THE ORIGIN AND INTERNATIONALIZATION OF THE KASHMIR CONFLICT: A CRITICAL ANALYSIS

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Abstract

The Kashmir conflict between India and Pakistan has been the major source of tension and the bottleneck to peace and security in South Asia. The dispute has caused three wars and several crises between these two major countries of the subcontinent. Despite their several bilateral or multi-lateral efforts since their independence, New Delhi and Islamabad have failed to break the stalemate. In addition, when the two countries went nuclear in 1998, Kashmir became, as the then US President, Bill Clinton called it, “the most dangerous [nuclear] flash point on earth.” For finding or offering any solution to the intractability of the protracted Kashmir conflict, it is important to know its origin and subsequent internationalization. This paper is an attempt to critically analyze the same through a Kashmiri perspective.

Keywords: Procrastination, accession, war crisis, internationalization, intractability

Introduction

The Kashmir problem is a by-product of the Indian Independence Act of 1947. The act provided for the division of British India into two independent countries—India and Pakistan. The Act also entailed the option for the princely states to join either of these two countries. Maharaja (king) Hari Singh, then ruler of the princely state of Jammu and Kashmir, did not join either country before the scheduled time of independence of India and Pakistan—August 15, 1947. The deteriorating situation in the state, however, compelled him to accede to India in the late October 1947. While refusing the validity of the accession, Pakistan blamed India that it had achieved the accession by using fraud and violence; it still considers the accession as the unfinished business of the partition. Both countries soon started accusing each other for the situation in Kashmir and led them close to a full scale war in 1948. The Governor-General of India, Lord Mountbatten attempted to bring the two countries to a negotiating table to diffuse the crisis. After the failure of his mediation, Mountbatten requested India to refer the Kashmir issue to the United Nations (UN) to resolve it. India, therefore, took the problem to the Security Council (SC) on January 1, 1948. This, in other words, internationalized the Kashmir problem.

This paper examines the origin and the process of internalization of the Kashmir problem in four sections. The first section deals with the origin and development of Kashmir as a state. It discusses the “Treaty of Amritsar” of 1846 which the British government made with Gulab Singh, the founder of the Dogra dynasty in Kashmir, the Maharaja Hari Singh’s offer to both the newly independent countries of India and Pakistan in August 1947, and the Poonch revolt which ultimately led the Maharaja to accede to India. The Second section investigates how the accession took place. It discusses

1Kashmir in this study refers to the whole erstwhile princely state of Jammu and Kashmir which was under the sovereignty of its ruler Maharaja Hari Singh before the independence of India and Pakistan in 1947.


the roles of the Defence Committee of India (DCI) and Mountbatten in finalizing the Maharaja’s accession to the Union of India. Section third analyzes Mountbatten’s role to diffuse the crisis between India and Pakistan over Kashmir. It examines the proposals and counter-proposals which both governments exchanged with each other from the accession in October 1947 to the internationalization of the Kashmir problem in January 1948. The last section summarizes the paper.

Section-I

1.1 The Origin of Kashmir as the Political Entity

In order to understand the complex nature of the Kashmir problem, it is essential to briefly examine the origin and development of Kashmir as a geographically defined unit or state. Emperor Ashoka, the founder of Srinagar city, had first made Kashmir a part of his Sub-continental-Mouryan Empire in the third century BC. The empire was extended from Bengal to Deccan, Afghanistan to Punjab including Kashmir. In the first century A.D., the Kushans occupied the Valley. Lalitadatya ruled Kashmir in the early 8th century. Avantivarman, 9th century ruler, internally consolidated the state. However, from the 10th century onwards, struggle for power in Kashmir intensified, and the Hindu rule was first time replaced by the Muslim rule in 1354. Shahab-ub-Din, the first Muslim ruler of Kashmir, conquered the territories of Baltistan, Ladakh, Kishtwar and Jammu. In 1586, Akbar annexed the state in his Mughal Empire. With this the Valley of Kashmir’s long history as a kingdom of Kashmir in its own right came to an end.4

