the incursion.

That the Pathan invasion forced the Maharajah into acceding to India cannot be doubted; but whether Pakistan actually instigated and directed the invasion is open to considerable debate.

(C) Pakistan's Complicity

The official Indian position, was, and is, that Pakistan armed and controlled the invasion with the long-range view of either physically overthrowing the Maharajah or coercing him into acceding to Pakistan. Prime Minister Nehru declared on November 4, 1947 in the Indian Constituent Assembly:

On the 24th October we heard that large armed bands consisting of both tribesmen...and ex-servicemen... were marching on Srinagar. These raiders had crossed Pakistan territory and were equipped with Bren guns, machine guns, mortars and flame throwers and had at their disposal a large number of transport vehicles. We have sufficient evidence in our possession to demonstrate that the whole business...was deliberately organized by high officials of the Pakistan Government.10

Yet even if one disregards the statements of the Indian Prime Minister, sufficient outside evidence exists to show some degree of Pakistani participation; the exact amount, and to what official level knowledge of the raids and assistance reached, however, is a matter of controversy.

On October 30, the New York Times correspondent in New Delhi, Robert Trumbull, noted that the anti-Government forces, estimated at 10,000 were being conveyed towards Srinagar in trucks and reportedly were "armed with 3.7 inch mortars  

standard British model and modern rifles that could have been stolen from an arms dump abandoned after the war or manufactured in the tribesmen's own famous armories. Similarly, the London Times correspondent reported that he had seen a copy of an intercepted letter from Fagir Mohammad. Quereshi, of Bunji Kashmir to Bodshah Sahib Abdullah Hakim (tribal leader of the Mardan District, North-West Frontier Province) in which the author wrote that "two Kashmiri Muslim leaders warned the Maharajah on August 30 that if his state acceded to India, communal war would be declared." Furthermore, the Fagir stated that a copy of this letter had been sent to Mr. Jinnah.

Although these statements do not corroborate Mr. Nehru's declaration before the Constituent Assembly, they are among the first indications by foreign observers that Pakistan was implicated in the tribal incursion. As the situation in Kashmir became clearer, numerous reports began to emerge from Kashmir indicating more clearly the exact scope and nature of Pakistan's role in the initial incursion and in the Azad Kashmir forces. Margaret Bourke-White noted in Halfway to Freedom that she saw arms being issued to tribesmen from a local Muslim League office, while the London Times correspondent wrote "That Pakistan is unofficially aiding the raiders is certain. Your correspondent has first-hand evidence that arms,

12. Times, Oct. 31 '47.
ammunition and supplies are being made available to Azad Kashmir forces...and however much the Pakistan Government may disavow intervention, moral and material support is certainly forthcoming.\textsuperscript{14} Indeed, even as early as November 2, Alan Moorehead noted that recruiting for Kashmir was openly carried on in both the tribal areas and Pakistan proper with each village considering it an honour to be represented at the "front."\textsuperscript{15}

This reference by Alan Moorehead and the \textit{Times} correspondent, however, is contradicted by Margaret Parton in the \textit{New York Herald Tribune} who writes:

If Pakistan is giving direct assistance to "Azad" (Free) fighting in Kashmir, evidence is not on the surface to be seen by prying foreigners... During the entire 600 mile trip \textit{accompanying} Liaquat Ali along the Pakistan-Kashmir border\textsuperscript{7} we saw no raiders' bases, no training centers, no stocks of arms and ammunition and no Pakistan soldiers slipping off to the Kashmir front. Even those reliable 'neutral observers' - British officers and civilians - denied the existence of any of those material aids which India charges Pakistan is giving the fighters in Kashmir.\textsuperscript{16}

The fruits of intensive research among these "neutral observers", moreover, enabled Lord Birdwood to note that on one occasion the British Deputy Commissioner at Mianwali was ordered to provide rations for 200 refugees from Kashmir, yet upon arrival, the presumed refugees were fully armed and moving towards Kashmir. Furthermore, Birdwood declares that "the Chief Minister of the Frontier Province, who had family

\begin{flushright}
\textsuperscript{14} \textit{Times}, Jan. 13, '48.  \\
\textsuperscript{15} \textit{The Observer}, Nov. 2, '47.  \\
\end{flushright}
connections with Kashmir, gave [the raiders'] his blessing and unqualified assistance, without which the operation might not have been possible."\textsuperscript{17} Whether these officials were acting upon instructions from Karachi or through Islamic zeal, however, is difficult to ascertain.

All the above-mentioned evidence, with the exception of Lord Birdwood's reference to government officials, points to unofficial Pakistani participation in both the tribal incursion and in the support of Azad Kashmir. Some hint of unofficial participation, however, was given several years later at the United Nations. During the subsequent debates in the Security Council, when the Kashmir scene had altered radically, General Gracie, the Commander-in-Chief of the Pakistan Army, in a memorandum of April 20, 1948 recommending the use of regular Pakistan troops in Kashmir, wrote, "An easy victory of the Indian Army in the above-mentioned sectors... is almost certain to arouse the anger of the tribesmen against Pakistan for its failure to render them more direct assistance and might well cause them to turn against Pakistan."\textsuperscript{18} Although General Gracie's logic is certainly correct (as later discussion will show), it is interesting to note the term "more direct assistance" in connection with the initial tribal invasion. One can only speculate, however, about its' implications.

The most concrete evidence indicating official participation by Pakistan is given by an American citizen, Russel K. Haigh, who served in the Azad Kashmir forces with the rank of

\textsuperscript{17} Birdwood. \textit{Two Nations and Kashmir}, p. 55. 
\textsuperscript{18} \textit{S/PV. 464}, Feb. 8, '50, p. 10, emphasis mine.
Brigadier, and who, in an interview with Robert Trumbull openly declared that his forces received arms and petrol from the Pakistan Government and that communications in Kashmir were maintained by regular Pakistan Signals personnel.\textsuperscript{19} This statement, moreover, was made several months before the Pakistan Army openly moved into Kashmir to protect Pakistan's borders from the advancing Indian Army.\textsuperscript{20} Furthermore, the mysterious "General Tarig" (who led the forces of Azad Kashmir) has now been identified as Brigadier (later General) Akbar Khan, a general officer in the Pakistan Army, whose presence, as commander of the Azad Kashmir guerrilla forces, could hardly have been kept secret from the Government in Karachi.

Thus it can be said that Pakistani nationals did lend both moral and material support to both the tribesmen and the forces of Azad Kashmir. The controversy lies in the interpretation of the terms "official" and "unofficial" and the extent to which Pakistani officials preferred to turn a blind eye to the actions of Pakistanis under their jurisdiction. This, however, will probably never be known, for the deaths of both Jinnah and Liaquat Ali Khan without their memoirs, and the continuation of the Kashmir dispute as a prime factor in the foreign policies of both India and Pakistan have precluded any official from venturing outside the now established interpretation of the early events in Kashmir.

\textsuperscript{19} NYT. Jan. 29, '48
\textsuperscript{20} It is interesting to note that Haigh maintained that the Pathan tribesmen were receiving large quantities of Russian and German arms, from Russia.
From the Pakistan side, there is ample evidence to show that official participation in an invasion of, or revolt in, Kashmir would be contrary to the national interest. Whereas many examples of unofficial Pakistani aid may be cited, there are several reasons why the Pakistan Government was unable to prevent the raiders from entering Kashmir and was virtually blackmailed into supplying the forces of Azad Kashmir with arms and ammunition.

It is also evident that the Pakistan government, and many of its lesser officials, attempted to pacify the tribes and persuade them against embarking upon their adventure into Kashmir. Throughout his tour of the North-West Frontier Province in January, 1948, Liaquat Ali Khan "was met with complaints about lack of official assistance for the Kashmir campaign and about attempts of political agents to prevent the departure of volunteers."21 On one occasion in Miranshah "one agent alone stopped two raiding parties with a total strength of 8,000 rifles."22 These incidents, unfortunately, passed without comment by the Indian Press which seemed, naturally enough, far more interested in the actions of the Pathans in Kashmir than in the subtle difference between an over-zealous Muslim League worker and a government civil servant who was acting in his official capacity.

Furthermore, Pakistani claims of non-participation in the original tribal incursions are substantiated by the obvious Pathan preference for loot over political objectives. If the

22. Ibid.
Pakistan Government was behind the initial invasion, for the sole purpose of seizing Kashmir by force, or was in control of the actions of the Pathan tribes, it is the writer's opinion that they would certainly have attempted to limit atrocities (especially against Muslims) and concentrated on gaining political control over the State by capturing Srinagar. Moreover, any idea of a political pact between Pakistan and the Pathans can be dismissed as groundless for the tribesmen had made it known that, regardless of the attitude of the Pakistan government towards the Poonch Revolt, they would assist their co-religionists. Indeed, Abdul Khan, the spokesman for the fifteen tribal chiefs representing some 235,000 armed Pathans, told Liaquat Ali Khan and Sir George Cunningham in no uncertain terms that they would not alter their present policy towards Kashmir nor accept partition as a compromise. The heir apparent of Swat, in a similar frame of mind, told the Prime Minister that every assistance would be offered to the tribesmen and that 400 men were sent to Kashmir "to protect Muslims."

In normal times British troops would have been called in to deal with the rampaging Pathans. Yet the invasion of Kashmir was taking place against a background of mass instability and social disorder. Pakistan, upon whose shoulders now rested the responsibility for containing the Pathans, was in no position, politically or militarily, to fall back upon the

25. *Ibid*. 
traditional British policy of controlling the Pathans through the threat or use of force. It would seem logical, therefore, to conclude that the Pathans were virtually presenting the Government of Pakistan with a fait accompli.

Aside from the legitimacy of the Indian and Pakistani claims over the original causes of the tribal incursions one factor, and one too frequently overlooked, was the instability of Pakistan following Partition. Both wings of the country, especially West Pakistan, were beset by the forces of anarchy and violence. With a central government in Karachi virtually operating out of packing cases in temporary accommodation, public facilities strained by the influx of peasant refugees and the exodus of many Hindu and European civil servants, and an army stricken by the upheaval of Partition, it is hardly surprising that the Pakistan Government was initially unable to curtail the movement of Pathans into Kashmir.

In these conditions the Pakistan Government faced a dilemma. First, the majority of the population, and especially the refugees from the Punjab and Kashmir who had suffered atrocities at the hands of the Sikhs, were sympathetic towards the Pathans and their jihad against Dogra oppression. Hence they demanded full Pakistani participation in Kashmir. Second, if the Pakistan Government sought to control the raiders by force of arms, they would be faced with the very real prospect of a tribal war with possible wider implications. The Pakistan Army, as stated above, was virtually useless as an effective fighting force and any attempt to
repress the tribes in their actual state of mind. would have only smashed beyond repair the delicate relationship so carefully nurtured by both British and Pakistani officials. "Moreover", writes Lord Birdwood, "in view of the prevailing political temper, at that stage Moslem troops ordered to oppose tribesmen bent on a jihad in Kashmir would almost certainly have laughed at their orders and gone over to join their co-religionists in the adventure".26

As Sir Ambrose Dundas explained to the United Nation's Commission for India and Pakistan,

Once it started rolling, this onslaught could not be stopped, and any attempt to do so would have met with fury, inviting war with Pakistan. In furtherance, he claimed the further necessity of channeling the invasion by giving the tribesmen gasoline and letting them board trains. Pakistan herself was in a stage of administrative chaos, militarily weak, inundated by millions of refugees, desolately unable to resist the fanatical onslaught.27

Further evidence to support Pakistan's non-complicity in the initial tribal invasions is given, albeit unknowingly, by Alan Campbell-Johnson, who records that Mountbatten attended the October 25 meeting of the Indian Defence Committee during which a message was received from the Pakistan Army Headquarters stating that some five thousand tribesmen had attacked a captured Muzaffarabad and Domel and that considerable tribal reinforcements could be expected. Reports showed that they were already little more than thirty-five miles from Srinagar.28

Although the receipt of this telegram led to the dispatch of V. P. Menon to Srinagar, and hence the accession of Kashmir to India, its importance as evidence of Pakistan's non-complicity is overwhelming. Indeed, if the Pakistan Government was in any way implicated in the invasion with the ultimate hope of coercing the Maharajah, it would most certainly not have released a "Situation Report" concerning "troop" movements and objectives to a government keenly interested in the future of Kashmir. Moreover, both Jinnah and Liaquat Ali Khan must be credited with sufficient intelligence to have realized that, given the Maharajah's dangerously uncertain state of mind, any attempt to coerce Kashmir into joining Pakistan would only backfire.

Undeniably the Pathans and Azad Kashmir forces received material aid from Pakistan. Indeed, many local Pakistani officials have openly admitted, with no sign of regret, that they supplied weapons, gasoline, vehicles and even men. Yet apart from these admissions no documentary proof has been produced to support Indian charges that this aid was given with the approval of the Pakistan Central Government. That many senior officials closed their eyes to the activities around them instead of opposing the adventure certainly seems true, but the pattern of action, both in aiding and obstructing the Pathan raiders, is too irregular and unco-ordinated to suggest any official plan. The atrocities against Muslims; the precedence of loot over geographical and political objectives; the telegram from Pakistan Army Headquarters to
the Indian Defence Committee; the threats of the Pathans that they would not accept compromise over Kashmir; the pleas by the population for official participation; and the appeal by Liaquat Ali Khan and Sir George Cunningham, bargaining from weakness not strength, all bear witness to this fact. Indeed, Jinnah had embarked upon a policy of non-intervention in the affairs of the Princely States, and to have actively participated in the Kashmir imbroglio would only have served to weaken Pakistan's position regarding other States.

It is the writer's contention, therefore, that events in Kashmir, culminating in the Maharajah's accession to India on October 26 and the arrival of Indian troops in Srinagar on the 27th, drastically altered the Pakistani attitude towards both India and the State. Initially, the Pakistan Government was helpless to act against its Pathan tribesmen because of the disorganized state of the Pakistan Army, and its very real fear of a tribal war on the Frontier if force was used; the only alternative, therefore, was to await further developments in Kashmir.

Indeed, the Pakistan Government had every hope that they would fall heir to Kashmir: on August 15 a standstill agreement was concluded between the two governments; Pakistan was responsible for communications and postal services within the State; the champion of Hindu-Muslim secularism, Sheikh Mohammed Abdullah, was still in disfavour with the Maharajah; while both Jinnah and Liaquat Ali Khan were assured by Mount-
batten and Sardar Patel "that accession of Kashmir to Pakistan would not be taken amiss by India." Moreover, the Poonch Revolt had led to the establishment of the popular Azad Kashmir Government as a working alternative to the Maharajah in Srinagar. The prospect of accession to India, it may be argued, was only a remote possibility given the current Indian attitude towards Muslim Hyderabad and Hindu Junagadh. Thus, when the actual accession of Kashmir to India did occur, the Government of Pakistan, and indeed the majority of the population, felt only too justified in crying foul.

CHAPTER THREE
ACCESSION AND CONFLICT

(A) Accession

The news of the tribal incursions struck Delhi like a bombshell, and from the evening of October 24 onwards, events moved with increasing rapidity until relations between India and Pakistan deteriorated to a state of near war. It was, the events between October 25 and November 1, 1947, moreover, that were the very basis of the dispute which remains the scourge of the sub-continent. Indeed, if, as has been earlier suggested, the tribal incursions provided the lit fuse, the powder-keg can be found in events surrounding the entire act of accession.

The report from Srinagar, however, was accompanied by a note from the Maharajah of Jammu and Kashmir pleading for material aid to protect his beleaguered State from the tribal onslaught and the forces of Azad Kashmir. A second letter, also related to the invasion, came from Pakistan Army Headquarters, stating that armed Pathans had crossed the border at several points and were moving on Srinagar.

The first reaction of the Indian Government was shown at the October 25 meeting of the Defence Committee under the chairmanship of Lord Mountbatten. According to Campbell-Johnson, the immediate wish of all senior government members was

to rush in arms and ammunition already requested by
the Kashmir Government, which would enable the local populace in Srinagar to put up some defence against the raiders. The problem of sending in troops was considered but Mountbatten urged that this would be a dangerous move unless Kashmir offered to accede.1 

Furthermore, Mountbatten insisted that no action should be taken until the Government had fuller information.

V. P. Menon, the able right-hand man of Sardar Patel, therefore, was dispatched to Srinagar to explain the Indian position to the Maharajah and to gain as clear a picture of events in Kashmir as was possible under the circumstances. Arriving amid an "atmosphere of impending calamity," the Indian party was met by the Kashmiri Prime Minister Mehr Chand Mahajan, who, according to Menon "seemed to have lost his equanimity...and pleaded for the Government of India to come to the rescue of the State."2 Similarly, the Maharajah, whom, Menon later visited, was "completely unnerved by the turn of events and by his sense of lone helplessness."3 In recalling these events at a later date, Menon gives the reader no indication of the nature of his discussions with the Maharajah, and only notes that he urged the ruler to flee from the capital to a safer refuge in the city of Jammu.

On the morning of the 26th, Menon returned to Delhi and immediately reported his impressions of the situation to the Defence Committee where he pointed out "the supreme necessity of saving Kashmir from the raiders."4 Mountbatten, however, again cautioned the Defence Committee against the folly of

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sending troops into a neutral state on the grounds that Pakistan could do exactly the same thing "which could only result in a clash of armed forces and in war." Indeed, upon the Governor-General's insistence, Kashmir's accession to India was made the prerequisite for aid.

Menon, therefore, was again dispatched to Jammu on the same day to place the harried and desperate Maharajah the Indian proposals - accession before aid. The Maharajah, visibly shaken by the events unfolding within his state, grasped the Indian hand of salvation and immediately signed the Instrument of Accession. He then drafted a letter to Mountbatten in which he described the plight of his State and again requested military aid. Furthermore, he informed the Governor General that he was forming an interim Government with Sheikh Abdullah, not to become Prime Minister as is often asserted, but "to carry the responsibilities in this emergency with my Prime Minister." Once again, however, the content of the discussion is omitted by Menon, who, armed with both the letter and signed Instrument of Accession, returned immediately to New Delhi.

7. The remarks of Sheikh Abdullah prior to his dismissal as Prime Minister of Kashmir on August 9, 1953 shed further light on the activities between the Maharajah and V. P. Menon. By this time, disillusioned with the benefits of Indian rule, Abdullah flatly asserted "accession had been forced on Kashmir by India who would not help her against the armed raiders from Pakistan unless she acceded." (S. O. "The Kashmir Problem". The World Today, (R.I.I.A.), September 1953, p. 395.
(B) India's Acceptance

Following the return of V. P. Menon to New Delhi and the subsequent Defence Committee's discussion of the Maharajah's letter and the Instrument of Accession, Mountbatten again cautioned

That if the members of the Defence Committee were determined to send in troops, the initial prerequisite was accession, and unless it was made clear that this accession was not just an act of acquisition, this in itself might touch off a war. He therefore urged that in the reply his Government ask him to send on their behalf to the Maharajah accepting his accession offer he should be allowed to add that this was conditional on the will of the people being ascertained as soon as law and order were restored.

This proposal, freely accepted by Nehru and the remainder of the Committee, was incorporated in the letter of the 27th from Mountbatten to the Maharajah accepting his accession to India.

It is my Government's wish that as soon as law and order have been restored in Kashmir and her soil cleared of the invader the question of the state's accession should be settled by a reference to the people.

It must be noted that this was a unilateral declaration made by the Government of India to the Government of Jammu and Kashmir, and that there was no intention of inviting outside assistance of any kind in its implementation.

With the acceptance of the Maharajah's accession the way was cleared for the flight of the 1/11th Sikh Battalion to

Srinagar at first light on the morning of the 27th to rescue what Birdwood described as "a vast state in which large sections of the people were unwilling to be rescued." 10

Even after this decision had been reached and the first Indian troops were arriving in Srinagar, Menon records that both Mountbatten and the three (British) Chiefs of Staff of the Indian Armed Forces expressed their concern over the risks involved in such an undertaking. Nehru, however, "asserted that the only alternative to sending in troops would be to allow a massacre in Srinagar, which would be followed by a major communal holocaust." 11 Menon, on the other hand, preferred to express his concern for the European residents in Srinagar, rather than his own countrymen - thus leaving one with the distinct impression that the fate of Europeans in Kashmir was being used as a lever to gain Mountbatten's full support. Furthermore, one cannot but sense the overwhelming eagerness of the Defence Committee to dispatch troops to Srinagar from the very beginning of the invasion.

Although the Pakistani charges of a Mountbatten-Nehru-Patel conspiracy to gain Kashmir can be dismissed as groundless on the basis of existing evidence, there remain several anomalies which cast a shadow over the otherwise legal, yet provisional, accession:

(1) Why did Mountbatten and his British Chiefs of Staff insist upon and obtain the legal technicality of accession

before aid? Technically the Maharajah was the ruler of an independent state and therefore had the right to request armed assistance from a neighbour without any surrender of independence. Several years later, however, Prime Minister Nehru, in an attempt to deal with this awkward question of accession stated

...the fact that Kashmir did not immediately decide whether to accede to Pakistan or to India did not make Kashmir independent for the intervening period. She was not independent, it was our responsibility as the continuing entity to see that Kashmir's interests were protected. I wish to say this, because, it was undeniably our duty to come to Kashmir's aid, irrespective of whether she had acceded to India or not.12

If the above statement is a genuine reflection of Government policy toward Kashmir, or any other State, why then was accession made a prerequisite to aid?

(2) Similarly, it is interesting to note that whereas Prime Minister Nehru had previously rejected a standstill agreement with Kashmir, on the grounds that there was no reference to the people, and had repudiated the accession to Pakistan of the Maharajah of Junagadh as arbitrary, he fully accepted the equally arbitrary accession of the Maharajah of Jammu and Kashmir. The two standards seem to be incompatible.

(3) Following the signing of the Instrument of Accession the Maharajah never returned to his capital at Srinagar and on June 20, 1949 he was ordered to leave Kashmir and take up residence in Bombay, an act which, in itself, fosters the impression that the Maharajah had served his purpose and was

then discarded. This arbitrary action of the Government of India tends to give the legality of accession an artificial appearance.

(4) Perhaps the most flagrant anomaly, however, was the failure of the Indian Government to inform Karachi of the drama unfolding in Kashmir. Instead, Jinnah was only informed of the accession of Kashmir twelve hours after Indian troops arrived in Srinagar. Thus he was presented with a fait accompli and the lasting impression that the accession was a fraud.

(C) Pakistan's Reaction

The Pakistani reaction to Kashmir's accession was precisely that predicted by both Mountbatten and his military advisors. When Jinnah received word of the accession and of the arrival of Indian troops in Srinagar, he was dining with Governor Sir Francis Mudie at Lahore. His immediate reaction was to telephone his Commander-in-Chief, General Sir Douglas Gracie, at Rawalpindi and order him to send troops into the Jhelum Valley. Gracie, however, wisely declined to issue such an order until he had informed the Supreme Commander Field Marshal Claude Auchinleck in New Delhi. Furthermore, he begged Jinnah to delay the order until the Supreme Commander could come to Lahore for full discussions. Indeed, wrote Lord Birdwood, "not only was there the need for restraint in order to prevent war between the two Dominions, but also the Pakistan Regular Army was in no condition to undertake a
campaign." Auchinleck flew to Lahore on the 28th, and between them, the two military commanders persuaded Jinnah to withdraw his order. Faced with the threat of the possible withdrawal of all British officers serving in the Pakistan Armed Forces, Jinnah reluctantly agreed.

Two or three units of the Pakistan Army sent into Kashmir might have won Srinagar for Pakistan; but in the war which would certainly have followed the entire east flank of West Pakistan would have been exposed. "For Jinnah it was a hard decision. His sense of frustration was complete, for he was being deprived of a country he felt racially and economically to be part of Pakistan. But whether the military or political arguments weighed upper-most in his mind he gave in with a good grace and accepted his defeat with dignity."14

After withdrawing his order to the Pakistan Army, Jinnah then proposed that Mountbatten, Nehru, and Maharajah Hari Singh meet with him on the 29th in Lahore with the object of reaching a settlement to what was now an international issue.

Mountbatten, however, flew to Lahore alone on November 1, as Nehru, "haggard and ill" was confined to bed by his doctor. Yet the chances of his making such a trip even had he not been indisposed were remote, for, as Campbell-Johnson records, "the Cabinet pressure on Nehru's not going to Lahore was intense."15

14. Ibid.
15. Campbell-Johnson. op. cit., p. 226. The reason for Hari Singh's indisposition is mentioned neither by Campbell-Johnson nor Menon.
The meeting, therefore, was between Jinnah and Mountbatten, yet it only served to reveal the vast powers of the Quaid-I-Azam (Great Leader) and the constitutional limitations imposed upon the Indian Governor General.

Jinnah opened the talks with an irresponsible charge of fraud and violence, whereupon Mountbatten immediately answered that if there was any violence it was on the part of the Pakistan-sponsored tribes. Campbell-Johnson again notes that during the course of the discussion, Jinnah proposed a simultaneous withdrawal from the state, and when asked by Mountbatten how the tribesmen could be compelled to withdraw, Jinnah reportedly answered, "If you do this, I will call the whole thing off." The exact implication of this statement, however, is unclear, and is subject to bitter dispute by both feuding parties. Nevertheless, what is important is Jinnah's three-point proposal incorporating a cease-fire, the mutual withdrawal of all "alien" forces and a plebiscite.

1. To put an immediate stop to fighting, the two Governors-General should be authorized and vested with full powers by both Dominion Governments to issue a proclamation forthwith giving forty-eight hours notice to the two opposing forces to cease fire. We have no control over the forces of the Provisional (Azad) Government of Kashmir or the tribesmen engaged in the fighting, but we will warn them in the clearest terms that if they do not obey the order to cease-fire immediately the forces of both Dominions will make war on them;

2. Both the forces of Indian Dominion and tribesmen to withdraw simultaneously and with the utmost expedition from Jammu and Kashmir territory;

3. With the sanction of the two Dominion Governments, the Governors-General to be given full powers to restore peace, undertake the administration of Jammu and Kashmir State, and arrange for a plebiscite without delay under their joint control and supervision.17

Superficially it is easy to recognize Mountbatten's position: constitutionally he was a figurehead - a symbol of royal authority. Yet in fact he was far from a mere symbol, He wielded enormous power throughout the entire sub-continent, not because of his constitutional powers, but rather through his tremendous prestige and personality. Indeed, he had already blocked the Indian Defence Committee's efforts to dispatch troops to Srinagar on October 25. Kashmir was gained on Mountbatten's terms, not Nehru's. Then why was he not willing to accept Jinnah's proposals, or at least attempt to modify them? Why was he willing to accept a United Nations plebiscite, a proposal not even mentioned in the Defence Committee, yet felt obliged to reject any formal co-operation with Jinnah? Mountbatten, at that time, was possibly the only responsible leader in India whom Jinnah trusted, and by his rejection of Jinnah's moderate proposals, the door to rational negotiation was closed.

It is difficult to envisage the exact motives behind Mountbatten's actions, but one can suggest that they were based upon his attitude towards his special role in the affairs of Government and upon Nehru's outlook towards the conduct of Indian foreign policy. As events have clearly

17. WPJK. p. 60.
shown, both before and after Independence, "it was Nehru who breathed life into the foreign affairs activities of the Congress Party, who directed its foreign affairs research and who in 1936 led the all-India Congress Committee to create a foreign department." Even at this early stage of Independence, therefore, Indian foreign policy was the child of Nehru and the Prime Minister jealously guarded his private realm by holding the Cabinet positions of both Premier and Foreign Minister. Thus it may be argued that Mountbatten's rebuff to Jinnah's proposals was based upon his genuine belief, that, while he was prepared to exercise his influence within the committee room, any public show of power, especially in the realm of foreign affairs, could seriously damage the close relations between himself and his Prime Minister.

