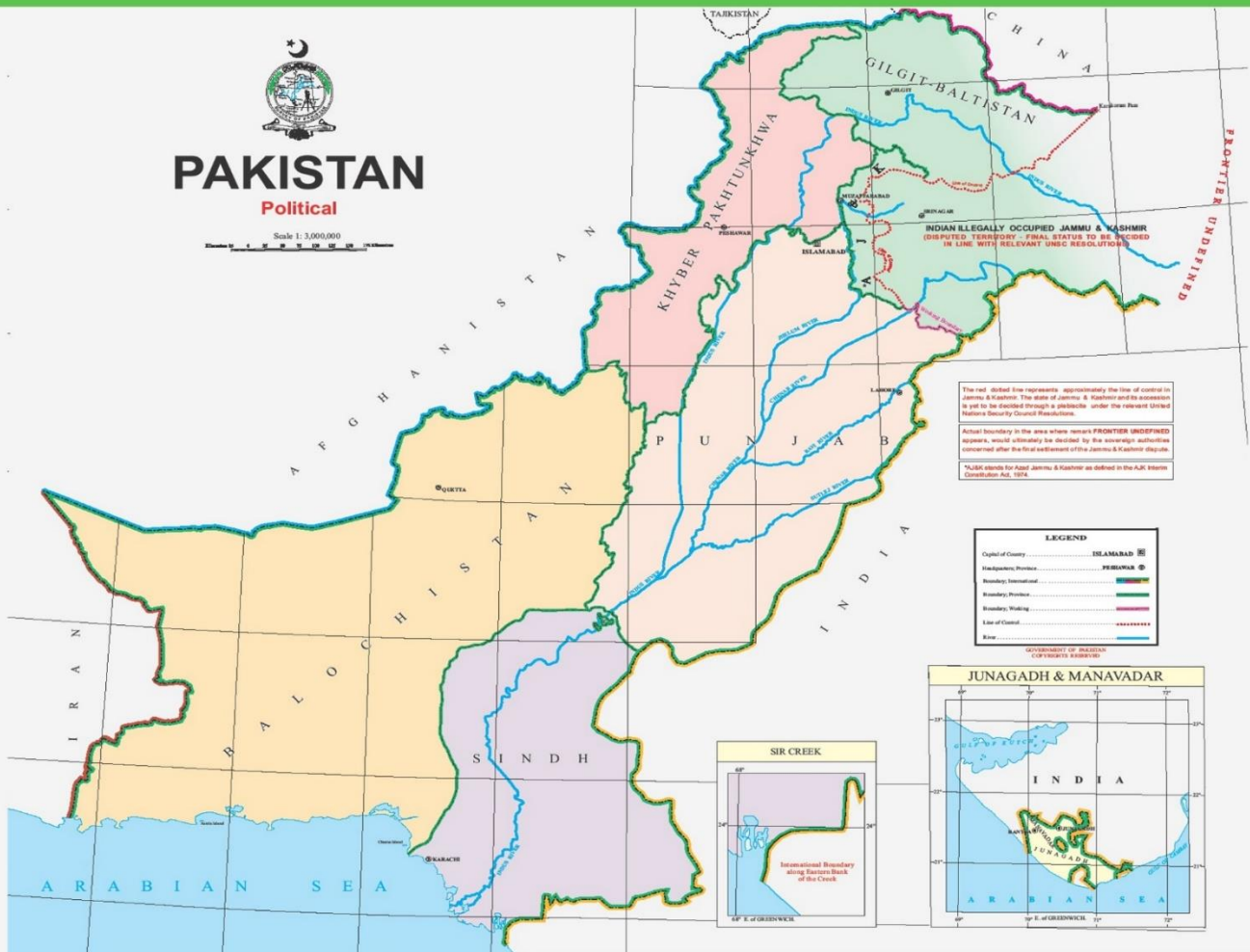




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KASHMIR Factsheet 1947 - 2020: *The Indisputable Facts*



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FOREWORD

The Jammu & Kashmir (J&K) dispute has been a primary bone of contention between Pakistan and India since 1947. After two wars – 1948 and 1965 – and continual standoffs, the future of Indian Illegally Occupied Jammu & Kashmir (IIOJ&K) remains in limbo. The abrogation of Article 370 and 35-A has further complicated the situation. Since 5th August 2019, Indian security forces have put Kashmiris in a state of military siege.

The J&K conflict is a United Nations (UN) recognized dispute between India and Pakistan, which no amount of Indian attempts to obfuscate the facts can relegate to the sidelines. In order to provide the research community and the general public interested in getting a comprehensive picture of the all-important events including UN Security Council (UNSC) resolutions, efforts of international mediation, track-II initiatives and bilateral conflict resolution attempts, the need for a ready reckoner was felt. This comprehensive compendium of facts germane to the dispute starting from its inception to post-5th August developments therefore, is expected to act as a useful primer for all those who wish to consult the essential facts in a single volume.

Brig (Retd) Raashid Wali Janjua, SI (M)
Acting President



ABBREVIATIONS

AII	Australia India Institute
APDP	Association of Parents of Disappeared Persons
ASEAN	Association of Southeast Asian Nations
BJP	Bharatiya Janata Party
CBMs	Confidence Building Measures
HRC	Human Rights Council
HRW	Human Rights Watch
IIOJ&K	Indian Illegally Occupied Jammu & Kashmir
ICCPR	International Covenant on Civil and Political Rights
MEPs	Members of the European Parliament
JKLF	Jammu Kashmir Liberation Front
JKCCS	Jammu Kashmir Coalition of Civil Society
NC	Jammu & Kashmir National Conference
J&K	Jammu & Kashmir
JKPC	Jammu and Kashmir People's Conference
PDP	Jammu and Kashmir Peoples Democratic Party
JRP	Jammu Republic Party
KIIs	Key Informant Interviews
LoC	Line of Control



MoFA	Ministry of Foreign Affairs
NDPI	National Democratic Party (Indian)
OIC	Organisation of Islamic Cooperation
OIC-IPHRC	OIC's Independent Permanent Human Rights Commission
PIPFDP	Pakistan-India Peoples' Forum for Peace and Democracy
POTA	Prevention of Terrorism Act
RCSS	Regional Centre for Strategic Studies
RSS	Rashtriya Swayamsevak Sangh
TADA	Terrorist and Disruptive Activities (Prevention) Act
UN	United Nations
UNCAT	UN Convention against Torture
UNCIP	United Nations Commission for India and Pakistan
UNSC	UN Security Council
UNSCR	United Nations Security Council Resolutions
UNMOGIP	United Nations Military Observer Group in India and Pakistan



THE STANDSTILL AGREEMENT¹

Identical telegrams were sent by the Prime Minister of Kashmir to Dominions of India and Pakistan on August 12, 1947.

Telegram from the Prime Minister of Kashmir addressed to Sardar Abdur Rab Nisitor, States Relations Department, Government of Pakistan, August 12, 1947:

Jammu and Kashmir Government would welcome Standstill Agreements with Pakistan on all matters on which these exists at present moment with outgoing British India Government. It is suggested that existing arrangements should continue pending settlement of details and formal execution of fresh agreements.

Reply from Government of Pakistan addressed to the Prime Minister of Kashmir, August 15, 1947:

Your telegram of the 12th. The Government of Pakistan agree to have a Standstill Agreement with the Government of Jammu and Kashmir for the continuance of the existing arrangements pending settlement of details and formal execution of fresh agreements.

Reply from Government of India:

Government of India would be glad if you or some other Minister duly authorised in this behalf could fly to Delhi for negotiating Standstill Agreement between Kashmir Government and India Dominion. Early action desirable to maintain intact existing agreements and administrative arrangements.

The representative of Kashmir did not visit Delhi and no Standstill Agreement was concluded between the State and the Dominion of India.

¹ Qaiser Javed Mian, "Resolving Kashmir Dispute under International Law," Punjab Judicial Academy, accessed August 31, 2020, http://www.pja.gov.pk/system/files/Resolving_Kashmir_Dispute_Under_International_Law.pdf.



GENESIS OF ARTICLE 370 AND ARTICLE 35-A

Shortly after the partition of the subcontinent, Article 370 was included in the Constitution of India in order to give autonomy to the former princely state of Jammu and Kashmir (J&K). As part of the Indian Constitution by the Indian Constituent Assembly, the Article was approved on November 26, 1949.² Constitutionally, the Article 370 accepted J&K's special status allowing the princely state to 'enact its laws in all matters except defence, foreign affairs, finance and communications.'³ Under this Article, J&K could formulate a separate constitution and have its own flag. The Article barred citizens, other than those of Kashmiri origin, from buying land and obtaining domicile of the princely state. Though it was meant to be an interim Article, its text clearly stated that it:

...may only be abrogated if its detractors can garner sufficient political support in the form of a constituent assembly.⁴

In 1957, however, the legislative body dissolved itself and the Supreme Court of India ruled in 2017 that Article 370 is, therefore, an unalterable part of the Indian Constitution. Later in 2018, the Supreme Court of India gave a ruling that:

Article 370 could not be abrogated because the state-level body that would have to approve the change went out of existence in 1957.⁵

According to A.G. Noorani, 'Article 35-A was made part of the Constitution of India in 1954 through a presidential order.'⁶ This Article further simplified the legal and constitutional clauses

² India.gov.in, "The Constitution of India," accessed September 11, 2020, <https://www.india.gov.in/my-government/constitution-india>.

³ "Full Text of Document on Govt.'s Rationale behind Removal of Special Status to J&K," *Hindu*, August 6, 2019, <https://www.thehindu.com/news/national/full-text-of-document-on-govts-rationale-behind-removal-of-special-status-to-jk/article28821368.ece>.

⁴ Balu G. Nair, "Abrogation of Article 370: Can the President Act without the Recommendation of the Constituent Assembly?" *Indian Law Review* 3, no. 3 (2019): 254-279 (254), <https://doi.org/10.1080/24730580.2019.1700592>.

⁵ Dhananjay Mahapatra, "Article 370 has Acquired Permanent Status: Supreme Court," *Times of India*, April 4, 2018, <https://timesofindia.indiatimes.com/india/article-370-has-acquired-permanent-status-supreme-court/articleshow/63603527.cms>.

⁶ A. G. Noorani, "Article 35-A," *Dawn*, August 11, 2018, <https://www.dawn.com/news/1426344>.



of Article 370 and constitutional status of J&K. It allowed the Constituent Assembly of J&K to interpret the definition regarding the permanent citizens of the former princely state. It also forbade non-Kashmiri citizens from ‘buying land, settling permanently, holding local government jobs’ and securing academic scholarships on the state’s quota.⁷ Article-35-A, known as the ‘Permanent Residents Law’, also barred female residents of the occupied territory from ‘property rights in the event that they marry a person from outside the state. The provision was also extended to such women’s children.’⁸

On August 5, 2019, as promised in its 2019 re-election campaign, the Bharatiya Janata Party (BJP) - the current ruling political party of India - abolished the existing special status of Jammu & Kashmir and revoked Article 370 in the Upper House of Parliament through a Presidential Order. On the same day, a ‘Reorganisation Bill’ was passed to administratively bifurcate the state into two (federal) union territories – one to be called ‘Jammu and Kashmir’ to have a state legislature; and the other ‘Ladakh’ to be ‘ruled directly from New Delhi.’⁹ Subsequently, on August 6, 2019, India’s Lower House of Parliament passed the Bill and recommended the revocation. This was followed by accession of ‘The Jammu and Kashmir Reorganisation Act, 2019’ by the President of India on August 9, 2019.¹⁰ Through its ‘steady plotting’,¹¹ the BJP government applied the entire Constitution of India on IIOJ&K. The revocation of Article 370 implied that its subset Article 35-A is also annulled. By revoking Article 370, India has shown its stringent stance on the dispute.

⁷ “Kashmir Special Status Explained: What Are Articles 370 and 35A?” *Al Jazeera*, August 5, 2019, <https://www.aljazeera.com/news/2019/08/kashmir-special-status-explained-articles-370-35a-190805054643431.html>.

⁸ Ministry of Law and Justice, The Constitution (Application to the Jammu and Kashmir) Order, 2019, G.S.R. 551 (E) (Notified on August 5, 2019), <http://egazette.nic.in/WriteReadData/2019/210049.pdf>.

⁹ John Lunn, “Kashmir: The Effects of Revoking Article 370,” House of Commons Library, August 8, 2019, <https://commonslibrary.parliament.uk/world-affairs/asia/kashmir-the-effects-of-revoking-article-370/>.

¹⁰ The Jammu & Kashmir Reorganization Act, 2019, <http://egazette.nic.in/WriteReadData/2019/210407.pdf>. The same was notified as the final Act on October 31, 2019.

¹¹ Jeffrey Gettleman, Suhasini Raj, Kai Schultz and Hari Kumar, “India Revokes Kashmir’s Special Status, Raising Fears of Unrest,” *New York Times*, August 5, 2019, <https://www.nytimes.com/2019/08/05/world/asia/india-pakistan-kashmir-jammu.html>.



WHY ARTICLE 370 MATTERS TO KASHMIRIS AND PAKISTAN

The abrogation of Article 370 and 35-A has legal and political dimensions. On the legal front, the actions have obliterated the political rights of Kashmiri Muslims. The move has also led to a collapse of bilateral agreements on the IIOJ&K dispute between Pakistan and India.¹² The Simla Agreement and Lahore Declaration have been superseded.

On August 16, 2019, the UN Security Council discussed:

.....the volatile situation surrounding Kashmir... addressing the issue in a meeting focused solely on the dispute, within the UN body dedicated to resolving matters of international peace and security, for the first time since 1965.

This is the strongest indicator of the clear and present danger of India as a violator of its international obligations.

These illegal steps by India were taken unilaterally without the consent of Kashmiris. The immediate reaction was anger from the locals. Mass protests broke out against the unlawful amendments. To push back opposition and continue with its unconstitutional plans, the Indian government used force against the Kashmiris, and stationed additional troops in Jammu and Kashmir putting restrictions on communication channels (telephones lines, mobile and Internet connections) and movement. The political say of Kashmiris has essentially been curtailed.

Politically, the decision is also in line with New Delhi's anti-Muslim rhetoric.¹³ It has forcefully annexed IIOJ&K and is taking measures towards the territory's assimilation. With 35-A revoked, the restrictions on buying property in the Valley no longer exist. It has opened the area for non-Kashmiris, in particular Hindus, to settle in the disputed territory. This a clear sign of forceful occupation of Jammu and Kashmir by India.

¹² M. Ashfaque Arain, "Implications of Abrogation of Article 370," *Nation*, August 17, 2019, <https://nation.com.pk/17-Aug-2019/implications-of-abrogation-of-article-370>.

¹³ Lunn, "Kashmir: The Effects of Revoking Article 370."



In order to implement ‘The Jammu and Kashmir Reorganisation Act, 2019’, New Delhi promulgated the ‘Jammu and Kashmir Reorganisation (Removal of Difficulties) Order, 2020’ on October 30, 2019;¹⁴ and then the Jammu and Kashmir Reorganisation (Adaptation of State Laws) Order, 2020 on March 31, 2020.¹⁵ This Order altered the definition of ‘permanent resident’, which now enables India to settle over 2.5 million non-Kashmiri Indians in the region.¹⁶ The Order has also amended ‘The Jammu And Kashmir Civil Services (Decentralization and Recruitment) Act (Act No. XVI of 2010)’ to install bureaucrats of Indian origin in the disputed region. The ultimate objective of such efforts by the Modi-led BJP has been to consolidate power and control over Jammu and Kashmir’s disputed territory.

¹⁴ Ministry of Home Affairs, S.O. 3912 (E) (Notified on October 30, 2019), <http://egazette.nic.in/WriteReadData/2019/213522.pdf>.

¹⁵ Ministry of Home Affairs, S.O. 1229 (E) (Notified on March 31, 2020), <http://egazette.nic.in/WriteReadData/2020/218978.pdf>.

¹⁶ Hakeem Irfan Rashid, “Central Government Defines Domicile for J&K; Those Who Have Lived in UT for 15 Years, Registered Migrants & Students,” *Economic Times*, April 1, 2020, <https://economictimes.indiatimes.com/news/politics-and-nation/central-govt-defines-domicile-for-jk-those-who-have-lived-in-ut-for-15-yrs-registered-migrants-students/articleshow/74923952.cms>.



BEFORE AND AFTER

Table 1: August 5, 2019 IIOJ&K Status

Before	After
Article 370 granted special status to the state of J&K	State of J&K divided into centrally governed Union territories (Ladakh and J&K)
J&K residents had dual citizenship of India and Kashmir	J&K residents are only Indian citizens
Kashmir was allowed to have its own Constitution	Kashmir no longer has a separate Constitution
Non-residents of J&K could not settle permanently in the state nor acquire immovable property	Any Indian can settle permanently in the state
Centre's authority was limited to finance, defence, foreign affairs and communication	Centre is responsible for all matters, including administrative and local legislations
J&K had a separate flag	J&K is forced to use the Indian flag
Article 360 was not applicable in J&K	Centre can declare a financial emergency under Article 360 in J&K
Tenure for State Assembly was 6 years	Tenure for Union Territory Assembly is 5 years

Source: IPRI compilation.



Pakistan's Diplomatic Efforts

Central to highlighting the illegal Indian occupation of Jammu and Kashmir, are sustained diplomatic efforts by Pakistan since the 5th August revocation of Article 370 and 35-A of the Indian Constitution which had granted the disputed territory special status. IPRI conducted two Key Informant Interviews (KIIs) with the Director General of the Kashmir Affairs Division; and the Director of the Kashmir Cell at the Ministry of Foreign Affairs (MoFA) to gain understanding of the progress of and challenges to Pakistan's Kashmir diplomacy.

The Director General of the Kashmir Affairs Division highlighted that Pakistan has garnered considerable diplomatic force since August 5, 2019 with efforts being multifaceted and dynamic. China's involvement in the IIOJ&K dispute¹⁷ also dealt a severe blow to India's credibility internationally which has indirectly benefitted Pakistan.¹⁸

The Director of the Kashmir Cell at MoFA hailed diplomatic efforts by citing how the Organisation of Islamic Cooperation (OIC) has finally called for a resolution of the Jammu and Kashmir dispute in accordance with the UNSC resolutions.¹⁹ In an official press release dated May 19, 2020, the Independent Permanent Human Rights Commission (IPHRC) of the OIC condemned and rejected the

...Jammu and Kashmir Grant of Domicile Certificate (Procedure) Rules, 2020' which spells out new domicile rules causing 'demographic flooding' of non-natives in the IoJ&K. While the world is striving to fight a global pandemic of Covid-19, India has mischievously used the opportunity to illegally alter the demographic composition of Muslim majority in IoJ&K.²⁰

¹⁷ UN News, "UN Security Council Discusses Kashmir, China Urges India and Pakistan to Ease Tensions," August 16, 2019, <https://news.un.org/en/story/2019/08/1044401>. 'Pakistan requested the Security Council meeting on August 13, 2019 and it was subsequently called for by Permanent Member, China.'

¹⁸ (Director General of Kashmir Affairs, Ministry of Foreign Affairs) in discussion with Hamzah Rifaat Hussain and Gulshan Bibi, July 14, 2020.

¹⁹ (Director of the Kashmir Cell, Ministry of Foreign Affairs), in discussion with Hamzah Rifaat Hussain and Gulshan Bibi, July 14, 2020.

²⁰ Independent Permanent Human Rights Commission (IPHRC) of The Organisation of Islamic Cooperation (OIC), "OIC-IPHRC Squarely Rejects the Indian Government's Illegal Actions to Alter the Demographic Status of Indian Occupied Jammu and Kashmir (IoJ&K) as Violative of OIC and UN



Pakistan has ardently called for the implementation of UNSC resolutions on IIOJ&K and advocated for the inalienable right of the Kashmiris towards their just right to self-determination by holding UN-supervised plebiscite. The Kashmir Cell at MoFA and its legal division, along with the role played by the Pakistani media, is the key towards putting sustained pressure on New Delhi. 600-800 articles have been published since August 5, 2019 on the issue; with over 1,000 protests staged across the world till February 2020 against Indian brutalities.²¹ The Prime Minister of Pakistan's op-ed 'The World Can't Ignore Kashmir. We Are All in Danger' in *New York Times* on August 30, 2019,²² translated into several languages, is evidence of how the Kashmir message has been disseminated widely.²³

Pakistan's diplomatic success is also due to Islamabad's ability to 'internationalize' the Kashmir dispute, with the international media echoing its narrative and questioning the legality of unilateralism, the *Hindutva*/ Rashtriya Swayamsevak Sangh (RSS) ideology being perpetrated in Jammu & Kashmir with gross human rights violations taking place unabatedly.

From the Human Rights Watch (HRW)²⁴ to United States congressional letters²⁵ and

Security Council Resolutions and International Human Rights/Humanitarian Laws," May 19, 2020, https://www.oic-iphrc.org/En/web/index.php/site/view_news/?id=453.

²¹ (Director of the Kashmir Cell, Ministry of Foreign Affairs) in discussion with Hamzah Rifaat Hussain and Gulshan Rafique, July 14, 2020.

²² Imran Khan, "Imran Khan: The World Can't Ignore Kashmir. We Are All in Danger," *New York Times*, August 30, 2019, <https://www.nytimes.com/2019/08/30/opinion/imran-khan-kashmir-pakistan.html>.

²³ (Director of the Kashmir Cell, Ministry of Foreign Affairs) in discussion with Hamzah Rifaat Hussain and Gulshan Rafique, July 14, 2020.

²⁴ Meenakshi Ganguly, "India Failing on Kashmiri Human Rights," Human Rights Watch, January 17, 2020, <https://www.hrw.org/news/2020/01/17/india-failing-kashmiri-human-rights>.

²⁵ Tom Lantos Human Rights Commission, United States Congress, "Jammu and Kashmir in Context, Letter to Ambassador Harsh Vardhan Shringla (October 24, 2019)," accessed September 1, 2020, [https://humanrightscommission.house.gov/sites/humanrightscommission.house.gov/files/documents/Civil line%20Letter%20to%20Ambassador%20Shringla%2010.24.19.pdf](https://humanrightscommission.house.gov/sites/humanrightscommission.house.gov/files/documents/Civil%20line%20Letter%20to%20Ambassador%20Shringla%2010.24.19.pdf); Tom Lantos Human Rights Commission, United States Congress, "Jammu and Kashmir in Context, Letter from Rep. John Lewis to Secretary of State Pompeo (November 14, 2019)," accessed September 1, 2020, https://humanrightscommission.house.gov/sites/humanrightscommission.house.gov/files/documents/20191114_ToPompeoFrRepJohnLewis.pdf; Tom Lantos Human Rights Commission, United States Congress, "Jammu and Kashmir in Context, Letter from Rep. Sheila Jackson Lee to President Trump (September 16, 2019)," accessed September 1, 2020, https://humanrightscommission.house.gov/sites/humanrightscommission.house.gov/files/documents/20190916_ToTrumpFrRepJacksonLee.pdf; Tom Lantos Human Rights Commission, United States



hearings²⁶ to Members of the European Parliament (MEPs) and Association of Southeast Asian Nations (ASEAN) members bringing the gravity of the situation to the world stage²⁷ are examples of Pakistan's tireless and relentless diplomatic efforts in highlighting the plight of the Kashmiris. The discussions at both formal and informal sessions at the 42nd (September 9-27, 2019)²⁸, 43rd (February 25, 2020)²⁹ and 44th sessions (June 30-July 21, 2020) of the UN Human Rights Council

Congress, "Jammu and Kashmir in Context, Letter from Rep. Sheila Jackson Lee to Secretary of State Pompeo (September 16, 2019)," accessed September 1, 2020, https://humanrightscommission.house.gov/sites/humanrightscommission.house.gov/files/documents/20190916_ToPompeoFrRepJacksonLee.pdf; Tom Lantos Human Rights Commission, United States Congress, "Jammu and Kashmir in Context, Letter from Rep. Sheila Jackson Lee to Prime Minister Modi (September 22, 2019)," accessed September 1, 2020, https://humanrightscommission.house.gov/sites/humanrightscommission.house.gov/files/documents/20190922_ToModiFrRepJacksonLee.pdf; Servet Günerigök, "US Senators Request Assessment on Kashmir issue," *Anadolu Agency*, February 13, 2020, <https://www.aa.com.tr/en/americas/us-senators-request-assessment-on-kashmir-issue/1732529>; Dear Colleague, "Stand Up for Human Rights, Peace, and Democracy in Kashmir," accessed September 1, 2020, <http://dearcolleague.us/2019/09/co-sign-letter-stand-up-for-human-rights-peace-and-democracy-in-kashmir-2/>; "US Congress Members Writes Letter to UN over Kashmir Situation," *92 News HD*, September 24, 2019, <https://92newshd.tv/us-congress-members-writes-letter-to-un-over-kashmir-situation/#.X0tXsXkvPIU>; and Aisha Mahmood, "US Congress Members Demand Answers from Indian Ambassador Regarding Kashmir," *Business Recorder*, October 26, 2019, <https://www.brecorder.com/2019/10/26/538234/us-congress-members-demand-answers-from-indian-ambassador-regarding-kashmir/>.

²⁶ Tom Lantos Human Rights Commission, United States Congress, "Jammu and Kashmir in Context," accessed September 1, 2020, <https://humanrightscommission.house.gov/events/hearings/jammu-and-kashmir-context>.

²⁷ Riyaz ul Khaliq, "UK MPs: 'Kashmir is an International Issue,'" *Anadolu Agency*, June 4, 2020, <https://www.aa.com.tr/en/europe/uk-mps-kashmir-is-an-international-issue/1865246>; Permanent Mission of Pakistan to the United Nations & Other International Organizations, "42nd Session of Human Rights Council. Statement by Organization of Islamic Cooperation (OIC). General Debate on the Report of the High Commissioner," September 10, 2019, http://pakistanmission-un.org/?p=3022#_ftnref1; "Kashmir under Double Lockdown despite EU Protests," *Brussels Times*, June 15, 2020, <https://www.brusselstimes.com/news/eu-affairs/116950/kashmir-under-double-lockdown-despite-eu-protests/>; and "ASEAN MPs Term Kashmir a Global Dispute," *Nation*, November 6, 2019, <https://nation.com.pk/06-Nov-2019/asean-mps-term-kashmir-a-global-dispute>.

²⁸ Michelle Bachelet, "Global Update at the 42nd Session of the Human Rights Council" (speech, Geneva, September 9, 2019), United Nations Human Rights Council, <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=24956&LangID=E>; and Permanent Mission of Pakistan to the United Nations & Other International Organizations, "Right of Reply-General Debate-Agenda Item 2-42nd Session of the Human Rights Council-10 September 2019," September 10, 2019, <http://pakistanmission-un.org/?p=3032>.

²⁹ Shireen M. Mazari, "Statement by Dr. Shireen M. Mazari, Minister for Human Rights, Pakistan at the High-Level Segment of the 43rd Session of the Human Rights Council" (speech, Geneva, February 25, 2020), Permanent Mission of Pakistan to the United Nations & Other International Organizations, <http://pakistanmission-un.org/?p=3100>.



(HRC) including virtual meetings (April 9, 2020)³⁰ and statements on behalf of the OIC³¹ ‘further reaffirms validity of UN resolutions on the Kashmiris’ right to self-determination through an impartial plebiscite.’³²

On the domestic front, the Inter-Parliamentary Forum has been vociferously denouncing India’s unilateral actions. However, a major setback to Pakistan’s sustained diplomatic pressure has been the onset of the global COVID-19 pandemic.³³

Diplomatic efforts have not translated into concrete sanctions against India not because of shortcomings but due to Pakistan following an incremental approach towards dealing with the issue with the ultimate aim of ensuring that a tangible impact on long-term policymaking on Kashmir is ensured. India is diplomatically on the defensive as it continues to explain its position on IIOJ&K internationally. New Delhi has so far failed in its strategy to isolate Pakistan at multilateral forums. Our main challenge is to counter India’s economic clout in the Western world alongside fighting misinformation through building a robust narrative that has strategic resonance.³⁴

³⁰ Permanent Mission of Pakistan to the United Nations & Other International Organizations, “Human Rights Council Briefed on Attempts by India to Alter Demography in the Occupied Jammu and Kashmir,” press release, April 9, 2020, <http://pakistanmission-un.org/?p=3154>.

³¹ Permanent Mission of Pakistan to the United Nations & Other International Organizations, “42nd Session of Human Rights Council-Statement by Organization of Islamic Cooperation (OIC)-General Debate on the Report of the High Commissioner-10 September 2019,” September 10, 2019, <http://pakistanmission-un.org/?p=3040>; and IPHRC-OIC, “OIC-IPHRC Squarely Rejects the Indian Government’s Illegal Actions to Alter the Demographic Status of Indian Occupied Jammu and Kashmir (IoJ&K)...”

³² Shah Mahmood Qureshi (@SMQureshiPTI), Twitter page, August 5, 2020, <https://twitter.com/SMQureshiPTI/status/1291063203762524160>.

³³ (Director of the Kashmir Cell, Ministry of Foreign Affairs) in discussion with Hamzah Rifaat Hussain and Gulshan Rafique, July 14, 2020.

³⁴ Ibid.



UN SECURITY COUNCIL RESOLUTIONS ON JAMMU AND KASHMIR DISPUTE (1948-71)

Given below is the complete list of UNSC resolutions on the Kashmir dispute from 1948-71 (see Annexure A for complete text of each) and their brief summary as provided on the UN Security Council Report web portal:

Table 2: Jammu and Kashmir: UN Security Council Resolutions

No.	Date	UNSC Resolutions	Brief Summary
1	17 January 1948	S/RES/38	This was the first resolution on the India-Pakistan Question, which called on India and Pakistan to take measures to improve the situation in Kashmir and to refrain from doing anything that would aggravate it.
2	20 January 1948	S/RES/39	This resolution set up the UN Commission for India and Pakistan (UNCIP) to investigate the dispute between the two countries over Kashmir and exercise 'mediatory influence'.
3	21 April 1948	S/RES/47	This resolution enlarged the membership of UNCIP and recommended measures that would bring about a cessation of the fighting and create the proper conditions for a free and impartial plebiscite to decide whether the State of J&K would accede to India or Pakistan.
4	3 June 1948	S/RES/51	This resolution directed the Commission to proceed to the areas of dispute without delay 'with a view to accomplishing in priority the duties assigned to it by resolution 47.'
5	14 March 1950	S/RES/80	This resolution called on both India and Pakistan to execute a programme of demilitarization and terminated UNCIP.
6	30 March 1951	S/RES/91	This resolution decided that UNMOGIP would continue to supervise the ceasefire in Kashmir with a mandate to observe and report, investigate complaints of ceasefire violations and submit its finding to each party and to the Secretary-General. ³⁵

³⁵ This resolution made it clear that 'final disposition of the state of J&K will be made in accordance with the will of the people expressed through the demographic method of a free and impartial plebiscite conducted under the auspices of the UN.' The same Resolution further affirmed that 'the convening of a



7	10 November 1951	S/RES/96	This resolution concerned the report of the UN Representative on India and Pakistan and on efforts to establish a plan for the demilitarization. Both India and Pakistan were recognized for their declaration of working for a peaceful settlement, continuation to observe a cease-fire, and their acceptance of the principle that the accession of the State of J&K should be determined by a free and impartial plebiscite under the UN auspices.
8	23 December 1952	S/RES/98	This resolution urged India and Pakistan to begin immediate negotiations under the auspices of the UN Representative for India and Pakistan in order to reach an agreement on the specific number of troops.
9	24 January 1957	S/RES/122	This resolution concerned the dispute between India and Pakistan over the territories of Jammu and Kashmir. ³⁶
10	21 February 1957	S/RES/123	This resolution concerned the dispute between India and Pakistan over the territories of Jammu and Kashmir. ³⁷
11	2 December 1957	S/RES/126	This resolution concerned the dispute between India and Pakistan over the territories of Jammu and Kashmir. ³⁸

Constituent Assembly as recommended by the General Council of the “All Jammu and Kashmir National Conference” and any – assembly might attempt to take to determine the future shape and affiliation of the entire state or any part thereof would not constitute a disposition of the state in accordance with the above principle.’ In its decision under Resolution 1951, the Security Council stated ‘members of the Security Council, at its 548th meeting held on 29th May 1951, have heard with satisfaction the assurances of the representative of India that any constituent assembly that may be established in Srinagar is not intended to prejudice the issues before the Security Council or to come in its way.’

³⁶This resolution reaffirmed the ‘affirmation in its Resolution 91 (1951) and declares that convening of constituent assembly as recommended by the General Council of the “All Jammu and Kashmir National Conference” of any action that assembly may have taken or might attempt to take to determine the future shape and affiliation of the entire state to any part thereof, or action by the parties concerned in support of any such action by the assembly, would not constitute a disposition of the State in accordance with the above principle.’

³⁷This resolution requests the representative of Sweden to examine with the governments of India and Pakistan any proposals which are likely to contribute towards the settlement of the dispute. Gunnar V. Jarring, representative of Sweden, undertook a mission pursuant to this Security Council Resolution of February 21, 1957.

³⁸This resolution expresses ‘concern over the lack of progress towards a settlement of the dispute which the Jarring Report manifests.’



12	4 September 1965	S/RES/209	This resolution concerned the deteriorating situation along the cease-fire line in Kashmir. The Council called on both India and Pakistan to take all steps necessary to immediately cease fighting and return to their respective sides of the line.
13	6 September 1965	S/RES/210	This resolution concerned the Secretary-General's report on the developments in Kashmir. The Council called on India and Pakistan to cease hostilities in the entire area of conflict and withdraw all armed personnel to the positions they held before 5 August 1965.
14	20 September 1965	S/RES/211	After the calls for a cease-fire in S/RES/209 and S/RES/210 went unheeded, with this resolution the Council demanded that a cease-fire take effect on 22 September with both forces withdrawing to the positions held before 5 August.
15	27 September 1965	S/RES/214	This resolution expressed concern that the cease-fire called for in S/RES/209, S/RES/210, and S/RES/211 was not holding despite both India and Pakistan agreeing to it. The Council demanded that the parties honor their commitment, cease fire, and withdraw all armed personnel.
16	5 November 1965	S/RES/215	After the cease-fire called for in S/RES/209, S/RES/210, S/RES/211, and S/RES/214 did not materialize, the Council demanded that representatives of India and Pakistan meet with a representative of the Secretary-General.
17	6 December 1971	S/RES/303	Council meetings were called following deterioration in relations between India and Pakistan over several incidents, including J&K and in East Pakistan. Additionally, UNMOGIP reported violations on both sides of the Karachi Agreement (1949). ³⁹
18	21 December 1971	S/RES/307	This resolution demanded a durable ceasefire and cessation of hostilities until withdrawals of all armed forces to the ceasefire line in J&K. It also requested the Secretary-General to keep the Council informed 'without delay' on developments related

³⁹ Karachi Agreement, Pakistan-India, July 29, 1949, <https://www.securitycouncilreport.org/un-documents/jammu-and-kashmir/>. 'This agreement establishes a ceasefire line as a complement to the suspension of hostilities, as contained in Part I of the Security Council Resolution of 13 August 1948. The agreement provides 30 days for the parties to vacate presently held areas to areas beyond the ceasefire line as established by this agreement.'



			to the implementation of the resolution.
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Source: Security Council Report, “UN Documents for Jammu and Kashmir: Security Council Resolutions,” accessed 31 August 2020, https://www.securitycouncilreport.org/un_documents_type/security-council-resolutions/?ctype=Jammu%20and%20Kashmir&cbtype=jammu-and-kashmir.

Other than these United Nations Security Council Resolutions (UNSCR), the proposal by General A.G.L. McNaughton (December 22, 1949)⁴⁰ and the report of Sir Owen Dixon (1950),⁴¹ UN Representative for India and Pakistan to the Security Council, are of key importance.

The UNCIP appointed Sir Owen Dixon to implement demilitarisation prior to a statewide plebiscite on the basis of General McNaughton’s scheme [see Annexure B], and to recommend solutions to the two governments. Dixon’s efforts for a statewide plebiscite came to naught due to India’s constant rejection of the various alternative demilitarization proposals, for which Dixon rebuked India. Dixon, then, offered an alternative proposal, widely known as the Dixon plan.⁴²

⁴⁰ See Annexure B for details. *Proposal in Respect of Jammu and Kashmir Made by General A.G.L. McNaughton, President of the Security Council of the United Nations, Pursuant to the Decision of the Security Council Taken at Its 457th meeting, on 22 December, 1949* (Ministry of Foreign Affairs, Government of Pakistan, 2020), <http://mofa.gov.pk/wp-content/uploads/2020/01/Proposal-in-respect-of-Jammu-and-Kashmir-made-by-General-McNaughton-on-22-December-1949.pdf>.

⁴¹ See Annexure C for details. UN Representative for India and Pakistan, *Report of Sir Owen Dixon, United Nations Representative for India and Pakistan to the Security Council: Annex*, report (New York: United Nations, 1950), <https://digitallibrary.un.org/record/486273?ln=en>; and Frederic W. Eggleston, “The Kashmir Dispute and Sir Owen Dixon’s Report,” *Australian Outlook* 5, no. 1 (1951): 3-9, <https://doi.org/10.1080/10357715108443760>.

⁴² Wikipedia, “Kashmir Conflict,” accessed August 31, 2020, https://en.wikipedia.org/wiki/Kashmir_conflict#cite_ref-95.



TRACK II INITIATIVES/DIALOGUES BETWEEN PAKISTAN & INDIA

A number of unofficial initiatives were undertaken by the members of civil society, academia, politicians and former government officials, including diplomats, military personnel and civil servants, to break the logjam between the two countries. Their details are shared in the table below:

Table 3: Pak-India Track II Initiatives/Dialogues

Initiatives/ Timeline	Brief Background/Overview
Neemrana Dialogue 1991	‘A group of distinguished and influential citizens from India and Pakistan were invited to meet at Neemrana fort in the state of Rajasthan, India. The group identified four major issues for discussion; the Kashmir dispute, nuclear nonproliferation, conventional arms race and defence budgets, and economic relation. The Neemrana process was initially sponsored by the USIS and reached a state where the two sides could agree on most issues except Kashmir.’ ⁴³
Academics for Peace in South Asia April 25, 1990	‘Academics for Peace in South Asia passed a resolution in New Delhi that stated that the real problems of the people of south Asia couldn’t be solved by war. It also demanded the political leaders of India and Pakistan to set in motion the process that would ensure no occurrence of wars in future.’ ⁴⁴
May 13, 1990	‘Fifty eminent Pakistanis in a joint statement appealed to both India and Pakistan to refrain seeking military solution to the issue of Kashmir. It is irrational to expect that another, bloodier and costlier war can do so in future.’ ⁴⁵
June 27, 1990	‘A joint statement signed by fifty-four eminent Indians and Pakistanis was released simultaneously from Lahore and New Delhi. The joint statement called upon the governments of India and Pakistan to reaffirm their commitment to peaceful resolutions of all outstanding disputes, to withdraw strike forces of both countries from the forward positions, and for

⁴³ Tahir Ashraf, Javaid Akhtar Salyana and Md. Nasrudin Md. Akhir “Mapping of Track Two Initiatives: A Case of Pakistan-India Conflict (1988-2001),” *Pakistan Journal of Social Sciences* 37, no. 1 (2017): 16-29 (23), <http://pjss.bzu.edu.pk/website/journal/article/5ec42f9969775/page>.

⁴⁴ Moonis Ahmar, “Indo-Pakistan Normalization Process: The Role of CBMs in the Post-Cold War Era” (ACDIS Occasional Paper, University of Illinois at Urbana-Champaign, Illinois, 1993), quoted in Ashraf, Salyana and Akhir, “Mapping of Track Two Initiatives.”

⁴⁵ M. Hassan, “The Culture of Confrontation,” *Dawn*, September 9, 1995, Karachi edition, quoted in Ashraf, Salyana and Akhir, “Mapping of Track Two Initiatives.” See for more details, Mubashir Hasan, “Nikhil Chakravarty and the Momentum of Peace by Dr Mubashir Hasan” (speech, New Delhi, November 3, 2003), South Asia Citizens Web, <http://www.sacw.net/peace/mubahirHasanNov2003.html>.



	normalization of relations in all spheres in accordance with the principles of peaceful coexistence and the UN Charter.’ ⁴⁶
Pakistan-India People’s Forum for Peace and Democracy (PIPFDP)	‘The Pakistan-India People’s Forum for Peace and Democracy (PIPFDP) was formed on December 7, 1994 in Lahore, Pakistan. I.A. Rehman, Director Human Rights Commission of Pakistan and Nirmal Mukerjee, a former Governor of the Indian Punjab were named as the two co-chairmen of the forum. The objective was to initiate a people-to-people dialogue on critical issues of peace and democracy.’ ⁴⁷ So far, the forum has held multiple dialogues with civil society and peace activists of the two countries.
Indo Pak Amity Meet May 15-17, 1996	‘The Association of People of Asia New Delhi organized a three-day Indo Pak Amity Meet on May 15-17, 1996. It was a continuation of number of earlier non-official initiatives for Pakistan-India people-to-people dialogue with a view to take measures through more intensive and in-depth studies and discussion, for further promoting atmosphere of goodwill and improved cultural relations.’ ⁴⁸
Pen for Peace Conference November 2000	‘Pen for Peace Conference was held in Karachi on November 2000. It was an initiative of Pakistani writers, poets, artists, journalists and academics from all over the country to promote peace and harmony among nations and the people of the subcontinent.’ ⁴⁹
Ottawa Dialogue April 2009-ongoing	‘In April 2009, a small group of experts from India and Pakistan convened a quiet discussion at the University of Ottawa about the state of strategic relations between the countries. The forum named as Ottawa Dialogue. From that exploratory discussion, an ambitious agenda emerged pointing to the need for sustained and facilitated dialogue on this critical matter that impacts global security. The April 2009 talks evolved into the first long term process under the auspices of Ottawa Dialogue. Since then, Ottawa Dialogue has expanded into an institution housing several dialogue initiatives covering a range of issues.’ ⁵⁰
Islamabad Dialogue April 28-29, 2011- March 2, 2015	The Islamabad Dialogue is ‘part of Jinnah Institute’s initiative on peace building through Track II diplomacy between India and Pakistan.’ ⁵¹ Four dialogues have been held between senior diplomats, parliamentarians, policy-makers and journalists from Pakistan and India.

⁴⁶ Hassan, “The Culture of Confrontation,” quoted in Ashraf, Salyana and Akhir, “Mapping of Track Two Initiatives.” See for more details, Hasan, “Nikhil Chakravarty and the Momentum of Peace by Dr Mubashir Hasan.”

⁴⁷ “Mubashar Forms Pak-India People’s Forum,” *Muslim*, December 8, 1994, Islamabad edition, quoted in Ashraf, Salyana and Akhir, “Mapping of Track Two Initiatives,” 20.

⁴⁸ Ashraf, Salyana and Akhir, “Mapping of Track Two Initiatives,” 22.

⁴⁹ Z. Abedin, “Pen for Peace Conference 2000,” *News*, December 10, 2000, Rawalpindi edition, quoted in Ashraf, Salyana and Akhir, “Mapping of Track Two Initiatives,” 22.

⁵⁰ Ottawa Dialogue, “About Us,” accessed September 1, 2020, ottawadialogue.ca/about-us/.

⁵¹ Jinnah Institute, “Track II Dialogues: Islamabad Dialogue IV,” March 2, 2015, <https://jinnah-institute.org/event/islamabad-dialogue-iv/>.



<p>Chaophraya Dialogue</p> <p>Ongoing</p>	<p>‘The Chaophraya Dialogue is an Indo-Pak Track-II initiative jointly undertaken by the Jinnah Institute and Australia India Institute (AII) to encourage informed discussion of bilateral relations and enhance stakes in peace. The dialogue is primarily meant to give an opportunity to members of the policy and media communities and other groups in India and Pakistan to interact with each other on a sustained basis. The Chaophraya Dialogue has encouraged participants to share the conclusions of each round with their respective governments. It has also provided a useful forum when the official dialogue process between India and Pakistan has been frozen.’⁵²</p> <p>The most recent Dialogue was held on January 19-20, 2020. ‘It was the first since India’s revocation of the special status of Jammu and Kashmir on August 5th. The dialogue themes and discussions reflected the multiple vectors affecting the bilateral relationship, including escalation along Line of Control, a growing deep freeze in bilateral relations, deteriorating situation in Kashmir, and rising rhetoric in India vis-à-vis Pakistan.’⁵³</p>
<p>Delhi Dialogue</p> <p>January 22, 2012 – March 14, 2014</p>	<p>‘Entering its fourth year in 2014, the dialogue is part of an India-Pakistan Track II diplomacy initiative by the Jinnah Institute and the Center for Dialogue and Reconciliation, which seeks to promote peace between the two neighbouring countries through constructive engagement and dialogue.’⁵⁴</p>
<p>Distinguished Speaker Series</p>	<p>‘The DSS is a long-running exchange of thought leaders between India and Pakistan, jointly managed by Jinnah Institute and Australia India Institute.’⁵⁵</p> <p>‘The Series has enabled an exchange of high profile public speakers including parliamentarians, academics and policy experts.’⁵⁶</p>

Source: IPRI compilation.

⁵² Jinnah Institute, “Track II Dialogues: Chaophraya Dialogues 7 & 8,” October 31, 2011, <https://jinnah-institute.org/event/chaophraya-dialogues-7-8/>.

⁵³ Jinnah Institute, “Track II Dialogues: The Chao Track II,” January 30, 2020, <https://jinnah-institute.org/event/the-chao-track-ii/>.

⁵⁴ Jinnah Institute, “Track II Dialogues: Delhi Dialogue III,” March 16, 2014, <https://jinnah-institute.org/event/delhi-dialogue-iii/>.

⁵⁵ Jinnah Institute, “Track II Dialogues: Jinnah Institute’s Distinguished Speaker Series with Former Indian Foreign Minister Salman Khurshid,” November 13, 2015, <https://jinnah-institute.org/event/jinnah-institutes-distinguished-speaker-series-with-former-indian-foreign-minister-salman-khurshid/>.

⁵⁶ Jinnah Institute, “Track II Dialogues: Distinguished Speaker Series: ‘RTI Law Integral to Democracy, Says Senior Indian Civil Servant,’” June 25, 2013, <https://jinnah-institute.org/event/distinguished-speaker-series-rti-law-integral-to-democracy-says-senior-indian-civil-servant/>.



MAJOR POLITICAL PARTIES OF IIOJ&K

Table 4 provides the names of the major political in Jammu and Kashmir and their leadership:

Table 4: Major Political Parties of IIOJ&K

No.	Political Parties	Leadership
1	Jammu & Kashmir National Conference (NC)	Farooq Abdullah
2	Jammu and Kashmir People’s Conference	Sajjad Lone
3	Jammu Republic Party (JRP)	Bhim Singh
5	Jammu and Kashmir Peoples Democratic Party (PDP)	Mehbooba Mufti
6	Bahujan Samaj Party	Mayawati
7	Jammu and Kashmir Apni Party	Syed Altaf Bukhari
8	Jamaat-e-Islami Kashmir	Dr Hameed Fayaz
9	Jammu and Kashmir National Panthers Party	Balwant Singh
10	Praja Parishad Jammu and Kashmir	Chandermohan Sharma
11	Jammu and Kashmir Democratic Freedom Party	Shabir Shah
12	Jammu and Kashmir People’s Conference (JKPC)	Sajjad Gani Loan
13	Dogra Swabhiman Sangathan	Chaudhary Lal Singh
14	Janata Dal	Nitish Kumar
15	National Democratic Party (Indian) (NDPI)	Sandeep Turki
16	Jammu Kashmir Liberation Front (JKLF)	Yasin Malik

Source: IPRI compilation.



MEDIATION ON JAMMU & KASHMIR DISPUTE (1947–2020)

Table 5 offers a bird’s eye picture of various peace proposals, agreements and declarations on the Jammu & Kashmir dispute between Pakistan and India and the response of the key stakeholders:

Table 5: Peace Proposals for Jammu & Kashmir Dispute

No.	Peace Proposals	Main Points	Response by Stakeholders/ Result
Government-Level Initiatives			
1	India-Pakistan Statement of Objectives, 1963	<ul style="list-style-type: none"> Political, peaceful statement Addressed India and Pakistan’s concerns 	Kashmiris: Excluded Pakistan: Agreed India: Agreed ⁵⁷
2	Tashkent Declaration, 1966 (see Annexure E-ii for details)	Status quo	Kashmiris: Excluded Pakistan: Agreed India: Agreed ⁵⁸
3	Simla Agreement, 1972 (see Annexure E-iii for details)	<ul style="list-style-type: none"> Bilateral Approach Cease Fire Line (CL) converted into Line of Control (LoC); no unilateral alteration of status quo 	Kashmiris: Indifferent Pakistan: Favoured broader interpretation India: Favoured narrow interpretation ⁵⁹
4	Lahore Declaration, 1999 (see Annexure E-iv for details)	<ul style="list-style-type: none"> Negotiated settlement through dialogue 	Kashmiris: Excluded Pakistan: Agreed with reservations India: Agreed ⁶⁰

⁵⁷ Syed Rifaat Hussain, “Resolving the Kashmir Dispute: Blending Realism with Justice,” *The Pakistan Development Review* 48, no. 4 (Winter 2009): 1007-1035, <https://pdfs.semanticscholar.org/9c1a/b7b4eabf4afb5bbb9230b1f16672d25755c6.pdf>.

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Ibid.



5	The Musharraf Proposal during Musharraf-Manmohan Talks ⁶¹	<ul style="list-style-type: none"> • Division and demilitarisation on geographical basis⁶² • No change of borders of Kashmir⁶³ • Free movement of people across LoC • After 7 or 15 years if people agree with the arrangement, it will be deemed as final settlement of J&K. But if they say no, then another mechanism will have to be evolved to ascertain the desire of people⁶⁴ 	Kashmiris: Mixed response ⁶⁵ Pakistan: Accepted ⁶⁶ India: Rejected ⁶⁷
UN Initiatives			
6	Owen Dixon Formula (1947-57) (see Annex C for details)	<ul style="list-style-type: none"> • J&K belongs to Kashmiris • Respect for self-determination • Holding of plebiscite 	Kashmiris: Supported, incl. APHC Pakistan: Supported India: Initially accepted. Later rejected ⁶⁸
7	McNaughton Report (1949) by General McNaughton, President of the Security Council (see Annex B for details)	<ul style="list-style-type: none"> • Progressive demilitarisation by India and Pakistan • Conduct of plebiscite 	India: Did not agree on troops withdrawal No progress ⁶⁹
8	UN Mediator Report on Kashmir (1952) by Dr Frank P Graham	<ul style="list-style-type: none"> • Troop withdrawal by India and Pakistan ('6000 Azad Kashmir forces & 3,500 Gilgit & Northern Scouts on Pakistan side of ceasefire line. Whilst 18000 	Pakistan: Minimum force required for law and order on both sides India: Minimum of 28000 force required ⁷⁰

⁶¹ Khurshid Mahmud Kasuri, *Neither a Hawk nor a Dove: An Insider's Account of Pakistan's Foreign Policy* (Karachi: Oxford University Press, 2015), 39-48.

⁶² Hussain, "Resolving the Kashmir Dispute."

⁶³ Ibid.

⁶⁴ Kasuri, *Neither a Hawk nor a Dove*.

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ Ibid.

⁶⁸ Hussain, "Resolving the Kashmir Dispute."

⁶⁹ Muhammad Abdul Qadeer, "United Nations Resolutions on Kashmir and Their Relevance," *Journal of Strategic Affairs* 2, no. 1 (Summer 2017): 65- 95 (79-80).



