

THE FINALITY OF PARTITION: BILATERAL
RELATIONS BETWEEN INDIA AND PAKISTAN,
1947- 1957

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This dissertation is the result of my own work, includes nothing which is the outcome of work done in collaboration, and falls within the word limit granted by the Board of Graduate Studies, University of Cambridge.

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ABSTRACT

This dissertation will focus on the history of bilateral relations between India and Pakistan. It looks at how the process of dealing with issues thrown up in the aftermath of partition shaped relations between the two countries. I focus on the debates around the immediate aftermath of partition, evacuee property disputes, border and water disputes, minorities and migration, trade between the two countries, which shaped the canvas in which the India-Pakistan relationship took shape. This is an institution- focussed history to some extent, although I shall also argue that the foreign policy establishments of both countries were also responding to the compulsions of internal politics; and the policies they advocated were also shaped by domestic political positions of the day.

In the immediate months and years following partition, the suggestions of a lastingly adversarial relationship were already visible. This could be seen from not only in the eruption of the Kashmir dispute, but also in often bitter wrangling over the division of assets, over water, numerous border disputes, as well as in accusations exchanged over migration of minorities. Much of the discussion on Indo- Pakistan relations was couched in adversarial and often vitriolic terms, both within the structures of government and in the press. Yet, given this context, there was also a substantial amount of space for cooperation between the two governments, and a closer scrutiny reveals that this space was explored by both sides. The logic of this cooperation was to find means of trying to ‘finalise’ the partition of India, and avoid prolonging its consequences. This deep seated drive to establish the legitimacy of both new state structures compelled a substantial degree of bilateral cooperation even in the face of daunting odds which favoured a violently hostile relationship. Thus, I argue that bilateral responses and mutually adversarial positions, were not inevitable or even unavoidable, but were in fact more contingent, and often taken despite the presence and articulation of a viable alternative.

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INTRODUCTION

Much of the scholarship on the India-Pakistan relationship characterises it as an implacable, and unrelenting, enmity. The literature on this issue is often couched in the metaphors of a bitter family feud, and described through the terms of two 'blood brothers'¹, caught in a 'deadly embrace'², in pursuit of a suicidal 'sibling rivalry', which dates from when both were born in difficult circumstances, under the aegis of a misguided 'midwife'.³ This relationship, so the argument goes, was doomed to violent showdowns and hostile acrimony from the very beginning, because of the bitterness left on both sides by the traumas of partition, and the continuing conflict in Kashmir.⁴

There are a number of reasons to support such a depiction. India and Pakistan have entered into three full scale wars, border skirmishes take place almost daily, and both pursue their diplomatic spats thoroughly and with zeal. They point out each others' shortcomings at the United Nations, and they spend vast sums of money on maintaining armies on the border in preparedness of an attack. A slice of land, approximately 90,000 square miles in size, has been contested between the two for more than six decades. A state of 'thaw' between the two countries is the exception, rather than the rule, and, in general, the two countries are held to be in a situation of a powder keg close to an accidental match.

¹ Akbar, M. J., *Blood Brothers: A Family Saga*, New Delhi, 2006

² Talbot, Ian, *The Deadly Embrace: Religion, Violence and Politics in India and Pakistan*, Karachi, 2007

³ Talbot, Ian, *Pakistan: A Modern History*, London, 1998

⁴ For a discussion of the chronology of India Pakistan relations of this period, see for example: Dasgupta, Jyoti Bhusan, *Indo- Pakistan Relations, 1947- 1955*, Djambatan, 1960; Blinkenberg, Lars, *India- Pakistan: The History of Unsolved Conflicts*, Odensk, 1999; Chaudhry, G. W., *Pakistan's Relations with India, 1947- 1966*, London 1968.

So it is not surprising that bilateral relations in the subcontinent are believed to be doomed to a dangerous volatility, and seized periodically by violent outbursts, because of the numbers of factors, including a bitter partition, deeply seated religious rivalry and, as well as the continuing conflict in Kashmir, which predispose the two towards war. These factors are believed to have exercised a vice like grip in subsequent dealings between India and Pakistan, and ensured that bilateral relations could not be freed from a mutual suspicion and jealousy. In such circumstances, a bitter rivalry was deemed inescapable; and the choices made with regard to bilateral relations seemed too entangled with these emotions, which led to both sides compulsively taking action that would be to the detriment of the other.

This is a wide-ranging literature, and has the same conclusion arrived at via a variety of approaches. One set of assessments is premised on the understanding of India-Pakistan relations being essentially an extension of an older Hindu-Muslim rivalry; or, in more nuanced explanations, of the old rivalry between the Congress and the Muslim League. For example, In S. M. Burke's analysis of the India-Pakistan relationship, the religious complexion of India and Pakistan proves to be the decisive factor: 'It is difficult to think of any two religions more antithetical to each other than Hinduism and Islam...', and this, Burke argues, has prevented any lasting solution to the Indo-Pakistani hostility. A reconciliation between Hindus and Muslims in the subcontinent, difficult to begin with, was made impossible in the context of the politics in the subcontinent in the first half of the twentieth century. Finally, Burke suggests that these tendencies came to the fore in the making of bilateral relations between India and Pakistan, when 'this deep seated reluctance on the part of Hindu

leaders to accept the separate existence of Pakistan has been a principal factor in hindering reconciliation between India and Pakistan'.⁵

Similarly, in his analysis of the dynamics at play in the Indo- Pakistani relationship, Duncan Mcleod argues:

'India and Pakistan were founded on two very different ideological and theological foundations. India, a constituted secular state whereby religion would play no part in the body politic; Pakistan founded as a Muslim state, a home for the Muslims of South Asia who would have been subordinated by Hindu majoritarianism without the creation of Pakistan. The crux of these antagonisms has manifested itself in a conflict of Self and Other with both states questioning the legitimacy of the other.'⁶

In Mcleod's argument, therefore, the ideological differences between the two states caused their tense relationship; and were, moreover, responsible for the *nature* of tension between India and Pakistan. Such an assessment, is, however necessary to pull apart. The nature of the bilateral relationship, as well as the extent of cooperation that does take place within it, is often carried out regardless of the ideology of the government in power. Moreover, the mechanisms for cooperation which did exist in the relationship, sprang from an imperative that was deeply seated in the logic of both nation states: in order to carve out an independent and viable existence, it was necessary for the two to come to agreements on the fallouts from partition

A closer scrutiny of the Indo-Pakistani relationship shows that there was nothing particularly 'emotional' or irrational about the choices made by both governments in handling their bilateral relationship. In fact, decision-making on bilateral relations was, as this thesis will show, a more pragmatic process on both sides. Moreover, a

⁵ Burke S. M. and Lawrence Ziring, *Pakistan's Foreign Policy: An Historical Analysis*, Oxford, 1990

⁶ McLeod, Duncan, *India and Pakistan: Friends, Rivals or Enemies?*, Hampshire, 2008

mechanism towards a peaceful coexistence was also built into the India Pakistan relationship from the beginning. The chronology of this period is littered with events which suggest that the relationship was not necessarily inevitably predisposed towards conflict, and that the leadership of both sides repeatedly, and carefully considered avenues that could enable a stable coexistence. In the period that followed the partition, it will be demonstrated that both governments actively sought out means by which lingering uncertainties over the process of partition could be settled. Both governments quickly recognised that the process of separation needed to be speedy, and as complete, as possible. This mutual aim led to cooperation between the two governments on a variety of levels.

A great deal of inter-governmental dialogue was thus carried out over the logistics of implementing -- and finalising -- the partition, such as such as the ways in which the two governments could handle inter-dominion migration, control over the ownership of evacuee property, and the means by which inter-dominion trade should be carried out. In fact, the leadership on both sides, rather than seeking vengeance from the other was also looking for means to give closure to the process of partition, and fashion states which that were self-contained, and completely independent of each other. All this meant that the governments of both countries, even in the midst of serious potentialities for war, worked out between them a fairly substantial extent of cooperation, negotiation and exchange. Underneath the causes of conflict in the bilateral relationship, therefore, there also underlay a strong basis for agreement: of the need to in fact uphold the fact of the partition as completely as possible.

Such cooperation was, moreover, critical in establishing the sovereignty of both new nation states. It was undertaken in order for both to disentangle themselves from one

another, and to be able to assert the finality of their separation. While it was in fact impossible for either to completely sever the many linkages between the two dominions, such as inter-dominion trading, and the questions about claiming compensation for evacuee property, what both did was to insert the infrastructure of their separate state apparatus in areas where the clarity of the division could be questioned. The infrastructure for such cooperation, moreover, remained in place even when tensions between the two countries were at their highest, since it was in fact impossible for either to withdraw these from the bilateral framework. The India-Pakistan relationship, thus is more complex than a series of violent conflicts, and in order to have a complete understanding of its nature, it is important to examine the nature of cooperation between them. The basis of agreement that drew forth bilateral cooperation was as critical an ingredient in the making of the bilateral dynamic, as the motivations for going to war.

This dissertation argues that India-Pakistan relations need not only be viewed through a prism of a series of hostilities -- that alongside their well known tension, there was substantial cooperation, and constructive dialogue, based on deeply seated areas of agreement. For example, when events in the subcontinent threatened to descend into war in 1950 both governments actively sought out means of diffusing this, and tried to set in place mechanisms that could reduce the possibilities of violence. It is possible, thus, to chart an alternative history of the India-Pakistan relationship: one which examines the nature and extent of cooperation between both governments; and which is as integral to the India-Pakistan story as the warfare between them. It is relevant, indeed necessary, to offer a historicised account of the India-Pakistan relationship, which contextualises the development of the state, government formation, as well as the changes in the international arena as relevant factors in the bilateral relationship. I will argue here for a dynamic understanding of

the India-Pakistan relationship, which moves away from a static analysis of an inevitable and 'unending' conflict.

This thesis thus draws on the insights of Joya Chatterji in her recent work, which shows how the two states cooperated over relief and rehabilitation, evacuee property, while helping each other seal the border.⁷ But it goes beyond it by insisting that such acts of cooperation were based on the need for both dominions to establish themselves two sovereign—and separate—states. Such a deep-seated need for cooperation moreover, meant that the cooperation in the bilateral relationship was as integral as the violence. Both India and Pakistan needed to assert their complete independence from the other in order to function as viable entities in their own right, in their respective foreign policies in the changing international context. In order to be able to pursue their separate agendas, therefore, the two governments consistently undertook acts of cooperation and compromise, which would allow them to get disentangled from each other.

This is a rather different argument from the widely held position that the hostility between India and Pakistan is an *expression* of their *inherently* different personalities. In many analysis of the India-Pakistan relationship, the identities of the two states: of secular vs. religious, authoritarian vs. democratic, are held to be important. Nor is it the same as saying that the fallout of partition shaped the relationship between the two countries. It is distinct from Stephen Cohen's argument, that the state of Pakistan came to be defined almost exclusively in terms of the aftermath of partition, and, relatedly with its relations with India. He argues, 'Pakistanis considered India's failure to adhere to the terms of partition—such as the defaulting on the division of assets, manipulation of the international boundary, and over the accession of

⁷ Chatterji, J., *An Alternative History of India Pakistan Relations*, Talk at the Royal Asiatic Society, 8 March 2012, url: <http://backdoorbroadcasting.net/2012/03/joya-chatterji-an-alternative-history-of-india-pakistan-relations/>

princely states-- as the supreme betrayal'. Moreover, he continues, over the decades that followed partition, the continuing India Pakistan tension led to 'the vision of Pakistan as a homeland had been supplanted by that of Pakistan as a fortress- an armed redoubt guarded by the Pakistan army, safe from predatory India.'⁸ Nor does it adopt the view that Pakistan's foreign policy, stems from it being an 'insecurity state... that perceived itself not only as small and disadvantaged, but as on the defensive against a real and present threat, with its survival at stake'⁹ It is necessary to understand that Pakistan's foreign policy, as, indeed, India's were carried out on the basis of establishing the finality of the partition. While both countries undoubtedly pursued mutually hostile agendas in their relationships with the wider world, it was nonetheless critical for both to have the infrastructure through which the partition was finalised, in place. This imperative, thus brought forth acts of cooperation in the bilateral relationship, which were as significant in nature as the conflict between them. In his analysis of the Kashmir dispute, Sumantra Bose points out that the avenues of possibility for solution lie within the state structures of India and Pakistan, and that such solutions need to work with the parameters of both states, rather than do away with them.¹⁰ While this dissertation does not focus on the dimensions of the Kashmir dispute - that has been carried out in other important studies - what it does highlight, is that both India and Pakistan put in place infrastructure of their states quite quickly, even in places where their clarity could be questioned.

Another trend in the literature of the bilateral relationship underline this 'search for security'. In what Sumit Ganguly calls an 'irredentist and anti irredentist'

⁸ Cohen, Stephen P., *The Idea of Pakistan*, Washington, 2004

⁹ Thornton, Thomas Perry, 'Pakistan: Fifty Years of Insecurity', in Kux, D. et. al (eds.), *India and Pakistan: The First Fifty Years*, Cambridge, 1999

¹⁰ Bose, Sumantra, 'Kashmir: Sourced of Conflict, Dimensions of Peace', *Economic and Political Weekly*, Vol. 34, No. 13 (March 27- April 2, 1999), pp 762- 768

relationship between the two states, he has argued that the factor of Kashmir always predisposed India and Pakistan towards mutual hostility, and, at various junctures, led both to try and take advantage of the perceived weaknesses of the other. In Ganguly's view, war resulted from a misreading by the respective military elites of the likely capabilities of the other.¹¹ In a similar vein, Srinath Raghavan has also argued that India's relations with Pakistan, and with China, were based on the threat of the use of war. He argues that this allowed them greater room for manoeuvre for the pursuit of peace.¹² But what these security driven analyses miss is that many policies in the bilateral relationship were crafted without the prospect of violence looming. The inter state relationship was also critically impacted by a process of dialogue at various levels in both countries, which had been undertaken simply by the need to set in place the logistics of finalising the partition. Furthermore the security interests of the state were not self-evident from the beginning. Indeed, there was a great deal of dissent and critique about bilateral negotiations at a variety of levels within both governments. An irate despatch from the Indian High Commission in Karachi in 1948, for instance, concluded that: 'There are no parallels anywhere to the nature of the diplomatic relations subsisting between India and Pakistan, or to the type of system evolved for conducting these relations.'¹³ The requirements for security were not arrived at clinically, and then consistently pursued, in the foreign ministries of both countries; they remained very contingent, and contested throughout, both within and outside each government. This is relevant, for what emerges from these discussions are in fact *not* the contours of a policy of the paramountcy of self preservation against the other; which was immediately grasped and implacably pursued by statesmen for the benefit of their

¹¹ Ganguly, Sumit, *Conflict Unending: India-Pakistan Tensions since 1947*, New York, 2002

¹² Raghavan, S., *War and Peace in Modern India: A Strategic History of the Nehru Years*, Ranikhet, 2010

¹³ Fortnightly report from M. K. Kirpalani, Deputy High Commissioner for India in Lahore, 17 September, 1948, File No. 8-15/48-Pak I, MEA File, National Archives of India (Henceforth NAI)

countries, but rather a more uncertain, tenuous and fragmented set of policies, often flexible, and sometimes discarded.

Although the temptation to resort to war was certainly present in both countries, there were also long-standing structures to ensure continuing dialogue and stable coexistence, designed to limit the potential for conflict between the two countries. I argue that although calls for resorting to outright war were repeatedly made in the subcontinent, such rhetoric was often only surface deep. The concrete actions of either government with regard to one another did not always follow suit. In fact decisions taken with regard to what sort of relations to have with each other were made quite carefully; and also with the knowledge that in fact, this was not necessarily an uncontrollably combustible and volatile situation. This particular kind of cautiousness, was moreover, recognised by other countries at the time, who factored it into their calculations on India and Pakistan. Thus, a historically grounded account of the bilateral relationship is important, since it highlights the fluidity in the nature of the concerns of the states of India and Pakistan, as well as of the international players involved in it.

The literature on India Pakistan relations predominantly focuses on the Kashmir dispute. Yet, it is important to look at the other range of problems in the relationship- and how they were encompassed. It is worth noting that the Indo- Pakistan relationship has not been theorised to the same extent as other major disputes after the Second World War. This thesis suggests that the crafting of foreign policy was not carried out on a plane removed from the more mundane concerns of a nation state. It was not based solely on considerations of security. In this, the dissertation will differ from many other analysis of the Indo- Pak relationship, which view it in static, and innately oppositional terms. This analysis of the India-Pakistani

relationship will show that the skin and bone of making foreign policy is not an abstract exercise in locating intangible 'strategic' goals, but was, in fact, heaved up through the mundane process of governing in both countries.

Opportunities for cooperation moreover arose out of the compulsions of the need in both states to clear the political uncertainties arising from partition. The landmark agreement between Nehru and Liaquat Ali Khan, for instance, signed in April 1950, was an instance of both governments realising that the migration of minorities in unpredictable and continuing numbers could not be allowed to continue for the welfare of both governments. Similarly, agreements, and the lack thereof, on evacuee property were pursued by both governments needing to give clear answers to their populations on their proactiveness on taking measures for the rehabilitation of refugees. Both governments recognised that this process needed to be carried out through a bilateral dialogue, since both needed to acquire the property with legitimacy. Thus, the need to legitimise and formalise the process of partition and to stabilize governance on both sides on both sides enabled a bilateral cooperation, which was equally integral to the India-Pakistan relationship.

The India-Pakistan relationship has elided categorisation into a particular mould of states' behaviour. In the aftermath of the Second World War, the emergence of the initial principles of the realist school of thought in International Relations put forth an argument that a successful foreign policy was one that would protect a set of criterion identified as being necessary for the security of the state.¹⁴ The role of diplomacy was to protect the preconditions for these criterion, while promoting peaceful relations between various states. It is important to note, that the bilateral relationship between India and Pakistan has not been theorised in the same way,

¹⁴ See, for example, Morgenthau, Hans, *Politics Among Nations: the Struggle for Power and Peace*, New York 1948

partially due its tangled history.¹⁵ Duncan Mcleod has pointed out the paucity of such theorisation and has argued that reliance on a single theoretical approach in International Relations theory would be insufficient. Mcleod argues that too much emphasis on the nature of the international system is insufficient to explain the causes of conflict in the India-Pakistan relationship; and that a focus on their specific nature as states ought to be included in any analysis of their behaviour.

In contrast, this thesis suggests that the fashioning the international identities of India and Pakistan was particularly complicated. The leadership of both sides had witnessed the steady ascent of the state as becoming the critical unit of consideration in international relations, over the inter war years. In 1947, the two countries entered a world order which was evolving, and being reconfigured in the aftermath of two world wars; and one in which, moreover, London was acquiring a different, and diminished, political capacity. Such identities were also critically impacted in what Erez Manela has called the 'Wilsonian Moment', during which the articulation of an anti-colonial, and anti-empire based frame of reference gained credence. Such moments were, however, complex and also contained within them impulses towards preserving the existent status quo.¹⁶ As Mark Mazower has shown, the framing of the United Nations Charter was prompted by two oppositional impulses. While the framework of the Charter was also designed to contain challenges to the power of older European nation states, this was also potentially undermined by the need to incorporate newer, post colonial states into this framework.¹⁷ What India and Pakistan were also working with, therefore, was an international system in the

¹⁵ Mcleod, *India and Pakistan: Friends, Rivals or Enemies?*, Hampshire, 2008, p.6

¹⁶ Manela, Erez, *The Wilsonian Moment: Self Determination and the Ideological Origins of Anti Colonial Nationalism*, New York, 2006

¹⁷ Mazower, Mark, *No Enchanted Palace: The End of Empire and the Ideological Origins of the United Nations*, Princeton, 2009

process of reconfiguration; and one moreover that recognised the integrity of the state as a fundamental premise.

It was necessary, moreover, for the leadership on both sides to maintain that recourse to violence was not an option of their own choosing; that the options for peace had been carefully and thoroughly considered. At an interview with Phillip Noel Baker, the British Secretary of State, in October 1949, Zafrullah Khan, who was at the time the leader of the Pakistani delegation at the United Nations, and who would subsequently serve as a member at the International Court of Justice, maintained that he thought it crucial for Pakistan to have friendly relations with India. He pointed out, for instance, that his own delegation had made no protest at the recent debate on having India as a non permanent member at the Security Council in 1950. Moreover, he continued to Baker, once the question of Kashmir was out of the way, he was optimistic that the present difficulties between the two nations, including the refugee property question, could be settled amicably. In shaping the international faces of India and Pakistan, therefore, it was important to establish and assert a separated and possibly amicable coexistence. Although the bilateral relationship was certainly prone to tension and hostility, it was also important to acknowledge that the possibilities – even if they *were* only possibilities--for resolving the tension were present in the agendas of both sides.

