CHAPTER III

THE KASHMIR QUESTION

There are various reasons for taking up the Kashmir question in this study. The most important one is its protracted nature and the long period for which it has remained on the agenda of the Security Council. Time and again it is raised at various world forums even now though, for all practical purposes it is a closed issue.

The publicity aspect of this issue has always been more pronounced and even when it was being debated in the Security Council, it appeared as though the contending parties were more keen scoring debating points over the other. The efforts made by the United Nations have contributed more to a deadlock and hardening of attitudes on both sides.

There is another feature of this issue, that is of continuity and change. During the nineteen years' period under study some of the basic points have remained constant yet a lot has changed and a lot has been added.

It is considered necessary to go into the chronological details of the efforts undertaken to solve the problem. Therefore, the approach adopted in this chapter has to be historical and descriptive. The final aim is to reach some generalizations for propaganda goals and objectives as they must have appeared at given points of time, and not as they appear today. This distinction needs to be borne in mind because,
today we have the benefit of hindsight and we are in a better position to judge the relative strengths and weaknesses of the arguments put forward.

It is true that the main aim of this chapter is to provide a background for the supposed goals and objectives of India's propaganda and publicity. But, there is another reason for going into the details of Kashmir question. Efforts to solve this problem through the Security Council and the deliberations that went on there, created the impression that the arguments were meant not so much for the member nations or their representatives participating in these debates but for a larger world audiences. Lord Birdwood's passing remark seems quite true "international opinion is often moulded by a study of (more) conspicuous proceedings at the U.N." At this stage it is not out of place to mention that propaganda goals and objectives had to evolve in response to the way the United Nations handled the question. Clarifications and explanations of the Indian viewpoint were needed much more because India had referred this question to the UN with certain definite assumptions.

The story of clarification of misunderstandings regarding India's approach to the solution of the problem starts with the nature of UN action anticipated by India. Time and

again India had to reiterate the type of UN involvement it had expected, basing itself on the specific provisions of the Charter under which India had asked the UN Security Council to "recommend appropriate procedures or methods of adjustment" for the pacific settlement of disputes and not for "action" with respect to acts of aggression as provided for in Chapter VII of the Charter. To use Michael Brecher's words,

"in an effort to gain world sympathy for its cause, India invoked Article 35 of the United Nations Charter on 1 January 1948, and accused Pakistan of complicity in the tribal invasion of Kashmir."

More specifically, it charged that Pakistan was:

"giving transit to the invaders as a base of operations allowing them to use Pakistan; supplying them with military equipment and transport; and permitting Pakistani nationals to participate in fighting as well as to train the tribesmen."

The Indian complaint had further added that

"the objective of expelling the invader from Indian territory and preventing him from launching fresh attacks should be quickly achieved, otherwise, Indian troops would have to enter Pakistan territory; only thus could the invader be denied the use of bases and cut off from his sources of supply and reinforcements in Pakistan...."

It was also suggested that the Indian Government would


be justified under international law to deal effectively with the invaders. "However, as such action might involve armed conflict with Pakistan, the Government of India, ever anxious to proceed according to the principles and aims of the charter of the U.N., desire to report the situation to the Security Council under Article 35 of the Charter. They feel justified in requesting the Security Council to ask the Government of Pakistan (1) to prevent Pakistan Government personnel, military and civil from participating or assisting in the invasion of the Jammu and Kashmir State; (2) to call upon other Pakistani nationals to desist from taking any part in the fighting in the Jammu and Kashmir State; and (3) to deny the invaders (a) access to and use of its territory for operations against Kashmir; (b) military and other supplies; (c) all other kinds of aid that might tend to prolong the present struggle. 4

Subsequently, the first step that the U.N. Security Council took in this regard was to send a telegram 5 to India and Pakistan on 6 January on behalf of the President Van Langenhove of Belgium, appealing the two states to "refrain from any step incompatible with the Charter and liable to result in an aggravation of the situation thereby rendering more difficult any action by the Security Council."  

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5 S/635.
Pakistan's reply\textsuperscript{6} contained an assurance to this effect and India's reply\textsuperscript{7} mentioned that the Council does not need any such assurance from them taking into account "the patience with which, in the interests of peace, they (us) have suffered and endured provocation and aggression."

Later, the speech that the Indian representative N. Gopalaswamy Ayyangar gave on 15 January 1948\textsuperscript{11} highlighted the facts regarding accession and invasion.\textsuperscript{8} He expressed India's "deepest regret" for bringing the matter to UN instead of settling it "between themselves." He also mentioned that India had made an all out effort in that direction and at one stage "a settlement was almost in sight" but Pakistan declined to do what "under any view of right international conduct" was its obligation.\textsuperscript{9} According to him, not only urgency but immediacy was needed in tackling the situation, otherwise an Indo-Pakistan conflict might take place. There was no territorial dispute, but a situation "demanding priority and urgent consideration" so that there is no danger of extension of the area of conflict.\textsuperscript{10}

\textsuperscript{6} S/639, 8 January 1948.
\textsuperscript{7} S/640, 9 January 1948.
\textsuperscript{8} S/628, 15 January 1948.
Pakistan's representative Zafarullah Khan presented his country's case on 15 January 1948. He submitted three documents. Document I was a refutation of India's charges. Document II contained Pakistan's counter complaints and the Document III contained the details of the Pakistan's case. After listening to both the sides, the President moved a resolution in the Council on 17 January 1948, calling upon the two governments to immediately take all measures to improve the situation and to refrain from doing or permitting any acts which might aggravate the situation and requesting them "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." Both the countries had accepted their obligation to inform the Council of any material change in the situation.

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12 S/646 and Corr. I. It said: "Pakistan had been adopting "all means short of war" to discourage the tribal movement; Pakistani territory was not being used as a base for military operations; it was also incorrect that the Pakistani Government are supplying military equipment, transport and supplies to the invaders or that Pakistani officers are training, guiding and otherwise helping them."
13 S/651.
14 Ibid. Italics added.
15 S/657, and S/659 contain India's and Pakistan's reply respectively.
The resolution which was placed in an "agreed form" on 20 January 1948, envisaged the setting up of a Commission of the Council. It was to be composed of representatives of three UN members - one to be selected by India, another by Pakistan, and the third by the two so selected. The Commission was to proceed to the spot under the authority of the Council and act according to its directives. 16

This resolution amounted to a compromise between the Indian and the Pakistani approaches. India wanted that the issue be treated as urgent so that it would be dealt with quickly and promptly and put out of the way as soon as possible. 17 For India it was a compromise to agree to the provision that the commission would primarily be appointed for the Jammu and Kashmir question and if any matter in the counter complaint by Pakistan required investigation, it would be brought on the agenda of the Security Council. 18

Prevalence of the Pakistani view was witnessed in the general description of the agenda before the Security Council. The reason why this question was called "India-Pakistan question" for the first time on 22 January 1948, and not just the "Kashmir Question", is to be found in Zafarullah Khan's letter to the Council President. In this he had threatened a military action against India on the issue of Junaghar and had

16 Gupta, n. 9, pp. 149-50.
18 Gupta, n. 9, p. 150.
also requested an early meeting of the Council to consider situations other than that of Jammu and Kashmir.  

India took strongest exception to this change in the description of the agenda. Its objections to this kind of widening of the scope of the Security Council's action came first as a procedural objection. It was said that India did not contend that these situations should not be placed on the agenda but it was wrong to change the heading and the content of the matter on the suggestion of one of the parties. India's protests, however, could only evoke a few favourable responses but nothing concrete came out of it. India failed to prevent the Council from doing the damage by enlarging and thereby diffusing the scope of its functions. Herein lay also the roots of a prolonged retention of issue on the Council's agenda. According to the adopted agenda it was more or less agreed that Kashmir question would be discussed first as a particular case of the India-Pakistan dispute but, con-

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20 G. Ayyangar, S.C.O.R., 231 meeting 1948. It was Ayyangar's contention that "when our answer is filed and Sir Zafarullah Khan makes his statement, then the Security Council can proceed to debate that part of the affairs in as elaborate a fashion as it may desire".

