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A SUMMARY REVIEW OF THE
MEDIATORY REPORTS OF THE UNITED NATIONS
IN THE KASHMIR SITUATION
AS
THE INTRODUCTION TO AND THE BASIS OF
THE RECOMMENDATIONS WHICH CONCLUDE THIS REPORT

Mr. President and Members of the Council,

In this statement on the dispute over the State of Jammu and Kashmir, generally called Kashmir, I am giving, under the terms of my appointment by the Security Council, a summary of the efforts of my mission. This report is now submitted as a basis for further negotiations of the Governments of India and Pakistan for fulfillment of the resolutions of 13 August 1948 and 5 January 1949, as negotiated with India and Pakistan by the UNCIP and accepted by both India and Pakistan. The UN Commission for India and Pakistan, called the UNCIP, was composed of representatives of Argentina, Belgium, Columbia, Czechoslovakia and the United States.

In the interest of time I will not read the scores of footnotes which document this report, nor the many topics and sub-topics, which indicate the structure of the report, and are included here for the printed record.

After an introductory statement, this report has eleven main parts, namely:

(1) the established reference frame of the present UN Representative and his approach within that reference frame; (II) the deadlock involved in the two stages of demilitarization and the tentatively agreed proposal for one stage in a single continuous process, which would, within the reference frame, provide a basis for the negotiation on the most crucial issues by the two Governments; (III) the 12 proposals for that purpose; (IV) the rejection of some proposals made by my predecessors and by me, and the passing of time; (V) the analysis of the substance and values of each of the 12 proposals; (VI) the continuing development of the unfavorable atmosphere; (VII) the concern of the Secretary-General with the large number of crossings of the cease-fire line and subsequently the international boundary in 1965, the resolutions of the

Security Council thereon, and the actions of the Secretary-General for implementing those resolutions for the cease-fire, for the withdrawal of forces and for a favorable atmosphere; (VIII) after the cease-fire, which was ordered and established by the Security Council, the positive values of the Tashkent Agreement in relation to the lagging withdrawal of armed personnel, the fixing of 25 February 1966 as the terminal date for completion of withdrawals, and such other matters as the restoration of diplomatic relations and communications, and the development of a more favorable atmosphere; (IX) a summary of essential elements within the framework of the two UNCIP resolutions; (X) the recommendations of the present U.N. Representative; and (XI) an expression of faith and hope.

The Supplementary Statement and
the 13 Annexes Submitted Herewith.

Submitted also for reenforcement of this present report is a Supplementary Statement and 13 Annexes for your collateral reading.

Introduction

The Significance of the Kashmir Dispute

No situation pending on the agenda of the Security Council involves more people than the dispute over Kashmir between India and Pakistan, with their approximately 660,000,000 people. Few disputes today are more historically deep in their rootage, more emotionally explosive in their power, or more possibly tragic in their consequences. Yet the cease-fire had been maintained without a plebiscite for more than 16 years since the two UNCIP resolutions of 13 August 1948 and 5 January 1949, with their provisions for a cease-fire, a truce and a plebiscite as an integrated whole, were accepted by India and Pakistan.

General Nimmo

For 16 years the cease-fire line had been observed by the unarmed officers of the United Nations Military Observer Group and had been faithfully maintained by the

two nations, with minor violations in each of those 16 years. For 15 of those 16 years, the U.N. Observers, some of whom lost their lives along a hazardous terrain, had been under the direction of Lt. General Robert H. Nimmo of Australia, a quietly efficient soldier, devoted commander and able administrator. General Nimmo's distinguished service in the Army of his country in two world wars, in the cause of freedom in the world, and his service as Chief of the United Nations Military Observer Group in India and Pakistan, in the cause of peace in the world, won the admiration and affection of those who knew him best and the gratitude of the United Nations for his unpretentious dedication. He was modest yet forthright, gentle yet strong. After 15 years of service on one of the most anxious fronts of our troubled earth, his great heart gave way during the night of 4 January 1966 at his then post of duty at Rawalpindi. He died in the quiet dignity of a life given to the United Nations in its service and in its hope of justice and peace for the two great peoples of India and Pakistan.

The effectiveness of General Nimmo is a symbol of those thousands of servants of the United Nations, most of whom work not in the limelight of great crises but in the shadows of the crowded offices of this building or in the Specialized Agencies on the far frontiers of the needs of the people of the world. Unheralded and sometimes forgotten are the legions of civil and military servants of the United Nations, whose inner satisfactions are, as were his, in devotion to the work of building, day by day, the structure and hopes of a more peaceful and fairer world for all people.

No Change in the Position of the U.N. Representative
with Changes in the Friendships or Lineups of Nations.

The 12 proposals, which I have made for steps toward the effectuation of the provisions of the two UNCIP resolutions, and the several revisions of those proposals, following many discussions with the representatives of the two Governments, were all made within the established reference frame of a cease-fire, a truce and a

plebiscite. My proposals and revisions did not change on account of changes in the friendships of nations or on account of the shift in power situations on the sub-continent, in Asia or in the world.

Matters Discussed Before the Acceptance
of the Two UNCIP Resolutions.

Before both of the UNCIP resolutions were accepted by both Governments, many controversial questions were raised and were discussed by the two Governments in the Security Council or with the U.N. Commission. These matters included charges, denials and counter-charges, regarding such matters as the following:

1. The revolt of people in the western areas of Kashmir against the regime of the Maharajah;
2. Atrocities charged on both sides in these western Kashmir areas;
3. The extent and nature of the suppression of the people in Poonch and other areas of Kashmir by the regime of the Maharajah;
4. The raids into Kashmir of the Northwest Tribesmen, and the accompanying atrocities by some of them;
5. The extent and nature of the aid to the raiders in, by and from Pakistan;
6. The request from the Maharajah of Kashmir to India for aid against the raiding Tribesmen;
7. The accession by the Maharajah of Kashmir to India;
8. The acceptance of this accession by the Governor-General of India;
9. The nature of this acceptance;
10. The rallying of people in Kashmir by Sheikh Muhammad Abdullah in defense against the raiding Northwest Tribesmen;
11. The movement of Indian forces into Kashmir and the fighting;
12. The retreat of the tribesmen;
13. The hostile movement of the Indian armed forces into western Kashmir;
14. The hostile movement of Pakistan forces into western Kashmir;
15. The belated report of this fact by Pakistan to the UN Commission, constituting a material change in the situation;
16. Pakistan's raising and arming 28,000 to 30,000 "Azad Kashmir" forces for fighting and their organization by Pakistan under the Pakistan High Command; 1/
17. The question of the Northern Areas. 2/

1/ Document S/1196, Aide Memoire 2, paragraph 2.

2/ Document S/1430, paragraphs 252 - 276, and Document S/1100, paragraph 80.

I. The Establishment of the Reference Frame and the Approach of the Present U.N. Representative Within That Reference Frame.

After discussions at length of these 17 matters, and other matters, by the representatives of the two Governments in the Security Council and with the U.N. Commission, the two Governments accepted the two UNCIP resolutions as negotiated with them under the auspices of the United Nations.

The Security Council, and the U. N. Commission, after such discussions, instead of pronouncing judgment on such matters as atrocities, aggression and accession, sought through mediation to achieve a cease-fire, a truce and a reference to the people for a democratic settlement of the dispute. This was the purpose of the 13 August 1948 resolution, which India accepted on 20 August 1948 after having been given certain assurances by the UNCIP. Part III of the 13 August 1948 resolution was considered imprecise by Pakistan, with such language as:^{1/}

"... the future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people and to that end, upon acceptance of the truce agreement, both Governments agree to enter into consultations with the Commission to determine fair and equitable conditions whereby such free expression will be assured."

Pakistan did not accept this resolution until 25 December 1948, and the fighting did not stop until after definite provisions were made for a plebiscite to be conducted under the auspices of the United Nations, set forth in the resolution which became known as the 5 January 1949 resolution. This resolution, eventually accepted by both India and Pakistan, contained the following more precise provisions:^{2/}

"The United Nations Commission for India and Pakistan, Having received from the Governments of India and Pakistan, in communications dated 23 December and 25 December 1948, respectively, their acceptance of the following principles which are supplementary to the Commission's resolution of 13 August 1948:

^{1/} S/1430, para. 132, Part III.

^{2/} S/1430, para. 143, 1 and 2.

- "1. The question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite;
- "2. A plebiscite will be held when it shall be found by the Commission that the cease-fire and truce arrangements set forth in parts I and II of the Commission's resolution of 13 August 1948 have been carried out and arrangements for the plebiscite have been completed;"

India accepted the provisions of what became known as the 5 January 1949 resolution on 23 December 1948. Pakistan accepted both resolutions on 25 December 1948. Both Governments accepted both resolutions without their providing, as demanded by Pakistan, that Pakistan have an equal status with India in the Kashmir situation, and without providing, as long demanded by India, that Pakistan be declared an aggressor against India in Kashmir, and without providing that such a declaration was a pre-condition for the effectuation of the provisions of the two UNCIP resolutions.

Any statement concerning condoning aggression by U. N. Mediators during the 1950's, leaves out of account the fact that the two resolutions were negotiated not by these mediators but by India and Pakistan under U. N. auspices before these Mediators were appointed.

Assurances given India by the UNCIP

Assurances requested by India are contained within paragraphs 3, 4 and 5 of the Prime Minister of India's letter dated 20 August 1948, as follows:^{1/}

"3. Since our meeting of 18 August, we have given the Commission's resolution our most earnest thought. There are many parts of it which we should have preferred to be otherwise and more in keeping with the fundamental facts of the situation, especially the flagrant aggression of the Pakistan Government on Indian Union territory. We recognize, however, that, if a successful effort is to be made to create satisfactory conditions for a solution of the Kashmir problem without further bloodshed, we should concentrate on certain essentials only at present and seek safeguards in regard to them. It was in this spirit that I placed the following considerations before Your Excellency:

^{1/} Document S/1100, paragraph 78

"(1) That paragraph A, 3 of part II of the resolution should not be interpreted, or applied in practice, so as

"(a) To bring into question the sovereignty of the Jammu and Kashmir Government over the portion of their territory evacuated by Pakistan troops;

"(b) To afford any recognition of the so-called Azad Kashmir Government; or

"(c) To enable this territory to be consolidated in any way during the period of truce to the disadvantage of the State.

"(2) That from our point of view the effective insurance of the security of the State against external aggression, from which Kashmir has suffered so much during the last ten months, was of the most vital significance and no less important than the observance of internal law and order, and that, therefore, the withdrawal of Indian troops and the strength of Indian forces maintained in Kashmir should be conditioned by this overriding factor.

" Thus at any time the strength of the Indian forces maintained in Kashmir should be sufficient to ensure security against any form of external aggression as well as internal disorder.

