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LETTER DATED 28 MARCH 1958 FROM DR. FRANK P. GRAHAM, UNITED NATIONS REPRESENTATIVE FOR INDIA AND PAKISTAN, TO THE PRESIDENT OF THE SECURITY COUNCIL TRANSMITTING THE REPORT PREPARED IN PURSUANCE OF SECURITY COUNCIL RESOLUTION OF 2 DECEMBER 1957 (S/3922)

I have the honour to transmit to you herewith the report I have prepared in pursuance of the resolution of the Security Council of 2 December 1957 (S/3922).

Accept, Sir, etc.

(Signed) Frank P. Graham
United Nations Representative
for India and Pakistan

REPORT OF THE UNITED NATIONS REPRESENTATIVE FOR INDIA AND PAKISTAN
TO THE SECURITY COUNCIL

I

1. On 2 December 1957, at its 808th meeting, the Security Council adopted a resolution (S/3922) by which it requested the United Nations Representative for India and Pakistan to make recommendations to the parties for further appropriate action with a view to making progress toward the implementation of the resolutions of the United Nations Commission for India and Pakistan of 13 August 1948 and 5 January 1949 and toward a peaceful settlement. He was further authorized to visit the sub-continent for these purposes and instructed to report on his efforts to the Security Council as soon as possible.
2. In pursuance of this resolution, I proceeded to the sub-continent. I arrived in New Delhi on 12 January 1958.
3. Discussions were held with the Government of India between 12 and 17 January, between 23 January and 1 February, and again between 7 and 13 February; with the Government of Pakistan between 17 and 23 January, between 1 and 7 February, and again between 13 and 15 February. I departed from Karachi on 15 February.
4. The principal participants in these discussions for the Government of India were the Prime Minister and Minister for External Affairs, Shri Jawaharlal Nehru, the Minister of Defence, Shri V.K. Krishna Menon, and the Commonwealth Secretary, Shri M.J. Desai. The Government of Pakistan were represented by the Prime Minister and Minister for Foreign Affairs and Commonwealth Relations, Mr. Malik Firoz Khan Noon, the Foreign Secretary, Mr. M.S.A. Baig, and the Adviser on Kashmir Affairs, Mr. Din Mohammed.
5. The two Governments extended to me their complete co-operation. Our conversations were marked both by frankness and cordiality.
6. The Secretary-General of the United Nations placed at my disposal the services of Mr. J.F. Engers of the Department of Political and Security Council Affairs; of Mr. Elmore Jackson as Special Consultant; and of Mrs. Daisy F. Lippner of the Department of General Services.

II

7. In the debates in the Security Council, held between September and December 1957, the Governments of India and Pakistan affirmed that they continued to be engaged by the resolutions of UNCIP of 13 August 1948 and 5 January 1949.

8. In my initial discussions with the two Governments I addressed myself to certain obstacles which appeared to stand in the way of progress in the implementation of these two resolutions. Foremost among these was the procedure for the withdrawal of the Pakistan troops and the withdrawal of the bulk of the Indian Army, as provided for in Part II of the resolution of 13 August 1948 of the UNCIP. I therefore embarked on discussions with the two Governments to ascertain their views on how these difficulties might be overcome. In following this approach I was of course fully aware of the fact that the Government of India had not accepted the resolution of the Security Council of 2 December 1957 and of their position regarding the sequence of actions contemplated in the resolution of 13 August 1948, but I believed that they would be interested in finding ways and means to facilitate the implementation of those elements which were standing in the way of the withdrawal of the Pakistan troops from the State.

9. In my conversations with the two Governments I could not fail to note that while the objective envisaged in Part II A, namely the withdrawal of Pakistan troops from the State, was clear enough, the method and machinery to be pursued to this end would be likely to create its own problems.

10. As I envisaged the situation that would obtain after the withdrawal of Pakistan troops, I foresaw, as provided by the first resolution of the UNCIP, an area administered by the local authorities under the surveillance of the United Nations Commission, or, as it had now developed, of the successor organ, the United Nations Representative for India and Pakistan.

11. It should be noted that the position of this territory is of a peculiar nature. Its sovereignty rests with the State of Jammu and Kashmir but the full exercise of that sovereignty would be limited under the resolution by (a) the surveillance of a United Nations organ, and (b) the commitment by India that their forces would remain within the cease-fire line.