21 For example, British representative Noel Baker's formal proposal to separate the Kashmir question from other questions had to be withdrawn for lack of support. Similarly, American delegate's initial agreement with the procedural objections raised by India proved ineffective because he thought that the description of the agenda did not really matter.
sideration of other disputes were not to be postponed until consideration of the Kashmir question had been completed.22

During the debates that followed the adoption of the resolution of 20 January 1948, India's representative M.C. Setalvad gave the explanations for India's appeal for immediate retrieval of the situation.23 His speech was basically a reply to Zafrullah Khan's speech, and therefore, it referred to his "false accusations" and "distortion of facts". He also said that "without any pre-planning or conspiracy, as suggested by Pakistan, Kashmir had to accede to India" in face of the invasion: "India had gone to Kashmir to rescue but found Pakistan there".

Pakistani representative's reply to Indian charges implied that mere "observation" by the UN was not sufficient nor was a free plebiscite possible if the administration of Sheikh Abdullah was to stay on.

Various other shades of opinion were expressed in the Security Council after the speech of Zafrullah Khan and what came out strikingly from those expressed opinions is a realization of the beginning of misinterpretation of the Indian position. For example, the British delegate, Noel Baker felt

that an alternative to war would be negotiations through the Security Council. It would be highly desirable that both sides make the required concessions. In the opinion of the U.S. delegate, Warren Austin, India’s acceptance of accession was conditional. He wished that the parties should seek a solution and conduct all the proceeding in regard to all the problems "under the aegis of the Security Council".

After a round of negotiation when Council met on 26 January 1948, the differences between Indian and Pakistani approaches had already been made evident to it through their respective proposals\(^{24}\) for ending the problem. These proposals reflected their wide differences and areas of disagreements. Without going into the details of the proposals it would be worth while to contrast their respective approaches by relating them to some of the vital issues in the problem.\(^{25}\)

1. Accession: For Pakistan, it was an open issue on which both Pakistan and India had equal standing; whereas, for India, it was an issue between them and the people of Kashmir.

2. U.N. Functions: Pakistan was ready to entrust the U.N. with the "authority and responsibility as well as the function of holding, organizing and supervising the plebiscite; whereas, India would have the plebiscite taken by the democratically constituted government of


\(^{25}\) Gupta, n. 9, pp. 156-57.
Kashmir under the advice and observation of persons appointed by the United Nations.

3. Restoration of normal conditions: For India stoppage of fighting and restoration of normal conditions was the primary objective; whereas, for Pakistan these were to be achieved essentially as part of the preparation for the plebiscite. Unlike the Indian proposals, Pakistan's proposals were not divided into two distinct phases.

4. Withdrawal of the tribesmen and the armed forces: Pakistan wanted that the withdrawal of Indian troops must be complete and simultaneous with the withdrawal of tribesmen; whereas, India was convinced that there was a need for maintenance of adequate strength of the Indian troops because of its responsibility for the state's defence and internal law and order.

5. Interim Administration: India wanted the Emergency Administration with Sheikh Abdullah as its head to be converted into a full fledged cabinet for the State; whereas, Pakistan wanted "an impartial interim administration" arranged by the U.N. Commission.

These differences were the work of the two opposite standpoints from which the two governments were approaching the question.26 India had gone to the United Nations as an

26 ibid., p. 157.
aggrieved party and expected a rectification of the wrong
done by its neighbour. India had no intentions of handing
over a dispute to the U.N. to be resolved through its inter-
ference. But Pakistan had gone to the U.N. as an equal of
India and wanted the Security Council to deal with the entire
range of Indo-Pakistan problem. Pakistan considered India
as an intruder in Kashmir but, from the Indian point of view
accession was complete. Incompatibility of their views was
more than apparent. Yet, the President of the Council re-
marked that there was agreement with regard to (i) the need
for stopping the fighting, (ii) cooperation between India and
Pakistan to achieve these objectives, and (iii) assuring the
freedom of plebiscite.27

The resolution put forward by the President in the same
meeting, noted the agreement regarding the principle that the
future of the state was to be decided by the democratic method
of plebiscite and referendum to be held under international
auspices and actually "organized, held and supervised under
the authority of the Security Council." "Among the duties
of the Commission would be those which would help the cessa-
tion of acts of hostility and violence."

Dissatisfaction of the Indian representative at this
was expressed in the following words:

"It would be putting the cart before
the horse if the Security Council omit-
ted to consider that point (cessation of

27 ibid.
hostilities) at the very beginning but proceeded instead to deal with the question of plebiscite which, if it is in fact a matter for discussion and decision by this body, should come at the very end."\textsuperscript{28}

The subsequent deliberations in the Council revealed that either there was misunderstanding regarding the problem (from the Indian point of view) or there was some kind of a deliberate sidetracking of the issues. What had shocked India was the prevalent reluctance to analyse the claims and counterclaims of both the parties before trying for an agreement.\textsuperscript{29} Appreciation for the Indian point of view, however, was not lacking completely.\textsuperscript{30}

Recapitulating Indian position the Indian delegate, Ayyangar reiterated that the accession was complete and not conditional. India's commitment was that, if the people did not vote for India in a plebiscite, Kashmir would be released from the accession. Secondly, defence of Kashmir against internal disorder and external aggression was a function of the Indian Army and would remain so till Kashmir withdrew from India through a plebiscite. Thirdly, the form of government in Kashmir was a matter for the people of the State to

\textsuperscript{28} G. Ayyangar, S.C.O.R., 236 meeting, 1948.

\textsuperscript{29} Gupta, n. 9, p. 159.

\textsuperscript{30} S.C.O.R., 241 meeting, 1948. Tsieang of China did not think that a free plebiscite in Kashmir would be secured only through a new regime. Lopez of Colombia wanted that urgency of ending the hostilities should be emphasized.
decide. Misinterpretation of the Indian positions continued to take place. For example, the simple request of the Indian delegate to postpone the discussions so that he could hold consultations in Delhi, was discussed in the 243rd meeting on 10 February 1948. For the members of the Council the Indian request for adjournment presented a contradiction. Apparently, on the one hand India was trying to establish the urgency of the situation while on the other, it was hampering a quicker solution. Very sharp criticisms came from the other members.

The Indian Delegation was allowed to return but Indian public opinion was disillusioned. Even the British Press realized that "India deserved to have its appeal honestly considered." The Economist want a step further in identifying the actual responsibility in the episode, by saying that "what was needed was action by Pakistan to put a stop to the Pathan campaign in Kashmir." 

32 Except for the Chinese delegate all the others were critical of India, the British delegate wanted India to stay on till the issue was completely thrashed out. U.S. delegate thought that the Security Council's efforts should be much more authoritative and, instead of just taking sides its duty is to find pacific solutions for the problems. Syrian delegate thought that India was hampering the work.
34 Economist (London), 21 February 1948.
The Security Council took up the issue once again on 10 March 1948, in its 266 meeting. A resolution was formally introduced in its 284 meeting of 17 April 1948 by six members of the Council. Despite Ayyangars objections, the resolution was adopted on 21 April 1948. Both India and Pakistan had objections to this resolution, so it failed to provide a basis for an agreement to secure acceptance of the proposal. India voiced its sensitivity, to the mischief of making her look like a 'co-accused'. Some other Indian objections were regarding the fact that Kashmir's accession to India was ignored; that India's obligations to defend the state against external aggression had not been taken care of; that the recommended coalition government in the state was impracticable; and, that the powers to be conferred on the plebiscite administrator were too wide in scope.

Pakistan's rejection was based on the understanding that the provisions of the resolution were inadequate for ensuring a free plebiscite.

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35 Belgium, Canada, China, Colombia, the U.K. and the U.S.A.

36 For the text of the resolution see Appendix I. USSR, and Ukraine had abstained. There was no voting on the resolution as a whole but there was no vote against any paragraph either.

37 Appendix I, para 7.

38 ibid., para 10 (b), (c), (d) and (e).

