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PILDAT is an independent, non-partisan and not-for-profit indigenous research and training institution with the mission to strengthen democracy and democratic institutions in Pakistan. PILDAT has been actively engaged with building the capabilities of elected Legislators towards a better discharge of their functions of *Legislation*, *Representation* and *Oversight*. PILDAT regularly conducts training/briefing workshops and sessions for Legislators belonging to the National and Provincial Assemblies as well as the Senate. As a non-partisan political research institution, PILDAT regularly prepares well-researched briefing/background papers and Case Studies for Pakistani Parliamentarians, Parliamentary Staff and politicians on a wide range of issues.

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FOR PAKISTANI PARLIAMENTARIANS

# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

# **CONTENTS**

India

Abbreviations and Acronyms Foreword Profile of the Author

i Tollic of the Autho	II	
Kashmir Dispute: F	Historical Background	08
Indian and Pakistar	ni Perspectives on Kashmir	10
Proposed Solution	s to the Kashmir Dispute	11
Summary of the va	rious Proposals Advanced since 1947	12
Chronological Acc	ount of Proposed Solutions	26
Conclusion		35
Select Bibliography	y	35
Appendices		
Appendix A:	Map of Kashmir	39
Appendix B:	Instrument of Accession executed by Maharajah Hari Singh on October 26, 1947	4(
Appendix C:	Resolution adopted by the United Nations Security Council on January 17, 1948	45
Appendix D:	Resolution adopted by the United Nations Security Council on January 20, 1948	46
Appendix E:	Resolution adopted by the United Nations Security Council on April 21, 1948	48
Appendix F:	Resolution adopted by the United Nations Security Council on June 3, 1948	52

FOR PAKISTANI PARLIAMENTARIANS

# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

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### **Abbreviations and Acronyms**

CBMs Confidence Building Measures
IKC International Kashmir Committee
IMF International Monetary Fund
J&K Jammu and Kashmir
KSG Kashmir Study Group

**LoC** Line of Control

NAM Non-Aligned Movement

**OIC** Organisation of Islamic Conference

**SAARC** South Asian Association for Regional Cooperation

**U.S.** United States

**UNSC** United Nation Security Council

FOR PAKISTANI PARLIAMENTARIANS

# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

### FOREWORD RD

roposals for resolving the Kashmir Dispute, a briefing paper by PILDAT, is a special presentation to bring the debate on resolution of Kashmir problem to its legitimate place: the Parliament. Especially commissioned by PILDAT, the paper looks at the various proposals and options that have been floated to resolve the issue of Kashmir. The intent of the paper is to bring all these proposals in a readily-accessible form to the Parliamentarians so that they can engage in an informed debate, both in the plenary and in Parliamentary committees, for putting forward possible solution for resolving the Kashmir dispute on behalf of the Pakistani people.

Authored by **Dr. Syed Rifaat Hussain**, the paper attempts to present an objective and factual commentary of the available options put forward by various entities, as well as trace their status. The paper's intent is not to advocate a particular option but to present a glossary of all options for the knowledge, study and use of these for the Parliamentarians and the Parliamentary Committees.

As always, we look forward to the feedback of our readers: parliamentarians of Pakistan whose association and support is essential in realising our dream of strengthened parliamentary democracy in Pakistan.

The author, PILDAT and its team of researchers have made every effort to ensure the accuracy of the contents of this paper. PILDAT, however, does not accept any responsibility of any omission or error as it is not deliberate.

Islamabad June 2005

FOR PAKISTANI PARLIAMENTARIANS

# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

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### PROFILE OF THE AUTHOR UTHOR



**Syed Rifaat Hussain** is Professor and Chairman of the Department of Defence and Strategic Studies (DSS), Quaid-i-Azam University, Islamabad. Currently, he is working as a Senior Research Fellow at the National Defence College, Islamabad. Prior to joining the DSS in 1999, he taught international relations at Quaid-i-Azam University for over two decades. Syed Rifaat Hussain received a B.A. in 1973 from Punjab University, Lahore, and an M.Sc. in international relations from Quaid-i-Azam University in 1975. He did graduate work in 1980-83 in international relations at Stanford University in California and the University of Denver in Colorado. He received a Ph.D. at Denver in 1989.

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# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

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### **Kashmir Dispute: Historical Background**

The state of Jammu and Kashmir (J&K), a landlocked territory, lies in north-western part of Indian Subcontinent. It became a disputed territory after the partition of the Indian subcontinent in August 1947. Bounded on northeast by the Uygur Autonomous Region of Sinkiang and Tibet (both parts of the Peoples Republic of China), it is surrounded by the Indian states of Himachel Pradesh and Punjab on the South; on the northwest by Afghanistan and on the west by Pakistan.

The territory's total area is 85,806 square miles (222,236 square km), of which 31, 643 square miles (81, 954 square km) is controlled by India. The modern state of J&K evolved from the Dogra heartland in Jammu, as the home of many different ethnic groups and a diverse set of cultures. In 1834, Ladakh was conquered and incorporated into the state. Baltistan was conquered and annexed by the Dogras in 1840. The Valley of Kashmir joined in 1846, when the British sold it to the Sikh ruler Gulab Singh for 7.5 million rupees. In 1935, Gilgit was leased to the British for 60 years. The British terminated the lease in 1947. Aksai Chin came under the Chinese control in 1962 following the Sino-Indian War that year. Poonch joined the state in 1936, as the result of a judicial settlement. <sup>2</sup>

The Kashmir Valley's inhabitants were predominantly Muslims, with a small community of Sikhs and Kashmiri Pandits; Jammu had a Dogra Hindu majority with a significant Muslim component; the western strip from Muzaffarabad to Mirpur had a majority of Punjabi Muslims; Gilgit, Skardu, and Kargil were also inhabited by Muslims; and a majority of Ladakh's residents were Lamaistic Buddhists.<sup>3</sup>

At the time of the partition of the Indian subcontinent in 1947, the State of Jammu and Kashmir was one of the 564 princely states that faced the choice of either joining India or Pakistan in accordance with the twin principles of geographical contiguity and self-determination following

the lapse of British paramountcy. Although J &K had a Muslim majority (77% in the census of 1941), and shared a long border with the new state of Pakistan, the Maharaja refused to opt for Pakistan.

His reticence stemmed both from his desire to remain independent and from agitation by his predominantly Muslim subjects against his brutal rule. Faced with the armed revolt by Muslims from Poonch in June 1947, the Maharaja retaliated with brutal force against them. The revolt then spread to the other areas of Jammu and Kashmir. To stabilise the situation, the Maharaja signed a standstill agreement with the new state of Pakistan. The situation deteriorated during August and September of 1947, as the Kashmiri Muslims openly revolted. By late October, 1947, the tribesmen-led rebellion succeeded in capturing several towns, massacred large number of civilians, and advanced within four miles of the capital, Srinagar.

To forestall his imminent overthrow by the advancing rebel troops, the Maharaja requested military aid from India, and decided to accede to India on October 26, 1947. The Indian Government accepted Maharaja's accession, while stipulating that it should ultimately be ratified by popular consultation. India's military intervention on behalf of the besieged Maharaja led to the first India-Pakistan war over Kashmir. India aired the dispute before the United Nations, calling for international intervention in the matter.

After their first war over Kashmir in 1947-48, India and Pakistan signed a cease-fire agreement on January 1, 1949. India and Pakistan went to war over Kashmir again in 1965, and the resulting line of control divided old Jammu and Kashmir into four political units:

- i. Ladakh and Jammu and Kashmir Valley (Indianadministered Kashmir)
- ii. Azad Kashmir (Pakistan- administered Kashmir)
- iii. Northern Area (administered by Pakistan)
- iv Aksai Chin, (controlled by China)

<sup>1.</sup> Mushtaqur Rahman, Divided Kashmir: Old Problems, New Opportunities for India, Pakistan, and the Kashmiri People (Boulder: Lynne Rienner, 1996), p. 17

<sup>2.</sup> Ibid.,

<sup>3.</sup> Ibid.,

<sup>4.</sup> Ibid.,

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# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

### **Indian and Pakistani Perspectives on Kashmir**

### The Indian Approach

At the core of Indian position on Kashmir is New Delhi's claim that the decision of the Maharaja Hari Singh to accede to the Indian Union, regardless of its circumstances, is "final and legal and it cannot be disputed." If there is any "unfinished" business of partition, it is the requirement that Pakistan relinquish control of that part of Jammu and Kashmir that it illegally occupies. India further maintains that the UN Resolutions calling for the will of the people to be ascertained are no longer tenable because Pakistan has not fulfilled the precondition of withdrawal from the territory it occupied through aggression. New Delhi further maintains that after Pakistan's attempts to alter the status quo, by force, of war in 1965, Islamabad has forfeited the right to invoke the UN Resolutions. The will of the people does not need to be ascertained only through a plebiscite. The problem of Kashmir, according to India, is one of terrorism sponsored by Pakistan. The targets are Muslims in Kashmir, belying Pakistan's argument that it is concerned about the welfare of Muslims in Kashmir. While India wants to resolve all outstanding issues with Pakistan through a process of dialogue, the integrity and sovereignty of India cannot be a matter for discussion

The Indian policy towards Kashmir operates at three distinct levels: local, bilateral and international. At the local level, the principal Indian goal is to crush the Kashmiri resistance by massive use of force on the one hand and by manipulating the differences among different Kashmiri resistance groups on the other.

At the bilateral Indo-Pakistan level, India, while expressing its willingness to discuss all outstanding issues with Pakistan, has tended to avoid conducting any meaningful dialogue with Pakistan regarding Kashmir that involves a movement away from the stated Indian position that Kashmir is an integral part of India. Although India's principal purpose in maintaining a posture of dialogue with Pakistan is to gain time to consolidate its hold over in Kashmir by pacifying the Kashmiri resistance, independent

analysts believe that "already in possession of the larger and most prized section of the state and aware of the difficulty that would face any effort to pry Pakistan loose from the rest," New Delhi would be willing to "accept conversion of the LoC...into a permanent international boundary."

At the international level, Indian policy on Kashmir is primarily aimed at three objectives: deflecting the Pakistani campaign alleging human-rights violations in Kashmir; emphasizing that the Simla agreement provides the only viable forum to settle the Kashmir issue; and discrediting the Kashmiri resistance movement as a "terrorist activity" sponsored by Pakistan.

### The Pakistani Approach

Historically, the Government of Pakistan has maintained that J &K has been a disputed territory. The state's accession to India in October 1947 was provisional and executed under the coercive pressure of Indian military presence. The disputed status of J & K is acknowledged in the UN Security Council resolutions of August 13, 1948 and January 5, 1949, to which both Pakistan and India agreed. These resolutions remain fully in force today, and cannot be unilaterally disregarded by either party. <sup>6</sup>

- 1. Talks between India and Pakistan over the future status of J & K should aim to secure the right of self-determination for the Kashmiri people. This right entails a free, fair, and internationally supervised plebiscite, as agreed in the 1948-1949 UN Security Council resolutions.
- 2. The plebiscite should offer the people of Kashmir the choice of permanent accession to either Pakistan or India.
- Talks between India and Pakistan, in regard to the future status of J &K, should be held in conformity both with the Simla Agreement of July 1972 and the relevant UN Security Council resolutions. An international mediatory role in these talks may be appropriate.

