



RESEARCH PAPER 04/28
30 MARCH 2004

Kashmir

This Paper discusses the disagreements between India and Pakistan over Kashmir, the situation in Indian-administered Kashmir and the current discussions between India and Pakistan, and between India and some Kashmiri separatists. It includes relevant UN resolutions and international agreements in Annexes, and a map.

Paul Bowers

INTERNATIONAL AFFAIRS AND DEFENCE

HOUSE OF COMMONS LIBRARY

Recent Library Research Papers include:

List of 15 most recent RPs

04/13	<i>Carers (Equal Opportunities) Bill</i> [Bill 16 of 2003-04]	03.02.04
04/14	Unemployment by Constituency, January 2004	11.02.04
04/15	The <i>Gender Recognition Bill</i> [HL] [Bill 56 of 2003-04]	17.02.04
04/16	Burma	23.02.04
04/17	The <i>Gangmasters (Licensing) Bill</i> [Bill 17 of 2003-04]	25.02.04
04/18	<i>Pensions Bill</i> [Bill 57 of 2003-04]	25.02.04
04/19	Social Indicators [includes article: EU enlargement: Basic Indicators for accession countries]	01.03.04
04/20	Economic Indicators [includes article: Background to the 2004 Budget]	01.03.04
04/21	<i>Promotion of Volunteering Bill</i> [Bill 18 of 2003-04]	03.03.04
04/22	The <i>Justice (Northern Ireland) Bill</i> [HL] [Bill 55 of 2003-04]	04.03.04
04/23	Poverty: Measures and Targets	04.03.04
04/24	The <i>Cardiac Risk in the Young (Screening) Bill</i> [Bill 19 of 2003-04]	10.03.04
04/25	The <i>Christmas Day Trading Bill</i> [Bill 20 of 2003-04]	17.03.04
04/26	Unemployment by Constituency, February 2004 17.03.04	
04/27	Direct taxes: rates and allowances 2004-05	18.03.04

Research Papers are available as PDF files:

- *to members of the general public on the Parliamentary web site,
URL: <http://www.parliament.uk>*
- *within Parliament to users of the Parliamentary Intranet,
URL: <http://hcl1.hclibrary.parliament.uk>*

Library Research Papers are compiled for the benefit of Members of Parliament and their personal staff. Authors are available to discuss the contents of these papers with Members and their staff but cannot advise members of the general public. Any comments on Research Papers should be sent to the Research Publications Officer, Room 407, 1 Derby Gate, London, SW1A 2DG or e-mailed to PAPERS@parliament.uk

Summary of main points

- India and Pakistan disagree over the status of Jammu and Kashmir. They have fought two wars over the territory and they have engaged in many other military encounters.
- During the partition of India in 1948 Jammu and Kashmir became divided. Pakistani tribesmen helped local insurgents to take control of an area which is now administered by Pakistan. The Maharaja of Jammu and Kashmir acceded to India, which administers the remainder of the territory, and claims it all.
- The UN adopted resolutions shortly after the division, calling for a plebiscite to determine the status of the territory.
- In 1972 the two countries concluded the Simla Agreement. This committed them to settle their differences through bilateral talks.
- Pakistan claims that the UN resolutions should be upheld as part of a settlement.
- India claims that the Simla Agreement supersedes the UN resolutions.
- Insurgency broke out in Indian-administered Kashmir in 1989.
- India accuses Pakistan of sponsoring the insurgency. Pakistan claims that it gives only moral support. The insurgents have been joined by Islamists, whom India accuses of terrorist attacks, including one on the Indian parliament.
- India and Pakistan became declared nuclear powers in 1998.
- Since April 2003 India and Pakistan have been involved in cautious moves to improve relations.
- They held talks in February 2004 and will meet again throughout the year.

CONTENTS

I	Introduction	8
	A. Brief overview	8
	B. Terminology	10
II	History	11
	A. The colonial period	11
	B. UN Involvement	13
	C. The Dixon plan	15
	D. Status of the areas	17
	E. The Wars of 1965 and 1972	18
III	Insurgency	19
	A. Outbreak of insurgency, 1989	19
	B. Restoration of electoral process, 1996	21
	C. Faltering strategies, 1999-2001	21
IV	The situation after 2001	24
	A. Pakistan and the USA	24
	B. Attack on Indian parliament and troop deployments	26
	C. Indian policy reassessment	27
V	Rapprochement	33
	A. Peace initiative, April 2003	33
	B. India and Pakistan agree to talk	35
	C. Talks, February 2004	36

D.	Separatists meet Indian Prime Minister	37
E.	Factors affecting the situation	38
VI	British Government's view	41
VII	Further sources of information	43
	Annex I: Jammu and Kashmir: Instrument of Accession to India	46
	Annex II: Azad Kashmir: Karachi Agreement	48
	Annex III: UN Resolutions	50
	Annex IV: Tashkent Declaration	58
	Annex V: Simla Agreement	60
	Annex VI: Lahore Declaration	62
	Annex VII: Map	64

I Introduction

A. Brief overview

The region we speak of loosely as Kashmir is large and diverse. Geographically, it has many barriers, and it covers plains, glaciers, mountains and lakes, forested foothills and high ranges such as the Himalayas and the Karakoram, stretching up to K2, the second highest peak in the world. The geological pressures which gave rise to the mountains were mirrored historically by the political pressures on a region squeezed between the spheres of British, Russian and Chinese influence. Today it is still squeezed, between India, Pakistan and China. The population likewise is diverse and subject to contending pressures. Some are deeply disenchanted with their political fate, some fight for change, and many are caught in conflicts in which they are at best troubled by-standers and at worst victims.

Interest in Kashmir typically revolves around two issues: the situation in Indian-administered Kashmir and the situation between India and Pakistan. Pakistani-administered Kashmir is not well covered and it tends to go unremarked, although the population there has its own complaints.

The difficulties and disagreements at the international level and within Indian-administered Kashmir relate to the desire among some of the population, in particular in the Vale of Kashmir itself, for independence, or a link with Pakistan, or greater autonomy within India. Each party would put forward additional factors, most obviously the alleged territorial ambitions of the other.

The situation in Indian-administered Kashmir traces the following contours: the failings of the local politicians and political system, which culminated in the outbreak of insurgency in 1989, India's response through security operations, and the associated complaints of human rights abuses, the flight of the Hindu population from the Vale of Kashmir, alleged destabilisation by Pakistan, a resumed political process, an influx of *jihadi* militants, and war weariness among some portions of the population. The contours of the situation between India and Pakistan are forbidding: a fundamental disagreement over the status of the territory at the end of the colonial period, two wars and a third in which some fighting occurred in the area, a United Nations process which itself became a figure of grievance, numerous failed talks and agreements, contradiction over almost every aspect of the situation, nuclear weapons developed for the express purpose of defence against one another, and routine shelling across the ceasefire line agreed at the end of the last war.

However, the situation is not without hope. Currently, the two governments are engaged in a process of rapprochement. This is not the first such process, but it has given rise to optimism. The outside world is more preoccupied with Indo-Pakistani relations than for many years, and pressure has built for a resolution of their differences. Small substantive

progress has been made, and a timetable for further talks has been agreed in which each side will seek to satisfy its delicate requirements.

It is often pointed out that Kashmir has symbolic weight for each side. However, it is arguable that something harder than imagery is needed to bring a matter to the front of political and strategic thinking. Democratic India has made few concrete moves to assert control over the whole territory, despite its affection for rhetoric on the subject. Under civilian rule Pakistan has sometimes seemed willing to balance the issue with other aspects of the relationship.

In contrast, military dictators in Pakistan have used the idea of a hostile neighbour in India to justify their rule, and various governments have used the Kashmir issue for populist ends. On one account the Pakistani state, artificial and disparate in its origin and traumatised by the loss of Bangladesh, sees benefit in the imagery of completion and Muslim solidarity offered by Kashmir. The continuing failure to make good the “loss” of a contiguous Muslim majority area in Kashmir helps to create a sense of crisis demanding a military solution. An alternative view stresses the efforts of the dictator General Zia to Islamicise the Pakistani state in the 1980s. Broadly, these were aimed at advancing his security interests in Afghanistan, by providing a religious basis for opposition to the Soviet presence, and at grounding his rule in the conservative religious and tribal hierarchies to which he pandered. In later years these forces found their expression in support for the insurgency against Indian rule in Kashmir.

India claims that Pakistan has sponsored the insurgency, and in particular its transformation in recent years from a local movement based on contestable political demands for greater autonomy or self-determination to one dominated by religious ideas of a categorical nature (*jihad*). Pakistan denies giving military or material support to the insurgency, but its military establishment has seen benefit in it, since it preoccupies India’s security forces, saps its economy and affects its image abroad.

Much present optimism is based on the strong performance of the Indian economy, and the belief that this will provide material incentives for peace outweighing the symbols of conflict.

Some commentators suggest that the two governments are willing in private to consider a solution based around formalisation of the existing *de facto* division. India might be prepared to withdraw its claim to the areas it has never ruled, while Pakistan might be content for the substantial non-Muslim populations in Jammu, in the Indian-administered part of Punch and in Ladakh to remain within India. However, the fate of the Vale of Kashmir, the vexed heart of the region and of the disagreements, may be harder to resolve.

Each side has its demands. India wants to see an end to militant infiltration from areas under Pakistani control, while Pakistan wants to see an act of self-determination for those living under Indian rule. It may be that there is a further, common requirement: a leader who can advertise change as progress rather than defeat.

A Hindu nationalist in India and a military leader in Pakistan may appear better placed to carry off compromise than would others. As noted above, the two leaders have committed their officials to detailed discussions within a broader framework aimed at peace. However, Indian Prime Minister Atul Behari Vajpayee could suffer in the eyes of his electorate and his coalition partners if, despite the talks, the spring snowmelt opens the way to heightened militant infiltration. For his part, Pakistani President Pervez Musharraf represents an older tier of top leadership in the military, and he cannot count on unswerving support from junior officers, nor can he expect easily to control the Islamist groups to which the security services are still believed to be close. There were two assassination attempts against him in December 2003. Whatever the views of Pakistanis as a whole, the Islamists and the military still care deeply about Kashmir, into which they have invested much effort over many years. To the extent that figures such as Mr Musharraf have empowered the politics of symbol and idea, he may have difficulty in replacing it with the politics of material enrichment, the most obvious benefit of rapprochement with India.

For the people of Kashmir, a resolution of the international differences surrounding them, the removal of militancy and an end to security force operations would allow a more relaxed life. In addition Kashmiris on either side of the Line of Control might hope to secure adequate hearing for their voices within a newly clarified situation. This might help them to move beyond the kind of concerns that gave rise to the insurgency in Indian-administered Kashmir, and which have left the inhabitants of Pakistani-administered Kashmir in a dependent status.

B. Terminology

The terminology on Kashmir is contentious. This Paper uses proper names, such as “the Princely State of Jammu and Kashmir” or “Azad Kashmir,” without implying any validation or otherwise. In places the term “Indian-administered Kashmir” is used to reflect a *de facto* situation and to avoid confusion between what India calls “the State of Jammu and Kashmir” (in Pakistani usage, “Indian-occupied Kashmir”) and the similarly named Princely State of Jammu and Kashmir. “Pakistani-administered Kashmir” is used to cover the whole area administered by Pakistan, of which Azad Kashmir is a small part. Nevertheless, Azad Kashmir and the Northern Territories are not formally parts of Pakistan: they are administered as *de facto* dependencies. The general term “Kashmir” has been used to denote the overarching disagreement, and is distinct from the smaller geographical area of the Vale of Kashmir (or Kashmir Valley).

The nature of the disagreements is itself a matter of disagreement. For instance, India does not accept that there is a “dispute,” since it does not accept that Kashmir is disputed territory, believing its status to have been settled in the 1940s. It is also difficult to find a non-contentious word to describe the security problems in Indian-administered Kashmir. India regards it as terrorism, Pakistan sees it as a struggle for self-determination. The term “insurgency” has been used in this paper for the most part, again without any

intended validation. “Terrorism” has been reserved for deliberate attacks on civilians by non-governmental groups.

For the sake of readability it has not been possible to give an exhaustive account of every point of contention. An effort has been made to draw out the main lines of divergence, and to give a basic grounding to allow readers to engage with the issues in an informed way. Those seeking detail on the full range of opinion may like to pursue the various documents and websites cited through the text, and those listed at the end.

This paper takes no position on any of the issues, nor should any be inferred.

II History

A. The colonial period

a. Creation

Jammu and Kashmir was formerly a Princely State within British India, and its Hindu Maharaja enjoyed considerable autonomy, exercising autocratic rule over his subjects. The state was created in the first half of the 19th century by the Hindu Dogra dynasty, partly through conquest and partly through gift from the Sikhs and the British, between whom control over north-west India was passing.

Jammu and Kashmir yoked together disparate territories and a variety of ethnic groups. Ladakh, in the east, was ethnically Tibetan and the population practised Buddhism; Jammu, in the south, was a mixed area of Hindus, Sikhs and some Muslims; the Vale of Kashmir was predominantly Muslim, but there was an influential Hindu minority, the Pandits; Punch, in the west, was Muslim but of a different ethnicity from Kashmir; and of the two sparsely populated northern areas, Baltistan was ethnically related to Ladakh but practised Shi’a Islam, and the Gilgit Agency was an area of diverse, mostly Shi’ite, groups. The majority of the state was pieced together between 1820 and 1846, but Punch was administered separately and was made a part of the Princely State only in 1936.

The Princely State was thus somewhat artificial in composition and it did not develop a fully coherent identity, partly as a result of its disparate origins and partly as a result of the autocratic rule which it experienced on the fringes of Empire.

b. Partition

When British India was partitioned at independence in 1947 Pakistan was created as a homeland for the Muslims of the sub-continent. It had two wings, East and West (East Pakistan seceded in 1971 to become Bangladesh). Kashmir had important links with the areas which became West Pakistan (and post-1971, Pakistan). The agriculture of the Pakistani Punjab and Sindh provinces was dependent on the river system of Kashmir. The economy of Jammu and Kashmir was in turn dependent on transport routes through Pakistan, such as the movement of timber down the Jhelum and Chenab rivers.

