

UNIVERSITY OF SINDH, JAMSHORO



Ph. D Thesis

**Dialogue between India and Pakistan:
A Solution of Kashmir Issue**

**A thesis submitted in fulfillment of the requirement for the
award of Degree of Doctor of Philosophy,
Department of Political Science
University of Sindh, Jamshoro**

By

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P A K I S T A N 2014**

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

STATEMENT BY THE RESEARCH SCHOLAR

I hereby officially state that I have submitted the thesis entitled, “**Dialogue between India and Pakistan: A Solution of Kashmir Issue**”, to the University of Sindh, Jamshoro for the award of the degree of Doctorate of Philosophy. It is a bona-fide record of research work that I carried out under the supervision of **Prof. Dr. M. Yaqub Mughul** and co-supervisor, **Prof. Dr. Lutfullah Mangi**. The contents of this thesis, in full or in part, have not been presented to any other institute or university with the intention of acquiring any degree or qualification.

Date:

Signature of Research Scholar

GHULAM AKBAR MAHESAR

CERTIFICATE

This is to certify that, **Mr. Ghulam Akbar Mahesar** has carried out his Research work on the topic entitled as “**Dialogue between India and Pakistan: A Solution of Kashmir Issue**” He has worked under our guidance, supervision and assistance in the

Department of Political Science, Faculty of Social Sciences, University of Sindh, Jamshoro, Pakistan. His research work is innovative and thesis is worthy of presentation to the University of Sindh for the award of degree of Doctor of Philosophy in Political Science.

Research Guide

Prof. Dr. M. Yaqub Mughul
Supervisor

Prof. Dr. Lutfullah Mangi
Supervisor



To my loving parents, wife, son and Supervisors

whose

Prayers enabled me to complete this research work

ABSTRACT

The main argument of this study is that the issue of Kashmir can be resolved through the third party intervention. It is also argued in the study that the resolution of issue needs to be resolved in order to avoid Nuclearization in South Asian region. The study concludes key arguments about Kashmir. This dissertation is divided into seven chapters. The first chapter articulates the fact that the legal position of these states was that they could join India, Pakistan or remain independent. However, Kashmir was forcibly occupied by India. Illegal annexation of Kashmir by India not only undermined the legal statutes of the state of Kashmir but also violated main principles of the Partition Plan. It is stated that according to the plan the areas joining India or Pakistan were to be considered on the basis of geographical nearness and cultural similarity. These factors were in the favor of Kashmir's annexation with Pakistan which was not acceptable to India. Thus, India engaged Kashmir without considering the legal aspects of the partition. This situation developed the dispute between India and Pakistan. United Nations have tried passed several resolutions but the same were not implemented by India. It is concluded that conflict of Kashmir was an outcome of unfair Partition Plan.

The second Chapter is about research methodology. It gives consolidated literature review which is focused on main concepts and key arguments. This chapter also includes objectives and research questions of the study followed by justification. The third chapter of thesis engages the readers in understanding moral and legal aspects of Kashmir. This chapter uses the legal documents to demonstrate that the argument concluded between Maharaja and the British Government was based on certain terms and conditions which have been described under various articles of the

treaty. In addition, the chapter also deals with standstill agreement of Jammu and Kashmir with Pakistan. Pakistan responded to the agreement indicates that both parties accepted the argument. However, it can also be noted that there was no such settlement concluded between Jammu and Kashmir and India. The second part of the chapter deals with various point of views which can be interpreted as Indian standpoint, Pakistan perception and Kashmiri people's views. These perspectives can be used to understand the issue of Kashmir and to solve it amicably. However, the conflict among the various stakeholders could lead to increase the nuclear tension and could convert this problem into nuclear clash. The third part of the chapter concludes that the process of nuclear proliferation was an outcome of unresolved issue of Kashmir, which is a major concern of international community.

The fourth chapter focuses on the United Nations initiatives, taken by the international organization since, 1948, the complete resolutions, the report of commissions, efforts of different legal, political, international law experts to resolve the dispute between India & Pakistan, on the issue of Kashmir. The chapter also highlights the positive outcomes of international community specially, United States of America, United Kingdom and others as third party facilitators to resolve this issue properly. The chapter reflects the clear picture about the parties involved and their attitude to resolve this issue and defines the stumbling block, deadlock created by one party to the other. The chapter will further facilitate researchers, scholars and governments of India and Pakistan to initiate new level of dialogue to resolve this core issue of South Asia for the peace and stability of the region.

The fifth chapter concludes the major events of history, past, present and future developments related to the dialogue process between the leaders of Pakistan and India on the Kashmir issue, if we remind the series of negotiated settlements since 1947 and onwards. The chapter has examined various factors for partition and concluded that joining of the people of Kashmir. After partition, the talks between newly established countries of Pakistan and India began on the question of Kashmir issue. The political leadership of India always showed myopic vision and refused to accept any logic to the just and fair solution of the State of Jammu and Kashmir, so she used delaying tactics and aggressive, illogical attitude towards Pakistani leadership and the people of Jammu and Kashmir State. Thus, it is argued in this chapter, that there is a need to change the attitude of Indian leadership. It is further argued that Indian leaders should not undermine the moral authority of United Nations. They should respect United Nations Security Council Resolutions and facilitations offered by International community and friendly nations. There is a need of displaying positive political vision, flexibility and accommodative thinking.

The sixth chapter is based on the exploration of various proposals to form new recommendations for the solution of Kashmir problem. This chapter also justifies the need to initiate dialogue process between two countries and it also justifies the need for third party involvement. The United Nations, international super powers, like United States of America, Russia, United Kingdom and friendly countries need to play an effective role in the resolution of Kashmir issue. The chapter also has also investigated the theories of resolution in the international context expressed by Jagat Mehta, B. G. Verghese proposal, the Galbraith plan (Harvard Exercise) which proposed opening of road across the cease- fire line between Rawalpindi and Srinagar. These

theories can also help to reduce the intensity of conflict. In addition, the conclusion draws attention of political leadership of both India and Pakistan to show flexibility and political acumen, intellectual wisdom and broad mindedness to address and resolve the issue of Kashmir. The seventh chapter is focused on the conclusion and recommendations about the issue of Kashmir.

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Chapter One

Introduction to Kashmir

1.1 Introduction

This chapter is focused on the issue of Kashmir. The first part of the chapter justifies strategic importance of the Kashmir region and gives an overview of its geography, economy and social structure. The second part of the chapter analyses the status of Kashmir before the establishment of colonial rule in India and it discusses political change in the Kashmir during the British period.

Nevertheless, the third part of the chapter examines the key arguments of Quaid-I-Azam Mohammad Ali Jinnah¹ and Indian Prime Minister Jawarhar Lal Nehru.²The last section of this chapter demonstrates that conflict over Kashmir can be resolved through the mediation of United Nations which has moral authority and mandate to resolve the international conflicts including the issue of Kashmir.

However, India has always stressed on the solution of issues through bilateral means which have not yet been successful in resolving all outstanding issues between India and Pakistan. Unlike India, Pakistan has supported the UN resolutions over Kashmir and used all possible forums to get rid of an oldest issue of South Asia. Nevertheless, this study will explore various options that would be acceptable for both countries to resolve the Kashmir dispute.

1.2 Geostrategic Significance of Kashmir

The total area of the State of Jammu and Kashmir is about 84, 471 square miles, according to 1941 census, the population of Jammu and Kashmir State was 4, 21, 616, majority 77.11 % were Muslims, 20.12 % Hindus and 1.64 % were Sikhs. The vale of Kashmir is the heart of plateau is called Jammu and Mount Goodwin Austin, K2 is topping in the northern regions.

¹ Quaid-I-Azam Mohammad Ali Jinnah (1876-1948) the founder of Islamic Republic of Pakistan. ² Jawahar Lal Nehru (1889-1964) the first Prime Minister of India and a political leader of Indian National Congress.

Figure 1.1 Map of Kashmir



Source: www.kashmirnews.com/maps.html Retrieved on 3/09/2013.

Figure 1.2 Map of Kashmir



Source: www.kashmirnews.com/maps.html Retrieved on 3/09/2013 Vale of Kashmir is in the center, Jammu province in south, Ladakh in east, and Baltistan in the north, Hunza and Nagir in

farther north, in Gilgit Agency in the west, Mirpur, Poonch, Riasi and Muzaffarabad are in the west of vale.

Figure 1.3 Map of Kashmir



Source: www.google.com.pk. Retrieved on 03/09/13

Figure 1.4 Map of Kashmir



Source: www.google.com.pk Retrieved on 3/09/2013.

Figure 1.5 Map of Kashmir



Source: www.google.com.pk. Retrieved on 3/09/2013

Figure 1.6 Map of Kashmir



Source: www.google.com.pk. Retrieved on 03/09/13

1.3 Pre-British Period

Since the Alexander of Macedonia² in 32 B.C Kashmir was a beautiful place for historians, invaders, travelers, visitors and tourists. Throughout centuries Kashmir was center of art and structural design. History tells us, that Mohammad Bin Qasim³ arrived in Kashmir by using track to Sindh. Kashmir was geographically important to sub continental security as Soviet Union and China are it's neighbors.

The historians mentioned the state of Kashmir among few in the world which can have had not as good luck in the matter of Government. (Vincent H. Smith, 1983) The people of Kashmir remained target of massacres of Pandava, Mauria, Kushan, Gonandya, Karkota, Lohara, dynasties⁴. During the course of centuries, Kashmir was part of Kushan Empire, till second century, while for 600 year became a part of China.

Next six centuries, this land was free, from the eighth to the fourteenth century, Muslims hoisted the flag of Islam in Kashmir and during Muslim rule the land of Kashmir touched height of glory and it is called the 'Golden Age' in the fourteenth century, in addition to Mughal emperor Jalal Uddin Muhammad Akbar⁵ included the state of Jammu and Kashmir into Mughal empire, in the Mughal age the people of Kashmir enjoyed the engagement of ownership. Muslim rule was eliminated by Sikh rulers in 1819, Raja Gulab Singh⁷ of the Dogra family, who was supported by Sikhs, seized power of Jammu province, Tibet⁶ the Northern Areas, Laddakh and Baltistan in 1837 (Korbel, Joseph, 1954).

² Alexander of Macedonia (356 -323 BC) He created one of the largest empires of the ancient world, stretching from Greece to Egypt and into present-day Pakistan.

³ Mohammad Bin Qasim (695-715 AD) The conqueror of Sindh and Multan.

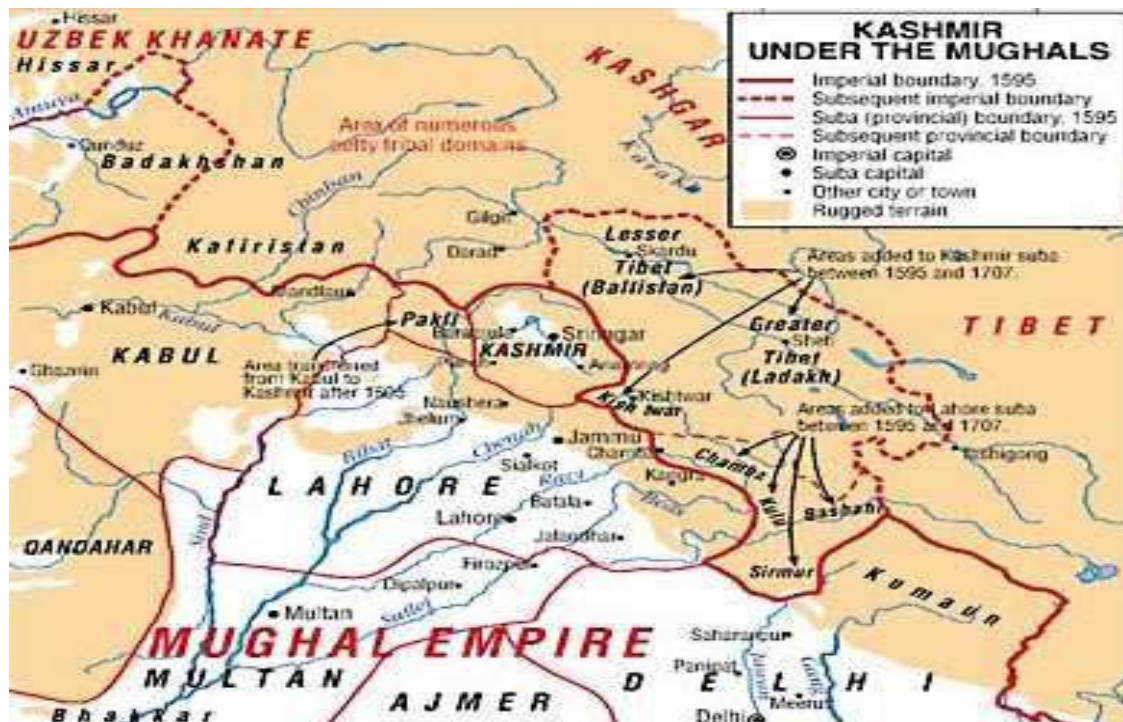
⁴ A dynasty is a sequence of rulers considered as members of the same family. Examples of dynasty rule in Kashmir: Pandava, Mauria, Kushan, Gonandya, Karkota, Lohara.

⁵ Jalal Uddin Muhammad Akbar (1542-1605) also known as *Akbar the Great* or *Akbar I*, was Mughal Emperor from 1556 until his death. ⁷Raja Gulab Singh (1792–1857) was the founder of royal Dogra dynasty and first Maharaja of the princely state of

Jammu and Kashmir, the second largest princely state in British India, which was created after the defeat of the Sikhs in the First Anglo-Sikh War. The Treaty of Amritsar, 1846, formalized the sale by the British to Gulab Singh for 7,500,000 rupees of all the lands in Kashmir that were ceded to them by the Sikhs by the Treaty of Lahore.

⁶ Tibet is a plateau region in Asia, north-east of the Himalayas, in the Peoples' Republic of China. It is the traditional homeland of the Tibetan people as well as some other ethnic groups such as Monpas, Qiang and Lhobas, and is now also inhabited by considerable numbers of Han and Hui people. Tibet is the highest region on Earth, with an average elevation of 4,900 meters (16,000 feet).

Figure 1.7 Map of Kashmir (1595-1707)



Source: www.kashmirnews.com/maps.html Retrieved on 3/09/2013.

British Crown⁷ declared Sikhs as rivals and confirmed war against them. On the other hand, Gulab Singh, who was famous due to his shrewd nature and conspiracy, succeeded to survive, and joined without conditions to the British camp and accepted official rank of facilitator for the British Crown (Vincent, Smith, 1983).

On the other hand, the British forces ordered the Sikhs to leave Kashmir immediately by hook or crook but Raja Gulab Singh, a well-known jargon, played his various tricks to buy the land of Kashmir by paying the sum of 7.5 million rupees (7, 50,000 Pounds) to purchase the vale of Kashmir from British. In 1846 the "Treaty of Amritsar" was signed between British Crown and Gulab Singh, and history is witnessed that a country was sold for financial gains while ignoring moral, legal and international norms by the signatories of the Treaty of Amritsar (Treaty of Amritsar 1846).

⁷ In English jurisprudence, the Crown is the state in all its aspects. In countries that do not have a monarchy, the concept may be expressed as "the State" or "the People", or some political entity, such as "the United States", "the Commonwealth" or "the State of [name]". The concept spread via British colonization, for instance British Colonization of India and is now rooted in the legal lexicon of the other 15 independent realms. In this context it should not be confused with any physical crown.

1.4 British Period

Due to the cultural, ethnic and geographical divisions the people of Kashmir have slight identification about their national unity, but they are rich in art and literature, the language they speak is called Koshur, the people of Jammu and Kashmir remember their homeland by calling her Kasheer. Kashmiri Hindus prefer isolation from other communities, but they are propertyowners, moneychangers and public servants. On the other hand, the Muslims of Jammu are known as combatants, dynamic and open hearted. The people of Laddakh⁸ are religiously associated to the Dalai Lama⁹ in Lhasa and spiritually connected with the Chinese Tibetans (Prem Singh, 1996). The State of Jammu and Kashmir was one of the princely states of sub- continent the Maharaja was deputized power of internal affairs of the state. The country's foreign affairs and defense were under the administrative authority of the British Crown.

By the end of foreign rule in India, the British Government announced partition of India in agreement with Indian Independence Act. Thus, on August 15 two countries India and Pakistan became independent states. According to the plan the areas were to be demarcated on communal lines, for example the majority areas of Hindus could join India while Muslim dominated regions could accede to Pakistan (Ijaz Muhammad, 1998).

Table 1.1 Population Trends

S. No.	Religious affiliation	Percentage
1.	Muslims	77.11%
2.	Hindus	20.12%
3.	Sikhs	1.64%

Source: The Census Report 1941

⁸ Ladakh is a region of the state of Jammu and Kashmir that lies between the Kunlun mountain range in the north and the main Great Himalayas to the south, inhabited by people of Indo-Aryan and Tibetan descent. It is one of the most sparsely populated regions in Jammu and Kashmir and its culture and history are closely related to that of Tibet.

⁹ Dalai Lama is a high lama in the Gelug or "Yellow Hat" school of Tibetan Buddhism, founded by Tsongkhapa (1357–1419). The name is a combination of the Mongolic word dalai meaning "ocean" and the Tibetan word (bla-ma) meaning "guru, teacher, mentor"

There were 584 princely states in India. Hyderabad State was nearly the size of Germany with 17 million inhabitants and its prince exercised absolute power. The British Crown composed its power through paramount power between princely states, in a “*Memorandum on States’ Treaties and paramountcy*” (Chibber, M.L., 2004).

The Cabinet Mission acknowledged that after the transfer of powers to the Government of India, the supreme power of the state would end to be used by the British administration and it would be practically transferred to Pakistan and India immediately. By exploring the Indian Independence Act, Lord Mountbatten explained that “*The States will have complete freedom*, and princes of all princely states could initiate draft Standstill Agreements with Pakistan or India, also they could withdraw their princely states in favor of Pakistan or India. Both the governments of Pakistan and India would exercise power to deal with the defense, foreign affairs and communications of these states. Nevertheless, both governments have no power to violate on the internal autonomy or the sovereignty¹² of states. It was usual that the Hindu dominated States would choose to join India and Muslim States would join Pakistan.

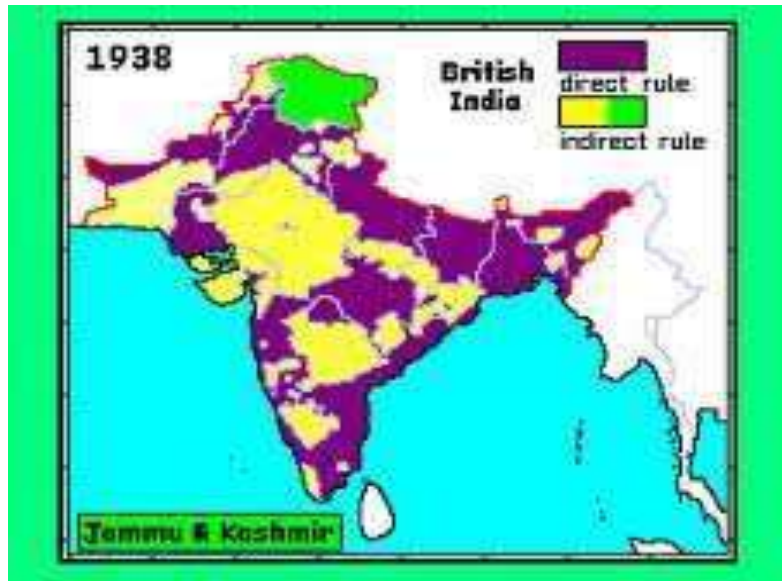
The princes of three princely states of Junagadh, Hyderabad and Kashmir decided to remain neutral. Nawab Mahabat Ali Khan of princely state,¹³ decided to grant permission to join the

¹²Sovereignty, in political theory, is a substantive term designating supreme authority over some polity.

¹³

Nawab Muhammad Mahabat Ali Khan (1900 - 1959) was the last ruling Nawab of the princely state of British India from 1911 to 1947. He decided to accede Junagarh to the Dominion of Pakistan following India’s Independence led to the Indian Army taking military action. He is credited with pioneering a conservation effort that saved the world's last few Asiatic Lions from almost certain extinction.

State of Junagadh to Pakistan through the act in September 1947, but Indian army intervened and occupied the state of Junagadh, it was explained by Indian authorities that majority of people belonged to Hindus and Muslim ruler had no right to accede to Pakistan. The people of Junagadh State will decide their right of self-determination by vote either to join Pakistan or India. Finally, people voted in favor of India and it became part of India (Chibber, M.L. 2004). **Figure: 1.8 Map of Kashmir**



Source: www.google.com.pk. Retrieved on 3/09/2013

In Kashmir where Muslims were in mainstream, they were barred from armed forces of Maharaja while Gurkhas, Sikhs and Hindus employed. After refusal, the Muslim soldiers returned to their native areas, where Sikhs and Hindus were inhabited, while Maharaja was permitting their military to threaten Muslims. Lord Mountbatten¹⁰ was fully alarmed from political crisis “so trying to somehow misused mandate by instructing to convince princes about agreement to any governments, India or Pakistan, the issue of Kashmir was intentionally created while using delaying tactics by the government of India, Maharaja of Kashmir State and Mountbatten (Korbel, Joseph 1954).

Mountbatten’s unexpected arrival in Kashmir raised many queries on the personal invitation of Maharaja on the final destination of the State of Jammu and Kashmir¹¹ the Indian leadership (Both Mr. Nehru and Mr. Gandhi) were disordered and began to handle the situation in improperly, meanwhile, Nehru succeeded to release Sheikh Abdullah (Nehru’s old Companion) to plan scheme about the future of state of Jammu and Kashmir, additionally , Mountbatten was pushing to the Maharaja and other state officials for astonishing result, so the people of Jammu and Kashmir could not use their free will on the day of independence.

¹⁰ He was the last viceroy of India (1947) and the first Governor –General of the independent Dominion of India (1947–48).

¹¹ Jammu and Kashmir is a state in Northern India, Northern India granted autonomy under article 370 of Indian constitution. It is located mostly in the Himalayan Mountains and shares a border with the states of Himachal Pradesh and Punjab to the south. Jammu and Kashmir has an international border with China in the north and east, and the Line of Control separates it from the Pakistani-controlled territories of Azad Kashmir and Gilgit-Baltistan in the west and northwest respectively.

1.5 Post-Partition Scenario

The governor general of India, Mountbatten firmly specified that if Kashmiris decided to join Pakistan, the government of India will have no objection; this announcement reproduced the actual position which should have been taken by the Indian side.

By evaluating current political situation of Kashmir one judgmentally observe deadlock of power, although it was expected that, the Governor general of India had better to be straightforward to support just and fair workout to the right of free will to the people of the state of Jammu and Kashmir, and enthusiastically perform his nonaligned role in individual capacity. Mountbatten acknowledged call for consultation asked by Maharaja, the meeting was though, cancelled due to sickness of Maharaja, but Mountbatten was disappointed with these changes and he was irritating to neutralize his presence, although the Government of Pakistan was thinking that he betrayed them while convincing Maharaja to consent Kashmir to India (Korbel Joseph 1954).

When Mountbatten arrived in London after unproductive task to settle the issues of partition of India, accessions of princely states as per legal and moral means, he said that, "I took up the argument of Kashmir issue before Maharaja, while waiting many days to influence Maharaja". "Accept the will of Kashmiri people to some extent and respect their mandate so they join any of government of Pakistan or government of India, according to their own desires on the day of independence". Maharaja Hari Singh, dishonored term of reference of partition plan¹² while refusing to accede to Pakistan. Compliance of the State of Jammu and Kashmir to Pakistan, was legal, political, moral and constitutional because majority of the people of State of Jammu and Kashmir were Muslims so they should have been given opportunity to exercise their will in a similar way as used by the people of other states, (Junagadh State and Hyderabad State as well as 584 other princely states).

It was complete failure of the Indian government not to implement positively the obligation to conduct representative, fair referendum which was assured by India for the future of Kashmir also as advocated by the context of partition plan and same was applied to decide the disputes of other princely states. Prime Minister Winston Churchill's¹³ military adviser Lord Ismay, tried to persuade,

¹² The Partition of India was the partition of the British Indian Empire that led to the creation of the sovereign states of the Dominion of Pakistan (it later split into the Islamic Republic of Pakistan and the People's Republic of Bangladesh) and the Union of India (later Republic of India) on 15 August 1947. "Partition" here refers not only to the division of the Bengal province of British India into East Pakistan and West Pakistan (India), and the similar partition of the Punjab province into Punjab (West Pakistan) and Punjab, India, but also to the respective divisions of other assets, including the British Indian Army, the Indian Civil Services and other administrative services, the railways and the central treasury.

¹³ Sir Winston Leonard Spencer-Churchill, (1874 – 1965) was a British politician who was the Prime Minister of United Kingdom from 1940 to 1945 and again from 1951 to 1955. Widely regarded as one of the greatest wartime leaders of the 20th century, Churchill was also an officer in the British Army, a historian, a writer (under the pen name Winston S. Churchill), and an artist. Since its inception in 1901, Churchill is the only British Prime Minister to have won the Nobel Prize in Literature, and was the first person to be made an honorary citizen of the United States.

Maharaja to follow the tracks of princes of other princely states to decide Kashmir issue, if not, it would be terrible for India and Pakistan.

Unfair and unjust partition of sub-continent would raise the questions about the neutrality, integrity, reputable standing and credibility of British Crown (Korbel Joseph, 1954).

On the insistence of Indian government to assent the willingness of joining the state of Jammu and Kashmir to India, by any price or logic, the Maharaja of Kashmir, closed all his rational abilities as well as motivation to take decisions as per statesmanship, in addition to address this grave situation he prejudiced the situation according to his own needs, as a matter of fact if a chief himself became a party in supporting to the other discriminatorily and unethically while keeping others in darkness, the end result was to be chaos. Lord Birdwood, a British expert shared practice that "the truth of that position", he mentioned that there was dual plan-game between Indian Government and Maharaja Hari Singh to create an fake position so that Maharaja persuade to accede to India. In connection to this hostile situation, Hindu Maharaja was dropping Muslims blood as water and detained main political leadership of Kashmir, so there was no option for them to protest against influentially agreements of Hyderabad and Junagadh, princely states, by Indian armed forces, both states were ruled by Muslim Nizam and Nawab.

Meanwhile, the Maharajas' of Patiala, Kapurthala, Farid Kot and Congress President individually inclined Maharaja and Mountbatten who declined them to do so. Furthermore, "London Times" published a story about the mala-fide objectives of Indian government to induce, Hari Singh, Maharaja of Kashmir at any cost to join India. Government of Pakistan raised complaints, about Indian leaders' repeated visits to Kashmir, the logic behind these objections were, that the Prime Minister of Kashmir, Pundit Kak, had signed the Standstill Agreement with government of Pakistan, later on was removed from his post by Janak Singh then Mehr Chand, both were supporters of India.

The clouds of unhappiness, uncertainty, undue and bias were moving about the future development of Kashmir, when leaders become unreliable, deceitful, and desirous the nation suffers. When the Independence Day was celebrated with flags of Pakistan hoisting everywhere in Kashmir the Maharaja lost his intellects and issues strict orders to stop all activities even closing newspapers.

The Maharaja Hari Singh continued his double faced policy by engaging both the governments of Pakistan and India to resume a standstill agreement with both on August 12, 1947, this agreement authorized government of Pakistan to resume its duties to control communications, postal and telegraph services. In fact such an agreement was never contracted by Maharaja Hari Singh of State of Jammu and Kashmir with government of India. After five years later on, Sheikh Abdullah unveiled that, due to discontentment of peoples representatives said the Indian government, it was unwilling to justify it's legal position so, refused to do so.

It contradiction to, the Indian government signed "Instrument of Accession" with dictatorial leader Maharaja Hari Singh, later on two months. The people of the State of Jammu and Kashmir never accepted their accession to India, so they stood against occupied forces; the whole vale resulted in

turbulence and law and order problem. However, Mountbatten refused to deploy forces in Kashmir before offering them, the right of accession according to their wishes and aspirations. Again he contended that, it was illegal act to enter into a neutral State. Mountbatten proposed that, a plebiscite be held, after normal conditions.