<sup>5.</sup> Robert G. Wirsing, India, Pakistan, And the Kashmir Dispute: on Regional Conflict And Its Resolution (New York: St. Martin's Press, 1994), p.219-20.
6. In defence of the continued validity of the UN resolutions on Kashmir see Ijaz Hussain, Kashmir Dispute: An International Law Perspective (Rawalpindi: Services Book Club, 2000), Ch.V

# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

STATE

### **Proposed Solutions to the Kashmir Dispute**

During the last five and a half decades, a number of solutions have been proposed by analysts to resolve the Kashmir dispute. These possible solutions can be roughly categorised into four major groups, each group expanding on a particular method. These groups are as follows:

### 1. Plebiscite

- Hold a plebiscite for the entire state of Jammu and Kashmir as laid down in the relevant United Nations resolutions. Initially, India accepted these resolutions but backed out later.
- b. Hold a U.N. supervised partial plebiscite in only the Kashmir Vale, and agree to partition the remainder of the state.
- c. Hold a (limited or comprehensive) plebiscite on some future date under the supervision of neutral and impartial international observers.
- d. Hold a (limited or comprehensive) plebiscite under the joint supervision of India and Pakistan.

### 2. Partition

- a. Partition the state on the basis of communal composition, apportioning the Muslim majority areas to Pakistan and non-Muslim territory of J & K especially Jammu and Ladakh to India.
- b. Partition the state along the UN cease-fire line.
- c. Partition the state along the Line of Control (LoC) with minor adjustments with a view to straighten the border.
- d. Integrate Azad Kashmir and Baltistan with Pakistan; Jammu and Ladakh with India; and hold a plebiscite in the Kashmir Vale. The UN will govern the plebiscite and its subsequent implementation. Partition the state in congruence with an agreed upon formula, keeping the strategic needs of both Pakistan and India in mind.
- e. Integrate Azad Kashmir and Baltistan into Pakistan; Jammu and Ladakh into India; and accord independent status to the Kashmir valley,

to be guaranteed by India, Pakistan, and the great powers

### 3. Independence

- a. Award independent status to the entire state of Jammu and Kashmir, to be respected and guaranteed by both regional and global powers.
- b. Make the Kashmir Vale an independent state, and integrate the rest of the territories with India (Ladakh and Jammu) and Pakistan (Azad Kashmir and Baltistan). International guarantees are necessary for this solution.
- c. Make both Azad Kashmir and occupied Kashmir UN trust territories. Grant independence after a decade of UN-supervised rule.
- d. Make only the Kashmir Valley a UN trust territory, and allow Pakistan to integrate Azad Kashmir and Baltistan, giving India defacto control over Jammu and Ladakh.

### 4. Condominium/Confederation

- a. Establish a condominium of both Pakistan and India over the whole of Kashmir, with maximum autonomy for the state. This solution implies joint management of the state's external and defence affairs by India and Pakistan.
- b. Grant only the Kashmir Valley condominium status, and partition the rest of the state between India and Pakistan.
- c. Establish a condominium of SAARC (South Asian Association for Regional Cooperation) for either the entire J & K or the Kashmir Valley alone.
- d. Form a confederation of Pakistan, India and Kashmir, with maximum autonomy to each of the constituent unit.

<sup>7.</sup> This categorization has been suggested by Prevaiz Iqbal Cheema. See Pervaiz Iqbal Cheema, "Solution for Kashmir Dispute?" Regional Studies (Autumn 1986), pp. 3-15.

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# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

### Summary of the Major Proposals advanced since 1947

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The major proposals for the solution of Kashmir problems, offered since 1947, are listed in the following table. The table and the following section undertake a brief discussion of these proposals.

### PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

	Cons	-Values selfRejected in determination the pastDoes not Kashmiris at allow third the centre option -Enjoys UN -Ignores the legitimacy ethnic, -Practicable linguistic esp. in its and religious regional complexity formGoes of the J &K beyond status quo	-Consensus -Does not statement. address -Addresses present-day realities -Excludes concerns Kashmiris
	s Pros		-Consensus statement. -Addresses Indian and Pakistani concerns
	India <sup>8</sup> Pakistan <sup>9</sup> Kashmiris <mark>Pros</mark>	Supported by majority of Kashmiris, now including APHC	Excluded
ses	Pakistan	Favoured option, officially committed to pursuing it.	Agreed
Responses	India <sup>8</sup>	accepted, but later reneged.	Agreed
	Status	Awaiting India Faimplementation accepted, or (World wary of but later or self-reneged. Codetermination) pppppppppppppppppppppppppppppppppppp	Abandoned
	Basic Principles Status	Kashmir belongs neither to India nor to Pakistan, rather it belongs to Kashmiris.	Equitable, honourable and final boundary settlement
	Nature of Solution	Hold Plebiscite in Jammu and Kashmir	Political, peaceful settlement
	Period Source	Sir Owen Dixon's proposal	India- Pakistan Statement of Objectives (1963)
	Period	1947-57	1958- 1968

SUMMARY OF THE PROPOSED SOLUTIONS FOR KASHMIR DISPUTE (1947-2005)

8. Neelam Deo," Kashmir Issue: An Indian Perspective," <u>Asian Affairs</u>, vol. 22, no. 1 (Spring 1995) 9. Zamir Akram, "Kashmir: A Pakistani Perspective," <u>Asian Affairs</u>, vol. 22, no. 1 (Spring 1995).

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### PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

# SUMMARY OF THE PROPOSED SOLUTIONS FOR KASHMIR DISPUTE (1947-2005)

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	Cons	-Suffers from the stigma of secrecy	-Brokered by -Devoid of third party. practical stepsAddresses -Out of step Indian and with current Pakistani realities concerns	-Violates self- determination -Divides Kashmiris -Not acceptable to Pakistan -Has not worked in the past. -Equates reality with truth
	Pros		-Brokered by third party. -Addresses Indian and Pakistani concerns	-Enjoys global support. -Accepts ground reality as truth -Avoids disruptive change
	Pakistan Kashmiris <mark>Pros</mark>		Excluded	Rejected
Ses	Pakistan		Agreed	Rejected
Responses	India		Agreed	Favoured Rejected
	Status		Overtaken by events	Possible solution; under consideration
	Basic Principles Status		Status Quo	Convert line of control into recognised international boundary between India and Pakistan
	Nature of Solution		Status Quo	Status Quo
	Period Source		Tashkent Declaration (1966)	Sumit Ganguly' proposal, first offered by Indian Prime Minister Lal Bahadur Shastri After Tashkent Declaration
	Period			

### PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

Possible Fall-back Opposes Oppose -Enjoys international support. Consideration er consideration abrupt change. Has a people-centric perspective option.										
Nature Basic Principles Status India Pakistan Kashmiris Prossible Fall-back Solution residents of Trieste Nere given free consideration solution was suggested for Kashmir, while autonomous status to the region.  Defence, foreign affairs, would be controlled by both India and Pakistan, leaving Kashmir Heaving Kashmir						Respons	es			
A Trieste In Italy and the Possible Fall-back Opposes -Enjoys solution; solution; option residents of Trieste under were given free access to the other side. The same solution was suggested for Kashmir while giving a special autonomous status to the region. Defence, foreign and currency would be controlled by both India and Pakistan, leaving Kashmir leaving kashmi	Period	Source	Nature of Solution	Basic Principles	Status	India	Pakistan	Kashmiris	Pros	Cons
independent in all		Selig Harrisons's Proposal discussed Between President Ayub and Prime Minister Nehru in 1964.	A Trieste Solution	In Italy and the Former Yugoslavia, residents of Trieste were given free access to the other side. The same solution was suggested for Kashmir, while giving a special autonomous status to the region. Defence, foreign affairs, communication and currency would be controlled by both India and Pakistan, leaving Kashmir independent in all	Possible solution; under consideration	Fall-back option	Opposes		-Enjoys international supportSeeks to transform the dynamics of Kashmir conflict Offers incremental rather than abrupt changeHas a people-centric perspective	end goals of the Kashmiri freedom movementSuffers from a flawed analogyPuts too much confidence in CBMs to deliver peace

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# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

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		Cons	-Contested Indian and Pakistani interpretation-Excludes KashmirisTreats J & P as a bilatera issue	-Assumes third parties are neutral playersOpposed by IndiaTakes the initiative awafrom Kashmiri'sGets Kashr tangled in global powedynamics
		Pros	-Provides a framework for achieving progress. -Forbids use of force. -Has int. Support	-Seeks global involvementHas advantages of third party mediationFocuses attention on Kashmir as a trouble spot
15)		Pakistan Kashmiris	Indifferent	Divided; some segments support, while others
(1947-200	es	Pakistan	Favoured, Favoured, with broad narrow inter- interpret- pretation ation	Favoured
OISPUTE (	Responses	India	Favoured, with narrow interpret- ation	Strongly
R KASHMIR I		Status	Possible solution; under consideration	Possible solution until recently
HE PROPOSED SOLUTIONS FOR KASHMIR DISPUTE (1947-2005)		Basic Principles	Bilateral approach, including mutually acceptable forms of mediation.	Apply international pressure more deliberately, consistently, and impartially in order to resolve the dispute.
PROPOSE		Nature of Solution	Status- quo pending final solution	Internat- ional mediation
SUMMARY OF THE		Period Source	Simla Agreement	Robert Wirsing's proposal
SUMM		Period	1979 1979	1980-

# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

			THOU OSED SOLO HOMS LON NASHIMIN DISTOLE (1947-2003)		I O I F	007-1461	(n		
					Responses	es			
Period	Period Source	Nature of Solution	Basic Principles	Status	India	Pakistan	Pakistan Kashmiris	Pros	Cons
1991-2001	Proposal of BJP & other Hindu Nationalist movements	Demo- graphic change in Kashmir	Opening Kashmir to Hindu and Sikh settlement to transform Kashmir into a Hindu-Sikh majority state.	Internationally Divided; rejected some segment support, while others oppose	Divided; some segment support, while others oppose	Strongly opposed	Strongly	-Favours -Totally settlement unacco of J &K on to Paki Indian and mitermsTransforms -Puts current Pakista dynamics of extrem Kashmir disadv conflict by Legitii creating new Indian facts on ever Kashundan over Kashundan	-Totally unacceptable to Pakistan and majority of KashmirisPuts Pakistan at an extreme disadvantageLegitimizes Indian hegemony over Kashmir
	Jammu & Kashmir Liberation Front (JKLF)	Indepen- dent Kashmir	Recognition of fully independent and democratic state of Jammu and Kashmir	Remains a possibility	Strongly	Strongly opposed	Divided; some segments support, while others	-Puts Kashmiris at the centre stageBroadens the scope of existing binary	-Opposed by both India and PakistanMarred by partisan advocacyContested option.