Whether it was the case of a territorial dispute, or property or people, the approach that both governments took in forming their bilateral positions, were very consistent. What both the two governments agreed to do was to conduct relations on an edgy precipice, where the possibility of compromises of various kinds were always present, and tangible; while also going ahead with policies which were detrimental to this. This was manifested by the injection of the infrastructure of both states, into

areas where the uncertainties over the process of partition lingered. Thus, the issue of how the movement of minorities was to be handled was actively entered into by both governments, although in ways which allowed for both governments to articulate their differences on the question. If it was impossible to have a relationship in which war could not erupt, the spaces for compromise and dialogue within this were also carefully examined, occasionally expanded, and were deeply entrenched.

The literature assumes that the relationship was based on two states reeling from the effects of partition- while this is true; neither wished to undo it; and in fact embarked from the beginning on viable foreign policies. It has also been recognised in the literature on this topic, that the conflict between the two countries is of a limited kind. India and Pakistan do not seek the total destruction of each other. Their wars are directed towards specific goals: establishing control over Kashmir; in 1971, it was with the intention of enabling a split in the two flanks of Pakistan. Enabling this framework of relations, however, there is also a tacit basis of agreement between the two countries: they have to uphold the fact of the partition.

Note on Sources

This dissertation is based on archival sources in the United Kingdom, India, and Bangladesh. Although I have consulted widely a range of published sources from Pakistan, including newspapers and autobiographies, I have been unable to consult archives in Islamabad. The interpretation of positions taken by the government of Pakistan, therefore, has been gleaned by reading against the grain: from letters appended in files of the Ministry of External Affairs in Delhi; from the National Archives in Dhaka for files relating to the period when it was East Pakistan, as well

as from autobiographical sources of a number of prominent individuals involved in crafting of the bilateral relationship at this time.

This thesis is constructed from multi- archival sources, as well as from publications produced by the foreign ministries of India and Pakistan. It is based on hitherto unseen archival material at the Ministry of External Affairs in Delhi, which has only recently been released into the National Archives of India collections. Although the discussion of events from the perspective of officials in the government of Pakistan is not based on information from the National Documentation Centre, it has attempted to bridge these gaps from autobiographical information, newspapers and correspondence flowing out of the Ministry of Foreign Affairs in Karachi. It is also based on archival material in the Public Records Office, Kew, and at the British Library.

The memoirs and autobiographies of key officials and politicians involved in constructing the bilateral relationship, have also been extensively cited. Although it is obviously important to treat these sources carefully—they were frequently published as part of different agendas—it is nonetheless a valuable source of information for getting a sense of the keen rivalry and differences within each government, and the factionalism which was obviously an inescapable part of the occupations of those within both governments.

Finally, the archival material from the National Archives in Dhaka also offered a glimpse of the clashes between the various levels of administration, and between the setting of a particular policy direction, and the vagaries with which it was implemented. Much of the archival material I have used from East Pakistan concerns the implementation of directives regarding the closure of the border, means of controlling 'smuggling' and illegal trade across the border, and the concerns about

the influx of migrants. This is relevant, for what it highlights again are the differences and ambiguities which were as much a part of the India Pakistan relationship, as a sense of implacable hostility. Despite these shortcomings, the thesis, by historicising the early relationship between India and Pakistan, throws novel light on how it developed. The archival material from the ministry of external affairs also testifies to the fact that decision making with regard to Pakistan was the subject of a great deal of debate, dissent, and was in fact, surprisingly flexible.

Chapterisation

Each chapter focuses on specific instances of dialogue between India and Pakistan in the first decade of their relations. Although some events overlap partially across the chapters, they address separate issues in the making of the bilateral relationship. Each deals with issues in which there was a substantial extent of cooperation and dialogue between the two governments, and in which there was -- contrary to what might be expected -- a fairly flexible position on both sides on how it could be handled bilaterally. These are thus case studies of cooperation between the two countries; and the extents to which they succeeded or failed. What is common to all these issues, however, are the bilateral decisions to create structures for cooperation, based on the assumption that the uncertainties presented by the question of partition needed to be settled.

Chapter 1 deals with the immediate aftermath of partition. It studies the disintegration of various agencies put in place to deal with the repercussions of partition, which were jointly handled by both the Dominions. I argue here that rather than prolong the interim measures for retaining order in the subcontinent, which relied on joint systems of administration of the two Dominions, both governments

chose early on to disband these units, and replace them with systems which were controlled exclusively by each government. Moreover the governments of India and Pakistan embarked on setting and then pursuing distinct foreign policy agendas from the beginning, and the events in the weeks and months following partition dictated these agendas. Thus, the pursuit of goals in the foreign policy were not shaped by two governments removed from the concerns of the impact of partition, but in fact brought into its fold; the international identities of India and Pakistan were integrally connected to the events around the partition. At the same time, the fact of the partition itself was not questioned or challenged by either government, but rather, its ramifications of creating two distinct nation states was actively embraced in the foreign policy pursuits of both states.

The second chapter deals with the making of policy about the movement of minority populations across the new borders of the two countries. Neither state could effectively curb all movement between the two dominions. What emerged instead, were a series of infrastructures set up by which both states which permitted contacts and travel between minority populations to be monitored. That enormous and unpredictable numbers of migrants could not freely cross the boundary was a critical basis of agreement between the two governments. This formed a basis of cooperation, through which a series of mechanisms were evolved, which allowed the two states to clearly establish their positions with regard to minority populations, and their movement.

Chapter 3 examines the making of the India-Pakistan boundary line. This boundary line took a surprisingly long time to clearly delineate, and even longer to firmly impose on the ground. Moreover, what is remarkable about this boundary line is how its firmness varied from place to place -- while it was imposed in some areas

with grim precision, in others, it was simply notional. For example, long stretches of the boundary, particularly along the provinces of Bengal, Assam and Tripura, lay undemarcated until the early 1950s. The negotiations around this process reveal the ways in which both governments were surprisingly willing to compromise with the notions of territorial fixity.

Chapter 4 looks at the negotiations on evacuee property. The question of what to do with the property of departed migrants had hung ominously over the heads of both the governments, as increasing numbers of refugees became frustrated with the rehabilitation programs of the government. The two governments entered into negotiations on the question of evacuee property in 1947, and continued to meet over this question until 1957. They passed legislation which mirrored each other in terms of securing control over the property. It was recognised that the issue could not be unilaterally decided, although the space for providing compensation for the property also progressively dwindled. These processes worked in a synchronised way on both sides of the border, and also reflected a firming up of the impulses to 'close' the ramifications of partition as much as possible.

Chapter 5 examines the effects of partition on trade within the subcontinent, and addresses the bilateral policies on Inter-dominion trade. The early economic policies of both governments reveal a desire to become self sufficient, and to be independent of one another. This was evidenced—and reinforced—by the devaluation crisis of 1949, as well as retaliatory policies of the Indian government to reduce their dependence on goods from East Pakistan. The volume of trade has progressively declined in the decades since independence, and this was, moreover the product of a deliberate policy of both governments.

THE IMMEDIATE AFTERMATH OF PARTITION

The partition of the subcontinent had been actively pursued by many interested parties in both India and Pakistan. Once it came about, the governments of both countries set in place structures that deliberately embraced its consequences, rather than seeking to undermine the underlying assumptions behind the division of the subcontinent. Even in the midst of the catastrophic violence and chaos which erupted in the months around the partition, and the complex, and lengthy shadows that this event left behind, the two new governments made conscious decisions to proceed with decisions that concretised, rather than blurred, the fact of the partition. One of the earliest acts of both governments was to establish the structures of a bilateral relationship between the two countries, simply because of the need to work through the administrative and logistical consequences of the partition. In order to have a complete understanding of the India- Pakistan relationship, therefore, it is necessary to be able to step back from the sense of cataclysmic violence and destruction in the months around August 1947, to look at how the two governments attempted to deal with its consequences, and set in place mechanisms that would reaffirm, rather than question this event. This chapter will show how, even as the immediate after-effects of a horrific partition were on-going, critical decisions were made with regard to the other which consisted of a mutual acknowledgement of separation, and which recognised the importance of retaining the permanence of this status.

This became evident even in the very early activities of both states with regard to each other. The immediate days and weeks following the partition raised a number of questions that needed to be worked through bilaterally. Both governments had to deal with controlling the violence in the Punjab and Bengal provinces, the

finalisation of division of assets between the two governments, and, even more emotively, the rehabilitation of abducted women. Examining various responses of the state to the immediate challenges posed by the partition is thus important to get a sense of the newly established India and Pakistan concretised the fact of separation into the fabric of their respective state structures. The ways in which these responses developed in India and Pakistan, moreover, operated in tandem and required a certain cooperation and dialogue between the two governments. In undertaking such cooperation, both governments were acknowledging that the fact of the partition needed to be finalised, and that it was on the basis of this mutual acknowledgement that their future relations would be based. These were critical decisions, and made deliberately, since what both governments were seeking an independent and, as far as possible, secure existence. These exercises, therefore, were deliberate attempts to consolidate the newly established states, and to chart out the future course of relations between them.

At a meeting of the Special Committee of the Cabinet on 6 June 1947, Lord Louis Mountbatten circulated a note entitled 'Administrative Consequences of Partition', which envisioned the future steps that the government of India would need to take.¹ 'The first step,' the Viceroy argued, 'should be to set up a Committee on the highest possible level which would be charged with the duty of enquiring into all matters connected with the partition.'² This Committee, named the Partition Council, would be chaired by two principle leaders from the Congress and Muslim League, including Liaquat Ali Khan, Vallabhai Patel, Ranjendra Prasad, and Adbur Rab Nishtar. The Council oversaw the work of a Steering Committee, which would organise the minutiae of division of the various branches of the government into the

¹ Minutes of the First Meeting of Special Committee of the Cabinet held on 6th June, 1947, *Partition Proceedings Vol IV*, pp 5-13, Partition Secretariat, Govt. of India, National Archives of India

² Ibid

new governments of India and Pakistan. The Steering Committee was made up of two senior bureaucrats, H.M. Patel and Chaudhry Muhammah Ali, both of whom would go on to have very influential careers in India and Pakistan. Indeed, Chowdhury Muhammad Ali went on to become Prime Minister of Pakistan in 1955, and before that, was finance minister in 1951. The immediate decisions of the Partition Council were about the final demarcation of boundaries, the division of the armed forces, division of the staff of the various branches of government, the division of assets, the jurisdiction of courts, the economic relations between the two dominions, and the processes by which domicile would be determined.³

The discussions of the Partition Council reveal little desire to break with the structures of administration and governance of the previous decades, but on the contrary, they represent concerted efforts to secure them within new nations. Moreover, their tone is suggestive not of individuals overwhelmed by the violent turn of events, but those of cool headed bureaucrats making pragmatic calculations about how to secure more assets for their side. H. M. Patel and Chaudhry Muhammad Ali differed, for instance, with regard to the framing of the terms of reference for deciding how to divide the material assets of the government of India. Patel had argued that the existing assets of the government, such as irrigation canals, railway lines and telegraph lines, should simply remain in place. Muhammad Ali, however, pointed out that merely the accident of geography should not have priority over an equitable distribution of assets, since 'it was only fair that both the successor governments should in the matter of efficiency of services start on an equal a footing as possible.'⁴ Although the Partition Council worked amicably enough, and did succeed with much of the work of the division of the government, it was also a

³ Ibid

⁴ Terms of Reference for Expert Committee No. 2, 'Assets and Liabilities', *Partition Proceedings, Vol. IV*, p. 30, Partition Secretariat, Govt. of India; National Archives of India

forum for the articulation of the differences between the two governments. There were many - and some, lasting- disagreements over the ways in which the partition was being implemented. Yet, even so, the need to carry this through formed the basis of a kind of cooperation between the two governments. This process of cooperation was, moreover, integral to the making of both the nation states.

Agencies of the Partition

The horrific violence in the Punjab in the months around the partition had debilitated the existing machinery of the state, and had stunned the world. The question of how to handle the communal rioting in Punjab after 15 August 1947 was examined in a meeting of the Joint Defence Council in July 1947. The leaders decided that the governor of Punjab would classify the relevant districts in the province as 'disturbed areas'. The Punjab Boundary Force was established as a response to the violence unleashed during the partition. Ian Copland has argued moreover, that this needs to be contextualised in terms of an ethnic cleansing undertaken by Sikh kingdoms, with a view to securing a Sikh homeland, which contradicted the logic of the proposed boundary line.⁵ One question which immediately arose when tackling the question of re- establishing law and order, was about the places covered by the jurisdiction of the Joint Defence Council would stop. The principal argument put forward by the Congress and the Union Government at the Indian centre was that they quite simply lacked the legal authority to intervene in the Princely States.

This problem came up repeatedly when the question of the role of the army in quelling the rioting was brought up. For instance, Arthur Smith, Chief of Army Staff

⁵ Copland, Ian, 'The Master and the Maharajas: the Sikh Princes and the East Punjab Massacres of 1947', *Modern Asian Studies*, Vol. 36, July 2002. see also Kamran, T., *The Unfolding Crisis in Punjab, March-August 1947: Key Turning Points and British Responses*, *Journal of Punjab Studies*, Vol. 14, No. 2, (Fall 2007)

in India, sent weekly despatches on the unfolding communal violence to the Vice Chief of the Imperial General Staff (VCIGS). His letter on the 12 August 1947 noted, for example, that 'The situation in Alwar State is appalling. Muslims are being murdered left and right, and we are pretty certain that State Troops might be responsible for this, as well as for burning crops. There are bound to be reprisals'.⁶ Gurgaon, (located close to New Delhi) had been engulfed in communal rioting in August 1947. Although the army was called in to quell the disturbance here, Arthur Smith argued that the efforts of the army to control the situation were hampered by the fact that 'while most of the disturbed areas lie in Punjab, a portion of it extends into the United Provinces. Troops in the Punjab have the backing of an Ordinance which gives them wider powers- those in the UP have not'.⁷

Robin Jeffrey points out that the Punjab Boundary Force, at its largest, consisted of some 15,000 men, which amounted to a ratio of four men being allotted to a single village.⁸ It consisted of mixed units of the army that had not yet been partitioned. But this was largely an ineffective force. It was disarmed within a month of its creation, and faced charges of bias amongst its personnel in favour of the rioters. He argues, however that its real failure was implicit from the beginning: it was conceived of as an afterthought. What was also recognised at the time was that the 'neutrality' of the Force was not in fact an asset.

Subsequent scholarship on this issue has shown how the failure of the Punjab Boundary Force was unsurprising, given the ambiguity in the structures of

⁶ Reports from Chief of the General Staff of India to VCIGS, Jun-Jul 1947, File No. WO 216/669, Public Records Office, UK

⁷ Ibid

⁸ Jeffrey, Robin, 'The Punjab Boundary Force and the Problem of Order, August 1947', *Modern Asian Studies*, Vol. 8, No. 4 (1974)

command at the time.⁹ It was no longer clear which institution prioritised the control of communal violence. For example, Arthur Smith noted that the Punjab police, itself in the process of being divided, formed a 'doubtful asset' in being able to quell communal riots. While the Joint Defence Council did exercise operational control over the Punjab Boundary Force, its attention was also engaged with completing the task of providing India and Pakistan with viable military establishments. Its foremost concerns related not to establishing control over the communal violence which loomed on the immediate horizon, but to examining of the ways by which the two countries could establish viable armies of their own, very possibly for protection from each other, in the long term.

After the transfer of power, the Punjab Boundary Force was a largely ineffective organisation, and in no position to be an effective tool to curtail violence in the region. It was serviced by personnel many of whom were concerned with which country they would serve in, and whose sympathies often extended further for one community rather than the other in this situation. The Force was disbanded within a month of its establishment. Major General Shahid Hamid, who was Private Secretary to the Commander in Chief of the undivided Indian army, Auchinleck, noted in his diaries that the Punjab Boundary Force had virtually crumbled under the onslaught of the Punjab violence. The entry in his diary for the 19 August noted: 'The situation is explosive... There is even communal tension within the Punjab Boundary Force, and there is a likelihood that the troops may be shooting at each other..¹⁰ Auchinleck, in a meeting of the Joint Defence Council on 28 August, declared that

⁹ See for instance, Marston, D., 'The Indian Army, Partition, and the Punjab Boundary Force, 1945- 47', *War in History*, Vol. 16, No. 4, November 2009

¹⁰ Hamid, Shahid S., *Disastrous Twilight: A Personal Record of the Partition of India*, London 1986

the Punjab Boundary Force should now be closed down, and that the units of the Boundary Force now be distributed between India and Pakistan.¹¹

It became very apparent that the use of an undivided army, to control communal violence in the Punjab in 1947, could no longer produce the desired results. As early as the latter half of August, the relevance of the Joint Defence Council in controlling the law and order situation had declined further. Auchinleck, already irritated at being hampered in his work with the Armed Forces Reconstitution Committee, argued that 'No neutral or outside agency operating as the agent for the two dominions can perform this task for the reason that his discretion and powers must perforce be limited and cramped by the very fact that he is an agent and not a principal'.¹² At a meeting on 29 August in Lahore of the Joint Defence Council Nehru and Liaquat agreed that it was of paramount importance that the psychological welfare of refugees travelling from one Dominion to the other, be considered. It was necessary, therefore, for both countries to lend soldiers to each other, who would conduct the bands of refugees safely across the border, and with whom, the refugees themselves would feel secure with.¹³ A joint statement was issued subsequently, by the two Prime Ministers, which assured refugees coming into both countries, of protection by soldiers of their own religion. Moreover, the statement continued, 'from 1 September, the governments of India and Pakistan have taken over in West and East Punjab respectively the full military responsibility of law and order which previously was vested in the Punjab Boundary Force'.¹⁴ After 15 August, the

¹¹ Document No. MB1/D45/2, Agenda for a meeting of the Provisional Joint Defence Council from H.M.Patel, enclosing papers action to be taken in the event of disturbances in the boundary areas of the two dominions before and after partition, 28 Jul 1947, Mountbatten Papers, University of Southampton

¹² Ibid

¹³ 'Minutes of the sixth meeting of the Joint Defence Council held at Government House, Lahore, 29 August 1947', Singh, Kirpal (ed.), *Selected Documents on Partition of Punjab- 1947: India and Pakistan*, Delhi 2006, p. 503

¹⁴ 'Joint Statement of Pandit Jawaharlal Nehru and Liaquat Ali Khan', 4 September 1947, in Singh, Kirpal (ed.), *Selected Documents on Partition of the Punjab*, p. 509

Dominion Governments of India and Pakistan would have to approve the decisions of the state governments of East and West Punjab to reverse this order. It was also accepted at this meeting, however, that the Joint Defence Council could not have the authority to intervene in the 'disturbed areas' of either state, or be vested with the authority to declare a district to be a 'disturbed area'.¹⁵ Joint exercises in maintaining the peace, therefore, on the basis of authority that was not clearly defined in terms of one government or the other, were thus, dispensed with quickly. Even in the immediate days after the partition, thus, it was clear that the two sides would not work as a single unit of control as a system of governance.

An issue that immediately gave rise to acrimony in the Partition Council was the question of the division of the army. India did not transfer Pakistan's share of the military stores of the erstwhile Indian Army according to the agreements reached in the Partition Council. As Choudhry Muhammad Ali argues, that with regard to the division of the army, India's responses were obstructive from the beginning.¹⁶ In order to prevent the delivery of military stores that were due to Pakistan, the Indian leadership, including Gopalaswami Ayyangar and Baldev Singh, the Indian minister of defence, mounted systematic attacks against the office of the Supreme Commander, essentially blocking the completion of the division of the forces. 'Barely six weeks after Independence', Muhammad Ali writes, 'the Indians had made it impossible for the Supreme Commander to continue till the completion of his task till 1 April 1948'.¹⁷ Major General Shahid Hamid was Private Secretary to Auchinleck at the time of the working of the Armed Forces Reconstitution Committee. His memoirs record the tense relationship that Auchinleck had with the Indian

¹⁵ Doc. No. MB1/D45/2, Agenda for a meeting of the Provisional Joint Defence Council from H.M.Patel, enclosing papers action to be taken in the event of disturbances in the boundary areas of the two dominions before and after partition, 28 Jul 1947, Mountbatten Papers, University of Southampton

¹⁶ Muhammad Ali, Choudhry, *The Emergence of Pakistan*, Columbia University Press, 1967

¹⁷ Ibid, p. 159

leadership.¹⁸ Hamid asserts that Auchinleck was repeatedly hampered in his work with the Reconstitution Committee because of the Indian attitude: 'Pakistan is interested in getting its share of ordnance stores and India is determined it should not... They can achieve their goal by getting rid of the Supreme Commander's Headquarters.' In this, they were largely successful, and the Armed Forces Reconstitution Committee was closed down prematurely, on the 30 November 1947. Auchinleck met members of the Joint Defence Council on 13 October and stated that the task of the Armed Forces Reconstitution Committee had become too difficult owing to the differences of opinion between the two Dominions and he could not discharge the responsibility laid upon him. The main issue at stake was the ratio in which the moveable assets of the former Armed Forces of India were to be divided. It was worked out that Pakistan was owed 36% of the assets, but, Hamid stated, 'the Indian government is apparently determined to contest it to the last ditch.'¹⁹

A second pressing, and profoundly emotive question had to do with abducted women: this was necessary to both states' ideas of legitimacy. Urvashi Butalia has shown how critical in the debate about abducted women was not so much the concerns for the abductee per se, as much as a preoccupation with national honour.²⁰ Such responses, moreover, were jointly constructed. The question of abducted women had been energetically pursued by Mridula Sarabhai, among others, and also did receive a fair amount of attention from both the Foreign Ministries. Along with Gopalaswami Ayyangar, Y. D. Gundevia, at the time under secretary in the Ministry of External Affairs, was left in charge of dealing with the question. In his memoirs he describes how an inter-dominion agreement came into being regarding the joint

¹⁸ Hamid, Shahid S., *Disastrous Twilight: A Personal Record of the Partition of India*, London 1986

¹⁹ *Ibid*, p. 260

²⁰ Butalia, Urvashi, *The Other Side of Silence: Voices from the Partition of India*, London, 2000

machinery for the recovery of abducted women on either side of the Punjab.²¹ This was a fraught process, and it was recognised that the 'recovery' of women was not a simple task: many were unwilling to return, and feared hostility and stigma from their original communities.