After the Afghan rule (1751-1819), the state came under the Sikh rule in 1819. Ranjit Singh, the king of Punjab, made it a part of his Kingdom. He appointed Gulab Singh, a Dogra Rajput of Jammu, as the Raja of Jammu; subsequently, after the collapse of the Sikh empire, British concluded the 'Treaty of Amritsar' with Gulab Singh on March 16, 1846. Through this treaty, Gulab Singh purchased the state from the British government in exchange of 750,000 pounds. As Gulab Singh accepted the British paramountcy, Britain retained the right to control the foreign relations of the state. Gulab Singh later came to be known as the Maharaja (king) of Jammu and Kashmir.

However, the Dogra rule was not welcomed by the overwhelming majority of the people of Kashmir; they were not allowed to participate in their administration and heavy taxes were imposed upon them. They, therefore, had relentlessly protested against the rule until the partition of British India in 1947. The Dogra dynasty, however, created a state what is today commonly known as Kashmir (see

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5Ibid; Schofield, 9 and 16; Josef Korbel, Danger in Kashmir (Srinagar: City Book Centre, 2008), 11-12; Gupta, 21-26. For the full account on the origin and development of the state of Jammu and Kashmir, see Alastair Lamb, Crisis in Kashmir (London: Routledge and Kegan Paul, 1966), 24-34.
Map-1).

 Courtesy: Outline taken from Google Maps,

Map-1: Kashmir before 1947

The Dogra rule over Kashmir ended with the partition of British India into two countries of India and Pakistan in 1947.  

1.2 The Indian Independence Act 1947

The Indian Independence Act of 1947 divided the British India into two independent countries of India and Pakistan. It further stated that the “paramountcy” enjoyed by the princely states of 562 (see map-2), constituting over two-fifths of the region with a population of 99 million, under the British Crown would lapse with the end of the British rule in the subcontinent. The act actually gave only two options to the princes to join either of the two dominions by August 15, 1947. All of them joined either India or Pakistan except Junagadh, Hyderabad and Kashmir. Subsequently, the Indian government annexed Junagadh and Hyderabad by military action. Kashmir, however, continued to be independent till October 1947 because of its complex nature.  

Map-2: The Princely States of India

Courtesy: Howard B. Shaffer, The Limits of Influence: America’s Role in Kashmir

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8Ibid.

7Korbel, 44; Schofield, 28.

8For detailed information on the cases of Junagadh and Hyderabad, See Gupta, 78-89; D.N. Panigrahi, Jammu and Kashmir, the Cold War and the West  (London: Routledge, 2009), 43-45.
The state was unique in its features as it was the largest of 562 princely states. Its area was 84,471 square miles divided into five distinct regions: (1) Kashmir; (2) Jammu; (3) Poonch; (4) Ladakh and Baltistan; and (5) the Northern Areas comprised of Gilgit, Hunza, and Nagar (see Map-1). According to the British 1941 census, Kashmir had a population of over four million of whom 77 percent were Muslims, 20 percent Hindus, and rest Sikhs, Buddhists and Christians. Muslims wanted to join Pakistan while Hindus, Sikhs and others, strongly favored the union with India. However, the predominantly Muslim state was ruled by a Hindu ruler, Maharaja Hari Singh. In addition, the state was geographically contiguous not only to both India and Pakistan, but also to Russia, China, and Afghanistan. Thus, it was difficult for Maharaja Hari Singh (see fig-1.1) to make his choice by August 15, 1947, the scheduled date of the independence of India and Pakistan. In short, the Indian Independence Act of 1947 gave birth to the Kashmir problem.

On June 18, 1947, the Governor-General of India, Lord Mountbatten visited Kashmir to persuade Hari Singh to decide to join either of the two countries. As he had made his mind to remain independent, the Maharaja gave Mountbatten a little time to discuss on the political future of Kashmir. In his first meeting with the Governor-General, the Maharaja made an excuse that he would take the consent of the people and meet Viceroy the next day. The ruler, however, avoided meeting Mountbatten once again on account of his illness, and the next meeting was not held. Mountbatten, with his disappointment, declared that the independence of any princely state would not be tolerated. Finally, after recognizing the failure of his mission, Mountbatten warned Hari Singh about “the dangerous situation in which Kashmir would find itself if it lacked the support of the two dominions by the date of the transfer of power.” The Maharaja, however, declined.