Furthermore, according to the census of 1941, the population of the Princely State, which stood at just over 4m, comprised 77% Muslims and 20% Hindus.

These factors led some to support the view that:

from a strictly rational point of view, based on a study of the culture and the economy of the region, there can be little doubt that a scheme for the partition of the Indian subcontinent such as was devised in 1947 should have awarded the greater part of the State of Jammu and Kashmir to Pakistan.¹

However, with partition India stood to lose many important vantage points and barriers in relation to Central Asia and China. Even before the foundation of the People's Republic of China, the threat of a communist bloc forming an arc around the northern reaches of India was a source of concern. The strategic value of the Princely State was uppermost in the minds of the Indian leadership and the departing British.

For both sides Jammu and Kashmir occupied an important symbolic position. To deny the inclusion in Pakistan of a contiguous area with a Muslim majority appeared to challenge the concept, put forward by the country's founding hero, MA Jinnah, that the sub-continent was home to Two Nations, the Muslim and the non-Muslim, a concept which lay behind partition, and which was felt to be under threat from the secularists in Nehru's India. Conversely, to deny the inclusion of Jammu and Kashmir in India would be to leave that country with no Muslim-majority state, and this was seen as a challenge to the concept of a secular India.

The leaders of the Princely States were given the choice of joining either India or Pakistan after the British withdrawal. In most cases these territories were absorbed without controversy into the surrounding state, but the Maharaja of Jammu and Kashmir prevaricated. His territory was sandwiched between the two new states, so its fate was not self-evident. In addition it was relatively large, and it appeared to have better prospects for independence than did the other Princely States.

The communal violence which swept India after partition had its impact in Jammu and Kashmir as much as in other areas. Amid allegations that the Maharaja's Government was involved in attacks on Muslims, a secessionist movement appeared in mid-1947 in Punch, the area most recently incorporated into the state, and one which had never been reconciled to Hindu rule. As the authorities sought to quell this threat, the locals turned to the tribal areas of Pakistan's North-West Frontier Province for arms and support. India received overtures from the Maharaja, who hinted that he would accede to India in return for its support against the Punch rebellion. A decisive escalation came when the rebels accepted the direct assistance in the fighting of Pathan tribesmen from across the Pakistani border, and by October 1947 thousands of Pathans were fighting in Jammu and Kashmir.

¹ *Kashmir: a disputed legacy 1846 – 1990*, A Lamb, 1991, p12.

On 24 October 1947 the rebels declared the territory which they controlled to be the State of Azad Kashmir, or Free Kashmir. Two days later the Maharaja signed an instrument of accession to India, and this was accepted on 27 October 1947. The accession agreement became one of the key features of the Indian case that it enjoyed sovereignty over Jammu and Kashmir. Pakistan challenged the validity of the agreement, in part because the Maharaja no longer had control over the whole territory.

B. UN Involvement

The issue of Jammu and Kashmir was one of the first in which the United Nations played a role.

a. Security Council

Security Council Resolution 38 of 17 January 1948 called upon the Governments of India and Pakistan

to take immediately all measures within their power (including public appeals to their people) calculated to improve the situation and to refrain from making any statements and from doing or causing to be done or permitting any acts which might aggravate the situation.

Security Council Resolution 39 of 20 January 1948 established the United Nations Commission for India and Pakistan (UNCIP). Then on 21 April 1948 the Security Council adopted its Resolution 47. This recommended that the Pakistani Government use its best endeavours to

secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistani nationals not normally resident therein who have entered the State for the purposes of fighting and to prevent any intrusion into the State of such elements and any furnishing of material aid to those fighting in the State,

and that, when UNCIP was satisfied that the tribesmen were withdrawing and that “arrangements for the cessation of the fighting have become effective,” the Indian Government should

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 civil power in the maintenance of law and order.

Both sides agreed at this time that a plebiscite should be held to determine the future of the state, but they could not agree on the modalities. Security Council Resolution 47 went on to recommend that the Government of Jammu and Kashmir should invite “the major political groups” to designate representatives who would take on ministerial duties over the period of

the plebiscite, and that India should set up a plebiscite administration to oversee the process and to take charge of the state forces and police in matters connected to the plebiscite. A Plebiscite Administrator would be appointed by the UN Secretary-General, and the plebiscite would be held “as soon as possible on the question of the accession of the State to India or Pakistan.”²

Neither side was comfortable with this Resolution, and Pakistan raised a number of detailed points which it felt indicated that the Resolution was not adequate to ensure a free and impartial plebiscite.

b. UNCIP Resolution

On 13 August 1948 UNCIP adopted a Resolution.³ Part I called for a simultaneous ceasefire order from both sides at the earliest practicable date. Part II set out certain basic principles as a basis for formulating a truce agreement. Part III read as follows:

The Government of India and the Government of Pakistan reaffirm their wish that the future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people and to that end, upon acceptance of the Truce Agreement both Governments agree to enter into consultations with the Commission [UNCIP] to determine fair and equitable conditions whereby such free expression will be assured.

India accepted this Resolution, but Pakistan indicated that it could not accept it without further specifics on the carrying out of the plebiscite.

Following discussions later in 1948 an agreement was reached with both sides, and a ceasefire came into effect on 1 January 1949. Another UNCIP Resolution was passed, on 5 January 1949, embodying the agreement, and setting out a number of principles relating to the plebiscite.⁴ However, discussions became mired in the details and in the growing mistrust between the two sides, and no further progress was made towards a plebiscite.

A ceasefire line was agreed later in 1949,⁵ except for the Siachen Glacier in the far north-west. This left Pakistan in control of the western extremity of the state, being portions of Punch and Jammu, and of the larger northern areas of Baltistan and the Gilgit Agency, totalling about one third of the former Princely State. India was in control of the Vale of Kashmir, Ladakh and the eastern parts of Punch and Jammu. This was not a final settlement. A UN Military Observer Group in India and Pakistan (UNMOGIP) was established to oversee the ceasefire line. Terms for a truce could not be agreed.

² Paras 6-10.

³ S/995. It had previously adopted a resolution calling on the parties to take measures to improve the situation and to refrain from making statements likely to aggravate it.

⁴ S/1196.

⁵ S/AC.12/TC.4, 29 July 1949.

Evan Luard summed up the impasse as follows:

India regarded herself as being in Kashmir by right, so all arrangements which might be made for reducing her forces would be voluntary concessions, while Pakistan was an aggressor which must first of all 'vacate' her aggression by withdrawing. Pakistan, on the other hand, regarded the question as one of self-determination for the people of Kashmir, with India and Pakistan on an equal footing as interested outsiders; as such, both parties should withdraw their forces simultaneously. Any "reform" of administration in Kashmir before the plebiscite took place was unacceptable to India. Any arrangement which left India effectively in control during that period was unacceptable to Pakistan.⁶

The UN attempted further mediation efforts in the following years, but to no avail.

C. The Dixon plan

In 1950 Sir Owen Dixon, an Australian jurist, was appointed UN Representative in the region. He felt that there was no realistic chance of settling the disagreement in accordance with existing plans for a plebiscite across the whole of the former Princely State, and he put forward two suggestions involving partition. These were as follows:

- (a) ... a plan for taking the plebiscite by sections or areas and the allocation of each section or area according to the result of the vote therein or,
- (b) ... a plan by which it was conceded that some areas were certain to vote for accession to Pakistan, some for accession to India, and by which, without taking a vote therein, they should be allotted accordingly and the plebiscite should be confined only to the uncertain area, which I said appeared to be the Valley of Kashmir and perhaps some adjacent country.⁷

Sir Owen indicated that certain matters of detail would need to be considered, including the precise boundaries of the plebiscite area under option (b), and that "it would be necessary to provide against the possibility of a break in the continuity of the territory, which would go to the one party or to the other."⁸ He felt that

unless it was by a partition of the State either outright, or combined with a partial plebiscite limited to an area which included the Valley of Kashmir, no agreed settlement of the Kashmir dispute could be brought about.⁹

⁶ *A History of the United Nations. Vol 1: The years of western domination, 1945-55*, E Luard, 1982, p285.

⁷ S/1791, "The Dixon Report," 15 September 1950, para 54, reproduced in *Essential Documents and Notes on Kashmir Dispute*, P Lakanpal, 2nd ed, 1965.

⁸ *Ibid*, para 55.

⁹ *Ibid*, para 58.

The Indian Government of the day expressed a degree of interest in the second option, for an agreed partition plus a plebiscite in the Vale of Kashmir, but the Pakistani Government was unhappy about abandoning the principle that the fate of the entire former Princely State should be determined by a single plebiscite for the whole territory. The Government of Indian-administered Kashmir also opposed partition, particularly if it involved a plebiscite in the Vale of Kashmir alone, since this might exacerbate communal tensions there. Sir Owen reported that the Government of Pakistan did seem willing to consider “simple partition [ie without a plebiscite], a solution having the advantages of being immediate in its operation and self-executing ... provided that [Pakistan] took the Kashmir Valley.” He went on to suggest that there was “little doubt ... that India would not concede the Valley of Kashmir in an overall partition.”¹⁰

The two sides could not be brought even into exploratory talks on the partition idea, despite further efforts on Sir Owen's part, and the idea was abandoned. However, Sir Owen made the following concluding defence of his suggested plan:

The State of Jammu and Kashmir is not really a unit geographically, demographically or economically. It is an agglomeration of territories brought under the political power of one Maharajah. That is the unity it possesses. If as a result of an overall plebiscite the State as an entirety passed to India, there would be large movements of Muslims and another refugee problem would arise for Pakistan, who would be expected to receive them in very great numbers. If the result favoured Pakistan, a refugee problem although not of such dimensions would arise for India, because of the movement of Hindus and Sikhs. Almost all this would be avoided by partition. Great areas of the State are unequivocally Muslim. Other areas are predominantly Hindu. There is a further area which is Buddhist. No one doubts the sentiment of the great majority of the inhabitants of these areas. The interest of the people, the justice as well as the permanence of the settlement, and the imperative necessity of avoiding another refugee problem all point to the wisdom of adopting partition as the principle of settlement and of abandoning that of an overall plebiscite. But in addition the economic and geographic considerations point in the same direction. The difficulty in partitioning the State is to form a sound judgement where the line should be drawn.

... it is by no means easy to fix the limits on each side. That is because it is necessary that the territory allocated to each side should be continuous in itself and should be contiguous with that country, because there are pockets of people whose faith and affiliations are different from those of people by whom they are cut off, because the changes in the distribution of population as a result of the troubles cannot be completely ignored and because geographical features remain important in fixing what may prove an international frontier.¹¹

¹⁰ Ibid, para 72.

¹¹ Ibid, paras 101-2.

UN mediation continued through the 1950s and early 1960s, but to little effect. At points the UN encouraged direct negotiations between India and Pakistan on the issue, but these too produced no result.

D. Status of the areas

The situation became further complicated by the increased integration of Indian-administered Kashmir into the Indian Union. Like all Princely States, Kashmir had acceded to India with regard to defence, communications and foreign policy only, and its special status was recognised in the Indian constitution,¹² but in time its high level of autonomy was eroded.

Initially the state was run by Sheikh Abdullah, who had been placed in power by the Maharaja after partition on what was technically an interim basis. He organised elections in 1951 for a Constituent Assembly, which had the task of drafting a new constitution. Efforts were made between Sheikh Abdullah and Nehru to clarify the relationship with the Indian Union, and this led to an agreement in 1952, sometimes known as the Delhi Agreement, setting out basic constitutional principles. In 1956 the Constituent Assembly finalised its constitution, which declared the whole of the former Princely State of Jammu and Kashmir to be “an integral part of the Union of India.”¹³ Elections were held the next year for a Legislative Assembly. Detailed constitutional changes were made in later years, which further normalised the state’s relationship with India.

India argued that the work of the Constituent Assembly and the subsequent elections constituted sufficient tests of opinion and removed any legal obligation to hold a plebiscite. It also claimed that the conditions for a truce agreement had not been fulfilled by Pakistan. Pakistan argued that it had fulfilled its obligations and that it was now necessary to implement the remainder of the UNCIP Resolution, concerning the plebiscite.¹⁴

The constitutional status of the parts of the former Princely State not administered by India remained anomalous. Pakistan continued to regard the whole state as disputed territory and Kashmir was not represented in the Pakistani National Assembly. Nevertheless, Azad Kashmir and the Northern Areas (formerly Baltistan and the Gilgit Agency) were closely tied to Pakistan. Today they are administered as *de facto* dependencies. Locally, there is a President, a Prime Minister, a Legislative Assembly and an Azad Jammu and Kashmir Council. The latter is chaired by the President of Pakistan, and it includes also the President of Azad Kashmir, five members nominated by the President of Pakistan, six

¹² Article 370.

¹³ *Keesing’s Contemporary Archives*, 15 – 22 December 1956, p15265.

¹⁴ These arguments were aired in the UN Security Council in February and May 1964. They may be read in the Security Council verbatim record, or, in summary form, in the *UN Yearbook* or in *Keesing’s Contemporary Archives*.

members nominated by the Legislative Assembly, and the Pakistani Minister of Kashmir Affairs, Northern Areas, States and Frontier Regions.

Some parts of the territory are administered by China. In 1963 Pakistan reached a border agreement with China, and some portions of the area under its control passed to that country.¹⁵ In addition, much of the border between India and China is disputed, and this includes some areas which are under Chinese control in what India claims is an extension of Ladakh. China also has control of the Aksai Chin, a barren area of salt lakes claimed by India. China consolidated control over this area in the Sino-Indian War of 1962.

E. The Wars of 1965 and 1972

In 1965 there was covert infiltration from Pakistani-administered Kashmir into Indian-administered Kashmir. India claimed that this was organised by Pakistan and that it included some regular Pakistani troops, and this prompted India to occupy positions across the ceasefire line. Shortly afterwards Pakistan launched an offensive into Jammu. India, claiming that Pakistan had carried out an air raid within Indian territory, crossed the international border into Pakistan. The full hostilities between Indian and Pakistani forces ended after three weeks, following a series of UN Security Council resolutions calling for a ceasefire, but the situation remained tense for the rest of the year. There were allegations of ceasefire violations and the two sides retained forces in one another's territory for a period. The USSR undertook mediation, and in January 1966 the two sides signed a declaration at Tashkent (now in independent Uzbekistan). They affirmed their commitment to solving their disagreements through peaceful means, and they agreed to withdraw to the positions they occupied before the fighting.