Yet for our purposes here, it is important to note that the two governments entered into a process whereby both sides could respond to this task. Y. D. Gundevia, an official in the Indian Ministry of External Affairs, and currently working on the Pakistan desk, directed the Deputy High Commission in Lahore to include the clerical establishment of the recovery office into the staff. In May 1949, he received a letter from M. R. Sachdev, Chief Secretary in the East Punjab Province. The letter complained of a disparity in the numbers of cases of recovery between East and West Punjab. The government of West Punjab, Sachdev argued 'are indifferent, if not actually hostile to recovery work, and despite verbal promises made by West Punjab leaders that recovery work will be pushed on with rigour in that province, their declarations have so far remained mere pious hopes'.²² Moreover, he continued:

'The East Punjab government consider that the attention of the Pakistan Government should be specially invited to this disparity in figures and that it may be brought home to them, that the higher recovery figures in East Punjab do not show, as is likely to be stated by them, that there were more abducted women and children in East Punjab'.²³

A person particularly prominent in the debates around abducted women, was Mridula Sarabhai, a formidable, and well connected, Indian social worker who had been actively engaged in framing policy regarding abducted women, and was, in addition, a prominent voice in Congress politics in the early 1950s. Sarabhai worked

²¹ Y. D. Gundevia, *Outside the Archives*, Hyderabad, 1984

²² File No. 77-48/AP (Pak II), MEA File, NAI

²³ Ibid

closely with Gundevia in setting up the machinery for the recovery of abducted women, and was also, as Gundevia notes, fairly influential in Pakistani Punjab as well. Ms. Sarabhai, he writes, had already been in informal contact with Liaqat Ali Khan on this question, and the Pakistan government had seemed predisposed towards some form of agreement.²⁴

Legislation around the issue of abducted women was passed on both sides fairly quickly, and was designed to set up machinery for the process of recovery of 'abducted women', as well as to define what such a category constituted. In March 1948, the Partition Council ruled that the governments would provide abducted women with rehabilitation regardless of whether they were accepted back into their families. In 1949, the Indian government finalised legislation through which they were entitled to recover Muslim abducted women. This was kept in place until 1957. A corresponding Ordinance was passed in Pakistan, and a Coordinating Officer was appointed by the governor general, whose task would correspond to the officer overseeing the recovery of abducted persons in India.²⁵ While there was debate and criticism on both sides about how the recovery of abducted persons was being handled, and the relative slackness of the operations in the other Dominion, the measures undertaken to put this process in place were mirrored by both governments. That the recovery of abducted women had to be seen to be addressed by both governments was recognised by both sides, and, moreover, these operations were also undertaken in tandem with one another.

A small office for social workers aiding in the recovery of abducted women in Pakistan was set up as a wing in the office of the Deputy High Commission in Lahore. It was financed by a variety of sources within the government, and also

²⁴ Gundevia, Y. D., *Outside the Archives*, Hyderabad, 1984

²⁵ Ibid

received contributions from the office of the Deputy High Commission.²⁶ Yet, this is not to argue that they were smooth – on the contrary. Already by December 1948, Goapalaswami Ayyangar was receiving letters of complaint from workers charged with this job. For instance, Mrs. Premvati Thapar, wrote Ayyangar, stating that a number of Hindu and Sikh women recovered from Pakistan were being housed in the women's Jail in Lahore, rather than at the Provincial Transit Camp, which had been agreed upon in the Inter-dominion Agreements of September 1948. Moreover, she said, 'no list [of the women recovered] is sent to our workers at Lahore or to any of our recovery officers in India.' Recovery operations ran into hindrances with the classification of 'closed districts'. Pakistan restricted the access of Indian recovery workers to the districts of Jhelum, Sialkot, Gujarat, Rawalpindi and Campbellpore, as a security measure in connection with the Kashmir war. India, meanwhile, had closed off Gurdaspur and Kangra. In March 1949, Ms. Sarabhai had a meeting with the Pakistani ministers for rehabilitation, Khwaja Shahbuddin, and with the Minister without portfolio, M. A. Gurmani. The matter was taken up with officials in the Pakistan government and corrective action was subsequently taken. These questions were dealt with in detail by the offices of the deputy high commissions, in both India and Pakistan. In March 1949, the deputy high commissioner in Lahore, Mr. Y. K. Puri, held a press conference, in which he entreated the All Pakistan Muslim League to utilise its resources for the recovery of abducted women and children. He added 'both governments were far from lukewarm in their endeavours to complete this work and that they would certainly not relax their efforts,' and since this 'was a humanitarian task which everybody was anxious to see completed with the least possible delay'.²⁷ Although the question of abducted women was important to both governments, what was recognised from the outset that these efforts could not

²⁶ File No. 77-48/AP (Pak II); AP Branch; MEA File, NAI

²⁷ Ibid

emerge from a *joint* system of governance, but rather, needed to be tackled by both separately. The deputy high commissioners' remarks, thus also reflect a system of working whereby both governments, although working towards a similar objective, had also recognised that this did need to be carried out on a separated basis.

Agencies of the partition, thus, such as the Punjab Boundary Force and the apparatus for the recovery of abducted women, were wound up fairly soon after the transfer of power. What was immediately recognised, moreover, was that joint mechanisms of governance could not work in the long term. Such agencies were quickly dispensed with. What both governments did instead, was to establish their separate control over the repercussions of partition, in ways which operated in tandem with one another. Since these needed to be addressed, what both governments decided to do was to handle them on an individual, and yet curiously synchronised, basis. Such an approach would be fairly consistently followed, on many questions relating to the fallout of the partition.

Establishing Two Separate Foreign Offices

The erstwhile External Affairs and Commonwealth Relations department, set up in 1937, had been a large and sprawling affair, and dealt with a diverse set of issues. The Government of India had acquired increased prominence in international affairs during the inter-war years. Its representatives were frequently attached as additional members to already existing British missions abroad. A large part of its work concerned the issues relating to Indians settlements elsewhere in the Commonwealth, most prominently in South Africa, Australia, Ceylon, Malaya and Burma.²⁸ Moreover, delegations from India had argued in support of Indians

²⁸ Bandopadhyay, J., *The Making of India's Foreign Policy: Determinants, Institutions, Process and Personalities*, Bombay, 1970, p.151

working overseas at the League of Nations. The government of India appointed an Agent General for Washington, and Chungking in China. It also had a High Commission in London, which was under the control of the department of commerce, since its main functions were to look after India's trade interests in the United Kingdom. Trade commissioners also represented the government of India in places where there was a high density of exchange, such as Hamburg, Alexandria and Zanzibar. Moreover, in 1941, a Department for Indians Overseas came into being.²⁹ Moreover, India's entry into the World Wars, were crucial events in the positioning of the government of India in international arenas, as Britain sought to increase the presence of the Dominions into her war efforts. For example, Sir Girija Shankar Bajpai had signed the Atlantic Charter on behalf of the Indian government in 1942. His appointment was at least in part intended to placate a sympathetic American public opinion to the nationalist movement in India. Astute and exacting, he had worked in the Indian Civil Service for some decades before Independence, and had been Agent General for India in Washington during the Second World War. Nehru asked Bajpai to oversee the structuring of the Ministry of External Affairs in July 1947, and he retained the position of Secretary General in the Ministry until 1952, when he became the Governor of Bombay.³⁰ The infrastructure, therefore, for conducting a foreign policy was partly set in place for the government of India before to the transfer of power.

It is therefore important to remember that the nation states of India and Pakistan emerged from structures of administration, as well as administrators, who had been influential in the making of policy during the decades before the transfer of power. These men had also lobbied for the transfer of power, and, in many cases, for the

²⁹ Mansingh, S., and Charles H. Heimsath, *A Diplomatic History of Modern India*, Bombay 1971, Chapter 1, 'Indian Foreign Relations in the Inter War Years', pp 3-27

³⁰ Dutt, Subimal, *With Nehru in the Foreign Office*, Calcutta, 1977

partition, and had done so in the pursuit of their own interests in the two new nation states. For example, at the time of the Second World War, the officers who occupied these positions were Sir Girija Shankar Bajpai in the United States, and Zafrullah Khan in China. They had actively worked to have continuities in the structure of government, and to be the ones servicing them when the time came. The ways in which the nation states of India and Pakistan could be concretised, and how their structures of government could work were clearly present in the Transfer of Power negotiations. Thus, an assessment of an overpowering 'nightmarish quality' characterising the final days in the run-up to the Partition, and the negotiations around the transfer of power at this time, culminating in the thunderclap of the violence of partition and the birth of two nation states can be taken too far. The structures of governance that came into being after 1947 shared marked continuities with those of the undivided government of India during the inter-war years, and were, moreover, painstakingly assembled in the midst of a traumatic partition rather than being allowed to disappear.³¹

A separate sub-committee, associated with the External Affairs and Commonwealth Relations Office, would handle the division of infrastructure for the Foreign Offices of the two Dominions. The Sub-Committee -- named Expert Committee IX -- was instructed to make recommendations on relations between the two Dominions, and with other countries; what the diplomatic representation of the two Dominions would be abroad; on membership of international organisations; and on existing international treaties and engagements. Its members included Mr. A. V. Pai, P. Achuta Menon, Lt. Col. Iskander Mirza, and Major Shah.³² They met daily from June

³¹ See, for instance, Kamtekar, Indivar, 'A Different War Dance: State and Class in India, 1939- 1945', *Past and Present*, No. 176, (August 2002)

³² File No. 315 (1)- AD/ 47, EA& CR Deptt., AD Branch, MEA Files, NAI

22 1947, and submitted their report to the Partition Council on 19 July.³³ The Expert Committee considered the division of assets which belonged to the External Affairs and Commonwealth Relations department of the Government of India, and their holdings abroad, as well as assets which had been jointly owned by other governments in India.

One of the knottiest questions for the Expert Committee was that of membership of international organisations and the continuation of treaties by the Dominions of India and Pakistan. India insisted on remaining the same international entity that she was before partition, and so would continue to be entitled to the benefits and obligations of her long standing international engagements. The case, however, was different with Pakistan. Membership to international organisations and treaty commitments would need to be entered into anew. H. M. Patel declared to the committee, 'When a country is partitioned, her standing commitments in international relations remain valid.' Laiquat Ali Khan vigorously opposed this position, and argued that the government of Pakistan should inherit the international obligations of the erstwhile government of India. At the meeting, the question of extinguishing the erstwhile identity of the government of India was raised. Such a position, was however rejected by the Viceroy. For one thing, he argued, 'the fear was that a country might borrow money much in excess of her needs, then go through a formal partition and claim that neither part of the divided country was responsible for the debts incurred prior to the partition.'³⁴ Keeping the existing international obligations of the independent government of India intact, was an important concern to the British, and the interests vested by them in the government of India. The obligations as well as the debts of the pre-existing

³³ Ibid

³⁴ Minutes of the 16th meeting of the Partition Council held on 6 August 1947; *Partition Proceedings*, Vol. IV, Partition Sectt. Govt. of India, NAI, p. 426

government of India needed to be continued to be serviced, and it was necessary therefore to keep this entity in place.³⁵

For India, the report noted, few changes would need to be made to the existing Commonwealth Relations department, apart from one major exception: 'there will be substantial addition of work to the Commonwealth Relations Wing of the department arising from India's relations with the dominion of Pakistan Commonwealth Relations Wing will require one joint secretary, one deputy secretary and one under secretary and one additional Pakistan Section to deal with a large volume of complicated work connected with the dominions of Pakistan.'³⁶

Unsurprisingly, differences soon arose within the committee arose over the issue of division of assets outside of India. A. V. Pai and C. S. Jha argued that there should be no division of such properties, and that the Government of India continue to retain control over them. But this did not go unopposed. Iskander Mirza and Mr. Ikramullah raised objections to this, and argued that the two governments should each take over exclusively some of the offices in foreign countries. Their other suggestion was that 'should this not be considered feasible, the government of the Dominion retaining the buildings and other assets should compensate the other governments in the currency of the foreign country concerned.'³⁷ Ikramullah added that the Pakistan government would for the moment be interested only in Afghanistan, Persia, Egypt, UK, USA, and Burma. The immediate priority for Pakistan thus lay with establishing its position in the neighbourhood, and establishing direct relations with states with which it shared a border. Moreover, it

³⁵ The section on sterling balance negotiations in this dissertation deals with this question further

³⁶ Document No. MB1/D11/1/2, Recommendations of the Steering Committee on an enclosed report by the External Affairs and Commonwealth Relations Department Sub-Committee, 5 July - 27 July 1947, Mountbatten Papers, University of Southampton

³⁷ Ibid

appears to have deemed it to be a priority to establish relations with nearby Muslim countries as a separate, and potentially sympathetic, ally.³⁸

The beginnings of Pakistan's foreign relations had been sketched out by July 1947. By then the members of the sub-committee on External Affairs had handed in their report, which visualised the structures of the two new foreign ministries.³⁹ It noted that the Ministry of Foreign Affairs in Karachi would need 'one secretary, two joint secretaries, four deputy secretaries and eight junior officer.' Between them, they would manage the various sections under which external policies would need to be made; such as the Middle East, the United States, USSR, Commonwealth countries, India, emigration and Hajj travel, international conferences and UNO documentation, protocol, passports and so on.

The committee also examined the question of officers who could be recruited to the Pakistan Foreign Service, and the question of transfer of those who had 'opted' to serve in Pakistan. Officers who had been in the government, and served abroad in various capacities, were highly valued. A recruitment board, which interviewed officers in the government of India, who had opted for Pakistan, and wished to join the Foreign Service, interviewed some 39 candidates. Aga Hilaly was one of them. He was in the I. C. S., was in the Commerce Department of the government of India, and worked in the province of Mysore. He had travelled in Europe and Egypt as part of the Indian delegations for various conferences, and, the report concluded, 'had a fair acquaintance with current problems, political as well as economic, national as well as international'.⁴⁰ Hilaly, a Law Tripos from Cambridge, went on to have a long and successful career in the Foreign Ministry, and, in 1969, went as

³⁸ Sattar, Abdul, *Pakistan's Foreign Policy, 1947- 2005: A Concise History*, Oxford, 2002

³⁹ Document No. MB1/D11/1/2, Recommendations of the Steering Committee on an enclosed report by the External Affairs and Commonwealth Relations Department Sub-Committee, 5 July - 27 July 1947, Mountbatten Papers, University of Southampton

⁴⁰ File No. 20 (18)- FSP/47, EA &CR Deptt., FSP Branch, MEA File, NAI

Ambassador to the United States. Yet, what this also shows is that far from questioning the soundness of the reasons for partition, many officers eagerly embraced the opportunities for success in Pakistan; and were eager to participate in the making of the state. For them, the best options for advancement lay not in preserving links with the un-partitioned subcontinent, but in contributing to carving out a separate, and sovereign state identity, with a clear foreign policy agenda of their own. While this agenda would come to include differences with India-differences, moreover, which were serious and lasting- it was also important to both to establish machineries which could clearly differentiate the governments of both countries.

Pakistan's initial foreign policies were certainly forged in difficult conditions. By all accounts, the government of Pakistan was badly under-staffed and under-funded in the immediate period after Independence. The ministry of foreign affairs was based in Karachi, itself a city which was undergoing a seismic shift under the onslaught of partition migration. On 6 June 1947, Liaqat had circulated a memo cautioning that the needs of the future central government of Pakistan in Karachi were urgent, and that 'A survey carried out by the Sind government has shown that even if the Sind government move out of Karachi, the available accommodation will be far short of the requirements of the Pakistan government.'⁴¹ Therefore, Liaqat continued, the partition council should 'issue a directive to all departments of the government of India that they should give full assistance and provide the necessary facilities and the required priority for the establishment of the headquarters of the Pakistan government at Karachi.'⁴² However, it seemed as though India would press through the various disadvantages that Pakistan was left with in the terms of the partition.

⁴¹ Document No. MB1/D5/5, Note about the setting up of the central Pakistan government in Karachi, 25 June 1947 by Liaqat Ali Khan to Partition Council, Mountbatten Papers, University of Southampton

⁴² Ibid

For instance, Pakistan was owed a sum of Rs. 500 million in currency from the Reserve Bank of India, as part of her share of the financial assets of the government of India. Despite the ruling of the partition council, the Indian government instructed the Reserve bank to not forward the sum.⁴³

Zafrullah Khan was appointed Foreign Minister of Pakistan in 1947, and worked closely with Liaquat Ali Khan in shaping Pakistan's initial foreign policy. Within a few weeks of taking over as Foreign Minister, the dispute over the line of control in Kashmir broke out, and he was despatched to the United Nations to represent Pakistan's case.⁴⁴ Pakistan's membership at the United Nations had been approved – unanimously – in September 1947, and Zafrullah's time in New York in January 1948 was busy. While putting forward Pakistan's case for the Kashmir dispute, he also remarked 'As a matter of fact, the stage members around the table were rather surprised at how much agreement there was between the two governments despite the differences which had arisen...'⁴⁵ It was thus important to both sides to show that the fact of the partition was being upheld by both government, and that India and Pakistan operated as separate entities from the beginning.

In India, Nehru decided to take on the additional portfolio of the Ministry of External Affairs -- this was an area in which many of his colleagues were relatively inexperienced, and where he himself hoped to exercise a greater sway in the making of policy. He had been active in involving the Congress Party with foreign policy during the 1920s and 1930s. He would certainly leave his unmistakable stamp on the Ministry in the first two decades -- its functioning, and its approach to international

⁴³ Sri Prakasa, *Pakistan: Birth and Early Days*, Calcutta, 1965

⁴⁴ 'The Reminiscences of Sir Muhammad Zafrullah Khan', Interviews conducted by Professors Wayne Wilcox and Aislie T Embree for Columbia University, url: <http://www.apnaorg.com/books/zafrullah-1/zafrullah.php?fldr=book>, pp 168- 173, last seen 1 August 2012

⁴⁵ Ibid, p177

affairs. Yet, it is misleading to portray his role as being the sole architect of India's foreign policy in this decade, as some historians have suggested. For example, Judith Brown has argued that such a domination exercised an adverse effect: '[Nehru's grip on the making of foreign policy]...prevented the development of independent and critical expertise among civil servants and among other politicians and parliamentarians in this area, and gave experience to those who were close to Nehru but often lacked experience and judgement.'⁴⁶ Brown argues that the Ministry was staffed by inexperienced, and mainly amateurish professionals, hastily assembled in 1947, when a new Ministry of External Affairs had to be formed. Yet, this presents a misleading picture. Although Nehru was obviously keenly interested in the direction of the foreign policy of India, and had himself been involved in the crafting of international positions of the Congress, it would be a mistake to assume that his control over the activities and decisions in the Ministry was absolute. Many senior officials in the Ministry, including Sir Girija, had strong differences with the Prime Minister on what positions should best be taken on specific issues. Moreover, the relationship with Pakistan was too diverse and broad to be handled by any one person, or even one branch of the government. The day-to-day exchanges across the border, conducted at a variety of inter governmental levels, often occluded the centre. The bilateral relationship therefore did not proceed along a strictly imposed, and single, 'line' crafted by Nehru, which was then adhered to in all the dealings between the two countries. Moreover, even at the level of 'high policy' decisions, Nehru encountered a great deal of opposition. He was frequently presented with clear alternatives, to his own vision by men of great experience, ability and influence. These voices -- raised in a number of places, such as by critical Chief Ministers of border provinces, disapproving politicians at the Centre like Sardar Patel, or by

⁴⁶ Brown, Judith, *Nehru: A Political Life*, New Haven, 2002

sceptical onlookers in the press, as well as within the ministry all meant that the crafting of decisions with regard to this country could not be Nehru's exclusive domain.

Moreover, many officials in the MEA came with their own histories of experience in foreign affairs and governance. Y. D. Gundevia, who also joined the ministry in 1947, had been under- secretary in the Indian mission in Burma during the in-flow of mass refugees into India.⁴⁷ K. M. Pannikar, similarly, had been foreign minister to the princely state of Patiala. All this would suggest that the new ministry was not simply the only place for Nehru to have an untrammelled hand in being able to direct foreign affairs according to his own ideals, but also a place where the making of policy, and the ideological direction of foreign affairs was very contested. This is nowhere more evident than in conducting a relationship with Pakistan, a relationship which often involved politically sensitive questions, and which invited concerns from a variety of quarters, in various ways very critical of too much accommodation with that country.