For more information, see Schaffer, 3-4.


Rizvi, 50.

Captain Dewan Singh, Interview, Jammu, April 11, 1994, quoted in Schofield, 30; Campbell-Johnson, *Mission with Mountbatten* (London: Robert Hale, 1951), 120-121, quoted in Gupta, 96. For more discussion on Mountbatten’s meeting with the Maharaja, see Korbel, 53-57.
1.3 Standstill Agreement

On August 12, 1947, the Maharaja offered a “Standstill Agreement” to both India and Pakistan. The purpose of this agreement, as provided in the Indian Independence Act 1947, was to guarantee that till new agreements were made all the existing agreements and administrative arrangements that the British India Government had made with the Kashmiri government would continue with either or both of the dominions. Pakistan signed the agreement on August 15, which authorized it to govern Kashmir’s communications, postal and telegraph services. Pakistan in turn was obligated to supply food and other basic necessities to Kashmir. India, on the other side, did not sign the agreement as it had not the approval of the representatives of the people.13 This action was justified by V.P. Menon, India’s Secretary of State Ministry, that “We wanted time to examine its implications” and “left the state alone . . . moreover our hands were already full and if truth be told, I for one had simply no time to think of Kashmir.”14

The Government of Pakistan (GOP) termed the Standstill Agreement as the first step towards the eventual accession of Kashmir to Pakistan. Besides, Pakistani leaders, as the religion was the base of partition, Kashmir was geographically more linked to Pakistan than India, and its communication also ran through Pakistan, had believed that the state would sooner or later become a part of their country. They, therefore, had been eagerly waiting for Maharaja’s accession to Pakistan.15

1.4 The Poonch Revolt

However, in October 1947, the whole situation in the state changed when the armed uprising broke out in Poonch against the Maharaja’s rule (see Map-1 above). Poonch had been an important traditional recruiting ground for the British Indian forces. Out of the total citizens of Kashmir (71,667) who had served the British Indian Army during World War Second, 60,402 were Muslims from this area. As the Maharaja denied accepting them into the state army, they strongly agitated against his policy.

The agitation soon turned into an armed uprising in the spring of 1947. They were subsequently supported by the tribesmen of the North-West Frontier (NWF), bordering between Afghanistan and Pakistan, and finally Pakistani regular forces. Consequently, it became clear that the princely state in its entirety was not going to become a part of either India or Pakistan.16

Maharaja Hari Singh strengthened his garrison with Sikhs and Hindus in the Muslim populated areas of Jammu including Poonch. He then issued an order asking all the Muslims in these areas to hand over their arms to the state police. Most of them followed the order and surrendered their arms. However, when they later saw their arms in the hands of Sikhs and Hindus, Muslims became indignant. The demobilized soldiers of Poonch, therefore, soon made direct contacts with Pathan tribes of the NWF and sought fresh arms from them. These links subsequently played a vital role in provoking the great Pathan tribal invasion on the state in October 1947.17

13Schofield, 39-40.
17Lamb, ‘Crisis,’ 37. For more details, see Gupta, 101-102 and Schofield, 41-43.
To combat the situation, the Maharaja used another technique. He released Sheikh Abdullah, the father of the Kashmiri nationalism, on September 29, 1947. The Maharaja had imprisoned him in May 1946 for launching the “Quit Kashmir” movement against his regime. When Sheikh Abdullah created the National Conference in 1939, he welcomed all Hindus and Sikhs to join the movement that the party had launched against the Dogra rule.18 The Maharaja, on the other side, initiated a vigorous campaign against the National Conference and imprisoned Abdullah.19 After the Maharaja released him, Abdullah again refused to accept the Maharaja’s rule and dealt the situation in his own way. He revived his ideology—the end of the Dogra rule, and the state’s accession to India or Pakistan by the sweet will of the people irrespective of their religions. At a meeting in Srinagar on October 5, 1947, Abdullah declared:

“Our first demand is the complete transfer of power to the people. Representatives of the people in a democratic Kashmir will then decide whether the State should join India or Pakistan. If the forty lakhs of people of [the State] are by-passed and the State declares its accession to India or Pakistan, I shall raise a banner of revolt. . . . We will naturally opt to go to that dominion where our own demand for freedom receives recognition and support. . . .”20

Besides, as he recognized that the freedom of Kashmir would be undermined by Pakistan, Abdullah set his position against it. Though he was impressed by the secular political set up of India, Abdullah stated that before the transfer of power to the people and the establishment of a responsible government, accession of the state to India was impossible.21

However, by the end of October 1947, the situation in Kashmir had become a serious crisis. A big invasion started on October 20, when thousands of fully armed tribesmen from the frontier of Kashmir lying to the northeast of Pakistan entered the state.22 As they wanted to occupy Kashmir and merge it with Pakistan, the raiders occupied the important towns of Muzafferabad, Uri and Baramulla. Soon after capturing Muzafferabad, they proclaimed its Azadi (freedom) and called it “Azad Kashmir.”23 After defeating the Maharaja’s forces at Baramulla, the only major town on an open road to the capital city of Srinagar, they marched towards the capital. However, before they could occupy Srinagar, Hari Singh appealed to India on October 24, 1947, to provide a military assistance to secure his state from the invaders.24

Section-II

2.1 The Role of the Defense Committee of India

Though it realized the urgency of the circumstances in Kashmir, the Government of India (GOI) delayed in responding to Hari Singh’s appeal. The Defense Committee of India (DCI) met under the

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18The National Conference emerged out of the split of All Jammu and Kashmir Muslim Conference in 1939. The Muslim Conference came into being in 1931 and when the first State-wide election was held in Kashmir in 1934, the party, under the leadership of Sheikh Abdullah, won nineteen out of twenty-one seats which were reserved for Muslims under the State Legislature of Seventy-one members. For the origin and development of the National Conference, see Muhammad Yousef Ganai, Kashmir’s Struggle for Independence, 1931-1939 (Srinagar, Mohsin Publications), 104-184.

19Schofield, 24.

20People’s Age, Bombay, October 26, 1947, quoted in Korbel, 69. See also Gupta, 102-103.

21Puri, 13-14; Korbel, 70.

22In Kashmir, the invasion is known as Kaba'il (Kabulees’) Hamla or raid.

23Pakistan has been controlling this part of Kashmir since 1947 and calls it “Azad Kashmir.” India, on the other side, treats it as the part of its own state of Jammu and Kashmir and thereby calls it the Pakistan Occupied Kashmir (POK).

24For excellent explanation on the tribal invasion, see Gupta, 110-114; Schofield, 50-51.
The chairmanship of Governor-General Mountbatten on October 25, 1947. The Governor-General denied sending India’s forces to Kashmir before the accession as he observed, “that it would be the height of folly to send troops into a neutral state, where we had no right to send them, since Pakistan could do exactly the same thing, which could only result in a clash of armed forces and in war.” He, therefore, said that the GOI would not send its troops before the Maharaja acceded to India as it would provide a sound legal basis for the military action. Mountbatten, at the same time, made it clear that the accession by the Maharaja would be provisional, and it would be finalized with “the reference of the people.” Finally, the meeting concluded with a decision to send India’s Secretary of the State Ministry, V.P. Menon to Srinagar in order to examine the situation and to inform Hari Singh that his appeal for military assistance could be taken into consideration only after his accession to the Union of India.