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### PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

		Cons		-Incremental -Opposed by approach. S -U.S- brokered neutral deal. PartyAdvantages -After 9/11 of third party US involvement credibility as honest-broker severely undermined
		Pros	optionsUnhinges Kashmir from India- Pakistan stranglehold	Incremental approachU.S- brokered dealAdvantages of third party involvement
15)		Pakistan Kashmiris		Favoured, -Increr with approbrations -U.S-broker dealAdvar of thir
(1947-200	es Se	Pakistan		Strongly favoured
DISPUTE	Responses	India		Strongly
R KASHMIR		Status		Possible solution; under consideration
PROPOSED SOLUTIONS FOR KASHMIR DISPUTE (1947-2005)		Basic Principles Status		Initiate step by step peace process through US-supervised negotiations
		Nature of Solution		Active US mediation
SUMMARY OF THE		Period Source		The Kashmir American Council
SUMM		Period		

# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

SUMMARY OF THE	_	PROPOSED SOLUTIONS FOR KASHMIR DISPUTE (1947-2005)	R KASHMIR D	ISPUTE (	1947-200	5)		
				Responses	es			
Period Source	Nature of Solution	Basic Principles Status	Status	India	Pakistan	Pakistan Kashmiris	Pros	Cons
Raju Thomas's proposal	Create several Indepen- dent states	Create several independent states in South Asia, along ethnic and religious lines	Not valid; threatens to further enhance ethnic violence	Strongly opposed	Strongly opposed	Favoured, with reservations	-Treats South Asia as a potential security community -Cognizant of the linguistic, cultural, ethnic and religious diversity of the region and that of J & K	-Too idealistic -Understates the force of integral nationalism in the regionWill encounter opposition from India and PakistanNo clear road map for achieving stated goals.
Pervaiz Iqbal Cheema's proposal	Combina- tion of partition, limited plebiscite and	Azad Kashmir and Baltistan stay with Pakistan; Jammu and Ladakh with India and Kashmir valley should be	Possible solution; under consideration	Opposed	Opposed	Mostly opposed	-Takes a practical view of the situationSeeks tripartite	-Opposed by IndiaNot favoured by most Kashmiris.

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# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

SUMM	SUMMARY OF THE		PROPOSED SOLUTIONS FOR KASHMIR DISPUTE (1947-2005)	R KASHMIR D	ISPUTE (	(1947-200	5)		
					Responses	es			
Period	Period Source	Nature of Solution	Basic Principles Status	Status	India	Pakistan	Pakistan Kashmiris	Pros	Cons
		UN- trustee- ship	put under UN trusteeship for a decade or more until a final plebiscite.					division of J&K along religious, cultural and ethnic lines	Dixon proposal faces the same problems.
	Kashmir Study Group	Shared sovereig- nty	Trilateral	Widely	Opposed Flexible	Flexible	Favoured with reservations	-Taken seriously by India, Pakistan and the KashmirisTakes into account the ground realities of the Kashmir situation and also the national interest of India and Pakistan	-Taken -Opposed by seriously by extremist India, Hindu parties Pakistan and in IndiaTainted by its Kashmiris. American -Takes into origins. American origins. Account the Falls short of ground tull realities of sovereignty the Kashmir for the situation and Kashmiris. Is opposed national by vocal interest of sections in India and India and Pakistan

### PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

					·
		Cons		-Too idealistic ignores ground realities. Ignores the force of Pakistani, Indian and Kashmiri nationalisms	-Legitimizes the status quo- lgnores self- determination and issues of and issues of
		Pros	-Pedalled by a Kashmiri- American. -Promotes Kashmiriyat	-Seeks to change the status quo by changing thought patterns.	-Builds on past experienceGuards economic interests of parts.
(2)		Pakistan Kashmiris		Unconvinced, though some segments demand unification and independence	Unaccept- able
(1947-200	ses	Pakistan		Unconvin- ced	Accept- able as a fall-back position
JISPUTE	Responses	India		Opposed	Accept- able as a fall- back position
R KASHMIR I		Status		Unlikely	Hotly discussed
PROPOSED SOLUTIONS FOR KASHMIR DISPUTE (1947-2005)		Basic Principles		A sovereignty association within a political framework for a unified and independent Kashmir would accommodate the fears and interests of the two main regional powers.	Indus Water Treaty as a model
PR0P0SE		Nature of Solution		Create a Sovereig- nty Associati- on	Divided Kashmir
SUMMARY OF THE		Period Source		Ayesha Jalal	Mushtaq ur Rahman
SUMM		Period			

India

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FOR PAKISTANI PARLIAMENTARIANS

# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

		s	as a real estate issue and ignores its human and cultural dimensions	ed by ing in. in. aar aap	-Variant on maximum autonomy and likely to be opposed by leading
		Cons		Opposed by right wing parties in PakistanNo clear road map	-Variant on maximum autonomy ar likely to be opposed by leading Kashmiri
		Pros	PakistanHas greater chance of acceptance for its logical appeal	-Builds on past experienceCalls for a negotiated settlement through dialogue	India- Pakistan joint control. Satisfying for both.
15)		Pakistan Kashmiris		Excluded	Excluded
(1947-200	ses	Pakistan		Agree- able, with reserva- tions	Agreeable as fall back position
DISPUTE	Responses	India		Accept- able as a viable solution	Might be acceptable as an alternative to
R KASHMIR		Status		Hotly discussed	In circulation among American circles
SUMMARY OF THE PROPOSED SOLUTIONS FOR KASHMIR DISPUTE (1947-2005)		Basic Principles		Bilateral	Bilateral discussion
PR0P0SE		Nature of Solution		Negotiated settlement	India- Pakistan Condo- minium
ARY OF THE		Period Source		Lahore Declaration (1999)	The Andorra Model
SUMM		Period			

# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

:					241-60	(6)		
				Responses	es			
Period Source	Nature of Solution	Basic Principles Status	Status	India	Pakistan	Pakistan Kashmiris	Pros	Cons
				Indepe- ndent Kashmir				GroupsFlawed analogy between Andorra and &K
The Chenab Formula	Division of J &K	Division of Bilateral J &K discussions	Discussed during Track II (Niaz A Naik- R.K Mishra Talks	Might be accept- able to Pakistan	Opposed by India	Excluded	-Addresses the water lissuesRationalized s division of Kashmir on fireligious basis do	-Opposed by IndiaLegitimizes a status quoNarrow focus -Ignores larger dimensions of the problem

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# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

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Cons		-Opposed by India. Opposed by religious parties in PakistanNo clear road mapVariation on Dixon proposa	-Stabilises -Opposed by the status Pakistan; quo; -Flawed -Seeks analogy with international Kashmir due involvement; to differences in size, history, ethnicity and India-Pakistan
	Pros	-Unfreezes the status quo. -Marks a shift in Pakistani thinking on the Kashmir issue. -Departure from stated positions	-Stabilises the status quo; -Seeks international involvement;
ses	Kashmiris	Mixed reaction from Kashmiri groups	Mixed reaction from Kashmiri groups. Majority not in favour.
	Pakistan	Rejected by India	Offered to Kashmiris as part of autonomy formulas
Respons	India	Accept- able to Pakistan	Not accept- able to Pakistan
	Status	Hotly debated in Pakistan	Seldom discussed
	Basic Principles	Bilateral discussions	International involvement and guarantees
	Nature of Solution	Division and demilita- rization on geograph- ical basis	Demilitar- ization, limited autonomy
	Source	The Musharraf Proposal	The Aland Islands Model
	Period		
	Responses	Basic Principles Status India Pakistan Kashmiris Pros	Nature Division Bilateral Hotly debated demilitaarization on geographical basis

# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

		Cons	Stakes; Presumes global willingness to help.	Centrality of -Conflicts with stated Indian believe in the stated Indian position on Kashmir; Presupposes participation; institutionalize dead and mediation: structured dialogue suct that process stashmir is between India, an mernational the Kashmir's conflict while which is not reland is there.
		Pros		-Centrality of self-determination; -Popular participation; -Third party mediation: -Ignores the fact that Kashmir is an international conflict while lreland is essentially an internal issue of unification
		Pakistan Kashmiris		Widely discussed without outright rejection
	Ses.	Pakistan		Widely discussed
	Responses	India		As a possible option
		Status		Hotly
		Basic Principles Status		Popular consent and self-determination
		Nature of Solution		Sustained and structured dialogue process
		Period Source		The Good Friday Agreement (Irish Model)
		Period		

SUMMARY OF THE PROPOSED SOLUTIONS FOR KASHMIR DISPUTE (1947-2005)

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# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

### **Chronological Account of Proposed Solutions**

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The First Phase: 1947-57

### **United Nations' Resolution and Owen Dixon's Proposal**

The UN Security Council Resolutions of August 13, 1948 and January 5, 1949, proposed the plebiscite option for settling the Kashmir dispute. These resolutions laid down the principles and procedures for a free and impartial plebiscite under UN auspices. Both India and Pakistan accepted these resolutions but later clashed over the interpretation of various clauses especially those pertaining to the demilitarisation of J&K. In 1950, the Security Council nominated Sir Owen Dixon, as the UN mediator. He attempted to address the Azad Kashmir territory by suggesting that administrative responsibilities be assigned to the local authorities. These district magistrates would be supervised by United Nations officers. India rejected this proposal.

Sir Dixon then suggested establishing a single government for the whole State of Jammu Kashmir during the period of the plebiscite. This coalition government could be composed of the two hitherto hostile parties; a neutral administration by trusted persons outside politics; or an executive constituted of United Nations representatives. Even this alternative was rejected by India and Pakistan.

Stymied by Indian and Pakistani opposition, Sir Owen proposed two alternative plans. The first entails taking a region-by-region plebiscite, allocating each area to either Pakistan or India, according to the vote. One variation on this suggestion was to allot to Pakistan and India those areas for which a regional vote would have a foregone conclusion, limiting the plebiscite to the Valley of Kashmir.

Pakistan objected to this proposal on the ground that India had previously committed to hold a plebiscite in the State of Jammu and Kashmir as a whole. India indicated a willingness to consider a plebiscite, but only one limited to the Kashmir Valley and some adjacent areas. However, Indian suggestions as to the allocation of other territories among Pakistan and India were unworkably biased. Sir

Owen recalled that Indian proposals "appeared to me to go much beyond what according to my conception of the situation was reasonable." Pakistan refused to budge from its position, though it was amenable to straight partition if it was given the valley. This, however, was unacceptable to India.