Immediately after taking up the portfolio, Nehru was deeply concerned about the way in which the situation in Punjab ought to be handled. In September 1947, he approached Gopalaswami Ayyangar to play a larger role in the administration of that province, and asked him to contribute substantially to the making of policy with regard to Pakistan. In a meeting with him in September 1947, Nehru discussed the arrangements which could be made for dealing with the movement of refugees. Ayyangar assured him that although 'he [Nehru] was not extra popular with quite a considerable section of this population, particularly Hindus and Sikhs, but this must

⁴⁷ Y. D. Gundevia, *Outside the Archives*, Hyderabad, 1984

only be a passing phase'.⁴⁸ He then broached the possibility of appointing Ayyangar 'Minister of State' for East Punjab, over and above the machinery of the State government, with the same ranking as a Cabinet minister, who might 'issue orders on the spot without having to refer to Delhi and who could also have the necessary authority for seeing that those orders were implemented loyally and with expedition'.⁴⁹ Ayyangar was eventually made Minister without Portfolio in the government, and would have a wide brief to handle questions relating to the relationship with Pakistan, including the division of the army, and reconstitution of the armed forces, and to dealing with questions relating to East Punjab at the Cabinet level.

Although the contours of a foreign 'Independent Foreign Policy' had been laid down by Nehru during the nationalist movement- consisting, broadly, of a non aligned approach to either of the two blocs during the Cold War, a friendly relationship with China, and a spirit of fraternity with anti colonial movements and newly post-colonial nations, what this would actually mean in the minutiae of dealings between India and other countries was left fairly open-ended. These spaces, moreover, left a considerable latitude for manoeuvre with regard to the everyday dealings between India and other countries; and this was particularly true of India-Pakistan relations. The scope of this relationship was so broad, that it was frequently conducted without regard to the 'broader policies' that either government would adopt. What is striking about the India-Pakistan relationship is that it was not the product of a single foreign policy which was consistently followed, after being laid out by Nehru; but was a more fractured and ad hoc set of approaches that were adopted at a variety of inter-governmental levels.

⁴⁸ Note by N. G. Ayyangar on meeting with Nehru, 21 September 1947, Private Papers of Gopalaswami Ayyangar, Subject File No. 11, Teen Murti Archives, New Delhi

⁴⁹ Ibid

The task of setting up offices to deal with the foreign relations of the two Dominions was quickly tackled. A functional foreign ministry establishment, and the personnel required for this were rapidly recruited. As in Pakistan, most of these men were those who had been active in the Indian Civil Service before independence, and had worked outside India in the diplomatic establishments of the government of India including South Africa, Washington, and China. The tussle, moreover, for influence between those from within the ICS, with the requisite backgrounds of Oxbridge, followed by sober careers in the Civil Services, and those who were appointed from 'outside', also began fairly early on. Indeed, the first High Commissioner to Pakistan, Sri Prakasa learnt this the hard way. In his memoirs, Sri Prakasa complained of the strangle-hold that ICS officials in the MEA established from the very beginning: 'The Government of India under the leadership of old and experienced ICS officers were not at all sure of the public men who were sent out as high commissioners or as ambassadors by the Prime Minister'.⁵⁰ Within a year of his arrival at Karachi, Sri Prakasa had had to contend with the differing, and often more rigid views of his Deputy High Commissioner in Lahore, who, Sri Prakasa felt, had closer ties with the Ministry in Delhi. Sir Girija refused to budge on the issue of appointing officers from within the MEA to be recruited as High Commissioners from an early date, and differed from Nehru on how this process could be carried out. Nehru, for his part, was more open to the idea of allowing 'public' figures to be sent to important countries as High Commissioners.

The exchange of High Commissioners between the two new Dominions, moreover, was a task of the highest urgency. While discussing the question of relations between India and Pakistan Expert Committee Number IX observed

⁵⁰ Sri Prakasa, *Pakistan: Birth and Early Days*, Calcutta, 1965, p 35

‘in order to facilitate mutual cooperation in the solution of the numerous complicated problems that are bound to arise, at any rate in the initial period, in the course of adjustment between their relations, the committee recommend that as soon as possible after the 15th August 1947, there should be an exchange of High Commissioners between the two Dominions. The Steering Committee have considered this matter further and come to the conclusion that it is desirable that the two Dominions have their respective High Commissioners in place by 15th August 1947.’⁵¹

The Partition Council, moreover decided on 6 August that the two governments would give ‘reasonable assistance to the High Commissioners of India and Pakistan in finding the office and residential accommodation they required.’⁵² The Council decided that the High Commissioner for Pakistan, Mr. Mirza Ismael, would represent his government at the Partition Council meetings after 15 August. Thus, amongst the earliest diplomatic acts of the government of Pakistan was related to the completion of the division of assets.

Sri Prakasa arrived in Karachi as High Commissioner of India, on the eve of the Independence Day celebrations. His tenure was short lived. It was mostly successfully hampered by his colleagues in Delhi, as well as the deputy high commissioner in Lahore. His first few days in this position were uncomfortable -- in his memoirs, he describes how, immediately after his arrival, he stayed in the house that had once belonged to Lala Lajpat Rai: ‘His hospitable house was also full of refugees, and there was scarcely room enough to move about’.⁵³ Indeed, the substantial portion of the work of his high commission related to dealing with refugees, to and from India. His office was flooded with requests for help by

⁵¹ Minutes of the 16th meeting of the Partition Council held on 6th August 1947; *Partition Proceedings*, Vol. IV, Partition Sectt. Govt. of India, NAI, p 425

⁵² Document No. MB1/D14/12 Copy of a memorandum from the Partition Office, government of India, to members of the Partition Council, 12 August 1947, Mountbatten papers, University of Southampton

⁵³ Sri Prakasa, *Pakistan: Birth and Early Days*, Calcutta, 1965, p. 14

departing Hindus and Sikhs in the Punjab, and later, from Sind.⁵⁴ During his time in Pakistan, Sri Prakasa was vocal in his criticism of the Two Nation Theory, and, in his memoirs, records the many private conversations he had with prominent personalities in Karachi about the futility of the partition. For the most part, however, these reflections suited neither government. His endeavours to be more lenient with Muslim migrants who wished to return to India were generally thwarted. He repeatedly complained to Delhi about not being included in the making of policy with Pakistan, but was generally met with polite unhelpfulness. Sri Prakasa also argued against India's detaining Pakistan's share of railway wagons, which had been allotted by the Partition Council. In this case, eventually, the Indian Prime Minister interceded on his behalf and arranged for the supplies to be forwarded to Pakistan.⁵⁵ Yet, the question of the process of division of assets would continue to remain an important item on the bilateral agenda between India and Pakistan.

Moreover, the bilateral agenda and their wider foreign policy pursuits of both governments were interlinked from the beginning. The process of working through the questions of partition was integral to the making of the larger foreign policy of both countries, and their relationships with other countries. These various arenas, moreover, informed each other in terms of how the bilateral relationship between the two countries would progress, and in turn shaped their propositions to the world. While it is outside the scope of this work to address the foreign policies that India and Pakistan pursued, it is necessary to point out that their bilateral relationship was a critical ingredient in this pursuit. Indeed, what also becomes clearer as both governments followed through their initial thinking about their

⁵⁴ This theme will be discussed more fully in Chapter 2.

⁵⁵ Sri Prakasa, *Pakistan: Birth and Early Days*, Calcutta, 1965, p14

positions in the world, is that the broader scopes of the task of foreign policy-- such as defining a relationship with the United States, what sort of position to have in the Commonwealth, and the sorts of relationships that were being sought by India and Pakistan in the international arena-- required that the two countries cooperate on the basis of needing to separate themselves from each other as soon and as completely as possible. These various relationships, were, moreover initiated and pursued from the start. A mutual recognition of the basis of clear separation had to be established from a very early date, and bilateral activities in this period do reflect this.

India, Pakistan, and the wider world

These questions shaped the foreign policies of both India and Pakistan towards the world. Both the countries drew in other governments and international organisations into the questions that remained from the terms of the partition. Over the drawing of the boundary line, Jinnah had approached Mountbatten to bring in judges from the United Nations Organisations, since, he argued, their impartiality could be vouched for.⁵⁶ Yet, this exercise did require a basis of agreement between the two governments that they needed to disentangle themselves from one another as much as possible. Indeed, in a speech to the Constituent Assembly, Jinnah stated that 'It is of vital importance to Pakistan and India as independent sovereign states to collaborate in a friendly way to jointly defend their frontiers... but this depends entirely on whether India and Pakistan can resolve their own differences. If we can put our own house in order internally, then we may be able to play a great part externally in all international affairs.'⁵⁷

⁵⁶ Garewal, Sher Muhammad, *Jinnah- Mountbatten Correspondence, 22nd March- 9th August 1947*, Lahore 1998

⁵⁷ Speech to Constituent Assembly of Pakistan, 2 March 1948, *Muhammad Ali Jinnah, Speeches as Governor General, 1947- 48*, Ministry of Information and Broadcasting, Govt. of Pakistan Karachi.

Seeking membership into the Commonwealth was a logical first step, despite the lengthier negotiations that India was conducting over the terms of her own membership. The question of membership into the Commonwealth certainly involved tortuous negotiations within different levels in the British government, and the Indian leadership. Nehru, C Rajagopalachari and Gopalaswami Ayyangar had been in the midst of negotiating with Anthony Eden and Phillip Noel Baker over the ways in which India could become a republic, while staying inside the Commonwealth. The Indian government did not wish to step out of the Commonwealth association entirely; Nehru wrote to the British government 'We earnestly desire association in the Commonwealth and we feel it is feasible and likely to survive legal and other challenges'.⁵⁸ One important implication from membership in the Commonwealth was the advantages of some preferential treatment on trade from other member countries. Both India and Pakistan recognised the importance of this, and were keen to use this network in their foreign trade. The Government of India had been a signatory of the General Agreement on Tariffs and Trade with Britain in 1939, and continued to use the terms provided by it after gaining independence. There was also undoubtedly a mutual desire, both in India and in Britain, that India should remain in the Commonwealth. One possibility discussed in the early stages of the negotiations, between Mr. Gordon Walker and Nehru during a visit to Delhi, was that the President of the Indian republic appoint Heads of Missions on behalf of the King; and that each time a President assumed office, such an authorification from the Crown be renewed.⁵⁹ The passing of the Indian Independence Act entailed a termination of an allegiance derived on the basis of the King being the Sovereign of India, and India being one of his Dominions. The

⁵⁸ Note on India's position on Commonwealth membership, from J. Nehru to Krishna Menon, 2 December 1948, N. G. Gopalaswami Ayyangar papers, Sub. File No. 24, Teen Murti Archives

⁵⁹ Minute of meeting between G. Walker and Nehru, on 30 March 1949, N. G. Gopalaswami Ayyangar papers, Sub. File No. 24 Teen Murti Archives New Delhi

Indians were consistently unwilling to let their membership in the Commonwealth imply an acceptance of the titular sovereignty of the Crown. They presented an argument for the creation of a separate category of 'Commonwealth States', as distinct from 'His Majesty's Dominions', and 'Foreign States'⁶⁰. The Indian delegation presented a firm line against adjusting their Constitution to include a symbolic allegiance to the king, arguing 'India becomes completely sovereign independent republic deriving its authority from the people. There is no allegiance to the King or any other external authority'.⁶¹

This was largely a question of semantics. Yet, it is also interesting to look at these exchanges in terms of the initial stages of the formation of the roles of the Commonwealth, as well as the setting up of international personalities of India and Pakistan. A largely self-congratulatory note on the agreement with the Commonwealth, circulated by Nehru to the Cabinet argued, 'On the whole, I feel convinced that we have every reason to be gratified at the result of this meeting... Apart from the obvious advantages gained by us, I think India will have the opportunity to progress more rapidly now, industrially and otherwise, and at the same time to play a much more definite role in Asian and World Affairs'. Finally, he added, 'There was also a general impression that we had gained a diplomatic victory... In the London meeting, Pakistan did not come off well at all and produced an unfavourable impression on those present'.⁶² The Pakistani delegation at the Commonwealth Prime Ministers' Conference in London in 1949, viewed India's manoeuvrings with irritation. Liaquat Ali Khan raised the question of what assistance could be received from the rest of the Commonwealth, in the case of

⁶⁰ Krishna Menon to Nehru, 29 November, 1948; N.G. Ayyangar papers, Sub. File. No. 24, Teen Murti Archives, New Delhi

⁶¹ Ibid

⁶² Note by J. Nehru on the London Meeting of Commonwealth Prime Ministers, 7 May 1949, N. G. Ayyangar papers, Sub. File no. 24, Teen Murti Archives

aggression. Secondly, he suggested that the retention of India as a republic within the Commonwealth, while remaining a Republic, could be a 'development, which, if widespread, might lead eventually to the disintegration of the Commonwealth'.⁶³ Despite Pakistan's protestations against the terms offered to India for her to retain membership in the Commonwealth, these were carried through.

Both states also looked for monetary support from the United States, and consistently sought to claim its support against the other.⁶⁴ Support, financial and military, from the United States seemed elusive in the beginning, as the dynamics of the Cold War seemed to be distant from the horizons of the sub continent. The initial thinking on the part of the United States with regard to developments in the sub-continent was that there was no pressing need for the United States to be drawn intimately into the governments of either India or Pakistan, or, indeed, their bilateral affairs. In the years immediately following the partition, the United States had followed a policy of even-handedness with India and Pakistan, on the assumption that a stable subcontinent would be in the interests of all. In shaping these responses, the United States was for the time being, seemingly willing to accept tutelage from the British, who in turn aimed to have a stable subcontinent in their Commonwealth.⁶⁵

Moreover, the hostility in the India- Pakistan relationship was not seen as a calamitous and explosive danger by the United States, which was in fact content not to intervene too strongly in the situation for the time being. On 9 July, Jinnah met Lewis, the American Consul General in Karachi, to discuss plans for exchanging High Commissioners between Pakistan and the United States. These establishments,

⁶³ Report on London Meeting of Commonwealth Prime Ministers, April 21- 27 1949 by Secretary General, N. G. Ayyangar papers, Sub. File no. 24, Teen Murti Archives,

⁶⁴ McMahon, R. J, *The Cold War on the Periphery: The United States, India and Pakistan*, New York, 1994

⁶⁵ See also Singh, Anita Inder, *The Limits of British Influence: South Asia and the Anglo American Relationship, 1947- 1956*, London 1993

including naval and military attaches to the US embassy, should be set up as quickly as possible. Lewis reported to his State Department that the 'Pakistan government was setting aside quarters for Embassy and Embassy residence, and if further facilities were needed, I should inform him'.⁶⁶ In August, Jinnah told Lewis that he intended to establish diplomatic relations with United States as soon as possible, and that, moreover, he had already selected an Ambassador.⁶⁷ This was to be M. A. H. Ispahani, a member of the influential Ispahani clan, and who had been prominent in Muslim League politics in the decades prior to partition. A despatch from the American Consul General in Karachi, however, requested the State Department to await further information from him before making further appointments to the American consulate there, since the housing problem at present was desperate.⁶⁸ Indeed, relations between Pakistan and the United States were relatively minimal in 1947, and took many months to acquire firmer shape.⁶⁹

American policies towards the subcontinent were initially fairly disinterested and hesitant in the period immediately after independence, and South Asia was not at this stage a major theatre of the cold war. It was, moreover, unenthusiastic about taking too active a role during the outbreak of war in Kashmir in December 1947. The US took several years to shape its position on the subcontinent, and was initially indecisive about deciding what line to take with India and Pakistan without alienating one or the other.⁷⁰ The relationship between the United States and the two

⁶⁶Telegram from US Consul General at Karachi to Secretary of State, 9 August 1947, *Foreign Relations of the United States, 1947, Vol III, The British Commonwealth; Europe*, US Department of State Publication, Washington, p163

⁶⁷ Telegram from US Consul General at Karachi to Secretary of State, 9 August 1947, *Foreign Relations of the United States, 1947, Vol III, The British Commonwealth; Europe*, US Department of State Publication, Washington, p163

⁶⁸ Telegram from US Ambassador Grady to Secretary of State, 2 September 1947, *Foreign Relations of the United States, 1947, Vol. III*, p 164

⁶⁹ For example, the State Department took two years to appoint a successor to its first Ambassador to Pakistan, Paul Alling, who retired from this position four months after his appointment. See for instance, McMahon, R. J., *The Cold War on the Periphery: The United States, India and Pakistan*, New York, 1994

⁷⁰ McMahon, R. J., *The Cold War on the Periphery: The United States, India and Pakistan*, New York, 1994

countries grew incrementally, but a key consideration remained in terms of how a closer relationship with one could affect relations with the other. In a discussion between the three American Ambassadors to India, Pakistan, and Burma in December 1947, Ambassador Grady in India made the following argument:

‘There is a chance for overall cooperation without disturbing the institutional independence of either country... This would not represent an about face on the question of the division of the country, but would be an attempt to cooperate along economic and defence lines. Real progress in this direction was made in the recent Lahore meetings, with only Kashmir left unsettled’.⁷¹

The Ambassador was arguing that the United States encourage the sentiment of ‘good neighbourliness’, without too active an involvement in the Commonwealth, which, he argued, was more unpopular in the country at present. The three ambassadors agreed, therefore, that they ‘would never question independence of either country in our policy, but will encourage cooperation wherever possible’.⁷²

Using Pakistan as a strategic base against the hegemony of the Soviet Union across the region faltered on several occasions, but had been consolidated into a feasible policy by the mid fifties. Liaquat Ali Khan made repeated requests to the US government for financial help, and was also keen to stress the strategically significant location of Pakistan -- which shared a contiguous border with the Soviet Union- for the purpose of discouraging the spread of the Soviet sphere of influence. A key consideration continued to remain the Indian reaction to a possible defence alliance in the area. Yet, the communist victory in China and the outbreak of the Korean War provided America with greater incentive to acquire Pakistan as an ally. In 1952, Pakistan became a signatory of the Middle East Defence Organisation

⁷¹ Memorandum of Conversation between three US Ambassadors to India, Pakistan and Burma, December 26 1947, *Foreign Relations of the United States, 1947, Vol III, The British Commonwealth; Europe*, US Department of State Publication, Washington, p 175

⁷² Ibid

Treaty, which provided for an alliance system against the spread of the Soviet Union in the Middle East. Pakistan's decision to sign to the MEDO Treaty was fiercely criticised in India as presenting a threat to her security. Yet, this was accepted by all the parties concerned: what was recognised quite clearly in Pakistan, as well as in the United States, was that the pursuit of such a strategic partnership with the United States did have more to do with concerns against domination by India, than with the unfolding of the Cold War.⁷³ The acrimony in the bilateral relationship between India and Pakistan was present in various degrees, in all their dealings with the rest of the world. Yet, while this was certainly carried out in both governments, it was part of an attempt to *establish* the finality of partition, rather than to undermine it. The dealings between India and Pakistan and the wider world, thus, had to assert that both were separate, and sovereign entities, even while they continued to voice the differences between them.

Both governments were in search of additional funds. In a conversation with US Ambassador Grady, in October that year, Bajpai asked if the US could make available ten army transport planes, to fly out 50,000 Hindu refugees stranded in Peshawar, to Amritsar. This group of migrants had started out from the NWFP on the 3 October 1947, and had been attacked during the journey. Bajpai argued that 'when news gets out a new outburst against Muslims in Delhi is almost certain and if the 50,000 perish from hunger and/or communal attack, communal war will reach proportions beyond anything yet seen'.⁷⁴ This appeal, however, failed. The reply from the Secretary of State firmly said 'US could only act if request was made jointly

⁷³ McMahon, R. J, *The Cold War on the Periphery: The United States, India and Pakistan*, New York, 1994

⁷⁴ Telegram from Ambassador Grady to Secretary of State, 5 October, 1947, *Foreign Relations of the United States, 1947, Vol III, The British Commonwealth; Europe*, US Department of State Publication, Washington, p 167

by the Governments of India and Pakistan'.⁷⁵ Although Bajpai renewed his request a few days later, he met again with a negative answer. A telegram from the office of the secretary of state to its Embassy in India noted 'GOP obviously not enthusiastic about US planes, as Lewis [American charge'd in Karachi] never approached, and GOP made special effort to move the NWFP group by rail'.⁷⁶ In October 1947, Jinnah wrote to President Truman to request a loan of some \$2 billion for various agricultural and industry development schemes in Pakistan. For the time being, however, this request was rejected, as the State Department explained that it was unprepared to give such a large grant.⁷⁷ Yet, it was important to both governments to assert their separate establishments to the world, and to conduct a separate foreign policy from the beginning. Despite the failure of such overtures, it was necessary for both to proceed having established that the partition had happened, and the two were thus separate entities.