For the time being, provisional accession is need of situation, Maharaja Hari Singh was supported by India through military assistance. The idea of unconfirmed accession to the State of Jammu and Kashmir was the brain child of Mountbatten (Korbel Joseph 1954).

The settlement of the issue in such a manner raised so many questions in the minds of historians and critics. As a viceroy of Indian sub-continent Lord Mountbatten was not remained neutral, while dealing the sensitive issues of accession of Princely States.

On what ground did Mountbatten proposed for conditional accession, followed by plebiscite, to Kashmir, so that Indian government may use of force in favor of Maharaja Hari Singh of the State of Jammu and Kashmir? Why did Lord Mountbatten validate, the legitimacy of Kashmir which was a sovereign state during military occupation of Indian army? Had he referred Pakistan government before accepting the procedures of the accession of the State of Jammu and Kashmir? Without addressing the legal and procedural phases of accession process, there was dangerous, war like situation between two countries established; Was Mountbatten ready for this situation? Why did so called government of Kashmir, or India not request United Nations to interfere at this serious moment?

The letter of accession written by Maharaja Hari Singh to the Lord Mountbatten in 1947 reveals the mala fide intents of Hari Singh and the letter further supports belief in conspiracy theory. It also shows mutual understanding between Hari Singh and Lord Mountbatten. Both shared the collective considerations on the issue of Kashmir.

I have to inform Your Excellence that a serious crisis has arisen in my state and request the immediate support of your government. As Your Excellence is aware, the State of Jammu and Kashmir has not acceded to either the Dominion of India or Pakistan. Geographically my state is neighboring with both of them. Above and beyond, my State has a common border with the Union of Soviet Socialist Republic and with China. In their external relations the Dominion of Pakistan and India cannot ignore this fact.

I wanted to take time to select to which State I should accede or whether it is not in the best interests of the both Dominions and of my State to stand autonomous, of course with friendly and pleasant relations with both. I therefore advanced the States of India and Pakistan to enter a Standstill Agreement with my State. "The Government of Pakistan accepted this agreement". The Dominion of India wanted further dialogue with agents of my government. I could not organize this in view of the improvements indicated below. In fact the Pakistan government under the Standstill Agreement is working the post and telegraph system inside the State.

Though we have got Standstill Agreement with Government of Pakistan, it has allowed a secure and accumulative option of supplies like food, salt and petrol to my State. Afridis, fighters in plain

clothes are equipped with modern weapons have been allowed to gain access to the State. First in the Poonch area, then from Sialkot and finally in a mass in the area adjoining the Hazara District on the Ramkot side. The result has been that the limited number of troops at the disposal of the State had to be spread and thus had to face the enemy at several points at the same time, so that it has become difficult to stop the destruction of life and property and the looting of Mahura power house, which supplies electric current to the whole of Srinagar and which has been burnt.

The number of women kidnapped and makes my heart bleed. The enemy forces thus let loose on the State are marching on with the aim of capturing Srinagar, the summer capital of my government, as a first step to over running the whole State. The mass infiltration of tribesmen drawn from distant areas of the North-West Frontier Province, coming regularly in motor trucks, using the Mansehra- Muzaffarabad road and fully armed with up to date weapons, cannot possibly be done without the knowledge of the provincial government of the NWFP and Government of Pakistan.

In spite of repeated appeals made by government no attempt has been made to check these raiders or stop them from coming into my State. In fact, both the radio and press of Pakistan have reported these occurrences. The Pakistan radio even put up the story that a provincial government has been set up in Kashmir. The people of my State, both Muslims and non-Muslims generally have taken no part at all. "With conditions obtaining at present in my State and great emergency of the situation as it exists, I have no option but to ask for help from the Indian Dominion. Naturally they cannot send the help asked for by me without my State acceding to the Dominion of India. I have accordingly decided to do so, and I attach the "Instrument of Accession" for acceptance by your government.

The other alternative is to leave my State and people to free booters. On this basis no civilized government can exist or be maintained. This alternative I will never allow to happen as long as I am the ruler of the State and I have life to defend my country". "I may also inform Your Excellency's government that it is my intention at once to set up an interim government to ask Sheikh Abdullah to carry the responsibilities in the emergency with my Prime Minister. "If my State to be saved, immediate assistance must be available in Srinagar, Mr. V.P. Menon is fully aware of the gravity of the situation and will explain it to you, if further explanation is needed" ..

In haste and with kindest regards, yours sincerely, Maharaja Hari Singh of the State of Jammu and Kashmir (Burke, SM, 1988).

The accession letter written by Maharaja Hari Singh of Kashmir was discussed at the Defense Committee of government of India, Mountbatten revised his previous declarations about the legalities of Kashmir accession" was not just an act of purchase" .Mountbatten highlighted to the defense committee, that the conditional instrument of accession be made on Maharaja's proposal while accepting the will of the people of Jammu and Kashmir State, upon the peaceful conditions there.

Lord Mountbatten's reply to the Maharaja Hari Singh:

“Your Highness’s letter dated 26 October 1947 has been delivered to me by Mr. V.P Menon. In the special conditions mentioned by your Highness, my Government has decided to accept the accession of Kashmir State to the Dominion of India. In consistence with their policy that in the case of my State where the issue of accession has been subject of dispute, the question of accession should be decided in accordance with the wishes of the people of the State of Jammu and Kashmir.

It is my government’s wish that, as soon as law and order have been returned in Kashmir and it’s soil cleared of the invader, the question of the State’s accession should be settled by a reference to the people. Meanwhile, in response to your Highness’s appeal for Military aid, action has been taken today to send troops of the Indian army to Kashmir, to help your own forces to defend your territory and to protect the lives, property and honor of your people.

My government and I not with satisfaction that your highness has decided to invite Sheikh Abdullah to form an acting government to work with your Prime Minister. After one episode to another, the drama of the accession of the State of Jammu and Kashmir to India was become controversial. Later on Sheikh Abdullah was nominated chief emergency administrator by Maharaja Hari Singh, step by step all these developments created, sense of planned conspiracy of Indian government, while Hindu Maharaja, Hari Singh, was used as a mere tool.

When all refined and nonviolent efforts of just and fair solution of the accession of the State of Jammu and Kashmir was made unproductive by the Indian government then, they decided to send their Military troops to Srinagar, the First Sikh Battalion of three hundred and thirty men landed to fulfill their masters hegemonic designs in Kashmir. The government of Pakistan frequently pronounced that they are only sending medical aid, food and other humanitarian material to Srinagar. General Sir Frank Messervy, who was the commander-in-chief of the Pakistan army (August 15, 1947 to February 15, 1948) expressed that there was “much evidence that this accession had been calculatingly planned for some weeks, before the event.

The Governor-General of Pakistan, Quaid-I- Azam Muhammad Ali Jinnah while quickly responding to Indian military activities in Kashmir, instantly ordered the acting commander-in-chief, General Sir Douglas D. Gracey for action. In addition to, Quaid-e-Azam Muhammad Ali Jinnah decided to gain another opportunity to peace so, he invited Prime Minister of India Nehru, and Lord Mountbatten to Lahore for table talks. However Pakistan protested on Kashmir’s illegitimate and unfair accession and called it “fraud and violence and refused to recognize it.

Bilateral consultations between Quaid-e-Azam Muhammad Ali Jinnah and Lord Mountbatten was held in Lahore, result was expectedly fruitless because of balance of power between two. Mountbatten has constitutional limitations while Mr. Jinnah was all in all. To put an immediate stop to fighting, both Governors-General should be sanctioned and conferred with full powers by both Dominion governments to issue a declaration immediately giving forty-eight hours’ notice to the two opposing forces to truce.

The government of Pakistan categorically announced that they have no control over the forces of the Provincial [Azad] government of Kashmir of the tribesmen busy in the fighting, but we will warn them in the clearest terms, that if they do not obey the order to break in fighting straightaway the

forces of both Dominions will make war on them; Both the forces of Indian dominion and the tribesmen to withdraw at once, and with the ultimate journey from Jammu and Kashmir State. "With the sanction of the two Dominion Governments, the two Governors-General to be given full powers to restore peace, under take the administration of Jammu and Kashmir State, and arrange for a plebiscite without delay under their joint Control and Supervision" (Burke SM,1988).

Quaid-e-Azam Muhammad Ali Jinnah's proposal was not accepted by India; due to Mountbatten's limited political position, he proposed a referendum under the promising of United Nations, but Quaid-e-Azam urged to organize it by two Governors-General. The Prime Minister of Pakistan, Liaquat Ali Khan's press statement issued on November 16, 1947 he said: "The fundamental principle of the Charter of the United Nations is to prevent might prevailing over write. The whole dispute should, therefore, be brought before the bar of international opinion. We are ready to request the United Nations Organization immediately to appoint it's representative in the Jammu and Kashmir State.

In order to put stop to fighting and to the subjugation of Muslims in the State, to arrange the program of withdrawal of outside forces, setup an impartial administration of the State until a plebiscite is held, and undertake the plebiscite under it's direction and control for the purpose of establishing the free and autonomous will of the people of the State on the question of accession. since the United Nations Organization have no (repeat no) forces at their disposal, we do not see how they can put stop to the fighting or to the suspected control of Muslims. This can only be done by an organized military force, and is being done by our troops.

The fighting would also stop as soon as raiders were made to withdraw, and I have continually asked your cooperation in stopping transportation of goods to raiders through Pakistan territory. "It is not clear to me what the United Nations Organization can do in the present conditions in Kashmir until peace and order have been established. We are doubtful that Sheikh Abdullah's administration is based on the will of the people and is impartial. Only he who goes to Kashmir and sees things for himself can appreciate this.

Moreover, we have guaranteed that, so long as our forces are in Kashmir, protection of all sections of the community will be their first and sacred duty. This duty will be honored without fear or favor. I have repeatedly stated that as soon as the raiders have been driven out of Kashmir or have withdrawn, and peace and order have been established, the people of Kashmir should decide the question of accession by plebiscite or referendum under international auspicious such as those of the United Nations Organization. It is very clear that no such reference to the people can be made when large bodies of raiders are damaging the country and military operations against them are being carried on. By this declaration I stand Pundit Nehru's another telegram dispatched to Karachi on December 12, 1947: We have given thought to the question of inviting the United Nations Organization to advise us in this matter.

While we are prepared to invite United Nations observers to come here and to conduct the proposed plebiscite, it is not clear in what other capacity United Nations help can be sought.

I admit, however, that I find myself unable to suggest anything beyond what I have offered already; namely, to ask the United Nations to send impartial observers to assist us regarding the plebiscite”.

The government of India filed an application under article 35 of Chapter VI of the United Nations Charter which states to “*pacific settlement of disputes*” on the question of Kashmir against government of Pakistan in the United Nations Security Council. Professor Rushbrook Williams, a noted British Historian said, that the Kashmir problem would have been solved if India had followed Mr. Jinnah’s plan. According to him on November (1947) first he suggested that Lord Mountbatten and himself, as Governor General, should issue an immediate cease-fire order; if it were not obeyed everywhere in Jammu and Kashmir.

Pakistani and Indian troops should cooperate to enforce it. Both Governors General should, when fighting had ceased, jointly takeover the administration of Jammu and Kashmir and organize a plebiscite which would enable Kashmiris to decide their future for themselves.

1.6 Exploring Conflict Resolution Strategies

The Kashmir dispute has generated a major armed clash between the two armed forces of India and Pakistan. Nevertheless, this long conflict has also produced ferocity and crime in vale of Kashmir where controlled groups are counterattacking military offences. The skirmish increases the number of crimes and law-breaking. Thus the statistics of crimes and violence indicates the level of intensity. “The conflict must have resulted in at least 1000 battle related deaths” (Bell Coral 1979).

Further an estimation of more than 600 domestic international, non-violent and political conflicts that have occurred. Conflict in our research has defined as: the clashing of over lapping interests (positional differences) around national values and issues (independence, selfdetermination, border and territory, access to or distribution of domestic or international power).

The conflict has to be of some duration and scale between at least two parties (State, groups of States, organizations or organized groups) that are firm to pursue their interests and win their case. At least one party is the organized State, possible instruments used in the course of a conflict are negotiations, influential decisions, threat, pressure, passive or active withdrawal or the use of physical violence and war.”

A conflict is a condition of aggression between states or other authorities in which particular differences seem as much as result as a cause of tension (Bell Coral, 1979).

A resolution of conflicts means a new set of interactions emerging from the process and arrived at freely by the parties themselves “.The usage of the term conflict in this study is confined to political, regional and legal conflicts, whether; it is pursued by peaceful means or by the use of force. With such wide range of international perceptions on the term ‘conflict’ probably encouraged by the complications of present-day conflicts. Conflict Prevention is intended to

prevent disputes from being escalating into armed conflicts, to prevent old conflicts from recommencing and to prevent existing conflicts from spreading. According to the United Nations charters', chapter VI, including diplomatic initiatives, mediation, preventive diplomacy, negotiation, conciliation, and judicial settlement and preventive deployments, civilian and or military forces may be deployed. Conflict prevention also includes fact finding missions, warnings, inspections and monitoring.

Prevention of conflicts is a moral domineering in today's world; it is a humanitarian necessity to save innocent lives". It is an economic necessity both for the countries involved for the international community because of the price of war and reconstruction. It is a political necessity for the credibility of international cooperation, in particular for the United Nations".

According to the conflict preventive expertise of, Lord David Owen, "Preventing conflicts requires skills different for resolving conflicts, even though they cannot always be separated out. There are no guaranteed vaccinations to prevent conflicts from starting and no phenomenon cures to end them, once they have started (Khanna D.D et.al, 2003).

Conflict management is strongly believed as reducing action by the parties to settle the conflict either by themselves or with help of intervening, facilitating third parties. This is a recognized process that eventually will lead to a certain outcome, result, settlement or resolution of the conflict. Positively, conflict management comes in to play when the conflict has broken out with conflict prevention measures not having a chance to succeed. Limiting and comprising the conflict would therefore be a more appropriate description of this intermediate stage in the overall process. Conflict resolution strategy (or peacemaking) takes place after conflict has broken-out. Its aim is to solve the issues cordially. The conflict can be prevented with a range of diplomatic, judicial or pacification creativities.

Nevertheless, the method of conflict resolution should be in agreement with the charter VII of the United Nation. The UN chapter approves the method of using political and economic sanctions and military force for the solution of conflicts and restoration of peace (Wirsing G Robert 1994).

It is 'enforcement' in the sense that the measures are taken against a State or party, to convince it to act (or not to act) in a way that it does not want to. It would be evident from the above that the entire process from the generation, introduction, or beginning of a conflict to the end of the conflict is covered by a wide-ranging system of conflict management and conflict resolution. "Each stage in the development from peace to war requires different management and resolution instruments, for example, a cease fire must be secured by peace keeping forces, peace treaties, need to be accompanied by peace joining measures (Burke SM,1988). There are seven options to resolve a conflict, which are discussed as under: Discussed solutions are arrived at by the parties involved with or without assistance of third party. Consent of all participants is essential peaceful settlement reached by an influential decision (Conference, Resolution or Court). This could deescalate conflict for a limited duration. Dominating powers dictate the results and conditions, even if detrimental to one party. Conflict can be resolved by means of withdrawal of any one of the two parties in order to end the conflict.

Conflicts can also be averted by using the threat perceptions from the one party to the other. Conflicts end under threats of one party against the other. However, the war is an ultimate option to get rid of the crisis. International sovereign states are said to be paramount in the comity of nations. The United Nations is the most effective organization which provides an institutional framework for international efforts in the field of conflict management, conflict prevention and conflict resolution. The United Nations Security Council is the most powerful as well as influential among the Nations of World. The United Nations has a permanent Secretariat headed by Secretary General, provides continuity, expertise and pooling of global resources for all conflict resolution activities, including peace-keeping and peace-building.

The most essential responsibility of United Nations Security Council, is maintaining international peace and security. It has at it's disposal a wide range of instrument for this purpose up to and including the use of military force. The United Nations Charter contains provisions and guidelines for dealing with international conflicts. Chapter VI "Pacific Settlement of Disputes" it includes measures, including diplomatic initiatives, preventive diplomacy, negotiation, mediation, conciliation and judicial settlement and preventive deployment of troops (Bell Coral 1979).

Fact findings, warnings, inspections and monitoring activities are at it's disposal. Besides, the whole range of diplomatic, judicial, or conciliation activities, this chapter also provides for lastresort method of conflict resolution i.e., peace enforcement, involving the use of political and economic sanctions and for military force to restore peace.

The 'Agenda of Peace' prepared by United Nations Security Council in January 1992. It emphasized that in the Post-Cold War Era, the Security Council" has emerged as a central instrument for the prevention and resolution of conflicts and for the prevention of peace" (Bell Coral 1979).

United Nations Four Point Agenda on Conflict Resolution Activities:

- Agenda No: 1,

Preventive Diplomacy: It prevents the conflict among parties involved.

- Agenda No: 2,

Peace Keeping: Efforts to bring hostile parties to agreement. Mediation, negotiation, sanctions and the use of military force are possible measures.

- Agenda No: 3,

Peace Keeping: Use of United Nations or other international forces to bring stability to areas of tension, help implement agreements and contribute to settlement.

- Agenda No: 4

Peace Building: This is a post conflict process. It seeks to tackle the deep causes of conflict by identifying and supporting the structures that will promote peace (United Nations Report). Political leadership of the India and Pakistan will have to initiate a dialogue process between two countries to break away current impasse. Both nations are displaying dualistic policies. The distrust, dishonesty and deception, will not help to make any head way. Due to the lack of political will and flexibility in the point of views of two countries the problems between two nations have remained unsolved.

There is a need to rethink about the policies and adopt flexibility in the approaches toward the issue of Kashmir. It is need of time to institute a “Pakistan India Commission on Bi-Lateral Talks” to resolve all outstanding issues between two counties, specially the bone of contention, the unsettled issue of Kashmir, which is pending since last 65 years. The mandate of this commission should be to work out possibilities of peaceful solution of the dispute and agreements on mutual understanding also sorted out for recommendations and further strategies. It least high level meetings between the political leadership of both countries should be organized at least in two years, to clear hurdles in the path of peace process (Ijaz Muhammad 1998).

There is a great desire between the majority of people of India and Pakistan to initiate a partnership to enter into a dialogue process. Academics, intellectuals, civil society activists and business community lead this objective for peaceful co-existence. The peace between India and Pakistan will be a positive contribution to the security and stability of South Asia. The Soviet intervention between India-Pakistan at Tashkent, laid down foundation of mediation between the rigid hard-lines of two countries (Wirsing G Robert 1994). Same likely facilitative third party role is needed to break the deadlock between India and Pakistan of the unsettled issue of Kashmir.

United States of America may mediate this peace process as a sole super power at the moment and use its influence to initiate meaningful and peaceful dialogue process at highest level. Due to unresolved nature of Kashmir issue, India and Pakistan are spending huge amount of their budgets on defense and military expenditure, although one third of their populations represent completely in poverty and illiteracy. Both countries India and Pakistan have nuclear technology.

1.7 Conclusion

This chapter provides an overview of historical background of Kashmir. It was one of the six hundred princely states at the time of the partition of India. The legal position of these princely states was that they could only join India or Pakistan. However, Kashmir was by force occupied by India. Illegitimate occupation of Kashmir by India not only undermined the legal status of the state of Kashmir but also violated the main principles of the Partition Plan, according to the plan the areas joining India or Pakistan were to be considered on the basis of geographical proximity, communal lines and cultural affinity.

These factors were in the favor of Kashmir’s annexation with Pakistan which was not acceptable to India. Thus India accede Jammu and Kashmir State without considering the legal and moral aspects

of the partition. This situation developed the dispute between India and Pakistan. United Nations Security Council has tried several initiatives and passed resolutions but the same were not implemented by India. This chapter analyses the issue of Kashmir in historical perspective and concluded that conflict of Kashmir can be resolved through a meaningful dialogue between India and Pakistan under the auspices of United Nations

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Chapter Two

Research Methodology

Introduction

2.1 Thesis Layout

The main argument of this study is that the issue of Kashmir can be resolved through the third party intervention. It is also argued in the study that the resolution of issue needs to be resolved in order to avoid Nuclearization in South Asia. The study concludes key arguments about Kashmir. The Kashmir was one of the six hundred princely states at the time of the partition of India.

The first chapter articulates the fact that the legal position of these states was that they could join India, Pakistan or remain independent. However, Kashmir was forcibly occupied by India. Illegal annexation of Kashmir by India not only undermined the legal statutes of the state of Kashmir but also violated main principles of the Partition Plan. It is stated that according to the plan the areas joining India or Pakistan were to be considered on the basis of geographical nearness and cultural similarity. These factors were in the favor of Kashmir's annexation with Pakistan which was not acceptable to India. Thus, India engaged Kashmir without considering the legal aspects of the partition. This situation developed the dispute between India and Pakistan. United Nations have tried passed several resolutions but the same were not implemented by India. It is concluded that conflict of Kashmir was an outcome of unfair Partition Plan.

The third chapter of thesis engages the readers in understanding moral and legal aspects of Kashmir. This chapter uses the legal documents to demonstrate that the argument concluded between Maharaja and the British Government was based on certain terms and conditions which have been described under various articles of the treaty. In addition, the chapter also deals with standstill agreement of Jammu and Kashmir with Pakistan. Pakistan responded to the agreement indicates that both parties accepted the argument. However, it can also be noted that there was no such settlement concluded between Jammu and Kashmir and India. The second part of the chapter deals with various point of views which can be interpreted as Indian standpoint, Pakistan perception and Kashmiri people's views. These perspectives can be used to understand the issue of Kashmir and to solve it amicably. However, the conflict among the various stakeholders could lead to increase the nuclear tension and could convert this problem into nuclear clash. The third part of the chapter concludes that the process of nuclear proliferation was an outcome of unresolved issue of Kashmir, which is a major concern of international community.

The fourth chapter of thesis focuses on the United Nations initiatives, taken by the international organization since, 1948, the complete resolutions, the report of commissions, efforts of different legal, political, international law experts to resolve the dispute between India & Pakistan, on the issue of Kashmir. The chapter also highlights the positive outcomes of international

community specially, United States of America, United Kingdom and others as third party facilitators to resolve this issue properly. The chapter reflects the clear picture about the parties involved and their attitude to resolve this issue and defines the stumbling block, deadlock created by one party to the other. The chapter will further facilitate researchers, scholars and governments of India and Pakistan to initiate new level of dialogue to resolve this core issue of South Asia for the peace and stability of the region.

The fifth chapter of thesis concludes the major events of history, past, present and future developments related to the dialogue process between the leaders of Pakistan and India on the Kashmir issue, if we remind the series of negotiated settlements since 1947 and onwards.

The chapter has examined various factors for partition and concluded that joining of the people of Kashmir. After partition, the talks between newly established countries of Pakistan and India began on the question of Kashmir issue. The political leadership of India always showed myopic vision and refused to accept any logic to the just and fair solution of the State of Jammu and Kashmir, so she used delaying tactics and aggressive, illogical attitude towards Pakistani leadership and the people of Jammu and Kashmir State. Thus, it is argued in this chapter, that there is a need to change the attitude of Indian leadership. It is further argued that Indian leaders should not undermine the moral authority of United Nations. They should respect United Nations Security Council Resolutions and facilitations offered by International community and friendly nations. There is a need of displaying positive political vision, flexibility and accommodative thinking.

The sixth chapter of thesis is based on the exploration of various proposals to form new recommendations for the solution of Kashmir problem. This chapter also justifies the need to initiate dialogue process between two countries and it also justifies the need for third party involvement. The United Nations, international super powers, like United States of America, Russia, United Kingdom and friendly countries need to play an effective role in the resolution of Kashmir issue. The chapter also has also investigated the theories of resolution in the international context expressed by Jagat Mehta, B. G. Verghese proposal, the Galbraith plan (Harvard Exercise) which proposed opening of road across the cease- fire line between Rawalpindi and Srinagar. These theories can also help to reduce the intensity of conflict. In addition, the conclusion draws attention of political leadership of both India and Pakistan to show flexibility and political acumen, intellectual wisdom and broad mindedness to address and resolve the issue of Kashmir.

The seventh chapter of thesis is focused on the issue of Kashmir. The first part of the chapter justifies strategic importance of the Kashmir region and gives an overview of its geography, economy and social structure. The second part of the chapter analyses the status of Kashmir before the establishment of colonial rule in India and it discusses political change in the Kashmir during the British period.

2. 2 Consolidated Review of Literature

S. No.	Name of Author and year of Publication	Explanations
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1	Abdul Hafeez Tauqir, 1992	Partition Plan was unjust unfair
2	Mir Abdul Aziz, 1992	Treaty of Amritsar, Article II
3	Mussarat Abid and Qalb-i-Abid, 1988,	Legal and moral aspects of Kashmir
4	Muhammad Aamir Bashir & Khurram S. Haider, 1999	Pakistan's stand on Kashmir
5	Safvi Syed Ali, 2007	Genesis of Kashmir dispute
6	Josef Korbel, 1954	United Nations Security Council Mediation
7	Muhammad Ijaz Butt, 1988	General Mc Naughton's Proposal of demilitarization
8	Wirsing G. Robert, 1994,	India's bargaining tactics
9	Khan, A. Sattar, 2000,	Graham's troops withdrawal Proposal
10	Sumantra Bose, 2005	Nawaz Vajpayee joint declaration to reduce nuclear war
11	Amy Waldman and David Rhode, 2002	Musharraf Vajpayee undeclared Draft negotiations.
12	Coral Bell, 1979	Conflict Resolution Methodology
13	Kenneth Thomas & Ralph Kilmann, 1970	Conflict Model Instruments by Thomas Kilmann'
14	Chadha Sudhir, 2004,	Musharraf's proposal to resolve Kashmir issue
15	Sada-e-Aman, 2004	Manmohan's Kashmir Agenda
16	Sehbai Shaheen, 2005,	Chenab formula on the basis of religious democracy
17	Bukhari Shujaat, 2004,	PDP Self Rule proposal for Kashmir
18	Ghulam Nabi Fai, 2008	KAC-Statement of objectives

2.3 Research Hypotheses

1. The partition plan prepared by the British government was unjust and unfair
2. The dialogue process has not yet been successful in finding out the adequate solution of Kashmir issue
3. Lack of flexibility and political will in attitudes of the Indo-Pak leaders is one of the main factors responsible for the failure to resolve the issue
4. The issue of Kashmir has negative impact on the development and prosperity of South Asia

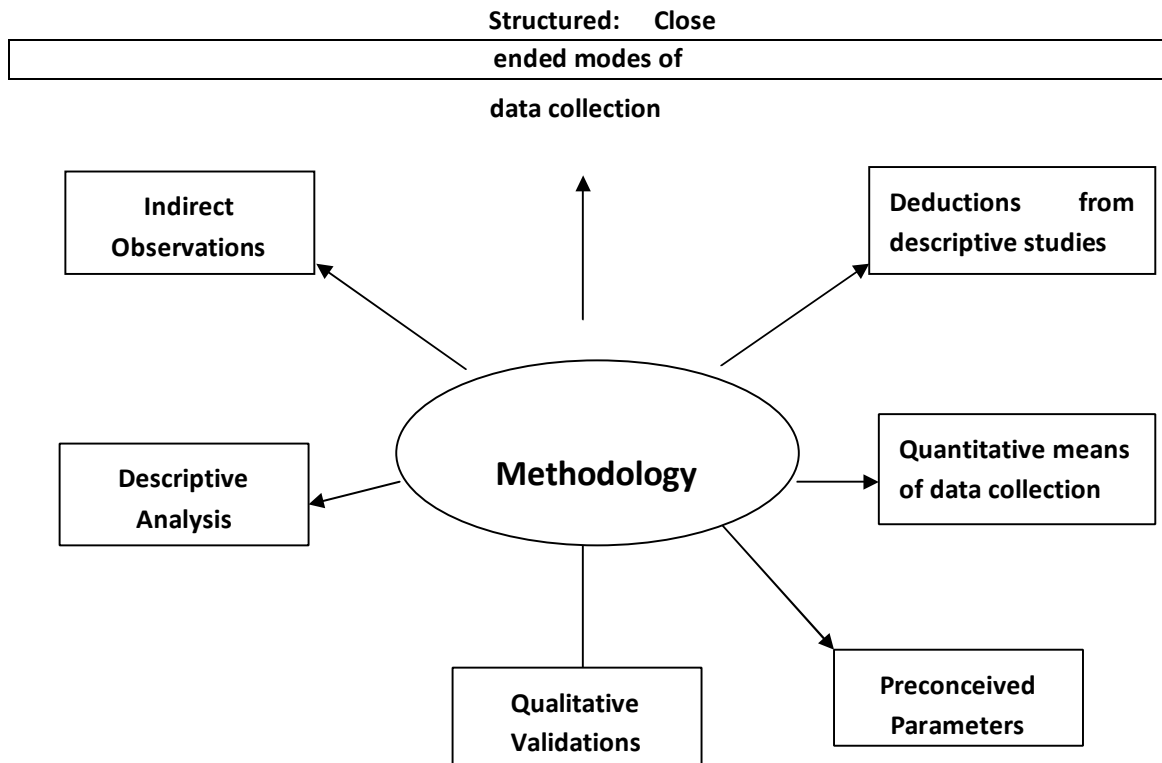
2.4 Research Objectives

1. To highlight the history of Kashmir issue legally and politically and explore possible solutions through identifying channels of diplomacy and dialogue processes
2. To analyze the role of the United Nations facilitation initiatives regarding Kashmir issue
3. To highlight the history of dialogue between India and Pakistan and its outcomes
4. To work out appropriate solution through indirect observations via formal means of data collection from various stakeholders

2.5 Justification

Literature review on the issue of Kashmir indicates that the dialogue on Kashmir has received attention less than it deserved. Thus, there was a great need to conduct research on this topic and to focus on various proposals for the resolution of the Kashmir dispute. This study is unique in the sense that it contributes new ideas and proposals for the solution of the oldest problem of South Asia.