As a last resort, Sir Owen Dixon presented both governments with another proposal which called for a partition of the country and a plebiscite for the Valley. The plebiscite, which would be conducted by an administrative body of United Nations officers, would require complete demilitarisation. Pakistan rejected this proposal. <sup>10</sup>

### The Second Phase: 1958-68

### India - Pakistan Statement of Objectives - 1963

During the second round of Ministerial-level talks held in New Delhi, from January 16-19, 1963, Pakistani Foreign Minister Zulifkar Ali Bhutto and his Indian counterpart, Swaran Singh, signed a joint statement of objectives. According to this "secret" joint statement, both sides had agreed to the following points as a basis for potential solution to the Kashmir problem:

- "To explore political settlement of the Kashmir dispute without prejudice to basic positions of parties.
- a. Agree to examine proposals for honourable, equitable and final boundary settlement, taking into account:
- b. India and Pakistan seek delineation of international boundary in Jammu and Kashmir;
- c. Pakistan delegation urged territorial divisions taking into account composition of population, control of rivers, requirements of defence, and other considerations relevant to the delineation of nternational boundaries and acceptable to people of state.
- Indian delegation urged that any territorial readjustments necessary on national basis take into account geography, administration, and other considerations and involve least disturbance to life

<sup>10.</sup> For details, see Josef Korbel, <u>Danger in Kashmir</u> (New Jersey: Princeton University Press, 1966). Chapter Seven..

FOR PAKISTANI PARLIAMENTARIANS

# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

PROPERTY.

- and welfare of people
- 2. Disengagement of Indian and Pakistani forces in and around Kashmir is essential part of settlement
- 3. Settlement should also embody determination of two peoples live side by side in peace and friendship and to solve all other problems peacefully and to mutual benefit<sup>11</sup>
- 4. Ways and means of removing other major irritants and developing practical cooperation between two countries should be considered..."
- a. Delineating an equitable international boundary in Jammu and Kashmir.

Because of the failure of Bhutto-Swaran Singh, this joint statement ultimately proved merely aspirational.

### **The Tashkent Declaration**

Following the 1965 India-Pakistan war, President General Ayub Khan and Prime Minister Lal Bahadur Shastri were invited to Tashkent, Uzbekistan, by the Soviet government. After protracted negotiations brokered by Moscow, both sides agreed to issue a declaration in January 1966. The Tashkent Declaration did not propose any concrete solution to the Kashmir problem, but merely stated that the "interest of peace in the region and particularly in the Indo-Pakistan sub-continent and indeed the interests of the peoples of India and Pakistan were not served by continuance of tensions between the two countries. It was against this background that Jammu and Kashmir was discussed and each of the sides set forth its respective position."

### Sumit Ganguly's Proposal

Sumit Ganguly, a leading Indian-American scholar, has argued that the basic challenge in finding a solution to the Kashmir problem entails reconciling incongruous perceptions held by Indian and Pakistani decision-makers. He asserts that while Pakistan has been attempting to raise the Kashmir issue in the foreign policy context, India considers it an essentially domestic problem. Consequently, Indian authorities perceive Pakistan's support for Kashmiris as meddling into India's internal affairs.

Ganguly concedes that resolving these "incongruous

positions" will be difficult, but offers an opportunity based on an asserted linkage between Siachen and Kashmir. He claims: "While a resolution of the Siachen issue will not address Pakistan's present claim to Kashmir, it can nevertheless serve as a first step towards reaching a more pragmatic solution to the dispute." One possibility might be a formal acceptance of the status quo by both sides for the next twenty years or so, coupled with a 'no-war pact.' He believes such a solution will be a "logical successor to the Simla Agreement."

### Selig Harrison's Proposal: The Trieste Model

Selig Harrison, a noted American scholar, has suggested that Kashmir under Indian control should be partitioned. Jammu and Ladakh should become part of the Indian union, while the Kashmir valley would be "united with sizeable Muslim pockets in Jammu and Ladakh." India may give to this "new state," according to Harrison, "far-reaching autonomy as part of a Trieste-type solution," and in return, Pakistan would "grant the same degree of autonomy to Azad Kashmir." These new entities will be autonomous in all areas except defence, foreign affairs, communication, currency, foreign aid and trade.

Both India and Pakistan would withdraw their armed forces under UN supervision, retaining the right to reintroduce them under specified circumstances. Pakistan would terminate its support of Kashmiri insurgents. The present LoC will become an international border. As in the Trieste settlement, it would be a porous border, with Kashmiris free to travel back and forth without Indian and Pakistani visas. Gilgit, Hunza and Baltistan would remain part of Pakistan, thus retaining Pakistan's access to China.

As the first step, India would have to split the state, integrating most of Jammu and Ladakh with the Indian Union, while giving special autonomous status to a new state uniting the Kashmir Valley and the sizeable Muslim pockets in Jammu and Ladakh. India could then offer to give this new state far-reaching autonomy as part of a Triestetype solution, under which Pakistan would grant the same degree of autonomy to Azad Kashmir.

<sup>11.</sup> FLouis Smith and Glenn W. LaFantasie, eds. Foreign Relations of the United States, 1961-1963, Vol XIX South Asia (Washington, United States Government Printing Office, 1996), p. 478.

<sup>12.</sup> Summit Ganguly, The crisis in Kashmir: Portents of war, hopes of peace (New York: Woodrow Wilson Center press, 1997), p. 145.

FOR PAKISTANI PARLIAMENTARIANS

# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

Both New Delhi and Islamabad would surrender authority to these new entities, except in the area of defence, foreign affairs, communications, and currency. The new regions would gain the right to conduct independent foreign aid and foreign trade dealings. This settlement, if accompanied by large-scale economic inputs, would be acceptable to many Liberation Front leaders and a growing number of war-weary Kashmiris. However, India shows no signs of moving in this direction, as its current policy aims to militarily crush the insurgency before pursuing a political solution.

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New Delhi fears that giving Kashmir special autonomous status would set a precedent for demands by other potentially secessionist states. The controversy over what to do in Kashmir is part of the developing debate over whether the entire Indian federal system should be more decentralised. This debate is directly linked to the sensitive problem of Hindu-Muslim relations in India. Nominally, India is a secular state, but the secular principle is under attack from the Hindu right. Advocates of secularism fear that an autonomous, Muslim-majority Kashmir would end up seeking independence or accession to Pakistan, thus exposing the 90 million Muslims in other parts of India to continuing attack as potential traitors.<sup>13</sup>

### The Third Phase: 1969-79

### Simla Agreement

Following the third India-Pakistan war in 1971, both countries signed the Simla Accord in July 1972. Clause ii of the Article VI of the Simla Agreement stated that "In Jammu and Kashmir, the line of control resulting from the cease fire of December 17, 1971, shall be respected by both sides without prejudice to the recognised position of either side. Neither side shall seek to alter it unilaterally, irrespective of mutual differences and legal interpretations. Both sides further undertake to refrain from the threat of the use of force in violation of this line." Article VI of the Simla Agreement further committed both sides to "discuss further modalities and arrangements for the establishment of durable peace and normalisation of relations, including a final settlement of Jammu and Kashmir and resumption of diplomatic relations.

### The Fourth Phase: 1980-90

### Robert Wirsing's Proposal for Constructive External Engagement

Robert Wirsing, a leading American security expert, has suggested that the 1948-49 United Nations resolutions possess little relevance in the wake of the upheavals, insurgency, spread of nationalism and Islamic militancy in Kashmir.

The objective conditions that gave legitimacy to the original notions of plebiscite and self-determination have changed, yet neither India nor Pakistan recognises this. Instead, both remain glued to their traditional positions. Meanwhile, since the break-up of the Soviet Union, the Cold War rivalry of super powers has diminished.

These changes now provide an excellent opportunity for international mediation. Given changes in both the internal situation of Kashmir and the external environment, Wirsing suggests that now 'international pressure' can be applied 'more deliberately, consistently and evenhandedly,' to resolve the Kashmir issue. He is especially emphatic about 'evenhandedness:'

"This implies recognition that both India and Pakistan have a legitimate state in Kashmir. Furthermore, that proposals for the settlement of Kashmir cannot possibly move ahead if those making the proposals are thought to be more interested in forging new alliances (or in building up new regional hegemonies) than in forging more peaceful regional relationships. Regional reconciliation, not the re-configuration of regional power, should be the objective of international intervention. It is the only practical objective. Without it, no settlement of any kind in Kashmir is likely."

Wirsing links the international mediators' 'even-handedness' with 'regional reconciliation.' Unless all parties in the dispute - Indian, Pakistani and Kashmiri - are willing to show signs of compromise and the spirit of give-and-take, no resolution of the problem is likely. He argues that the Kashmir conflict has

FOR PAKISTANI PARLIAMENTARIANS

# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

distriction of the state of the

had a powerful impact on the relationships of both India and Pakistan with the United States. Most conspicuous over the years, perhaps, has been its impact on Washington's decisions in regard to arms transfers to the region. From 1947 onward, these transfers could not be made without factoring in their probable consequences for the region's most bitter territorial rivalry. The conflict has had equally broad impact, however, on a whole range of long-term U.S. policy efforts in the region, including nuclear non-proliferation. A series of crises have threatened, moreover, to escalate into a full-scale war that could, in turn, force the unwilling involvement of the United States. Like its Indian and Pakistani clients, the United States was thus in some respects held hostage to the Kashmir problem. This problem could be neglected, perhaps, but not avoided.

### The Fifth Phase: 1991-2001

### Bhartiya Janata Party's proposal for Kashmir Annexation

Radical demographic change has been proposed by the Bhartiya Janata Party (BJP) in India and many other Hindu nationalist organisations as a solution to the Kashmir problem. Specifically, the BJP has called for the revocation of Article 370 of the Indian Constitution. Article 370 gives special status to Kashmir among the Indian states; non-Kashmiris may neither seek residence nor purchase property in Kashmir. By abrogating such restrictions and opening Kashmir to Hindu and Sikh settlement, India could transform Kashmir into a Hindu-Sikh majority state. The 1998 BJP manifesto not only clearly stated that India's "sovereignty over the whole of Jammu and Kashmir" was unequivocal, but also committed the BJP to seize control of all areas that were "under foreign occupations."

# The Jammu and Kashmir Liberation Front's Proposal for an Independent Kashmir According to the JKLF, <sup>16</sup> a Pakistan-based Kashmiri

According to the JKLF, <sup>19</sup> a Pakistan-based Kashmiri Organisation, a single solution of the Kashmir issue is at once the most peaceful, practicable, equitable, legitimate, democratic and permanent. The JKLF proposes to re-unite the divided Jammu-Kashmir State and make it an independent country, with a democratic, federal and non-communal system of government. The country would

maintain a neutral foreign policy modelled after Switzerland's, aiming towards maintaining friendly relations with both India and Pakistan. After 15 years, there would be a referendum under UN (or IKC) auspices. This referendum could determine whether the State will retain its independence forever, or if it becomes part of India or Pakistan instead. A popular verdict will be accepted by all concerned quarters as a legitimate final settlement, and will therefore be most faithfully implemented.