The weeks and months following August 1947, were not, therefore, temporary blips in how the governments of India and Pakistan would progress. Its officials sought quickly to come to grips with the processes of separation, and eagerly looked for ways to establish their positions in the world. Moreover, dealing with the questions of the administrative consequences of partition, even through the seemingly humdrum and messy process of the division, does need to be woven into the fabric of the bilateral relationship, as well as the larger foreign policies of the two countries. These decisions were not on a separate plane from how the international positions of India and Pakistan were established, but in fact formed their very skin and bone. The

⁷⁵ Telegram from Ambassador Grady to Secretary of State, 10 November 1947, *Foreign Relations of the United States, 1947, Vol III, The British Commonwealth; Europe*, US Department of State Publication, Washington , p 171

⁷⁶ Telegram from Acting Secretary of State to M. A. H. Ispahani, Pakistani Ambassador to the United States, December 17 1947, *Ibid*, p 173

⁷⁷ Sattar, Abdul, *Pakistan's Foreign Policy, 1947- 2005: A Concise History*, Oxford, 2002

choices made on all levels by the governments of India and Pakistan were to embark on processes that cemented the fact of partition -- it was necessary to do this with regard to the division of the assets, as it was in the negotiations of Commonwealth membership. Establishing a clear process of separation from one another, was as important in the internal politics of India and Pakistan, as it was in the making of the rest of their foreign policy. Indeed, in order to have a viable foreign policy, it was necessary for both governments to cooperate with one another on how to finalise their separation. This process of separation was, moreover, melded into the foreign policies of both India and Pakistan. Although there were undoubtedly serious- and potentially unsolvable- differences from early on, it was important to both to be able to articulate the basis of the differences. This in itself, called for a tacit, and complex, basis of agreement. The process had necessitated a form of cooperation between the two governments, even while they articulated their differences.

INTER-DOMINION APPROACHES TO MOVEMENT AND MINORITIES

The first high commissioners, Sri Prakasa and Zahid Hussain discovered from the very first few days of being in office, that their foremost task, and immediate relevance, would concern the demands of the minority population of both countries. Both missions were immediately swamped by petitions relating to the concerns of members of the minority population across the border, as well as with purposes of inter-dominion travel. While the arrival of refugees in significant, and potentially uncontrollable numbers panicked the state governments in both countries, this also needs to be contextualised against a more complex picture: where the movement of travellers across these regions had in fact pre dated partition.¹ This was particularly true of the Bengal delta, where the movement of migrants across the new border was a part of a larger—and durable—ecosystem, which could not be broken.² Yet, although such migratory patterns had predated partition by many decades, traffic across the border after Independence was analysed primarily in terms of religion and nationality by both governments.

Moreover, the task of regulating inter-dominion movement acquired additional complexity particularly when faced with angry accusations from provincial governments unwilling to support the burden of additional numbers of refugees. Both governments were wary of the consequences of unchecked migration from across the border. The scale, and unpredictability of inter-dominion migration was a

¹ For example, Ranbir Samaddar has argued that the fact of movement of labour across political boundaries is as old as shift of capital and industrialisation shaped by the requirements of a colonial empire, and later, the changes in industrial centres. Samaddar, R., 'Still They Came- Migrants in the Post Partition Bengal' in Samaddar, R. (ed.), *Reflections on Partition in the East*, Calcutta, 1997

² Van Schendel, Willem, 'I am Not a Refugee: Rethinking Partition Migration', *Modern Asian Studies*, Vol. 37, No. 3, pp 551-584

politically sensitive topic in both countries, and this topic was discussed by a large number of individuals from across the political spectrum on both sides. This issue drew angry criticism from many leaders accusing the other government of persecution of its minority population. For instance, Vallabhbhai Patel, speaking before the Congress Subject Committee in September 1949 contended that the 'sad plight' of Hindus in East Bengal was driving them across the border. 'Nobody,' he continued, 'wants to leave their hearth and home without any reason. It is because the conditions in which they live there are so bad that they migrate to India...'³ He warned that unless the government of Pakistan took steps to halt the persecution of Hindus in East Pakistan, India would be crushed under the weight of even more incoming refugees.

Both governments, therefore sought ways to firstly, limit the movement of migrants, and secondly, to prevent it from creating dangerous levels of political instability. Inter-dominion conferences on this question therefore explored ways of limiting the movement of minorities, as well as devising means by which the interface between a government of one country, and the minority population of the other, could be legitimised, and, to the extent possible, regulated. One way to achieve this was to make both governments formally accountable to each other for the protection of the interests of minority populations within them. While the machinery set up to do this would not necessarily lead to a complete halt in the movement, it would nonetheless provide both governments with means to address and contain the threats posed by it. The question of how minority populations across the border could look to the governments for protection and guidance, therefore could be controlled by this means. Framing inter-dominion agreements on the rights of minorities, therefore,

³ Address to the meeting of the Congress Working Committee, 11 November 1949, Sardar Patel Correspondence, Durga Das (ed.), 1945- 1950, Vol. 6

provided both governments with a way of balancing the requirements of 'ending' the impact of partition, and carving out a separate and sovereign voice, while at the same time be able to continue their links with the concerns of minority populations across the border.

The continued and uncontrolled movement of large numbers of minority populations across the border therefore required a response from both states that would clarify their separation from each other, and an elaboration of the ways in which such a separation was permanent. The issue of controlling the unchecked movement of migrants from across the border provided for a strong basis of agreement on the need to cooperate between the two governments. Yet, this was no easy task, since migration across the eastern borders, its fluidity, as well as the prospect of it remaining very much a permanent feature in the eastern landscape. What emerged instead, was a set of understandings reached between the two governments over the ways in which such travel could be controlled and, if possible, restricted.

At the same time, however, neither side was in a position to be able to cut itself off completely from the demands and concerns of the minority population across the border. The missions on both sides found themselves to be the repositories of complaints and requests for help, by the minority communities. What concerned government officials most, however, and the point at which their intervention was most critical, was not so much the treatment of minorities across the border, as much as their *movement*. This could be seen particularly clearly in the modalities of dealing with the requirements of enormous numbers of migration and minority related concerns in India and Pakistan.

Given that this movement itself could not be stopped, it was necessary to devise a framework that could limit the enormous potential for damage that this could have to the political and territorial stability of both countries. Moreover, the sheer scale in the numbers of the minority community, as well as the nature of their concerns could only mean that both governments would have to remain engaged with this task. This chapter thus explores the responses of both states to the question of movement across the border, and, moreover, how these responses were bilaterally constructed.

Inter-Dominion Deliberations

The question of migrants, and their treatment across the border was a critical factor in shaping the politics of the two new nations. The influx of migrants from across the border was frequently linked to a critique of the policies of the neighbouring government with regard to their minority population. Such criticism was voiced particularly strongly by leaders in the provinces of India and Pakistan, which were the destinations for large numbers of migrants. Both Nehru and Liaquat faced attacks from powerful provincial leaders over how the refugee crisis was to be handled, and threatened the stability of their government. In April 1948, the ministry of M.A. Khuhro, in the Sind province was dismissed over differences with the centre as to the numbers of migrants who could be resettled in that province.⁴ Nehru, for his part, had to face the increasing wrath of leaders from West Bengal and Assam over the influx of migrants from across the border. Both governments had to evolve convincing responses on the rehabilitation of migrants across the border, at a time when the justifications and politics of the partition were still vividly imprinted in the politics of both countries.

⁴ Talbot, I., *Pakistan a Modern History*, London, 1998

It was necessary for both governments to fashion for themselves, an active role in the process of movement and migration of inter- dominion populations, and to explore ways in which it could be controlled. In April 1948, an Inter-dominion conference was convened with the purpose of framing an inter-governmental response to the flow of minorities. The main issue at the conference related to inter dominion travel along the eastern border. The flow of travellers across the eastern border needed to be acknowledged, incorporated, and if possible, curtailed by both the governments. In the discussions, H. M. Patel urged that the question not be addressed 'in terms of the prestige of either government', but rather something which needed to be seen as a 'big, human problem.'⁵ What was more difficult, however, was finding a compromise acceptable to both sides, as to how the problem could be addressed. A bland Communiqué issued at the end of the conference stated 'The Conference met and had a fair and frank discussion on the various issues involved in an atmosphere of cordiality and understanding.'⁶ This, however, betrayed nothing of the detailed, often combustible, and exhaustive perusal of questions related to the flow of minorities.

The conference was held in Calcutta, in the sombre and imposing settings of the Writers Building. The head of the Pakistani delegation at this conference was Ghulam Muhammad, minister for finance; on the Indian side, the delegation was headed by KC Neogy, minister for rehabilitation. Discussion at the conference quickly focussed around the issue of the extent, and reasons, for both governments being involved with the concerns of minority populations in the other country. The Pakistan delegation argued that the policies of reclamation of land in Assam would drive out minority cultivators into East Pakistan. Gopinath Bardoloi, chief minister

⁵ 'Proceedings of the inter-dominion Conference on 18th April 1948 at Writers Building, Calcutta'; File No. F. 8- 15/48- Pak I; MEA, Pak I Branch; NAI

⁶ Report in *Times of India*, 18 April 1948, Times of India Archives

of the province of Assam, and an increasingly shrill advocate of the policy of protecting the state of Assam from the influx of 'outsiders', began by complaining to the conference that the policies of the East Bengal government were driving migrant cultivators -- both Hindu and Muslim -- into his state in increasingly large numbers. His government, Bardoloi continued, was entitled to evict those- mainly Muslim cultivators- who had migrated to the province after 1938, on the basis of an agreement reached that the government of Assam had entered into with the Muslim League in 1945.⁷

The conferences were attended by politicians from the provinces of both countries, deeply concerned with the impact of continuing inter-dominion migration, and frequently at odds with the central government over their handling of this question. In India, politicians from the provinces who participated in these conferences pursued a complex, and often separate, agenda with regard to the influx of migrants, and frequently used this question to attack the centre. Indeed, officials and politicians from the border states of Assam, Tripura and West Bengal were key players in the shaping of the relationship with Pakistan. Their contributions, thus added a different layer to the discussions of how inter-dominion movement could be controlled. Their participation in the conferences thus reveal the multiple centres at which implementing bilateral policies were located. Moreover they were also a necessary exercise in attempts at channelling the criticism and antagonism that sprung in the provinces against the centre.

Yet if the flow of minorities across the border had to be curtailed, it was necessary for both governments to take action to ensure their security in their current situation. A joint declaration that undertook both government's protection of minority rights

⁷ Proceedings of the Inter-dominion conference on 18th April 1948 at Writers Building, Calcutta; File No. F. 8- 15/48- Pak I; MEA, Pak I Branch; NAI

was a possible solution. Ghulam Muhammad for instance pointed out that 'A great service would be provided for the minorities, wherever they are,' if the Conference could lay down machinery that both countries could impose for their protection of minorities.⁸ The agreement declared that both governments 'are determined to take every possible step to discourage such exodus and to create such conditions as would check mass exodus in either direction, and would encourage and facilitate as far as possible the return of evacuees to their ancestral homes'⁹ This agreement guaranteed equality in 'rights, opportunities, privileges and obligations' to minorities, and, significantly, also stipulated that 'all tendencies towards an economic boycott of minorities or strangulation of their normal life should be curbed'.¹⁰ The declarations were aimed at soothing the concerns of minority populations in both countries of the security of their continued existence in the country, and to discourage them from deciding to migrate.

What was especially interesting about the inter-dominion conferences of 1948, were the ways in which the questions regarding protection of minorities interests were framed. Sri Prakasa, the Indian high commissioner, suggested that such a declaration was necessary to 'clear the air' in both countries. The influx of migrants across the border therefore became an issue about the minority community, and their security in India and Pakistan. Such arguments were given shape in inter-dominion declaration in 1948, which contained the stipulation that 'In Pakistan and in India every citizen shall have equal rights, opportunities, privileges and obligations, and there shall be no discrimination against the minorities'¹¹. Such provisions, however, would only come into being when they were imposed by both states, as Ghulam

⁸ Ibid

⁹ 'Text of Inter-dominion Agreement', File No. F.8-14/48-Pak I, Min of EA and CR, Pak I Branch, NAI

¹⁰ Ibid

¹¹ Ibid

Muhammad pointed out at the Conference: 'When we are trying to work out the rights of minorities, if you want it I am quite prepared to have an identical thing for both the Dominions'.¹² If the machinery to protect minorities' rights was absent in one country, then it would also be correspondingly absent in the other. Much of the discussion was in fact focussed on the nature of rights that minorities would enjoy in both countries -- and the ways in which India and Pakistan could mutually guarantee to each other that these rights would be put in place. The principle of reciprocity, thus, on the basis of bilateral cooperation was present from the earliest bilateral dialogues.

Delegates at the Calcutta conference acknowledged that the stability of the minority populations in the eastern side of the subcontinent was important to secure, and would have to be accommodated, since the economic viability of the region as a whole, which rested partly on the traditional networks of commerce and migration that criss- crossed over the region as a whole, and partly on the sheer size of the numbers involved in these transactions. The issue of migrants from East Bengal, minorities communities in that province, and trade between East Bengal and India were all deeply connected with the politics, and economics of the provinces of Assam, East and West Bengal. It was difficult, thus, to completely halt movement across this delta, although necessary, at the same time, to insert the infrastructure of both states into these activities.

Moreover, the ways in which the state infrastructure of India and Pakistan would insert themselves into minority- related concerns across the border, thus, were being felt through in the 1948 conference. The delegates also agreed that the chief secretaries of east and west Bengal would meet every month to deal with issues

¹² Proceedings of the Inter-dominion Conference on 18th April 1948 at Writers Building, Calcutta; File No. F. 8- 15/48- Pak I; MEA, Pak I Branch; NAI

relating to traffic between the two provinces, including the terms of transit and customs for goods.¹³ Provincial and district minorities boards, with representation from members of the minority community who had been elected in the legislative assemblies, were moreover, to be set up under the terms of this agreement, for the daily welfare of minority related concerns.

But the task of addressing this movement also raised questions as to whether measures should be taken to control movement only in the case of refugees from the eastern part of the subcontinent, or whether the task should in fact be addressed at a sub-continental level. K. Shahbuddin, a part of the Pakistan delegation, pointed out that his government were entitled to raise the issue of the treatment of Muslims throughout India, since it was also 'a question of principle, involving both the governments' concerns with minority welfare across the border.'¹⁴ The Indian delegation, however, repeatedly insisted that the goal of this conference was to address the numbers of migrants in the East. Yet, the numbers of migrants going to East Pakistan were far fewer than those who had gone into West Pakistan. According to the 1951 census, about 700,000 had migrated from India to East Bengal, compared to some six and a half million to West Pakistan.¹⁵ Accusations over interference in the affairs of minorities in the other country therefore could stick both ways, and for many regions.

Discussions became particularly heated over the question of persecution of minorities in Assam, East and West Punjab, the United Provinces, Sind, and Bombay, and Bihar. Ghulam Muhammad argued that 'if you really want to purge

¹³ 'Minutes of conference of representatives of two Dominions to be held on the 20 June 1948 regarding implantation of agreements at inter-dominion conference in April 1948', File No. F.8-2/48-Pak I, Min of EA, Pak I Branch, NAI

¹⁴ Ibid

¹⁵ Wright, T.P., 'Indian Muslim Refugees in the Politics of Punjab', *The Journal of Commonwealth and Comparative Politics*, Vol XII, No.2

the minds of hatred we must cover *all* those areas.’¹⁶ Moreover, he pointed out, the Indian high commission was closely involved in the concerns of minorities in West Pakistan: ‘Mr. Sri Prakasa looks after the interests of Hindus in Sind. My government gives him every facility to do so... Ask him if his house is not the beehive of lots of people.’¹⁷ The Indians however, were reluctant to bring in other states into the discussions, arguing that the conference had ‘met principally for East and West Bengal’¹⁸. The delegates decided to consider this question at a future inter-dominion conference.

The Calcutta agreement failed, however, in bringing substantial relief to the question of how the issue of minorities and their movement could be settled. Its provisions were often flouted by both the governments. The two Bengals continued to have uneasy relations, in terms of movement of goods across the borders, as well as in trading accusations of the policy of mistreatment of minorities. B. C. Roy argued, for instance, the influx of migrants into the state of West Bengal was the result of ‘a deliberate policy of the government of East Bengal to drive out the minorities.’¹⁹ Both foreign offices exchanged a great deal of correspondence on instances of violation of the agreement, although this had little effect on the actual decision making on these issues in the months that followed. In August 1948, Subimal Dutt noted that ‘since the Calcutta Agreement... there has been no radical change... [and] the Pakistan Government have entered on an undeclared war against India’²⁰. Therefore, Dutt argued, India’s implementation of the clauses in the Agreement, relating to the

¹⁶ Proceedings of the Inter-dominion Conference on 18th April 1948 at Writers Building, Calcutta; File No. F. 8- 15/48- Pak I; MEA, Pak I Branch; NAI

¹⁷ Proceedings of the Inter-dominion Conference on 18th April 1948 at Writers Building, Calcutta; File No. F. 8- 15/48- Pak I; MEA, Pak I Branch; NAI

¹⁸ S.P Mookerji, Proceedings of the Inter-dominion Conference on 18th April 1948 at Writers Building, Calcutta; File No. F. 8- 15/48- Pak I; MEA, Pak I Branch; NAI

¹⁹ B. C. Roy to Nehru, 1 December 1949, in Das, Durga (ed.), *Sardar Patel’s Correspondence, 1945-50*, Ahmedabad, 1974, Vol IX, p. 37

²⁰ Minutes of conference of representatives of two Dominions to be held on the 20 June 1948 regarding implantation of agreements at inter-dominion conference in April 1948’, File No. F.8-2/48- Pak I; Min. of EA, Pak I Branch, NAI

supply of coal and steel- which were 'materials that were essential to the prosecution of that war'- could be halted.²¹ Complaints came in increasing numbers regarding the movement of food and other everyday commodities between East and West Bengal. The District Magistrate, West Dinajpur, reported 'In spite of the decision of the Inter-dominion conference, movement of eggs, fish vegetable, bamboo, fuel etc are not being allowed by the Pakistan officials and people.'²² On his return from a tour in East Pakistan, J. N. Mandal, Law Minister of Pakistan met with the Indian Deputy High Commissioner in Karachi, M. K. Kirpalani. He argued that the exodus was taking place due to economic and not political reasons. Deteriorating economic conditions in East Pakistan, due to 'India's strangulation of East Pakistan', were responsible for the increasingly hostile environment for Hindus in East Bengal.²³ Thus, what was also recognised while dealing with this question, was that inter-dominion migration was also caused by a economic rationale, and in fact reflected a pattern of movement which proceeded along a logic of an ecosystem which had predated the partition, and which was difficult to halt entirely.

In the years following the partition, the government of Assam insistently pressed for a Permit system to be imposed on the traffic between Assam and East Bengal.²⁴ Both the Ministry of External Affairs and Gopalaswami Ayyangar discouraged the idea, and repeatedly argued against setting up a permit system in the east. This was discussed in a meeting in Gopalaswami Ayyangar's house, with Bardoloi, B.C. Roy, and K.C. Neogy in July 1949.²⁵ Barodoloi argued that a permit system was essential if the influx of migrants into Assam was to be controlled. He suggested that persons

²¹ Ibid

²² 'Non observance of the terms of the Calcutta Agreement by the Govt. of Pakistan', File No. 8/48-Pak I (Part II), MEA, Pak I Branch, NAI

²³ 'Fortnightly Reports from Deputy High Commissioner, Sept. 1948- January 1950', File No. 8-15/48- Pak I; Min of EA, Pak I Branch, NAI,

²⁴ 'Minutes of Meeting with Minister Without Portfolio, 18 July 1949', F.9-2/48-PakI (secret); Ministry of EA and CR wing, MEA File, NAI

²⁵ Ibid

without permits attempting to enter Assam from Goalpara check point should be turned back. Yet, Ayyangar pointed out this could only lead to reciprocal action from East Pakistan, and further controls would be imposed all along the Assam, as well as West Bengal boundaries with Pakistan. Within the state of Assam, Ayyangar argued, the Khasi and Jaintia Hills would be adversely affected, in addition to upsetting what equilibrium had been achieved in West Bengal with regard to the arrival of Hindu migrants. B. C. Roy also voiced his disapproval, fearing that a similar retaliatory measure by East Pakistan against migrants from West Bengal, would only lead to a further onslaught of Hindu migrants into their own state. Such a measure could also be disruptive to trade, and the flow of goods, cattle, as well as vital food supplies including fish, in that region, all of which were vital for the economic well being of the state.²⁶

Indeed, it was also difficult to cite legislation under which migrants could be expelled from the state of Assam: the provisions of various laws barring the entry of outsiders, such as the Influx from Pakistan (Control) Act of 1949, Assam maintenance of Public Order Act of 1947, Indian Passport Act and Foreigners Act, all lacked clauses which could specifically apply to migrants from East Pakistan in Assam being deported back.²⁷ This also reflected a dilemma on part of lawmakers regarding a pattern of migration which was well established in the east before the partition, and whether this could continue to remain permissible with partition having taken place. Drafting an Ordinance especially for this purpose also carried the risk of attracting the attention of the Pakistan government, who would make retaliatory provisions in their own legislation for migrants. Eventually, in October

²⁶ Ibid

²⁷ Ibid

1949, it was decided that the government of Assam could pass an Ordinance which would enable it to remove migrants who had come there after that date.