The situation then remained static until the Indo-Pakistan war of 1971, caused by the civil war in East Pakistan (now Bangladesh), when both sides crossed the ceasefire line and occupied territory previously on the other side of that line.

This conflict ended with an agreement between the two states, signed at Simla, India, on 3 July 1972. The Simla Agreement stated that

the two countries are resolved to settle their differences by peaceful means through bilateral negotiations or by any other peaceful means mutually agreed upon between them,

¹⁵ There are differing views as to the future of these areas in the event of a settlement between India and Pakistan. China might negotiate with an agreed sovereign power, but it is likely that it would expect the boundary to remain as it is should Pakistan retain control of the neighbouring areas. See G Biger, *The Encyclopedia of International Boundaries*, 1995, p165, and J Prescott, H Collier and D Prescott, *Frontiers of Asia and Southeast Asia*, 1977, p32.

that

pending the final settlement of any of the problems between the two countries, neither side shall unilaterally alter the situation and both shall prevent the organization, assistance or encouragement of any acts detrimental to the maintenance of peaceful and harmonious relations,

and that

the line of control resulting from the ceasefire of 17 December 1971, shall be respected by both sides without prejudice to the recognized position of either side.

They referred to “a final settlement of Jammu and Kashmir” as one of the issues towards which they would hold further discussions.

Since the signing of the Simla Agreement India has claimed that the preceding UN resolutions have been superseded and that the matter is one for India and Pakistan alone. Pakistan disagrees, arguing that Simla in no way prejudices existing UN resolutions nor removes UN responsibility. Much of the secondary debate between the two since that time has related to the question of whether the issue is legitimately one for international concern and, if so, whether it is one for international involvement.

III Insurgency

A. Outbreak of insurgency, 1989

In 1989 opponents of Indian rule in Jammu and Kashmir began an insurgency. There had been discontent for some time over the role of the dominant local party, the National Conference, which was widely regarded as corrupt, and sporadic political violence had occurred throughout the late 1980s. Some of the dissenting groups then turned to violence as a major part of their strategy, and the authorities bore down on their political leaders, undermining the more moderate voices. Some level of assistance, whether moral or material, came from across the Line of Control. The situation deteriorated and in late 1989 a full-scale insurgency broke out. The Indian authorities responded by deploying large numbers of security personnel to Jammu and Kashmir, and the state was placed under Governor’s rule and later President’s rule from 1990 until 1996.

The Indian security forces were accused of human rights abuses against both insurgents and the civilian population, particularly in the Vale of Kashmir and in areas near the Line of Control. The state authorities were accused of using arbitrary and politically-motivated detention to punish and disrupt the activities of political opponents.¹⁶ There were also reports of torture, deaths in custody and “disappearances.”¹⁷

The insurgency continues, although it has undergone changes (see following sections). Throughout, Pakistan has been accused of providing support to the insurgents, although it claims that it offers political and diplomatic support but not material nor military support. India claims that Pakistani forces on the Line of Control provide cover for infiltration by militants.

The insurgent groups represent a range of opinion, some arguing for autonomy, others for independence, and others for incorporation within Pakistan. They have been accused of human rights abuses against the civilian population, including torture, rape, beatings, targeted and indiscriminate killings,¹⁸ and extortion. These actions are intended to enforce support among the Muslim population and to drive non-Muslims out of the Vale of Kashmir. The majority of the Hindu Pandit community, once about 300,000 strong, left the Vale of Kashmir for refugee camps in neighbouring regions of India at the beginning of the insurgency, and others have been targeted since.

The population living in Pakistani-administered Kashmir does not have access to a fully democratic system. While some people in this part support and contribute to the insurgency across the Line of Control, there are groups there which oppose Pakistani rule and seek independence. The best known is the Jammu and Kashmir Liberation Front (JKLF), which has made symbolic efforts to cross the Line of Control on a number of occasions, but has been obstructed by the Pakistani authorities.

In recent years *jihadi* groups, some linked to the Al-Qaeda terrorist network, have entered the area, and these have an agenda which goes wider than Kashmir.

There are also groups which oppose Indian rule, but which are involved in the political process in Indian-administered Kashmir, either as participants in Indian democracy or as parties pursuing non-violent civil disobedience.

¹⁶ *Punitive use of preventive detention legislation in Jammu and Kashmir*, Amnesty International, ASA 20/010/2000, 16 May 2000.

¹⁷ See, eg, *Country report on human rights practices: India, 2002*, US Department of State, 31 March 2003, *Jammu and Kashmir Government must uphold promises to end human rights abuses*, Amnesty International, ASA 20/034/2003, 3 December 2003, *Impunity must end in Jammu and Kashmir*, Amnesty International, ASA 20/023/2001, 23 April 2001.

¹⁸ *Open letter to the Chief Minister of Jammu and Kashmir on the failed promises of the Common Minimum Program*, Amnesty International, ASA 20/033/2003, 2 December 2003.

B. Restoration of electoral process, 1996

India's approach to the insurgency has been fairly consistent since the mid-1990s. It seeks to exploit the unhappiness felt by the civilian population about the aggressive techniques of the militants, and to offer a democratic alternative, by emphasising the political process, while using forceful measures against the militants themselves. These two branches of policy have not always worked well together, since the role of the Indian security forces has been a source of discontent itself, but arguably there has been an effect of preventing the militants from monopolising the political space in Jammu and Kashmir.

The electoral process was restored in 1996, and the state government was formed by the National Conference, led by Farooq Abdullah. Dr Abdullah's father had ruled the state, mostly through earlier incarnations of the National Conference, in an autocratic manner in the period after partition and again in the 1970s. The National Conference was in favour of remaining within India, but it sought a greater level of autonomy.

The turnout was low in most of the elections held after 1996. The militant groups boycotted them and they intimidated voters into doing the same, while the Indian security forces were accused of forcing people to vote. Nevertheless, even before the more successful election of 2002 (see below), the state legislature had quite a varied make-up, and a number of parties, some with national profiles, some local, had seats alongside the National Conference.

C. Faltering strategies, 1999-2001

Throughout the late 1990s the relationship between India and Pakistan over Kashmir was characterised by contradictory signals. This coincided with a period of tension within Pakistan between the civilian government and the military.

On the one hand the two governments set in motion a series of talks, first between officials and later between Prime Ministers. Atul Behari Vajpayee of India and Nawaz Sharif of Pakistan held a summit meeting in Lahore in February 1999, where they issued a "Lahore Declaration," aimed at building a more positive relationship and at reducing the chances of conflict (see below). At the time, this agreement gave rise to optimism, but it became apparent that Pakistan's military, which has ruled the country for the majority of its history, was not supportive. Skirmishes continued along the Line of Control, and in May 1998 the two countries conducted nuclear tests aimed at raising their status in the world at large and at sending signals to one another over the risks involved should they try to resolve their differences through the use of force. Pakistan initiated an intense military engagement in the Kargil sector of Indian-administered Kashmir, and militant Islamists joined the insurgency.

a. *Lahore and Kargil*

At the summit between the two Prime Ministers in Lahore in February 1999 a text was agreed which set out the form for a more positive relationship. The main provisions of the Lahore Declaration were that the two governments would intensify dialogue and efforts to “resolve all issues,” including Kashmir, and that they would refrain from interference in one another’s affairs, take steps to reduce the risk of accidental nuclear conflict, and work towards confidence-building in nuclear and conventional military terms. A memorandum of understanding was also signed, which laid emphasis on the need for improved communications concerning security matters, and for advanced notification of missile tests.

Within weeks of this agreement Pakistan had backed a move by Kashmiri insurgents and Islamist militants on its side of the Line of Control to cross into Indian-administered Kashmir and to take control of strategic heights in the mountainous Kargil sector. Pakistan at first denied any involvement in this, but following diplomatic intervention by the USA it conceded that it had been involved and it withdrew its troops. The fighting lasted eleven weeks and cost some 1,200 lives. The Indians lost almost 500 men, and Pakistani and irregular forces lost about 700.¹⁹

b. *Arrival of Islamist militants*

In the late 1990s the insurgents in Indian-administered Kashmir were joined by militant Islamists from Pakistan. This was an important shift, since the origins of the insurgency, though tinged with Islamic consciousness, lay in local discontent with the Indian role in the area, and most of those involved were Kashmiris from either side of the Line of Control. The involvement of *jihadi* groups led to the presence of some fighters from the wider Muslim world, possibly including members of Al-Qaeda, although the majority were Pakistanis. These came from groups that emerged from religious schools in much the same way as the Taliban before it moved into Afghanistan, and they had close links to the Pakistani intelligence service, the Inter-Services Intelligence (ISI). India cited the new role of the *jihadi* groups as further evidence of Pakistan’s sponsorship of the insurgency. In particular, India argued that Pakistani troops were firing across the Line of Control in order to give cover to the fighters as they crossed into Indian-administered areas. Pakistan continued to maintain that it offered no more than political support to the insurgents, although the Kargil incident placed this claim in a new context.

The faltering steps towards Indo-Pakistani dialogue in the late 1990s lost direction after the Kargil incident, the introduction of *jihadi* groups, and the end of the Sharif government, when the military staged its most recent coup in October 1999.

¹⁹ “Paying to keep the high ground,” R Bedi, in *Jane’s Intelligence Review*, October 1999.

c. Continuing violence and attempted ceasefires

Through the summer of 2000 the violence intensified between militants and the Indian security forces. Over 930 people died in the first six months of the year, including 36 Sikh men in the village of Chithi Singh Pora, who were rounded up and shot by militants after being separated from the women of the village.²⁰ Shelling between Indian and Pakistani forces continued across the Line of Control, and there were reports virtually every day of new shooting, bombing and shelling incidents.

There was a short-lived ceasefire by one group, Hizbul Mujahideen, accompanied by an unannounced ceasefire by Pakistan at the Line of Control, but talks between Hizbul and Indian officials collapsed. Hizbul sought discussions outside the Indian constitution (which treats Kashmir as part of India), but India would not accept talks on this basis. Hizbul appeared to have offered to finesse this point if India would allow Pakistan to join the talks, but this was also rejected, and Hizbul, under pressure from rival separatist groups, left the table.

At the same time, the campaign of violence by other militant groups continued. In the middle of the ceasefire over 100 people, mostly Hindu civilians, were killed in Kashmir in a 24 hour period between 1 and 2 August 2000. The All-Party Hurriyat Conference, the leading umbrella group of Kashmiri separatists, declined to join the ceasefire and the talks, regarding them as “hasty” moves.

In November 2000 India announced a ceasefire, initially for the duration of the Islamic holy month of Ramadan, and in response Pakistan undertook to pull its troops back from their forward positions on the Line of Control. At first this seemed to have an impact on the level of violence, but in time it became clear that the Indians had suspended only their concerted efforts to overpower the militants, while they were still prepared to use force in the policing of protests. The situation remained volatile.

On 1 January 2001 the historic wooden Jamia mosque in the town of Kishtwar was destroyed by fire. The authorities claimed that the fire was started by a short circuit in the mosque’s wiring. However, a rumour spread that it had actually started during a gunfight between the security forces and separatists, and also that the police had prevented the fire service from reaching the building in time to save it. There were violent protests, and shopkeepers observed a strike. The police imposed a curfew on the town, but rioting and strikes spread to other parts of Kashmir. Pakistan accused India of official complicity in the destruction of the mosque, claiming that it was not adequately protected from “extremist anti-Muslim elements” and that there was a “deliberate delay in bringing the fire under control.”²¹ Pakistan sought to place the fire in the context of the growth of

²⁰ *Reuter News*, 4 June 2000.

²¹ *Summary of World Broadcasts*, 5 January 2001.

Hindu nationalism in India and the links between elements of the Indian Government and some of the more extreme nationalist groups.

Later in January 2001 there was a suicide squad attack on Srinagar airport by the Lashkar-e-Taiba group, in which it was claimed that two civilians and two policemen died along with six Lashkar members. A similar attack on a Srinagar police station in February 2001 led to the deaths of eight policemen and two militants.²² On 10 February 2001 suspected militants burned 15 civilians to death in Kotchatwal village in Jammu, having apparently claimed they were informers. Among the dead were seven children and three women.²³

Despite the ongoing violence India extended its ceasefire, twice for a period of one month and then at the end of February 2001 for a period of three months.

Nevertheless, concerns were still expressed over India's human rights record in Jammu and Kashmir, and the security forces were accused of using excessive force in dealing with suspected insurgents. In October 2000 Dr Abdullah had announced a series of investigations into incidents earlier in the year in which both insurgents and the security forces were allegedly implicated, including the massacre at Chithi Singh Pora and the killing of five suspects, allegedly by the security forces, some ten days later. The investigations were welcomed by Amnesty International as "a first step toward ending years of widespread impunity."²⁴ Militant groups were also accused of committing human rights abuses and acts of terrorism, and Amnesty issued statements reminding them of their responsibilities under international law.²⁵

IV The situation after 2001

A. Pakistan and the USA

When General Pervez Musharraf took power in Pakistan in 1999 many western commentators saw him as a force for stability. By contrast India held him responsible for the Kargil incident and for the involvement of *jihadis* in Kashmir. Indian leaders felt frustrated that this development came at a time when they were trying to restart the political process in Kashmir, and when the security forces were achieving success in restricting the activities of indigenous Kashmiri militants.

²² *Times*, 17 January 2001, *Summary of World Broadcasts*, 12 February 2001.

²³ *Summary of World Broadcasts*, 12 February 2001.

²⁴ *India: welcome steps to end impunity in Jammu and Kashmir*, ASA 20/053/2000, 2 November 2000.

²⁵ Eg, *India: civilians must not be pawns in political process in Jammu and Kashmir*, 20/037/2000, 2 August 2000.