An eleven member committee called International Kashmir Committee (IKC) includes one member each from the 5 permanent members of the UNSC; one nominated by UN Secretary General; two members nominated by the Non-Aligned Movement (NAM); one by Organisation of Islamic Conference (OIC); and one member each from Germany and Japan. The IKC will be responsible for implementing the solution formula in co-operation with the governments of India and Pakistan; each of the State's three parts; and all of the Kashmiri political parties. The formula's implementation will be carried out in five phases.

The first phase will finalise the plan's details, discussing it through individual contacts and collective sittings with the governments of India, Pakistan, Kashmir's three parts, and all political parties and militant groups. The agreement will then be signed by all these stakeholders and registered with the United Nations. An agreement about the security and the safety of the frontiers of the State will also be signed and registered with the UN.

**The second phase** will entail simultaneous withdrawal from the State by all civil personnel and armed forces of both India and Pakistan, as well as all non-Kashmiri militants.

The third phase includes the disarming of Kashmiri militants, and repatriation of those Kashmiris who fled their homes and migrated elsewhere. Those who left between 1947 and 1989-90 will have to choose whether to return to Kashmir permanently or remain in the country where they have been since their migration from Kashmir.

The fourth phase will begin the State's re-unification. This

<sup>14.</sup> Robert G. Wirsing, India, Pakistan, and the Kashmir Dispute, (New York: St. Martin's press, 1994), p 237.

<sup>15.</sup> Mushtaqur Rahman, Divided Kashmir: Old problems, new opportunities for India, Pakistan, and Kashmiri people (London Lynne Rienner publishers, 1996), p. 164.

<sup>16.</sup> Dr. Haider Hijazi, *JKLF Formula to Solve Kashmir Issue*, (Rawalpindi, 1992).

FOR PAKISTANI PARLIAMENTARIANS

# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

phase entails opening intra-state borders closed since 1949; forming an interim National Government and those for each of Kashmir's 5 provinces (Kashmir Valley, Jammu, Ladakh, Azad Kashmir and Gilgit-Baltistan); appointing a Constitutional Committee, framing an interim constitution, electing the National Assembly (House of Representatives) and the Upper House (House of Notables), as well as the provincial assemblies/councils under the interim government. General elections should be held after every 5 years or when decided by the government.

The fifth and the final phase will be the referendum to determine whether Kashmir should retain its independence or become part of India or Pakistan. It will be held 15 years after re-unification, under the auspices of the UN or IKC. Its resulting legitimacy will ensure that the popular verdict will be accepted as the final settlement and faithfully implemented.

# The Kashmir American Council Proposal for a U.S. brokered Tripartite Dialogue

The Kashmir-American Council, a Washington-based organisation comprising largely of Kashmiri-Americans with pro-Pakistan leanings, has proposed an active U.S. mediation role in Kashmir. It suggests a dialogue among 4 parties: the U.S., Pakistan, India, and the 'Kashmiri People.'

As a first step, the area must be demilitarised. Indian and Pakistani troops must revert to their respective positions 'on the borders outside Kashmir.' A small police force must remain, but only in order to supervise the cease-fire line under UN observers. The proposal also advocates that, given India's violation of human rights in Kashmir, the U.S. should use its effective veto to stop the inflow of IMF and World Bank consortium funds to India.<sup>17</sup>

### **Asia Society Proposal for Shared Responsibility**

Asia society, an American think-tank based in New York, has floated the idea of India and Pakistan 'sharing responsibility' on the resolution of the Kashmir crisis. This framework suggests that India should give special status to Kashmir, as a step to build trust between the populations of 'both parts of Kashmir' (India and Pakistan), as well as to stop external support to the Kashmiri militants. The Line of Control would

then be converted into an international boundary between India and Pakistan. Building upon this framework in a rather optimistic fashion, it has proposed a 'South Asia House' - a scheme of comprehensive cooperation between the countries of the subcontinent, perhaps leading to a 'confederation' that would include Kashmir.

The society envisages a role for the international community. In particular, the U.S. and Russia could individually or jointly make efforts to bring India and Pakistan closer in resolving the issue. Through seminars, conferences, and by tabling resolutions in the United Nations, the international community can sensitise populations the world over to the need to seek solutions of the problem in Kashmir. Although the Kashmir issue is bilateral, the international salience of the issue can no longer be ignored.

### Divided Kashmir Proposal by Mushtag ur Rehman

A leading Pakistani-American scholar has proposed to resolve the Kashmir dispute by dividing the state of Jammu and Kashmir following the precedence of the 1960 Indus Waters Treaty, which was based on a clear principle of division.

The Indus River originates in Tibet, crosses the Himalayas and cuts through Jammu and Kashmir in a northwest direction and flows through Ladakh. In this section, the proposed division of the Indus Basin runs diagonally from Chenab to Karakorum Pass.

The Jhelum river originates near Vernag Spring, not far from Zojila Pass. Below Kishinganga Junction, it forms the boundary between Jammu and Kashmir and the districts of Hazara and Rawalpindi. The basin of the Jhelum would fall within the exclusive domain of Pakistan.

The source of the Chenab is on the southern flank of the main Himalayan chain, about 150 miles south of Leh. In general, the river flows parallel to the Indus to the northwest, then turns southwest and passes through the extreme southern corner of Jammu and Kashmir to Pakistan. Below Akhnur, the river splits into smaller channels that could form the dividing line. Bilateral negotiations could amicably divide

<sup>17.</sup> Saeed Shafqat (ed.) *Contemporary Issues in Pakistan Studies* (Lahore: Azad Enterprises, 1998) , p. 193. 18. Ibid. p. 192.

FOR PAKISTANI PARLIAMENTARIANS

# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

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the Chenab Basin and address the question of Muslim majority districts in the area.

To resolve the continuing conflict, a revolutionary reformation of policies acceptable to all involved parties - India, Pakistan, and the Kashmiri people - must be developed. An alternative based on dividing the river system to mirror the water appropriation in the Indus Waters Treaty could be a real solution. Like the Indus Waters Treaty itself, a resolution for settling the political status of Jammu and Kashmir would likely find broad support in the international community. It would also mark a bold step toward normalised relations, and provide hope for a better future for the entire region. <sup>19</sup>

# Kashmir Study Group (KSG) Proposal for Kashmir Entity based on Kashmiriyat

A leading Kashmiri-American businessman, Farooq Kathwari, set up a Kashmir Study Group comprising leading American scholars, policy experts, and a retired Ambassador to explore ideas for a solution to the Kashmir problem. The KSG then visited India and Pakistan to engage in an extensive series of talks about the Kashmir dispute with leading individuals in several urban centres and with many sets of expertise, including backgrounds in government, politics, military, diplomacy, scholarship, journalism, business, and non-governmental organisations. After their visits to both India and Pakistan, KSG published its report in 1997. In September 1999, it published an expanded version of this report titled "Kashmir: A Way Forward."

These two reports argued that the best way to ensure progress towards the resolution of the Kashmir dispute was to reconstitute J & K on the basis of Kashmiriyat the cultural traditions of Kashmir. The extent of the reconstituted Kashmir would reflect the wishes of the residents of the parts of the former state of Jammu and Kashmir. "The portion of the State to be so reconstituted <sup>20</sup> shall be determined through an internationally supervised ascertainment of the wishes of the Kashmiri people on either side of the Line of Control." The implementation of KSG proposals would require the pursuit of following goals:

- a. Free access of a reconstituted Kashmir to and from both India and Pakistan, consisting of:
- i. Freedom of individual movement, and
- ii. Free transit of people, goods, and services across residual Pakistani and Indian boundaries within Kashmir (e.g., the "Line of Control") subject to tripartite arrangements
- b. Demilitarisation of the area of the reconstituted Kashmir, except to the extent necessary for Pakistan and India to:
- i. "maintain logistic support for forces outside the [reconstituted] State that could not otherwise be effectively supplied;" and
- ii. along either side of the LOC, "until such time as both India and Pakistan decided to alter it in their mutual interest:" but
- iii. "Neither India nor Pakistan could place troops on the other side of the Line of Control without the permission of the other state."
- c. Pakistan and India would share "responsibility for the defence (external security) of the Kashmiri entity."
- d. The reconstituted Kashmir "would itself maintain police and gendarme forces for internal law and order (internal security) purposes." <sup>21</sup>

### Sovereignty Association Proposal by Ayesha Jalal

Ayesha Jalal <sup>22</sup> has suggested a sovereignty association within a political framework for a reunified and independent Kashmir. This option aims to address the fear and interest of both India and Pakistan as rival powers. For such an association to succeed, India and Pakistan would have to agree to extend the right of self-determination to all Kashmiris Muslim, Hindu, and Buddhist. Plebiscites or referenda would be held throughout Jammu and Kashmir, including Ladakh, to determine whether the people in that particular area wish to remain with India; choose independence; or seek a possible union with Azad Kashmir, which would not be included in the first round of voting. Jalal proposes that Indian and Pakistani troops be withdrawn, transforming Kashmir into a demilitarised zone with both

<sup>19.</sup> Mushtaqur Rahman, op. cit; p. 161.

<sup>20.</sup> The proposed reconstituted entity of Kashmir, in its essential features, would resemble the autonomous region of Andorra - the principality between France and Spain. The dispute between France and Spain over Andorra started in 803 AD and the solution was arrived in 1993.

<sup>21.</sup> Kashmir: A Way Forward, September 1999 (Washington: Kashmir Study Group, 1999)

<sup>22.</sup> Ayesha Jalal as quoted in Mushtaqur Rahman, op. cit. p. 165.

FOR PAKISTANI PARLIAMENTARIANS

# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

countries guaranteeing its territorial integrity. The terms of a sovereignty association might allow India to maintain a limited military presence in Ladakh, and Pakistan at the Afghan border, in order to meet the strategic concerns of each country about potential threats emanating from outside the South Asian region.

### **Independent States Proposal by Raju Thomas**

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Raju Thomas has proposed the creation of several independent states in South Asia delineated along ethnic and religious demarcations. As in Western Europe, countries of South Asia could share natural resources, defence, and economies, governed by treaties. Within a zone of autonomous states, including several states in Kashmir, the central government of India or Pakistan would deal only with defence, foreign affairs, communications, and currency.<sup>23</sup>

Partition Combined with Limited Plebiscite and UN Trusteeship Proposal by Pervaiz Igbal Cheema

A leading Pakistani scholar, Pervaiz Iqbal Cheema, <sup>24</sup> has proposed that the most feasible solution of the problem seems to be a combination of partition, limited plebiscite and UN trusteeship. Given the region's demographics, Azad Kashmir and Baltistan should stay with Pakistan, while Jammu and Ladakh should go to India. The Kashmir valley should be put under UN trusteeship for at least a decade to prepare the Valley for eventual plebiscite. Cheema argues that the UN Trusteeship Council should decide when the plebiscite would be held. However, there should a mandated time lag of at least one decade from the time the Valley is handed over to the UN.