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12. Furthermore, the degree of United Nations concern with the administration was left undetermined by the Commission by using the term "surveillance". Such problems as the logistics, economics and supply, to mention only a few, have never been fully considered, though they could hardly be expected to be met satisfactorily without due preparation.

13. Thus it would appear that the execution of section A in Part II might create more serious difficulties than were foreseen at the time the parties agreed to that clause. The determination as to who are the "local authorities", might not be an easy matter. Whether the United Nations Representative would be able to reconstitute the status quo which had obtained some ten years ago, would seem to be doubtful.

14. I therefore came to the conclusion that prior negotiation with the parties on these problems would not only be essential but imperative. Otherwise the evacuated territory might be left in an unsettled condition.

III

15. Since I was aware that the Government of India were concerned about the security of the evacuated territory, and more particularly, were apprehensive that the Pakistan Army, after its withdrawal, might return to the territory, I felt it my duty to give serious consideration to ways and means to allay this concern on the part of India. I therefore proposed that the feasibility of placing a United Nations force on the Pakistan side of the Pakistan and Jammu and Kashmir border should be explored. If this conception in principle were to meet with approval, agreement might be sought from the Pakistan Government for receiving such a force and negotiations might be initiated within the United Nations on the size, composition and functioning of such a force.

16. Other suggestions were also discussed informally with the two Governments. In view of the urgency, however, of what I considered the most immediate requirement of the situation, namely, a resumption of direct negotiations - under United Nations auspices - I decided to make my formal proposals with as little detail as possible.

IV

17. In order to create the proper framework for these negotiations, I asked the two Governments to give prior consideration to two undertakings which I considered an essential prerequisite for their success.

18. In the first place, I suggested that the two Governments should consider the possibility of a renewed declaration in line with the resolution of the Security Council of 17 January 1948 and part I of the resolution of 13 August 1948 of the UNCIP, under which they would appeal to their respective peoples to assist in creating and maintaining an atmosphere favourable to further negotiations and in which they themselves would undertake to refrain from statements and actions which would aggravate the situation.

19. In the second place, I proposed that the two Governments reaffirm that they would respect the cease-fire line and that they would not cross or seek to cross the cease-fire line on the ground or in the air, as established in the cease-fire agreement, ratified by the Governments of India and Pakistan respectively on 29 and 30 July 1949.

20. Thus, on the day of my departure from the sub-continent on 15 February 1958, I submitted to the representative of both Governments the following recommendations:

I. That they should consider the possibility of a renewed declaration in line with the 17 January 1948 resolution of the Security Council and of part I of the 13 August 1948 resolution, under which they appeal to their respective peoples to assist in creating and maintaining an atmosphere favourable to further negotiations and in which they themselves undertake to refrain from statements and actions which would aggravate the situation.

II. That they reaffirm that they will respect the integrity of the cease-fire line and that they will not cross or seek to cross the cease-fire line on the ground or in the air, thus further assisting in creating a more favourable atmosphere for negotiations.

III. The withdrawal of the Pakistan troops from the State of Jammu and Kashmir is provided for in Part II of the 13 August 1948 resolution. Pending a final solution, the territory evacuated by the Pakistan troops is to be administered by the local authorities under

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the surveillance of the Commission. Part II of this resolution also provides for the withdrawal of the bulk of the Indian forces from the State in stages to be agreed upon with the Commission.

In an effort to speed the implementation of these actions provided for in Part II, the United Nations Representative is suggesting that a prompt study be undertaken, under his auspices, of how the territory evacuated by the Pakistan troops could, pending a final solution, be administered in accordance with the provisions of the resolution.

With a view to increasing the security of the area to be evacuated, the United Nations Representative recommends that consideration be given to the possibility of the stationing of a United Nations force on the Pakistan side of the Pakistan and Jammu and Kashmir border, following the withdrawal of the Pakistan Army from the State.