"(3) That as regards Part III, should it be decided to seek a solution of the future of the State by means of a plebiscite, Pakistan should have no part in the organization and conduct of the plebiscite or in any other matter of internal administration in the State.

"4. If I understood you correctly, A, 3 of part II of the resolution does not envisage the creation of any of the conditions to which we have objected in paragraph 3 (1) of this letter. In fact, you made it clear that the Commission was not competent to recognize the sovereignty of any authority over the evacuated areas other than that of the Jammu and Kashmir Government.

" As regards paragraph 3 (2), the paramount need for security is recognized by the Commission, and the time when the withdrawal of Indian forces from the State is to begin, the stages in which it is to be carried out and the strength of Indian forces to be retained in the State, are matters for settlement between the Commission and the Government of India.

" Finally, you agreed that part III, as formulated, does not in any way recognize the right of Pakistan to have any part in a plebiscite.

"5. In view of this clarification, my Government, animated by a sincere desire to promote the cause of peace and thus to uphold the principles and the prestige of the United Nations, have decided to accept the resolution.

(signed) Jawaharlal Nehru
Prime Minister, India."

The reply of the Chairman of the U. N. Commission, dated 25 August 1948, was as follows: 1/

"I have the honour to acknowledge the receipt of your communication dated 20 August 1948 regarding the terms of the resolution of the United Nations Commission for India and Pakistan which the Commission presented to you on 14 August 1948.

"The Commission requests me to convey to Your Excellency its view that the interpretation of the resolution as expressed in paragraph 4 of your letter coincides with its own interpretation, it being understood that as regards point (1) (c) the local people of the evacuated territory will have freedom of legitimate political activity. In this connexion, the term evacuated territory refers to those territories in effective control of the Pakistan High Command."

Accordingly assurances were given India by the Commission with regard to paragraph 3 (1) of his letter of 20 August 1948, referred to in paragraph 4 of that letter. These assurances are set forth above in the Prime Minister's letter, 2/ paragraphs 3 (1), (a), (b), and (c).

Also assurances were given India by the Commission:

That there would be a large-scale disarming and disbanding of the Azad Kashmir forces. 3/

That the question of the stationing of garrisons in the northern areas could be taken up in the implementation of the resolution. 4/

That the expression "law and order" included "defense"; and

That "evacuated territory" refers to those territories which were at that time under the effective control of the Pakistan High Command. 5/

1/ Document S/1100, paragraph 79

2/ Document S/1100, paragraph 78

3/ Document S/1196, Aide memoire 1, B.4 (b), and S/1430 Annex 6, paragraph 7.

4/ Document S/1430, paragraphs 254 and 259

5/ Document S/1100, paragraph 90, and S/1430, paragraph 263

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

My distinguished predecessors, General McNaughton and Sir Owen Dixon, in succession, found they were unable to secure implementation of the two UNCIP resolutions. They then made, under their respectively broad frames of reference, proposals outside of the provisions of the two UNCIP resolutions. The fact that these proposals, however equitable, were not in accord with the provisions of the two UNCIP resolutions, was cited by India as among the reasons for their rejection.

The first draft resolution regarding a new U. N. Representative, which was proposed for consideration by the Security Council, provided that the new U. N. Representative, not then appointed, who was to succeed Sir Owen Dixon, would have the same broad reference frame given Sir Owen. However, it must be emphasized that, at the insistence of both India and Pakistan, the Security Council adopted a revised resolution which provided that the reference frame of the new U. N. Representative would be the two UNCIP resolutions, with their provisions for a cease-fire, a truce and a plebiscite in the State as a whole.

Rejection by One or the Other Government of Some of the Proposals Respectively Made by My Predecessors.

In seeking to find what had prevented the implementation of the two agreed UNCIP resolutions, the present U. N. Representative found in the discussions and from the reports (1) of the U. N. Commission, (2) of General McNaughton, (3) of Sir Owen Dixon, and (4) from his own observations, the following respective positions, inter alia, of one or the other of the two Governments in rejecting some proposals of my predecessors.

I found in the reports of my predecessors (1) that India would not accept arbitration of remaining differences over the interpretation and implementation of agreed provisions of the two UNCIP resolutions; (2) that India would not accept proposals which, in modification of the agreed resolutions, would place Pakistan

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

III. The Origin and the Hoped For Results of the Twelve Proposals.

Out of the experiences of my predecessors, the background discussions and consultations with the two Governments, and from our own grappling with the stubborn differences, there developed the twelve proposals of the present U. N. Representative and their several revisions. If both Governments, instead of rejecting some, had accepted all of the twelve proposals as submitted in Geneva on 14 February 1953,^{1/} such acceptance (1) would have shifted the emphasis from the bitter talk and counter polemics about non-withdrawal and augmentation of forces to definite further steps in the required withdrawals and reductions of forces on both sides of the cease-fire line including the withdrawal of all the Pakistan forces; (2) would have laid solid ground, not only in words but also in deeds, for the development of the required favorable atmosphere for further negotiation; and (3) would have set in motion attitudes and procedures for the faithful maintenance of the cease-fire and the fulfillment of the provisions of the truce and the plebiscite, all with due regard for the security of the State and the freedom of the plebiscite.

IV. The Rejection of Some Mediatorial Proposals and the Passing of Time in Relation to the Dispute.

In the years preceding, during and following my reports, many vital changes have taken place in Kashmir, on the sub-continent and in the world. Since the acceptance of the two UNCIP resolutions by India and Pakistan more than 18 years have passed by but the people of Kashmir have not passed away. The UN-sponsored provisions of the two UNCIP resolutions for a cease-fire, a truce and a plebiscite, are not made to disappear because the life and processes of the people, the State and the nation are not static and time does not stand still in this dynamic world.

^{1/} Document S/2967, Annex II, page 18.

The approximately five million people of Kashmir are prevented from carrying out their promised right of self-determination, in accordance with the two UNCIP resolutions, by the deadlock of the two Governments, which accepted the two UNCIP resolutions more than 18 years ago. Whatever be the differences between the nations over the interpretation and application of the provisions of their own agreement, whatever be the policies or mistakes of the nations, the people of Kashmir, during more than 16 of those 18 years, provided no basis for charges of substantial violations of the cease-fire line. The cease-fire line, during that time, was maintained without the implementation of the truce and the plebiscite. In accordance with the two UNCIP resolutions, the provision that the people of Kashmir were to determine their own future status as a part of India or Pakistan is not unmade by changes of time less fundamental than the continuing existence of the people of Kashmir themselves, and is not less enduring than the aspirations of the people for their own self-determination.

It should be reemphasized that, if the revised proposals of the present U.N. Representative, made on 14 February 1953, had been accepted and effectuated more than a decade ago by the two Governments, (1) all the Pakistan troops would long ago have been withdrawn from Kashmir, (2) the Indian forces would have correspondingly been adjusted to a number required for law, order and defense with due regard for the security of the State and the freedom of the plebiscite, (3) the promised large-scale disarming and disbanding of the "Azad Kashmir" forces would have been carried out as promised India, and the remaining "Azad Kashmir" armed forces would have been deconsolidated from the Pakistan Army and separated from the administrative and operational command of the Pakistan High Command and organized as local forces to assist in the preservation of law, order and the cease-fire line, under

the local authorities under the surveillance of the United Nations, (4) the way would have been cleared of several obstacles in the way of the induction of the Plebiscite Administrator into office, and (5) the ground would have been laid for further negotiations toward fulfilling the provisions for the cease-fire, the truce and the plebiscite, which, after all, are the basic substance and purpose of the two UNCIP resolutions.

The McNaughton Proposals and the
Reasons Given by India for Their Rejection

One of my distinguished predecessors, General A. G. L. McNaughton, who had been President of the Security Council during a debate on the Kashmir question, had proposed, (1) " the withdrawal from the State of Jammu and Kashmir of the regular forces of Pakistan; and the withdrawal of the regular forces of India not required for purposes of security or for the maintenance of local law and order on the Indian side of the cease-fire line; also the reduction, by disbanding and disarming of local forces, including on the one side the armed forces and militia of the State of Kashmir and on the other, the 'Azad forces' "; and that (2) "The 'Northern Area' should also be included in the above programme of demilitarization, and its administration should, subject to United Nations supervision, be continued by the existing local authorities."

These proposals were eventually accepted by Pakistan but were not accepted by India.

In Annex II of the Supplementary Statement is found a discussion of the McNaughton proposals and the reasons for India's rejection on the grounds that these proposals were not in accord with the two UNCIP resolutions and the assurances given India by the UNCIP on the basis of which India accepted the two resolutions.

The Proposals of Sir Owen Dixon

Under the broad reference frame given General McNaughton's successor, Sir Owen Dixon, by the Security Council, Sir Owen made proposals (1) for a coalition administration and a coalition armed force in Kashmir, and (2) he also made proposals for a neutral administration and a neutral armed force in Kashmir during the plebiscite period. They were both rejected by India. India held that they were contrary to the two resolutions and that they condoned aggression by Pakistan in Kashmir.

Sir Owen also made proposals for zonal plebiscites and partition.

Sir Owen finally, under his broad frame of reference, in one more effort to break the deadlock, proposed that a summit conference be held under conditions specified by him to consider the proposal for a plebiscite in the Vale of Kashmir, and its appropriate environs, and a partition of the rest of the State. Pakistan accepted his proposal for such a conference under conditions specified by him as requirements for a fair plebiscite. India rejected the proposal for such a conference under the conditions specified by Sir Owen. India held that this proposal also was not in accordance with the two UNCIP resolutions and condoned and rewarded Pakistan's aggression in Kashmir.

The Establishment of the Reference Frame of the
Present UN Representative

In the discussions in the Security Council on the draft resolution, which would have given the successor to Sir Owen Dixon the same broad frame of reference given him, the representative of India made the following statement: ^{1/}

" For the rest, my government is wholly unable to accept the draft resolution, because in many respects it runs counter

^{1/} S/PV.533, page 9, paragraph 34.

to decisions previously taken by the United Nations Commission with the agreement of the parties. Let me mention one instance. I have already given the Security Council a brief account of the situation created by the invasion of the State, first by tribesmen and then by Pakistan. In spite of that situation and in the hope of securing a peaceful settlement, India agreed, upon certain assurances, to two resolutions of the Commission - one of August 1948 and the other of January 1949. Pakistan also agreed to them ultimately. I shall now show how the present draft resolution departs materially from the provisions of those resolutions."

The representative of Pakistan also objected to provisions in the draft resolution with its broad frame of reference. Accordingly the draft resolution as noted, was revised so that the frame of reference of the present U. N. Representative became the two UNCIP resolutions of 13 August 1948 and 5 January 1949.