In July 2001 Mr Vajpayee and Mr Musharraf met in the northern Indian city of Agra. The talks ended without progress and without a formal statement. Each side blamed the other, and the main point of disagreement was over the focus of the talks. Pakistan wanted to focus on Kashmir, while India sought progress on other issues.

The USA had become more concerned to press for a solution since India and Pakistan revealed their nuclear capabilities. It increased its pressure on Pakistan after the Kargil incident in 1999 and Mr Musharraf's unconstitutional rise to power later that year.

After the terrorist attacks on the USA on 11 September 2001 India anticipated support for its efforts to tackle what it regarded as terrorism in Kashmir, and it hoped that the USA would agree with its assessment of Mr Musharraf. The positive relationship which Mr Musharraf developed with the USA during the campaign in Afghanistan was received with dismay in New Delhi.

Following a suicide bomb attack on 1 October 2001 on the provincial legislature of Indian-administered Kashmir, which killed 38 people, Mr Vajpayee wrote to President Bush that "Pakistan must understand that there is a limit to the patience of the people of India."²⁶

The USA froze the accounts of one militant group, Harkat ul-Mujahideen (HUM), and added it to the State Department's list of Designated Foreign Terrorist Organisations. The USA also reportedly gave private assurances to India that its concerns would be addressed once the action in Afghanistan against Al-Qaeda and the Taliban had ended. However,

India had hoped for much more, including a higher profile in the battle against terrorism and American pressure on Pakistan to end its support for the Kashmir insurgency. Foreign Minister Jaswant Singh's early support for America's war - with little to show for it - has left him open to ridicule.²⁷

One opposition Congress MP expressed these concerns in colourful terms:

For us, Terrorist No 1 is President Pervaiz Musharraf ... For USA, Ally No 1 against Terrorism is the self-same President Pervaiz Musharraf.²⁸

The US State Department's *Patterns of Global Terrorism, 2000* gave accounts of some of the groups operating in Pakistan. It concluded that the Musharraf regime was still supporting the Kashmir insurgency and allowing fund-raising and recruitment by groups responsible for terrorist attacks on civilians.

²⁶ "A Precarious Balancing Act," *Far Eastern Economic Review*, 18 October 2001

²⁷ Ibid.

²⁸ Mani Shankar Aiyar, writing in *The Indian Express* following the Srinagar attack, cited in "A Precarious Balancing Act," *Far Eastern Economic Review*, 18 October 2001

B. Attack on Indian parliament and troop deployments

The next phase was shaped by India's response to what it saw as an expanding threat spilling out from the Islamist involvement in Kashmir.

In December 2001 there was an attack on the Indian parliament in New Delhi, in which 14 people were killed. India accused two Pakistani-based groups, Lashkar-e-Taiba and Jaish-e-Mohammed, of carrying out the attack. India responded by increasing greatly its troop presence along the Line of Control. Pakistan reacted in kind, and at their height the deployments totalled some 1.2 million men. India demanded that Pakistan take action against Lashkar-e-Taiba and Jaish-e-Mohammed, and that it hand over 30 named terrorist suspects.

In January 2002 Mr Musharraf made a speech in which he gave undertakings to obstruct the activities of the *jihadi* groups, and in the following weeks some of the leading groups, including Lashkar-e-Taiba and Jaish-e-Mohammed, were banned and around two thousand activists were arrested. However, the groups continued to operate, sometimes under new names, and most of the detainees were subsequently released. Pakistan also refused to hand over the wanted men.

In May 2002 militants attacked an Indian army camp in Kashmir and killed 34 people. India responded by renewing its call for Pakistan to take effective action to stop infiltration across the Line of Control. Artillery and small arms exchanges across the Line of Control and the international border became more intense, and foreign leaders expressed concern at the prospect of a full armed conflict between the two countries. Public opinion in both countries was against war, but also against compromise.

Some commentators questioned whether India's demands were fully achievable (could Pakistan control the infiltrators, for instance?), and whether Mr Musharraf's position was sufficiently secure for him to take meaningful action against the militant Islamist groups. Others argued that India was pursuing a "long fuse policy" which allowed for graduated responses to any cooperative moves which Pakistan might make, so that total compliance with Indian demands was not necessary before tensions could be reduced.

Even the most sanguine commentators, however, recognised that dangers were posed by the presence of over a million troops in the areas around the border and the Line of Control. They were engaging in routine exchanges of fire, and the situation might have been vulnerable to escalation in the event of misunderstanding. According to Brajesh Mishra, the principal secretary and National Security Adviser to Mr Vajpayee, "we came pretty close [to conflict] in early January and then again after the massacre in the army camp in month of May."²⁹ In late May 2002 Pakistan undertook a series of tests of

²⁹ Reuters News, 27 November 2002.

ballistic missiles capable of carrying nuclear devices. The Pakistani regime described these as routine tests, but it also held that they would have a deterrent effect on India.

US Deputy Secretary of State, Richard Armitage, visited both countries in early June 2002 and was given assurances by Pakistan that it would make concrete efforts to prevent infiltration. India responded by lifting a ban on overflight by Pakistani civilian aircraft, which it had imposed after the attack on its parliament. Shortly afterwards India withdrew a number of warships from areas close to Pakistan, and said that this was in response to an observed reduction in the level of infiltration. The two countries also reduced their exchanges of fire, and spoke of a diminishing chance of war. Donald Rumsfeld, US Defense Secretary, visited both countries in mid-June 2002. He spoke of “constructive” moves by India,³⁰ and said that Pakistan had shown leadership which was “concerned and determined that steps be taken to de-escalate the tension.”³¹

C. Indian policy reassessment

In October 2002 the Indian Government reassessed its policy of high mobilisation at the border. It had reduced the level of alert already, and the troops had begun to take leave and to cycle out on training exercises, but after a meeting of the Security Cabinet, the National Security Advisory Board and the Strategic Policy Group, which between them included the senior figures in government, the armed forces and the intelligence services, it decided to move further and to stage a phased withdrawal of its 700,000 troops. These were concentrated in border areas of Punjab, Rajasthan and Gujarat, whereas those along the Line of Control were to remain.³² Pakistan reciprocated within days, announcing a redeployment of its own troops from the border.³³

The Indian move was interpreted as reflecting the belief that the policy of “coercive diplomacy” was no longer providing a balance of benefit. According to unofficial estimates the deployment had cost over £250m in total.³⁴ India did not believe that Pakistan had taken sufficient measures against infiltration, and it claimed that this was still occurring, but the deployment itself was not gauged to intercept militants crossing the border, since the crossings happened mostly in Kashmir across the Line of Control. Rather, the policy was aimed at applying pressure on Pakistan. It had some success, at least in bringing the issue to the attention of the western powers and in gaining new assurances from Pakistan. India seemed to believe that further progress towards its aims was more likely to be achieved through other avenues. The USA had shown signs of frustration that Pakistan had not made progress on a number of commitments, and it seemed possible that it might exert greater pressure on Pakistan if it did not bear down on the infrastructure of terrorist and extremist groups in an effective way, and if the

³⁰ ‘Rumsfeld backs Kashmir peace moves,’ *BBC News* website at <http://news.bbc.co.uk>, 12 June 2002.

³¹ ‘Rumsfeld sees no evidence of al-Qaida in Kashmir,’ *Washington File*, 13 June 2002.

³² *Financial Times*, 17 October 2002, *Times*, 17 October 2002, & *Financial Times*, 16 October 2002.

³³ *Reuters News*, 13 December 2002.

³⁴ *Times*, 17 October 2002.

infiltration continued. Also, India was in the process of buying short- and long-range radar and electronic sensor sets from Israel and the USA, following a suggestion by Mr Rumsfeld during his visit, in order to detect movement across the Line of Control.³⁵

a. State election in Indian-administered Kashmir

There were two political developments in the weeks before the Indian policy review. The first was the completion of state elections in Indian-administered Kashmir on 8 October 2002. These were accompanied by violence, with more than 700 deaths,³⁶ the separatists boycotted them, and Mr Musharraf described them as “farcical,”³⁷ but they were regarded as free and fair by the UK and the USA. India claimed that the turnout was around 46%, higher than in the recent past, although it was uneven. The Hindu area of Jammu had a high turnout, while the Muslim Vale of Kashmir had a much lower figure.³⁸

The National Conference lost power to a coalition led by the People’s Democratic Party and Congress. They had campaigned on a platform of flexibility towards the separatists, under the slogan “a healing touch.”

The coalition, led by Chief Minister Mufti Mohammad Syed, moved away from the emphasis on security measures pursued by the National Conference, it released some separatist leaders from detention, and it reviewed the cases of hundreds of others detained without charge. It also suspended curfews and frisking as a goodwill gesture during Ramadan.

Shortly after the election, in November 2002, the coalition published a Common Minimum Program setting out its objectives. These included the reviews of sentences mentioned above, a review of emergency powers, strengthening of the state human rights commission, investigations of custodial deaths and human rights abuses, financial awards and preference in government posts for relatives of those killed in “militancy related violence,” rehabilitation of former militants, return of the Pandits and protection for all minorities, an anti-corruption drive, police reform, including integrating with the rest of the force the controversial Special Operations Group, a counter-insurgency unit which had been accused of human rights abuses, revoking or not implementing the *Prevention of Terrorism Act*, which allows detention without trial for 30 days, and schemes to promote employment, welfare and social provision.³⁹

The change of government appeared to lend credibility to the political process, especially since the widely acknowledged corruption of past National Conference governments played a part in provoking the onset of separatist violence in 1989.

³⁵ *Agence France-Presse*, 6 October 2002.

³⁶ *Reuters News*, 16 October 2002.

³⁷ *Reuters News*, 13 October 2002.

³⁸ *Reuters News*, 11 October 2002.

³⁹ <http://jammukashmir.nic.in/govt/cmp.htm>.

b. General election in Pakistan

The second development was the general election in Pakistan. This was regarded as an important step towards the restoration of democracy, although observers from the European Union claimed that the election had “serious flaws.”⁴⁰ It led to the appointment of a civilian Prime Minister supportive of Mr Musharraf, but it also saw a substantial increase in support for Islamist parties, which took 53 of the 342 seats in the National Assembly and joined coalition governments in two provinces. One of the new provincial governments, in Baluchistan, released 13 members of banned groups in December 2002. Most were from local Sunni and Shi’a groups, which had been in conflict with one another for some time, but one was a member of Lashkar-e-Taiba and another was a member of Jaish-e-Mohammed.

c. Continuing violence

The demobilisation at the border, the new government in Indian-administered Kashmir and the return to elective government in Pakistan may have played a part in preparing the ground for future conciliatory moves, but there was little immediate impact on the situation on the ground.

There was a spate of militant attacks in November 2002, including on a Hindu temple, a bus and a security force camp. Over 30 people died, including soldiers, police, civilians and militants, and over 50 were injured.

Mufti Syed condemned the attacks and called for an end to bloodshed. He said in the state Legislative Assembly that “we have drawn a road map, we will not be deflected.” He reiterated his commitment to “reorient” the Special Operations Group, and the decision not to implement the *Prevention of Terrorism Act*. He said that he would set up a committee including representatives of all parties in the assembly to hold discussions with the national Government. According to the Indian News Agency PTI,

the chief minister said our strategy is to extinguish the fire within by applying the healing touch. He said sincere endeavours are required to check discontent as it sustains militancy adding “When the root cause is addressed and fear psychosis removed, the situation is bound to take a turn for good.”

...

Referring to the incidents of militant violence and fidayeen [suicide] attack on the Raghunath temple in Jammu, Sayeed said these elements are hell-bent to derail the peace process.

⁴⁰ *Pakistan national and provincial assembly election, 10 October 2002. Final Report*, EU Election Observation Mission, http://www.europa.eu.int/comm/external_relations/human_rights/eu_election_ass_observ/pak/finalreport02.pdf.

The pattern of events suggest that they want to ignite communal passions but “we are committed to dealing with foreign mercenaries firmly while transparency will be ensured in combating militancy so that the civilians are not harmed.”

Sayeed said he has briefed the security agencies to demonstrate grit but no excess would be tolerated.

The situation has to be faced with a human touch and innovative methods of interrogation adopted leaving little scope for complaint that innocents were harmed, he said.⁴¹

The leader of the National Conference, Omar Abdullah, claimed after the events of late November 2002 that the new state Government was “soft.” The security forces resumed frisking and intensified their patrols in response to the latest attacks.

It is possible that the policy of Mufti Syed’s coalition exacerbated differences among the militant groups, and that some were seeking to undermine his efforts at political engagement, perhaps by provoking a stringent response by the security forces.

On 6 December 2002 two civilians died in Baramulla, north Kashmir, when the army fired shots at a crowd protesting against alleged excesses by the security forces. Hundreds of people took part in marches over the next two days in response to the deaths, and the state Government announced a judicial inquiry into the incident.

The attacks prompted some leading figures in the BJP, the main party in the national Government, to criticise the withdrawal of troops from the border and the policy of the new administration in Kashmir.

Indian Foreign Minister Yashwant Sinha complained that the elections in Kashmir had cost 800 lives and that in August and September 2002 levels of infiltration were “almost at par with last year.” He called for renewed pressure, possibly including economic measures.⁴² Pakistan responded by claiming that India was unwilling to pursue dialogue and that “there is no cross-border terrorism ... what is happening inside Kashmir is something indigenous.”⁴³ The Indian Chief of the Army Staff, General Sunderajan Padmanabhan, said in December 2002 that infiltration had been reduced by “about 43-44%”, though it was not reported with what period he was drawing a comparison.⁴⁴

⁴¹ *PTI*, in *BBC Monitoring*, 28 November 2002.

⁴² *Reuters News*, 24 November 2002.

⁴³ *Reuters News*, 25 November 2002.

⁴⁴ *PTI News Agency*, 6 December 2002, in *BBC Monitoring*, 7 December 2002.