2.6 STUDY METHODOLOGY



Research Methodology

I have used Kashmir as case study. I have used variety of methods of data collection in order to get unbiased information. The present study has used survey methods to collect data form experts on Kashmir issue. Questionnaires were used as main tools of data gathering. The questionnaires were distributed among the targeted respondents which included university students, university faculty, political leaders, diplomats, members of civil society. The responses of the respondents were tabulated and analyzed to propose solution of the Kashmir issue. In addition, interview of diplomats, researchers' members of civil society was conducted for this study. The purpose was to co-opt the diverse views of people from all sections of society and to fill gaps in arguments where the material evidence was not available. A list of interviews is included at the end of this thesis. The study has used the technique of content analysis in order to analyze the data for study.

This chart of Methodology leads us to the process of learning to practice, different procedures, policies, methods, approaches and styles to revise and to explore, designed and well thought out ideas, concluded and completed in all manners.

I have examined the methodology to reach out conclusions, judgments and interpretations by using graphic, imaginative and expressive styles. Further, measurable, numerical, calculable, computable and assessable resources utilized to achieve the targets. Furthermore, fixed, defined and inflexible, limited, factors were applied as a tool of proper and result oriented considerations. In addition to this, secondary comments, interviews, explanations, remarks, opinions, explanations and clarifications of the people of different school of thoughts, cadres, status and qualifications are incorporated in this methodology. In appositive note, a thorough examination and investigative scrutiny is explored to prove justifications, confirmations and endorsements made by different stake holders related to the issue of Kashmir.

2.7 Range of Sources

The sources used for this study were scattered across many territories and archival holdings. These sources were available in the following:

2.7.1 Sindh Archives, Karachi

The primary sources for this study were collected from various Archives including Sindh Archives Karachi. These key documents were used to support the various arguments of study. In addition, secondary sources were collected from various libraries. These documents included books, research articles, published and unpublished reports on Kashmir.

2.7.2 Institute of Sindhology Library, University of Sindh, Jamshoro

This library has collection of colonial records which are quite useful for history. It provided me historical material which was used for the study to support my arguments.

2.7.3 Pakistan Study Centre, Library, University of Sindh, Jamshoro

Pakistan study Centre Library is rich in resources of Pakistan. I was able to find huge source material on the issue of Kashmir. There are thousands of books available in the library which deal with Pakistan, India and Kashmir

2.7.4 National Library Islamabad

This library is a treasure of Knowledge about Pakistan and Kashmir. A considerable number of research reports were taken to use for study.

2.7.5 Kashmir Studies Department library, The University of the Punjab, Lahore

I also benefited from the rich library of the Punjab University. I collected various reports, books, and articles from the library.

2.8 Impact of the Study

The issue of Kashmir is a root-cause of the tensions and conflicts in the South Asia. The resolution of this issue will not only bring peace in this region but also boost economic trade between India and Pakistan. The cooperation between these two countries in the fields of trade, science and technology will solve most of the problems faced by the people of South Asia. This study is genuine contribution to the resolution of Kashmir dispute. The study has following strengths and limitations.

2.8.1 Strengths

1. The study has examined the key document the Partition Plan which has remained a source of debate in the field of history and politics.
2. This research has considered various proposals for the solution of the issue of Kashmir, which has remained a major obstacle in the cooperation between India and Pakistan.
3. This study has also analyzed the role of United Nations in the resolution of the Kashmir issue.

2.8.2 Limitations

1. The study is focused on the Kashmir issue thus it does not include the other issue between India and Pakistan.

2.9 Sampling

Sampling method was used to select the respondents for this study. Following lists were made to select the samples of respondents for this study through random sampling method. The 50% respondents were selected out of total number of following categories.

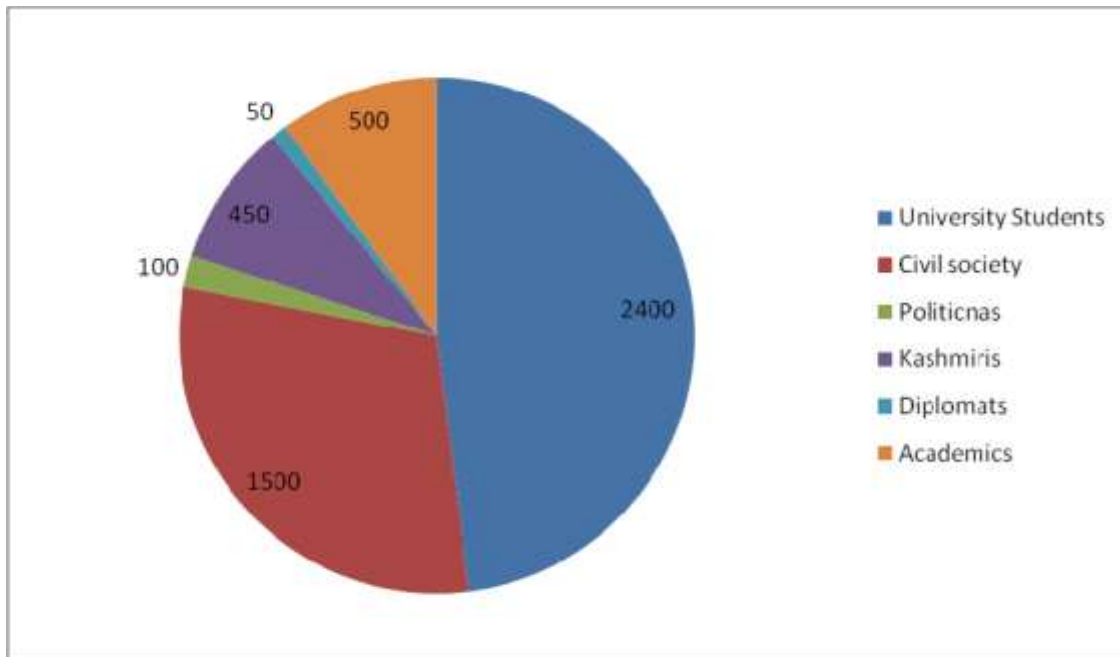
1. List of University students of relevant departments.
2. List of diplomats, foreign policy experts and foreign ambassadors.
3. List of faculty members of relevant departments.

4. List of members of civil society.
5. List of politicians and parliamentarians
6. List of people of Kashmir.

2.9.1 Table: Distribution of respondents by statistics

S. No.	Respondents	Total number (Universe)	Selected Number of Respondents(50% of total number)	Percentage of total selected respondents (2500)
1	University Students	2400	1200	48%
2	Civil Society	1500	750	30%
3	Academics	500	250	10%
4	Kashmiri Groups/Organizations	450	225	9%
5	Politicians	100	50	2%
6	Diplomats	50	25	1%
7	Total	5000	2500	100%

2.9.2 Distribution of Respondents by Statistics



Source: Questionnaire

2.10 Tools of Analysis

Figures in %

N=5000

Sr. No.	Description	Agreed	Disagreed	Partially Agreed	Don't know
1	The partition plan prepared by the British Govt. was un just/unfair	87%	-----	3%	10%
2	UN has failed to implement its resolutions passed on Kashmir	91%	4%	5%	-----
3	The Dialogue process has also not yet been successful in finding out the solution of Kashmir dispute	79%	20%	1%	-----
4	Lack of flexibility in attitudes of the Indo-Pak leaders is one of the main factors responsible for the failure to eradicate the Indo-Pak conflict over Kashmir	80%	10%	10%	00%

5	The issue of Kashmir has negative impact on the development and prosperity of South Asia	89%	-----	-----	11%
6	Pakistan's claim to the disputed region is based on the rejection on Indian claims to Kashmir, namely the "Instrument of Accession"	83%	-----	-----	17%
7	The final disposition of the state of Jammu and Kashmir will be decided in accordance with the will of the people through a free and impartial plebiscite conducted by UN	88%	5%	-----	7%
8	"Economic Bloc Initiative" should be materialized at the platform of SAARC.	94%	-----	6%	-----
9	A multilateral dialogue process facilitated by International Community/ UN should continue	97%	-----	-----	3%
10	Let the people of Kashmir join Pakistan	92%	6%	-----	2%
11	Let the people of Kashmir join India	-----	89%	4%	7%

Chapter Three

Legal and Moral Aspects of Kashmir Issue

3.1 Introduction

The first part of the chapter uses the legal documents to demonstrate that the argument concluded between Maharaja and the British Government was based on certain terms and conditions which have been described under various articles of the treaty. In addition, the chapter also deals with standstill agreement of Jammu and Kashmir with Pakistan. Pakistan responded to the agreement indicates that both parties clearly accepted the argument.

However, it can also be noted, there was no such agreement was concluded between Jammu and Kashmir and India. The second part of the chapter deals with various point of views which can be interpreted as Indian perspective, Pakistan perspective and Kashmiri peoples perspective.

These perspectives can be used to understand the issue of Kashmir and to solve it amicably. The conflict among the various stakeholders could lead to escalate the nuclear tension and could

convert this problem into nuclear clash. The third part of the chapter deals with the process of nuclear proliferation which is a major concern of international community.

3.2 The Treaty of Amritsar 1846

Treaty was settled between Maharaja Gulab Singh of Jammu and British Government. Fredrik Gurrie, and Brev R. Major Henry Montgomery Lawrence, and Honorable Sir Henry Hardinge, G.C.B were on behalf of the British Government at time of signing this pact. Sir Henry Hardinge¹⁴ was one of her Britannic Majesty's most honorable Privy Council, Governor General of the possessions of the East India Company. He exercised the powers to direct and control all the matters in the East Indies.¹⁵ This treaty stated the terms and conditions which were mutually agreed by two parties.

Article 1: The British Government handovers and makes over always an independent ownership of Maharaja Gulab Singh and the successors male of his body all the hilly or mountainous country with its colonies located to the Eastward of the River Indus²⁰ and the westward of the River Ravi²¹ including Lahul, being part of the lands to the provisions of Article IV of the "Treaty of Lahore" dated 9th March, 1846.

Article 2: The eastern borderline of the area shifted by the previous article to Maharaja Gulab Singh shall be laid down by the commissioners appointed by the British Government and Maharaja Gulab Singh correspondingly for that purpose and shall be defined in a separate arrangement after assessment.

Article 3: In respect of the transfer made to him and his heirs with provisions of the foregoing article Maharaja Gulab Singh will pay to the British Government the sum of seventy-five lakhs of rupees (Nanukshahi), fifty lakhs to be paid on confirmation of this treaty and twenty five lakhs on or before of the current year; A.D. 1846.

Article 4: The limits of the regions of Maharaja Gulab Singh shall not be at any time altered without accord of the British Government.

Article 5: Maharaja Gulab Singh will discuss to the settlement of the British Government of Lahore or any other neighboring State, and will accept by the judgment of the British Government.

¹⁴ Hardinge, Henry has worked as Field Marshall and Governor-general.

¹⁵ East Indies The **Indies** or **East Indies** (or *East India*) is a term that has been used to describe the lands of South and South East Asia occupying all of the present India, Pakistan, Bangladesh, Myanmar, Nepal, Bhutan, Sri Lanka, the Maldives, Thailand, Cambodia, Laos, Vietnam, Brunei, Singapore, the Philippines, East Timor, Malaysia. In a more restricted sense, the Indies can be used to refer to the islands of South East Asia, especially the Malay

Article 6: Maharaja Gulab Singh appoints for himself and heirs to link, with the whole of his military troops, the British, when engaged within the hills or in the areas connecting his possessions.

Article 7: Maharaja Gulab Singh engages never to take or hold in his service any British subject, nor the subject of any European or American State without the agreement of the British Government.

Archipelago. The name "Indies" is derived from the river Indus and is used to connote parts of Asia that came under Indian cultural influence (except Vietnam) which came under Chinese cultural influence).

²⁰The Indus River is a major river in Asia which flows through Pakistan. It also has courses through western Tibet and Kashmir.

²¹The Ravi River: Under the Indus Waters Treaty of 1960, the waters of the Ravi and five other rivers are divided between India and Pakistan.

Article 8: Maharaja Gulab Singh engages to respect in regard the land shifted to him, the provisions of Article V, VI, VII of the separate engagement between the British Government and the Lahore Darbar, dated 11th March, 1846

Article 9: The British Government will give in aid of Maharaja Gulab Singh in defending his lands from external opponents.

Article 10: Maharaja Gulab Singh accepts the authority of the British Government and will in sign of such rule present annually to the British Government one horse, twelve shawls, goats of approved breed (six male, six female) and three pairs of cashmere shawls (Misra K.K, 1971).

3.3 Standstill Agreement

The Prime Minister of Kashmir sent similar messages to India and Pakistan on August 12, 1947. These letters indicates that government of Kashmir would welcome Standstill agreement with both countries Pakistan and India on all matters.

• Reply from the Government of Pakistan

The Government of Pakistan agreed to sign the Stand Still Agreement with the Government of Kashmir. It also agreed that it will accept existing arrangements till the final settlement and a fresh agreement.

• Reply from Government of India

The government of India also responded to the letter sent by Government of Kashmir and asked if the ministers could come and discuss about the Stand Still agreement before it could be concluded between India and Kashmir government.

As a matter of fact the representatives of the Kashmir government did not visit Delhi and thus the agreement was not concluded between India and State of Jammu and Kashmir (Korbel Joseph, 1954).

3.4 Instrument of Accession

The Indian Independence Act 1947 created two dominions India and Pakistan. The working of governments of two countries would be according to the guidelines and provisions of Indian Act of 1935.

The instrument of Accession authorized the State of Kashmir to join India or Pakistan dominion.

The main provisions of Instrument of Accession are given as under:

1. It is assumed that the requirement of ensuring that due result is given to the requirements the act within this State so far as they are applicable therein by virtue of this my Instrument of Accession.
2. It is accepted that the legal matters and laws will be formed by the dominion joined by State of Jammu and Kashmir, as stated in the plan.
3. It is declared that the State of Jammu and Kashmir accede to the State of the India on the guarantee that if any settlement was made between the Governor General and the Ruler of this State. In the exercise of functions the ruler could be empowered to control over the administration of government. The ruler will also exercise the functions of legislature.
4. The terms and conditions of this mechanism of agreement" shall not be different by any modifications of the deed or of the Indian Independence Act, 1947, except such change is acknowledged by me by an Instrument additional to this mechanism.
5. No any part or provision in this Instrument shall authorize the State law making body to create any law for this State, allowing the necessary accomplishment of land for any purpose. It is requested to get the land at their own cost as may be settled, or, in failure to pay of settlement, determined by an authority to be selected by the Chief Justice of India.

6. There is no provision in the instrument of accession to compel Maharaja Hari Singh, to accept the constitution of India in future. It was also indicated by the instrument that no article will restraint the decision of ruler to enter into plan with the Government of India under any such future constitution making.
7. The instrument will not affect the authority and sovereignty of State in any matter agreed by the government of India and the State of Jammu and Kashmir. The ruler of State will exercise all judicial, administrative and legislative powers. The ruler would also enjoy the absolute power of the state.
8. Instrument of accession was executed by the ruler of the state of Jammu and Kashmir. That any orientation in this mechanism to the Ruler of the State is to be interpreted as a reference to inheritors and successors of the ruler of the State of Jammu and Kashmir (Korbel Joseph, 1954).

3.5 Acceptance of Instrument of Accession

The letter of accession was received by the government of India through Mr. V.P. Menon accordingly accepted by the government of India on 26 October, 1947. Thus finally the state of India accepted the accession of Kashmir to India.

In continuation with their strategy that in the case of the State of Jammu and Kashmir, the issue of accession has been matter of conflict, the issue of accession should be settled in accordance with the aspirations of the people of the State.

It was promised by the ruler that after the restoration of peace and the stability in the state the matter of accession will be decided according to the aspiration of the people of the State of Jammu and Kashmir (Korbel Joseph, 1954).

3.6 Standstill Agreement between India and State of Hyderabad

The aim and plan of the State of India and the ruler of State of Hyderabad and Berar¹⁶ to cooperate in order to achieve mutual interest. However a final arrangement will form the nature

¹⁶ **Berar** may refer to Vidarba the eastern region of Maharashtra Province, India, historically known as Berar.

of the relationship between the state of India and Hyderabad.

Article 1: Till new arrangements in this matter are completed, all settlements and executive measures as to the problem of mutual distress, as well as external matters, security and public services, which were remaining between the Crown and the Nizam directly before the 15th August 1947, shall, in so far as may be applicable, remain as amid the state of India (are any part thereof) and the Nizam.

No one shall enforce any compulsion or advise any right to the State, to direct forces to support the Nizam in the looking after of in-house order, to place troops in Hyderabad region with the exception of in time of war and with the permission of Nizam which will not be unreasonably withdrawn, the movement of troops so placed to be withdrawn from Hyderabad region within six months of the expiry of warfare.

Article 2: The Government of India and the Nizam decided for the recovered performance of the commitments of this contract to hire proxies in Hyderabad and Delhi in that order.

Article 3: Nobody here kept in check shall take account of or announce paramountcy tasks or form any paramountcy link.

Not anything in this delimited or undertaking hereof shall be considered to produce in approval of any party to some extent right ongoing after the date of expiry of this contract, or to derogate from any right which, but for this agreement, would have been functional by each party to it after the date of closure.

Article 4: If any difference of opinion rising up out of this settlement or out of agreements hereby persistent shall be discussed to the adjudication of two arbiters, one hired by each of the parties, and a referee selected by those mediators.

Article 5: This pact shall be implemented at once and continue in power for a time of one year. Mir Osman Ali Khan, Nizam of Hyderabad and Berar and Mountbatten of Burma Governor General of India.

3.7 The Accession of the State of Junagarh with Pakistan

Junagarh¹⁷ was State on the Southwestern end of Gujarat, with the territories of Manavadar, Mangrol, and Babriawad. The Arabian Sea stood between it and Pakistan. Although the State had Hindu majority population but it's Ruler was Nawab Mahabat Ali Khan was Muslim.

On August 15, 1947, the Ruler of the State, Nawab of Junagadh, Mahabat Ali Khan accede the State of Junagadh to Pakistan. Government of Pakistan confirmed the acceptance of the accession in September 1947. India did not accept the accession as legitimate. The Indian point of view was that

¹⁷ Junagarh: Princely state during the British Raj.

since Junagadh was a State with a majority of Hindu population, so it should be part of India. Additionally since the State was encircled by Indian territories it should have been a part of India.

Indian politicians also stated that by giving Pakistan a majority Hindu State to govern, the basis of the "Two National Theory" was contradicted. The Pakistani point of view was that since Junagadh had a ruler who choose to accede to Pakistan, So Nawab Mahabat Khan should be allowed to do so.

Junagadh, having a coast line, could have maintained maritime links with Pakistan. Sardar Patel, India's then defense minister felt that if Junagadh was permitted to go to Pakistan, it would create communal unrest across Gujarat. The Government of India threatened Pakistan Government to avoid the accession and hold a plebiscite/ referendum in Junagadh State to preempt any violence in Gujarat.

Samal Das Gandhi formed a Government-in-exile, the "*Arzi Hukumat*" of the people of Junagadh. Mr. Patel ordered the annexation of Junagadh's three principalities. Junagadh, facing financial collapse, first invited the *Arzi Hukumat*, and later the Government of India accepted the reins of power of the State of Junagadh (Mussarat Abid., et al., 1988).

3.8 The Paramount Power

The relations between the British Crown and the Princely States were based upon agreements "the Paramount Power" taking responsibility for their foreign affairs, and defense, the Princes were assured their rights of succession and sovereignty in internal affairs.

British India and the Princely States were connected by a sort of personal union. The Viceroy of India performed as the Crown's Representative towards princes. In a "Memorandum on States' Treaties and Paramountcy" will be shifted from British to Government of India.

His Majesty's Government will cease to exercise the powers of Paramountcy, so the Princely States will be authorized by Paramount power spontaneously.

3.9 The Partition Plan

The British Government issued a plan of partition of India, according to plan "the division of India will take place according to communal loyalty; The majority Hindu Outlying areas / Princely States were to form the union of India, and the mainstream Muslim Provinces / Princely States and regions were to join Pakistan.

3.10 Kashmir Accord

The State of Jammu and Kashmir which is component unit of the Union of India, shall, in it's relation with the Union, continue to be governed by article 370 of the constitution of India.

1. The State will exercise all residuary powers to legislate. However, house of parliament will continue to exercise power of law making, concerning to the following matters, prevention of actions concentrating on insulting, interrogation or violating the authority

and territorial solidarity of India or carrying cession of a part of the land of India from the Union or resulting disrespect to national symbols of India, including the Indian National Flag, the Indian National Anthem and the Constitution.

The article or any constitutional provision of Indian constitution if applied to the state of Jammu and Kashmir with amendments or alterations may be approved or disapproved at the directives of the President of the India under the article 370 which empowers the President to issue his directives or instructions in these cases. However, in case of those provisions of constitution of India, which are applied to the State of Jammu and Kashmir without making any change cannot be repealed or altered.

2. The state of Jammu and Kashmir was empowered to make its own laws on legislation, welfare measures, cultural matters, social security, personal law and procedural laws. It was also agreed that the state will exercise the power of reviewing the laws made by Indian parliament with regard to the subjects mentioned in the concurrent list. After 1953, there was the big change in the way the state was administered. The special status of the State of Jammu and Kashmir taken away by India and Kashmir became merely an administrative unit of India, this decision affected the sovereignty and territorial integrity of the State of Jammu and Kashmir.
3. Subsequently, suitable phases may be taken under article 254 of the Constitution of India. The approval of President consented to such lawmaking would be kind-heartedly considered.
4. The same method would be implemented in relation to rules and regulations legislated by the house of Parliament in future under the provision to section II of the Article. The Government of state shall be referred about the submission of any such law to the State and the views of the State Government shall receive completest attention (Aziz Abdul, 1992).
5. As an agreement mutual to what has been mentioned under Article 368, a proper alteration of that article as functional to the State shall be created by Presidential directive to the result of any article of the Constitution of the State of Jammu and Kashmir

and Kashmir concerning to any of the under stated subjects, shall take place if the Bill, having been kept for the attention of the President.

The matters are:

1.1 The appointment, powers, functions, duties, privileges and immunities of the Governor, and

1.2 The following matters relating to elections namely, the supervision, instructions and over all control of elections by the Election Commission of India, eligibility criteria for the electoral rolls without discriminating on the basis of color, cast and, creed, adult franchise and formation of the Legislative Council, issues identified under the section 138, 139,140 and 50 of the Constitution of the State of Jammu and Kashmir.

2. No suitable arrangement was made on the issue of terminology of the Governor /Chief Minister and the matter as a result, be dispatched to the codes.

3.11 Pakistan's Perspective

Pakistan's claim over Kashmir is based on Mountbatten's partition plan that geographical proximity and communal affinity should be considered by the ruler of any State during accession to Pakistan or India.

Pakistan demands that the issue of the Kashmir dispute should be settled according to United Nations Commission for India and Pakistan. The United Nations Security Council resolution of January, 1949, these resolutions negates to the right to independence to Kashmir. Pakistan finds uncomfortable with the idea of an independent Kashmir, defined as in the third option. Pakistan projects State of Jammu and Kashmir as disputed territory.

Accession of Kashmir to India made in October 1947 did not imply that Kashmir was an integral part of India. Both Pakistan and India were agreed that future status of the State of Jammu and Kashmir would be determined by the right of self-determination to the people of Kashmir, IndoPak talks should be focused on this discussion and both countries will work out free, fair and internationally supervised plebiscite.

A democratic and impartial plebiscite should be conducted under the supervision of United Nations to offer people of Kashmir whether they want accession with India or Pakistan (Mussarat Abid., et al., 1988).

3.12 Indian Perspective

India claims over Kashmir due to the adoption of the “Instrument of Accession” by the Maharaja Hari Singh of Kashmir on 27 October 1947. India further claims that Kashmir dispute is no more international issue as Simla Agreement (1972) had renewed it into two-sided issue between India and Pakistan. India has always been unfriendly to the idea of independent Kashmir.

With the rise of communalism in Indian politics Delhi’s ‘Atoot Ang’¹⁸ (integral part) stand over Kashmir has increased new push. After elimination of Article 370 of Indian Constitution which offers extraordinary standing to the State of Jammu and Kashmir, India considers that, they cannot give and take on clear principles that there are no third party rights.

India cannot agree to take a third party to the channel of communication on Kashmir and focus that the exchange of ideas has to be initiated by the India and Pakistan themselves. The international community’s main apprehension is concentration of tensions between India and Pakistan over Kashmir and avoids the further nuclear explosion in the South Asian region, as a replacement for Kashmiris’ inclusion as a third party to the heated discussion.

This is established by the United Nations Commission for India and Pakistan Resolution No. (1172) of June 7, 1998 totally calling upon India and Pakistan to resolve Kashmir issue through significant and result oriented mutual consultations.

Unchanging agreement of whole State of Jammu and Kashmir would be made on the outcomes of such a fair and freely led plebiscite. Pakistan claims that India should completely embrace peace process to decide this unresolved issue which should be within model of Simla Pact and in conventionality with the above-mentioned United Nations Security Council Resolutions.

Nevertheless, an International facilitative role in these talks should not be ruled out. Both States India and Pakistan have Nuclear Arms and delivery system. So war under such circumstances would not be restricted as it was in 1948.