Menon quickly left for Srinagar the same day. He met the Maharaja, who was frightened by the circumstances and his sense of lone helplessness. He advised the Maharaja to leave the city because it was in a critical situation as Menon himself puts it:

> When I landed at the airfield, I was oppressed by the stillness as of a graveyard all around. . . . The road leading from the aerodrome to Srinagar was deserted. At some of the street corners I noticed volunteers of the National conference with Lathis who challenged passer-by: but the State police were conspicuous by their absence. Mehr Chand Mahajan [the Prime Minister of the State] apprised us of the perilous situation and pleaded for the Government of India to come to the rescue of the State. . . . The Maharaja was completely unnerved by the turn of events. . . .

There were rumors that the invaders had already infiltrated into Srinagar and that it was no longer safe for Menon to stay there. Menon, after advising the Maharaja to move to Jammu, himself returned to New Delhi on October 26, 1947. He urged the DCI to take urgent action to save Kashmir from the invaders. The Committee agreed to send India’s troops to Kashmir. Mountbatten, however, still wanted that the Maharaja must make the state’s accession to India before the GOI could come to his rescue. The DCI instructed Menon to fly back to Kashmir on the same day to negotiate with the ruler. Menon met Maharaja in Jammu where the latter was staying after his escape from Srinagar. He competently persuaded the ruler to offer his accession to India and with the Maharaja’s letter to Mountbatten and the Instrument of Accession, Menon rushed to New Delhi.

In a letter to Mountbatten, Hari Singh explained that since the state was contiguous to both dominions, he wanted to take time in order to decide to which dominion he had to join. But the grave emergency created by the tribal invasion and backed by the GOP had forced him to accede to India. The ruler, therefore, appealed to the GOI for the prompt military aid. He also made it clear that he would set up an emergency interim government and ask Sheikh Abdullah to carry the responsibility with the then Prime Minister of Kashmir, Mahr Chand Mahajan.

On October 27, 1947, the DCI held a meeting and decided to accept Hari Singh’s accession. Mountbatten instantly communicated this to Maharaja the same day:

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27Gupta, 122.


29Gupta, 122-123.

30Noorani, 41-43; Schofield, 52-54; Gupta, 123.
In the special circumstances mentioned by your Highness, my Government have decided to accept the accession of Kashmir State to the Dominion of India. Consistently with their policy that, in the case of any State where the issue of accession has been the subject of dispute, the question of accession should be decided in accordance with the wishes of the people of the State, it is my Government’s wish that as soon as law and order have been restored in Kashmir and its soil cleared of the invaders, the question of the State’s accession should be settled by a reference to the people.1

As a result, Hari Singh’s accession made Kashmir a legal part of the Union of India. As the immediate aim of the accession was to secure the state from the invaders, it “made India really responsible for the defence of the State.”2 The GOI, therefore, immediately sent its forces to Kashmir. On October 30, 1947, the government, on the suggestions of Mountbatten, instructed the Maharaja to appoint Sheikh Abdullah as the head of the emergency administration and would continue until the restoration of normalcy in Kashmir.3

Section-III

3.1 Mountbatten’s Mediation, India and Pakistan and the Internationalization of the Kashmir Problem

The accession set the dispute between India and Pakistan over Kashmir as the GOP did not accept the accession. The GOP maintained that India had used “fraud and violence”4 in achieving the accession and therefore rejected its validity. For regaining the territory from India, Governor-General Jinnah at once ordered his acting British Commander-in-Chief General Douglas Gracey to move Pakistani troops to Kashmir. However, after the Indian forces landed in the state, Field Marshall Auchinleck, the Supreme Commander-in-Chief of both Indian and Pakistani forces, went to Lahore on October 27, 1947. Auchinleck and Gracey told him that since Kashmir had become the territory of India because of Hari Singh’s accession, and therefore moving Pakistani army there would amount to a war between the two countries. In addition, they made it clear to Jinnah that if he sent Pakistani forces to Kashmir, all British officers in the Pakistani army would withdraw. As a result, Jinnah cancelled his order, and on Auchinleck’s suggestion, he initiated negotiations with the GOI to settle the issue.5

On November 1, 1947, Governor-General Jinnah invited his Indian counterpart Lord Mountbatten to Lahore, Pakistan. Prime Minister Nehru made an excuse of illness and did not accompany Mountbatten.6 The two Governors-General met and discussed for over three hours. Jinnah formally forwarded a three-point proposal for the settlement of the issue over Kashmir. These were:

1. To put an immediate stop to fighting, the two Governor-Generals should be authorized and vested with full powers by both Dominion Governments to issue a proclamation forthwith giving forty-eight hours’ notice to the two opposing forces to cease-fire. . . .