Indian National Security Adviser Brajesh Mishra visited the USA and made comments which were reported as follows:

India says American pleas to begin dialogue with Pakistan [are] tantamount to double standards on terrorism. The national security adviser, Brajesh Mishra, in Washington met with his counterpart, Condoleezza Rice, and the US secretary of state, Colin Powell. After the meetings, Mr Mishra said and I quote: So far as double standards are concerned, there is a general plea that talks should take place between India and Pakistan. Our answer is how can we talk with cross-border terrorism still going on. So, when the US and others forget cross-border terrorism and urge us to talk, that is a double standard on terrorism. But Mr Mishra made it clear that this time around, Washington did not push India to renew calls for dialogue with Pakistan since it recognized that pressure on Islamabad to dismantle its terrorist infrastructure had not yielded results.⁴⁵

Deputy Prime Minister Lal Krishna Advani challenged Pakistan to abandon what he regarded as its proxy war in Kashmir and said, during election campaigning in Gujarat, “let us fight it out face to face. We have fought thrice, let there be a fourth war.”⁴⁶

In December 2002 Mirwaiz Umer Farooq, an important religious leader and an executive member and former Chairman of the All Party Hurriyat Conference, said that the Hurriyat was interested in talks with the Indian Government. The Mirwaiz, a moderate voice, said that the Hurriyat would not insist on Pakistani participation at the beginning, which was a major shift on past policy. He said, “if there is a will and urge to resolve the bigger issue of Kashmir, I am sure that things can start moving after the Gujarat elections,” and “let there be talks, we can work out the modalities later ... We need not involve all the parties at the same time.”⁴⁷ However, it became apparent that he was not speaking for all the groups in the Hurriyat.

After its general election Pakistan called for renewed dialogue with India, and Foreign Minister Mian Khurshid Mehmood Kasuri suggested that an informal bilateral meeting might take place in the margins of the summit of the South Asian Association for Regional Cooperation (SAARC), which was due to be held in Islamabad in January 2003. However, Pakistan later cancelled this summit, citing India’s delay in confirming its attendance. In Pakistan’s view, India had deliberately stymied the meeting. An official said, “India has laid so many preconditions for even beginning a dialogue that it is impossible to start a new peace process.”⁴⁸ Mr Jamali commented on what he saw as an obstructionist attitude among some Indian leaders:

⁴⁵ Indian Star News TV, 11 December 2002, in *BBC Monitoring*, 12 December 2002.

⁴⁶ *Reuters News*, 30 November 2002.

⁴⁷ *The Srinigar Times*, 9 December 2002, in *BBC Monitoring*, 11 December 2002.

⁴⁸ *Financial Times*, 10 December 2002.

we thought that with the induction of a civilian government [in Pakistan], the Indians might be more flexible, but an anti-Pakistan lobby does not want that to happen. ... We have told them again and again that we are ready for talks, but the anti-Pakistan lobby is apparently not in favour of the Indian government talking to Pakistan. I don't understand this.⁴⁹

In early December 2002 the US Ambassador to India, Richard Blackwill, visited Indian-administered Kashmir. In contrast to his predecessors he did not meet the leaders of the Hurriyat, and he took the unusual step of referring directly to terrorism, arguing that the international campaign against terrorism would be incomplete unless the issue were addressed in Kashmir.⁵⁰

Around this time there were further attacks against the security forces and civilians, and greater exchanges of fire between Indian and Pakistani forces across the Line of Control. Many soldiers and militants, and some civilians, died on either side. Pakistan's view of the continuing violence was given in a report by PTV World television:

The holy month of Ramadan is about peace and tolerance, but in occupied Kashmir [Indian-administered Kashmir], the Indian army - in continued acts of repression - has martyred 284 Kashmiris in the past 30 days. According to statistical data compiled by the Kashmir Media Service, those martyred included 54 killed in custody besides 13 women and five children. Eighty-five unfortunate women were widowed and 238 children orphaned. Twenty-four women were molested by the Indian occupation troops. In addition, 451 individuals were tortured and 256 arrested. Twenty-eight people were kidnapped or found missing, while 29 houses and shops were burned down by the Indian army.⁵¹

In early December 2002 India complained that a Pakistani drone had flown over Punch, supported by heavy mortar and machine gun fire. A spokesman for Mr Musharraf described the claim as "a lot of nonsense."⁵² Later that month the Indian army claimed to have found a Pakistani-made surface-to-air missile launcher, and one missile, in a "militant hideout" in the border district of Kupwara. The Indian army claimed that this represented a serious escalation in the armoury of the militants, that the system could have been bought only by a state, because of its cost, and that "strenuous" training was needed to use it. An official said that the discovery "has obviously changed the security scenario in the state."⁵³

⁴⁹ *Reuters News*, 15 December 2002.

⁵⁰ PTI News Agency, 5 December 2002, in *BBC Monitoring*, 6 December 2002.

⁵¹ PTV World television, in *BBC Monitoring*, 8 December 2002.

⁵² *Reuters News*, 8 December 2002.

⁵³ *Reuters News*, 15 December 2002.

In the early part of 2003 the level of violence was relatively low, but in March 2003 there were further attacks. These included a bus bomb which killed four civilians at a station, and which was followed by a demonstration during which stones were thrown at police in protest at the lack of protection against terrorist attacks.⁵⁴ There was also an attack on a hotel in Punch, when a number of gunmen forced their way into the hotel and threw grenades from the third floor onto the crowds below. Six people were killed, including one gunman and three hostages.⁵⁵ Nine policemen and two civilians died after a gun battle at a police post in Udhampur district, north of Jammu, responsibility for which was claimed by Hizbul Mujahideen, Harkat-ul-Mujahideen, Jamiat-ul-Mujahideen and Harkat-i-Jihadi Islami.⁵⁶

During the night of 23-24 March 2003 a group of some eight to 10 men dressed in army uniforms entered the village of Nadimarg, south of Srinagar, and took members of the Hindu Pandit community from their homes. They lined up and shot dead 24 of them, including 11 women and two children, outside a temple. Mr Advani described the attack as a “cold-blooded massacre” and said that “violence in Jammu and Kashmir is continuing because of our neighbour.” Pakistan condemned the attack as a “blatant act of terrorism.”⁵⁷

Some Indians suggested that the spring thaw had allowed infiltration to resume and that this may have influenced the level of violence.

V Rapprochement

A. Peace initiative, April 2003

In April 2003 Prime Minister Vajpayee announced a major effort at peace with Pakistan. Previously in his premiership the Lahore process and the Agra summit in 2001 had not led to success. The latest move came shortly before a visit from US Deputy Secretary of State Richard Armitage, in which he was expected to encourage the two sides to seek low-level ways to reduce tension. India pressed for step-by-step improvements in relations, while deferring discussion of the bigger issues, most obviously Kashmir. Pakistan accepted this approach, in a shift from its previous “Kashmir first” policy, under which normalisation of relations with India was dependent on progress in relation to Kashmir. Mr Vajpayee placed his personal weight behind the policy, saying that he wanted to make a final effort to achieve peace in his lifetime (he was 78).

⁵⁴ *Associated Press*, 13 March 2003.

⁵⁵ *Associated Press*, 14 March 2003.

⁵⁶ *BBC on-line*, “Kashmir militants claim attack,” 17 March 2003, and *Associated Press*, 16 March 2003.

⁵⁷ *BBC On-line*, “Fingers pointed after Kashmir attack,” 25 March 2003.

a. Confidence-building measures and ceasefire

A number of moves followed. Full diplomatic relations were restored in May 2003 and one bus route was reopened between the two countries. Mr Musharraf suggested in August 2003 that there should be a ceasefire across the Line of Control, and he also indicated that he might try to encourage a ceasefire by militant groups inside Kashmir, in return for a reduction in the numbers of Indian troops in the region, greater tolerance of political activity by the separatists and an end to alleged human rights abuses. India rejected this as unrealistic so long as infiltration continued from Pakistani- to Indian-administered Kashmir. Nevertheless, many commentators noted restraint in India's reaction to terrorist bombings in Mumbai in August 2003, in which 50 people were killed. It blamed local Islamic groups acting in concert with Lakshar-e-Taiba, operating from Pakistani territory, but there was little direct condemnation of Pakistan, and the Indian Government made it clear that the rapprochement would continue, albeit still at a low level.

The effect of these moves within Indian-administered Kashmir was limited.

The state Government spoke in conciliatory terms, and, for instance, it began investigations into alleged human rights abuses in the past, acknowledging in June 2003 that there had been 144 alleged killings in custody since 1989, and 3,931 disappearances.

There were some signs that the population was tired of the insurgency and that moderate groups were strengthening their position. The level of violence was a little lower than usual through the summer of 2003.

However, following the bombings in Mumbai in August 2003 there was further activity in Kashmir. Shelling increased across the Line of Control, and there were 30 deaths in the first few days of September 2003 in incidents between the security forces and militants. Indian forces killed Ghazi Baba, a leading member of Jaish-e-Mohammed, in exchanges of fire during a siege in Srinagar. India claimed that Mr Baba was the coordinator of the terrorist attacks in 2001 on the Kashmir state assembly in Srinigar and on the Indian parliament.

The peace process wallowed over the summer months of 2003, with India reiterating that infiltration must stop before talks could take place, and Pakistan claiming that it was doing all it could and that it was not seeing positive moves from India in return.

The situation appeared to transform, however, during the autumn. In October 2003 India proposed a package of confidence-building measures, including transport links, one of them a bus route across the Line of Control for the first time, sporting contacts and medical treatment for a number of Pakistani children. Then in November 2003 Pakistan made an offer of a ceasefire, accepted by India the next day, along the Line of Control. Commercial air services, bus and rail links, which were suspended after the attack on the Indian parliament, were restored.

B. India and Pakistan agree to talk

On 6 January 2004 President Musharraf met Prime Minister Vajpayee at the presidential palace in Islamabad, while Pakistan was hosting the annual summit of the South Asian Association for Regional Cooperation (SAARC). This was their first meeting in two years and, as mentioned above, Pakistan was due to host the SAARC summit in 2003 but cancelled it on the grounds that India was slow to confirm its attendance.

The meeting of the two leaders was preceded by diplomatic activity by their officials, as well as pressure from the USA, and it was followed by discussions between Mr Vajpayee's National Security Adviser, Brajesh Mishra, and senior Pakistani security officials.⁵⁸ Once these were concluded the two states issued a joint statement. They agreed to arrange talks, starting in February 2004, aimed at the peaceful settlement of all bilateral issues, including Kashmir:

The President of Pakistan and the Prime Minister of India met during the SAARC summit in Islamabad.

The Indian Prime Minister, while expressing satisfaction over the successful conclusion of the SAARC summit, appreciated the excellent arrangements made by the host country.

Both leaders welcomed the recent steps towards normalisation of relations between the two countries and expressed the hope that the positive trends set by the CBMs (confidence-building measures) would be consolidated.

Prime Minister Vajpayee said that in order to take forward and sustain the dialogue process, violence, hostility and terrorism must be prevented.

President Musharraf reassured Prime Minister Vajpayee that he will not permit any territory under Pakistan's control to be used to support terrorism in any manner.

President Musharraf emphasised that a sustained and productive dialogue addressing all issues would lead to positive results.

To carry the process of normalisation forward, the president of Pakistan and the Prime Minister of India agreed to commence the process of the composite dialogue in February 2004.

The two leaders are confident that the resumption of the composite dialogue will lead to peaceful settlement of all bilateral issues, including Jammu and Kashmir, to the satisfaction of both sides.

⁵⁸ *Financial Times*, 6 January 2004.

The two leaders agreed that constructive dialogue would promote progress towards the common objective of peace, security and economic development for our peoples and for future generations.⁵⁹

Mr Musharraf said, “we have taken a big leap forward. Now we will need to sustain this leap forward through further progress.”⁶⁰ Mr Vajpayee said, “new questions have arisen. New answers are being sought. We should end each other’s problems and try to find an amicable solution.”⁶¹

Three weeks later the first round of “composite dialogue” was announced. It would take place in Islamabad from 16 to 18 February 2004 and would involve talks between high level officials.⁶²

C. Talks, February 2004

The talks focused on the structure, timing and content of subsequent meetings. The Foreign Secretaries (officials) agreed to meet again, after the Indian elections, in May or June 2004, when they would look at peace and security, confidence-building measures, and Kashmir. Various other technical meetings would follow, and there would then be a ministerial meeting in August 2004 to review progress.

The two sides issued a joint statement:⁶³

1. The Foreign Secretaries of Pakistan and India met in Islamabad on February 18, 2004.
2. They reviewed and endorsed the agreement worked out at the Director-General/Joint-Secretary level meetings on February 16-17th on the modalities and timeframe for the discussions on all subjects on the agenda of the Composite Dialogue.
3. Both sides agreed that they would approach the Composite Dialogue with the sincere desire to discuss and arrive at a peaceful settlement of all bilateral issues, including Jammu and Kashmir, to the satisfaction of both sides. They reiterated their commitment to promote progress towards the common objective of peace, security and economic development for their peoples and for future generations.
4. They agreed to the following schedule of meetings:

⁵⁹ *BBC News on-line*, 6 January 2004, http://news.bbc.co.uk/1/hi/world/south_asia/3372157.stm.

⁶⁰ *Financial Times*, 6 January 2004.

⁶¹ *Times Online*, 6 January 2004.

⁶² *BBC News on-line*, 27 January 2004.

⁶³ *Reuters News*, 18 February 2004.

i) Foreign Secretaries would meet in May/June 2004 for talks on peace and security, including CBMs (confidence-building measures); and Jammu and Kashmir.

ii) Talks on Siachen; Wuller Barrage/Tulbul Navigation Project; Sir Creek, Terrorism and Drug Trafficking; Economic and Commercial Cooperation; and Promotion of Friendly Exchanges in Various Fields would be held the the already agreed levels in July 2004.

5. The following technical level meetings would be held earlier:

a) Meeting between Director General Pakistan Rangers and Inspector General Border Security Force in March/April 2004;

b) Expert-level talks on Nuclear CBMs in the latter half of May 2004;

c) Committee on Drug Trafficking and Smuggling in June 2004.

6. They reviewed the existing links between the Directors General Military Operations of Pakistan and India and agreed to consider further strengthening these contacts.