The draft resolution, the revised resolution and the pertinent discussions by both Governments and by Members of the Council, are essentially contained in Annex 4 of my Supplementary Statement.

In view of the fact that Pakistan had accepted and India had rejected Sir Owen Dixon's proposal for a conference under conditions specified by him, to consider a plebiscite in the Vale and a partition of the remainder of the State, Pakistan emphasized to the present U. N. Representative that any future proposal for a limited plebiscite and partial partition of the State, in order to be considered by Pakistan, would have to come from India and not from the U. N. Representative, whose reference frame, as established by the Security Council, was the two UNCIP resolutions, which provided for a cease-fire, a truce and a plebiscite for the self-determination by the people of the State as a whole. The U. N. Representative has always been willing to communicate any proposal for a change in the two UNCIP resolutions suggested by either Government for discussion by both Governments, but he has refrained from inclusion in his twelve proposals any proposals which might suggest that the two UNCIP resolutions were not a binding international agreement.

The Reference Frame Stands

During the course of my mediation, the two Governments have always been free to change their own agreement, contained in the UNCIP resolutions, and thereby change the frame of reference which was established by the Security Council at the insistence of both India and Pakistan. Any change in the provisions of the two UNCIP resolutions is not made by unilateral declarations of either India or Pakistan but would require the agreement of both parties. I have always been willing, as made clear^{above}, to convey from either nation to the other any change in the reference frame which either nation might wish to propose for discussion by both nations. There has been no change in the reference frame of the present UN Representative.

An analysis of the substance and values of each of the 12 proposals is now in order.

V. The Analysis of the Substance and Values of Each of the Twelve Proposals

It should be understood that it has never been claimed that the two UNCIP resolutions are perfect. It is claimed that they are as perfect as it was found possible by the UNCIP for the two Governments to negotiate and accept.

Moreover, Pakistan is still disappointed that the two resolutions did not place Pakistan on an equal basis with India in the Kashmir situation. The 13 August 1948 resolution provides for the withdrawal of all the Pakistan forces but not all the Indian forces. The 5 January 1949 resolution provides that the final disposal of the Indian and State armed forces will be determined by the UN Commission and the Plebiscite Administrator in consultation with the Government of India; but that the final disposal of the local armed forces in the territory

evacuated by the Pakistan forces will be determined in consultation not with the Government of Pakistan but with the "local authorities". Accordingly, the resolutions as accepted by Pakistan did not place Pakistan on an equal basis with India in the Kashmir situation. Pakistan, in the course of the discussion of the two UNCIP resolutions and the 12 proposals, came to accept the provisions which, in accordance with the two UNCIP resolutions, did not place Pakistan on an equal basis with India in the Kashmir situation.

India, while disappointed that the two resolutions did not declare Pakistan the aggressor and did not make such a declaration a precondition for the acceptance and the fulfillment of the two resolutions, nevertheless accepted the two resolutions. The UN Commission, following the policy of the Security Council, sought without such declarations to provide in the two resolutions for a cease-fire, a truce and a plebiscite. It must be recalled and emphasized again that the Government of India accepted the two UNCIP resolutions without a provision that such a declaration was a precondition for the implementation of the resolutions. Regarding the question of aggression, Sir Owen Dixon, in addition to his two observations, (1) that the raids of the Tribesmen and the later movement of Pakistan forces into Kashmir were violations of international law, and (2) that India was unwilling to have conditions for a free plebiscite, observed, in reference to his proposal "for a partition and partial plebiscite" that "the question of whether Pakistan had or had not been an aggressor had", to his mind, "nothing to do with the results of a partition and the fairness and freedom of a partial plebiscite." H. E. Ambassador Gunnar Jarring, in his report to the Council in 1957, said, on the question of aggression, "that regardless of the merits of the present position taken by the Government of India, it could not be overlooked that India had accepted the two resolutions adopted by the Commission for India and Pakistan."

Nor has it ever been claimed that the 12 proposals of the present UN Representative are perfect. In view of the deadlock over the two UNCIP resolutions, it is claimed for the 12 proposals only that they are proposals for a reasonable reconciliation of the differences over the interpretation and application of the provisions of their own agreement and constitute a fair basis for the further negotiation of decisive steps toward the fulfillment of the provisions of the two UNCIP resolutions for a cease-fire, a truce and a plebiscite.

On an exploratory basis, tentative agreements were reached by both India and Pakistan on 8 of the 12 interrelated proposals. Since my mission centered so largely on the 12 proposals, this analysis of their substance and values is made by me for any value they may have at any time as a part of the reasonable and faithful efforts toward a peaceful settlement of the Kashmir dispute.

During many years many different proposals have been made by the several successive mediators for the peaceful settlement of the Kashmir dispute, namely (1) by the UN Commission; (2) by General A. G. L. McNaughton of Canada, former President of the Security Council; (3) by Sir Owen Dixon, the present Chief Judge of the Australian High Court; (4) by me on several separate occasions; (5) by the Security Council; (6) by H. E. Gunnar Jarring of Sweden, former President of the Security Council; and (7) by me again on my visit to the subcontinent in 1958. Of all the time taken by the mediation of the UN Commission, by General McNaughton, by Sir Owen Dixon, by Ambassador Jarring, and by me, the most time has been given to the consideration of the 12 proposals of the present UN Representative, on which tentative agreements were reached on eight of the twelve as an interrelated whole.

The substance and values of the 12 proposals which were submitted some years ago and faithfully considered by both India and Pakistan over a period of years, are analyzed below as follows:

The Governments of India and Pakistan

1. Reaffirm their determination not to resort to force and to adhere to peaceful procedures and specifically pledge themselves that they will not commit aggression or make war, the one against the other, with regard to the question of Jammu and Kashmir;

If a no-war declaration is desired, Proposal 1, it must be emphasized, was, and is, in purpose and definite language a no-war declaration by India and Pakistan over Kashmir.

2. Agree that each Government, on its part, will instruct its official spokesmen and will urge all its citizens, organizations, publications and radio stations [and constructively, television stations] not to make warlike statements or statements calculated to incite the people of either nation to make war against the other with regard to the question of Jammu and Kashmir.

This proposal promotes not only the fulfillment of the 17 January 1948 resolution of the Security Council, but also the fulfillment of E of part I of the 13 August 1948 resolution calling for the creation and maintenance of a favorable atmosphere for further negotiations.

The two Governments are to be congratulated on the meetings and achievements of the Home Ministers in their agreements on steps toward mitigating, controlling and ending the communal strife, so bitterly recounted on both sides.

The hazardous circle of hostility, expressed by some elements in Pakistan toward India, because of the delay in holding the plebiscite, and the counter polemics and hostile statements expressed by some elements in India toward Pakistan, as a reason for not holding the plebiscite, went round and round toward potential disaster. Since the atmosphere of hostility was unfavorable for negotiations, proposal 2 provided, and provides, concrete measures and definite steps for the creation of a more favorable atmosphere.

3. Reaffirm their will to observe the cease-fire effective from 1 January 1949 and the Karachi Agreement of 27 July 1949;

Proposal 3 reaffirms and reinforces a no-war declaration by India and Pakistan over Kashmir.

4. Reaffirm their acceptance of the principle that the question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite under the auspices of the United Nations;

This fourth proposal, which reaffirms the agreed provisions of the 5 January 1949 resolution regarding the UN-sponsored plebiscite to be held after the implementation of the 13 August 1948 resolution, has to do only with the State of Jammu and Kashmir and does not involve any other State or region concerning which there is no UN-sponsored agreed resolution containing a provision for self-determination.

In an attempt to break the deadlock over the provisions for two stages in demilitarization, one stage was and is proposed which would effectuate in one stage the purpose and substance of the two stages in demilitarization as the basis for further negotiations for carrying out the two UNCIP resolutions for the cease-fire, the truce and the plebiscite, as follows:

5. Agree that the demilitarization of the State of Jammu and Kashmir contemplated in the UNCIP resolutions of 13 August 1948 and 5 January 1949, as set forth in paragraph 7 below, shall be effected in a single continuous process;

In view of the importance of the induction into office of the Plebiscite Administrator, and in order to facilitate the preliminaries for the time of his induction, it was and is provided as follows in proposal 6:

6. Agree that this process of demilitarization shall be completed during a period of ninety days starting from the date of the entrance into effect of this agreement, unless another period is decided upon by the Governments of India and Pakistan;

In preparing proposal 7, account had to be taken not only of B of part I of the 13 August 1948 resolution regarding non-augmentation of forces, but also of the provisions regarding withdrawal and reduction of forces including the withdrawal of all the Pakistan forces and the related withdrawal of the bulk of Indian forces, and the large-scale disarming and disbanding of the Azad Kashmir forces, as assured India by the UNCIP, and of the proposal that this large-scale disarming and disbanding of the Azad Kashmir forces should be carried out not after, as demanded by Pakistan, but in implementation of the truce agreement as suggested by me, and then agreed to by Pakistan. Proposal 7 therefore reads as follows:

7. Agree that the demilitarization shall be carried out in such a way that at the end of the period referred to in paragraph 6 above the situation will be:

(a) On the Pakistan side of the cease-fire line:

(i) The tribesmen and Pakistan nationals not normally resident therein who have entered the State for the purpose of fighting will have been withdrawn;

(ii) The Pakistan troops will have been withdrawn from the State;

(iii) The large-scale disarming and disbanding of the Azad Kashmir forces will have taken place.

(b) On the Indian side of the cease-fire line:

(i) The bulk of the Indian forces in the State will have been withdrawn;

(ii) Further withdrawals or reductions, as the case may be, of the Indian and State armed forces remaining in the State after the completion of the operation referred to in (b) (i) above, will have been carried out so that at the end of the period referred to in paragraph 6 above there will remain on the Pakistan side of the cease-fire line the number and character of armed forces, and on the Indian side of the cease-fire line the number and character of armed forces, not as formerly suggest by me with definite figures, but, which will have been determined by the negotiations of India and Pakistan with due regard to the security of the State and the freedom of the plebiscite.

As a substitute for the continuation of the charges and counter-charges regarding augmentation of forces, proposal 7 provides for the withdrawal and reduction of forces on both sides of the cease-fire line and the negotiation of the number and character of armed forces to be left on each side of the cease-fire line after the completion of the withdrawal and reduction of forces set forth above.

Any continuing differences over proposal 7, or over any other of the 12 proposals, would become subjects of reports to the Security Council.

Since provision was made in proposal 7 for the withdrawal of all Pakistan forces but not all Indian forces, a sound principle was and is enunciated as follows in proposal 8:

8. Agree that the demilitarization shall be carried out in such a way as to involve no threat to the cease-fire agreement either during or after the period referred to in paragraph 6 above;^{1/}

^{1/} Document S/1430, paragraphs 242 - 243.