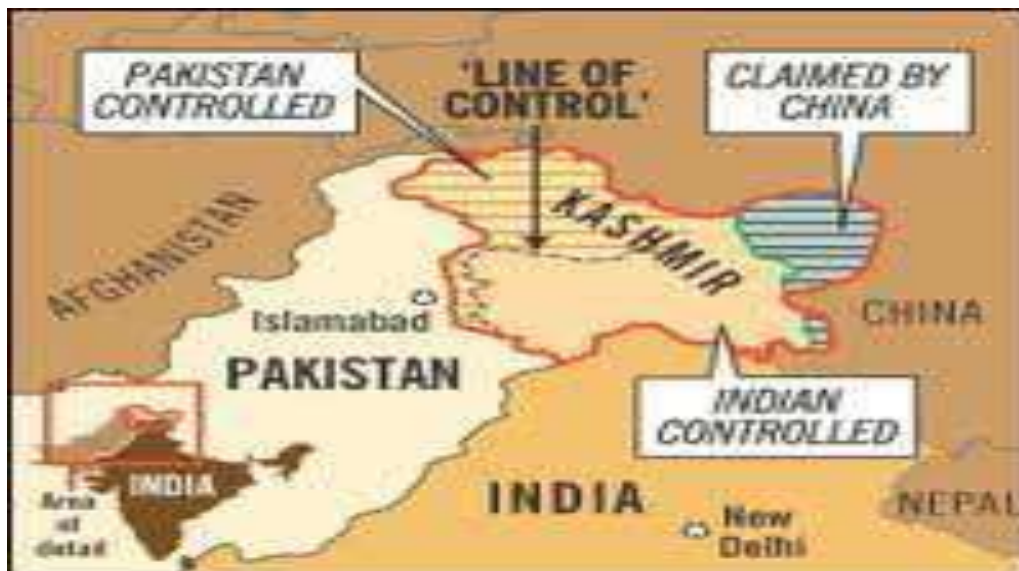
¹⁸ Atoot Ang’ (integral part)

Figure3.1: Map of Kashmir



Source: www.google.com.pk. Retrieved on 3/09/2013

Figure 3.2 Map of Kashmir



Source: Source: www.google.com.pk. Retrieved on 3/09/2013

3.13 Chinese Perspective

Among the regional States, China also has some stakes and major anxiety about the notion of autonomous Kashmir. China is not divergent to the idea of independent Kashmir but ponders it as treachery against her own integrity. China applauded the pronouncement of Prime Minister of Pakistan Muhammad Ali Bogra and Prime Minister of India Pundit Nehru to hold talks on Kashmir issue.

Chinese fears about the idea of Independent Kashmir are because of Aksai chin, Tibet and Chinese Muslim province of Xinjiang (Bashir Aamir, et.al., 1999).

The boundary settlement, of the Pak-China border in March 1963 and China's border clash with India involved China directly into the dispute as March 1963 border agreement was a temporary one. Article Six provides that after the settlement of the Kashmir dispute, the Government will be renegotiated /reconfirmed by China and the concerned sovereign authority. Additionally, at whatever time the United Nations and the West declared Kashmir dispute, they would also mention Aksai-chin¹⁹ under Chinese control.

In January, 1992, American Assistant Secretary of State said, "the State of Jammu and Kashmir contains of all the regions which were part of it in 1947. Such announcements are a basis of concern to both India and China. Aksai-chin is a territory claimed by India to be part of its Laddakh.

Being a single road connection of China with Tibet, any discontinuation in case of independent State of Jammu and Kashmir will help the provision of underground backing to the defiant elements in Tibet. Moreover this, China doubts that conceding the separate status to Kashmir will support and give a new motivation to the nationalist movements in Tibet and Xinjiang. **Figure**

3.3 Map of Kashmir

¹⁹ Aksai Chin, Uyghur is one of the two main disputed border areas between China and India.



Source: Source: www.google.com.pk. Retrieved on 3/09/2013

3.14 Kashmiri People's Perspective

All Parties Hurriet Conference (APHC) India, demands implementation of United Nations

Resolutions on Kashmir; Noticeable among All Parties Hurriet Conference (APHC) members are Jamaat-e-Islami, peoples Conference, Awami Action Committee, Muslim Conference, Ittehadul Muslimeen and Jammu and Kashmir Liberation Front, M Yasin Malik (Group).

Hizbul-Mujahdeen apprizes the aim of establishing Jammu and Kashmir State's succession to Pakistan. A resolution called the "Qarardad e Ilhaq-Pakistan" was passed on 27th October 1990 ((Bashir Aamir et.al. 1999).

3.15 Nuclearization of South Asia

India conducted its first nuclear test 1974. India again detonated its nuclear devices on May 11 and 13, 1998 and Pakistan responded by doing so on 28 and 30 May. These explosions gave a new height not only to the policies of South Asia but also to the nature of relationship between India and Pakistan. The issue of Kashmir came to lime light getting singular life after this expansion. International community understood that without the resolution of this long standing issue, an

effort to create lasting peace in South Asia cannot be actually materialized. British Minister of State stated that “Resolving the Kashmir issue is an important part of our plan”.

Further, White House spokesperson expressed that “Our point has not changed but our interest in seeing the issue resolved has increased”, and, “we will take strong actions to need to both sides to workout solutions of problems”.

Both India and Pakistan have fought three wars two of them were over Kashmir issue as a ultimate reason. High level of security expenses has crippled down the progress of sub-continent- their 40 % of populations are living below poverty line, so both countries should understand that Kashmir issue can be a root cause of another skirmish in South Asia which might escalate to a nuclear level.

In addition, technological sophistication is far more then what it was in 1948. It would be unthinkable for more damaging than 1965 war which resulted in about 6800 causalities on both sides. Once started it would be difficult to limit the boundaries of conflict. Will the Nuclearization of India and Pakistan led in stability or set a option into more dangerous waters?

What does the future hold for the arch-rivals of the sub-continent?

Therefore, there is a serious need for reengagement and to pledge a negotiated settlement of the State of Jammu and Kashmir, in order to reduce the level of instability caused by the Nuclearization of India and Pakistan (Muhammad Aamir Basheer, 1999).

A dialogue between India and Pakistan should put in place mutually or multilaterally arranged by declaring terms and conditions, procedures and checks to curtail the chance of beginning an accidental nuclear war or a nuclear war by miscalculation.

Rationally an atomic interchange would be an intolerable development for both the countries.

Informal talks by experts with a one-point agenda, averting nuclear war, needs to be assumed by India and Pakistan on the question of Jammu and Kashmir.

The Kashmir issue is risky enough for the world so international community as a third party to play a role of mediator between India and Pakistan or force to both countries to implement United Nations Security Council Resolutions (UNSCR) by taking guarantees from both Nations to agree to this one pint agenda (Mussarat Abid, et.al., 1988).

3.16 CONCLUSION

This chapter focuses on the legal and moral aspects of Kashmir issue and analyses the Indian perspective, Pakistani perspective and Kashmiri perspective on the issue of Kashmir.

This chapter has used primary sources including the Treaty of Amritsar 1846, the instrument of accession of Jammu and Kashmir, Standstill Agreement between India and State of Hyderabad, Accession of the State of Junagadh and Kashmir Accord. These archival documents give a clear picture of what happened to Kashmir and how it was dealt by the officials.

These documents also demonstrate that Kashmir was sold and purchased like a commodity without taking into account the sentiments of people of Kashmir.

These historical documents also suggest that the instrument of accession was hurriedly signed by Maharaja Hari Singh and promptly responded by the government of India, without addressing legal, constitutional, and moral aspects of the conflict.

The partition Plan document indicates that the British Government of India defined the criteria for partition but unfortunately, the rules and regulations set for the partition plan were not implemented in letter and spirit.

Credibility of the plan was soon exposed when India forcibly occupied Kashmir and did not recognize the right of self-determination of Kashmiri people to exercise their right to join the country of their choice.

Finally, this chapter concludes that there is a huge risk involved in the way Kashmir issue is dealt by concerned parties. It can be argued that the major impact of Kashmir conflict is proliferation of nuclear weapons in South Asia.

Thus, international community should intervene and help to resolve this dispute in order to avert nuclear war between India and Pakistan which can be most disastrous event in the history of mankind.

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Chapter Four

The role of United Nations in Resolving Kashmir Issue

4.1 Introduction

This chapter focuses on the United Nations initiatives, taken by the international organization since, 1948, the complete resolutions, the report of commissions, efforts of different legal, political, international law experts to resolve the dispute between India & Pakistan, on the issue of Kashmir. The chapter also highlights the positive outcomes of international community specially, United States of America,²⁰ United Kingdom²¹ and others as third party facilitators to resolve this issue properly. The chapter reflects the clear picture about the parties involved and their attitude to resolve this issue and defines the stumbling block, deadlock created by one party to the other. The chapter will further facilitate researchers, scholars and governments of India and Pakistan to

²⁰ (The United States of America (USA) commonly referred to as the United States (US or U.S.), America, and sometimes the States, is a federal republic consisting of 50 states and a federal district)

²¹ (The United Kingdom of Great Britain and Northern Ireland, commonly known as the United Kingdom (UK) or Britain a sovereign state located off the northwestern coast of continental Europe. The country includes the island of Great Britain (a term sometimes also loosely applied to the whole state), the northeastern part of the Ireland and many smaller islands Northern Ireland is the only part of the UK that shares a land)

initiate new level of dialogue to resolve this core issue of South Asia for the peace and stability of the region.

On January, 1 1948, the Government of India filed a petition in the United Nations, Security Council, to conduct an inquiry about Kashmir dispute, by responding, the United Nations, established a Commission and two representatives, with the mandate to negotiate for acceptable solution to the conflict between two countries, India and Pakistan. The clouds of war between two countries were floating when Security Council and its Commission and its representatives were engaged to understand legal and technical aspects of the dispute. Some of the principle documents are presented: "A letter was written by the Government of India, to divert attention of the President of the United Nations, Security Council to conduct an inquiry according to Article 34 and 35 of the United Nations, Charter which related to *"any member may bring any situation, whose continuance is likely to endanger the maintenance of International peace and security, to the attention of the Security Council"*.

Such a situation now exists between India and Pakistan owing to the aid which invaders, consisting of nationals of Pakistan and of tribesmen...are drawing from Pakistan for operations against Jammu and Kashmir, a State which has acceded to the Dominion of India and is part of India. The Government of India requested the Security Council to call upon Pakistan to put an end immediately to the giving are such assistance which is an act of aggression against India. If Pakistan does not do so, the Government of India may be compelled, in self-defense, to enter Pakistan territory, in order to take military action against the invaders. The matter is therefore one of extreme emergency and calls for immediate action...

The President of United Nations Security Council, requested both Governments to refrain from any step in compatible with the Charter and liable to result in an aggression of the situation.

4.2 Role of United Nations in resolution of Kashmir

The United Nations (UN) is an international organization established on 24 October 1945 to endorse international co-operation. A replacement for the effective League of Nations, the organization was formed following the World War to avoid another such conflict. At its founding, the UN had 51 member States; there are now 193. The UN Head office is located in Manhattan,²² New York City and enjoys extraterritoriality.

Further main offices are placed in Geneva, Nairobi and Vienna. The organization is funded by assessed and voluntary contributions from its member States. Its aims and objectives are keeping international harmony and safety, encouraging human rights, promoting collective and financial progress, defending the environment and providing public-spirited aid in cases of food shortage, natural disaster, and armed conflict (Korbel Joseph, 1954).

²² Manhattan is the most densely populated of the five boroughs of New York City. The borough is coterminous with New York County, an original country of the US State of New York. The borough consists mostly of Manhattan Island, bounded by the East, Hudson, and Harlem Rivers, but also includes several small adjacent islands, economic and cultural center of the United States.

The United Nations Charter was drafted at a conference in April- June 1945; this charter took effect on 24 October on same year. The organization joined in major activities in Korea and Congo, as well as approving the creation of the State of Israel in 1947.

4.2.1 United Nations Commission on India and Pakistan (UNCIP)

The commission of United Nations gave following solutions to the issue of Kashmir.

1. The Government of India and Pakistan were to reach on a decision upon the issuing of a truce order within four days after their approval of the resolutions. The Commission would appoint military observers of the cease-fire.²³
2. Both Governments were to agree upon the following codes of a truce settlement.
3. Pakistan would pull out her troops from Kashmir, as the presence of troops of Pakistan in the land of the State of Jammu and Kashmir creates a substantial change in the situation since it was represented by the Government of Pakistan before the Security Council.²⁴
4. The tribesmen and Pakistani residents will take away.
5. The area emptied by the Pakistani forces would be controlled by the local authorities under the observation of the Commission.
6. The Government of India would begin to pull out the main part of its forces from Kashmir after the Commission had conveyed them that the tribesmen, Pakistani natives and that the Pakistani forces were being withdrawn.

²³ A ceasefire (or truce) is a temporary stoppage of a war in which each side agrees with the other to suspend aggressive actions. Ceasefires may be declared as part of a formal treaty, but they have also been called as part of an informal understanding between opposing forces. An armistice is a formal agreement to end fighting.

²⁴ Under the Charter, the Security Council has primary responsibility for the maintenance of international peace and security. It has 15 Members, and each Member has one vote. Under the Charter, all Member States are obligated to comply with Council).

7. Incomplete approval of the circumstances for a final settlement of the dispute, India would continue within the lines present at the moment of cease-fire a least possible force to assist local authorities in the compliance of line and order.

Part III, of the resolution advised the Government of India and Pakistan to restart their firm assurance that the dispute of Kashmir will be determined through ascertaining the aspirations of the people of the State of Jammu and Kashmir (Korbel Joseph, 1954).

According to The United Nations Security Council accord of January 28, 1948, it was resolved that the issue of Kashmir would be settled according to the wishes of people of Jammu and Kashmir.

1. The demand as to whether the state of Jammu and Kashmir will join to India or Pakistan shall be settled by referendum;
2. This poll must be led under circumstances which will safeguard widespread neutrality;
3. The vote will as a result be held under the guidance of the United Nations (Bashir Aamir Muhammad, et al, 1999).

United Nations Security Council continued to focus on the issue of Kashmir and passed following resolution on 21 April 1948.

1. All military troops and fighters will be removed from both parts of the Kashmir
2. A representative coalition cabinet participated by all major political groups should be established
3. Free and independent referendum and appointment of its commissioner guaranteed by United Nations will be conducted
4. Final report will be presented to United Nations Security Council

4.2.2 United Nations Commissions on India and Pakistan (UNCIP)²⁵Resolution

The query of the succession of the State of Jammu and Kashmir to India or Pakistan will be resolved over the elected method of a free and unbiased referendum. It also made requirements for the proposal of a plebiscite commissioner who would be a persona of high international standing and

²⁵ For the solution of Kashmir problem Security Council of United Nations appointed a Commission for India and Pakistan (U.N.C.I.P).

authoritative general confidence. Though he was to be legally hired by the Government of Jammu and Kashmir for the procedural reasons of not interfering with the selfdetermining rights of that country, it was provided that he would hold such powers as he would think through needed for instituting and directing the plebiscite and for assuring the free will and fairness of plebiscite.

The Two Resolutions of the United Nations Commissions on India and Pakistan (UNCIP), dated 13, 1948, and January 5, 1949 were approved by the United Nation Security Council and accepted by India and Pakistan. The United Nations Commissions on India and Pakistan (UNCIP) recommended the name of General McNaughton of Canada, President of the United Nations Security Council, to initiate talks between two countries.

4.2.3 Key Proposals by United Nations Experts



Gen AGL McNaughton
PC, CH, CB, CMG, DSO, CD (1887 – 1966)

General McNaughton's²⁶ Proposals

All military and para military troops will be removed immediately from the State of Jammu and Kashmir

- Armed forces will be decreased at minimum
- Both sides of truce line may not feel insecure

India rejected this proposal while Pakistan accepted (Korbel Joseph, 1954).

²⁶ General Andrew George Latta McNaughton, (25 February 1887 – 11 July 1966) was a Canadian scientist, army officer, cabinet minister, and diplomat.

General McNaughton's Proposal (17th December, 1949)

II

- Implementation of no military strategy was decided
- Focusing over Northern Areas, dispositioning of Azad forces and the removal of the regular forces of India.
- Step by step to pull out troops from both sides of the ceasefire line at the same time without generating any fear to the people
- Plebiscite will be held to decide the future course of Kashmir state (Zahoorul Haq, 1991).

On March 14, 1950, the United Nations Security Council appointed Sir Owen Dixon a Judge of the High Court of Australia, as its representative.

Sir Owen Dixon Proposal (14th March, 1950) I



Sir Owen Dixon (1886–1972)

- The southern areas of the state (now being mostly Hindu areas) may be joined with India.
- The region, consisted of Muslim majority areas may join Pakistan.
- Kashmir along with the neighboring areas, to be permitted to choose its future through a direct vote. Laddakh is to follow the result of plebiscite, held in the region (Kargil being absolutely Muslim inhabitants was to go with the vote).

- The said area may be set under United Nations Trusteeship for a stated time (i.e. 5 or 10 years) (Aziz Abdul Mir, 1991).

Sir Owen Dixon's²⁷ Formula II Proposed

- A substitute was formulated for general plebiscite in the State
- A plebiscite in the limited area comprising Kashmir vale and neighboring areas
- The rest of the State should be divided between India and Pakistan.

Sir Owen Dixon's suggestions for demilitarization, outlined particularly to meet the Indian requests, but again India overruled these offers while Pakistan accepted them. Sir Owen Dixon witnessed that "the circumstances as I originate it opened abnormal features", "The parties had agreed that the destiny of the State as a whole should be settled by a overall plebiscite but over a considerable period of time they had unsuccessful to decide on any of the primary methods which it was clearly required to take before it was possible to setup an organization to take 'plebiscite'. While to initiate first procedure of removal of army, the Pakistani Prime Minister agreed, but demilitarization plan was not accepted by Indian Government."

Sir Owen Dixon suggested another formula of the ballot that a single Government for the whole State- and an alliance Government consisting the two unfriendly parties or a impartial government by reliable personnel outside politics, or an executive organized by the United Nations Reps (Indian reply was negative).

Sir, Owen Dixon submitted his report to the United Nations Security Council as it is. "In the end, I became committed that India's pact would never be acquired to demilitarize the areas in any such form, or to provisions, governing the period of the plebiscite of any such character, as would in my view give an authorization about the referendum being led in situations satisfactorily securing in contradiction of pressure, and other procedures of inspiration and exploitation which the freedom and fairness of the plebiscite might be bargained (Khan A. Sattar, 2000).

²⁷ (Sir Owen Dixon OM GCMG, KC Sir Owen Dixon, (28 April 1886 – 7 July 1972) was an Australian judge and diplomat who served as the sixth Chief Justice of Australia. A justice of the High Court for thirty-five years, Dixon was one of the leading jurists in the English-speaking world and is widely regarded as Australia's greatest ever jurist.)

Sir Owen Dixon Initiated another Plan III

- In respect of the opinions of both parties on taking a direct vote district by district, assigning each to Pakistan or India giving to the result of voting;
- Or allowing to either of the two countries areas which categorically would vote for Pakistan or for India;
- Regulating the plebiscite to the Vale of Kashmir;
- India and Pakistan accepted a firm commitment to a plebiscite as a whole State.

“Give the impression to me to go must further than what according to my idea of the state of affairs was rational” (Sir Owen Dixon observed).

Sir Owen Dixon’s Brainchild Proposal

- A division of the state
- A referendum for the vale

It entirely be demilitarized, led by an executive frame of United Nations agencies.

Pakistan rejected but accepted later on, Sir Dixon invited the Prime Ministers’ of India and Pakistan to talk over the plan, on the contrary Indian Prime Minister denied to attend this key meeting. After these developments, Sir Owen Dixon presented his final report to United Nations Security Council that;

“There is I consider on the side of India a formation of what should be done to determine, the real will of people that was not expected by me. Beyond a shadow of a doubt it is a notion, which Pakistan does not share”. While refusing all suggestions of Sir Owen Dixon, by Indian Government but accepted by the Government of Pakistan all of the plans. The international media condemned India’s arrogance and it’s inflexibility as well as hypocrisy towards resolution of Kashmir dispute”

The London Times wrote that, “Like most great man, Nehru has his blind spot. In his case it is Kashmir, the land of his fore bears which he loves ‘like a woman’ because he is not amenable to reason on this subject, but allows emotion to get the better of common sense, Kashmir remains a stumbling block in the path of Indo-Pak friendship.” “So long as it is so India’s moral standing is impaired, her will to peace is in doubt, and her right to speak for Asia is questioned by her next

door neighbor. Critics may well ask, if self- determination under United Nations auspices was valid for Korea [as India advocates], why it is not valid for Kashmir.” (Korbel Joseph, 1954).

Frank P. Graham Proposals



Sir Frank P. Graham

United Nations Security Council introduced another round of discussions between India and Pakistan on the problem of the succession of the State of Jammu and Kashmir on February 21, 1951 Sir Gladwyne Jebb, of Great Britain, got consideration of Security Council²⁸(about the undecided, unsettled dispute between the Governments of India and Pakistan, and future phases of Indian sub-continent, which was not spoken ten months since this question last concluded. The Security Council, have clearly revealed the urgent need for eradicating the problem to cooperation and mutual assistance between the Government of India and Pakistan. “Never was it more necessary, indeed then it now is for the two great peace-loving States’ to give practical proof that these issues which divide them, great and disturbing though they are, are still gifted of amendments in unity with the commitments and codes of the organization” (Khan A. Sattar 2000).

Dr. Frank Grahams²⁹ Proposal

The Government of India and Pakistan should take a stand on my two most key offers;

- Timing for the appointment of the poll commissioner, and process of removal of military troops from Kashmir was decided;
- Pakistan submitted the name of Admiral Nimitz as poll commissioner;

²⁸ Under the Charter, the Security Council has primary responsibility for the maintenance of international peace and security. It has 15 Members, and each Member has one vote. Under the Charter, all Member States are obligated to comply with Council).

²⁹ Dr. Frank Graham, who succeeded Sir Owen Dixon as the United Nations representative was a step ahead from Dixon proposals.

- India rejected this plan by demanding that the military troops should be removed first (Korbel Joseph, 1954).

Dr. Frank Grahams Proposal II

- It was agreed that 12,000 to 18,000 soldiers should be deployed on the Indian side;
- The local State militia of 6,000 men; and 3,000 of 6,000 Azad forces on the Pakistan side;
- Plus 3,500 scouts in the Northern Areas;

Dr. Frank Graham modified and suggested another proposal

“The 18,000 and 6,000 men in that order while refusing to accept this scheme India submitted that 21,000 soldiers, total and refused to include in this figure the State militia. India asserted that full demilitarization of the Azad Kashmir and the replacement of the present armed forces by a civil force of 4, 000 of men (on half armed and one half unarmed). This force to be composed of 2,000 followers of Azad Government and 2,000 men normally resident in the Azad territory who were not followers of the Azad Government. According to Indian reason that if the future plebiscite be held in Sheikh Abdullah’s region, the presence of 27,000 soldiers friendly to India and Sheikh Abdullah; and on Azad zone, in the presence of 4,000 men of a civil force, only partially armed, and one half of whom be employed from emigrants living under Sheikh Abdullah’s government” (Haq Zahoorul, 1991).

Dr. Frank Graham’s Proposal (III) (February 1951)

1. No war pact was made on the dispute of Kashmir by Pakistan and India;
2. It was decided that both countries would not issue war like announcements on the issue of Kashmir
3. Removal of armed forced from state of Jammu and Kashmir
4. Under the supervision of United Nations a plebiscite will be conducted to confirm the will of the people of the State of Jammu and Kashmir ;

5. All forces will be withdrawn from the state of Jammu and Kashmir and Azad Kashmir respectively

Pakistan presented her objections over the number of soldiers must be higher than that, but communicated her preparedness and accepted Dr. Frank Graham's offer; Again Security Council agreed upon resolution, on December 23, 1952, according to the Governments of India and Pakistan to make their mind up in thirty days on the demilitarization of Kashmir in-favor of Dr. Graham's proposal. Pakistan accepted Dr. Frank Graham's proposals' while India once more and more refused to accept them.

On February 1953, in New York then Geneva, the talks among the representatives of India and Pakistan and Dr. Graham were restarted. Dr. Graham's positivity must be confirmed not less than a missionary because he devotedly brought six more suggestions on both the compartments of demilitarization and training of the poll commissioner's appointment into office (Haq Zahoorul 1991).

Dr. Graham's Initiatives IV

1. The Azad forces should be limited 6,000 men in Azad Jammu and Kashmir
2. The number of Indian warriors will be 21,000 in Indian held Jammu and Kashmir
3. The appointment of the poll commissioner;

According to resolution of January, 1949 after the implementation of the cease-fire arrangement, the final removal of the rest of the armed forces on both sides.

The conclusion of the fifth report of Dr. Graham to Security Council, Dr. Graham, stated hope that, "the government of over forty crore, people with the good motivation and support of the United Nations, join in discussion and conclude on an arrangement on Kashmir and lead their people toward peace and harmony" (Korbel Joseph, 1954).

4.3 United Nations Security Council: Plebiscite Plan

Text of resolution on the India-Pakistan dispute on the unsettled issue of Kashmir presented 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 26th meeting. The Security Council, having the well thought-out discussion and got complaint of the Government of India about the clash 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 the Pakistan; Being strongly of the view that the early restoration of peace and order in Jammu and Kashmir is essential and that India and Pakistan should do their greatest to bring about a termination of all fighting; Noting with satisfaction that both India and Pakistan desire that the consent of Jammu and Kashmir

to India or Pakistan should be decided through the democratic method of a free and neutral plebiscite; Considering that the continuance of the dispute is likely to threaten international peace and security.

4.3.1 Security Councils Resolutions of 17th January

Resolves that the membership of the commission established by the resolution of the council of 20 January 1943, shall be increased to five and shall include, in addition to the membership mentioned in that resolution, representative of India and Pakistan; United Nations Security Council, instructs the commission to proceed at once to the Indian sub continent and there place its good offices and mediation at disposal of Government 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 holdings of a plebiscite by the two governments, acting in cooperation 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 Government of India and Pakistan the following measures as those which in the opinion of council are appropriate to bring about a cessation of the fighting and to create proper conditions for a free and impartial plebiscite to decide whether the State of Jammu and Kashmir is to accede to India or Pakistan (Korbel Joseph, 1954).

4.4 Resolution of Peace and Order:

“The Government of Pakistan should assume to use its best endeavors;

- To secure the pulling out of forces from the State of Jammu and Kashmir of tribesmen and Pakistani citizens not normally resident therein who have arrived at the State for the purpose of fighting and to stop any intrusion into the State of such elements and any furnishing of material aid to those fighting, in the State.
- To make known to all concerned that the measures indicate in this and the following paragraphs provide full freedom to all subjects of the State, irrespective 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 co-operate in the maintenance of peace and”
order.

4.4.1 Indian Government should agree: “When it is established to the satisfaction of the commission setup in accordance with the Council’s resolution of 20 January 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; Make known that the withdrawal is taking place in stages and announce the completion of each stage. ”

1. When the Indian forces shall have been minimized to the strength mentioned in (a) above plan for discussion with the commission for the locating of remaining forces to be carried out in accordance with the following principles
2. That the presence of troops should not afford any terrorization or advent of extortion to the citizens of the State.
3. That as small as number as possible should be engaged in forward areas.
4. That any reserve of troops which may be included in the total strength should be located within their present base area.
5. 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 the 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.
6. 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 reestablishment and maintenance of law and order with due regard to protection of minorities, subject to such additional requirements as may be specified by the plebiscite administration.
7. If these local forces should be formed to be inadequate, the commission, subject to the agreement of both the government of India and the government of Pakistan, should arrange for use of such forces for either Dominion as it deems effective for the purpose of pacification” (Korbel Joseph, 1954).

Plebiscite³⁰:

1. "The Government of India should accept to guarantee that the Government of State request to the major political groups to elect responsibly legislatures to share fairly and fully in the conduct of the government at the Ministerial level, while the plebiscite is being arranged and accepted out.
2. The Government of India, should assume that there will be recognized in Jammu & Kashmir a poll admin to conduct a plebiscite as soon as possible on the issue of the consent of the State to India or Pakistan,
3. The Government of India should undertake that there will be delegated by the State to the poll admin such powers as the later considers necessary for holding a fair and neutral referendum, including, for that purpose only, the direction and supervision of the State forces and police.
4. The Government of India should at the request of the poll management make available from the Indian forces such assistance as the ballot paperwork may require for the performance of its functions.
5. The Government of India should agree that a applicant of the poll commissioner will be appointed by the Secretary General of the United Nations.
6. The plebiscite supervisor, acting as an officer of the State of Jammu and Kashmir, should have authority to nominate his assistants and other subordinates and to draft regulations governing the plebiscite. Such nominees should be formally appointed and such draft regulations should be formally publicized by the State of Jammu and Kashmir.
7. The Government of India should undertake that the Government of Jammu and Kashmir will appoint fully competent persons selected by the poll commissioner to act as special

³⁰ a vote by which the people of an entire country or district express an opinion for or against a proposal especially on a choice of government or ruler) A referendum (in some countries synonymous with plebiscite—or a vote on a ballot question) is a direct vote in which an entire electorate is asked to vote on a particular proposal. This may result in the adoption of a new constitution, constitutional amendment, or a law.

magistrates within the State judicial system to hear cases which in the opinion of the Poll Commissioner have a serious bearing on the preparation for and the conduct of a free and independent opinion poll.