		Indian and State Armed Forces and 6000 State militia on Indian side) <ul style="list-style-type: none"> Plebiscite option 	No progress
NGOs, Scholars and Security Experts-Led Initiatives			
9	Sumit Ganguly Proposal (Indian-American scholar)	<ul style="list-style-type: none"> Transform LoC into a recognised boundary between India and Pakistan 	Kashmiris: Rejected Pakistan: Rejected India: Supported ⁷¹
10	Selig Harrison Proposal (American scholar)	<ul style="list-style-type: none"> Special Autonomous status to J&K Defence, foreign affairs, communication and currency under control of India and Pakistan 	Kashmiris: Opposed Pakistan: Opposed India: Fallback option ⁷²
11	Robert Wirsing Proposal (American security expert)	<ul style="list-style-type: none"> International mediation 	Kashmiris: Some segments supported while others opposed Pakistan: Favoured India: Strongly opposed ⁷³
12	Proposal of BJP and other Hindu nationalist movements	<ul style="list-style-type: none"> Opening J&K to Hindu and Sikh settlement 	Kashmiris: Opposed Pakistan: Opposed India: Divided opinion ⁷⁴
13	Jammu and Kashmir Liberation Front (JKLF)	<ul style="list-style-type: none"> Independent J&K 	Kashmiris: Some segments supported while others opposed Pakistan: Opposed India: Opposed ⁷⁵
14	The Kashmir American Council	<ul style="list-style-type: none"> US mediation 	Kashmiris: Favoured with reservations Pakistan: Supported India: Opposed ⁷⁶
15	Kashmir Study Group	<ul style="list-style-type: none"> Division into two self-governing 	Kashmiris: Favoured with

⁷⁰ “Dr. Graham’s Fourth Report on Negotiations with India and Pakistan on Demilitarization Plans – Continued Failure to Reach Agreement,” *Keesing’s Record of World Events VIII-IX* (London: Keesing’s Worldwide, 1952), 12521, <http://web.stanford.edu/group/tomzgroup/pmwiki/uploads/2626-1952-10-K-a-AJG.pdf>.

⁷¹ Hussain, “Resolving the Kashmir Dispute.”

⁷² Ibid.

⁷³ Ibid.

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ Ibid.



	Formula by Farooq Kathwari (Kashmiri-American businessman)	<p>entities with own constitution, citizenship, flag, legislature</p> <ul style="list-style-type: none"> • Free movement / access between the two entities • Defence joint responsibility of India and Pakistan 	<p>reservations</p> <p>Pakistan: Flexible</p> <p>India: Opposed⁷⁷</p>
16	Andorra Model by Fazal Haq Qureshi	<ul style="list-style-type: none"> • Semi-sovereign status of J&K • India and Pakistan will oversee the defence, foreign affairs and communications • Kashmiri residents will get dual citizenship⁷⁸ 	<p>Kashmiris: Excluded⁷⁹</p> <p>Pakistan: Agreeable as fallback option⁸⁰</p> <p>India: Might be acceptable as an alternative to independent Kashmir⁸¹</p>
17	The Chenab Formula	<ul style="list-style-type: none"> • Division of J&K along line of River Chenab⁸² 	<p>Kashmiris: Excluded⁸³</p> <p>Pakistan: Likely to accept ('Pakistan willing to give up the remote region of Ladakh in India's favour')⁸⁴</p> <p>India: Opposed⁸⁵</p>
18	The Good Friday Agreement (Irish Agreement) by Sumantra Bose ⁸⁶	<ul style="list-style-type: none"> • Self-determination of J&K⁸⁷ • Maximum autonomy for Indian and Pakistani Kashmir without a formal partition⁸⁸ • Soft borders between two sides of Kashmir⁸⁹ 	<p>Kashmiris: Widely discussed without outright rejection</p> <p>Pakistan: Discussed</p> <p>India: Possible option⁹⁰</p>

Source: IPRI compilation.

⁷⁷ Saman Malik, "Kashmir Talks: A Set of Formulas Available," *Dawn*, December 16, 2020, <https://www.dawn.com/news/591653/kashmir-talks-a-set-of-formulas-available>.

⁷⁸ Moeed Yusuf and Adil Najam, "Kashmir: Ripe for Resolution?" *Third World Quarterly* 30, no.8 (2009): 1503-1528 (1508), doi: 10.1080/01436590903321869.

⁷⁹ Hussain, "Resolving the Kashmir Dispute."

⁸⁰ Ibid.

⁸¹ Ibid.

⁸² Ibid.

⁸³ Hussain, "Resolving the Kashmir Dispute."

⁸⁴ Yusuf and Najam, "Kashmir: Ripe for Resolution?"

⁸⁵ Hussain, "Resolving the Kashmir Dispute."

⁸⁶ Yusuf and Najam, "Kashmir: Ripe for Resolution?" 1509.

⁸⁷ Hussain, "Resolving the Kashmir Dispute."

⁸⁸ Yusuf and Najam, "Kashmir: Ripe for Resolution?" 1509.

⁸⁹ Ibid.

⁹⁰ Hussain, "Resolving the Kashmir Dispute."



INDIAN LAWS IN VIOLATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS IN IIOJ&K

The Indian troops deployed in IIOJ&K operate under a host of black laws, which have made Indian Armed Forces take on the role of an occupying army. These laws not only govern the IIOJ&K region but also authorise genocide and aggression by the Indian Armed Forces. They clearly violate the Articles of International Law pertaining to human rights. The implications of these laws coupled with their contrast to existing international laws are highlighted in the table below:

**Table 6: Indian Laws in Violation of
International Human Rights Obligations in IIOJ&K**

Indian Laws Applicable to IIOJ&K	Implications	Violations of International Law
Jammu and Kashmir Public Safety Act, 1978	<p>‘Detention without charge is possible for up to one year</p> <p>Chapter III allows the government to forbid the circulation of harmful documents.’</p>	Articles 9 (right against arbitrary arrest and detention), 19 (freedom of expression), 21 (right of peaceful assembly) and 22 (freedom of association) of the International Covenant on Civil and Political Rights (ICCPR)
Terrorist and Disruptive Activities (Prevention) Act 1987 (TADA)	<p>‘Detention without charges is possible for 189 days.</p> <p>Whoever advocates directly or indirectly for cession or secession in any part of India is liable to be punished.</p> <p>Section 20 of the Act provides that detainee can be in police custody up to 60 days which increases risk of torture. Also the detainee need not be produced before a judicial magistrate, but instead may be produced before an executive magistrate who is an official of police and administrative service and is not answerable to high court.</p>	<p>Article 9 (right against arbitrary arrest and detention) of ICCPR</p> <p>UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</p> <p>UN Convention against Torture (UNCAT)</p>



	The trial can be held secretly at any place and also keeps the identity of the witnesses secret violating international standards of fair trial.’	
Armed Forces (Jammu and Kashmir) Special Powers Act, 1990	‘Provides the basis for the military to suppress legitimate political activity.’	Article 6 of ICCPR
Jammu and Kashmir Disturbed Areas Act, 1990	<p>‘The whole or part of the State can be declared disturbed by the Central government or the Governor.’</p> <p>‘Provides a cover to the state machinery for indiscriminate and unprovoked firing at peaceful and unarmed demonstrations, extra judicial killings and destroying the property of Kashmiris on suspicion’</p> <p>‘Section 6 gives legal immunity to persons acting under this Act.’</p>	Articles 4 and 7 of ICCPR
Prevention of Terrorism Act, 2002 (POTA)	<p>‘Allows detention without trial.</p> <p>Declares confession before police as evidence.</p> <p>Denial of public hearing or trials.</p> <p>Criminalizes legitimate political dissent and free speech.’</p>	Article 6 and 7 of ICCPR
Unlawful Activities (Prevention) Amendment Act, 2019 (UAPA)	<p>‘Expands the definition of “terrorist” to include individuals under Section 35 and 36 of Chapter VI of the Act.</p> <p>Seizure of property from proceeds of terrorism under Section 25 and the powers of officers with the rank of inspectors and above to investigate cases under UAPA Section 43.</p> <p>A Review Committee to “de-notify” the individual notified as a terrorist.’</p>	ICCPR

Source: Compiled from the websites of National Assembly of Pakistan, Human Rights Watch and the International Commission of Jurists.



The timeline of Indian actions, constituting grave violations of International Humanitarian Law in IIOJ&K from a legal perspective, that attract the provisions of the Geneva Conventions of 1949 and their Additional Protocols; the Rome Statute, 1998; and lastly, rules of Customary International Law are given under Annex G courtesy of Research Society of International Law (RSIL), Islamabad, Pakistan.



HUMAN RIGHTS VIOLATIONS BY INDIAN OCCUPIED FORCES IN IIOJ&K

The use of excessive and indiscriminate force by the Indian Armed Forces against civilians in IIOJ&K continues. Since January 1989 to September 30, 2016, 94, 548 Kashmiris have been killed by the Indian security forces.⁹¹ Though, Indian atrocities have been occurring since 1989, they began to be formally reported in 1990. A detailed record of Indian atrocities from January 1989 to September 2016, as documented by the Special Committee of the Parliament on Kashmir and shared by the National Assembly of Pakistan⁹² on its website is presented below:

Table 7: Indian Atrocities in Jammu & Kashmir (Jan. 1989-Sep.2016)

Timeline	Description	Figures
1989-2016	Number of Kashmiris brutally tortured	200,000
1989-2016	Psychological/Mental Health Issues	92%
	Women	55%
	Depression patients	64%
	Anxiety patients	100,000+
1989-2016	Kashmiris who witnessed explosions	65%
1989-2016	Damage to personal properties	39%
1989-2016	Cross-border firing	85%
1989-2016	Kashmiris frisked by Indian Armed Forces	87%
1989-2016	Sense of insecurity among Kashmiris	48%
1989-2016	Number of crackdowns witnessed by Kashmiris	99%
1989-2016	Torture & Detention	75%

Source: National Assembly of Pakistan, “Draconian Laws in Indian Occupied Kashmir.”

⁹¹ Ministry of Foreign Affairs, Young Parliamentarians Forum and Centre for Strategic and Contemporary Research, “Genesis of Kashmir Dispute and Humanitarian Crisis”(presented at Genesis of Kashmir Dispute and Humanitarian Crisis Seminar, Islamabad, October 27, 2016).

⁹² National Assembly of Pakistan, “Draconian Laws in Indian Occupied Kashmir,” accessed September 1, 2020, <http://www.na.gov.pk/en/content.php?id=90>.



A biannual report by the Jammu Kashmir Coalition of Civil Society (JKCCS) on the situation of human rights in IIOJ&K covers the period from January-June 2020:

Table 8: Indian Atrocities in Jammu & Kashmir (Jan.-Sep.2020)

Year 2020	January	February	March	April	May	June	Total
Civilians Killings	2	3	7	9	5	6	32
Militant Killings	17	7	7	35	15	62	143
Armed Forces Killings	9	3	3	17	15	7	54
No. of encounters	11	3	3	13	10	17	57
No. of Cordon & Search Operations (CASOs)	18	14	8	21	14	32	107

Source: Association of Parents of Disappeared Persons and Jammu Kashmir Coalition of Civil Society, *Six Monthly Review of Human Rights Situation in Indian Administered Jammu and Kashmir (January to June 2020)*, report (Association of Parents of Disappeared Persons and Jammu Kashmir Coalition of Civil Society, 2020), <https://jkccs.net/wp-content/uploads/2020/07/Bi-Annual-HR-Report-2020-JKCCSAPDP.pdf>.



Another report prepared by JKCCS and Association of Parents of Disappeared Persons (APDP) also presents the record of Indian atrocities in IIOJ&K. The data reveals that over the last decade from 2008 to 2019, at least 1161 civilians were killed in an extrajudicial manner in Kashmir. The data is presented in the table below:

Table 9: Extrajudicial Killings in Jammu & Kashmir (2008-19)

Year	Armed Forces and Police	Militants	Civilians	Yearly Total
2008	151	363	157	671
2009	117	244	99	460
2010	102	201	167	470
2011	71	101	56	228
2012	36	75	32	143
2013	82	73	48	203
2014	83	99	53	235
2015	58	106	55	219
2016	104	145	146	395
2017	125	216	108	449
2018	159	267	160	586
2019	129	159	80	366
Total	1217	2049	1161	4427

Source: Association of Parents of Disappeared Persons and Jammu Kashmir Coalition of Civil Society, *Annual Review of Human Rights Situation in Indian Administered Jammu and Kashmir (January to December 2019)*, report (Association of Parents of Disappeared Persons and Jammu Kashmir Coalition of Civil Society, 2019), <https://jkccs.net/wp-content/uploads/2019/12/2019-Annual-Human-Rights-Review.pdf>.



ANNEXURES

Annexure A

United Nations Security Council Resolutions



**RESOLUTIONS AND DECISIONS
OF THE SECURITY COUNCIL
1948**

**SECURITY COUNCIL
OFFICIAL RECORDS : THIRD YEAR**

**RÉSOLUTIONS ET DÉCISIONS
DU CONSEIL DE SÉCURITÉ
1948**

**CONSEIL DE SÉCURITÉ
PROCÈS-VERBAUX OFFICIELS : TROISIÈME ANNÉE**

**UNITED NATIONS / NATIONS UNIES
New York, 1964**



NOTE

The *Resolutions and Decisions of the Security Council* are published on a yearly basis. The present volume contains the resolutions adopted and the decisions taken by the Council during the year 1948 on substantive questions, as well as decisions on some of the more important procedural matters. The resolutions and decisions are set out under general headings indicating the questions under consideration, which have themselves been divided into two parts. In each part the questions are arranged according to the date on which they were first taken up by the Council in the year under review, and under each question the resolutions and decisions appear in chronological order.

The decisions of the Council concerning its agenda will be found under the heading "Items included in the agenda of the Security Council in 1948 for the first time".

The resolutions are numbered in the order of their adoption. The document symbol which appears in square brackets under the title of the resolution is the symbol that was used to identify the text before the adoption, in 1964, of the system of numbering used in the present volume, which has been applied retroactively to the resolutions adopted earlier by the Council. Each resolution is followed by the result of the vote. Decisions are usually taken without vote, but in cases where a vote has been recorded, it is given immediately following the decision.

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Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

Check lists of Security Council documents (symbol S/...) will be found: for the years 1946 to 1949, inclusive, in *Check List of United Nations Documents, part 2, No. 1* (United Nations publication, Sales No.: 53.1.3); for 1950 and subsequent years, in the *Supplements to the Official Records of the Security Council*.

Les *Résolutions et décisions du Conseil de sécurité* sont publiées par année. Le présent recueil contient les résolutions adoptées et les décisions prises par le Conseil en 1948 au sujet des questions de fond, ainsi que les décisions que le Conseil a prises touchant certaines des plus importantes questions de procédure. Les résolutions et décisions figurent sous un titre général désignant la question dont il s'agit. Les questions sont divisées en deux parties, et, dans chacune de ces parties, elles sont classées d'après la date à laquelle le Conseil les a examinées pour la première fois au cours de l'année; sous chaque question, les résolutions et décisions figurent dans l'ordre chronologique.

Les décisions du Conseil relatives à son ordre du jour sont indiquées à la rubrique « Questions inscrites à l'ordre du jour du Conseil de sécurité en 1948 pour la première fois ».

Les résolutions sont numérotées dans l'ordre de leur adoption. La cote qui figure entre crochets sous le titre d'une résolution est celle qui servait à désigner le texte en question avant l'adoption, en 1964, du système de numérotage utilisé dans le présent recueil et qui a été appliqué rétroactivement aux résolutions antérieures du Conseil. On a fait suivre le texte des résolutions des résultats du vote. En règle générale, les décisions ne sont pas mises aux voix, mais, dans les cas où il y a eu vote, les résultats sont donnés immédiatement après le texte de la décision.

• •

Les cotes des documents de l'Organisation des Nations Unies se composent de lettres majuscules et de chiffres. La simple mention d'une cote dans un texte signifie qu'il s'agit d'un document de l'Organisation.

On trouvera un répertoire des documents du Conseil de sécurité (cotes S/...) pour les années 1946 à 1949 dans *Check List of United Nations Documents, part 2, n° 1* (publication des Nations Unies, numéro de vente: 53.1.3) et, pour 1950 et les années suivantes, dans les *Suppléments aux Procès-verbaux* [ou, à partir de 1954, *Documents*] officiels du Conseil de sécurité.

S/INF/2/REV.1 (III)



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MEMBERSHIP OF THE SECURITY COUNCIL IN 1948

MEMBRES DU CONSEIL DE SÉCURITÉ EN 1948

In 1948 the membership of the Council was as follows :

Argentina
Belgium
Canada
China
Colombia
France
Syria
Ukrainian Soviet Socialist Republic
Union of Soviet Socialist Republics
United Kingdom of Great Britain and Northern Ireland
United States of America

En 1948, les membres du Conseil étaient les suivants :

Argentine
Belgique
Canada
Chine
Colombie
Etats-Unis d'Amérique
France
République socialiste soviétique d'Ukraine
Royaume-Uni de Grande-Bretagne et l'Irlande du Nord
Syrie
Union des Républiques socialistes soviétiques



S/RES/38 & S/RES/39 & S/RES 47 & S/RES/51

RESOLUTIONS ADOPTED AND DECISIONS TAKEN
BY THE SECURITY COUNCIL IN 1948RÉSOLUTIONS ADOPTÉES ET DÉCISIONS PRISES
PAR LE CONSEIL DE SÉCURITÉ EN 1948

Part I. Questions considered by the Security Council under its responsibility for the maintenance of international peace and security

Première partie. Questions examinées par le Conseil de sécurité en tant qu'organe responsable du maintien de la paix et de la sécurité internationale

THE INDIA-PAKISTAN QUESTION

LA QUESTION INDE-PAKISTAN

Decision

Décision

At its 226th meeting, on 6 January 1948, the Council decided to invite the representatives of India and Pakistan to participate, without vote, in the discussion of the question.

A sa 226^e séance, le 6 janvier 1948, le Conseil a décidé d'inviter les représentants de l'Inde et du Pakistan à participer, sans droit de vote, à la discussion de la question.

38 (1948). Resolution of 17 January 1948

38 (1948). Résolution du 17 janvier 1948

[S/651]

[S/651]

The Security Council,

Le Conseil de sécurité,

Having heard statements on the situation in Kashmir from representatives of the Governments of India and Pakistan,

Ayant entendu les déclarations faites par les représentants des Gouvernements de l'Inde et du Pakistan sur la situation dans le Cachemire,

Recognizing the urgency of the situation,

Reconnaissant le caractère d'urgence de la situation,

Taking note of the telegram addressed on 6 January 1948 by its President to each of the parties¹ and of their replies thereto,² in which they affirmed their intention to conform to the Charter of the United Nations.

Prenant acte du télégramme adressé le 6 janvier 1948 par le Président du Conseil à chacune des parties¹, ainsi que de la réponse qu'elles y ont faites² où elles affirment leur intention de se conformer à la Charte des Nations Unies,

1. *Calls upon* both the Government of India and the Government of Pakistan to take immediately all measures within their power (including public appeals to their people) calculated to improve the situation, and to refrain from making any statements and from

1. *Fait appel* au Gouvernement de l'Inde et au Gouvernement du Pakistan pour que chacun d'eux prenne immédiatement toutes les mesures en son pouvoir (y compris des appels publics à ses populations) à l'effet d'améliorer la situation, et s'abstienne de faire aucune déclaration et d'accomplir, de provo-

¹ See *Official Records of the Security Council, Third Year, Nos. 1-15, 226th meeting*. pp. 4-5 (document S/636).

¹ Voir *Procès-verbaux officiels du Conseil de sécurité, troisième année, n° 1/15, 226^e séance*, p. 4 et 5 (document S/636).

² *Ibid., Third Year, Supplement for January, February and March 1948*, documents S/639 and S/640.

² *Ibid., troisième année, Supplément de janvier, février et mars 1948*, documents S/639 et S/640.



doing or causing to be done or permitting any acts which might aggravate the situation ;

2. *Further requests* each of those Governments to inform the Council immediately of any material change in the situation which occurs or appears to either of them to be about to occur while the matter is under consideration by the Council, and consult with the Council thereon.

Adopted at the 229th meeting by 9 votes to none, with 2 abstentions (Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics).

Decision

At its 229th meeting, on 17 January 1948, the Council decided that the President should invite the representatives of India and Pakistan to take part in direct talks under his guidance in an effort to find some common ground on which the structure of a settlement might be built.

39 (1948). Resolution of 20 January 1948

[S/654]

The Security Council,

Considering that it may investigate any dispute or any situation which might, by its continuance, endanger the maintenance of international peace and security and that, in the existing state of affairs between India and Pakistan, such an investigation is a matter of urgency,

Adopts the following resolution :

A. A Commission of the Security Council is hereby established, composed of representatives of three Members of the United Nations, one to be selected by India, one to be selected by Pakistan, and the third to be designated by the two so selected.⁸ Each representative on the Commission shall be entitled to select his alternates and assistants.

B. The Commission shall proceed to the spot as quickly as possible. It shall act under the authority of the Security Council and in accordance with the directions it may receive from it. It shall keep the Security Council currently informed of its activities and of the development of the situation. It shall report to the Security Council regularly, submitting its conclusions and proposals.

C. The Commission is invested with a dual function : (1) to investigate the facts pursuant to Article 34

⁸ By its resolution 47 (1948), the Council decided to increase the membership of the Commission to five. The composition of the Commission is given below, following that resolution.

quer ou de permettre aucun acte susceptible d'aggraver la situation ;

2. *Demande, en outre*, à chacun desdits Gouvernements que, tant que l'affaire est pendante devant le Conseil, il informe celui-ci de tout changement matériel que la situation subirait ou serait, à son avis, sur le point de subir, et qu'il consulte le Conseil à ce sujet.

Adoptée à la 229^e séance par 9 voix contre zéro, avec 2 abstentions (République socialiste soviétique d'Ukraine, Union des Républiques socialistes soviétiques).

Décision

A sa 229^e séance, le 17 janvier 1948, le Conseil a décidé que le Président devait inviter les représentants de l'Inde et du Pakistan à se rencontrer sous ses auspices pour essayer de trouver un terrain d'entente à partir duquel puisse être élaboré un règlement.

39 (1948). Résolution du 20 janvier 1948

[S/654]

Le Conseil de sécurité,

Considérant qu'il peut enquêter sur tout différend ou toute situation qui pourrait, par sa prolongation, menacer le maintien de la paix et de la sécurité internationales, et que, dans l'état actuel des choses entre l'Inde et le Pakistan, une telle enquête s'impose d'urgence,

Adopte la résolution suivante :

A. Il est constitué une Commission du Conseil de sécurité, composée de représentants de trois Membres de l'Organisation des Nations Unies, dont l'un sera choisi par l'Inde, l'autre par le Pakistan et le troisième par les deux premiers⁸. Chaque membre de la Commission sera habilité à choisir ses suppléants et assistants.

B. La Commission se rendra sur les lieux le plus tôt possible. Elle agira sous l'autorité du Conseil de sécurité et conformément aux instructions qu'elle en recevra. Elle tiendra le Conseil au courant de son activité et de l'évolution de la situation. Elle lui fera régulièrement rapport, lui soumettant ses conclusions et propositions.

C. La Commission est investie d'une double fonction : 1) procéder à une enquête sur les faits en

⁸ Par sa résolution 47 (1948), le Conseil a décidé de porter à cinq le nombre des membres de la Commission. La composition de celle-ci figure ci-après, à la suite de ladite résolution.



of the Charter of the United Nations ; (2) to exercise, without interrupting the work of the Security Council, any mediatory influence likely to smooth away difficulties ; to carry out the directions given to it by the Security Council ; and to report how far the advice and directions, if any, of the Security Council have been carried out.

D. The Commission shall perform the functions described in clause C : (1) in regard to the situation in the Jammu and Kashmir State set out in the letter of the representative of India addressed to the President of the Security Council, dated 1 January 1948,⁴ and in the letter from the Minister of Foreign Affairs of Pakistan addressed to the Secretary-General, dated 15 January 1948 ;⁵ and (2) in regard to other situations set out in the letter from the Minister of Foreign Affairs of Pakistan addressed to the Secretary-General, dated 15 January 1948, when the Security Council so directs.

E. The Commission shall take its decision by majority vote. It shall determine its own procedure. It may allocate among its members, alternate members, their assistants, and its personnel such duties as may have to be fulfilled for the realization of its mission and the reaching of its conclusions.

F. The Commission, its members, alternate members, their assistants, and its personnel shall be entitled to journey, separately or together, wherever the necessities of their tasks may require, and, in particular, within those territories which are the theatre of the events of which the Security Council is seized.

G. The Secretary-General shall furnish the Commission with such personnel and assistance as it may consider necessary.

Adopted at the 230th meeting by 9 votes to none, with 2 abstentions (Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics).

47 (1948). Resolution of 21 April 1948

[S/726]

The Security Council,

Having considered the complaint of the Government of India concerning the dispute over the State of Jammu and Kashmir,

Having heard the representative of India in support of that complaint and the reply and counter-complaints of the representative of Pakistan,

⁴ *Official Records of the Security Council, Third Year, Supplement for November 1948, document S/1100, annex 28.*

⁵ *Ibid.*, annex 6.

vue de l'application de l'Article 34 de la Charte des Nations Unies ; 2) exercer, sans que l'action du Conseil de sécurité en soit interrompue, toute influence médiatrice susceptible d'aplanir les difficultés, exécuter les instructions qui lui sont données par le Conseil de sécurité, faire rapport sur la mesure dans laquelle les avis et instructions qu'aurait donnés le Conseil de sécurité ont été exécutés.

D. La Commission remplira les fonctions décrites au paragraphe C : 1) en ce qui concerne la situation dans l'Etat de Jammu et Cachemire, exposée dans la lettre du 1^{er} janvier 1948, adressée au Président du Conseil de sécurité par le représentant de l'Inde⁴, et dans la lettre du 15 janvier 1948, adressée au Secrétaire général par le Ministre des affaires étrangères du Pakistan⁵; et 2) en ce qui concerne les autres situations exposées dans la lettre du 15 janvier 1948, adressée au Secrétaire général par le Ministre des affaires étrangères du Pakistan, quand le Conseil de sécurité lui donnera pour instructions de le faire.

E. La Commission se prononcera à la majorité des voix. Elle fixera sa procédure. Elle pourra diviser parmi ses membres, titulaires ou suppléants, leurs assistants ou son personnel, les tâches auxquelles elle aura à pourvoir pour réaliser sa mission et parvenir à ses conclusions.

F. La Commission, ses membres, titulaires ou suppléants, leurs assistants et son personnel pourront se rendre, soit ensemble, soit séparément, là où les besoins de leur mission les conduiront, notamment dans les territoires, qui sont le théâtre des événements dont le Conseil de sécurité se trouve saisi.

G. Le Secrétaire général fournira à la Commission le personnel et l'assistance qu'elle estimera nécessaires.

Adoptée à la 230^e séance par 9 voix contre zéro, avec 2 abstentions (République socialiste soviétique d'Ukraine, Union des Républiques socialistes soviétiques).

47 (1948). Résolution du 21 avril 1948

[S/726]

Le Conseil de sécurité,

Ayant examiné la plainte du Gouvernement de l'Inde relative au différend concernant l'Etat de Jammu et Cachemire,

Ayant entendu les déclarations faites par le représentant de l'Inde à l'appui de cette plainte ainsi que la réponse et les plaintes reconventionnelles du représentant du Pakistan,

⁴ *Procès-verbaux officiels du Conseil de sécurité, troisième année, Supplément de novembre 1948, document S/1100, annexe 28.*

⁵ *Ibid.*, annexe 6.



Being strongly of the opinion that the early restoration of peace and order in Jammu and Kashmir is essential and that India and Pakistan should do their utmost to bring about a cessation of all fighting,

Noting with satisfaction that both India and Pakistan desire that the question of the accession of Jammu and Kashmir to India or Pakistan should be decided through the democratic method of a free and impartial plebiscite,

Considering that the continuation of the dispute is likely to endanger international peace and security,

Reaffirms its resolution 38 (1948) of 17 January 1948 ;

Resolves that the membership of the Commission established by its resolution 39 (1948) of 20 January 1948 shall be increased to five and shall include, in addition to the membership mentioned in that resolution, representatives of . . . and . . . , and that if the membership of the Commission has not been completed within ten days from the date of the adoption of this resolution the President of the Council may designate such other Member or Members of the United Nations as are required to complete the membership of five ;

Instructs the Commission to proceed at once to the Indian subcontinent and there place its good offices and mediation at the disposal of the Governments of India and Pakistan with a view to facilitating the taking of the necessary measures, both with respect to the restoration of peace and order and to the holding of a plebiscite, by the two Governments, acting in co-operation with one another and with the Commission, and further instructs the Commission to keep the Council informed of the action taken under the resolution ; and, to this end,

Recommends to the Governments of India and Pakistan the following measures as those which in the opinion of the Council are appropriate to bring about a cessation of the fighting and to create proper conditions for a free and impartial plebiscite to decide whether the State of Jammu and Kashmir is to accede to India or Pakistan :

A. Restoration of peace and order

1. The Government of Pakistan should undertake to use its best endeavours :

(a) To secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistani nationals not normally resident therein who have entered the State for the purpose of fighting, and to prevent any intrusion into the State of such elements and any furnishing of material aid to those fighting in the State ;

(b) To make known to all concerned that the measures indicated in this and the following paragraphs provide full freedom to all subjects of the State, regardless of creed, caste, or party, to express their

Etant fermement d'avis que le prompt rétablissement de la paix et de l'ordre public dans l'Etat de Jammu et Cachemire est d'importance primordiale, et que l'Inde et le Pakistan devraient user de tout leur pouvoir pour amener la cessation complète des hostilités,

Notant avec satisfaction que l'Inde et le Pakistan désirent également que la question du rattachement de l'Etat de Jammu et Cachemire à l'Inde ou au Pakistan soit tranchée démocratiquement par un plébiscite libre et impartial,

Considérant que la continuation du différend risque de mettre en danger la paix et la sécurité internationales,

Réaffirme sa résolution 38 (1948) du 17 janvier 1948 ;

Décide que le nombre des membres de la Commission créée en vertu de sa résolution 39 (1948) du 20 janvier 1948 doit être porté à cinq et comprendre, en plus des membres mentionnés dans ladite résolution, les représentants de ... et ... et que, si les cinq postes de la Commission n'ont pas été pourvus dans les dix jours qui suivront l'adoption de la présente résolution, le Président du Conseil pourra désigner un ou plusieurs Membres de l'Organisation des Nations Unies pour compléter l'effectif de la Commission ;

Invite la Commission à se rendre immédiatement dans le sous-continent indien et à offrir ses bons offices ainsi que sa médiation aux Gouvernements de l'Inde et du Pakistan en vue de rendre plus facile à ces gouvernements — agissant tous deux de concert ainsi qu'en collaboration avec la Commission — la tâche de prendre les mesures nécessaires à la fois pour rétablir la paix et l'ordre public et pour organiser un plébiscite ; invite, en outre, la Commission à tenir le Conseil au courant de toute action entreprise en vertu de cette résolution ; et, à cette fin,

Recommande aux Gouvernements de l'Inde et du Pakistan les mesures suivantes que le Conseil estime propres à amener la cessation des hostilités et à créer les conditions nécessaires à un plébiscite libre et impartial sur la question de savoir si l'Etat de Jammu et Cachemire doit être rattaché à l'Inde ou au Pakistan :

A. Rétablissement de la paix et de l'ordre public

1. Le Gouvernement du Pakistan devrait prendre l'engagement de faire tous ses efforts :

a) Pour assurer l'évacuation de l'Etat de Jammu et Cachemire par les membres des tribus et les ressortissants du Pakistan qui ne résident pas normalement dans cet Etat ou qui y ont pénétré dans le but de combattre et, d'autre part, pour empêcher l'entrée dans l'Etat de tels éléments ainsi que tout apport d'aide matérielle aux individus combattant à l'intérieur de l'Etat ;

b) Pour faire savoir à tous les intéressés que les mesures mentionnées dans ce paragraphe, ainsi que dans les paragraphes suivants, assurent à tous les sujets de l'Etat, sans considération de croyance, de caste ou



views and to vote on the question of the accession of the State, and that therefore they should co-operate in the maintenance of peace and order.

2. The Government of India should :

(a) When it is established to the satisfaction of the Commission set up in accordance with the Council's resolution 39 (1948) that the tribesmen are withdrawing and that arrangements for the cessation of the fighting have become effective, put into operation in consultation with the Commission a plan for withdrawing their own forces from Jammu and Kashmir and reducing them progressively to the minimum strength required for the support of the civil power in the maintenance of law and order ;

(b) Make known that the withdrawal is taking place in stages and announce the completion of each stage ;

(c) When the Indian forces have been reduced to the minimum strength mentioned in (a) above, arrange in consultation with the Commission for the stationing of the remaining forces to be carried out in accordance with the following principles :

- (i) That the presence of troops should not afford any intimidation or appearance of intimidation to the inhabitants of the State ;
- (ii) That as small a number as possible should be retained in forward areas ;
- (iii) That any reserve of troops which may be included in the total strength should be located within their present base area.

3. The Government of India should agree that until such time as the Plebiscite Administration referred to below finds it necessary to exercise the powers of direction and supervision over the State forces and police provided for in paragraph 8, they will be held in areas to be agreed upon with the Plebiscite Administrator.

4. After the plan referred to in paragraph 2 (a) above has been put into operation, personnel recruited locally in each district should so far as possible be utilized for the re-establishment and maintenance of law and order with due regard to protection of minorities, subject to such additional requirements as may be specified by the Plebiscite Administration referred to in paragraph 7.

5. If these local forces should be found to be inadequate, the Commission, subject to the agreement of both the Government of India and the Government of Pakistan, should arrange for the use of such forces of either Dominion as it deems effective for the purpose of pacification.

de parti, liberté complète d'exprimer leurs opinions et de voter sur la question du rattachement de l'Etat et qu'en conséquence il est du devoir desdits sujets de collaborer au maintien de la paix et de l'ordre public.

2. Le Gouvernement de l'Inde devrait :

a) Lorsque la Commission créée aux termes de la résolution 39 (1948) du Conseil aura estimé établi le fait que les membres des tribus évacuent le territoire et que les dispositions prises en vue de mettre fin aux hostilités ont été mises en vigueur, procéder, en consultation avec la Commission, à l'exécution d'un plan assurant l'évacuation par ses propres forces de l'Etat de Jammu et Cachemire et la réduction progressive de ces forces au minimum nécessaire pour aider les autorités civiles à maintenir la paix et l'ordre public ;

b) Faire savoir que l'évacuation a lieu progressive-ment et annoncer l'achèvement de chaque phase de ce plan ;

c) Lorsque les forces indiennes auront été ramenées à l'effectif minimum mentionné à l'alinéa a ci-dessus, prendre, en consultation avec la Commission, toutes dispositions pour que les troupes restantes soient cantonnées conformément aux principes suivants, de sorte que :

- i) La présence de troupes ne constitue ni ne semble constituer un acte d'intimidation pour les habitants de l'Etat ;
- ii) Des effectifs aussi réduits que possible soient maintenus dans les zones avancées ;
- iii) Toutes les troupes de réserve qui pourraient être comprises dans l'effectif total soient cantonnées à l'intérieur de leur zone de garnison actuelle.

3. Le Gouvernement de l'Inde devrait accepter que, jusqu'au moment où l'administration chargée du plébiscite, mentionnée ci-dessous, estimera nécessaire d'exercer les pouvoirs de direction et de contrôle sur les forces et la police de l'Etat ainsi qu'il est prévu au paragraphe 8, ces forces soient cantonnées dans des zones déterminées après accord avec l'administrateur du plébiscite.

4. Lorsque le plan visé au paragraphe 2, alinéa a, ci-dessus sera en voie d'exécution, le personnel recruté localement dans chaque district devrait, autant que possible, être employé au rétablissement et au maintien de l'ordre public, compte dûment tenu de la protection des minorités, sous réserve des prescriptions supplémentaires qui pourraient être stipulées par l'administration chargée du plébiscite, mentionnée au paragraphe 7.

5. Dans le cas où ces forces locales seraient jugées insuffisantes, la Commission, sous réserve de l'accord du Gouvernement de l'Inde aussi bien que du Gouvernement du Pakistan, devrait prendre des dispositions pour l'utilisation des forces de chacun des deux Dominions de la façon qu'elle jugerait la plus propre à assurer le rétablissement de la paix et de l'ordre public.



B. Plebiscite

6. The Government of India should undertake to ensure that the Government of the State invite the major political groups to designate responsible representatives to share equitably and fully in the conduct of the administration at the ministerial level while the plebiscite is being prepared and carried out.

7. The Government of India should undertake that there will be established in Jammu and Kashmir a Plebiscite Administration to hold a plebiscite as soon as possible on the question of the accession of the State to India or Pakistan.

8. The Government of India should undertake that there will be delegated by the State to the Plebiscite Administration such powers as the latter considers necessary for holding a fair and impartial plebiscite including, for that purpose only, the direction and supervision of the State forces and police.

9. The Government of India should, at the request of the Plebiscite Administration, make available from the Indian forces such assistance as the Plebiscite Administration may require for the performance of its functions.

10. (a) The Government of India should agree that a nominee of the Secretary-General of the United Nations will be appointed to be the Plebiscite Administrator.

(b) The Plebiscite Administrator, acting as an officer of the State of Jammu and Kashmir, should have authority to nominate his assistants and other subordinates and to draft regulations governing the plebiscite. Such nominees should be formally appointed and such draft regulations should be formally promulgated by the State of Jammu and Kashmir.

(c) The Government of India should undertake that the Government of Jammu and Kashmir will appoint fully qualified persons nominated by the Plebiscite Administrator to act as special magistrates within the State judicial system to hear cases which in the opinion of the Plebiscite Administrator have a serious bearing on the preparation for and the conduct of a free and impartial plebiscite.

(d) The terms of service of the Administrator should form the subject of a separate negotiation between the Secretary-General of the United Nations and the Government of India. The Administrator should fix the terms of service for his assistants and subordinates.

(e) The Administrator should have the right to communicate directly with the Government of the State and with the Commission of the Security Council and, through the Commission, with the Security Council, with the Governments of India and Pakistan and with their representatives with the Commission. It would be his duty to bring to the notice of any or

B. Plébiscite

6. Le Gouvernement de l'Inde devrait s'engager à faire en sorte que le Gouvernement de l'Etat invite les principaux groupes politiques à désigner des représentants responsables pour prendre part, d'une manière équitable et complète, à la direction des affaires administratives à l'échelon ministériel pendant la préparation et la conduite du plébiscite.

7. Le Gouvernement de l'Inde devrait s'engager à établir le plus tôt possible, dans l'Etat de Jammu et Cachemire, une administration chargée du plébiscite sur la question du rattachement de l'Etat à l'Inde ou au Pakistan.

8. Le Gouvernement de l'Inde devrait s'engager à faire déléguer par l'Etat à l'administration chargée du plébiscite tous les pouvoirs que cette dernière jugerait nécessaires pour tenir un plébiscite loyal et impartial, notamment, et exclusivement à cette fin, la direction et le contrôle des forces armées et de la police de l'Etat.

9. Le Gouvernement de l'Inde devrait mettre à la disposition de l'administration chargée du plébiscite, sur la demande de cette dernière, l'assistance des forces armées indiennes dont l'administration chargée du plébiscite pourrait avoir besoin pour remplir ses fonctions.

10. a) Le Gouvernement de l'Inde devrait accepter de nommer une personne présentée par le Secrétaire général de l'Organisation des Nations Unies au poste d'administrateur du plébiscite.

b) L'administrateur du plébiscite, agissant en qualité de fonctionnaire de l'Etat de Jammu et Cachemire, devrait avoir pleins pouvoirs pour désigner ses adjoints et autres subordonnés et pour rédiger le règlement régissant le plébiscite. L'Etat de Jammu et Cachemire devrait confirmer en bonne et due forme lesdites nominations et devrait promulguer en bonne et due forme ledit projet de règlement.

c) Le Gouvernement de l'Inde devrait s'engager à faire nommer par le Gouvernement de Jammu et Cachemire des personnes pleinement qualifiées, désignées par l'administrateur du plébiscite, pour exercer les fonctions de juges spéciaux dans le régime judiciaire de l'Etat et pour connaître, en cette qualité, des cas susceptibles d'avoir, de l'avis de l'administrateur du plébiscite, de graves répercussions sur la préparation et la conduite d'un plébiscite libre et impartial.

d) Les conditions d'engagement de l'administrateur devraient faire l'objet de négociations séparées entre le Secrétaire général de l'Organisation des Nations Unies et le Gouvernement de l'Inde. L'administrateur devrait fixer les conditions d'engagement de ses adjoints et subordonnés.

e) L'administrateur devrait avoir le droit de communiquer directement avec le Gouvernement de l'Etat ainsi qu'avec la Commission du Conseil de sécurité et, par l'entremise de celle-ci, avec le Conseil de sécurité, avec les Gouvernements de l'Inde et du Pakistan et avec leurs représentants auprès de la Commission. Il devrait avoir pour mission de porter à la connaissance



all of the foregoing (as he in his discretion may decide) any circumstances arising which may tend, in his opinion, to interfere with the freedom of the plebiscite.

11. The Government of India should undertake to prevent, and to give full support to the Administrator and his staff in preventing, any threat, coercion or intimidation, bribery or other undue influence on the voters in the plebiscite, and the Government of India should publicly announce and should cause the Government of the State to announce this undertaking as an international obligation binding on all public authorities and officials in Jammu and Kashmir.

12. The Government of India should themselves and through the Government of the State declare and make known that all subjects of the State of Jammu and Kashmir, regardless of creed, caste or party, will be safe and free in expressing their views and in voting on the question of the accession of the State and that there will be freedom of the press, speech and assembly and freedom of travel in the State, including freedom of lawful entry and exit.

13. The Government of India should use and should ensure that the Government of the State also use their best endeavours to effect the withdrawal from the State of all Indian nationals other than those who are normally resident therein or who on or since 15 August 1947 have entered it for a lawful purpose.

14. The Government of India should ensure that the Government of the State releases all political prisoners and take all possible steps so that :

(a) All citizens of the State who have left it on account of disturbances are invited, and are free, to return to their homes and to exercise their rights as such citizens ;

(b) There is no victimization ;

(c) Minorities in all parts of the State are accorded adequate protection.

15. The Commission of the Security Council should at the end of the plebiscite certify to the Council whether the plebiscite has or has not been really free and impartial.

C. General provisions

16. The Governments of India and Pakistan should each be invited to nominate a representative to be attached to the Commission for such assistance as it may require in the performance of its task.

17. The Commission should establish in Jammu and Kashmir such observers as it may require of any of the proceedings in pursuance of the measures indicated in the foregoing paragraphs.

des organismes ou des personnes précitées ou de ceux d'entre eux auxquels il jugerait utile de le faire tous les faits qui pourraient tendre, à son avis, à entraver la liberté du plébiscite.

11. Le Gouvernement de l'Inde devrait s'engager à prendre les mesures et à aider sans réserves l'administrateur et son personnel à prendre les mesures nécessaires pour empêcher toute menace, contrainte ou intimidation, corruption ou autre influence illégitime dont pourraient être victimes les électeurs prenant part au plébiscite ; et le Gouvernement de l'Inde devrait publier officiellement, et faire publier par le Gouvernement de l'Etat, cet engagement comme une obligation internationale liant toutes les autorités publiques et tous les fonctionnaires de l'Etat de Jammu et Cachemire.

12. Le Gouvernement de l'Inde, directement ou par l'intermédiaire du Gouvernement de l'Etat, devrait annoncer et faire savoir à tous les sujets de l'Etat de Jammu et Cachemire qu'ils jouiront, sans considération de croyance, de caste ou de parti, de toute sécurité et de toute liberté lorsqu'ils exprimeront leur opinion et qu'ils voteront sur la question du rattachement de l'Etat, et qu'il y aura liberté de la presse, liberté de parole et de réunion et liberté de circulation dans l'Etat, y compris la liberté d'entrer et de sortir légalement du territoire.

13. Le Gouvernement de l'Inde devrait s'efforcer, et faire en sorte que le Gouvernement de l'Etat s'efforce également, de faire sortir de l'Etat tous les ressortissants indiens à l'exception de ceux qui y ont leur résidence normale ou qui, depuis le 15 août 1947, y ont pénétré à des fins légales.

14. Le Gouvernement de l'Inde devrait faire en sorte que le Gouvernement de l'Etat relâche tous les prisonniers politiques et prenne toutes mesures possibles pour garantir :

a) Que tous les citoyens de l'Etat qui ont quitté l'Etat en raison des troubles soient invités, en toute liberté, à regagner leur domicile et à exercer leurs droits de citoyens de cet Etat ;

b) Qu'il n'y ait pas de représailles contre les individus ;

c) Qu'une protection suffisante soit accordée aux minorités dans toutes les parties de l'Etat.

15. A la fin du plébiscite, la Commission du Conseil de sécurité devrait faire savoir au Conseil si le plébiscite a ou n'a pas été réellement libre et impartial.

C. Dispositions générales

16. Les Gouvernements de l'Inde et du Pakistan devraient être invités à désigner, chacun, un représentant à la Commission pour lui fournir toute l'assistance dont celle-ci aurait besoin dans l'accomplissement de sa tâche.

17. La Commission devrait installer dans l'Etat de Jammu et Cachemire les observateurs dont elle pourrait avoir besoin pour observer l'une quelconque des phases du plébiscite, conformément aux mesures indiquées aux paragraphes précédents.



18. The Security Council Commission should carry out the tasks assigned to it herein.

Adopted at the 286th meeting.⁶

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The five members of the United Nations Commission for India and Pakistan were: CZECHOSLOVAKIA (nominated by India on 10 February 1948); BELGIUM and COLOMBIA (appointed by the Council on 23 April 1948 — see the decision below); ARGENTINA (nominated by Pakistan on 30 April 1948); UNITED STATES OF AMERICA (designated by the President of the Council on 7 May 1948, in the absence of agreement between Argentina and Czechoslovakia on the member to be designated by them).

Decision

At its 287th meeting, on 23 April 1948, the Council, pursuant to its resolution 47 (1948), appointed Belgium and Colombia as the additional members of the United Nations Commission for India and Pakistan.

Adopted by 7 votes to none, with 4 abstentions (Belgium, Colombia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics).

51 (1948). Resolution of 3 June 1948

[S/819]

The Security Council

1. Reaffirms its resolutions 38 (1948) of 17 January, 39 (1948) of 20 January and 47 (1948) of 21 April 1948 ;
2. Directs the United Nations Commission for India and Pakistan to proceed without delay to the areas of dispute with a view to accomplishing in priority the duties assigned to it by resolution 47 (1948) ;
3. Directs the Commission further to study and report to the Security Council when it considers it appropriate on the matters raised in the letter of the Foreign Minister of Pakistan, dated 15 January 1948,⁷

⁶ The draft resolution was voted on paragraph by paragraph. No vote was taken on the text as a whole.

⁷ See *Official Records of the Security Council, Third Year, Supplement for November 1948*, document S/1100, annex 6.

18. Il devrait incomber à la Commission du Conseil de sécurité de s'acquitter des tâches qui lui sont assignées par les présentes.

Adoptée à la 286^e séance⁶.

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Les cinq membres de la Commission des Nations Unies pour l'Inde et le Pakistan étaient les suivants : la TCHÉCOSLOVAQUIE (désignée par l'Inde le 10 février 1948) ; la BELGIQUE et la COLOMBIE (nommées par le Conseil le 23 avril 1948 — voir la décision ci-dessous) ; l'ARGENTINE (désignée par le Pakistan le 30 avril 1948) ; les ETATS-UNIS d'AMÉRIQUE (désignés par le Président du Conseil, le 7 mai 1948, la Tchécoslovaquie et l'Argentine n'ayant pu se mettre d'accord sur le choix du pays qu'elles devaient désigner conjointement).

Décision

A sa 287^e séance, le 23 avril 1948, le Conseil, en application de sa résolution 47 (1948), a désigné la Belgique et la Colombie comme membres supplémentaires de la Commission des Nations Unies pour l'Inde et le Pakistan.

Adoptée par 7 voix contre zéro, avec 4 abstentions (Belgique, Colombie, République socialiste soviétique d'Ukraine, Union des Républiques socialistes soviétiques).

51 (1948). Résolution du 3 juin 1948

[S/819]

Le Conseil de sécurité

1. Réaffirme ses résolutions 38 (1948) du 17 janvier, 39 (1948) du 20 janvier et 47 (1948) du 21 avril 1948 ;
2. Prescrit à la Commission des Nations Unies pour l'Inde et le Pakistan de se rendre sans délai sur les lieux du différend en vue d'y accomplir, en premier lieu, les tâches à elle assignées par la résolution 47 (1948) ;
3. Prescrit à la Commission de poursuivre l'examen des questions soulevées dans la lettre du Ministre des affaires étrangères du Pakistan, en date du 15 janvier 1948⁷, dans l'ordre indiqué au paragraphe D de

⁶ Le projet de résolution a été mis aux voix paragraphe par paragraphe. Il n'y a pas eu de vote sur l'ensemble du texte.

⁷ Voir *Procès-verbaux officiels du Conseil de sécurité, troisième année, Supplément de novembre 1948*, document S/1100, annexe 6.



in the order outlined in paragraph D of Council resolution 39 (1948).

Adopted at the 312th meeting by 8 votes to none, with 3 abstentions (China, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics).

Decisions

At its 382nd meeting, on 25 November 1948, the Council invited the Rapporteur of the United Nations Commission for India and Pakistan to take a place at the Council table.

At the same meeting the Council decided: (1) to inform the United Nations Commission for India and Pakistan that it could count on the full support of the Security Council and that the Council wished it to continue its work for the purpose of arriving at a peaceful solution, and (2) to bring to the attention of the Governments of India and Pakistan the need for refraining from any action which might aggravate the military or the political situation and consequently prejudice the negotiations being carried on for the purpose of arriving at a final and peaceful understanding in the matter.

la résolution 39 (1948) du Conseil et de faire rapport au Conseil à ce sujet quand elle le jugera opportun.

Adoptée à la 312^e séance par 8 voix contre zéro, avec 3 abstentions (Chine, République socialiste soviétique d'Ukraine, Union des Républiques socialistes soviétiques).

Décisions

A sa 382^e séance, le 25 novembre 1948, le Conseil a décidé d'inviter le Rapporteur de la Commission des Nations Unies pour l'Inde et le Pakistan à prendre place à la table du Conseil.

A la même séance, le Conseil a décidé: 1) de faire savoir à la Commission des Nations Unies pour l'Inde et le Pakistan qu'elle pouvait compter sur l'appui total du Conseil et que ce dernier désirait qu'elle poursuive sa tâche en vue d'aboutir à une solution pacifique, et 2) d'attirer l'attention des Gouvernements de l'Inde et du Pakistan sur la nécessité de s'abstenir de toute mesure susceptible d'aggraver la situation militaire ou politique et, en conséquence, de compromettre les négociations entreprises en vue de réaliser une entente définitive et pacifique sur cette question.

THE FREE TERRITORY OF TRIESTE⁸

A. APPOINTMENT OF A GOVERNOR OF THE FREE TERRITORY OF TRIESTE

Decisions

At its 233rd meeting (private meeting), on 23 January 1948, the Council resumed its consideration of the question of the appointment of a Governor of the Free Territory of Trieste and decided to ask the permanent members to hold a further consultation on the matter.

At its 265th meeting (private meeting), on 9 March 1948, the Council agreed to postpone its consideration of the question of the appointment of a Governor of the Free Territory of Trieste and to take up the question again at the request of any member of the Council.

⁸ Resolutions or decisions on this question were also adopted by the Council in 1947.

TERRITOIRE LIBRE DE TRIESTE⁸

A. NOMINATION D'UN GOUVERNEUR DU TERRITOIRE LIBRE DE TRIESTE

Décisions

A sa 233^e séance (séance privée), le 23 janvier 1948, le Conseil a repris la discussion de la question de la nomination d'un gouverneur du Territoire libre de Trieste et a décidé d'inviter les membres permanents à entrer de nouveau en consultation à ce sujet.

A sa 265^e séance (séance privée), le 9 mars 1948, le Conseil a convenu de remettre à plus tard l'examen de la question de la nomination d'un gouverneur du Territoire libre de Trieste et de reprendre l'étude de cette question quand un membre du Conseil en ferait la demande.

⁸ Question ayant fait l'objet de résolutions ou décisions de la part du Conseil en 1947.



S/RES/80

RESOLUTIONS ADOPTED AND DECISIONS TAKEN
BY THE SECURITY COUNCIL IN 1950

RÉSOLUTIONS ADOPTÉES ET DÉCISIONS PRISES
PAR LE CONSEIL DE SÉCURITÉ EN 1950

Part I. Questions considered by the Security Council under its responsibility for the maintenance of international peace and security

THE INDIA-PAKISTAN QUESTION ¹

80 (1950). Resolution of 14 March 1950

[S/1469]

The Security Council,

Having received and noted the reports ² of the United Nations Commission for India and Pakistan established by its resolutions 39 (1948) of 20 January and 47 (1948) of 21 April 1948,

Having also received and noted the report of General A. G. L. Mc Naughton ³ on the outcome of his discussions with the representatives of India and Pakistan which were initiated in pursuance of the decision taken by the Security Council on 17 December 1949,⁴

Commending the Governments of India and Pakistan for their statesmanlike action in reaching the agreements embodied in the United Nations Commission's reso-

¹ Resolutions or decisions on this question were also adopted by the Council in 1948 and 1949.