In view of the fact that a military cease-fire line by its nature and purpose is not, except by consent, to be crossed by either side, and in view of the responsibilities of the "local authorities" under "the surveillance of the United Nations", it was and is provided as follows in proposal 9:

9. Agree that pending a final solution the territory evacuated by Pakistan troops will be administered by the local authorities under the surveillance of the United Nations. Effect shall be given to this by the time the process of demilitarization referred to in paragraph 6 has been completed on both sides of the cease-fire line;

When asked by Mr. Gopalaswami Ayyanger, the distinguished Indian Representative, in Geneva, on 2 September 1952, what in the view of the present UN Representative was the meaning of "local authorities" under the surveillance of the United Nations, the present UN Representative replied in the simultaneous presence of the Representatives of India and Pakistan, that in his view "local authorities" would be the local persons there who exercise effective authority and that the United Nations Representative considered that the appointment of the UN civil and military authorities would be required for surveillance.

On page 105 of the first report of the UN Commission^{1/}, in reporting the discussion between the Prime Minister of India and the Chairman of the UN Commission, the Commission included this paragraph at the bottom of the page which should be read in the whole context of that report⁷ as follows:

"Turning next to paragraph 3 under section A of part II of the 13 August 1948 resolution⁷ the Prime Minister inquired if that wording envisaged any change in the status of the territory, or whether it recognized the jurisdiction of the Government of Jammu and Kashmir over that territory. Mr. Korbelt remarked that that point incorporated the suggestion which the Prime Minister himself had advanced and that the phrase pending a final solution was intended to recognize the temporary nature of the administration by local authorities. Sovereignty over the territory was not to be changed."

In the view of the UN Commission, the agreed provision for the temporary administration by the local authorities of the territory evacuated by Pakistan forces and authorities, under the surveillance of the United Nations, was not in itself to prejudice the overall integrity and sovereignty of the State of Jammu and Kashmir. This temporary administration by the local authorities was not to be under the surveillance of Pakistan or of India, or of the Jammu and Kashmir Government, but was to be under the surveillance of the United Nations; and was not by this temporary provision, which is made necessary by the cease-fire line, to call into question the entity and integrity of the State as a whole, or the sovereignty of the Government of Jammu and Kashmir over the State as a whole. During this temporary administration of the evacuated territory by the local authorities, the local forces were to assist in preserving law and order in the evacuated territory temporarily administered by the local authorities under the surveillance of the United Nations. During this period, in accordance with the 13 August 1948 resolution, part II, B, para. 2:^{1/}

"... 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 did not assure India that India, or that the Government of Jammu and Kashmir, would temporarily administer the territory to be evacuated by the Pakistan Army, or that India could station garrisons in the Northern Areas. The problems of the Northern Areas were discussed at length by the UN Commission as recorded in paragraphs 251 to 276,^{2/} which should be read in their entirety. The Commission did assure India that the question of stationing garrisons in the Northern Areas "could be taken up in the implementation of the resolution".

^{1/} Document S/1430

^{2/} Document S/1430

With the tribesmen, the Pakistan nationals who entered the State for the purpose of fighting, and the Pakistan Army, all entirely withdrawn from Kashmir, with the Indian armed forces and the State armed forces reduced in Kashmir to the number required for law, order and defense, and the large-scale disarming and disbanding of the "Azad Kashmir" forces carried out as promised India, and in the implementation of the Truce Agreement as proposed by me, the remainder of the "Azad Kashmir" forces would be deconsolidated from the Pakistan Army and separated from the Administrative and operational command of the Pakistan high command. There would in consequence be in "Azad Kashmir" an organization of local armed forces under local authorities under the surveillance of the United Nations in accordance with the provisions and intent of the two UNCIP resolutions.

In order that it be clear that responsibility for carrying out the international commitment of the UNCIP resolution regarding the induction into office of the Plebiscite Administrator is upon the Government of India, it was and is provided as follows in proposal 10:

10. Agree that the Government of India shall cause the Plebiscite Administrator to be formally appointed to office not later than the final day of the demilitarization period referred to in paragraph 6 above;

This proposal was and is made in view of India's commitment as a national government in an international situation.

Both Governments are now not in less strong positions for effectively carrying out the provisions of their UN-sponsored international agreement than they were when they agreed to the provisions in the early years of their independence.

The following agreed provision should be read in the context and fulfillment of 3 (a) and (b) and (c) of the 5 January 1949 resolution, "He will be formally appointed to office by the Government of Jammu and Kashmir." ^{1/}

"3. (a) The Secretary-General of the United Nations will, in

agreement with the Commission, nominate a Plebiscite Administrator who shall be a personality of high international standing and commanding general confidence. He will be formally appointed to office by the Government of Jammu and Kashmir;

" (b) The Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers he considers necessary for organizing and conducting the plebiscite and for ensuring the freedom and impartiality of the plebiscite.

" (c) The Plebiscite Administrator shall have authority to appoint such staff or assistants and observers as he may require."

The Plebiscite Administrator is not to supplant the Jammu and Kashmir Government, or, as the spokesman for the UN Commission assured, is not to "usurp the functions of the State Government in the normal administration of law and order. His functions and powers would be limited to ensuring that the plebiscite was free and impartial." ^{1/}

While not supplanting or usurping the normal functions of the Government of Jammu and Kashmir, the Plebiscite Administrator shall not be supplanted by or interfered with by the Government of Jammu and Kashmir in faithfully carrying out his functions and responsibilities placed upon him by the agreed UNCIP resolutions. In justice to the people of Kashmir, the two nations and the United Nations, and in accordance with the agreed provisions of the 5 January 1949 resolution, the Plebiscite Administrator is not to be a United Nations front for partisan administration of the plebiscite on either side of the cease-fire line but "shall derive from the State of Jammu and Kashmir the powers he considers necessary for organizing and conducting the plebiscite and for ensuring the freedom and impartiality of the plebiscite". ^{2/}

^{1/} Document S/1196, Aide Memoire 1, B.3 (b).

^{2/} Document S/1430, paragraph 143, 3 (b).

The provision that the Plebiscite Administrator "shall derive from the State of Jammu and Kashmir" not the power that Pakistan or India or the Government of Jammu and Kashmir consider necessary, but "the powers he considers necessary" for his duties, is in accordance with both the language and spirit of the agreed resolution and is consonant both with the heavy responsibilities of the Plebiscite Administrator and with the obligations owed to the United Nations, in whose name and under whose auspices the plebiscite is to be organized and conducted.

In order that it be understood that there is to be no impairment of the powers of the Plebiscite Administrator for his heavy responsibilities, as they may develop, proposal 11 reads as follows:

11. Agree that the completion of the programme of demilitarization referred to in the provisional clause below will be without prejudice to the functions and responsibilities of the United Nations Representative and the Plebiscite Administrator with regard to the final disposal of forces as set forth in paragraph 4 (a) and (b) of the agreed/resolution;
5 January 1949.

In order that an agreement on the programme of demilitarization envisaged in the provisional clause be facilitated, it is provided as follows in proposal 12:

12. Agree that any difference regarding the programme of demilitarization contemplated in the provisional clause will be referred to the Military Adviser of the United Nations Representative, whose decision shall be final.

In view of the fact that the Government of India had specifically rejected the Security Council resolution which, in setting up my mission called for arbitration of any differences which might remain regarding demilitarization,

the UN Representative agreed with India that his responsibility under proposal 12 would be limited to decisions on technical details referring to actual implementation of the agreed programme. In accordance with his policy, made clear to both sides, that any assurance given by him would fulfill the requirement of being announced to both sides, he so announced and published the above assurance. Any differences which might arise under this proposal, or any of the 12 proposals, could be referred to the Security Council for consideration.

In order to provide a framework of provisions for demilitarization and in order to fix an effective date for the whole agreement, it was provided as follows in the Provisional Clause:

"This agreement shall enter into effect when the Governments of India and Pakistan have approved a programme of demilitarization in conformity with paragraphs 5, 6, 7 and 8 above, the draft of such programme to be drawn up in meetings between the representatives of the Governments of India and Pakistan assisted by their Military Advisers under the auspices of the United Nations. The first meeting shall take place within two weeks after the signature of the above agreement."

The 12 proposals and the provisional clause, as set forth above, commend themselves for the further consideration of the two Governments and the Security Council because they provide a reasonable and fair basis for the negotiation by India and Pakistan of the steps in fulfillment of their international agreement for the cease-fire, truce and plebiscite.

India considered that some of the 12 proposals condoned aggression and by-passed the prerequisites of a plebiscite. Pakistan considered some of the 12 proposals as going too far in meeting India's positions, some of which

positions I consider valid under the two UNCIP resolutions. Pakistan, despite opposition to some provisions of the 12 proposals, yet, for the sake of getting on with the plebiscite, at one time and another indicated acceptance of all the 12 proposals.

The Freedom of the Two Governments in Direct Negotiations to Consider any Values of Zonal Plebiscites.

The two Government, under their own negotiated two UNCIP resolutions of 13 August 1948 and 5 January 1949, have always been free, upon their own initiative, to arrange for a democratic, fair and feasible type of plebiscite, whether through an overall simultaneous plebiscite, or, if agreed upon, through zonal plebiscites in successive periods of time. Zonal plebiscites, once suggested by Sir Owen Dixon, have much to commend them, as herewith summarized:

1. Zonal plebiscites would carry out the international commitment to the people of Kashmir that the people of Kashmir would make their own self-determination of the State as a whole in accordance with the purposes and objectives of the two UNCIP resolutions, under the auspices of the United Nations.

2. Zonal plebiscites would make most appropriate and feasible the location and observance of any armed forces remaining on either side of the cease-fire line, whether local armed forces or any armed personnel in "Azad Kashmir" or the Indian and State armed forces or any other armed personnel remaining in Kashmir, and thus be an aid to the Plebiscite Administrator in his responsibility for the preparation and holding of a free and fair plebiscite by stages in voting in the smaller areas of the respective zones and would thus also enable the Plebiscite Administrator, under his proper powers to remove any necessary shadow of military power in a zone at the time of his needed concentration on the preparation and holding of the plebiscite in a particular zone, always with due regard for the security of the State and the freedom of the plebiscite.

In case the two Governments on their initiative should agree to hold zonal plebiscites, they would of course be free to negotiate in advance concerning the

meaning of the results of the zonal plebiscites, having in their own possibly agreed negotiations some regard for geographical contiguity, Any such partition from their own initiative and agreement which might thus result/would not be by carving up the State by the two nations but would be by a free vote of the people of Kashmir in zonal plebiscites for the self-determination of the people in the respective zones.