39 Pakistani note of 30 April 1948.
The resolution increased the membership of the proposed commission to five and instructed it to proceed to the subcontinent at once and place its good offices and mediation at the disposal of the Government of India and Pakistan. The Commission now, "was not to implement the resolution of 21 April, but to devise a more acceptable scheme of settlement of the Kashmir problem." 40

India had further protested 41 against the enlargement of scope of the Commission in the form of the Syrian resolution adopted on 3 June 1948 directing the Commission "further to study and report to the Security Council when it considers appropriate on the matters raised in the letter of the Foreign Minister of Pakistan dated 15 January 1948." 42 Later, however, it was explained by the Council President that (i) the Council had taken no position, on the merits of the matter raised by Pakistan and (ii) that Kashmir, in any case would be accorded priority as the resolution of 20 January 1948 and 12 April 1948. It was an apparent consolation to India from the Security Council specially because Pakistani Prime Minister had complained that the "Security Council's latest resolution had not given firm directive to the Commission for

40 Gupta, n. 9, p. 171.
41 Nehru's letter to the Council President on 5 June 1948.
42 S/819.
investigating these vital matters." 43

UN Commission for India and Pakistan

The next stage in the efforts at settlement of the Kashmir problem was the constitution of the UN Commission 44 which met for the first time in Geneva on 16 January 1948 and after adopting a name for itself, that is, "UN Commission for India and Pakistan" (UNCIP) it came to the Indian subcontinent on 7 July 1948. The guidelines for its functioning were provided in the UN resolutions of 20 January, 21 April and 3 June 1948. The tasks before the commission were much more complicated than those suggested by the resolutions because of the divergent approaches and contrary expectations of the Two Countries. The prevailing objective situation was very different from what the Security Council deliberations had assumed or envisaged.

In his first interview with the Commission Zafarullah Khan told them about the presence of three brigades of regular

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43 Dawa (Karachi), 9 June 1948.

44 Commission had the following members:

(i) Czechoslovakia - selected by India on 10 February 1948 (Josef Korbel);
(ii) Argentina - selected by Pakistan on 7 May 1948 (Ricardo J. Siri);
(iii) Belgium - Nominated by the Council on 23 April 1948 (Egbert Graeffe);
(iv) Colombia nominated by the Council on 23 April 1948 (Alfredo Lozano); and
(v) The United States nominated by the Council on 7 May 1948 (J. Klahr Hiddle).
Pakistani troops in Kashmir since May 1948. Though the reasons provided by him for their presence could be refuted convincingly, the very fact of admission confirmed the Indian charges regarding Pakistan's military presence in Kashmir. What was described as a "bombshell" by the Commission was a serious confession of truth that Pakistan had been denying for so long, though it was only a half truth and not the whole truth.45

Since both the countries had already accepted and communicated their obligation to inform the Security Council about any material change in the situation, the failure on the part of Pakistan to do so had to be viewed seriously. The explanation provided by Pakistan for the same was not found to be satisfactory.46 But, what really was led to India's disappointment was UNCIP's lenient view of the whole thing. Though the Commission sent a confidential telegram to the Council on 20 July 1948, there was nothing to condemn the Pakistani action publicly. The admission by the members that the Pakistani presence made the situation far graver and far more disturbing was only an informal opinion expressed by the members among themselves.47

The 'changed material situation', however, was taken note of much later. As a result the resolution passed by the

45 Birdwood, n. 1, pp. 67-68.
46 Pakistan said that UNCIP was expected to reach the subcontinent any moment.
47 Birdwood, n. 1, p. 94.
Commission on 13 August 1948 was different in approach from the earlier, that is, of 21 April 1948. The resolution was divided in three parts. Part I dealt with a cease-fire order. The two High Commands were required, (a) to issue separately and simultaneously a cease-fire order at the earliest practicable date, (b) to refrain from augmenting the military potential of the forces under their control, and (c) to confer regarding any changes in local disposition of the troops. In order to supervise the observance the cease-fire order, the Commission was to appoint military observers. The two governments were to appeal to the two respective peoples to assist in creating and maintaining an atmosphere of friendly relations.

Part II dealt with under three heads the principles on the bases of which truce agreement was to be formulated: (1) Pakistan would withdraw her troops from Kashmir, "as the presence of troops of Pakistan in the territory of the state of Jammu and Kashmir constituted a material change in the situation since it was represented by the Government of Pakistan before the Security Council". (2) After the Commission's notification to the Government of India regarding the withdrawal, the Government would begin to withdraw bulk of its forces. (3) The full text of the truce agreement was to be made public after the two Governments had agreed upon it.

48 For the text of the resolution of 13 August 1948, see Appendix II.
Part III referred to plebiscite. After the acceptance of the Truce agreement both the Governments were to hold consultations with the Commission to determine fair and equitable conditions for free expression of the will of the people.

The few reservations and doubts that India had at this stage got clarified in the assurances that India received in response to Nehru's letter to the Commission pointing out these doubts. 49

From the Indian point of view some of the redeeming features of this resolution were, that cessation of hostilities was treated as a desirable end in itself; that the agreement about plebiscite would have to wait till a truce agreement was evolved; and that India would begin to withdraw her forces after the Commission was informed that the withdrawal of Pakistan troops had begun. It did not place India and Pakistan at par with each other in the matter of Kashmir and accepted the sovereign rights of the state of Jammu and Kashmir. 50 India had communicated its acceptance of the resolution on 20 August 1948. Pakistan's acceptance was conveyed on 6 September 1948 after attaching "so many reservations, qualifications and assumptions that the Commission had to consider its answer as tantamount to rejection." 51

49 An account of various United Nations assurances to India is given in the Documents submitted to the U.N. by India in 1957 (S/PV. 762/ Add. I, Annex V).

50 Gupta, n. 9, p. 180.

Pakistan's doubts and objections were raised in its memorandum of 19 August 1948. Its query as to how the Commission would secure the agreement of Azad Kashmir government for its proposals since only that government could issue cease-fire orders to their forces, appeared motivated. In a way, it appeared to be seeking recognition for the Azad Kashmir Government.

Many of the Commission's opinion at this stage appeared to be in harmony with the Indians views. For example, about Azad Kashmir, the Commission pointed out that the Pakistan Army was responsible for the overall command of Azad Kashmir. As a result Commission felt that the views of the "Azad Kashmir" Government would be reflected in the Pakistani attitude to the resolution of 13 August.

The Commission had also refused to accept Pakistani statement that the description in the resolution about the change in the situation was "one sided" and "inadequate". Pakistan had objected to the absence of any reference to India's military build-up and offensive in the state. UNCIP's contention was that the presence of Indian troops in Kashmir was known to them whereas they did not know of the presence of Pakistani troops.

The Commissions submitted its first Interim Report on 22 November 1948. The efforts made by UNCIP in this first phase turned out to be inadequate because a lot of problems.

52 S/1100.
53 While saying that the "Azad forces would remain intact
had not been tackled. Terms such as "surveillance", "bulk of army", and "local authorities" had not been defined. But the most disturbing thing was that the Commission's assurances to India and Pakistan regarding the latter's status in Kashmir did not necessarily mean the same thing. Despite the vagueness in the explanations of some of the provisions, and inadequate tackling of some of the vital problems by the UNCIP their prime considerations of achieving a quick ceasefire cannot be overlooked.  

After the completion of the first Interim Report, in order to draft a supplementary resolution to "satisfy Pakistan's insistence on the prior acceptances of a plebiscite", the Commission held negotiations with the Indian and Pakistani representatives in Paris and, a supplementary resolution was adopted later on 5 January 1949. This resolution was an expansion of the Part III of the earlier resolution, dealing basically with the provisions regarding plebiscite.

In its response India maintained the position that implementation of Part I and II is antecedent to the implementation of Part III. On the question of appointment of the Commission did not guarantee, through any of its provisions that they would not be increased in future.
a plebiscite administrator India thought that it was premature to do so at this stage, but it could not possibly have objections to commission's privilege of employing advisers or experts within its terms of reference. 57

Acceptance of these proposals, prior to its adoption on 5 January 1949, were communicated by India on 23 December, and by Pakistan on 25 December.

With the "cease-fire" ordered by the two governments coming into effect one minute before the midnight on 1 January 1949, one of the most important provisions of part I of the resolution was implemented.

The Commission returned to the subcontinent on 4 February 1949 to perform two main tasks, namely (i) the effective implementation of the cease-fire, that is, Part I of the resolution of 13 August 1948, and (ii) the realization of the truce, as envisaged in Part II of the resolution.