² *Official Records of the Security Council, Third Year, Supplement for November 1948, document S/1100; ibid., Fourth Year, Supplement for January 1949, document S/1196; and ibid., Fourth Year, Special Supplement No. 7.*

³ *Ibid., Fifth Year, Supplement for 1 January through 31 May 1950, document S/1453.*

⁴ *Ibid., Fourth Year, Resolutions and Decisions of the Security Council, 1949, p. 7.*

Première partie. Questions examinées par le Conseil de sécurité en tant qu'organe responsable du maintien de la paix et de la sécurité internationales

LA QUESTION INDE-PAKISTAN ¹

80 (1950). Résolution du 14 mars 1950

[S/1469]

Le Conseil de sécurité,

Ayant pris acte des rapports ² que lui a envoyés la Commission des Nations Unies pour l'Inde et le Pakistan créée par ses résolutions 39 (1948) du 20 janvier et 47 (1948) du 21 avril 1948,

Ayant également pris acte du rapport que lui a envoyé le général A. G. L. McNaughton ³ sur le résultat des conversations qu'il a eues avec les représentants de l'Inde et du Pakistan en exécution de la décision prise par le Conseil de sécurité le 17 décembre 1949 ⁴,

Félicitant les Gouvernements de l'Inde et du Pakistan pour la sagesse politique dont ils ont fait preuve en concluant les accords formulés dans les résolutions de

¹ Question ayant fait l'objet de résolutions ou décisions de la part du Conseil en 1948 et 1949.

² *Procès-verbaux officiels du Conseil de sécurité, troisième année, Supplément de novembre 1948, document S/1100; ibid., quatrième année, Supplément de janvier 1949, document S/1196; et ibid., quatrième année, Supplément spécial n° 7.*

³ *Ibid., cinquième année, Supplément de la période du 1^{er} janvier au 31 mai 1950, document S/1453.*

⁴ *Ibid., quatrième année, Résolutions et décisions du Conseil de sécurité, 1949, p. 7.*

Source: United Nations Security Council (SC), Resolution 80, "The India-Pakistan Question," March 14, 1950, https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_80.pdf.



lutions of 13 August 1948⁵ and 5 January 1949⁶ for a cease-fire, for the demilitarization of the State of Jammu and Kashmir and for the determination of its final disposition in accordance with the will of the people through the democratic method of a free and impartial plebiscite, and commending the parties in particular for their action in partially implementing these resolutions by (1) the cessation of hostilities effected 1 January 1949, (2) the establishment of a cease-fire line on 27 July 1949, and (3) the agreement that Fleet Admiral Chester W. Nimitz shall be Plebiscite Administrator,

Considering that the resolution of the outstanding difficulties should be based upon the substantial measure of agreement on fundamental principles already reached, and that steps should be taken forthwith for the demilitarization of the State and for the expeditious determination of its future in accordance with the freely expressed will of the inhabitants,

1. *Calls upon* the Governments of India and Pakistan to make immediate arrangements, without prejudice to their rights or claims and with due regard to the requirements of law and order, to prepare and execute within a period of five months from the date of this resolution a programme of demilitarization on the basis of the principles of paragraph 2 of General McNaughton's proposal⁷ or of such modifications of those principles as may be mutually agreed;

2. *Decides* to appoint a United Nations Representative for the following purposes who shall have authority to perform his functions in such place or places as he may deem appropriate :

(a) To assist in the preparation and to supervise the implementation of the programme of demilitarization referred to above and to interpret the agreements reached by the parties for demilitarization;

(b) To place himself at the disposal of the Governments of India and Pakistan and to place before those Governments or the Security Council any suggestions which, in his opinion, are likely to contribute to the expeditious and enduring solution of the dispute which has arisen between the two Governments in regard to the State of Jammu and Kashmir;

(c) To exercise all of the powers and responsibilities devolving upon the United Nations Commission for India and Pakistan by reason of existing resolutions of the Security Council and by reason of the agreement of the parties embodied in the resolutions of the United Nations Commission of 13 August 1948⁵ and 5 January 1949;⁶

(d) To arrange at the appropriate stage of demilitarization for the assumption by the Plebiscite Administrator

⁵ *Ibid.*, *Third Year, Supplement for November 1948*, document S/1100, para. 75.

⁶ *Ibid.*, *Fourth Year, Supplement for January 1949*, document S/1196, para. 15.

⁷ *Ibid.*, *Fifth Year, Supplement for 1 January through 31 May 1950*, document S/1453, p. 14.

la Commission des Nations Unies en date du 13 août 1948⁵ et du 5 janvier 1949⁶, relatifs à une suspension d'armes, à la démilitarisation de l'Etat de Jammu et Cachemire et à la fixation du statut définitif de cet Etat conformément à la volonté de la population exprimée de façon démocratique par un plébiscite libre et impartial, et félicitant notamment les parties d'avoir partiellement mis en œuvre ces résolutions: 1) en cessant les hostilités le 1^{er} janvier 1949, 2) en établissant une ligne de suspension d'armes le 27 juillet 1949, et 3) en acceptant la nomination de l'amiral Chester W. Nimitz au poste d'administrateur du plébiscite,

Considérant qu'il y a lieu, pour résoudre les difficultés qui subsistent, de se fonder sur l'accord appréciable qui a déjà été réalisé sur des principes fondamentaux, et considérant que des mesures devraient être prises immédiatement en vue de démilitariser l'Etat et d'en fixer rapidement le sort conformément à la volonté librement exprimée de ses habitants,

1. *Invite* les Gouvernements de l'Inde et du Pakistan, sans préjudice de leurs droits ou revendications et compte dûment tenu des exigences de l'ordre public, à prendre immédiatement les dispositions nécessaires pour préparer et exécuter, dans un délai de cinq mois à compter de la date de la présente résolution, un programme de démilitarisation qui s'inspire soit des principes énoncés au paragraphe 2 de la proposition du général McNaughton⁷, soit des modifications apportées à ces principes par accord mutuel;

2. *Décide* de nommer un représentant des Nations Unies qui sera habilité à exercer ses fonctions en tout lieu ou tous lieux qu'il jugera appropriés, et qui sera chargé:

a) D'aider à préparer le programme de démilitarisation susvisé, d'en surveiller l'exécution et d'interpréter les accords conclus par les parties en vue de la démilitarisation;

b) De se mettre à la disposition des Gouvernements de l'Inde et du Pakistan et de soumettre à ces gouvernements ou au Conseil de sécurité toute proposition qui lui semblerait de nature à contribuer au règlement rapide et durable du différend qui a surgi entre les deux gouvernements au sujet de l'Etat de Jammu et Cachemire;

c) D'exercer tous les pouvoirs et attributions dévolus à la Commission des Nations Unies pour l'Inde et le Pakistan en vertu des résolutions existantes du Conseil de sécurité et en vertu de l'accord conclu entre les parties et qui figure dans les résolutions adoptées par la Commission des Nations Unies les 13 août 1948⁵ et 5 janvier 1949⁶;

d) De prendre, au stade approprié de la démilitarisation, les dispositions voulues pour que l'administrateur

⁵ *Ibid.*, *troisième année, Supplément de novembre 1948*, document S/1100, par. 75.

⁶ *Ibid.*, *quatrième année, Supplément de janvier 1949*, document S/1196, par. 75.

⁷ *Ibid.*, *cinquième année, Supplément de la période du 1^{er} janvier au 31 mai 1950*, document S/1453, p. 14.



of the functions assigned to the latter under agreements made between the parties;

(e) To report to the Security Council as he may consider necessary, submitting his conclusions and any recommendations which he may desire to make;

3. Requests the two Governments to take all necessary precautions to ensure that their agreements regarding the cease-fire shall continue to be faithfully observed, and calls upon them to take all possible measures to ensure the creation and maintenance of an atmosphere favourable to the promotion of further negotiations;

4. Extends its best thanks to the members of the United Nations Commission for India and Pakistan and to General A. G. L. McNaughton for their arduous and fruitful labours;

5. Agrees that the United Nations Commission for India and Pakistan shall be terminated, and decides that this shall take place one month after both parties have informed the United Nations Representative of their acceptance of the transfer to him of the powers and responsibilities of the United Nations Commission referred to in paragraph 2 (c) above.

*Adopted at the 470th meeting by 8 votes to none, with 2 abstentions (India, Yugoslavia).**

Decision

At its 471st meeting, on 12 April 1950, the Council appointed Sir Owen Dixon United Nations Representative for India and Pakistan.

*Adopted by 8 votes to none, with 2 abstentions (India, Yugoslavia).**

COMPLAINT OF AGGRESSION UPON THE REPUBLIC OF KOREA

Decision

At its 473rd meeting, on 25 June 1950, the Council decided, under rule 39 of the provisional rules of procedure, to invite the representative of the Republic of Korea to take a place at the Council table during the consideration of the question.

* One member (Union of Soviet Socialist Republics) was absent.

du plébiscite puisse exercer les fonctions qui lui ont été conférées par les accords conclus entre les parties;

e) De soumettre au Conseil de sécurité tout rapport qu'il jugera nécessaire, avec les conclusions et les recommandations qu'il estimera devoir présenter;

3. Prie les deux gouvernements de prendre toutes les précautions utiles pour s'assurer que les accords relatifs à la suspension d'armes seront fidèlement observés et invite ces gouvernements à prendre toutes les mesures possibles pour créer et maintenir un climat favorable à la poursuite des négociations;

4. Exprime ses remerciements aux membres de la Commission des Nations Unies pour l'Inde et le Pakistan et au général A. G. L. McNaughton pour les travaux ardu et fructueux qu'ils ont accomplis;

5. Décide que la Commission des Nations Unies pour l'Inde et le Pakistan sera dissoute et que cette dissolution prendra effet un mois après le jour où les deux parties auront fait connaître au représentant des Nations Unies qu'elles acceptent le transfert audit représentant des pouvoirs et attributions visés à l'alinéa c du paragraphe 2 ci-dessus.

Adoptée à la 470^e séance par 8 voix contre zéro, avec 2 abstentions (Inde, Yougoslavie).*

Décision

A sa 471^e séance, le 12 avril 1950, le Conseil a nommé sir Owen Dixon représentant des Nations Unies pour l'Inde et le Pakistan.

Adoptée par 8 voix contre zéro, avec 2 abstentions (Inde, Yougoslavie).*

PLAINTE POUR AGRESSION CONTRE LA RÉPUBLIQUE DE CORÉE

Décision

A sa 473^e séance, le 25 juin 1950, le Conseil a décidé, en vertu de l'article 39 de son règlement intérieur provisoire, d'inviter le représentant de la République de Corée à prendre place à la table du Conseil pendant l'examen de la question.

* Un des membres (Union des Républiques socialistes soviétiques) était absent.



S/RES/91 & S/RES/96

RESOLUTIONS ADOPTED AND DECISIONS TAKEN
BY THE SECURITY COUNCIL IN 1951

RÉSOLUTIONS ADOPTÉES ET DÉCISIONS PRISES
PAR LE CONSEIL DE SÉCURITÉ EN 1951

Part I. Questions considered by the Security Council under its responsibility for the maintenance of international peace and security

Première partie. Questions examinées par le Conseil de sécurité en tant qu'organe responsable du maintien de la paix et de la sécurité internationales

COMPLAINT OF AGGRESSION UPON THE
REPUBLIC OF KOREA ¹

PLAINTE POUR AGRESSION
CONTRE LA RÉPUBLIQUE DE CORÉE ¹

90 (1951). Resolution of 31 January 1951

90 (1951). Résolution du 31 janvier 1951

[S/1995]

[S/1995]

The Security Council

Le Conseil de sécurité

Resolves to remove the item "Complaint of aggression upon the Republic of Korea" from the list of matters of which the Council is seized.

Décide de retirer la question intitulée « Plainte pour agression contre la République de Corée » de la liste des questions dont le Conseil de sécurité est saisi.

Adopted unanimously at the 531st meeting.

Adoptée à l'unanimité à la 531^e séance.

THE INDIA-PAKISTAN QUESTION ²

LA QUESTION INDE-PAKISTAN ²

91 (1951). Resolution of 30 March 1951

91 (1951). Résolution du 30 mars 1951

[S/2017/Rev.1]

[S/2017/Rev.1]

The Security Council,

Le Conseil de sécurité,

Having received and noted the report of Sir Owen Dixon,

Ayant reçu le rapport de sir Owen Dixon, représentant

¹ Resolutions or decisions on this question were also adopted by the Council in 1950.

¹ Question ayant fait l'objet de résolutions ou décisions de la part du Conseil en 1950.

² Resolutions or decisions on this question were also adopted by the Council in 1948, 1949 and 1950.

² Question ayant fait l'objet de résolutions ou décisions de la part du Conseil en 1948, 1949 et 1950.



the United Nations Representative for India and Pakistan,³ on his mission initiated by Security Council resolution 80 (1950) of 14 March 1950,

Observing that the Governments of India and Pakistan have accepted the provisions of the United Nations Commission for India and Pakistan resolutions of 13 August 1948⁴ and 5 January 1949⁵ and have reaffirmed their desire that the future of the State of Jammu and Kashmir shall be decided through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations,

Observing that on 27 October 1950 the General Council of the "All Jammu and Kashmir National Conference" adopted a resolution recommending the convening of a constituent assembly for the purpose of determining the "future shape and affiliations of the State of Jammu and Kashmir", observing further from statements of responsible authorities that action is proposed to convene such a constituent assembly and that the area from which such a constituent assembly would be elected is only a part of the whole territory of Jammu and Kashmir,

Reminding the Governments and authorities concerned of the principle embodied in its resolutions 47 (1948) of 21 April 1948, 51 (1948) of 3 June 1948 and 80 (1950) of 14 March 1950 and the United Nations Commission for India and Pakistan resolutions of 13 August 1948 and 5 January 1949, that the final disposition of the State of Jammu and Kashmir will be made in accordance with the will of the people expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations,

Affirming that the convening of a constituent assembly as recommended by the General Council of the "All Jammu and Kashmir National Conference" and any action that assembly might attempt to take to determine the future shape and affiliation of the entire State or any part thereof would not constitute a disposition of the State in accordance with the above principle,

Declaring its belief that it is the duty of the Security Council in carrying out its primary responsibility for the maintenance of international peace and security to aid the parties to reach an amicable solution of the Kashmir dispute and that a prompt settlement of this dispute is of vital importance to the maintenance of international peace and security,

Observing from Sir Owen Dixon's report that the

³ See *Official Records of the Security Council, Fifth Year, Supplement for September through December 1950*, document S/1791 and Add.1.

⁴ *Ibid.*, *Third Year, Supplement for November 1948*, document S/1100, para. 75.

⁵ *Ibid.*, *Fourth Year, Supplement for January 1949*, document S/1196, para. 15.

des Nations Unies pour l'Inde et le Pakistan³, sur la mission qu'il a accomplie en exécution de la résolution 80 (1950) du Conseil de sécurité, en date du 14 mars 1950, et ayant pris acte de ce rapport,

Constatant que les Gouvernements de l'Inde et du Pakistan ont accepté les termes des résolutions de la Commission des Nations Unies pour l'Inde et le Pakistan des 13 août 1948⁴ et 5 janvier 1949⁵ et réaffirmé leur désir de voir régler l'avenir de l'Etat de Jammu et Cachemire par la procédure démocratique d'un plébiscite libre et impartial tenu sous l'égide de l'Organisation des Nations Unies,

Constatant que le Conseil général de la "Conférence nationale de l'ensemble de l'Etat de Jammu et Cachemire" a adopté, le 27 octobre 1950, une résolution recommandant de convoquer une assemblée constituante appelée à déterminer « la structure et les associations futures de l'Etat de Jammu et Cachemire », et constatant en outre, d'après des déclarations émanant d'autorités responsables, que des mesures sont proposées en vue de convoquer à cet effet une assemblée constituante et que la région dans laquelle cette assemblée constituante serait élue représente une partie seulement de l'ensemble du territoire de Jammu et Cachemire,

Rappelant aux gouvernements et aux autorités intéressés le principe énoncé dans ses résolutions 47 (1948) du 21 avril 1948, 51 (1948) du 3 juin 1948 et 80 (1950) du 14 mars 1950, et dans les résolutions de la Commission des Nations Unies pour l'Inde et le Pakistan des 13 août 1948 et 5 janvier 1949, à savoir que le sort définitif de l'Etat de Jammu et Cachemire doit être décidé conformément à la volonté des populations, exprimée au moyen de la procédure démocratique d'un plébiscite libre et impartial tenu sous l'égide de l'Organisation des Nations Unies,

Déclarant que la convocation d'une assemblée constituante dans les conditions recommandées par le Conseil général de la « Conférence nationale de l'ensemble de l'Etat de Jammu et Cachemire », ainsi que toutes les mesures que cette assemblée pourrait s'efforcer de prendre pour déterminer la structure et les associations futures de l'ensemble de l'Etat de Jammu et Cachemire, ou d'une partie quelconque dudit Etat, ne constituent pas des moyens propres à régler le sort dudit Etat conformément au principe mentionné ci-dessus,

Proclamant sa conviction que le Conseil de sécurité, en s'acquittant de sa responsabilité principale qui est de maintenir la paix et la sécurité internationales, a le devoir d'aider les parties à régler à l'amiable le différend relatif au Cachemire, et qu'un prompt règlement de ce différend présente une importance capitale pour le maintien de la paix et de la sécurité internationales,

Constatant, d'après le rapport de sir Owen Dixon,

³ Voir *Procès-verbaux officiels du Conseil de sécurité, cinquième année, Supplément de septembre à décembre 1950*, document S/1791 et Add.1.

⁴ *Ibid.*, *troisième année, Supplément de novembre 1948*, document S/1100, par. 75.

⁵ *Ibid.*, *quatrième année, Supplément de janvier 1949*, document S/1196, par. 15.



main points of difference preventing agreement between the parties were:

(a) The procedure for and the extent of demilitarization of the State preparatory to the holding of a plebiscite, and

(b) The degree of control over the exercise of the functions of government in the State necessary to ensure a free and fair plebiscite,

1. *Accepts*, in compliance with his request, Sir Owen Dixon's resignation and expresses its gratitude to Sir Owen for the great ability and devotion with which he carried out his mission;

2. *Decides* to appoint a United Nations Representative for India and Pakistan in succession to Sir Owen Dixon;

3. *Instructs* the United Nations Representative to proceed to the subcontinent and, after consultation with the Governments of India and Pakistan, to effect the demilitarization of the State of Jammu and Kashmir on the basis of the United Nations Commission for India and Pakistan resolutions of 13 August 1948 and 5 January 1949;

4. *Calls upon* the parties to co-operate with the United Nations Representative to the fullest degree in effecting the demilitarization of the State of Jammu and Kashmir;

5. *Instructs* the United Nations Representative to report to the Security Council within three months from the date of his arrival on the subcontinent; if, at the time of this report, he has not effected demilitarization in accordance with paragraph 3 above, or obtained the agreement of the parties to a plan for effecting such demilitarization, the United Nations Representative shall report to the Security Council those points of difference between the parties in regard to the interpretation and execution of the agreed resolutions of 13 August 1948 and 5 January 1949 which he considers must be resolved to enable such demilitarization to be carried out;

6. *Calls upon* the parties, in the event of their discussions with the United Nations Representative failing in his opinion to result in full agreement, to accept arbitration upon all outstanding points of difference reported by the United Nations Representative in accordance with paragraph 5 above, such arbitration to be carried out by an arbitrator, or a panel or arbitrators, to be appointed by the President of the International Court of Justice after consultation with the parties;

7. *Decides* that the military observer group shall continue to supervise the cease-fire in the State;

8. *Requests* the Governments of India and Pakistan to ensure that their agreement regarding the cease-fire shall continue to be faithfully observed and calls upon them to take all possible measures to ensure the creation and maintenance of an atmosphere favourable to the promotion of further negotiations and to refrain from

que le désaccord qui empêche les parties de s'entendre porte principalement sur les points suivants:

a) La procédure à mettre en œuvre pour assurer la démilitarisation de l'Etat, préalablement à la tenue d'un plébiscite, ainsi que la portée de cette démilitarisation, et

b) La mesure dans laquelle il convient d'exercer un contrôle sur l'exercice des fonctions gouvernementales dans l'Etat afin d'assurer un plébiscite libre et impartial,

1. *Accepte* la demande de démission que lui a présentée sir Owen Dixon et lui exprime sa reconnaissance pour la compétence et le dévouement avec lesquels il s'est acquitté de sa mission;

2. *Décide* de nommer un représentant des Nations Unies pour l'Inde et le Pakistan pour succéder à sir Owen Dixon;

3. *Charge* le représentant des Nations Unies de se rendre dans la péninsule et, après consultation avec les Gouvernements de l'Inde et du Pakistan, d'opérer la démilitarisation de l'Etat de Jammu et Cachemire sur la base des résolutions adoptées par la Commission des Nations Unies pour l'Inde et le Pakistan le 13 août 1948 et le 5 janvier 1949;

4. *Demande* aux parties de coopérer le plus étroitement possible avec le représentant des Nations Unies pour opérer la démilitarisation de l'Etat de Jammu et Cachemire;

5. *Charge* le représentant des Nations Unies de faire rapport au Conseil de sécurité dans un délai de trois mois à compter de son arrivée dans la péninsule; si, à la date de ce rapport, il n'a pas opéré la démilitarisation conformément au paragraphe 3 ci-dessus, ou n'a pas obtenu l'agrément des parties à un plan en vue d'opérer cette démilitarisation, le représentant des Nations Unies fera connaître au Conseil de sécurité les points sur lesquels il existe des divergences entre les parties quant à l'interprétation et l'exécution des résolutions acceptées les 13 août 1948 et 5 janvier 1949, divergences dont le représentant des Nations Unies estime le règlement indispensable pour permettre de mener à bien cette démilitarisation;

6. *Demande* aux parties, au cas où leurs pourparlers avec le représentant des Nations Unies n'aboutiraient pas, de l'avis de ce représentant, à un accord complet, d'accepter que tous les points sur lesquels l'entente n'aurait pu se faire et que le représentant aurait portés à la connaissance du Conseil conformément aux dispositions du paragraphe 5 ci-dessus soient soumis à l'arbitrage d'un arbitre ou d'un groupe d'arbitres que désignerait le Président de la Cour internationale de Justice en consultation avec les parties;

7. *Décide* que le groupe des observateurs militaires continuera de surveiller la suspension d'armes dans l'Etat;

8. *Invite* les Gouvernements de l'Inde et du Pakistan à veiller à ce que l'accord qu'ils ont conclu pour la cessation des hostilités soit strictement exécuté, et leur demande de prendre toutes les mesures nécessaires pour créer et maintenir une atmosphère favorable au progrès de nouvelles négociations et de s'abstenir de toute action



any action likely to prejudice a just and peaceful settlement;

9. *Requests* the Secretary-General to provide the United Nations Representative for India and Pakistan with such services and facilities as may be necessary in carrying out the terms of this resolution.

Adopted at the 539th meeting by 8 votes to none, with 3 abstentions (India, Union of Soviet Socialist Republics, Yugoslavia).

Decisions

At its 543rd meeting, on 30 April 1951, the Council appointed Mr. Frank P. Graham United Nations Representative for India and Pakistan.

Adopted by 7 votes to none, with 4 abstentions (India, Netherlands, Union of Soviet Socialist Republics, Yugoslavia).

At its 548th meeting, on 29 May 1951, the Council approved the text of a letter to be sent by the President to the Governments of India and Pakistan, reading as follows:

“I have the honour to call your attention to the important principles regarding the India-Pakistan question restated in the Security Council resolution of 30 March 1951 [resolution 91 (1951)].

“Members of the Security Council, at its 548th meeting held on 29 May 1951, have heard with satisfaction the assurances of the representative of India that any constituent assembly that may be established in Srinagar is not intended to prejudice the issues before the Security Council or to come in its way.

“On the other hand, the two communications to me, as President of the Council, from the representatives of Pakistan, set forth in documents S/2119⁶ and S/2145,⁶ contain reports which, if they are correct, indicate that steps are being taken by the Yuvaraja of Jammu and Kashmir to convoke a constituent assembly, one function of which, according to Sheikh Abdullah, would be ‘a decision on the future shape and affiliation of Kashmir’.

⁶ *Ibid.*, Sixth Year, Supplement for 1 April through 30 June 1951.

qui pourrait nuire au règlement équitable et pacifique du différend;

9. *Invite* le Secrétaire général à mettre à la disposition du représentant des Nations Unies pour l'Inde et le Pakistan les services et les facilités nécessaires à l'exécution de la présente résolution.

Adoptée à la 539^e séance par 8 voix contre zéro, avec 3 abstentions (Inde, Union des Républiques socialistes soviétiques, Yougoslavie).

Décisions

A sa 543^e séance, le 30 avril 1951, le Conseil a nommé M. Frank P. Graham représentant des Nations Unies pour l'Inde et le Pakistan.

Adoptée par 7 voix contre zéro, avec 4 abstentions (Inde, Pays-Bas, Union des Républiques socialistes soviétiques, Yougoslavie).

A sa 548^e séance, le 29 mai 1951, le Conseil a approuvé le texte d'une lettre que le Président devait adresser aux Gouvernements de l'Inde et du Pakistan; ce texte était le suivant:

« J'ai l'honneur d'attirer votre attention sur les importants principes concernant la question Inde-Pakistan qui se trouvent énoncés à nouveau dans la résolution du Conseil de sécurité en date du 30 mars 1951 [résolution 91 (1951)].

« A la 548^e séance, tenue le 29 mai 1951, les membres du Conseil de sécurité ont entendu avec satisfaction le représentant de l'Inde donner l'assurance que toute assemblée constituante qui serait réunie à Srinagar n'aurait pas pour objet de préjuger les questions soumises au Conseil de sécurité ni d'entraver son action.

« En revanche, les deux communications qui m'ont été adressées, en ma qualité de Président du Conseil, par les représentants du Pakistan (S/2119⁶ et S/2145⁶) contiennent des informations dont il ressort, si elles sont exactes, que le Yuvaraja de Jammu et Cachemire se dispose à convoquer une assemblée constituante dont l'une des fonctions, selon le cheik Abdullah, consisterait « à déterminer la structure et les associations futures du Cachemire ».

⁶ *Ibid.*, sixième année, Supplément de la période du 1^{er} avril au 3 juin 1951.



"It is the sense of the Security Council that these reports, if correct, would involve procedures which are in conflict with the commitments of the parties to determine the future accession of the State by a fair and impartial plebiscite conducted under United Nations auspices.

"It seems appropriate to recall the request contained in the resolution of 30 March that the parties create and maintain 'an atmosphere favourable to the promotion of further negotiations and... refrain from any action likely to prejudice a just and peaceful settlement'. The Council trusts that the Governments of India and Pakistan will do everything in their power to ensure that the authorities in Kashmir do not disregard the Council or act in a manner which would prejudice the determination of the future accession of the State in accordance with the procedures provided for in the resolutions of the Council and of the United Nations Commission for India and Pakistan.

"As President of the Security Council, I have attempted to summarize the general line of the Security Council's discussion on this matter, a full record of which is attached"⁷.

Adopted by 9 votes to none, with 2 abstentions (India, Union of Soviet Socialist Republics).

96 (1951). Resolution of 10 November 1951

[S/2392]

The Security Council,

Having received and noted the report of Mr. Frank Graham, the United Nations Representative for India and Pakistan,⁸ on his mission initiated by Security Council resolution 91 (1951) of 30 March 1951, and having heard Mr. Graham's address to the Council on 18 October 1951,⁹

Noting with approval the basis for a programme of demilitarization which could be carried out in conformity with the previous undertakings of the parties, put forward by the United Nations Representative in his communication of 7 September 1951 to the Prime Ministers of India and Pakistan,¹⁰

1. Notes with gratification the declared agreement of the two parties to those parts of Mr. Graham's proposals

⁷ This communication was sent by telegraph and therefore, as had been agreed by the Council during the discussion, the last few words were changed to read "... a full record of which is being forwarded by air mail". The text of the telegram was distributed as document S/2181 (mimeographed).

⁸ *Official Records of the Security Council, Sixth Year, Special Supplement No. 2, document S/2375.*

⁹ *Ibid., Sixth Year, 564th meeting.*

¹⁰ *Ibid., Sixth Year, Special Supplement No. 2, document S/2375, annex 2.*

« Le Conseil de sécurité estime que ces rapports, s'ils sont exacts, révèlent des agissements qui sont contraires aux engagements pris par les parties en vue de déterminer le rattachement futur de l'Etat au moyen d'un plébiscite équitable et impartial sous l'égide de l'Organisation des Nations Unies.

« Il semble approprié de rappeler à ce sujet que la résolution du 30 mars a invité les parties à créer et maintenir « une atmosphère favorable au progrès de nouvelles négociations et [à] s'abstenir de toute action qui pourrait nuire au règlement équitable et pacifique du différend ». Le Conseil espère fermement que les Gouvernements de l'Inde et du Pakistan feront tout ce qui est en leur pouvoir pour veiller à ce que les autorités du Cachemire ne passent pas outre aux décisions du Conseil et n'agissent pas d'une manière qui empêcherait que le rattachement futur de l'Etat soit déterminé selon les procédures prévues par les résolutions du Conseil et de la Commission des Nations Unies pour l'Inde et le Pakistan.

« En ma qualité de Président du Conseil, j'ai essayé d'exposer brièvement le sens général des débats consacrés à cette question par le Conseil de sécurité, débats dont le compte rendu intégral se trouve ci-joint⁷. »

Adoptée par 9 voix contre zéro, avec 2 abstentions (Inde, Union des Républiques socialistes soviétiques).

96 (1951). Résolution du 10 novembre 1951

[S/2392]

Le Conseil de sécurité,

Ayant pris acte du rapport de M. Frank Graham, représentant des Nations Unies pour l'Inde et le Pakistan⁸, sur la mission dont le Conseil de sécurité l'a chargé dans sa résolution 91 (1951) du 30 mars 1951, et ayant entendu la déclaration que M. Graham a faite devant le Conseil le 18 octobre 1951⁹,

Approuvant le principe fondamental d'un plan de démilitarisation dont l'exécution serait compatible avec les engagements antérieurs des parties et que le représentant des Nations Unies a soumis aux Premiers Ministres de l'Inde et du Pakistan dans sa communication du 7 septembre 1951¹⁰,

1. Prend acte avec satisfaction de ce que les parties ont fait connaître qu'elles approuvaient les sections du

⁷ Cette communication ayant été ultérieurement envoyée sous forme de télégramme, la dernière phrase en a été modifiée, comme prévu dans ce cas au cours du débat au Conseil, pour se lire: «... dont un compte rendu intégral vous est transmis par courrier aérien». Le texte du télégramme a fait l'objet du document S/2181 (miméographié).

⁸ *Procès-verbaux officiels du Conseil de sécurité, sixième année, Supplément spécial n° 2, document S/2375.*

⁹ *Ibid., sixième année, 564^e séance.*

¹⁰ *Ibid., sixième année, Supplément spécial n° 2, document S/2375, annexe 2.*



which reaffirm their determination to work for a peaceful settlement, their will to observe the cease-fire agreement and their acceptance of the principle that the accession of the State of Jammu and Kashmir should be determined by a free and impartial plebiscite under the auspices of the United Nations;

2. *Instructs* the United Nations Representative to continue his efforts to obtain agreement of the parties on a plan for effecting the demilitarization of the State of Jammu and Kashmir;

3. *Calls upon* the parties to co-operate with the United Nations Representative to the fullest degree in his efforts to resolve the outstanding points of difference between them;

4. *Instructs* the United Nations Representative to report to the Security Council on his efforts, together with his views concerning the problems confided to him, not later than six weeks after this resolution comes into effect.

Adopted at the 566th meeting by 9 votes to none, with 2 abstentions (India, Union of Soviet Socialist Republics).

projet de M. Graham qui réaffirment leur détermination de rechercher un règlement pacifique, leur volonté d'observer l'accord de suspension d'armes et leur acceptation du principe selon lequel le rattachement de l'État de Jammu et Cachemire à l'Inde ou au Pakistan devrait être décidé par un plébiscite libre et impartial organisé sous l'égide de l'Organisation des Nations Unies;

2. *Prie* le représentant des Nations Unies de poursuivre ses efforts en vue d'amener les parties à accepter un plan de démilitarisation de l'Etat de Jammu et Cachemire;

3. *Invite* les parties à coopérer dans toute la mesure possible avec le représentant des Nations Unies dans les efforts que celui-ci déploie pour faire disparaître les divergences qui subsistent entre elles;

4. *Charge* le représentant des Nations Unies de faire rapport au Conseil de sécurité sur les efforts qu'il aura déployés, et de lui communiquer son avis sur les problèmes qui lui ont été confiés, six semaines au plus tard après l'entrée en vigueur de la présente résolution.

Adoptée à la 566^e séance par 9 voix contre zéro, avec 2 abstentions (Inde, Union des Républiques socialistes soviétiques).

THE PALESTINE QUESTION ¹¹

92 (1951). Resolution of 8 May 1951

[S/2130]

The Security Council,

Recalling its resolutions 54 (1948) of 15 July 1948, 73 (1949) of 11 August 1949, and 89 (1950) of 17 November 1950,

Noting with concern that fighting has broken out in and around the demilitarized zone established by the Israel-Syrian General Armistice Agreement of 20 July 1949 ¹² and that fighting is continuing despite the cease-fire order of the Acting Chief of Staff of the United Nations Truce Supervision Organization in Palestine issued on 4 May 1951,

Calls upon the parties or persons in the areas concerned

¹¹ Resolutions or decisions on this question were also adopted by the Council in 1947, 1948, 1949 and 1950.

¹² See *Official Records of the Security Council, Fourth Year, Special Supplement No. 2.*

LA QUESTION DE PALESTINE ¹¹

92 (1951). Résolution du 8 mai 1951

[S/2130]

Le Conseil de sécurité,

Rappelant ses résolutions 54 (1948) du 15 juillet 1948, 73 (1949) du 11 août 1949 et 89 (1950) du 17 novembre 1950,

Constatant avec inquiétude que des hostilités ont éclaté dans la zone démilitarisée établie par la Convention d'armistice général syro-israélienne du 20 juillet 1949 ¹², ainsi qu'autour de cette zone, et que des combats se poursuivent malgré l'ordre de cesser le feu donné le 4 mai 1951 par le Chef d'état-major par intérim de l'Organisation des Nations Unies chargé de la surveillance de la trêve en Palestine,

Invite les parties et tous ceux qui se trouvent dans

¹¹ Question ayant fait l'objet de résolutions ou décisions de la part du Conseil en 1947, 1948, 1949 et 1950.

¹² Voir *Procès-verbaux officiels du Conseil de sécurité, quatrième année, Supplément spécial n° 2.*



S/RES/98

**RESOLUTIONS ADOPTED AND DECISIONS TAKEN
BY THE SECURITY COUNCIL IN 1952**

**RÉSOLUTIONS ADOPTÉES ET DÉCISIONS PRISES
PAR LE CONSEIL DE SÉCURITÉ EN 1952**

Part I. Questions considered by the Security Council under its responsibility for the maintenance of international peace and security

THE INDIA PAKISTAN QUESTION¹

98 (1952). Resolution of 23 December 1952

[S/2883]

The Security Council,

Recalling its resolution 91 (1951) of 30 March 1951, its decision of 30 April 1951 and its resolution 96 (1951) of 10 November 1951,

Further recalling the provisions of the United Nations Commission for India and Pakistan resolutions of 13 August 1948² and 5 January 1949³ which were accepted by the Governments of India and Pakistan and which provided that the question of the accession of the State of Jammu and Kashmir to India or Pakistan would be decided through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations,

Having received the third report, dated 22 April 1952,⁴ and the fourth report, dated 16 September 1952,⁵ of the United Nations Representative for India and Pakistan,

¹ Resolutions or decisions on this question were also adopted by the Council in 1948, 1949, 1950 and 1951.

² See *Official Records of the Security Council, Third Year, Supplement for November 1948*, document S/1100, para. 75.

³ *Ibid.*, *Fourth Year, Supplement for January 1949*, document S/1196, para. 15.

⁴ *Ibid.*, *Seventh Year, Special Supplement No. 2*, document S/2611 and Corr.1.

⁵ *Ibid.*, document S/2783 and Corr.1.

Première partie. Questions examinées par le Conseil de sécurité en tant qu'organe responsable du maintien de la paix et de la sécurité internationales

LA QUESTION INDE-PAKISTAN¹

98 (1952). Résolution du 23 décembre 1952

[S/2883]

Le Conseil de sécurité,

Rappelant sa résolution 91 (1951) du 30 mars 1951, sa décision du 30 avril 1951 et sa résolution 96 (1951) du 10 novembre 1951,

Rappelant en outre les dispositions qui figurent dans les résolutions de la Commission des Nations Unies pour l'Inde et le Pakistan en date du 13 août 1948² et du 5 janvier 1949³, dispositions qui ont été acceptées par les Gouvernements de l'Inde et du Pakistan et qui prévoient que la question du rattachement de l'Etat de Jammu et Cachemire à l'Inde ou au Pakistan sera réglée par la voie démocratique d'un plébiscite libre et impartial, organisé sous les auspices de l'Organisation des Nations Unies,

Ayant reçu le troisième rapport du représentant des Nations Unies pour l'Inde et le Pakistan, en date du 22 avril 1952⁴, ainsi que son quatrième rapport, en date du 16 septembre 1952⁵,

¹ Question ayant fait l'objet de résolutions ou décisions de la part du Conseil en 1948, 1949, 1950 et 1951.

² Voir *Procès-verbaux officiels du Conseil de sécurité, troisième année, Supplément de novembre 1948*, document S/1100, par. 75.

³ *Ibid.*, *quatrième année, Supplément de janvier 1949*, document S/1196, par. 15.

⁴ *Ibid.*, *septième année, Supplément spécial n° 2*, document S/2611 et Corr.1.

⁵ *Ibid.*, document S/2783.

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Source: United Nations Security Council (SC), Resolution 98, "The India-Pakistan Question," December 23, 1952, https://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_98.pdf.



1. *Endorses* the general principles on which the United Nations Representative has sought to bring about agreement between the Governments of India and Pakistan;

2. *Notes with gratification* that the United Nations Representative has reported that the Governments of India and Pakistan have accepted all but two of the paragraphs of his twelve-point proposals;⁶

3. *Notes* that agreement on a plan of demilitarization of the State of Jammu and Kashmir has not been reached because the Governments of India and Pakistan have not agreed on the whole of paragraph 7 of the twelve-point proposals;

4. *Urges* the Governments of India and Pakistan to enter into immediate negotiations under the auspices of the United Nations Representative for India and Pakistan in order to reach agreement on the specific number of forces to remain on each side of the cease-fire line at the end of the period of demilitarization, this number to be between 3,000 and 6,000 armed forces remaining on the Pakistan side of the cease-fire line and between 12,000 and 18,000 armed forces remaining on the India side of the cease-fire line, as suggested by the United Nations Representative in his proposals of 16 July 1952,⁶ such specific numbers to be arrived at bearing in mind the principles or criteria contained in paragraph 7 of the United Nations Representative's proposal of 4 September 1952;⁷

5. *Records its gratitude* to the United Nations Representative for India and Pakistan for the great efforts which he has made to achieve a settlement and requests him to continue to make his services available to the Governments of India and Pakistan to this end;

6. *Requests* the Governments of India and Pakistan to report to the Security Council not later than thirty days from the date of the adoption of this resolution;

7. *Requests* the United Nations Representative for India and Pakistan to keep the Security Council informed of any progress.

Adopted at the 611th meeting by 9 votes to none, with 1 abstention (Union of Soviet Socialist Republics).⁸

1. *Approuve* les principes généraux sur la base desquels le représentant des Nations Unies s'est efforcé d'aboutir à un accord entre le Gouvernement de l'Inde et celui du Pakistan;

2. *Constate avec satisfaction* que le représentant des Nations Unies a fait savoir que les Gouvernements de l'Inde et du Pakistan avaient accepté l'ensemble de ses douze propositions⁶ à l'exception de deux paragraphes seulement;

3. *Constate* que l'accord ne s'est pas fait sur un plan de démilitarisation de l'Etat de Jammu et Cachemire parce que les Gouvernements de l'Inde et du Pakistan n'avaient pas accepté l'ensemble du paragraphe 7 des douze propositions;

4. *Invite* les Gouvernements de l'Inde et du Pakistan à entamer immédiatement des négociations, sous les auspices du représentant des Nations Unies pour l'Inde et le Pakistan, afin d'aboutir à un accord sur les effectifs précis des forces armées à maintenir des deux côtés de la ligne de suspension d'armes à la fin de la période de démilitarisation, ces effectifs devant être de 3 000 à 6 000 hommes du côté pakistanais de la ligne de suspension d'armes et de 12 000 à 18 000 hommes du côté indien de la ligne de suspension d'armes, conformément à la proposition du représentant des Nations Unies en date du 16 juillet 1952⁶; en fixant ces effectifs, il conviendra de tenir compte des principes et des critères énoncés au paragraphe 7 de la proposition du représentant des Nations Unies en date du 4 septembre 1952⁷;

5. *Exprime sa reconnaissance* au représentant des Nations Unies pour l'Inde et le Pakistan pour les grands efforts qu'il a déployés afin d'aboutir à un règlement et l'invite à demeurer à la disposition des Gouvernements de l'Inde et du Pakistan à cet effet;

6. *Invite* les Gouvernements de l'Inde et du Pakistan à présenter un rapport au Conseil de sécurité dans un délai maximum de 30 jours à compter de la date d'adoption de la présente résolution;

7. *Charge* le représentant des Nations Unies pour l'Inde et le Pakistan de tenir le Conseil de sécurité au courant de l'évolution de la situation.

Adoptée à la 611^e séance par 9 voix contre zéro, avec une abstention (Union des Républiques socialistes soviétiques).⁸

⁶ *Ibid.*, annexe 3.

⁷ *Ibid.*, annexe 8.

⁸ One member (Pakistan) did not participate in the voting.

⁶ *Ibid.*, annexe 3.

⁷ *Ibid.*, annexe 8.

⁸ Un des membres (Pakistan) n'a pas participé au vote.



S/RES/122 & S/RES/123 & S/RES/126

RESOLUTIONS ADOPTED AND DECISIONS TAKEN
BY THE SECURITY COUNCIL IN 1957RÉSOLUTIONS ADOPTÉES ET DÉCISIONS PRISES
PAR LE CONSEIL DE SÉCURITÉ EN 1957*Part I. Questions considered by the Security Council under its responsibility for the maintenance of international peace and security**Première partie. Questions examinées par le Conseil de sécurité en tant qu'organe responsable du maintien de la paix et de la sécurité internationales*THE INDIA-PAKISTAN QUESTION ¹LA QUESTION INDE-PAKISTAN ¹

Decisions

Décisions

At its 761st meeting, on 16 January 1957, the Council decided to publish the documents submitted by the representative of Pakistan as annexes to his statement.²

A sa 761^e séance, le 16 janvier 1957, le Conseil a décidé de publier les documents que le représentant du Pakistan présentait comme annexes à sa déclaration ².

At its 762nd meeting, on 23 January 1957, the Council decided to publish the documents submitted by the representative of India as annexes to his statement.³

A sa 762^e séance, le 23 janvier 1957, le Conseil a décidé de publier les documents que le représentant de l'Inde présentait comme annexes à sa déclaration ³.

122 (1957). Resolution of 24 January 1957

122 (1957). Résolution du 24 janvier 1957

[S/3779]

[S/3779]

The Security Council,

Le Conseil de sécurité,

Having heard statements from representatives of the Governments of India and Pakistan concerning the dispute over the State of Jammu and Kashmir,

Ayant entendu des exposés des représentants des Gouvernements de l'Inde et du Pakistan au sujet du différend concernant l'Etat de Jammu et Cachemire,

Reminding the Governments and authorities concerned of the principle embodied in its resolutions 47 (1948)

Rappelant aux gouvernements et autorités intéressés le principe énoncé dans ses résolutions 47 (1948) du 21

¹ Resolutions or decisions on this question were also adopted by the Council in 1948, 1949, 1950, 1951 and 1952.

¹ Question ayant fait l'objet de résolutions ou décisions de la part du Conseil en 1948, 1949, 1950, 1951 et 1952.

² See *Official Records of the Security Council, Twelfth Year, Supplement for January, February and March 1957*, document S/PV.761/Add.1.

² Voir *Documents officiels du Conseil de sécurité, douzième année, Supplément de janvier, février et mars 1957*, document S/PV.761/Add.1.

³ *Ibid.*, document S/PV.762/Add.1.

³ *Ibid.*, document S/PV.762/Add.1.



of 21 April 1948, 51 (1948) of 3 June 1948, 80 (1950) of 14 March 1950 and 91 (1951) of 30 March 1951, and the United Nations Commission for India and Pakistan resolutions of 13 August 1948⁴ and 5 January 1949,⁵ that the final disposition of the State of Jammu and Kashmir will be made in accordance with the will of the people expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations,

1. *Reaffirms* the affirmation in its resolution 91 (1951) and declares that the convening of a constituent assembly as recommended by the General Council of the "All Jammu and Kashmir National Conference" and any action that assembly may have taken or might attempt to take to determine the future shape and affiliation of the entire State or any part thereof, or action by the parties concerned in support of any such action by the assembly, would not constitute a disposition of the State in accordance with the above principle;

2. *Decides* to continue its consideration of the dispute.

Adopted at the 765th meeting by 10 votes to none, with 1 abstention (Union of Soviet Socialist Republics).

123 (1957). Resolution of 21 February 1957

[S/3793]

The Security Council,

Recalling its resolution 122 (1957) of 24 January 1957, its previous resolutions and the resolutions of the United Nations Commission for India and Pakistan on the India-Pakistan question,

1. *Requests* the President of the Security Council, the representative of Sweden, to examine with the Governments of India and Pakistan any proposals which, in his opinion, are likely to contribute towards the settlement of the dispute, having regard to the previous resolutions of the Security Council and of the United Nations Commission for India and Pakistan; to visit the subcontinent for this purpose; and to report to the Security Council not later than 15 April 1957;

2. *Invites* the Governments of India and Pakistan to co-operate with him in the performance of these functions;

⁴ *Ibid.*, *Third Year, Supplement for November 1948*, document S/1100, para. 75.

⁵ *Ibid.*, *Fourth Year, Supplement for January 1949*, document S/1196, para. 15.

avril 1948, 51 (1948) du 3 juin 1948, 80 (1950) du 14 mars 1950 et 91 (1951) du 30 mars 1951, ainsi que dans les résolutions des 13 août 1948⁴ et 5 janvier 1949⁵ de la Commission des Nations Unies pour l'Inde et le Pakistan, à savoir que le sort définitif de l'Etat de Jammu et Cachemire doit être décidé conformément à la volonté des populations, exprimée au moyen de la procédure démocratique d'un plébiscite libre et impartial tenu sous l'égide de l'Organisation des Nations Unies,

1. *Confirme* la déclaration qu'il a faite dans sa résolution 91 (1951) et déclare que la convocation d'une assemblée constituante dans les conditions recommandées par le Conseil général de la « Conférence nationale de l'ensemble de l'Etat de Jammu et Cachemire », ainsi que toutes les mesures que cette assemblée pourrait avoir prises ou pourrait s'efforcer de prendre pour déterminer la structure et les associations futures de l'ensemble de l'Etat de Jammu et Cachemire ou d'une partie quelconque dudit Etat, ou toute action des parties intéressées pour appuyer les mesures susvisées, ne constituent pas des moyens propres à régler le sort dudit Etat conformément au principe mentionné ci-dessus;

2. *Décide* de poursuivre l'examen du différend.

Adoptée à la 765^e séance par 10 voix contre zéro, avec une abstention (Union des Républiques socialistes soviétiques).

123 (1957). Résolution du 21 février 1957

[S/3793]

Le Conseil de sécurité,

Rappelant sa résolution 122 (1957) du 24 janvier 1957 et ses résolutions antérieures ainsi que les résolutions de la Commission des Nations Unies pour l'Inde et le Pakistan relatives à la question Inde-Pakistan,

1. *Demande* au Président du Conseil de sécurité, représentant de la Suède, d'examiner avec le Gouvernement indien et le Gouvernement pakistanais toutes propositions qui, à son avis, sont de nature à contribuer à un règlement du différend, compte tenu des résolutions antérieures du Conseil de sécurité et de la Commission des Nations Unies pour l'Inde et le Pakistan; de visiter à cette fin la péninsule; et de faire rapport au Conseil de sécurité le 15 avril 1957 au plus tard;

2. *Invite* le Gouvernement indien et le Gouvernement pakistanais à collaborer avec le Président du Conseil de sécurité pour l'aider à s'acquitter de sa mission;

⁴ Voir *Procès-verbaux officiels du Conseil de sécurité, troisième année, Supplément de novembre 1948*, document S/1100, par. 75.

⁵ *Ibid.*, *quatrième année, Supplément de janvier 1949*, document S/1196, par. 15.

Source: United Nations Security Council (SC), Resolution 123, "The India-Pakistan Question," February 21, 1957, https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_123.pdf.



3. *Requests* the Secretary-General and the United Nations Representative for India and Pakistan to render such assistance as he may request.

Adopted at the 774th meeting by 10 votes to none, with 1 abstention (Union of Soviet Socialist Republics).

Decision

At its 774th meeting, on 21 February 1957, the Council decided to invite the United Nations Representative for India and Pakistan to take a place at the Council table.

126 (1957). Resolution of 2 December 1957

[S/3922]

The Security Council,

Having received and noted with appreciation the report of Mr. Gunnar V. Jarring, the representative of Sweden,⁶ on the mission undertaken by him pursuant to its resolution 123 (1957) of 21 February 1957,

Expressing its thanks to Mr. Jarring for the care and ability with which he has carried out his mission,

Observing with appreciation the expressions made by both parties of sincere willingness to co-operate with the United Nations in finding a peaceful solution,

Observing further that the Governments of India and Pakistan recognize and accept the provisions of its resolution 38 (1948) of 17 January 1948 and of the resolutions of the United Nations Commission for India and Pakistan dated 13 August 1948⁷ and 5 January 1949,⁸ which envisage in accordance with their terms the determination of the future status of the State of Jammu and Kashmir in accordance with the will of the people through the democratic method of a free and impartial plebiscite, and that Mr. Jarring felt it appropriate to explore what was impeding their full implementation,

Concerned over the lack of progress towards a settlement of the dispute which his report manifests,

Considering the importance which it has attached to demilitarization of the State of Jammu and Kashmir as one of the steps towards a settlement,

Recalling its previous resolutions and the resolutions of the United Nations Commission for India and Pakistan on the India-Pakistan question,

⁶ *Ibid.*, Twelfth Year, Supplement for April, May and June 1957, document S/3821.

⁷ See footnote 4.

⁸ See footnote 5.

3. *Prie* le Secrétaire général et le représentant des Nations Unies pour l'Inde et le Pakistan de fournir au Président l'assistance qu'il pourra demander.

Adoptée à la 774^e séance par 10 voix contre zéro, avec une abstention (Union des Républiques socialistes soviétiques).

Décision

A sa 774^e séance, le 21 février 1957, le Conseil a décidé d'inviter le représentant des Nations Unies pour l'Inde et le Pakistan à prendre place à la table du Conseil.

126 (1957). Résolution du 2 décembre 1957

[S/3922]

Le Conseil de sécurité,

Ayant été saisi et ayant pris acte avec satisfaction du rapport de M. Gunnar V. Jarring, représentant de la Suède⁶, sur la mission dont le Conseil de sécurité l'avait chargé par sa résolution 123 (1957) du 21 février 1957,

Remerciant M. Jarring du soin et de la compétence avec lesquels il a rempli sa mission,

Prenant note avec satisfaction du désir sincère exprimé par les deux parties de coopérer avec l'Organisation des Nations Unies pour rechercher une solution pacifique,

Notant en outre que les Gouvernements de l'Inde et du Pakistan reconnaissent et acceptent les dispositions de sa résolution 38 (1948) du 17 janvier 1948 et des résolutions de la Commission des Nations Unies pour l'Inde et le Pakistan en date des 13 août 1948⁷ et 5 janvier 1949⁸, d'après lesquelles le statut futur de l'Etat de Jammu et Cachemire devait être déterminé, selon leurs termes, conformément à la volonté de la population, par le moyen démocratique d'un plébiscite libre et impartial, et que M. Jarring a estimé opportun de rechercher ce qui faisait obstacle à la mise en œuvre intégrale de ces résolutions,

Inquiet de constater, d'après le rapport de M. Jarring, qu'aucun progrès n'a été réalisé vers le règlement du différend,

Considérant l'importance qu'il attache à la démilitarisation de l'Etat de Jammu et Cachemire, dans laquelle il voit l'une des mesures propres à faciliter un règlement,

Rappelant ses résolutions antérieures ainsi que les résolutions de la Commission des Nations Unies pour l'Inde et le Pakistan relatives à la question Inde-Pakistan,

⁶ *Documents officiels du Conseil de sécurité, douzième année, Supplément d'avril, mai et juin 1957, document S/3821.*

⁷ Voir note 4.