The tragedy of the Mountbatten-Jinnah meeting, therefore, is that there is ample reason to believe that an immediate solution to the Kashmir dilemma could have been found. Jinnah's proposals were not unreasonable, and did, in fact, closely resemble the many later resolutions passed by the Security Council to no avail during the 1948-1953 period: (1) a cease-fire; (2) the withdrawal of all "alien" troops; and (3) an impartial plebiscite. Whereas the dispute was presented to the United Nations only after attitudes had hardened considerably, Jinnah's proposals were for immediate action under the joint sponsorship of both Governors-General. The

problem of joint co-operation, especially on the military level, would have been many, and one's mind immediately turns to the failure of the Boundary Forces to safeguard Indian and Pakistani refugees because of Hindu, Muslim and Sikh communal frenzy. But it is the writer's belief that, given the full support of both governments, the Governors-General, with all their stature and influence, could have reached an amicable settlement before the issue of Kashmir became firmly rooted in the basic outlooks of both nations. Instead, Mountbatten and the Government of India, unknowingly chose the path of misery, hardship and needless loss of life.

(D) Basic Misunderstandings

The actual act of accession was the subject of considerable correspondence and misunderstanding between India and Pakistan, neither Government being fully aware of the other's position. The entire affair was conducted against a background of communal hatred and character assassination, where neither Government had time to analyse the other's attitudes or policies. Hence charges and counter-charges were traded in an irresponsible manner, while proposals were rejected by both parties for reasons seemingly trivial yet based on misunderstanding on the part of both Governments.

The discussions between Mountbatten and Jinnah at Lahore only served to indicate the wide ideological and psychological gap between the two nations. The ensuing correspondence between Liaquat Ali Khan and Nehru clearly shows that both
leaders were approaching the problem from different levels.

On November 6, Liaquat Ali wrote to Nehru with reference to Jinnah's proposals:

Lord Mountbatten promised to let me know your Government's reply to these proposals but we have heard no more about them. Your Government's policy is vague. I still ask your Government to let me have your reply to our definite proposals.¹⁹

Nehru, however, replied on the 8th, that there had been a "misunderstanding" on the part of the Pakistani Prime Minister and restated Mountbatten's earlier statement to Jinnah that there could be no action by India until the tribesmen had vacated Kashmir - an attitude which totally disregarded the dilemma facing Pakistan.

It is the writer's belief that when Jinnah stated that his Government had no control over the Pathans he was speaking the truth, and when he proposed that both nations take military action against the tribes, he was offering the only possible method of controlling the tribes through joint military action. The Indian Army was already fighting the Pathans in Kashmir and, although the public pressure against Jinnah making such a move would have been tremendous, the entry of the Pakistan Army into the conflict would do much to allay the Pakistani fears of an Indian coup in Kashmir.

Yet Nehru chose to disregard this plea for co-operation, and offered in return his own plan:

(1) That the Government of Pakistan should publicly

¹⁹. WPJK. p. 62.
undertake to do their utmost to compel the raiders to withdraw from Kashmir;

(2) that the Government of India should repeat their declaration that they will withdraw their troops from Kashmir soil as soon as the raiders have withdrawn and law and order are restored; and

(3) that the Government of India and Pakistan should make a joint request to the United Nations to undertake a plebiscite at the earliest possible date.20

He had earlier asked in a broadcast for Pakistani co-operation, but when Jinnah responded favourably, he then insisted on his own terms.

Either Nehru genuinely felt that the incursions in Kashmir were completely backed by Pakistan and that Jinnah and Liaquat Ali (his close friend for many years) were out and out liars, or else his obsession over events in the State was so overpowering that he refused to accept any explanation or solution other than his own. In any case, the proposals were framed in such a manner as to make their acceptance by Pakistan virtually impossible.

Furthermore, Nehru was prepared to accept his colleague Sheikh Abdullah as spokesman for all Kashmiris, whereas the "Lion of Kashmir" was branded by the Pakistani Prime Minister as a "paid agent and a Quisling."21 Again Nehru proposed United Nations participation in the plebiscite - a proposition already rejected by Jinnah. Indeed, the desire for co-operation was non-existent; when Josef Korbel, Chairman of the United Nations' Committee for India and Pakistan suggested at one point an Indian concession, "Pandit Nehru

20. WPJK. p. 62.
reacted vehemently. In a flash of bitterness he leaped onto a chair shouting 'you seem not to understand our position and our rights.'

Jinnah, on the other hand, was bargaining from a position of weakness, and therefore many reasons can be presented why he should have attempted to reach an amicable settlement with India. Dominating the minds of the Pakistani leaders was the fact of India's superior economic and military strength, the international status of her leaders and the close proximity of her armed forces just across the border. The Pakistani leaders fully realized that Partition and the subsequent creation of Pakistan went against the convictions of every Indian Congressman and hence was only accepted with grave misgivings. Moreover the speeches of Nehru and Patel, and India's action in withholding the payment of Pakistani assets did little to allay Pakistani fears. Suspicion and mistrust of India, then, formed the very basis of Pakistani thought, and when Kashmir acceded to India, Jinnah and his followers felt that this action was only the first step towards the incorporation of Pakistan into the Indian Union.

It was this fear of India, moreover, which caused Liaquat Ali to write to Nehru

It is a matter for deep regret that even today responsible members of the Government of India, including yourself, openly declare their intention or hope of bringing Pakistan back into the Indian Union well knowing that this could be done only through conquest of arms...In other words Pakistan's very existence is the chief casus belli so far as

22. Korbel. op. cit., p. 130.
India is concerned... India has never accepted the partition scheme but her leaders paid lip service to it merely in order to get the British troops out of the country... India is out to destroy the State of Pakistan... The fraudulent procurement of the accession of Jammu and Kashmir State /is an act/ of hostility against Pakistan whose destruction is India's immediate objective.23

Nehru immediately rejected this accusation and made the counter-charge that Pakistan's complicity in Kashmir was an "act of aggression." Nevertheless it was clear that the old issue of Partition was still uppermost in the thinking of both governments.

Events in Kashmir soon reached a military and diplomatic impasse, and after the initial failure to reach a common ground for discussion it was clear that negotiations would remain deadlocked unless there was a radical change in the attitudes of both parties. Fruitless negotiations continued throughout November, and it was not until December 1947, that the two Prime Ministers managed to arrange personal discussions at New Delhi and Lahore. Although the Delhi Conference of December 11, failed to break the deadlock, it did succeed in providing the broad outline required for a possible solution and the basis for the Indian proposals before the Security Council. In essence, the proposals agreed upon in principle were: (1) that Pakistan should make every effort to persuade the tribes to withdraw from Kashmir and for the forces of Azad Kashmir to cease fire; (2) that India should withdraw the majority of her forces from Kashmir leaving only a minimum number for the internal security; and (3) that the United Nations should

23. WPJK. pp. 83,85.
be called upon to form a commission to hold an impartial plebiscite in Kashmir.  

Soon after the Delhi Conference, however, the Indian position hardened considerably. Sardar Patel and Baldev Singh, having concluded a tour of Kashmir reported to the Defence Committee that "large concentrations of invaders, including tribesmen were in the West Punjab;" that no sooner had Liaquat Ali Khan left Delhi than he began to encourage new raiders to invade the state; and that the number of atrocities committed by the tribes against non-Muslims showed no signs of decreasing.  

This report, according to Campbell-Johnson, when combined with independent information reaching Delhi "hardened the Cabinet's heart against agreeing to the immediate plebiscite...or even, to continuing negotiations."  

The subsequent meeting between Nehru and Liaquat Ali at Lahore only showed the serious nature of the breach between the two countries, and in spite of the efforts of Mountbatten to reconcile the divergent views, the deadlock was complete. Moreover, the Governor-General was now thoroughly convinced that only the introduction of a third party could break the dilemma facing both parties.  

This diplomatic deadlock was further complicated by the failure of the units of the Indian Army to make any substantial headway in Kashmir following their initial landings at Srinagar. By November 14 they reached Mirpur and stabilized a line

25. Ibid., p. 251.  
26. Ibid.
between Mirpur, Kotli and Poonch. On November 21 Indian forces arrived at Poonch but they could not relieve the beleaguered State Forces within the city without a full-scale military offensive involving some two divisions. Furthermore, the Indian Army was suffering from over-extended lines of communication and was hampered by the approaching winter; while the forces of Azad Kashmir were strengthened by the bloodless coup in Gilgit and the accession of Swat, Dir and Chitral to Pakistan. Indeed, December was not a good month for the Indian Army.

Thus by the end of December the deadlock was complete: on the diplomatic side there was no ground for discussion; while militarily, events in Kashmir had reached an impasse. Such was the situation when India placed her case before the United Nations on January 1, 1948.
CHAPTER FOUR
KASHMIR AND THE UNITED NATIONS

(A) Debate in the Security Council

Unable to resolve the Kashmir controversy through bilateral negotiations with Pakistan, India invoked Chapter VI, Article 35 of the United Nations Charter (the Pacific Settlement of Disputes) and lodged a complaint against Pakistan for her complicity in the tribal invasion of Kashmir. This complaint, reviewing events from September 1947, and including the Maharajah's accession and Pakistan's role in the tribal adventure was set forth in the following charges:

(1) that the invaders are allowed transit across Pakistan territory;
(2) that they are allowed to use Pakistan territory as a base of operations;
(3) that they include Pakistan nationals;
(4) that they draw much of their military equipment, transport and supplies (including gasoline) from Pakistan;
(5) that Pakistan officers are training, guiding and otherwise actively helping them.\(^1\)

India asked, therefore, that Pakistan be called upon to prevent her nationals and Government personnel, both civil and military, from participating in events in Kashmir and to deny the tribesmen (who were also Pakistan nationals) access to Pakistan border areas for operations against Kashmir and military and other supplies which would tend to prolong the

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warfare in Kashmir. There was no mention of a plebiscite or a request for United Nations assistance in settling the fate of the Kashmiris themselves.²

Instead of maintaining the initiative in the debate, as the injured party, India was soon placed on the defensive as Sir Zafrullah Khan, the Pakistani Foreign Minister, launched a bitter five-hour speech against India, which climaxed with a charge against India under Article 35 of the Charter. Charging India with a breach of international agreements, incitement of revolution, "numerous attacks on Pakistan territory," and an "extensive campaign of genocide" with the object of destroying Pakistan, the Pakistani delegate thus brought the dispute from the narrow confines of Kashmir to a full discussion of Indo-Pakistan relations.³ The Pakistan Government motive, undoubtedly, was to bring world attention upon every aspect of Indo-Pakistan relations and thus enable the problem of Kashmir to be discussed in what it sincerely believed to be its proper perspective.

Despite the volume of the Indian and Pakistani presentations to the Security Council, virtually nothing new was added to the debate, as both sides based their respective cases on the November-December correspondence of the previous year. Pakistan regarded the dispute as if it were only an appendage of Partition whereas India attempted to focus world attention

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on the issue *per se*. Every charge by Ayyengar, the Indian delegate was, however, skillfully transformed by Zafrullah Khan, and answered in terms of the problems facing Pakistan at Partition. To the Indian claim that Pakistan had attempted to coerce Kashmir into accession by an economic blockade, Zafrullah Khan replied that because of the large influx of refugees into West Punjab because of Sikh atrocities, supplies were in short demand. Furthermore, he declared, what supplies were available could not be shipped because of India's inability to provide the Pakistan railways with coal - another consequence of Partition. The Indian charges of Pathan atrocities, on the other hand, were skillfully avoided by Zafrullah Khan who charged that the Government of India had openly encouraged the Sikhs and members of the Rashtriya Swayam Sewak Sangh (R.S.S.) to participate in a programme of genocide against Muslims in the Punjab.4

India consistently charged that Pakistan's approach to the dispute was merely a smokescreen to cover her obvious guilt, but whether or not this is a correct interpretation of Pakistan's motives, it is certain that the hard-hitting speeches and tactics of Zafrullah Khan served to weaken India's position in world opinion and rob her of what at first seemed certain support and victory. But the Pakistani delegation must not receive full credit for this diplomatic success for they were aided, albeit unknowingly by the Indian delegation's inept

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presentation of its case. Indeed, Alan Campbell-Johnson noted that it had been "abominably presented." Moreover, their strategic errors were even more damaging: (1) they failed to charge Pakistan as a de facto aggressor and differentiated between the tribal invaders and Pakistan nationals, thus leaving room for doubt in the minds of other delegates; (2) their continued repetition of their desire to let the Kashmiris determine their national destiny fostered the impression that India regarded the Maharajah's accession as temporary; (3) Ayyengar failed to convince the Security Council of the legality of the Maharajah's accession, even though this formed the basis of India's case; (4) the Indian delegation, unlike the Pakistani, failed to make proper use of the available documents; and (5) their limited use of Sheikh Abdullah who was present, and their failure to emphasize that his party, the National Conference, consisted primarily of Muslims, fostered the belief that Azad Kashmir was the only true Islamic movement in Kashmir. Furthermore, the attitude of the Indian delegation which to many observers seemed self-righteous and their obvious attempts to dictate terms to the Security Council alienated many of its members.

Of the many tactical errors made by the Indian delegation, however, none had such far-reaching consequences as the failure of India to charge Pakistan under Chapter VII of the Charter (dealing specifically with acts of aggression) and

her refusal to obtain a ruling on the legality of the Maharajah's accession. By doing so, India tied the hands of the Security Council and left the way open for the continuation of a dispute which could possibly have been shortened by positive United Nations actions and a decision of the International Court.

In the eighteen years of United Nations participation in the Kashmir Dispute, the attempts of five different parties to find peaceful solutions came to naught. Of the many resolutions passed by the Security Council and proposals offered by its mediators, only one - a cease-fire - has had any continuing effect.

While it is true that the Security Council achieved only this limited, albeit important success, the responsibility for its failure must rest solely upon the shoulders of India and Pakistan. Faced with closed minds and fixed attitudes, the Security Council, with all its potential military, political and economic might, was powerless against the determination of both nations to yield nothing. From the start, the Security Council had to function in an atmosphere of mutual suspicion and mistrust, which affected not only the principal contestants, but also the Council itself. Character assassination by the Pakistani press and government officials and righteous indignation by their Indian counterparts were commonplace; while neither party improved the position of the Security Council by the constant threat of non-co-operation and "black
flag" demonstrations. Irresponsible statements were made by both Indians and Pakistanis that the only solution to the entire issue was the sword.

The actions of the Security Council have been only documented up to 1953 by Michael Brecher, and subsequently described in a more personal narrative up to 1956 by Josef Korbel, a former member of the United Nations Commission for India and Pakistan. What is still needed, however, is an analysis of subsequent Indian and Pakistani actions insofar as they affect the present-day status of Kashmir and the relations between the two nations.

(B) The Creation of the United Nations Commission for India and Pakistan

The United Nations Commission for India and Pakistan was created by the January 20, 1948, Security Council Resolution which called for a commission of three to proceed to Kashmir as quickly as possible to investigate the situation and exercise any mediatory influence likely to smooth away difficulties. There was no mention, however, of the promised reference to the people, the withdrawal of tribesmen or a cease-fire; indeed it was largely because of this failure to include the controversial, yet all-important issues, that it was accepted by both parties without reservation. 7

The sober spirit of the January 20 Resolution was, however, soon smothered under a flood of invective. On January 22,

Pakistan won an important victory when the Security Council changed the agenda from the "Jammu and Kashmir Question" to the "India-Pakistan Question," while India suffered another set-back when the delegates from the Argentine, Colombia and Syria called on the Council to consider all factors pertaining to the India-Pakistan Question - a proposal which proved to be a major debating victory for Zafrullah Khan.  

Both parties had only one common point of agreement - a plebiscite; yet they were diametrically opposed to the mechanics of such an operation.

India, reflecting her strong military, if not legal position in Kashmir, demanded: (1) that the fighting in Kashmir cease and all Pakistani tribesmen withdraw; (2) that the security of the state must be maintained by Indian troops; (3) that Sheikh Abdullah would be Prime Minister of the interim government; and (4) that a United Nations Commission should supervise and mediate the question of a cease-fire. On the question of a plebiscite, India further proposed: (1) the election of a National Government under Sheikh Abdullah; (2) the arrangement of a plebiscite by this National Government under the advice and supervision of the United Nations; and (3) the writing of a constitution by the National Assembly.

Pakistan, on the other hand, revealing her weak position in the dispute, wanted full authority vested in a United

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Nations Commission with a mandate to (1) establish an impartial interim administration (i.e. one without Sheikh Abdullah); (2) demand the withdrawal of all troops from Kashmir; (3) seek the return of Kashmiri refugees (mostly Muslims); and (4) arrange for an unfettered plebiscite.\(^\text{10}\)

At this point India made no mention of the forces of Azad Kashmir - possibly because to do so would weaken her claim that Sheikh Abdullah was the only true representative of progressive Kashmiri public opinion. Instead, she wanted the plebiscite issue to be held over until the cessation of hostilities. Pakistan, on the other hand, with correct insight, insisted that the Azad forces would only cease their opposition if a fair plebiscite was forthcoming. Indeed, Pakistan feared that once the military situation became stabilized, a political stabilization would follow thus leaving India in control of most of Kashmir. This factor was to play an important role in the despatch of regular Pakistani troops into Kashmir in the spring of 1948.

Although the January 20 Resolution was accepted by both nations primarily because it was mild and void of controversy, the April 21 Resolution of the Security Council virtually doomed the UNCIP on the day of its birth. Presented a full six months after the initial trouble in Kashmir, the Security Council's resolution called for: (1) the increase in the Commission from three to five members and its immediate despatch to

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\(^{10}\) Ibid.
the sub-continent to offer its good offices to both disputing parties; (2) Pakistani efforts to secure the withdrawal of her nationals and tribesmen from Kashmir; (3) the progressive withdrawal of Indian troops to a minimum required for the maintenance of internal security; (4) the formation of a coalition government to represent all phases of Kashmiri opinion; and (5) the nomination of an impartial plebiscite administrator to conduct both the affairs of government and a plebiscite.11

Neither India nor Pakistan was satisfied with the April 21 Resolution, and both duly recorded their opposition. The basis of Ayyengar's criticism was the legality of Kashmir's accession to India, supplemented by the belief that Sheikh Abdullah, as the true spokesman of political opinion, would have to be allowed to chose representatives from the major political groups. Any Plebiscite Administrator, he claimed, would only usurp the legal powers of the legitimate Government of Kashmir, and furthermore, a "minimum" force while maintaining domestic law and order, would be insufficient to check external aggression.12

Pakistan's attitude, on the other hand, was based upon the fear that a fair and impartial plebiscite could not be conducted under the present arrangements. Her delegates insisted, therefore, that the forces of Azad Kashmir could only be compelled to disarm either by force or through a

13. Ibid., pp. 2047.
definite guarantee of an unhampered plebiscite. Thus Zafrullah Khan, who had already obtained strong backing for the Pakistani point of view within the Council, was presenting the principles his country was to follow for the next five years.¹³

Despite the Pakistani rejection of the April 21 Resolution, their case before the United Nations was considerably strengthened when, on June 3, the Security Council adopted a Syrian-sponsored resolution directing the Commission to study Pakistan's charges to genocide, the accession of Junagadh and the Partition Agreements.¹⁴

This, however, was too much for India to accept. She had come before the Security Council in January as the injured party, and presented her case, albeit ineffectually, with every expectation that the Indian viewpoint would be quickly accepted. Instead, she had been denied that victory and found herself facing charges which she regarded as extremely remote from the central issue of Kashmir. Accordingly, Prime Minister Nehru informed the Security Council that India could not accept the June 3 Resolution and could not promise co-operation with the newly-formed Commission.¹⁵ This attitude, however, was not restricted solely to official circles; after the Commission's arrival in New Delhi, the New York Times correspondent Robert Trumbull reported:

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13. Ibid., pp. 2047.
The Indian Press has begun to lay the groundwork for the rejection of any recommendations that the commission may make unless they favor India.\textsuperscript{16}

The \textit{Times} correspondent, on the other hand, noted
\begin{quote}
...in Kashmir itself Sheikh Abdullah's regime was averse from allowing the commission to set foot in the state and felt that public resentment might take the form of black-flag demonstrations.\textsuperscript{17}
\end{quote}

The Pakistan press, not wanting to be overshadowed by their Indian counterparts, also promised similar demonstrations and non-co-operation.

During its first visit to Karachi in August 1948 the Commission was informed by Zafrullah Khan\textsuperscript{18} that three Pakistani brigades had been on Kashmir territory since May. This not only materially altered the situation in Kashmir and strengthened the Indian charges of aggression, but also further indicated Pakistan's fear of India's motives.

Thus ended the first phase of Security Council participation in the Kashmir Dispute. In this atmosphere, the second phase of the Commission's activities began; yet as one might expect, it was destined to fail.

\textbf{(C) The Second Phase}

Following lengthy discussions in Karachi and New Delhi, the UNCIP presented the first of many resolutions pertaining to the Kashmir question. Consisting of three parts - Cease-Fire,
Truce Arrangements and Plebiscite - the August 13, 1948
Resolution sought to reconcile the attitudes of both disputing parties and hence resolve the ten-month deadlock.

Part Two of this Resolution (Truce Agreements) recognized the presence of Pakistani troops in Kashmir as a "material change in the situation," and hence asked Pakistan to withdraw her troops first. Furthermore, Pakistan was to attempt to seek the withdrawal of all tribesmen and non-resident Pakistani nationals from Kashmir, while these evacuated areas would be administered by the local (Azad) authorities under surveillance of the Commission.

Only after the above had been completed, and the Commission duly notified, the Resolution continued, would India be required to withdraw the "bulk of their forces."

Part Three of the Resolution (Plebiscite) called upon both Governments

...to enter into consultations with the Commission to determine fair and equitable conditions whereby a free and impartial plebiscite will be assured.19

After much correspondence on phraseology, India accepted the August 13 Resolution. Pakistan, on the other hand, attached several important conditions which, in the words of the Commission, made "impossible an immediate cease-fire and the

beginning of fruitful negotiations between the two Governments and the Commission..."20 Pakistan's primary concern with the Resolution was the lack of a clear guarantee for a free plebiscite and the possibility of de facto political stabilization following a cease-fire. "Basically," Korbel writes, "the Commission was in full agreement with this Pakistan position, but its resolution was designed first to stop hostilities and later to negotiate about the details of the plebiscite."21

In spite of the Pakistani rejection of the August 13 Resolution, both parties did reach agreement on a Cease-Fire, and at midnight, January 1, 1949, the guns along the Kashmir front fell silent after more than one year of undeclared war. Although the ensuing negotiations over truce line demarcation continued for a six-month period, the spirit of the new year was shown in the UNCIP's January 5, 1949 Resolution.

The January 5 Resolution supplemented the August 13 Resolution and spelled out the exact procedure for the implementation of a plebiscite in Kashmir. It called for the nomination of a Plebiscite Administrator by the Secretary General of the United Nations who would formally be appointed by the Government of Jammu and Kashmir.22 Furthermore, it called for discussions with India over the final disposition of her troops in Kashmir as soon as the Commission was satisfied that Part One (Cease-Fire) and Part Two (Truce

20. Ibid., p. 31.
22. Fleet Admiral Chester W Nimitz of the United States was nominated Plebiscite Administrator by Trygve Lie in March 1949.
Arrangements) of the August 13 Resolution had been completed to the Commission's satisfaction.

This Resolution was accepted by both disputing parties. Pakistan's acceptance, moreover, implied tacit acceptance of the August 13 Resolution which she had previously rejected. Indeed, to all concerned, it seemed as if a new era of cooperation and conciliation had been born: agreement was reached on the exchange of prisoners of war; both sides were withdrawing their armed forces from the State; final cease-fire orders were being completed; while arrangements for the demarcation line and the introduction of a truce supervisory team were being prepared.

The Commission resumed negotiations in February after spending a lengthy period at Geneva. At the first meeting Zafrullah Khan stated "that considerable progress had already been made in the withdrawal of tribesmen and non-resident Pakistan nationals." He "believed that by the middle of February...the obligation of the Pakistan Government...would have been fulfilled." Furthermore, both Khan and his Indian counterpart, Sir Girja Bajpai, pointed out the necessity of defining the terms "local authorities" and "surveillance" in order to reach a satisfactory settlement. Then Bajpai dropped his bomb. He demanded "the disbanding and disarming on a large scale of the Azad Forces as an essential condition.

to be fulfilled before any plebiscite could be held.\textsuperscript{24} Thus in a word, the cordial atmosphere was shattered. Pakistani fears of India immediately rose as Zafrullah Khan questioned India's good faith. Negotiations immediately came to a deadlock which has never been resolved. Yet, in fact, India's demand only reflected its attitude towards the entire Kashmir issue. Both parties were able to obtain a cease-fire in Kashmir as a matter of political or economic expediency, but their basic outlooks towards Kashmir, as will be shown in the following chapter, remained unchanged.

\textsuperscript{24} Ibid.
CHAPTER FIVE
INDIA, PAKISTAN AND THE COMMISSION

(A) The Indian Position

The Government of India's attitude towards the entire Kashmir issue was, and is still, based upon the premise that the accession of the Maharajah to India was legal and that Pakistani activities in the disputed territories constituted an act of aggression against India. This attitude became all the firmer after the open admission by Pakistan in August 1948 of the presence of her troops in Kashmir. Furthermore, India has always claimed that since Pakistan was the aggressor, she had no right to be treated as an equal party to the dispute. The basis of the Indian attitude was, therefore, that she was in Kashmir as a matter of right, and that Pakistan, on the contrary, had no locus standi in the matter.

From the fact of accession, moreover, flowed the Indian claim that she was responsible for the security and administration of the entire State and that any plan to withdraw forces from Kashmir must, therefore, take into account the security interests of India.

This basic attitude was to determine the Indian Government's approach to every Commission proposal, suggestion or resolution. If the attitude of the Commission coincided with India's, then Nehru and his colleagues would give their whole-
hearted support. If not, then the Government was only too willing to offer incompatible amendments or its unqualified rejection.

Thus the Commission was not only hampered by this intransigent attitude but was also placed in the unenviable position of attempting to reconcile the irreconcilable.

(1) Troop Withdrawal

The Indian attitude towards the withdrawal of troops following the cease-fire and the demarcation of the truce line was based upon the belief that Pakistan, as the aggressor, could not be accorded the status of an equal. Accordingly, India claimed that any discussion pertaining to her own withdrawal - timing, size and stages - was strictly a matter between herself and the Commission. Her "Pakistan has no locus-standi" theory was supported by the Commission which declared that the August 13 Resolution "does not suggest that Pakistan should be entitled to make her withdrawals conditional upon the consultation envisaged between the Commission and the Government of India having led to an agreed schedule of withdrawal of Indian troops."¹ Nevertheless, the Commission's proposals of April 15th and 28th, 1949, were rejected by India on the grounds that there was no mention of the disbanding and disarming of Azad Kashmir forces.² Furthermore, India rejected any suggestion of international arbitration.

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(2) Azad Kashmir

The work of the Commission was further hampered by the presence of a large number of well-trained and equipped forces of Azad Kashmir, as well as by the refusal of Pakistan to admit that she exerted any political control over the Azad-controlled areas.

In order to circumvent this problem Prime Minister Nehru sought reassurance from the Commission that the August 13 Resolution "should not be interpreted... so as to afford any recognition of the so-called 'Azad Kashmir Government'," and that "Pakistan should have no part in the organization and conduct of the plebiscite or in any other matter of internal administration in the state." In reply, the Commission chairman, Josef Korbel, stated that the Indian position "coincides with [the Commission's] own interpretation." 3

The August 13 Resolution, while admitting that the presence of Pakistani troops in Kashmir represented a material change in Kashmiri situation (to India's satisfaction), failed to take into account some thirty-two battalions of Azad Kashmir forces which Pakistan was creating as a possible replacement for her army. Indeed, while Pakistan refused to associate herself with the forces of Azad Kashmir, arguing that they were an entirely separate entity, the Prime Minister of Azad Kashmir, Sardar Mohammad Ibrahim Khan could remark:

During the nine months that have elapsed since the

Cease-Fire in Kashmir, and Azad Kashmir Government has reorganized its forces and now they are one hundred times better than what they were when they had first risen in arms against the Dogra rule.\textsuperscript{4}

Accordingly, India proposed during the discussions following the January 5, 1949 Resolution which gave rise to the cease-fire, that prior to any withdrawal of her forces, the forces of Azad Kashmir must be disbanded and disarmed. In making this proposal, India relied largely on the assurance given her by the Commission that "large scale disbanding and disarming of Azad Forces"\textsuperscript{5} would take place as a condition precedent to any plebiscite.\textsuperscript{5} Pakistan, on the other hand, refused to accept the Indian position, and during the ensuing deadlock, India rejected all proposals (April 15 and 28, 1949) including the Commission's recommendation to submit Part Two (Truce Agreements) of the August 13 Resolution to arbitration.

