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Title **Items-in-Peace-keeping operations - India/Pakistan - Graham Report - 25 October 1967 - Kashmir Dispute (Dr. Frank P. Graham, UN Representative) - summary review of the Mediatory Reports of the United Nations in the Kashmir Situation**

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That the Commission did not intend that the Plebiscite Administrator should usurp the functions of the State Government in the field of normal administration and law and order. His functions and powers would be limited to ensuring that the plebiscite would be free and impartial. 1/

This was also in effect an assurance to Pakistan and the people of Kashmir.

The Commission also assured Pakistan as follows:

In accordance with the provisions of the truce proposals of the 13 August 1948 resolution:

(1) After Pakistan had made the beginning in the withdrawal of its forces from Kashmir there was to be a relation between the further withdrawals of all the Pakistan forces and the beginning withdrawals of the bulk of the Indian forces from Kashmir in stages to be agreed upon with the Commission.

(2) That the large-scale disarming and disbanding of the Azad Kashmir forces would not be until after the completion of the truce agreement; and

(3) That existence of the Azad Kashmir movement had not been ignored by that Commission, consideration thereof appearing in part II, A, 3 of the 13 August 1948 resolution. 2/

India was assured that this was to be without recognition of the "Azad Kashmir" Government.

Regarding the Northern Areas, the Representative of India assured the UN Commission that the contents of the letter of the Prime Minister of India, dated 20 August 1948, were not to be considered as a condition to the acceptance of the Commission's resolution of 13 August 1948 by the Government of India. 3/ This assurance and the letter are contained in my Supplementary Statement.

The UN Commission assured India that the question of the Northern Areas could be taken up in the implementation of the resolution. 4/

1/ Document S/1196, Aide-memoire 1, B.3 (b)

2/ Document S/1100, paragraph 108 (a)

3/ Document S/1100, paragraph 80

4/ Document S/1100, paragraph 81

on an equal basis with India in the Kashmir situation; (3) that India would not accept the suspending and supplanting of the Jammu and Kashmir Government by a temporary coalition administration or a neutral administration as being in contravention of the two agreed UNCIP resolutions; and (4) that India would not accept for the purposes of the plebiscite a supplanting of the limited armed Indian and local forces, whose presence in Kashmir was provided for in the resolutions, by a U. N. armed force or any international armed force on the soil of Kashmir, as this was not in accordance with the agreed two UNCIP resolutions.

I also found in the reports of my predecessors: (1) that Pakistan, which had, as had India, made some withdrawals of its forces from Kashmir, would not withdraw all the remainder of its forces from Kashmir, which was provided for in A 1 of part II of the 13 August 1948 resolution, as long as India did not reach agreement with the U. N. Commission, or their successors, on related but not simultaneous withdrawals of "the bulk" of the Indian forces and "the stages" of the withdrawals of "the bulk" which stages of withdrawals by India in agreement with the Commission, were provided for in B 2 of part II of the 13 August 1948 resolution; (2) that Pakistan would not then agree to the promised large-scale disarming and disbanding of the Azad Kashmir forces until after the implementation of the Truce Agreement as it was thus provided by the 13 August 1948 resolution; and (3) that Pakistan would not accept any modification of the word "disposal" as used in 4 (a) and (b) of the 5 January 1949 resolution.

Some Proposals Intentionally Not Included in the
12 Proposals of the Present U. N. Representative.

In thus seeking to avoid some of the grounds on which some of the proposals of my predecessors had been rejected, and in order to keep within the established reference frame, I (1) did not in any of my 12 proposals propose arbitration of any

differences; (2) did not propose placing Pakistan on an equal basis with India in the Kashmir situation; (3) did not propose temporarily suspending and supplanting of Jammu and Kashmir Government during the plebiscite with either a coalition or a neutral administration; (4) did not include in any of the 12 proposals the supplanting of the armed forces, provided for in the resolutions, by a U. N. armed force, or any international armed force, inside Kashmir; and (5) did not propose any modification of the powers of the Plebiscite Administrator as provided in 4 (a) and (b) of the 5 January 1949 resolution.

A Relation Between A 1 and B 1 of Part II
of the 13 August 1948 Resolution.