7. The Foreign Minister of Pakistan and the External Affairs Minister of India would meet in August 2004 to review overall progress. This would be preceded by a one-day meeting of the Foreign Secretaries.

D. Separatists meet Indian Prime Minister

At the same time as the October 2003 package of confidence-building measures India announced that Deputy Prime Minister LK Advani would meet a faction of the Kashmiri separatists. This followed a split within the All Party Hurriyat Conference. Those favouring the traditional formula, that talks must include India, Pakistan, and the separatists, and must be held under the auspices of the UN, were led by Syed Ali Shah Geelani. The moderates, led by Maulana Abbas Ansari, agreed to India's preferred route of bilateral talks.

On 22 January 2004 leaders of the moderate Hurriyat faction met Mr Advani. The two sides agreed to a "step by step" process of dialogue and the need for an end to violence. Mr Advani agreed to review the cases of separatist prisoners, with the exception of those convicted of "heinous crimes."

Mr Musharraf reacted to the talks by saying "it is a very good beginning. We hope that the process of dialogue will continue." It is significant that Pakistan is willing to accept talks between India and some of the separatists, without insisting that it be involved or that the UN have a role.

In contrast Mr Geelani said

we are fed up with talk of confidence-building. The real issue is the occupation of Jammu and Kashmir by Indian troops. Unless there is headway towards resolving the basic problem, addressing the incidental issues will not help.⁶⁴

The leader of the Democratic Freedom Party, Shabir Ahmed Shah, complained that India's basic negotiating position, that it rightfully enjoys sovereignty over Kashmir, had not changed, and he described the talks as "much ado about nothing."⁶⁵

The day after their meeting with Mr Advani, 22 January 2004, the Hurriyat leaders met Mr Vajpayee for what they described as a "courtesy call," in which they expressed support for the rapprochement between India and Pakistan.⁶⁶

The next round of talks was due in March 2004. However, one of the five leaders who attended the first round of talks, Fazl Haq Qureshi, pulled out of the process in February 2004 in protest at what he saw as a failure to improve the human rights situation, and Mr Ansari threatened to do likewise. Eventually, the other leaders agreed to meet Mr Advani again on 27 March 2004.⁶⁷

Following this March meeting Mr Advani said that the two sides would meet again in June 2004, and that substantive issues could be discussed on that occasion. One of the Hurriyat members, Abdul Gani Bhat, said, "we will exchange ideas, outlines of what we can do, hopefully we will move forward towards lasting peace."⁶⁸

E. Factors affecting the situation

There is reason to believe that political will for a solution to the long-standing differences between India and Pakistan may be greater currently than in the past. Mr Vajpayee appears to be concerned with his political legacy. Both leaders have come under pressure from the USA to renew their efforts towards peace. Mr Musharraf's efforts to bring under control the militants operating from Pakistani-administered areas, including banning some organisations and arresting prominent militant leaders for short periods, have been criticised abroad as tokenistic and ineffective. It may be that he offered movement in the later part of 2003 in an effort to off-set this criticism. In particular, revelations over the proliferation of nuclear technology and expertise by Abdul Qadeer Khan, the senior scientist in Pakistan's nuclear programme, may have weakened his hand. India showed flexibility in its own position, agreeing to hold talks, rather than insisting that its demands on counter-terrorism and infiltration first be met in full. It acknowledged

⁶⁴ *BBC News on-line*, 23 January 2004.

⁶⁵ *BBC News on-line*, 23 January 2004.

⁶⁶ *BBC News on-line*, 23 January 2004.

⁶⁷ *BBC News on-line*, 17 March 2004.

⁶⁸ *Reuters News*, 27 March 2004.

that the level of infiltration had declined, although this is normal when the mountain passes fill with snow in the winter months.

One of the key moves which made the meeting between Mr Musharraf and Mr Vajpayee possible was a suggestion by Mr Musharraf in December 2003 that Pakistan might be willing to consider alternatives to a plebiscite on the future of Kashmir. The plebiscite was the main feature of the plan put forward by the UN in 1948, and had long been central to Pakistan's demands. The move by the moderate faction of the Hurriyat to distance itself from the use of violence had indicated clearly that a proportion of leading Kashmiris was losing faith in the armed struggle. This made it easier for Mr Musharraf to avoid accusations that he was abandoning the Kashmir cause. Equally, it may be that movement from Pakistan is easier under a military ruler than under a civilian government. Mr Musharraf's efforts to entrench the role of the military in Pakistani politics, and his close links in the past with the promotion of militant Islamist groups, and with the policy of antagonism towards India, may have allowed him to make overtures to India from a position of relative strength.⁶⁹ Nevertheless, some Islamist groups within Pakistan, and some Kashmiri groups, have been critical of his approach.

It has been remarked that India's economy is performing strongly, and that this allows Mr Vajpayee to work from a position of strength himself. The April 2003 initiative, the October 2003 confidence-building measures, and the agreement to hold talks in the absence of a cessation of militant activity, may have been easier to make given the success of his economic policies. In a mirror image of Mr Musharraf, he represents a Hindu nationalist party and his Deputy, Mr Advani, has long been associated with the most obdurate approach to issues such as Kashmir.

Some believe that the strong Indian economy provides an overwhelming force for change. Pakistan could benefit greatly from positive relations with the Indian economy, and it may be that Mr Musharraf perceives long-term political benefit in this, in terms of stability within Pakistan. It may also be that a solution to the Kashmir problem could help to neutralise the more disruptive Islamist voices. In addition, there are signs that the people of Kashmir, and some of the separatist leaders, are keen for a settlement. One commentary suggests that some officials in India and Pakistan may contemplate a solution based on partition along the Line of Control, or some modified version of it.⁷⁰

⁶⁹ This view is reflected in an article by Bronwen Maddox, Foreign Editor, in the *Times Online*, 6 January 2004.

⁷⁰ *Kashmir: the view from Islamabad*, and *Kashmir: the view from New Delhi*, International Crisis Group, Asia Reports Nos 68 and 69, 4 December 2003.

There are grounds for caution as well. There have been attempts to assassinate Mr Musharraf by some Islamist militants, and he may not command the loyalty of all in the military.⁷¹ India has a general election in April 2004, and, although the ruling BJP is expected to remain in power, the election introduces an element of uncertainty, particularly in the details of the coalition that is likely to emerge.⁷² The two sides still have many differences of view, as do the separatists within Indian-administered Kashmir, and neither side is suggesting that a rapid solution can be achieved. Partition might be negotiable in areas not administered by India, such as Gilgit and Baltistan, or in Hindu-dominated Jammu or Buddhist Ladakh, but the fate of the Vale of Kashmir is likely to remain a matter of intense debate.

The US relationship with Pakistan is still a matter of interest. Some commentators feel that the revelations over Dr Khan's proliferation activities have backed up the pressure from the USA, and that this has prompted Pakistan to make a more active response. The ongoing operation against Al-Qaeda fighters in the tribal areas bordering Afghanistan is cited as evidence, and there is an assumption that this pressure will be reflected also in a constructive approach to the composite dialogue with India. On the other hand, there are those who argue that Mr Musharraf's approach is to offer the minimum necessary cooperation, but without fundamentally committing himself to support for US objectives. They question whether Dr Khan really was working in isolation, as claimed by Pakistan, and whether the efforts against Al-Qaeda will be matched by those against the groups operating in Kashmir. The decision by the USA in March 2004 to designate Pakistan as a major non-NATO ally drew criticism from India, while Afghanistan has complained that Pakistan does not make adequate efforts against the Taliban. Many noted a muted response from the USA to Mr Musharraf's decision to pardon Dr Khan. Some saw it as an example of sensible diplomacy. Others questioned Pakistan's reliability as an ally.⁷³

The *Economist* argued

as an American ally, Pakistan is an embarrassment. Its ruler, General Pervez Musharraf, seized power in a bloodless coup in 1999. His efforts since then to legitimise himself have been marred by a farcical referendum, electoral manipulation, and concessions to Pakistan's Islamist extremists. The country has been the launch-pad for terrorist attacks in India. Worse still, it has proved to be the headquarters of a global mail-order business in nuclear-bomb technology, with Libya, Iran and North Korea as its known customers. If not a member of George Bush's "axis of evil", Pakistan seems to have been doing its best to meet the eligibility criteria.⁷⁴

⁷¹ R Bedi, "India, Pakistan prepare for talks on Kashmir," *Jane's Intelligence Review*, March 2004.

⁷² Neither of the two main parties, the BJP and Congress, is expected to win an outright majority.

⁷³ See, eg, *Far Eastern Economic Review*, 18 March 2004 and 19 February 2004; *Economist*, 13 March 2004.

⁷⁴ *Economist*, 13 March 2004.

The people of Kashmir seem to be enjoying a more relaxed phase, but they have seen false dawns before and reports suggest that their optimism is tinged with caution. According to one student, “the situation has changed a lot. I can meet my friends after my classes and sit in restaurants and chat until late.”⁷⁵ The same report quotes a Kashmiri businessman: “nothing is going to happen. We have seen this too many times before.” According to a journalist in Srinagar, “there is a bigger sense of optimism now. But everyone is expecting so much. If it doesn’t work out this time, it’s going to be worse than ever, bloodier.”

VI British Government’s view

The British Government’s broad view on the Kashmir issue is that it encourages India and Pakistan to build on the UN Resolutions and the Simla Agreement to find, through dialogue, a just and lasting solution acceptable to the people of Kashmir.⁷⁶ It encourages respect for the human rights of the people of Kashmir and an end to terrorism.

Baroness Scotland gave the following written answer in response to Lord Ahmed’s question “whether they support the United Nations resolutions pertaining to Kashmir:”

we believe that India and Pakistan should build on both the UN resolutions and the 1972 Simla Agreement in their search for a solution to Kashmir. We continue to encourage both countries to return to bilateral dialogue to find a just and lasting solution acceptable to the people of Kashmir.⁷⁷

In a statement the Foreign Secretary, Jack Straw, said that

the dispute between India and Pakistan is at root a bilateral matter which can only be resolved by direct dialogue between the parties. But it is a dispute with potent international implications.⁷⁸

Immediately before the meeting between Mr Musharraf and Mr Vajpayee at the SAARC summit Foreign Office Minister Mike O’Brien said:

During my visit to Pakistan from 9 to 12 December 2003, I met both President Musharraf and Foreign Minister Kasuri. My right hon. Friend the Prime Minister met Prime Minister Vajpayee on 6 December 2003 during the Commonwealth Heads of Government Meeting in Abuja. During our discussions with both Governments, we warmly welcomed the recent confidence-building measures, including the ceasefire on the Line of Control in Kashmir. We also encouraged both Governments to make sustained efforts to address each other's concerns and

⁷⁵ *Reuters News*, 17 February 2004.

⁷⁶ HC Deb 10 June 2002, cc595-613.

⁷⁷ HL Deb 2 May 2000, c147w.

⁷⁸ HC Deb 10 June 2002, c596.

to pave the way for a process aimed at settling all their outstanding differences, including the issue of Kashmir. We very much hope that the South Asian Association for Regional Co-operation Summit in Islamabad on 4 to 6 January 2004 will enable all the countries of South Asia to take forward their ideas for further regional co-operation.⁷⁹

Baroness Crawley gave the Government's reaction to the meeting:

My Lords, we commend the statesmanship and courage that President Musharraf and Prime Minister Vajpayee have demonstrated in moving Pakistan and India resolutely towards substantive talks on all the outstanding issues between them, including Kashmir. As a friend of both countries, we stand ready to offer any assistance that they might request. But at their root the differences between Pakistan and India are bilateral in nature and will have to be resolved through peaceful engagement between the two countries.⁸⁰

She also acknowledged that "the views of the Kashmiris must be taken into account if any settlement of the issue of Kashmir is to be durable."⁸¹

Mr O'Brien gave an account of British contacts with the two sides since the meeting between their leaders:

We have been in regular contact with the governments of both India and Pakistan following the announcement at the start of January that the two countries will begin a dialogue. My right hon. Friend the Foreign Secretary visited Pakistan last week, and India at the start of February. During both visits relations between India and Pakistan were discussed with President Musharraf, Deputy Prime Minister Advani and Foreign Minister Kasuri. Both governments were congratulated on recent progress in their bilateral relations following the breakthrough agreement to commence dialogue, and were encouraged to build a sustainable pattern of talks that will, in time, lead to the resolution of all their outstanding differences, including over Kashmir.⁸²

⁷⁹ HC Deb 5 January 2004, c86w.

⁸⁰ HL Deb 9 March 2004, cc1116-17.

⁸¹ HL Deb 9 March 2004, c1117.

⁸² HC Deb 12 March 2004, c1793w.

VII Further sources of information

Some of the following, especially the websites, advocate strong points of view. The House of Commons Library does not vouch for their accuracy, nor does it endorse any point of view.

a. *Hard copy*

P Lakhanpal, *Essential documents and notes on Kashmir dispute*, 2nd ed, 1965.

A Lamb, *Crisis in Kashmir, 1947-1966*, 1966.

S Gupta, *Kashmir: a study in India-Pakistan relations*, 1967.

H Gururaj Rao, *Legal aspects of the Kashmir problem*, 1967.

A Lamb, *Kashmir: a disputed legacy 1846-1990*, 1991.

S Jagmohan, *My frozen turbulence in Kashmir*, 1991.

Human Rights Watch, *The human rights crisis in Kashmir: a pattern of impunity*, 1993.

P Dawson, *The peacekeepers of Kashmir: the UN Military Observer Group in India and Pakistan*, 1994.

R Wirsing, *India, Pakistan and the Kashmir dispute: on regional conflict and its resolution*, 1994.

V Schofield, *Kashmir in the crossfire*, 1996.

S Bose, *The challenge in Kashmir: democracy, self-determination and just peace*, 1997.

H Close, *Atlee, Wavell, Mountbatten, and the transfer of power*, 1997.

R Wirsing and C Schofield eds, "War or peace on the Line of Control? The India-Pakistan dispute over Kashmir turns fifty," *Boundary and Territorial Briefing*, 1998.

W Brown, *The Gilgit rebellion 1947*, 1998.

V Hewitt, *Towards the future? Jammu and Kashmir in the 21st century*, 2001.