⁸ Voir note 5.



1. Requests the Government of India and the Government of Pakistan to refrain from making any statements and from doing or causing to be done or permitting any acts which might aggravate the situation, and to appeal to their respective peoples to assist in creating and maintaining an atmosphere favourable to the promotion of further negotiations;

2. Requests the United Nations Representative for India and Pakistan to make any recommendations to the parties for further appropriate action with a view to making progress towards the implementation of the resolutions of the United Nations Commission for India and Pakistan of 13 August 1948 and 5 January 1949 and towards a peaceful settlement;

3. Authorizes the United Nations Representative to visit the subcontinent for these purposes;

4. Instructs the United Nations Representative to report to the Security Council on his efforts as soon as possible.

Adopted at the 808th meeting by 10 votes to none, with 1 abstention (Union of Soviet Socialist Republics).

1. Invite le Gouvernement de l'Inde et le Gouvernement du Pakistan à s'abstenir de faire toute déclaration et de commettre, d'inciter à commettre ou de laisser commettre tout acte qui pourrait aggraver la situation, et à faire appel à leurs populations respectives pour qu'elles aident à créer et à maintenir un climat propice à de nouvelles négociations;

2. Prie le représentant des Nations Unies pour l'Inde et le Pakistan de recommander aux parties de prendre toutes nouvelles mesures appropriées en vue de faciliter l'application des résolutions adoptées les 13 août 1948 et 5 janvier 1949 par la Commission des Nations Unies pour l'Inde et le Pakistan, ainsi qu'un règlement pacifique;

3. Autorise le représentant des Nations Unies à se rendre, à ces fins, dans la péninsule indienne;

4. Charge le représentant des Nations Unies de présenter aussitôt que possible au Conseil de sécurité un rapport sur son activité.

Adoptée à la 808^e séance par 10 voix contre zéro, avec une abstention (Union des Républiques socialistes soviétiques).

THE PALESTINE QUESTION ⁹

Decisions

At its 780th meeting, on 23 May 1957, the Council decided to invite the representatives of Syria and Israel to participate, without vote, in the discussion of a complaint by Syria against Israel ¹⁰ concerning the construction of a bridge in the demilitarized zone established by the General Armistice Agreement between Israel and Syria.¹¹

At its 782nd meeting, on 28 May 1957, the Council took note of the Secretary-General's statement that he would request the Chief of Staff of the United Nations Truce Supervision Organization in Palestine to submit, within one month, a supplementary report concerning the situation in the demilitarized zone established by the General Armistice Agreement between Israel and Syria.¹¹

⁹ Resolutions or decisions on this question were also adopted by the Council in 1947, 1948, 1949, 1950, 1951, 1953, 1954, 1955 and 1956.

¹⁰ See *Official Records of the Security Council, Twelfth Year, Supplement for April, May and June 1957*, document S/3827.

¹¹ *Ibid.*, Fourth Year, Special Supplement No. 2.

LA QUESTION DE PALESTINE ⁹

Décisions

A sa 780^e séance, le 23 mai 1957, le Conseil a décidé d'inviter les représentants de la Syrie et d'Israël à participer, sans droit de vote, à la discussion d'une plainte de la Syrie contre Israël ¹⁰ concernant la construction d'un pont dans la zone démilitarisée prévue par la Convention d'armistice général syro-israélienne ¹¹.

A sa 782^e séance, le 28 mai 1957, le Conseil a pris acte de la déclaration du Secrétaire général selon laquelle ce dernier prierait le Chef d'état-major de l'Organisme des Nations Unies chargé de la surveillance de la trêve en Palestine de présenter, dans un délai d'un mois, un rapport complémentaire sur la situation dans la zone démilitarisée instituée par la Convention d'armistice général syro-israélienne ¹¹.

⁹ Question ayant fait l'objet de résolutions ou décisions de la part du Conseil en 1947, 1948, 1949, 1950, 1951, 1953, 1954, 1955 et 1956.

¹⁰ Voir *Documents officiels du Conseil de sécurité, douzième année, Supplément d'avril, mai et juin 1957*, document S/3827.

¹¹ Voir *Procès-verbaux officiels du Conseil de sécurité, quatrième année, Supplément spécial n° 2*.



S/RES/209 & S/RES/210 & S/RES/211 & S/RES/214 & S/RES/215

Having heard the statements of the representatives of Senegal and Portugal concerning violations of Senegalese territory by the Portuguese military forces,

1. *Deeply deploras* any incursions by Portuguese military forces into Senegalese territory;
2. *Reaffirms* its resolution 178 (1963) of 24 April 1963;
3. *Requests once again* the Government of Portugal to take all effective and necessary action to prevent any violation of Senegal's sovereignty and territorial integrity;
4. *Requests* the Secretary-General to follow the development of the situation.

Adopted unanimously at the 1212th meeting.

Ayant entendu les déclarations des représentants du Sénégal et du Portugal concernant les violations par les forces militaires portugaises du territoire sénégalais,

1. *Déplore profondément* toutes incursions de forces militaires portugaises sur le territoire sénégalais;
2. *Réaffirme* sa résolution 178 (1963) du 24 avril 1963;
3. *Demande à nouveau* au Gouvernement du Portugal de prendre toutes les mesures efficaces nécessaires pour interdire toute violation de la souveraineté et de l'intégrité territoriale du Sénégal;
4. *Demande* au Secrétaire général de suivre l'évolution de la situation.

Adoptée à l'unanimité à la 1212^e séance.

THE INDIA-PAKISTAN QUESTION ³¹

Decision

At its 1237th meeting, on 4 September 1965, the Council decided to invite the representatives of India and Pakistan to participate, without vote, in the discussion of the question.

Resolution 209 (1965)
of 4 September 1965

The Security Council,
Noting the report of the Secretary-General of 3 September 1965,³²

Having heard the statements of the representatives of India and Pakistan,

Concerned at the deteriorating situation along the cease-fire line in Kashmir,

1. *Calls upon* the Governments of India and Pakistan to take forthwith all steps for an immediate cease-fire;

2. *Calls upon* the two Governments to respect the cease-fire line and have all armed personnel of each party withdrawn to its own side of the line;

³¹ Resolutions or decisions on this question were also adopted by the Council in 1948, 1949, 1950, 1951, 1952, 1957, 1962 and 1964.

³² *Official Records of the Security Council, Twentieth Year, Supplement for July, August and September 1965, document S/6651.*

LA QUESTION INDE-PAKISTAN ³¹

Décision

A sa 1237^e séance, le 4 septembre 1965, le Conseil a décidé d'inviter les représentants de l'Inde et du Pakistan à participer, sans droit de vote, à la discussion de la question.

Résolution 209 (1965)
du 4 septembre 1965

Le Conseil de sécurité,
Prenant acte du rapport du Secrétaire général en date du 3 septembre 1965 ³²,

Ayant entendu les déclarations des représentants de l'Inde et du Pakistan,

Inquiet de la situation qui s'aggrave le long de la ligne de cessez-le-feu au Cachemire,

1. *Demande* aux Gouvernements de l'Inde et du Pakistan de prendre sans aucun délai toutes mesures en vue d'un cessez-le-feu immédiat;

2. *Demande* aux deux gouvernements de respecter la ligne de cessez-le-feu et d'assurer le retrait des forces armées de chaque camp de leur côté de la ligne;

³¹ Questions ayant fait l'objet de résolutions ou décisions de la part du Conseil en 1948, 1949, 1950, 1951, 1952, 1957, 1962 et 1964.

³² *Documents officiels du Conseil de sécurité, vingtième année. Supplément de juillet, août et septembre 1965, document S/6651.*



3. *Calls upon* the two Governments to co-operate fully with the United Nations Military Observer Group in India and Pakistan (UNMOGIP) in its task of supervising the observance of the cease-fire;

4. *Requests* the Secretary-General to report to the Council within three days on the implementation of the present resolution.

Adopted unanimously at the 1237th meeting.

Resolution 210 (1965)

of 6 September 1965

The Security Council,

Noting the report of the Secretary-General³³ on developments in the situation in Kashmir since the adoption of Security Council resolution 209 (1965) of 4 September 1965 calling for a cease-fire,

Noting with deep concern the extension of the fighting which adds immeasurably to the seriousness of the situation,

1. *Calls upon* the parties to cease hostilities in the entire area of conflict immediately, and promptly withdraw all armed personnel to the positions held by them before 5 August 1965;

2. *Requests* the Secretary-General to exert every possible effort to give effect to the present resolution and to resolution 209 (1965), to take all measures possible to strengthen the United Nations Military Observer Group in India and Pakistan, and to keep the Council promptly and currently informed on the implementation of the resolutions and on the situation in the area;

3. *Decides* to keep this issue under urgent and continuous review so that the Council may determine what further steps may be necessary to secure peace and security in the area.

Adopted unanimously at the 1238th meeting.

Resolution 211 (1965)

of 20 September 1965

The Security Council,

Having considered the reports of the Secretary-General on his consultations with the Governments of India and Pakistan,³⁴

Commending the Secretary-General for his unrelenting efforts in furtherance of the objectives of Security

³³ *Ibid.*, document S/6661.

³⁴ *Ibid.*, documents S/6683 and S/6686.

3. *Demande* aux deux gouvernements d'apporter leur plein concours au Groupe d'observateurs militaires des Nations Unies pour l'Inde et le Pakistan dans sa tâche de surveillance du respect du cessez-le-feu;

4. *Prie* le Secrétaire général de lui faire rapport dans les trois jours sur l'exécution de la présente résolution.

Adoptée à l'unanimité à la 1237^e séance.

Résolution 210 (1965)

du 6 septembre 1965

Le Conseil de sécurité,

Prenant acte du rapport du Secrétaire général³³ sur les faits nouveaux touchant la situation au Cachemire depuis l'adoption par le Conseil de sécurité, le 4 septembre 1965, de la résolution 209 (1965) relative à un cessez-le-feu,

Notant avec une profonde préoccupation l'extension des combats, qui ajoute immensément à la gravité de la situation,

1. *Demande* aux parties de cesser immédiatement les hostilités dans toute la région du conflit et de promptement retirer toutes les forces armées sur les positions qu'elles occupaient avant le 5 août 1965;

2. *Prie* le Secrétaire général de déployer tous les efforts possibles pour donner effet à la présente résolution et à la résolution 209 (1965), de prendre toutes les mesures possibles pour renforcer le Groupe d'observateurs militaires des Nations Unies pour l'Inde et le Pakistan et de tenir le Conseil promptement et constamment informé de la suite donnée aux résolutions et de la situation dans la région;

3. *Décide* de poursuivre, d'urgence et continûment, l'examen de cette question, afin que le Conseil puisse déterminer quelles autres mesures peuvent être nécessaires pour assurer la paix et la sécurité dans la région.

Adoptée à l'unanimité à la 1238^e séance.

Résolution 211 (1965)

du 20 septembre 1965

Le Conseil de sécurité,

Ayant examiné les rapports du Secrétaire général sur ses consultations avec les Gouvernements de l'Inde et du Pakistan³⁴,

Félicitant le Secrétaire général pour ses efforts incessants en vue d'atteindre les objectifs des résolutions

³³ *Ibid.*, document S/6661.

³⁴ *Ibid.*, documents S/6683 et S/6686.



Council resolutions 209 (1965) and 210 (1965) of 4 and 6 September 1965,

Having heard the statements of the representatives of India and Pakistan,

Noting the differing replies by the parties to an appeal for a cease-fire as set out in the report of the Secretary-General,³⁵ but noting further with concern that no cease-fire has yet come into being,

Convinced that an early cessation of hostilities is essential as a first step towards a peaceful settlement of the outstanding differences between the two countries on Kashmir and other related matters,

1. *Demands* that a cease-fire should take effect on Wednesday, 22 September 1965, at 0700 hours GMT, and calls upon both Governments to issue orders for a cease-fire at that moment and a subsequent withdrawal of all armed personnel to the positions held by them before 5 August 1965;

2. *Requests* the Secretary-General to provide the necessary assistance to ensure supervision of the cease-fire and the withdrawal of all armed personnel;

3. *Calls on* all States to refrain from any action which might aggravate the situation in the area;

4. *Decides* to consider, as soon as paragraph 1 of Council resolution 210 (1965) has been implemented, what steps could be taken to assist towards a settlement of the political problem underlying the present conflict, and in the meantime calls on the two Governments to utilize all peaceful means, including those listed in Article 33 of the Charter of the United Nations, to this end;

5. *Requests* the Secretary-General to exert every possible effort to give effect to the present resolution, to seek a peaceful solution, and to report to the Security Council thereon.

Adopted at the 1242nd meeting by 10 votes to none, with 1 abstention (Jordan).

Decision

At the 1244th meeting, on 22 September 1965, the President made the following statement on behalf of the Council:

“ We note, of course, the report of the Secretary-General. We have heard the statements of the Minister for Foreign Affairs of Pakistan and the representative of India. The Council expresses its satisfaction that the cease-fire demanded in its resolution 211 (1965) of 20 September 1965 has been accepted by the two parties and calls upon the Governments concerned to implement their adherence to the cease-fire call as rapidly as possible, and in any case not later than 2200 hours GMT on 22 September 1965.”

³⁵ *Ibid.*, document S/6683.

209 (1965) et 210 (1965) du Conseil de sécurité, en date des 4 et 6 septembre 1965,

Ayant entendu les déclarations des représentants de l'Inde et du Pakistan,

Notant les réponses différentes des parties à un appel au cessez-le-feu, exposées dans le rapport du Secrétaire général³⁶, mais notant également avec inquiétude qu'aucun cessez-le-feu n'est encore intervenu,

Convaincu qu'une prompte cessation des hostilités constitue un premier pas essentiel vers un règlement pacifique des différends subsistant entre les deux pays au sujet du Cachemire et d'autres questions connexes,

1. *Demande formellement* qu'un cessez-le-feu prenne effet le mercredi 22 septembre 1965 à 7 heures (temps universel) et invite les deux gouvernements à donner des ordres pour qu'un cessez-le-feu intervienne à ce moment et pour que toutes les forces armées se retirent ensuite sur les positions qu'elles occupaient avant le 5 août 1965;

2. *Prie* le Secrétaire général de fournir l'assistance nécessaire pour assurer la surveillance du cessez-le-feu et du retrait de toutes les forces armées;

3. *Invite* tous les Etats à s'abstenir de toute action susceptible d'aggraver la situation dans la région;

4. *Décide* d'examiner, dès que le paragraphe 1 de la résolution 210 (1965) du Conseil aura été mis en œuvre, les mesures à prendre pour contribuer à un règlement du problème politique qui est à l'origine du présent conflit et, dans l'intervalle, invite les deux gouvernements à utiliser à cette fin tous les moyens pacifiques, y compris ceux qui sont énumérés à l'Article 33 de la Charte des Nations Unies;

5. *Prie* le Secrétaire général de faire tout ce qui est en son pouvoir pour donner effet à la présente résolution, de rechercher une solution pacifique et de faire rapport au Conseil de sécurité à ce sujet.

Adoptée à la 1242^e séance, par 10 voix contre zéro, avec une abstention (Jordanie).

Décision

A sa 1244^e séance, le 22 septembre 1965, le Président a fait, au nom du Conseil, la déclaration suivante:

« Nous prenons acte, bien entendu, du rapport du Secrétaire général. Nous avons entendu les déclarations du Ministre des affaires étrangères du Pakistan et du représentant de l'Inde. Le Conseil constate avec satisfaction que le cessez-le-feu demandé formellement dans sa résolution 211 (1965) du 20 septembre 1965 a été accepté par les deux parties, et il invite les gouvernements intéressés à mettre en œuvre leur acceptation de l'appel au cessez-le-feu aussi rapidement que possible et, en tout cas, au plus tard le 22 septembre 1965 à 22 heures (temps universel) ».

³⁶ *Ibid.*, document S/6683.



Resolution 214 (1965)

of 27 September 1965

The Security Council,

Noting the reports of the Secretary-General,³⁶

Reaffirming its resolutions 209 (1965) of 4 September, 210 (1965) of 6 September and 211 (1965) of 20 September 1965,

Expressing its grave concern that the cease-fire agreed to unconditionally by the Governments of India and Pakistan is not holding,

Recalling that the cease-fire demand in the Council's resolutions was unanimously endorsed by the Council and agreed to by the Governments of both India and Pakistan,

Demands that the parties urgently honour their commitments to the Council to observe the cease-fire, and further calls upon the parties promptly to withdraw all armed personnel as necessary steps in the full implementation of resolution 211 (1965).

*Adopted at the 1245th meeting.*³⁷

Decision

At its 1248th meeting, on 27 October 1965, the Council, pursuant to its invitation to the representatives of India and Pakistan to participate, without vote, in the discussion of the question, decided, in the absence of the representative of India, to invite the representative of Pakistan to take a seat at the Council table, it being understood that the representative of India was invited to take a seat at the Council table at any time if he so wished.

Resolution 215 (1965)

of 5 November 1965

The Security Council,

Regretting the delay in the full achievement of a complete and effective cease-fire and a prompt withdrawal of armed personnel to the positions held by them before 5 August 1965, as called for in its resolutions 209 (1965) of 4 September, 210 (1965) of 6 September, 211 (1965) of 20 September and 214 (1965) of 27 September 1965,

1. *Reaffirms* its resolution 211 (1965) in all its parts;

2. *Requests* the Governments of India and Pakistan to co-operate towards a full implementation of paragraph 1

³⁶ *Ibid.*, documents S/6710 and Add.1 and 2.

³⁷ Adopted without vote.

Résolution 214 (1965)

du 27 septembre 1965

Le Conseil de sécurité,

Prenant acte des rapports du Secrétaire général³⁶,

Réaffirmant ses résolutions 209 (1965) du 4 septembre, 210 (1965) du 6 septembre et 211 (1965) du 20 septembre 1965,

Exprimant sa grave préoccupation du fait que le cessez-le-feu accepté sans condition par les Gouvernements de l'Inde et du Pakistan n'est pas observé,

Rappelant que la demande de cessez-le-feu figurant dans les résolutions du Conseil a été approuvée à l'unanimité par le Conseil et acceptée par les Gouvernements tant de l'Inde que du Pakistan,

Demande formellement que les parties honorent d'urgence leurs engagements à l'égard du Conseil d'observer le cessez-le-feu, et prie en outre les parties de retirer promptement toutes les forces armées à titre de mesures essentielles en vue de l'application intégrale de la résolution 211 (1965).

*Adoptée à la 1245^e séance.*³⁷

Décision

A sa 1248^e séance, le 27 octobre 1965, le Conseil, conformément à l'invitation qu'il avait adressée aux représentants de l'Inde et du Pakistan de participer, sans droit de vote à la discussion de la question, a décidé, en l'absence du représentant de l'Inde, d'inviter le représentant du Pakistan à prendre place à la table du Conseil, étant entendu que le représentant de l'Inde était invité à prendre place à tout moment à la table du Conseil s'il le désirait.

Résolution 215 (1965)

du 5 novembre 1965

Le Conseil de sécurité,

Regrettant le retard apporté à la réalisation intégrale d'un cessez-le-feu total et effectif et au prompt retrait des forces armées sur les positions qu'elles occupaient le 5 août 1965, ainsi qu'il le demandait dans ses résolutions 209 (1965), 210 (1965), 211 (1965) et 214 (1965), en date des 4, 6, 20 et 27 septembre 1965,

1. *Réaffirme* sa résolution 211 (1965) dans toutes ses parties;

2. *Prie* les Gouvernements de l'Inde et du Pakistan de coopérer à la mise en application intégrale du para-

³⁶ *Ibid.*, document S/6710 et Add.1 et 2.

³⁷ Le projet de résolution n'a pas été mis aux voix.



of resolution 211(1965); calls upon them to instruct their armed personnel to co-operate with the United Nations and cease all military activity; and insists that there be an end to violations of the cease-fire;

3. *Demands* the prompt and unconditional execution of the proposal already agreed to in principle by the Governments of India and Pakistan that their representatives meet with a suitable representative of the Secretary-General, to be appointed without delay after consultation with both parties, for the purpose of formulating an agreed plan and schedule for the withdrawals by both parties; urges that such a meeting take place as soon as possible and that such a plan contain a time-limit on its implementation; and requests the Secretary-General to report on the progress achieved in this respect within three weeks of the adoption of the present resolution;

4. *Requests* the Secretary-General to submit for its consideration as soon as possible a report on compliance with the present resolution.

Adopted at the 1251st meeting by 9 votes to none, with 2 abstentions (Jordan, Union of Soviet Socialist Republics).

graphe 1 de la résolution 211(1965); demande aux deux gouvernements de donner des instructions à leurs forces armées pour qu'elles coopèrent avec les Nations Unies et cessent toute activité militaire; et demande instamment qu'il soit mis fin aux violations du cessez-le-feu;

3. *Demande formellement* l'application immédiate et sans condition de la proposition dont le principe a déjà été accepté par les Gouvernements de l'Inde et du Pakistan et relative à une rencontre de représentants de ces deux pays avec un représentant qualifié du Secrétaire général, qui sera nommé sans retard après consultation avec les deux parties, en vue d'établir un plan et un horaire convenus de retrait des troupes des deux parties; demande instamment que cette rencontre ait lieu le plus tôt possible et que le plan qui sera établi fasse mention d'un date limite pour son exécution; et prie le Secrétaire général de lui faire rapport sur les progrès réalisés à cet égard dans les trois semaines qui suivront l'adoption de la présente résolution;

4. *Prie* le Secrétaire général de lui soumettre dès que possible, aux fins d'examen, un rapport sur l'exécution de la présente résolution.

Adoptée à la 1251^e séance par 9 voix contre zéro, avec 2 abstentions (Jordanie, Union des Républiques socialistes soviétiques).

QUESTION RELATING TO TERRITORIES UNDER PORTUGUESE ADMINISTRATION ³⁸

Decisions

At its 1250th meeting, on 4 November 1965, the Council decided to invite the representatives of Portugal, Liberia, Tunisia, Madagascar and Sierra Leone to participate, without vote, in the discussion of the question.

At its 1255th meeting, on 10 November 1965, the Council decided to invite the representative of the United Republic of Tanzania to participate, without vote, in the discussion of the question.

³⁸ Resolutions or decisions on this question were also adopted by the Council in 1963.

QUESTION RELATIVE AUX TERRITOIRES ADMINISTRÉS PAR LE PORTUGAL ³⁸

Décisions

A sa 1250^e séance, le 4 novembre 1965, le Conseil a décidé d'inviter les représentants du Portugal, du Libéria, de la Tunisie, de Madagascar et du Sierra Leone à participer, sans droit de vote, à la discussion de la question.

A sa 1255^e séance, le 10 novembre 1965, le Conseil a décidé d'inviter le représentant de la République-Unie de Tanzanie à participer, sans droit de vote, à la discussion de la question.

³⁸ Question ayant fait l'objet de résolutions ou décisions de la part du Conseil en 1963.



S/RES/303

“(b) Fourth report of the Committee established in pursuance of Security Council resolution 253 (1968) (S/10229 and Add.1 and 2).”⁵⁰

At its 1603rd meeting, on 30 November 1971, the Council decided to invite the representatives of the United Republic of Tanzania and Kenya to participate, without vote, in the discussion of the question.

At its 1604th meeting, on 2 December 1971, the Council decided to invite the representatives of Zambia

⁵⁰ *Ibid.*, *Twenty-sixth Year, Special Supplement No. 2 and Special Supplement No. 2 A.*

and Ghana to participate, without vote, in the discussion of the question.

At the same meeting, the President stated that, after consultations, it had been decided to invite Mr. Joshua Nkomo and Mr. Ndabaningi Sithole, the leaders of the two main political parties in Southern Rhodesia, to appear before the Council to state their views on the proposals on Southern Rhodesia, in accordance with rule 39 of the provisional rules of procedure of the Security Council.

At its 1623rd meeting, on 30 December 1971, the Council decided to invite the representatives of Uganda, Nigeria, Algeria and India to participate, without vote, in the discussion of the question.

THE SITUATION IN THE INDIA/PAKISTAN SUBCONTINENT⁵¹

Decisions

At its 1606th meeting, on 4 December 1971, the Council, in accordance with Article 32 of the Charter of the United Nations, decided to invite the representatives of India and Pakistan to participate, without vote, in the discussion of the question.

At its 1607th meeting, on 5 December 1971, the Council decided to invite the representatives of Tunisia and Saudi Arabia to participate, without vote, in the discussion of the question.

⁵¹ The Security Council adopted this formulation of its agenda at the 1614th meeting on 14/15 December 1971. Prior to that meeting, the Council had discussed the question, starting at the 1606th meeting, on 4 December 1971, under a number of sub-headings, which read as follows: “Letter dated 4 December 1971 from the Permanent Representatives of Argentina, Belgium, Burundi, Italy, Japan, Nicaragua, Somalia, the United Kingdom of Great Britain and Northern Ireland and the United States of America addressed to the President of the Security Council (S/10411)” [See *Official Records of the Security Council, Twenty-sixth Year, Supplement for October, November and December 1971*]; “Report of the Secretary-General (S/10410)” [*ibid.*]; “Report of the Secretary-General on the situation along the cease-fire line in Kashmir (S/10412)” [*ibid.*]; and “Letter dated 12 December 1971 from the Permanent Representative of the United States of America to the United Nations addressed to the President of the Security Council (S/10444)” [*ibid.*].

Resolution 303 (1971)
of 6 December 1971

The Security Council,

Having considered the item on the agenda of its 1606th meeting, as contained in document S/Agenda/1606,⁵²

Taking into account that the lack of unanimity of its permanent members at the 1606th and 1607th meetings of the Security Council has prevented it from exercising its primary responsibility for the maintenance of international peace and security,

Decides to refer the question contained in document S/Agenda/1606 to the General Assembly at its twenty-sixth session, as provided for in Assembly resolution 377 A (V) of 3 November 1950.

Adopted at the 1608th meeting by 11 votes to none, with 4 abstentions (France, Poland, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland).

⁵² The item on the agenda of the Council (S/Agenda/1606) read as follows:

- “(a) Letter dated 4 December 1971 from the Permanent Representatives of Argentina, Belgium, Burundi, Italy, Japan, Nicaragua, Somalia, the United Kingdom of Great Britain and Northern Ireland and the United States of America addressed to the President of the Security Council (S/10411);
- “(b) Report of the Secretary-General (S/10410).”



S/RES/307

Decision

At its 1615th meeting, on 15 December 1971, the Council decided to invite the representative of Ceylon to participate, without vote, in the discussion of the question.

Resolution 307 (1971)
of 21 December 1971

The Security Council,

Having discussed the grave situation in the subcontinent, which remains a threat to international peace and security,

Noting General Assembly resolution 2793 (XXVI) of 7 December 1971,

Noting the reply of the Government of Pakistan on 9 December 1971,⁵⁸

Noting the reply of the Government of India on 12 December 1971,⁵⁴

Having heard the statements of the Deputy Prime Minister of Pakistan⁵⁵ and the Foreign Minister of India,⁵⁶

Noting further the statement made at the 1616th meeting of the Security Council by the Foreign Minister of India containing a unilateral declaration of a cease-fire in the western theatre,

Noting Pakistan's agreement to the cease-fire in the western theatre with effect from 17 December 1971,⁵⁷

⁵⁸ See *Official Records of the Security Council, Twenty-sixth Year, Supplement for October, November and December 1971*, document S/10440.

⁵⁴ *Ibid.*, document S/10445.

⁵⁵ *Ibid.*, *Twenty-sixth Year*, 1614th meeting.

⁵⁶ *Ibid.*, 1613th meeting.

⁵⁷ *Ibid.*, 1621st meeting.

Noting that consequently a cease-fire and a cessation of hostilities prevail,

1. *Demands* that a durable cease-fire and cessation of all hostilities in all areas of conflict be strictly observed and remain in effect until withdrawals take place, as soon as practicable, of all armed forces to their respective territories and to positions which fully respect the cease-fire line in Jammu and Kashmir supervised by the United Nations Military Observer Group in India and Pakistan;

2. *Calls upon* all Member States to refrain from any action which may aggravate the situation in the subcontinent or endanger international peace;

3. *Calls upon* all those concerned to take all measures necessary to preserve human life and for the observance of the Geneva Conventions of 1949⁵⁸ and to apply in full their provisions as regards the protection of the wounded and sick, prisoners of war and civilian population;

4. *Calls for* international assistance in the relief of suffering and the rehabilitation of refugees and their return in safety and dignity to their homes, and for full co-operation with the Secretary-General to that effect;

5. *Authorizes* the Secretary-General to appoint if necessary a special representative to lend his good offices for the solution of humanitarian problems;

6. *Requests* the Secretary-General to keep the Council informed without delay on developments relating to the implementation of the present resolution;

7. *Decides* to remain seized of the matter and to keep it under active consideration.

Adopted at the 1621st meeting by 13 votes to none, with 2 abstentions (Poland, Union of Soviet Socialist Republics).

⁵⁸ United Nations, *Treaty Series*, vol. 75 (1950), Nos. 970-973.

QUESTION CONCERNING THE ISLANDS OF ABU MUSA, THE GREATER TUNB AND THE LESSER TUNB

Decisions

At its 1610th meeting, on 9 December 1971, the Council decided to invite the representatives of Iraq, Iran, Algeria, the Libyan Arab Republic, the People's Democratic Republic of Yemen, Kuwait and the United Arab Emirates to participate, without vote, in the discussion of the item entitled "Letter dated 3 December 1971 from the Permanent Representatives of Algeria, Iraq, the Libyan Arab Republic and the People's Democratic Republic of Yemen to the United Nations

addressed to the President of the Security Council (S/10409)".⁵⁹

At the same meeting, the Council decided to defer consideration of the matter to a later date so that sufficient time might be allowed for thorough third-party efforts to materialize.

⁵⁹ See *Official Records of the Security Council, Twenty-sixth Year, Supplement for October, November and December 1971*.

Annexure B

The McNaughton Proposal - 1949



Proposal in respect of Jammu and Kashmir made by General A.G.L. McNaughton, President of the Security Council of the United Nations, pursuant to the decision of the Security Council taken at its 457th meeting, on 22 December, 1949.

The principal considerations underlying the following proposals of the President of the Security Council of the United Nations are:

- (a) To determine the future of Jammu and Kashmir by the democratic method of the free and impartial plebiscite, to take place as early as possible; Thus to settle this issue between the Governments of India and Pakistan in accordance with the freely expressed will of the inhabitants, as is desired by both Governments;
- (b) To preserve the substantial measure of agreement of fundamental principles which has already been reached between the two Governments under the auspices of the United Nations.
- (c) To avoid unprofitable discussion of disputed issues of the past and to look forward into the future towards the good-neighbourly and constructive co-operation of the two great nations.

DEMILITARISATION PREPARATORY TO THE PLEBISCITE

2. There should be an agreed programme of progressive demilitarisation, the basic principle of which should be the reduction of armed forces on either side of the Cease-Fire Line by withdrawal, disbandment and disarmament in such stages as not to cause fear at any point of time to the people on either side of the Cease-Fire Line. The aim should be to reduce the armed personnel in the State of Jammu and Kashmir on both side of the Cease-Fire Line to the minimum compatible with the maintenance of security and of local law and order, and to a level sufficiently low and with the forces so disposed that they will not constitute a restriction on the free expression of opinion for the purposes of the plebiscite.

The programme of demilitarisation should include the withdrawal from the State of Jammu and Kashmir of the regular forces of Pakistan; and the withdrawal of the regular forces of India not required for purposes of security or for the maintenance of local law and order on the Indian side of the Cease-Fire Line; also the reduction, by disbanding and disarming, of local forces, including on the one side the Armed Forces and Militia of the State of Kashmir and on the other, the Azad Forces.



The "Northern Area" should also be included in the above programme of demilitarisation, and its administration should, subject to United Nations supervision, be continued by the existing local authorities.

SUGGESTED BASIS OF AGREEMENT

3. The Governments of India and Pakistan should reach agreement not later than 31 January 1950, in New York on the following points;

- (a) The Government of Pakistan should give unconditional assurance to the Government of India that they will deal effectively within their own borders with any possibility of tribal incursion into Jammu and Kashmir to the end that, under no circumstances, will tribesmen be able unlawfully to enter the State of Jammu and Kashmir from or through the territory of Pakistan. The Government of Pakistan should undertake to keep the senior United Nations military observer informed and to satisfy him that the arrangements to this end are and continue to be adequate.
- (b) The Governments of India and Pakistan should confirm the continued and unconditional inviolability of the "Cease-Fire Line"
- (c) Agreement should be reached on the basic principles of demilitarisation outlined in paragraph 2 above.
- (d) Agreement should be reached on the minimum forces required for the maintenance of security and of local law and order, and on their general disposition.
- (e) Agreement should be reached on a date by which the reduction of forces, to the level envisaged in paragraph 2 above, is to be accomplished. Agreement should be reached on the progressive steps to be taken in reducing and redistributing the forces to the level envisaged in paragraph 2 above.

4. In respect to the foregoing matters, the Governments of India and Pakistan should further agree that a United Nations representative, to be appointed by the Secretary-General of the United Nations in agreement with the two Governments, should supervise the execution of the progressive steps in reduction and redistribution of armed forces and that it should be the responsibility of this United Nations representative to give assurance to the people on both sides of the Cease-Fire Line that they have no cause for fear at any stage throughout the process.



The United Nations representative should have the duty and authority

- (a) of interpreting the agreements reached between the parties pursuant to paragraph 3, sub-paragraphs (c), (d), (e) and (f) above, and
- (b) of determining, in consultation with the Governments of India and Pakistan respectively, the implementation of the plan for the reduction and redistribution of armed forces referred to in paragraph 3 (f) above.

5. When the agreed programme of demilitarisation preparatory to the plebiscite been accomplished to the satisfaction of the United Nations representative, the Plebiscite Administrator should proceed forthwith to exercise the functions assigned to him under the terms of UNCIP resolution of 5 January 1949, which, together with UNCIP resolution of 13 August 1948, was accepted by the Governments of India and Pakistan and which are now reaffirmed by these Governments except in so far as the provisions therein contained as modified by the relevant provisions of this document.

The functions and powers of the Plebiscite Administrator remain as set forth in UNCIP resolution of 5 January, 1949.

6. The United Nations representative should be authorised to make any suggestions to the Governments of India and Pakistan which, in his opinion are likely to contribute to the expeditious and enduring solution of the Kashmir question, and to place his good offices at their disposal.

Annexure C

The Owen Dixon Report - 1950



THE OWEN DIXON REPORT - 1950

“The expulsion by Israel of thousands of Palestinian Arabs into Egyptian territory, and the violation by Israel of the Egyptian-Israel General Armistice Agreement”.

(Signed) M. FAWZI
Permanent Representative of Egypt
to the United Nations

DOCUMENT S/1791 (incorporating S/1791/
Add.I)

Letter dated 15 September 1950 to the President of the Security Council from the United Nations Representative for India and Pakistan, transmitting his report

[Original text: English]
[15 September 1950]

I address this letter to you as President of the Security Council and with it I hand to you in that capacity a report to the Security Council of the manner in which I have attempted to carry out the duties committed to me by the resolution adopted by the Council on 14 March 1950 [S/1469].

The presentation of this report is the final step in discharge of my functions under the resolution and I beg to request a formal termination by the Security Council of my position as United Nations Representative for India and Pakistan.

(Signed) Owen DIXON
United Nations Representative
for India and Pakistan

REPORT TO THE SECURITY COUNCIL OF SIR OWEN DIXON, UNITED NATIONS REPRESENTATIVE FOR INDIA AND PAKISTAN

1. I have the honour to submit to the Security Council the following report of my attempt to carry out the duties committed to me by the resolution of the Security Council of 14 March 1950 [S/1469].

2. By that resolution the Security Council called upon the Governments of India and Pakistan to make immediate arrangements to prepare and execute within a period of five months from that date a programme of demilitarization on the basis of certain principles or of some agreed modification of those principles. The Security Council by the same resolution decided to appoint a United Nations Representative for certain purposes, which included assisting in the preparation of the programme of demilitarization, placing before the Governments or the Security Council any suggestions which in his opinion would be likely to contribute to the expeditious and enduring solution of the dispute between the two Governments about the State of Jammu and Kashmir, exercising the powers that belonged to the United Nations Commission for India and Pakistan and reporting to the Security Council.

“Expulsion en territoire égyptien, par Israël, de milliers d’Arabes palestiniens, et violation par Israël de la Convention générale d’armistice conclue entre l’Égypte et Israël.”

(Signé) M. FAWZI
Représentant de l’Égypte
auprès de l’Organisation des Nations Unies

DOCUMENT S/1791 (incorporant S/1791/
Add.I)

Lettre, en date du 15 septembre 1950, adressée au Président du Conseil de sécurité par le représentant des Nations Unies auprès de l’Inde et du Pakistan, pour lui communiquer son rapport

[Texte original en anglais]
[15 septembre 1950]

C’est en votre qualité de Président du Conseil de sécurité que je vous adresse cette lettre, à laquelle je joins le rapport que j’ai rédigé, à l’intention du Conseil de sécurité, sur la manière dont j’ai tenté de remplir la mission que m’avait confiée la résolution adoptée le 14 mars 1950 par le Conseil [S/1469].

La remise de ce rapport est le dernier acte que j’ai accompli pour m’acquitter des fonctions que j’ai reçues en vertu de cette résolution, et je prie le Conseil de bien vouloir mettre officiellement fin à mon rôle de représentant des Nations Unies auprès de l’Inde et du Pakistan.

(Signé) Owen DIXON
Représentant des Nations Unies
auprès de l’Inde et du Pakistan

RAPPORT AU CONSEIL DE SÉCURITÉ DE SIR OWEN DIXON, REPRÉSENTANT DES NATIONS UNIES AUPRÈS DE L’INDE ET DU PAKISTAN

1. J’ai l’honneur de présenter au Conseil de sécurité, sur les efforts que j’ai tentés pour remplir la mission que m’avait confiée la résolution adoptée par lui le 14 mars 1950 [S/1469], le rapport suivant.

2. Par cette résolution, le Conseil de sécurité invitait le Gouvernement de l’Inde et celui du Pakistan à prendre immédiatement les dispositions nécessaires pour préparer et exécuter, dans un délai de cinq mois à compter de la date de cette résolution, un programme de démilitarisation qui s’inspirerait, soit de certains principes que le Conseil rappelait, soit des modifications apportées à ces principes par accord mutuel. Le Conseil de sécurité décidait, par la même résolution, de nommer un représentant des Nations Unies qui aurait qualité pour exercer certaines fonctions et qui serait, notamment, chargé d’aider à préparer le programme de démilitarisation, de soumettre aux gouvernements intéressés ou au Conseil de sécurité toute proposition qui lui semblerait de nature à contribuer au règlement rapide et durable du différend surgi entre les deux gouvernements au sujet de l’Etat de Jammu et Cachemire, d’exercer tous les pouvoirs et attributions dévolus à la Commission des Nations Unies pour l’Inde et le Pakistan, et de faire rapport au Conseil de sécurité.



3. The choice of the Security Council fell upon me and on 13 April I received news in Sydney of my appointment as United Nations Representative. I at once took steps to discharge myself of my then current responsibilities in Australia and on 26 April I left Sydney for Lake Success. I left New York on 21 May 1950 for New Delhi via London, having spent the interval from my arrival on 28 April in obtaining as much information as I could about the nature of the problem with which I was to deal, in making necessary administrative arrangements and in dealing with the appointment of a staff.

4. I went first to New Delhi rather than to Karachi, because the Prime Minister of India was about to leave for Indonesia and wished to see me before his departure. The Prime Minister of Pakistan was at that time in the United States. I arrived in New Delhi on 27 May 1950. By that time over ten weeks of the five months mentioned in the paragraph 1 of the Security Council's resolution had elapsed, but so far as I am aware no steps in pursuance of the paragraph had been taken by the two Governments. I spent some days learning from the Prime Minister of India and from members and officers of his administration the nature of India's contentions and its standpoint generally concerning the Kashmir dispute.

5. On 1 June I went to Karachi and there I obtained from Sir Mohammad Zafrullah Khan and members and officers of the Pakistan Government the corresponding kind of information about Pakistan's position.

6. I left Karachi for Srinagar in the Kashmir Valley on 7 June. I remained in Jammu and Kashmir with my base at Srinagar from that date until 12 July. My purpose in going to Kashmir was to obtain a knowledge of the country, the people, the topographical features, the cease-fire line, the general disposition of the armed forces on either side of the cease-fire line and the other conditions and circumstances existing in the State which would or might assist me in understanding the dispute and the possible means of resolving it. I moved about a good deal and, amongst other places, I visited Bandipura, Sonamarg and Baltal, Poonch and the adjacent area, Rawaakot, the road from Rawalpindi through to Srinagar along the Jhelum Valley, which I traversed several times, and places and posts along that route, Skardu and Gilgit, Jammu and adjacent posts and Leh.³

7. While I was in Srinagar I had more than one interview with Sheikh Abdullah, the Prime Minister of the State.

8. After I had completed my journeys, inspections and enquiries I remained at Srinagar and occupied myself in the consideration and preparation of plans. I would not have remained in Srinagar so long had it not been for the continued absence from the sub-continent of both Prime Ministers. I had formed the

3. Le Conseil de sécurité m'a désigné pour remplir ces fonctions, et, le 13 avril, à Sydney, j'ai appris que j'étais nommé représentant des Nations Unies. J'ai immédiatement pris les mesures nécessaires pour me dégager des responsabilités que j'avais à l'époque en Australie, et, le 26 avril, j'ai quitté Sydney pour Lake Success. Le 21 mai 1950, je suis parti de New-York pour New-Delhi, via Londres, après m'être consacré depuis le 28 avril, date de mon arrivée, à réunir le plus possible de renseignements sur la nature du problème que j'avais à traiter, à mettre au point les dispositions administratives nécessaires et à me constituer un personnel.

4. J'ai choisi de me rendre d'abord à New-Delhi plutôt qu'à Karachi, parce que le Premier Ministre de l'Inde était sur le point de partir pour l'Indonésie et désirait me voir avant son départ. Le Premier Ministre du Pakistan se trouvait à ce moment aux Etats-Unis. Je suis arrivé à New-Delhi le 27 mai 1950. A cette date, plus de dix semaines s'étaient déjà écoulées sur les cinq mois mentionnés au paragraphe premier de la résolution du Conseil de sécurité, mais, pour autant que je sache, les deux gouvernements n'avaient encore pris aucune mesure en application de ce paragraphe. Pendant quelques jours, le Premier Ministre de l'Inde ainsi que des membres et des fonctionnaires de son gouvernement m'ont mis au courant du caractère des revendications de l'Inde et, d'une manière générale, de la position de ce pays à l'égard du conflit de Cachemire.

5. Le 1er juin, je me suis rendu à Karachi, où j'ai recueilli auprès de Sir Mohammad Zafrulla Khan ainsi que des membres et des fonctionnaires du Gouvernement du Pakistan des renseignements de même nature sur la position du Pakistan.

6. J'ai quitté Karachi pour Srinagar, dans la vallée de Cachemire, le 7 juin. A dater de ce jour et jusqu'au 12 juillet, j'ai séjourné dans l'Etat de Jammu et Cachemire, mon point d'attache étant Srinagar. Mon voyage au Cachemire avait pour but de réunir des renseignements sur le pays, sur sa population, sur sa topographie, sur la ligne de suspension d'armes, sur la disposition générale des forces armées de chaque côté de cette ligne, ainsi que sur tout autre élément de la situation de l'Etat qui m'aiderait ou pourrait m'aider à comprendre le différend et à trouver éventuellement les moyens de le résoudre. Je me suis beaucoup déplacé, visitant notamment Bandipoura, Sonamarg et Baltal, Panch et la région avoisinante, Rawalakot, la route de Rawalpindi à Srinagar par la vallée de la Djhelam, que j'ai empruntée plusieurs fois, ainsi que des localités et des postes le long de cette route. Skardo et Gilgit, Jammu et les postes voisins, ainsi que Leh.³

7. Pendant mon séjour à Srinagar, j'ai eu plusieurs entretiens avec le cheik Abdullah, Premier Ministre de l'Etat.

8. Après avoir terminé mes voyages, inspections et enquêtes, je suis resté à Srinagar, et je me suis attaché à envisager les plans et à les mettre sur pied. Je ne serais pas resté aussi longtemps à Srinagar si les deux Premiers Ministres n'avaient pas été continuellement absents de la péninsule. J'étais, en effet, persuadé que

³ See map, annex II, p. 52.

³ Voir la carte, annexe II, p. 52.



opinion that my best course was to deal with the Prime Ministers and if possible bring them together at a meeting with me at which a sustained effort might be made to effect a settlement.

9. The situation as I found it presented strange features. The parties had agreed that the fate of the State as a whole should be settled by a general plebiscite, but over a considerable period of time they had failed to agree on any of the preliminary measures which it was clearly necessary to take before it was possible to set up an organization to take a plebiscite. From 20 October 1947 to 1 January 1949 the State of Jammu and Kashmir had been the scene of continual fighting and some very serious and difficult military operations had been conducted there. But the fighting had been confined to the State. On 1 January 1949 there was a cease-fire ordered upon the respective fronts and in July India and Pakistan agreed upon the position on the ground of the line which was to separate the territories they had respectively. On the Indian side of this cease-fire line the forces occupying the territory consisted of troops of the regular Indian Army, State troops and State militia. On the Pakistan side the forces were composed of troops of the regular Pakistan Army, *Asad* Kashmir forces and Northern Scouts. The cease-fire line itself was held in strength and thus two considerable armies stood opposed to one another.

10. The United Nations had established a corps of officers provided by various countries to act as observers and assist in maintaining the cease-fire along the line and to secure compliance by the parties with the terms of the armistice. Incidents in which the troops on one side fired on troops on the other or upon a civilian or civilians occurred frequently at some point or another on the line, but the incidents nearly all proved of small importance relatively and none threatened a general outbreak of hostilities.

11. The territory on the Pakistan side of the cease-fire line seemed to be administered through an *Asad* Kashmir "Government" on the west but in the north through political agents directly responsible to the Pakistan Government.

12. On the Indian side of the cease-fire line the administration of the State was in the hands of Sheikh Abdullah and his colleagues, subject however to the federal powers of India over such matters as defence and external affairs, obtained under the instrument of accession to India. (See paragraph 370 of the Constitution of India.) These powers, however, were extensive enough for the purpose of any matter which could arise in relation to the Kashmir dispute or its settlement.

13. It was obvious to me that in my attempt to settle the dispute I must be governed by the course that had been taken by the Security Council and the United Nations Commission for India and Pakistan and agreed upon by the parties. It might be true that the chances of such a course proving successful were

la meilleure voie à suivre pour moi était de traiter directement avec les Premiers Ministres et, si possible, de les réunir pour nous efforcer en commun d'aboutir à une solution.

9. La situation dans laquelle je me trouvais était assez étrange. Les parties au différend s'accordaient à penser qu'il fallait régler par un plébiscite général le sort de l'Etat dans son ensemble, mais, pendant fort longtemps, elles n'avaient pu s'entendre sur aucune des mesures préalables que, de toute évidence, il importait de prendre pour organiser un tel plébiscite. Du 20 octobre 1947 au 1er janvier 1949, l'Etat de Jammu et Cachemire avait été le théâtre de combats continus, et des opérations militaires extrêmement graves et difficiles s'y étaient déroulées. Toutefois, les hostilités n'avaient eu lieu que sur le territoire même de l'Etat. Le 1er janvier 1949, un cessez-le-feu avait été ordonné sur les fronts respectifs et, au mois de juillet, l'Inde et le Pakistan s'étaient mis d'accord sur le tracé de la ligne de démarcation entre leurs territoires respectifs. Du côté indien de cette ligne de démarcation, les forces qui occupaient le territoire comprenaient des effectifs de l'armée régulière de l'Inde, de l'armée de l'Etat et de la milice de l'Etat. Du côté pakistanais, les forces se composaient d'effectifs de l'armée régulière du Pakistan, des forces du Cachemire *Asad* et des Eclaireurs du Nord. La ligne de démarcation elle-même était tenue par d'importants contingents, de sorte que deux importantes armées se trouvaient en présence.

10. L'Organisation des Nations Unies avait créé un corps d'observateurs, constitué d'officiers venus de divers pays, qui devait aider au maintien de l'ordre de cessez le feu le long de la ligne de démarcation et s'assurer que les parties respectaient les conditions de l'armistice. Des incidents se produisaient fréquemment çà et là, le long de la ligne, au cours desquels les troupes d'un camp tiraient sur les troupes de l'autre ou sur un civil ou un groupe de civils; ces incidents n'ont cependant revêtu, presque tous, qu'une importance secondaire, et aucun d'entre eux n'a été de nature à faire craindre une conflagration générale.

11. Le territoire situé du côté pakistanais de la ligne de démarcation paraissait être administré, à l'ouest, par un "Gouvernement" du Cachemire *Asad*, mais, au nord, par des agents politiques directement responsables envers le Gouvernement du Pakistan.

12. Du côté indien de la ligne de démarcation, l'administration de l'Etat était aux mains du cheik Abdullah et de ses collègues, les autorités fédérales de l'Inde gardant toutefois, au titre de l'instrument d'accession à l'Inde, la direction de certaines affaires, par exemple les questions de défense et de relations extérieures (voir le paragraphe 370 de la Constitution de l'Inde). Les pouvoirs des autorités fédérales étaient d'ailleurs assez larges pour leur permettre de traiter de tout problème relatif au différend du Cachemire ou à son règlement.

13. Il ne faisait aucun doute pour moi que mes efforts pour régler le différend devaient s'inspirer des décisions prises antérieurement par le Conseil de sécurité et par la Commission des Nations Unies pour l'Inde et pour le Pakistan, décisions qui avaient rencontré l'assentiment des deux parties. Certes, les chances



much reduced by the failure of the parties over so long a period of time, notwithstanding the assistance of the Commission, to agree upon any practical measures in pursuance of that course for the solution of the problem. But the terms of the agreed resolution of 5 January 1949⁴ were specific in appointing a free and impartial plebiscite as the means by which the question of the accession of the State of Jammu and Kashmir to India or Pakistan would be decided. What was wanting was agreement upon the matters, including demilitarization, which were preliminary to even the commencement of the necessary arrangements for the taking of a poll of the inhabitants.

14. Primarily my duty, as I conceived it, was to attempt to bring about an agreement upon measures by the execution of which it would be made possible for the Plebiscite Administrator to begin his work of organizing an over-all plebiscite. Only if and when I was satisfied that no such agreement could be brought about and that all real chance of it had ended, ought I to turn to some form of settlement other than a plebiscite of the whole State. At the earliest stage possible I informed each of the parties that this was the position I adopted.

15. In examining the history of past attempts to effect a settlement of the dispute and in listening to India's explanation of its case and of the stand it took, I formed the opinion that if I was to succeed in bringing about an agreement upon the matters preliminary to an over-all plebiscite it would be necessary to meet certain objections which it would make. There was first the allegation, so often repeated by India, that Pakistan was an aggressor who had no *locus standi* and whose troops had no title to be within the State. There was the position taken by India that during the period of preparation for and the taking of the plebiscite the territory to the west of the cease-fire line should not be under the immediate governmental authority and direction of Pakistan or be administered by the *Asad* Kashmir "Government". There was the claim made by India that there must be no impairment of or prejudice to the recognition of the sovereignty of the State of Jammu and Kashmir over the northern areas, i.e., the areas to the north of the cease-fire line when it turns to run east. There was the assertion that if there was a very great reduction of troops on India's side of the cease-fire line, there would be danger of further incursions from the other side of the line. These were objections the application and consequences of which might be developed in detail, but it is enough for me to state briefly their nature.