### The Lahore Declaration

In response to an invitation by the Prime Minister of Pakistan, Muhammad Nawaz Sharif, the Prime Minister of India, Atal Behari Vajpayee, visited Pakistan from February 20-21, 1999, on the inaugural run of the Delhi-Lahore bus service.

The two leaders held discussions on the entire range of bilateral relations, regional cooperation within SAARC, and issues of international concern. The two Prime Ministers ultimately signed the Lahore Declaration embodying their

23. Raju Thomas as quoted in Mushtagur Rahman, op. cit; pp: 165-66.

24. Pervaiz Iqbal Cheema, op. cit; p. 12.

shared vision of peace and stability between their countries and of progress and prosperity for their peoples. The Lahore Declaration provided the following:

"Sharing a vision of peace and stability between their countries, and of progress and prosperity for their peoples;

Convinced that durable peace and development of harmonious relations and friendly cooperation will serve the vital interests of the people of the two countries, enabling them to devote their energies for a better future;

Recognising that the nuclear dimension of the security environment of the two countries add to their responsibility for avoidance of conflict between the two countries:

Committed to the principles and purposes of the Charter of the United Nations, and the universally accepted principles of peaceful co-existence;

Reiterating the determination of both countries to implementing the proliferation;

Convinced of the importance of mutually agreed confidence building measures for improving the security environment:

Recalling their agreement of September 23, 1998, that an environment of peace and security is in the supreme national interest of both sides and that the resolution of all outstanding issues, including Jammu and Kashmir, is essential for this purpose;

Have agreed that their respective Governments:

- 1. Shall intensify their efforts to resolve all issues, including the issue of Jammu and Kashmir.
- 2. Shall refrain from intervention and interference in each other's internal affairs
- 3. Shall intensify their compositor and integrated dialogue process for an early and positive outcome of the agreed bilateral agenda
- 4. Shall take immediate steps for reducing the risk of accidental or unauthorized use of nuclear weapons and discuss concepts and doctrines with a view to elaborating measures for confidence building in the nuclear and conventional fields, aimed at prevention of conflict."

FOR PAKISTANI PARLIAMENTARIANS

### PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

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### The Andorra Model

The Andorra proposal involves creating an autonomous region like the principality of Andorra between France and Spain with India and Pakistan jointly guaranteeing autonomy. The dispute between France and Spain over the region started in 803 AD and the solution was arrived in 1993. The Andorra proposal relies on India and Pakistan overseeing the defence of the Kashmiri entity and jointly working out its funding.

### The Aland Islands Model

With a population of 26,000 and the total land area of 1,552 Square kilometers the Aland Islands took on an international dimension when, on a British initiative, the issue of their autonomy was brought before the League of Nations in Geneva in 1921..The Islands, together with Finland, belonged to Sweden until 1809, at which time Sweden, after losing a war with Russia, was forced to relinquish Finland, together with Aland, to the victor.

Following the disintegration of the Czarist Empire in 1917, the Alanders launched a struggle for reunion with Sweden but the newborn state of Finland refused to give up part of its territory. In 1921, the League decided that the Aland Islands should belong to Finland but have autonomy that would guarantee their Swedish language and heritage. Ten states guaranteed the demilitarisation and neutralisation of the islands.

With their autonomy backed by international guarantees. they have been used a model for resolving minority conflicts throughout the world. The Aland Islands have legislative powers in such areas as social and health care, the environment, trade and industry, culture and education. transport, postal services, policing, radio and TV broadcasting and local government, but relatively little authority to levy taxes The autonomy of the Aland Islands is enshrined in the Finnish Constitution (Article 120) in accordance with the Aland Autonomy Act, which has been passed by the Finnish parliament and may only be amended or revised by a joint decision of the Finnish parliament and the parliament of the Aland Islands. This means that each of the two parties can veto any changes it does not accept. The concept of the Aland Islands' autonomy is not based on the decentralisation of power but on an agreement of shared powers established with the help and under the auspices of an international institution, i.e., the League of Nations.

### The Irish Model

The Irish peace process based on the April 1998 Good Friday Agreement signed between the United Kingdom of Britain and the Republic of Ireland and 8 political parties of Northern Ireland has been posited as a relevant model for resolving the Kashmir dispute.<sup>25</sup> The fundamental problem in Northern Ireland has been the violent thwarting of the desire of the Catholic nationalist minority living in six of its counties to seek union with the Republic of Ireland. The Protestant majority wants these areas to continue as part of the UK. The Good Friday Agreement brokered with the assistance of former US Senator Robert Mitchell offers the first tentative step on a long road to a complete and durable peace among the contending parties.<sup>26</sup> It has been suggested that the Irish model provides peer learning in at least two ways. One, it offers an analogy of structured and sustained course of dialogue/negotiation process supported by well-defined mechanisms - three strands functioning guite satisfactorily. And, two, the resolution of the conflict is based on certain principles that may have some usefulness in determining the final settlement of the Kashmir conflict.<sup>27</sup> The similarities suggested between the Irish model and the Kashmir conflict include the following: The similarities include ingovernability of the territory; alienation of the population; rigged polls; question of sovereignty; discriminatory practices followed by the state; and use of oppressive laws allowing use of force with impunity.

25. For an excellent comprehensive discussion of the potential applicability of the Irish model to the Kashmir conflict see Shaheen Akhter, "Irish Model and Kashmir Conflict: Search for a new Paradigm for Peace in South Asia, "SPOTLIGHT ON REGIONAL AFFÁIRS, Vol. XXIII, No. 8 August 2004 (Islamabad: Institute of Regional Studies, 2004).

<sup>26.</sup> The area of Northern Ireland is just over 14,000 square km, with a population of over 1.6 million and is only 20 miles at the nearest point from Britain. Over 50 per cent of the population is comprised of Protestants who wish to join the predominantly Catholic 3.5 million in the Republic of Ireland. The Island of Ireland is divided into the independent Republic of Ireland and the province of Northern Ireland, or Ulster, which is part of the United Kingdom. Northern Ireland had originally nine counties of which six comprise the present day-Northern Ireland. The other three, predominantly Catholic, became part of Ireland on its partition in 1920. The southern region subsequently cut all ties with Britain, becoming the independent Republic of Ireland in 1949. However, the six counties of Northern Ireland remained a part of the United Kingdom. Ulster's partition from the remaining 26 counties of Ireland in 1921 has caused conflict throughout the history of the region. See Shaheen Akhter, Ibid.,

<sup>28.</sup> Ibid.,

FOR PAKISTANI PARLIAMENTARIANS

# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

### The Chenab Formula

This plan envisages the division of Kashmir along the line of the River Chenab. According to the 'Chenab Formula', Pakistan may consider 'Doaba', a narrow strip of land between Chenab and Ravi in the suburbs of Shakargarh, stretching up to Chhamb, Dhodha and Rajwari districts as international border. Even the town of Kargil might go to India under this 'give and take' but from Kargil upward, India will have to agree to give territory to Pakistan," the sources claimed. Most of the districts in Jammu and on the left bank of the Chenab are Hindu majority in the state of Jammu and Kashmir while in most of the districts on the western side of the Chenab, the Muslim are predominant.

The 'Chenab formula' was for the first time discussed between India and Pakistan in 1962-63, but the negotiations could not make any headway. According to former foreign secretary Niaz A. Naik, the proposal had been discussed during the unofficial efforts to normalise relations between Islamabad and New Delhi, known as Track-II diplomacy, and Indian Prime Minister Atal Behari Vajpayee "had also evinced interest in it". The Chenab formula attracted lot of attention in May 2003 when AJK Prime Minister Sardar Sikandar Hayat called upon India and Pakistan to seriously consider the division of J&K with River Chenab marking the boundary. Arguing that "this is not a new theory, nor am I the first one to have floated it," he expressed the hope that "India and Pakistan will give a serious consideration to this proposal to end the sufferings of the Kashmiris in particular and of their own people in general and thus materialise the long cherished hope of durable peace in the region."<sup>30</sup>

# President Musharraf's proposal for demilitarisation of seven zones

Addressing a group of newspaper editors at an Iftar dinner in Islamabad on October 25, 2004, President General Pervez Musharraf called for a national debate on new options for the Kashmir dispute. He suggested that identification of various zones of the disputed territory needs to be carried out followed by their demilitarisation and a determination of their status.

President Gen. Pervez Musharraf identified the following seven regions for this purpose. Two regions - Azad Kashmir and Northern Areas - are under the control of Pakistan whereas five regions are under Indian control. The first part comprises Jammu, Sambha and Katwa where Hindus are in majority. The second part also comprises Jammu but the areas include Dodha, Phirkuch and Rajawri where Muslim population is in majority which includes Gujars, Sidhans and Rajas who are also associated with Azad Kashmir. The third part is the area of Kashmir Valley which also has Muslim majority. The fourth part is Kargil which has Shia and Balti population in majority and the fifth area is Ladakh and adjoining areas where Buddhists live. 31

President Musharraf further said that it was imperative that the linguistic, ethnic, religious, geographic, political and other aspects of these seven regions should be reviewed and a peaceful solution to the problem found.

President Musharraf's call for open discussion on Kashmir was termed by the Pakistani Opposition parties as a "roll-back" and it was dismissed by India as unacceptable as it envisaged redrawing of the territorial map in J & K.<sup>32</sup>

In this context, it is worth recalling that in a remarkable reversal of Islamabad's verbal strategy on Kashmir, President Pervez Musharraf publicly stated on December 17, 2003 that even though "we are for United Nations Security resolutions...now we have left that aside." Similarly, to mollify New Delhi's concerns relating to the issue of alleged "cross-border" infiltration from Pakistan, President Musharraf said in a joint statement issued in Islamabad following his meeting with the Indian Prime Minister, Atal Behari Vajpayee on January 6, 2004 that "he will not permit any territory under Pakistan's control to be used to support terrorism in any manner." 33

<sup>29. &</sup>quot;Pakistan toying with Chenab Formula," The Tribune (June 23, 2001).

<sup>30. &</sup>quot;Sikandar defends Chenab Formula," Dawn May 23, 2003.

<sup>31.</sup> Javed Rana, "Let UN oversee seven part Kashmir," The Nation (October 26, 2004)

<sup>32.</sup> Making a suo motu statement in Indian Parliament on foreign policy related issues, Prime Minister Manmohan Singh said during his meeting with Pakistan President Pervez Musharraf in New York in September, 2004 they had agreed that "possible options for a peaceful, negotiated settlement of the J and K issue should be explored in a sincere spirit and a purposeful manner. "I made it clear to President Musharraf that while we are willing to look at various options, we would not agree to any redrawing of boundaries, or another partition of the country," Singh said. "No Redrawing of Border: PM," Press Trust of India December 21, 2004.