However, the exodus of Hindu migrants from Pakistan into eastern India continued, to the great alarm of government officials, as well as politicians in these provinces. Gopinath Bardoloi and Dr. B. C. Roy, the Chief Ministers of Assam and West Bengal had increasingly greater leeway to attack the centre, and Nehru in particular, on his tactics with Pakistan, as well as his handling of the refugee crisis. Officials in these areas made increasingly panicked assessments of the strain of the influx were causing to the resources of the provincial government. A report prepared by the West Bengal government in October 1948 noted 'if migration is allowed to continue there is a possibility that much more than two million people whom West Bengal could not afford to absorb, would come.'²⁸

Moreover, the movement of minorities across the border was not only a destabilizing and politically unpredictable issue, but also brought into harsh clarity the costs of war with Pakistan, and the advantages of avoiding such an eventuality. The exodus of minorities into India and Pakistan was reminiscent of those in the wake of partition, and the price of such drastic measures in this situation would be too high. For example, Gopinath Bardoloi, premier of Assam, asserted that the inflow into Assam from East Pakistan were evidence of 'the evil designs of Pakistan upon the state of Assam'.²⁹ In November, speaking at Nagpur, Sardar Patel declared that the government of India were considering asking Pakistan for territory for the rehabilitation of those who were arriving from East Bengal.³⁰ In his speech, Patel emphasised that 'the seriousness of this situation had been conveyed to Pakistan...

²⁸ Note by C.C&R Department, 'West Bengal Refugee Problem', File No. F.9-10/48- Pak I, Ministry of External Affairs, Pak I Branch, NAI

²⁹ Minutes of Meeting on 22 October, 1948, attended by Bardoloi, S. P. Mukherjee, B. C. Roy, G. Ayyangar, 'Influx of Refugees from East Bengal', File No. F.9-10/48- Pak I, MEA, NAI

³⁰ Included in Sri Prakasa to S. Dutt, November 1948, File No. F.9-10/48- Pak I, MEA, NAI

and that the problem had to be settled through mutual discussion and agreement.’³¹ Patel’s own suggestion to the Prime Minister was to demand territory from Pakistan for the rehabilitation of refugees in India. At Nagpur, he concluded ‘it is for Pakistan now to take concrete steps to solve the problem; otherwise India cannot undertake the burden of these refugees, and will be crushed under its weight.’³² In March, Nehru had declared that ‘the minorities in East Bengal are certainly our concern to the extent that they have security and if they do not have security measures will have to be devised to give them security.’³³ At the same time, the wholesale resettlement of the Hindu and Muslim minorities of India and Pakistan into the countries of their majority was, Nehru frequently argued, an impractical and foolhardy course of action. Yet, what this also shows is that Nehru was frequently challenged with regard to the sorts of policies to be adopted with Pakistan, which were, moreover articulated by a wide variety of people.

Moreover, Nehru had not immediately rejected the possibility of resorting to war with Pakistan over the question of swelling numbers of migrants flowing across the border. Nehru ordered the movement of divisions of the Indian army closer to the West Pakistan borders, and for a heavier concentration of war related stores and equipment in militarily important areas like Ferozepur, Jullunder and Ludhiana.³⁴ At the height of the refugee crisis, Nehru wrote to C Rajagopalachari ‘The situation is so complex and difficult that even I, with all my abhorrence of war and my appreciation of its consequences cannot rule it out completely’.³⁵ This was also reflected in some furious expostulatory exchanges between Nehru and Liaquat at the time, asserting that the persecution of minorities across Bengal had to end, and both

³¹ Address to the meeting of the Congress Working Committee, 11 November 1949, Sardar Patel Correspondence, Durga Das (ed.), 1945- 1950, Vol. 6

³² Ibid

³³ Statement to Parliament, SWJN, SS, Vol 14, part 1

³⁴ Raghavan, Srinath, *War and Peace in Modern India*

³⁵ Nehru to C Rajagopalachari, 19 March 1950, SWJN- SS, 14, pt I: 126

governments had to come to clear conclusions as to how the security of minority populations should be ensured. Moreover, Sir Girija Shankar Bajpai, Secretary General in the Ministry of External Affairs in Delhi, informed the UK High Commissioner, Sir Archibald Nye, that unless the situation of the influx of refugees across the Bengal borders were redressed, Indian military actions against Pakistan would inevitable.

In a telegram to the Prime Minister Attlee, Liaquat argued that the Commonwealth intervene on behalf of Pakistan, as the situation regarding the migration of minorities on both sides had become acute. Liaquat pointed out, that 'thousands of Muslims are being driven out of India and are pouring into Pakistan to seek asylum'. This was exacerbated, he added, by a 'systematic and organised campaign in the Indian press and by some Indian leaders that India should declare war on Pakistan to avenge the ill treatment of Hindus across the border.' He concluded 'when I am confronted with an enormous concentration of men, armours and stores so close to the Frontiers of Pakistan, you will no doubt agree with me that I cannot but treat the situation as extremely anxious... We have, despite the gravest of provocations, kept our heads cool. We still believe that the difficulties between India and Pakistan can be settled by negotiation and arbitration.'³⁶ He also stated that the possibility of the refugee issue being raised at the United Nations by the Pakistani representative there, was being considered by his government.

Powerful politicians, such as Syama Prasad Mukherji, leader of the right wing Hindu organisation, the Jan Sangh, Dr. Bidhan Roy, Chief Minister, West Bengal, and Vallabhbhai Patel were calling for an 'outright solution', in terms of a wholesale exchange of minority population, or recourse to war, with the object of gaining more

³⁶ Telegram from Liaquat Ali Khan to U. K. Secretary of State for Commonwealth Relations, 24 March 1950, File No. FO 371/ 84253, 'India-Pakistan Relations', PRO

territory from Pakistan where these migrants could be settled. On 22 October 1948, while Nehru was away in Europe, Gopalaswami Ayyangar met with Syama Prasad Mookerjee, K.C. Neogy, Mohanlal Saxena, and B.C. Roy, a group of individuals who had been expressing dissatisfaction with the centre's policy with Pakistan in an increasingly loud chorus. The feasibility of the option of holding a complete exchange of all minority populations of India and Pakistan was discussed, as a 'possible alternative for preventing uncontrolled migration on a large scale of non Muslims from East Bengal'.³⁷ A few days later, Ayyangar reported to Nehru that 'the grave situation in West Bengal owing to the arrival of large numbers of Hindu refugees is daily worsening... West Bengal is faced with complete disruption of its economy.'³⁸ Moreover, Ayyangar warned, the Cabinet was increasingly of the view that this migration was caused by deliberate policy on the part of Pakistan, and that 'we must decide soon on a strong policy on this issue'.³⁹

These recommendations, moreover, found favour with prominent newspapers in India, such as the *Anand Bazaar Patrika* and the *Hindustan Times*, whose editorials, almost daily, lamented the harsh treatment meted out to minority communities in Pakistan, who had no option but to flee to India. A story in the *Hindustan Times*, in particular attracted a great deal of comment. The newspaper carried an article on the condition of Gandhi Camps in Noakhali, which had been set up in the aftermath of the Noakhali riots rehabilitating those affected by the riots. The Camps were now faced with 'a Campaign of repression... [and] the authorities were determined to frame as many Camp workers as they can. Moreover, it was asserted in the article, that 'the authorities in East Bengal do not want a meeting ground for both

³⁷ Minutes of Meeting on 22 October, 1948, 'Influx of Refugees from East Bengal', File No. F.9-10/48-Pak I, MEA, NAI

³⁸ Telegram, Gopalaswami Ayyangar to Nehru, 25 October 1948, File No. File No. F.9-10/48- Pak I, MEA, NAI

³⁹ Ibid

communities, [and] did not wish a Hindu minority once more to rise and take its place in the working of the State.’⁴⁰

The Indian high commissioner, Sri Prakasa, became concerned at the impact that Patel’s and other Indian leaders’ statements on the option of exchanging land for refugees had had in the Pakistani press. His despatches to Delhi argued that it ‘is necessary for responsible Indian authorities in public statements to credit [the Pakistan] Government with good intentions, [since] if we attack the Government, Hindus will be encouraged to leave.’⁴¹ Sri Prakasa delivered the same message in the Pakistani press himself, and made a statement to the effect that the intentions of the Government of Pakistan ‘were trying to do justice to Hindus and had issued instructions to their officials to treat the minorities well’. This, however, evinced a strong reaction in India. Sri Prakasa received an angry telegram from the Premier of West Bengal, B.C. Roy, the very next day, demanding ‘further explanation’ of such a statement.⁴² Sri Prakasa’s argument was that the best strategy would be to withhold statements hostile to the government of Pakistan, until the Indian government had ‘finally decided to take strong action’. In the interim, an openly hostile stance would only stoke further unease. This approach, however failed to cut ice with any of the Indian leadership. An additional terse telegram arrived from Nehru, stating that ‘Unfortunately what Pakistan Government says is not reflected in local policy in East Bengal.’⁴³ As the year drew to a close, the number of migrants entering India from East Pakistan increased, and with this grew the tide of angry complaints from state governments.

⁴⁰Report in *Hindustan Times*, March 22, 1949, ‘The Mission of Ghulam Sarwar: What price justice in East Bengal?’

⁴¹ ‘Exodus of non Muslims from East Bengal’, File No. F.9-10/48- Pak I, , MEA File, NAI

⁴² Ibid

⁴³ Ibid

This question was repeatedly raised in inter-dominion conferences. Indeed, one of the main themes of the Inter-dominion Conferences of the late 1940's was discussion as to how the problem of the movement of the minorities had to be handled. In April 1950, Nehru and Liaquat Ali Khan met in New Delhi, and signed a landmark declaration that their governments would protect the interests of minorities in both their countries. Both governments were now accountable to each other on the issue of protection of rights of minorities, and the Declaration set out a variety of infrastructure by which its requirements would be implemented. It was specifically aimed at staunching the flow of migrants from across the border, composed of minority populations in search of a state they would feel secure in. The declaration, fairly comprehensive in its definitions of minority discrimination, stated that the governments would 'solemnly agree that each shall ensure, to the minorities throughout its territory, complete equality of citizenship, irrespective of religion, a full sense of security in respect of life, culture, property and personal honour, freedom of movement within each country and freedom of occupation, speech and worship, subject to law and morality.'⁴⁴ The agreement guaranteed safety of movement for migrants who were leaving areas which had seen communal tension, and stipulated that they not be harassed by Customs officials at the border. Migrants were entitled to continued ownership of their property while absent, and entitled to rehabilitation from their government, should restoration of property not take place.⁴⁵

Secondly, minority commissions would be set up in East and West Bengal, and Assam. These would be chaired by the Chief Minister of that Province, along with a Hindu and Muslim member, who were elected representatives of the state legislature. The commissions would have their own staff, and would supervise the

⁴⁴ Text of Nehru Liaquat Agreement, April 8 1950, File No. 20(16)- R/C/50, Ministry of States, Rehabilitation Branch, NAI

⁴⁵ The text of the Nehru-Liaquat Pact is included as an appendix to this dissertation.

implementation of the agreement in the province. Subsequent to the April Agreement, C. C. Biswas and Dr. A. M. Malik, the ministers for minority welfare, met in August to review the steps taken to implement the agreement, and to put in place arrangements whereby cases of discrimination would be promptly investigated, and redressed. The annexure also called for the results of the enquiry, and action taken, to be communicated to the other government.⁴⁶ It was also decided that travellers between East and West Bengal, via the border stations of Darsana and Benapole in Pakistan, and Banpur and Bongaon in Pakistan, would be counted jointly by both sides of border officials. The agreement also specified that the figures released of inter-dominion travel would be mutually agreed upon by both sides of officials, although this was seldom true in practice.

The Nehru- Liaquat Pact had a certain amount of impact on the ground: of the 3.64 million Hindu migrants who had entered India in 1950, some 1.77 million migrants felt encouraged enough to return.⁴⁷ It was noted that there was a rise in the overall traffic of daily travellers crossing the border, since the signing of the agreement. A tense bilateral situation could also be measured in terms of the size of the influx of daily Muslim travellers into West Bengal -- this had dropped to less than a thousand in the weeks before the April Declaration.⁴⁸ As the summer continued however, these numbers rose and stabilised to an average of 17,000 travellers a week. It was also noticed that there was a rise in the traffic of Muslim migrants coming into

⁴⁶ Annexure to Nehru- Liaquat Pact, Press Note of Govt. of India, 16th August 1950; File No. 20 (16)- R/C/50; Ministry of States, Rehabilitation Branch, NAI

⁴⁷ Visaria, P. M., 'Migration between India and Pakistan, 1951- 1961', *Demography*, Vol 6, No. 3, pp 323- 334

⁴⁸ 'Statement showing weekly arrival and departure of Hindus and Muslims from and to East bengal and West Bengal from 13.2.1950', File No. 20 (16)- R/C/50, Ministry of States, Rehabilitation Branch, NAI

Assam, who were entering India for the first time, after the signing of the agreement.⁴⁹

In the weeks and months that followed the Agreement, however, the gap between Hindus arriving weekly into that state, and departing back to East Bengal reduced to a significant extent.⁵⁰ The return of Hindus from West Bengal back to East Bengal, meanwhile, also rose in the months after the Delhi Pact had been signed. For example, the last week of March 1950 had seen a net influx of approximately 100,000 Hindus from across the border into West Bengal. In July, the government of West Bengal estimated that it had rehabilitated some 7,907 Muslim families of returned migrants.⁵¹ Similarly, the government of Assam also reported that 15,727 families of displaced Muslims had been provided for by the state.⁵² The agreement brought about temporary relief in the scale of migration across the border, but more importantly, its terms validated and replenished a structure whereby such a flow could be addressed, and regulated, in both countries.

Setting up the Bilateral Machinery

A major impact of the Calcutta conference in 1948 was that the diplomatic infrastructure of both sides became integral in the concerns of minorities across the border. What the agreement did was to bring the affairs of minority communities in India and Pakistan, squarely into the ambit of bilateral dialogue. By co-opting the question of minority welfare into the bilateral dialogue, the governments of India and Pakistan were also recognising each others' sovereignty. By its very nature, this

⁴⁹ Ibid

⁵⁰ 'Statement showing weekly arrival and departure of Hindus and Muslims from and to East Bengal and West Bengal from 13.2.1950', File No. 20 (16)- R/C/50; Ministry of States, Rehabilitation Branch, NAI

⁵¹ 'A note on the implementation of the Indo Pakistan Agreement', File No. 20 (16)- R/C/50; Ministry of States, Rehabilitation Branch, NAI

⁵² Ibid

was a messy, intricate and strangely intimate exercise. What the bilateral machinery provided, was a means by which these activities could be carried out with the interface of the State, rather than allowing for the possibilities of individuals being allowed to challenge the premise of the reality of the nation states of India and Pakistan.

The infrastructure of bilateral relations, shaped itself as a response to the demands of the aftermath of partition, as much as a means of trying to contain these events. The question of the movement of minorities occupied an increasingly growing space of the infrastructure in bilateral relations. The missions received petitions on requests for permits, for business on property and bank transfers in the other country to be conducted on their behalf, as well as receiving complaints of mistreatment by local officials. Those who found themselves inadequately protected by the legal structures of the new states sought the help of the diplomatic missions of the other country. The minorities question formed an intrinsic part of the day to day dealings of the missions, and in terms of the sheer bulk, and magnitude of the task, formed policy at a more functional and ad hoc level. They thus became an alternative place of appeal for the minorities of both these countries. The ways in which both states could get involved in the concerns of minorities across the border, while remaining separate entities, were thus worked out.

Questions on how to handle complaints from minorities in East Pakistan had been debated from the beginning. Much of the work of the diplomatic representatives of both the countries involved voicing the discontent of minority populations against the policies of their government. This was always a negotiable policy, however, and could be adjusted in a variety of situations. Subimal Dutt was a senior official in the Indian ministry of external affairs, and for many years a key figure in the handling of

questions relating to Pakistan in the ministry, was amongst the first to examine this question. He instructed the first deputy high commissioner at Dhaka, S. Bose, that 'in strict theory, minorities must seek the protection of their Government, and not of the Government of the neighbouring Dominion.' In the same note, Dutt told the Bose 'You should advise the complainants accordingly, while at the same time keeping a note of the complaints so that at a suitable opportunity, either informally or on the occasion of the Chief Secretary's or Premier's Conference, you can point out that minorities are not being treated in the way provided by the Delhi Agreement'.⁵³

S. Sen, Chief Secretary of West Bengal in 1948, grasped the nuances of this problem immediately. In response to a query from the deputy high commissioner in Dhaka, Srijut Basu, as to how complaints of harassment from minorities in Pakistan should be dealt with, Sen pointed out 'If we want our High Commissioner or Deputy High Commissioner to pursue complaints from Hindus in East Bengal, a similar request from Pakistan is sure to come.'⁵⁴ Too close a relationship between the minority populations and the diplomatic missions would also lead to 'Muslims in India coming to regard the government of Pakistan as their protector' and which would 'be taken advantage of by Pakistan and will lead to embarrassing results in actual practice.' Moreover, the consequence of such a policy would also require the granting of facilities to the Pakistan deputy high commissions to 'visit all parts of the Indian Union, since it is their contention that that Muslim migration has been taking place from all across the Indian Union.' On the whole, Sen considered, the best course of action would be to advise complainants from minority communities to seek the assistance of the district minority boards. These had been set up in accordance with the inter-dominion agreement of 1948, and were meant to be an

⁵³ 'Line of Approach for the Deputy High Commissioner at Dacca in dealing with the complaints from persons from minority community in East and West Bengal', File No. 23(44)- Pak III/ 50, MEA Archives

⁵⁴ Ibid

avenue for assistance for concerns of minorities. Yet, the strategy of leaving minorities to grapple with their own government without any assurances of security from diplomatic missions based there was also risky. It was feared that this would lead to an increase in the numbers of migrants. Sen acknowledged that the possibility of diplomatic offices being used to pursue complaints with the local officials in East Bengal, would have a 'steadying effect' on Hindus who wished to leave East Bengal and migrate to India.⁵⁵

This was often ambiguous terrain: although the practice of the Deputy High Commission being a place for appeal for Hindus continued well into the late 1950's, the precise significance of such a practice was not clear. Subimal Dutt, has written, that 'Nehru himself was not clear in his mind as to what the Government of India could do to assist those who were nationals of Pakistan and were still living in East Bengal'.⁵⁶ The policy of aligning the concerns of the missions, with those of minorities' across the border thus was not always unquestioningly adopted, although this did nonetheless eventually prevail. The issue of their welfare and their movement across the border was consistently present in both major and minor bilateral dialogues across the fifties. Reports on the conditions of minorities in the two Dominions went back and forth to both the foreign offices well into the late 1950's. While such discussions had varying degrees of impact on the welfare of minorities themselves on the ground, or even on the scale of their movement, this did put in place a structure in which the welfare of minorities could be used as a bargaining counter in the relationship between the two countries.

The way in which such correspondence was handled also changed with shifts in the political climate. Following the prime ministers agreement of April 1950 -- in which

⁵⁵ Ibid

⁵⁶ Dutt, Subimal, *With Nehru in the Foreign Office*, Calcutta, 1977, p. 48

it was declared that the protection of minorities would be the responsibility of the country they resided in, and both governments were accountable to each other for the implementation of this declaration -- the foreign ministries of both governments agreed that excluding the provinces of East and West Bengal, Assam and Tripura, individual cases of complaints of harassment, need not be taken up at the governmental level.⁵⁷ The scope of formal complaints would be limited to cases which could actually affect the stability of the two governments. In effect, the proposal was intended to limit the scale at which the two foreign ministries and diplomatic missions would remain involved in the pursuit of redress for minority complaints. The Pakistani high commissioner suggested that such correspondence could be restricted to 'only major cases involving whole classes of people, breaches of clear rules, action designed to embarrass one of the two countries politically, e.g. pushing in refugees etc, and important individual cases'⁵⁸. The mission in Karachi was instructed that since complaints continued to be received from the government of Pakistan, it should present 'important cases' to the notice of the Foreign Ministry of Pakistan.

The volume of inter-governmental correspondence did not, however lessen after this exchange. Neither government could significantly distance themselves from the concerns of minorities across the border in the first decade. Although the high commissions of both countries continued to act as representatives of the minority population, this exercise was increasingly encased in a structure which co-opted the apparatus of the two nation states. In November 1948, one Surendranath Haldar, ex-Chairman of the Jessore municipality, met with B. C. Roy. His delegations' report on

⁵⁷ 'Agreement between India and Pakistan about the procedure to be adopted for representing minor cases of harassment of minorities and not individual cases', File No. 12(21)- Pak III- 50; MEA File, NAI

⁵⁸ Letter from High Commissioner of Pakistan to Ministry of External Affairs, 15 March 1950, File No. 12(21)- Pak III- 50, Ministry of External Affairs, Pak III Branch, NAI

the situation of Hindus in Jessore concluded 'The whole show of house searches, arrest warrants, and sealing of houses is to dub the individuals as enemies of the state, blackmail them in open public and strike terror into the hearts of the people.'⁵⁹ Cases of diplomatic correspondence on minority-related issues included, for instance, the situation of a petitioner whose wife had been 'abducted, and is living openly with the Muslim who enticed her away', since it was argued that this case had the potential to cause dissatisfaction amongst the public in India.⁶⁰ Taking up the causes against minority discrimination by leaders across the border was, to a large scale, legitimised by the deliberations of the inter-dominion conferences.