16. In preparing my plans to lay before the Prime Ministers I endeavoured to meet these various positions. But I was very much alive both to the necessity and the difficulty of securing the freedom and fairness of the plebiscite. The plans I had in mind for the

⁴ See *Official Records of the Security Council, Fourth Year, Supplement for January 1949*, p. 23.

de succès d'une telle action étaient diminuées du fait que les parties n'avaient pu, pendant si longtemps, et malgré l'aide de la Commission, s'entendre sur aucune mesure pratique pour résoudre le problème dans le cadre de ces décisions. Mais la résolution adoptée le 5 janvier 1949⁴ déclarait expressément que la question du rattachement de l'État de Jammu et Cachemire à l'Inde ou au Pakistan se déciderait au moyen d'un plébiscite libre et impartial. Il restait cependant à réaliser l'accord sur diverses questions préalables, notamment celle de la démilitarisation, avant même que de commencer à prendre les dispositions nécessaires pour connaître l'avis de la population.

14. A mon avis, ma tâche essentielle était de m'efforcer de réaliser un accord sur les mesures dont l'exécution permettrait à l'Administrateur du plébiscite d'entreprendre l'organisation d'un plébiscite général. Ce n'est qu'après m'être convaincu qu'il était impossible de réaliser un tel accord et qu'il n'existait plus aucune chance réelle d'y parvenir, que je pourrais envisager de régler la question autrement que par un plébiscite organisé dans l'État tout entier. Aussitôt que cela fut possible, j'informai chacune des parties que tel était le point de vue que j'avais adopté.

15. Après avoir étudié les efforts antérieurement tentés pour régler le différend et entendu les explications données par l'Inde sur sa cause et sur la thèse qu'elle défendait, j'en vins à conclure que, pour parvenir à réaliser un accord sur les questions qu'il importait de régler avant de procéder à un plébiscite général, il serait nécessaire de répondre à certaines objections que l'Inde présenterait. La première de ces objections était l'allégation, si souvent répétée par l'Inde, que le Pakistan avait commis une agression sans pouvoir invoquer la moindre raison valable d'intervenir et que ses troupes n'avaient pas le droit de se trouver à l'intérieur de l'État. L'Inde déclarait en outre que, pendant la période de préparation du plébiscite, et la période où ce plébiscite serait effectué, le territoire situé à l'ouest de la ligne de suspension d'armes ne devait pas se trouver sous l'autorité ou l'administration directe du Gouvernement du Pakistan, ni être administré par le "Gouvernement" de l'*Asad* Cachemire. L'Inde soutenait également qu'il importait de ne rien faire qui puisse infirmer ou affaiblir la reconnaissance de la souveraineté de l'État de Jammu et Cachemire sur les régions du Nord, c'est-à-dire sur les régions se trouvant au nord de la ligne du cessez-le-feu à l'endroit où cette ligne prend la direction de l'est. Elle faisait valoir en outre que, si l'on réduisait dans une mesure considérable l'effectif des troupes se trouvant du côté indien de la ligne du cessez-le-feu, on risquerait de voir l'autre partie franchir cette ligne et se livrer à de nouvelles incursions. Telles étaient les objections de l'Inde; on pourrait les développer en détail, mais il me suffit d'en indiquer brièvement la nature.

16. En préparant les plans que je devais soumettre aux Premiers Ministres, je m'efforçai de répondre à ces divers arguments. Toutefois, je demeurais vivement conscient tant de la nécessité que de la difficulté d'assurer l'entière liberté et l'impartialité du plébiscite.

⁴ Voir les *Procès-verbaux officiels du Conseil de sécurité, quatrième année, Supplément de janvier 1949*, p. 23.



Pakistan side of the cease-fire line would, I thought, remove any difficulty there. But I felt much concern about the Indian side of the cease-fire line. If bodies of troops belonging to one side remained in populous areas, if all the powers of Sheikh Abdullah's Administration, which had the deepest possible interest in the result of the poll, remained exercisable, if the State militia went about under arms and the State police were left to exert whatever influence arises from their position in such a community, it appeared to me that there were the gravest dangers to a free expression of the will of the inhabitants, and almost a certainty that if the result was adverse to Pakistan it would challenge the plebiscite as neither free nor fair. I therefore worked up more than one plan or set of plans to deal with this situation. In doing so I saw that this was a question in which the Security Council itself was directly interested. For the plebiscite was to be conducted under its authority and it would not be right for me as the United Nations Representative to put forward or consent to conditions of settlement which would expose a plebiscite taken by the United Nations to reasonable suspicion, on the ground that because of intimidation or the apprehensions of the voters or for other reasons, it was not free and fair.

17. The Prime Minister of India returned to New Delhi on 24 June 1950 and the Prime Minister of Pakistan returned to Karachi on 13 July 1950. They both agreed to meet me in New Delhi on Thursday, 20 July for the purpose of attempting together to settle the Kashmir question.

18. The meeting began at 4 o'clock in the afternoon of the day arranged and continued from day to day until Monday, 24 July, when by common consent it was brought to an end. At the opening of the meeting I informed the two Prime Ministers that as far as I was concerned they could talk with the utmost freedom because, subject to one qualification, what they said need not be disclosed. That qualification was that, if my mission failed, I must report to the Security Council the nature of the proposals made and rejected, and if, on the other hand, agreement was reached, the agreement would of course be reported. I stated at the outset that I proposed to pursue the question of the measures necessary to make it possible to hold a plebiscite to determine the destination of the State of Jammu and Kashmir as a whole, the first measure being of course the demilitarization of the area.

19. I found that neither country had any affirmative plans or proposals which its Prime Minister wished to put forward. I therefore proceeded to describe the course which I would propose to them.

20. The first matter which I raised was the necessity, in the event of agreement, of insuring that

Les plans que j'envisageais en ce qui concerne la région se trouvant du côté pakistanais de la ligne du cessez-le-feu devaient résoudre, à mon avis, toutes les difficultés qui se présenteraient de ce côté. Toutefois, j'éprouvais de vives inquiétudes en ce qui concerne le côté indien de la ligne. Il me semblait que, si certaines unités des troupes appartenant à l'une des parties demeuraient dans les régions fortement peuplées, si l'administration du cheik Abdullah, pour lequel les résultats du vote présentaient le plus grand intérêt, continuait d'exercer tous ses pouvoirs, si la milice de l'Etat restait armée et si on laissait à la police de l'Etat la possibilité d'exercer toute l'influence qu'elle tenait de ses fonctions mêmes dans une communauté de cette nature, la libre expression de la volonté des habitants se trouverait gravement menacée, et il était presque certain que, si les résultats du vote étaient défavorables au Pakistan, celui-ci contesterait le plebiscite en déclarant qu'il n'avait été ni libre ni impartial. J'élaborai donc plusieurs plans ou séries de plans pour faire face à cette situation. Au cours de mes travaux, je me rendis compte qu'il s'agissait d'une question intéressant directement le Conseil de sécurité lui-même. En effet, le plebiscite devait être effectué sous l'autorité du Conseil et, en ma qualité de représentant des Nations Unies, je ne devais ni proposer ni accepter de conditions de règlement susceptibles de laisser supposer avec une apparence de raison qu'un plebiscite organisé sous les auspices des Nations Unies ne serait ni libre ni impartial, du fait des appréhensions qu'auraient éprouvées les votants ou des mesures d'intimidation dont ils auraient fait l'objet ou pour d'autres raisons encore.

17. Le Premier Ministre de l'Inde revint à New-Delhi le 24 juin 1950, et le Premier Ministre du Pakistan revint à Karachi le 13 juillet 1950. Ils acceptèrent tous deux de me rencontrer à New-Delhi, le mardi 20 juillet, pour tenter de régler d'un commun accord le problème du Cachemire.

18. La conférence commença le jour prévu, à 16 heures, et se poursuivit chaque jour jusqu'au lundi 24 juillet, date à laquelle elle prit fin, d'un commun accord. Au début de nos conversations, j'informai les deux Premiers Ministres que, en ce qui me concernait, j'estimais qu'il leur était loisible de s'exprimer avec la plus grande liberté, car, sous une seule réserve, il ne serait pas nécessaire de rendre publiques leurs déclarations. Cette réserve était la suivante : si ma mission n'était pas couronnée de succès, je devrais faire connaître au Conseil de sécurité la nature des propositions avancées et rejetées, et, d'autre part, si l'on aboutissait à un accord, je devrais évidemment en transmettre la teneur au Conseil. Dès le début, je déclarai que je ne proposais d'aborder la question des mesures qu'il convenait d'arrêter pour rendre possible l'organisation d'un plebiscite qui déciderait du destin de l'Etat de Jammu et de Cachemire dans son ensemble, la première de ces mesures étant évidemment la démilitarisation de la région.

19. Il m'apparut qu'aucun des deux pays n'avait élaboré de plans positifs ni chargé son Premier Ministre de présenter des propositions concrètes. J'entrepris alors d'exposer la solution que je leur suggérerais.

20. J'indiquai tout d'abord que, qu'en cas d'accord, il importait de faire en sorte que chacune des parties



each party felt full confidence that whatever steps a settlement might make incumbent on the other party would, in fact, be taken, more particularly in the withdrawal of troops and the reduction of military strength, and I suggested that, independently of other reasons for confidence which I emphasized, this could be secured by avoiding indefinite undertakings and by stipulating that no cause for refusal or failure to do what the party undertook to do should suffice unless an appropriate authority of the United Nations so certified. To this there appeared to be no specific objection.

21. Upon a number of occasions in the course of the period beginning with the reference on 1 January 1948 of the Kashmir dispute to the Security Council, India had advanced not only the contention to which I have already referred that Pakistan was an aggressor, but the further contention that this should be declared. The Prime Minister of India, at an early stage of the meeting made the same contention and he referred to it repeatedly during the conference. I took up the positions, first that the Security Council had not made such a declaration; secondly that I had neither been commissioned to make nor had I made any judicial investigation of the issue; but thirdly that, without going into the causes or reasons why it happened, which presumably formed part of the history of the sub-continent, I was prepared to adopt the view that when the frontier of the State of Jammu and Kashmir was crossed, on I believe 20 October 1947, by hostile elements, it was contrary to international law, and that when, in May 1948, as I believe, units of the regular Pakistan forces moved into the territory of the State, that too was inconsistent with international law.

22. I therefore proposed that the first step in demilitarization should consist in the withdrawal of the Pakistan regular forces commencing on a named day. After a significant number of days from the named day, then other operations on each side of the cease-fire line should take place and as far as practicable, concurrently. What number of days should be fixed as significant was a matter of detail for them to settle.

23. The Prime Minister of Pakistan expressed strongly his dissent from the third of the three positions I took up, that is to say the third of the positions stated above. But he expressed his readiness to accept, in compliance with my request, the proposition that as a first step in demilitarization the withdrawal of the regular forces of the Pakistan Army should begin on a specified day and that a significant number of days should elapse before the commencement of any operation involving forces on the Indian side of the cease-fire line.

24. The purpose of this report in dealing with the meeting is to state what proposals were made and the extent to which they were rejected. For that purpose it is not necessary to adhere to the order followed in

fût entièrement convaincue que l'autre partie prendrait effectivement toutes les mesures dont l'exécution lui serait imposée aux termes d'un règlement, particulièrement en ce qui concerne le retrait de troupes et la réduction de la force militaire; je fis observer que, indépendamment d'autres motifs de confiance, que d'ailleurs je soulignai, on pouvait créer une atmosphère favorable en évitant de prendre des engagements vagues, et en stipulant qu'on ne saurait admettre qu'une des parties refuse de tenir les engagements pris ou manque auxdits engagements pour une raison quelconque, à moins qu'une autorité appropriée des Nations Unies ne certifie la validité de ladite raison. Cette proposition ne sembla pas rencontrer d'objection particulière.

21. Au cours de la période commençant à la date où le différend du Cachemire fut pour la première fois soumis au Conseil de sécurité, le 1er janvier 1948, non seulement l'Inde fit valoir à plusieurs reprises l'argument que j'ai déjà rappelé — à savoir que le Pakistan était l'agresseur — mais elle demanda en outre qu'il fût reconnu comme tel. Au début de nos conversations, le Premier Ministre de l'Inde présenta la même demande, sur laquelle il revint fréquemment au cours de la conférence. Ma position fut la suivante: en premier lieu, le Conseil de sécurité n'avait pas fait de déclaration dans ce sens; deuxièmement, je n'avais pas reçu d'instructions pour étudier cette question du point de vue juridique, et je n'avais pas procédé à une telle étude; toutefois, j'indiquai que, sans chercher à discerner les causes ou les raisons des événements intervenus, lesquelles formaient sans doute une partie de l'histoire de la péninsule, j'étais prêt à estimer que le passage de la frontière de l'Etat de Jammu et de Cachemire par des éléments hostiles, le 20 octobre 1947, si je pouvais me fier à ma mémoire, était contraire au droit international, et que l'invasion du territoire de l'Etat par les unités de l'armée régulière du Pakistan, effectuée à ma connaissance en mai 1948, était, elle aussi, contraire au droit international.

22. Je proposai donc, comme première mesure de démilitarisation, de retirer les forces régulières du Pakistan, cette opération devant commencer à un jour fixé. Après une période appropriée, s'étendant sur un nombre de jours déterminé, à compter de cette date, d'autres mesures devraient être appliquées de part et d'autre de la ligne de suspension d'armes, et, dans la mesure du possible, simultanément. Il appartenait aux deux parties de fixer la durée de la période qu'elles estimeraient appropriées.

23. Le Premier Ministre du Pakistan s'opposa vivement à la troisième des trois considérations que j'avais formulées, c'est-à-dire à la troisième des trois considérations énoncées ci-dessus. Toutefois, sur ma demande, il se déclara prêt à accepter la proposition tendant à faire du retrait des forces régulières du Pakistan la première mesure de démilitarisation, ce retrait devant commencer à un jour fixé et une certaine période de temps devant s'écouler avant l'application des mesures concernant les forces armées qui se trouvaient du côté indien de la ligne du cessez-le-feu.

24. Par le compte rendu qu'il donne de la conférence, le présent rapport vise à indiquer quelles propositions ont été faites et dans quelle mesure elles ont été écartées. A cette fin, il n'est pas indispensable de



the discussion, an order governed by the desirability of giving the Prime Ministers a general understanding of the basis of my proposals and also of pursuing them and any alternative suggestions in detail. I shall therefore state at once in outline what were the rest of my proposals for demilitarization of the area.

25. After fixing a day and hour for the withdrawal of the forces of the Pakistan regular army from the area west or west and north of the cease-fire line, the parties would, according to my proposal, fix so many days, from the commencement of such withdrawal, for India to begin the removal of the armed forces in the area east and south of the cease-fire line. I asked for:

(a) The withdrawal of the forces of the Indian regular army;

(b) The withdrawal or disarming and disbandment of the Jammu and Kashmir State forces;

(c) The disarming and disbandment of the Jammu and Kashmir State Militia.

26. I made no stipulation as to the sequence of these three operations relatively to one another.

27. On the other side of the cease-fire line my proposal was that Pakistan would commence to disarm and disband:

(a) the *Asad* Kashmir forces and

(b) the Northern Scouts.

28. I proposed that the day and hour for Pakistan's commencing to do so should be fixed by reference to the withdrawal of the Pakistan regular army. I suggested that the foregoing operations on each side should be divided into phases and that plans should be prepared for the carrying out of each phase by the respective Chiefs of Staff, and that my Military Adviser should consider each plan and should be entitled to recommend alterations.

29. I also suggested that the Pakistan plans should be settled first and that then my Military Adviser should furnish them to the Indian Chief of Staff so that such plans would be before them when settling their own plans.

30. Turning to the forces that either party might need on their respective sides of the present cease-fire line after demilitarization and pending the plebiscite, I said that this should be determined according to purpose. The presence of armed forces during the period preceding the taking of the vote and while it was being taken tended against the independence of voting and the fairness of the poll, and the number of the troops should therefore be as small as possible. I suggested that if the purpose was defined for which armed forces were needed it would then become a matter for the Chiefs of Staff in consultation with my

suivre l'ordre des débats, ordre qui fut déterminé par le souci de donner aux Premiers Ministres un aperçu général des principes dont s'inspiraient mes propositions, puis de les exposer en détail et de les étudier, en même temps que toutes autres suggestions qui pourraient être formulées. Je vais donc indiquer dès à présent, dans leurs grandes lignes, les propositions complémentaires présentées par mes soins aux fins de démilitarisation de la région.

25. Après avoir fixé l'heure et le jour auxquels les troupes de l'armée régulière du Pakistan devaient évacuer la région ouest ou nord-ouest de la ligne du cessez-le-feu, les deux parties devaient, aux termes de ma proposition, fixer un certain nombre de jours à partir de la date du commencement de cette évacuation, et, à l'expiration de cette période, l'Inde devait commencer à retirer ses forces armées des régions situées à l'est et au sud de la ligne du cessez-le-feu. Je demandais:

a) Le retrait des forces de l'armée régulière indienne;

b) Le retrait ou le désarmement et le licenciement des forces de l'Etat de Jammu et Cachemire;

c) Le désarmement et le licenciement de la milice de l'Etat de Jammu et Cachemire.

26. Aucune disposition n'était prévue quant à l'ordre dans lequel ces trois opérations devaient s'effectuer.

27. En ce qui concerne l'autre côté de la ligne du cessez-le-feu, je proposais que le Pakistan commence à désarmer et à licencier:

a) Les forces de l'*Asad* Cachemire;

b) Les Eclaireurs du Nord.

28. Je proposais que le jour et l'heure prévus pour le début de ces opérations soient fixés par rapport à la date du retrait de l'armée régulière du Pakistan. Je proposais de diviser lesdites opérations en phases et de préparer des plans pour assurer la mise en œuvre de chaque phase par les chefs d'état-major respectifs; je suggérais en outre que mon conseiller militaire étudie chaque plan et ait le droit de recommander certaines modifications.

29. A mon avis, il convenait d'établir en premier lieu les plans intéressant le Pakistan; ces plans seraient alors transmis par mon conseiller militaire au chef d'état-major indien, afin que ce dernier puisse en avoir connaissance avant d'établir ses propres plans.

30. Passant à la question des forces dont chaque partie pourrait avoir besoin, chacune de son côté de la ligne du cessez-le-feu actuelle, pendant la période comprise entre la démilitarisation et le plébiscite, j'ai déclaré que cette question devrait être décidée en fonction de la mission que ces forces auraient à remplir. La présence de forces armées pendant la période de préparation du plébiscite et pendant le plébiscite lui-même risquant de compromettre l'indépendance du vote et l'impartialité du scrutin, l'effectif des troupes devrait être en conséquence aussi réduit que possible. J'ai indiqué que, s'il était possible de définir les objectifs pour lesquels des



Military Adviser to agree on the forces to be used and their disposition.

31. I said that as far as I could see there could be no need for troops unless for one or other of certain possible purposes which I stated. On the Pakistan side I mentioned the purposes:

(a) Of ensuring the fulfilment of the obligation of Pakistan not to permit tribesmen, marauders or other raiders to enter the Kashmir Valley from its side of the cease-fire line;

(b) Of disarming and disbanding the *Azad* forces, a temporary purpose involving perhaps chiefly the Ordnance Corps;

(c) Of quietening the fears which might possibly arise among Muslims, if they were left entirely without any ostensible protection, and perhaps of aiding the civil power in maintaining order.

On the Indian side the purpose of troops would be:

(a) To be available in aid of the civil power in maintaining order where the population was mixed in the south or south west of the State;

(b) To guard the northern approaches to the Valley against possible incursions through or by way of the Jhelum Valley, Keran and Tithwal and thence by Handwara, the Tragbal Pass from Gurais to Bandipura and the Zoji-la Pass and thence to Baltal and Sonamarg.

32. The Prime Minister of India rejected this plan on grounds of which it is impossible in this report to give an exhaustive statement. But he made these points and they are enough for the purpose of this report without going into arguments of a more abstract description. I state the points in a summary form:

(a) The possibility of Pakistan making an attack notwithstanding the withdrawal of its forces and notwithstanding any assurance it might give must be taken into account amongst other dangers for which India might need forces on its side of the cease-fire line pending the plebiscite.

(b) The need for protecting the area against the incursions of marauders or more serious dangers could not be limited to specific approaches such as I had mentioned.

(c) The Militia, which were organized and paid by the State, though under the command of Indian officers, performed duties of police and in any case could not be disarmed and disbanded without prejudicing the organization of the State. It was a thing India would not ask the State to do.

(d) The reason why India was being asked to limit the forces it would use in discharging its responsibilities in the defence of the State as part of India was because

forces armées étaient nécessaires, il appartiendrait alors aux chefs d'état-major, de concert avec mon conseiller militaire, de se mettre d'accord sur les forces à employer ainsi que sur leur dispositif.

31. J'ai déclaré que je ne pouvais voir aucun facteur qui exigeât la présence de troupes, à l'exception de l'une ou de l'autre de certaines tâches possibles, que j'ai énumérées. En ce qui concerne le Pakistan, ces tâches étaient les suivantes:

a) Assurer l'exécution de l'obligation qui incombe au Pakistan de ne pas permettre aux membres des tribus, aux maraudeurs ou aux autres pillards de franchir la ligne du cessez-le-feu pour pénétrer dans la vallée de Cachemire;

b) Désarmer et licencier les forces *Azad* Cachemire, fonction temporaire intéressant peut-être principalement le service de l'intendance de l'armée régulière du Pakistan;

c) Calmer les craintes qui pourraient se produire parmi les musulmans si ceux-ci étaient abandonnés sans aucune protection manifeste, et peut-être aider les autorités civiles à maintenir l'ordre.

Du côté indien, les troupes seraient chargées:

a) De se tenir à la disposition des autorités civiles pour les aider à maintenir l'ordre dans la partie sud ou sud-est de l'Etat où la population n'est pas homogène;

b) Défendre les abords septentrionaux de la vallée contre les incursions éventuelles qu'on pourrait effectuer en traversant ou en suivant la vallée de la Djhélam, pour se rendre à Keran et Tithwal et de là jusqu'à Handwara; en franchissant le col de Tragbal, de Gurais à Bandipura, ou le col de Zoji-la jusqu'à Baltal et Sonamarg.

32. Le Premier Ministre de l'Inde a rejeté ce plan en alléguant des raisons qu'il n'est pas possible d'exposer intégralement dans le présent rapport. Sans s'arrêter aux arguments abstraits, il suffit ici de relever, dans la thèse du Premier Ministre, certains points saillants que je résume ci-après:

a) Parmi tous les dangers pouvant exiger la présence de forces armées indiennes sur le territoire situé du côté indien de la ligne du cessez-le-feu jusqu'au moment du plébiscite, il fallait tenir compte du fait que le Pakistan pouvait lancer une attaque malgré le retrait de ses forces et malgré les assurances qu'il aurait pu donner.

b) On ne pouvait limiter aux voies d'accès que j'avais expressément mentionnées la nécessité de protéger la région contre les incursions de maraudeurs ou contre d'autres dangers plus sérieux.

c) La milice organisée et rémunérée par l'Etat, bien que placée sous le commandement d'officiers indiens, accomplissait les fonctions d'un corps de police et ne pouvait, en aucun cas, être désarmée ou licenciée sans compromettre l'organisation de l'Etat. C'est une chose que l'Inde ne saurait recommander à l'Etat.

d) L'Inde refuserait formellement d'admettre qu'on lui demandât de limiter les effectifs qu'elle emploierait pour assurer la défense d'un Etat qui fait partie de



there had been an invasion of the State and because Pakistan and *Asad* forces remained within its boundaries, and that was a thing India could not countenance for a moment.

33. These matters were elaborately discussed.

34. To the first point the Prime Minister of Pakistan replied that Pakistan would commit no such breach of faith, that in any case it would be folly for it to do so and even greater folly to commit its forces to an attack in Kashmir, and that to retain forces in order to protect the area against such a possible attack meant there was to be no demilitarization. With reference to the third point, I said that it was immaterial to me how the Militia were dealt with or disposed of so long as they did not form a body of armed men in excess of the forces which were allowed to remain on the Indian side of the cease-fire line because they were agreed to be necessary for the military purposes in contemplation. There were other ways of seeing that they were not present as a body of armed men in the area while the vote was about to be taken. But it was inconsistent with the fairness or freedom of the plebiscite to have any such exhibition of force as would be involved in the presence of the Militia, more especially as the State Government was so vitally interested in the result of the plebiscite. As to the fourth point I said that the reason for my asking for a restriction of the armed forces in the area was in order to ensure the freedom and fairness of voting at a plebiscite to be conducted by the Plebiscite Administrator for the United Nations, and it was not because of the events to which he referred.

35. The Prime Minister of India had spoken of the kind of forces that should be used on the Pakistan side of the cease-fire line and had said that their purpose must be civil and they must have a civil character.

36. The Prime Minister of Pakistan did not deal with this question.

37. The attempt to obtain demilitarization appeared to break down because of the foregoing objections. No alternatives were suggested and no solution of the difficulties was put forward by either party.

38. The resolutions of the United Nations Commission of 13 August 1948 and 5 January 1949⁵ were based on the assumption that the boundary formed by the cease-fire line would continue until the plebiscite was held notwithstanding demilitarization. Neither Prime Minister sought to depart from this assumption. But India's attitude had been that no authority other than that of the State should be recognized in the area on the other side of the cease-fire line and paragraph 3 of section A of part II of the resolution of 13 August 1948 provided that, pending a final solution, the territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the Commission.

39. To meet India's position, which was emphatically maintained, and to resolve the difficulties to which

⁵ *Ibid.*, *Third Year, Supplement for November 1948*, p. 32 and *Fourth Year, Supplement for January 1949*, p. 23.

l'Inde, alors que la situation actuelle est la conséquence de l'invasion de cet Etat et du maintien de troupes pakistanaises et des forces *Asad* Cachemire sur son territoire.

33. Ces problèmes ont été examinés en détail.

34. En ce qui concerne le premier point, le Premier Ministre du Pakistan a répondu que son pays ne se rendrait jamais coupable d'un tel manque de parole, qu'en tout cas ce serait une folie pour le Pakistan de le faire et une folie encore plus grande de se livrer à une attaque au Cachemire; le Premier Ministre a ajouté que le maintien de forces armées pour protéger la région contre la possibilité d'une telle attaque signifiait qu'il n'y aurait pas de démilitarisation. J'ai déclaré, au sujet du troisième point, que le sort réservé à la milice m'était indifférent, tant que cette milice n'avait pas un effectif supérieur à celui des forces autorisées à demeurer du côté indien de la ligne du cessez-le-feu, pour y assurer l'exécution des tâches envisagées sur le plan militaire. Il existait d'autres moyens d'empêcher que la milice ne constitue pas un groupe armé dans la région où devait avoir lieu le plébiscite. Mais tout étalage de force, tel que la présence de la milice, était incompatible avec l'impartialité ou la liberté du plébiscite, d'autant plus que les résultats du plébiscite présentaient un intérêt tout particulier pour le Gouvernement de l'Etat. Quant au quatrième point, j'ai dit que la raison pour laquelle j'avais demandé une limitation des forces armées dans la région était d'assurer la liberté et l'impartialité du vote au cours d'un plébiscite qui devait être organisé par l'Administrateur du plébiscite des Nations Unies, et que ma demande n'était nullement motivée par les événements que l'Inde avait rappelés.

35. Le Premier Ministre de l'Inde avait parlé de la nature des forces qui devaient être employées du côté pakistanais de la ligne de suspension d'armes, et il avait déclaré que leur tâche ne devait pas être militaire et que ces forces devaient être essentiellement civiles.

36. Le Premier Ministre du Pakistan n'a pas traité cette question.

37. Du fait des objections ci-dessus mentionnées, les efforts faits pour préparer la démilitarisation ont paru voués à l'échec. Ni l'une ni l'autre des parties n'a proposé d'alternative ni suggéré une solution des difficultés.

38. Les résolutions adoptées par la Commission des Nations Unies le 13 août 1948 et le 5 janvier 1949⁵ reposaient sur l'hypothèse que la frontière constituée par la ligne de suspension d'armes serait maintenue jusqu'au plébiscite, malgré la démilitarisation. Aucun des Premiers Ministres n'a cherché à écarter cette hypothèse. Mais la thèse de l'Inde a été qu'aucune autorité autre que celle de l'Etat ne devait être reconnue sur les territoires situés au-delà de la ligne du cessez-le-feu, et que le paragraphe 3 de la section A de la deuxième partie de la résolution du 13 août 1948 stipulait que, en attendant une solution définitive, le territoire évacué par les troupes du Pakistan serait administré par les autorités locales sous la surveillance de la Commission.

39. Pour tenter de se rapprocher de la thèse que l'Inde défendait avec tant d'insistance, et pour résoudre

⁵ *Ibid.*, *troisième année, Supplément de novembre 1948*, p. 32, et *quatrième année, Supplément de janvier 1949*, p. 23.



the uncertainty of the meaning of the words "local authorities" and "surveillance" had given rise, I put forward a proposal for the area west of the cease-fire line. According to the proposal the administration of the services of government would proceed according to the law and custom of the State as existing before the troubles arose. It would be carried on by the persons now holding or assuming to hold the offices of district magistrate or subordinate offices. To insure that they carried out their duties and exercised their powers fairly and impartially and without interference with or prejudice to the holding of the plebiscite or what the Plebiscite Administrator directed, an officer of the United Nations would be attached to every district magistrate. His powers would be of supervision and he would report to the United Nations Representative, or his delegate, who would take what steps he considered desirable.

40. I proposed that it should be expressly provided that neither that provision nor any other provision in the agreement should be taken to import any recognition of the existence of any source of legal authority in such territory other than one depending upon and derived from the law of the State or to imply any derogation from or prejudice to the sovereignty of the State. I pointed out that my purpose was to provide for the practical exigencies which an interim period created and at the same time to give effect to the principle for which India sought recognition.

41. To this plan, however, the Prime Minister of India objected, chiefly, as I understood it, on the ground that it recognized existing district magistrates and subordinate officers and that, in the period since the troubles arose, men had been appointed to replace the former officers, and that they or some of them were or might be repugnant to India. No alteration of the plan however was suggested and no alternative was put forward.

42. For the northern areas, that is the territory north of the cease-fire line and east of the district of Muzaffarabad and of the Gilgit Subdivision and of the political districts of Gilgit Agency, I put forward a separate proposal. I did so because special difficulties appeared to be raised by the objections of India that, during the interim period from demilitarization to the plebiscite, the authority of Pakistan should not continue and should not be recognized. My proposal there was to appoint political agents representing the United Nations and to vest authority in them. The plan provided that instead of the existing assistant political agents there should be a political agent or agents appointed by or under the authority of the Security Council of the United Nations, after consultation with India and Pakistan. The plan went on to make the power of these officers depend upon the law and custom of the State as at 1 August 1947 and to place upon them the responsibility of causing the powers vested in them to be so exercised that there

les difficultés auxquelles l'imprécision des termes "autorités locales" et "surveillance" avait donné naissance, j'ai formulé une proposition relative à la région située à l'ouest de la ligne du cessez-le-feu. Aux termes de cette proposition, les services gouvernementaux continueraient à fonctionner conformément à la législation et à la coutume de l'Etat tels qu'ils existaient avant les incidents. L'administration serait assurée par les personnes occupant actuellement, en droit ou en fait, les postes de magistrat de district ou les postes subalternes. Un fonctionnaire des Nations Unies serait détaché auprès de chaque magistrat de district pour veiller à ce que ce magistrat et ses subordonnés exercent leurs fonctions et usent de leurs pouvoirs justement et impartialement, sans s'immiscer dans l'organisation du plébiscite ni faire obstacle aux instructions de l'administration du plébiscite. Le fonctionnaire des Nations Unies serait chargé d'une mission de surveillance, et il ferait rapport au représentant des Nations Unies, ou à son délégué, qui prendrait toute mesure qu'il jugerait opportune.

40. J'ai proposé de stipuler expressément que cette disposition ou toute autre disposition de l'accord ne serait pas considérée comme reconnaissant l'existence, dans le territoire intéressé, d'une autorité juridique autre que celle qui résultait et découlait de la législation de l'Etat ni comme impliquant une dérogation ou une atteinte quelconque à la souveraineté de l'Etat. J'ai fait remarquer que j'avais pour mission de faire face aux difficultés pratiques qui surgissaient au cours d'une période de transition et, en même temps, de mettre en œuvre le principe même dont l'Inde demandait l'application.

41. Le Premier Ministre de l'Inde a cependant élevé des objections contre le plan proposé, principalement, je crois, parce que ce plan reconnaissait officiellement les magistrats de district et les fonctionnaires subalternes en exercice et que, depuis le début des événements, certaines personnes avaient été nommées en remplacement d'anciens fonctionnaires et que ces personnes, ou certaines d'entre elles, étaient, ou pouvaient être, inacceptables pour l'Inde. Toutefois, le Premier Ministre n'a proposé aucune modification du plan, ni suggéré d'autre solution.

42. En ce qui concerne les régions du nord, c'est-à-dire pour le territoire situé au nord de la ligne du cessez-le-feu et à l'est du district de Muzaffarabad, de la subdivision de Gilgit et des districts politiques de la *Gilgit Agency* (agence de Gilgit), j'ai formulé une proposition distincte. Je l'ai fait en raison des difficultés particulières qui paraissaient devoir naître des objections soulevées par l'Inde et selon lesquelles, pendant la période transitoire comprise entre la démilitarisation et le plébiscite, l'autorité du Pakistan ne devait pas continuer à s'exercer et ne devait pas être reconnue. Pour cette région, je proposais de nommer des agents politiques représentant les Nations Unies et de leur conférer l'autorité. Au lieu des agents politiques adjoints existant alors, mon plan prévoyait un ou plusieurs agents politiques nommés par le Conseil de sécurité des Nations Unies ou sous son autorité, après consultation avec l'Inde et le Pakistan. Le plan prévoyait en outre que les pouvoirs de ces fonctionnaires découleraient de la législation et de la coutume de l'Etat telles qu'elles



would be no interference with or prejudice to either the holding of the plebiscite or the directions of the Plebiscite Administrator, and so that the administration should be fair and impartial. But, save as aforesaid, such an officer might administer the government through existing channels of authority and through the officers holding office, and he might act through the present assistant political agent.

43. To this solution of the difficulty raised about the northern areas the Prime Minister of India objected on the grounds:

(a) That existing officers appointed by Pakistan were of a character which India could not countenance;

(b) That any consultation with Pakistan recognized its title to be in the Northern Areas;

(c) That the political agents representing the United Nations would be necessarily guided by existing administrative officers and would be unable effectively to insure fairness etc;

(d) That in any event India must place garrisons or military posts in certain places on the northern side of the cease-fire line.

44. It was clear to me that Pakistan could not be expected to agree to the fourth objection. As to the other objections India did not put forward any suggestion for the amendment of the plan or for any alternative solution.

45. On the Indian side of the cease-fire line it appeared to me that some provision was necessary to ensure that arbitrary powers which at present exist were not exercised so as to interfere with the freedom of the plebiscite and that police powers were not so used. As I have already said the Government of the State would be vitally interested in the result of the plebiscite. Paragraph 7 of the resolution of 5 January 1949 contains general provisions directed to considerations of this kind. I therefore put forward a proposal that, in order to give more specific effect to the undertakings given in paragraph 7 of the Commission's agreed resolution of 5 January concerning the free expression of political opinion and the release of political prisoners, the agreement should state that, immediately upon a date or period being formally named by the Plebiscite Administrator, certain provisions should apply until the final result of the vote had been declared by him. These provisions were that:

(a) A United Nations officer would be posted with or attached to each district magistrate;

(b) He should be entitled to see the administrative records and proceedings of the district magistrates and all officers subordinate to the magistrate.

existaient au 1er août 1947, et ils auraient été chargés de veiller à ce que les pouvoirs qui leur auraient été ainsi conférés fussent exercés de telle façon que l'organisation du plébiscite ou les instructions de l'Administrateur du plébiscite ne souffrissent d'aucune ingérence ni d'aucune atteinte, et que l'administration fût juste et impartiale. Mais, sauf pour les réserves ci-dessus énoncées, ce fonctionnaire aurait pu remplir ses fonctions de gouvernement par les voies hiérarchiques existantes et par l'intermédiaire des fonctionnaires en exercice, et il aurait pu également recourir à l'intermédiaire de l'agent politique adjoint actuel.

43. Le Premier Ministre de l'Inde s'est opposé à cette solution de la difficulté posée par les régions du nord. Il a formulé les objections suivantes:

a) L'Inde ne pouvait admettre les fonctionnaires en exercice nommés par le Pakistan;

b) Toute consultation avec le Pakistan équivalait à reconnaître les droits de ce pays sur les régions du Nord;

c) Les agents politiques représentant les Nations Unies seraient nécessairement guidés par les fonctionnaires de l'administration en exercice et ils ne seraient donc pas en mesure de garantir la justice, l'impartialité, etc.

d) L'Inde devait en tout cas installer des garnisons ou des postes militaires dans certaines localités situées au nord de la ligne du cessez-le-feu.

44. Il était évident pour moi qu'on ne pouvait s'attendre à ce que le Pakistan acceptât la quatrième objection. Quant aux autres points, l'Inde n'a présenté aucun amendement au plan ni aucune autre proposition de solution.

45. Du côté indien de la ligne du cessez-le-feu, il me semblait indispensable de prendre des mesures pour que les pouvoirs discrétionnaires dont les autorités disposent actuellement ne soient pas exercés de manière à porter atteinte à la liberté du plébiscite et pour que les pouvoirs de police ne soient pas utilisés à cette fin. Comme je l'ai déjà dit, le résultat du plébiscite présente en effet un intérêt capital pour le gouvernement de l'Etat. Au paragraphe 7 de la résolution du 5 janvier 1949 figurent des dispositions générales qui s'inspirent de considérations de cet ordre. J'ai donc proposé, afin de donner un contenu plus concret aux engagements mentionnés au paragraphe 7 de la résolution unanimement adoptée par la Commission le 5 janvier en ce qui concerne la libre expression des opinions politiques et la libération des prisonniers politiques, que l'accord prévoie la mise en vigueur de certaines dispositions à partir d'une date ou d'une période désignée officiellement par l'Administrateur du plébiscite, jusqu'au moment où le résultat définitif du vote aurait été proclamé par lui. Ces dispositions étaient les suivantes:

a) Un fonctionnaire des Nations Unies serait affecté ou détaché auprès de chaque magistrat de district;

b) Ce fonctionnaire aurait qualité pour prendre connaissance des dossiers administratifs et des minutes des jugements rendus par les magistrats de district et tous leurs subordonnés;



(c) The duties of the United Nations officer would include observation, inspection, remonstrance and report;

(d) Without the prior consent in writing of the United Nations officer, no warrant or order for the arrest of any person should be granted or made under emergency powers, or any powers of detention or imprisonment reposed in any officer of the executive government or administration, and all prisoners held under the authority of any like warrant or order when such date or period was formally named by the Plebiscite Administrator should be set free within seven days, except prisoners to whose further detention the United Nations officer consented in writing. The proposal expressly excluded from the operation of the clause a warrant for the apprehension of a person on a criminal charge for the purpose of bringing him before a magistrate so that the charge may be dealt with, a warrant or order committing for trial or committing or remanding to gaol pending an adjournment of the hearing of a charge, a conviction upon a criminal charge, and any order made in the exercise of judicial power.

46. To this plan the Prime Minister of India objected on the grounds that it involved an interference with the integrity of the functions of the State and an impairment of the powers of arrest, which might prove dangerous in the case of subversive elements and of persons seeking to take advantage of the situation to stir up communal strife and violence.

47. Again no modifications or alternatives were put forward or suggested. All these matters were fully discussed.

48. It will be seen that the plans described up to this point for dealing with the questions concerning the demilitarization of the State and other preparations for the taking of the plebiscite dealt with these matters on the assumption that during the period of the plebiscite the State would be divided by the cease-fire line as a political boundary. It is evident that if the State could have been placed under one administration so that the political boundary would cease to exist a great many of the difficulties to which the foregoing plans were directed would disappear. Therefore by way of an alternative I put forward plans for bringing into existence for the plebiscite period a single government for the whole State. The plans were of three descriptions and I asked the Prime Ministers whether it was possible to put one or other of them into effect.

49. The first possibility about which I inquired was that of bringing into existence a coalition government, that is either a coalition brought about by a meeting of Sheikh Abdullah and Mr. Ghulam Abbas, Supreme Head of the *Asad* Kashmir Movement, or by placing certain portfolios at the disposal of the respective parties.

50. The second plan was for the formation of an administration for the entire State composed of trusted

c) Les attributions du fonctionnaire des Nations Unies consisteraient à observer, à inspecter, à formuler des remontrances et à faire rapport;

d) Aucun mandat ou ordonnance d'arrêt visant qui que ce soit ne serait lancé ou accordé en vertu de pouvoirs exceptionnels ou de pouvoirs quelconques de détention ou d'emprisonnement, conférés à quelque agent que ce soit du gouvernement ou de l'administration, sans l'assentiment préalable et écrit du fonctionnaire des Nations Unies toute personne détenue en vertu d'un mandat ou ordonnance de cet ordre, au moment ou ladite date ou période serait officiellement désignée par l'Administrateur du plébiscite, serait libérée dans un délai de sept jours, à l'exception des personnes dont la détention serait prolongée avec l'assentiment écrit du fonctionnaire des Nations Unies. Aux termes de ma proposition, cette clause ne pouvait en aucun cas s'appliquer aux mandats d'arrêt visant les personnes accusées de crime et ayant pour objet de les faire comparaître devant un magistrat pour qu'il soit statué sur cette inculpation, ni aux mandats ou ordonnance de comparaître, ni aux mandats de dépôt, ni aux mandats plaçant une personne sous détention préventive en raison d'une remise d'audience, ni aux condamnations pour actes criminels, ni à toutes ordonnances rendues au cours de l'exercice de pouvoirs judiciaires.

46. Le Premier Ministre de l'Inde s'est élevé contre ce plan, en faisant valoir qu'il portait atteinte à l'intégrité des fonctions de l'Etat et limitait les pouvoirs d'arrestation, ce qui pourrait se révéler dangereux dans le cas d'éléments subversifs et de personnes qui chercheraient à profiter de la situation pour semer le désordre, ou inciter à la violence les adeptes des religions en présence.

47. Là, non plus, aucune modification, ni aucune autre solution n'a été présentée ou suggérée. Toutes ces questions ont fait l'objet d'une discussion approfondie.

48. On observera que les plans exposés jusqu'à présent pour la solution des problèmes concernant la démilitarisation de l'Etat et les autres préparatifs du plébiscite se fondaient sur l'hypothèse que, au cours de la période du plébiscite, l'Etat serait divisé par la ligne du cessez-le-feu comme par une frontière politique. Il est évident que, si l'on pouvait placer l'Etat sous une administration unique, de façon à supprimer cette frontière politique, une grande partie des difficultés auxquelles se sont heurtés les plans ci-dessus disparaîtraient. En conséquence, pour tenter de résoudre le problème d'une autre façon, j'ai présenté des plans prévoyant la constitution, au cours de la période du plébiscite, d'un gouvernement unique pour tout l'Etat. Ces plans étaient au nombre de trois, et je demandais aux Premiers Ministres s'il serait possible d'appliquer l'un ou l'autre d'entre eux.

49. J'envisageai d'abord la constitution d'un gouvernement de coalition, gouvernement constitué à la suite d'une rencontre entre le cheik Abdullah et M. Ghulam Abbas, chef suprême du mouvement de l'*Asad* Cachemire, ou bien par la mise de certains portefeuilles à la disposition des différents partis.

50. Le deuxième plan comportait la formation, pour tout l'Etat, d'un organisme administratif composé de



persons outside politics holding high judicial or administrative office and commanding general confidence. The body would be charged with the administration of the government of the State for a fixed period before the poll, perhaps six months before it. The Chairman would be appointed by the United Nations, and of the other members half would represent Hindus and half Muslims. The existing Ministers would continue to hold office but they would be relieved of their responsibilities during the period.

51. The third plan differed from the second only in the constitution of the administrative body. It was to be constituted altogether of United Nations representatives. None of these suggestions commended themselves to the Prime Minister of India.

52. In the course of the conference I mentioned very briefly one or two other possible ways of reaching a plebiscite. 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 of the plebiscite being conducted in conditions sufficiently guarding against intimidation and other forms of influence and abuse by which the freedom and fairness of the plebiscite might be imperilled.

53. Having come to this conclusion I thought that I must either abandon all attempt to settle the dispute or turn from the plebiscite by which the destination of the whole State would be decided to some different solution. I ascertained from the Prime Ministers that they considered that, with such a plebiscite in view, there was no longer any hope of agreement upon demilitarization or upon the conditions which would follow demilitarization or upon any modified form of demilitarization or upon any course that would advance the position towards a settlement.

54. Having done so, I asked the Prime Minister of India, the Prime Minister of Pakistan being present, what was the attitude of India:

(a) To a plan for taking the plebiscite by sections or areas and the allocation of each section or area according to the result of the vote therein; or

(b) To a plan by which it was conceded that some areas were certain to vote for accession to Pakistan and some for accession to India and by which, without taking a vote therein, they should be allotted accordingly and the plebiscite should be confined only to the uncertain area, which I said appeared to be the Valley of Kashmir and perhaps some adjacent country.

55. I pointed out that in both cases it would be necessary to provide against the possibility of a break in the continuity of the territory which would go to the one party or to the other. I also pointed out that the second alternative might be worked out according to the 1941 census alone or upon wider considerations

personnalités apolitiques, titulaires de postes judiciaires ou administratifs élevés et jouissant de la considération et de la confiance générales. Cet organisme serait chargé d'administrer l'Etat, avant le plébiscite, pendant une période déterminée, peut-être pendant les six mois précédant le scrutin. Le Président serait nommé par les Nations Unies, et une moitié des membres représenterait les Indiens, l'autre les Musulmans. Les ministres actuels resteraient titulaires de leur poste, mais ils seraient relevés de leurs responsabilités pendant cette période.

51. Le troisième plan ne s'écartait du deuxième qu'au point de vue de la constitution de l'organisme administratif. Cet organe aurait été composé uniquement de représentants des Nations Unies. Aucune de ces suggestions n'a été accueillie favorablement par le Premier Ministre de l'Inde.

52. Au cours de la conférence, j'ai mentionné très brièvement une ou deux autres manières possibles de parvenir à un plébiscite. A la fin, j'ai acquis la conviction que l'on n'obtiendrait jamais l'assentiment de l'Inde à une démilitarisation telle que je la concevais, ni la mise en vigueur, pendant la période du plébiscite, des dispositions que je regardais comme indispensables pour permettre l'organisation du plébiscite dans des conditions offrant une protection suffisante contre l'intimidation et toutes autres formes d'influence et d'abus de nature à compromettre la liberté et l'impartialité de la consultation populaire.

53. Ayant acquis cette conviction, j'ai estimé qu'il me fallait, soit abandonner toute tentative de règlement, soit adopter une solution autre qu'un plébiscite général qui déciderait du sort de l'Etat dans son ensemble. Les Premiers Ministres m'ont assuré que, si l'on envisageait un tel plébiscite, il n'y avait plus aucun espoir d'accord ni sur la démilitarisation, ni sur la situation qui suivrait la démilitarisation, ni sur d'autres modalités de démilitarisation, ni sur aucune méthode qui puisse rapprocher l'heure du règlement.

54. Ceci fait, j'ai demandé au Premier Ministre de l'Inde, en présence du Premier Ministre du Pakistan, quelle serait l'attitude de l'Inde envers:

a) Un plan comportant l'organisation du plébiscite par secteurs ou régions, l'attribution de chaque secteur ou région à l'Inde ou au Pakistan en se fondant sur le résultat du scrutin;

b) Un plan selon lequel — en regardant à l'avance comme acquis que certaines régions voteraient pour le rattachement au Pakistan et certaines autres régions pour le rattachement à l'Inde — sans procéder à un vote dans ces régions, on les attribuerait à l'un ou l'autre de ces pays, en limitant le plébiscite à la seule région douteuse, qui me semblait être la vallée du Cachemire et quelques secteurs avoisinants.

55. J'ai fait observer que, dans les deux cas, il faudrait parer au risque d'un morcellement du territoire attribué à un Etat ou à l'autre. J'ai également fait observer qu'on pourrait appliquer la deuxième solution en se fondant soit sur le seul recensement de 1941, soit sur des considérations plus larges, ainsi que sur les



as well as the information it contains. Further I said that it would be necessary to agree that if the result was to put the upper waters of the Chenab River into the control of India, it would not divert them by artificial works so that Pakistan would receive a sensibly reduced volume of water.

56. The Prime Minister of Pakistan protested against the course proposed on the ground that it meant a breach on India's part of the agreement that the destination of the State of Jammu and Kashmir as a whole should be decided by a single plebiscite taken over the entire State. But at my request the Prime Minister of India said that he would inform me of the views of India upon such a method of settling the Kashmir problem.

57. The Prime Ministers thereupon agreed to the adjournment of the conference.

58. In taking the course I have described I acted under the resolution of the Security Council dated 14 March 1950 by which I was required to place before the two Governments any suggestion which in my opinion was likely to lead to the solution of the dispute. Notwithstanding the attitude of the Prime Minister of Pakistan I considered that unless it was by a partition of the State either outright, or combined with a partial plebiscite limited to an area which included the Valley of Kashmir, no agreed settlement of the Kashmir dispute could be brought about. From that time therefore I devoted myself to an attempt to negotiate a settlement in some such manner.

59. I spent some time in New Delhi for the purpose of obtaining from India as definite an understanding as might be of its position with respect to the suggested lines of settlement. After consideration the Indian authorities informed me that the Government of India would be prepared to discuss a settlement of the Kashmir dispute on the basis of certain principles. The principles were, first, that the areas of the State of Jammu and Kashmir where there is no apparent doubt as to the wishes of the people in those areas, should go to India or Pakistan without a plebiscite; secondly, that the plebiscite should be limited to those areas where there is doubt as to the result of the voting; and thirdly, that the demarcation should have due regard to geographical features and to the requirements of an international boundary. I was informed that in applying these principles the Government had been led to some conclusions which were described as tentative.

60. In the first place there should be a plebiscite in the Valley of Kashmir. The area should, however, include part of the Muzaffarabad District to bring in what India regarded as the natural geographical feature provided by the river Kishanganga and its watershed on the north.

61. In the second place India considered that the following areas should go to it:

(a) The Province of Jammu so far as it lies east of the cease-fire line subject to minor corrections; one correction was to reduce the bulge in the cease-fire line near Gulmarg;

renseignements qui figurent dans ce recensement. J'ai déclaré de plus qu'il serait nécessaire de convenir que, si l'on aboutissait, en suivant cette méthode, à placer sous contrôle indien le cours supérieur du fleuve Chenab, l'Inde ne le détournerait pas par des ouvrages de manière à réduire dans des proportions sensibles le volume d'eau que recevrait le Pakistan.

56. Le Premier Ministre du Pakistan s'est élevé contre la méthode proposée en faisant valoir qu'elle constituerait de la part de l'Inde une rupture de l'accord selon lequel le sort de l'ensemble de l'Etat de Jammu et Cachemire serait décidé par un plébiscite unique auquel il serait procédé dans tout l'Etat. En revanche, sur ma demande, le Premier Ministre de l'Inde a déclaré qu'il porterait à ma connaissance l'opinion de l'Inde sur cette façon de régler la question du Cachemire.

57. Les Premiers Ministres sont alors convenus de suspendre la conférence.

58. En adoptant l'attitude que j'ai exposée, j'agissais conformément à la résolution du Conseil de sécurité en date du 14 mars 1950, en vertu de laquelle j'avais été chargé de soumettre aux deux gouvernements toute proposition qui me semblerait de nature à contribuer au règlement du différend. Nonobstant l'attitude du Premier Ministre du Pakistan, j'estimais impossible de parvenir à un règlement amiable du différend du Cachemire sans procéder au partage de l'Etat, soit directement, soit en procédant à un plébiscite partiel limité à une région comprenant la vallée du Cachemire. A partir de cette date, j'ai donc consacré mes efforts à négocier un règlement de cet ordre.

59. J'ai passé quelque temps à New-Delhi afin d'obtenir de l'Inde un exposé aussi précis que possible de son attitude envers la méthode de règlement envisagée. Après étude, les autorités de l'Inde m'ont informé que le Gouvernement de l'Inde serait disposé à discuter un règlement du différend du Cachemire qui s'inspirerait de certains principes. Ces principes étaient les suivants: premièrement, la région de l'Etat de Jammu et Cachemire où les aspirations de la population semblent ne faire aucun doute serait attribuée à l'Inde sans plébiscite; deuxièmement, le plébiscite serait limité aux régions où le résultat du vote est douteux; troisièmement, la ligne de démarcation tiendrait compte des facteurs géographiques et des exigences d'une frontière internationale. J'ai été informé que, en partant de ces principes, le Gouvernement de l'Inde était parvenu à certaines conclusions qu'il qualifiait de provisoires.