IV. If progress is to be made in the settlement of the "Indo-Pakistan Question" there is need for an early agreement between the two Governments on the interpretation that should be placed on Part III of the 13 August resolution and those parts of the 5 January resolution which provide for a plebiscite. In this connexion the United Nations Representative would call attention to the communique of the Prime Ministers of India and Pakistan issued following their meeting in New Delhi in August 1953, which recognized that a plebiscite had been agreed to and expressed the opinion that a solution should be sought "causing the least disturbance to the life of the people of the State".

The United Nations Representative will be considering with the two Governments the means and timing under which agreement might be sought on these questions.

V. The United Nations Representative, believing that further negotiations on the questions which he has been considering with the Governments of India and Pakistan would be useful, and believing that it would facilitate progress if these negotiations could be undertaken at the highest level, proposes to the two Governments that a Prime Ministers conference be held under his auspices in the early spring.

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If the latter recommendation would not be agreeable to either or both Governments, the United Nations Representative recommends to the parties that they keep the general proposal, or any reasonable variation thereof, under consideration and that such a conference be held at the earliest practicable date.

V

21. The Government of Pakistan agreed to these recommendations in principle. They informed me that they were willing to make a renewed declaration as suggested by me and that they were prepared to reaffirm that they would respect the integrity of the cease-fire line.
22. They informed me further that they were prepared to withdraw the Pakistan troops from the State of Jammu and Kashmir simultaneously with the withdrawal of the bulk of the Indian forces from the State in stages to be agreed upon with the Commission, as provided in Part II of the 13 August 1948 resolution.
23. They also agreed with my recommendation that a prompt study be undertaken under the auspices of the UNCIP of how the territory evacuated by the Pakistan troops could, pending a final solution, be administered by the local authorities in accordance with the provisions of the resolution.
24. The Government of Pakistan also informed me that they were agreeable to my recommendation to consider the possibility of the stationing of a United Nations force on the Pakistan side of the Pakistan Jammu and Kashmir border, following the withdrawal of the Pakistan Army from the State.
25. In the matter of the interpretation that should be placed on Part III of the 13 August resolution, and those parts of the 5 January 1949 resolution which provide for a plebiscite, the Government of Pakistan indicated that they were prepared to abide by the terms of the Prime Ministers' communique of August 1953.
26. Finally, the Government of Pakistan agreed to my proposal of a conference at the Prime Ministers level, or any reasonable variation thereof, to be held under my auspices, adding that they would hope that this conference be held as soon as possible.

27. The Government of India declared themselves unable to agree to my recommendations. They based their position on the ground that my recommendations were made without regard to the failure to implement the Security Council resolution of 17 January 1948 and clauses B and E of Part I of the UNCIP resolution of 13 August 1948, for which they held Pakistan responsible. In their view the sole onus of performance was on Pakistan and the United Nations, which both had the responsibility and the capacity for taking steps toward a peaceful approach to the situation and for making a contribution to resolving the difficulties between India and Pakistan.

28. While, therefore, the inability of India to accept my recommendations primarily followed from their contention that my approach was not feasible, since in their view it tended to by-pass the implementation of what they considered to be the preliminary question, they also informed me that they did not look with favour on the substance of my recommendations.

29. Thus, they felt that a new declaration regarding a peaceful atmosphere and the cease-fire line might denote a displacement of the previous engagements. They further contended that such a declaration would imply that Pakistan had not violated their previous engagements and that the consequences of them would thereby stand condoned.

30. The Government of India could also not see their way to accept the study I had recommended in my third recommendation as they felt that it would tend to by-pass and evade what they considered to be the main issue, namely, the illegal occupation of Indian Union territory by Pakistan. In their view that territory was an integral and inseparable part of the Union of India and the recommendation was based on a misconception that Jammu and Kashmir were a no man's land. Further, the study, in their view, would not be relevant since, according to the UNCIP resolutions and the assurances given on behalf of the Security Council to the Government of India, they alone, with the United Nations, were concerned in this matter and Pakistan would not seem to have any place whatsoever in these arrangements.

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31. With regard to the recommendation on the stationing of a United Nations force on the Pakistan side of the Jammu and Kashmir border, the Government of India were taking cognizance of a concern of the United Nations Representative in this matter which they understood to be conditioned by the previous conduct of Pakistan. They would on their part, however, consider it as highly improper and indeed an unfriendly act to promote a suggestion which would involve the stationing of foreign troops in a neighbouring sovereign state with whom they desired nothing but the most friendly relations. Since, however, this was a matter for decision by the Government of Pakistan in their sovereign competence, they would not be in a position to object to this proposal, though they would regret it.