(3) Northern Areas

Closely related with India's attitude towards troop withdrawals was her view of the status of the Northern Areas of Kashmir. Although this region had been spared the misery of war, India claimed that because it was part of pre-accession Kashmir, it was now under her sovereignty.\textsuperscript{6} Accordingly in a letter to the Commission, Nehru wrote that after Pakistan regulars and irregulars had withdrawn from the territory "the responsibility of this area should revert to the Government

\textsuperscript{4} Pakistan Times (Lahore). Oct. 11, '49. cited in Brecher. \textit{op. cit.}, p. 102.
\textsuperscript{5} S/1196. Annex 4.
\textsuperscript{6} A curious exception, however, was made of the Muslim state of Gilgit.
of Jammu and Kashmir and that for defence to us." The Commission, while ignoring the Northern Area because it was outside the scope of military activities, did recognize that "the questions raised in Nehru's letter could be considered in the implementation of the August 13 Resolution."

Despite the Commission's vague acceptance of the above, this became the rock upon which all efforts to secure troop withdrawals foundered. In an attempt to seek a compromise solution and hence open the way towards the implementation of Part Three (Plebiscite) of the August 13 Resolution, the Commission suggested that "evacuated territory" meant only that territory formerly under control of the Pakistan army and did not include that territory where only local people (i.e. Azad Kashmir) were fighting the forces of India or Kashmir. The Northern Areas came within this category. Furthermore, the Commission suggested that the entry of Indian troops into this area would be faced with the likelihood of local opposition. This proposal not only strengthened the Pakistan position by de facto recognition of the true military and political situation within Kashmir, but also fostered the belief shared by many, that there were certain sections of the Kashmiri population who were unwilling to be "liberated" by Indian troops.

Given the attitude of the Indian Government, acceptance of the above would amount to a wholesale rejection of her

8. Ibid.
"Pakistan has no *locus standi* theory, and therefore, rejected both the August 30, 1949 proposal calling for arbitration and the August 31 Truman-Atlee appeal to both parties calling for acceptance of this suggestion. To the proposal of arbitration, India could "only express surprise and disappointment at the attitude of the Commission "as it was forgetting the moral aspect of the entire conflict."\(^{10}\) This statement, in fact, aptly summarized the Indian attitude towards the Security Council and the reason for her steadfast refusal to alter her outlook towards the entire issue.

(B) The Pakistan Position

The position taken by Pakistan towards Kashmir struck at the very roots of the Indian claim. Whereas India consistently maintained that the legality of the Maharajah's accession and India's sovereignty over Kashmir were beyond question, Pakistan vigorously denied this assumption and based her attitude on five basic arguments. (1) The Standstill Agreement between Kashmir and Pakistan debarred the Maharajah from undertaking any agreement with India. (2) The Maharajah had no competence to sign the Instrument of Accession with India since he had been overthrown by his people and compelled (on advice from V.P. Menon) to flee Srinagar for his life. (3) The accession, under these circumstances, was brought about by fraud and violence. (4) The conditional accession of Kashmir was *ultra vires* of the Indian constitution, and hence void. (5) The

\(^{10}\) Ibid., Annex 47.
creation of Azad Kashmir was spontaneous and indigenous. From these arguments it can be seen that there was no common ground between the two disputing parties. From them also comes the basic assumption of equality with India. On all matters pertaining to Kashmir - cease-fire, truce and the plebiscite - Pakistan demanded an equal voice.

While steadfastly maintaining this attitude throughout the fruitless years of negotiation, Pakistan has been willing to adopt a far more flexible approach towards the issue of Kashmir than has India. Conscious of her weak position, the Government of Pakistan has accepted the principle of compulsory arbitration, while the proposals of Sir Robert Menzies at the 1951 Commonwealth Prime Ministers Conference, suggesting the use of Commonwealth troops in Kashmir, also found favour in Karachi. India, on all occasions rejected such proposals.

(1) Troop Withdrawals

Part Two (Truce Agreements) of the August 13 Resolution stated:

As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation...the Government of Pakistan agrees to withdraw its troops from that state.\textsuperscript{11}

Only when this was completed, the Resolution continued, would the Government of India "begin to withdraw the bulk of their forces."\textsuperscript{12} This, of course, was not in accordance with

\begin{itemize}
  \item \textsuperscript{11} Gov't of India Information Service. \textit{Documents}, p. 5.
  \item \textsuperscript{12} Ibid.
\end{itemize}
Pakistan's theory of "equality" with India, and in a memorandum to the Commission rejecting the Resolution, Zafrullah Khan attempted to justify the Pakistani position:

While the Security Council was still engaged on the consideration of the Kashmir case, India was steadily building up its Armed Forces in Jammu and Kashmir...The Indian Army mounted a big offensive in the beginning of April, thereby causing a material change in the situation. This offensive action has continued...with the publically declared intention...of securing a military decision in Jammu and Kashmir, thus presenting the United Nations Commission and Pakistan with a fait accompli. This situation not only put in jeopardy the entire population of the areas under the Azad Kashmir Government, and led to a big influx of refugees into Pakistan, but also constituted a direct threat to Pakistan security.

As an alternative proposal, and in keeping with Pakistan's insistence upon equality, Zafrullah Khan suggested "a synchronized and simultaneous withdrawal of both the Pakistan Forces and the bulk of the Indian Forces from the state." This, however, was rejected by the Commission.

The flexibility of Pakistan's attitude was shown when she accepted the December 11, 1948 proposals leading to the January 5, 1949 Resolution which supplemented Part Three (Plebiscite) of the August 13 Resolution and included arrangements for a cease-fire. Although this move implied tacit recognition of the rejected August Resolution, the circumstances surrounding such actions cannot be overlooked: (1) the death of Jinnah on September 11, 1948 may have caused widespread concern for the political stability of the nation;

13. Ibid., pp. 13-14 (italics mine).
14. Ibid., p. 16.
(2) the military operations in Kashmir and its accompanying economic war with India, were draining the limited resources of the country; and (3) the Pakistanis were probably impressed with the rapidity with which the Indian Army subdued Hyderabad and with the strength of the Indian contingents in Kashmir during the same month. Thus, it is suggested, Pakistan chose to accept the January 5 Resolution not through any change in policy, but rather because the events of September to November warranted such action. The acceptance of the December 22, 1949 McNaughton Proposals (which will be discussed in the following chapter), moreover, indicated that there had been no basic change in Pakistan's desire for equality with India on all fronts.

(2) Azad Kashmir

The Pakistan attitude towards Azad Kashmir was, as one might expect, exactly opposite to that of India, and hence all attempts of the Commission to deal with matters pertaining to the Azad Government or its Armed Forces were blocked by the wide abyss which separated the two disputing parties.

Whereas India refused to recognize the presence of an independent Azad Kashmir Government within territory she considered rightfully hers, Pakistan adopted a curious "double-standard" policy. While admitting that "the Pakistan Army is at present [August, 1948] responsible for the over-all command ... of Azad Kashmir forces,"15 the Pakistan Government stead-

15. Ibid., p. 19.
fastly maintained throughout the life of the Commission that "political control over the Azad Kashmir Forces vests in the Azad Kashmir Government, and it is the latter Government alone that has authority to issue a cease-fire order to those forces, and to conclude terms and conditions of a truce which would be binding on those forces." Although the Pakistan Government offered its "good offices" to the Commission, this view effectively strengthened Pakistan's position by providing an effective wedge between India, which wanted Pakistan condemned and ejected from Kashmir, and the Commission, which wanted to find an amicable solution to the entire affair.

This attitude towards Azad Kashmir, moreover, became an effective and flexible lever in Pakistan's relations with the Commission. Indeed, she could withdraw her troops from Kashmir fully realizing that the military vacuum would immediately be filled by some thirty-two battalions of the Azad Kashmir army. The flexibility of this double-standard policy was shown on at least two occasions: (1) when Pakistan wanted a cease-fire, there was no recorded Azad opposition; (2) when India demanded in the proposals leading to the April Resolutions the disarmament and disbandment of these forces, Pakistan could demand that similar action be taken against the Kashmir State Forces.

Indeed, so effective was Pakistan's use of Azad Kashmir, that the Commission, in its search for a solution, was

16. Ibid., p. 23.
virtually forced to extend de facto recognition to Pakistan's legitimate claims, thereby removing any hope of conciliation with India.

(3) Northern Areas

The attitude of Pakistan towards the Northern Areas was again the opposite of India's; consequently any attempt by the Commission to break the deadlock only met with frustration and disappointment.

Thus on all points - troop withdrawal, Azad Kashmir and the Northern Areas - the Pakistan attitude was diametrically opposed to that of India. There was no meeting of minds between the parties, no question of conciliation and no desire for settlement except on their own terms. The shooting war was over but the war of words continued unabated; it is thus not surprising that the United Nations Commission for India and Pakistan found it impossible to bridge the wide abyss separating the two Governments.
CHAPTER SIX
MCNAUGHTON PROPOSALS, DIXON REPORT AND GRAHAM MISSIONS

The majority of the UNCIP, while admitting limited success, could not openly state that the issue of Kashmir had deteriorated beyond the point of peaceful solution. They therefore suggested in their final report on August 13, 1949, that a fresh approach be made by replacing the Commission with a single mediator in the hope that the year-long deadlock over demilitarization could be resolved.

(A) The McNaughton Proposals

On December 17, 1949, the Security Council appointed its President, General A.G.L. McNaughton to the post of "Informal Mediator," with a mandate to discuss the problems of demilitarization informally with the representatives of India and Pakistan. Five days later, he presented the Security Council with a plan, based largely upon the recommendations of the Commission calling for (1) the progressive withdrawal of the regular forces of India and Pakistan from Kashmir; (2) the disbanding and disarming of Azad Kashmir state forces; and (3) the administration of the Northern Areas by existing local authorities under the supervision of the United Nations. He also suggested that the Commission should be replaced by a single mediator with wide powers to carry out the Council's decisions.

1. A minority report was presented by the delegate of Communist Czechoslovakia which charged that Britain and the United States were using the State as an instrument in the Cold War.
Pakistan accepted the McNaughton Proposals with only minor verbal reservations. India, in effect, rejected them when she proposed two wide amendments - the disbanding and disarming of Azad Forces and Indian control over the Northern Areas.\(^3\)

Once again the Council was subjected to the lengthy speeches of the Indian and Pakistani representatives where "Recriminations were repeated... new accusations were exchanged, and the atmosphere was heavy with bitterness and hostility.\(^4\)"

After both parties had reiterated their basic policies towards Kashmir, a Four-Power (United Kingdom, United States, Cuba and Norway) was presented calling upon both countries to prepare and execute within a period of five months... a programme of demilitarization on the basis of... General McNaughton's proposal or of such modifications of those principles as may be mutually agreed.

Furthermore, the resolution called for the appointment of a single mediator to assist in the preparation and to supervise the implementation of the programme of demilitarization... and to interpret the agreements reached by the parties for demilitarization... and to... place before these Governments or the Security Council any suggestions which, in his opinion, are likely to contribute to the expeditious and enduring solution of the dispute.\(^5\)

This resolution was accepted on March 14, 1950 by a vote of 8 to 0, with India and Yugoslavia abstaining and the Soviet

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Union absent. Pakistan immediately registered her unqualified approval. India, as was expected, opposed the resolution and on March 14, Sir Benegal Rau informed the Security Council that while India accepted the replacement of the Commission by a single mediator, she rejected the McNaughton proposals upon which the Resolution was based. Thus by inference, India rejected the March 14 Resolution. On April 14, however, the Security Council appointed Sir Owen Dixon, the Australian diplomat and jurist, as the United Nations Mediator.

(B) The Dixon Mission

Given the attitude of India towards the McNaughton Proposals, Sir Owen Dixon's mission to the sub-continent was doomed before he arrived, and although after his arrival on May 27, 1950 to implement the March 14 Resolution he made an extensive tour of Kashmir, convened a conference of Prime Ministers in New Delhi, and travelled continuously between Karachi and New Delhi, all his efforts came to naught.

Unlike his predecessors, Sir Owen made the first forthright criticism of the Pakistani case, when at the New Delhi Prime Ministers' Conference, he declared

...without going into the causes or reasons why it happened...I was prepared to adopt the view that when the frontier of the State of Jammu and Kashmir was crossed...by hostile elements, it was contrary to international law, and that when, in May 1948, ...units of the regular Pakistan forces moved into the territory of the state, that too was inconsistent with international law.6

(1) Demilitarization

Since Pakistan had committed the "original sin" Sir Owen proposed in his plan for demilitarization (1) the withdrawal of Pakistan troops from Kashmir first; (2) the withdrawal of Indian troops; and (3) the disbandment and disarmament of the Azad Kashmir and Kashmir State Forces. Pakistan accepted these proposals, but as was expected, India rejected them basing her claim on the lack of Pakistani good-faith, and on the plea that in any case, only the Kashmir Government could order any change in the status of its armed forces. 7

(2) Azad Kashmir

In an attempt to solve the problem of Azad Kashmir, Sir Owen, suggested (as had his predecessor, the U.N. Commission) that the administration of this area be entrusted to local magistrates who would in turn be supervised by United Nations officials. To ensure complete freedom for those under Sheikh Abdullah's rule, he proposed the appointment of United Nations supervisors with widespread powers which included observation, inspection, remonstrance and report. Furthermore, no arrests were to be made without the written approval of the United Nations officer. Again, as must have been expected, India rejected the proposals on the grounds that Pakistan was being treated as an equal. 8

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7. Ibid.
8. Ibid.
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7. ibid.
8. ibid.
(3) Northern Areas

To Sir Owen's proposal that the administration of the Northern Areas be conducted by Political Agents representing the United Nations, India in reply charged that recognition of this plan would imply acceptance of Pakistan's right to be in that portion of the state. Furthermore, the Indian Government maintained that it must have the right to station garrisons in the Northern Areas for its defence.

Thus all attempts by Sir Owen to solve the problem of demilitarization as an unnecessary prerequisite to a plebiscite came to naught. In an attempt to keep negotiations open, however, he suggested three procedures which if adopted, would by-pass the thorny problem of demilitarization.

First, he proposed that a single government be formed for the period of the plebiscite - a coalition, non-political administration with its chairman appointed by the U.N. or with an executive consisting of U.N. representatives. Although Sir Owen does not record it, the Pakistan reaction was presumably favourable, whereas India's reply was negative.

In his second attempt to reach a solution, Sir Owen suggested a plebiscite conducted region by region or the allocating to either country of those regions which would unquestionably vote for India or Pakistan, thus limiting the Plebiscite to the Vale of Kashmir. In his rejection note, the Prime Minister of Pakistan noted that India was committed to a
state-wide plebiscite. India, on the other hand, while accepting such a proposal, claimed territory, which according to Sir Owen "appeared...to go much beyond what according to my conception of the situation was reasonable."^9

For his third and final proposal, Sir Owen suggested the partition of the state along religious lines with a plebiscite in the demilitarized Valley under the administration of the United Nations. This was rejected by both India and Pakistan.

Having exhausted all possible means of reconciliation, Sir Owen reported the failure of his mission to the Security Council.

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 of any such character, as would in my opinion permit the plebiscite being conducted in conditions sufficiently guarding against intimidation, and fairness of the plebiscite might be imperiled.10

Furthermore, he concluded

There is I believe on the side of India a conception of what ought to be done to ascertain the real will of the people which is not that tacitly assumed by me. Doubtless it is a conception which Pakistan does not share.11

(C) The Graham Mission

In his efforts to break the deadlock over the mechanics of demilitarization, Sir Owen Dixon made proposals that went directly to the roots of the problem. When his efforts came

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10. Ibid., p. 16.
to naught, he placed the blame for his failure where he thought it belonged, and returned the entire issue to the United Nations.

Whereas Sir Owen could publicly admit failure, the Security Council could not, for to do so would undermine the sagging prestige and limited authority of the world organization. Consequently, in an attempt to resolve the two-year deadlock, an Anglo-American resolution was introduced on February 21, 1951, thus breaking the five-month United Nations silence. This proposal, and a modified version introduced on March 21, while affirming the Resolutions of August 13, 1948 and January 5, 1949, called for the appointment of another United Nations representative who, after three-months of consultation with both governments would report to the Council all points outstanding between the two disputing parties. In case of failure, the resolution continued, both parties would be called upon to accept arbitration of outstanding differences. This was accepted on March 30, 1951, by a Security Council vote of 8-0 with India, Yugoslavia and the U.S.S.R. abstaining.

Pakistan accepted this resolution without qualification primarily on the grounds that it condemned the convening of a Constituent Assembly in Indian Kashmir and recognized her long-held view that outstanding differences should be settled by compulsory arbitration. India, on the other hand, rejected the resolution principally on the grounds that she could not allow the fate of Kashmir to be decided by a third person.

Furthermore, at a press conference, Nehru bitterly declared:

"The United States and Great Britain have completely lost the capacity to think and judge anything... No organization and no country has any business to interfere with what is done in Kashmir by India or the Kashmir people... So far as we are concerned, we will tolerate no nonsense about Kashmir come what may... The whole thing is fantastic nonsense."

One month later, Dr. Frank P. Graham was chosen United Nations Representative. A distinguished American mediator and former member of the United Nations Indonesian Commission, Dr. Graham inherited the same problems as his predecessors - the immediate rejection of his terms of reference.

Upon his arrival in the sub-continent, Dr. Graham was faced with an atmosphere of war-like tension. Troops were heavily concentrated in East and West Punjab, Karachi practised air-raid drills and blackouts, while the economic war between the two countries continued unabated. In February, the World Muslim Conference met in Karachi and urged all Muslim nations to support the people of Kashmir "whose ties with the people of Pakistan no power on earth can break." The Pakistani press, led by *Dawn*, called for a holy war of liberation, while the Grand Mufti of Jerusalem, known for his infamous role during World War Two and during the Palestine troubles, visited Azad Kashmir in March 1951 and called for a *jihad*.

The Indian attitude, on the other hand, remained hostile

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and unyielding. The *Times of India*, commenting upon alleged violations of the cease-fire line declared in unrestrained words:

> If Karachi believes that by such tactics it can intimidate the Government and people of this country, it mistakes the temper of India. Delhi has always been willing to parley with reason but sword will be met by the sword...If hostilities unfortunately break out again, they cannot be confined to the territory of Kashmir and will involve a full-scale war between the two countries neither of whom can afford this costly venture. Pakistan is playing with fire.15

On June 2, Sheikh Abdullah declared that, in spite of the United Nations resolution condemning the formation of a Constituent Assembly in Kashmir, elections for such a body would be held in September 1951, while Prime Minister Nehru, supplementing this decision, declared that Dr. Graham could not expect courtesy, but little else.

It was against this background, Dr. Graham sought to reach an amicable solution.

Unlike his predecessor, Sir Owen, Dr. Graham expressed genuine confidence that the entire problem could be resolved. Instead of attempting to break the deadlock through broad proposals, he chose for himself the role of a patient mediator deliberately avoiding any reference to the March Resolution, listening carefully to both sides seeking to bring about reconciliation on minor issues with the expressed desire that this would lead to a solution of the most critical problems of demilitarization and the induction of the Plebiscite

Administrator into office.

His five reports to the Security Council reveal his tireless determination to reconcile the two parties. But his efforts were in vain, as negotiations grounded on the issue of the size and character of the Indian and Pakistani forces to remain in Kashmir.

Finally after two years of fruitless negotiation, Dr. Graham reported to the Security Council that because of the great distrust held by both parties, the technical problems of size and nature of the troop withdrawals leading to the demilitarization of Kashmir could not be resolved. He asked, therefore, on March 27, 1953 that the issue be returned to the two nations for further discussion.16

This technical problem, which prevented an amicable solution to the Kashmir dispute, was not, by itself, beyond solution, but its basis was far more profound than mere arithmetical differences, for it reflected the attitudes of both countries towards the entire United Nations effort.

(D) United Nations

The Security Council and its various agencies formed to resolve the Kashmir Dispute are not totally free from criticism. From the inception of the dispute, the Security Council was hampered by weak and vague terms of reference, and the inability of one or both parties to agree to its various proposals.

Although this was not of the Security Council's choosing, it was forced into the dilemma of following a path which, in retrospect, could only lead to failure.

In December 1947, the only point of agreement between the Governments of India and Pakistan was their common desire to hold a plebiscite in the state but they were at odds as to the mechanics of such an undertaking. In order to facilitate the desires of both nations, however, the Security Council was forced into paradoxical dilemma of withholding de jure recognition of the Azad Government and Pakistan's claim for equality while extending de facto recognition to both Governments for the purpose of settling the dispute. To refuse to recognize the interests of both parties would obliterate any possible chance of conciliation, while to extend even de facto recognition to Pakistan for the sole purpose of achieving a settlement, alienated the Indian Government.

Criticism could also be made of the Security Council's and Commission's approach towards the implementation of the August 13, 1948 Resolution. Although this Resolution provided a firm base from which to operate, the Commission and its predecessors were forced, in their process of seeking a settlement, to become enmeshed in the finer points of the dispute and were finally deadlocked, as in the case of the Graham Mission, on the issue of the number of Indian and Pakistani troops to remain in Kashmir. Furthermore, the Security Council, through vague terminology - "the bulk of Indian troops," "local
authorities," and the "Northern Areas" - and the practice of endless "clarifications" and "reservations", obscured the major issues of the dispute and provided both India and Pakistan with the opportunity of strengthening their own positions at the expense of obtaining a satisfactory solution to the Kashmir dilemma.

The Security Council, hampered by the lack of a legal interpretation of the legality of the Maharajah's accession and India's subsequent failure to charge Pakistan under Chapter VII of the Charter, was hesitant to fulfill India's persistent demands that Pakistan be charged as an aggressor for fear of completely alienating the latter. Its hands were further tied by the limiting powers of Chapter VI of the Charter while including such methods as conciliation, mediation and arbitration did not make any of its decisions binding on the disputing parties. Thus in order to reach any agreement, the Security Council was virtually forced to approach the Kashmir problem in the same manner as one would climb a tree - the higher one ascends, the further he is away from its roots and the more entangled he is in its foliage.

Beginning from a broad base, the August 13, 1948 Resolution called for a cease-fire, demilitarization and a plebiscite, and when this failed, the Commission, McNaughton, Dixon and Graham in turn sought agreement on disarmament as the key to a plebiscite. Indeed, only Sir Owen Dixon openly recognized that the presence of Pakistan troops in Kashmir was a violation
of International Law, and sought to reach the crux of the problem through straight partition along religious lines. Yet like the others, all his efforts came to naught.

The Security Council's efforts to resolve the Kashmir dilemma were further hampered by its pre-occupation with crises of more immediate importance which prevented the world organization from applying its full weight upon the disputing parties. The Palestine Question and the Arab-Israel war, the economic situation in Europe, the China Question, and most important, the Korean War and the Cold War distracted the members of the Security Council and thus overshadowed the question of Kashmir.

One cannot, however, blame the United Nations for its failure to resolve the Kashmir dispute. Its shortcomings which were limited to procedure and terminology were more than counterbalanced by the patience and dedication of its various mediators. When given a chance to operate outside the arena of petty nationalism - as in the case of the Cease-Fire and truce-line demarcation - the Security Council proved that it could conduct its affairs in a forthright and impartial manner. Yet neither India nor Pakistan were prepared to accept a solution except on its own terms. There were no concessions, no gestures of open co-operation, nor any sign of complete faith in the world body, and therefore the burden for failure must be placed directly upon the shoulders of India and Pakistan.
(E) Pakistan's Position

Pakistan's attitude towards the various agencies commissioned by the Security Council during 1948-1953 period to resolve the dilemma of Kashmir, developed from open suspicion in the summer of 1948 to one of guarded yet critical co-operation during the early months of 1953. Although Pakistan's record of agreement with the various resolutions and proposals of the Security Council is much more impressive than India's, it is the writer's contention that this did not imply any greater trust or faith in the United Nations. Indeed, throughout the precarious years of negotiation, certain elements in Pakistan waged an unending and vitriolic war against both the integrity and effectiveness of the world organization. Yet in spite of this a majority of Pakistani officials fully realized that only through the United Nations could their primary aim, a plebiscite in Kashmir, be fulfilled.

Since the basic Pakistani attitude was firmly cemented in the belief that the Maharajah's accession was illegal, the Pakistan Government was only too willing to use every power within its means to achieve recognition as an equal party to the dispute. Once this goal was accomplished through de facto recognition, its approach drastically changed as the Government reoriented its policy towards aiding the Security Council in the implementation of the Kashmiri plebiscite, without, however, modifying its claim for equality with India or relinquishing military control over the disputed territory to
any agency except that sponsored by the United Nations.

From the inception of the dispute the Pakistan Government was deeply alarmed at the possibility that India would attempt to force a military solution in Kashmir and thus present the Security Council, and more particularly Pakistan, with a fait accompli. Hence Liaquat Ali Khan despatched regular troops of the Pakistan Army into Kashmir in the spring of 1948 in an attempt to hold what territory they could against the advancing Indian Army.

The Pakistan Government was also deeply disturbed over the very real possibility that once a cease-fire had been accomplished and a truce line established, this military stabilization would be followed by its political counterpart and the permanent division of the state. Thus it accepted the January 1, 1949 cease-fire only as a matter of strategic and economic expediency and when the possibility of political stabilization became obvious in 1951 with the proposed convening of a Constituent Assembly in Indian Kashmir, the Pakistan Government attempted to thwart the Indian plans by fully supporting the Security Council's condemnation of the Indian proposal and its attempt to resolve the problem of a plebiscite through the establishment of the Graham Mission. Indeed, the Pakistan Government fully realized that only two roads were available. The first was to respond to the cries of the Pakistan press and such religious personalities as the Grand Mufti of Jerusalem and undertake a jihad to liberate Kashmir - a policy which could only lead to the complete
destruction of the infant state. The second, and far more reasonable, approach was to attempt to fulfill the nation's basic desire through complete co-operation with any agency prepared to support the Pakistani claim for an unhampered plebiscite in Kashmir. Although the former approach was never fully rejected by members of the Pakistan Government, the majority seemed determined to overlook the emotional cries of irresponsible publishers and zealous politicians who grew impatient with the obvious shortcomings of the United Nations.

As previously mentioned, Pakistan was prepared to adopt a far more flexible policy towards the question. Unlike India, Pakistan was fully prepared to accept Sir Robert Menzies' suggestion following the 1951 Commonwealth Prime Minister's Conference (which incidentally Liaquat Ali refused to attend unless Kashmir was included on the agenda) that the deadlock over demilitarization be solved by (1) the stationing of Commonwealth troops in Kashmir; (2) a joint Indo-Pakistan force; or (3) a force of local troops raised and controlled by an appointed plebiscite administrator.  

Similarly, having no qualms over the purported abridgement of sovereignty, Pakistan also accepted the March 21, 1951 Security Council Resolution which, in part, called for the stationing of foreign troops in Kashmir during the period of the plebiscite.

Furthermore, the Pakistan Government was again far more

flexible in its attitude towards a politically independent Azad Kashmir, and once de facto recognition was achieved in the January 5, 1949 Resolution, the Government never again used the excuse that any attempts to disband Azad Forces would have to be accomplished through negotiations with the Azad Government of Sardar Ibrahim Khan. Indeed, once the de facto equality of this area was obtained, Pakistan ceased using Azad Kashmir's dubious political independence to hamstring negotiations with the Security Council. Moreover, it was quite willing to vest administrative control of Azad territories in the United Nations without claiming that the political powers of the Azad Government were being usurped.