- 8.** The terms of service of the commissioner should be the subject of a separate negotiation between the Secretary General of the United Nations and the Government of India.
- 9.** The commissioner should fix the terms of service for his assistants and sub-ordinates
- 10.** The commissioner should have the right to communicate directly with the Government of the State and with the Commission of Security Council and, through the Commission, with Security Council, with the Governments of the 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 previous (as he in his discretion may decide) any conditions 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 Commissioner and his staff in avoiding any risk, pressure or terrorization, corruption or other unnecessary influence on the voters in the plebiscite, and the Government of India should publically announce and should cause the Government of the State to announce his undertaking as an international responsibility binding on all public authorities and officials in Jammu and Kashmir.
- 12.** The Government of India should themselves and through the Government of State declare and make known that all subjects of the State of Jammu and Kashmir, irrespective 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 State also use their best endeavors to effect the pulling out from the State. Other than those who are normally resident there in or who on or since 15 August 1947 has entered it for a lawful purpose.

14. The Government of India should ensure that the Government of State release all political prisoners and take all possible steps so that:
15. 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;
16. There is no victimization;
17. Minorities in all parts of the State are accorded adequate protection
18. The Commission of the Security Council should, at the end of the plebiscite,
19. Certify to the Council whether the plebiscite has or has not been really free and impartial” (Korbel Joseph, 1954).

4.4.2 General provisions

1. “The Government of India and Pakistan should each be asked to recommend a member to be devoted to the Commission for such assistance as it may need in the presentation of its tasks.
2. The commission should establish in Jammu and Kashmir such observers as it may require for any of the proceeding in undertaking of the events designated in the previous sections.
3. The Security Council Commission should carry out the task assigned to it herein”.

4.4.3 United Nations Security Council: Draft proposals

The President of UN Security Council Mr. Langen Hove³¹, invited draft proposals from

India and Pakistan about the issue of Kashmir

India’s demands for draft resolution

1. Fighting should immediately be stopped in Kashmir;

³¹ Fernand van Langenhove (Belgium), the then President of the Security Council

2. Pakistan should remove her residents and fighters from Kashmir;
3. Peace, law and order should nearly be restored;
4. A National Kashmir Government under Sheikh Muhammad Abdullah should be established which should restore "legitimate political activity" in Kashmir and oversee a plebiscite under the United Nations backings;
5. India has a right to preserve her forces in Kashmir to safeguard Kashmir internally and externally till the state is part of India;
6. The United Nations Commission should start its work with a view to attaining these objects.

Pakistan's demand for draft resolution

1. United Nations Commission should bring about a neutral establishment in Kashmir which should include representatives of both the all Jammu and Kashmir National Conference and the Government of Azad Jammu and Kashmir;
2. United Nations Commission should ensure the extraction of all forces (including those of India) from Kashmir; United Nations Commission should hold a plebiscite there under its control.

Comparative Analysis of India and Pakistan's demands for draft resolution indicate following points of difference.

1. Pakistan demanded that an impartial administration should immediately be established in place of Sheikh Abdullah's³² Government. The Indian Government intentionally rejected the demand and suggested that the interim Government of Sheikh Abdullah be changed into a council of Ministers which should organize elections for the National Assembly and hold a plebiscite under the sponsorship of the United Nations;

³² Sheikh Mohammed Abdullah (5 December 1905 – 8 September 1982) was an Indian statesman who played a central role in the politics of Jammu and Kashmir, the northernmost Indian state. The self-styled "Sher-e-Kashmir" (Lion of Kashmir), Abdullah was the founding leader of the National Conference and thrice served as the head of government in Kashmir. He agitated against the rule of the Maharaja Hari Singh and urged self-rule for Kashmir. He was the Prime Minister of the state of Jammu and Kashmir after its controversial accession to India in 1947.

2. Pakistan suggested that United Nations Commission should way the departure of Indian forces. But India held that the presence of Indian troops in Kashmir was necessary for the internal and external security of the State;
3. India would not take out her troops from Kashmir till Kashmir remained a part of India (Korbel Joseph, 1954).

4.4.4 The United Nations Security Council: UN Observers

The cause which is now in dispute here, the cause of the fighting in Kashmir, is the question: to which of the two governments, India and Pakistan shall Kashmir accede?

In my idea, considerably the best way to stop the fighting is to assure those who are involved in it that a fair settlement will be arrived at under which their rights will be assured. In other words, as I remarked to the representative of India in our first talk after his arrival, in my profound conviction, a settlement at quickly in the Security Council is the really way to stop the fighting. The whole thing from the preliminary measures as to the fighting, right up to the conduct of the plebiscite in the end, is all one problem (Korbel Joseph, 1949).

The key to the problem lies in the plebiscite said the Chinese representative in Security Council. If the principle of a free and impartial plebiscite for deciding the all-important question of the accession of the Kashmir to India or Pakistan should be accepted, much of the incentive to violence and the use of force would be removed.

Warren Austin's³³ said "I think that all matters of the Security Council understand that a settlement would gain great strength if it had the approbation of good people all over the World. There is nothing, in my point of view that will command that approbation as will machinery that is free from suspicion and that gives to all over world the appearance of impartiality by actually being an impartial administration of the plebiscite."

Representative of Argentina gave following comments. "This matter having been referred to Security Council, the council is perfectly free to decide as it thinks fit, on the sole condition that it acts within the frame work of the charter? This is the real point of view, there can be no other solution, both the Maharaja, as absolute monarch of Kashmir, and the government or governments established by him, have already shown themselves biased in favor of one of the parties and cannot therefore, preside over a free plebiscite, even if they could, they should not do so, because the opposing party would not recognize the fairness of this plebiscite, even if it has been fairly conducted" (Korbel Joseph, 1954).

It is now suggested that the issue of settlement of the State of Jammu and Kashmir which remained as the agenda of United Nations Security Council should be passed on to the General

³³ Warren Robinson Austin (November 12, 1877 -- December 25, 1962) was an American politician and statesman who served as United States Senator from Vermont and US Ambassador to the United Nations.

Assembly, for the reason that the recommendations of United Nations General Assembly are more powerful and moral and legal support of the majority of its members. The General Assembly should appeal to India and Pakistan to declare Kashmir free from all military and para military forces according to those proposals already recommended by the Security Council Resolution of December 23, 1952 and to continue with the plebiscite as it has been agreed upon the resolution of the United Nation Commission on India and Pakistan. This is appropriate time that the General Assembly should at once ask question to “International Court of Justice”⁴⁰ for an advisory opinion on the legal authority of Kashmir’s accord to India? (Korbel Joseph, 1949).

4.4.5 The Outcome of UN Security Council’s initiatives: Draft Resolution

The draft resolution was moved by the Great Britain and United States.” This plan reiterated the two original resolutions of the Commission of August 13, 1948 and January 5, 1949, accepted by Pakistan and India, and indeed urged their mutual acceptance of a plebiscite” (Korbel Joseph, 1954).

40

The International Court of Justice (ICJ) is the principal judicial organ of the United Nations (UN). It was established in June 1945 by the Charter of the United Nations and began work in April 1946. The seat of the Court is at the Peace Palace in The Hague (Netherlands). Of the six principal organs of the United Nations, it is the only one not located in New York (United States of America). The Court’s role is to settle, in accordance with international law, legal disputes submitted to it by States and to give advisory opinions on legal questions referred to it by authorized United Nations organs and specialized agencies.

The Court is composed of 15 Judges, who are elected for terms of office of nine years by the United Nations General Assembly and the Security Council. It is assisted by a Registry, its administrative organ. Its official languages are English and French.

After consultation with Governments of India and Pakistan, United Nations appointed representative.

The draft resolution is given as under:

1. The Kashmir should be demilitarized within three months and in case of miscarriage to report to the Security Council.
2. Points of difference between the parties in regard to the clarification and execution of the Commission’s Resolutions.
3. For mediation, a mediator or a panel of mediators, selected by the President of the International Court of Justice; after discussion with both parties India and Pakistan (in

case of disappointment). The proposal was followed by eight meetings and sponsored by Brazil, the Netherlands, Turkey, Ecuador, France, and China.

On March 30, the resolution was passed by eight votes, while Soviet Union, Yugoslavia, and India abstaining, according to Article 27, paragraph 3 of the chapter, of "being a party in dispute". "Pakistan accepted proposal, while India rejected because of arbitration proposal."

"We will not allow the destiny of forty lacks people of Jammu and Kashmir to be settled by a third person (United Nations Security Council. This is the point where the attitude of India must be criticized, in the history of international relations, countries have accepted the legality and legitimacy of the international organization, though sometimes objected due to technical, political, and legal flaws; We have a example of United States, for example up to 1914, had submitted 86 cases of international arbitration. In fact India and all the countries of United Nations charter, according to paragraph I, Article 33, which defines "The parties to any dispute shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, Judicial settlement, are principally entitle to act upon it...The leaders of the republic of India, even so, highly honor and to solve international disputes by means of arbitration."³⁴ Article 51 of the Constitution defines that, "the State should endeavor to ...

- (c) Faster respect for international law and treaty obligations in the dealing of organized peoples of one nation;
- (d) Encourage settlement of international disputes by arbitration.

In 1950, Pundit Nehru, offered Pakistan, No War Declaration. Especially settlement of all disputes through recognized peaceful methods such as negotiation, or by resort to mediation or arbitration.

When Prime Minister of Pakistan Liaquat Ali Khan⁴², practically and sincerely offered Pundit Nehru, about Kashmir dispute be arbitrated as well as other Indo-Pak issues (Korbel Joseph, 1954).

"The United Nations Security Council and Sir Owen Dixon rejected claim of Indian Government that the Kashmir dispute as political issue and cannot be possibly resolved by reference to a Judicial Tribunal. Further, the recommendations of Sir Owen Dixon and both resolutions of United Nations Commission on India and Pakistan not verified the availability of Pakistan army in Kashmir. On the other hand, if India had legal proof about the insincere intentions of Pakistan in Kashmir; Why India herself filed an application under article 34 of United Nations Charter in the United Nations Security Council to conduct an inquiry according to Chapter VI of the United Nations Charter, "peaceful settlements of disputes" not under Chapter VII which is related to "Acts of Aggression".

³⁴ Arbitration, a form of alternative dispute resolution, (ADR), is a technique for the resolution of disputes outside the courts. The parties to a dispute refer it to *arbitration* by one or more persons (the arbitrators, arbiters or arbitral

If India well thought-out Pakistan to be an attacker in Kashmir, it would seem to be political suicide for her. On what grounds the Indian leadership could decline to see an act of clear cut involvement of Chinese troops in the war against the United Nations in Korea. For instance, the Case of Korea.⁴³

tribunals) and agree to be bound by the arbitration decision (the award) A third party reviews the evidence in the case and imposes a decision that is legally binding on both sides and enforceable in the courts.

⁴²

Nawabzada Liaquat Ali Khan (1885-1951) was one of the leading founding fathers of modern Pakistan, statesman, lawyer, and political theorist who became and served as the first prime minister of Pakistan. In addition, he was also the first Defence minister and he was the first Finance minister of undivided. He also served as minister of Commonwealth and Kashmir Affairs and from 1947 until his assassination in 1951.

⁴³

Korea, The territory that is divided into two distinct sovereign states, North Korea or Democratic People's Republic of Korea and South Korea. Korea is located on the Korean Peninsula. It is bordered by China to the North West and Russia to the North East.

I The United Nations had openly condemned the aggression of the North Korean Communists in the South Korea.

II. It had called upon its members to assist the victims of aggression.

The resolution passed by United Nations on act of aggression:

“It was clear it would not help to call a country an aggressor when you intended having dealings with it in order to reach settlement by negotiation and the two approaches are directly opposed to each other.”

The all outstanding issues between Pakistan and India should be resolved through dialogue process, this is the policy statement of Indian leadership, on the contrary, this is similarly lack of uniformity between this attitude of Indian leadership that only focus Pakistan be declared as an aggressor in Kashmir.

Commenting on the United Nations Security Council Resolution, India declared it “highly objectionable”. A challenge to India's self-respect. Remarking about Great Britain and United States at a press conference, India threatened them that “they have completely lost the capacity to think and Judge anything”.³⁵

Sheikh Abdullah accepted the final accession of Kashmir to India. The Indian leadership shared a legal theory that would confuse the students of International law. “These rights and responsibilities comprised the safety of not only the Indian States that have acceded to us, but also other States

³⁵ (The United Kingdom of Great Britain and Northern Ireland, commonly known as the United Kingdom (UK) or

Britain a sovereign state located off the northwestern coast of continental Europe. The country includes the island of Great Britain (a term sometimes also loosely applied to the whole state), the northeastern part of the Ireland and many smaller islands Northern Ireland is the only part of the UK that shares a land).

that had not accepted to Pakistan. Thus, regardless of accession, we would have had the commitment to protect the people of Kashmir against aggression. Kashmiris at no time been recognized as a State under international law,³⁶ but has been an integral part of India. “Partition made no difference to our responsibilities in regard to Kashmir as long as it did not deliberately accede to Pakistan” (Korbel Joseph, 1954).

4.4.5.1 Summary of points proposed by United Nations

S.#:	United Nations Resolutions	Accepted by	Rejected by	Status
1	Statement of Agreement UNSC, Jan, 28, 1948	Pakistan	India	Not implemented
2	United Nations Security Council Resolution April 21 st	Pakistan	India	Not Implemented
3	United Nations Commission Proposal September 21, 1948	Pakistan	India	Not Implemented
4	McNaughton Proposal 17 th December, 1949	Pakistan	India	Not Implemented
5	General McNaughton Proposal II	Pakistan	India	Not implemented
6	Sir Owen Dixon Proposal 14 th March, 1950	Pakistan	India	Not implemented
7	Frank Graham’s Proposals I February 1951	Pakistan	India	Not Implemented
8	Frank Graham’s Proposals II	Pakistan	India	Not implemented
9	Frank Graham’s Proposals III	Pakistan	India	Not implemented
10	Frank Graham’s Initiatives IV	Pakistan	India	Not Implemented

³⁶ **International law** is the set of rules generally regarded and accepted as binding in relations between states and between nations. It serves as a framework for the practice of stable and organized international relations. International law differs from state-based legal system in that it is primarily applicable to countries rather than to private citizens. National law may become international law when treaties delegate national jurisdiction to supranational tribunals such as the European Court of Human Rights or the International Criminal Court. Treaties such as the Geneva Conventions may require national law to conform.

11	Draft Resolution moved by UK and USA Pakistan	Pakistan	India	Not Implemented
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4.6 Kashmir issue and intervening factors

S. No	
1	Due to Cold war, world was divided on ideological basis.
2	Pakistan was a United State ally while the Soviet Union favored India.
3	In 1972, Simla Agreement declared Kashmir as a bilateral issue between Pakistan and India. Again 1998 Pakistan-India Nuclearization, Internationalized the Kashmir issue into multilateral.
4	To prevent any Nuclear war between Pakistan and India, international community, United States and United Nations should intervene to break the deadlock.

4.7 Conclusion

This chapter has examined the role of United Nations which a world body for deliberations on the political issues and providing solutions to international disputes. The United Nations have facilitated various discussions and research initiatives to resolve the issue of Kashmir. The UNO has also involved big powers to find out the solution of Kashmir problem. These countries include United States of America, United Kingdom, China, Canada and other friendly nations of the world. The chapter argues that United Nations have always stressed to resolve the Kashmir issue, through dialogue and peaceful means. Nevertheless, it is observed that the attitude of Indian leadership was not positive and, inflexible regarding the resolution of this issue.

The chapter also stress on the fact that it was India itself which took this issue to the United Nations under articles 34 and 35 of the United Nations Charter in 1948. In the response United Nations intervened in the problem under chapter VI and established United Nations Commission on India and Pakistan. The United Nations established commissions, sent experts, observers' academies, generals as heads to address and resolve Kashmir issue. It is noteworthy to explain that all those commissions established by United Nations, resolutions passed by United Nations Security

Council, initiatives taken by International community and friendly nations are still valid and have moral mandate to resolve this core issue between India and Pakistan through dialogue and peaceful means. Nevertheless, all these efforts were not prove fruitful due to the attitude of India. India did not accept the third party intervention.

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Chapter Five Dialogue Process:

Analysis of Outcomes





5.1 Introduction

The chapter focuses on the history of dialogue between India and Pakistan and its results since 1947 to date, the chapter first of all narrates talks between Quaid I Azam Muhammad Ali Jinnah and Lord Mountbatten, where Jinnah initiated his three point formula to resolve Kashmir issue, which was also supported by Mountbatten, but he himself accepted that he had no mandate. On the other hand it is also discussed the Indian Counter Proposal and Indian Prime Minister's reply to the Prime Minister of Pakistan. The chapter also analyses minutes of the joint meeting talks between Ghulam Muhammad Bogra and Pundit Nehru, both Prime Ministers of India and Pakistan initiates "New Idea of division" of the Vale of Kashmir. Further, it highlights negotiations between President Ayub Khan of Pakistan and Pundit Nehru, Prime Minister of India, where both leaders agreed upon "No War agreement" between two countries.

Furthermore, the chapter elaborates Indian offer of "Political Settlement Proposal" to Pakistan during Zulfiqar Ali Bhutto and Sardar Sawaran Singh dialogue. The chapter also explains outcomes of "Tashkent Declaration"³⁷, complete draft of agreement between Ayub Khan, President of Pakistan and Lal Bahadur Shastri,³⁸ prime Minister of India at Tashkent; Pakistan reiterated over all stand on plebiscite in the State of Jammu and Kashmir. In addition, the chapter examines the Shimla Agreement duly signed by Zulfiqar Ali Bhutto and Indra Gandhi which resolves to settle their differences by peaceful means through bilateral negotiations. In the last Lahore Declaration and all

³⁷ The Tashkent Declaration was a peace agreement between India and Pakistan, which took place after the Indo-Pak war of 1965. Peace had been achieved on 23 September by the intervention of the great powers who pushed the two nations to a cease fire for fears the conflict could escalate and draw in other powers.

³⁸ Lal Bahadur Shastri (1904 –1966) was the second Prime Minister of the Republic of India and a leader of the Indian National Congress party. Shastri joined the Indian Independence movement in the 1920s. Deeply impressed and influenced by Mahatma Gandhi, he became a loyal follower, first of Gandhi, and then of Jawaharlal Nehru. Following independence in 1947, he joined the latter's government and became one of Prime Minister Nehru's principal lieutenants, first as Railways Minister (1951–56), and then in a variety of other functions, including Home Minister. Shastri was chosen as Nehru's successor owing to his adherence to Nehruvian socialism after Nehru's daughter Indira turned down Congress President K. Kamaraj's offer of premiership.

of its negotiated developments are included between the leadership of Pakistan and India to resolve Kashmir Issue.

5.2 Muhammad Ali Jinnah and Mountbatten-talks



(Lahore October 31, November 1, 1947)

The talks between Quaid-I-Azam Mohammad Ali Jinnah, the first Governor General of Pakistan and Lord Mountbatten, the Governor General of India were held at Lahore on November 1, 1947. Muhammad Ali Jinnah gave three-point proposal about Kashmir issue.

The first point proposed that, in order to put into effect the immediate cessation of fighting, the two Governor's General should be authorized and vested with full powers by both dominion Governments to issue a proclamation forthwith giving forty-eight hours' notice to the two opposing forces to cease-fire; the second point of Muhammad Ali Jinnah focused on the withdrawal of all armed forces of India and Pakistan from state of Jammu and Kashmir; the third point forced upon both the forces of Indian dominion and the tribesmen should withdraw simultaneously and with utmost speed from the State of Jammu and Kashmir. Indo-Pak military action would be taken against tribesmen. With the sanction of the two dominion governments, the two Governor's General should be given full power to restore peace and undertake the administration of the State of Jammu and Kashmir and arrange for a plebiscite without delay under their joint control and supervision; To restore peace in Jammu in Kashmir a plebiscite under joint control and supervision should be arranged (Korbel Joseph, 1954).

Lord Mountbatten's Reciprocal Reply to Mr. Jinnah

The government of India is trying to persuade the Maharaja to institute progressive government in the Jammu and Kashmir state so that a democratic and impartial plebiscite be held according to the wishes of Kashmiri people and as per partition plan.

- Determine the will of the people
- And then assent to the state of the people's choice

India insisted to stabilize peace and order first and afterwards to have a referendum.

In response to Quaid-e-Azam Muhammad Ali Jinnah's⁴⁸ Proposal, the Prime Minister of India on November, 6, 1947 sent a proposal to Quaid-e-Azam Muhammad Ali Jinnah, Governor General of Pakistan. In response to talks between Jinnah and Mountbatten, India gave a counter proposal that the Government of Pakistan should undertake to compel the raiders to withdraw from Azad Jammu and Kashmir. Reciprocally the Government of India would repeat her declaration to withdraw its troops from Kashmir as soon as raiders have withdrawn, in this regard the Government of India and Pakistan should make a joint request to the United Nations to undertake a plebiscite in Kashmir with the least possible delay (Amin Tahir, 1994).

48

Muhammad Ali Jinnah (1876 – 1948) was a lawyer, politician and the founder of Pakistan. Jinnah served as leader of the All-India Muslim league from All- India Muslim League from 1913 until Pakistan's independence on 14 August 1947 and as Pakistan's first Governor-General from independence until his death. He is revered in Pakistan as *Quaid-i-Azam* a Great Leader and the father of the nation.

5.3 Liaquat Ali Khan- Nehru Talks



(April 8, 1950 at New Delhi, India)

The first prime minister of Pakistan expressed his ideas about Kashmir issue and stressed upon that the fundamental charter of the United Nations is to prevent might prevailing over right". The whole dispute of Kashmir therefore, should be brought before the bar of international opinion. India were ready to request the United Nations immediately to appoint it's representative in Jammu and Kashmir State in order to put a stop to fighting and to repression of Muslims in the State, to arrange the program of withdrawal of outside forces and to setup an impartial administration of the state till a plebiscite be held and to undertake the plebiscite under its direction and control for the purpose of ascertaining the free and unfettered will of the people of State.

On the question of accession of the state of Jammu and Kashmir, the government of Pakistan is prepared to accept a similar solution of the dispute as in the case of Manavadar and Junagadh princely states applied by the government of India under British rule.

In addition the Indian government was prepared to invite United Nations Observers to come here and advise both India and Pakistan on the question of Kashmir issue and supervise democratic impartial plebiscite by giving the choice to the people of the state of Jammu and Kashmir to join Pakistan or India as per guidelines of partition plan which frame worked on the basis of communal lines between the division of Pakistan and India.

5.4 Liaquat-Bogra³⁹ – Nehru Talks



(APRIL 1953 at London)

The talks were held between the prime minister of Pakistan and the first prime minister of India in 1953, on the question of Jammu and Kashmir State, in a joint meeting with Prime Minister of Pakistan Liaquat Ali Khan and Pundit Jawarhar Lal Nehru, Prime Minister of India.

The both parties India and Pakistan shared their ideas on the Kashmir issue and agreed upon to accept the logic that for a viable peace between two countries the solution of Kashmir is necessary to be resolved according to the United Nations resolutions, through dialogue, narrating the current situation Lord Mountbatten said that India would never be a party to trying to force a state to join India against the wishes of the majority of it's people. The withdrawal of tribesmen from Azad Kashmir and cease fire by the Azad forces from Pakistani side could be considered as confidence building measure between India and Pakistan; in response to Pakistani troops withdrawn the Indian troops reciprocally would do so.

It was resolved that the plebiscite to be conducted under United Nations supervision in the state of Jammu and Kashmir, both countries would work out to create peaceful conditions to restore confidence of the people, who had been driven out. Meanwhile, the Indian side led by Pundit Jawarhar Lal Nehru was double minded to withdraw Indian forces from Kashmir, nor to allow an impartial plebiscite to be held in the state of Jammu and Kashmir so final draft of unanimous resolution was not declared in the last due to inflexibility and un-accommodative attitude of Indian leadership

In another meeting held after deadlock on the un resolved issue of Kashmir between the prime minister of India Mr. Jawarhar Lal Nehru⁴⁰ and his counterpart the prime minister of Pakistan

³⁹ Nawabzada Mohammed Ali Bogra (1909 – 1963) was a well-known and notable Pakistani Foreign service Officer belonging to Bengali community. He served as a third Prime Minister of Pakistan from 1954 to 1955.

⁴⁰ Jawaharlal Nehru (1889 – 1964) was the first Prime Minister of India and a central figure in Indian politics for much of the 20th century. He emerged as the paramount leader of the Indian Independence movement under the tutelage of Mahatma Gandhi and ruled India from its establishment as a new state in 1947 until his death

Liaquat Ali Khan, on Kashmir dispute both leaders agreed upon that the Kashmir dispute should be resolved through dialogue and peace means between two countries the both leaders reaffirmed their opinion that the Kashmir dispute should be settled in accordance with the wishes of the people of that state with a view to promoting their wellbeing and causing the least disturbances to the life of the people of the State. Both leaders satisfied on these primary issues that they should be discussed by personally to reach at an agreement.

As both leaders were realizing the gravity of situation and to break a deadlock and bring some workable solution of the Kashmir issue at the table talks, both leaders initiated that the next step would be the appointment of a plebiscite administrator, appointed by the United Nations as to ensure neutrality and impartiality as well credibility, further, in order to fix some kind of a provisional timetable, it was decided that the plebiscite administrator should be appointed by the end of April 1954. On the plebiscite administrator's formal appointment and induction into office by the Jammu and Kashmir Government would examine the situation and report on it. The proper preparation will then be made for the holdings of a fair and impartial plebiscite in the entire State and take such other steps as may be considered necessary therefore.

Furthermore, the outcome of dialogue process initiated by the both prime ministers of India and Pakistan resulted in a fruitful way, so it was decided by both leaders, Jawahar Lal Nehru that expert committees to deal with specific issues, proposed, plebiscite to ascertain the wishes of the Kashmiri people endorsed, and deadline for appointment of plebiscite administrator by end of April 1954 decided.

Bogra- Nehru Talks

The series of dialogue between India and Pakistan continued at prime ministerial level between India and Pakistan in the early years of fifties, after discussions with Indian counter parts the prime ministers of Pakistan stressed upon India to resolve Kashmir issue as per United Nations resolutions and as promised by India the correspondence in regard to Kashmir issue between the prime ministers of India and Pakistan, were held on 27 August 1953- 21 September 1954.

Joint declaration which produced by the two prime ministers, the idea of plebiscite was confirmed, it was their opinion that the Kashmir should be settled in accordance with the wishes of the people of that State. The most feasible method of ascertaining the wishes of the people was by fair and impartial plebiscite had been proposed and agreed to some years ago by both India and Pakistan. Further, Mr. Nehru and Mr. Bogra were considering the "Regional Plebiscite" initiated by Sir Owen Dixon in his proposals, which stated that "the plebiscite shall be organized as to ensure that as a result of the poll no larger scale shifting of population takes place from one side to the other".

In prime minister of India's view this could be ensured by providing that certain regions where the poll was overwhelming in favor of either India or Pakistan should be allocated to that country

in 1964. Nehru is considered to be the architect of the modern Indian nation-state: a sovereign, socialist, secular, and democratic republic.

irrespective of the result of the overall vote in short what was proposed amounted to a region – wise plebiscite

On the other hand, the attitude of Indian leadership could be observed as non-serious and negative towards the solution of Kashmir issue because after long hours of discussions, passing out resolutions, verbal and written agreements between India and Pakistan, the roadmap of talks moved at snail's pace, because India disagreed upon all proposals, suggestions, formulae and discussions on the solution of Kashmir issue. According to the Professor Alastair Lamb, "whatever advantages in the idea of a "regional plebiscite" arrangement the attitude of Mr. Nehru was not accommodative towards discussed formula with prime minister of Pakistan, Muhammad Ali Bogra, Mr. Pundit Nehru repeated old stories for plebiscite of Kashmir, withdrawal of Pakistani forces as well as tribesmen, vacation of aggression, no involvement of United Nations and refused to plebiscite administrator".