The problem of demarcation of the cease-fire line on the ground was of a technical nature. The Commission's efforts simultaneously were causing delay, 58 so the two aspects were separated and an agreement on the purely military problem of demarcating the cease-fire line was reached. Accordingly, "both the parties were granted the right "to adjust their defensive positions behind the cease-fire line". The Commis-

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58 The Commission itself noted it as the cause of the delay.
sion was permitted to station observers anywhere in the State. "This was the origin of the UN Military Observer Group for Kashmir. At the beginning of 1953, this group comprised 59 soldiers from 11 countries under the leadership of General R. Nimmo of Australia."\(^59\)

Difficulties regarding truce arose from the differing and conflicting opinions that the two countries held about it. These viewpoints were expressed in front of the truce subcommittee of the UNCIP. Pakistan thought that the objective of the truce agreement would be to establish a military balance between the forces on each side. In effect, what was being asked for was withdrawal of regular forces from the "Azad" areas, according to a plan of synchronizing it with the withdrawal of Indian forces. It would have meant organized and disciplined forces on both the sides. In other words, Pakistan forces would have been withdrawn only after another set of them were trained.

To India, it would have amounted to a resumption of hostilities and consolidation of the occupied territory for Pakistan. Commission's other assurances to India would have thus been violated.\(^60\) India wanted disbandment and disarming of the so-called Azad forces.

About 'Northern Areas' also, there was a difference of opinion. India wanted the Northern Areas (excluding Gilgit)
back because in these areas the authority of the state was disturbed by the "roving bands of hostiles." Pakistani view was that the people in this region had overthrown the Maharaja's rule and welcomed Azad forces.

With regard to the withdrawal of Indian forces, India did not want to disclose its own plans till a satisfactory agreement had been arrived at, regarding the withdrawal of the Pakistani forces and the replacement of the so-called Azad Kashmir forces by a civil armed force.

In the revised proposal of truce terms circulated by the Commission on 28 April, India found the provision regarding Azad forces unaltered. There was no mention of disbandment of Azad forces, hence India's objections.61

By the end of June, Commission thought of resorting to another procedure. Possibilities of a joint meeting were explored for which formal invitations were issued on 9 August 1949.62 But, because of their differences and reservations on the different points of proposed agenda, the Commission had to abandon this idea.

Having concluded that there was no scope for mediation the Commission felt that the points of differences should be submitted to arbitration. In answer to India's question whether the Commission would state to the arbitrator the

61 S/1430. India's reply of 18 May 1949 and Pakistanis reply of 30 May 1949 led the Commission to conclude that "great differences of opinion still exist".
62 Gupta, n. 9, p. 193.
specify points on which they seek his decision and then the arbitrator would decide whether the issues raised were germane to the truce or not. On the question whether the Commission would furnish the arbitrator with its own version of events and its views on such questions as the disarming and disbanding of Azad forces, the explanation given was that the problem was being approached from an entirely new angle and hence, it would not wish to go into the past. India's reaction to this was of "surprise and disappointment." It was explained that India was not "opposed to arbitration in principle; but the reference to arbitration ought to be on a precise and defined issue.

Commissions appeal to India to reconsider its position, was based on the ground that acceptance of suggestion was more important and the question of defining the issues for arbitration could be taken up later. Indian view was that "the process of consultation with the two governments to determine the points of reference to arbitration should precede and not follow acceptance of the proposal for arbitration." For Pakistan, rejection of these proposals by India meant that it had no intention of allowing the UN to complete its tasks.

63 S/1430.
66 Gupta, n. 9, p. 195.
The Commission now presented its Third Interim Report to the Council on 5 December 1949. It was an analysis of the dispute and its main elements. It also noted several facts that suggested that there was a change in the situation. It attributed the failure of mediation in regard to demilitarization to the requirements of working within the framework of outmoded resolutions. One important fact noted in its report was that the "Commission had not foreseen that Pakistan would use the greater part of 1949 to consolidate its position on the Azad territory". There was no mention of methods other than plebiscite in the report, a subject that had been on the minds of the Commission in the early stages of their presence in the subcontinent.

A strong critique of the Commission work came in the form of a Minority Report submitted by the Czechoslovakian representative Dr. Oldrich Chyle. This report placed the blame for the failure of UNCIP on the UNCIP itself as much as on the two governments. In the arbitration proposal, it found a "pre-planned attempt on the part of USA and UK to intervene in the dispute." A cold war element was also seen in this proposal.

68 ibid.
69 S/1430/Add. 3.
Before the beginning of the next phase of UN efforts at settling the problem, one important development took place. It was the 'no-war declaration' offered to Pakistan by India towards the end of 1949. Pakistan, however, did not find it possible to accept the offer without agreeing upon a method to settle the outstanding disputes before hand.

McNaughton Proposals:

The next phase in UN efforts began with the appointment of Gen. A.G.L. McNaughton of Canada as the informal mediator by the Security Council on 17 December 1949. The idea of suitability of one single mediator for tackling the problem of implementing parts II and III was expressed by the UNCIP. McNaughton’s mediation efforts were carried out in Lake Success, and there was no attempt to make any study on the spot. After negotiating informally with the representatives of India and Pakistan, he presented to the Council a plan, whereby both sides would simultaneously and progressively demilitarize to the point where the remaining force would not cause fear at any point of time to the people on either side of the cease-fire line. The northern, sparsely populated areas of Baltistan and Gilgit would be administered by

local authorities subject to the United Nations supervision, and a United Nations representative with wide powers would be appointed to carry out the Council's decision."\(^{71}\)

For India these proposals were a 'set back' whereas for Pakistan it was a 'distinct gain'. They tended to equate India and Pakistan. Allowing Pakistan to control the Northern Areas amounted to approving of the naked aggression by Pakistan. India felt that these proposals had completely ignored the legal and moral aspects of the question. The Indian delegate also mentioned the pressures being brought to bear on India, through propaganda and publicity in the Western Countries.\(^ {72}\)

**Four-Power Resolution:**

General McNaughton had already reported his failure on 3 February 1950. The next step that the UN Council took was to decide about the appointment of an UN representative to take over the responsibilities of UNCIP. This came in the form of "Four-Power Resolution" of 24 February 1950. It called upon India and Pakistan to "make immediate arrangements without prejudices 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" a programme of demili-

\(^{71}\) Josef Korbel, n. 51, p. 167 or S/1453, 6 February 1950.
\(^{72}\) S.C.O.R., 463 meeting, 1950.
tarization on the basis of paragraph 2 of General McNaughton's proposal or of such modifications of those principles as may be mutually agreed."\textsuperscript{73}

The resolution\textsuperscript{74} was finally adopted on 14 March 1940. Pakistan was satisfied with this resolution because it was based on the McNaughton proposals that had further acknowledged its claim to equality with India. India's representative, B.N. Rau had explained to the Council that while India accepted the replacement of the Commission by a single UN mediator, it rejected the McNaughton proposals and thus, by inference rejected the Resolution itself.

\textbf{The Dixon Mediation:}

Sir Owen Dixon, an Australian Jurist was appointed the UN representative, who came to the subcontinent on 27 May 1950. In order to have an understanding of the circumstances existing in the state, that might have helped him in resolving the dispute, he stayed in Jammu and Kashmir from 7 June to 12 July. Sir Owen knew that chances of a plebiscite for the whole state proving successful were remote. But, he wanted to make an attempt to bring about an agreement on demilitarization. Only after satisfying himself about impossibility of such agreement he wanted to turn to any other form of agreement besides ple-

\textsuperscript{73} S/469, 14 March 1950. The draft resolution was presented by Cuba, Norway, the United Kingdom and the United States.

\textsuperscript{74} S.C.O.R., 470 meeting, 1950.
biscite.75

He began with a meeting with the two Prime Ministers. In these meetings held between 20 July to 24 July neither of the two Prime Ministers made any positive suggestions for demilitarization.