The Many Procedures Tried So Far Without Success

During many years the procedures of the United Nations had included mediation by the original UN Commission; their negotiation of the provisions for the cease-fire, truce and plebiscite; the demarcation of the cease-fire line; the proposal jointly made by Prime Minister Atlee and President Truman for arbitration of differences which had arisen over some of the terms of their agreement; the mediation by a President of the Security Council, General McNaughton of Canada; the mediation of Sir Owen Dixon, the present Chief Judge of the Australian High Court; by another President of the Security Council, H.E. Ambassador Gunnar Jarring of Sweden; and the five efforts which had been made by my own mission. There have been periods of quiet diplomacy. There have been periods of vituperation and recrimination. The Security Council itself had many times debated the question and had at times passed resolutions which had not resulted in acceptance by one of the Governments. Informal suggestions had been made outside the United Nations at the meeting of representatives of the British Commonwealth of Nations. The Prime Ministers of India and Pakistan had held summit meetings on the question.

All these and other efforts failed to break the deadlock. Pakistan at one time or another indicated acceptance of the proposals of (1) President Truman and Prime Minister Atlee for arbitration, (2) the proposals of General A.G.L. McNaughton, (3) most of the proposals of Sir Owen Dixon. India rejected many

of the proposals of my predecessors (1) because they were contrary to the provisions of the two UNCIP resolutions, (2) because India held the prerequisites of the plebiscite were not fulfilled by Pakistan, and (3) because in India's view they condoned aggression by Pakistan.

It was in that context that I kept my mediation within the substance and purposes of the two UNCIP resolutions as the reference frame of my mission, established, at the behest of India and Pakistan, by the Security Council. India, which over a period of years stood on the two UNCIP resolutions in rejecting proposals of several UN mediators, later began to take stands against the obligations of these very resolutions on the ground that certain provisions of the resolutions had not been fulfilled by Pakistan.

Pakistan, on the other hand, held that India had not been willing to accompany the withdrawal of all the Pakistan forces, as provided in A of part II of the 13 August 1948 resolution, with the related withdrawal of the bulk of the Indian forces, in accordance with an agreement with the Commission [or their successors] on stages of withdrawal of the bulk, which agreement the Commission [or their successors] were unable to reach with India, as provided in B of part II of the 13 August 1948 resolution. The inter-relation of these provisions of part II became a basis of the deadlock.

Another Effort of the UN Representative in 1958

The Security Council directed me to make another effort in 1958. The situation, I felt, might then become more dangerous from further delays and frustrations in securing agreement on steps toward a plebiscite. The UN Representative, in view of many frustrations and the hazards in the situation, felt he should try to find some extraordinary suggestion, (1) which would not be out of accord with the two UNCIP resolutions or the 12 proposals; (2) which would

meet some of India's concerns; (3) which, in spite of its extraordinary nature, would win the willing adoption by Pakistan for the sake of having the plebiscite; and (4) which would facilitate negotiation of steps toward fulfillment of the provisions of the two UNCIP resolutions for the cease-fire, the truce and the plebiscite.

Without any preconceptions on my part as to the precise nature of such a suggestion, there developed during my mediatory efforts at that time, after some consideration of informal proposals, the suggestion for a UN peace force to be placed not on Kashmir soil, and not on any Indian soil, but only on Pakistan soil. After India and Pakistan had complied with the interrelated provisions in part II A and B of the 13 August 1948 resolution regarding withdrawal and reduction of forces, and after the promised large-scale disarming and disbanding of the "Azad Kashmir" forces had been carried out, The United Nations peace force would then be stationed on Pakistan soil along the Kashmir border between the Pakistan Army and Kashmir, all the Pakistan forces having been withdrawn from Kashmir.

This suggestion for a UN peace force on Pakistan soil was one of five suggestions made by me in 1958. The cease-fire line was then holding firm. Pakistan looked with favor on all five suggestions. India, while not in position to reject a proposal for a UN peace force on Pakistan soil, looked with disfavor on all five suggestions, as recounted in my Supplementary Statement and Annex 8 of the statement.

Although there was then in my mind the strong hope of a breakthrough in the Kashmir case if the suggested UN peace force were given the moral support of approval by the Security Council, nevertheless, it then appeared that members of the Security Council, in their wisdom and responsibility, did not wish to discuss the five additional suggestions which included the suggestion for a UN

peace force on Pakistan soil. Rather, it appeared that members of the Council at that juncture favored direct negotiations, without the intervention of a third party.

The UN Representative had on occasion favored direct negotiations for their special values. Respectful of the responsibility and wisdom of the Security Council, he then made a suggestion for direct negotiations^{1/}, as quoted in the Supplementary Statement.

The UN Representative had good will toward, and hope for, effective direct negotiations. In case direct negotiations again failed to break the deadlock, he had the hope that the 12 proposals, in accordance with the two UNCIP resolutions, negotiated and agreed to by India and Pakistan, and the five additional suggestions, would then be discussed in a meeting of the Security Council. The cease-fire line continued intact. The opinion that a discussion in the Security Council of these proposals might aggravate the situation leaves out of account the fact that the failure to discuss these proposals in the Security Council did not improve the situation.

With all the Pakistan military forces withdrawn from Kashmir, with the related withdrawal of the Indian forces to the number required for law, order and defense, with the large-scale disarming and disbanding of the "Azad Kashmir" forces, and with a UN peace force on Pakistan soil between the Pakistan Army and Kashmir - it is futile now to conjecture what might have been prevented and achieved if this proposal had been approved by the Security Council and accepted by India. This proposal concerning a UN peace force on Pakistan soil has not been added to the present 12 proposals, but of course it is still open for discussion, as are all matters which the two Governments wish to consider on their own initiative.

Although the Security Council, after the failure of direct negotiations,
of
chose not to discuss the five proposals contained in my Sixth Report/1958, the

UN Representative was available during the debates on Kashmir in 1962 and 1964 with a summary report and recommendations on the Kashmir dispute. Such a report was not then considered timely on either occasion by members of the Council. However, the cease-fire line, in the tense situation, continued to hold.

Efforts Outside the United Nations

Efforts outside the United Nations were made by the Honorable Averell Harriman of the United States and the Honorable Duncan Sandys of the United Kingdom. In March 1962 they obtained an agreement of the two Governments to carry on bilateral negotiations on Kashmir and related matters. In this context six meetings were held at the ministerial level. At the conclusion of these negotiations a joint communique was issued which is set forth in Annex 9 of my Supplementary Statement.

Further Bilateral Negotiations

On 16 May 1963 a joint communique, following the Talbot-Jackson efforts, was issued by the two Governments regarding bilateral negotiations, at the end of six rounds of bilateral talks as follows:

"On November 29, 1962, the President of Pakistan and the Prime Minister of India issued a joint statement calling for renewed efforts to resolve outstanding differences between their countries on Kashmir and other related matters so to enable India and Pakistan to live side by side in peace and friendship. In their statement the President of Pakistan and the Prime Minister of India agreed that discussions should be held at an early date initially at ministerial level with the object of reaching an honourable and equitable settlement.

"In pursuance of this decision, Mr. Z. A. Bhutto, Pakistan's Minister for External Affairs, and Sardar Swaran Singh, India's Minister for Railways, held a number of meetings spread over six sessions between December 26, 1962 and May 16, 1963.

"These meetings were held at Rawalpindi, New Delhi, Calcutta and Karachi and were frank and cordial throughout. At the end of the last meeting which concluded today the two Ministers recorded with regret that no agreement could be reached on the settlement of the Kashmir dispute."

VI. The Unfavorable Atmosphere

In accordance with the two UNCIP resolutions of 13 August 1948 and 5 January 1949, as agreed to by India and Pakistan, the two Governments were and are, inter alia, under the obligation to develop a peaceful atmosphere favorable to negotiations for fulfilling their inter-related provisions for the cease-fire, the truce and the plebiscite.

The required favorable atmosphere was not promoted when the cease-fire was not followed in a reasonable time by the effectuation of the provisions for the truce and the plebiscite. Following the cease-fire, the long continuing non-fulfillment of the plebiscite caused hostile statements against India by some groups in Pakistan. Such statements in Pakistan, and the charges of non-fulfillment of some provisions of the 13 August 1948 resolution made by India against Pakistan, were followed by hostile statements against Pakistan by some groups in India. This lack of the required favorable atmosphere became one of India's grounds, under the two UNCIP resolutions, for not accepting proposals for decisive steps toward the plebiscite. Delays, frustrations, hostile statements, rejections of suggestions as the basis for the negotiated reconciliation of differences over the terms of their own international agreement, became reenforcing parts of a vicious circle, involving both nations in a situation of non-fulfillment loaded with high potentials, dangerous to the well-being of the people of the whole sub-continent.

Moreover, the obligations for the development of a favorable atmosphere and other obligations of the two UNCIP resolutions, are not fulfilled when unilateral declarations are made by India that Kashmir is a constitutional, integral and non-negotiable part of the Indian Union. No constitutional procedure by either India or Pakistan can invalidate international commitments made previously to such procedures by either of these two member nations of the United Nations under the auspices of the United Nations. The two UNCIP resolutions are not only a

bilateral agreement, but are also an international agreement charged with the obligations which underlie an international agreement negotiated by the UNCIP with, and accepted by, both India and Pakistan under the auspices of the United Nations. Any unilateral declaration that the State of Jammu and Kashmir, or any part of the State, while under heavy military occupation and without a plebiscite, is now a permanent and non-negotiable part of India or Pakistan, is and would be contrary to one of the basic provisions of their own international agreement and contrary to the position held by the United Nations. Any such unilateral declaration by India or Pakistan on the permanent status of the State of Jammu and Kashmir cannot nullify the position and responsibility of the primary peace-keeping and executive body of the United Nations, namely, the Security Council, under the obligations of its own sponsored two UNCIP resolutions for a cease-fire, a truce and a plebiscite as negotiated and accepted by India and Pakistan.

Furthermore, the obligations of the two UNCIP resolutions for the favorable atmosphere are not only not fulfilled by long delays in fulfillment, bitter polemics and provocative unilateral declarations, but also are not fulfilled by ~~violations~~ wrongful violations of the cease-fire line in Kashmir or by subsequent wrongful violations of their international boundary. Violations of the cease-fire line and the international boundary are violations of one of three inter-related basic threefold provisions of the two UNCIP resolutions for the cease-fire, the truce and the plebiscite.