P Chalk and C Fair, "Lashkar-e-Tayyiba leads the Kashmiri insurgency," *Jane's Intelligence Review*, November 2002.

"India, Pakistan and Kashmir," *Strategic Studies*, December 2002.

Q Qureshi, "An examination of the impact of the overt nuclearisation by India and Pakistan and post 11 September events on the Indo-Pakistan conflict over Kashmir," *Seaford House Papers*, January 2003.

A Kennedy, "India and Pakistan – signs of a thaw or the precursor to war?" *RUSI Newsbrief*, June 2003.

R Roy-Chaudhury, "Hand of friendship," *World Today*, June 2003.

S Ganguly, "Kashmir, caught in the middle," *Bulletin of the Atomic Scientists*, July 2003.

R Bedi, "India uncovers militant bases in Kashmir," *Jane's Intelligence Review*, August 2003.

"Dialogue between India and Pakistan: major hurdles ahead," *Strategic Comments*, February 2004.

R Bedi, "India, Pakistan prepare for talks on Kashmir," *Jane's Intelligence Review*, March 2004.

b. On-line

Government of Indian State of Jammu and Kashmir:

<http://jammukashmir.nic.in/welcome.html>

Government of Azad Kashmir:

<http://www.kashmir.gov.pk/index.php>

Government of Pakistan:

<http://www.pakistan.gov.pk/>

Government of India:

<http://goidirectory.nic.in/>

The Stimson Centre on Kashmir:

<http://www.stimson.org/southasia/?SN=SA2001112045>

The International Crisis Group on Kashmir:

<http://www.crisisweb.org/home/index.cfm?id=1268&l=1>

Amnesty International on India (includes Indian-administered Kashmir):

<http://web.amnesty.org/library/eng-ind/index>

Various, many including links to other resources:

<http://www.usip.org/library/regions/kashmir.html>

<http://www.infovlad.net/links/kashmir.html>

<http://cfrterrorism.org/policy/kashmir.html>

<http://journalism.berkeley.edu/projects/arccrisis/pakkash.html>

http://www.historyguy.com/kashmir_links.html

<http://www.krrc.org/portal/modules/mylinks/>
<http://www.pakistanpage.net/gallery/main/kashmir.html>
<http://ikashmir.org/KashmirStory/chapter5.html>

Annex I: Jammu and Kashmir: Instrument of Accession to India

(Text of signed by Maharaja of the State of Jammu & Kashmir on 26th day of October 26, 1947, and its acceptance by Lord Mountbatten, the Governor General of India, on October 27, 1947)

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

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

Now, therefore, I Shriman Indar Mahandar Rajrajeshwar Maharajadhiraj Shri Hari Singhji, Jammu Kashmir Naresh Tatha Tibbet adi Deshadhipathi, Ruler of Jammu and Kashmir State, in the exercise of my sovereignty in and over my said State do hereby execute this my Instrument of Accession and I hereby declare that I accede to the Dominion of India with the intent that the Governor-General of India, the Dominion Legislature, the Federal Court and any other Dominion authority established for the purposes of the Dominion shall, by virtue of this my Instrument of Accession but subject always to the terms thereof, and for the purposes only of the Dominion, exercise in relation to the State of J&K (hereinafter referred to as 'this State') such functions as may be vested in them by or under the Government of India Act, 1935, as in force in the Dominion of India, on the 15th day of August 1947 (which Act as so in force in hereafter referred to as "the Act").

I hereby assume the obligation of ensuring that due effect is given to the provisions of the Act within this State so far as they are applicable therein by virtue of this my Instrument of Accession.

I accept the matters specified in the Schedule hereto as the matters with respect to, which the Dominion Legislature may make laws for this State.

I hereby declare that I accede to the Dominion of India on the assurance that if an agreement is made between the Governor-General and the Ruler of this State whereby any functions in relation to the administration in this State of any law of the Dominion Legislature shall be exercised by the Ruler of this State, then any such agreement shall be deemed to form part of this Instrument and shall be construed and have effect accordingly.

The terms of this my Instrument of Accession shall not be varied by any amendment of the Act or of the Indian Independence Act, 1947, unless such amendment of the Act or of

the Indian Independence Act 1947, unless such amendment is accepted by me by an Instrument supplementary to this Instrument.

Nothing in this Instrument shall empower the Dominion Legislature to make any law for this State authorizing the compulsory acquisition of land for any purpose, but I hereby undertake that should the Dominion for the purposes of a Dominion law which applies in this State deem it necessary to acquire any land, I will at their request acquire the land at their expense or if the land belongs to me transfer it to them on such terms as may be agreed, or, in default of agreement, determined by an arbitrator to be appointed by the Chief Justice of India.

Nothing in this Instrument shall be deemed to commit me in any way to acceptance of any future constitution of India or to fetter my discretion to enter into arrangements with the Government of India under any such future constitution.

Nothing in this Instrument affects the continuance of my sovereignty in and over this state, or, save as provided by or under this Instrument, the exercise of any powers, authority and rights now enjoyed by me as Ruler of this State or the validity of any law at present in force in this State.

I hereby declare that I execute this Instrument on behalf of this State and that any reference in this Instrument to me or to the Ruler of the State is to be construed as including a reference to my heirs and successors.

Given under my hand this 26th day of October, Nineteen Hundred and Forty Seven.

Acceptance of Instrument of Accession of Jammu and Kashmir State by the Governor General of India

I do hereby accept this Instrument of Accession.

Dated this Twenty-Seventh day of October Nineteen Hundred and Forty-Seven.

(Sd). Lord Mountbatten

Governor General of India

Annex II: Azad Kashmir: Karachi Agreement

Text of the agreement signed between Pakistan and Azad Kashmir Governments in April 1949. The Agreement was signed by the following:

1. Honourable Mushtaque Ahmed Gurmani, Minister without Portfolio, Government of Pakistan.
2. Sardar Mohammed Ibrahim Khan, the president of Azad Kashmir.
3. Choudhry Ghulam Abbas, Head of All Jammu and Kashmir Muslim Conference.

A. Matters within the purview of the Government of Pakistan.

1. Defence (as modified under...).
2. Foreign policy of Azad Kashmir.
3. Negotiations with the United Nations Commission for India and Pakistan.
4. Publicity in foreign countries and in Pakistan.
5. Co - ordination and arrangement of relief and rehabilitation of refugees.
6. Co - ordination of publicity in connection with plebiscite.
7. All activities within Pakistan regarding Kashmir such as procurement of food, civil supplies running of refugee camps and medical aid.
8. All affairs of Gilgit - Ladakh under the control of Political Agent.

B. Matters within the purview of Azad Kashmir Government.

1. Policy with regard to administration of AK territory.
2. General supervision of administration in AK territory.
3. Publicity with regard to the activities of the Azad Kashmir Government and administration.

4. Advice to the honourable Minister without Portfolio with regard to negotiations with United Nations Commission for India and Pakistan.

5. Development of economic resources of AK territory.

C. Matters within the purview of the Muslim Conference.

1. Publicity with regard to plebiscite in the AK territory.

2. Field work and publicity in the Indian occupied area of the State.

3. Organisation of political activities in the AK territory and the Indian occupied area of the State.

4. Preliminary arrangements in connection with the plebiscite.

5. Organisation for contesting the plebiscite.

6. Political work and publicity among the Kashmiri refugees in Pakistan.

7. Advise the honourable minister without Portfolio with regard to the negotiations with the United Nations Commission for India and Pakistan.

Annex III: UN Resolutions

Security Council Resolution 47

THE SECURITY COUNCIL

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

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

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

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

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

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

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

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

A-RESTORATION OF PEACE AND ORDER

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

(a) To secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistani nationals not normally resident therein who have entered the State for the purposes of fighting, and to prevent any intrusion into the State of such elements and any furnishing of material aid to those fighting in the State;

(b) To make known to all concerned that the measures indicated in this and the following paragraphs provide full freedom to all subjects of the State, regardless of creed, caste, or party, to express their views and to vote on the question of the accession of the State, and that therefore they should co-operate in the maintenance of peace and order.

2. The Government of India should:

(a) When it is established to the satisfaction of the Commission set up in accordance with the Council's Resolution 39 (1948) that the tribesmen are withdrawing and that arrangements for the cessation of the fighting have become effective, put into operation in consultation with the Commission a plan for withdrawing their own forces from Jammu and Kashmir and reducing them progressively to the minimum strength required for the support of the civil power in the maintenance of law and order;

(b) Make known that the withdrawal is taking place in stages and announce the completion of each stage;

(c) When the Indian forces shall have been reduced to the minimum strength mentioned in (a) above, arrange in consultation with the Commission for the stationing of the remaining forces to be carried out in accordance with the following principles:

(i) That the presence of troops should not afford any intimidation or appearance of intimidation to the inhabitants of the State;

(ii) That as small a number as possible should be retained in forward areas;

(iii) That any reserve of troops which may be included in the total strength should be located within their present base area.

3. The Government of India should agree that until such time as the plebiscite administration referred to below finds it necessary to exercise the powers of direction and supervision over the State forces and policy provided for in paragraph 8, they will be held in areas to be agreed upon with the Plebiscite Administrator.

4. After the plan referred to in paragraph 2 (a) above has been put into operation, personnel recruited locally in each district should so far as possible be utilized for the re-establishment and maintenance of law and order with due regard to protection of minorities, subject to such additional requirements as may be specified by the Plebiscite Administration referred to in paragraph 7.

5. If these local forces should be found to be inadequate, the Commission, subject to the agreement of both the Government of India and the Government of Pakistan, should arrange for the use of such forces of either Dominion as it deems effective for the purpose of pacification.

B-PLEBISCITE

6. The Government of India should undertake to ensure that the Government of the State invite the major political groups to designate responsible representatives to share equitably and fully in the conduct of the administration at the ministerial level, while the plebiscite is being prepared and carried out.

7. The Government of India should undertake that there will be established in Jammu and Kashmir a Plebiscite Administration to hold a Plebiscite as soon as possible on the question of the accession of the State to India or Pakistan.

8. The Government of India should undertake that there will be delegated by the State to the Plebiscite Administration such powers as the latter considers necessary for holding a fair and impartial plebiscite including, for that purpose only, the direction and supervision of the State forces and police.

9. The Government of India should at the request of the Plebiscite Administration, make available from the Indian forces such assistance as the Plebiscite Administration may require for the performance of its functions.

10.(a) The Government of India should agree that a nominee of the Secretary-General of the United Nations will be appointed to be the Plebiscite Administrator.

(b) The Plebiscite Administrator, acting as an officer of the State of Jammu and Kashmir, should have authority to nominate the assistants and other subordinates and to draft regulations governing the Plebiscite. Such nominees should be formally appointed and such draft regulations should be formally promulgated by the State of Jammu and Kashmir.

(c) The Government of India should undertake that the Government of Jammu and Kashmir will appoint fully qualified persons nominated by the Plebiscite Administrator to act as special magistrates within the State judicial system to hear cases which in the opinion of the Plebiscite Administrator have a serious bearing on the preparation and the conduct of a free and impartial plebiscite.

(d) The terms of service of the Administrator should form the subject of a separate negotiation between the Secretary-General of the United Nations and the Government of India. The Administrator should fix the terms of service for his assistants and subordinates.

(e) The Administrator should have the right to communicate directly, with the Government of the State and with the Commission of the Security Council and, through the Commission, with the Security Council, with the Governments of India and Pakistan and with their

representatives with the Commission. It would be his duty to bring to the notice of any or all of the foregoing (as he in his discretion may decide) any circumstances arising which may tend, in his opinion, to interfere with the freedom of the Plebiscite.

11. The Government of India should undertake to prevent and to give full support to the Administrator and his staff in preventing any threat, coercion or intimidation, bribery or other undue influence on the voters in the plebiscite, and the Government of India should publicly announce and should cause the Government of the State to announce this undertaking as an international obligation binding on all public authorities and officials in Jammu and Kashmir.

12. The Government of India should themselves and through the Government of the State declare and make known ' that all subjects of the State of Jammu and Kashmir, regardless of creed, caste or party, will be safe and free in expressing their views and in voting on the question of the accession of the State and that there will be freedom of the Press, speech and assembly and freedom of travel in the State, including freedom of lawful entry and exit.

13. The Government of India should use and should ensure that the Government of the State also use their best endeavour to effect the withdrawal from the State of all Indian nationals other than those who are normally resident therein or who on or since 1st August 1947 have entered it for a lawful purpose.

14. The Government of India should ensure that the Government of the State releases all political prisoners and take all possible steps so that :

(a) all citizens of the State who have left it on account of disturbances are invited and are free to return to their homes and to exercise their rights as citizens,

(b) there is no victimization;

(c) minorities in all parts of the State are accorded adequate protection.

15. The Commission of the Security Council should at the end of the plebiscite certify to the Council whether the plebiscite has or has not been really free and impartial.

C-GENERAL PROVISIONS

16. The Governments of India and Pakistan should each be invited to nominate a representative to be attached to the Commission for such assistance as it may require in the performance of its task.

17. The Commission should establish in Jammu and Kashmir such observers as it may require of any of the proceedings in pursuance of the measures indicated in the foregoing paragraphs.

18. The Security Council Commission should carry out the tasks assigned to it herein.

Resolution adopted by the United Nations Commission for India and Pakistan, 13 August 1948, S/1100, para 75, 9 November, 1948.

THE UNITED NATIONS COMMISSION FOR INDIA AND PAKISTAN

Having given careful consideration to the points of view expressed by the Representatives of India and Pakistan regarding the situation in the State of Jammu and Kashmir, and

Being of the opinion that the prompt cessation of hostilities and the correction of conditions the continuance of which is likely to endanger international peace and security are essential to implementation of its endeavours to assist the Governments of India and Pakistan in effecting a final settlement of the situation,

Resolves to submit simultaneously to the Governments of India and Pakistan the following proposal:

PART I

CEASE-FIRE ORDER

A.The Governments of India and Pakistan agree that their respective High ' Commands will issue separately and simultaneously a cease-rire order to apply to all forces under their control in the State of Jammu and Kashmir as of the earliest practicable date or dates to be mutually agreed upon within four days after these proposals have been accepted by both Governments.