Items for discussion for future inter-dominion conferences thus included the institutional structures in both countries which discriminated against the minorities, whether in terms of distribution of property, providing cultural equality, educational infrastructure, as well as movement. For example, in September 1950 the Indian deputy high commissioner made a representation to the East Pakistan government that its employment of Hindu candidates in the administrative services was too low, and the ratio of its Hindu population in the province was not reflected in its pattern of recruitment.⁶¹ In December 1950, C. C. Biswas wrote to his counterpart complaining that the Pakistan government was discouraging private industrial firms from employing Hindus, and the branch secretariat undertook further correspondence on this issue.⁶² Ownership patterns of land were similarly the subject of frequent inter-dominion conversation. On his tour of East Pakistan in March 1953, the Indian high commissioner received 25 petitions from Hindus in Lalmonirhat in the Rangpur district, appealing against the requisitioning of their

⁵⁹ 'Exodus of non Muslims from East Bengal', File No. 9-10/48- Pak I, MEA, Pak I Branch, NAI

⁶⁰ Ibid

⁶¹ 'Freedom for the Deputy High Commissioners of India and Pakistan to take part in the discussions of the chief secretaries conferences', File No. PIII/53/6614/2 (S), NAI

⁶² Ibid

land by the East Bengal government. This was taken up in correspondence between the deputy high commissioner in Dhaka and the Pakistan foreign office. Such communications became increasingly routinized, and, as the reports on the implementation of the agreement noted, largely failed in producing adequate responses from either government.

On the Indian side, much of this paperwork was handled in the branch secretariat at Calcutta, rather than in Delhi; while in Pakistan, this was handled by the provincial secretariat in Dhaka, rather than in Karachi. A 'Branch Secretariat' to the ministry of external affairs had been set up in Calcutta following the inter-dominion conference of 1948. Its primary purpose was with dealing with the concerns of migrants in the eastern borders. The secretariat carried out an enormous amount of correspondence with the Foreign Ministry in Dhaka regarding the treatment of migrants at the border check-posts by the Pakistani government. Yet, its importance to the ministry in Delhi was secondary. By 1952, it was noted, 'the Branch Secretariat had been reduced to a Secretariat of the Minorities Minister and the main part of its work is devoted to long range and often interminable correspondence on individual cases of harassment of non Muslims in East Bengal'.⁶³ Although such inter-dominion correspondence was frequently relegated to a lower priority by both governments, it was nonetheless continued by both sides. In 1952, the Ministry of Home Affairs in India instructed state governments across the country to send reports to the MEA on communal incidents' in their states, 'in order to deal with representations from the Government of Pakistan or their High Commissioner in India'.⁶⁴ Moreover, the state governments of West Bengal, Assam and Tripura also participated in this dialogue, and carried out an enormous amount of correspondence with the government of

⁶³ Note by M. J. Desai, File No. PIII/53/66112/1-2, 'Indo- Pakistan Officials Conference at Calcutta regarding settlement of Eastern Zone Problems', MEA file, Pak III Branch, MEA Archives

⁶⁴ 'Communal incidents- Submission of reports to the Govt. of India by the state government', File No. L/52/6546/1 MEA, BL Branch, NAI

East Pakistan relating to instances of persecution of minorities, and with the question of the scale, and remedies for, their movement across the border.

The provincial elections of 1954 in East Pakistan brought dramatic results. The Muslim League – the party that had come to power in 1946 based on the mandate of partition – had lost, and was replaced by the United Front coalition.⁶⁵ The role of the Branch Secretariat could have conceivably changed after the elections of 1954. Indeed, M. J. Desai argued ‘In view of recent developments, it is necessary for the Branch Secretariat to take more interest in the wider political work of Indo- Pakistan relations in the Eastern Zone.’⁶⁶ It was possible that, the nature of the work of the branch secretariat would change in the aftermath of the recent elections. If the visa and passport regime of East Bengal were abolished altogether, then the size of staff required to deal with migrant traffic could be reduced. If, on the other hand, this regime was not abolished, but instead liberalised on a substantial scale, it would be ‘useful that the manner in which the new policy were implemented by the East Pakistan government would be fully known to the Secretariat.’⁶⁷ The mechanisms for bilateral cooperation evolved, thus, with developments in the governments of both countries, but did continue to remain, nonetheless a durable feature in the landscape of bilateral dialogue.

While the involvement of the high commissions made little material impact on the uneasy situation of minorities in these areas, they were nonetheless a means of incorporating the two separated state structures of India and Pakistan into the dealings of minorities with their governments. The inter-dominion conferences thus set in place a variety of structures in both countries, including contact between the

⁶⁵ This is discussed in greater detail in the succeeding section

⁶⁶ ‘Informal convention for increased direct contact on all matters concerning the Eastern Zone between the Branch Sectt and the foreign office and the Pakistan Foreign Office and the Indian DHC at Dacca’, File No. L/53/5568/202; MEA, BL Branch; NAI

⁶⁷ Ibid

ministers for minorities, exchanging information on the activities of minority commissions, setting up district intelligence bureaus, as well as exchanges between chief secretaries of the border provinces, as a means towards this. Yet, such involvement in fact made very little difference to the uneasy situation of minorities on the ground. Policies of discrimination and institutional exclusion of minorities from various structures of empowerment largely continued in both countries. Indeed bilateral communication on concrete instances of grievances of minorities, although voluminous, was generally relegated to a lower priority. Yet, bringing the issue of minority welfare into the fold of bilateral relations did bring about a structure that could stand in the way of the inter-dominion *movement* of minorities. They were thus designed as a check, and not a facilitator on cross- dominion interactions of minorities.

Instances of discrimination or violence against the minority population were thus faithfully tracked by both the foreign offices. For instance, on 1 August 1952, the ministry of external affairs in Delhi received a letter from the Pakistani deputy high commissioner in Calcutta, requesting that he be allowed to visit the town of Silchar in Assam, to enquire into disturbances that had taken place there recently. A disagreement between a Muslim shopkeeper and his Hindu customer had turned violent, and resulted in 'brickbats and stone chips freely thrown on the fixed shops and sheds in the bazaar'.⁶⁸ In the ensuing disturbance, two Muslim men were injured, and a third killed. One of the injured was from Sylhet and the question arose as to whether he should return once being discharged from hospital. The deputy commissioner pointed out that this could cause further tension in East Pakistan, and the man was persuaded to stay. Abdul Hamid Chowdhry, the Pakistani deputy high commissioner in Calcutta, accompanied by D. M. Gupta, deputy secretary in the

⁶⁸ 'Alleged communal incidents in Assam State', File No. L/52/6544/1, MEA, BL Branch, NAI

branch secretariat went on a day long tour of Silchar, talked to eye witnesses at the bazaar, and met local leaders, the chairman of the municipality board, and other state officials. Chowdhry informed his audience that the district authorities had acted with promptness and 'he would not have been able to do anything better or different from what the local officers had done.'⁶⁹ Such episodes occurred very frequently, particularly in the states of Assam, West Bengal and Tripura, and the correspondence between the two foreign offices in this period was crowded with reports and enquiries relating to such events.

Such detailed involvement of diplomats from the other dominion in the concerns of minorities across the border did not go unquestioned. Azizuddin Ahmed proposed that the Deputy High Commissioners of both countries need not contribute, since this would have consisted largely of accusations against his government on violations of agreements on minority protection. B. K. Acharya served as the Indian deputy high commissioner in Dhaka from 1952- 56. His purview was predominantly related to the condition of the Hindu population in the province. The deputy high commission forwarded, almost daily, to the foreign office in Dhaka, complaints on unlawful requisition of land, harassment of Hindus on by customs officials on the border, cases of abduction of women, seizure of cattle following raids from parties of peasants across the border, and a variety of complaints of different scale.⁷⁰ Acharya obstreperously replied that it was 'absurd that at conferences in which the deputy secretaries, secretaries, board of revenue etc. of the two provincial governments freely take part in the discussions without any objection being raised, objections should be taken only when the deputy high commissioners open their mouths.'⁷¹

⁶⁹ Ibid

⁷⁰ Copies of these complaints, and responses to them, are to be found in the Political Confidential Reports of the Home Department, National Archives Bhaban, Dhaka.

⁷¹ Acharya to S. Dutt, 1 March, 1952, File No. L/52/6614/I, MEA, BL branch, NAI

Moreover, he noted, 'the Pakistan deputy high commissioner has been speaking freely at these Conferences in connection with the desecration of mosques etc.'⁷²

The politics of the dangers of uncontrolled migration, continued well into the 1950s. The numbers of travellers who crossed the border was closely monitored on both sides, and frequently cited as evidence to support claims of mistreatment of minorities, which led to their migration. Yet, this also required an agreement of sorts between the two governments. In September 1950 a conference of chief secretaries of the eastern provinces, agreed that officials of the two dominions would jointly count the number of travellers along the two principle rail routes between East and West Bengal, along the railway routes of Darsana-Banpur and Benapole-Bongaon. Such decisions did not, however, necessarily lead to agreements on the numbers, and the two sides continued to make widely different estimates of the influx of migrants. At a press conference in Dhaka in October 1952, the Pakistani prime minister, Nazimuddin declared that since the signing of the Nehru-Liaquat Pact, approximately three million migrants -- both Hindu and Muslim -- had come to East Pakistan.⁷³ According to figures published by the government of Pakistan, some 13,06,830 Hindus, and 13,16,051 Muslims had made their way into East Bengal.⁷⁴ These estimates were rejected by the Indian government, who named this characterisation as 'the sort of simplified fact which goes down extremely well in foreign countries'.⁷⁵ In a report from the branch secretariat it was argued that the system of joint counting of migrants along these two routes was frequently unreliable, since practices such as 'double counting' and misrepresentation of the numbers of passengers at railway check points, would prevent officials from arriving

⁷² Ibid

⁷³ File No. L/52/6658/202- Pak II; MEA, BL Branch, NAI

⁷⁴ File No. L/52/6658/202, Part II, MEA, BL Branch, NAI

⁷⁵ 'Exodus of non Muslims from Pakistan', File No. L/52/6568/202- Part I, BL Branch, MEA Archives.

at a correct estimate. Moreover, it was argued that these figures were based on travel only along these two routes, and did not take into account net influx of migrants entering from other points along the border.⁷⁶

Both governments had toyed doubtfully with the idea of a permit, and later passport, for being necessary for inter-dominion travel for many months before they were set in place. The government of Pakistan issued a Pakistan (Control of Entry) Ordinance in October 1948. This decision was also dissented with on a number of levels in the government of Pakistan. It was argued by the ministry of foreign affairs that such a permit system would largely be ineffectual in keeping large numbers of migrants out of Pakistan. The ministry of foreign affairs suggested that a less controversial means of reducing the numbers of migrants into West Pakistan would be to control the sale of lower class tickets for trains and ships for passengers from India.⁷⁷ Secondly, the foreign ministry argued, the permit system would most likely simply be ineffective in curtailing the numbers of migrants across the long, and mostly unmanned India- West Pakistan border.⁷⁸ The justifications for the introduction of a permit system were similar to those given in India: the economic threat to state governments posed by large numbers of migrants.

Although the permit system was imposed for travel along the western sector, it was found wanting on a number of counts. In India, officials both within and outside the ministry of external affairs criticised its efficiency. If control on the movement across the West was to be imposed, the permit system was a cumbersome and often ineffective means of achieving this. Four months after its introduction by India, in November 1948, the deputy high commissioner in Karachi, Kirpalani, reported that

⁷⁶ 'Note by D. M. Gupta', File No. L/52/6658/202, Part II, MEA, BL Branch, NAI

⁷⁷ Zamindar, Vazira F. Y. *The Long Partition and the Making of Modern South Asia: Refugees, Boundaries, Histories*, New York 2007

⁷⁸ Ibid

this had proved to be a cumbersome and mostly ineffective affair. He noted flatly that 'The Permit System has not served its purpose', and that 'in practise it works as a police measure intended to keep out all Muslim Pakistanis who have no demonstrable business in India.'⁷⁹ Kirpalani also pointed out that the process of issuing permits was 'arbitrary', and caused inconvenience and delay to those who wished to travel to India. Thus far, Kirpalani continued, some 16,052 permits had been issued by the High Commission- though none of these were 'permanent', and could be used for temporary visits to India. Moreover, their validity was often denied, or difficult to verify, in India. For example, the Office of the Commissioner of Police in Bombay noted that that it was possible for visitors to circumvent the provisions of their temporary permits, since the state authorities could not verify the terms of their permit with the issuing authority in time.⁸⁰ The consensus thus was that the permit system was insufficient in effectively controlling cross-border travel. Yet, decisions to strengthen this were made slowly and both sides pondered over on both sides for many months before being put in place.

In 1952, an inter-dominion passport conference was held, in which the modalities for control of Inter-dominion movement were worked out. Vazira Zamindar has argued that the introduction of passport brought about a 'categorical closure' in defining the nations of divided south Asia.⁸¹ Yet, it is necessary to remember that this was done on a reciprocal, and mutually consensual, basis. Both governments had a clear eyed understanding of its consequences for inter-dominion travellers, and, moreover, put these systems in place in consultation with one another. Moreover, there continued to be ambivalence about how strictly such a system should be imposed, even after it

⁷⁹ Ibid

⁸⁰ 'Intelligence Bureau notes regarding Permit System', note by deputy high commissioner, F. 26-189/48 Pak I, MEA file, NAI

⁸¹ Zamindar, Vazira F. Y., *The Long Partition and the Making of Modern South Asia: Refugees, Boundaries, Histories*, New York, 2007, p. 191

had been set in place. In 1953, an inter-dominion conference on passports was held in New Delhi. In a note for the Conference agenda Badruddin Tyabji, a senior official in the Ministry of External Affairs in India, pointed out that imposing such a system along the eastern borders was in fact more disadvantageous to India. He argued that the Indian delegation could offer to abolish the requirements for passports and visas in the Eastern zone, and if the question arose, could offer to abolish the passport and visa system altogether for Inter-dominion travel.⁸² Delegates at this conference agreed to set up more offices to issue visas and passports in Shillong, and Bombay for Pakistan, and at Rajshahi and Hyderabad (Sind), for India.⁸³ Finally, it was also decided that the applications for visa for inter-dominion travel would be categorised, and would have to be cleared from the Ministry of Home Affairs, which would consult the state governments of the places the visa was sought for.⁸⁴

The machinery for inter-dominion migration was thus complex and multilayered. Although there were a variety of disagreements with regard to inter-dominion travel and migration, it was nonetheless necessary to incorporate the infrastructure of the state into these. Both governments, moreover consistently worked with each other to keep these in place, and to use them as a means of controlling the uncertainties of inter-dominion migration.

Propaganda and the No War Pact Correspondence

Almost as important an issue as the signing of the minorities agreement, was the question of how it would be covered by the press. The two governments embarked on fairly substantial exercises for publicising their peace making overtures. The

⁸² 'Indo- Pakistan Officials Conference at Calcutta regarding settlement of Eastern Zone Problems', File No. PIII/53/66112/1-2, MEA Archives

⁸³ Ibid

⁸⁴ 'Indo Pakistan Passport Conference, 1953- Implementation and Ratification of Decisions', File No. 34(1)53- PSP, MEA Archives

aftermath of the Nehru-Liaquat pact for example, saw a flurry of activity on both sides to utilize the improvement in atmospherics to bring about some lasting changes in media portrayals of each other. A dispatch in the second half of April 1950 from the Indian Deputy High Commissioner in Lahore wrote of an 'an almost unbelievable change' that came around with 'open and enthusiastic talk of close and cordial relations between India and Pakistan on every side'⁸⁵. What also comes across strongly is the impulse to utilise the limited machinery of the government in highlighting the achievements of the Nehru-Liaquat pact:

'The following further action has been undertaken: One lakh copies in Bengali and 50,000 copies each in Urdu and Hindi of a booklet containing the Agreement as well as extracts from the speeches of the Prime Minister in Parliament and his broadcast to the Nation, and of the Prime Minister of Pakistan's speech in Pakistan Parliament and his broadcast have been issued for wide distribution. State governments have also been requested to bring out regional language editions of this booklet.'⁸⁶

Moreover, a delegation of editors from Pakistan was invited to visit India, in the aftermath of the Nehru-Liaquat declaration. After his interaction with the president of the Pakistan Newspapers Editors Conference that , Nehru noted delightedly that 'It is evident that the Pakistan Editors have been powerfully affected by their visit to Delhi. Their old conceptions have changed and they are going back full of the determination to preach peace and cooperation. I have no doubt of the sincerity of their present feeling'.⁸⁷

⁸⁵ Fortnightly Report of deputy high commissioner of India in Lahore, for 15-30 April 1950 in File No. F10(11)Pak III/50, 'Implementation of Agreement on Evacuee Property' MEA Archives

⁸⁶ Note of S Dutt on Meeting of the Information Consultative Committee in New Delhi on 6 May 1950, File No. 4(210 Pak/50 of 1950, MEA Archives

⁸⁷ Nehru's Note on Meeting with Editors, 7 May 1950, File No 4(21) Pak/50, MEA Archives.

Changing the tone of the press coverage on India-Pakistan relations, thus offered a powerful incentive for the leadership on both sides. In December 1949, at the height of the refugees' crisis, Nehru had sent a draft declaration of a No War Pact to Liaquat Ali Khan. The declaration would state that both governments were committed to 'maintain good relations between the two countries, and advance the cause of world peace.'⁸⁸ According to such a declaration, both governments would commit themselves to the position that neither would declare war on the other in the first instance. The governments of India and Pakistan would therefore resolve all their disputes by negotiations, arbitration, and mediation, and renounce the use of war as an instrument of state policy. Nehru wrote to Liaquat saying that signing to such a declaration would 'lessen the unfortunate tension that exists between our two governments, and produce an atmosphere which is more favourable to the consideration and settlement of particular disputes.'⁸⁹ The two then embarked on a lengthy and voluminous correspondence -- more than two hundred letters and telegrams were exchanged -- on what the exact terms should be in the text of such a declaration, and the exact procedures of arbitration could be used to settle the outstanding disputes between the two countries.

Sir Girija had summoned the Pakistani high commissioner to India, and opened negotiations on what the exact wording in such a declaration could be, in December 1949. The high commissioner, Zahid Hussain, replied that existing disputes relating to Kashmir, Junagadh, the Canal Waters, and Evacuee Property ought to be settled first, but promised to explore the matter further with his government. What was also recognised from the outset was that the real question was not of persuading the other of the righteousness of giving up of force as a tactic, so much as the extent to

⁸⁸ Nehru to Liaquat Ali Khan, January 18 1950, *Correspondence which has taken place between the Prime Ministers of India and Pakistan on the subject of the 'No War Declaration'*, Ministry of External Affairs, Govt. of India, 1950

⁸⁹ Ibid

which agreement could be reached on the kinds of means to be employed for resolving outstanding disputes.⁹⁰ Such a declaration, in itself, would not have guaranteed that India and Pakistan would never go to war again. Indeed, what is relevant to note about the correspondence is that this was almost entirely an issue about propaganda.

Once in motion the correspondence was thoroughly publicised by both governments. It attracted a great deal of speculation in the press, and was reprinted in newspapers in both countries as the exchange continued. It was important for both governments to show that they had made genuine efforts towards lasting peace, and that failure towards this object was not due to a lack of flexibility on their part. Both Nehru and Liaquat, moreover, stood in their Constituent Assemblies to report on the progress of the exchanges, and weathered questions from challenging political opponents on its outcome. An editorial in the Dawn newspaper claimed that the proposal had 'lit up considerable hope and expectation in the hearts of all men of goodwill in Pakistan and Bharat'.⁹¹ At a speech at Gilgit in February 1950, Liaquat declared 'as far as Pakistan was concerned, I have repeatedly made it clear that we do not desire any conflict with India, which is bound to end in the ruin of both countries.' In India, it became necessary for 'our line to be communicated to individual press correspondents', since, 'unless we release our own proposals, the Indian press as well as the world outside would only know of Pakistan's counter proposals.'⁹² The correspondence carried on for almost a year, across the period of the Bengal crisis, as well as during the subsequent signing of an inter-dominion agreement to jointly undertake to protect the interests of minorities.