<sup>33.</sup> For the text of the January 6 Joint Statement see http://in.news.yahoo.com/040106/137/2ar3r.html

FOR PAKISTANI PARLIAMENTARIANS

PROPOSALS FOR RESOLVING
THE KASHMIR DISPUTE

Conclusion

The paper outlines non-official proposals or ideas for deliberation for resolving the Kashmir dispute with the purpose of objective presentation of these for the use by MPs.

As indicated by the above account of the various proposals aimed at resolving the Kashmir dispute, there is no dearth of ideas on how to resolve the Kashmir dispute. Based either on analogical reasoning or historical experience of conflict resolution attempts involving other situations, most of these proposals emphasise the need for transforming the dynamics of India-Pakistan conflict from a zero-sum competition over Kashmir to a positive sum situation in which both sides would gain from a settlement of the dispute. Some of these proposals offer a clear template and a road map for this transformation while others only provide broad guidelines. Needless to say that none of these ideas can be pursued in earnest without a sustained and institutionalised India-Pakistan dialogue process centred on Kashmir and no outcome of this process will yield an enduring peace dividend unless it enjoys the support and the backing of the people of Jammu and Kashmir.

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FOR PAKISTANI PARLIAMENTARIANS

# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

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FOR PAKISTANI PARLIAMENTARIANS

PROPOSALS FOR RESOLVING
THE KASHMIR DISPUTE



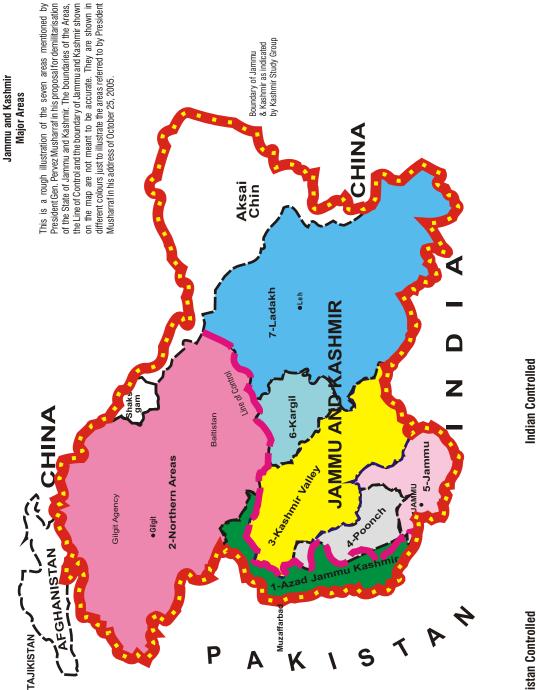
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### PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

### **Appendix A Map of Kashmir**

on the map are not meant to be accurate. They are shown in different colours just to illustrate the areas referred to by President Musharrafin his address of October 25, 2005. of the State of Jammu and Kashmir. The boundaries of the Areas, the Line of Control and the boundary of Jammu and Kashmir shown



Pakistan Controlled 1-Azad Jammu Kashmir 2- Northern Areas

orate I n d l

6-Kargil 7-Ladakh

3-Kashmir Valley

4-Poonch 5-Jammu

FOR PAKISTANI PARLIAMENTARIANS

# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

### **Appendix B**

WANTED TRANSPORT

# Instrument of Accession<sup>1</sup> executed by Maharajah Hari Singh on October 26, 1947

Whereas the Indian Independence Act, 1947, provides that as from the fifteenth day of August, 1947, there shall be set up an independent Dominion known as INDIA, and that the Government of India Act 1935, shall with such omissions, additions, adaptations and modifications as the Governor General may by order specify, be applicable to the Dominion of India.

And whereas the Government of India Act, 1935, as so adapted by the Governor General, provides that an Indian State may accede to the Dominion of India by an Instrument of Accession executed by the Ruler thereof.

Now, therefore, I Shriman Inder Mahinder Rajrajeswar Maharajadhiraj Shri Hari Singhji, Jammu & Kashmir Naresh Tatha Tibbet adi Deshadhipati, Ruler of Jammu & Kashmir State, in the exercise of my Sovereignty in and over my said State do hereby execute this my Instrument of Accession and

- 1. I hereby declare that I accede to the Dominion of India with the intent that the Governor General of India, the Dominion Legislature, the Federal Court and any other Dominion authority established for the purposes of the Dominion shall by virtue of this my Instrument of Accession but subject always to the terms thereof, and for the purposes only of the Dominion, exercise in relation to the State of Jammu & Kashmir (hereinafter referred to as "this State") such functions as may be vested in them by or under the Government of India Act, 1935, as in force in the Dominion of India, on the 15th day of August 1947, (which Act as so in force is hereafter referred to as "the Act').
- 2. I hereby assume the obligation of ensuring that due effect is given to provisions of the Act within this State so far as they are applicable therein by virtue of this my Instrument of Accession.
- 3. I accept the matters specified in the schedule hereto as the matters with respect to which the Dominion Legislature may make law for this State.
- 4. I hereby declare that I accede to the Dominion of India on the assurance that if an agreement is made between the Governor General and the Ruler of this State whereby any functions in relation to the administration in this State of any law of the Dominion Legislature shall be exercised by the Ruler of the State, then any such agreement shall be construed and have effect accordingly.
- 5. The terms of this my Instrument of Accession shall not be varied by any amendment of the Act or the Indian Independence Act, 1947, unless such amendment is accepted by me by Instrument supplementary to this Instrument.
- 6. Nothing in this Instrument shall empower the Dominion Legislature to make any law for this State authorizing the compulsory acquisition of land for any purpose, but I hereby undertake that should the Dominion for the purpose of a Dominion law which applies in this State deem it necessary to acquire any land, I will at their request acquire the land at their expense, or, if the land belongs to me transfer it to them on such terms as may be agreed or, in default of agreement, determined by an arbitrator to be appointed by the Chief Justice of India.

<sup>1.</sup> http://www.kashmir-information.com/LegalDocs/KashmirAccession.html as accessed on March 30, 2005

FOR PAKISTANI PARLIAMENTARIANS

# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

- HINE WHEN
- 7. Nothing in this Instrument shall be deemed to commit in any way to acceptance of any future constitution of India or to fetter my discretion to enter into agreement with the Government of India under any such future Constitution.
- 8. Nothing in this Instrument affects the continuance of my Sovereignty in and over this State, or, save as provided by or under this Instrument, the exercise of any powers, authority and rights now enjoyed by me as Ruler of this State or the validity of any law at present in force in this State.
- 9. I hereby declare that I execute this Instrument on behalf of this State and that any reference in this Instrument to me or to the Ruler of the State is to be construed as including a reference to my heirs and successors.

Given under my hand this 26th day of October, nineteen hundred and forty seven.

### **Hari Singh**

Maharajadhiraj of Jammu and Kashmir State.

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FOR PAKISTANI PARLIAMENTARIANS

# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

### Acceptance of Accession by the Governor General of India

I do hereby accept this Instrument of Accession.

Dated this twenty seventh day of October, nineteen hundred and forty seven.

**Mountbatten of Burma**Governor General of India

### PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

# Schedule of Instrument of Accession The Matters with respect to which the Dominion

Legislature may make laws for this State

#### A. Defence

- 1. The naval, military and air forces of the Dominion and any other armed forces raised or maintained by the Dominion; any armed forces, including forces raised or maintained by an acceding State, which are attached to, or operating with, any of the armed forces of the Dominion.
- 2. Naval, military and air force works, administration of cantonment areas.
- 3. Arms, fire-arms, ammunition.
- 4. Explosives.

#### B. External Affairs

- 1. External affairs; the implementing of treaties and agreements with other countries; extradition, including the surrender of criminals and accused persons to parts of His Majesty's Dominions outside India.
- 2. Admission into, and emigration and expulsion from, India, including in relation thereto the regulation of the movements in India of persons who are not British subjects domiciled in India or subjects of any acceding State; pilgrimages to places beyond India.
- Naturalisation.

#### C. Communications

- 1. Posts and telegraphs, including telephones, wireless, broadcasting, and other like forms of communication.
- 2. Federal railways; the regulation of all railways other than minor railways in respect of safety, maximum and minimum rates and fares, station and services terminal charges, interchange of traffic and the responsibility of railway administrations as carriers of goods and passengers; the regulation of minor railways in respect of safety and the responsibility of the administrations of such railways as carriers of goods and passengers.
- 3. Maritime shipping and navigation, including shipping and navigation on tidal waters; Admiralty jurisdiction.
- 4. Port guarantine.
- 5. Major ports, that is to say, the declaration and delimitation of such ports, and the constitution and powers of Port Authorities therein.
- Aircraft and air navigation; the provision of aerodromes; regulation and organisation of air traffic and of Aerodromes.

ndi

FOR PAKISTANI PARLIAMENTARIANS

# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

- 7. Lighthouses, including lightships, beacons and other provisions for the safety of shipping and aircraft.
- 8. Carriage of passengers and goods by sea or by air.
- 9. Extension of the powers and jurisdiction of members of the police force belonging to any unit to railway area outside that unit.

### D. Ancillary

- 1. Election to the Dominion Legislature, subject to the provisions of the Act and of any Order made thereunder.
- 2. Offences against laws with respect to any of the aforesaid matters.
- 3. Inquiries and statistics for the purposes of any of the aforesaid matters.
- 4. Jurisdiction and powers of all courts with respect to any of the aforesaid matters but, except with the consent of the Ruler of the acceding State, not so as to confer any jurisdiction or powers upon any courts other than courts ordinarily exercising jurisdiction in or in relation to that State.

### PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

**Appendix C** 

\*Resolution 38 (1948)<sup>1</sup>
submitted by the Representative of Belgium
and adopted by the Security Council
at its 229th Meeting held on 17 January, 1948.
(document No. S/651 Dated The 17th January 1948).

#### THE SECURITY COUNCIL.

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

Recognizing the urgency of the situation,

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

- 1. Calls upon both the Government of India and the Government of Pakistan to take immediately all measures within their power (including public appeals to their people) calculated to improve the situation, and to refrain from making any statements and from doing or causing to be done or permitting any acts which might aggravate the situation;
- 2. Further requests each of those Governments to inform the Council immediately of any material change in the situation which occurs or appears to either of them to be about to occur while the matter is under consideration by the Council, and consult with the Council thereon.

\*The Security Council voted on this Resolution on 17-1-48 with the following result:In favour: \*\*Argentina, \*\*Belgium, \*\*Canada, China, \*\*Columbia, France, \*\*Syria, U.K., and U.S.A.
Against: None.
Abstaining: Ukranian S.S.R. and U.S.S.R.

\*\*Non-Permancrit Members of the Security Council.