It has always been the position of the UN Representative, under the two UNCIP resolutions, established as his mandate by the two Governments and the Security Council, that there should not be any resort to arms or violence, or any violations of the cease-fire line, but rather, there should be a fulfillment of all the provisions for the cease-fire, the truce and the plebiscite.

all differences in

To say that the door is open for bilateral discussions of/the Kashmir situation and ~~there~~ hold that Kashmir is a non-negotiable and irrevocable part of the Indian Union, is to close the door on the most basic discussions of the political problems underlying the Kashmir dispute, for whose settlement India, Pakistan and the United Nations stand committed in accordance with the two UNCIP resolutions of 13 August 1948 and 5 January 1949, negotiated and accepted by India and Pakistan under the auspices of the United Nations.

VII. The Secretary-General's Emphasis on the Increasing Gravity of the Violations of the Cease-fire Line in His Summary Reports to the Security Council, Which Then Adopted a Series of Resolutions.

The Secretary-General, on 3 September 1965, in view of the increasing number and seriousness of the violations of the cease-fire line in the previous five months, made a summary report to the Security Council which emphasized the gravity of the situation. He made subsequent summary reports emphasizing the increasing gravity of the situation. These summary reports of the Secretary-General on violations of the cease-fire line and subsequent violations of the international boundary line, should be read in their entirety in order to get a view of the basic nature, surrounding circumstances, and details of these violations. These summary reports of the Secretary-General on the violations, which are contained in Annex 10 of my Supplementary Statement, speak for themselves and should be read in their entirety.

Resolutions by the Security Council

After reading reports faithfully made by the Secretary-General on those violations as they occurred, and after hearing representatives of the two Governments, the Security Council passed a series of resolutions ^{1/} respectively dealing with those tragic developments. These resolutions are set forth in Annex 11 of my Supplementary Statement.

^{1/} S/RES/209, 210, 211, 214 and 215

These resolutions, which were passed respectively on 4, 6, 20 and 27 September and 5 November 1965, include calls for: (1) a cease-fire, (2) the withdrawal of all armed personnel back to positions held by them before 5 August 1965, (3) the provisions by the Secretary-General of necessary assistance to ensure supervision of the cease-fire line and the withdrawal of all armed personnel, (4) all States to refrain from any action which might aggravate the situation in the area, (5) as soon as operative paragraph 1 of the Council's resolution of 6 September 1965^{1/} has been implemented, consideration of what steps could be taken to assist toward a settlement of the political problem underlying the ~~present~~ conflict, and (6) the two Governments to utilize all peaceful means, including those listed in Article 33 of the Charter to this end.

Actions of the Secretary-General

The Secretary-General, in performance of the responsibility thus placed upon him by the Security Council, as promptly as possible, (1) increased the number of UN Military Observers on the cease-fire line in Kashmir from 45 to 105, provided by Australia, Belgium, Canada, Chile, Denmark, Finland, Italy, Norway, Sweden and Uruguay; (2) appointed Col. H. J. Gauthier, former Chief of Staff, as Acting Chief of the Observer Group on the cease-fire line in Kashmir; (3) appointed General Bruce F. Macdonald of Canada, with his background of tested experience with the UN force

^{1/} S/RES/210

in Cyprus, to be the Chief of the UN Observer Mission along the international boundary between India and Pakistan, composed of officers provided by Brazil, Burma, Canada, Ceylon, Chile, Ethiopia, Ireland, Nepal, Netherlands, and Venezuela; (4) appointed Brigadier General Tulio Marambio, distinguished Chilean officer, to be his representative, and Dr. Miguel Marin, a veteran legal and political officer in the Department of Security Council Affairs in the UN Secretariat, with distinguished services regarding many cease-fire lines in Asia, Australasia and Africa, to be General Marambio's principal secretary to help in plans for withdrawal, (5) make clear the specifications of the respective responsibilities of Colonel Gauthier, General Macdonald and General Marambio in helping to bring about (a) plans for withdrawals of armed personnel, and (b) the actual withdrawals back to the positions held before 5 August 1965.

The Secretary-General, in June 1966, appointed General Luis Tassare Gonzales, Chief Military Observer of the United Nations Military Observer Group in India and Pakistan, as successor to the late General Nimmo. General Tassare is a veteran and knowledgeable observer of the cease-fire line in Kashmir.

VIII. The Many Positive Values of the Tashkent Agreement as a Vital Reenforcement of the Resolutions of the Security Council for Withdrawal of Armed Personnel and as a Positive Force for the Development of a Favorable Atmosphere.

Meantime, His Excellency, Aleksei N. Kosygin, the Chairman of the Council of Ministers, on behalf of the USSR offered to be host at Tashkent to the representatives of India and Pakistan for a discussion of differences, for relaxation of tensions, and for the development of a favorable atmosphere and peaceful relations. The offer of hospitality and good offices was accepted by both India and Pakistan. Premier Kosygin, with his veteran colleagues, rendered a distinguished service in his effective mediatory

efforts which resulted in agreements, such as: (1) no resort to force, in accordance with the Charter of the United Nations; (2) withdrawal of armed personnel to positions held before 5 August 1965, and the ending of lags in withdrawals by the fixation of 27 February 1966 as the date for the completion of withdrawals; (3) repatriation of prisoners of war; (4) the restoration of normal diplomatic relations; (5) the restoration of communications; and (6) the development of a favorable atmosphere. This agreement won the appreciation of both Governments and of the people interested in the taking of steps toward reconciliation of differences in the cause of good will and peace among nations.

The death of the beloved Prime Minister of India, H.E. Lal Bahadur Shastri; soon after signing the Tashkent Declaration, gave a deeper meaning both to his commitment to peace and to the mourning of the whole world, so deeply in need of peace in this age of peril and hope.

Annex 12 contains the Tashkent Declaration in full as signed on 10 January 1966 by the Prime Minister of India, H.E. Lal Bahadur Shastri, and the President of Pakistan, H.E. Mohammad Ayub Khan.

Expressions of Appreciation also to
General Macdonald, Dr. Marin and Col. Gauthier.

Deep appreciation, as expressed by the Secretary-General, is due to Col. H. J. Gauthier as acting successor to Lt. General Nimmo, General B. F. Macdonald, Brigadier General Tulio Marambio and Dr. Miguel Marin, for their wise planning and effective supervision of the withdrawal of armed personnel in accordance with the resolutions of the Security Council.

The Meeting of the Foreign Ministers
of India and Pakistan at Rawalpindi

Their Excellencies, Sardar Sarwan Singh and Zulfikar Ali Bhutto, the Foreign Ministers of India and Pakistan, and their co-ministers and advisers, met at Rawalpindi on the 1st and 2nd of March 1966 and discussed subjects to which they respectively attached high priority in the interest of good neighborly relations between India and Pakistan.

A joint communique was issued by the Representatives of India and Pakistan and is contained in Annex 13 of my Supplementary Statement.

The Tashkent Agreement, with its many positive values, summarized above, did not undertake to deal with the political problem underlying the hostilities and the long continuing deadlock over Kashmir, and does not supplant the two UNCIP resolutions.

While the most basic provisions of the Tashkent Agreement have been carried out, it is deeply regrettable that all the provisions were not promptly fulfilled. It is also to be deplored that some of the most basic provisions of the two agreed UNCIP resolutions which lie within the concern of the Security Council have, for many years, not been fulfilled. It is to be hoped that the provisions of the two UNCIP resolutions and the Tashkent Declaration will all be faithfully fulfilled.

The resolution of the Security Council of 20 September 1965^{1/} was submitted by the Netherlands and was adopted by a vote of 10 in favor, none against and one abstention, Jordan, and has, inter alia, the following provisions:

1. Demands that a cease-fire should take effect on Wednesday, 22 September 1965, at 0700 hours GMT and calls upon both Governments to issue orders for a cease-fire at that moment and a subsequent withdrawal of all armed personnel back to the positions held by them before 5 August 1965:
2. Requests the Secretary-General to provide the necessary assistance to ensure supervision of the cease-fire and withdrawal of all armed personnel;

^{1/} S/RES/211 (1965)

3. Calls on all States to refrain from any action which might aggravate the situation in the area;
4. Decides to consider as soon as operative paragraph 1 of the Council's resolution 210 of 6 September has been implemented, what steps could be taken to assist toward a settlement of the political problem underlying the present conflict, and in the meantime calls on the two Governments to utilize all peaceful means, including those listed in Article 33 of the Charter, to this end;
5. Requests the Secretary-General to exert every possible effort to give effect to this resolution, to seek a peaceful solution, and to report to the Security Council thereon.

Article 33 of the Charter reads as follows:

"1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

"2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means."

In the course of this dispute, as recounted in this report, resort has been made to negotiations, conciliation, mediation, and proposals for arbitration, all within the framework of the United Nations. Mediatory efforts were made at the time of the meetings of the British Commonwealth of Nations. A summit meeting was also at a later time held between the Prime Ministers of India and Pakistan. Also mediatory suggestions were made by representatives of other Governments with good will toward both India and Pakistan. All these efforts, within the purpose of Article 33 of the Charter, failed to break the deadlock.

The two UNCIP resolutions of 13 August 1948 and 5 January 1949, negotiated and accepted by both India and Pakistan under the auspices of the United Nations, and the 12 proposals for their effectuation, dealt with, and still deal with the political problem underlying the Kashmir dispute.

IX. Within the Reference Frame of the Two UNCIP Resolutions A Summary of the Basic Elements Which Underlie My Mission as the UN Representative for India and Pakistan and Which are Related to the Settlement of the Political Problems Underlying the Dispute Between India and Pakistan.

Within the boundaries of the two UNCIP resolutions of 13 August 1948 and 5 January 1949, which were established as the reference frame of my mission, I now make a summary of basic points as follows:

1. The two resolutions of 13 August 1948 and 5 January 1949 for a cease-fire, a truce and a plebiscite, were negotiated by the UNCIP with, and accepted by, India and Pakistan under the auspices of the United Nations after the accession of Kashmir to India by the Maharajah of Kashmir; after the raids of the Tribesmen into Kashmir; and after the movement of Pakistan armed forces into western Kashmir.

2. The two UNCIP resolutions were established as the reference frame of the present UN Representative after hearing the Representatives of India and Pakistan insist that he not be given a broader frame of reference.

3. India did not accept the 13 August 1948 resolution until certain assurances were given India, as quoted at the top of page 7 of this report, (1), (a), (b), and (c). Pakistan did not accept the two resolution, and the fighting did not stop until after provisions were made not only for a cease-fire and a truce, but also, in the 5 January 1949 resolution, for a plebiscite to be conducted under the auspices of the United Nations.

4. These two UNCIP resolutions, as accepted by India and Pakistan, did not place Pakistan on an equal basis with India in the Kashmir dispute, as long demanded by Pakistan, even after her acceptance of an unequal status. Nor did the two resolutions make a declaration that Pakistan had committed aggression in the Kashmir situation as the prerequisite for the plebiscite, as demanded by India, even after the international agreement had been made for a cease-fire, a truce and a plebiscite without such a declaration. In this regard, in his 12 proposals, the UN Representative stood on the provisions of the two agreed UNCIP resolutions. Pakistan eventually accepted the fact that the two resolutions, and the 12 proposals for steps toward their effectua-

tion, did not place Pakistan on an equal basis with India in the Kashmir situation.