In similar vein, Pakistan also approached the question of compulsory arbitration of outstanding differences with an open mind, for with no claim of sovereignty over Kashmir it had little difficulty in agreeing to all proposals of arbitration as suggested in the March 21, 1951 Resolution.

The above does not imply, however, that Pakistan's official attitude towards the Security Council's actions was one of complete conciliation. On the basic issues of the plebiscite, the introduction of a plebiscite administrator and the balance of troops in Kashmir, Pakistan remained unyielding. Yet underlying this resolute attitude there appears the distinct impression that Pakistan was grasping at straws in order to prevent the permanent absorption of the

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19. These were the major causes of Graham's failure to reconcile both parties.
state into India. Thus when Sir Owen Dixon suggested the formation of a united or coalition government in Kashmir in an attempt to circumvent the deadlock over the mechanics of disarmament, Pakistan offered her unqualified approval. Although such a move would naturally constitute recognition of Pakistan as an equal partner in the dispute, its significance lay in the fact that Pakistan was willing to co-operate in a government containing Sheikh Abdullah, who to most Pakistanis was a despised "Quisling." Furthermore, when Sir Owen, in his final proposal, suggested the partitioning of Kashmir with a United Nations plebiscite in the Vale, Pakistan, while rejecting the proposal on the grounds that India was committed to a state-wide plebiscite, expressed the ardent desire that the topic would remain open for further discussion.  

Pakistan's attitude towards Kashmir coincided with that expressed by the majority of the Security Council members, and although this meeting of minds gave the general impression that the two were joined in an unified effort to solve a common problem, it was, as far as Pakistan was concerned, largely a matter of expediency. Furthermore, when failure became imminent, she showed no hesitation in abandoning this position and seeking, once again, to resolve the deadlock with India through bi-lateral negotiations.

(F) India's Position

India's attitude towards the Security Council's efforts

was far more paradoxical than Pakistan's, yet it does serve
to illustrate the curious Indian double standard of diplomacy.

In the early years of the dispute, Prime Minister Nehru re-
iterated the Indian desire for a plebiscite in Kashmir:

I want to stress that it is only the people of
Kashmir who can decide the future of Kashmir. It
is not that we have merely said that to the United
Nations and the people of Kashmir, it is our con-
viction...We would willingly leave Kashmir if it
was made clear to us that the people of Kashmir
wanted us to go...21

Conversely, Lord Birdwood stated:

Mr. Nehru proposed the plebiscite and appears to
have been regretting it ever since. It would seem
that he has been trying to rationalize what has
been in fact an irrational process in his own mind.22

It is, however, this "irrational process" which has dominated
the entire Indian approach towards the Security Council and
Kashmir.

As has been shown, the Indian attitude was and remains
based upon the premise of Pakistan's aggression in Kashmir,
and the theory that she has no locus standi in the dispute.

India charged Pakistan under Chapter VI of the Charter, and
throughout the earlier stages of the dispute (original years)
the Indian Government demanded that Pakistan be recognized
as an aggressor, a term not listed under the heading "Pacific
Settlement of Disputes." This attitude was further complicated
when, in the words of an Indian delegate to the United Nations,
"India did not insist on Pakistan being declared an aggressor

ment, August 7, 1952.
Royal Central Asian Society, XLII. (July - Oct., 1955),
p. 251.
technically, solely with a view to avoid any grave repre-
cussions."\textsuperscript{23}

It seems beyond doubt that the non-official support of
the tribal invasion and movement of regular Pakistan troops
into Kashmir was contrary to International Law, and made
India's indignation understandable. But after the Indian
delegation to the United Nations denied itself the right of
submitting the dispute under Chapter VII of the Charter;
accepted the various resolutions of the U.N.C.I.P.; and after
Sir Owen Dixon officially recognized that Pakistan activities
in Kashmir were contrary to International Law, it is difficult
to understand why India continued to pose as the injured party
and continue to base her entire case on Pakistan's alleged
aggression.

It seems incomprehensible that Nehru, in a speech before
the Indian National Congress at Hyderabad, could complain
about the denial of justice to India.

During all these years we have patiently waited for
a proper consideration of the problem and yet it is
most strange that the Security Council has never
given thought to the basic issues underlying the
Kashmir problem. Because the Security Council has
ignored basic facts and tried to by-pass fundamental
issues, it has often gone wrong.\textsuperscript{24}

Furthermore, it is difficult to reconcile India's posi-
tion towards Pakistani aggression in Kashmir and her attitude
towards the entry of Chinese troops into Korea. While India

\textsuperscript{23} C. Kondapi. "Indian Opinion of the United Nations." 

\textsuperscript{24} \textit{The Hindu} (Madras). Jan. 18, '53.
voted for the two original resolutions on Korea, she refused to accept the resolution charging China with aggression partially on the grounds that such a move would alienate China and hence dampen any chances for reconciliation. China, India urged, must be brought into the United Nations as an interested party. This attitude, however, was the reverse of its position over Kashmir, yet the Indian Government refused to recognize the similarity between the two cases.

This closed-mind attitude of India towards Kashmir and Pakistan has a direct relationship with the failure of the Security Council's mandate. So convinced of the righteousness of her case was the Indian Government that it refused to accept a judgement by the International Court or compulsory arbitration on the issue of demilitarization, even though both Article 33 of the Charter calls for arbitration and Article 51 (d) of the Indian Constitution specifies that the Government shall "encourage the settlement of International disputes by arbitration." If the Kashmir dispute was not an international dispute in the true sense of the word, but solely a matter between India and the United Nations as the Indian Government claimed, then why was Pakistan charged under Chapter VI as a party to the dispute? If the Kashmir dispute was truly international, then India should have abided both by the Charter and her own Constitution. The reason for the rejection of any form of arbitration, it is suggested, was the inherent fear of an adverse decision which would either award the greater part of
Kashmir, including the Vale, to Pakistan; or force the Indian Government to accept unfavourable conditions leading to a plebiscite.

While Pakistan is not free from criticism and on many occasions demonstrated that her attitude towards Kashmir could be just as firm as India's, she was far more anxious than India in her desire to obtain the oft-promised plebiscite. In fact, procedures acceptable to Pakistan were supported throughout the 1948-1953 period by no less than eighteen Security Council members. Supporters for the Indian proposals, however, were few and far between and came in the form of Communist abstentions to Security Council resolutions.

India's attitude, on the other hand, remained not only fixed but also unmoved by pressure from the majority of the Security Council's members. Whereas Pakistan at least sought conciliation and was willing on several occasions to make concessions to reach a settlement, no such reaction came from the indignant Indian Government. Indeed, even the mere suggestion of a concession by Josef Korbel, brought Nehru into an uncontrollable rage. India negotiated with an air of righteous indignation - the world did not understand her; she refused to accept Pakistan's genuine interests in Kashmir and expected the world body to accept her "irrational process" and follow suit.

25. United States, United Kingdom, France, China, Argentina, Belgium, Canada, Columbia, Syria, Egypt, Cuba, Ecuador, Brazil, The Netherlands, Lebanon, Greece, Chile and Norway.
and all pleas for moderation, arbitration or conciliation, except on her own terms, fell upon deaf ears. Thus India, on balance, must accept the major responsibility for the failure of the United Nations in the first years of the dispute.
CHAPTER SEVEN

BILATERAL DISCUSSIONS: 1953-1955

On March 27, 1953 the Security Council unofficially accepted the failure of Dr. Graham's Fifth Report and asked India and Pakistan to reopen negotiations at once to demilitarize Kashmir as the necessary prerequisite for a plebiscite. It was felt by all concerned that since neither party was sincerely confident in the United Nations' policy towards Kashmir, only bilateral negotiations, conducted in a frank and forthright manner, could bring about a genuine understanding of each other's attitudes.

In this context, Sisar Gupta of the Indian Council of World Affairs, in a data paper presented to the 1958 Lahore Conference of the Institute of Pacific Relations, wrote only if the two Governments' representatives sat across a table would the problem of Kashmir be discussed in the light of the larger content of the history and politics of the Indo-Pakistani sub-continent and of the general state of Indo-Pakistani relations as affected by canal waters, evacuee property, minorities, etc.

It is interesting to note that the above attitude coincided with Pakistan's view of the Kashmir issue as expressed before the Security Council in January 1948. Unfortunately, at that time it was not accepted by India and hence valuable time was lost in procedural wrangles.

Even though informal talks would allow the respective negotiators to speak freely on all matters pertaining to Indo-Pakistan relations, neither the Indian nor their Pakistani delegates could have remained completely oblivious of public opinion and the strong emotional undertones of the Kashmir dispute. In this respect, the Government of India enjoyed an advantage over Pakistan.

Prime Minister Nehru's Kashmir policy enjoyed the full support of the majority of informed Indians and was, in fact, consistently criticized only by members of the Hindu Mahasabha and similar communalist groups, and on occasion by the Sardar Patel, who until his death in 1950 always held that Pakistan could be called to order by firmness on the part of the Indian Government. The Pakistani delegates, on the other hand, because of the very nature of the dispute, would be faced with a dilemma since Kashmir was the primary national issue or even obsession, any overt sign of conciliation by Liaquat Ali or his successors, was viewed by the majority of Pakistanis (especially West Pakistanis), including the press and members of his own cabinet, as appeasement of Bharat (India) and treason against the very nature of the Muslim State. "No public figure," wrote the late Keith Callard, "would feel that his life was safe if he declared in public that he was willing to accept as inevitable the incorporation of Kashmir.

with India." Indeed, Kashmir has become the very symbol of nationhood, and woe to him who weakened or betrayed the national cause.

In 1953, therefore, Mohammed Ali (the new Pakistani Prime Minister) was literally forced to continue this dual policy towards Kashmir: one of extreme militancy for domestic consumption and a second of guarded conciliation for use at the conference table. It is little wonder that on many occasions throughout the years of negotiations the Indian Government could genuinely challenge Pakistan's good faith and sincerity.

The 1953-55 period of bilateral discussions marked the watershed of the Kashmir dispute; it was during this period that any hopes for future settlement were dashed upon the rocks of frustration as both internal and external political and military developments drastically altered the approach of the parties. Mutual recrimination poisoned Indo-Pakistan relations as the dispute, in the words of Prime Minister Nehru, became "fundamental" in nature.

(A) The First Phase

Following the plea of the Security Council to resume direct negotiations, the atmosphere over the sub-continent brightened. Optimistic statements were made by statesmen and politicians of both sides, while the "press of India and Pakistan was friendly as it had never been before."5 The

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two Prime Ministers met in London on the occasion of Queen Elizabeth's coronation in June 1953 and the Kashmir issue was informally discussed. On July 25, Nehru visited Mohammed Ali in Karachi to discuss the entire range of Indo-Pakistan relations. Agreement was reached, however, only on such minor issues as the exchange of Cooch Behar enclaves and removal or minimization of restrictions on travel and trade. On the issue of Kashmir there was no more than recognition of the differences of opinion between the parties. Despite the continuation of the deadlock, however, discussions were conducted in an atmosphere of cordiality. It appeared to many observers, including both Prime Ministers, that a new era of Indo-Pakistani understanding had dawned on the sub-continent.

The strange calm which hung over both countries was shattered on August 9, with the Indian Government's abrupt dismissal of Sheikh Abdullah and the appointment of Ghulam Mohammed Bakshi as Prime Minister of Kashmir. Mohammed Ali's first reaction was to telegraph the Indian Prime Minister on the 10th to express Pakistan's deep concern over these events in Kashmir and to point out the obvious need for an early settlement of outstanding differences. Nehru, on his part, noted that frequent changes had been made in Azad Kashmir without any undue Indian concern and that "on the larger issues over policy [our Kashmir policy] remains what it was and we shall stand by the assurances we have given." Nevertheless,

the reaction of Pakistan public opinion was immediate - the press published reports of bloodshed in Srinagar, a complete hartal (boycott) of Indian goods was observed in Karachi, while the aging sister of the Quaid-I-Azam, Fatima Jinnah, led an anti-Indian demonstration through the streets of the capital and called for "War with India" and "Liberation of our Muslim brothers in Kashmir." Public opinion reached such a fever-pitch that the Government was forced to cancel all festivals arranged for the forthcoming August 14 Independence Day celebrations.

The significance of the dismissal and imprisonment without trial of Sheikh Abdullah had been subjected to various interpretations and although his dismissal marked the beginning of a new stage of Kashmiri integration into India and the removal of the last serious obstacle to complete incorporation, its immediate effect was only to indicate once again the seriousness of the dispute and showed the influence of internal events in Kashmir upon the populations of both nations. "We are not concerned with the arrest of Sheikh Abdullah," said Mohammed Ali, "but what we are concerned with is the salvation of the people of Kashmir." This then, was the message he carried with him to New Delhi on August 16.

It is to the credit of both Prime Ministers, that in such an atmosphere of tension, especially in Srinagar and Karachi,

they could achieve noteworthy success. Following three days of brief and informal talks, the Prime Ministers issued an optimistic joint communique:

The Prime Ministers are happy to record this large measure of agreement on vital matters affecting their two countries and they trust and believe... that all the problems...should be solved satisfactorily. But in reference to the press of both countries/progress can only be made in this direction if there is an atmosphere of peace and cooperation between the two countries.¹⁰

With specific reference to Kashmir, the communique continued.

The Kashmir dispute was specially 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...Progress, however, could not be made because of lack of agreement in regard to certain preliminary issues.

The Prime Ministers agreed that these preliminary issues should be considered by them directly in order to arrive at agreements in regard to this. These agreements would have to be given effect to and the next step would be the appointment of a plebiscite administrator.

In order to fix some kind of provisional time table, it was decided that the plebiscite administrator should be appointed by the end of April 1954.¹¹

Herein lay a new approach to an old problem: it confirmed the need for a plebiscite, recognized that demilitarization was the major obstacle and mentioned for the first time a specific date for the introduction of the plebiscite administrator (still Admiral Chester Nimitz). There was no mention, however, of the United Nations.

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¹¹. ibid.
Hardly had the ink time to dry on the August 20 joint communique, when its wording, instead of lessening Pakistani fears, and strengthening Indo-Pakistan relations, provoked bitter reaction among the majority of the Pakistani papers and among the communalist parties in India. N.C. Chatterji of the Hindu Mahasabha, dissociated himself from Nehru's re-affirmed support of a plebiscite and stated "the Mahasabha has all along maintained that the accession of Kashmir to India in 1947 was final and irrevocable."\textsuperscript{12} Prime Minister Bakshi of Kashmir, while paying lip service to the Delhi Agreements, repudiated Sheikh Abdullah's stand for a free plebiscite, and declared that "no power on earth can separate the two countries." Even the leader of the Praja Socialist Party, Dr. R. Lohia, openly supported the communalist cry that "the accession of the state to India was final."\textsuperscript{13}

The Pakistan press reacted in a two-fold manner. Not only was there great alarm over the statements by Indian communalists and the Prime Minister of Kashmir, but also widespread criticism over the vagueness of the Delhi Agreement and its failure to bring the solution of Kashmir any nearer. Furthermore, many informed Pakistanis looked upon the Indian attitude towards Kashmir, the abrupt dismissal of Abdullah, and the subsequent events in New Delhi, with a great deal of apprehension and perplexity. There was no open Indian policy towards Kashmir: on one hand Prime Minister could re-affirm

\textsuperscript{12} Times. Aug. 24, '53.
\textsuperscript{13} Ibid.
the plebiscite in Kashmir and his desire not to suppress the desires of the Kashmiri people, while on the other hand, he could disclaim any responsibility for the dismissal of Abdullah and the appointment of the pro-Indian Bahshi and the latter's statements that the union of Kashmir and India is irrevocable. To many Pakistanis, therefore, the Indian attitude towards Kashmir was self-contradictory.

H. S. Suhrawardy, former Minister of Bengal, president of the Jinnah Awami League, summarized Pakistani apprehension when he declared in a letter cited by the Times:

The accession of Kashmir to India, limited though it is by its nature, is sought to be justified by the Indian Government on the ground not only of the ruler's will but of the people's choice, as typified by Sheikh Abdullah, who was acclaimed by Mr. Nehru as the true representative of Kashmir and was denounced by Pakistanis as a stooge of India, a traitor of Pakistan and the Muslim nation. Then came the elections to the Constituent Assembly of Kashmir and Sheikh Abdullah won a personal victory. Today the same Sheikh Abdullah, the vaunted repository of public opinion, has been put in prison because he does not choose to fall in line with Indian opinion.  

It is little wonder that following the agreements in Delhi and the continued barrage of communal criticism against Nehru's paradoxical move, Sardar Ibrahim Khan of Azad Kashmir could declare

It has been natural for Bharat to devise some means to blanket her stark misdeeds and to camouflage the real situation in the Valley.../The Delhi Agreement/ has not brought the plebiscite a bit nearer than it was in 1949.

Thus it seemed to many Pakistanis that their country, was once again, receiving the short end of the stick in her bargaining with India.

It is doubtful, moreover, whether a cordial atmosphere could have been maintained over the sub-continent and agreement reached over the future of Kashmir. For even if one accepts the August 20 communique as a genuine reflection of Nehru's faith in a plebiscite, evidence exists to show that the Indian policy towards Kashmir was changing rapidly. No longer was the Indian attitude based upon a plebiscite per se as the key to resolving Indo-Pakistani difference. Instead, concern was voiced over the long range consequences of such a plebiscite.

(B) India's Kashmir Policy Changes

The issue of communalism has long haunted the sub-continent. Pakistan was born largely through communal discontent, while the Congress Party, blaming Hindu-Muslim disunity on the British, never accepted the two-nation theory and the underlying concept of Pakistan. Disunity, they reasoned, would cease once the British left India. Nevertheless, Nehru and his Congress colleagues recognized the danger of communalism, and in Toward Freedom, he wrote "if [Hindus and Muslims] cannot agree as organized groups, it will be unfortunate for India, and no one can say what the consequences will be."16

After Independence when communalism remained and its disastrous effects were obvious, he laid down a policy for India which he faithfully followed to his death: "We shall not let India be slaughtered at the altar of bigotry." Though inconsistent by nature, on one issue he remained totally consistent; he despised the ideas and philosophies of the Muslim League. "He genuinely hated parties based upon narrow religious principles. To him communalism was a 'monster, whose head was the League and whose claws were stained with the blood of innocent men murdered in the sordid streets of the cities." Yet the League and its ideas lived on in Pakistan, and if Nehru hated communalism and its tragic consequences, there is little doubt that this hatred was inspired by fear.

The safety of the religious minorities was totally dependent upon the state of relations between the two governments. Although this problem existed in both countries it was a major dilemma facing not only the forty million Indian Muslims, but also the Government of India charged with their protection. If, as in 1947, communalism gained the upper hand and rendered authority powerless, then all material and social progress could be destroyed. Indeed, communal co-operation provides the door to India's future unity, and although the nation's development faces many other obstacles, progress cannot be made without peace and order. Kashmir, one would suggest, provided the key. The continuation of Kashmir within India

would support and strengthen the concepts of Nehru's secular state, while Hindu-Muslim unity would at least be saved from sacrifice on the altar of religious bigotry. If, on the other hand, the Kashmir key opened the caged tiger of communalism then the foundations of the state - Nehru's state - would be severely damaged.

As early as January 16, 1951 Nehru had noted the possible communal dangers inherent in the Kashmir dispute, when in reply to a query by Prime Minister Attlee, he had remarked:

that no steps should be taken which might lead to an upsetting of the somewhat unstable equilibrium that had been gradually established between India and Pakistan during these past few years. There was a grave danger that if a wrong step was taken it would rouse passions all over India and Pakistan and raise new issues of vital importance. That would be a tragedy.19

Furthermore, the Indian Prime Minister declared, that the Government of India was not "prepared to apply /the two-nation theory/ to Kashmir in any event."

That /he continued/ would be bad for Kashmir, but it would be worse still for India and for Pakistan. It would go counter to the principles that governed us and might produce upheavals both in India and Pakistan. We had only recently witnessed an upheaval of this kind in Bengal, which had with difficulty been controlled by the agreement between the two Prime Ministers.20

On the specific item of a plebiscite conducted along religious lines, moreover, Nehru asserted that

If this kind of thing was going to take place

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20. Ibid., p. 228.
before and during the plebiscite period then there would be no plebiscite but civil upheaval, not only in Kashmir but all over India and Pakistan.\textsuperscript{21}

On the issue of Kashmir, Professor Wilfred Cantwell Smith, recognizing the effects upon Indian Muslims of the possible accession of the state to Pakistan through a plebiscite wrote "a transfer of Kashmir to Pakistan would, and even pressure for such a transfer does, militate against the interests of other Muslims in India."\textsuperscript{22} Indeed, no group recognized this danger more than the Indian Muslims, and in a brief presented to Dr. Frank Graham, Dr. Zakir Hussain, Vice-Chancellor of Aligarh Muslim University and later Vice-President of India, wrote that Pakistan's Kashmir policy can "only bring us suffering and destruction."\textsuperscript{23} Although many Muslim leaders have continuously pointed out this problem to their Pakistani counterparts, the majority of Pakistanis seem unable to comprehend this important fact.

The Pakistan leaders, on the other hand, sincerely believed - and still believe - that only through the implementation of a plebiscite in Kashmir could the dark clouds of fear and mistrust be removed. Indeed, most informed Pakistanis could only agree with Mohammed Ali's broadcast to the nation when he declared "a free plebiscite in Kashmir will usher in a new era of friendship between our two countries."\textsuperscript{24}

\begin{itemize}
\item \textsuperscript{21} ibid.
\item \textsuperscript{22} W.C. Smith. \textit{Islam in Modern History}, Mentor, Toronto, 1957, p. 270.
\item \textsuperscript{24} \textit{Times}. Sept. 2, '53.
\end{itemize}
Thus both countries were approaching the problem of a plebiscite from different angles: Pakistan was resolute in her belief that only a free plebiscite could remove the cancerous growth marring Indo-Pakistani relations; India, on the other hand, was having second thoughts as to the effect of such a plebiscite upon her forty million Muslims. It appears, moreover, that the Indian Government, while reaffirming its belief in a plebiscite through the August 20 communique, was not prepared to accept the real risk of losing Kashmir through such a method.

These Indian second thoughts, however, presented Nehru's Government with a dilemma. If any change in attitude were to be made public without any solid explanation, it would naturally arouse world-wide indignation by their open rejection of the United Nations' resolutions at a time when India was attempting to increase her international prestige. Furthermore, such an overt move would mobilize public opinion in Pakistan and lead to a further deterioration in Indo-Pakistan relations. Secondly, if India were openly to admit her concern over the consequences of the possible accession of Kashmir to Pakistan through a free vote, she would be admitting the failure of secularism over communalism, a prospect which Nehru would never accept. It is probable, therefore, that in pressing for the complete absorption of Kashmir into the mainstream of Indian economic and political life, Nehru was choosing the lesser of two evils.
Although no documentary evidence is available to indicate the precise moment or event which sparked this change in attitude, it is known that on August 20 Prime Minister Nehru promised a plebiscite in Kashmir and almost immediately after, in the words of Mohammed Ali, stated that although a plebiscite was to be held in the entire state, this plebiscite in itself would not decide the question of accession of the state to India or Pakistan. The question according to him, was to be decided after the results of the plebiscite had been examined in the light of geographic, economic and other considerations with a view to preventing immigrations from or disturbances within the state.25

The Indian fear of communal disturbances following a plebiscite was further indicated in a letter from Nehru to Mohammed Ali on September 3, 1953, which stated in part:

We should not allow ourselves to accept a position which might offer some temporary relief today but which might result in sowing the seeds of future trouble and conflict...While the interests of the people of Kashmir are paramount, there are also certain national issues of India and Pakistan which come into conflict over this Kashmir affair...The large minorities in India and Pakistan will be affected by that solution. If it is wrongly done, then the position of these minorities might well suffer and new problems might be created, even bigger than the one of Kashmir. We must at all costs avoid this.26

This problem was publically expressed by Prime Minister Nehru on September 17, 1953, when during debate in the Lok Sabha,


he claimed

...We have always regarded the Kashmir problem as symbolic for us, and it has far-reaching consequences in India. Kashmir is symbolic as it illustrates that we are a secular state...Kashmir has consequences both in India and Pakistan, because if we dispose of Kashmir on the basis of the old two-nation theory, obviously millions of people in India and millions in East Pakistan would be affected. Many of the wounds that had healed might be opened again. Therefore this problem is not, and never has been, a problem of a patch of territory...It is a problem of much deeper consequences.27

Thus it can be suggested that the Indian policy became one of ensuring that conditions would never exist for a plebiscite in Kashmir, and as the following events will show, the deadlock over Kashmir, which was still primarily over disarmament, was successfully guided to a point where it became "fundamental" in nature and the Pakistani fears of a political fait accompli became reality.

(1) Refugees

The first indication of Indian intransigence came on August 27, when Mohammed Ali sought confirmation that, as provided in the January 5, 1949 Resolution of the UNCIP, Kashmir refugees would be allowed to return to their homeland to vote in the forthcoming plebiscite.28 On September 3, however, Nehru replied "as for refugees voting, I referred to this in the course of our August 17-20 talks and pointed out the extraordinary difficulties that we would have to face if we tried to give facilities for such voting."29 Although

one can certainly sympathize with the Indian Prime Minister's logic, nevertheless, it disfranchised some 500,000 Kashmiri-Muslim refugees and served to throw sand in the delicate mechanism of Indo-Pakistan negotiations.

(2) Plebiscite Administrator

Whereas the issue of refugees was only of a comparatively minor nature, the attitude of the Government of India towards the plebiscite administrator clearly indicated that the Indian approach towards a Kashmir plebiscite had indeed changed. The August 20 communique issued by both Prime Ministers, gave for the first time a specific date for the introduction of the United Nations plebiscite administrator.30

Hardly had the proverbial ink had time to dry on the communique when Nehru began to add his conditions. At a press conference following his meeting with Mohammed Ali, he stated "due to the serious conflict between the major powers, I have put it to the Pakistan Prime Minister that the Plebiscite Administrator may be chosen from one of the smaller countries." "In any case," he declared somewhat undiplomatically, "the fact of Nimitz's nomination as administrator by the United Nations is now a historical moment and I had almost forgotten about it."31 According to Nehru, moreover, this suggestion was accepted by both Mohammed Ali and his Foreign Minister Zafrullah Khan, but they did not want a statement made on the subject

30. The question of the removal of Admiral Chester Nimitz as plebiscite administrator was not raised.
31. NYT. Aug. 29, '53.
before they could confer with the Cabinet. Again on September 3, Nehru formally wrote to Mohammed Ali and suggested that the plebiscite administrator "should be chosen from small and more or less neutral country."\textsuperscript{32}

The Pakistan press, however, immediately denied the existence of any such agreement while \textit{Dawn} declared editorially that Nehru's intentions were to drive a wedge between Pakistan and the United States.\textsuperscript{33} On September 1 Mohammed Ali declared in a nation-wide broadcast "that suggestions that he had agreed to the dropping of Admiral Nimitz and the appointment of some other person as plebiscite administrator were without foundation."\textsuperscript{34} This denial was reiterated on September 5, when the Pakistani Prime Minister accused the Indian Government and Press of applying their own interpretations to the Delhi Agreements and thus creating difficulties for him in his own country.\textsuperscript{35}

Indeed, the Indian Government was placing its own interpretation on the Agreement and on December 19, two days before the scheduled meeting of civil and military experts was due to convene in Delhi, Nehru again wrote to Mohammed Ali, "I have made it perfectly clear that we cannot accept any plebiscite administrator from major countries or from countries involved in international tensions."\textsuperscript{36} Although the ensuing discussions ended in a deadlock, and future meetings planned for Karachi in the spring of 1954, Nehru made it abundantly clear on

\begin{itemize}
\item \textsuperscript{32} WP. Letter of September 3, 1953.
\item \textsuperscript{33} NYT. Aug. 29, '53.
\item \textsuperscript{34} Times. Sept. 2, '53.
\item \textsuperscript{35} NYT. Sept. 6, '53.
\item \textsuperscript{36} WP. Letter of December 19, 1953.
\end{itemize}
January 18, that there would be no further discussions or negotiations over Kashmir until Nimitz was replaced.\(^{37}\)

On January 12, however, Mohammed Ali remarked that while he could not understand Nehru's reasoning, he would be willing to accept a plebiscite administrator from a smaller country.\(^{38}\) This offer was repeated on February 4, when in a letter to Nehru, the Pakistani Prime Minister formally agreed to the replacement of Nimitz, and expressed his intense desire to re-open discussions to resolve outstanding differences and pave the way for the introduction of the yet unnamed administrator.\(^{39}\) Nehru replied that further discussions could not be held because the preliminary issues had not been resolved. Thus the second meeting of civil and military experts never convened and the April 30 deadline passed with the deadlock complete and negotiations suspended.