Furthermore, in another meeting between the prime minister of Pakistan, Ghulam Muhammad Bogra and the prime minister of India, Jawahar Lal Nehru to continue the resumption of dialogue between India and Pakistan, which was discontinued due to lack of some sort of agreed framework and roadmap. The both leaders shared statement by declaring a new process in the continuous effort to settle Kashmir issue and the old agreements was reconfirmed to let the people of whole State of Jammu and Kashmir ascertain their future by a free and neutral plebiscite. However, it was decided that the issue of demilitarization of Jammu and Kashmir State would be discussed by the two governments on the suggestion of their technocrats.

In addition to, address the core issue between India and Pakistan the prime minister of Pakistan, Muhammad Ali Bogra, did his best efforts to include the Kashmir issue on the agenda at the Colombo Conference of India, Pakistan, Ceylon, Burma and Indonesia, Pundit Nehru blocked, it deliberately, but in the declaration it was reaffirmed to resolve the Kashmir systematically through talks between two countries.

On the other hand, no development was made to the appointment of plebiscite administrator, though the month of April passed no "preliminary issue was solved."

An "International Peace Conference" between India and Pakistani delegates were held in Peking, China: Pir Sahib Manki Sharif, the delegate of Pakistan and Dr. Saifuddin Kitchlew from India declared a joint statement that "the situation endangers the sovereignty of both countries and makes them a prey to imperialist demands for war bases and cannon fodder; The resolution passed for the support of the Kashmiri people " to determine their future destiny freely on the basis of equality and fairness, without hindrance, fear or favor". It was the most important statement delivered about the future destiny of Kashmir asking them either they would join to India or Pakistan (The United Nations and Kashmir, 1949).

The talks between the prime ministers of Pakistan, Ghulam Muhammad Bogra and the prime minister of India, Jawahar Lal Nehru created a soft link between two countries and opened new doors of opportunities which could be used to initiate dialogue on the question of Kashmir issue in future, the outcome of these negotiations was creation of new ideas about the division of Kashmir,

it was suggested that the Northern and Western areas with additional territory from the district of Riasi and part of Punch's district, which are in the control of India should be transferred to Pakistan and the future of the vale of the Kashmir, the principle prize seat of the dispute, was to be decided by a plebiscite conducted under international supervision "India rejected Pakistani proposal while keeping status quo intact".

5.5 Nehru – Ayub ⁴¹ Talks



(Rawalpindi 1960)

In the year 1960, the prime minister of India Pundit Nehru visited Pakistan, the prime minister of India and the president of Pakistan field marshal Ayub Khan agreed upon number of issues in continuance of the above negotiations between the two leaders of India and Pakistan, the representatives of India and Pakistan held six rounds of talks in the end of December 1962 until May 1963, the talks led to an understanding that they are genuinely exploratory without prejudice to the original positions of the two nations.

Pakistan welcomed the dialogue process by inquiring for a promised plebiscite in accordance with United Nations Commission for India and Pakistan Resolutions. India pessimistically repeated that situation had changed since 1949 and plebiscite was not feasible. She also denied the idea of a plebiscite limited to the vale of Kashmir, and instead, proposed a 'practical' solution of partition.

Pakistan was optimistic to think upon this direct step- somehow India urged that such accommodative plan should keep in mind without touching demographical imbalance, defense and distribution of rivers. Furthermore, Pakistan accepted to address Indian concerns and requirements in the vale and Laddakh in connection to her defense against China. India should realize that a real solution which would not disturb the administrative and geographical aspects of the people of the vale, in fact is partition along the ceasefire line, with some minor accommodations.

⁴¹ **Muhammad Ayub Khan** (1907 –1974), commonly known as **Ayub**, was a military dictator of Pakistan. He came in power in 1958 and became country's first Chief Martial Administrator and second President of Pakistan. His rule continued for more than decade.

The vale to have isolated and put under neutral control, proposed by Pakistan at some moment, with the condition by time being, and then vote would be taken from population. India refused, however reviving an old idea: “No war Agreement” with Pakistan and dis-engagement of military forces in and around Indian held Kashmir.

The representative of India and Pakistan after five months lengthy discussions on the issue of Kashmir returned to their stated positions, the attitude of India was totally pessimistic, inflexible, non-accommodative, and wastage of time and she had lost so many precious opportunities of adjustment and roadmap of peace and conducive environment between two countries. “There was no question of considering any proposals for internationalizing of division of the vale, of joint control of Kashmir, and the like. “The concessions which we offered to Pakistan are no longer open, and they must be treated as withdrawn” (Bashir Aamir Muhammad, 1999).

5.6 Zulfiqar Ali Bhutto⁴² - Sardar Swaran Singh⁴³ Talks



(1962-1963 at Rawalpindi)

During the year 1962-63 the foreign minister of Pakistan Mr. Zulfiqar Ali Bhutto and his Indian counterpart Mr. Sardar Swaran Singh the foreign minister of India, met and discussed all unsettled issues between India and Pakistan including the issue of Kashmir. During these talks India offered a ‘Political Settlement Proposal which is as under:

The existing cease-fire line should be recognized as the international permanent border between India and Pakistan, with some adjustments as necessary.

Pakistan offered to limit the plebiscite to the valley and proposed that an impartial international agency should hold control of the valley for a period not exceeding 15 months and conduct the

⁴² Zulfiqar Ali Bhutto (1928 – 1979) was the ninth Prime Minister of Pakistan (1973–77) and its fourth President (1971–73). Revered as Quaid-I-Awam. He established Pakistan People’s Party (PPP) and served as its chairman until his execution in 1979. He educated at University College Berkeley and Oxford. Bhutto was also Bar at Law from London. He started his career as Foreign Minister in 1963 under Ayub Government.

⁴³ Sardar Swaran Singh was an Indian politician. He was India’s longest serving union cabinet minister.

plebiscite at the end of the period. India was prepared to concede up to 1500 square miles of Indian-held-territory in Kashmir in return of Pakistan's acceptance of the modified lines as a permanent international boundary which Pakistan, flatly rejected the offer, telling that the Kashmir valley was indivisible and Pakistan had to have whole of it.

After six rounds of talks Pundit Nehru declared that Kashmir was, is and will continue to be an integral part of India, while Zulfiqar Ali Bhutto reaffirmed Pakistan's principle commitment that without addressing to Pakistan's concerns regarding complete plebiscite in the State of Jammu and Kashmir as per United Nations Security Councils Resolutions, the government of Pakistan would not accept any arrangement, Pakistan's official point of view on overall process of plebiscite is discussed as under, "the composition of the population of the state should be monitored, the economic and strategic interests of Pakistan should be protected an international boundary should be so drawn as to be acceptable to the people of State".

On the other hand, by initiating delaying tactics over and observing the Sino-Pak border accord, on March -2,1963, in previously held talks India only offered Pakistan 'No War Pact' in the response to limited or regional plebiscite proposal offered by Pakistan. "Pakistan may be excused for thinking that a bird in hand is worth two in the bush" because Pakistan have got very little from talks with India over the past decades so. There is still no evidence that India is ready to concede their minimum demand, certainly the argument with the China may be used by India as a justification if the negotiations fail. But the Indian Government had never been at loss for such justifications in the past" (Bashir Aamir Muhammad, 1999).

Mr. Zulfiqar Ali Bhutto, the foreign minister of Pakistan, expressed his willingness to initiate a dialogue process between the India and Pakistan: "on the pending issues on the principles of Justice and equality", Mr. Bhutto reaffirmed that "if the government of India and it's people believe in the norms of peaceful and lively life, the Pakistani folks also the same. This is the need of time that both Pakistan and India should work for the betterment and prosperity of the common men and women. On the contrary, Mr. Samar Sen⁴⁴, an Indian delegate, informed Mr. Waldheim, United Nations Secretary General that "India was agreed to initiate bilateral talks with Pakistan, by withdrawal of military forces from Bangladesh".⁴⁵

While explaining the firm policy of Pakistan on the "Issue of Kashmir" Mr. Bhutto declared that: "We are prepared to settle our all differences but we cannot compromise on the right of selfdetermination of the people of Jammu and Kashmir. The struggle of the people of the State of Jammu and Kashmir is indigenous it is not inspired or exported from outside (Korbel Joseph, 1954).

⁴⁴ Samar Sen (1916 – 1987) was a prominent Indian poet and journalist in the post-Independence era.

⁴⁵ People's Republic of Bangladesh is a country in south Asia. It is bordered by India to its West, North and East, Burma to its southeast. To its south, it faces the Bay of Bengal. Bangladesh is the world's eighth –most populous country.

5.7 Ayub - Shastri Talks January



(TASHKENT DECLARATION 1966)

President Muhammad Ayub Khan of Pakistan and Prime Minister of India Lal Bahadur Shastri signed an agreement which is known as Tashkent Declaration'. This agreement was signed between India and Pakistan on January 10, 1966. Both Governments India and Pakistan resolved to restore "normal and peaceful relations"; both sides reaffirmed their commitment to settle their disputes through peaceful means.

They also agreed to withdraw "all armed personnel not later than February 25, 1966, to the positions they held prior to August, 5, 1965". The base of their relations would be "on the principle of non-interference in the internal affairs of each other. Both sides will encourage propaganda to promote friendly relations and to meet at various levels on matters of bilateral concern. Tashkent agreement provided a platform for the withdrawal of Pakistani and Indian forces behind the cease-fire line, established in January 1949. The deliberations between Ayub Khan and Lal Bahadur Shastri resulted in an agreement which is popularly known as Tashkent Declaration. The salient features of this declaration are described as under:

The Soviet Union mediated between India and Pakistan at Tashkent to resolve bilateral issues between both countries, due to this facilitation effort by the then super power the Indo-Pak negotiations were held and both were agreed upon cease-fire and restoration of peaceful relations between India and Pakistan, both countries would respect each other's territorial integrity and sovereignty and maintain stated positions as it is, the issue of Kashmir was also discussed but no agreement was materialized on this core issue between two countries nor any major development was initiated. The Analysis of the main features of Tashkent Declaration indicates that this agreement was an important development in the sense that it not only normalized the relations between India and Pakistan after 1965 war but also helped both countries to understand the importance of the solution of Kashmir dispute for durable peace and prosperity in the region.

Some of the articles of the Tashkent Agreement which provide mechanism to resolving Kashmir dispute are there: The Prime Minister of India and the President of Pakistan agreed that both sides

will exert all efforts to create good neighborly relations between India and Pakistan in accordance with the United Nations Charter. They reaffirmed their obligations under the charter not to have recourse to force and to settle their dispute through peaceful means. They considered that the interests of peace in their region and particularly in the Indo-Pakistan and indeed, the interests of the peoples of India and Pakistan were not served by the continuance of tension between the two countries. Both sides have recognized the need to setup joint India-Pakistan bodies which will report to their Governments in order to decide what further steps should be taken. The agreement of Tashkent was made possible because of Soviet efforts. After declaration political situation was dramatically changed in Asia.

Further, Soviet Union formulated the “Asian Security Scheme” proposal; the major focus of Soviet policy was to normalize Indo-Pak relations, at Tashkent, Pakistan reaffirmed its stance on Kashmir as a root cause of dispute between India and Pakistan, if this issue be settled by two countries, the relations automatically be normalized at once.

The agreements stressed to restore diplomatic, economic, and business friendly measures under clause V & VI. Tashkent pact empowered Pakistan and India to raise the Kashmir issue in the United Nations to intervene. Clause IX highlighted on “Matters of direct concern to both”.

The Clause III of the Tashkent agreement stresses that “the relations between India and Pakistan shall be based on the principles of non-interference in the internal affairs of each other”. Clause I of the Tashkent declaration focuses, “Jammu and Kashmir were discussed and the two sides put forth their respective positions”. Clause I, “reaffirmed their obligation under the charter, not to have recourse to force and to settle their disputes through peaceful means”.

Clause VII, related with the Prisoners of Wars (POWs) and their release (Rashdi Mehtab Akbar, 1988).

5.8 Zulfiqar Ali Bhutto-Indira Gandhi Talks



(SIMLA AGREEMENT 1972)

The talks between Zulfikar Ali Bhutto and Indra Gandhi held at Simla, these talks led to the signing of Simla Agreement, both leaders agreed upon on the principles and purpose of the Charter of the United Nations would be govern the relations between the two countries, further talks which resulted in an agreement between India and Pakistan in shape of Simla agreement the leaders of both nations stressed that the issues would be resolved through dialogue and peaceful means and by using the channels of diplomacy and people to people contacts as well as bilateral negotiations or by any other peaceful means mutually agreed upon between them. Pending the final settlement of any of the problems between the two countries, neither side shall unilaterally allow the situation and both shall prevent the organization, assistance or engagement of any acts detrimental to the maintenance of peaceful and harmonious relations;

That the prerequisite for reconciliation, good neighborliness and durable peace between them is a commitment by both countries to peaceful coexistence, respect for non-interference in each other's internal affairs, on the basis of equality and mutual benefit, that the basic issues and causes of conflict which have bedeviled the relations between two countries for the past 25 years shall be resolved by peaceful means, both India and Pakistan will respect each other's national unity, territorial integrity or political independence, both Governments will take all steps within their power to prevent hostile propaganda directed against each other, both countries will encourage dissemination of such information as would promote the development of friendly relations between them, in order to progressively to restore and normalize relations between the two countries step by step.

Both leaders agreed upon following points:

Steps shall be taken to resume communications, postal, telegraphic, sea, land, including border posts, and air links including over flights, appropriate steps shall be taken to promote travel facilities for the nationals of the other country; Trade in co-operation in economic and other agreed fields will be resumed as far as possible; Exchanges in the fields of science and culture will be promoted, in this connection delegations from the two countries will meet from time to time working out the necessary details. In order to initiate the process of the establishment of durable peace, both Governments agreed 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 recognized position of either side.

Neither side shall seek to alter it unilaterally, irrespective of mutual differences and legal interpretations. Both sides further undertake to refrain from the threat or use of force in violation of this line. The withdrawals of forces shall commence upon entry into force of this agreement and shall be complete within a period of 30 days thereafter. This agreement will be subject to ratification by both countries in accordance with their respective constitutional procedures and will come into force with effect from the date on which the instruments of ratification are exchanged. Both Governments agree that their respective heads will meet again at a mutually convenient time in the future and that, in the meantime, representatives of two side will meet to discuss further

modalities and arrangements for establishment of durable peace and normalization for relations, including questions of repatriation of prisoners of war and civilian internees, a final settlement of Jammu and Kashmir and resumption of diplomatic relations (Wirsing G Robert, 1994).

5.9 Nawaz Sharif-Atal Bihari Vajpayee Talks



The Prime Minister of India Mr. Atal Bihari Vajpayee⁴⁶, visited Pakistan in February 1999, and paid his homage at the Minar e Pakistan, Lahore, this exercise created friendly environment between two hostile neighbors and the both leaders Mian Muhammad Nawaz Shareef, the prime minister of Pakistan and Atal Bihari Vajpayee, the prime minister of India reiterated commitment to resolve all outstanding issues through dialogue and peaceful means, the both leaders agreed on mutual understanding to address all bilateral issues including the Kashmir issue.

Further declaration stated that: Sharing a vision of peace and stability between their counties, and of progress and prosperity for their people. Both leaders convinced that durable peace and development of harmonious relations and friendly co-operation will serve the vital interests of the people of the two counties, enabling them to devote their energies for a better future; Recognizing that the nuclear dimension of the security environment of the two countries add to the responsibility for avoidance of conflict between the two countries; Both were committed to the principles and purposes of the charter of the United Nations, and the universally accepted principles of peaceful coexistence. Both leaders pledged to the determination of both countries to implement the Simla⁴⁷ Agreement in letter and spirit.

Both leaders were committed to the objectives of universal nuclear disarmament and nonproliferation; both countries convinced to the importance of mutually agreed confidence building measures for the improvement of security environment.

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

⁴⁶ Atal Bihari Vajpayee was born in 1924. He is an Indian statesman who was the eleventh prime Minister of India. He was a leader of Bhartia Janata Party (BJP).

⁴⁷ Simla, also known as Shimla a city in the Indian state of Himachal Pradesh, formerly the summer capital of British India, often refers generically to the government of undivided India before 1947.

Governments shall intensify their efforts to resolve all issues, including the issue of Jammu and Kashmir. Shall refrain from intervention and interference in each other internal affair; shall intensify their compositior and integrated dialogue process for an early positive outcome of the agreed bilateral agenda shall take immediate steps for reducing the risk of accidental or unauthorized use of nuclear weapons and discussed concepts and doctrine with a view to elaborating measures for the confidence building in the nuclear and conventional fields, aimed at prevention of conflict, and there is full threat of nuclear like warfare between two countries. The root cause of the tension is unresolved issue of Kashmir between two countries. If international community succeeded to settle this pending issue since last sixty five years, the birds of peace will return to South Asia, especially in Pakistan and India, and the region will be developed and international peace and security will be guaranteed by India and Pakistan.

Present study has interpreted the data and analyzed the contents of the negotiations between the leaders of India and Pakistan. It has also critically evaluated the impact of various Confidence Building Measures (CBMs) for the peace and security of South Asian region.

Following table clearly indicates the impact of these measures on relations between India and Pakistan. In addition, the study has analyzed the various negotiations between India and Pakistan and found the key facts which have been summarized in the table 4.11.

However, the table 4.12describes key findings of the study which can be recommended to the policy makers of both countries to formulate effective and result oriented policies on all outstanding issues between India and Pakistan (Safvi Syed Ali, 2007).

CONFIDENCE BUILDING MEASURES (CBMS)

1977-2014



Zia Ul Haq

Narendar Modi

Asif Ali Zardari



M. Nawaz Sharif



A.B. Vajpayee



Narsimha Rao



Benazir Bhutto



Parvez Musharraf



Rajiv Gandhi



5.10 Confidence Building Measures (CBMs)

List of CBMs		Impact
1	Zia's Journey of Reconciliation	Region's first Nuclear Confidence building agreement was announced
2	Benazir Bhutto-Rajiv Gandhi interaction	Both leaders stressed to work together under Simla Agreement.
3	Benazir Bhutto- Narasimha Rao Dialogue	Discussed a comprehensive dialogue on Kashmir without conditions.
4	Nawaz Sharif – Narasimha Rao Negotiations	Both leaders emphasized to resolve issues under article VI (bilateral) of Simla Agreement.
5	Nawaz- Vajpayee (Lahore Yatra)	Peaceful resolution of Kashmir issue was pursued
6	Musharraf-Vajpayee Summit	A draft declaration was not issued.

(Sumantra Bose, et al, 2005)

5.11 Outcomes of the Negotiations

S. No:	Chronological history of Talks	Results
1	Quaid-i-Azam-Lord Mountbatten Talks (Lahore November 1, 1947)	Jinnah was optimistic about break through but Mountbatten had no mandate to do so.

2	Liaquat-Nehru Talks (December, 1947)	Nehru maintained status-quo and talks ended in an impasse.
3	Liaquat & Bogra-Nehru Talks	Both Prime Ministers agreed to continue subsequent correspondence. The proposal of regional plebiscite discussed by Nehru and Bogra.
4	Bhutto-Sawaran Singh Talks. (1962-1963)	India was prepared to bargaining while Pakistan flatly rejected offer.
5	Ayub Khan- Shastri Talks: (Tashkent Declaration)	Both sides interpreted Kashmir issue according to their own agendas.
6	Zulfiqar Bhutto-Indra Gandhi Talks Simla Agreement 1972.	Kashmir issue was declared a bilateral issue.
7	Bogra Nehru- Jinnah 1955	India rejected Pakistan proposal and kept status quo intact
8	Nehru Ayub Khan Talks 1960	India deliberately stressed on revival of an old idea- null and void.
9	Nawaz- Vajpayee declaration 1999	Promised to implement Simla agreement in letter and spirit.

5.12 Research Findings

S No	Key Findings
1	India declared Jammu and Kashmir as its integral part.
2	Pakistan demanded to resolve Kashmir issue under United Nations Resolutions.
3	Stated positions remained as it is

5.13 Conclusion

This chapter concludes the events of history, past, present and future developments related to the dialogue process between the leadership of Pakistan and India on the Kashmir issue, if we remind the series of negotiated settlements since 1947 and onwards. When British Government, decided to withdraw from the Indian sub-continent and announced to hand over power to the dominions of India and Pakistan, it was decided to divide sub-continent on the basis of communal lines, Muslim majority areas will have to join Pakistan and Hindu predominantly regions will establish India, at that time of the status of Jammu and Kashmir State was undecided because India claimed that she belongs to her. Although majority of the people of Jammu and Kashmir State were Muslims, so it was just and fair to the Kashmiri people to join Pakistan. The journey of talks continued from early days of newly established countries of Pakistan and India on the question of Kashmir issue between the representatives of both countries. The political leadership of India always showed myopic vision and refused to accept any logic to the just and fair solution of the State of Jammu and Kashmir, so she used delaying tactics and aggressive, illogical attitude towards Pakistani leadership and the people of Jammu and Kashmir State.

By rejecting all United Nations Security Council Resolutions, facilitations offered by international community and friendly nations as well as promises made by Indian leadership, there is still a framework of settlement available on the table of talks, but there is need of positive political vision, flexibility and accommodative thinking from both sides, specially Indian leadership to resolve Kashmir issue between two nuclear technology countries.

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Chapter Six

Formulating Ideas to settle Kashmir Issue

6.1 Introduction

The chapter focuses on the proposals, formulae, suggestions, recommendations, initiated and discovered by various scholars, academics, generals, justices, intellectuals, diplomats, political leaders, of both countries, leaders of Hurriet Conference, international law experts, and activists of civil society to address and properly resolve the Kashmir issue.

First of all, General (R) Pervez Musharraf's four point proposal regarding Kashmir Issue is discussed, secondly, Chenab formula is included to conduct overall debate and further analysis, thirdly, proposes roadmap to resolve the issue of Kashmir drafted by Kashmir Action Committee, Pakistan is mentioned to share their thinking, fourthly, renowned Indian scholar, A.G. Noorani's settlement proposal about Kashmir issue to represent Indian identical position, fifthly, Sardar Muhammad Abdul Qayoom Khan⁴⁸, former Prime Minister of Azad Jammu and Kashmir, his eight point action plan to create conducive environment in the both parts of Kashmir to start meaning dialogue process on the issue of Kashmir between India and Pakistan.

Further, Indian intellectual Khushwant Singh's face the Facts Square about current situation of Kashmir is highlighted to create balance among different stake holders of the Kashmir issue.

⁴⁸ When the Dogra ruler refused to concede to the aspirations of the people of Jammu and Kashmir, Sardar Muhammad Abdul Qayoom Khan, a youth of 22 years, stepped ahead into the active field, organized, galvanized, initiated and finally himself led the mighty Liberation Movement on August 23, 1947 from the historic hilltops of Neela Butt, culminating in the liberation of over 32,000 square miles of area now constituting Azad Jammu and Kashmir and Northern Areas.

All Parties Hurriet Conference, which is highly respectable and political wing of the occupied Jammu and Kashmir, their objectives has been shared with national and international audience. On the other hand, the arguments of former Prime Minister of India, Manmohan Singh, are provided space by sharing his proposal for resolution of Kashmir issue. Furthermore, Muhammad Abdullah's scope of proposal as well as United Nations group working to mediate on Kashmir, stressed on face saving formula are also described, and a plan of Ganguli, (Woodrow Wilson⁴⁹ International Center for Scholars, Washington D.C) who enunciated to restore article 370 of the Indian Constitution to its strength, by articulating elements of summit Ganguli plan.

Meanwhile, a proposal of Joseph Schwartzberg⁵⁰ to welcome international scholars and academia to exchange their thoughts on the issue of Kashmir, as well as point of views of respectable Kashmiri intellectual S. Ilyas, are also incorporated. The chapter also categorizes multifarious solutions of the Kashmir issue narrated by Dr. Pervez Iqbal Cheema, who academically discusses four categories of the solution, 1 plebiscite, 2 partition, 3 independence, 4 condominium, confederation and a concrete suggestion regarding Kashmir issue by Khushwant Singh.

In the last chapter introduces, Selig Harrison⁵¹ Proposal, Ganguli Proposal, Asia Society Proposal, Robert Wirsing Proposal, The Kashmir American Council Proposal II, A Comprehensive Four Pronged Strategy, enunciated by Kashmir American Council, Kashmir American Proposal II, Roadmap for Negotiations, suggested by United States Institute of Peace, Washington, D.C. Freedom of Kashmiris by Professor Schwartzberg, Methodology of Complete Independence, Methodology of Partial Independence, Resolving Kashmir Issue in the

⁴⁹ th

Thomas Woodrow Wilson (1856 – 1924) was the 28 President of the United States. He served as president of United States from 1913 to 1921. He was also leader of Progressive Movement. He served as President of Princeton University from 1902 to 1910 and was Governor of New Jersey from 1911 to 1913. He led his Democratic Party to win control of both the White House and Congress in 1912.

⁵⁰ Joseph E. Schwartzberg (born 1928) is a professor of University of Minnesota and emeritus of geography and prominent world federalist scholar. Schwartzberg was born in Brooklyn, New York in 1928. He has done significant work in seeking solutions to the Kashmir conflict. He also developed the idea of weighted voting for representation in a United Nations Parliamentary Assembly. He is best known as the editor and principal author of the Historical Atlas of South Asia, which won the Watumull Prize of the American Historical Association and a distinguished achievement award from the Association of American Geographers. He served on the board of directors of the World Federalist Association, has chaired its Policy and Issues Commission, and is President of the Minnesota Chapter of Citizen for Global Solutions.

⁵¹ Selig Seidenman Harrison (Born March 19, 1927 in Wilkesburg, Pennsylvania is a scholar, journalist, and author who specializes in South Asia and East Asia. He is the Director of the Asia Program and a senior fellow at the Center for International Policy and a senior scholar of the Woodrow Wilson International Centre for Scholars. He has written five books on Asian affairs and U.S. relations with Asia. His latest book, *Korean Endgame: A Strategy for Reunification and U.S. Disengagement* (Princeton University Press), won the 2002 award of the Association of American Publishers for the best Professional/Scholarly Book in Government and Political Science. His out-spoken, constructive criticism of administration.

International Context by Jagat S. Mehta, (former foreign secretary of India, B.G Varghese Proposal, Co- Confederation, the Plebiscitary Approach, the Partitionist Approach, and the Galbraith Plan (Harvard Exercise) are also discussed.

This is academic exercise to collect information and relevant material regarding Kashmir issue and provide platform, framework for negotiators, diplomats, academics and research scholars to create new ideas, discussions, recommendations, suggestions and brainstorming for political leadership of India and Pakistan to show flexibility, accommodation, resolution and roadmap towards the solution of Kashmir issue.

6.2 Proposals for solution Kashmir Issue

This chapter analyses various proposals given from time to time to resolve the issue of Kashmir.

Further, this chapter will conclude the key points recommended in these proposals.

6.2.1 Musharraf's Four-Point Proposal

Easy-going or absorbent borders in Kashmir with freedom of movement for the Kashmiris extraordinary self-rule and "self-governance" within each region of Kashmir phased demilitarization of all regions a joint controlling mechanism with representatives from India, Pakistan and all parts of Kashmir (Anjit Mazumdar, 2004).

6.2.2 Chenab Formula

"As per this formula, the City of Jammu and some districts of Jammu province would go to India, while the city of Srinagar and most parts of Kashmir vale as well as parts of Jammu region would be moved to Pakistan". This partition would be created on the flow of the Chenab⁵² but it would to some extent accord with religious demography. Consider the theoretical situation, as advocated by many experts, of only Kashmir being a part of Pakistan, an entire Jammu province and Ladakh under India (Sehbai Shaheen, 2005).

⁵² The Chenab River literally: is a major river of India and Pakistan. It forms in the upper Himalayas in the Himalayas in the Lahaul and district of Himachal Pradesh, India, and flows through the Jammu region of Jammu and Kashmir into the plains of the Punjab, Pakistan. The waters of the Chenab are allocated to under the terms of the Indus Waters Treaty.

Figure 6.1 Map of Kashmir



6.2.3 Kashmir Action Committee Proposal

Kashmir Action Committee Pakistan is considered opinion that the statement in the resolution of Kashmir dispute would necessarily result in maintaining status-quo and thereby in delaying, postponing resolution of Kashmir issue to the recovered times will only worsen situation in Kashmir.