He declared Pakistan an aggressor.76 On this, India's position was that instead of asking Pakistan to vacate aggression, he was only declaring Pakistan as an aggressor. Pakistan's position was very different. It felt that the Security Council had not decided on aggression, implying thereby that Sir Owen had no authority to decide here either. Sir Owen's position was taken as a logical step adopted to proceed with demilitarization and not as finding of aggression in reality.

After asking Pakistan to withdraw first, Sir Owen went on to request both sides "to demilitarize the territory to a minimum of forces (Azad, state troops, Indian arms, and local militia) consistent with law and order."77 India rejected this proposal on the grounds that "notwithstanding the withdrawals Pakistan might still attack, in view of the earlier actions and that in any case only the Kashmir Government could agree

75 S/1791.
76 S.C.O.R., 534 meeting, 6 March 1951, p. 22. Sir Owen's contention was that the crossing of the frontiers of the state of Jammu and Kashmir ... in May 1948 by Pakistan forces was inconsistent with International Law.
77 Korbel, n. 51, p. 171.
to disband its forces.\textsuperscript{78}

To deal with the problem of administration of Azad territory, Sir Owen proposed that the task should be assigned to the local authorities, namely, district magistrates whose power would be supervised by the UN officers. "Though he assured India that this did not constitute recognition of the Azad Kashmir Government, India remained unconvinced."\textsuperscript{79}

For Northern Areas, his suggestion was "to appoint political agents by the United Nations in consultation with India and Pakistan and to vest authority in them." India's rejection of this plan was based on the grounds that consultation with Pakistan amounted to recognition of its right to be in the Northern Areas. For its defence, India was convinced of the need to station its garrisons on the northern side of the cease-fire line.\textsuperscript{80}

About the territory under Indian control, he proposed the appointment of UN officer to be attached to each district magistrate, but unlike the only task of "supervision" on the Azad territory, here they were to "observe, inspect, remonstrate and report." Without prior consent of the UN Officers no arrests were to be made. India rejected these proposals because it involved abridgement of the sovereignty of Kashmir.\textsuperscript{81}

\textsuperscript{78} Brecher, n. 2, p. 109.
\textsuperscript{79} ibid.
\textsuperscript{80} ibid.
\textsuperscript{81} ibid., p. 110.
Alternative Plans:

Sir Owen, then suggested an alternative procedure, that is, for the period of plebiscite, a single government for the whole of state. None of the three variations\(^2\) of the Scheme suggested were acceptable to India.

Partition Plans:

"After the failure of these proposals, he put forward another one, that is, "a combination of partition and a plebiscite in the valley of Kashmir." He wanted to ascertain the views of both governments on taking a plebiscite, region by region, allocating each to Pakistan or India according to the result of voting; or allotting to either of the two countries areas which unquestionably would vote for Pakistan or for India, and thus limiting the plebiscite to the valley of Kashmir, the only uncertain area.

India was ready to consider this approach on the basis of certain principles. Sir Dixon, however, felt that the territorial demands of India "appeared to go much beyond what according to (his) conception of the situation was reasona-

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\(^2\) Three alternatives were given in this scheme: (a) a coalition government, with cabinet posts shared by both Kashmir administrations; (b) a non-political administration of "trusted persons" with equal representations from the Hindus and the Muslims; and (c) a non-political administration composed entirely of UN representatives.
ble..."\(^{83}\) Pakistan had rejected the suggestion.

After this, Dixon concluded that "the only course open was for the UN to toss the responsibility for any further development in Kashmir back to parties concerned, India and Pakistan.\(^{84}\) Another phase of UN mediation ended with Dixon's departure on 23 August 1950.

Even the immediate deadlock in the Kashmir negotiations had a serious effect on Indo-Pakistan relations. The press of both the countries resumed their sharp attacks, each blaming the other for Owen's failure. "The world press as a whole was critical of India's reaction to Sir Owen Dixon's proposals."\(^{85}\) Because of the Korean War and struggle between communism and anti-communism in Asia, Kashmir problem was being viewed in a different light.

**Commonwealth Mediation:**

It was only after an elapse of five months that active consideration in Kashmir issue could take place. It was under the auspices of another international forum, Commonwealth. In the Commonwealth Prime Ministers' Conference in London in January 1951, the matter was discussed informally. Though the

\(^{83}\) S/1791.

\(^{84}\) ibid.

\(^{85}\) Korbel, n. 59, p. 175. Korbel quotes from *The Times* (London) 6 September 1950, which said that "if self-determination is valid for Korea (as India advocates) why is it not valid for Kashmir?"
official communique did not give the gist of these talks. Pakistan Prime Minister disclosed at a public meeting in London on 16 January 1951 that three suggestions were put forward by the Australian Prime Minister, Robert Gordon Menzies. These were: (i) to station commonwealth troops in Kashmir; (ii) to have a joint Indo-Pakistan force there; and (iii) to entitle the plebiscite administrator to raise local troops. India had rejected each of these while Pakistan had accepted each of them.\(^\text{86}\)

Failure of these informal London talks led to growing attacks on India in the British and American Press.\(^\text{87}\) Pakistan insisted that it was Security Council's responsibility to find an acceptable solution to the problem. The reason for this was said to be a lack of faith in India's bona fides in regard to the plebiscite.\(^\text{88}\)

The U.N. Resolution:

The item was placed once again on the Security Council's agenda for its 532 meeting on 21 February 1951. Britain's Gladwyn Jebb submitted a draft resolution on behalf of the UK and the USA.\(^\text{89}\) Affirming the two original resolutions of 13

\(^{86}\) ibid., pp. 176-7.


\(^{88}\) ibid., p. 230.

\(^{89}\) S/2017. For the text of the resolution of 30 March 1951, see Appendix IV.
August 1948 and 5 January 1949 and stressing the mutual acceptance of plebiscite by the two parties, it appointed a UN representative to effect demilitarization of Kashmir within three months, it called upon the parties to accept, in case of failure, arbitration by an arbitrator or a panel of arbitrators appointed by the President of the International Court of Justice. Concern was also expressed over the internal developments in Kashmir where preparations were being made for elections to the Constituent Assembly. The resolution was revised on 30 March 1951. Pakistan had accepted the resolution but India rejected it mainly because of the new proposal for arbitration.

As Korbel notes,

"India could not escape criticism at this point because it had never been recommended, nor can one seriously believe that Nehru actually thought that it had been that the final fate of Kashmir should be decided by a tribunal.... The United Nations Charter, which binds India as well as all other signatories, states in paragraph I, Article 33, 'The parties to any dispute... shall, first of all seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement...""90

On 30 April 1951 Security Council appointed Dr. Frank P. Graham as United Nations representative for India and Pakistan, i.e., the mediator for the Kashmir question to report within three months from the date of his arrival on the subcontinent.

90 Korbel, n. 51, p. 179.
In all, Dr. Graham submitted five reports to the Council. The principal points of difference encountered by Dr. Graham in his first round of negotiations were regarding "the period of demilitarization, withdrawal of troops, size of the remaining forces on each side of the cease-fire line after the demilitarization process was completed, and the question of plebiscite administrator." His first report\(^{91}\) presented on 15 October 1951, was welcomed in India.

Dr. Graham resumed his mediation in Paris and his second report was ready by 13 December 1951. This report\(^{92}\) expressed its failure to reconcile the two viewpoints. Differences regarding the question of forces to be left on either side and appointment of Plebiscite Administrator persisted.

His third report\(^{93}\) was submitted on 22 April 1952. Failure to break the deadlock over demilitarization was again reported but along with it were reported some encouraging developments. These were: (1) withdrawal of forces from Kashmir - by the end of March 1952 the number of troops on Pakistani side of cease-fire line was less than 50 per cent of its armed forces in Kashmir at the time of cease-fire agreement; (2) withdrawal of troops from the frontiers on both the sides; (3) Plebiscite Administrator - India was ready to agree on the date for his induction into office, but only after.

\(^{91}\) S/2375 (15 October 1951).
\(^{92}\) S/2448 (18 December 1951).
\(^{93}\) S/2611.
agreement about forces to be retained in Kashmir was completed.