32. With regard to recommendation IV, the Government of India informed me that they regretted that they could not enter into any such discussions in view of their preliminary objections.

33. Finally, the Government of India declared themselves unable to accept my last recommendation since it would in their view place the aggressor and the aggrieved on the same footing. They therefore considered it contrary to the Charter and all considerations of international ethics and equity.

VI

34. I should, however, inform the Council that the Government of India, at the same time as they declared themselves unable to accept my recommendations, also informed me that they have been and are anxious to promote and maintain peaceful relations with Pakistan. They stated that they firmly held the view and belief that there should be a constructive and peaceful approach to every problem and that they firmly adhered to their determination to pursue paths of peace, while placing their faith in the United Nations and its Charter.

35. In keeping with this spirit expressed by India, which I know is shared by Pakistan, I still express to the Council the hope that the two Governments will keep under consideration the proposal for a high level conference. I trust that, in their further consideration, they will find it possible promptly themselves to make, without prejudice to their respective positions on the Kashmir question, preparations for holding, within the framework of the Charter of the United Nations, such a conference at the earliest practicable date, covering questions of time,

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place, auspices and agenda. The agenda, as the parties might choose, might include the basic differences which the parties find to stand in the way of a settlement and such other matters as the parties might find would contribute to "progress toward the implementation of the resolutions of the United Nations Commission for India and Pakistan of 13 August 1948 and 5 January 1949 and toward a peaceful settlement".

VII

36. However wide the differences and deep the distrust, and however bad the situation in the opposite views of each other's position, no situation is completely and forever beyond the redemptive power of the development of reciprocal faith and the creative interchange of views and proposals for a peaceful settlement as alternatives to the deepening differences in an age of unprecedented peril and hope. Better than talking at long distances across the sub-continent is, on occasion, to talk directly to each other in a conference at the highest possible level. The holding of well prepared direct talks with the desire for a settlement is more than talk: it is itself an act of potentially creative faith which might lead to steps for a fair and peaceful settlement.

37. These unsettled and unsettling differences between two great peoples have long corroded their relations, continuously drain off their resources, and cut deeply into their hopeful programmes for education, health, production and welfare. Instead of continuing endlessly the corrosive polemics of all blame on one side and the other, the conference might, with sound preparation and resolute will, work out present steps toward a settlement; set in motion a higher release of the productive capacities of the people; and give an effective impetus to the world's flood-tide of the yearning of the people for freedom and peace amid the hazards and hopes of this age.

38. In this age, any situation engaged by UN-sponsored resolutions cannot be isolated from the dynamic currents of the world's concern even by the highest mountains, whose pinnacles rise in incomparable grandeur from the topmost "roof of the world". Though bright rays of light shine through the over-hanging clouds of our time, thermonuclear power casts its lengthening shadows across the earth, darkening the homes and hopes of man. An alternative to the sudden extinction of

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the human race and the destruction of the precious treasures of the heritage from all peoples in all ages, there rises above the authentic fears, despair and tumult of the times the unconquerable aspiration of the human spirit for the sublimation of thermonuclear power in the cause of peace and the equal freedom, dignity and opportunity of all people, East and West.

40. The light of faith and the fires of the inner spirit, which, in dark times in ages past, were lighted among Asian, African and Mediterranean people for people in all lands, have shone most nobly in our times in the heroic struggles, liberation and universal aspirations of the people of the historic sub-continent for a freer and fairer life for all. With their two-fold heritage of faith in the Moral Sovereignty, which undergirds the nature of man and the universe, and with a reverence for life challenging the violent trends of the atomic era, those peoples, in the succession of their prophetic leadership and great example, may again give a fresh lift to the humane spirit of people everywhere. The peoples of the world might in high response begin again in these shadowed years to transform with high faith and good will the potential forces of bitterness, hate and destruction, step by step through the United Nations, toward the way of creative co-operation, economic, social and cultural development, responsible disarmament, self-determination, equal justice under law, and peace for all peoples on the earth as the God-given home of the family of man.