Kashmir Action Committee firmly believes that the International peace and security in general and of this region in particular depends on the peaceful resolution of the Kashmir issue based on wishes of the people of the State of Jammu and Kashmir as proposed in the United Nations Charter and the Security Council Resolutions of April, 21, 1948, March 14, 1950, March 30, 1951, December 23, 1952 and December 2, 1957 and the Resolution of the United Nations Commission for India & Pakistan of August 13, 1948 and January 5, 1949, besides the promises made by the Governments of India and Pakistan.

In order to determine the wishes of the people of Kashmir about the future status and the political understanding of the State of Jammu and Kashmir as undertaken by India and set by United Nations and Security Council resolutions as well as United Nations Commission on India and Pakistan (UNCIP). To conduct elections in the state on both sides of the line of control, including

Northern Areas, for electing representatives, without any conditionalities such as accepting Indian sovereignty⁵³ over the states or supporting state's agreement to Pakistan or an independent status for it. The assembly so elected shall have a single point mandate_ i.e. to decide the future status of the state (it will not be a legislative assembly).

The election should be on the basis of adult permit and single member electorate, also insuring representation to all the minority groups; Such an election would be led under the United Nations auspicious or a neutral Election Commission, the members whereof may be selected by India and Pakistan with mutual agreements; The Assembly thus elected may meet in a joint session at any place within the State to be proposed by the care-taker governments who shall also be responsible for proper arrangements.

The decision taken by this Assembly shall finally decide the future status of the State of Jammu and Kashmir, which may be in any one or combination of more than one of the following principles articulated by United Nations General Assembly and Resolution No. 2625; "The establishment of a sovereign and independent States, the free association or integration with an independent State or the emergence into any other political status.

For the purpose of determining the aspirations of the people of Kashmir properly, elections must be followed by: Total truce on all sides, i.e. ending of military actions and violence. Removal of forces to pre 1990 position, followed by demilitarization. Release of all detenus. No ban on peaceful activities, free traveling and people to people contact across the line of control should be allowed. Election of representative assemblies in Indian controlled as well as Pakistan controlled Azad Kashmir, Gilgit and Baltistan.⁵⁴

During this whole process, a caretaker, non-partisan government should run the affairs of the State as a single government for the whole State or separate governments for the present three parts of the State, if possible United Nations sponsored (Bukhari Sharif Hussain, 2009).

6.2.4 Noorani's Settlement Proposal

It was "Pure Diversion" for Indians to think that Pakistan could ever accept separation of the border simply on the basis of the existing Line of Control. India's restoration of article 370 "to its original strength", should be the subject of a two-sided accord with Pakistan, which would simultaneously extend the same degree of autonomy to Pakistani control Kashmir. India's compact with its Kashmiri population, and Pakistan's with its Kashmiri would legally be guaranteed by the other side. Each side would then have the right to protest if the other's guarantees of autonomy were in

⁵³ Sovereignty, in political theory, is a substantive term designating supreme authority over some polity. It is a basic principle underlying the dominant Westphalian model of State foundation. In layman's terms, it means a state or a governing body has the full right and power to govern itself without any interference from outside sources or bodies. Derived from Latin through French *souveraineté*, its attainment and retention, in both Chinese and Western culture, has traditionally been associated with certain moral imperatives.

⁵⁴ Baltistan is a mountainous region, the majority of which lies in Gilgit-Baltistan in the Northern part of Pakistan. It is situated in the Karakoram Mountains just to the South of K2 the world's second highest mountain. It is an extremely mountainous region, with an average altitude of over 3,350 m (11,000 ft). Baltistan borders Gilgit Agency

any way violated. Pakistan would still be barred from taking Kashmir away from India, “but it could be of some satisfaction to Pakistan that the Union’s powers over the State are restricted under a compact with it as well as with the people of the state (Wirsing G Robert, 1994).

6.2.5 Qayoom Khan’s Eight Point Action Plan

The massive violations of human rights should be brought to an immediate end. Those Indian troops withdraw from population centers back to their barracks. That Kashmiri Hindus be allowed to be returned to Kashmir. Those international human rights organizations should be given free access to Kashmir. That free movement of Kashmiri civilians across the line of control be allowed. That meeting of the recognized political leadership of Kashmir from both sides of the line of control should be facilitated. That the political leadership of Kashmir from both sides should be associated with any dialogue/negotiations between India and Pakistan that the focus of

in the west, the Xinjiang Autonomous Region (China) in the North, Ladakh in the east, and the Kashmir Valley in the south. Since 1947, the region is divided by the Line of Control, with four of its five districts –Skardu, Gangche, Shigar and Kharmang – being controlled by Pakistan and the Kargil district being part of Indian – administered Kashmir A small portion of Baltistan, including the village of Turtukin the Nubra Valley lies in the Ladakh district of Indian Kashmir.

India Pakistan deliberations on the resolution of Kashmir problem be not confused with peripheral issues under the garb of “confidence building measures (Shah Ghulam Qadir,1994).

6.2.6 Khushwant Singh’s Proposal

India has totally lost the understandings of Kashmiri Muslims, now she has no moral right to enforce it’s physical force on the people of the Jammu and Kashmir, who don’t want her, that the vale is small and only dependent on tourism and sale of handiwork to become an sovereign State. It can become an independent unit whose survival is assured together by it’s neighbors India and Pakistan. As a wise and mature nation India should stop imitating about Kashmir being an integral part and the only solution being under the Simla Pact; it has produced nothing but hot air. India must not lose site of the fact that what matters most is the happiness of the people of vale (Shawl Nazir Ahmed, 1999).

6.2.7 All Parties Hurriet Conference (APHC)’s Proposal

All Parties Hurriet Conference is struggling to make peace and harmony and security to the people of the State of Jammu and Kashmir the implementation of the right of free will in agreement with the United Nations Charter and the resolutions agreed by United Nations Security Council. To make undertakings for an alternate discussed settlement of the Kashmir dispute amongst all the three parties to the dispute viz a) India b) Pakistan c) People of the State of Jammu and Kashmir under the patronage of United Nations or any other friendly countries. Negotiated settlement shall not be

deemed to include any settlement within the frame work of the constitution of India. "Elections are no substitute for the wishes of the Kashmiri people and for the resolution of the (Kashmir) Issue (Noorani A.G, 2009).

6.2.8 Manmohan Singh's Proposal

Both India and Pakistan should provide self-rule to their own regions. There will be no "Boundary" between the east (Pakistan) Kashmir and west (India) Kashmir. India will embrace authority over currency, defense, election process and judicial system. The Kashmir government will manage the rest. Same correspondence will be required from Pakistan side on eastern Kashmir (Chadha Sudhir, 2004).

6.2.9 Muhammad Abdulullah's Proposal

The southern parts of the state including Kathua, Jammu and parts of Udhampur⁵⁵ district (now being mainly Hindu areas) may be taken over by India. The area, now known as Azad Kashmir and Gilgit, Baltistan, being special by Muslim, be taken possession of by Pakistan.

The Vale of Kashmir along with the connecting areas, across Banihall (i.e. the district of Doda and Niabat of Arnas, (Gulab Garh) to be permitted to decide it's future through a referendum Laddakh is to follow the result of direct vote, held in this territory (Kargil being totally Muslim as its residents was to go with the vale (Dr. Yusaf K.F, 1992).

6.2.10 United Nations Face-saving Formula

The idea to divide the state of Jammu and Kashmir by 'Accession' on the basis of the partition plan which led us that the Hindu-majority areas going to India, and Muslim-majority neighboring areas to Pakistan, that was in fact, a practical sign of the "Two Nation Theory"⁵⁶ that stressed the distinct identity and existence of the two major sub continental nations- Hindus and Muslims.

As a result, to justify the division of British India between them as autonomous and sovereign independent countries as India and Pakistan. The suggested distribution of Kashmir would mean

⁵⁵ Udhampur is a city and a municipal council in Udhampur District in Indian administered state of Jammu and Kashmir. Situated among lush green forests of Eucalyptus, it is the second-largest city of the Jammu region and the fourth-largest city in the state of Jammu and Kashmir. Named after Raja Udham Singh, it serves as the district capital and the Northern Command headquarters of the Indian Army. A Forward Base Support Unit (FBSU) of the Indian Air Force also stationed there. Udhampur is used by the Armed Forces as a transit point between Jammu and Srinagar when travelling by road (National Highway Number 1A).

⁵⁶ The two-nation theory is the ideology based on Islam. According to this theory Muslims and Hindus were two nations in the Indian subcontinent. Two nation theory was main principle of the movement which created Pakistan in 1947. The Islamic ideology focused on religion which was the determining factor in defining the nationality of Indian Muslims.

the same thing- except that it will deny the partition principle choice and self-determination to the Kashmiris.

6.2.11 Ganguly Plan

The Indian government should show restraint and considerably reduce its current operations, the uncivilized policy that she worked out in dealing with the militants in the Punjab is unsuitable in Kashmir. In the Kashmir valley, the vast majority of the people had some complaints against the Indian state so India should address humanitarian issues first of all and avoid to misuse of police and military force it only creates mistrust and fears of difference between India and Pakistan.

Human rights violations charged against police and military troops should properly be examined by impartial and fair commission under United Nations observation or be invited to international community to ensure acceptance of commission report by Pakistan and the people of Indian held Kashmir.

The Government should consider offering a total official pardon to the fighters in exchange for a truce for a specified period of time. During the cease-fire, serious discussions can be started with freedom fighters.

The Indian Government should move to restore Article 370 of the Indian constitution to its original strength, among other matters, Article 370 prohibits non-Kashmiris from purchasing land in Kashmir.

Any restoration effort of article 370 will generate considerable hostility on the part of the extremist Hindu Bhartiya Janata Party,⁵⁷ never the less; their claim that the Muslims of Kashmir have been overly safeguarded and granted special status in the Indian constitution is essentially without merit.

India should offer to hold an election in the presence of international observers; nongovernmental organizations can make a useful contribution to this end (Yusaf K.F, 1992).

⁵⁷ The Bhartiya Janata Party: BJP is one of two major parties in the Indian Political system along with the Indian National Congress. As of 2014, it is India's largest political party in terms of representation in the national parliament and the second largest in the various state assemblies. It has close ideological and organizational links to the Hindu nationalist Rashtriya Swayamsevak Sangh.

6.2.12 Joseph Schwartzberg Proposal

“The idea suggested that any plan put forward to settle the issue of Kashmir should be offered in a way that is completely convincing, this means that, the logic for each part of the plan must be detailed and documented;

That, taking the positions of both sides, at the same time, previous plans should also be validated;

That the plan be drafted in such a way that it invites close attention, with effective use of mass and other graphic aids and the use of related data, cast, where ever possible, in a clear-cut cost- benefit manner.

That it be clear that the plan initiated with and was supported by a neutral, principally fairminded party. That party not be so egotistical as to consider his ideas unqualified of modification, based on discussion, with informed personalities in (or from) India and Pakistan and especially Kashmir itself and that a bona-fide effort at wide consultation be made, despite the likelihood that one or both the governments might put obstacles in the way, and That, based on outside input, whatever refinements in the plan seem warranted are actually made (Yusaf K.F, 1992).

6. 2.13 S. Ilyas Proposal

The Kashmir issue needs to be settled in representative manner, there are over 90% Muslims in the Vale of Kashmir and nearly 80% Muslims in the District of Doda and Rajouri-Poonch. The latest position in Kargil⁵⁸ and Laddakh districts shows Muslims in greater number then Buddhists. In Azad Jammu and Kashmir Muslims are cent percent. There are 90% Muslims in Northern Areas (Gilgit Agency and Baltistan).In the west Punjab and other places of Pakistan there live a million Kashmiris of Jammu province who are registered as refugees, the only Hindu majority with Muslim minority inhabitants in areas from Udhampur to Kathua.⁵⁹

It is therefore, convenient to decide the future of each area or region through a ballot after due discussions between the parties concerned (with the Secretary General of United Nations in the chair) on the long pending problem this is necessary in order to avoid a disaster or an unwelcome war of which the consequences would be terrible for Kashmiris and both for India and Pakistan.

The attached map of Jammu and Kashmir State (as it was in 1947) will be a assistance to those who are qualified to consider the scheme or partition as proposed or suggested by the present writer subject to the condition that a plebiscite or referendum is held in each area or region and the fate

⁵⁸ Kargil is a town, which serves as the headquarters of Kargil district of Ladakh. Ladakh in the State of Jammu and

Kashmir in India. It is the second largest town in Ladakh after Leh. It is located 60 km and 204 km from Drass and Srinagar to the west respectively, 234 km from Leh to the east, 240 km from Padum to the southeast and 1,047 km from Delhi to the south

⁵⁹ Kathua is a city and a Municipal Council in the Indian administered State of Jammu and Kashmir of the word Kathua is derived from the word Thuan in Dogri which means "Scorpions". Some believe that its name is derived from the name of Rishi Kashyap who disguised himself as a tortoise (Kashua) for strong meditation. Kathua is also called 'the city of Sufis' owing to the presence of large number of Sufi Shrines of Pirs.

or each decided according to the outcome of the votes cast in presence of United Nations Observers.

After the concerned studies in the given map, it should be possible for the conferees to agree to the scheme of division and proceed with further action in the interest of a peaceful and just solution of the question. Thus the people living in the Areas/Zones AJK & KVK (e.g. Azad Jammu and Kashmir and Kashmir valley, the districts of Doda, Rajouri- Poonch and Kargil) will exercise their right of self-determination where after they may favor alignment with or accession to Pakistan.

The People or Zone 'B' from West Punjab shall have no vote. Compensation will have to be paid to dislodge Muslims who are now living as refugees in Pakistan.

The Muslim minority in Zone 'B' (Udhampur, Jammu, Samba, and Kathua) shall be treated as honorable citizens as for zones L (Laddakh district) and D (Gilgit Agency and Baltistan), they will be given one year, time to think over their, future alignment and then exercise their vote.

In the case of Zone D, the choice will be between merger with Pakistan or rejoining zones Azad Jammu and Kashmir and Kashmir Vale Kashmir and from a big autonomous region after accession to Pakistan regarding zones S (Aksai chin) which is reportedly said to be under Chinese control, it could and restoration be added to Zone D on grounds of geographical expediency. The demarcation of the frontiers between Muslim majority areas and Zones B & L will have to be decided on basis of perennial streams, river beds and mountains etc, if zones B and L choose to Join India. The authorities there, will be bound not to divert the course of water flowing through Zones, AJK, KVK (Yusaf K.F, 1992).

6.2.14 Cheema's Proposals

6.2. 14.1 Plebiscite

To hold a referendum in the entire State of Jammu and Kashmir under the umbrella of the United Nations in conformism with the United Nations Resolutions; To conduct either a district-wise or region-wise ballot under the United Nations or any other third party.

To facilitate a poll managed by the United Nations in the Kashmir vale only and to divide the rest of the State, to organize a ballot limited or unlimited under the auspicious of India and Pakistan.

6.2.14.2 Partition

The division of the State of Jammu and Kashmir should be made on the basis of communal arrangement, which means that the Muslim mainstream areas go to Pakistan and the rest of the State (more specifically most of Jammu and Laddakh) Joins India; Partition of the State along the truce line; Partition of the State along the line of control with minor changes;

Amalgamation of Azad Kashmir and Baltistan with Pakistan, and Jammu and Laddakh with India and a referendum in Kashmir vale, and the result of the poll should be carried out by United Nations.

The partition of the State should be made according to equally decided formulation keeping in view the tactical needs of both India and Pakistan, addition of Azad Kashmir and Baltistan with Pakistan, Jammu and Laddakh with India and the Kashmir vale to be allowed an independent status. Such status is to be safeguarded by India and Pakistan as well as by the great powers.

In the meantime, partition of Indian held Kashmir along river lines, Chenab Line or the Jehlum Line is proposed.

6.2.14.3 Independence

To award independent status to the entire State of Jammu and Kashmir, such a status to be respected and guaranteed by the Regional States as well as Global Powers, to make the Kashmir vale an Independent state and the rest of the regions to be annexed with India (Laddakh & Jammu) (Azad Kashmir and Baltistan) should accede to Pakistan with international guarantees.

Both Azad Kashmir and occupied Kashmir be given to United Nations trust and independence to be given after a decade of United Nations supervised rule of Kashmir. To make only the Kashmir Vale a United Nations trust territory and allow the integration of Azad Kashmir and Baltistan with Pakistan and Jammu and Laddakh with India.

6. 2.14.3 Condominium - Confederation

A confederation of both Pakistan and India over the whole of Kashmir with maximum autonomy for the state,

Such a resolution implies a joint management of external and defense affairs of the State by India and Pakistan; A condominium status for the Kashmir Vale only and the rest of the State to be partitioned between India and Pakistan; A condominium of South Asian Association for Regional Co-operation (SAARC)⁶⁰ for either the entire State or the Kashmir vale;

To form a confederation of Pakistan, India and Kashmir with minimum autonomy to each of the constituent units are proposed (Yusuf K.F, 1992).

6.2. 15 Khushwant Singh's proposal

Creation of a council of independent Kashmir containing five members, one Indian, one Pakistani, two Kashmiri Muslims and one United Nations official (Chair of the Council).

⁶⁰ The South Asian Association for Regional Cooperation (SAARC) is an economic and geopolitical organization of eight countries that are primarily located in South Asia. The SAARC Secretariat is based in Kathmandu, Nepal. The idea of regional political and economic cooperation in South Asia was first raised in 1980 and the first summit was held in Dhaka on 8 December 1985, when the organization was established by the governments of Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Sri Lanka. Since then the organization has expanded by accepting one new full member, and several observer members.

It is for them to decide whether they will allow any buying of real State, let them decide that no non Kashmiri will buy any land or any property in Srinagar⁶¹ or anywhere in this vale. It is too small an area, seventy miles long, thirty miles broad to be a totally independent State, its existence and it's autonomy has to be guaranteed both by India and Pakistan.

And once they guarantee it, let them open the road connecting Kashmir with Pakistan. This has been closed for too long. Pakistanis have every right to go into the vale just as much as Indians have. But under the dictates of the people of Kashmir- they can restrict how many Indian and Pakistani, they will allow from that side because they need to open this traffic.

Now once we open the two roads leading into Kashmir then give these people complete power to allow people in or kick them out whether they are Indian or Pakistani in this way many of their demands will be met.

Kashmir does not belong to either India or Pakistan. It belongs to Kashmiri people and they have every right to decide who they will let in and who they won't (Christine Faire, 2012).

6.2.16 Harrison Proposal

The proposal suggests that Kashmir under Indian control should be partitioned Jammu and Laddakh would become part of Indian Union, while the Kashmir vale would be "United with sizable Muslim pockets in Jammu and Laddakh".

India may give to this 'new State' according to Harrison, "across-the-board autonomy as part of a Trieste Type Solution", in return Pakistan would "grant the some degree of self-rule to Azad Kashmir". These new units" will be self-sufficient in all areas except defense, foreign affairs, communication, currency, foreign aid and trade.

On the other hand, both India and Pakistan would remove their armed forces under United Nations managed arrangements; two will retain the right to reintroduce them under specified circumstances. The present cease-fire⁶² line will become international border. This border line Trieste, would be porous, the Kashmiris would be free to travel, and without Indian and Pakistani visas (i.e. they will have dual citizenship). Gilgit, Hunza and Baltistan would remain part of Pakistan, this retaining Pakistan's access to China (Christine Fair, 2012).

⁶¹ Srinagar is the summer capital of the Indian State of Jammu and Kashmir. It is situated in the Kashmir Valley and lies on the banks of the Jhelum River, a tributary of the Indus. The city is famous for its gardens, lakes and houseboats. It is also known for traditional Kashmiri handicrafts and dry fruits.

⁶² A ceasefire is a temporary stoppage during a war or other armed conflict.

6.2.16 Ganguli Proposal

By understanding the involvement of historical, cultural, security sensitivities of India and Pakistan's decision makers acknowledged a basic in similarities between the positions of the two on the issue of Kashmir.

The plan further explains that while Pakistan has been endeavoring to raise the Kashmir issue in the foreign policy contest, India on the other hand, considers it as basically a internal problem and notices Pakistan's support for Kashmiris as interfering into India's in-house matters.

The proposal acknowledges that resolving these "strange positions" will not be easy, but then goes to develop a link between Siachen and the Kashmir issue.

"While a resolution of the Siachen⁶³ issue will not address Pakistan's present claim to Kashmir, it can still serve as a first step toward reaching a more practical solution to the dispute, the proposal claims.

There is a one opportunity about the formal acceptance of the status-quo by both sides for next twenty years or both India and Pakistan may pledge and agree upon "no war pact", such a solution will be "reasonable replacement to Simla Agreement".

6.2.17 Asia Society Proposal

The idea of "collective responsibility" on resolution of Kashmir crisis between India and Pakistan is discussed in this plan.

The agenda of this framework is that India should give special status to Kashmir as a step in the direction of confidence building measure (CBM)⁶⁴ between the residents of "both parts of Kashmir" (India and Pakistan).

Line of control should be declared into international boundary between India and Pakistan. Further, it is proposed that a "South Asia House" - a plan of wide-ranging co-operation between the countries of the sub-continent, perhaps leading to a "Confederation"⁶⁵ that would include Kashmir".

⁶³ The Siachen Glacier is located in the eastern Karakoram range in the Himalaya Mountains there is a line of Control between India and Pakistan . It is the longest glacier in the Karakoram and second-longest in the world's non-polar areas.

⁶⁴ The CBMs include an increase in the number of trading points along the Line of Control, increasing the number of trading days from two to four, the launch of a new bus service between Kargil and Skardu and increasing the frequency of the bus link between Muzaffarabad and Srinagar, an unnamed Foreign Office official told The Express Tribune newspaper. The agreement on the new CBMs was finalized at a recent meeting of a Pakistan-India working group in New Delhi and is part of efforts by the two countries to facilitate trade and travel along the LOC.

⁶⁵ A confederation, also known as confederacy or league, is a union of political units for common action in relation to other units.^[1] Usually created by treaty but often later adopting a common constitution, confederations tend to be established for dealing with critical issues (such as defense, foreign affairs, or a common currency), with the central government being required to provide support for all members.

To validate this arrangement the society envisions a role for the international community, so suggesting the United Nations, the United States of America and Russia, can play an important role. The United State and Russia could individually or jointly make efforts to bring India and Pakistan closer in resolving the issue.

It is also recognized that although the Kashmir issue is bi-lateral, on the other hand, international silence of the issue can no longer be ignored;

Therefore, through symposiums, discussions, conferences, workshops, seminars and tabling of resolutions in the United Nations an effort can be made to alert the international community and populations in India, Pakistan and Kashmir to seek some solution of the problem (Yusuf K.F, 2012).

6.2.20 Wirsing Proposal

Exploring the changes that have taken place in Kashmir since the mid 1980's which develops a dispute between Pakistan and India on the question of Kashmir issue, because the rejection of the resolutions of United Nations of 1948-49 by India are of little significance, as the turmoil, uprising, spread of nationalism⁶⁶ and Islamic militancy in Kashmir have over taken through the passage of time. The objective conditions that gave legality to the notions of referendum and self-determination have changed.

India and Pakistan both do not recognize any plan suggested by different scholars and both are stated at their traditional positions. Given these changes within Kashmir, and the disintegration of Soviet Union, the cold war conflict or super powers has reduced. This has provided an excellent opportunity for international mediation to resolve the Kashmir issue. Given changes in the internal situation of Kashmir and external environment, suggests that "international pressure" can be applied" more deliberately, consistently and even handedly, to resolve the Kashmir issue.

Furthermore, both India and Pakistan have a genuine stake in Kashmir, that proposals for settlement of Kashmir cannot possibly move ahead if those making the plans are thought to be more interested in forging new alliances (or in building up new regional powers) then in forging more peaceful regional relationships.

Sun-continental understanding, not restructuring of regional power should be the objective of international involvement. It is the only practical objective without it, no settlement of any kind in Kashmir is likely (Yusuf K.F, 2012).

⁶⁶ Nationalism is a belief, creed or political ideology that involves an individual identifying with, or becoming attached to, one's nation. Nationalism involves national identity, by contrast with the related construct of patriotism, which involves the social conditioning and personal behaviors that support a state's decisions and actions.

6.2. 21 American Council's Proposal

A third party mediation role through the good offices of United States of America is suggested by the Kashmir American Council to the solution of Kashmir issue, as a four party dialogue; i.e. United States, Pakistan, India and the Kashmiri people; (who is to represent the Kashmiri people is not clear). To initiate a peace process, as a first step, demilitarization⁶⁷ of area of conflict, leading to withdrawal of all forces has to take place.

Only a small police force should be reserved, which should supervise truce line under United Nations Observers. Secondly, total demilitarization of Kashmir State and return of Indian and Pakistani troops, "on the borders outside Kashmir".

6.2.20.1 American Council's Four Point Strategy

6.2.20.1.1 First Step

China shall be invited in dialogue process, along with India, Pakistan and some symbolic body of Kashmiris. It identifies an independent Kashmir as a soft State that will divert attention of United States and influence would add to the strategic liability of China. Therefore, China has uneasiness about an independent Kashmir.

6.2.20.1.2 Second Step

Pakistan should raise the principle of partition of India, whereby Muslim majority areas were to become part of Pakistan. Kashmir vale was and is mostly Muslim. Therefore it should be united with Pakistan. In return Pakistan should relinquish it's legal right on Jammu and Laddakh, which should be joined with India even Indian opinion leaders allow that" by demanding the right-of self-determination to the Kashmiris are not asking moon.

"Representatives of the people should govern the State" However the Indian Government is little inclined to concede to such a demand, thereby the unrest, alienation and militancy of the Kashmiris is on the rise. The longer the uprising in Kashmir persists, the weaker will become the democratic pretensions of the Indian government. It will also brighten the prospects of international mediation to resolve the issue.

⁶⁷ **Demilitarization** or **demilitarization** is the reduction of a nation's army, weapons, or military vehicles to an agreed minimum. Demilitarization is usually the result of a peace treaty ending a war or a major conflict. A drastic voluntary reduction in size of a victorious army is called demobilization. Demilitarization was a policy in a number of countries after both world wars. In the aftermath of World War I the United Kingdom greatly reduced its military strength. The resulting position of weakness during the rise of the Nazi regime in Germany was among the causes that led to the policy of appeasement.

6.2.20.1.3 Third Step

Therefore, Pakistan should persist with internationalizing the issue and at the same time show readiness to maintain a dialogue with India on the resolution of the problem.

6.2.20.1.4 Forth Step

Pakistan should try to redefine it's position on Siachen- Kashmir linkage, and may pursue, the modalities of demarcation of the boundary in Siachen in the light of Indian Proposals, demilitarization of the area of conflict under United Nations Observers. In view of India's violation of human rights in Kashmir the United States should use 'no' vote to stop the inflow of International Monetary Fund & World Bank⁶⁸ consortium aid to India.

Recognizing the geo-political significance of the region around the Kashmir and China's apprehensions' about an independent Kashmir, it should be included in the peace process to crack the issue.

Pakistan should raise the principle of partition of India, whereby Muslim majority areas had to unite with Pakistan and Hindu majority areas with India. (If a plebiscite is held the results will be along the some lines anyway)Pakistan should try to re-define its position on Siachen-Kashmir Linkage, and may pursue the modalities of demarcation of boundary in Siachen in the light of the Indian proposal (Yusaf K.F, 1992).

6.2.21 US Institute of Peace Washington (D.C)

Violence in Kashmir must be controlled as immediately as possible. This is needed both to end human suffering and to create an environment to build confidence that will in turn permit to begin movement towards a peaceful resolution. This will require undertakings by the parties to the conflict to provide security, end violence, and sit around the negotiation table and seriously debate that the future of the Kashmir problem.

A political process for resolving the problem over time must involve mechanisms to interaction between governments and among citizens working in the political field. Both these mechanisms are mutually complimentary. Neither can succeed without the other. It is essential that people of

⁶⁸ The World Bank is a United Nations international financial institution that provides loans to developing countries for capital programs. The World Bank is a component of the World Bank Group, and a member of the United Nations Development Group. The World Bank's official goal is the reduction of poverty. According to its Articles of Agreement, all its decisions must be guided by a commitment to the promotion of foreign investment and international trade and to the facilitation of capital investment.