5. The provisions in A and B of part II of the 13 August 1948 resolution established a relation between the withdrawal of all the Pakistan forces from Kashmir and the withdrawal of the bulk of the Indian forces from Kashmir. The failure of Pakistan to withdraw all the Pakistan forces in relation to the failure of India and the UN Commission, or the several successor mediators, to reach an agreement on the bulk and the stages of the withdrawal of the bulk of the Indian forces, as provided in A and B of part II of the 13 August 1948 resolution, produced a deadlock regarding the agreed ^{on} ~~provisions~~ regarding the withdrawal of armed forces by both sides.

6. Pakistan accepted and India rejected most of the basic proposals of the several UN mediators for resolving this deadlock. Acceptance by both Governments of the proposals for breaking this deadlock would have been a decisive step toward the induction of the Plebiscite Administrator into office for holding the plebiscite.

7. The main point now is not which Government is more responsible for the passing of time without the fulfillment of the truce agreement and the plebiscite. The basic issue rather is still the nature of the accession to India by the Maharajah of Kashmir in a situation in which a difference over accession arose between the Maharajah and a large body of the people of Kashmir. The two UNCIP resolutions, as accepted by India and Pakistan, did not provide that the status of Kashmir, as to whether the people wished to be a part of India or Pakistan, would be permanently determined by the Maharajah or by a Constituent Assembly, but would be finally decided by the self-determination of the people themselves in accordance with the provisions of these two resolutions for a cease-fire, a truce and a plebiscite, to be held under the auspices of the United Nations.

8. The principles and provisions embedded in the two UNCIP resolutions, as negotiated and agreed upon by India and Pakistan under the auspices of the United Nations, are not nullified by changes in the friendships or power situations of nations or groups of nations in Asia or the world.

9. The issue now is not the negotiability of the future status of Kashmir, but the fulfillment of an international agreement already negotiated by India and Pakistan under United Nations auspices, regarding the determination by the people of the future status of Kashmir.

10. The 12 proposals of the UN Representative have provided, and provide, fair, reasonable and feasible provisions for the further negotiation by India and Pakistan of decisive steps for the fulfillment of the international agreement of India and Pakistan for a cease-fire, a truce and a plebiscite.

X. Recommendations of the UN Representative

The recommendations of the UN Representative are:

A. That in the projected consideration of the political problem underlying the dispute between India and Pakistan involving Kashmir, the Security Council consider with the representatives of the two Governments, the values of the 12 proposals of the present UN Representative for the following reasons, reemphasized herewith:

1. The 12 proposals, as an interrelated whole, deal with the political problem underlying the dispute between India and Pakistan over Kashmir.

2. The 12 proposals are within the established reference frame of the UNCIP resolutions established by India and Pakistan and the United Nations and provide positive steps toward their effectuation.

3. In the Supplementary Statement made by me, and attached herewith, is found the development in depth of the devoted efforts, experiences and lessons of my able predecessors as some of the developments out of which have come the 12 proposals.

4. After consultation with the two Governments, the 12 proposals were worked out in September 1951 under my responsibility and direction. I had, over the years, I wish to emphasize, the assistance of some of the most capable and experienced political and legal officers of the Department of Security Council Affairs, such as, inter alios, Dr. Miguel Marin, long time Principal Secretary of ~~the~~ my mission.

Dr. Marin has had more experience on cease-fire lines than any person in history. He won the degree of doctor of international law at the University of Barcelona. He stood for the self-determination of the people in his native land. He was for some years a resident of Mexico City as a leading member of a publishing house. He later joined the Secretariat of the United Nations and served with the UN Commission for India and Pakistan, which negotiated the two UNCIP resolutions and the demarcation of the cease-fire line. On the basis of this international agreement he had a part in establishing the cease-fire agreement, with its hopes for the early fulfillment of the agreed provisions not only of the cease-fire but also the truce and the plebiscite.

Standing on the 12 proposals as the basis for the negotiation by India and Pakistan of steps toward the fulfillment of the two agreed UNCIP resolutions, I have written this Report and the Supplementary Statement with its 13 Annexes. In this Report, the Supplementary State, and the 13 Annexes, I have summarized the mediatory efforts made by several UN mediators, including my own six different efforts in behalf of the negotiated fulfillment of the two UNCIP resolutions with their provisions for a cease-fire, a truce and a plebiscite, to which India, Pakistan and the United Nations stand committed.

In checking the accuracy of my documentation of this Report, the Supplementary Statement and the 13 Annexes, I have had the knowledgeable help of Mrs. Daisy Lippner, my able secretary and administrative assistant, who, before joining my mission was at an earlier time the Secretary of General Nimmo in his duties as Chief of the UN Observer Group on the cease-fire line.

For the work of the UN team referred to above, or listed in earlier reports, who served in the Kashmir situation, we are deeply grateful.

5. The 12 proposals, instead of by-passing, deal with the prerequisites for the plebiscite (a) in making definite provisions for the required favorable atmosphere, (b) in suggesting provisions regarding the required withdrawal of all the Pakistan armed forces in relation to the withdrawal and reduction of the bulk of the ^{armed} Indian/forces and State armed forces to the number and character required for law, order and defense, and (c) the large-scale disarming and disbanding of the "Azad Kashmir" forces, deconsolidated from the Pakistan Army and separated from the administrative and operational command of the Pakistan High Command and reorganized as local forces under local authorities under the surveillance of the United Nations, all as a basis for further negotiations.

6. The 12 proposals would transform the provisions for the truce from being a barrier between the cease-fire and the plebiscite into being a bridge from the cease-fire to the plebiscite, and thereby would relieve the heaviest tensions on the ceasefire line, which had held fast/^{for}over 16 years without the promised plebiscite.

7. The 12 proposals provide for reasonable reconciliation of the differences which had arisen over the interpretation and implementation of the terms of their own agreement and provide the basis for the further negotiations by India and Pakistan for the effectuation of the cease-fire, the truce and the plebiscite, which constitute the substance and purpose of the two UNCIP resolutions as their own established international agreement sponsored by the United Nations.

8. The 12 proposals are neither pro-India nor pro-Pakistan, but are pro-United Nations. These proposals are for a negotiated reconciliation of differences and for keeping an international agreement sponsored by the United Nations. They provide the democratic way of making peace between India and Pakistan in a plebiscite for the self-determination of the people of Kashmir,

whose own self-determined destiny is the promised concern of the United Nations. It is not the concern of the United Nations or the United Nations Representative how the people of Kashmir vote in a plebiscite, but it is their and our concern that the people of Kashmir have the right and opportunity to vote freely in a UN-conducted plebiscite for their promised self-determination.

9. The two Governments, over a period of years, engaged in serious consideration of the 12 proposals. More time was taken by the two Governments in consideration of the 12 proposals than in the consideration of all other proposals made at any time for the steps toward the fulfillment of their UN-sponsored international agreement. To disregard this time and care taken by the two Governments and taken by the United Nations, and the 8 tentative agreements reached, would be to waste this time and care taken not only by the United Nations but also the time and care taken by able and loyal representatives of the two Governments in serious and thoughtful negotiations devoted to consideration of positive measures and steps toward fulfilling the prerequisites for the plebiscite. On an exploratory basis tentative agreements were reached in 1953 on proposals 1, 2, 3, 4, 5, 6, 8 and 12, the provisional clause, and parts of proposal 7^{1/}.

10. The further consideration of the 12 proposals by the Security Council with the representatives of India and Pakistan would provide the opportunity for each of the two Governments to indicate to the Security Council which of the 12 proposals, analyzed above, they now accept or reject; and to state why in each case; and what modification, if any, they would suggest as a basis for recommendations by the Security Council for the negotiations by India and Pakistan in fulfillment of their UN-sponsored international agreement for the cease-fire, the truce and the plebiscite.

^{1/} S/2967, Annex IV.

B. That a new UN Representative and a new Plebiscite Administrator be appointed as soon as possible on the recommendation of the Secretary-General.

There Must Be a UN Representative and
a UN Plebiscite Administrator in Keeping
With the Two UNCIP Resolutions.

It has been and is my conviction that there must be, in the Kashmir situation, a UN Representative and a UN Plebiscite Administrator. The Plebiscite Administrator should be inducted into office as soon as possible. The 12 proposals make provision for his induction into office in fulfillment of the provisions of the UNCIP resolutions. For his informed understanding and the long haul of the plebiscite period, the new UN Representative should be appointed as soon as possible.

The early appointment of the new UN Representative and Plebiscite Administrator will make it officially and unmistakably clear that the United Nations has not backed away from any part of its responsibility under its own sponsored two agreed UNCIP resolutions. The persistence of this responsibility is of most serious import, not only in the Kashmir situation but also in the long-run over-all peace-keeping and peace-making responsibility of the Security Council as the concern of all nations, large and small. The frustrations of many successive United Nations missions in the Kashmir case do not end the responsibilities or exhaust the procedures of the Security Council or of the other organs, assemblies and procedures of the United Nations as a whole.

XI. An Expression of Faith and Hope in the
Great People of India and Pakistan.

In this revolutionary age of the decolonization of empires, the self-determination of peoples and the peoples' hopes of international cooperation and fulfillment of international agreements sponsored by the United Nations, it is the long-run faith of the UN Representative in the great peoples of India and Pakistan and their dei-

tinguished leaders, that they will give further serious consideration to the following views: (1) that the most democratic settlement of the Kashmir dispute, in accordance with the international agreement of India and Pakistan, will be by the people of Kashmir, who have the most at stake in their own destiny; (2) that the 12 proposals, set forth above, provide the reasonable and feasible basis for the negotiation by India and Pakistan of such a democratic effectuation of their own international agreement; (3) that a settlement, not by bullets in war but by ballots in peace, not by the demarcation of military lines and not by the communal enumeration of religious adherents but by self-determination of the people of Kashmir in an agreed UN administered plebiscite, would in the long run be the most democratic, the fairest, the most acceptable, and the most enduring settlement of this stubborn and perilous dispute; (4) that such a democratic and peaceful settlement of the Kashmir dispute would tend to heal its "running sores" which drain off the energies, obsess the policies and corrode the relations of India and Pakistan; (5) would in the long run release their dynamic capabilities for productive cooperation; and (6) would be an example to the world.