B.The High Commands of Indian and Pakistan forces agree to refrain from taking any measures that might augment the military potential of the forces under their control in the State of Jammu and Kashmir. (For the purpose of these proposals "forces under their control" shall be considered to include all forces, organised and unorganised, righting or participating in hostilities on their respective sides).

C.TheCommanders-in-Chief of the Forces of India and Pakistan shall promptly confer regarding any necessary local changes in present dispositions which may facilitate the cease-fire.

D.In its discretion. and as thecommission may rind practicable, the Commission will appoint military observers who under the authority of the Commission and with the co-operation of both Commands will supervise the observance of the cease-fire order.

E.The Government of India and the Government of Pakistan agree

to appeal to their respective peoples to assist in creating.and to maintaining an atmosphere favourable to the promotion of further negotiations.

PART II

TRUCE AGREEMENT

Simultaneously with the acceptance of the proposal for the immediate cessation of hostilities as outlined in Part 1. both Governments accept the following principles as a basis for the formulation of a truce agreement, the details of which shall be worked out in discussion between their Representatives and the Commission.

A. (1)As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from that State.

(2)The Government of Pakistan will use its best endeavour to secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistan nationals not normally resident therein who have entered the State for the purpose of fighting.

(3)Pending a final solution the territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the Commission.

B.(1)When the Commission shall have notified the Government of India that the tribesmen and Pakistan nationals referred to in Part 11 A 2 hereof have withdrawn, thereby terminating the situation which was represented by the Government of India to the Security Council as having occasioned the presence of Indian forces in the State of Jammu and Kashmir, and further. that the Pakistan forces are being withdrawn from the State of Jammu and Kashmir. the Government of India agrees to begin to withdraw the bulk of their forces from the State in stages to be agreed upon with the Commission.

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

(3)The Government of India will undertake to ensure that the Government of the State of Jammu and Kashmir will take all measures within their power to make it publicly known that peace, law and order will be safeguarded and that all human and political rights will be guaranteed.

C.(1)Upon signature, the full text of the Truce Agreement or communique containing the principles thereof as agreed upon between the two Governments and the Commission, will be made public.

PART III

The Government of India and the Government of Pakistan reaffirm their wish that the future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people and to that end, upon acceptance of the Truce Agreement both Governments agree to enter into consultations with the Commission to determine fair and equitable conditions whereby such free expression will be assured.

Resolution adopted by the United Nations Commission For India and Pakistan, 5 January 1949, S/1196, para 15, 10 January 1949.

THE UNITED NATIONS COMMISSION FOR INDIA AND PAKISTAN,

Having received from the Governments of India and Pakistan in Communications, dated December 23 and December 25, 1948, respectively their acceptance of the following principles which are supplementary to the Commission's Resolution of August 13, 1948,

- 1 .The question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite;
2. A plebiscite will be held when it shall be found by the Commission that the cease-fire and truce arrangements set forth in Parts I and 11 of the Commission's resolution of 13 August 1948, have been carried out and arrangements for the plebiscite have been completed,
- 3.(a) The Secretary-General of the United Nations will, in agreement with the Commission, nominate a Plebiscite Administrator who shall be a personality of high international standing and commanding general confidence. He will be formally appointed to office by the Government of Jammu and Kashmir.
(b)The Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers he considers necessary for organizing and conducting the plebiscite and for ensuring the freedom and impartiality of the plebiscite.
(c)The Plebiscite Administrator shall have authority to appoint such staff or assistants and observers as he may require.
- 4.(a) After implementation of Parts I and 11 of the Commission's resolution of 13 August 1948, and when the Commission is satisfied that peaceful conditions have been restored in the State. the Commission and the Plebiscite Administrator will determine, in consultation with the Government of India, the final disposal of Indian and State armed forces, such disposal to be with due regard to the security of the State and the freedom of the plebiscite.
(b)As regards the territory referred to in A 2 of Part 11 of the resolution of 13 August, final disposal of the armed forces in that territory will be determined by the Commission and the Plebiscite Administrator in consultation with the local authorities.
- 5.All civil and military authorities within the State and the principal political elements of the State will be required to cooperate with the Plebiscite Administrator in the preparation for and the holding of the plebiscite.

6.(a) All citizens of the State who have left it on account of the disturbances will be invited and be free to return and to exercise all their rights as such citizens. For the purpose of facilitating repatriation there shall be appointed two Commissions, one composed of nominees of India and the other of nominees of Pakistan.

The Commissions shall operate under the direction of the Plebiscite Administrator. The Governments of India and Pakistan and all authorities within the State of Jammu and Kashmir will collaborate with the Plebiscite Administrator in putting this provision to effect.

(b) All persons (other than citizens of the State) who on or since 15 August 1947, have entered it for other than lawful purpose, shall be required to leave the State.

7. All authorities within the State of Jammu and Kashmir will undertake to ensure in collaboration with the Plebiscite Administrator that:

(a) There is no threat, coercion or intimidation, bribery or other undue influence on the voters in plebiscite;

(b) No restrictions are placed on legitimate political activity throughout the State. All subjects of the State, regardless of creed, caste or party, shall be safe and free in expressing their views and in voting on the question of the accession of the State to India or Pakistan. There shall be freedom of the Press, speech and assembly and freedom of travel in the State, including freedom of lawful entry and exit;

(c) All political prisoners are released;

(d) Minorities in all parts of the State are accorded adequate protection; and

(e) There is no victimization.

8. The Plebiscite Administrator may refer to the United Nations Commission for India and Pakistan problems on which he may require assistance, and the Commission may in its discretion call upon the Plebiscite Administrator to carry out on its behalf any of the responsibilities with which it has been entrusted;

9. At the conclusion of the plebiscite, the Plebiscite Administrator shall report the result thereof to the Commission and to the Government of Jammu and Kashmir. The Commission shall then certify to the Security Council whether the Plebiscite has or has not been free and impartial;

10. Upon the signature of the truce agreement the details of the foregoing proposals will be elaborated in the consultation envisaged in Part 111 of the Commission's resolution of 13 August 1948. The Plebiscite Administrator will be fully associated in these consultations;

Commends the Governments of India and Pakistan for their prompt action in ordering a cease-fire to take effect from one minute before midnight of first January 1949, pursuant to the agreement arrived at as provided for by the Commission's resolution of 13 August 1948; and

Resolves to return in the immediate future to the sub-continent to discharge the responsibilities imposed upon it by the resolution of 13 August 1948, and by the foregoing principles.

Annex IV: Tashkent Declaration

The Prime Minister of India and the President of Pakistan, having met at Tashkent and having discussed the existing relations between India and Pakistan, hereby declare their firm resolve to restore normal and peaceful relations between their countries and to promote understanding and friendly relations between their peoples. They consider the attainment of these objectives of vital importance for the welfare of the 600 million people of India and Pakistan.

I

The Prime Minister of India and the President of Pakistan agree that both sides will exert all efforts to create good neighborly relations between India and Pakistan in accordance with the United Nations Charter. They reaffirm their obligation under the Charter not to have recourse to force and to settle their disputes through peaceful means. They considered that the interests of peace in their region and particularly in the Indo-Pakistan Sub-Continent and, indeed, the interests of the people so India and Pakistan were not served by the continuance of tension between the two countries. It was against this background that Jammu and Kashmir was discussed, and each of the sides set forth its respective position.

II

The Prime Minister of India and the President of Pakistan have agreed that all armed personnel of the two countries shall be withdrawn not later than 24 February, 1966, to the positions they held prior to 5 August, 1965, and both sides all observe the cease-fire terms on the cease-fire line.

III

The Prime Minister of India and the President of Pakistan have agreed that relations between India and Pakistan shall be based on the principle of non-interference in the internal affairs of each other.

IV

The Prime Minister of India and the President of Pakistan have agreed that both sides will discourage any propaganda directed against the other country, and will encourage propaganda which promotes the development of friendly relations between the two countries.

V

The Prime Minister of India and the President of Pakistan have agreed that the High Commissioner of India to Pakistan and the High Commissioner of Pakistan to India will return to their posts and that the normal functioning of diplomatic missions of both countries will be restored. Both Government shall observe the Vienna Convention of 1961 on Diplomatic Intercourse.

VI

The Prime Minister of India and the President of Pakistan have agreed to consider measures towards the restoration of economic and trade relations, communications, as

well as cultural exchanges between India and Pakistan, and to take measures to implement the existing agreements between India and Pakistan.

VII

The Prime Minister of India and the President of Pakistan have agreed that they will give instructions to their respective authorities to carry out the repatriation of the prisoners of war.

VIII

The Prime Minister of India and the President of Pakistan have agreed that the two sides will continue the discussion of questions relating to the problems of refugees and eviction/illegal immigrations. They also agreed that both sides will create conditions which will prevent the exodus of people. They further agreed to discuss the return of the property and assets taken over by either side in connection with the conflict.

IX

The Prime Minister of India and the President of Pakistan have agreed that the two sides will continue meetings both at the highest and at other levels on matters of direct concern to both countries. Both sides have recognized the need to set up joint Indian-Pakistani bodies which will report to their Governments in order to decide what further steps should be taken.

The Prime Minister of India and the President of Pakistan recorded their feelings of deep appreciation and gratitude to the leaders of the Soviet Union, the Soviet Government and personally to the Chairman of the Council of Ministers of the U.S.S.R. for their constructive, friendly and noble part in bringing about the present meeting which has resulted in mutually satisfactory results. They also express to the Government and friendly people of Uzbekistan their sincere thankfulness for their overwhelming reception and generous hospitality.

They invite the Chairman of the Council of Ministers of the U.S.S.R. to witness this declaration.

10 January 1966

Annex V: Simla Agreement

1. The Government of India and the Government of Pakistan are resolved that the two countries put an end to the conflict and confrontation that have hitherto marred their relations and work for the promotion of a friendly and harmonious relationship and the establishment of durable peace in the subcontinent, so that both countries may henceforth devote their resources and energies to the pressing task of advancing the welfare of their peoples.

In order to achieve this objective, the Government of India and the Government of Pakistan have agreed as follows:

(i) That the principles and purposes of the Charter of the United Nations shall govern the relations between the two countries;

(ii) That the two countries are resolved to settle their differences by peaceful means through 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 alter the situation and both shall prevent the organization, assistance or encouragement of any acts detrimental to the maintenance of peaceful and harmonious relations;

(iii) That the prerequisite for reconciliation, good neighborliness and durable peace between them is a commitment by both the countries to peaceful co-existence, respect for each other's territorial integrity and sovereignty and non-interference in each other's internal affairs, on the basis of equality and mutual benefit;

(iv) That the basic issues and causes of conflict which have bedeviled the relations between the two countries for the last 25 years shall be resolved by peaceful means;

(v) That there shall always respect each other's national unity, territorial integrity, political independence and sovereign equality;

(vi) That in accordance with the Charter of the United Nations they will refrain from the threat of use of force against the territorial integrity or political independence of each other.

2. Both Governments will take steps within their power to prevent hostile propaganda directed against each other. Both countries will encourage the dissemination of such information as would promote the development of friendly relations between them.

3. In order progressively to restore and normalize relations between the two countries step by step, it was agreed that:

(i) Steps shall be taken to resume communications, postal, telegraphic, sea, land including border posts, and air links including overflights.

(ii) Appropriate steps shall be taken to promote travel facilities for the nationals of the other country.

(iii) Trade and cooperation in economic and other agreed fields will be resumed as far as possible.

(iv) Exchange in the fields of science and culture will be promoted.

In this connection delegations from the two countries will meet from time to time to work out the necessary details.

4. In order to initiate the process of establishment of durable peace, both the Governments agree that:

(i) Indian and Pakistani forces shall be withdrawn to their side of the international border.

(ii) 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 the use of force in violation of this Line.

(iii) The withdrawals shall commence upon entry into force of this Agreement and shall be completed within a period of 30 days thereof.

5. 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.

6. Both Governments agree that their respective Heads will meet again at a mutually convenient time in the future and that, in the meanwhile, the representatives of the two sides will meet to discuss further the modalities and arrangements for the establishment of durable peace and normalization of relations, including the questions of repatriation of prisoners of war and civilian interests, a final settlement of Jammu and Kashmir and the resumption of diplomatic relations.

(Indira Gandhi)
Prime Minister
Republic of India

(Zulfikar Ali Bhutto)
President
Islamic Republic of Pakistan

Simla, the 2nd July, 1972

Annex VI: Lahore Declaration

The Prime Ministers of the Republic of India and the Islamic Republic of Pakistan:

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

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

Recognising that the nuclear dimension of the security environment of the two countries adds to their responsibility for avoidance of conflict between the two countries; Committed to the principles and purposes of the Charter of the United Nations, and the universally accepted principles of peaceful co- existence;

Reiterating the determination of both countries to implementing the Simla Agreement in letter and spirit;

Committed to the objective of universal nuclear disarmament and non-proliferation;

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

Recalling their agreement of 23rd 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;

Have agreed that their respective 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's internal affairs.
- shall intensify their composite and integrated dialogue process for an early and positive outcome of the agreed bilateral agenda.
- shall take immediate steps for reducing the risk of accidental or unauthorised use of nuclear weapons and discuss concepts and doctrines with a view to elaborating measures for confidence building in the nuclear and conventional fields, aimed at prevention of conflict.
- reaffirm their commitment to the goals and objectives of SAARC and to concert their efforts towards the realisation of the SAARC vision for the year 2000 and beyond with a view to promoting the welfare of the peoples of South Asia and to improve their quality of life through accelerated economic growth, social progress and cultural development.

- reaffirm their condemnation of terrorism in all its forms and manifestations and their determination to combat this menace.

- shall promote and protect all human rights and fundamental freedoms.

Signed at Lahore on the 21st day of February 1999.

Atal Behari Vajpayee Prime Minister of the Republic of India Muhammad Nawaz Sharif Prime Minister of the Islamic Republic of Pakistan

FEBRUARY 21, 1999

Annex VII: Map

Kashmir Region



Courtesy of The General Libraries, The University of Texas at Austin.