(3) Military Aid

Although the barring of Kashmiri refugees from voting and Nehru's intransigence towards the appointment of a plebiscite administrator served to indicate India's desire to hamper negotiations, they were not in themselves sufficient reasons to close the door on the oft-promised plebiscite. What Nehru needed was an excuse or justification through which all previous agreements and commitments could be rendered void; and it seems almost certain that the United States Military Aid


\(^{39}\) WP. Letter of February 4, 1954.
Agreement with Pakistan provided the hinge with which the door to a plebiscite in Kashmir could be closed finally.

In November 1953, while the press war continued unabated in both countries, rumors were afloat that the United States was prepared to fulfill a Pakistani request for arms and military equipment. The immediate Indian reaction to these rumors, which at the time were sharply denied by both Pakistan and the United States, was to denounce any suggestion of American military aid or bases on the sub-continent.  

On February 22, 1954, however, Pakistan formally asked the United States for military aid under Mutual Security Legislation. This request was granted on February 24 by President Eisenhower, who, well advised and fully aware of India's concern, announced that such assistance "was solely to maintain internal security and its legitimate self-defence ... Any recipient country also must undertake that it will not engage in any act of aggression against any other nation." Furthermore, the President declared, that misuse of American arms would be met with "appropriate action." Thus in effect, India was receiving a military guarantee from the United States.

To ease Indian fears, Eisenhower wrote a personal letter to Nehru on February 24, assuring him that such aid would not be used against India and suggested that if the Government of India so wished, they too could apply for such aid. This

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40. NYT. Nov. 22, '53.
42. Ibid.
offer, naturally enough, was refused by the Indian Government. 43

On May 19, 1954, the Pakistan-United States Mutual Defence Agreement was signed. It was not a military alliance: it neither provided for American bases in Pakistan, nor committed the latter to alter her foreign policy towards the West. It simply strengthened the Pakistani Armed Forces, supposedly against communist expansion, and permitted scarce funds to be channelled into the civil economy. India, however, questioned Pakistan's motives.

There can be little doubt that the fear of India was instrumental in Pakistan's acceptance of military aid from the United States - apprehension of communist expansion was only secondary. "Even with 70 percent of the revenue budget allocated to defence," wrote a Pakistani commentator, "Pakistan's frontiers were not secure against violation by her neighbours. The only guarantee of survival was military aid from the United States." 44 Furthermore, wrote K. Sarwar Hasan, "it must be recognized that Pakistan was actually compelled to align herself with the United States, entirely because of India's attitude towards her." 45 Pakistan had neither arsenals nor munition factories. She needed arms to protect herself from a "hostile" Bharat, and the United States, for other reasons, felt obliged to comply.

43. NYT. March 2, '54.
There can be little doubt that the Government of Pakistan wished to use this dual concept of military parity with India and friendship with the United States to strengthen her position in Kashmir. Internationally, by joining the Dulles team they could perhaps obtain active American support for their policies over Kashmir, an extremely valuable factor given the low state of Indo-American relations in 1953; while increased military strength could be used as a bargaining counter in dealing with Indian intransigence over Kashmir. "This," wrote the New York Times Karachi correspondent, "is a common admission privately expressed." 46

Although the proposal of military aid to Pakistan was opposed by India for several reasons - the introduction of the cold war into Nehru's "sphere of peace", the violation of India's basic policy of non-alignment, and the relative change in the military balance of power on the sub-continent - its consequences in respect to Kashmir were immense. Indeed, the mere rumor of aid, as will be shown, provoked bitter criticism throughout India and was destined to play an important role in the bilateral negotiations and the future of Kashmir.

Following discussions in Washington in November 1953 between the Pakistan Governor-General, Ghulam Mohammed and President Eisenhower, reports reaching Delhi indicated that the formation of a military pact was among the subjects discussed.

46. NYT. Nov. 22, '53.
Prime Minister Nehru's reaction was immediate, and at an ensuing press conference, he noted:

This is a matter on which constitutionally or otherwise it is none of our concern what Pakistan and the U.S.A. are doing. But practically it is a matter of the most intense concern to us and something which will have far-reaching consequences on the whole structure of things in South Asia and especially on India and Pakistan.47

On December 9, he wrote formally to Mohammed Ali, expressing his general objections to such a military pact and his belief that "Pakistan's foreign and defence policies will become diametrically opposed ... to India's and the area of disagreement between India and Pakistan would extend over a wider field."

Specifically on Kashmir, he wrote:

Inevitably it will affect the major questions that we are considering and more especially the Kashmir issue. We have been discussing for a long time past the question of demilitarization in Kashmir State. The whole issue will change its face completely if heavy and rapid militarization of Pakistan itself is to take place... it becomes rather absurd to talk of demilitarization if Pakistan proceeds in the reverse direction with the help of the United States... the question before us becomes one of militarization and not demilitarization. It is in this context that we have to consider this issue of Kashmir.48

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47. NYT. Nov. 16, '53.
48. WP. Letter of December 9, 1953. According to the late K.M. Panikkar, India, like every big Power, had her own area of primary economic, political and strategic importance, intrusion into which by a foreign power would be considered as a threat to her own safety, and this area included Nepal, Ceylon and Burma. "According to him, India had made it clear to foreign (big) Powers that she would not tolerate any interference in the affairs of the three countries." Although there was no mention of Pakistan in Panikkar's address and the existence of an Indian "Monroe Doctrine" was denied by Nehru, India's reaction to U.S. military aid indicated that India did in fact have a "Monroe Doctrine", and that Pakistan was within its sphere of influence. M.S. Rajan. "Indian Foreign Policy in Action, 1954-56." Indian Quarterly. XVI:3 (July - September 1960) pp. 228-229.
On December 21, Nehru again wrote to Mohammed Ali:

> We, in India have endeavoured to follow a foreign policy which we feel is not only in the interests of world peace but is particularly indicated for the countries of Asia. That policy is an independent one and of non-alignment with any power bloc. It is clear that the policy which Pakistan intends to pursue is different...It means that Pakistan is tied up in a military sense with the U.S.A. and is aligned to that particular group of powers...This produces a qualitative change in the existing situation, and, therefore, it affects Indo-Pakistan relations, and, more especially, the Kashmir problem.49

On December 20, the very day before the meeting of civil and military experts was to convene in Delhi; government-inspired nation-wide demonstrations broke out throughout India. During the week of negotiations Nehru and his Congress colleagues called for national agitation against the United States, which soon degenerated into a "Yanks Quit Asia" movement and an anti-Pakistan campaign. Specifically on Kashmir, Nehru declared "that the whole context in which these agreements were made will change if military aid comes to Pakistan."50

Justifiably perturbed by the Indian hostility, Mohammed Ali could only affirm that United States military aid would enable Pakistan to achieve adequate defensive strength without having to assume increasing burdens on our economy and that under this mutual security legislation "any country receiving aid has to undertake not to engage in any act of aggression against any country."51

49. WP. Letter of December 21, 1953.
50. NYT. Dec. 24, '53.
Sir Zafrullah Khan, commenting on Indian fears that Pakistan might utilize American aid to solve the Kashmir problem through military means, noted that "this is utterly baseless and without foundation. President Eisenhower's declaration in public and his letter to Mr. Nehru should make it clear beyond doubt that by no stretch of the imagination could American aid lead to that most undesirable result." Mr. Nehru, he continued, "is wrongly informed and grossly mislead."52

In early 1954, Nehru's attempts to pressure Pakistan out of receiving American military assistance verged on "hysteria."53 Yet all efforts failed. The Pakistan Government, on their part remained resolute. "Our independence is being questioned," declared Mohammed Ali, "no amount of Indian pressure will prevent us from obtaining American military aid."54

As mentioned earlier, the disputed military agreement was signed, yet even before that event, a well-informed Indian commentator noted that a settlement based upon a plebiscite was impossible.55

(4) Further Integration of Kashmir

In January, Prime Minister Bakshi of Kashmir commented that "the day 2April 307 Pakistan was dreaming of would never dawn."56 Indeed, it never did, for the Indian Government

52. Ibid. March 12, '54.
thwarted in its attempts to prevent American military aid from reaching Pakistan, sought to exploit this controversial issue in the dispute over Kashmir.

On February 7, 1954, following a two week meeting in Delhi between Indian and Kashmiri leaders, the Kashmir Constituent Assembly voted 60 to 0, with 15 members abstaining (several of them were in jail) to complete the State's accession to India. This decision, stated Bakshi, was taken "after fullest consideration and with a full sense of responsibility and it is irrevocable."^57 The Kashmiri Prime Minister also rejected any idea of succession from India as "unreasonable" and against the interests of the Kashmir people. Whereas this decision, like the dismissal of Sheikh Abdullah, was greeted enthusiastically by both Indian press and communal groups, the Government of India remained silent. Yet, as the New York Times asserted editorially, it would be the height of naivete to believe that this move was made without India's prior knowledge or even direction.^58 This act was immediately denounced by the Pakistan Government as "contemptuous" and in complete disregard of the Delhi Agreement and the Indian commitments under the United Nations Commission's resolutions.^59

The long Indian silence was broken on February 12, when its delegate to the United Nations noted that while it was the right of the Assembly to choose its course and destiny,

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57. NYT. Feb. 7, '54.
58. NYT. Feb. 8, '54.
the Indian Government still stood by its commitments for a plebiscite under "suitable conditions." This attitude was reaffirmed by Nehru in a public speech on February 22, while in a letter to Mohammed Ali he stated that the Constituent Assembly had every right to express its wishes and that talks had broken down because Pakistan had accepted military aid.

Nehru's reaction towards American aid to Pakistan was again shown on March 1, when he rejected President Eisenhower's offer of military aid and demanded the withdrawal of all Americans serving with the United Nations truce teams in Kashmir on the grounds that they could no longer be classified as "neutral" observers.

The attitude of the Indian Government hardened considerably following the signing of the Pakistan-Turkey "Treaty of Friendly Co-operation," the forerunner of the Baghdad Pact, and although this treaty could not be condemned per se for the Indian Government had similar agreements with Indonesia, Burma and Nepal, it did bring about a firmer Indian attitude towards American military aid and consequently towards Kashmir.

Whereas the Kashmir Government had continuously stated that its ties with India were "irrevocable," the Indian Government remained officially aloof and silent. This silence, however, was shattered on April 12. On this date President

60. NYT. Feb. 13, '54.
61. NYT. Feb. 23, '54; WP. Letter of March 5, 1954.
62. NYT. March 2, '54. American observers were not immediately withdrawn, but were gradually replaced as their terms of service expired.
Prasad made the first official pronouncement on the future of Kashmir when he declared in Srinagar that India and Kashmir would continue to be tied by the closest bonds. On the 13th, while seeking to justify the above remarks in the content of military aid to Pakistan, Nehru wrote to Mohammed Ali stating that the latter's acceptance of American arms had changed the situation entirely and, in effect, made the introduction of a plebiscite administrator by April 30 impossible.

This Indian intransigence, and unwillingness to discuss the Kashmir issue was carried by Nehru to the Five Power Colombo Conference in April 1954, and when Mohammed Ali expressed his desire to place the subject of Kashmir on the agenda, U.N.U of Burma, supporting Nehru's objections, declared that there was little possibility of solving a seven-year dispute in several hours. Delegates to the Conference, however, remarked to the New York Times correspondent that Nehru's reaction to the Pakistani proposal amounted to an "ultimatum" and a "veto." Thus India was not prepared to discuss the Kashmir issue on either the national or international level.

Indeed, Pakistan's "dream" of introducing a plebiscite administrator by April 30 was not realized. In India, however, the stage was set and the incorporation of Kashmir was about to begin.

63. Times. April 12, '54.
64. WP. Letter of April 13, 1954.
66. NYT. April 29, '54.
In a May 14 press release from the Indian President's Office, five days before the United States-Pakistan military aid agreement was signed, notice was given that the fate of Kashmir was all but sealed. In effect, this Presidential decree (the Application of Jammu and Kashmir Order): (1) extended the jurisdiction of the Indian Supreme Court to Kashmir to deal with civil cases and gave the Kashmir High Court provincial status; (2) abolished the traditional custom duties and replaced them with an subsidy of Rs. 25 million; (3) provided for Indian control over the telegraph services, broadcasting and meteorology; and (4) extended the authority of the Indian Election Commission and the Auditor-General of India to Kashmir. Furthermore, the current five-year plan was extended to the State, integrating it economically with the Indian Union. Indeed, there was no chance for Kashmir's independence or accession to Pakistan.67

This decision was enthusiastically accepted throughout India, yet one could only agree with Mohammed Ali when he regretfully came to the conclusion that India's anxiety to reach a settlement was not matched by her performance.68

On July 14 Mohammed Ali wrote to Nehru and expressed his doubt that "any useful purpose can be solved by further correspondence;" in his last letter to the Indian Prime Minister on September 21, he reluctantly accepted the position that

no room remained for further negotiations. 69

Prior to this last letter, however, tensions between India and Pakistan increased, as the latter took a further step into the Western alliance. On August 14, it was announced in Karachi that the Government would attend the organizational meeting of the South East Asia Treaty Organization in Manila on September 6, 1954. Superficially, Pakistan's motives were to block the spread of communism in Asia; yet her fear of India as the prime reason for membership was revealed when she asked that the term "aggression" should not be limited to the communist variety - the obvious inference being the underlying fear of India. Although this move was not greeted in India with the same hysterical reception as the American arms agreement, it nevertheless represented a further encroachment of Western influence and the Cold War into what India considered to be her "sphere of influence." 70

(C) The Second Phase

With the dawning of 1955 the state of Indo-Pakistan relations seemed to brighten. At the Indian Republic Day ceremonies in January, Governor-General Ghulam Mohammed (by now the real power in Pakistan) declared "I am convinced that Jawaharlal desires happy relations between our two countries," while President Prasad reciprocated by stating "as the year closes, we find a pleasant change in our relations with our

nearest neighbour for whom we have nothing but good wishes." At this time agreement was reached to a meeting over Kashmir in May. In spite of these mutual declarations of good faith, they were only superficial; the basic outlooks of India and Pakistan remained unchanged.

Even as these cordial exchanges were taking place on the sub-continent, the Pakistan High Commissioner in London was urging that the Commonwealth should take the initiative in solving the dispute; on February 9, in London, Prime Minister Nehru hinted that a possible solution to the Kashmir problem could be found in partition (presumably along the Cease-Fire line).

Mohammed Ali, representing the ailing Ghulam Mohammed, and accompanied by General Iskander Mirza and Abid Hussain, arrived in Delhi on May 14 to discuss such problems as the future of Kashmir, border clashes and the future of the India Office Library. In contrast to the cordial atmosphere surrounding the discussions in August 1953, the Indian attitude was cool - tension in Kashmir increased as border clashes increased in both magnitude and ferocity. Because of the absence of Ghulam Mohammed, moreover, the discussions over Kashmir between Mohammed Ali and Nehru never reached the final stage, and the conference ended in the vague communique agreeing to continue discussions at a latter date.

73. Ibid. Feb. 10, '55.
74. NYT. May 19, '55.
While the negotiations were underway the American, British and Indian press began to speculate on the nature of the discussions and the prospects for a rapid settlement. The Times correspondent noted that Pakistan had decided not to persist "in this obviously unprofitable approach of a plebiscite for the time being." The New York Times correspondent went even further and not only stated that privately Pakistan had recognized the futility of demanding a plebiscite and was not only prepared to accept the possible partition of the state with a plebiscite in the Vale, but was also willing to use her future within the Western alliance as a bargaining point. The Observer, moreover, divulged that Mohammed Ali was prepared to bargain away American military aid for India's acceptance of a United Nations plebiscite administrator. Furthermore, Pakistan's intense desire to solve the dispute was revealed when the Pakistan Prime Minister was reported to be willing to allow Nehru to decide how many Indian troops should remain in Kashmir - a radical departure. The influential Eastern Economist, on the other hand, disregarded the vagueness of the joint communique and asserted that a solution other than on the basis of a plebiscite, was not too distant.

Even the official pronouncements gave rise to the belief that a totally new solution was in the offing. On May 18,

75. Times. May 19, '55.
76. NYT. May 19, '55.
77. The Observer. May 22, '55.
Mohammed Ali remarked that the approach was new and less rigid; Nehru, on his part, summarized the conference with the statement that the approach was not only friendly but also constructive and not the old "deadwall" approach. With statements like the above, it was little wonder that the press became highly speculative.

Whereas the Western and Indian press adopted an optimistic attitude, the Pakistan press and politicians reacted in an entirely different manner. Instead of praising the possibility of a solution to the Kashmir imbroglio, all parties unleashed a bitter attack against Mohammed Ali and his ministers for betraying the people of Kashmir and "appeasing" Bharat.

In three successive editorials, the influential Dawn demanded a clear statement of the Delhi proceedings, and although Mohammed Ali remarked that there could be other methods of ascertaining the will of the people, it replied that if the task of settling the Kashmir issue was too big for them, they should spare themselves the unequal efforts. This attack was continued by the leaders of the All-Pakistan Dastoor Party and Jaamiat-i-Ulema who jointly declared that the Government had "betrayed" both the nation and inhabitants of Kashmir, and that Mohammed Ali had better clarify his remarks or wash his hands entirely of the talks.80

On May 25, the Pakistani Prime Minister reversed his

earlier statements and asserted that he had not agreed to any other method of ascertaining the Kashmiri will except by a plebiscite. Unconvinced, Dawn carried an editorial on the same day which stated:

It is quite clear that Mr. Nehru will never be able to bring himself to that reasonable, fair and honest frame of mind in which his international commitment to abide by the agreed procedure for the settlement of the dispute will outweigh his overmastering greed to hold on to his loot by hook or by crook....Our Government...should here and now decide to have no more bilateral talks with the Bharati aggressor, and instead take the issue back to the United Nations...

As happened so often in the past, it was the press and zealous politicians who were guiding the Pakistani attitude towards Kashmir, and regardless of the agreements reached or attitudes expressed in Delhi, Mohammed Ali was forced to bow to public pressure. Accordingly, on June 1 he remarked that if agreement could not be reached between the two Prime Ministers at their next meeting, "then there will be no point in carrying the discussion any further." On June 8, moreover, the Pakistan Government completed its volte face, when Mohammed Ali declared that no satisfactory progress was made at Delhi, and "there was no question of giving up our stand for a plebiscite." Indeed, a politician must remain popular, and Mohammed Ali, in appeasing public opinion and continuing the "hard line" against India, proved no exception.

81. ibid.
82. ibid.
83. NYT. June 2, '55.
84. NYT. June 9, '55.
This volte face by the Pakistan Government was interpreted by Delhi as further indication of Pakistani intransigence and determination to force upon India an impracticable United Nations-sponsored plebiscite. Yet India could ill afford such a plebiscite and consequently the Pakistan "hard line" was duly followed by an Indian counterpart as both nations went their separate ways.

On July 8, the Indian Home Minister, Pandit Pant, addressed a press conference in Srinagar, where he placed the blame for the failure of negotiations squarely upon Pakistan and declared that the decision of the Kashmir Constituent Assembly to join India could not be disregarded. Nehru, in a similar frame of mind, re-affirmed Pant's remarks and stated that there was no use "going round and round with our eyes blindfolded" and that while India still stood by her commitment for a plebiscite this was not the only method of settling the issue. The inference was that, since Pakistan had changed the conditions on the sub-continent and still demanded an unrealistic plebiscite, India could feel justified in applying her own solution.

The first indication of this firmer Indian policy came in October 1955 with the arrest and detention of sixteen Kashmiri opposition members, climaxing with the arrest on November 20 of Mirza Beg, the leader of the Kashmiri Plebiscite Front. It is interesting that this overt move was unanimously accepted

85. NYT. July 12, '55.
86. Ibid.
by all Indian political parties.

For their part, the new Pakistan Government of Chaudhuri Mohammed Ali continued the policy of its successors in demanding a plebiscite. At a rally on October 21, the Prime Minister declared

It is...disappointing that in India, where the right of self-determination of other people is proclaimed, not one political party is prepared to apply it to Kashmir. 88

Furthermore, in late November, an All-Party Conference representing all shades of political and religious opinion met in Karachi and unanimously condemned Indian intransigence and approved a resolution calling for self-determination in Kashmir. 89 The differences between the disputing nations were becoming truly "fundamental in nature."

(D) Soviet Interference in Kashmir

Up to this date the Kashmir dispute had been primarily an issue between India and Pakistan, and although there were discussions at the United Nations, informal meetings at Commonwealth Prime Minister Conferences, and attempts by Pakistan to place the dispute on the agenda of the Colombo Conference, the Great Powers, to their credit and despite all their differences, steadfastly refused to draw Kashmir into the area of Cold War politics. The Soviet Union, however, deserves the dubious distinction of breaking this

88. Ibid. Oct. 21, '55.
In December 1955, the Soviet leaders, Bulganin and Krushchev, on tour in India, surprised their hosts by expressing their desire to visit Kashmir.\(^{90}\) "Without paying a visit to Kashmir," declared Bulganin, "our tour of India would be incomplete."\(^{91}\) While in Srinagar, Krushchev, obviously perturbed over Pakistan's acceptance of American military aid and membership in the Western alliance and fully aware of Nehru's feelings on the subject, declared: "It is too late for changes in Kashmir...the question...has been decided by the people of Kashmir itself."\(^{92}\)

Prime Minister Bakshi's immediate reaction was to claim "this is the Soviet view, and they have every right to hold it." Ghulam Mohammed Sadig, President of the Kashmir Constituent Assembly, however, was far more emphatic when he declared "This is a most powerful endorsement of our stand, and the world seems to be realizing our aspirations."\(^{93}\) Nehru, obviously pleased by this sudden turn of events, agreed and welcomed this Soviet support.\(^{94}\)

The Pakistan reaction, as one might expect, was one of extreme bitterness. The real attitude of some Pakistanis

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92. The Observer. Dec. 11, '55. This statement was virtually reversed by Anastas Mikoyan, when during a visit to Pakistan in March 1956 he declared that the Kashmir issue should be solved by the Kashmiris; his remark consequently was widely ignored in India.
towards the Western alliance was revealed on January 3, when a resolution was placed before the Muslim League Convention calling upon Pakistan to withdraw from her alliance unless she received more support against India. The *Islamic Review*, however, with far more logic, recalled the Pakistani desire to return the dispute to the Security Council and the Soviet Veto, noted with dissatisfaction and considerable foresight "this veto might be the end of this long drawn out attempt at peaceful negotiations...and a heightening of tension springing from the belief that *India* is right in claiming Kashmir as part of her territories."  

(E) Integration of Kashmir into India

The year 1956 could be described as one in which both India and Pakistan, having already accepted the failure of bilateral negotiations, vied with each other to obtain international support for their respective Kashmir policies, and in the case of both nations, the approach was modified as legal and political arguments were reviewed for the forthcoming debate at the United Nations.

As prophesied by the *Islamic Review*, Prime Minister Nehru took full advantage of his new-found and unsolicited Soviet support to strengthen his position in Kashmir: he was neither prepared to discuss the Kashmir problem except within its new

concept nor tolerant of any outside (Western) interference. On January 28, therefore, a new move by the Pakistani Government to reopen negotiations, dormant since May 1955, was rebuffed by India as "inopportune,"\textsuperscript{97} while on March 8, the communique issued by the SEATO powers' meeting in Karachi affirming "the need for a quick settlement" in Kashmir was denounced by Nehru as "a military alliance is backing one country, namely Pakistan, in its disputes with India."\textsuperscript{98} Also aware of the Soviet statements in Srinagar, V. Krishna Menon warned the SEATO members that India "will not tolerate any interference in affairs which concern our national sovereignty."\textsuperscript{99}

In a speech before the Lok Sabha on March 27, the Indian Prime Minister announced that Kashmir was an integral part of India and that four million Kashmiris had voluntarily chosen to become part of India. He went on to say that a Constitution would be drawn up by the Kashmir Constituent Assembly to replace the Presidential Order issued in May 1955. This pronouncement was followed by a statement which not only affirmed the Indian allegations of Pakistani aggression but also reiterated what by now must be considered the main reason for India's intransigence - the fear of a communal holocaust.

...We want to avoid any steps being taken which would be disruptive, which would upset things that have settled down and which might lead to migration of people...and which further, would again lead to conflict with Pakistan. There is no settlement of the Kashmir problem if the manner of settling

\textsuperscript{97} NYT. Jan. 29, '56.
\textsuperscript{98} NYT. March 9, '56; March 21, '56.
\textsuperscript{99} NYT. June 2, '56.
it leads to fresh conflict with Pakistan. 100

On April 2, Nehru openly rejected the principle of a plebiscite and charged that United States military aid, Pakistan's participation in the Western Alliance (SEATO and Baghdad) and constitutional developments on the sub-continent made it necessary to "discuss \(\text{Kashmir}\) from another point of view; taking into consideration the new conditions that have arisen." 101 On the withdrawal of Pakistani troops from Kashmir, the Indian Prime Minister declared "it makes little difference now to what extent Pakistan withdraws...There is much more military potential sitting on the other side. It makes a huge difference." 102 Thus India was unilaterally rejecting not only her oft-stated policy towards a plebiscite but also the two United Nations Resolutions of 1949 and 1951.

Chaudhury Mohammed Ali's reaction to the above came on April 6 when he declared in the Assembly:

Quite obviously it is India's intention to go forward with this bogus Constituent Assembly, to allow it to frame a constitution for Kashmir to hold elections on the basis of that constitution claim that Kashmir had finally become part of India. 103

The Pakistan Prime Minister's foresight was considerable, and with the exception of "the shadow of Indian bayonets" (which depended solely upon one's national bias), this was precisely

101. NYT. April 3, '56. The new constitutional conditions obviously referred to the movement to re-organize the Indian States and the formation of the Islamic Republic of Pakistan in February 1956.
102. NYT. April 3, '56.
103. NYT. April 7, '56.
the step taken by India.

Prime Minister Nehru clarified his April 2nd declaration on April 13th when he stated that even though India could adopt a legal approach to the question of Kashmir, what was needed was a practical solution taking into account the constitutional and military developments in the preceding years. He not only suggested straight partition along the cease-fire line and in exchange India would drop her legal claims to the territory occupied by Azad Kashmir, but also he declared this suggestion was presented at the Delhi discussions in May 1955, where it will be recalled, Pakistan suggested the partition of the State with a plebiscite only in the Vale. These proposals were immediately rejected by Pakistan and hence a legal approach became inevitable.  

The two Prime Ministers informally discussed the Kashmir issue at the June Prime Minister's Conference in London. Yet these meetings only indicated that there had been no fundamental change in the attitudes of both countries. When asked at a press conference if a solution could be worked out along the cease-fire line, Chaudhury Mohammed Ali replied: "That suggestion is wholly unacceptable, not only to Pakistan but also the people of Kashmir." On July 5, moreover, Chaudhury, as if attempting to remove the communal wind from India's

\[104\] NYT. April 15, '56. Such partition along the cease-fire line would give India two-thirds of the territory and four-fifths of the population.

\[105\] Times. June 25, '56.
sail and appeal to world opinion, stated at a Friends of Pakistan Society meeting in London

If people of Kashmir were to decide in a free vote to go to India, we might feel hurt. But we will not raise our little finger and we will say "God bless you - this is your free choice." Nevertheless, Pakistan still claimed the right to appeal to religious emotion during any such vote.