Dr. Graham's fourth report\(^\text{94}\) was submitted on 16 September. The size of forces to be retained on each side was discussed but no agreement could be reached. His efforts to make the parties agree to accept certain broad principles like, minimum number of armed forces, also failed. In the case of India security of the state was one of the factors to be duly regarded. Otherwise, the position of the two forces was to be the same, that is, the minimum required "for the maintenance of law and order and of the cease-fire line agreement with due regard to the freedom of plebiscite." Since this position equated India's status with that of Pakistan, gave more than a local character to the Azad authorities and violated the UNCIP assurances to India, India had objections to it. Pakistan was ready to accept the proposal if there was no mention of Indian responsibility regarding the security of the state.

"On 5 November 1952, the UN began its consideration of Dr. Graham's fourth report. Dr. Graham had wanted, by implication, clear UN instructions in regard to demilitarization, either in the form of enunciation of general principles or of a verdict regarding the quantum of and character of forces to be left. This raised fundamental issues, and the UN debate once again took the form of legalistic restatements of the position of the two governments and the repetition of earlier
expressed views by the major powers in the council."

A draft resolution was introduced in the Council on 5 November 1952. It was an expression of the dominant trends of opinion in the Council. It urged further negotiations on the quantum of forces under the auspices of the UN representative. Subsequent to its adoption on 23 December 1952 Dr. Graham met the representatives of India and Pakistan at New York on 12 January 1953 to ascertain their views for negotiations on the basis of the resolution. The two governments agreed to negotiate at Ministerial level only on the basis of the UNCIP resolutions. Failure of the talks in the conferences held in Geneva from 4 to 19 February 1953 led Dr. Graham to conclude in his Fifth Report that "there was no further ground for advance and that the negotiations should be ended."

This marked the end of first phase of mediation efforts through the United Nations. Before the UN took this case up again in 1957, some attempt on the part of both the governments to solve the problem themselves was witnessed.

**Direct Negotiations 1953-56:**

It all began with an informal discussion on Kashmir between the Indian and the Pakistani Prime Ministers in London where they had gone for the coronation ceremony of the Queen

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95 Gupta, n. 9, p. 250.
96 S/2839.
97 S/2967.
in June 1953. This was followed by Nehru's visit to Karachi on 25 July 1953. "Encouraging progress" and "complete identity of approach" appeared to be marking an end of the hostility and suspicion characteristic of the relations between the two countries. Both the Prime Ministers had several meetings on 25, 26 and 27 July. The joint communique issued by them mentioned that

"The major part of the meeting was devoted to a discussion of Kashmir dispute which was examined in all its aspects. These talks were necessarily of a preliminary character. They have helped in a clearer understanding of each other's point of view of the issues involved and of the difficulties that stand in the way of settlements. They have prepared the ground for further talks which the Prime Ministers expect to resume in New Delhi in the near future."\(^98\)

Despite the initial enthusiasm soon it was realised that an early settlement of Kashmir dispute was not possible.

The next meeting began on 17 August 1953 but before this the internal situation in Jammu Kashmir had changed. Sheikh Abdullah, the Premier was put under arrest and the Deputy Premier Bakshi Ghulam Mohammed was asked to form the government. Pakistani press had taken a hostile posture towards India.\(^99\)

In the joint communique issued by the two Prime Ministers on 20 August 1953 it was said that "This (Kashmir dispute)
should be settled in accordance with the wishes of the people of that State, with a view to promoting their well being and causing the least disturbance to the life of the people of the State. The most feasible method of ascertaining the wishes of the people was by a fair and impartial plebiscite.... The plebiscite Administrator was to be appointed by 1954."

It further added that:

"The Prime Ministers deplore any propaganda or attacks on one country by the other in the press, by radio or by speeches and statements made by responsible men and women of either country."100

From the Indian point of view it was a gain that the new Plebiscite Administrator was to be from a small country. The major gain for Pakistan was that plebiscite was accepted and a date-line was fixed for the appointment of the Plebiscite Administrator.

On 27 August the Pakistani Prime Minister wrote to Nehru that proposal for dropping Admiral Nimitz as Plebiscite Administrator should be given more thoughts. Nehru's reply to this on 22 August took note of the campaign in Pakistani press against him because it could have taken place only "under some kind of official inspiration."101

100 Lakhanpal, n. 3, pp. 245-6.
101 Gupta, n. 9, p. 273.
Pakistani Prime Minister's reply on 5 September said that there was no agreement in Delhi regarding Admiral Nimitz, the leakages in the Indian press were officially inspired, Pakistani press campaign was in response to a similar campaign in the Indian press and to maintain friendly atmosphere rapid and visible results need to be shown on Kashmir.

A number of letters were exchanged between Mohammad Ali and Jawaharlal Nehru. The last letter from Nehru on 29 September 1954 summed up the Indian position and expressed his regret that the direct negotiations had failed.\textsuperscript{102}

This was not the end of the direct contacts. In Pakistan, on 24 October the Constituent Assembly was dissolved and the Cabinet was reshuffled. The Governor General of Pakistan came to India in January 1955. He had talks with Nehru and Maulana Azad. There were no specific achievements yet the "way was paved for better relations between the two countries."

In May 1955 Premier Mohammad Ali came to Delhi with Iskander Mirza and Abid Hussain. On 18 May 1955 a joint communique was issued which said:

"In the course of the joint talks the Kashmir problem was discussed fully in all its aspects. It was decided to continue these talks at a later stage after full consideration had been given by both the governments to the various

\textsuperscript{102} Ministry of External Affairs, \textit{White Paper on Kashmir: Meetings and Correspondence between the Prime Ministers of India and Pakistan, July 1953-October 1954} (New Delhi, 1954).
points that had been discussed during the course of these meetings."103

A "new approach" was being talked about at this point but, on return to Pakistan Mohammad Ali had to face a hostile press. His broadcast to the nation gave a severe set back to the hopes that New Delhi talks had raised regarding the withdrawal of the issue from the UN agenda or finding ways of ascertaining the wishes of the people. He said,

"... there was no question of giving up our stand for a plebiscite in Kashmir
.... In the event of failure we will report to the Security Council...."104

Later at a public meeting in Srinagar on 8 July the Indian Home Minister Govind Ballabh Pant referred to the unsatisfactory conditions prevailing in Pakistan held Kashmir and also to the fact that Jammu and Kashmir had already made its choice. Referring to the definite decisions taken by the Constituent Assembly of Kashmir and changed circumstances, he concluded that the ‘tide cannot be turned now’.105

This speech aroused a lot of strong reactions in Pakistan and an official note of protest was sent to Delhi on 14 July. In reply to this Nehru reiterated the official Indian position on Kashmir. He also said that the question was of solving the issue and not of declarations.

With the formation of a new Cabinet in Pakistan with

104 Gupta, n. 9, p. 293.
Choudhuri Mohammed Ali as its new Prime Minister all the prospects of direct talks ended. Though he had expressed the need for cooperation there was no formal correspondence regarding any further meeting.

Another development that had cast its shadow on future developments was Pakistan's decision to join the SEATO. The Pact came into force on 19 February 1955. It caused anxiety in India and brought cold war to the sub-continent. Later Pakistan decided to join the Baghdad Pact as well. In 1956 the respective Councils of both these facts talked about an "early settlement of Kashmir dispute." 106

Soviet support for Indian position on Kashmir was expressed by Soviet leaders in December 1955. But it was a result of cold war politics and Pakistan's participation in Baghdad Pact rather than a result of any policy of India. 107

In early 1956 Nehru had made a few statements regarding Indian position on Kashmir and repeated his plea for a "no-war declaration" Pakistani Premier, however, felt that "Direct talks can take place only when India agrees to discuss with us ways and means of holding a plebiscite."

With this, the direct contacts came to an end. Amidst various border incidents and allegations and counterallegations "the speeches and statements made on Kashmir now assumed the nature of a lawyer's argument, directed at world

106 Gupta, n. 9, pp. 299-301.
107 ibid., p. 302.
public opinion, on the one hand, and the nationals each country on the other. 108

Discussions that began in the Security Council on 16 January 1957 marked the beginning of another phase in the efforts at settlement of the Kashmir problem. The Foreign Minister of Pakistan had reported in his letter dated 2 January 1957 that Constituent Assembly had taken steps towards integration of the State with India. 109 He had demanded two things from the Council: (1) to give an immediate call to India to refrain from accepting the changes envisaged by the new constitution and, (2) to take up the task of demilitarization. 110

While the Indian representative Krishna Menon was in the middle of his statement, a draft resolution was presented. 111 This resolution reaffirmed the earlier resolutions and the UNCIP resolutions and mentioned that the final disposition of the state would be through a free and impartial plebiscite. Reaffirming the resolution of 30 March 1951, it contended that convening of a Constituent Assembly or any action taken by it would not constitute the disposition of the State in accordance with the above principles.