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1Ibid.
2S/628, January 2, 1948, 3. All Security Council Documents are referred to, as per the Official Document System (ODS) of the UN, “S” followed by sequential number.
3Gupta, 125-126.
5A. Appadorai, Selected Documents on India’s Foreign Policy and Relations, vol. 1 (Delhi: Oxford University Press, 1982), 132-133; Dasgupta, 51 and 70; Schofield, 60-61.
6Schofield, 61; Korbel, 86.
2. Both the forces of Indian Dominion and the tribesmen to withdraw simultaneously and with the utmost expedition from Jammu and Kashmir State territory.

3. With the sanction of the two Dominion Governments, the two Governors-General to be given full powers to restore peace, undertake the administration of Jammu and Kashmir State and arrange for a plebiscite without delay under their joint control and supervision.  

Mountbatten, however, rejected the proposal as he was unable to act without the advice of his government. Instead, he proposed his own plan which intended to settle the problem by the impartial reference to the will of the people without taking into consideration whether the ruler belongs to the majority community in the state. Jinnah also refused to accept the Mountbatten’s proposal reasoning that the princely states should join either India or Pakistan on the basis of their communal majority. Mountbatten, however, offered another proposal which called for a plebiscite. Jinnah swiftly accepted it. He, however, insisted that the plebiscite would not be free and fair because of the presence of the Indian forces in Kashmir and Sheikh Abdullah as the head of the Emergency Administration in the state. He told his counterpart that it should be held under the two Governor-Generals’ joint control and supervision. Mountbatten again turned it down for the same reason. At the end of the meeting, the Indian Governor-General suggested a plebiscite under the UN auspices and returned to India. In New Delhi, he asked Nehru to initiate negotiations with Pakistan for the settlement of the Kashmir conflict through the UN mediation.

After the Governor-Generals’ meeting, the relations between India and Pakistan degenerated into mutual recrimination, animosity and threats of retaliations against each other. Mountbatten wanted to diffuse the crisis and improve India-Pakistan relations. He, therefore, suggested Nehru to refer the problem to the UN. The Prime Minister followed and made a public offer on November 2, 1947 to hold a plebiscite under the UN auspices. Nehru announced this India’s position in a broadcast thus:

That pledge we have given [reference to the people], and the Maharaja has supported it, not only to the people of Kashmir but the world; we will not and cannot back out of it. We are prepared, when peace and law and order have been established, to have a referendum held under international auspices like the United Nations. We want it to be a fair and just reference to the people, and we shall accept their verdict. I can imagine no fairer and juster offer.

Pakistani Prime Minister Liaquat Ali Khan strongly reacted to this Indian offer two days later in a broadcast on November 4:

[It is] full of most dangerous potentialities. . . . What the Indian Government calls restoration of law and order is no more than an attempt to oppress, kill, terrorize and drive out the Muslim population of Jammu & Kashmir until, like the East Punjab and the Indian States in East Punjab, the composition of the population is entirely changed. . . . Pandit Nehru has even avoided use of the word plebiscite and has spoken of referendum which might mean anything. After the Indian Government has established complete mastery over the territories of Jammu & Kashmir, the holding of a plebiscite or referendum will be purely a farce.