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<sup>1.</sup> http://www.un.int/pakistan/15480117.htm as accessed on March 30, 2005

FOR PAKISTANI PARLIAMENTARIANS

# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

### **Appendix D**

\*Resolution 39 (1948)<sup>1</sup>
submitted by the representative of Belgium
and adopted by the Security Council
at its 230th Meeting held on 20 January 1948.
(document no. S 654 dated the 20th January 1948)

#### THE SECURITY COUNCIL

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

Adopts the following resolution:

- A. A Commission of the Security Council is hereby established, composed of representatives of three Members of the United Nations, one to be selected by India, one to be selected by Pakistan, and the third to be designated by the two so selected. Each representative on the Commission shall be entitled to select his alternates and assistants.
- B. The Commission shall proceed to the spot as quickly as possible. It shall act under the authority of the Security Council and in accordance with the directions it may receive from it. It shall keep the Security Council currently informed of its activities and of the development of the situation. It shall report to the Security Council regularly, submitting its conclusions and proposals.
- C. The Commission is invested with a dual function;
  - (1) to investigate the facts pursuant to Article 34 of the Charter of the United Nations;
  - (2) to exercise, without interrupting the work of the Security Council, any mediatory influence likely to smooth away difficulties, to carry out the directions given to it by the Security Council; and to report how far the advice and directions, if any, of the Security Council, have been carried out.
- D. The Commission shall perform the functions described in Clause C:
  - (1) in regard to the situation in the Jammu and Kashmir State set out in the letter of the Representative of India addressed to the President of the Security Council, dated 1 January 1948, and in the letter from the Minister of Foreign Affairs of Pakistan addressed to the Secretary-General, dated 15 January 1948; and
  - (2) in regard to other situations set out in the letter from the Minister of Foreign Affairs of Pakistan addressed to the Secretary-General, dated 15 January 1948, when the Security Council so directs.
- E. The Commission shall take its decision by majority vote. It shall determine its own procedure. It may allocate among its members, alternate members, their assistants, and its personnel such duties as may have to be Fulfilled for the realization of its mission and the reaching of its conclusions.

<sup>1.</sup> http://www.un.int/pakistan/15480117.htm as accessed on March 30, 2005

FOR PAKISTANI PARLIAMENTARIANS

# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

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- F. The Commission, its members, alternate members, their assistants, and its personnel, shall be entitled to journey, separately or together, wherever the necessities of their task may require, and, in particular within those territories which are the theatre of the events of which the Security Council is seized.
- G. The Secretary-General shall furnish the Commission with such personnel and assistance as it may consider necessary.

\*The Security Council voted on this Resolution on 20-1-1948 with the following result:-

In favour: \*\*Argentina, \*\*Belgium, \*\*Canada, China, \*\*Columbia, France, \*\*Syria, U.K., and U.S.A.

Against: None.

Abstaining: Ukranian S.S.R., and U.S.S.R.

\*\*Non-Permanent Members of the Security Council.

FOR PAKISTANI PARLIAMENTARIANS

# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

### Appendix E

\*Resolution 47 (1948) on the India-Pakistan Question<sup>1</sup>
submitted jointly by the Representatives of
Belgium, Canada, China, Columbia, the United Kingdom
and United States of America
and adopted by the Security Council at its 286th meeting
held on 21 April 1948. (document no. S/726 Dated 21 April 1948).

#### THE SECURITY COUNCIL

Having considered the complaint of the Government of India concerning the dispute over the State of Jammu and Kashmir, having heard the representative of India in support of that complaint and the reply and counter complaints of The representative of Pakistan,

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

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

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

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

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

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

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

#### A - RESTORATION OF PEACE AND ORDER

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

<sup>1.</sup> http://www.un.int/pakistan/15480421.htm as accessed on March 30, 2005

FOR PAKISTANI PARLIAMENTARIANS

# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

- (a) To secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistani nationals not normally resident therein who have entered the State for the purposes of fighting, and to prevent any intrusion into the State of such elements and any furnishing of material aid to those fighting in the State;
- (b) To make known to all concerned that the measures indicated in this and the following paragraphs provide full freedom to all subjects of the State, regardless of creed, caste, or party, to express their views and to vote on the question of the accession of the State, and that therefore they should cooperate in the maintenance of peace and order.
- 2. The Government of India should:
  - (a) When it is established to the satisfaction of the Commission set up in accordance with the Council's Resolution 39 (1948) that the tribesmen are withdrawing and that arrangements for the cessation of the fighting have become effective, put into operation in consultation with the Commission a plan for withdrawing their own forces from Jammu and Kashmir and reducing them progressively to the minimum strength required for the support of the civil power in the maintenance of law and order;
  - (b) Make known that the withdrawal is taking place in stages and announce the completion of each stage;
  - (c) When the Indian forces shall have been reduced to the minimum strength mentioned in (a) above, arrange in consultation with the Commission for the stationing of the remaining forces to be carried out in accordance with the following principles:
  - (i) That the presence of troops should not afford any intimidation or appearance of intimidation to the inhabitants of the State:
  - (ii) That as small a number as possible should be retained in forward areas;
  - (iii) That any reserve of troops which may be included in the total strength should be located within their present base area.
- 3. The Government of India should agree that until such time as the plebiscite administration referred to below finds it necessary to exercise the powers of direction and supervision over the State forces and policy provided for in paragraph 8, they will be held in areas to be agreed upon with the Plebiscite Administrator.
- 4. After the plan referred to in paragraph 2(a) above has been put into operation, personnel recruited locally in each district should so far as possible be utilized for the re-establishment and maintenance of law and order with due regard to protection of minorities, subject such additional requirements as may be specified by the Plebiscite Administration referred to in paragraph 7.
- 5. If these local forces should be found to be inadequate, the Commission, subject to the agreement of both the Government of India and the Government of Pakistan, should arrange for the use of such forces of either Dominion as it deems effective for the purpose of pacification.

FOR PAKISTANI PARLIAMENTARIANS

# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

#### **B-PLEBISCITE**

ENTERENSION TO SENTENCE

- 6. The Government of India should undertake to ensure that the Government of the State invite the major political groups to designate responsible representatives to share equitably and fully in the conduct of the administration at the ministerial level, while the plebiscite is being prepared and carried out.
- 7. The Government of India should undertake that there will be established in Jammu and Kashmir a Plebiscite Administration to hold a Plebiscite as soon as possible on the question of the accession of the State to India or Pakistan.
- 8. The Government of India should undertake that there will be delegated by the State to the Plebiscite Administration such powers as the latter considers necessary for holding a fair and impartial plebiscite including, for that purpose only, the direction and supervision of the State forces and police.
- 9. The Government of India should at the request of the Plebiscite Administration, make available from the Indian forces such assistance as the Plebiscite Administration may require for the performance of its functions.

10.

- (a) The Government of India should agree that a nominee of the Secretary-General of the United Nations will be appointed to be the Plebiscite Administrator.
- (b) The Plebiscite Administrator, acting as an officer of the State of Jammu and Kashmir, should have authority to nominate the assistants and other subordinates and to draft regulations governing the Plebiscite. Such nominees should be formally appointed and such draft regulations should be formally promulgated by the State of Jammu and Kashmir.
- (c) The Government of India should undertake that the Government of Jammu and Kashmir will appoint fully qualified persons nominated by the Plebiscite Administrator to act as special magistrates within the State judicial system to hear cases which in the opinion of the Plebiscite Administrator have a serious bearing on the preparation and the conduct of a free and impartial plebiscite.
- (D) The terms of service of the Administrator should form the subject of a separate negotiation between the Secretary-General of the United Nations and the Government of India. The Administrator should fix the terms of service for his assistants and subordinates.
- (e) The Administrator should have the right to communicate directly, with the Government of the State and with the Commission of the Security Council and, through the Commission, with the Security Council, with the Governments of India and Pakistan and with their representatives with the Commission. It would be his duty to bring to the notice of any or all of the foregoing (as he in his discretion may decide) any circumstances arising which may tend, in his opinion, to interfere with the freedom of the Plebiscite.
- 11. The Government of India should undertake to prevent and to give full support to the Administrator and his staff in preventing any threat, coercion or intimidation, bribery or other undue influence on the voters in the plebiscite, and the Government of India should publicly announce and should cause the Government of the

FOR PAKISTANI PARLIAMENTARIANS

# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

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State to announce this undertaking as an international obligation binding on all public authorities and officials in Jammu and Kashmir.

- 12. The Government of India should themselves and through the Government of the State declare and make known that all subjects of the State of Jammu and Kashmir, regardless of creed, caste or party, will be safe and free in expressing their views and in voting on the question of the accession of the State and that there will be freedom of the Press, speech and assembly and freedom of travel in the State, including freedom of lawful entry and exit.
- 13. The Government of India should use and should ensure that the Government of the State also use their best endeavour to effect the withdrawal from the State of all Indian nationals other than those who are normally resident therein or who on or since 15th August 1947 have entered it for a lawful purpose.
- 14. The Government of India should ensure that the Government of the State releases all political prisoners and take all possible steps so that:
  - (a) all citizens of the State who have left it on account of disturbances are invited and are free to return to their homes and to exercise their rights as such citizens;
  - (b) there is no victimization;
  - (c) minorities in all parts of the State are accorded adequate protection.
- 15. The Commission of the Security Council should at the end of the plebiscite certify to the Council whether the plebiscite has or has not been really free and impartial.

#### **C-GENERAL PROVISIONS**

- 16. The Governments of India and Pakistan should each be invited to nominate a representative to be attached to the Commission for such assistance as it may require in the performance of its task.
- 17. The Commission should establish in Jammu and Kashmir such observers as it may require of any of the proceedings in pursuance of the measures indicated in the foregoing paragraphs.
- 18. The Security Council Commission should carry out the tasks assigned to it herein.

\*The Security Council voted on this Resolution on 20-1-1948 with the following result:-**In favour**: \*\*Argentina, \*\*Canada, China, France, \*\*Syria, U.K. and U.S.A.

Against: None

**Abstaining**:\*\*Belgium, \*\*Columbia, \*\*Ukranian S.S.R., and U.S.S.R.

\*\*Non-permanent Members of the Security Council.

FOR PAKISTANI PARLIAMENTARIANS

# PROPOSALS FOR RESOLVING THE KASHMIR DISPUTE

### Appendix F

\*Resolution 51 (1948) on the India-Pakistan Question <sup>1</sup>
Submitted by the Representative of Syria and adopted by the Security Council
At its 312th meeting held on 3 June 1948 (document no.s/819, dated 3 june, 1948).

#### THE SECURITY COUNCIL

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

\*The Security Council voted on this Resolution on 3-6-1948 with the following results:In favour: \*\*Argentina \*\*Belgium, \*\*Canada, \*\*Columbia, France, \*\*Syria, U.K., and U.S.A.
Against: None.
Abstaining: China, Ukranian S.S.R. and U.S.S.R.

\*\*Non-permanent Members of the Security Council.

<sup>1.</sup> http://www.un.int/pakistan/15480603.htm as accessed on March 30, 2005



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