60. En premier lieu, il conviendrait de procéder à un plébiscite dans la vallée du Cachemire. Toutefois, cette région comprendrait une partie du district de Muzaffarabad, de manière à englober le fleuve Kishanganga et son bassin septentrional, que l'Inde considère comme une frontière géographique naturelle.

61. En second lieu, l'Inde devrait recevoir les régions suivantes:

a) La partie de la province du Jammu située à l'est de la ligne du cessez-le-feu, sous réserve de rectifications secondaires; une de ces rectifications consistait à réduire le saillant qui forme la ligne du cessez-le-feu près de Gulmarg;



(b) In the district of Ladakh, the *tehsil* of Ladakh and the *tehsil* of Kargil, except approximately the area above the Suru River, which should go to India or Pakistan according to the result of the plebiscite of the Valley.

62. In the third place India was willing that the following areas should go to Pakistan, *viz*, Gilgit, Gilgit Agency, Gilgit Wazarat, political districts and tribal territory and Baltistan, and so much of the Jammu Province as lies to the west of the cease-fire line as corrected.

63. India contemplated a boundary commission to apply on the ground the division which might be decided upon.

64. It also appeared that India was prepared to include in any such settlement a term that it would not by any artificial works in the State divert the waters of the Chenab River or reduce the flow substantially of the waters of the river, except that it might construct canals for irrigation confined within the State. Without reducing the waters of the stream, it might establish hydro-electric works for the production of electrical energy.

65. I was told that the Prime Minister of India would be prepared to attend another conference with the Prime Minister of Pakistan and me, so that the possibility of a settlement on such principles might be discussed.

66. The territorial demands which the foregoing information disclosed appeared to me to go much beyond what, according to my conception of the situation, was reasonable, and I so stated to the Indian authorities.

67. Thus armed with a knowledge of the position taken up by India, I went to Karachi.

68. I told the Prime Minister of Pakistan of what I had learned from India as to the position it took, but I added an expression of my own opinion that the territorial claims it involved went too far and did not represent the division of the State to which in the end India might be expected to agree. But the Government of Pakistan declined to attend a conference on the footing I proposed in order to discuss, in the light of the position taken by India, the possibility of settling the dispute.

69. The primary reason of the Government of Pakistan for refusing to do so lay in its unwillingness to depart at all from the claim that the fate of the entire State of Jammu and Kashmir should be decided by an over-all plebiscite and that India ought to have agreed and ought still to agree on measures for holding such a plebiscite, and in its fear lest, by attending a conference to discuss an alternative plan, it might be considered to abandon that claim.

70. But as a second ground it was said that India's position was too indefinite, and if it wished to embark

b) Dans le district de Ladakh, le *tehsil* de Ladakh et le *tehsil* de Kargil, à l'exception, approximativement, de la région située au-delà du fleuve Suru, qui serait attribuée à l'Inde ou au Pakistan selon le résultat du plébiscite dans la vallée.

62. En troisième lieu, l'Inde serait disposée à ce que le Pakistan reçoive les régions suivantes: Gilgit, l'Agence de Gilgit, le Vizirat de Gilgit, les districts politiques et le territoire des tribus, le Baltistan et la partie de la province du Jammu située à l'ouest de la ligne du cessez-le-feu rectifiée.

63. L'Inde envisagerait la création d'une commission de délimitation des frontières, qui procéderait sur les lieux à la division éventuellement adoptée.

64. Il semblait également que l'Inde fût prête à insérer dans un tel accord une clause aux termes de laquelle elle s'engagerait à ne pas entreprendre dans l'État de travaux susceptibles de détourner le cours du Chenab ni de réduire de façon considérable le débit de cette rivière; elle pourrait toutefois construire des canaux d'irrigation à l'usage exclusif du territoire de l'État. Sans réduire le débit de la rivière, l'Inde pourrait également construire des usines hydroélectriques pour la production d'énergie électrique.

65. J'ai été informé que le Premier Ministre de l'Inde serait disposé à assister à une nouvelle conférence avec le Premier Ministre du Pakistan et moi-même, afin d'examiner la possibilité de conclure un accord qui reposerait sur des principes analogues à ceux dont j'ai fait mention.

66. Les demandes territoriales révélées par les informations ci-dessus m'ont semblé outrepasser ce que, selon ma conception de la situation, je jugeais raisonnable. J'ai fait part de cette conclusion aux autorités indiennes.

67. Ayant ainsi pris connaissance de la position adoptée par l'Inde, je me suis rendu à Karachi.

68. J'ai exposé au Premier Ministre du Pakistan ce que l'Inde m'avait appris au sujet de la position qu'elle prenait; je lui ai ensuite signalé que, à mon avis, les revendications territoriales qu'elle implique étaient exagérées et ne correspondaient pas au partage de l'État auquel on pouvait espérer que l'Inde donnerait, en fin de compte, son assentiment. Le Gouvernement du Pakistan a cependant refusé d'assister à une conférence qui aurait été tenue sur les bases que je proposais afin d'examiner, compte tenu de la position prise par l'Inde, la possibilité d'un règlement du différend.

69. La principale raison du refus du Gouvernement du Pakistan réside dans sa répugnance à s'écarter, dans quelque mesure que ce soit, de la thèse qu'il soutient, à savoir que le sort de l'État de Jammu et Cachemire tout entier doit être décidé par un plébiscite général et que l'Inde aurait dû et devrait encore accepter que l'on prenne des dispositions en vue d'un plébiscite; le Pakistan craint que, en assistant à une conférence ayant pour objet d'examiner une contre-proposition, il ne donne l'impression de renoncer à défendre son point de vue.

70. De plus, on m'a donné comme raison le fait que la position de l'Inde était trop mal définie et que, si,



upon discussions of the possibility of settlement according to the suggested principles, it should itself make definite proposals.

71. I urged upon the Government of Pakistan the view that, by coming to a conference to discuss an alternative possible settlement, it could not be held to abandon its main contention, and that the purpose of a conference was by discussion to define what things the parties were respectively prepared to concede and upon what things they took a fixed position. It was enough that the basis of the settlement to be discussed was a limited plebiscite and partition of the rest of the State, the Kashmir Valley being included in the plebiscite area. I did not see why it should not be possible for the parties to argue out the boundaries of the plebiscite area, the division of the remaining territory and the conditions for securing the independence of the voting until either they saw that they could not agree or else found some basis of agreement. Even on the assumption that the conference failed, Pakistan would come away from it better informed and, so far as I could see, without having suffered any real prejudice. But of the soundness of this view I was unable to persuade its Government. Pakistan maintained its refusal to attend a conference of the kind I proposed.

72. In the course of the discussion, however, I ascertained that if the basis of the suggested settlement had been simple partition, a solution having the advantages of being immediate in its operation and self-executing, Pakistan would consider the matter, provided that it took the Kashmir Valley. I had little doubt however that India would not concede the Valley of Kashmir in an over-all partition.

73. I returned to New Delhi and informed the Prime Minister of India of the position taken by Pakistan. As I had expected, he declined to consider at all an over-all partition in which the Valley of Kashmir went to Pakistan.

74. The stand adopted by the Prime Minister of Pakistan had led me to the conclusion that there no longer existed any possibility of my bringing the parties to any composition of the dispute over the State of Jammu and Kashmir. In this view I found that both Prime Ministers concurred. But at the end of some discussion with the Prime Minister of India of the consequences which followed, I put forward, as a last possibility of saving the situation, a suggestion that I myself should prepare a plan complete except for details.

75. The plan would be one for holding a partial plebiscite in a limited area including or consisting of the Valley of Kashmir, and for partitioning the remainder of the State. I would then call a conference and lay the plan before them for acceptance or rejection, or if independently of me the parties wished to modify it by agreement, for modification accordingly.

L'Inde désirait entreprendre la discussion d'un règlement fondé sur les principes suggérés, elle devrait faire elle-même des propositions précises.

71. J'ai fait valoir au Gouvernement du Pakistan que sa présence à une conférence pour discuter une nouvelle façon de régler éventuellement le différend ne permettrait pas de conclure qu'il renonçait à défendre son point de vue essentiel et que, d'autre part, le but d'une conférence est précisément de définir, grâce à un échange de vues, les points sur lesquels les parties sont prêtes à faire des concessions et ceux sur lesquels elles ont pris une position immuable. On pourrait, à mon sens, se contenter de prévoir, comme point de départ de la discussion du règlement proposé, un plébiscite limité et le partage du reste de l'Etat, la vallée du Cachemire étant comprise dans la zone où aurait lieu le plébiscite. Je ne voyais pas pourquoi il ne serait pas possible aux parties de discuter des limites de la zone soumise au plébiscite, du partage du territoire restant et des conditions nécessaires pour assurer l'indépendance du vote, jusqu'à ce que les parties se rendent compte qu'elles ne pouvaient pas se mettre d'accord, ou bien qu'elles trouvent quelque terrain d'entente. Même en admettant que la conférence échoue, le Pakistan la quitterait avec une meilleure connaissance de la situation et, pour autant que je pouvais en juger, sans avoir subi aucun tort réel. Malgré le bien-fondé de mon raisonnement, j'ai été incapable de convaincre le Gouvernement du Pakistan. Il a maintenu son refus d'assister à une conférence telle que celle que je proposais.

72. Au cours de mes entretiens, j'ai pu toutefois m'assurer que, si le règlement proposé avait eu pour base un partage pur et simple, solution offrant l'avantage de pouvoir être réalisée immédiatement et d'elle-même, le Pakistan aurait accepté d'étudier la question, à condition qu'il reçoive la vallée du Cachemire. Je pensais bien, néanmoins, que, dans un partage total, l'Inde ne renoncerait pas à la vallée du Cachemire.

73. Je suis retourné à New-Delhi et j'ai informé le Premier Ministre de l'Inde de la position prise par le Pakistan. Comme je m'y attendais, il a refusé d'envisager un partage total dans lequel la vallée du Cachemire serait donnée au Pakistan.

74. La position prise par le Premier Ministre du Pakistan m'a amené à conclure qu'il m'était devenu totalement impossible de persuader les parties d'arriver à un accommodement au sujet de l'Etat de Jammu et Cachemire. J'ai constaté que, sur ce point, les deux Premiers Ministres étaient d'accord. Mais, à l'issue d'un entretien avec le Premier Ministre de l'Inde sur les conséquences de cette situation, j'ai suggéré, pour tenter une dernière fois de sauver la situation, que l'on me laissât préparer un plan complet, tout au moins dans ses grandes lignes.

75. Ce plan envisagerait l'organisation d'un plébiscite partiel, qui intéresserait une région déterminée, englobant la vallée du Cachemire ou constituée par elle, et le partage du reste de l'Etat. Je convoquerais les parties à une conférence où je leur présenterais mon plan; les parties l'accepteraient ou le rejetteraient, ou bien elles le modifieraient, si elles désiraient procéder d'un commun accord, et indépendamment de moi, à des modifications du plan proposé, elles pourraient le réviser dans le sens qui leur conviendrait.



76. I told the Prime Minister of India that I thought that Pakistan might take the view that it could have no cause for fear that, by complying with my invitation to take part in such a proceeding, it would be considered as departing from its stand on the over-all plebiscite and as waiving its primary claim. The course I suggested, I added, also removed the objection of want of definiteness in the terms of the partition and partial plebiscite which would be tabled for consideration at the conference.

77. After a little discussion of the chances of such a course proving successful and of the disadvantages which it would have if it proved unsuccessful, the Prime Minister of India took time to consider the matter. Later in the day he informed me that it had been decided to fall in with the suggestion, provided that Pakistan told me that the fact that my plan was based on partial plebiscite and partition would not in itself necessarily prove fatal to its consideration by Pakistan. For India would not agree to a meeting which could not but prove futile.

78. I returned to Karachi and placed before the Government of Pakistan the proposal that, as a last resort, I should prepare a plan of the kind stated and lay it before a meeting which I would convene, and I told them of the condition imposed by India. At first the Government of Pakistan was unwilling to agree in the course proposed. But after much discussion of the matter I gave to the Prime Minister of Pakistan a statement that I completely understood his Government's position in standing on the over-all plebiscite and I gave him an assurance that neither I nor any other authority of the United Nations would regard him or his Government as in the least degree derogating from or prejudicing that position if he complied with the request I made to him to examine and take into consideration the plan which I was ready to prepare and submit, although it was of an alternative character. My statement included an expression of the view that if Pakistan refused on the ground stated to join in the consideration of the intended plan it would be wanting in the fulfilment of the duty which rests upon both countries to give willing consideration to any plan put forward as containing a possibility of reconciling the conflict between the two countries and thus avoiding the dangers to which the continuance of the conflict exposes both of them.

79. On the faith of the assurances my statement contained, the Government of Pakistan agreed to comply with my request to attend a conference to consider my intended plan, notwithstanding that it was based on an alternative to an over-all plebiscite. But Pakistan in its turn imposed a condition. The condition arose out of its insistence upon the view that India would not agree upon specific practical measures which would insure the freedom and fairness of the plebiscite.

80. In fact I had decided that I would use for the limited plebiscite area one of the measures which I had proposed for the whole State on the footing that the cease-fire line might thus be terminated. I intended

76. J'ai expliqué au Premier Ministre de l'Inde que, à mon avis, le Pakistan estimerait peut-être que, s'il acceptait de participer à la discussion envisagée, cette acceptation ne serait pas considérée comme un abandon de la position qu'il avait prise au sujet du plébiscite général ni comme un renoncement à sa revendication essentielle. J'ai ajouté que la procédure suggérée écarterait également l'objection relative au manque de précision des dispositions relatives au partage et au plébiscite partiel qui seraient soumises à l'examen de la conférence.

77. A la suite d'une brève discussion sur les chances de succès qu'offrirait une telle solution et sur les inconvénients qu'elle présenterait en cas de rejet, le Premier Ministre de l'Inde demanda quelque temps pour étudier la question. Dans le courant de la journée, il m'annonça qu'on avait décidé d'approuver ma suggestion, sous réserve que j'obtienne du Pakistan l'assurance qu'il ne verrait pas, dans le fait que mon plan reposait sur un plébiscite partiel et un partage, une raison suffisante pour se refuser à l'examiner. En effet, l'Inde ne voulait pas accepter une conférence qui ne saurait être qu'inutile.

78. Je suis retourné à Karachi et j'ai proposé, en dernier ressort, au Gouvernement du Pakistan de préparer un plan, conçu comme je l'ai exposé ci-dessus, et de le présenter à une conférence que je convoquerais; j'ai mentionné la condition posée par l'Inde. Tout d'abord, le Gouvernement du Pakistan n'a pas paru désireux de donner son assentiment à ma solution. Mais, après une longue discussion de la question, j'ai formellement déclaré au Premier Ministre du Pakistan que je comprenais parfaitement que son gouvernement maintînt sa position en ce qui concernait le plébiscite général. Je lui ai, en outre, donné l'assurance que personne — ni moi, ni aucune autre autorité des Nations Unies — n'estimerait que son gouvernement et lui-même abandonnent ou compromettent la théorie qu'ils défendaient, en acceptant d'examiner et de prendre en considération le plan que j'étais prêt à établir et à présenter, bien que ce plan fût une contre-proposition. Dans ma déclaration, j'ai fait remarquer que, si le Pakistan refusait, pour le motif exposé, de prendre part à l'examen du plan projeté, il manquerait au devoir qui incombe aux deux parties d'étudier tout plan présenté comme offrant une possibilité d'aboutir au règlement du différend entre les deux Etats et d'éviter ainsi les dangers auxquels les expose la prolongation de ce différend.

79. Sur la foi des assurances contenues dans ma déclaration, le Gouvernement du Pakistan a accepté de répondre à mon invitation d'assister à une conférence ayant pour but l'examen du plan que je me proposais d'établir, bien que ce plan dût reposer sur un principe autre que celui d'un plébiscite général. Mais, à son tour, le Pakistan a posé une condition. Cette condition était dictée par la conviction inébranlable du Pakistan que l'Inde ne donnerait pas son accord à des mesures pratiques déterminées, qui fussent de nature à garantir la liberté et l'impartialité du plébiscite.

80. En fait, j'avais décidé d'avoir recours, dans la zone limitée soumise au plébiscite, à l'une des mesures que j'avais proposées pour l'ensemble de l'Etat, dans l'espoir de mettre ainsi fin à l'existence de la ligne du



to provide that an administrative body consisting of United Nations officers should be set up in the limited plebiscite area. The Plebiscite Administrator would be at the head of the body. The body would carry on the functions of government in the area until the poll was declared. It would not be the body's function to form new policies but to carry on the administration of government in the area. I intended that the administrative body of United Nations officers should have power, if they thought fit to do so, to exclude troops of every description. If on the other hand they decided that for any purpose troops were necessary they could request the parties to provide them. Insofar as they allowed the views of the two sides to be laid before the people of the limited area, they would have power to secure equality to India and Pakistan in any such right as well as in other respects.

81. I informed the Pakistan Government that I intended to include a provision of this nature. It expressed doubt as to India's agreeing to it and said that it was not prepared to attend a conference which must break down at the threshold if India refused to accept it. I then offered to consult India in advance upon the matter provided that, subject to India's answer, Pakistan agreed to the course I proposed, namely that it would come to a conference to consider a plan to be prepared by me and would do so on the footing that the presence in the intended plan of a provision for a limited plebiscite would not prove an insuperable objection.

82. To this Pakistan agreed.

83. I then informed the Prime Minister of India by telegram⁶ of the assurances I had given Pakistan and of the kind of provision that my plan would contain for the purpose of securing the fairness of the plebiscite and its freedom from any suspicion of intimidation. I asked him to inform me if he was of the opinion that the inclusion in my plan of such a provision in order to secure the freedom and fairness of the plebiscite made it impossible for him to accept the plan as a whole. Otherwise I requested him to name a date for the meeting.

84. The Prime Minister of India answered by telegram⁶ expressing an emphatic refusal to agree to any such provision. The telegram said at the end that if I came to New Delhi the Prime Minister would be glad to explain India's position fully to me to avoid any possibility of any misunderstanding.

85. Accordingly I went to New Delhi.

86. I shall enumerate the objections briefly as I collected them from the telegram and from my discussion with the Prime Minister at Delhi.

(a) Pakistan is an aggressor and it would be to surrender to aggression to allow it to take any part in

⁶ See annex I, p. 47.

cessez-le-feu. Je prévoyais la création, dans la zone limitée soumise au plébiscite, d'un organisme administratif composé de fonctionnaires des Nations Unies. L'Administrateur du plébiscite serait à la tête de cet organisme. Ce dernier ferait office de gouvernement dans la région, jusqu'à l'annonce des résultats du scrutin. Il ne lui appartiendrait pas de formuler de politique nouvelle; il aurait simplement à expédier les affaires courantes. Je prévoyais que cet organisme, composé de fonctionnaires des Nations Unies, aurait pouvoir pour exiger le retrait, s'il le jugeait nécessaire, de toute force armée quelle qu'elle soit. Au contraire, si cet organisme décidait que des troupes étaient nécessaires pour une raison quelconque, il pourrait demander aux deux parties de les fournir. Etant donné que cet organisme permettrait aux deux parties de faire connaître leurs points de vue à la population de la zone limitée, il aurait pouvoir pour garantir à l'Inde et au Pakistan l'égalité de traitement dans ce domaine comme dans les autres.

81. J'ai informé le Gouvernement du Pakistan de mon intention de prévoir une disposition de cette nature. Il a exprimé des doutes quant à l'assentiment de l'Inde et a déclaré qu'il ne serait pas disposé à assister à une conférence vouée à l'insuccès dès le début, au cas où l'Inde refuserait d'accepter cette disposition. J'ai alors offert de consulter le Gouvernement de l'Inde, sur ce point, étant bien entendu que, si l'Inde acceptait cette disposition, le Pakistan donnerait son assentiment à la solution que je proposais, c'est-à-dire qu'il assisterait à une conférence consacrée à l'examen du plan que je préparerais, et qu'il le ferait en admettant que la présence, dans mon plan, d'une disposition prévoyant un plébiscite partiel ne saurait constituer un obstacle insurmontable.

82. Le Pakistan a donné son accord à cet égard.

83. Par télégramme⁶ j'ai alors fait part au Premier Ministre de l'Inde des assurances que j'avais données au Pakistan et de la nature de la disposition que mon projet contiendrait afin d'assurer l'impartialité du plébiscite et d'écarter tout soupçon d'intimidation. Je lui ai demandé de me faire savoir si, à son avis, l'inclusion de cette disposition, destinée à assurer la liberté et l'impartialité du plébiscite, le mettait dans l'impossibilité d'accepter l'ensemble du projet. Je l'ai invité, dans le cas contraire, à fixer une date pour la réunion.

84. Le Premier Ministre de l'Inde m'a répondu par télégramme⁶ qu'il se refusait catégoriquement à accepter la disposition envisagée. Le télégramme ajoutait que, dans le cas où je me rendrais à New-Delhi, le Premier Ministre serait heureux de m'exposer en détail la position de l'Inde, afin d'éviter toute possibilité de malentendu.

85. Je me suis rendu en conséquence à New-Delhi.

86. Je vais énumérer rapidement, maintenant, les objections formulées, telles que j'ai cru pouvoir les déduire du télégramme et de ma conversation avec le Premier Ministre à New-Delhi.

a) Le Pakistan est l'agresseur, et ce serait céder à l'agression que de permettre à ce pays de prendre une

⁶ Voir annexe I, p. 47.



the plebiscite. For the same reason and because of the danger involved, Pakistan's troops could never be allowed to enter the plebiscite area and therefore it was impossible to countenance the proposal to enable the administrative body to request the parties to provide troops if it thinks them necessary.

(b) The provision would mean that the Government of the State would be superseded and went far beyond what is necessary for the purpose in view.

(c) Only those people belonging to the State of Jammu and Kashmir should be allowed any part in the "campaign" over the plebiscite. There can be no equality of any right between India and Pakistan in this or other relevant respects.

(d) The security of the State would be endangered.

87. These arguments appeared to me to overlook the real nature of a proposal for partition and a partial plebiscite or else to make it completely impossible. The question whether Pakistan had or had not been an aggressor had, to my mind, nothing to do with the results of a partition and the fairness and freedom of a partial plebiscite. To agree that Pakistan should take under a partition part of the State must be to agree that, independently of any such question, it took not merely an interest in but sovereignty of the territory. Again, as I saw the matter, to agree that the territory not immediately divided between India and Pakistan should pass to one or the other according to the vote of the inhabitants at a plebiscite conducted by the United Nations must be to agree to a text involving an equal interest in both countries in the result. Further it is to agree to the ascertainment of the will of the people by an independent authority because that authority will see that the plebiscite is freely and fairly conducted.

88. I had formed the opinion that it was not easy to exclude the danger that the inhabitants of the Valley of Kashmir would vote under fear or apprehension of consequences and other improper influences. They are not high spirited people of an independent or resolute temper. For the most part they are illiterate. There were large numbers of regular soldiers of the Indian Army as well as of the State Militia and police, and more often than not they were under arms. The State Government was exercising wide powers of arbitrary arrest. These are not matters that the Kashmiris inhabiting the Valley could be expected to disregard in choosing between voting as the Government of Kashmir asked them and voting for accession to Pakistan.

89. It appeared to me that the danger to the freedom and fairness of the plebiscite could not be removed unless, in the administrative hierarchy of the State so far as it controlled the plebiscite area, United Nations

part quelconque au plébiscite. Pour la même raison, et étant donné le danger éventuel que leur présence ferait courir, les troupes du Pakistan ne devraient pas être autorisées à pénétrer dans la zone où se déroulerait le plébiscite; il était par conséquent impossible d'entériner une proposition habilitant l'organisme administratif à inviter les parties à fournir des troupes s'il estimait cette mesure nécessaire.

b) La disposition envisagée aboutirait à évincer le Gouvernement de l'Etat et irait bien au-delà de ce qui est nécessaire pour atteindre la fin qu'on se proposait.

c) Seules les populations appartenant à l'Etat de Jammu et Cachemire devraient être autorisées à prendre part à la "campagne" du plébiscite. Il ne saurait y avoir, ni à ce sujet, ni sur les autres points relatifs à cette question, égalité de droits entre l'Inde et le Pakistan.

d) La sécurité de l'Etat serait mise en péril.

87. Il me parut que ces arguments ne tenaient pas compte de la nature réelle d'une proposition concernant un partage et un plébiscite partiel, mais qu'ils étaient de nature à rendre cette solution absolument impossible. La question de savoir si le Pakistan a été ou non l'agresseur n'a, à mon avis, rien à voir avec les conséquences d'un partage ni avec l'impartialité et la liberté d'un plébiscite partiel. Accepter que, à la suite d'un partage, le Pakistan reçoive une partie de l'Etat doit signifier que l'on accepte, indépendamment de toute question, que ce pays ne manifeste pas seulement un intérêt pour le territoire, mais qu'il y exerce les pouvoirs souverains. D'autre part, à mon avis, accepter que le territoire qui ne sera pas immédiatement divisé entre l'Inde et le Pakistan revienne à l'une ou à l'autre des parties, conformément aux vœux des habitants, exprimés au cours d'un plébiscite sous le contrôle des Nations Unies, doit signifier que l'on accepte une épreuve dont le résultat suscite un intérêt équivalent dans les deux pays. Cela signifie, en outre, que l'on accepte que la volonté de la population soit officiellement constatée par une autorité indépendante, parce que cette autorité s'assurera que le plébiscite est librement et impartialement conduit.

88. J'étais déjà parvenu antérieurement à la conclusion qu'il n'était pas facile de parer au danger et que les habitants de la vallée du Cachemire risquaient de voter sous l'empire de la peur ou de l'apprehension des conséquences qu'aurait leur vote, ou de céder à d'injustifiables pressions. Il ne s'agit pas d'une population très énergique, au caractère indépendant et résolu. Ses habitants sont pour la plupart analphabètes. Il y a, dans cette vallée, un grand nombre de soldats réguliers de l'armée de l'Inde, ainsi que de nombreux membres de la milice et de la police de l'Etat, et le plus souvent ces hommes sont armés. Le gouvernement procède à des arrestations arbitraires massives. On ne pouvait donc attendre des habitants du Cachemire vivant dans cette vallée qu'ils oublient ces différents aspects de la situation lorsqu'il s'agirait de choisir entre la possibilité de voter comme le Gouvernement du Cachemire le leur a demandé, ou de voter pour le rattachement au Pakistan.

89. Il m'a paru que l'on ne pouvait écarter cette menace à la liberté et à l'impartialité du plébiscite qu'en plaçant temporairement des fonctionnaires des Nations Unies dans la hiérarchie administrative de l'Etat qui



officers were interposed temporarily. The authority of the Ministry over the rest of the State would not be affected. The ordinary working of the machinery of government in the plebiscite area would go on without change, but for the limited area, the United Nations administrators would for the time being be responsible for the working of the machinery in order to see that it was not used to influence the voters, as otherwise it well might be in countless ways.

90. The presence of numbers of troops, armed militia and police in the Valley did not appear to me to be favourable to a free expression of the people's will, and I considered that the administrative body might be safely given powers to decide what was necessary to insure the maintenance of order and to protect the area from external danger if it found that any existed. I did not suppose that it would invoke Pakistan troops without good cause, but I saw no reason why both countries should not be under an obligation to provide troops if requested. I saw no reason to change the opinion I had formed or to depart from the provision I had intended to include. I could not expose a plebiscite conducted under the authority of the United Nations to the dangers which I believed certainly to exist. Indeed I came to the conclusion that it would be impossible to give effect to the doctrines formulated by India in objection to my plan and at the same time frame a plan for partition and a limited plebiscite which I could ask Pakistan to accept.

91. The Prime Minister of India concurred in the view that no hope existed of an agreement for a plebiscite by which the fate of the Valley could be decided. No other acceptable expedient for disposing of the Valley could be suggested.

92. The Prime Minister of India agreed therefore that there was nothing further that I could now do in the sub-continent.

93. I returned to Karachi, where the Prime Minister of Pakistan took the same view.

94. I left Karachi on 23 August 1950.

95. It will be seen that two main lines have been pursued in the attempts which have been made to settle the dispute between the two countries about the State of Jammu and Kashmir. The attempt to find a solution by taking a plebiscite over the whole State and so decide by a majority to which country the entire State shall go has its origin in the first proceedings before the Security Council. It should be recalled that by the resolution of 21 April 1948⁷ the desire of both India and Pakistan that the question of the accession of the State to one or other of them should be decided by a free and impartial plebiscite was noted with satisfaction. In the agreed resolution of the United Nations Commission for India and Pakistan of 5 January 1949 there is a recital of the acceptance by the Governments of both countries of the principle

⁷ *Ibid.*, Third Year, Supplement for April 1948, p. 8.

contrôle la zone du plébiscite. L'autorité du Ministre sur le reste de l'Etat ne serait pas compromise. Dans la zone du plébiscite, les rouages ordinaires du mécanisme gouvernemental continueraient à jouer sans subir de modifications, mais, en ce qui concerne la zone intéressée, les administrateurs désignés par les Nations Unies seraient momentanément responsables du fonctionnement de ce mécanisme afin d'empêcher qu'on ne s'en serve pour influencer les électeurs, ce qu'on pourrait faire de maintes façons si l'on ne procédait pas comme je le suggérais.

90. La présence dans la vallée de troupes nombreuses, ainsi que de contingents armés de la police et de la milice, ne m'apparaissait pas comme une condition favorable à la liberté d'expression de la volonté populaire; et j'estimais qu'il serait sage de donner à l'organisme administratif le pouvoir de prendre les décisions nécessaires au maintien de l'ordre et à la protection de la zone contre un danger extérieur, si l'on découvrait que ce danger existe. Je ne croyais pas que cet organisme ferait appel aux troupes du Pakistan sans raison valable, mais je ne voyais pas pourquoi les deux pays ne seraient pas mis dans l'obligation de fournir des troupes s'ils en étaient priés. Je ne voyais aucune raison de changer l'opinion que je m'étais formée ou de renoncer à la disposition que je m'étais proposé d'inclure dans mon projet. Il m'était impossible d'exposer un plébiscite conduit sous l'autorité des Nations Unies à un danger dont je connaissais l'existence. J'en arrivai donc à la conclusion qu'il serait impossible, d'une part, de se conformer aux objections que l'Inde formulait à l'égard de mon projet, et, d'autre part, d'élaborer un plan de partage et un plébiscite partiel que je pourrais proposer à l'acceptation du Pakistan.

91. Le Premier Ministre de l'Inde a reconnu qu'il n'existait aucune perspective d'accord sur les modalités d'un plébiscite susceptible de fixer le sort de la vallée du Cachemire, et aucune autre suggestion acceptable n'a pu être formulée à ce sujet.

92. Le Premier Ministre de l'Inde a été d'accord pour estimer qu'il n'y avait plus pour moi aucune possibilité d'action dans la péninsule.

93. J'ai regagné Karachi, où le Premier Ministre du Pakistan a été du même avis.

94. J'ai quitté Karachi le 23 août 1950.

95. On peut se rendre compte que les tentatives faites en vue de régler le différend entre les deux pays au sujet de l'Etat de Jammu et Cachemire ont suivi deux directions principales. L'effort tenté pour résoudre le problème en organisant un plébiscite dans l'ensemble de l'Etat, afin que la majorité décide à quel pays l'Etat tout entier doit être rattaché, remonte aux premiers débats au Conseil de sécurité. Il convient de rappeler que, dans sa résolution du 21 avril 1948⁷, le Conseil de sécurité a noté avec satisfaction que l'Inde et le Pakistan désirent également que la question du rattachement de l'Etat de Jammu et Cachemire à l'Inde ou au Pakistan soit tranchée par un plébiscite libre et impartial. La résolution que la Commission des Nations Unies pour l'Inde et le Pakistan a unanimement adoptée le 5 janvier 1949 indique que les gouvernements des deux pays

⁷ *Ibid.*, troisième année, Supplément d'avril 1948, p. 8.



that the question of the accession of the State to India or Pakistan would be decided through the democratic method of a free and impartial plebiscite.

96. From the date of this resolution until the present there have been continual efforts to bring about conditions in which the preparations for taking a poll might go forward. No one has supposed that they could even begin while much of the respective territories on either side of the cease-fire line was occupied by opposed armies and their base units. There are in addition many other obstacles to the holding of a free and fair plebiscite which must be removed before the State would be ready for the organization and machinery which the taking of a poll would make necessary. Unfortunately all this has been made to depend upon the agreement of the parties. It is enough to refer to paragraphs 2, 6 (a) and 10 of the resolution of 5 January 1949 and to the provisions of the resolution of 13 August 1948 upon which these paragraphs hang.

97. 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. The resolution of 5 January 1949 contains some rather general provisions in relation to the holding of the plebiscite and the antecedent steps, and about those more general provisions the parties were able to agree. But to apply propositions of this kind a programme of practical acts and physical events must be agreed upon. Without this it is impossible for the Plebiscite Administrator to begin the extensive and difficult work of organizing the taking of a poll. It is the practical measures which have proved the obstacle, not the more general propositions.

98. Pakistan has complained of India's failure to agree on the practical measures which must precede the preparations for the actual taking of a poll, and has maintained that this failure is the result of a deliberate policy. But the fact remains that under the resolutions the agreement of India to the course to be pursued in these matters is a condition precedent to carrying out a plebiscite of the State, and there is no such agreement. Moreover, the United Nations Commission failed in its efforts to secure an agreement upon them; I failed in mine; neither party put forward any other proposals and both appeared to concur in the view that the possibility of agreement has been exhausted.

99. The contention of Pakistan that it was incumbent on India to agree did not advance the matter practically. It was in these circumstances that I decided to turn away from a plebiscite of the whole State, an "over-all" plebiscite, as a method of solving the problem of Kashmir. Partition of the whole State between the two countries is of course an obvious alternative. But unfortunately the Valley of Kashmir cannot itself be partitioned and it is an area claimed by each side. Pakistan claims it not only because it is

acceptent le principe selon lequel la question du rattachement de l'Etat à l'Inde ou au Pakistan doit être décidée d'une façon démocratique, au moyen d'un plébiscite libre et impartial.

96. Depuis la date de cette résolution, des efforts incessants ont été faits en vue de réaliser des conditions favorables à la préparation du plébiscite. Personne, à aucun moment, n'a d'ailleurs envisagé la possibilité d'entreprendre ces préparatifs tant qu'une grande partie des territoires, respectivement situés de part et d'autre de la ligne du cessez-le-feu, serait occupée par des armées adverses et par leurs services. En outre, il existe de nombreux autres obstacles à la conduite d'un plébiscite libre et impartial, obstacles qu'il faut faire disparaître, avant de procéder dans l'Etat à l'organisation du scrutin et à la mise en place du dispositif qu'il nécessite. Malheureusement, on a fait dépendre tous ces problèmes de l'accord des deux parties. Il suffit, à ce sujet, de rappeler le paragraphe 2, l'alinéa 6, a, et le paragraphe 10 de la résolution du 5 janvier 1949, ainsi que les dispositions de la résolution du 13 août 1948 auxquelles se rattachent ces paragraphes.

97. J'estime que l'Inde se fait une conception, très différente de mon opinion tacite, des dispositions qu'il conviendrait de prendre pour s'assurer de la volonté réelle de la population. C'est là, sans nul doute, une conception qui n'est pas celle du Pakistan. La résolution du 5 janvier 1949 renferme des dispositions de caractère plutôt général concernant la conduite du plébiscite et les mesures à prendre avant ce plébiscite; les parties ont pu parvenir à un accord sur ces dispositions de caractère général. Mais, pour appliquer les dispositions de ce genre, il faut s'entendre sur un programme de réalisations pratiques et de mesures concrètes, sans quoi l'Administrateur du plébiscite se verra dans l'impossibilité d'entreprendre la tâche importante et difficile d'organiser le scrutin. C'est dans les mesures pratiques qu'il faut voir l'obstacle, et non dans les dispositions de caractère plus général.

98. Le Pakistan se plaint que l'Inde n'ait pas accepté les mesures pratiques qui devaient précéder la préparation du scrutin proprement dit, et il soutient que c'est là le résultat d'une politique délibérée. Mais il n'en reste pas moins que, aux termes de la résolution, l'assentiment de l'Inde à la procédure à suivre en l'occurrence constitue une condition préalable à la conduite d'un plébiscite dans l'Etat; or, aucun accord de ce genre n'est intervenu. En outre, les efforts de la Commission des Nations Unies en vue de réaliser un accord sur ces mesures ont échoué; mes propres efforts ont échoué eux aussi; aucune des deux parties n'a présenté de proposition concrète, et toutes deux semblent convenir que toutes les possibilités d'accord ont été épuisées.

99. L'affirmation du Pakistan selon laquelle il incombe à l'Inde de donner son assentiment n'a conduit à aucun progrès concret. C'est en raison de ces circonstances que j'ai décidé de renoncer à un plébiscite dans l'ensemble de l'Etat, à un plébiscite "général", abandonnant l'idée de résoudre le problème du Cachemire grâce à cette méthode. Le partage de l'Etat entre les deux pays constitue, sans doute, l'autre solution évidente. Malheureusement, la vallée du Cachemire elle-même ne peut être partagée, et c'est une région que



predominantly Muslim but also because the Jhelum River flows from it and Pakistan will not readily give up its claim. India is just as insistent upon its claim and has the advantage of possession. Some method of allocating the Kashmir Valley to one party or the other is therefore essential to any plan of partition.

100. I am inclined to the view that no method of allocating the Valley to one or other of the contending parties is available except a poll of the inhabitants. By the inhabitants I mean those of them who fulfil whatever may be fixed as the test of eligibility to vote. The difficulty of using the expedient of a plebiscite appears to lie entirely in the conflict between, on the one hand, the necessity of insuring that the plebiscite is held in conditions which make it an effective means of ascertaining the real will of the people independently formed and freely expressed, and, on the other hand, certain conceptions or preconceptions of the Indian Government. These are based in part on what India conceives to be the origin and course of the fighting in 1947 and 1948 and in part on its unwillingness to have any interference with or restriction of the powers of government in the State whether in reference to the use of armed forces or in reference to the civil administration. In addition, it may be, as I have suggested, that a different conception exists of the process of ascertaining the will of the people. Although I myself found no reconciliation of this conflict possible, it may be that with India's help some resolution of the conflict may be discovered. India may come to realize that the necessity of practical measures which will really secure the freedom and fairness of a plebiscite must be paramount over these conceptions. At all events I have formed the opinion that if there is any chance of settling the dispute over Kashmir by agreement India and Pakistan it now lies in partition and in some means of allocating the Valley rather than in an over-all plebiscite. The reasons for this may be shortly stated.

101. The State of Jammu and Kashmir is not really a unit geographically, demographically or economically. It is an agglomeration of territories brought under the political power of one Maharajah. That is the unity it possesses. If as a result of an over-all plebiscite the State as an entirety passed to India, there would be large movements of Muslims and another refugee problem would arise for Pakistan, which would be expected to receive them in very great numbers. If the result favoured Pakistan, a refugee problem, although not of such dimensions, would arise for India, because of the movement of Hindus and Sikhs. Almost all this would be avoided by partition. Great areas of the State are unequivocally Muslim. Other areas are predominantly Hindu. There is a further area which is Buddhist. No one doubts the sentiment of the great majority of the inhabitants of these areas. The interest

chacune des deux parties revendique. Le Pakistan la revendique, non seulement parce que la population est essentiellement musulmane, mais aussi parce que la Djhélan y prend sa source; le Pakistan ne renoncera donc pas aisément à ses revendications. L'Inde insiste tout autant sur ses propres revendications et a l'avantage d'être l'occupant actuel de la région. Tout plan de partage doit donc absolument prévoir une méthode qui permette d'attribuer la vallée du Cachemire à l'une ou l'autre des parties.

100. Je suis porté à croire qu'il n'existe d'autre méthode permettant d'attribuer la vallée à l'une des deux parties que l'organisation d'un plébiscite parmi les habitants. Par "habitants", j'entends ceux qui remplissent toutes les conditions qui pourront être requises des électeurs. La difficulté que présente l'application de la méthode du plébiscite semble résider entièrement dans le conflit qui existe entre la nécessité de faire en sorte que le plébiscite se déroule dans les conditions telles qu'il puisse constituer un moyen efficace de s'assurer de la volonté réelle, conçue à l'abri de toute influence et librement exprimée, de la population, et, d'autre part, certaines conceptions ou certains préjugés du Gouvernement de l'Inde. Ces conceptions et ces préjugés reposent en partie sur l'idée que l'Inde se fait de l'origine et du cours des hostilités en 1947 et 1948 et, en partie, sur le fait qu'elle ne veut admettre aucune ingérence dans les pouvoirs du Gouvernement de l'Etat et aucune restriction de ces pouvoirs, tant en ce qui concerne l'emploi des forces armées qu'en ce qui concerne l'administration civile. De plus, il est possible, ainsi que je l'ai fait observer, qu'il existe des divergences de vues sur les méthodes à suivre pour s'assurer de la volonté de la population. Bien que, pour ma part, je n'aie pas réussi à concilier ces points de vues divergents, il est possible que, avec l'aide de l'Inde, on puisse résoudre ce conflit. Peut-être l'Inde comprendra-t-elle enfin que la nécessité de prendre des mesures pratiques permettant réellement de s'assurer d'un plébiscite libre et impartial doit prendre le pas sur ses conceptions. En tout état de cause, je suis parvenu à la conviction que, s'il existe une possibilité de régler le différend du Cachemire au moyen d'un accord entre l'Inde et le Pakistan, elle réside actuellement dans le partage et dans l'élaboration d'une méthode permettant d'attribuer la vallée à l'une des deux parties, plutôt que dans un plébiscite général. Les raisons de cette conviction peuvent être brièvement exposées.

101. L'Etat de Jammu et Cachemire ne constitue pas, en réalité, une unité géographique, démographique ou économique. Il s'agit là d'un groupe de territoires réunis sous le pouvoir politique d'un maharajah. C'est là l'unité qu'il possède. Si, à la suite d'un plébiscite général, l'ensemble de l'Etat est transféré à l'Inde, il y aura de vastes mouvements de Musulmans, et du fait qu'ils quitteront en grand nombre l'Etat, le Pakistan aura à faire face à un nouveau problème de réfugiés. Si les résultats du plébiscite sont favorables au Pakistan, la question des réfugiés, bien que sur une moindre échelle, se posera pour l'Inde, car il y aura un mouvement d'Hindous et de Sikhs. Un partage permettrait d'éviter presque toutes ces difficultés. Des parties importantes de l'Etat sont essentiellement musulmanes; dans d'autres régions, ce sont les Hindous qui prédominent; enfin, la population d'une autre région encore



of the people, the justice as well as the permanence of the settlement, and the imperative necessity of avoiding another refugee problem all point to the wisdom of adopting partition as the principle of settlement and of abandoning that of an over-all plebiscite. But in addition the economic and geographic considerations point in the same direction. The difficulty in partitioning the State is to form a sound judgment where the line should be drawn.

102. While what I have said deals broadly with the State as a whole, it is by no means easy to fix the limits on each side. That is because it is necessary that the territory allocated to each side should be continuous in itself and should be contiguous with that country, because there are pockets of people whose faith and affiliations are different from those of people by whom they are cut off, because the changes in the distribution of population as the result of the troubles cannot be completely ignored, and because geographical features remain important in fixing what may prove an international frontier.

103. I shall not deal with the matter with more particularity, and I say so much only in case the Security Council should be of opinion that it should take further steps to effect a settlement between the parties. But for myself I doubt whether it may not be better to leave the parties to themselves in negotiating terms for the settlement of the problem how to dispose of Jammu and Kashmir between them. So far the attitude of the parties has been to throw the whole responsibility upon the Security Council or its representatives of settling the dispute, notwithstanding that, except by agreement between them, there was no means of settling it.

104. When actual fighting was going on between them it was natural, if not necessary, that the Security Council and the Commission as its delegate should intervene between them and propose terms to stop the hostilities. But when this was done to the extent of stopping open hostilities and the question came to be how to settle the rival claims to Kashmir, the initiative was still left with the Security Council and the Commission. The whole question has now been thoroughly discussed by the parties with the Security Council, the Commission and myself, and the possible methods of settlement have been exhaustively investigated. It is perhaps best that the initiative should now pass back to the parties. At all events I am not myself prepared to recommend any further course of action on the part of the Security Council for the purpose of assisting the parties to settle between them how the State of Jammu and Kashmir is to be disposed of.

105. The continued maintenance of two armies facing one another across a cease-fire line is another matter. A danger to peace must exist while this state of things continues. Except for mutual distrust and fear, one of another, there is no reason why the two countries should go on maintaining armies separated

est bouddhiste. Personne ne met en doute les sentiments de la grande majorité de la population de ces régions. Les intérêts de la population, la nécessité d'aboutir à un règlement équitable et permanent, enfin l'obligation absolue dans laquelle on se trouve d'éviter que ne se pose à nouveau la question des réfugiés, tout indique que la solution la plus sage serait d'adopter le principe du partage et de renoncer à un plébiscite général. D'autre part, des considérations d'ordre économique et géographique militent en faveur de cette même solution. La difficulté à laquelle se heurte le partage de l'Etat réside dans la nécessité de se faire une opinion exacte et juste du tracé de la ligne de partage éventuelle.

102. Ce que je viens de dire se rapporte à l'ensemble de l'Etat, et il est fort malaisé de procéder à la démarcation. Il faut, en effet, d'une part, que le territoire attribué à chacune des parties ne soit pas morcelé, et, d'autre part, qu'il voisine directement avec le pays intéressé; il existe, en outre, des enclaves de population dont la religion et les affiliations diffèrent de celles des groupes qui les entourent; d'autre part, on ne saurait négliger complètement les changements survenus dans la distribution de la population à la suite de la période de troubles; enfin, certaines considérations d'ordre géographique conservent toute leur importance lorsqu'il s'agit de fixer ce que peut devenir un jour une frontière internationale.

103. Je me dispenserai de traiter cette question plus en détail. Je n'en ai fait état que pour l'information du Conseil de sécurité, au cas où il estimerait qu'il doit prendre de nouvelles mesures en vue de régler le différend entre les deux parties. Quant à moi, je me demande s'il ne serait pas plus sage de laisser aux parties elles-mêmes le soin de résoudre par des négociations la question de l'avenir de l'Etat de Jammu et Cachemire. Jusqu'à présent, les parties ont fait retomber sur le Conseil de sécurité ou ses représentants toute la responsabilité du règlement de leur différend, bien que le seul moyen de mettre fin à ce conflit soit un accord conclu directement entre elles.

104. Tant que la lutte se poursuivait entre les parties en cause, il était naturel, sinon nécessaire, que le Conseil de sécurité et la Commission qui le représentait interviennent et proposent les conditions d'une éventuelle cessation des hostilités. Cependant, lorsque les hostilités ouvertes ont pris fin, et lorsque la question s'est posée de savoir quelle décision prendre au sujet des prétentions rivales sur le Cachemire, l'initiative est restée entre les mains du Conseil de sécurité et de la Commission. L'ensemble de la question a déjà été discuté en détail par les parties, le Conseil de sécurité, la Commission et moi-même, et les méthodes éventuelles de règlement ont été étudiées à fond. La meilleure manière de procéder serait peut-être de rendre l'initiative aux parties. Quoi qu'il en soit, je n'entends, pour ma part, recommander au Conseil de sécurité aucune nouvelle mesure qui aurait pour fin d'aider les parties à régler la question de l'avenir de l'Etat de Jammu et Cachemire.

105. Le maintien de forces armées des deux côtés de la ligne du cessez-le-feu constitue un autre problème. Tant que cet état de choses durera, la paix sera nécessairement en danger. En dehors de la méfiance et de la peur qu'éprouvent mutuellement les deux pays, il n'y a aucune raison valable pour garder sous les armes



only by the cease-fire line. It is a boundary which might be kept by check posts and the like in the same way as any frontier between countries at peace. It is hard to believe that the Indian and Pakistan Chiefs of Staff would have any difficulty in arranging for a concurrent reduction of forces or in effecting the necessary change in the manner in which the cease fire-line is held, if they were instructed by their respective Governments to meet for the purpose.

106. Before leaving the sub-continent I addressed to the Prime Ministers severally a request⁸ that this should be done. It is a matter in which the Security Council is directly concerned because it involves a proximate danger to peace.

107. I recommend that the Security Council should press the parties to reduce the military strength holding the cease-fire line to the normal protection of a peace-time frontier.

108. In the meantime it is my recommendation that the party of United Nations Military Observers be retained on the cease-fire line. They cannot continue there indefinitely, but after a time the question of their withdrawal might be settled in consultation with the two Governments.

(Signed) Owen DIXON
United Nations Representative
for India and Pakistan

Annex I

A. TELEGRAM DATED 15 AUGUST 1950 FROM THE UNITED NATIONS REPRESENTATIVE FOR INDIA AND PAKISTAN TO THE PRIME MINISTER OF INDIA

I have encountered a great many difficulties in Karachi but they have now been resolved.

Pakistan continues to stand unequivocally on the position that, under the agreed resolutions of 13 August 1948, 5 January 1949 and 14 March 1950, the decision of the destination of the State of Jammu and Kashmir is to be by an impartial plebiscite. For that reason the Prime Minister has expressed to me the unwillingness of his Government to receive or consider any alternative proposal or plan. I have informed him that I completely understood Pakistan's position, and I have assured him that neither I nor any other authority of the United Nations would regard him or his Government as in the least degree derogating from or prejudicing that position if he complies with the request I have made to him to examine and take into consideration a plan which I am ready to prepare and submit although it is of an alternative character. I have said that I believe that until I have exhausted all possible methods of settlement I have not completed the discharge of my functions. I have said to him that, if Pakistan refused on the ground stated to join in the consideration of the intended plan, it would in my opinion be wanting in the fulfilment of the duty which rests upon both countries to give willing consideration to any plan put forward as containing a possibility of reconciling the conflict between the two countries and thus avoiding the dangers to which the continuance of the conflict exposes both of them. I further told him that I was unable to understand how anyone could regard him as weakening his reliance upon the agreed resolutions, which state that the question of the accession of the

⁸ See annex I.

des troupes que ne sépare que la ligne du cessez-le-feu. Or, pour garder cette ligne, il suffirait d'installer des postes de contrôle, etc., comme on le fait d'ailleurs sur toute frontière qui sépare deux pays vivant en paix. Il est difficile de croire que les chefs des états-majors indien et pakistanais puissent trouver la moindre difficulté à réduire simultanément leurs forces armées ou à modifier en conséquence la manière dont la ligne est actuellement gardée, s'ils reçoivent de leurs gouvernements respectifs l'ordre de se réunir à cet effet.

106. Avant de quitter la péninsule, j'ai demandé, à plusieurs reprises, aux Premiers Ministres des deux pays de faire le nécessaire dans ce sens⁸. Il s'agit là d'une question qui intéresse directement le Conseil de sécurité, parce qu'elle comporte un danger immédiat pour la paix.

107. Je recommande au Conseil de sécurité d'insister auprès des parties en cause pour qu'elles réduisent les forces militaires chargées de garder la ligne du cessez-le-feu et pour qu'elles n'y laissent que les effectifs nécessaires à la protection normale d'une frontière en temps de paix.

108. D'autre part, je recommande que le groupe d'observateurs militaires de l'Organisation des Nations Unies soit maintenu sur la ligne du cessez-le-feu. Il est évident qu'on ne saurait les y laisser indéfiniment, mais la question de leur retrait pourrait être réglée en temps voulu de concert avec les deux gouvernements.

(Signé) Owen DIXON
Représentant des Nations Unies
pour l'Inde et le Pakistan

Annexe I

A. TÉLÉGRAMME, EN DATE DU 15 AOÛT 1950, ADRESSÉ AU PREMIER MINISTRE DE L'INDE PAR LE REPRÉSENTANT DES NATIONS UNIES AUPRÈS DE L'INDE ET DU PAKISTAN

J'ai rencontré un grand nombre de difficultés à Karachi, mais elles sont maintenant résolues.