38Dasgupta, 72-73.
39Puri, 16.
41Telegram from Liaquat to Atlee (British Prime Minister), November 4, 1947, File L/P&S/13/1845b, India Office Records, London, quoted in Dasgupta, 75-76.
Liaquat then forwarded the Pakistani proposals on the same lines that Jinnah had suggested to Mountbatten. These were:

1. To put an immediate stop to fighting, the two Governor-General should be authorized . . . to issue a proclamation forthwith giving 48 hours’ notice to the two opposing forces to ceasefire. Governor-General of Pakistan [has no?] control over the forces of the provisional Government of Kashmir or tribesmen engaged in fighting, but he will warn them in the clearest terms that if they do not obey . . . the cease-fire immediately, the forces of both Dominions will make war on them.

2. Both forces of the Indian Dominion and the tribesmen to withdraw simultaneously and with utmost expedition from Jammu and Kashmir.

3. . . . the two Governor-General to be given power to restore peace, undertaking the administration of Jammu & Kashmir State, and arrange plebiscite without delay and under their joint control and supervision.  

The GOI did not agree with these Liaquat’s proposals. It pointed out that it was not possible to withdraw Indian forces simultaneously with the raiders and until law and order had been restored. It also stated that a referendum could be held under the UN auspices. Finally, the government forwarded its own proposal which is summed up by a prominent Indian scholar, Sisir Gupta as follows:

1. The Government of Pakistan should publicly undertake to do their utmost to compel the raiders to withdraw from Kashmir.

2. The Government of India should repeat their declaration that they will withdraw their troops from Kashmir as soon as the raiders have been withdrawn and law and order are restored.

3. The governments of India and Pakistan should make a joint request to the UN to undertake a plebiscite in Kashmir at the earliest possible date.

After their divergent positions became clear, Mountbatten sought to bring the two countries to a negotiating table. He organized an inter-Dominion conference under the auspices of the Joint Defense Council in New Delhi on November 8, 1947. The Pakistani delegation was led by a Minister Sardar Nishtar. The talks, nevertheless, failed to break the deadlock. Consequently, the relations between the two dominions further deteriorated when on November 16 that year, Liaquat Ali argued that Indian policy was imperialist and it wanted to permanently occupy Kashmir and its action was preplanned.

Despite, Nehru and Liaquat held a meeting in New Delhi under the Presidency of Mountbatten on November 27, 1947. After their discussion, Mountbatten prepared a list of the points on which both Prime Ministers agreed: (1) a plebiscite should be held under an independent body such as the UN; (2) as soon as the situation had improved, Indian troops would be withdrawn, except for small garrison at vital strategic points to prevent further raids; (3) a full freedom of speech would be permitted. In addition to these, Pakistan wanted: (4) that Sheikh Abdullah should form a coalition government with the opposition party; (5) that the UN representatives should be sent for as early as possible to speed up the plebiscite process and to act as preliminary observers; or (6) alternatively, an entirely new administration should be set up in Kashmir, which the people of Pakistan would accept as impartial.

\[\text{Ibid., 76.}\]
\[\text{Gupta, 131-132.}\]
\[\text{Ibid, 132-133.}\]
\[\text{Mountbatten’s note on his meetings with the Prime Ministers of India and Pakistan on November 26, 1947 in Collins and Lapierre, Mountbatten, 218-221, quoted in Dasgupta, 78.}\]
Eventually, as the situation in Kashmir was rapidly deteriorating, Mountbatten recognized that the stalemate was now complete and his efforts through mediation would not now end the impasse. He believed that the only way forward was to call upon a neutral third party in some capacity or other. He, therefore, suggested that the Kashmir dispute should be referred to the UN which would be requested to send some observers or advisers to encourage and help both India and Pakistan to settle the dispute. Prime Minister Liaquat agreed and said that the UN should take the necessary measures to stop fighting and prepare a plan for demilitarizing Kashmir. India, however, refused to deal with Pakistan on an equal footing at the UN because Kashmir had become, due to the Maharaja’s accession, an integral part of the Union of India.46

Mountbatten, therefore, once again brought the two Prime Ministers to a negotiating table in New Delhi on December 21, 1947. Mountbatten, who had discussed with Liaquat before the formal meeting started between the two Prime Ministers, told Nehru that Liaquat would accept any appeal of India to the UN. Nehru, therefore, prepared his mind, and in the meeting, he informed Liaquat of his intention to take the issue to the UN. As a result, on January 1, 1948, Prime Minister Nehru referred the Kashmir problem to the UN under Article 35 of the UN Charter, which entitles a member “to bring to the attention of the Security Council a situation whose continuance is likely to endanger the maintenance of international peace and security.”47