Yet Nehru was not prepared to accept this solution, for, as the Round Table India correspondent wrote: "In the unlikely event of India's agreement to a plebiscite in Kashmir, it would be fought exclusively on the issue of religion...Mr. Nehru cannot possibly allow this to happen..."

On October 10, the Pakistani fears of an Indian fait accompli in Kashmir increased when the Bakshi Government presented its draft constitution to the Constituent Assembly for consideration and approval. This draft, unanimously accepted on November 17, not only declared in Section 3 "the State of Jammu and Kashmir is and shall be an integral part of the Union of India" but also included provisions which would prevent the introduction of any bill or amendment which would alter the State's relationship with India. This act by the Constituent Assembly, purely declaratory in nature, was promulgated on January 26, 1957 whereupon the Assembly dissolved itself for new elections. Section 3, however, became effective

108. Lakhanpal. op. cit., p. 269.
on November 17 of that year.

Accompanying this declaratory act, for the Constituent Assembly was a sub-sovereign body, were the Government of India's States Reorganization Act of 1956 and the Constitution (Seventh Amendment) Act of 1956, both of which came into effect on November 1, 1956, and in fact removed the special relationship enjoyed between Kashmir and Delhi. To India, the inauguration of a constitution for Kashmir, and the recognition of Kashmir as one of their fourteen States, was simply a formal recognition of the status which had in fact existed since the Maharajah's accession.

The reason behind this Indian and Kashmiri move was revealed by Nehru on January 31, 1957 when he declared

Nothing should be done which might bring before us the horrors of August, September and October 1947. This is the governing consideration in our minds. Every step we have taken has been guided by that thought...I do not want, in the name of a plebiscite, to be now made the scene of a fratricidal war. Such a war would spread to other parts of India and would upset the delicate balances that have been established. It is a matter, therefore, of utmost concern and consequence to us that no step be taken in Kashmir which will have these tremendous reactions...110

Thus as far as India was concerned the case of Kashmir was closed. It remained for the Government of India to justify its actions, in legal rather than emotional terms, before the bar of world opinion.

109. Articles 356 and 357 of the Indian Constitution (President's rule) were not extended to Kashmir until December 1964.
CHAPTER EIGHT

RENEWED SECURITY COUNCIL DELIBERATIONS

(A) The Jarring Report and Graham Mission

On January 16, 1957, the Pakistani delegate, Firoz Khan Noon, charged in the Security Council that India had aggravated conditions on the sub-continent and violated her international commitment by refusing to hold a plebiscite in Kashmir. He therefore asked the Security Council to restrain India from accepting the decision of the Kashmir Constituent Assembly and to spell out the obligations expected of both nations under the various Security Council and United Nations Commission resolutions. Obviously aware of the success of the United Nations Emergency Force in Egypt, Noon suggested the possible use of a United Nations force to police Kashmir during the plebiscite period. Thus Pakistan was as firmly committed to a plebiscite as ever.

Replying at length on January 23, the Indian delegate V. K. Krishna Menon, restated the original Indian position which can be summarized as follows: (1) the state had legally acceded to India; (2) it was a constituent unit of the Indian Union; (3) Pakistan had committed an act of aggression against the state and had not withdrawn from the violated territory; (4) circumstances had changed on the sub-continent (military

aid to Pakistan, membership in the Western alliance and a pending Kashmir constitution) and that India could not forever regard the plebiscite as binding; and (5) the promise of a reference to the people had been made unilaterally to the Maharajah of Kashmir and none else. On the specific charge that the actions of the Constituent Assembly were in violation of India's international commitments, Menon declared that it was a "sub-sovereign body" (sic) and that in effect all that would happen on January 26, would be that it would "dissolve itself."

The majority of the Security Council remained unconvinced, and even before Menon had finished his marathon speech (8 hours, 40 minutes) a resolution was presented recalling the previous Council resolutions and stating that the actions of the Kashmir Constituent Assembly were contrary to those principles. This was passed by a 10 to 0 vote with the Soviet Union abstaining.

Menon immediately served notice that his Government was neither a party to the resolution nor bound by its contents. Consequently, the new Kashmir Constitution came into effect on January 26, and the Assembly dissolved itself for fresh elections.

4. For his firm stand on Kashmir, Krishna Menon was acclaimed as the "Lion of Kashmir" - thus replacing Abdullah.
In answer to Pakistan's request for concrete steps leading to the implementation of applebiscite, a second resolution was presented: (1) voicing concern over the lack of progress in the dispute; (2) giving consideration to the possible use of United Nations troops in connection with demilitarization; and (3) asking the President of the Security Council (Gunnar Jarring of Sweden) to help achieve demilitarization and further aid in the settlement of the dispute. This resolution, bitterly denounced by Menon, was vetoed by the Soviet Union - an ominous forewarning of the future effectiveness of the Security Council and Russia's role in the dispute.

In spite of this setback a second resolution was presented on February 21 which excluded mention of demilitarization and the possible use of United Nations troops. Void of all controversy, and hence accepted by the Security Council members, it simply asked Jarring to examine any proposals "likely to contribute to a settlement" and invited the cooperation of the disputing parties. Once again, however, Krishna Menon made it abundantly clear that Kashmir was "by law, by equity, by every moral and political consideration" part of India, and although Jarring would be welcomed as a guest, India could not guarantee cooperation.

Jarring's mission to the sub-continent lasted from March 14 to April 11, and perhaps recognizing the overtones of the Cold War and his country's neutrality, he could offer no

concrete proposals for settlement. What is interesting however, is the nature of Jarring's proposals and the Indian and Pakistani reactions.

Although Jarring stated that any charge of aggression was irrelevant, he went on to say that notwithstanding the "grave problems that might arise in connection with a plebiscite" and the grave concern "expressed in connection with the changing political, economic and strategic factors," he still proposed arbitration to determine whether or not Part One (Demilitarization) of the August 13, 1948 resolution had been implemented. Pakistan enthusiastically accepted Jarring's recommendation in favour of arbitration; India, on the other hand, rejected it completely on the grounds that "such procedures would be inconsistent with the sovereignty of Jammu and Kashmir and that since Pakistan had no locus standi in the dispute any arbitration would increase her status. Faced with this irreconcilable stand, Jarring had no choice but to admit failure and table his report with the Security Council.

Discussion on Jarring's report opened in the Security Council on September 24, and, as was expected, both sides offered their own interpretations to place their case in the best possible light. Firoz Noon saw in the report a condemnation of Indian intransigence for her refusal to accept arbitration; Krishna Menon, interpreted Jarring's "changed conditions" as a realistic appraisal of the de facto situation on the sub-

continent and denounced Pakistan for her "misinterpretation." The Indian delegate also claimed that he was not prepared to accept the "Balkanization" of his country for "an abstract principle which does not exist", and that if there was any demilitarization in Kashmir, it would only apply to Pakistan.

On November 15, a British-sponsored draft resolution was circulated calling for demilitarization as a prerequisite for a plebiscite and asking Dr. Frank Graham (the United Nations mediator) to proceed to the sub-continent to devise a method of demilitarization which should be carried out three months after agreement has been reached. Menon's reaction was immediate and bitter as he launched a personal tirade against Sir Pierson Sixon, the British delegate. The Soviet delegate, siding with India, declared that the resolution was unrealistic and if brought to a formal vote he would have no alternative but to exercise his veto. In an effort to salvage the resolution, Sweden proposed two wide amendments which deleted mention of demilitarization and Graham's previous reports as well as the paragraph on demilitarization.

14. Although much of this speech was later stricken from the record and Menon formally apologized, its remnants clearly show the Indian fear over the possible results of a plebiscite.
procedures. On December 2, therefore, a weak resolution was approved: (1) calling for both nations to attempt to create and maintain a cordial atmosphere; (2) requesting Graham to make recommendations to aid in the implementation of the August 13, 1948 and January 5, 1949 resolutions; and (3) asking him to visit the sub-continent and report back as soon as possible.\(^\text{16}\)

Once again India rejected the Security Council's latest attempts when Menon announced: "I am authorized by and asked to state on behalf of the Government of India that we do not accept this resolution."\(^\text{17}\)

Notwithstanding India's refusal to accept the December 2 resolution, Dr. Frank Graham arrived in New Delhi on January 12, 1958 to carry out discussions with Indian and Pakistani leaders. In his report, tabled on May 31, Graham noted that on the eve of his departure, February 15, he had presented the following resolutions for consideration by both parties:\(^\text{18}\) (1) a renewed declaration by both countries to maintain a favourable atmosphere and to refrain from statements or actions which would aggravate the situation; (2) mutual respect for the integrity of the cease-fire line; (3) the withdrawal of Pakistani troops and administration of the evacuated areas by local authorities under United Nations surveillance; (4) the withdrawal of the bulk of the Indian troops; (5) agreement on Part Three (Plebiscite) of the August 13, 1948

resolution; and (6) negotiations under United Nations auspices. Furthermore, Graham suggested the possible use of United Nations troops in the area evacuated by Pakistan.\(^\text{19}\)

According to Graham, Pakistan agreed to all his suggestions. India, on the other hand, rejected all the proposals and blamed Pakistan for failing to implement the earlier resolutions and vacate her aggression in Kashmir. India claimed that Pakistan had no locus standi in the dispute and that any new declaration on maintaining a "peaceful atmosphere" or respecting the cease-fire line might denote a displacement of previous engagements - an interesting assertion since India was not prepared to honour hers. On the specific use of a United Nations force, India declared that this was "highly improper and indeed an unfriendly act."\(^\text{20}\)

Unlike the Jarring Report, the fruits of Graham's mission were neither discussed nor debated, as its rejection, like that of its predecessor, was a foregone conclusion.

The seventeen-month renewed effort by the Security Council to solve the India-Pakistan Question only served to indicate the ineffectiveness of the world body to solve an international dispute when faced by an irreconcilable party. With nothing to lose, Pakistan could, and indeed did, accept every one of the Council's resolutions; whether or not she would faithfully implement any resolution was purely a matter of speculation. India, on the other hand, remained adamant in

\(^{19}\) ibid. italics mine.

\(^{20}\) Ibid., p. 9.
her desire not to alter the Kashmir status quo - except, of course, in her favour. She had unilaterally set the conditions required for a plebiscite, and not only rejected a plebiscite but also refused to allow any external arbitration or mediation to determine whether or not these conditions had been fulfilled. Furthermore, by declaring that Kashmir was an integral part of India, and that this could not be questioned, India was presenting not only Pakistan, but the Security Council, with the prophesied fait accompli. With Pakistan's determination to hold a plebiscite in Kashmir, and India's, not to change the status quo, there could be no meeting of minds.

(B) The Interregnum

With the collapse of parliamentary government in Pakistan, and the ensuing rule of the former Chief of Staff, Field Marshall Mohammed Ayub Khan, in October 1958, it seemed to many observers that the Kashmir dispute could take a new turn. Free from the cries of irresponsible politicians who were only using the Kashmir issue as a whipping board for public support, Ayub Khan was in a position to reconcile Indo-Pakistani differences without appealing for or responsible to parliamentary support. Well versed in the British military traditions he fully recognized the necessity for the joint defence of the sub-continent - especially in view of the menace of Chinese in Tibet. Consequently, the new President held out the hand of friendship to India only to find it promptly rejected. Once again the dispute hardened as
Ayub Khan adopted the Kashmir policy of his predecessors.

With the signing of the Indus Water Treaty and the settlement of the canal waters issue in 1960 along lines proposed by the World Bank, Kashmir, the last major source of irritation, once again became the focal point of Indo-Pakistan relations. One would expect, therefore, that a concentrated effort would be made by both parties to remove the final obstacle hindering cordial relations between the two nations; and although Nehru was on record that he would not take the initiative for any negotiated settlement, his Finance Minister Morarji Desai had hinted that other disputes (obviously Kashmir) could be settled in the same manner as the canal waters issue. 21

Notwithstanding this well-placed remark, there still remained no meeting of minds as to the best method of solving the dispute. Both Nehru and Ayub Khan recognized the inherent dangers in Kashmir, yet as the following statements will show, there was not even agreement on the best method of approaching the issue. On October 8, 1960, Nehru told a New York press conference that his Government was in favour of maintaining the status quo in Kashmir, for the "moment you touch it is like opening 'Pandora's Box'." 22 Ayub Khan, commenting on the above remarks, stated that Kashmir was more like a "time-bomb," and "the answer is to defuse it as quickly as possible and that cannot be done without touching it." 23

22. NYT. Oct. 9, '60.
23. AR. p. 5665.
The two leaders informally discussed their differences at the March 1961 Commonwealth Prime Ministers Conference in London. At this time, moreover, Ayub Khan went on record as willing to consider an alternative to a plebiscite - a gesture of no great importance since he did not qualify his statement. Instead of taking the initiative in carrying this declaration to fruition the Indian Government continued its policy of aloofness, culminating with Nehru's statement on June 20 that India was not prepared to discuss the issue with Pakistan until the Pakistan Army "disappears" from Kashmir.

(C) Renewed Security Council Efforts

Faced with the near impossibility of re-opening formal negotiations, Ayub Khan announced on November 25 that he was returning the issue to the Security Council. This statement was qualified on January 12, 1962 when in a letter to the Council Pakistan requested a discussion on the Graham Report and expressed concern over recent statements by responsible Indians that their Government should force a solution in Kashmir and requesting a discussion on the Graham Report.

25. AR. p. 4069.
27. S/5058. Jan. 12, 1962. On Jan. 4, 1962 Sanjiva Reddy, the Congress President, declared at the Annual Session that "We hope that within a short period the Government will take steps to liberate...Azad/ Kashmir," while Krishna Menon, the Minister of Defence, earlier stated "We have not abjured violence in regard to any country who violates our interests."
The India reaction to Pakistan's latest move was, as one might expect, extremely bitter; and in a letter to the Security Council, Pakistan was denounced for attempting to "exploit the Council as a propaganda forum against the Government of India." Furthermore, India claimed that the door was always open to negotiations and hence there was no need to use the Council to resolve differences.

Another Pakistan letter, delivered on January 29, not only denounced India's attempts to block discussion but also claimed that the situation on the sub-continent was "daily becoming more precarious." In order to cope with Pakistan's obvious concern the Council called a meeting for February 1, which heard representations from both parties as to the need for discussion, and then, upon India's request, adjourned until after the Indian General Elections.

While this correspondence was being exchanged, and both parties were preparing their respective populations for the forthcoming debate, President Kennedy, recalling the effectiveness of the World Bank in resolving the waters dispute, offered the good offices of its President, Eugene Black, to act as a mediator in reaching settlement. This was immediately accepted by Ayub Khan on January 18, but declined by Nehru ten days later. Qualifying his rejection on February 2.

Nehru declared that he was opposed to arbitration or mediation because India's sovereignty was involved. He preferred bilateral negotiations.  

On March 1 the Indian High Commissioner to Pakistan, Rajeshwar Dazal, extended Nehru's invitation to Ayub Khan to visit India. In reply, the Pakistan President proposed preparatory discussion at ministerial level prior to any visit, and asked that these should proceed independently of those at the United Nations. In return, however, Nehru declared that negotiations would be useless if Pakistan continued to press for discussion in the Security Council. Faced with this ultimatum, Ayub Khan replied that a visit to India under the present conditions would not be worth his while. Thus debate in the Security Council became assured and the one hundredth meeting on the India-Pakistan Question began on April 27.

Opening the debate, Zafrullah Khan (by coincidence Pakistan's original negotiator in 1948) declared that if there was any pronouncement by the Security Council that Pakistan was in default with regard to any obligations, his Government would rectify that fault "within the shortest possible time... so that the [Kashmir issue] shall be decided in accordance with the wishes of the people." Furthermore, in an attempt to appeal to world opinion as the defender of self-determination

32. AR. p. 4452.  
and to further alienate India, he announced that Pakistan would accept any arbitration award from any group, including one chosen by India. Specifically on the Graham Report, the Pakistan delegate asked the Security Council to determine: (1) the obligations of India and Pakistan under the various United Nations Commission resolutions; (2) what was holding up implementation of these resolutions; (3) whether or not either party was in default; and (4) what was needed to be done by either party to reach implementation.\footnote{S/PV. 1008. May 2, 1962, p. 58.} With regard to arbitration Zafrullah Khan noted that Nehru had proposed arbitration with China over their boundary differences and that the Indian Constitution (Article 51d) specifically encourages the "settlement of international disputes by arbitration."\footnote{Ibid., pp. 56-57.} Why then, he claimed, must Kashmir be regarded as the exception rather than the rule?

If the Pakistan approach was positive and constructive, bearing in mind their previous determination upon a plebiscite, the attitude taken by Krishna Menon, the new "Lion of Kashmir" was indeed the very opposite.

On May 3, Menon flatly denied any Indian commitment for a plebiscite because of changed conditions on the sub-continent and Pakistan's failure to vacate her aggression. He declared that since the accession of Kashmir was full and complete; the Government of India was not prepared to
undermine her economy or stability and that the India Constitution did not provide for the secession of any state. Thus India remained as unyielding as ever.

Following nearly two months of bitter debate between both parties, during which time all members urged the reopening of direct negotiations, an Irish-sponsored resolution was introduced (1) reminding India and Pakistan of the previous resolutions; (2) urging both to enter into negotiations in accordance with Article 33 of the Charter; (3) appealing for a cordial atmosphere on the sub-continent; and (4) requesting the acting Secretary-General to provide his services to either government. This resolution was enthusiastically accepted by Pakistan. India, however, rejected it completely. Speaking on the resolution, Menon listed the conditions required by India before any progress could be made: (1) responsibility for the security of Kashmir rests with India; (2) the sovereignty of India over the entire State "shall not be called to question;" (3) plebiscite proposals shall not be binding unless Pakistan "vacates her aggression;" (4) the Azad Kashmir Government will not be recognized nor consolidated by Pakistan; (5) administration of the evacuated areas will revert to the State of Jammu and Kashmir; (6) Azad Kashmir forces will be disbanded and disarmed; and (7) Pakistan will be excluded from all internal affairs.

Thus, in effect, India was

telling Pakistan that the only way to reach a settlement was to give her complete legal, economic and military control over the State. In view of Menon's earlier statement that there was no provision in the Indian Constitution for the secession of any state, the difficult question would arise - what would remain to be settled?

Notwithstanding the mile nature of the Irish resolution, Menon apparently made it abundantly clear to the non-aligned Afro-Asian members of the Security Council that their support of it would be considered an "unfriendly act." Consequently, Ghana and the United Arab Republic (to Pakistan's dismay) abstained from voting in the resolution which was vetoed by the Soviet Union.

By this time it should have been clear to both the Western members and Pakistan, that no amount of diplomatic pressure could force the Indian Government to reverse, or even modify its stand over Kashmir. Furthermore, as the latest Soviet veto had indicated, the Security Council was no longer competent to deal with the issue of Kashmir and therefore some settlement would have to be sought through bilateral negotiations.

(D) The Aftermath of the Chinese Invasion

It was felt by many observers that the sudden outbreak of hostilities along the Sino-Indian border in October 1962
would actually serve to unite both India and Pakistan in the face of a common enemy. Indeed, it seemed for a few days that at last the two disputing nations had realized the futility and dangers of remaining at loggerheads, and were in fact willing to resolve their many differences.

Following the initial Chinese attack, moreover, intense diplomatic pressure was put upon Ayub Khan and Nehru by Averell Harriman and Duncan Sandys "whose experts made no secret of their belief that only through co-operative effort could the sub-continent be efficiently defended."\textsuperscript{40} The fruits of their efforts came on November 30 with a joint Ayub-Nehru declaration that

\begin{quote}
\textit{a renewed effort should be made to resolve the outstanding differences between their countries of Kashmir and other issues...With the hope of achieving an honourable and equitable settlement.} \textsuperscript{41}
\end{quote}

This statement, the first positive pronouncement on the Kashmir issue since May 1955, called for ministerial discussions as a prerequisite to an Ayub-Nehru conference, with the first meeting to convene in Rawalpindi on December 27.

Superficially, one might have expected that at last common sense had prevailed on the sub-continent and that finally both Indians and Pakistanis realized that a common destiny required joint effort and co-operation. This, unfortunately, was not to be, as the November 30 declaration, like all its predecessors, became clouded with extraneous issues and manifestations of

\textsuperscript{40.} Margaret Fisher. "India in 1963; A Year of Travail."
basic outlooks which only served to indicate that - in war and in peace - the Indo-Pakistan differences over Kashmir were indeed irreconcilable.

The armed attacks by China upon India marked the end of Sino-Indian friendship and solidarity. This was not, however, a sudden occurrence; and astute Pakistani observers, realizing that all was not well between the co-sponsors of Panch Shila, decided to exploit these differences and seek a rapprochement with China. Thus even before the Chinese armies began intruding into the North East Frontier Agency and Indian-controlled Kashmir, and India stood disillusioned before the world as a victim of naked aggression, a diplomatic revolution was in the making.

Whereas the majority of informed Pakistanis felt that China was a general threat to all of Asia and that there was no reason to believe their country would be chosen as a specific target; many Indian, and especially the Defence Minister Krishna Menon had made it only too clear that Pakistan was India's enemy number one. Thus when Dawn asserted - "If the main concern of the Christian West is the containment of Chinese Communism, the main concern of Muslim Pakistan is the containment of militarist and militant Hinduism" - few Pakistanis would disagree. 42

This underlying fear of India was given further impetus

42. Pakistan News Digest. (Karachi) May 1, '63. Hereafter cited as PND.
in October 1962 when it was announced that Britain, the United States, and to a lesser extent Canada, would provide India with military aid in order to resist the Chinese threat. Here, however, official Pakistani policy differed from that of the West: "From the very offset 

\textit{wrote President Ayub} it has been our view that the fighting...was only in the nature of a border conflict," and although Pakistan was not against the introduction of Western Arms into India for defensive purposes, she was deadly afraid that once the border problem with China was settled, India "would revert to her traditional policy of intimidation of Pakistan" with the very real possibility of using her new-found strength against her enemy number one.\textsuperscript{43} In this vein, Ayub Khan sought assurances that this aid would not be used against Pakistan but like Nehru in 1953, he remained unconvinced by the forthcoming pledges. Furthermore, the Pakistan Government made it abundantly clear that military assistance should be given to India only when and if she would settle such outstanding problems as Kashmir.\textsuperscript{44}

The Western nations, admittedly in an unenviable position, were unwilling to exert any more pressure on India other than to press for the opening of discussions; and once again the Pakistanis reasoned that Kashmir had been sacrificed on the altar of Western interests. "Do we have to cling to \textit{the}

\begin{footnotes}
\textsuperscript{44} Khalid Bin Sayeed. "Pakistan's Foreign Policy: An Analysis of Pakistan Fears and Interests." \textit{Asian Survey}, IV:3 (March 1964). p. 746.
\end{footnotes}
Western alliance declared the Pakistan Times when even its sponsors would willingly do without us.\(^\text{45}\)

Accompanying this primary fear of India and further frustrations over Kashmir, was a rapidly changing attitude towards China. In 1960, when no progress was being made with the Sino-Indian border discussions, President Ayub ordered the Pakistan Foreign Office to take up the issue in an attempt to demarcate their common Kashmir-Sinkiang boundary—a provisional settlement pending the outcome of the dispute with India. Although this move could be hailed as one of political expediency—*for* Pakistan had neither the means nor desire to enter into a boundary dispute with China—it cannot be denied that both parties relished the idea of further isolating India, and the possibility (at least as far as Pakistan was concerned) of strengthening her bargaining position in Kashmir.

These negotiations, which were bitterly protested by India who claimed that Pakistan was bargaining with Indian territory, culminated in a provisional agreement to demarcate the boundary on May 3, 1962; and complete in principle on December 26, 1962—the eve of the first round of talks over Kashmir.\(^\text{46}\)

Against this background, and following the joint Indo-

\(^{45}\) PND. Dec. 15, '62.

Pakistani declaration of November 30, there was no indication that the basic Pakistani attitude had changed. President Ayub reiterated his demand for a plebiscite on December 24; although he added "we are prepared to consider any better alternative solution if Mr. Nehru had it in mind," there was every reason to believe that Pakistan would bargain from her new-found and somewhat artificial position of strength. 47

From the Indian side, on the other hand, there was nothing to indicate that, even in their hour of gravest peril, they were willing to alter their basic attitude towards Kashmir. Indeed, on the very day the joint declaration was released, the Indian Prime Minister qualified his actions by declaring that Kashmir would not be partitioned. 48 This theme was repeated by the then Home Minister, Lal Bahadur Shastri, on December 3, when he emphatically asserted: "We are not prepared to partition Kashmir." 49

On the specific subject of a plebiscite the Government of India remained unyielding: on October 15, their delegate to the United Nations, B. N. Chakravarty, rejected a plebiscite because "it would be disastrous for India," while on the eve of the first Indo-Pakistani meeting at Rawalpindi, Nehru declared that a plebiscite on religious grounds would be undesirable. 50 The timing, moreover, was unfortunate, for

47. AR. p. 5022.
49. PND. Dec. 15, '62.
coming in the wake of a humiliating military defeat, the Indian population was in no mood for appeasement to Pakistan.

Thus there was no indication by either party that they were willing to modify their respective attitudes and genuinely attempt to seek an "honorable and equitable settlement." With attitudes like this, therefore, the failure of the meetings to resolve differences became a foregone conclusion.51

First Round

The first round of talks opened in Rawalpindi on December 26 with Sardar Swaran Singh, Minister of Railways and Z. A. Bhutto, Minister of Industries (and later of External Affairs) representing India and Pakistan respectively.52 Although the November 30 declaration stated that discussions would encompass Kashmir as well as other important issues, and accordingly the Indian delegate presented a list of topics as a basis for discussion, the Pakistan delegate insisted that the talks must be restricted solely to the Kashmir dispute. In an attempt to break the initial deadlock, Sardar Singh agreed to limit discussion, but made it clear from the very beginning that India's sovereignty covered the entire state and could not be questioned.53 India also rejected any idea of a plebiscite.

51. In all six rounds of discussions were held: Rawalpindi, December 27-29; New Delhi, January 16-19; Karachi, February 8-11; Calcutta, March 12-14; Karachi, April 20-25; and New Delhi, May 16.
52. PND. Jan. 1, '63; Indiagram. 1/63, Jan. 3, '63.
These discussions, however, were completely overshadowed by the Sino-Pakistan boundary agreement in principle on December 26 which caught the Indian delegation unaware; and although Pakistan termed this release an "accidental coincident" it did much to hamper the talks from their outset. Thus on December 29, when it was obvious that no progress was being made, the conference ended with a brief communique calling for the creation of a cordial atmosphere and restraint by both parties.

Second Round

The second round of discussions opened in New Delhi on January 16, 1963. Both parties presented their respective views as to what was required for settlement; but no concrete proposals were raised and discussions ended on January 19 with a communique calling for continued "discussion to find an honourable and equitable settlement."

Third Round

At the opening of the third round in Karachi, the Pakistan delegate presented India with four factors which his country considered of prime importance in any settlement:

54. President Ayub claimed that the date of this announcement was fixed by Peking: Margaret Fisher, op. cit., p. 740.
55. Indigram, 1/63. Jan. 3, '63. The first round of talks was disrupted by the inopportune release by the then Prime Minister John Diefenbaker that Western aid to India would total $120 million.
56. AR, 4953.
(1) the fate of the Vale of Kashmir; (2) the economic interests of Pakistan (which included control of the rivers Indus, Chenab, and Jhelum); (3) the wishes of the Kashmiris; and (4) the strategic interests of Pakistan (which included defence in depth to protect her railways and the Grand Trunk Road). Bhutto firmly rejected partition along the cease-fire line, but suggested that a division along communal lines would be acceptable. Furthermore, he insisted upon a firm Indian declaration that the status of the Vale would remain open.