Le Pakistan conserve une position sans équivoque: aux termes des résolutions des 13 août 1948, 5 janvier 1949 et 14 mars 1950, acceptées par les deux parties, le sort de l'Etat de Jammu et Cachemire doit être réglé au moyen d'un plébiscite impartial. C'est pourquoi le Premier Ministre m'a fait savoir que son gouvernement n'était disposé à recevoir ou à examiner aucune contre-proposition ni aucun contre-projet. Je l'ai informé que je comprenais parfaitement la position du Pakistan, et je l'ai assuré que ni moi-même, ni aucune autre autorité des Nations Unies ne considéreraient que lui ou son gouvernement porteraient la moindre atteinte à cette position en se conformant à la demande que je lui ai adressée d'examiner et de prendre en considération un projet que je suis prêt à préparer et à soumettre, bien qu'il s'agisse d'un contre-projet. Je lui ai dit que j'estimerais ma tâche inachevée tant que je n'aurais pas épuisé tous les moyens possibles, en vue du règlement de la question. Je lui ai dit que, à mon avis, si le Pakistan refusait, pour le motif avancé, de participer à l'étude du projet prévu, il manquerait au devoir qui incombe aux deux pays d'étudier avec bonne volonté tout projet présenté comme étant de nature à mettre fin au conflit entre les deux pays et d'écartier ainsi les dangers auxquels la prolongation de ce conflit les expose tous les deux. Je lui ai fait remarquer de plus que, à mon avis, le seul fait que le Premier Ministre de l'Inde accepte ma demande d'étudier avec bonne volonté la possibilité de trouver une autre solution à ce grave problème ne peut signifier pour personne qu'il cesse de donner son

⁸ Voir l'annexe I.



State of Jammu and Kashmir to India or Pakistan would be decided through the democratic method of a free and impartial plebiscite, for no better reason than because he complied with a request from me to give me his willing consideration to the possibility of solving by some alternative the very grave problem which exists.

On the faith of these assurances he has agreed to comply with my request.

Pakistan is ready to attend the conference on the footing that the presence in my intended plan of a provision for a limited plebiscite will not prove an insuperable objection. Pakistan, however, fears that the conference will break down because India will object to the provisions I will include to secure the fairness of the plebiscite and its freedom from any suspicion of intimidation. I do not share this fear myself because I received the impression in New Delhi that India recognizes that any plan I prepare will necessarily contain provisions which will ensure that the will of the inhabitants of the plebiscite area is freely expressed, uninfluenced by the presence of troops or by the fear of consequences or by other apprehensions, and that in all other respects the plebiscite is fairly conducted. I believe it was also recognized in Delhi that provisions such as I have in mind, operating in a limited plebiscite area, are not open to the objections which might be made to them if they applied throughout the whole State of Jammu and Kashmir.

It would be unfortunate, however, if you were to attend a meeting in Karachi only to find that you could not consider the plan on its merits as a whole because you objected to the particular provisions which I felt it necessary to adopt to secure the plebiscite from any suspicion that it was not free and fair. I think, therefore, that I should inform you in advance that my plan will include a provision for the setting up, in the limited plebiscite area, of an administrative body to carry on in that area the functions of government until the poll is declared. The chairman will be the Plebiscite Administrator or his representative. There will be other United Nations officers. They will be persons of administrative experience and it will be their function to carry on the administration of government in the limited area and not to frame any new policies. Their powers will be ample to exclude from the area all troops of every description. If they decide that for any purpose troops are necessary, the parties must provide them upon request. Their powers will also enable them to secure equality to India and Pakistan in any right granted to lay their views before the people and in other respects.

I have stated this because I do not wish to hold a meeting which is bound to be nothing but a formality. If you are of the opinion that the inclusion in my plan of such provisions in order to secure the freedom and fairness of the plebiscite makes it impossible for you to accept the plan, even after considering it as a whole, and that a meeting would therefore be futile, I will be grateful if you will so inform me. Otherwise it only remains for me to set about the preparation of my plan, and that will occupy me for about four days from the receipt of your reply. After that I should like to convene a meeting in Karachi at the earliest date convenient to you. When I know what date would suit you, it would be then necessary for me to consult Mr. Liaquat Ali Khan as to its being convenient to him.

(Signed) Owen Dixon
United Nations Representative
for India and Pakistan

adhésion aux résolutions acceptées par les deux parties, aux termes desquelles la question du rattachement de l'Etat de Jammu et Cachemire à l'Inde ou au Pakistan doit être décidée d'une façon démocratique au moyen d'un plébiscite libre et impartial.

Sur la foi de ces assurances, le Premier Ministre a accédé à ma requête.

Le Pakistan est prêt à assister à la conférence, étant entendu que l'existence, dans le projet que j'ai l'intention de présenter, d'une disposition prévoyant un plébiscite limité n'apparaîtra pas comme un obstacle insurmontable. Toutefois, le Pakistan craint que la conférence n'échoue parce que l'Inde s'opposera aux dispositions que j'ai l'intention d'insérer dans le projet afin d'assurer l'impartialité du plébiscite et d'écartier tout soupçon d'intimidation. Pour ma part, je ne partage pas ces craintes car j'ai eu, à New-Delhi, l'impression que l'Inde reconnaît que tout plan préparé par moi contiendra nécessairement des dispositions propres à assurer que la volonté des habitants de la région où se déroulera le plébiscite s'exprimera librement, que le vote ne sera pas influencé par la présence de troupes, par la crainte des conséquences ou par toute autre appréhension, et qu'à tous égards le plébiscite se déroulera de façon impartiale. Je pense qu'il a été également reconnu à New-Delhi que des dispositions comme celles que j'ai en vue, appliquées dans une zone de plébiscite limitée, ne donneront pas lieu aux objections qu'elles pourraient soulever si elles étaient appliquées à l'ensemble de l'Etat de Jammu et Cachemire.

Cependant, il serait regrettable que vous assistiez à une réunion à Karachi pour arriver à la seule conclusion que vous ne pouvez pas examiner l'ensemble du projet quant au fond, parce que vous ne sauriez accepter les dispositions particulières qui m'auront paru nécessaires pour faire en sorte que la liberté et l'impartialité du plébiscite ne puissent être mises en doute. C'est pourquoi je crois devoir vous informer à l'avance que mon projet contiendra une disposition prévoyant la création, dans la zone de plébiscite limitée, d'un organe administratif qui exercera les fonctions de gouvernement dans cette zone jusqu'à ce que les résultats du scrutin soient proclamés. Le Président sera l'Administrateur du plébiscite ou son représentant. Il y aura d'autres fonctionnaires des Nations Unies. Ce seront des personnes jouissant d'une bonne expérience administrative, chargées d'exercer les fonctions gouvernementales dans la zone en question, mais sans formuler aucune politique nouvelle. Ils auront plein pouvoir pour exclure toutes les troupes de la zone en question. Au cas où ils décideraient que, pour une raison quelconque, des troupes sont nécessaires, les parties devront les fournir sur leur demande. Leurs pouvoirs leur permettront également d'assurer l'égalité de l'Inde et du Pakistan en ce qui concerne le droit éventuel de ces deux pays de présenter leurs points de vue à la population, ainsi que dans tout autre domaine.

Je vous ai présenté ces faits parce que je ne désire pas convoquer une réunion qui ne saurait être qu'une pure formalité. Si vous estimez que le fait d'insérer dans mon projet des dispositions visant à garantir la liberté et l'impartialité du plébiscite ne vous permet pas d'accepter ce projet, même après l'avoir étudié dans son ensemble, et s'il vous apparaît en conséquence qu'une réunion serait vaine, je vous serais reconnaissant de bien vouloir m'en informer. Dans le cas contraire, il ne me restera plus qu'à préparer mon projet, ce qui me demandera environ quatre jours à compter de la date où votre réponse me sera parvenue. J'aimerais ensuite convoquer une réunion à Karachi, à la date la plus rapprochée qui vous convienne. Une fois cette date connue, il me faudra demander à M. Liaquat Ali Khan si cette date lui convient également.

(Signé) Owen Dixon
Représentant des Nations Unies
auprès de l'Inde et du Pakistan



B. TELEGRAM DATED 16 AUGUST 1950 FROM THE PRIME MINISTER OF INDIA TO THE UNITED NATIONS REPRESENTATIVE FOR INDIA AND PAKISTAN

Thank you for your message of 15 August which I received today. I have given its contents anxious thought and am communicating to you frankly my considered reactions to it. I must confess to you that your message surprised me greatly. The main proposal in it in regard to conditions governing the plebiscite is completely novel, and has not been previously mentioned at any stage during the last two years or more.⁹

We have not opposed at any time an over-all plebiscite for the State as a whole, but you made some alternative suggestions because you came to the conclusion that there were no prospects of an agreement as to conditions preliminary to such a plebiscite. On this basis I informed you that India was prepared to discuss alternative plan involving a partial plebiscite, provided Pakistan was also prepared to do so.

We have always recognized that any plan for a plebiscite should be such that the people concerned would be enabled to express their feelings freely and without fear. But your present proposal of setting up a new administrative body to carry on the functions of government is entirely opposed to our basic stand on the Kashmir issue. None of us here got the impression during our talks with you in New Delhi that anything like this was in your mind. All that we discussed was the conditions governing the over-all plebiscite. What you have suggested now goes far beyond anything that we could possibly consider or accept or what, in my view, the requirements of a fair and impartial plebiscite would justify. Your proposals would involve the supersession of the lawful government of the State for a period. We cannot agree to this in any way and for any period.

Your proposal envisages the participation of Pakistan in the plebiscite and the calling in of Pakistan troops. Both would, in effect, constitute a surrender to aggression.

It has always been our view that, in the event of a plebiscite, the people of Kashmir should decide their future for themselves. Kashmiris who have gone out of the State should, of course, be entitled to return for this purpose. But I do not think that others have any claim to participate in a plebiscite campaign.

Whatever steps may be taken, we have always made it clear that the security of the State cannot be endangered. We have had painful experience of aggression and we cannot afford to take further risks of this kind. On no account can we permit any Pakistan troops to enter the plebiscite area.

Before concluding I should like to make one further observation. In the second paragraph of your message you say that for certain reasons the Prime Minister of Pakistan has expressed to you the unwillingness of his Government to receive or consider any alternative proposal or plan. Later on,

⁹ This is a mistake. In fact, if it matters, a like proposal was put forward with reference to the over-all plebiscite at the meeting with the Prime Ministers in New-Delhi from 20 to 24 July 1950. In February 1948 a similar proposal was made informally and it was attacked by Sheikh Abdullah in a speech before the Security Council. Further the resolution of 21 April 1948 contains provisions amounting practically to the same thing.— O. D.

B. TÉLÉGRAMME, EN DATE DU 16 AOÛT 1950, ADRESSÉ AU REPRÉSENTANT DES NATIONS UNIES AUPRÈS DE L'INDE ET DU PAKISTAN PAR LE PREMIER MINISTRE DE L'INDE

Je vous remercie de votre message du 15 que j'ai reçu aujourd'hui. J'ai considéré de très près votre proposition et vous communique franchement mon opinion mûrement réfléchie. Je dois vous avouer que votre message m'a profondément surpris. La proposition principale concernant les conditions du plébiscite est entièrement nouvelle et n'a jamais été mentionnée à aucune occasion au cours des deux années écoulées ou davantage⁹.

Nous ne nous sommes jamais opposés à un plébiscite général dans l'ensemble de l'Etat, mais vous faites certaines contre-propositions parce que vous êtes parvenu à la conclusion qu'il n'y avait pas d'espoir d'arriver à un accord sur les conditions préliminaires à un tel plébiscite. Sur ce point, je vous ai informé que l'Inde était prête à discuter un autre plan prévoyant un plébiscite partiel, à condition que le Pakistan y soit disposé également.

Nous avons toujours reconnu que tout plan de plébiscite devait permettre aux populations intéressées d'exprimer leur opinion en toute liberté et sans crainte. Mais votre proposition actuelle tendant à créer un nouvel organisme administratif chargé d'assumer les fonctions gouvernementales est foncièrement contraire à notre position fondamentale sur la question du Cachemire. Aucun de nous ici n'a eu l'impression au cours de nos entretiens avec vous à New-Delhi que vous aviez un tel plan en vue. Nous n'avons examiné que les conditions d'un plébiscite général. Ce que vous proposez maintenant dépasse de loin tout ce que nous pourrions éventuellement envisager ou accepter et tout ce qui, à mon avis, se justifierait par la nécessité d'un plébiscite juste et impartial. Vos propositions entraîneraient pour un certain temps le remplacement du gouvernement légitime par une autre autorité. Nous ne pouvons accepter cela en aucun cas ni pour aucune période de temps.

Votre proposition prévoit que le Pakistan participera au plébiscite et que l'on fera appel à des troupes du Pakistan. Ces deux mesures constitueraient en fait une reddition à l'agresseur.

Nous avons toujours été d'avis que, en cas de plébiscite, le peuple du Cachemire devrait décider lui-même de son sort. Les nationaux du Cachemire qui ont quitté l'Etat devraient naturellement être autorisés à y revenir pour participer au vote. Mais je ne pense pas que d'autres aient aucun droit de participer à la campagne du plébiscite.

Nous avons toujours précisé que, quelles que soient les mesures prises, la sécurité de l'Etat ne doit pas être mise en danger. Nous avons déjà fait la douloureuse expérience d'une agression, et nous ne pouvons nous permettre d'encourir de nouveaux risques de cette nature. Nous ne pouvons tolérer à aucun prix que les troupes du Pakistan pénètrent dans la région où aura lieu le plébiscite.

Avant de conclure, je voudrais faire une dernière observation. Au deuxième paragraphe de votre message vous dites que, pour certaines raisons, le Premier Ministre du Pakistan vous a informé que son gouvernement se refuse à accepter ou à envisager toute contre-proposition ou contre-projet. Plus

⁹ C'est là une erreur. Je signale, si vraiment cela est nécessaire, qu'une proposition analogue a été soumise en ce qui concerne le plébiscite général à la réunion avec les Premiers Ministres tenue à New-Delhi du 20 au 24 juillet 1950. En février 1948, une proposition analogue a été faite à titre non officiel et a été attaquée par le cheik Abdullah dans un discours prononcé au Conseil de sécurité. Enfin, la résolution du 21 avril 1948 contient des dispositions qui reviennent à peu près au même.— O. D.



you say that Pakistan is ready to attend the conference on the footing that the presence in your intended plan of provision for a limited plebiscite will not prove an insuperable objection. There seems to be a contradiction between the two positions and I am puzzled. This hardly justifies any optimism regarding the genuineness of the desire of Pakistan to seek a settlement on the basis of alternative principles of a partial plebiscite.

There are many other aspects of this matter which deserve consideration, but I do not wish to lengthen this reply. Should you, however, come to New Delhi, I would be glad to explain our position fully to you to avoid any possibility of any misunderstanding.

(Signed) Jawaharlal NEHRU

Prime Minister of India

C. TELEGRAM DATED 18 AUGUST 1950 FROM THE UNITED NATIONS REPRESENTATIVE FOR INDIA AND PAKISTAN TO THE PRIME MINISTER OF INDIA

Thank you for your message sent 16 August. I had not thought that in a plan for partition a provision for setting up, in a limited plebiscite area, an administrative body to carry on the functions of government in that area during the period of the plebiscite could be opposed to any stand previously taken by India. Once the territory of the State of Jammu and Kashmir outside the limited area is divided under such a plan between India and Pakistan, each obtains an independent legal title to the part allotted to it. The occupation by Pakistan of the territory allotted to it would be in virtue of the title which partition would give it and could not be described as that of an aggressor. Which party to the partition is to have the area reserved for the plebiscite would, under such a plan, depend upon the vote of the inhabitants instead of the immediate operation of the agreement, and I do not understand how in such a settlement the doctrine that Pakistan is an aggressor having no legitimate interest could continue to apply.

The United Nations body with the Plebiscite Administrator at its head would derive its powers from the Government of the State, in the same way as might any other provincial or district administration. Elsewhere in the State the existing State Government would exercise its full authority, except in the territory allocated in the partition to Pakistan. In many respects the ordinary working of the machinery of the State would go on in the plebiscite area, but the United Nations Administration would be in control. The view that the lawful government of the State would be superseded does not appear to me to take sufficient account of these considerations or of the relative size of the area involved. When, at the conference between yourself, the Prime Minister of Pakistan and myself at New Delhi, I put forward the proposal that to ensure the freedom and fairness of the over-all plebiscite the government of the State should be temporarily entrusted to a body of administrators representing the United Nations, you advanced similar objections. But apart altogether from the answers to them which I then submitted to you, they do not appear to me to apply to partition and a vote in a limited area.

I have insisted always that the freedom of the plebiscite from intimidation or unfairness, and from suspicion of intimidation or unfairness, must be secured at all hazards, and I believe that I have made it clear that I think that very real dangers of that kind exist, from which it must be guarded. The establishment of a temporary administrative body of the United Nations in a limited area to insure the removal of all suspicion that the vote is not free and fair appears to me

loin, vous dites que le Pakistan est disposé à participer à une conférence, étant entendu que la disposition de votre projet de plan relative à un plébiscite limité n'apparaîtra pas comme un obstacle insurmontable. Il semble exister entre ces deux positions une contradiction qui me rend perplexe. Cette contradiction ne paraît guère être de nature à susciter l'optimisme quant à la sincérité du désir du Pakistan de rechercher un accord sur des bases nouvelles en vue d'un plébiscite limité.

Il est d'autres aspects de cette question qui méritent d'être examinés. Mais je ne veux pas faire une trop longue réponse. Cependant, au cas où vous viendriez à New-Delhi, je serais heureux de vous expliquer en détail notre position afin d'éviter toute possibilité de malentendu.

(Signé) Jawaharlal NEHRU

Premier Ministre de l'Inde

C. TÉLÉGRAMME, EN DATE DU 18 AOÛT 1950, ADRESSÉ AU PREMIER MINISTRE DE L'INDE PAR LE REPRÉSENTANT DES NATIONS UNIES AUPRÈS DE L'INDE ET DU PAKISTAN

Je vous remercie du message que vous m'avez envoyé le 16 août. Je n'aurais pas pensé que, au projet tendant à créer, dans une zone de plébiscite limitée, un organe administratif qui exercerait les fonctions de gouvernement pendant la durée du plébiscite, on pourrait opposer une position antérieure de l'Inde. Une fois qu'aura été effectué, entre l'Inde et le Pakistan, le partage de la partie du territoire de l'Etat de Jammu et Cachemire située en dehors de cette zone limitée, chacun des deux pays se verra investi en droit de l'autorité sur la partie du territoire qui lui aura été attribuée. En occupant le territoire qui lui serait attribué, le Pakistan agirait en vertu de l'autorité souveraine acquise par lui en vertu du partage, et son acte se saurait être qualifié d'agression. L'attribution à l'un ou l'autre Etat de la zone réservée pour le plébiscite dépendra donc du vote de la population, et non de l'application immédiate de l'accord, et je ne vois pas comment, dans un règlement de cette nature, on peut continuer à soutenir la thèse selon laquelle le Pakistan est un agresseur n'ayant dans cette affaire aucun intérêt légitime.

L'organe des Nations Unies dirigé par l'Administrateur du plébiscite relèverait du Gouvernement de l'Etat, au même titre que les autres administrations provinciales ou régionales. Le gouvernement existant continuerait à exercer toute son autorité dans l'Etat, sauf dans le territoire attribué, lors du partage, au Pakistan. A beaucoup d'égards, les services gouvernementaux continueraient à fonctionner comme à l'ordinaire dans la région du plébiscite, mais sous l'autorité de l'Administrateur des Nations Unies. En affirmant que le gouvernement légitime de l'Etat se trouverait dépossédé, on ne semble pas, à mon avis, tenir suffisamment compte de ces considérations ni des dimensions de la région intéressée par rapport au reste du territoire. Lors de la conférence qui a eu lieu à New-Delhi entre vous, le Premier Ministre du Pakistan et moi-même, j'avais proposé de confier provisoirement l'administration de l'Etat à un corps d'administrateurs représentant les Nations Unies, afin d'assurer un plébiscite libre et impartial; vous avez alors présenté des objections analogues. Cependant, même en ne tenant pas compte des réponses que j'ai faites alors à ces objections, celles-ci ne me semblent pas s'appliquer à un partage et à un plébiscite dans une zone limitée.

Je n'ai cessé d'affirmer la nécessité de libérer à tout prix le plébiscite de l'intimidation et de la partialité ainsi que de tout soupçon d'intimidation ou de partialité; je crois avoir clairement indiqué qu'il existe dans ce domaine, à mon avis, de très réels dangers contre lesquels il convient de protéger le plébiscite. La création d'un organe temporaire des Nations Unies dont l'autorité s'exercerait dans une zone limitée et qui écarterait tout soupçon quant à la liberté et à l'impartialité



to be both necessary and just and not to go beyond what in the circumstances is justified for the purpose of safeguarding the plebiscite.

It is hardly necessary to tell you how unfortunate I feel the difference in our standpoint to be. I will gladly come to New Delhi as you suggest so that any possibility of misunderstanding may be avoided. I shall fly down on Saturday morning.

(Signed) Owen DIXON
United Nations Representative
for India and Pakistan

D. LETTER DATED 23 AUGUST 1950 FROM THE UNITED NATIONS REPRESENTATIVE FOR INDIA AND PAKISTAN TO THE PRIME MINISTERS OF INDIA AND PAKISTAN

It appears to me that independently of any determination of the question of the destination of the State of Jammu and Kashmir or of any part of it, an obligation rests upon both the Government of India and the Government of Pakistan to make a mutual reduction of the armed forces of the respective countries in the territory of that State, so as to remove the danger to peace which must continue while the two armies face each other across a cease-fire line.

I have found it impossible to bring about any agreement upon the substantive dispute between the two Governments, whether that dispute be regarded as one concerning the taking of a plebiscite by which the inhabitants will settle the fate of the State, or more widely as one concerning the fate of the State. But in my opinion that is no reason why the two countries should continue to maintain opposed armies in position separated only by a cease-fire line. The line may be sufficiently kept by check posts and such other measures as are commonly adopted upon an inland frontier between two countries at peace for the purpose of preventing or controlling entry and exit. Nothing but a common plan of a military character is needed to bring about such a state of affairs. It appears to me to be entirely a military matter to be arranged between the Chiefs of Staff of the two countries.

I, therefore, have the honour to request that you will join with the Government of [Pakistan] [India] in causing a meeting of the Chiefs of Staff of the two countries to be held for the purpose of making the necessary arrangements for bringing about the required change in the manner in which the cease-fire line is held and reducing accordingly the military forces now serving in the State of Jammu and Kashmir on behalf of the respective countries. I request that this meeting should be held within a fortnight.

(Signed) Owen DIXON
United Nations Representative
for India and Pakistan

E. REPLY DATED 27 AUGUST 1950 FROM THE PRIME MINISTER OF INDIA TO THE UNITED NATIONS REPRESENTATIVE FOR INDIA AND PAKISTAN

Thank you for your letter of 23 August. I have gone into your suggestion with my military advisers. We do not consider that it is desirable now to arrange a meeting of Chiefs-of-Staff of India and Pakistan. But we are prepared to reduce, of our own accord, the strength of Indian forces now in Jammu and Kashmir by 20 to 25 per cent. The suggestion that the cease-fire line may be maintained merely by using check-posts and other similar measures, does not appear to be feasible. So long as the Kashmir dispute is not settled, effective measures are necessary to ensure the security of the State against possible aggression. If, as we hope, Pakistan also desires a settlement of the dispute by peaceful means,

du vote me semble nécessaire et juste et ne dépasse pas, me semble-t-il, ce que les circonstances justifient pour protéger le plébiscite.

Il n'est guère besoin de dire à quel point je déplore cette différence dans nos points de vue. J'accepte volontiers de venir à New-Delhi, comme vous le suggérez, afin d'éviter toute possibilité de malentendu. Je prendrai l'avion samedi matin.

(Signé) Owen DIXON
Représentant des Nations Unies
auprès de l'Inde et du Pakistan

D. LETTRE, EN DATE DU 23 AOÛT 1950, ADRESSÉE AUX PREMIERS MINISTRES DE L'INDE ET DU PAKISTAN PAR LE REPRÉSENTANT DES NATIONS UNIES AUPRÈS DE L'INDE ET DU PAKISTAN

Il me semble que, en dehors même de la question du sort de l'Etat de Jammu et Cachemire ou d'une partie de cet Etat, il incombe au Gouvernement de l'Inde et au Gouvernement du Pakistan de procéder de part et d'autre à une réduction des forces armées qu'ils entretiennent sur le territoire de cet Etat, afin d'écartier la menace à la paix qui subsistera tant que les deux armées se feront face de chaque côté d'une ligne de suspension d'armes.

Il m'a été impossible d'amener les deux gouvernements à s'entendre sur le fond du différend qui les sépare, c'est-à-dire sur la question de savoir s'il faut considérer que ce différend porte sur le déroulement d'un plébiscite au cours duquel la population doit régler le sort de l'Etat ou si, plus généralement, il porte sur le sort de cet Etat. Cependant, il n'y a aucune raison, à mon avis, pour que les deux pays continuent à maintenir face à face des armées que sépare seulement une ligne de suspension d'armes. Il suffirait de faire garder cette ligne par des postes de contrôle et d'avoir recours aux autres moyens communément adoptés par des pays qui ne sont pas en guerre pour empêcher ou contrôler les entrées et les sorties à une frontière terrestre qui leur est commune. Pour parvenir à ce résultat, il suffirait d'un programme commun de caractère militaire. Il me semble qu'il s'agit là exclusivement d'une question militaire qu'il appartient aux chefs d'état-major des deux pays de régler.

J'ai donc l'honneur de vous demander de bien vouloir prendre contact avec le Gouvernement [de l'Inde] [du Pakistan] pour organiser une réunion des chefs d'état-major des deux pays en vue de prendre les dispositions nécessaires pour modifier la façon dont est tenue la ligne du cessez-le-feu et réduire les effectifs des forces armées qui occupent actuellement, au nom des deux pays, l'Etat de Jammu et Cachemire. Je demande que cette réunion ait lieu dans les quinze jours.

(Signé) Owen DIXON
Représentant des Nations Unies
auprès de l'Inde et du Pakistan

E. LETTRE, EN DATE DU 27 AOÛT 1950, ADRESSÉE AU REPRÉSENTANT DES NATIONS UNIES AUPRÈS DE L'INDE ET DU PAKISTAN PAR LE PREMIER MINISTRE DE L'INDE

Je vous remercie de votre lettre du 23 août. J'ai étudié votre proposition avec mes conseillers militaires. Nous ne pensons pas qu'il soit souhaitable d'organiser actuellement une réunion des chefs d'état-major de l'Inde et du Pakistan. Toutefois, nous sommes prêts à réduire, de notre propre gré, de 20 à 25 pour 100 l'effectif des forces indiennes qui se trouvent actuellement dans l'Etat de Jammu et Cachemire. Votre proposition tendant à maintenir la ligne du cessez-le-feu grâce à des postes de contrôle et à d'autres mesures analogues ne semble pas réalisable. Tant que le différend du Cachemire ne sera pas réglé, il faudra appliquer des mesures efficaces pour protéger l'Etat contre une aggression possible.



there should be no danger of incidents along the cease-fire line that endanger peace, and United Nations observers can help in the loyal observance by both sides of the cease-fire agreement.

(Signed) Jawaharlal NEHRU
Prime Minister of India

Si, comme nous l'espérons, le Pakistan désire également voir régler ce différend au moyen de méthodes pacifiques, il ne devrait pas y avoir de danger de voir se produire, sur la ligne du cessez-le-feu, des incidents de nature à compromettre la paix, et les observateurs des Nations Unies pourront aider à faire loyalement respecter l'accord de suspension d'armes par les deux parties à l'accord.

(Signé) Jawaharlal NEHRU
Premier Ministre de l'Inde

Annex II

MAP OF KASHMIR AND JAMMU AND GILGIT AGENCY

[See insert]

Annexe II

CARTE DE L'ETAT DE CACHEMIRE ET JAMMU ET GILGIT AGENCY

[Voir hors-texte]

Annexure D

Statement of the President of the Security Council at the 1117th Meeting of the Security Council (1964) Summarising the Conclusion of the Debate on Kashmir



Statement of the President of the Security Council (French Representative) made on the 18th May, 1964, at the 1117th meeting of the Security Council (1964) summarising the conclusion of the debate on Kashmir.

.. I ..

"(a) The members of the Council noted that this week's debate was a continuation of our discussions of February and March on the question of Jammu and Kashmir. They recalled that they had already, particularly during the debate in February, stated the views of their Governments on the basic facts of the problem, including the relevant United Nations resolutions, the question as to the juridical status of Jammu and Kashmir, and the principles of the Charter applicable to the case. They confirmed that the statements which they had made at that time were still valid;"

"(b) The members of the Council expressed their concern with respect to two great countries which have everything to gain from re-establishing good relations with each other and whose present disputes, particularly that centring upon Jammu and Kashmir, should be settled amicably in the interest of world peace;"

"(c) The members of the Council expressed their feeling that recent developments were such as might lead to the adoption of more flexible positions to better mutual understanding, and therefore to a situation in which conversations between the parties concerned would have better prospects of leading to a settlement;"

"(d) The members of the Council expressed their conviction that everything should be done to consolidate those favourable factors and to avoid jeopardising those prospects, and that this required an attitude of conciliatory moderation on the part of both parties and an attitude of caution, but also of vigilant attention, on the part of the United Nations;"

"(e) The members of the Council expressed the hope that both parties would refrain from any act which might aggravate the situation and that they would take steps calculated to re-establish an atmosphere of moderation between the two countries and peace and harmony between the communities;"



"(f) The members of the Council expressed the hope that, in the light of our recent debates, the two countries concerned would resume their contacts in the near future with a view to settling their disputes, particularly that centring upon Jammu and Kashmir, by negotiation."

.. II ..

"Several members of the Council expressed the view that the Secretary- General of the United Nations might possibly give useful assistance to the parties in order to facilitate the resumption of negotiations in the question of Jammu and Kashmir, or might help them to continue such negotiations in the event of the latter encountering difficulties. Other members of the Council, however, expressed the view that the negotiations between India and Pakistan might be complicated by any outside intervention, and that even the principle of having recourse to the Secretary-General should be a matter for agreement between the parties."

.. III ..

"The India-Pakistan question remains on the agenda of the Security Council".

Annexure E

Bilateral Agreements



THE KARACHI AGREEMENT 1949

(S/AC.12/TC.4, 29 July 1949)

AGREEMENT BETWEEN MILITARY REPRESENTATIVES OF INDIA AND
PAKISTAN REGARDING THE ESTABLISHMENT OF A CEASE-FIRE LINE
IN THE STATE OF JAMMU AND KASHMIR

I

INTRODUCTION

A. The Military representatives of India and Pakistan met together in Karachi from 18 July to 27 July 1949 under the auspices of the Truce Sub-committee of the United Nations Commission for India and Pakistan.

B. The members of the Indian Delegation were:

Lt. Gen. S. M. Shrinagesh
Maj. Gen. K. S. Thimayya
Brig. S.H.F.J. Manekshaw

As observers:

Mr. H.M. Patel
Mr. V. Sahay

C. The members of the Pakistan Delegation were:

Maj. Gen. W. J. Cawthorn
Maj. Gen. Nazir Ahmad
Brig. M. Sher Khan

As observers:

Mr. M. Ayub
Mr. A. A. Khan

D. The members of the Truce Sub-committee of the United Nations Commission for India and Pakistan were:

Chairman:	Mr. Hernando Samper	(Colombia)
	Mr. William L.S. Williams	(United States)
	Lt. Gen. Maurice Delvoie	(Military Adviser)
	Mr. Miguel A. Marin	(Legal Adviser)



A. Considering:

1. That the United Nations Commission for India and Pakistan in its letter dated 2 July 1949, invited the Governments of India and Pakistan to send fully authorized military representatives to meet jointly in Karachi under the auspices of the Commission Truce Sub-committee to establish a cease-fire line in the State of Jammu and Kashmir, mutually agreed upon by the Governments of India and Pakistan;

2. That the United Nations Commission for India and Pakistan in its letter stated that "The meetings will be for military purposes; political issues will not be considered," and that "They will be conducted without prejudice to negotiations concerning the Truce Agreement.";

3. That in the same letter the United Nations Commission for India and Pakistan further stated that; "The cease-fire line is a complement of the suspension of hostilities, which falls within the provisions of Part I of the Resolution of 13 August 1948, and can be considered separately from the questions relating to Part II of the same Resolution.";

4. That the Governments of India and Pakistan, in their letters dated 7 July 1949 to the Chairman of the Commission, accepted the Commission's invitation to the military conference in Karachi;

B. The Delegations of India and Pakistan, duly authorized, have reached the following agreement:

1. Under the provisions of Part I of the Resolution of 13 August 1948, and as a complement of the suspension of hostilities in the State of Jammu and Kashmir on 1 January 1949, a cease-fire line is established.

2. The cease-fire line runs from MANAWAR in the south, north to KERAN and from KERAN east to the glacier area, as follows:



(a) The line from MANAWAR to the south bank of the JHELUM River at URUSA (inclusive to India) is the line now defined by the factual positions about which there is agreement between both parties. Where there has hitherto not been agreement, the line shall be as follows:

- (i) In PATRAMA area: KOEL (inclusive to Pakistan) north along the KHUWALA KAS Nullah up to Point 2276 (inclusive to India), thence to KIRNI (inclusive to India).
- (ii) KHAMBHA, PIR SATWAN, Point 3150 and Point 3606 are inclusive to India, thence the line runs to the factual position at BAGLA GALA, thence to the factual position at Point 3300.
- (iii) In the area south of URI the positions of PIR KANTHI and LEDI GALI are inclusive to Pakistan.

(b) From the north bank of the JHELUM River the line runs from a point opposite the village of URUSA (NL 972109), thence north following the BALLASETH DA NAR Nullah (inclusive to Pakistan), up to NL 973140, thence northeast to CHHOTA KAZINAG (Point 10657, inclusive to India), thence to NM 010180, thence to NM 037210, thence to Point 11825 (NM 025354, inclusive to Pakistan), thence to TUTMARI GALI (to be shared by both sides, posts to be established 500 yds. on either side of the GALI), thence to the northwest through the first "R" of BURJI NAR to north of GABDORI, thence straight west to just north of Point 9870, thence along the black line north of BIJILDHAR to north of BATARASI, thence to just south of SUDPURA, thence due north to the KATHAKAZINAG Nullah, thence along the Nullah to its junction with the GRANGNAR Nullah, thence along the latter Nullah to KAJNWALA PATHRA (inclusive to India), thence across the DANNA ridge (following the factual positions) to RICHMAR GALI (inclusive to India), thence north to THANDA KATHA Nullah, thence north to the KISHANGANGA River. The line then follows the KISHANGANGA River up to a point situated between JARGI and TARBAN, thence (all inclusive to Pakistan) to BANKORAN, thence northeast to KHORI, thence to the hill feature 8930 (in Square 9053), thence straight north to Point 10164 (in Square 9057), thence to Point 10323 (in Square 9161), thence northeast straight to GUTHUR, thence to BHUTPATHRA, thence to NL 980707, thence following the BUGINA Nullah to the junction with the KISHANGANGA River at Point 4739. Thereafter the line follows the KISHANGANGA River to KERAN and onwards to Point 4996 (NL 975818).



(c) From Point 4996 the line follows (all inclusive to Pakistan) the JAMGAR Nullah eastward to Point 12124, to KATWARE, to Point 6678, then to the northeast to SARIAN (Point 11279), to Point 11837, to Point 13090, to Point 12641, thence east again to Point 11142, thence to DHAKKI, thence to Point 11415, thence to Point 10301, thence to Point 7507, thence to Point 10685, thence to Point 8388, thence south-east to Point 11812. Thence the line runs (all inclusive to India) to Point 13220, thence across the River to the east to Point 13449 (DUHMAT), thence to Point 14586 (ANZBARI), thence to Point 13554, thence to Milestone 45 on the BURZIL Nullah, thence to the east to ZIANKAI (Point 12909), thence to the southeast to Point 1114, thence to Point 12216, thence to Point 12867, thence to the east to Point 11264, thence to KARO (Point 14985), thence to Point 14014, thence to Point 12089, thence following the track to Point 12879. From there the line runs to Point 13647 (KAROBAL GALI, to be shared by both sides). The cease-fire line runs thence through RETAGAH CHHISH (Point 15316), thence through Point 15889, thence through Point 17392, thence through Point 16458, thence to MARFO LA (to be shared by both sides), thence through Point 17561, thence through Point 17352, thence through Point 18400, thence through Point 16760, thence to (inclusive to India), DALUNANG.

(d) From DALUNANG eastwards the cease-fire line will follow the general line Point 15495, ISHMAN, MANUS, GANGAM, GUNDERMAN, Point 13620, JUNKAR (Point 17628), MARMAK, NATSARA, SHANGRUTH (Point 17531), CHORBAT LA (Point 15700), CHALUNKA (on the SHYOK River), KHOR, thence north to the glaciers. This portion of the cease-fire line shall be demarcated in detail on the basis of the factual position as of 27 July 1949 by the local commanders, assisted by United Nations Military Observers.

C. The cease-fire line described above shall be drawn on a one inch map (where available) and then be verified mutually on the ground by local commanders on each side with the assistance of the United Nations Military Observers, so as to eliminate any no-man's land. In the event that the local commanders are unable to reach agreement, the matter shall be referred to the Commission's Military Adviser, whose decision shall be final. After this verification, the Military Adviser will issue to each High Command a map on which will be marked the definitive cease-fire line.



D. No troops shall be stationed or operate in the area of the BURZIL Nullah from south of MINIMARG to the cease-fire line. This area is bounded on the west by the Ridge leading northeast from DEDGAI KAL to Point 13071, to Point 9447, to Point 13466, to Point 13463, and on the east by the Ridge running from Point 12470, to Point 11608, to Point 13004, to Point 13976, to Point 13450. Pakistan may, however, post troops on the western of the above ridges to cover the approaches to KHAMBERI BAI Pass.

E. In any dispositions that may be adopted in consequence of the present agreement troops will remain at least 500 yards from the cease-fire line except where the KISHANGANGA River constitutes the line. Points which have been shown as inclusive to one party may be occupied by that party, but the troops of the other party shall remain at a distance of 500 yards.

F. Both sides shall be free to adjust their defensive positions behind the cease-fire line as determined in paragraphs A through E, inclusive, subject to no wire or mines being used when new bunkers and defences are constructed. There shall be no increase of forces or strengthening of defences in areas where no major adjustments are involved by the determination of the cease-fire line.

G. The action permitted by paragraph F above shall not be accompanied or accomplished by the introduction of additional military potential by either side into the State of Jammu and Kashmir.

H. Except as modified by paragraphs II A to II G, inclusive, above, the military agreements between the two High Commands relating to the cease-fire of 1 January 1949 shall continue to remain operative.

I. The United Nations Commission for India and Pakistan will station Observers where it deems necessary.

J. The Delegations shall refer this agreement to their respective Governments for ratification. The documents of ratification shall be deposited with the United Nations Commission for India and Pakistan not later than 31 July 1949.



K. A period of 30 days from the date of ratification shall be allowed to each side to vacate the areas at present occupied by them beyond the cease-fire line as now determined. Before the expiration of this 30-day period there shall be no forward movement into areas to be taken over by either side pursuant to this agreement, except by mutual agreement between local commanders.

IN WITNESS WHEREOF THE UNDERSIGNED SIGN THIS DOCUMENT IN THREE ORIGINAL COPIES.

Done in Karachi on 27 July 1949

For the Government of India

s/ S.M. Shrinagesh

For the Government of Pakistan

s/ J. Cawthorn
Maj. Gen.

For the United Nations Commission
for India and Pakistan

s/ Hernando Sanper
M. Delvoie



THE TASHKENT DECLARATION 1966

UNITED NATIONS
SECURITY
COUNCIL



Distr.
GENERAL

S/7221
25 March 1966

ORIGINAL: ENGLISH

LETTER DATED 24 MARCH 1966 FROM THE PERMANENT REPRESENTATIVE OF INDIA
ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to inform you that on 10 January 1966, the Prime Minister of India and the President of Pakistan signed a Declaration at Tashkent in which they declared "their firm resolve to restore normal and peaceful relations between their countries and to promote understanding and friendly relations between their peoples" and reaffirmed "their obligation under the Charter not to have recourse to force and to settle their disputes through peaceful means". The Tashkent Declaration of which a copy is enclosed, was registered with the United Nations Secretariat by the Government of India on 22 March 1966.

2. I have the honour to request Your Excellency in your capacity as the President of the Council to be good enough to circulate this letter as also the enclosure as a Security Council document.

3. Please accept, etc.

(Signed) G. PARTHASARATHI
Ambassador Extraordinary and Plenipotentiary
Permanent Representative

66-08172

/...



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TASHKENT DECLARATION

The Prime Minister of India and the President of Pakistan having met at Tashkent and having discussed the existing relations between India and Pakistan, hereby declare their firm resolve to restore normal and peaceful relations between their countries and to promote understanding and friendly relations between their peoples. They consider the attainment of these objectives of vital importance for the welfare of the 600 million people of India and Pakistan.

I

The Prime Minister of India and the President of Pakistan agree that both sides will exert all efforts to create good neighbourly relations between India and Pakistan in accordance with the United Nations Charter. They reaffirm their obligation under the Charter not to have recourse to force and to settle their disputes through peaceful means. They considered that the interests of peace in their region and particularly in the Indo-Pakistan Sub-Continent and, indeed, the interests of the peoples of India and Pakistan were not served by the continuance of tension between the two countries. It was against this background that Jammu and Kashmir was discussed, and each of the sides set forth its respective position.

II

The Prime Minister of India and the President of Pakistan have agreed that all armed personnel of the two countries shall be withdrawn not later than 25 February 1966 to the positions they held prior to 5 August 1965, and both sides shall observe the cease-fire terms on the cease-fire line.

III

The Prime Minister of India and the President of Pakistan have agreed that relations between India and Pakistan shall be based on the principle of non-interference in the internal affairs of each other.

IV

The Prime Minister of India and the President of Pakistan have agreed that both sides will discourage any propaganda directed against the other country,



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and will encourage propaganda which promotes the development of friendly relations between the two countries.

V

The Prime Minister of India and the President of Pakistan have agreed that the High Commissioner of India to Pakistan and the High Commissioner of Pakistan to India will return to their posts and that the normal functioning of diplomatic missions of both countries will be restored. Both Governments shall observe the Vienna Convention of 1961 on Diplomatic Intercourse.

VI

The Prime Minister of India and the President of Pakistan have agreed to consider measures towards the restoration of economic and trade relations, communications, as well as cultural exchanges between India and Pakistan, and to take measures to implement the existing agreements between India and Pakistan.

VII

The Prime Minister of India and the President of Pakistan have agreed that they give instructions to their respective authorities to carry out the repatriation of the prisoners of war.

VIII

The Prime Minister of India and the President of Pakistan have agreed that the sides will continue the discussion of questions relating to the problems of refugees and evictions/illegal immigrations. They also agreed that both sides will create conditions which will prevent the exodus of people. They further agreed to discuss the return of the property and assets taken over by either side in connexion with the conflict.

IX

The Prime Minister of India and the President of Pakistan have agreed that the sides will continue meetings both at the highest and at other levels on matters of direct concern to both countries. Both sides have recognized the need to set up joint Indian-Pakistani bodies which will report to their Governments in order to decide what further steps should be taken.

* * *



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The Prime Minister of India and the President of Pakistan record their feelings of deep appreciation and gratitude to the leaders of the Soviet Union, the Soviet Government and personally to the Chairman of the Council of Ministers of the USSR for their constructive, friendly and noble part in bringing about the present meeting which has resulted in mutually satisfactory results. They also express to the Government and friendly people of Usbekistan their sincere thankfulness for their overwhelming reception and generous hospitality.

They invite the Chairman of the Council of Ministers of the USSR to witness this Declaration.

(Signed) Lal BAHADUR
Prime Minister of India

(Signed) M.A. KHAN, F.M.
President of Pakistan

Tashkent, 10 January 1966.



**Agreement on Bilateral Relations between the Government of India and the
Government of Pakistan
(SIMLA AGREEMENT)**

Simla, 2 July 1972

1. The Government of India and the Government of Pakistan are resolved that the two countries put an end to the conflict and confrontation that have hitherto marred their relations and work for the promotion of a friendly and harmonious relationship and the establishment of durable peace in the sub-continent, so that both countries may henceforth devote their resources and energies to the pressing task of advancing the welfare of their peoples.

In order to achieve this objective, the Government of India and the Government of Pakistan have agreed as follows:-

- (i) That the principles and purposes of the Charter of the United Nations shall govern the relations between the two countries;
- (ii) That the two countries are resolved to settle their differences by peaceful means through bilateral negotiations or by any other peaceful means mutually agreed upon between them. Pending the final settlement of any of the problems between the two countries, neither side shall unilaterally alter the situation and both shall prevent the organization, assistance or encouragement of any acts detrimental to the maintenance of peaceful and harmonious relations;
- (iii) That the pre-requisite for reconciliation, good neighbourliness and durable peace between them is a commitment by both the countries to peaceful co-existence, respect for each other's territorial integrity and sovereignty and non-interference in each other's internal affairs, on the basis of equality and mutual benefit;
- (iv) That the basic issues and causes of conflict which have bedevilled the relations between the two countries for the last 25 years shall be resolved by peaceful means;



- (v) That they shall always respect each other's national unity, territorial integrity, political independence and sovereign equality;

That in accordance with the Charter of the United Nations they will refrain from the threat or use of force against the territorial integrity or political independence of each other.

2. Both Governments will take all steps within their power to prevent hostile propaganda directed against each other. Both countries will encourage the dissemination of such information as would promote the development of friendly relations between them.

3. In order progressively to restore and normalize relations between the two countries step by step, it was agreed that;

- (i) Steps shall be taken to resume communications, postal, telegraphic, sea, land including border posts, and air links including overflights.
- (ii) Appropriate steps shall be taken to promote travel facilities for the nationals of the other country.
- (iii) Trade and co-operation in economic and other agreed fields will be resumed as far as possible.
- (iv) Exchange in the fields of science and culture will be promoted.

In this connection delegations from the two countries will meet from time to time to work out the necessary details.

4. In order to initiate the process of the establishment of durable peace, both the Governments agree that:

- (i) Indian and Pakistani forces shall be withdrawn to their side of the international border.



(ii) In Jammu and Kashmir, the line of control resulting from the cease-fire of December 17, 1971 shall be respected by both sides without prejudice to the recognized position of either side. Neither side shall seek to alter it unilaterally, irrespective of mutual differences and legal interpretations. Both sides further undertake to refrain from the threat or the use of force in violation of this Line.

(iii) The withdrawals shall commence upon entry into force of this Agreement and shall be completed within a period of 30 days thereof.

5. This Agreement will be subject to ratification by both countries in accordance with their respective constitutional procedures, and will come into force with effect from the date on which the Instruments of Ratification are exchanged.

6. Both Governments agree that their respective Heads will meet again at a mutually convenient time in the future and that, in the meanwhile, the representatives of the two sides will meet to discuss further the modalities and arrangements for the establishment of durable peace and normalization of relations, including the questions of repatriation of prisoners of war and civilian internees, a final settlement of Jammu and Kashmir and the resumption of diplomatic relations.

Sd/-

(Indira Gandhi)

Prime Minister Republic of India

Sd/-

(Zulfikar Ali Bhutto)

President Islamic Republic of Pakistan



THE LAHORE DECLARATION

The following is the text of the Lahore Declaration signed by the Prime Minister, Mr. A. B. Vajpayee, and the Pakistan Prime Minister, Mr. Nawaz Sharif, in Lahore on Sunday:

The Prime Ministers of the Republic of India and the Islamic Republic of Pakistan:

Sharing a vision of peace and stability between their countries, and of progress and prosperity for their peoples;

Convinced that durable peace and development of harmonious relations and friendly cooperation will serve the vital interests of the peoples of the two countries, enabling them to devote their energies for a better future;

Recognising that the nuclear dimension of the security environment of the two countries adds to their responsibility for avoidance of conflict between the two countries;

Committed to the principles and purposes of the Charter of the United Nations, and the universally accepted principles of peaceful coexistence;

Reiterating the determination of both countries to implementing the Simla Agreement in letter and spirit;

Committed to the objective of universal nuclear disarmament and nonproliferation;

Convinced of the importance of mutually agreed confidence building measures for improving the security environment;

Recalling their agreement of 23rd September, 1998, that an environment of peace and security is in the supreme national interest of both sides and that the resolution of all outstanding issues, including Jammu and Kashmir, is essential for this purpose;

Have agreed that their respective Governments:

- shall intensify their efforts to resolve all issues, including the issue of Jammu and Kashmir.



- shall refrain from intervention and interference in each other's internal affairs.
- shall intensify their composite and integrated dialogue process for an early and positive outcome of the agreed bilateral agenda.
- shall take immediate steps for reducing the risk of accidental or unauthorised use of nuclear weapons and discuss concepts and doctrines with a view to elaborating measures for confidence building in the nuclear and conventional fields, aimed at prevention of conflict.
- reaffirm their commitment to the goals and objectives of SAARC and to concert their efforts towards the realisation of the SAARC vision for the year 2000 and beyond with a view to promoting the welfare of the peoples of South Asia and to improve their quality of life through accelerated economic growth, social progress and cultural development.
- reaffirm their condemnation of terrorism in all its forms and manifestations and their determination to combat this menace.
- shall promote and protect all human rights and fundamental
- freedoms.

Signed at Lahore on the 21st day of February 1999.

Atal Behari Vajpayee - Prime Minister of the Republic of India

Muhammad Nawaz Sharif - Prime Minister of the Islamic Republic of Pakistan

Annexure F

**Letter of Permanent Representative of
Pakistan to the United Nations 2019**



The President of the Security Council presents her compliments to the members of the Council and has the honour to transmit herewith, for their information, a copy of a **letter dated 13 August 2019 from the Permanent Representative of Pakistan to the United Nations** addressed to the President of the Security Council, and its enclosure.

This letter and its enclosure will be issued as a document of the Security Council under the symbol S/2019/654.

13 August 2019



PAKISTAN MISSION TO THE UNITED NATIONS
PAKISTAN HOUSE
8 East 65th Street, New York, NY-10065
Tel: (212) 879-8600, Fax: (212) 744-7348

PERMANENT REPRESENTATIVE

13 August 2019

Excellency,

Upon instructions of my Government, I have the honour to enclose a letter dated 13 August 2019 from H.E. Makhdoom Shah Mahmood Qureshi, Foreign Minister of Pakistan to H.E. Ms. Joanna Wronecka, President of the Security Council, drawing the attention of the Security Council to the recent developments in occupied Jammu & Kashmir. The situation poses an imminent threat to international peace and security and requires immediate consideration of the Council.

I would like to request you to kindly have this letter and its annex circulated as an official document to Council members under Agenda Item: "India-Pakistan Question."

Please accept, Excellency, the assurances of my highest consideration.



(Dr. Maleeha Lodhi)

H.E. Ms. Joanna Wronecka,
President,
United Nations Security Council,
New York.

Encl: As above.



FOREIGN MINISTER

Ministry of Foreign Affairs
Islamabad, Pakistan

13 August 2019

Excellency,

In continuation of my letters dated 1 and 6 August 2019, regarding recent developments in occupied Jammu & Kashmir, I wish to bring to the attention of the UN Security Council the grave situation that has developed within the Indian-occupied part of the disputed state of Jammu & Kashmir and along the Line of Control (LoC) between Pakistan and India. This situation poses an imminent threat to international peace and security and requires immediate consideration by the Security Council.

2. The Jammu & Kashmir dispute between Pakistan and India has been on the agenda of the UN Security Council (UNSC) since January 1948. The UNSC has adopted a series of binding resolutions, including Resolutions 47 (1948), 51 (1948), 80 (1950) and 91 (1951) which embodied the principle that “the final disposition of the State of Jammu & Kashmir will be made in accordance with the will of the people expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations.”

3. Moreover, in its Resolutions 91(1951), 122(1957) and 123(1957), the Security Council reaffirmed that any (unilateral) attempt by “the parties concerned” to “determine the future shape and affiliation of the entire State [of Jammu & Kashmir] or any part thereof ... would not constitute a disposition of the State in accordance with the above principle” (of a plebiscite).

4. Despite the solemn commitments made by the Government of India, including by its first Prime Minister, Jawaharlal Nehru, in numerous official communications to the Security Council, to Pakistan, to other states and to the people of Jammu & Kashmir, to abide by and implement these Security Council resolutions and decisions, India has progressively resiled from these commitments over the years. This has provoked popular resistance by the people in occupied Jammu and Kashmir against India’s rule. The festering Jammu & Kashmir dispute has also ignited several conflicts between India and Pakistan.

5. In the freedom struggle which commenced in December 1989 after Indian troops killed over 100 peaceful Kashmiri demonstrators in Srinagar, around 100,000 Kashmiris have been martyred, more than 22,000 women widowed and 108,000 children orphaned. Over 12,000 Kashmiri women have been raped by Indian forces as an instrument of occupation policy.

6. The Kashmiri freedom struggle has surged again since 2016 after India killed a popular resistance leader, Mr. Burhan Wani.