108 Ibid., pp. 304-6.
109 S/5767.
111 S/3778.
India resented the suggestion that the final disposition of the state had not yet been made. V.K. Krishna Menon had explained at length that the "actions of the Constituent Assembly is merely declaratory and not creative."\(^{112}\)

Another draft resolution\(^{113}\) was introduced in the Council on 14 February 1957, which talked of introduction of a mediator and proposed the use of temporary UN force. It was something Pakistan had asked for. Due to Soviet Veto it could not be adopted. So, a simpler resolution,\(^{114}\) requesting the President of the Council to examine with the two governments any proposal which was likely to contribute towards settlement of the dispute was adopted. It asked him to visit the subcontinent and report back by 15 April 1957.

**UN Resolution and Jarring Report:**

Adoption of this resolution on 21 February 1957 was followed by Gunnar Jarring's visit to the subcontinent. He submitted his report on 29 April 1957.\(^{115}\) He had explored the factors that were impeding the full implementation of 13 August 1948 and 5 January 1949 resolutions. He suggested that it could be decided through arbitration whether Part I of the first resolution was completed or not. The two

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113 S/3787.
115 S/3821. The USSR had abstained from voting.
governments had different opinions on this point. India could not accept arbitration even on a part of the resolution because it would indicate the *locus standi* of Pakistan in the question and also because it would be inconsistent with the Sovereignty of the State of Jammu and Kashmir and the rights and obligations of the Government of India towards it.

Jarring had taken cognizance of the changed context and the dangers involved in holding a plebiscite. India had appreciated this. In the debate on 24 September 1957, India was accused by Pakistan for its *mala fide* action in evading Plebiscite in Kashmir. The Constituent Assembly of Kashmir was referred to as 'bogus' and the fear of extermination of Muslims in India as a "political blackmail".

Indian statement made on 9 October 1957, referring to the suggestion of stationing a UN force, held the position that the question was that of vacation of aggression and not of stationing of UN force. Krishna Menon's speech took three Council meetings to be completed. Here he made it clear that self-determination can not be applied to a constituent unit. He also said that the problem was of maintaining peace and order in the region.

At this stage, idea of a Second Graham Mission was mooted by Pierson Dixon of U.K. A resolution circulated

by the UK and four others, urged the parties in accordance with the UNCIP resolutions to do their utmost to assist, and create and maintain a favourable atmosphere for friendly negotiations between them. With an amendment to this resolution was passed on 2 December 1957. The task in front of Dr. Graham was to make recommendations for creating the proper framework for these negotiations. After his stay on the subcontinent from 12 January 1958 to 13 February 1958, he presented his report on 18 March 1958. All his five recommendations to resume direct negotiations under UN auspices were unacceptable to India because "they were made without regard to the failure of Pakistan to implement the first part of the resolution of 13 August 1948".

Pakistan's dissatisfaction was grounded in the fact that "direct negotiations" were being recommended once again but it had accepted the recommendations in principle.

A meeting between the Indian and the Pakistani Prime Ministers took place on 9 September 1958 in Delhi and a joint communiqué reported progress in talks on 11 September 1958. Nehru-Noon agreement was considered to be a courageous beginning. But soon, Noon was ousted and a military regime took over in Pakistan.

On 1 September 1959 President Ayub Khan met Nehru and decided to evolve a "planned and rational basis of relation-

119 S.C.O.R., 808 meeting, 1957. India was unable to accept this resolution. The text of the resolution in Appendix V.
120 S/3934.
ship, instead of a day-to-day approach. India found Ayub Khan's proposal for 'joint defence' unacceptable because it would have involved fundamental changes for India's foreign policy.

During the period between 1960 and the outbreak of another war between India and Pakistan when the Security Council took up the case on its own, there were several attempts at reaching a peaceful settlement.

The Indo-Pakistan Dialogues:

In September 1960 the Indian Prime Minister had gone to Pakistan to sign the Indus Water Treaty. A communiqué was issued after his five-day stay in Karachi on 23 September 1960 which noted the 'free and frank discussions among them on Kashmir'. But, immediately after this on 6 October 1960, President Ayub Khan declared that Pakistan could not trust India until the Kashmir question was settled.

The resulting 'stalemate' led Pakistan to take the issue once again to the Security Council. A letter was sent to the President of the Security Council on 11 January 1962 asking for an early meeting to discuss the Kashmir issue.

The Security Council met on 1 February 1962. It heard the viewpoints of both the sides and concluded that "in the light of assurances of peaceful intentions by the two countries... any further considerations should be deferred, al-

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121 *Foreign Affairs Record*, September 1959.
though the Security Council would continue to be seized of
the issue."122

The Security Council met again on 27 April to discuss
the issue.123 A draft resolution was introduced on 22 June
which mentioned the responsibility of the Security Council
for helping the parties to reach a peaceful solution and
urged the two governments to enter into negotiation at the
earliest convenient time with a view to ultimate settlement.
It could not be passed because of the Soviet Veto.

Direct Negotiations:

After this, the question was discussed by the two
governments in six meetings held between 27 December 1962 to
16 May 1963. There was "no fresh idea on the possible lines
of resolving the Kashmir problem."124 The first round of
discussions in Rawalpindi (27-29 December 1962) ended with
an appeal to the "leaders, officials, press, and other media
of publicity of the two countries to create a peaceful at-
mosphere ..."

In the second round of talks in New Delhi (16-19 June
1963) the Pakistani delegation agreed to consider any alter-
native solution of the Kashmir question though, formally,
they kept their position on the need for a plebiscite.

124 Gupta, n. 9, pp. 352-53.
A working paper presented by India during these talks mentioned the line of partition offered by India. According to the Indian plan entire occupied area west and north of Kashmir Valley would be transferred to Pakistan and the cease-fire line would also be adjusted giving some more areas to Pakistan. Pakistan's partition proposal would have left India with less than 3,000 sq. miles out of a total area of 85,000 square miles of the State. This proposal would have taken away the Valley and large parts of Jammu from India. Another proposal put forward by Pakistan was regarding internationization of the Valley. Eventually the joint communique issued by Swaran Singh and recorded with regret that no agreement could be reached on a settlement of the Kashmir dispute.125

Failure of direct negotiations prompted Pakistan to take the issue to the Security Council once again. Foreign Minister of Pakistan asked for an immediate meeting of the Council in his letter dated 16 January 1964.126

Discussions in the Security Council

The Council took up the discussions on 3 February 1964.127 Z.A. Bhutto made references to the 'Hazratbal' incident and claimed that people of Kashmir had risen in "open rebellion"
against the Government of Jammu and Kashmir and the Government of India. Indian Education Minister Chagla explained the Indian position. He said, among other things that there was no reason whatsoever for convening the meeting. What was necessary was that India and Pakistan should declare that they would never resort to war. Later, on 17 February 1954 when the Council met, Pakistani delegation asked for a postponement of debate "so that they could reflect more on the question."\(^{128}\)

Another round of debate began on 17 March 1964. India had strong objections to resumption of talks on Kashmir. It maintained that "postponement of debates for six weeks itself proved that there was no emergency in Kashmir. Though nothing came out of these debates it was noted in India that "there is not much to be done about the status quo." The use of Security Council as "a platform for international propaganda against India for world and home consumption" by Pakistan was also noted in India.\(^{129}\)

Meanwhile, Sheikh Abdullah's release on 8 April 1964 and his talks with Nehru and Ayub Khan gave some hope of Indo-Pakistan rapprochement. The two leaders would have met in New Delhi in 1964 as a result of his discussions. However, it could not materialise due to sad demise of Nehru on 27 May 1964. The next landmark in this direction was armed conflict

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129  The Statesman, 7 February 1964.
between the two countries. Once again the story of 1947-48 was repeated.