The Kashmir dispute, with its deep and wide meaning, cannot finally be disposed of by provocative unilateral statements in violation of an international agreement sponsored by the United Nations; or settled by wrongful violations of the cease-fire ^{subsequent} line and/wrongful violations of the international boundary, contrary to the provisions of the UNCIP resolutions; and cannot rightfully be submerged in the wider struggle of nations or groups of nations; and cannot, without the agreement of both nations, be removed from the responsibility of the Security Council, which ^{still} obtains under ~~the UN~~ UN-sponsored resolutions.

The UNCIP resolutions of 13 August 1948 and 5 January 1949, sponsored by the United Nations, for a cease-fire, truce and plebiscite, and the resolutions of 5, 20 and 27 September 1965 and 5 November 1965, passed by the Security Council for (1) a cease-fire; (2) the withdrawal of all armed personnel back to the positions held before 5 August 1965; and (3) the consideration of the political problem underlying the hostilities - all these resolutions together comprise, on the record, the position of the United Nations in the Kashmir situation.

The people of Kashmir, beautifully ensconced in their river valleys, mountain coves and terraces, between the ascending, seried and rugged ranges, cannot by the highest mountains, vastest land masses and widest seas, be isolated from the affairs and concerns of the people of the world. The winds of this age, blowing across all the continents, perenially bring to people in Kashmir the hopes of demilitarization, self-determination and international cooperation for peace.

The values of demilitarization on both sides of the cease-fire line of a divided Kashmir, with due regard for both the security of the State and the freedom of the plebiscite, would give added recognition to the defense loads and the human needs of the over-burdened peoples, East and West, and to the values of effective disarmament on both sides of this divided and imperilled world. The holding of the plebiscite in Kashmir would be a spiritual link in the hopes of the people on the earth who are struggling for the freedom to struggle for a higher freedom. The cooperation of India and Pakistan in the promised democratic peaceful settlement of the Kashmir dispute would be a high challenge to all nations in their struggle to establish the durable foundations of peace and devote more generously their resources and their budgets to a wider welfare, more productive programs, and a fairer hope for all their people.

The Settlement of the Kashmir Dispute
is Related to the Meaning of Budgets
and Five Year Plans.

The budgets of nations in allocations for educational, economic and social developments are not merely cold figures on lifeless paper but are warm with the bodies, minds and spirit of the people. The figures, so apportioned, it is recognized, help to determine the level and quality of the agricultural and industrial production and the substance of the hopes of men and women in the temples and mosques, the fields, shops, bazaars and factories, and, most important of all, the hopes of the children in the schools and on the playgrounds of the nation.

An accidental local spark of an unsettled dispute, blown mayhap by the wayward winds of the age into a keg of thermonuclear power, might engulf in its global flames all the people and all their civilization, accumulated in all lands from all the generations gone, with faint hope of generations to come. Such a possible local spark and global fires would consume and make a tragic mockery of all the budgeted five-year plans and all the dreams of great societies for the people and all their children as the human pilgrimage, East and West, across many hundreds of thousands of years might thus come to an end. Such a curtain fall on such a last act of the human drama may happen not only by chance but also by an accumulation of undesigned decisions of nations as they turn away from international agreements and procedures of the United Nations. The United Nations is in urgent need of less by-passing and in need of more use, more support, more responsible and universal membership, more organic growth and more dynamic action for the survival and progress of the human species on this planet.

Little Decisions Add Up to the Big Decisions

It is our faith that no people ever deliberately choose, as a national policy, to take the long suicidal leap into war. Instead of decisions for the design of

man's better hopes through the procedures of the United Nations, the decisions for undesigned war are made when nations, in turning away from the United Nations, make apparently small decisions in their short run national interest, which, in their long run accumulating effect, become the big decisions, unintended in their tragic consequences /of all people. It is the accumulating small decisions which often determine large national policy and mayhap the destiny of mankind.

The Larger Meaning of Little Kashmir

The meaning of the peaceful settlement of the Kashmir dispute takes on a larger meaning because it would be a settlement of a perilous dispute by two great nations, India and Pakistan.

In this dynamic world the smallest break-through in the armed stalemate of nations by the fulfillment of the provisions for the cease-fire, demilitarization and the self-determination of the people of a small disputed State and the consequent sublimation of the potentials of dissension and destruction into the potentials of cooperation and production, might perhaps set in motion in these shadowed days of hazard and hope, a chain reaction of moral forces reaching from the Vale of Kashmir across the Indian sub-continent and all the continents of two hemispheres. This imperilled world stands in desperate need of the redirection by the great powers of the politics of defensive power into the politics of productive peace. This yearning of the world's people for food and freedom, peace and well-being, in living together on this planet, might yet translate the world's budgets for war and destruction into the people's programs for production and peace.

In ceaseless vigils through the long nights in "the valley of the shadow of death", the United Nations and its dedicated and undaunted Secretariat, are seeking with the shuttle of the moral imperative of this age, to weave across this broken world the fabric of the people's peace, . . . With the cooperation of the delegations in

the United Nations, there may be laid the foundations on which may be developed
and compassion
step by step the structure of law, ~~and~~ justice/in one world neighborhood of inter-
national brotherhood.

From the depth of their dispute over Kashmir, and from the height of their
opportunity for peace and cooperation on their own sub-continent, India and
Pakistan might lift high together their lanterns of light along the difficult path
of the patient pilgrimage of the people for peace. They would thus cast forward
the brightest rays of their faith, through the darkening night of the nations'
desperation, toward the morning of the peoples' creative hopes. Kashmir would
then exert an upward pull all along the line of the arduous climb of the United
Nations as a part of the unceasing struggles of all people, in answer to the
yearnings of the mothers of men and all their children, colored and white, east and
west, north and south, for equal freedom and dignity, progress and peace. From
the world's villages and cities, and all the places where people worship, play and
do their day's work, voices are calling to the nations represented in these halls
for the reconciliation of differences to end disputes; for further steps toward
universal membership and effective universal disarmament to end the arms race
and save the human race; for self-determination of peoples to end colonialism,
old and new; and for larger long-range mutual programmes of technical assistance,
economic production and humane enlightenment of, by and for people in all lands.

For the First Time in History

In this context, for the first time in human history, man has developed the
capability, with one throw of the loaded dice of thermonuclear power, to end the
venturesome game of human life. For the first time in history man has developed the
capability to provide for the minimum needs of the children of the people in all
lands. For the first time people are becoming increasingly aware around the earth

that their children do not have to be poor and hungry, illiterate, diseased and in despair even in their young years on this earth of plenty and hope. They will increasingly demand of responsible and responsive governments that the policies and power struggles of governments shall not disregard or by-pass the purposes and procedures of the United Nations. The world stands in need of the peaceful and cooperative leadership of India and Pakistan against wars and wastes, which deny to the people their natural heritage on the earth, and for consideration of the wisest development of the riches of the deep seas, which may be devoted to the well-being of all nations and all people.

Not by Bombs but by Keeping International
Agreements Sponsored by the United Nations.

Voices from the past and the present of Asia, Africa, Europe, the Pacific and Atlantic Islands, and the Americas, their seers, saints, prophets and statesmen, are saying to this fateful generation, "man cannot live by bread alone". Nor by vituperation, recrimination and bombs! Rather the people's hopes are in food, shelter, work, health, equal dignity, wholesome gaiety, responsible parenthood, and the zest for joyous, creative and reverent living in freedom and peace. In the sublimation of the primal drives, ages deep in the subconscious nature of man, the human species, in physical descent and spiritual ascent, survives in this age, not in wars and the annihilation of peoples but in the peaceful cooperation of nations, in the peoples' free and reciprocal rivalries, East and West, toward the good life and in their venturesome progress in more beautiful expressions of the human spirit and nobler mansions of the human soul. In this age of thermonuclear power, loaded with the doom or the hopes of mankind, the way of survival is in the negotiation of agreement, the keeping and the making of peace in accordance with agreements negotiated under UN auspices, and in the development of the role and the rule of law in a world being organized for enduring peace. The keeping of the peace in the interest of humanity should be followed by the making of peace in the interest of justice and the durable foundations of peace.

Kashmir and the United Nations

In these belated times of the precarious peace of deterrent terror, prophetic voices of ages long gone speak with the hopes of ages yet unborn for nothing less than the acceptance of the moral power of the United Nations as the way for the survival and progress of the human race. The possible drift of great powers down the road toward universal annihilation, may, by example, be turned even a little bit in little Kashmir toward the peaceful struggle of the people of the world up the rugged road toward responsible self-determination of peoples, effective demilitarization, peaceful coexistence, and cooperation of all nations for "peace on earth and good will toward men."

A peaceful and democratic settlement of the Kashmir dispute through agreements negotiated by India and Pakistan under the auspices of the United Nations would:

- (1) help to cool off one of the hot spots on the earth where a local fire, if there had been no United Nations, might have become a global conflagration;
- (2) be one building block in the patient construction of law and peace in the world; and
- (3) strengthen the United Nations as needed by all people in all lands. A more effective United Nations, strengthened to meet the needs of all people in the nuclear age, is the hope of the little nations and the developing nations for political and economic self-determination, reciprocal trade, cultural interchange and spiritual autonomy in this world of vast danger and infinite hope.

The World's Need of the Values of the Cooperation of the Great Peoples of India and Pakistan.

These two peoples of the vast south-central Asian sub-continent are deeply resourced in their great history and rich culture, and are internationally pivotal in the potential turns of the tides in the affairs of men and nations. It is our faith that India and Pakistan will yet rise to the responsibility of their moral power and the opportunity of their global greatness in reconciliation and peace through the

early self-determination of the people of Kashmir in a promised plebiscite administered by the United Nations. The keeping of the peace in Kashmir imposes its moral obligations upon India, Pakistan and the United Nations for the making of peace in accordance with their UN-sponsored international agreement as a basis for their cooperation, no less needed now than when they reached their agreement.

The fact that the cease-fire has not been followed by the truce (as a bridge, not as a barrier, between the cease-fire and the plebiscite) and by the plebiscite, as the agreed way of peaceful settlement, is a source of deep difference which divides the two nations in a continuing situation of frustration, bitterness and peril. An agreed democratic, peaceful and enduring settlement would help to rivet the girders of their sub-continental structure with internationally cooperative and coordinated programs for the peace and well-being of all the people of India and Pakistan and for the welfare of all nations in this troubled world, in need of the best which the great peoples of India and Pakistan have to give to all mankind.

This keeping by India and Pakistan of their UN-sponsored international commitments for a cease-fire, a truce and a plebiscite, would hopefully become a prophetic and creative part of the larger structure and substance of the people's unresting dream of building a nobler home for all the children in all the nations, in the great adventure of the human spirit through the United Nations for freedom, justice, peace and progress, under law, and human brotherhood, under God, in this age of moral peril and immortal hope for all people on the earth as the home of the family of man.

Frank P. Graham
October 25, 1967.