7. Since then, India has renewed a campaign of brutal repression and committed grave violations of the human rights of the people of Jammu & Kashmir, as documented in two successive reports issued by the Office of the U.N. High Commissioner for Human Rights (OHCHR) in 2018 and 2019. The High Commissioner's recommendation for the establishment of a Commission of Inquiry to investigate these violations was endorsed by Pakistan but rejected by India.

8. India's repression in occupied Jammu & Kashmir has intensified in recent months, including through the use of draconian laws such as the Jammu & Kashmir Public Safety Act (PSA) of 1978, the Jammu & Kashmir Preventive Detention Act of 1974 as well as the Armed Forces (Jammu & Kashmir Special Powers Act of 1990 and the Disturbed Areas Act). Almost 180,000 additional troops have been inducted, supplementing the over 700,000 stationed there for more than three decades. An iron curtain was imposed in occupied Jammu & Kashmir prior to the illegal evisceration by the Government of India, on 5 August 2019, of the provisions of its Constitution, which offered "special" and "autonomous" status to the State of Jammu & Kashmir (as a means to justify its questionable and unestablished "accession" to India). Tourists and visitors were externed; an annual Hindu pilgrimage (Amarnath yatra) cancelled; schools and colleges were shut down; and hospitals advised to prepare for "emergencies." India also imposed a complete and round-the-clock curfew on the entire occupied territory, cut-off all communications and arrested or detained over 500 Kashmiri political leaders and activists. In sum, the entire territory has been transformed into a massive military prison.

9. Since 5 August 2019, the scale of the human rights violations in occupied Jammu & Kashmir has further intensified. There are credible reports that scores of unarmed demonstrators -- men, women & children -- who breached the brutal curfew, have been killed or wounded by indiscriminate fire by Indian troops.

10. Both the UN Secretary General and human rights organizations have expressed their serious concern over the human rights situation in occupied Jammu & Kashmir.

11. It has long been the stated policy of the Bharatiya Janata Party (BJP) and its Hindu ideological fountain-head, the Rashtriya Swayamsevak Sangh (RSS), to turn occupied Jammu & Kashmir from a Muslim-majority into Hindu-majority territory. The Indian actions of 5 August 2019 have opened the way for realization of this fascist policy objective. This attempt will evoke strong Kashmiri resistance. The anticipated massive repression by India's occupation forces will lead to ethnic cleansing and genocide in occupied Jammu & Kashmir. The Security Council and the international community have the obligation to prevent the recurrence of another Srebrenica and Rwanda.

12. While the people of other colonial territories, notably East Timor and Namibia, have been enabled to exercise their right to self-determination, the people of Jammu & Kashmir have been denied this right despite the resolutions of the UN Security Council recognizing this right. The entire Muslim world questions this double-standard. The world can no longer ignore the fundamental human rights of the people of occupied Jammu & Kashmir.



13. There is, furthermore, a clear and present danger that India will provoke another conflict with Pakistan to divert attention from its recent actions in occupied Jammu & Kashmir.

14. Apart from inducting additional troops in the territory, India's violations of the 2003 ceasefire understanding have escalated along the LoC. India has used prohibited "cluster ammunitions" along the LoC, deliberately targeting civilians. Fake news in India's controlled media mentioning "terrorists" ready to enter occupied Kashmir across the LoC indicate that India's reckless government intends to provoke another crisis with Pakistan, possibly through a "false flag" operation.

15. Pakistan does not desire another conflict with India. In February this year, Pakistan exercised extreme self-restraint in response to India's blatant aggression--its aerial attack on Pakistani territory and intrusions into Pakistani airspace. In exercise of its right to self-defense, the Pakistan Air Force shot down two Indian aircraft and captured an Indian pilot. As a goodwill gesture, Pakistan's Prime Minister unilaterally and immediately repatriated the captured Indian fighter pilot.

16. Pakistan will not provoke a conflict. But India should not mistake our restraint for weakness. If India chooses to resort again to the use of force, Pakistan will be obliged to respond, in self-defense, with all its capabilities. A failure by the international community to reverse the threat to international peace and security created by the Indian government's racist ideology and its arrogant policies as well as actions carries grave implications not only for Pakistan and India but the entire world.

17. In view of the dangerous implications of the aforementioned developments, I wish to request that you convene an urgent meeting of the UN Security Council under the agenda item "India-Pakistan Question" to consider the situation arising from the recent aggressive actions by India which pose a threat to international peace and security; wilfully undermine the internationally recognized disputed status of Jammu & Kashmir, unilaterally aim to alter the demographic structure of the territory, and violate the fundamental human rights of the Kashmiri people including their inalienable right to self-determination, as affirmed by international law and UNSC resolutions.

18. I also wish to request that, in accordance with the relevant provisions of the Charter and Rule 37 of the provisional rules of procedure of the Security Council, a representative of the Government of Pakistan be allowed to participate in the meeting.

Please accept, Excellency, the assurances of my highest consideration.

(Makhdoom Shah Mahmood Qureshi)

H.E. Ms. Joanna Wronecka,
President,
United Nations Security Council,
New York.

Annexure G

IHL Violations Committed by India in IIJ&K

Courtesy: Research Society of International Law (RSIL), Islamabad



RSIL DOCUMENT

IHL VIOLATIONS COMMITTED BY INDIA IN INDIAN OCCUPIED KASHMIR

This section catalogues the incidents which in our opinion, constitute grave violations of International Humanitarian Law in IOK from a legal perspective. The research team has relied on public data available in print and electronic media and investigative reports by reputable international organizations spanning a period of three decades from 1990 – 2019.

The timeline of Indian actions that attract the provisions of the Geneva Conventions of 1949 and their Additional Protocols, the Rome Statute, 1998 and lastly rules of Customary International Law have been laid out below. While neither Pakistan nor India have signed the Rome Statute, many of the crimes listed therein are considered to be customary and bind all States of the world.

It is important to note that Indian atrocities in Kashmir are not limited to war crimes but may also constitute crimes against humanity as defined in Article 7 of the Rome Statute. Under international law, although war crimes only apply in the existence of an armed conflict, crimes against humanity may be triggered in times of **war and peace**. War crimes may be satisfied by an isolated attack, whereas crimes against humanity must be being widespread¹ or systematic² and directed against a civilian population. Lastly, nearly all offences which could qualify as a crime against humanity, would also constitute, all other conditions being met, a war crime. However, not all war crimes are necessarily crimes against humanity, which is a higher threshold offence.³

¹ “Widespread” refers to the large-scale nature of an attack, primarily reflected in the number of victims. “Widespread” may include a massive, frequent, large-scale action, carried out collectively with considerable seriousness and directed against a multiplicity of victims. See *The Prosecutor v Jean-Paul Akayesu* (Judgment) ICTR-96-4-T (2 September 1998) Para 579-580; *The Prosecutor v Georges Rutaganda* (Judgment) ICTR-96-3-T (6 December 1999) Para 67-69; *The Prosecutor v Alfred Musema* (Judgment) ICTR-96-13-A (27 January 2000) Para 204

² “Systematic” refers to the organized nature of the acts of violence and the recurrence of similar criminal conduct on a regular basis. It involves “a pattern or methodical plan” that is “thoroughly organized and following a regular pattern.” see *The Prosecutor v Dusko Tadic* (Opinion and Judgment) IT-94-1-T (7 May 1997) Para 646, 648; *The Prosecutor v Dragoljub Kunarac et al* (Judgment) IT-96-23-T and IT-96-23/1-T (22 February 2001) TJ, Para 429; *The Prosecutor v Elizaphan Ntakirutimana and Gérard Ntakirutimana* (Judgment) ICTR-96-10-A and ICTR-96-17-A (13 December 2004) Para 804 *The Prosecutor v Jean-Paul Akayesu* (Judgment) ICTR-96-4-T (2 September 1998) Para 580

³ Guénaél Mattraux, *International Crimes and the Ad Hoc Tribunals*, Oxford University Press at p.320



Date	Incident	Violation
<p>20th January, 1990</p>	<p>Troops from the Central Reserve Police Force (CRPF) opened fire on protestors. Eye-witnesses reported that demonstrators were shot from behind as they turned to run away⁴</p> <p>At least thirty-five people died with some estimates putting the toll near a hundred people.⁵</p>	<p>Treatment of Protected Persons in Occupied Territories: Article 27 of GC IV</p> <p>Principle of Distinction: Art. 48 of API, Art. 51(2) of API and Rule 1 of CIHL</p> <p>Protection of Civilian Population: Article 51 (1), (2), (3), (6) of AP I;</p> <p>Principle of Proportionality: Rule 14 of CIHL; Art. 51(5)(b) of API</p> <p>Grave Breaches of the Geneva Conventions: Art. 147 GCIV</p> <p>Prosecution for War-Crimes: Art. 146 GCIV</p> <p>Acts Aimed at Spreading Terror Among the Civilian Population: Art. 51(2) of API and Rule 2 of CIHL</p> <p>Reparations for Violations of IHL: Rule 150 of CIHL</p> <p>Treatment of Protected Persons: Art. 27 GCIV</p> <p>Inviolability of Rights: Art. 47 GCIV</p> <p>War Crime of Wilful Killing and Intentionally Directing Attacks Against Civilians Population or against Individual civilians not taking direct part in hostilities – Article 8 (2)(a)(i) and Article 8 (2)(b)(i) of the Rome Statute</p>

⁴ Human Rights Watch (HRW), ‘Everyone Lives in Fear – Patterns of Impunity in Jammu and Kashmir’, 11 September 2006

⁵ Ibid



<p>May, 1990</p>	<p>The 69th Battalion of the CRPF opened fire on the crowd killing 57⁶</p>	<p>Treatment of Protected Persons in Occupied Territories: Article 27 of GC IV</p> <p>Principle of Distinction: Art. 48 of API, Art. 51(2) of API and Rule 1 of CIHL</p> <p>Grave Breaches of the Geneva Conventions: Art. 147 GCIV</p> <p>Protection of Civilian Population: Article 51 (1), (2), (3), (6) of AP I; Principle of Proportionality: Rule 14 of CIHL</p> <p>Prosecution for War-Crimes: Art. 146 GCIV</p> <p>Acts Aimed at Spreading Terror Among the Civilian Population: Art. 51(2) of API and Rule 2 of CIHL</p> <p>Reparations for Violations of IHL: Rule 150 of CIHL</p> <p>Treatment of Protected Persons: Art. 27 GCIV</p> <p>Inviolability of Rights: Art. 47 GCIV</p> <p>War Crime of Wilful Killing and Intentionally Directing Attacks Against Civilians Population or against Individual civilians not taking direct part in hostilities – Article 8 (2)(a)(i) and Article 8 (2)(b)(i) of the Rome Statute.</p>	<p>4</p> <p>17, 18, 34</p> <p>14</p> <p>18, 19</p> <p>35</p> <p>13, 14</p> <p>18, 34</p> <p></p> <p>39</p> <p>4</p> <p>8</p>
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⁶ Tavleen Singh, Kashmir: A Tragedy of Errors (New Delhi: Viking, 1995),; Medical Authorities certified that 35 people died in the event (Asia Watch (now Human Rights Watch/Asia), Kashmir Under Siege (New York: Human Rights Watch, 1991) at p. 158)



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22 October, 1993	<p>Thirty-seven people were killed by Firing of the 74th Battalion Border Security Force to disperse more than ten thousand people marching in Jammu and Kashmir.⁷</p> <p>The Government reported thirty seven people died in the incident.⁸</p>	<p>Treatment of Protected Persons in Occupied Territories: Article 27 of GC IV</p> <p>Principle of Distinction: Art. 48 of API, Art. 51(2) of API and Rule 1 of CIHL</p> <p>Grave Breaches of the Geneva Conventions: Art. 147 GCIV</p> <p>Protection of Civilian Population: Article 51 (1), (2), (3), (6) of AP I;</p> <p>Principle of Proportionality: Rule 14 of CIHL</p> <p>Prosecution for War-Crimes: Art. 146 GCIV</p> <p>Acts Aimed at Spreading Terror Among the Civilian Population: Art. 51(2) of API and Rule 2 of CIHL</p> <p>Reparations for Violations of IHL: Rule 150 of CIHL</p> <p>Treatment of Protected Persons: Art. 27 GCIV</p> <p>Inviolability of Rights: Art. 47 GCIV</p> <p>War Crime of Wilful Killing and Intentionally Directing Attacks Against Civilians Population or against Individual civilians not taking direct part in hostilities – Article 8 (2)(a)(i) and Article 8 (2)(b)(i) of the Rome Statute</p>	<p>4</p> <p>17, 18, 34</p> <p>14</p> <p>18, 19</p> <p>35</p> <p>13, 14</p> <p>18</p> <p>39</p> <p>4</p> <p>8</p>

⁷ Asia Watch (now Human Rights Watch/Asia), Kashmir Under Siege (New York: Human Rights Watch, 1991)

⁸ “10 years on, Bejbehara massacre victims await ‘healing touch,’” Kashmir Times, October 20, 2003, [online] <http://kashmir.ahrchk.net/mainfile.php/news/200210/294/> (retrieved March 17, 2005).



			29
<p>Incident of 23 February 1991, since then unprosecuted, report in <i>Hindustan Times</i> 8 February 2016; Report on <i>AlJazeera</i> 24 December 2016</p>	<p>“On the night of February 23, 1991, personnel of the 4 Rajputana Rifles of the Indian Army cordoned off the two villages Kunan and Poshpora in north Kashmir’s Kupwara district during an anti-insurgency operation and allegedly gangraped at least 23 women – with some estimates placing it at around 40.”⁹ “Twenty-five years have passed since the 1991 incident in which Indian army soldiers allegedly raped between 23 and 100 women in Kashmir’s Kunan and Poshpora villages during a search operation. “The Indian army has denied the accusations and a delayed investigation of the incident concluded that the allegations were “worthless” and no one was prosecuted for the alleged crimes. “But, in 2013, a group of 50 women petitioned the Supreme Court of India to re-open the investigations. Since then, a reinvestigation was ordered and the Kashmir High Court ordered that victims be paid compensation. The state government and army have mounted efforts to stop these orders.”¹⁰</p>	<p>Treatment of Protected Persons: Article 27 of GC IV 4 Grave Breaches of GC: Article 147 of GC IV 14 Individual responsibility, Collective Penalties, Pillage, Reprisals: Article 33 of GC IV 5 Military Authority Over the Territory of the Hostile State - Regulations: Article 56 of HC IV 42 Collective Punishments: Article 75(2)(d) of AP I 21 Protection of Women: Article 76 of AP I 23 Rape and other Forms of Sexual Violence: Rule 93 of ICRC CIHL Study 37 Collective Punishments: Rule 103 of ICRC CIHL Study 38 Crimes Against Humanity of Rape and any other form of sexual violence of comparable gravity – Article 7 (1)(g) of the Rome Statute 28 War Crime of Attacking or Bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives – Article 8 (2)(b)(v) of the Rome Statute. 30 War Crime of Committing rape or any other form of sexual violence also constituting a grave breach of the Geneva Conventions – Article 8 (2)(b)(xxii) of the Rome Statute. 31</p>	

⁹ Abhishek Saha, ‘Kunan Poshpora: A Forgotten Mass-Rape Case of 2 Kashmir Villages’ (8 February 2016) *Hindustan Times* <<http://www.hindustantimes.com/india/kunan-poshpora-a-forgotten-mass-rape-case-of-2-kashmir-villages/story-1rmD1TqawPnMMB11LQzgyJ.html>>

¹⁰ Urvashi Sarkar, ‘Kashmir: A Look at the Kunan Poshpora Rapes’ (24 December 2016) *AlJazeera* <<http://www.aljazeera.com/indepth/features/2016/10/kashmir-kunan-poshpora-rapes-161020121136644.html>>; see also Physicians for Human Rights and Human Rights Watch/Asia, Press Release, India, May 9, 1993. “Since the government crackdown against militants in Kashmir began in



<p>Incidents between 2004 and 2005, report in <i>The Telegraph</i> on 17 December 2010</p>	<p>According to a Wikileaks release in December 2016, US officials were privately briefed by the ICRC in 2005 that Indian forces were using methods including electrocution, physical beatings and sexual interference with hundreds of detainees. “The ICRC interviewed 1,296 detainees of whom 681 said they had been tortured. “Of those, 498 claimed to have been electrocuted, 381 said they were suspended from the ceiling, and 304 cases were described as “sexual.” “A total of 294 described a procedure in which guards crushed their legs by putting a bar across their thighs and sitting on it, while 181 said their legs had been pulled apart into the splits.”¹¹</p>	<p>Prohibition of Torture, Corporal Punishment: Art.32, 147 of GC IV</p> <p>Grave Breaches of GC: Art.147 of GC IV;</p> <p>Fundamental Guarantees: Articles 75(2)(a), 75(2) of AP I;</p> <p>Torture and Cruel, Inhuman and Degrading Treatment, Corporal Punishment, Rape and Other Forms of Sexual Violence: Rules 89, 90, 93 of ICRC CIHL Study</p> <p>Deprivation of Liberty: CIHL Rule 99</p> <p>Grave Breaches of the Geneva Conventions: Art. 147 GCIV</p> <p>Reparations for Violations of IHL: Rule 150 of CIHL</p> <p>War Crimes of carried out acts of Torture or Inhuman Treatment and Wilfully causing Great Suffering or Serious Injury to Body and Health – Article 8 (2)(a)(i) and (ii) of the Rome Statute</p> <p>War Crimes of Committing Rape or Any Other Form of Sexual Violence – Article 8 (2)(b)(xxii) of the Rome Statute.</p>	<p>5, 14</p> <p>14</p> <p>20, 21</p> <p>37</p> <p>38</p> <p>14</p> <p>39</p> <p>29</p> <p>31</p> <p>4</p>
<p>2008 and 2010</p>	<p>Two popular uprisings in 2008</p>	<p>Treatment of Protected Persons in</p>	<p>4</p>

earnest in January 1990, reports of rape by security personnel have become more frequent. Rape most often occurs during search operations, during which the security forces frequently engage in collective punishment against the civilian population, most frequently by beating or otherwise assaulting residents, and burning their homes. Rape has also occurred frequently during reprisal attacks on civilians following militant ambushes. In some cases, the victims have been accused of providing food or shelter to militants or have been ordered to identify their male relatives as militants. In other cases, the motivation for the abuse is not explicit. In many attacks, the selection of victims is seemingly arbitrary and the women, like other civilians assaulted or killed, are targeted simply because they happen to be in the wrong place at the wrong time. The report documents fifteen cases of rape by Indian security forces. The investigators interviewed the victims, a gynaecologist who examined nine of the women, and obtained medical evidence in the cases documented in the report.”

¹¹ Nick Allen, ‘Wikileaks: India ‘Systematically Torturing Civilians in Kashmir’ (17 December 2010) *The Telegraph* <<http://www.telegraph.co.uk/news/worldnews/wikileaks/8208084/WikiLeaks-India-systematically-torturing-civilians-in-Kashmir.html>>



	and 2010 saw the death of more than 200 people, many of them civilian protesters, killed by Indian forces. ¹²	<p>Occupied Territories: Article 27 of GC IV</p> <p>Protection of Civilian Population: Article 51 (1), (2), (3), (6) of AP I;</p> <p>Principle of Distinction: Art. 48 of API, Art. 51(2) of API and Rule 1 of CIHL</p> <p>Principle of Proportionality: Rule 14 of CIHL</p> <p>Grave Breaches of the Geneva Conventions: Art. 147 GCIV</p> <p>Prosecution for War-Crimes: Art. 146 GCIV</p> <p>Acts Aimed at Spreading Terror Among the Civilian Population: Art. 51(2) of API and Rule 2 of CIHL</p> <p>Reparations for Violations of IHL: Rule 150 of CIHL</p> <p>Treatment of Protected Persons: Art. 27 GCIV</p> <p>Inviolability of Rights: Art. 47 GCIV</p> <p>War Crime of Wilful Killing and Intentionally Directing Attacks Against Civilians Population or against Individual civilians not taking direct part in hostilities – Article 8 (2)(a)(i) and Article 8 (2)(b)(i) of the Rome Statute.</p>	<p>18, 19</p> <p>17, 18, 34</p> <p>35</p> <p>14</p> <p>13</p> <p>18, 34</p> <p>39</p> <p>4</p> <p>8</p> <p>29</p>
1989 - 2016	<p>Jammu and Kashmir Coalition of Civil Society and Association of Parents of Disappeared Persons claim over 8,000 people have disappeared since 1989.¹³</p> <p>In 2011, Jammu and Kashmir</p>	<p>Enforced Disappearances: CIHL Rule 98</p> <p>Deprivation of Liberty: CIHL Rule 99</p> <p>Grave Breaches of the Geneva Conventions:</p>	<p>38</p> <p>38</p> <p>14</p>

¹² BBC, 'Why the Death of Militant Burhan Wani has Kashmiris up in Arms' (11 July 2016) <<http://www.bbc.com/news/world-asia-india-36762043>>

¹³ JKCCS, "Human Rights Review 2016", p. 5.



	State Human Rights Commission (SHRC) conducted its investigation, after the government failing to do so, wherein they identified 574 bodies out of 2,156 bodies. ¹⁴	Art. 147 GCIV Reparations for Violations of IHL: Rule 150 of CIHL Crime Against Humanity for the act of Enforced Disappearances of Persons – Article 7 (1)(i) of the Rome Statute.	39 28
8 July 2016 – November 2016	Crackdown against protestors, leaving more than 100 civilians dead and thousands injured, mostly at the hands of Indian government forces. ¹⁵ Within five days of 8 th July, 57 civilians were killed in action by the governmental forces. Protestors were picked up by the army and tortured. ¹⁶ During this period, the State government has reported that 9,042 people had been injured during protests in the same period including through injuries sustained from the use of bullets, metal pellets and chemical shells. ¹⁷ Investigations into the incidents has still not culminated into any prosecutions.	Treatment of Protected Persons in Occupied Territories: Article 27 of GC IV Protection of Civilian Population: Article 51 (1), (2), (3), (6) of AP I; Principle of Distinction Art. 48 of API, Art. 51(2) of API Rule 1 of CIHL Principle of Proportionality: Rule 14 of CIHL Grave Breaches of the Geneva Conventions: Art. 147 GCIV Prosecution for War-Crimes: Art. 146 GCIV Acts Aimed at Spreading Terror Among the Civilian Population: Art. 51(2) of API and Rule 2 of CIHL Reparations for Violations of IHL: Rule 150 of CIHL Treatment of Protected Persons:	4 18, 19 18, 34 35 14 13 18, 34 39 4 8 5, 14

¹⁴ Office of the Senior Superintendent of Police, Jammu and Kashmir State Human Rights Commission, “Enquiry Report of Unmarked Graves in north Kashmir” (SHRC/PIW/2011/1000), 2 July 2011. Available from <http://kashmirglobal.com/wp-content/uploads/2011/09/enquiry-report-of-unmarked-graves-in-north-kashmir.pdf>.

¹⁵ AP, ‘Burhan Wani has become what India long Feared’ (7 September 2016) Dawn News <<https://www.dawn.com/news/1282425>>; Soutik Biswas, ‘Is India Losing Kashmir?’ (26 April 2017) BBC News <http://www.bbc.com/news/world-asia-india-39702303>>

¹⁶ “Inside the camp, they were tortured. One of the boys later told me about how they were made to stand naked, abused, spat on, and beaten with guns, sticks and belts till their bodies bled. They were given death threats and some were even made to jump naked in the river.” Basharat Ali, ‘I’ll Never Forget the Day Burhan Wani was Killed’ (5 February 2016) Dawn News <<https://www.dawn.com/news/1292605>>

¹⁷ Jammu and Kashmir Legislative Assembly. Unstarred A.Q. No.330, Annexure-A.



	Art. 27 GCIV	14
	Inviolability of Rights: Art. 47 GCIV	37
	Prohibition of Torture, Corporal Punishment: Art.32, 147 of GC IV	38
	Grave Breaches of GC: Art.147 of GC IV;	
	Torture and Cruel, Inhuman and Degrading Treatment, Corporal Punishment, Rape and Other Forms of Sexual Violence: Rules 89, 90, 93 of ICRC CIHL Study	5, 21
	Deprivation of Liberty: CIHL Rule 99	16
	Torture, Cruel, Inhuman and Degrading Treatment Art. 32 of GCIV, Art. 75(2)(ii) of API	29
	Weapons causing Superfluous Injury or unnecessary suffering: Art. 35(2) of API ¹⁸	29
	War Crime for the Commission of Torture or Inhuman Treatment – Article 8 (2)(a)(ii) of the Rome Statute	29
	War Crimes for the Commission of Wilful Killing and Intentionally Directing Attacks against Civilian Population or Against Civilians not Directly taking part in Hostilities – Article 8 (2)(a)(i) and Article 8 (2)(b)(i) of the Rome Statute.	31
	War Crime for the Commission of Unlawful Confinement of Persons – Article 8 (2)(a)(vii)	27
	War Crime for the Commission of Wilfully causing great Suffering or Serious Injury to the body or health – Article 8 (2)(a)(iii) of the Rome Statute	28
	War Crime for the Employment of methods of warfare which are of a	

¹⁸ Referred to as a ‘cardinal principle’ of ‘international humanitarian law’ by the International Court of Justice ICJ, Nuclear Weapons case, Advisory Opinion at para 238



		<p>nature to cause superfluous injury or unnecessary suffering – Article 8 (2)(b)(xx)</p> <p>Crimes Against Humanity for the Commission of Murder – Article 7 (1)(a) of the Rome Statute</p> <p>Crime Against Humanity for the Commission of Torture – Article 7 (1)(f) of the Rome Statute.</p>	
mid-August 2016	<p>Indian soldiers forced their way into dozens of homes in Shaar-i-Shalli, driving dozens of men into the town square.</p> <p>Over the next five hours, they beat the men so brutally that one villager died.¹⁹</p> <p>In a separate incident, a lecturer is beaten to death by the army personnel.²⁰</p> <p>Hundreds blinded as Indian paramilitary rained bullets and millions of buckshot pellets on protesting crowds;²¹ including a 14-year old girl who consequently lost vision in both eyes.</p>	<p>Prohibition of Torture, Corporal Punishment, Grave Breaches of GC: Articles 32, 147 of GC IV;</p> <p>Fundamental Guarantees: Articles 75(2)(a), 75(2) of AP I;</p> <p>Torture and Cruel, Inhuman and Degrading Treatment, Corporal Punishment: Rules 89, 90 of ICRC CIHL Study</p> <p>Protection of Civilian Population / Indiscriminate and disproportionate attacks: Articles 51(4)(a), 51(5)(b) of AP I;</p> <p>Principle of Distinction between Civilians and Combatants, Indiscriminate attacks, Proportionality in attack: Rules 1, 11, 14 of ICRC CIHL Study</p> <p>Weapons causing Superfluous Injury or unnecessary suffering: Art. 35(2) of API²²</p> <p>Crime Against Humanity for the Commission of Inhumane acts or intentionally causing great suffering, or serious injury to body or to mental or physical health – War Crime for the Commission of Wilfully Causing Great Suffering or Serious Injury to Body or health – Article 8 (2)(b)(iii) of the Rome</p>	<p>5, 14</p> <p>21</p> <p>37</p> <p>18, 19</p> <p>34, 35</p> <p>16</p> <p>28</p> <p>29</p> <p>31</p>

¹⁹ AP, 'Burhan Wani has become what India long Feared' (7 September 2016) Dawn News <<https://www.dawn.com/news/1282425>>

²⁰ Amnesty International Annual Report 2016/2017

²¹ Mirza Waheed, 'A Cruel April in Kashmir' (25 April 2017) The New York Times <https://www.nytimes.com/2017/04/25/opinion/a-cruel-april-in-kashmir.html?_r=0>

²² Referred to as a 'cardinal principle' of 'international humanitarian law' by the International Court of Justice ICJ, Nuclear Weapons case, Advisory Opinion at para 238



		Statute. War Crime for the Commission of Employing Weapons, Projectiles and material and Methods of Warfare which are of a nature to cause Superfluous Injury or Unnecessary Suffering – Article 8 (2)(b)(xx) of the Rome Statute.	
September 2016	A Kashmiri human rights activist was arrested and detained for over two months on spurious grounds and then prevented from traveling to Geneva, Switzerland to attend a UN Human Rights Council session. ²³	Provisions related to Assigned Residence and Internment of Civilians: Articles 41, 42, 43, 78, 79, 80 of GC IV; Fundamental Guarantees: Article 75(3) of AP I; Deprivation of Liberty: Rule 99 of IRC CIHL Study.	6, 7, 11, 12 21 38
28 September 2016	In last few weeks, 69 people killed by indiscriminate use of pellet guns, around 4500 injured. Deliberate targeting the victims on the face, especially in the eyes, which is against official procedures. Indian security personnel grab a 5-year old boy and insert a sharp metal object in his left eye, thereby blinding him, alleging that he had hurled abuses at them.	Treatment of Protected Persons in Occupied Territories: Article 27 of GC IV Protection of Civilian Population / Indiscriminate and disproportionate attacks: Articles 51(4)(a), 51(5)(b) of AP I; Principle of Distinction between Civilians and Combatants, Indiscriminate attacks, Proportionality in attack: Rules 1, 11, 14 of ICRC CIHL Study; Prohibition of Torture, Corporal Punishment, Grave Breaches of GC: Articles 32, 147 of GC IV; Protection of Children: Article 77(1) of AP I; Fundamental Guarantees: Articles 75(2)(a), 75(2) of AP I; Torture and Cruel, Inhuman and Degrading Treatment, Corporal Punishment: Rules 89, 90 of ICRC CIHL Study Weapons causing Superfluous Injury or unnecessary suffering: Art. 35(2) of API ²⁴ Crime Against Humanity for the Commission of Murder – Article 7 (1)(a) of the Rome Statute	4 18, 19 34, 35 5, 14 23 20, 21 37 16 27 28

²³ Amnesty International Annual Report, 2016/2017

²⁴ Referred to as a ‘cardinal principle’ of ‘international humanitarian law’ by the International Court of Justice ICJ, Nuclear Weapons case, Advisory Opinion at para 238



		<p>Crime Against Humanity for the Commission of Inhumane Acts or Intentionally Causing great Suffering or Serious Injury to Body or to Mental or Physical Health – Article 7 (1)(k) of the Rome Statute</p> <p>War Crime for the Commission of Wilful Killing, Torture or Inhuman Treatment, and Wilfully Causing Great Suffering or Serious Injury to Body or Health – Article 8 (2)(a)(i), (ii) and (iii) of the Rome Statute.</p> <p>War Crime for the Commission of Intentionally Directing Attacks against a Civilian Population or Civilians not taking Direct Part in Hostilities – Article 8 (2)(b)(i) of the Rome Statute</p> <p>War Crime for the Employment of Weapons, Projectiles and Material and Methods of Warfare which are of a Nature to cause Superfluous Injury or Unnecessary Suffering – Article 8 (2)(b)(xx) of the Rome Statute.</p>	<p>29</p> <p>29</p> <p>31</p>
October 2016	Nearly 5000 ²⁵ people including children, were placed under administrative detention. ²⁶ The figure was 1000 people under the Jammu and Kashmir Public Safety Act between March 2016 and August 2017 as obtained through an application under the Right to Information Act. ²⁷ Human Rights Watch has reported that between July 9 th to October 6 th of 2016 authorities have detained over 400 people,	<p>Provisions related to Assigned Residence and Internment of Civilians: Articles 41, 42, 43, 78, 79, 80 of GC IV;</p> <p>Protection of Children: Article 77 (1) and (4) of AP I;</p> <p>Fundamental Guarantees: Article 75(3) of AP I;</p> <p>Deprivation of Liberty: Rule 99 of ICRC CIHL Study</p> <p>War Crime for the Commission of Unlawful Deportation or Transfer or Unlawful Confinement of</p>	<p>6, 7, 11, 12</p> <p>23, 24</p> <p>21</p> <p>38</p> <p>29</p>

²⁵ Mirza Waheed, ‘India’s Crackdown in Kashmir: Is this the World’s First Mass Blinding?’ (8 November 2016) The Guardian <<https://www.theguardian.com/world/2016/nov/08/india-crackdown-in-kashmir-is-this-worlds-first-mass-blinding>>

²⁶ Amnesty International Annual Report, 2016/2017

²⁷ RTI application by the Jammu and Kashmir RTI Movement. Available from <http://www.humanrightsinitiative.org/blog/no-rules-sops-for-ordering-preventive-detentions-under-jk-psa>.



	including children, under the Jammu and Kashmir Public Safety Act ²⁸	Persons – Article 8 (2)(a)(vii) of the Rome Statute.	
July 2016 - November 2016	Schools forced to close for 4 months, with at least 32 schools burned down and several taken over by paramilitary forces who set up camps inside. ²⁹	<p>Measures related to Child Welfare: Article 24 of GC IV;</p> <p>Children: Article 50 of GC IV;</p> <p>General Protection of Civilian Objects: Article 52 of AP I</p> <p>Military Authority over the Territory of the Hostile State: Article 56 of HC IV</p> <p>The Principle of Distinction between Civilian Objects and Military Objectives, Public and Private Property in Occupied Territory: Rules 7 and 51 of ICRC CIHL Study</p> <p>Grave Breaches of the Geneva Conventions: Art. 147 of GCIV</p> <p>War Crime for the Commission of Extensive Destruction and Appropriation of Property, not justified by Military Necessity and Carried out Unlawfully and Wantonly – Article 8 (2)(a)(iv) of the Rome Statute.</p> <p>War Crime for the Commission for Intentionally Directing Attacks against Buildings dedicated to Education, provided that they are not a Military Necessity – Article 8 (2)(b)(ix) of the Rome Statute.</p>	<p>2-3</p> <p>9-10</p> <p>19</p> <p>42</p> <p>34, 36</p> <p>14</p> <p>29</p> <p>30</p>
August-November, 2016	According to a civil society report, central police forces occupied at least seven schools in the Kashmir Valley. ³⁰	<p>Measures related to Child Welfare: Article 24 of GC IV;</p> <p>Children: Article 50 of GC IV;</p> <p>Grave Breaches of the Geneva Conventions: Art. 147 of GCIV</p> <p>General Protection of Civilian</p>	<p>2-3</p> <p>9-10</p> <p>34</p> <p>19</p> <p>42</p>

²⁸ Human Rights Watch, ‘Cease Wrongful Detentions in Jammu and Kashmir’ (October 15, 2016)

²⁹ Human Rights Watch, Annual Report 2016, Country Summary: India (January 2017)

³⁰ Amnesty International, “Children’s right to education must be protected in Kashmir”, 4 November 2016. Available from <https://amnesty.org.in/news-update/childrens-right-education-must-protected-kashmir/>.



		<p>Objects: Article 52 of AP I Military Authority over the Territory of the Hostile State: Article 56 of HC IV The Principle of Distinction between Civilian Objects and Military Objectives, Public and Private Property in Occupied Territory: Rules 7 and 51 of ICRC CIHL Study War Crime for the Commission of Extensive Appropriation of Property, not Justified by Military Necessity and Carried out Unlawfully and Wantonly – Article 8 (2)(a)(iv) of the Rome Statute.</p>	<p>34, 36</p> <p>2</p>
2016	In the 10 districts of Jammu and Kashmir 1,726 people were injured by pellets. ³¹	<p>Treatment of Protected Persons in Occupied Territories: Article 27 of GC IV Protection of Civilian Population / Indiscriminate and disproportionate attacks: Articles 51(4)(a), 51(5)(b) of AP I; Principle of Distinction between Civilians and Combatants, Indiscriminate attacks, Proportionality in attack: Rules 1, 11, 14 of ICRC CIHL Study; Prohibition of Torture, Corporal Punishment, Grave Breaches of GC: Articles 32, 147 of GC IV; Protection of Children: Article 77(1) of AP I; Fundamental Guarantees: Articles 75(2)(a), 75(2) of AP I; Torture and Cruel, Inhuman and Degrading Treatment, Corporal Punishment: Rules 89, 90 of ICRC CIHL Study Weapons causing Superfluous Injury or unnecessary suffering: Art. 35(2) of API³² War Crime for the Commission of Wilfully Causing Great Suffering</p>	<p>4</p> <p>18, 19</p> <p>34, 35</p> <p>5, 34</p> <p>23</p> <p>21</p> <p>37</p> <p>16</p> <p>29</p>

³¹ OHCHR Report (page 22)

³² Referred to as a 'cardinal principle' of 'international humanitarian law' by the International Court of Justice ICJ, Nuclear Weapons case, Advisory Opinion at para 238



		<p>or Serious Injury to Body or Health – Article 8 (2)(a)(iii) of the Rome Statute</p> <p>War Crime for the Employment of Weapons, Projectiles and Material and Methods of Warfare which are of a Nature to cause Superfluous Injury or Unnecessary Suffering – Article 8 (2)(b)(xx) of the Rome Statute.</p> <p>Crime Against Humanity for the Commission of Inhumane Acts or Intentionally Causing great Suffering or Serious Injury to Body or to Mental or Physical Health – Article 7 (1)(k) of the Rome Statute.</p>	<p>31</p> <p>28</p>
2017	It was reported by the UN that government reports confirmed the military use of four schools for several weeks. ³³	<p>Measures related to Child Welfare: Article 24 of GC IV; Children: Article 50 of GC IV;</p> <p>General Protection of Civilian Objects: Article 52 of AP I Military Authority over the Territory of the Hostile State: Article 56 of HC IV The Principle of Distinction between Civilian Objects and Military Objectives, Public and Private Property in Occupied Territory: Rules 7 and 51 of ICRC CIHL Study</p> <p>War Crime for the Commission of Extensive Appropriation of Property, not Justified by Military Necessity and Carried out Unlawfully and Wantonly – Article 8 (2)(a)(iv) of the Rome Statute.</p>	<p>2-3</p> <p>9-10</p> <p>19</p> <p>42</p> <p>34, 56</p> <p>29</p>
1989-2017	143 cases of rape have been documented. ³⁴	Treatment of Protected Persons: Article 27 of GC IV	4

³³ A/72/361- S/2017/821, Children and Armed Conflict, Report of the Secretary-General para 204

³⁴ Office of the United Nations High Commissioner for Human Rights Report on the Situation of Human Rights in Kashmir: Developments in the Indian State of Jammu and Kashmir from June 2016 to April 2018, and General Human Rights Concerns in Azad Jammu and Kashmir and Gilgit-Baltistan 14 June 2018, <https://www.ohchr.org/Documents/Countries/IN/DevelopmentsInKashmirJune2016ToApril2018.pdf>



		<p>Grave Breaches of GC: Article 147 of GC IV 14</p> <p>Individual responsibility, Collective Penalties, Pillage, Reprisals: Article 33 of GC IV 5 42</p> <p>Military Authority Over the Territory of the Hostile State - Regulations: Article 56 of HC IV 21</p> <p>Collective Punishments: Article 75(2)(d) of AP I 23</p> <p>Protection of Women: Article 76 of AP I 37</p> <p>Rape and other Forms of Sexual Violence: Rule 93 of ICRC CIHL Study 38</p> <p>Collective Punishments: Rule 103 of ICRC CIHL Study 31</p> <p>War Crime for the Commission of Rape or Any other form of sexual violence – Article 8 (2)(b)(xxii) of the Rome Statute 28</p> <p>Crimes Against Humanity of Rape and any other form of sexual violence of comparable gravity – Article 7 (1)(g) of the Rome Statute.</p>	
9 April 2017	Indian troops shoot at, beat and blind protestors who were throwing stones at the polling booths. This resulted in the killing of 8 civilians, including a 12-year old boy who was shot in the back of his head; and around 20 people shot with pellets in their eyes.	<p>Treatment of Protected Persons in Occupied Territories: Article 27 of GC IV 4</p> <p>Prohibition of Torture, Corporal Punishment, Grave Breaches of GC: Articles 32, 147 of GC IV; 5, 14</p> <p>Fundamental Guarantees: Articles 75(2)(a), 75(2) of AP I; 21</p> <p>Torture and Cruel, Inhuman and Degrading Treatment, Corporal Punishment: Rules 89, 90 of ICRC CIHL Study 37</p> <p>Protection of Civilian Population / Indiscriminate and disproportionate attacks: Articles 51(4)(a), 51(5)(b) of AP I; 18, 19</p> <p>Principle of Distinction between Civilians and Combatants, Indiscriminate attacks, Proportionality in attack: Rules 1, 11, 14 of ICRC CIHL Study 34, 35</p> <p>Weapons causing Superfluous 16</p>	



		<p>Injury or unnecessary suffering: Art. 35(2) of API³⁵</p> <p>Protection of Children Art. 77 of API</p> <p>War Crime for the Commission of Wilful Killing, Torture or Inhuman Treatment, and Wilfully Causing Great Suffering or Serious Injury to Body or Health – Article 8 (2)(a)(i), (ii) and (iii) of the Rome Statute.</p> <p>War Crime for the Commission of Intentionally Directing Attacks against a Civilian Population or Civilians not taking Direct Part in Hostilities – Article 8 (2)(b)(i) of the Rome Statute.</p> <p>War Crime for the Employment of Weapons, Projectiles and Material and Methods of Warfare which are of a Nature to cause Superfluous Injury or Unnecessary Suffering – Article 8 (2)(b)(xx) of the Rome Statute.</p>	<p>23-24</p> <p>29</p> <p>29</p> <p>31</p>
12 April 2017	<p>A 26-year old shawl weaver Farooq Ahmad Dar is assaulted by Indian troops while returning from funeral prayers, wounding his hands and arms. He is then tied up to the front of an army jeep, strapped on a handwritten placard and paraded through several villages for hours as a live trophy – a ‘human shield’ against the stone-pelting. A soldier can be heard saying through a public address system, “Those who throw stones will meet the same fate.”</p>	<p>Treatment of Protected Persons in Occupied Territories: Article 27 of GC IV</p> <p>Torture and Cruel, Inhuman and Degrading Treatment, Corporal Punishment: Rules 89, 90 of ICRC CIHL Study</p> <p>Protection of the Civilian Population (human shields, spreading fear among the civilian population, distinction) Basic Rule, Fundamental Guarantees: Articles, 51(1), (2), and (7); 48 and 75(2) of AP I</p> <p>Human Shields, Violence aimed at Spreading Terror among the Civilian Population, The Principle of Distinction between Civilians and Combatants, Torture and</p>	<p>4</p> <p>37</p> <p>17, 18, 19, 21</p> <p>34, 37, 38</p>

³⁵ Referred to as a ‘cardinal principle’ of ‘international humanitarian law’ by the International Court of Justice ICJ, Nuclear Weapons case, Advisory Opinion at para 238



		<p>Cruel, Inhuman or Degrading Treatment: Rules 97, 2, 1, 90 of ICRC CIHL Study 29</p> <p>War Crime for the Commission of Torture or Inhuman Treatment, and Wilfully Causing Great Suffering or serious injury to body or health – Article 8 (2)(a)(ii) and (iii) of the Rome Statute 29</p> <p>War Crime for the Commission of Intentionally Directing Attacks Against Individual Civilian not taking Direct Part in Hostilities – Article 8 (2)(b)(i) of the Rome Statute 31</p> <p>War Crime for the Commission of Outrages upon Personal Dignity, in Particular Humiliating and Degrading Treatment – Article 8 (2)(b)(xxi) of the Rome Statute.</p>	
15 April 2017	<p>3 civilians killed, including a 17-year old street vendor whose forehead was cracked open with a bullet.</p> <p>A college is raided by paramilitary forces in full gear, accompanied by an armoured vehicle, injuring around 50 students.</p>	<p>Treatment of Protected Persons in Occupied Territories: Article 27 of GC IV 4</p> <p>Basic Rule, Protection of Civilian Population: Articles 48, 51 of AP I 17, 18</p> <p>General Protection of Civilian Objects: Article 52 of AP I 19</p> <p>Military Authority over the Territory of the Hostile State: Article 56 of HC IV 42</p> <p>Principle of Distinction between Civilians and Combatants: Rule 1 of ICRC CIHL Study 34</p> <p>Violence aimed at Spreading Terror among the Civilian Population: Rule 2 of ICRC CIHL Study; 34</p> <p>The Principle of Distinction between Civilian Objects and Military Objectives, Public and Private Property in Occupied Territory: Rules 7 and 51 of ICRC CIHL Study 34, 36</p> <p>Grave Breaches: Art. 147 of GCIV 14</p> <p>Children: Art. 77 of API 23</p> <p>Crime against Humanity for the Commission of Murder – Article 7 (1)(a) of the Rome Statute 27</p> <p>29</p>	



		<p>War Crime for the Commission of Wilful Killing – Article 8 (2)(a)(i) of the Rome Statute</p> <p>War Crime for the Commission of Intentionally Directing Attacks against a Civilian Population or Civilians not taking Direct Part in Hostilities – Article 8 (2)(b)(i) of the Rome Statute</p> <p>War Crime for the Commission of Intentionally Directing Attacks against Civilian Objects that are not Military Objectives – Article 8 (2)(b)(ii) of the Rome Statute.</p>	<p>29</p> <p>29</p>
20 April 2017	Graphic videos surface showing soldiers torturing boys inside an army vehicle as they're exhorted to shout anti-Pakistan slogans.	<p>Treatment of Protected Persons in Occupied Territories: Article 27 of GC IV;</p> <p>Measures related to Child Welfare: Article 24 of GC IV;</p> <p>Protection of Children: Article 77 (1) and (4) of AP I;</p> <p>Deprivation of Liberty: Rule 99 of ICRC CIHL Study</p> <p>Protection of the Civilian Population (spreading fear among the civilian population, distinction) Basic Rule, Fundamental Guarantees: Articles, 51(1) and (7); 48 and 75(2) of AP I</p> <p>Violence aimed at Spreading Terror among the Civilian Population, The Principle of Distinction between Civilians and Combatants, Torture and Cruel, Inhuman or Degrading Treatment: Rules 2, 1, 90 of ICRC CIHL Study</p> <p>Grave Breaches: Art. 147 of GCIV</p> <p>Crime Against Humanity for the Offence of Torture – Article 7 (1)(b) of the Rome Statute</p> <p>War Crime for the Commission of Torture or Inhuman Treatment – Article 8 (2)(a)(ii) of the Rome Statute</p> <p>War Crime for the Commission of Unlawful Deportation or Transfer or Unlawful Confinement of Persons – Article 8 (2)(a)(vii) of the Rome Statute.</p>	<p>4</p> <p>2</p> <p>23</p> <p>38</p> <p>18, 19, 21</p> <p>34, 37</p> <p>14</p> <p>27</p> <p>29</p> <p>30</p>
1 April, 2018	40 people injured and 35 hit in	Treatment of Protected Persons in	4



	<p>the eyes by Pellet Guns in Shopian and Anantnag districts.³⁶</p>	<p>Occupied Territories: Article 27 of GC IV</p> <p>Prohibition of Torture, Corporal Punishment, Grave Breaches of GC: Articles 32, 147 of GC IV;</p> <p>Fundamental Guarantees: Articles 75(2)(a), 75(2) of AP I;</p> <p>Torture and Cruel, Inhuman and Degrading Treatment, Corporal Punishment: Rules 89, 90 of ICRC CIHL Study</p> <p>Protection of Civilian Population / Indiscriminate and disproportionate attacks: Articles 51(4)(a), 51(5)(b) of AP I;</p> <p>Principle of Distinction between Civilians and Combatants, Indiscriminate attacks, Proportionality in attack: Rules 1, 11, 14 of ICRC CIHL Study</p> <p>Weapons causing Superfluous Injury or unnecessary suffering: Art. 35(2) of API³⁷</p> <p>Protection of Children Art. 77 of API</p> <p>War Crime for the Commission of Wilfully Causing Great Suffering or Serious Injury to body or Health – Article 8 (2)(a)(iii) of the Rome Statute.</p> <p>War Crime for the Commission of Intentionally Directing Attacks against a Civilian Population or Civilians not taking Direct Part in Hostilities – Article 8 (2)(b)(i) of the Rome Statute.</p> <p>War Crime for the Employment of Weapons, Projectiles and Material and Methods of Warfare which are of a Nature to cause Superfluous Injury or Unnecessary Suffering – Article 8 (2)(b)(xx) of the Rome Statute.</p>	<p>5, 14</p> <p>20, 21</p> <p>37</p> <p>18, 19</p> <p>34, 35</p> <p>16</p> <p>23</p> <p>29</p> <p>29</p> <p>31</p>
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³⁶ OHCHR Report (page 24)

³⁷ Referred to as a ‘cardinal principle’ of ‘international humanitarian law’ by the International Court of Justice ICJ, Nuclear Weapons case, Advisory Opinion at para 238



<p>February 17th, 2019</p>	<p>Houses were destroyed in the village of Pinglan.</p> <p>120 Villagers were exposed to tear gas and alleged beatings.</p> <p>Reuters also reported that at least four villagers were made to act as human shields, wherein they were sent into buildings where local fighters might be hiding.³⁸</p>	<p>Acts aimed at spreading terror among the civilian population: Rule 2 of CIHL; Art. 51(2) of Additional Protocol I</p> <p>Distinguishing between Civilian objects and Military Objectives: Art. 48 and 52(2) of API</p> <p>Removal of Civilians from the vicinity of Military Objectives Art. 58(a) of API; Rule 24 of CIHL</p> <p>Riot Control Agents as Method of Warfare Rule 75 CIHL; Art. I(5) of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction³⁹</p> <p>Prohibition of Torture, Corporal Punishment: Art.32, 147 of GC IV Using Civilians as Human Shields: Art. 28 GCIV, Art. 51(7) API, Rule 97 of CIHL Rules.</p>	<p>34, 18</p> <p>17, 18</p> <p>19.1, 35.1</p> <p>36.1, 44</p> <p>5, 14</p> <p>4, 19, 38</p>
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Source: Research Society of International Law (RSIL), Islamabad, Pakistan.

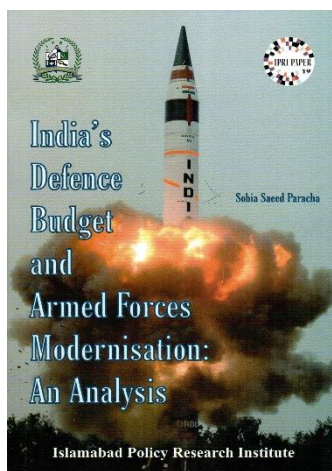
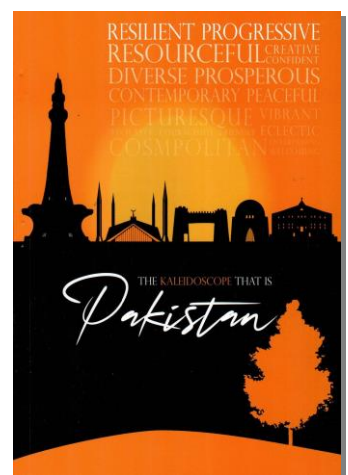
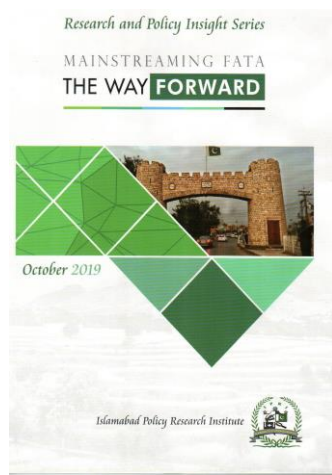
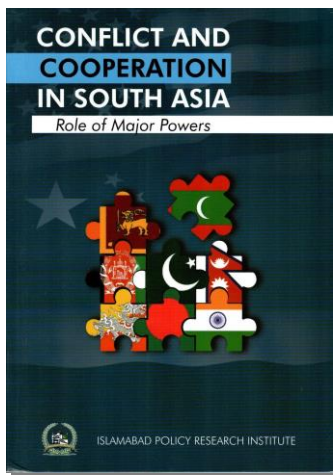
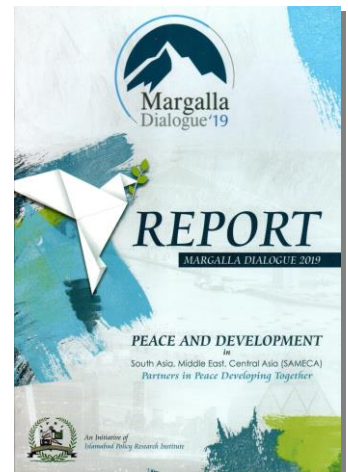
³⁸ <https://www.dawn.com/news/1479440/indian-troops-use-locals-as-shields-in-held-kashmir-encounters>

³⁹ Whilst it is permitted in an armed conflict during law enforcement as per Art. II(9)(d), the facts do not indicate any such use.

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