Violations of Cease-Fire Line and UN Action:

On 3 September 1965 the Secretary-General UThant had informed the Security Council about the "dangerously serious situation" in Kashmir.\(^{130}\) On the basis of the findings of General Nimmo, the Chief of the United Nations Military Observers Group in India and Pakistan (UNMOGIP), it was reported that there were a series of violations of the cease-fire line commencing on the 5 August 1965. The attacks by the Pakistani infiltrators were confirmed through material evidences.

The Security Council met on 4 September 1965 to tackle the "India-Pakistan Question." Also included on the agenda of this meeting was the Secretary-General's appeal to the two states urging respect for Cease-fire Line. A resolution\(^{131}\) was passed on the same day calling upon the parties to take steps for immediate cease-fire, respect the cease-fire line and cooperate with UNMOGIP in its task of supervising the observance of the cease-fire line. The Secretary-General was requested to report on its implementation to the Council within three days.

\(^{130}\) S/6651.

\(^{131}\) S/6657.
To India's great disappointment, the Security Council refused to condemn the aggressive acts of Pakistan. The draft to the UN resolution had not gone into the history of the problems. Characteristic of 'feelings of abstinence from value-judgements' prevailing in the Council was the speech of the Malaysian delegate Ramani who emphasized that "the draft resolution makes no findings; it produces no judgements on the distressing and tragic situation...."\(^{132}\)

The concerned parties did not pay any heed to the resolution. After this, the Council adopted four more resolutions on 6, 20 and 27 September and 5 November 1965.

None of them could make any effective change in the situation. As Rahmatullah Khan points out,

"the concern of the UN with immediate objective of restoring Peace, India's insistence on acceptable guarantees that there would be no repetition of infiltration and the withdrawal of the infiltrators already in the State of Jammu and Kashmir, and Pakistan's efforts to open afresh the whole Kashmir question, (were) recurring themes in the subsequent debates."\(^{133}\)

The Prime Minister of India's letter of 14 September 1965 stated that "we shall not agree to any disposition which will leave the door open for further infiltrations or prevent us from dealing with the infiltrations that have taken place.

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133 ibid.

134 S/6720, p. 362.
The Security Council failed to take notice of the Indian case which was essentially very simple. India wanted the act of aggression to be condemned. Any plan of withdrawal of Indian troops had to be related to and coordinated and synchronized with the withdrawal of Pakistan forces as well as armed men not in uniform who had crossed the cease-fire line...."135

Pakistani Foreign Minister wanted to link it with the settlement of the whole of the Jammu and Kashmir dispute. Speaking on the Security Council Resolution of 20 September 1965, 136 Bhutto emphasized that "it was unrealistic in political terms, to divorce the problem of cessation of hostilities from that of settling the Jammu and Kashmir dispute."

When the President of the Council asked Bhutto to confine himself to the question of withdrawals delegates from France, Ivory Coast and Jordan felt that the question of withdrawals can not be discussed in a vacuum. After this Bhutto was allowed to continue. Indian representative Swaran Singh decided to withdraw from the Council at this point.

Great significance is attached to Swaran Singh’s "withdrawal on both technical and substantial grounds (that the Security Council should not allow the Pakistani delegate to speak on matters irrelevant to the item on the agenda and that the diatribe by Bhutto on so-called Indian atrocities"

135 ibid.
136 See Appendix VI.
was a "great interference" in the internal affairs of India). It was a clear notice to the Security Council that from that moment India would not allow itself to be pushed around." 137

The Indian delegation could not be brought back for deliberations. Now the problem of disengagement had to be solved outside the United Nations (at Tashkent).

Tashkent Conference:

The Tashkent Conference began on 4 January 1966 and a declaration was signed on 10 January 1966. Its most important aspect was the agreement on withdrawal of all armed personnel by 25 February 1966 to the position prior to 5 August 1965. 138 On the question of inclusion of Kashmir problem on the agenda of the discussions, a stalemate had arisen which could be broken only after Kosygin undertook strenuous efforts of mediation. Initially, Prime Minister Shastri had insisted that Kashmir could not be discussed at all, then relented to say that the question could be talked about but not negotiated. President Ayub had insisted that a political settlement of Kashmir was the fundamental necessity and made this a prerequisite to a "No-war" agreement. "Pakistan's desire was to keep the Kashmir question alive." 139

From this point of view, as Brines mentions, "Pakistan... had

137 Khan, n. 131, pp. 72-73.
138 See Appendix VII.
failed to establish any sure procedure guaranteeing the future political consideration of Kashmir’s status or, in fact, insuring that it would remain a global issue. Here also it was returned to bilateral negotiations. 140

Even the Simla Agreement of 1972 between Indira Gandhi and Z.A. Bhutto has enunciated the principle of bilateralism for solution mutual problems. As the things stand today, Pakistan has been raising the Kashmir question at various platforms. Its contention is that the final solution of this question is yet to be arrived at. As far as India is concerned, partition of the State along the cease-fire line is an accomplished fact.

The foregoing account gives us some idea of the way in which the Kashmir question was handled. Though we have not talked about the details of the issues raised and the attitudes adopted by the various U.N. members and other actors, it is more than evident that Indian position was mostly not appreciated.

In this description of the obvious facts the initial phase, that is, from 1948 to 1953 has been given a detailed treatment. After the failure of the Graham Mission, the two countries indulged in direct contacts and negotiations.

Failure of direct talks, the internal developments in Jammu and Kashmir, and the confidence generated by it, military alliances, made Pakistan refer this issue again to the

140 ibid., p. 406.
Security Council in 1957. All the efforts made by the UN Security Council failed to take care of the Indian insistence that Pakistan should be made to implement Part I of the Resolution of 13 August 1948. The Security Council wanted the two countries to enter into direct negotiations. Pakistan was disappointed but Indo-Pakistan dialogues did take place. Within a month, however, there was a "stalemate" and Pakistan referred this case to the Security Council again, in 1962 and again the two countries were asked to enter into direct negotiations.

Once again, in January 1964 Pakistan referred this question to the Security Council. Nothing much came out of it and India understood that nothing could be done about the status-quo.

In September 1965 the UN Security Council took up this issue on its own on the bases of the reports of a series of violations of the cease-fire line. But again the Security Council refused to condemn the aggressive acts of Pakistan. Eventually no solution could be reached within the Security Council and it had to be tackled outside.

As far as the question of ascertaining the tasks of Indian publicity and propaganda is concerned we find that various themes and issues emerge from the chronological details of the events itself. For example, the theme of Pakistan's complicity in the tribal raids of 1947-48 had to
be established. The fact that India had decided to take the issue to the United Nations needed reiteration. Similarly it also needed to be emphasized that the accession of Jammu and Kashmir to India was final and constitutional. A distinction needed to be made between the Indian and Pakistani status vis-a-vis the State of Jammu and Kashmir. The secular and democratic values that India claimed to uphold had to be exemplified.

It needed to be explained as to where had the question of 'plebiscite' come from. It was not mentioned in the instruments of Accession. In the later years India refused to accept UN resolutions and suggestions which were against its interests but initially it could not sustain its stand that "Pakistan has no locus standi in Kashmir."

Another question that was making Indian position vulnerable was the treatment given to Sheikh Abdullah. Initially his support to Maharaja's accession was being treated as the support of democratic elements but later, after his arrest in August 1953 it needed to be explained as to why his opinion could not be given the same importance.

India needed to emphasize what were its initial hopes and expectations. In other words, the difference between what it had asked for and what was being given to it had to be explained because it was the result of the biases and prejudices of the other countries. It came out clearly in
their reluctance to take unequivocal position on obvious and established facts like "admission of changed material situation by Pakistan", "violations of cease-fire line", etc.

Another important task was to counter the hostile propaganda and Pakistani allegations against India. Since India had refused to accept several UN proposals and resolutions, India's allegiance to the UN Charter was being questioned.

These are some of the glaring facts that seemed to be asking for due considerations in the publicity and propaganda campaigns. The details of the propaganda goals and objectives that were actually taken up would emerge in the next chapter wherein we take up the actual publicity material for content analysis.