Jammu and Kashmir be central participants in this political process, along with the governments and citizens of India and Pakistan. There is deep seated hostility, suspicion, and mutual friction in both India and Pakistan. These might impede the growth and development of such a framework. This factor has to be paid attention lest attempts at creating such a framework fly off from reality on the ground.

Violation of human rights by security forces, police, and “militants” makes it hard to sustain a formal peace process. Respect for human rights is therefore a necessary precondition for initiating and sustaining dialogue for peace and to build confidence (Yusuf K.F, 1992).

6.2.22 Schwartzberg Proposal

Let the line of control stay as it is but let there be elections in the whole of Kashmir and the resultant parliament should meet at Srinagar People should be free to move between the two parts of Kashmir. Let them have their Pakistani and Indian passports which would be used when they move out of Kashmir. People should be free to promote the tourist industry boosted by tourists coming from India as well as from Pakistan. Kashmiris will take care of their economic well-being themselves. A United Nations Security force will be responsible for maintaining peace in the area. Let people live in peace and freedom for five years and then let them decide what do they want?

6.2.23 Methodology of Complete Independence

Independent status to the entire State of Jammu and Kashmir is proposed. Such a State is to be respected and guaranteed by the regional States as well as global powers; Both Azad Kashmir and occupied Kashmir should be given under United Nations trust and independence to be given after a decade of United Nations role of Kashmir.

To held a plebiscite in the entire State of Jammu and Kashmir under the auspices of the United Nations, with the choice of independence also, to re-unite the divided Jammu Kashmir State and make it an independent country. After 15 years let there be a referendum under United Nations auspices to determine whether the independence of the State will be retained forever or it become parts of India and Pakistan.

Elections to an All-State legislature’ and the election of a “Representative National Government”

⁷⁹

for the whole State under the supervision of neutral administration who may be assisted by some of the Members of Legislative Assembly (Muhammad Aamir et al,1999).

6.2.24 Methodology for Partial Independence

To make only the Kashmir vale a United Nations trust territory and allow the integration of Azad

Kashmir and Baltistan with Pakistan and Jammu and Laddakh with India. Integration of Azad Kashmir and Baltistan with Pakistan, and Jammu and Laddakh with and an immediate plebiscite in Kashmir valley with three options:

⁷⁹In the United Kingdom the term National Government is an abstract concept referring to a coalition of some or all major political parties. In a historical sense it usually refers primarily to the governments of Ramsay MacDonald, Stanley Baldwin and Neville Chamberlain which held office from 1931 until 1940. The all-party coalitions of Herbert Henry Asquith and David Lloyd George in the First World War and of Winston Churchill in the Second World War were sometimes referred to as National Governments at the time, but are now more commonly called Coalition Governments. Churchill's brief 1945 "Caretaker Government" also called itself a National Government and in terms of party composition was very similar to the 1931–1940 entity.

i) Accession to India ii)

Accession to Pakistan

iii) Independence

The outcome of the plebiscite should be implemented by the United Nations. To have a plebiscite in the vale only after 5 years of United Nations trusteeship with the choice of independence along with joining Pakistan or remaining with India.

To form a Council of Autonomous Kashmir consisting of five members, one Indian, one Pakistani, two Kashmiri Muslims and one by United Nations, (presided over by an official of the United Nations). Council's task should be to ensure the existence and autonomy of the Kashmir valley guaranteed by India and Pakistan. Kashmir under Indian control be partitioned, Jammu and Laddakh would become part of Indian Union, while Kashmir valley would be "United with sizable Muslim pockets in Jammu and Laddakh" India may give to this 'new State'. Far reaching autonomy as part of a "Trieste type solution", in return Pakistan would "grant the some degree of autonomy to Azad Kashmir". Regional plebiscites in both parts of Jammu and Kashmir State can be held with all the three options (Yusuf K.F, 1994).

6.2.25 Jagat S. Mehta's proposals

6.2.25.1 Pacification of Vale

A necessary precondition of settlement with Pakistan is termination of the insurgency, including the ferreting out of hardcore militants and plugging of infiltration from Pakistan. Specifically, "to quarantine Kashmir against militancy, until a political solution is reached, a 20 kilometer belt could be created along the line of control from all on residents would be barred, and all required to carry laminated identity cards."

6.2.25.2 Restoration of an Autonomous Kashmiriyat

Democracy should be wholly restored; Article 370 of the Indian Constitution with its express guarantee of the State's "autonomous identity",⁶⁹ should be retained; And "a national policy of constitutional decentralization for whole of India "should be set as a long-term objective.

The separate identities of the Jammu and Laddakh sub-division of the State shall be accommodated in the promise of general decentralization and in the special vivi-section of the old boundaries of Jammu and Kashmir, conversion of the line of control into a soft border permitting free movement and facilitating economic exchanges. Immediate demilitarization of the line of control to a depth of five to ten miles with agreed methods of verifying compliance, conduct of parallel democratic elections in both Pakistani and Indian sectors of Kashmir.

Subsequently, the elected government of the two halves should be permitted to have contact with each other and promote cultural and economic exchanges between these parts of old Kashmir". Final settlement of the territorial dispute between India and Pakistan can be suspended (kept in "a cold freeze"⁸¹) for an agreed period.

Pending final settlement, there must be no continuing insistence by Pakistan "on

⁶⁹ Autonomy mean "one who gives oneself one's own law") is a concept found in moral, political, and bio ethical philosophy. Within these contexts, it is the capacity of a rational individual to make an informed, un-coerced decision. In moral and political philosophy, autonomy is often used as the basis for determining moral responsibility and accountability for one's actions. One of the best known philosophical theories of autonomy was developed by Kant. In medicine, respect for the autonomy of patients is an important goal, though it can conflict with a competing ethical principle, namely beneficence. Autonomy is also used to refer to the self-government of the people.

internationalization⁷⁰ and for the implementation of a partial or State-wide plebiscite to be imposed under the peacekeeping auspices of the United Nations (Wirsing G. Robert, 1994).

6.2.26 B.G Verghese Proposal

Indian Policy analyst and former Editor of "The Hindustan Times" distinguishing his proposal as the Fourth Option, (The first three being maintenance of the Status quo, detachment of part or all of Kashmir from India and it's re-attachment from Pakistan, and independence for part of all the States), Varghese proposal advocates a solution that he labels co-confederalism."

6.26.1 Co-Confederation

Would leave existing sovereignties intact but confer a large measure of autonomy (selfdetermination, Azadi) on either side of Jammu and Kashmir through negotiations between the two metropolitan States and the Jammu and Kashmir units on either side.

On the India side this might well entail federation of Kashmir, Jammu and Laddakh, with regional autonomy, for each and further devolution to sub units...The degree of central devolution [to Jammu and Laddakh and the valley] could even vary, Pakistan would need to work out similar arrangements on its side.

6.2.27 the Partitionist Approach

The idea of the converting of the Line of Control that divides the Indian and Pakistani parts of Jammu and Kashmir into a legitimate international border between two countries. The line of control,⁷¹ which originated in January 1949 as a cease-fire line between the Indian and Pakistani armies at the end of their first war over Kashmir.

6.2.28 the Plebiscitary Approach

"On the question of Kashmir dispute, the sovereignty issue was decided to be settled" in accordance with the will of the people, expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations, Security Council

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In economics, internationalization is the process of increasing involvement of enterprises in international markets, although there is no agreed definition of internationalization. There are several internationalization theories which try to explain why there are international activities.

⁷¹ The term Line of Control (LOC) known as *Asia's Berlin wall*, refers to the military control line between the Indian and Pakistani-controlled parts of the former princely state of Jammu and Kashmir—a line which, to this day, does not constitute a legally recognized international boundary but is the de facto border. Originally known as the "Ceasefire Line", it was designated as the "Line of Control" following the Simla Agreement, which was signed on 3 July 1972. The part of the former princely state that is under Indian control is known as the State of Jammu and Kashmir. The two parts of the former princely state that are under Pakistani control are known as Gilgit–Baltistan and Azad Jammu and Kashmir (AJK).

resolutions and United Nations Commission for India and Pakistan (UNCIP) was constituted initially to facilitate two governments in organizing and administering a popular referendum to decide the key question of rightful sovereignty over contested territory, and pending that exercise, (United Nations Military Observers for India and Pakistan) was set up to monitor the truce along the cease-fire line. A forty officers group of (United Nations Military Observers on India and Pakistan) still operates at the Line of Control.

India rejects the plebiscite as irrelevant, obsolete, and unnecessary. However United Nations does not deny that Kashmir is unresolved international dispute, but it's position is that it can consider playing a role in either mediating or facilitating a settlement. Since India is one of the parties to the conflict, it's absolute rejection of a plebiscite does render that option infeasible effectively non option. The Pakistani State's formal commitment to ascertaining the "will" or aspirations of the people of Jammu and Kashmir, through the implementation of United Nations Security Council Resolutions.

European Union (EU) established an "Arbitration Commission"⁸⁴ to deal with the conflicting claims to "self-determination" of Yugoslavia, a referendum on sovereignty was facilitated on 29 February and 1 March 1992 – Sixty three percent turnouts were recorded and 98% of these voters supported in favor of independence option (Bose Sumantra, 2003).

6.2.29 The Galbraith Plan (Harvard Exercise)

The plan proposed briefly that the road across the cease-fire line between Rawalpindi and Srinagar should be opened; there should be freedom of trade with both India and Pakistan; That India's military rights in the vale of Kashmir should be respected because defense of Laddakh depends on her. The citizens of Kashmir should be free to choose between India or Pakistani citizenship, which would be in itself a sort of 'silent plebiscite without attendant political shouting (Khan A. Sattar, 2000).

⁸⁴The Arbitration Commission of the Conference on Yugoslavia (commonly known as Badinter Arbitration Committee) was a commission set up by the Council of Ministers of the European Economic Community on 27

August 1991 to provide the Conference on Yugoslavia with legal advice. Robert Badinter was appointed to President of the five-member Commission consisting of presidents of Constitutional Courts in the EEC. The Arbitration Commission has handed down fifteen opinions on "major legal questions" raised by the conflict between several republics of the Socialist Federal Republic of Yugoslavia.

6.3 *Analysis of Proposals for resolving the issue of Kashmir*

S. No.	Proposals on Kashmir Issue	Key Findings
1	Musharraf's Four-Point Proposal	The proposal suggests soft borders between India Pakistan. These borders will provide for freedom of movement, autonomy, self-governance, demilitarization, joint supervisory mechanism to both sides of Kashmir.
2	Chenab Formula	The formula proposes that Jammu and some districts may join to India and Srinagar city as well as all Jammu and Kashmir region along river lines, Chenab line or Jehlum line should be transferred to Pakistan
	Kashmir Action Committee (KAC) Proposal	KAC firmly believes that the Kashmir issue should be resolved according to the United Nations charter, Security Council and United Nations Commission on India and Pakistan. Free and impartial democratic plebiscite under the auspicious of United Nations should be used to solve the issue.
4	Noorani's Settlement Proposal	Proposal suggests that, India should restore article 370 of the Indian constitution in letter and spirit. Both India and Pakistan should extend more autonomy to Kashmir, with legal guarantees.

5	Qayoom Khan's Eight Point Action Plan	The action plan highlights human rights violations by India. It recommends the
		process of de-militarization of Kashmir, repatriation of Hindus, and freedom of movement on both sides. International human rights organizations should be granted access to visit both sides of Kashmir. Diplomacy through dialogue and meetings of political leadership of both sides of Kashmir and confidence building measures should immediately be initiated.
6	Khushwant Singh's Proposal	The proposal stresses that, the Kashmiri Muslims have no sympathies with India, and she has lost her moral authority to control physically on the people of Kashmir, Singh suggests that, only reliance on tourism and handicrafts the State of Jammu and Kashmir cannot become an independent State. Further proposal defines that, India should not declare Kashmir as its integral part and the solution lies in the Simla agreement.

7	All Parties Hurriet Conference Proposal	The proposal states that, exercising the right of self-determination under United Nations charter and Security Council resolutions is basic right of the Kashmiri people. The solution of the Kashmir issue is possible through negotiations and dialogue process among Pakistan, India and Kashmiri people. Further, APHC rejects election process adopted by India in Indian held
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		Kashmir and according to them, there is no substitute of plebiscite or right of self-determination of Kashmir.
8	Manmohan Singh Proposal	The proposal highlights that, both parts of Kashmir should be provided autonomy, soft or no borders and Pakistan and India will hold authority over currency, defense, election process and judicial system only.
9	Muhammad Abdullah Proposal	The proposal highlights that, the Hindu majority areas Kathua, Jammu and Udhampur may join India and Muslims' pre-dominantly regions as Azad Kashmir, Gilgit Baltistan should be annexed with Pakistan. Meanwhile, Banihall, Doda, Niabat of Arnas districts should decide their future through plebiscite followed by Ladakh.

10	United Nations Face-Saving Formula	The procedure highlights that, the idea of division by accession of Kashmir should affect according to partition plan which defines that, the division shall be made on the communal grounds. Muslim majority areas will join Pakistan reciprocally Hindu pre-dominantly areas to India, that is truly implementation of two nation theory.
11	Ganguli Plan	The idea highlights that, India should offer to hold an election in the presence of international observers in Jammu and Kashmir and non-governmental
		organizations can make useful contributions.
12	Schwartzberg Proposal	The scheme highlights that, the Kashmir plan should be persuasive, thoroughly documented to divert attention of audience, use of relevant statistics is proposed, neutrality be safeguarded, flexibility be administered from both sides, Pakistan and India.

13	S. Ilyas Proposal	<p>The proposal highlights that, in the Vale of Kashmir 90% are Muslims. In Doda there are 80% Muslims. Even in Kargil, Ladakh (Rajouri-Poonch) districts Muslims are in majority while Buddhists are in minority position in Ladakh, so it is need of time to address the issue of Kashmir properly and in a realistic manner, the future of each district should be determined through plebiscite.</p>
14	Pervez Iqbal Cheema Proposal	<p>The proposal highlights that, the Kashmir issue should be resolved through democratic plebiscite under the auspicious of United Nations charter and Security Council resolutions; it may be district or region wise under the supervision of third party to ensure neutrality and impartiality or jointly supervised by India and Pakistan. Further, by explaining partition it is discussed that, the division of State of</p>
		<p>Jammu and Kashmir shall be made on communal grounds means that Muslim and majority areas and rest of Kashmir go to Pakistan and Jammu and Ladakh joins India. Cease-fire lines and line of control shall be declared as international border.</p>

15	Condominium-Confederation Proposal	The proposal highlights that, a joint management internal and Defense Affairs of the State of Kashmir with maximum autonomy under the supervision of Pakistan and India.
16	Khushwant Singh Proposal	The proposal highlights that, the five members Kashmir Council should be established as one Indian, one Pakistani two Kashmiri Muslims and one member from United Nations. Further this proposal negates the idea of independent Kashmir it is only possible after India and Pakistan guarantees its establishment which is not possible. Furthermore, India and Pakistan should initiate two way communication and people to people contacts; it is also right of Kashmiri people to decide their future according to the rule of selfdetermination as promised by United Nations and India.
17	Harrison Proposal	The proposal highlights that, Jammu should be separated from India while Ladakh may join India, meanwhile
		Kashmir vale should be granted far reaching autonomy as part of a 'Trieste Type Solution' reciprocally Pakistan grants autonomy to Azad Kashmir.

18	Ganguli Proposal	Proposal works out possibilities to formal acceptance of the status-quo by both Pakistan and India for next twenty years and initiate a no war pact.
19	Asia Society Proposal	Asia Society floats an idea of sharing responsibility, the framework suggests that India should grant special status to Kashmir as an exercise of confidence building measure, line of control should be declared as international border, this road leads us at the door of confederation of South Asia, the society suggests role for United States and Russia to play important role to resolve Kashmir issue. Further it is suggested to organize seminars, conferences, discussions and tabling of resolutions in the United Nations and efforts can be made to sensitize the international community and populations in India and Pakistan to seek solution.
20	Robert. G. Wirsing Proposal	The proposal suggests that, international pressure consistently can be applied to resolve Kashmir issue, regional reconciliation not reconfiguration of regional power should be objective of international intervention.

21	Kashmir American Council(KAC) proposal	<p>The proposal supports role of United States of America as mediator to resolve Kashmir issue, to initiate a peace process a four party dialogue, United States, Pakistan, India and Kashmiri people as its members should be constituted. Meanwhile de-militarization of Jammu and Kashmir State, acceptance of the principle of partition as designed by British government to divide India in 1947 same principle of division on the basis of communal lines and through the right of self- determination to the people of Kashmir should be recognized by India.</p>
22	US Institute of Peace Washington (DC) Plan	<p>The plan highlights that, there should be no violence in Kashmir; a political process to resolve the Kashmir issue over time must involve mechanisms to interactions between governments among citizens working in political field in both countries India and Pakistan.</p>

23	Schwartzberg Proposal	The proposal suggests that, there should be regular election in whole Kashmir, people should be freedom of movement between the two parts of Kashmir, to promote tourist industry, tourists from Pakistan and India should welcome, and this good will gesture would create some economic activity and this act
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		would take, care of wellbeing of Kashmiris of both sides.
24	Methodology of Complete Independence (MCI)	It suggests that, a plebiscite in the entire State of Jammu and Kashmir under the supervision of United Nations should be held with choice of independence also.
25	Methodology for Partial Independence (MPI)	It suggests that, the Vale of Kashmir should handover under United Nations trust territory and remaining areas may be as it is, it also promises three options i) Accession to Pakistan ii) Accession to India iii) Independence

26	Jagat S Mehta	<p>The plan stresses to address the issues of insurgency, militancy and infiltration, and focuses upon that, there should be political solution to be identified as a twenty kilometers belt should be created along line of control free to all residents of Azad Kashmir and Indian held Kashmir and they only required to carry their identity cards. The proposal suggests that, India should restore autonomous identity of Jammu and Kashmir under article 370 of the Indian constitution as it is, by declaring separate identity to Kashmir, decentralization of power, promotion of cultural and economic exchanges between two parts of Kashmir, for a agreed period, the issue of Kashmir</p>
		should be kept in a cold freeze.
27	BG Verghese Proposal	<p>The proposal suggests four options to resolve Kashmir issue, i) maintenance of status-quo ii) separation of all Kashmir from India, its reattachment from Pakistan iii) independence iv) co-confederation.</p>

28	Co. Confederation	It is rule of self-determination which can be achieved through negotiations as federation of Kashmir, Jammu and Ladakh on the Indian side, similar arrangements should be worked out by Pakistani side.
29	The Partitionist Approach	This approach suggests that, line of control should be declared as legitimate international border between India and Pakistan.
30	The Plebiscitary Approach	This approach suggests that, the question of the accession of the State of Jammu and Kashmir should be decided through democratic method of free and impartial plebiscite under the supervision of United Nations.
31	The Galbraith Plan	The plan proposes to open the road across ceasefire line between Rawalpindi and Srinagar, freedom of trade between India and Pakistan, right to choose citizenship of Pakistan or India should be granted to the people of Kashmir, the plan calls it a 'silent plebiscite without political shouting'.

5.4 Conclusion

The chapter draws conclusions, recommendation proposals suggestions, frame work, academic and intellectual brain storming about Kashmir issue, to create way out to initiate dialogue process between two countries which has been dead locked since many years to facilitate third party initiatives, by the United Nations, international super powers, like United States of America, Russia, United Kingdom, as well as friendly countries to pressurize both countries to resolve Kashmir issue, peacefully through dialogue process at the table of negotiations. The chapter begins with the four point proposal of former General (Retired) Pervez Musharraf who proposed idea of a soft borders

in both parts of Kashmir, also suggested demilitarization and joint mechanism to resolve Kashmir issue, moreover there is also included Chenab Formula, which suggested that the division of Kashmir shall be made on the flow of the river Chenab.

Secondly, a roadmap proposed by Kashmir Action Committee, Pakistan is also discussed as enumerated by the Kashmiri representatives in Pakistan. On the other hand, the settlement proposal floated by A.G Noorani, an Indian intellectual about the acceptance of the demarcation of the border as India thinks that Pakistan will accept as it is. Further, Sardar Abdul Qayoom Khan, former prime minister of Azad Kashmir, explains eight point action plan about Kashmir issue, focusing on violations of human rights, demilitarization, repatriation, free access to Kashmiris to both sides, freedom of movement, dialogue/negotiations should be associated from both sides, confidence building measures should be initiated immediately, as well as the objectives exercised by All Parties Hurriyat Conference, (a representative league of Indian held Kashmir) are also mentioned in this chapter.

Furthermore, Manmohan Singh, former prime minister of India's proposal in connection with the solution of Kashmir issue, by providing autonomy to both territories of Azad Kashmir and Indian held Kashmir, soft borders between them. On the contrary, United Nations group working to mediate on Kashmir, formulated a proposal of face saving on the basis of the partition principle of Hindu majority areas going to India while Muslim pre-dominantly areas will, join Pakistan, they call it practical enactment of Two Nation Theory.

Meanwhile, Ganguli plan, which guides India, to deal with Kashmiris softly by creating restraint, by restoration of article 370 of the constitution of India, Joseph Schwartzberg proposal emphasized persuasive measures and documentation of plan in all respects. Kashmiri intellectual S. Ilyas presented settlement proposal about Kashmir issue, four categories 1 plebiscite 2 partition 3 independence 4 Condominium- Confederation, like strategies narrated by Dr. Pervez Iqbal Cheema, Selig Harrison Proposal, Asia Society Proposal, Robert G. Wirsing proposal, The Kashmir American Council proposal, Professor Schwartzberg methodologies about solutions of Kashmir issue are also discussed in this chapter. In the last, theories of resolution in the international context expressed by Jagat Mehta, B. G. Verghese proposal, the Galbraith plan (Harvard Exercise) which proposed opening of road across the cease- fire line between Rawalpindi and Srinagar. Freedom of trade and a suggestion and idea of silent plebiscite by the citizens of both sides of Kashmiris are also discussed to resolve this issue between India and Pakistan. The conclusion draws attention of political leadership of both India and Pakistan to show flexibility and political acumen, intellectual wisdom and broad mindedness to address and resolve the issue of Kashmir which has been pending since last seven decades.

Both countries have fought three wars and two are declared nuclear power, so there is threat of full scale nuclear war if Pakistan and India could not reach on a suitable solution through dialogue and peaceful means bilaterally or multilaterally under the supervision of United Nations or mediation initiated by international community or intervention of super powers, or facilitation of neighboring countries.

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Chapter Seven

Conclusion and Recommendations

This chapter concludes the key arguments of study. The first chapter gives an overall historical background of Kashmir. The Kashmir was one of the six hundred princely states at the time of the partition of India. The chapter stresses the fact that the legal position of

these states was that they could join India, Pakistan or remain independent. However, Kashmir was forcibly occupied by India. Forcible occupation of Kashmir by India not only undermined the legal statutes of the state of Kashmir but also violated the main principles of the Partition Plan. It is stated that According to the plan the areas joining India or Pakistan were to be considered on the basis of geographical proximity and cultural affinity. These factors were in the favor of Kashmir's annexation with Pakistan which was not acceptable to India. Thus, India occupied Kashmir without considering the legal aspects of the partition. This situation developed the dispute between India and Pakistan. United Nations have tried passed several resolutions but the same were not implemented by India. This chapter further analyses the issue of Kashmir in historical perspective and concluded that conflict of Kashmir was an outcome of unfair Partition Plan.

The second chapter engages the readers in understanding moral and legal aspects of Kashmir. This chapter uses the legal documents to demonstrate that the argument concluded between Maharaja and the British Government was based on certain terms and conditions which have been described under various articles of the treaty. In addition, the chapter also deals with standstill agreement of Jammu and Kashmir with Pakistan. Pakistan responded to the agreement indicates that both parties accepted the argument. However, it can also be noted that there was no such agreement concluded between Jammu and Kashmir and India. The second part of the chapter deals with various point of views which can be interpreted as Indian perspective, Pakistan perspective and Kashmiri peoples perspective. These perspectives can be used to understand the issue of Kashmir and to solve it amicably. However, the conflict among the various stakeholders could lead to escalate the nuclear tension and could convert this problem into nuclear clash. The third part of the chapter concludes that the process of nuclear proliferation was an outcome of unresolved issue of Kashmir, which is a major concern of international community.

The third chapter focuses on the United Nations initiatives, taken by the international organization since, 1948, the complete resolutions, the report of commissions, efforts of different legal, political, international law experts to resolve the dispute between India & Pakistan, on the issue of Kashmir. The chapter also highlights the positive outcomes of international community specially, United States of America, United Kingdom and others as third party facilitators to resolve this issue properly. The chapter reflects the clear picture about the parties involved and their attitude to resolve this issue and defines the stumbling block, deadlock created by one party to the other. The chapter will further facilitate researchers, scholars and governments of India and Pakistan to initiate new level of dialogue to resolve this core issue of South Asia for the peace and stability of the region.

The chapter four concludes the major events of history, past, present and future developments related to the dialogue process between the leaders of Pakistan and India on the Kashmir issue, if we remind the series of negotiated settlements since 1947 and onwards.

The chapter has analyzed various factors for partition and concluded that joining of the people of Kashmir. After partition, the talks between newly established countries of

Pakistan and India began on the question of Kashmir issue. The political leadership of India always showed myopic vision and refused to accept any logic to the just and fair solution of the State of Jammu and Kashmir, so she used delaying tactics and aggressive, illogical attitude towards Pakistani leadership and the people of Jammu and Kashmir State. Thus, it is argued in this chapter, that there is a need to change the attitude of Indian leadership. It is further argued that Indian leaders should not undermine the moral authority of United Nations. They should respect United Nations Security Council Resolutions and facilitations offered by International community and friendly nations.

There is a need of displaying positive political vision, flexibility and accommodative thinking.

The chapter five is based on the exploration of various proposals to form new recommendations for the solution of Kashmir problem. This chapter also justifies the need to initiate dialogue process between two countries and it also justifies the need for third party involvement. The United Nations, international super powers, like United States of America, Russia, United Kingdom and friendly countries need to play an effective role in the resolution of Kashmir issue. The chapter also has also investigated the theories of resolution in the international context expressed by Jagat Mehta, B. G. Verghese proposal, the Galbraith plan (Harvard Exercise) which proposed opening of road across the cease- fire line between Rawalpindi and Srinagar. These theories can also help to reduce the intensity of conflict. In addition, the conclusion draws attention of political leadership of both India and Pakistan to show flexibility and political acumen, intellectual wisdom and broad mindedness to address and resolve the issue of Kashmir.

The chapter also concludes very important aspect of Kashmir issue. It argues that there is threat of full scale nuclear war if Pakistan and India could not reach on a suitable solution through dialogue and peaceful means bilaterally or multilaterally under the supervision of United Nations or mediation initiated by international community or intervention of super powers, or facilitation of neighborly countries. The study concludes following proposals and recommendations for the solution of the Kashmir issue.

The question of the accession of the State of Jammu and Kashmir to India or Pakistan should be decided through the democratic method of a free and impartial plebiscite under United Nations supervision.

The State of Jammu and Kashmir should be declared as "Peace Park" under joint supervisory mechanism India and Pakistan and United Nations as guarantor.

A multilateral dialogue process hosted by United Nations, International Community and United States, should be facilitated immediately.

An "Economic Bloc Model" among South Asian states should be introduced at the platform of South Asian Association for Regional Cooperation (SAARC).

“Good Friday Agreement” between United Kingdom (UK) and Ireland, initiated by European Union. Similar accommodative settlement may be applied as a framework to resolve Kashmir issue.

Kashmir issue should be settled according to “Independence Referendum held in State of Quebec (Canada) in October 1995”

India referred Kashmir issue to the United Nations Security Councils under Articles 34 and 35, then United Nations Security Council intervened under chapter VI which stated that (Pacific Settlement of Disputes). After Indian refusals, and rejection of all United Nations Resolutions and International Community as well as United States and United Kingdom mediations, it is now recommended to the United Nations, should act upon according to chapter VII of the Charter which enforces economic, political and military sections against violators. As the status of India is not different then the violator

of United Nations Charter, so Security Council, should impose economic, political and military sanctions against India.

It is further recommended that under Article 96 of United Nations Charter, United Nations Security Council or United Nations General Assembly should refer this issue to (International Court of Justice) for further consultation and legal proceedings.

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