The GOI, in a letter to the President of the SC, drew the attention to the Council that:

“. . . . [Threat to international peace and security] now exists between India and Pakistan owing to the aid which invaders, consisting of nationals of Pakistan and of tribesmen from the territory immediately adjoining Pakistan on the north-west, are drawing from Pakistan for operations against Jammu and Kashmir, a State which has acceded to the Dominion of India and is part of India. The circumstances of accession, the activities of the invaders which led the Government of India to take military action against them, and the assistance which the attackers have received and are still receiving from Pakistan are explained later in this memorandum. The Government of India request the Security Council to call upon Pakistan to put an end immediately to the giving of such assistance, which is an act of aggression against India. If Pakistan does not do so, the Government of India may be compelled, in self-defence, to enter Pakistan territory, in order to take military action against the invaders. The matter is, therefore, one of extreme urgency and calls for immediate action by the Security Council for avoiding a breach of international peace.”48

Instead of registering its compliant under Chapter VII of the UN which deals with acts of aggression, India invoked Chapter VI under which parties to the dispute seek pacific settlement of disputes by “negotiations, enquiry, mediation, conciliation arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.”49 In addition, the GOI reiterated that it would allow the people of Kashmir to exercise their right to self-determination through a plebiscite. . . . [It] also made it clear that once the soil of the State had been cleared of the invader and normal conditions restored, its people would be free to decide their future by the recognized democratic methods of a plebiscite or referendum which, in order to ensure complete impartiality, might be held under the international auspices.50

In a nutshell, the India’s compliant to the SC made the Kashmir problem internationalized. As this brought the Cold War to the subcontinent, Kashmir became a battle field not only between India

46Schofield, 67-68.
48S/628, January 2, 1948, 1.
50S/628, January 2, 1948, 3.
and Pakistan, but between Britain and America and the Soviet Union. As a result, the settlement of the Kashmir problem became more complicated.

Section-IV

Conclusion

While dividing the British India into two independent countries of India and Pakistan, the Indian Independence Act of 1947 gave the option to the princely states to join either of the two countries. The peculiarity of Kashmir, however, became a matter of concern for the Kashmiri ruler Maharaja Hari Singh to join either India or Pakistan in 1947. The largest princely state had a Muslim majority but was ruled by a Hindu, and was geographically contiguous not only to India and Pakistan but also to Afghanistan, China and Russia. Despite Mountbatten’s warning about the dire consequences of not acceding to India or Pakistan before the transfer of power on August 15, 1947, Hari Singh procrastinated; he wanted to create the sovereign State of Jammu and Kashmir. After remaining independent for over two months since the creation of India and Pakistan, the princely state, therefore, remained independent from August 15 to October 26, 1947. Maharaja Hari Singh was ultimately forced by the poonch revolt to accede to India in the late October the same year.

However, Pakistan’s rejection of the Maharaja’s accession to India led these two newly independent countries close to a full scale war in 1948. When the Governor-General of India, Mountbatten failed to defuse the crisis between them, he requested India to refer the Kashmir problem to the UN to resolve it. India, therefore, took the problem to the UN on January 1, 1948 and the problem became internationalized.

In sum, the two causes that mainly are responsible for the intractability of the conflict between India and Pakistan over Kashmir are: (1) the option given by the independence act of 1947 to the princely states to join either of the two countries; and (2) the Poonch revolt which eventually forced Maharaja to make a conditional accession to India. These two causes in turn triggered the war crisis between these countries in 1947. To end the war and have Pakistan declared as the aggressor in Kashmir, India referred the case to the UN Security Council in January 1948. With this, the conflict became internationalized and also turned it into the battlefield between the two (and since 1998) nuclear powers in South Asia.