With this avoidance of any of the above enumerated previously rejected proposals of my predecessors, which had proved to be grounds for non-implementation, and with the tentative acceptance by both Governments of the first four of the 12 proposals, the present U. N. Representative was still confronted with the basic impasse over the timing of the required withdrawal of all the Pakistan forces and the required related withdrawal of the bulk of the Indian forces, as related provisions of part II of the 13 August 1948 resolution. The resolution did not provide for the simultaneous withdrawals of all the Pakistan forces and the bulk of the Indian forces but did establish a relation between them in A 1 and B 1 and 2 of part II. The resolution, in A 1, provides that, "As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from the State." It must be pointed out that the same resolution, in B 1, 2 and 3, also provides that:

"1. When the Commission shall have notified the Government of India that the tribesmen and Pakistan nationals referred to in part II, A, 2 hereof have withdrawn, thereby terminating the situation which was represented by the Government of India to the Security Council as having occasioned the presence of Indian forces in the State of Jammu and Kashmir, and further, that the Pakistan forces are being withdrawn from the State of Jammu and Kashmir, the Government of India agrees to begin to withdraw the bulk of its forces from that State in stages to be agreed upon with the Commission.

"2. Pending the acceptance of the conditions for a final settlement of the situation in the State of Jammu and Kashmir, the Indian Government will maintain within the lines existing at the moment of the cease-fire those forces of its Army which in agreement with the Commission are considered necessary to assist local authorities in the observance of law and order. The Commission will have observers stationed where it deems necessary.

"3. The Government of India will undertake to ensure that the Government of the State of Jammu and Kashmir will take all measures within its power to make it publicly known that peace, law and order will be safe-guarded and that all human and political rights will be guaranteed."

Regarding phasing of withdrawals, the Commission denied Pakistan's demand for disclosure and held that there would be no prior disclosure to Pakistan of the Indian program of withdrawals, and that, in accordance with the 13 August 1948 resolution, the related withdrawals of the bulk of the Indian forces would be in stages to be agreed upon by India and the U.N. Commission. The U.N. Commission and their successor mediators were unable to reach such an agreement with India on the bulk and the stages of the withdrawal of the bulk of Indian forces as related to the withdrawal of all the Pakistan forces.

India and Pakistan differed in their interpretation of the meaning of the word "bulk". However, the resolution of 13 August 1948 does not provide for any interpretation of the meaning of the word "bulk" by Pakistan. As noted above, this resolution, in B 1, provides that when the above specified notifications have been given India, "the Government of India agrees to begin to withdraw the bulk of its forces from that State in stages to be agreed upon with the Commission." No provision was made in the resolution requiring Pakistan's agreement.

This persisting failure of the UN Commission and the subsequent UN Mediators to reach such an agreement with India, as provided in B 1 of part II, became one of the reasons for the deadlock.

II. The Deadlock Involving Two Stages of Demilitarization and the Proposal for One Stage in a Single Continuous Process.

As noted above, the United Nations Commission found that they were unable to achieve an agreement by India and Pakistan on the terms for the implementation of the truce agreement, as a precondition for a plebiscite. The Commission and their several successors as mediators were unable to achieve an agreement by India and Pakistan on the provisions of the two UNCIP resolutions for two stages in demilitarization, namely: (1) on the withdrawal of the bulk of the Indian forces in relation to the withdrawal of all the remainder of the Pakistan forces after Pakistan had made the beginning of withdrawals, as provided in the 13 August 1948 resolution; and (2) on the final disposal of the Indian and State armed forces and the final disposal of the "Azad Kashmir" forces as provided in the 5 January 1949 resolution. In the provisions of part II of the 13 August 1948 resolution, the requirement for the withdrawal of all the Pakistan forces was related to the required withdrawal of the bulk of the Indian forces in stages to be agreed upon by India and the U. N. Commission. As noted above, such an agreement was not reached with India by the U. N. Commission or by the several successor U. N. mediators. This failure of India and the U. N. Commission and the U. N. Representatives to reach such an agreement, as relatedly provided in part II, became the continuing grounds for the failure of Pakistan to withdraw all of its forces from Kashmir, which, in turn, was held by India to be a reason for not accepting proposals leading toward a plebiscite.

Confronted with the adamant deadlock involved in the two stages of demilitarization, the present U. N. Representative proposed the telescoping of the two stages of demilitarization in a single continuous process which would yet achieve in one stage the substance and the purposes of the two stages in demilitarization envisaged in the two UNCIP resolutions. The secured tentative agreement on the provisions of the single continuous process, it was hoped, would serve to help break the deadlock over the two stages; achieve the substance and the purposes of the two stages in demilitarization; and help set the stage for the plebiscite