Naturally enough these proposals were totally unacceptable to India; Prime Minister Nehru denounced this latest Pakistani communal dictates as "a vicious communal approach repugnant to the entire spirit animating our national struggle for independence." Thus there was no meeting of minds, and discussions ended on February 11 with both parties recognizing that wide differences of opinion existed between the two.

Fourth Round

Prior to the opening of the fourth round of discussions in Calcutta on March 12, tensions between India and Pakistan increased considerably. On March 2, the Sino-Pakistan

57. AR. 5107.
58. This would in effect leave India with only Hindu Jammu and possibly Buddhist-Ladakh which at this time was under partial Chinese occupation. This was the first time that the Pakistan Government deviated from its original goal of a plebiscite.
60. Indigram. 12/63, Feb. 12, '63; AR. p. 5107.
boundary agreement providing for the demarcation of their common border was formally signed and in spite of Pakistan's insistence that it was provisional and contingent upon a settlement in Kashmir, it was bitterly denounced by India as "invalid and unacceptable" and as involving a surrender of over 13,000 square miles of Indian territory. Thus it was in a strained atmosphere that talks re-opened in Calcutta.

Once again Bhutto insisted upon the division of the State along communal lines, and although it was reported that Pakistan would modify her position towards Jammu if India would adopt a more flexible attitude towards the Vale, no agreement was reached and the discussions ended in deadlock.

Fifth Round

Following the failure of Bhutto and Sardar Singh to resolve their countries' differences, President Ayub once again declared the fundamental points required by Pakistan in any settlement: security, self-determination, and the economic interests of Pakistan. In the case of the latter, moreover, he expanded Bhutto's earlier demands for physical control of the Indus, Jhelum and Chenab rivers (which were guaranteed by the 1960 treaties) to include complete control.

61. PND. March 15, '62; Indiagram. 21/63, March 5, '62 and 22/63, March 7, '63. For text of agreement and maps see Peking Review. March 15, '63.
Alistair Lamb in The China-India Border: The Origins of the Dispute claims "all that has in fact been surrendered has been the theoretical advanced boundary of the kind which Sir John Ardagh proposed in 1897." (p. 175).
62. AR. p. 5160.
of their watersheds. This important pronouncement was followed by a statement by the Pakistan delegate on the eve of the fifth round of talks in Karachi, openly rejecting partition but suggesting the possibility of a state-wide referendum. Thus, when discussions re-opened in Karachi on April 20, there were few prospects of settlement.

It was at this meeting, however, that the Indian delegate proposed partition as a concession "unprecedented in magnitude and magnanimity" - which perhaps aptly summarizes the entire Indian attitude towards Kashmir. According to Indian sources the de facto boundary would be extended further east but would not include the major bone of contention - the Vale of Kashmir. Discussion therefore centered around this latest Indian proposal and the future of the Vale; and, as one might expect, there was no agreement. A future meeting was scheduled for New Delhi on May 16.

Sixth Round

Prior to the last round of discussions the Pakistan attitude hardened considerably: Ayub Khan reiterated Bhutto's earlier rejection of partition, while on May 9 the Pakistani delegate not only rejected partition but also any possibility of joint control over the Vale. Indeed, it was to be all or nothing. The reasoning behind this resoluteness, moreover, was revealed by Dawn which declared rather regretfully that

63. PND. April 15, '63.
64. PND. May 1, '63.
India had not found the danger from China sufficiently grave to persuade her from modifying her extravagant demands on Kashmir.\(^66\) Prime Minister Nehru, on his part, re-offered his "no-war declaration" which would in fact maintain the status quo and declared that despite recent setbacks, he was "determined" to have cordial relations with Pakistan.\(^67\) Yet, as with Pakistan, there was no indication of any major change in Indian policy.

When the sixth and final round opened in New Delhi on May 16, Pakistan revealed her hand and declared that the best way to solve the Kashmir problem and thus ensure friendly relations would be to give her control over the entire State. As if offering a major concession, Bhutto suggested that Indian control over Ladkh could continue for a six to twelve month period (to allow India to solve her problems with the Chinese) and that the Vale could be internationalized pending a plebiscite.\(^68\) When this was rejected, the Pakistan delegate immediately prepared to leave the conference but was finally persuaded by Sardar Singh to sign an abrupt communique expressing "regret that no agreement could be reached over the settlement of the Kashmir dispute."\(^69\) There was no mention of further discussions; at Palam Airport, Bhutto set the stage for further tension when he brusquely

\(^{66}\) PND. May 15, '63.  
\(^{67}\) Indigram. 41/63. May 10, '63.  
\(^{68}\) Indigram. 46/63. May 20, '63.  
\(^{69}\) AR. p. 5254.
declared "all peaceful means have been exhausted."  

Naturally enough, both India and Pakistan blamed each other for the failure of their latest rounds of talks. If blame is to be apportioned it must equally rest upon the shoulders of both parties: neither was prepared nor willing to alter her long-standing - and even traditional - policies towards the State.

Pakistan continued to press for a plebiscite and when this was rejected she was prepared to accept the partition of the State along communal lines. In asking for the impossible - complete control over the State - she revealed that her entire attitude towards the discussions was based on the premise that India would be prepared or even coerced into making large-scale concessions in Kashmir as the price for Pakistani friendship or even neutrality. This, however, was not to be, as India made it clear from the very beginning that her basic policy towards Kashmir remained unchanged: she claimed that her writ ran throughout the entire State and therefore any settlement would be treated as a major concession on her part. Thus both sides misinterpreted not only the then existing situation but also each other's outlooks towards Kashmir.

It would be unfair, however, to blame Pakistan, as the Indian Government did, for deliberately sabotaging the talks.

70. Indigram. 46/63. May 20, '63.
71. Ibid.
It would be equally unfair to blame India for failing to make appropriate "concessions" to achieve "an honorable and equitable settlement." Both parties had their own specific interpretation as to the nature of such a settlement; yet neither really understood the basic fears and interests of the other.
CHAPTER NINE

THE FINAL PHASE

(A) Impasse

Following the breakdown of discussion in May 1963, relations between India and Pakistan reached their lowest point since Partition. Gone was the facade of a possible rapprochement, as Pakistan worked in tandem with China to achieve her regional ends; while the latter worked assiduously to isolate India. India not unnaturally embarked upon an intensive diplomatic campaign against Pakistan - yet with every pronouncement she pushed Pakistan closer to Peking. Indeed, if Richelieu was right in saying that one must choose one's allies for their geographical or physical strength, and not for their integrity and charm, then Pakistan was perfectly justified to "flirt" with Peking.

This diplomatic revolution which perhaps could be described as a sheep seeking refuge from the wolf in a tiger's den, was further complicated by Western military aid to India, resulting as one Pakistani claimed, in the former "adopting an increasingly defiant and intransigent posture" over Kashmir.¹

In a speech in Srinagar on June 18, Prime Minister Nehru

¹. Round Table, 213, (December 1963). p. 90.
declared that he would never accept the partition of the Vale or its internationalization; on the 23rd, as if showing that he was still willing to compromise, he offered to settle the dispute on the basis of the cease-fire line with some minor adjustments - an offer previously rejected by Pakistan. On August 11, however, after intense American and British diplomatic efforts in New Delhi and Rawalpindi, Pakistan agreed to accept mediation on the following conditions: (1) India must give a categorical commitment that she would abide by the mediator's verdict; (2) India must settle the issue by self-determination; and (3) the mediator must be given a specific time limit to present his recommendations. The Indian reply to this latest Western effort came on August 13, when in a statement in the Lok Sabha, Nehru declared "there is no question of our considering any proposals for internationalizing or division of the Valley, or joint control of Kashmir... and the concessions which we offered Pakistan are no longer valid and we must treat them as withdrawn." Thus all Western attempts to obtain a settlement were in vain; the position of both parties remained as intractable as ever while the propaganda war continued unabated and soon degenerated into a campaign of personal vindictiveness and character assassination.

2. AR. p. 5318.
3. PND. Aug. 15, '63.
5. The Indian and Pakistani government releases, on this subject - especially the Indian - were shockingly intemperate.
Accompanying this bellicose diplomatic campaign was an increased number of armed clashes along the cease-fire line resulting in the strengthening of the United Nations truce teams in December 1963.6

(B) Internal Communal and Political Instability

The general state of Indo-Pakistani relations was further worsened by communal and political instability, not only in Kashmir, where the initial trouble began, but throughout the northern part of the sub-continent.

(1) The Resignation of Prime Minister Bakshi

On October 4, Prime Minister Bakshi announced that he would resign his premiership ostensibly under the Kamaraj Plan - described by one correspondent as the "massacre of ministers."7 Accompanying this important declaration was an announcement that legislation would be introduced to change the names of the Sardar-i-Riysat (Head of State) and Prime Minister to Governor and Chief Minister respectively; and that in the future all Kashmir representatives to the Lok Sabha would be elected directly by the people instead of nominated by the State Legislature. Furthermore, he took the wind out of the Pakistani sails by declaring that Article 6.

NYT. Dec. 4, '63.

7. Eastern World. XVII:10 (October 1963). p. 17. The Kamaraj plan was devised to allow Congress ministers of the States and central governments to resign to work for the reactivation of the Party.
370 of the Indian Constitution (which gave Kashmir special status) would remain.  

This seemingly patriotic move, in itself an anomaly since the Kamaraj Plan was purely a Congress Party invention, was further dampened by rumors in New Delhi that Bakshi was being pressured into retirement because of his general unpopularity and his inability to cope with the State's economic problems, and that he would resign on the understanding that his left-wing Education Minister, G. M. Sadiq, would assume the office of Prime Minister.  

This was not to be. On October 10, the Revenue Minister Khwaja Shamsuddin was appointed Prime Minister by the National Conference, Sadiq being dropped from the new cabinet.  

Shamsuddin's tenure of office was as short as it was unpopular, and when faced with its first major crisis - the theft of the Hazratbal relic - the rule of the law crumbled.

(2) The Theft of the "Hair"

On December 26, it was announced that a hair of the Prophet Mohammed had been stolen from the Hazrathbal shrine in Srinagar. Almost immediately communal riots broke out

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9. Evidence has recently come to light that Prime Minister Nehru was toying with the idea of releasing Sheikh Abdullah but the Sheikh, not wishing to undermine his strong position in the State refused to be released by Bakshi. Consequently, Bakshi was removed from office. The Hindu Weekly Review, March 22, '65.
11. NYT. Dec. 27, '63.
as far away as East Pakistan and West Bengal, India charging that the Pakistan radio and press were making anti-Indian statements and raising the Cry "Islam in Danger" in an effort to fan the flames of communal hatred and thus embarrass India's international prestige as a secular state. Furthermore, the Indian Government charged that "undoubtedly theft was the work of conspirators in the pay of foreign interests set on creating chaos in Kashmir" - the obvious implication being that Pakistan was to blame. In Pakistan, on the other hand, the blame was placed on Hindu extremists and demonstrations were held throughout both wings of the country.

Appeals by both Nehru and Ayub Khan to halt the spread of violence proved futile and the communal carnage continued. The Indian Army was forced to take over control of Calcutta in an effort to restore tranquility, and in spite of charges and counter-charges as to who was originally responsible for this latest outburst of Hindu-Muslim animosity, India claimed that by February 1, some 52,000 persons had fled into India while the Pakistanis claimed that over 50,000 refugees had entered East Pakistan and that some 75,000 were homeless in Calcutta alone.

12. Indiagram. 1/64. Jan. 3, '64.
13. NYT. Jan.11, '64; PND. Jan. 15, '64.
14. AR. p. 5713; PND. Feb. 1, '64. The total figure of refugees from Pakistan reached 400,000 by June 1, 1964.
Whereas the Hazratbal incident sparked communal violence a thousand miles away from Kashmir, demonstrations in the State itself were political rather than communal and decisively showed that no one - least of all Prime Minister Shamsuddin - could rule without assistance from the Indian Army. Violence was aimed, not against the Hindu and Sikh minorities, but at the personal property of the former Prime Minister and National Conference offices, while many Cabinet Ministers, fearing for their lives, sought refuge behind the bayonets of Indian troops. Of the many Conference leaders, only G. M. Sadiq could walk the streets of Srinagar in comparative safety.  

Accompanying this anti-National Conference feeling were demands for the formation of a new government and even the occasional voice was raised for the release of Sheikh Abdullah. It was little wonder, therefore, that the Pakistan Government claimed it to be an anti-Indian uprising. In a way this was partially correct; but what the Pakistan Government overlooked in its haste to condemn India, was the fact that the Kashmiris, distrusting their own leaders' judgement as to the authenticity of the "hair" voluntarily turned towards Delhi.

Three persons were arrested for the theft - the aged keeper of the shrine, a small boy and a trader with vague

16. PND, Feb. 1, '64.
"connections" in Azad Kashmir - yet the motives behind this crime are shrouded with half-truths and innuendoes. There are rumors, with little proof, that the theft was designed to prove "that no one - least of all Premier Shamsuddin - could really rule Kashmir as effectively as ex-Premier Bakshi Ghulam Mohammed had done." From the Pakistani side, however, the theft was simply another example of Hindu arrogance which made possible "such criminal acts of sacrilege and vandalism." The Indian Government, on the other hand, made little secret of the fact that they thought Pakistan and the Plebiscite Front responsible for the entire affair. As early as January 1, Prime Minister Nehru in his appeal for the return of communal sanity, declared that "it is clear that the criminals who did it is no friend of Kashmir or of India.

Obviously alarmed over the unpopularity of Shamsuddin's administration and the pro-Pakistani nature of the Kashmir demonstrations, Lal Bahadur Shastri - now the ailing Prime Minister's closest confidant - flew to Srinagar to mend the obvious rift in the National Conference ranks. Arriving on February 28, he told a National Conference meeting that "he clearly visualized the necessity for a change in the present

The attending delegates quickly grasped the message and ex-Premier Bakshi nominated the original contender - G. M. Sadiq - who was unanimously elected. As if in afterthought, the deposed Prime Minister Shamsuddin was elected deputy leader on March 3. Thus this absurd incident brought about a complete shake-up in the Kashmir hierarchy. On the international scene, the seriousness of the Indo-Pakistan rift was clearly shown at the United Nations.

(C) Renewed Security Council Deliberations

On January 20, Pakistan, taking full advantage of the communal unrest in both countries, urged the Security Council to meet and discuss the Kashmir issue; and following an exchange of correspondence, during which India charged that Pakistan had deliberately started this latest trouble to obtain a hearing, the Security Council agreed to a meeting on February 3. From the outset it was obvious that any debate would simply be an extension of the Indo-Pakistani "cold war." Indeed, prior to his departure from Bombay, the Indian delegate and Education Minister, M. C. Chagla, had declared that India would take an uncompromising attitude towards the Kashmir status quo and since the State was a "domestic issue" they would tolerate no "outside interference."
Discussions began on February 3, and the remarks of both delegates reflected the general state of Indo-Pakistan relations. Opening the debate, Z. A. Bhutto, reviewed events in the State since 1947 and charged India with violating her commitments under the various Council resolutions. He charged that uprisings over the loss of the "hair" were the direct result of India's persistent policy of communal persecution.23

Answering at length on February 5, the Indian delegate bitterly attacked Pakistan's communal nature as "religious apartheid" and made it clear that his Government would not welcome another resolution on the issue. Furthermore, he charged that any idea of a plebiscite was out of the question because of (1) Pakistan's failure to withdraw from Kashmir; (2) the Sino-Pakistani Boundary agreement and the "gift" to China of 2,000 square miles of Kashmir territory; and (3) the changed constitutional developments on the subcontinent. It is significant to note, however, that since India was receiving Western arms and Soviet aircraft, no mention was made of Pakistan's receipt of American arms or her membership in the Western Alliance as a factor preventing a settlement in Kashmir. Instead, the delegate charged that Pakistan and China were plotting to keep India weak—an obvious bid for Western and Soviet support.24

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On February 10, the British delegate, Sir Patrick Dean, voiced his Government's support for all previous Council resolutions and urged that a bold new approach be taken to solve the Kashmir dilemma.\(^{25}\) This so incensed the Indian delegation that they pointedly boycotted a reception in New York for the British Foreign Minister R. A. Butler.\(^{26}\) The American delegate, Adlai Stevenson, in a similar vein, supported all the previous resolutions and recognizing the right of Kashmiri self-determination, called for mediation under the good offices of U Thant.\(^{27}\) The Soviet delegate, on the other hand, although still supporting the Indian position, seemed to sense the urgency and seriousness of the conflict and urged direct discussions.\(^{28}\)

On February 17, the Indian delegate announced that his country would attend bilateral talks - but not those based upon old United Nations' resolutions.\(^{29}\) Debate, however, was postponed indefinitely following Bhutto's attempts to seek an adjournment for one week, ostensibly to consult his Government but in fact to be present for Chou-en-Lai's visit to Pakistan; thus, in the words of the Indian Government, "dismissing with the contempt it deserved, Pakistan's bogus complaint against India."\(^{30}\)

\(^{26}\) NYT. Feb. 13, '64.  
\(^{28}\) ibid.  
\(^{30}\) Indigram. 15/64. Feb. 19, '64.
As previously mentioned, the Security Council debate only served to widen the breach between the two nations and harden the population of both countries into two irreconcilable camps. Thus, when certain parties made a genuine attempt to achieve a rapprochment, it was too late.

(D) The Release of Sheikh Abdullah

On April 7, the two Home Ministers, G. L. Nanda and Habibullah Khan met in New Delhi to discuss (1) the restoration of communal harmony; (2) the movement and care of refugees; and (3) the problem of illegal immigrants. Although the Kashmir issue was not on the agenda, discussions ended on a cordial note with both parties agreeing that the rights of minorities in India and Pakistan must be protected. While these talks were underway, tensions were further eased by the release of Sheikh Abdullah, former Deputy Revenue Minister Kwaja Ali Shah and Sufi Mohammed Akhar - all of whom had been detained in 1958 to undergo trial in the Kashmir Conspiracy Case which cost the Indian Government over seven million dollars.

The official Indian position regarding the release of Sheikh Abdullah on April 8, was that it was purely an internal matter and symbolic of the new-found stability in the State. Nevertheless, news of the Government's decision was greeted with mixed reaction in the Lok Sabha. There can

31. Indigram, 30/64. April 10, '64.
32. NYT. April 9, '64.
33. AR. p. 5797.
be little doubt, moreover, that the Indian Government felt that a further five years incarceration, changed constitutional conditions in Kashmir and the Sino-Pakistani detente would be sufficient to erase the bitterness of 1958 and swing the Sheikh's attitudes into line with those shared by the majority of the National Conference. Once again they were wrong. 34

At a press conference on April 9, the Sheikh - in an obvious bid to reassert his political leadership and fill the political vacuum left by the recent crisis - declared that he was not convinced that self-determination had been expressed in Kashmir. 35 Not surprisingly, the reaction of the Indian Government was immediate: on April 11, Lal Bahadur Shastri paradoxically declared that while India enjoyed complete freedom of speech, "there can be no freedom for preaching some kind of independence or secession from the Indian Union;" on the 12th Chagla (by now the bitterest critic of Pakistan) exclaimed that "the law will take its course if Sheikh Abdullah does not maintain his loyalty to the Constitution and the country of which Kashmir is an integral part...there is no freedom of speech to preach secession or sedition." 36

Abdullah, on the other hand, failed to agree with the above remarks and addressing a crowd of some 40,000 in Doda

35. AR. p. 5797.
36. AR. p. 5798.
declared:

India says that this issue is settled and that there can be no talking about it. We have to impress on the leaders of India that we will never surrender our right to determine our own future... 37

On April 18, he was welcomed by a crowd of 250,000 in Srinagar, and on the same day denounced both India and Pakistan for their selfish Kashmir policies before a rally of 140,000. 38

The next day the Sheikh stated that India's claim to Kashmir was based purely on might. 39 Indeed, it was obvious from the moment of his release that once again the Sheikh was the true spokesman for "Kashmir" nationalism.

In spite of these attacks on both India and Pakistan, it was clear that Abdullah recognized the dangers inherent in the continuation of the dispute. He fully realized that because of Nehru's serious illness and the complexity of the Kashmir issue, any solution must come within the Indian Prime Minister's lifetime - or possibly not at all. 40

Nehru, it is suggested, shared exactly the same view.

(E) The Nehru-Abdullah Proposals

In one-year retrospect, it is clear that following this crippling stroke at the Bhubaneshwar Congress session on January 7, 1964, Prime Minister Nehru genuinely sought to bring about a rapprochement between India and Pakistan. As

38. ibid.
39. AR. p. 5809.
40. AR. p. 5797.
if recognizing the strong forces which would emerge, and
indeed have been emerging, since his death, the ailing Prem­
ier attempted to solve the Kashmir dilemma - not by a plebiscite
or partition, but through what could be termed a constitu­
tional approach. But by the time he made his dramatic move
public opinion had hardened and his life was reaching its
end.

Following the breakdown of discussions in May 1963, it
seemed to a few liberal-minded individuals - at lease those
in India - that the only method of resolving differences
lay in the formation of a loose defederation or confederation
of India and Pakistan. Although such a proposal, including
possibly Bhutan and Sikkim, was not new, it seemed to many
to be the logical corollary of Partition. Indeed, it was
hoped that once emotions had cooled, reason would again pre­
vail and this unnatural separation cease. But reason had
not prevailed - largely because of the Kashmir dispute -
and by forming a loose federation it was felt that the
Kashmir issue could be circumvented: a rather negative
approach but nevertheless one which has merit.

On April 29, 1964 Sheikh Abdullah, accompanied by his
principal lieutenant, Mirza Afgal Bag, arrived in New Delhi
for talks with Prime Minister Nehru, and notwithstanding the
fact that his recent statements regarding the status of Kash­
mir had aroused the ire of Indian parliamentarians, the
importance of his visit was shown by his welcoming committee
the aging C. R. Rajagopalachari in Madras, the Sheikh again announced that a "positive and practicable solution" had been found but that it would be unwise to reveal its nature until presented to the Prime Minister.\(^4\) Whether or not this solution was the same as that indicated on May 1 is difficult to ascertain, but one can readily assume, especially with Rajagopalachari's involvement, that it included far-reaching proposals designed to bring India and Pakistan closer together.

Prime Minister Nehru's silence on Abdullah's efforts was broken on May 6 when he declared to the Executive of the Congress Parliamentary Party that there would be no change in the status of Kashmir. He also announced in the Lok Sabha on the same day that if anything came out of his talks with the Sheikh, or his efforts, Parliament would have the final say. He declined, however, to reveal the nature of the Abdullah-Rajagopalachari talks in Madras. On the same day Abdullah received a letter directly from Ayub Khan in which the President not only expressed his desire for a peaceful settlement to Indo-Pakistan problems, but also declared "you will understand our anxiety that no settlement is reached without due consultation and agreement with us," in effect, inviting him to visit Rawalpindi to present his proposals.\(^5\) It is significant to note that the Indian Government did not object to this breach of protocol and one

\(^4\) ibid.

\(^5\) PND. May 15, '64.
is left with the distinct impression that Nehru had given the Sheikh a carte blanche to attempt to reach a settlement with Pakistan.

This was given further confirmation on May 15 when the Prime Minister once again expressed his support for Abdullah, who, it must be remembered, was still questioning the finality of Kashmir's accession. In an address to the All-India Congress Committee in Bombay, Nehru declared that if the Sheikh could improve Indo-Pakistan relations

...he will have done a great service to both countries. We will have to help him in this attempt, but in doing so, we must adhere to our principles as well as to our basic attitudes towards Kashmir.46

Upon being questioned the Prime Minister declined to reveal either the nature of this aid or the outcome of his latest discussions.

Although the exact relationship between Nehru and Abdullah is uncertain, it is known that both genuinely desired to bring about a reconciliation with Pakistan. Enquiries show that the Prime Minister left no record of his discussions and correspondence, yet it is obvious that both were thinking in terms of an Indo-Pakistani confederation, with a modified status for Kashmir. Whether or not there was agreement as to the exact nature of this confederation, is pure conjecture. At this time New Delhi was afloat with rumors that the proposed settlement envisaged either a

46. AR p. 5837.
condominium or a trusteeship in Kashmir. The former, which would include a joint guarantee for defence and foreign affairs as an alternative to accession, was unequivocably rejected by Pakistan because it

...presupposes that the improbable can become the probable and that two sovereign States can unite over the defence...of a third territory while their own armies face each other...Besides defence involves foreign policy, and Pakistan involves foreign policy, and Pakistan which follows a policy of peaceful coexistence and, friendliness to all nations including China, cannot have a common foreign policy with India, which is militaristic and militant.47

To the idea of a trusteeship - simply another variation of an independent Kashmir - it was obvious, as the last round of Security Council deliberations clearly indicated, that neither the Government of India nor the Prime Minister would countenance the surrender of their physical control over Kashmir to any other outside agency thus providing a precedent for further State autonomy.

According to qualified sources, Nehru asked Abdullah to visit Pakistan on a two-fold mission. First, the Prime Minister had received many letters from Kashmiris living in Azad Kashmir and West Pakistan and therefore decided that the Sheikh would be the ideal person to investigate their condition (which incidentally in each case was wretched) and ascertain their desires.48 Second, and by far the more important, was his desire to allow the Sheikh to explore the

prospects for a general reconciliation; including the possibilities of an Indo-Pakistan confederation with Kashmir as part of India, and if this was agreed upon then the State could develop into a semi-autonomous entity within this federation—"in about a decade." There was no indication, however, as to the exact nature of these proposals or even their originator, and although no one could tell the Prime Minister of the difficulties in dealing with Pakistan over Kashmir, Abdullah seemed so sure of his new-found role as the savior of the sub-continent that no one, least of all Nehru, would discourage him from pursuing what he believed to be his destined path.

Sheikh Abdullah arrived in Rawalpindi on May 24 and was met by the Minister of External Affairs, Z. A. Bhutto, the President of Azad Kashmir, K. H. Khurdish, the the largest crowd in the history of the city. Within an hour he was discussing his proposals with Ayub Khan, but as with his various meetings in India there was no indication of their nature. On the 25th, the Sheikh addressed a rally in the city, and showing that he was nobody's stooge, declared that amity and not animosity was the key to better relations and stressed Prime Minister Nehru's desire for a reconciliation between the two countries. Pakistani enthusiasm, however, rapidly waned because of his frequent mention of India's secular nature and the need to protect minorities in any

49. Round Table, 216. p. 388.
50. PND. June 1, '64.
On May 26, Abdullah announced that Ayub Khan and Nehru would meet in New Delhi in June to attempt to solve the Kashmir dispute. Although the specific date was not revealed, it was generally believed that such a meeting would precede the July Commonwealth Prime Ministers' Conference. The importance of this announcement was two-fold: first, it was to be the first visit to New Delhi by President Ayub since 1960; second, it was the first time that Ayub had accepted a visit to India to discuss Kashmir without insisting upon preliminary ministerial discussions or pre-conditions - a truly significant development.

Just as talks were entering the critical stage - Nehru died. Abdullah immediately cancelled the remainder of his visit and returned to New Delhi for the funeral. It was left to President Ayub to reveal and reject the Sheikh's proposals.

At a divisional meeting of the Muslim League at Lahore on May 31 the President declared that he had rejected the Sheikh's proposals for confederation on the grounds that even with respect to defence, foreign affairs and communications, there had to be one centre and that this would eventually encroach upon residual State powers. Obviously thinking of his problem child - East Pakistan- the President

51. AR. p. 5951.
52. NYT. May 27, '64.
declared "the object of our Kashmir policy is to liberate Kashmir and not undo Pakistan."  

Following the death of Nehru, Ayub Khan called for a moratorium on the Kashmir dispute, and in his June 1 broadcast he made a special plea for a fair and equitable settlement to Indo-Pakistani differences. With the emergence of Prime Minister Shastri, however, it became clear that the Indian attitude towards Kashmir remained resolute, and in fact, had hardened considerably; removing at a stroke the theory that Nehru's Kashmir background was a prime factor in India's Kashmir policy. But before discussing any prospects for a future settlement under India's new leadership, it is germane to answer the question: "Why are India and Pakistan so concerned over the future of the State?"

53. PND. June 15, '64.
CHAPTER TEN

THE VALUE OF KASHMIR TO INDIA AND PAKISTAN

With the death of Prime Minister Nehru and the rejection of his final proposals to resolve the Kashmir dispute, there now seems to be little chance of a general reconciliation between India and Pakistan over the future of the State. Indeed, of the many proposals brought forward to solve this international dilemma those suggested by Nehru on the eve of his death were without question the most practical and far-sighted. Yet like the previous ones, all have been rejected by one party or the other, ostensibly on the grounds that any change in the State's status would be contrary to their presupposed legal or moral principles.

India, while claiming that Kashmir is legally hers and that Pakistan has no *locus standi* in the State, has consistently rejected any reference to the World Court to determine this legality on the grounds that one cannot negotiate her sovereignty. But in refusing to settle the Kashmir dispute, except on her own terms, she has brought in military aid, membership in military alliances and friendship with China as reasons for not complying with the many United Nations resolutions. Such reasoning must seem logical only to Indian officialdom. Pakistan, on the other hand, has presented herself to the world as the standard-bearer for Kashmiri self-determination and has consistently held
up India to ridicule for her two-faced Kashmir policy. Upon
examination, however, one finds that Pakistan's attitude to­
wards Azad Kashmir is autocratic and far removed from the
basic precepts of self-determination and democracy.

To see the fundamental reasoning behind these incon­
sistent and illogical attitudes towards Kashmir one must
leave aside questions of self-determination and legal rights
and examine at grass roots level the strategic, economic and
political values of Kashmir to both nations.

Some reference has already been made to the value of
Kashmir to India and Pakistan. But these factors, under the
influence of foreign and domestic issues, have not been cons­
tant. It becomes necessary, to discuss each one separately
in the perspective of eighteen years.

(A) The Strategic Values of Kashmir to India and Pakistan

It can be argued that the developments in military
science since the Second World War have made geographic
boundaries obsolete; and although the ability of a nation
physically to invade and occupy a neighbour's territory is
dependent to a large degree upon geographic considerations,
the ability to wage war is now theoretically unlimited. Never­
theless, geographic considerations can be extremely important
in determining the foreign policy of any stage.

(1) India

The strategic importance of Kashmir to India has altered
considerably since Independence. In 1947, while the Indian Army was moving into the State, Prime Minister Nehru declared that

Kashmir because of her geographic position with her frontiers...with the Soviet Union [Incorrect], China and Afghanistan, is intimately connected with the security and international contacts of India.¹

Indeed, it was Kashmir which provided India with her window to Central Asia. From the point of security, however, it is difficult to ascertain the exact role of the State in the defence of India; and upon examination, one is left with the feeling that until 1962, Kashmir was a luxury rather than a necessity.

In the early years of independence, the Western nations and not the Soviet Union and China were looked upon by India with suspicion as expansionist or colonialist powers. To the Indian leaders, including Nehru, the Soviet Union was the friend of the colonial peoples and therefore no physical threat; while China, in the throes of violent revolution, was considered akin to India and consequently no danger to her security. Communism was recognized as a possible internal menace, but not communism in the guise of Chinese or Russian nationalism. The threat to India, therefore, lay in the return of Western imperialism - and that could hardly re-emerge from the passes of the Himalayas.

Even if the Soviet Union should cast covetous eyes on India, it was unlikely that Kashmir would be chosen as an invasion route; for the Chitral and Khyber Passes (in Pakistan and Afghanistan respectively) would provide easy access to the Indus Valley and the Punjab. The logical route from Russian Central Asia, therefore, would lie across Afghanistan and Pakistan. Pakistani leaders have consistently pointed out the vulnerability of their nation to any invasion from the West and the need for the unified defence of the sub-continent, yet their pleas have always fallen on deaf ears. With the Indian rejection of any Russian invasion through the most logical and historical route, it is highly unlikely that any serious consideration was given to the possibility of an invasion across the high mountains forming the northern boundary of Kashmir.

From China, on the other hand, it was most improbable that any invasion of India would come through either the Karakoram Pass in Sinkiang or the Konga Pass in Tibet - which during the early stages of the dispute was free from Chinese control. If China were planning a serious invasion of the sub-continent the logical route would be through Assam and Burma and then across the Gangetic Plain, rather than through Ladakh. Indeed, how little importance India felt for Kashmir as a strategic necessity can be shown in the ability of the Chinese to construct a military highway across the Aksai Chin Plateau and to occupy some 15,000 square miles
of Indian-claimed territory prior to any formal protest being launched.

If one assumes that Pakistan is India's number one enemy, and there are many Indians who hold this view - Kashmir would still be of secondary importance. There is little in the State of strategic value - no important roads, railways or vital industries - and even if an invasion of India by Pakistan were planned, its logical path would be along the traditional invasion routes of Alexander and Timur across the Indus Plain and not through Kashmir.

Prior to 1962, any Indian claim to Kashmir purely upon strategic grounds was untenable; and there can be little doubt that India looked upon the State as a geo-political pivot in its relations with Central Asia, and therefore a necessity only insofar as it would further enhance her status by providing direct contact with Afghanistan and, as Nehru suggested, closer links with the Soviet Union. Kashmir, therefore, was a prestige issue, or as the Pakistanis prefer to claim, a luxury.

With the Chinese incursions and border wars of 1962, Kashmir assumed a position of primary importance in the defence planning of India. Now the State is partially occupied by two "enemies" who are in control of a major portion of its territory, and are (according to Indian sources) supposedly linked in a conspiracy to keep India weak. Although China now has control of some 15,000 square miles of
Ladakh, including the vital mountain passes, and has connected her forward military outposts with an all-weather road, the opportunities provided by control over this area are not unlimited. Nevertheless, Kashmir has now assumed unprecedented importance, and it would be an unwise commander, as the past has clearly shown, who would neglect the defences of the State.

India's claim to Kashmir has fluctuated from one based upon prestige to that required for her defence. Yet it is the writer's contention that the importance of the State has been blown up out of all proportion to the point where once again it has become an issue of prestige and national honor. If India were willing to negotiate with China on the basis of actual territory under control or required for each other's defence, instead of maintaining that China has no claims along the Aksai Chin, then the strategic value of the State would once again dwindle. The Indian attitude towards Kashmir had hardened long before the Chinese ever appeared on the scene, and while the strategic value and importance of the State has increased immeasurably, one must look further for Indian motives.

Thus, for the first time in the history of the Kashmir dispute, India can rightfully claim to have a genuine interest in the strategic value of the State. Pakistanis, on the other hand, have consistently shown concern over developments in the State; for, in many respects, Kashmir to them seems poised
like an ax over them.

(2) Pakistan

Pakistan's strategic interests in Kashmir are totally dependent upon who is in control of the State, and unlike India prior to 1962, the occupation of the entire State - or those areas adjacent to Pakistan - would be a major threat to the security of the country. Indeed, with the two main strategic highways and the West Pakistan railway system running parallel to Kashmir, and even the new capital of Islamabad only a few miles from the frontier, it is little wonder that the Pakistan Governments look upon Kashmir as a strategic necessity.

On February 10, 1950, Pakistan's Foreign Minister Mohammed Zafrullah Khan declared that

India's security would not be affected one ounce by the accession of Kashmir to Pakistan... On the other hand, the whole of the defence of West Pakistan is based upon the fact that these communication links would not be threatened.

Although this presupposes that India is Pakistan's number one enemy, and this fear was one of the primary factors leading to the decision to send troops into Azad Kashmir in 1948 and the demands for defence in depth during the 1963 discussions, it does not necessarily follow that an Indian invasion would come through Kashmir.

If India was intent upon destroying Pakistan through force of arms, then an army - especially armour - could

operate more efficiently in the Punjab than on the barren hills of Kashmir. This was clearly shown by the ineffectiveness of the mechanized units of the Indian Army to make any noticeable headway during the 1947-48 fighting and the nature of the border clashes which have plagued the two countries ever since. Nevertheless, if good fences make good neighbours and Pakistan is genuinely concerned with defence in depth, then the retention of the border portions of Kashmir within the Pakistani sphere of influence would be an important factor in any settlement.

This concern over the fate of Kashmir has placed the Pakistan Government in a paradoxical position: leaders from Liaquat Ali Khan to Mohammed Ayub Khan have claimed that once the Kashmir dispute is settled a new era of Indo-Pakistani friendship will begin. At the same time they claim that such a settlement must take into account these strategic interests. The official Pakistani position towards the Himalayan frontier of Kashmir, therefore, has remained essentially unchanged since Partition. In 1951, Mohammed Zafrullah Khan declared:

For any reasonable time in the future, nobody expects that any major threat to the security of the sub-continent can be made effective from the northern ranges of the Himalayas. Minor threats may arise; but no major invasion can be undertaken from the north through the Himalayas.3

Pakistan's reaction towards the Chinese attacks in 1962,

therefore, was that this was not a major invasion but rather a minor border war brought about primarily because of Indian recalcitrance. Although one can say that Ayub Khan would not be directly concerned with the northern frontiers of the State were it not for Pakistan's control of Azad Kashmir, he was sufficiently alarmed over the possibility of trouble along the Azad Kashmir-Sinkiang boundary, that he lost little time in agreeing with China to its formal demarcation.

The strategic importance of Kashmir to Pakistan is relative, and if the Pakistan Government is only concerned with the future of the State insofar as it provides defence in depth, then one can say that this has already been accomplished through the creation of Azad Kashmir and the signing of the boundary agreement with China. But the dispute continues, primarily because of Pakistani insistence, and therefore one must search elsewhere for motives behind the Pakistani attitudes.

(B) The Economic Value of Kashmir

Economically, Kashmir is one of the poorest and least-developed regions on the sub-continent. The soil is poor and badly eroded because of harsh climatic conditions, while (according to L. Rushbrook Williams) even the physical state of the livestock - cattle stunted to the size of large dogs - is a constant reminder of a depressed environment. Only the Vale of Kashmir, which shines like a jewel in a poverty-
stricken setting, would be a worthwhile prize to any invader. Indeed the State has only two major natural resources - minerals and water.

There are major deposits of coal, copper, bauxite, limestone, manganese and uranium, but to date there has been little development largely because of the lack of capital and transportation facilities. Both India and Pakistan, and especially the latter, which is desperately short of mineral deposits, are obviously aware of these economic potentialities; yet neither has seen fit to advertise the economic value of Kashmir in its claims to the State. To do so would only transform high moral principles into a modified form of economic imperialism.

The major natural resources of Kashmir with respect to India and Pakistan are her rivers: the Indus and its tributaries - the Jhelum, Chenab, Ravi, Beas and Sutlej. These provide the irrigation and in many cases the drinking water for the Punjab and therefore are a vital necessity to the economic well-being of both States. Indeed, it can be said that whoever has control over the headwaters of these rivers has his fingers at the throat of the Punjab - a prospect which has caused justifiable alarm in Pakistan since India controls these headwaters, and has, on several occasions, diverted water destined for the West Punjab.

Five years ago one could have presented the canal waters issue as a major factor influencing Indian and Pakistani attitudes
attitudes towards Kashmir. Now, however, the Indus Water Treaty of 1960 under the World Bank formula, has effectively solved the division and control of these waters to the satisfaction of both parties. Nevertheless, Pakistanis' suspicion of India’s motives has remained, and during the 1963 discussions they demanded (for the first time) complete control over the Indus waters and watershed as a necessity in any Kashmir settlement.

With the exception of control over Kashmir's waters - which to all intents and purposes is guaranteed by Treaty - there is little of economic value in the State worthy of the massive Indian and Pakistani military and economic expenditures. The State has been, and indeed is, a drain on the exchequers of both countries, and its economic exploitation by either cannot begin to compensate for the over-inflated military budgets of the past eighteen years.

(C) The Political Importance of Kashmir

As has been previously mentioned, India and Pakistan were founded on diametrically opposed concepts of nationhood; to this day, the pre-partition policies of the Congress Party and the Muslim League respectively have provided the theoretical basis for their relations with each other. To Pakistan, the partition of the sub-continent represented de jure recognition and acceptance of Jinnah’s two-nation theory and the fact that Muslims, who enjoy distinct cultural, social and religious differences from both Hindus and Sikhs, constitute
a separate nation. The underlying basis of this theory was that Muslims and Hindus could not co-exist within one state and that since Congress Raj would mean Hindu Raj with "an assertion of Hindu hegemony over the Muslims," the Islamic way of life would be in constant danger. Thus their only hope of salvation as a religious group lay in separation from the mainstream of Indian, or Hindu life. Since Pakistan was created on the basic precept that Islamic affiliation constituted nationhood, Kashmir is claimed as a matter of right.

India, on the other hand, while agreeing to Partition along communal lines, did so only as a matter of political expediency — the alternatives being anarchy, civil war or even the withholding of immediate independence. Nehru and the Congress never accepted the validity of the two-nation theory, and while tacitly extending de jure recognition to Jinnah's concepts of Pakistan, never deviated from their goal of a nation founded along secular lines. Indeed, Nehru's attitude towards the two-nation theory is clearly shown in his bitter outburst to Josef Korbel of the United Nations Commission for India and Pakistan: "We are a secular State which is not based on religion. ...Pakistan is a medieval State with an impossible theocratic concept. It should never have been created." Thus there was nothing in the structure of the new India to prevent the accession of any State

regardless of its religious composition. For India to accept the validity of the two-nation theory would be to deny the basis of the Freedom Movement and the concept of the secular State. For Pakistan, on the other hand, anything less than such an admission would cast doubt upon the legitimacy of the national homeland.

(1) Pakistan

Since Pakistan was founded on the basis that religion constituted nationhood and that Kashmir is claimed as a matter of right, the Pakistani side of the Kashmir dispute is simply an extension of the two-nation theory. The roots of their case lie in the fact that since Kashmiris are predominantly Muslims, they must prefer - as did their brothers in the North West Frontier Province and Sylhet District - incorporation with Pakistan. It is inadmissible that any Muslim inhabitant of the State might prefer prosperity with India to hardship in Pakistan. Indeed, the Indian Government has persistently held out the blessings of Indian rule to the Kashmiris - but always in the most derogatory manner:

Whatever the people of the Kashmir Valley may decide...does liberal opinion seriously think that India - stabler, more democratic, and more progressive in her political and economic ideas - would be a worse choice than Pakistan, which is theocratic, unstable, retrograde and now helplessly dependent upon foreign aid. Will Kashmir's accession to Pakistan which will leave India with a permanent sense of injury, be a gain for democracy and freedom?6

Although conditions in both countries have changed considerably, this scornful attitude continues.

Accompanying this Pakistan attitude towards Kashmir is the feeling that India never really accepted Partition, and that her policies are directed toward eventually destroying Pakistan nationhood and thus achieving reunification of the sub-continent. Indeed, there is much evidence to support these fears.

Prior to Partition, the All-India Congress Committee passed a resolution which in part declared:

The A.I.C.C. earnestly trusts that when present passions have subsided, India's problems will be viewed in their proper perspective and the false doctrine of the two nations of India will be discredited and disgarded by all.  

The Maulana Kalam Azad, later the Vice-President of India and himself a Muslim, rejected Jinnah's concepts of nationhood and stated: "The division is only on the map...and not in the hearts of the people, and I am sure that it is going to be short lived." Similarly, the militant Hindu Mahasaba is on record that "India is one and indivisible and there will never be any peace unless and until the separate areas are brought back into the Indian Union and made integral parts thereof." It was deeply exasperating to many Hindus that Pakistan should be created out of the Mother India envisaged by the ancient scriptures; and it was equally

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frustrating that when Hindus were to rule Muslims for the first time in their long history, so many Muslims should escape their appointed fate.  

Even Prime Minister Nehru has registered his regret over Partition and has declared that "one day integration will inevitably come." Perhaps this was one of the guiding motives behind his efforts to form an Indo-Pakistan confederation in the Spring of 1964: undo Partition and solve the Kashmir dispute in one bold stroke. 

The majority of informed Pakistanis feel, therefore, that given the opportunity India would gladly turn the clock back to pre-partition times - and they look upon India's attitude toward Junagadh and Hyderabad in contrast to Kashmir as proof of her double standard of ethics and her determination to smash the very idea of an Islamic State. Kashmir has become the symbol of nationhood - a nation challenged from birth and under constant duress. Consequently, Pakistani nationalism has been anti-Indian, or more correctly, anti-Hindu. 

The stand taken by Pakistan toward Kashmir is inconsistent and paradoxical. If Pakistan's leaders were to admit or accept the permanent accession or attachment of the State to India, its raison d'etre would seemingly disappear; yet 

in order to strengthen its position in its dispute with India they have virtually talked away any claim to the State.

Lord Mountbatten's speech to the Princes in July 1947 firmly laid down the principle that while accession was an individual perogative, "You cannot run away from the Dominion Government which is your neighbour any more than you can run away from the subjects for whose welfare you are responsible." In spite of this pronouncement, Pakistan accepted the accession of the Maharajah of Junagadh whose splintered, predominantly Hindu State was separated from Pakistan by several hundred miles of Indian territory. Perhaps in defence of Pakistani motives, it could be said that this irrational move was only taken to spite India and cause her further hardship; but nevertheless, in doing so, one can say the Pakistanis not only accepted the right of the ruler to accede to whichever country he chose but also rejected the theory that theirs was to be a purely Islamic State. When it came to Kashmir, they rejected the Maharajah's accession to India as unlawful and demanded the State on the basis of its Muslim majority. Thus there were two inconsistent attitudes: one based upon self-determination and the other based upon the strict letter of the law. In both cases, however, Pakistan came out the loser.

Even the issue of self-determination has plagued

12. Lakhampal. op. cit., p. 23.
Pakistani leaders. On one hand they have consistently demanded self-determination in Kashmir, and have ridiculed India's moral support for liberation movements in Algeria and Angola as proof of her two-faced policies. On the other hand, the Pakistan Government has refused to accept the idea of an independent or semi-autonomous Puktoonistan - or Pathan State - and have kept the Red Shirt Leader Khan Abdul Ghaffar Khan under detention since 1947.

It is worth noting that the original two-nation theory ceased to exist on August 14, 1947. Indeed, on the eve of Partition, the instigator of this concept, Mohammed Ali Jinnah, looked forward to the day when in the new Pakistan "Hindus would cease to be Hindus and Muslims would cease to be Muslims, not in the religious sense...but in the political sense of the same State." This statement was later expanded by Prime Minister Suhrawardy - a leading proponent of Indo-Pakistan amity - when he declared:

The two-nation theory was advanced by the Muslims as a justification for the partition of India and the creation of the State made up of geographically contiguous units where Muslims were numerically in the majority (both of which would include Kashmir). Once the State was created, the two-nation theory lost its force even for Muslims.

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13. The basis of India's case against Goa was for self-determination.
Since Partition the Pakistan Government has dissociated itself from India's forty million Muslims and has firmly stated that they - as citizens of India - must look toward New Delhi for guidance and protection.

Indeed, the Pakistan Government today prides itself on the relationship between its communal groups; although their communal record has been far from spotless - though not as bad as India would have one to believe - the mere fact that Hindus and Muslims co-exist is sufficient proof that the two-nation theory is obsolete. It has even gone so far as to state that "Pakistan has not suggested that Kashmir should accede to Pakistan on the grounds that the majority of the people of Kashmir are Muslim."17 Thus the question arises: Why does Pakistan continue to claim Kashmir?

Pakistani nationalism from its inception has been negative, nurtured by the fear of an assertion of Hindu hegemony over the Muslims of undivided India and later over Pakistan itself. The present situation in Kashmir, is not the cause of Indo-Pakistani animosity, but the effect. It is the symbol of everything bad in the relationship between the two countries. The struggle for the State has become a national crusade - the very symbol of Pakistan's defiance and defence against an aggressive Bharat supported by all political and religious groups. That Pakistan has undertaken various plans to develop her nationalism along more positive and constructive

lines is true, but to date, every plan or proposition has met with little or no success as it soon falls back into the old rut of Hindu-Muslim animosity illustrated by the Kashmir dispute. Indeed, for Pakistan to deny any claim to the State or to modify her stand against India in Kashmir, would be to deny the basis of her nationhood.

(2) India

India's policy towards Kashmir during the past eighteen years has been totally consistent. The Maharajah acceded to her, and hence she has full legal and moral jurisdiction over the entire State. As has been shown earlier, however, her reasoning behind her non-fulfillment of the promised right of self-determination has been totally inconsistent.

In the early years of the dispute, India clinging to Kashmir in a determined effort to prove to the world - and especially to Pakistan - that her theories of statehood were superior and that rule from New Delhi was far more beneficial than rule from Karachi. She had as her popular leader in the State, Sheikh Abdullah, an ardent supporter of secularism and a Kashmiri nationalist who genuinely believed that the future of his people lay in continued association with India. Nevertheless, the future of the State was still open: Prime Minister Nehru still professed his belief in a plebiscite - on his own terms of course - and continued to stress that if the Kashmiris chose to join Pakistan, India would not stand in their way. In a speech before the Lok Sabha in August 1952,
the Prime Minister declared:

We would willingly leave Kashmir if it was made clear to us that the people...wanted us to go. However, sad we may feel about leaving, we are not going to impose on them at the point of a bayonet.\textsuperscript{19}

Two years later, however, the Indian Government claimed that the accession of Kashmir to India was irrevocable and that changed conditions had forced the removal of the oft-promised plebiscite.

The official Indian explanation of this sudden about-face was that (1) Pakistan had accepted American arms; (2) she had joined the South East Asia Treaty Organization and the Baghdad Pact; and (3) the Kashmir Constituent Assembly had voted to accede to India. In 1964 the reasons were again brought forward, but this time the emphasis was on Pakistan's detente with China. Certainly India was concerned over the possibility of a strong Pakistan or the entrance of the cold war into her sphere of influence; but this was a matter affecting Indo-Pakistan relations in general and of no particular importance to the future of Kashmir. It seems probable that the use of such shallow reasons as Pakistan's receipt of military arms and membership of the Western Alliance was merely an excuse to cover a problem of much deeper significance.

By 1953, it was clear to Prime Minister Nehru that the secular character of India had not affected the basic

philosophy of Kashmir's Muslim population and that any plebiscite in the State would be conducted, not on political issues as liberal Indian opinion would have liked to believe, but on the basis of the two-nation theory, a prospect which Nehru abhorred. In a speech before the Lok Sabha on September 17, 1953, less than one month after he and Prime Minister Mohammed Ali had agreed to the introduction of a Plebiscite Administrator for the first time, he declared:

We have always regarded the Kashmir problem as symbolic for us, and it has far-reaching consequences in India. Kashmir is symbolic as it illustrates that we are a secular State, that Kashmir, with a large majority of Muslims, has nevertheless, of its own free will, wished to be associated with India. Kashmir has consequences both in India and Pakistan, because if we disposed of Kashmir on the basis of the old two-nation theory, obviously millions...would be affected.20

The idea of a plebiscite was now out - and Nehru worked assiduously to justify his actions. In August 1953, the Kashmir leader Sheikh Abdullah, who considered the State's accession to India as temporary, was abruptly arrested in a midnight raid in Srinagar; in December Nehru announced that if Pakistan accepted American military aid the promise of a plebiscite would be rendered null and void. In the spring of 1954 further steps were taken to incorporate Kashmir with India. Indeed, nothing was allowed that would permit a change in the Kashmir status quo.

The major fear, it would seem, was not the rejection of

the two-nation theory, by three million Kashmiri Muslims after a period of benevolent government; but rather the effect upon India's forty million Muslims if the Kashmiris freely voted to join Pakistan. The Hindu reactionary element in India at this time was stronger than generally supposed and communal tension was at a high point owing to the influx of refugees from East Pakistan. Although the outcome of such a Plebiscite must be pure conjecture, given the historical precedents of Partition and the mass-movement of refugees, the consequences can be well imagined. The immediate result would be the mass exodus of Hindus from the State - accompanied by tales of atrocities and reprisals against the Muslim population of northern India. The long range effect would be that Hindu communalists - who it must be remembered found a sympathetic audience among the masses of rural India - would claim that a few Muslims are Indian by choice and all are secretly loyal to Pakistan. The results of such a situation would be catastrophic: bloodshed and violence would return to the sub-continent; the economy of the country would be disrupted; and India's carefully nurtured international image as a secular State would be tarnished or smashed completely - prospects which no Indian Government could allow.

This was one of the foremost considerations in the mind of Prime Minister Nehru, and in every speech in defence of his Kashmir policy, he mentioned the awesome consequences of a Kashmiri plebiscite. On August 13, 1954, he declared:
"We criticize and condemn communalism because it is the very opposite of the conception of broad tolerance and India's emotional unity," while in December 1956 - two weeks before Kashmir was once again placed before the Security Council - he stated that "if we maintain this kind of communalism... India will cease to be what it is. It will go to pieces." Indeed, on January 31, 1957, Nehru declared:

Nothing should be done which might bring before us the horrors of August, September and October 1947. This is the governing consideration in our minds. Every step we have taken has been guided by that thought. I do not want Kashmir to be made the scene of a fratricidal war... It is a matter, therefore, of utmost concern that no step be taken which will have these tremendous reactions.

From this date the Indian Government has claimed that the issue of Kashmir is closed. She has consistently used Soviet support in the Security Council to render impotent all Pakistani attempts to obtain a plebiscite, while following the border clashes with China - when she desperately needed a friend in Pakistan - she steadfastly refused to give up her control over the Vale of Kashmir. In accepting the provisional accession of the State on the grounds that it could become the showplace of secularism, she inherited a communal monster which could bring about her own destruction as a nation. When asked why India refused to agree to a plebiscite, V. K. Menon, the former Minister of Defence, candidly declared: "Because we would lose it. Kashmir

22. Ibid., pp. 234-5.
would vote to join Pakistan and no Indian Government responsible to agreeing to the plebiscite could survive." Furthermore, he conceded that "there may be neither legal or moral justification for India's position on Kashmir," but that the question was not "what was right, but what was opportune."23

Thus Kashmir has become a matter of life or death to the Indian Union; but the paradox and tragedy in the Indian claim to the State lies in the fact that while its rule is maintained to show the world in general - and Pakistan in particular - that Nehru's concept of secularism is truly operational, the actual workings of secularism in India is so precarious that the Government cannot afford to relinquish control over Kashmir.

(D) Summary

Both India and Pakistan have a genuine interest in the future of Kashmir, but it would be futile to apportion blame as to which party should bear the major responsibility for the continuation of the dispute. It continues today, as it did eighteen years ago, because Kashmir is considered by both States to be of vital importance to them. Anything less than an equitable settlement, taking into account each other's fears and interests, cannot but fail. It is not a territorial dispute, and herein lies the tragedy: the State's four million inhabitants have had little or no say in their

future and have become pawns in a much larger game, a contest which neither India nor Pakistan believe they can afford to lose.

Both countries seem emotionally incapable of recognizing each other's internal compulsions behind their respective Kashmir policies; consequently both claim that their attitude towards the State is one hundred percent correct and that automatically the adversary is in error. Compromise and concession are forbidden words, Mohammed Ayub Khan continues to search for external support in the hope that Pakistan may gain control of the entire State; while Lal Bahadur Shastri, in an effort to gain political strength, moves closer towards the establishment of a genuine Hindu State, the zenith of Pakistani fears, and a policy from which can come little good. 24.

Little can be gained by prophesying future developments on the sub-continent and their effect upon Kashmir; but given the trends in both India and Pakistan today, there is little hope for a general reconciliation. The border clashes will probably continue, both countries continuing to devote large sums of money to inflated defence budgets and to propaganda war. India does not want a plebiscite in the State and Pakistan is not strong enough to exert her will over India. The Kashmir dispute, at least for the present, appears to be

have become truly insoluble.
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