⁹⁰ Note by S. Dutt, 19 December 1949, File No. 23 (75)- Pak III/ 50, 'Joint Declaration by the governments of India and Pakistan', MEA File, MEA archives

⁹¹ *Dawn*, Editorial on 29 November 1950, Excerpted in File No. 23 (75)- Pak III/ 50, 'Joint Declaration by the governments of India and Pakistan', MEA File, MEA archives

⁹² File No. 23 (75)- Pak III/ 50, 'Joint Declaration by the governments of India and Pakistan', MEA File, MEA archives

The crux of the correspondence concerned the methods of arbitration and mediation which both sides could agree on. While Pakistan argued for more detailed processes of mediation to be clearly incorporated into the text, India preferred a more general declaration which renounced war, but which left the methods of mediation unspecified. Nehru was initially unequivocal in his advocacy of signing such a declaration -- he wrote to G. S. Bajpai, arguing that the outstanding disputes between India and Pakistan should not 'come in the way of the declaration. If the questions could be decided without the declaration, no need for the declaration arises. It is in order to ease the situation between the two countries and help in creating an atmosphere of peaceful settlement of disputes, that we have made our proposal.'⁹³ He added 'This would be a further step which would be difficult for the Pakistan government to refuse to take... [and] in any event, will be helpful to us in different ways.'⁹⁴ With these incentives, Nehru urged his cabinet to consider accepting arbitration by external bodies on the question of the Evacuee Property, and Canal Waters disputes. At a press conference he went on to argue that a declaration of no war, would allow the possibilities of direct negotiation, and failing that, reference of that problem to a judicial tribunal could be applied in the various Indo Pakistani disputes.⁹⁵

In Pakistan too, the possibilities in the declaration were quickly pared down to its concrete implications. One key implication from such a deal was that Pakistan would acquiesce to the current status quo in Kashmir. Liaquat wrote to Nehru saying that his government would welcome a No War agreement with India, but that it should contain in its wording specific bodies of arbitrators in the disputes, whose decisions would be binding, and a time frame within which they could settle

⁹³ Note from Nehru to G. S. Bajpai, 4 December 1949, SWJN, SS, Vol 14, Part 1, p.4

⁹⁴ Ibid

⁹⁵ Press conference in New Delhi on the No War proposal, 6 January 1950, SWJN, SS, Vol 14, Part 1, p.15

the disputes. Liaquat pointed out, both India and Pakistan were members of the United Nations, which in itself implied that they had renounced war like means for the settlement of disputes. For a declaration to have any weight, argued Liaquat, it would need to contain 'concrete and precise suggestions regarding the procedure to be followed in the settlement of disputes.'⁹⁶ Liaquat declared in the floor of the Assembly that 'even if these disputes could not themselves be settled at least the procedure for settling them could be laid down by agreement in precise terms so that both parties entered into firm commitments which would in the course of time definitely lead to resolution of disputes.'⁹⁷ What the Pakistani Foreign Ministry argued for in the No War negotiations was for a commitment to a standing position on these issues; such a declaration would, Liaquat agreed, be welcomed in Pakistan, as well as in the United States.

It was clear, however, from fairly early on in the correspondence that this declaration would not materialise. The idea was examined, and then unravelled, quickly, within the space of three months. But it was critically thought through by officials in both governments. By August 1950, the tone of Nehru's letters in the correspondence had altered, and the possibilities of having mechanisms of arbitration included in the text were withdrawn. Nehru wrote to Liaquat, saying that although his government had given careful consideration to the matter of having a detailed plan of arbitration in the text of the agreement, it was felt that such a plan would not work. He maintained that a straightforward declaration stating that neither would resort to war would be sufficient. But the Indian government had eventually balked on counting the cost of Liaquat's suggestions for the No War declaration, and, on the whole, felt it was

⁹⁶ *Correspondence which has taken place between the Prime Ministers of India and Pakistan on the subject of the 'No War Declaration'*, Ministry of External Affairs, Govt. of India, 1950

⁹⁷ File No. 23 (75)- Pak III/ 50, 'Joint Declaration by the governments of India and Pakistan', MEA File, MEA archives

unwise to commit to these provisions. Recognizing the role of other mediators in the settlements they suggested for the Canal Waters and Evacuee Property dispute was not a position that the Ministry in Delhi felt comfortable with. Losing an exclusively bilateral footing with Pakistan would be a disadvantage, and a declaration that officially committed them to accepting the awards of international mediators- that may well not be in their favour- was therefore not acceptable. There was no need to give up as much ground on the various outstanding disputes; a commitment to arbitration, it was argued, would only limit options. Moreover formally ceding so much ground on the issue of arbitration would not necessarily lead to yield to correspondingly positive results, particularly when there were a number of potentially serious problems which could later arise in the relationship anyway. The *Times of India* was approving. An editorial in November 1950 noted that the failure of the correspondence in producing a declaration should 'leave no room for wishful thinking in New Delhi.'⁹⁸ Moreover, the editorial continued, 'At a time when the cold war interferes violently with the independence of judgement of most nations, India... cannot afford to surrender its vital interests to third party judgement.'⁹⁹ Counting the cost of the No War declaration, therefore, took the ministry further away from consenting to signing the declaration.

A joint declaration renouncing the use of war never materialised from this correspondence. Yet, the progress of the correspondence in 1950 reveals a variety of agendas under complicated circumstances. What is significant about the No War correspondence was that it acknowledged, and vocalised the possibility that India and Pakistan could have a stable coexistence. Although the ways in which the two could gain a stronger position visavis the other were consistently explored, the India

⁹⁸ *Times of India*, 30 November 1950

⁹⁹ Ibid

Pakistan dynamic was also based on the necessity of needing to be clearly separated from one another. Such a situation allowed for a fairly elaborate smoke and mirrors game being played in both countries, although an examination of the concrete decisions made with regard to one another do reveal very pragmatic calculated, and inherently stable approaches on the positions to be adopted. While it never materialised, the possibility of having such a declaration made, did, nonetheless, need to be articulated. What the exchanges also reflected was the basis of mutual recognition of both sides being sovereign, and separated, entities. Such a separation needed to be cemented, and the correspondence revealed a consideration of one way in which this could be asserted.

Interestingly enough, the correspondence also coincides with a period when Nehru had threatened to resign, over the issue of troubles in Bengal. To Krishna Menon, he wrote 'There is far too much friction and pulling in different directions and intrigues.'¹⁰⁰ He had had a detailed discussion with Sardar Patel on the issue, and had argued that their approaches to Pakistan, and the issues of minorities were too wide to scale: 'There is a constant cry for retaliation and of vicarious punishment of the Muslims of India, because the Pakistanis punish Hindus. That argument does not appeal to me in the slightest. I am sure that this policy of retaliation and vicarious punishment will ruin India as well as Pakistan.'¹⁰¹ The initiation of the correspondence by Nehru thus also simply reveal his attempts at regaining control over the making of policy with Pakistan – something that was frequently challenged by a variety of actors within and outside the government.

Agreements between governments renouncing the use of war had been repeatedly undertaken during the inter war period in Europe, as a means of trying to preserve

¹⁰⁰ Nehru to Krishna Menon, 20 March 1950, SWJN, S. S. Vol. 14, part 1, p. 129

¹⁰¹ Nehru to Sardar Patel, 26 March 1950, SWJN, S. S. Vol. 14, part 1, p.147

the existing balance of power. For example, the Briand Kellogg Pact had been signed in Paris, in August 1928 between fifteen states, including the United States, Germany, and France. All the signatories of this Pact agreed to outlaw war as an instrument of national policy; and to settle their dispute by peaceful means. This had mainly been envisioned as a pre-emptive measure by the United States, to address growing concerns in France about the need to contain Germany's strength and to retain the balance of power in inter war Europe. In applying such a concept in his dealings with Pakistan, Nehru was defining the Indo Pakistani relationship as one that was admittedly, tense, but one which could also be negotiated in the frameworks of international relations which were in place. It was necessary to give India and Pakistan identifiable faces in terms of an international dispute, and one which could also be addressed within these parameters.

By May 1950, when the pressure of the East Bengal refugee movement had somewhat abated, Liaquat met with the Secretary of State for Commonwealth Relations, Gordon Walker to argue that in the event of such a military build-up again, the Commonwealth pledge to give concrete assurances of support against the aggressor. Indeed, in his despatches, the British High Commissioner to Pakistan, Sir Lawrence Grafftey Smith, had advocated that the United Kingdom support a guarantee to maintain the territorial integrity of India and Pakistan; and moreover, and that the Commonwealth pledge their support for defence against the aggressor in the event of an Indo- Pakistani war. These recommendations, were however, rejected for the moment in London. Gordon Walker, replied to Liaquat, that it would be difficult to make such a pledge; and it was difficult to decide who the aggressor was.

Yet, what is also striking about the reports from the Commonwealth Ambassadors over the buildup of troops in the Indian side, is the temperateness of their suggestions for response. Sir Archibald Nye, the British High Commissioner in India advised his government not to make formal contact with Nehru for the moment over the East Pakistan question. In a memo to the British Cabinet, he argued that the government wait longer for events to unfold, rather than many any direct interventions for the moment. The two Prime Ministers themselves were already in close touch, and Liaquat Ali Khan was due to arrive in Delhi in a few weeks. Moreover, attempts at direct intervention by the British in the past yielded limited results. When the High Commissioners of Canada, Australia and the American Ambassadors to New Delhi met with Archibald Nye, to discuss the buildup of tension over minorities in East Pakistan, their consensus was to send a tempered account of the political developments in South Asia, to their respective governments. 'Our joint impression was that there is unlikely to be any substantial amplification of Indian troop dispositions before Liaquat arrives to Delhi'.¹⁰²

Similarly, Loy Henderson, American Ambassador at Delhi at the time, while responding to the question of Zafrullah Khan, the Pakistani representative at the United Nations, also advised his government to take no formal action over the troop movement. Although he would convey to Bajpai, the concerns expressed by Pakistan to the American government, and urge them towards signing the joint declaration, his telegram also noted 'If either the Indian and Pakistani Prime Ministers were to actually refuse to a meeting, this would then bring much to the fore whether the situation should be brought before the Security Council.'¹⁰³ This was also endorsed by the United Kingdom. The Commonwealth Relations Office, in a telegram to the

¹⁰² Telegram from U. K. high commissioner in India to Commonwealth Relations Office, 28 March 1950, File No. FO 371/84253, 'India-Pakistan Relations', PRO

¹⁰³ Telegram, U.K. high commissioner to Washington, to Commonwealth Relations Office, 27 March 1950, File No. FO 371/84254, 'India-Pakistan Relations', PRO

Australian Foreign Ministry, pointed out that 'while the tension between the two countries may be extremely grave, we do not think we should be precipitate in deciding to refer yet a further dispute to the Security Council.'¹⁰⁴

Thus the logistics for various possible solutions in relieving the India Pakistan tensions had been worked out from a very early date; and the possibility of viable means of settlement were always available as plausible options. What is significant about the India Pakistani negotiations was not the *lack* of a solution, or the unawareness about its benefits, as much as the ways in which both governments chose to follow policies which differed. Yet, what was also implicitly recognised, was the descent into outright war between the two countries was not, in fact, a headlong and impulsive calculation. What was apparent to those concerned with matters relating to the India Pakistan dispute was that the question of either side resorting to war on an impulse, and without careful calculation of the consequences, was not a likely possibility.

By October 1950, although the no war correspondence still continued, its urgency had been lost. In a letter to Nehru, Liaquat noted that the course of the No War correspondence had shown that 'the crux of the difficulty is the reluctance of your government to substitute on any issue, impartial arbitration for threatened and actual use of force.'¹⁰⁵ Nehru denied this, and argued that the mechanisms for resolving outstanding conflicts had in fact been put in place. The correspondence ended with the two briskly trading allegations over the various failures in reaching a settlement on the Canal Waters dispute, Evacuee Property and Kashmir. However, in a speech to parliament in November 1950, by which time hopes for such a

¹⁰⁴ Outward Telegram from Commonwealth Relations Office to U.K. high commission in Australia, 24 March 1950, Ibid

¹⁰⁵ Liaquat to Nehru, 21 October 1950, *Correspondence which has taken place between the Prime Ministers of India and Pakistan on the subject of the 'No War Declaration'*, Ministry of External Affairs, Govt. of India, 1950

declaration materialising had been shelved, Nehru maintained that every attempt had been made by his ministry to persuade Pakistan of the benefits of the pact. 'India's will to peace', he continued 'is no less than that of Pakistan's, and I can give a common assurance that we shall continue to work for peace with our neighbour.'¹⁰⁶

Although the correspondence failed to materialise in a declaration in 1950, this was not the only time that such a possibility had been examined. The possibility of a such joint declaration tempted the leadership of both countries at various junctures in the India- Pakistan relationship Nehru would renew his offer again in 1956, and 1962. In 1959, Pakistan made a 'joint defence proposal' to India, and, some twenty years later, a 'No War' offer was made by President Zia.¹⁰⁷ The proposals moreover were not rejected in instinctive and hasty reaction to the idea of compromising with Pakistan. They offered a powerful incentive, as a way to try and change the moment, as well as the advantages of the international approval this could bring. This was taken note of, in an editorial in the Dawn in September 1950, which pointed out 'the Pakistan Prime Ministers' oft repeated views that a war between India and Pakistan would be disastrous to both is echoed by everyone; and an intransigent attitude by the government of India may not impress impartial observers about Bharat's earnestness in first seeking an agreement with Pakistan.'¹⁰⁸

What these exercises also reveal are the attempts at asserting the disentanglement between two new state structures. Although the possibility of resorting to war over the refugees' issue was a live one, it was nonetheless important to assert that these were the manoeuvrings of two separated and sovereign state structures. Both

¹⁰⁶ Nehru's statement to parliament, 28 November 1950, SWJN, SS, Vol. 15, Part II, p.317

¹⁰⁷ Makie, Douglas C, War, 'No War, and the India- Pakistan Negotiating Process', *Pacific Affairs*, Vol. 60, No. 2, pp271- 294

¹⁰⁸ *Dawn*, Editorial on 29 November 1950, Excerpted in File No. 23 (75)- Pak III/ 50, 'Joint Declaration by the governments of India and Pakistan', MEA File, MEA archives

governments attempted to harness their machineries towards strengthening the fact of the partition. Although this frequently manifested itself in a vocal campaign against the various malpractices of the other country, it nonetheless also called for a cooperation which recognised the need for crystallising this separation. This basis for agreement, thus, gave India-Pakistan relations a greater degree of stability than is frequently recognised.

Developments in East Pakistan

Developments in East Bengal were closely watched by the external affairs ministry in Delhi. Its large Hindu population, as well as its significance to trade and economic activities in eastern India necessitated this. Moreover, officials in the Indian mission in Dhaka were frequently in close touch with leaders of the minority community, over their reaction to political developments in the country. The question of having easier access to India, moreover, was an important political issue during the elections of 1954, and strongly advocated by leaders in the United Front Coalition.

In the aftermath of the Nehru-Liaquat agreement, J. N. Mandal, a Hindu Scheduled Caste leader from East Bengal, severely criticised his government over its policies towards Hindus. Mandal, an active member of the Muslim League since the early 1940's, had been a member of Jinnah's cabinet in the dominion government, and was currently minister for law in Liaquat Ali Khan's government.¹⁰⁹ In October 1950, however, he sent a strongly worded resignation letter, which was published subsequently in both the *Dawn*, and *Anand Bazaar Patrika*. His letter castigated the Government of Pakistan for being unsympathetic to the position of the minorities. Mandal asserted that the recently concluded Minorities Pact was 'treated as a mere

¹⁰⁹ See, Sen, Dwaipan, "No Matter How, Jogendranath had to be Defeated": The Scheduled Castes Federation, and the Making of Partition in Bengal, 1945- 1947', *Indian Economic and Social History Review*, Vol. 49, No. 3, (July- September 2012)

scrap of paper alike by the East Bengal Government and the Muslim League', and that in fact the future of Hindus in East Bengal as a result of the Delhi Agreement... is not only unsatisfactory but absolutely hopeless.'¹¹⁰

Liaquat responded to these allegations in a speech to the Constituent Assembly of Pakistan. He argued that the pact had brought about significant changes, and in particular, succeeded in reducing the figures of migration across the border. He pointed out that the pact had been signed as a means of preventing a situation of war, since the alternatives to this step, which Mr. Mandal now seemed to be advocating, were an exchange of the minority populations of both countries. This scenario, warned Liaquat, could only culminate in outright war between the two countries, and 'would bring anarchy and chaos to this whole subcontinent'. He added that the 'Delhi Agreement... is the only path of sanity and peace', and that, furthermore, 'whatever resentment might be felt at the conduct of an individual, it should never be allowed to affect our national policy and our duty towards the minorities.'¹¹¹ Such episodes were carefully noted in despatches back to the ministry, and show that the politics of this region were carefully watched in Delhi. Yet, what this exchange also shows is that in order to assert a separate and sovereign existence, it was necessary to acknowledge that the concerns of minorities had to be incorporated into the machinery of the bilateral dialogue.

In February 1952, the controversy over Bengali as a state language in Pakistan came to a head. The Bengal Legislative Assembly passed a unanimous resolution recommending to the Pakistan Constituent Assembly, that Bengali be adopted as one of the State languages of Pakistan. Yet, this was vehemently opposed by

¹¹⁰ J. N. Mandal to Liaquat Ali Khan, 8 October 1950, copy in Afzal, M. Rafique (ed.) *Speeches and Statements of Quaid-i-Millat Liaquat Ali Khan, 1941-1951*, Lahore, 1967.

¹¹¹ Liaquat Ali Khan's statement in the Constituent Assembly of Pakistan, 14 October, 1950; in Afzal, M. Rafique (ed.) *Speeches and Statements of Quaid-i-Millat Liaquat Ali Khan, 1941-1951*, Lahore, 1967.

politicians in Karachi, who attempted to argue that this was a 'foreign' language. Indeed, agitators in favour of Bengali being made into a national language were frequently accused to have received help and encouragement from across the border. On the 21 February, the government opened fire on students from the University of Dhaka, and thus, Acharya noted, immediately 'sealing the significance of the movement into a martyrs' cause'.¹¹² By 24 February, the East Bengal Legislative Assembly proceedings were prorogued, and several Hindu MLAs were arrested, along with leaders of the Muslim opposition group, and staff from the University of Dhaka. Manoranjan Dhar, a member of the legislative assembly, and other minority member of the East Bengal Minority Commission was also arrested on the 25 February.

Acharya argued that the approach of the government of Pakistan towards the language movement was that senior, and Urdu speaking bureaucrats had been advising the Pakistan government against making concessions for the agitators. Moreover, he stated that many newspapers, such as the *Morning News* routinely flouted the terms of the Nehru-Liaquat Pact: 'It is astonishing how Government allows such material hostile to a country at peace with them and entirely contrary to the spirit of the Prime Ministers' Agreement to be published'. He also claimed that the *Morning News* received tacit support from the government, although it claimed to have disassociated itself from such propaganda. Acharya was thus arguing that the language movement created conditions which were hostile towards the minorities, who were uncertain about their position in the country.

Acharya argued that since the East Bengal Minority Commission could no longer function, the arrest of Manoranjan Dhar constituted a breach of the Prime Ministers

¹¹² 'Note on the Language Controversy in East Bengal'; File No. L/52/6694/202, NAI

Agreement of 1950, and therefore the Prime Minister of India should take up the issue with his counterpart in Karachi.¹¹³ In a report delivered to the Ministry late at night on the 28th of February, he said that 'since the charges against the Hindu MLAs are baseless, and since their arrests will undoubtedly defeat the purpose of the Prime Minister's Agreement, there is a good case for lodging a against these arrests at the highest level'.¹¹⁴ Acharya argued that 'the intention was obviously to find some support for these repressive measures by exploiting anti Hindu feelings. But this manoeuvre has not succeeded. Many Muslims are taking a leading part in the opposition to Government's policy'.¹¹⁵ The deputy high commissioner also reported ministry in Delhi, that the arrest of Hindus over the language issue had been encouraged by the Provincial Government, to lend colour to their suggestion that the movement was also being stoked by outside agents.

Following a meeting in Calcutta in March 1952, between Nehru, C. C. Biswas, the Indian minister for minority affairs, and with R. K. Nehru present, it was decided that Biswas should voice his concern over this matter to his counterpart, Azizizuddin Ahmed. Biswas thus wrote Ahmed, protesting against the arrest of Hindu leaders, and urged him to 'look into the facts of each case and satisfy himself personally that the arrest of the Hindu leaders was justified'.¹¹⁶ Biswas however acknowledged to Nehru that this would probably not lead to any satisfactory response. For the time being, Nehru decided to not take any further action. R. K. Nehru argued that nothing further be done at present:

'We should not, at this stage, make a formal protest to the Pakistan government. There is obviously a great deal of local opposition to the steps taken by the East Pakistan government. There are many Muslims in

¹¹³ 'Note on the Language Controversy in East Bengal'; File No. L/52/6694/202, NAI

¹¹⁴ File no. L/ 52/ 6695/ 202; 'The Language Controversy in East Bengal'; National Archives of India.

¹¹⁵ File no. L/ 52/ 6695/ 202; 'The Language Controversy in East Bengal'; National Archives of India.

¹¹⁶ Ibid

opposition. We might play into the hands of the East Bengal Government by making a more formal intervention in a matter which is essentially one of domestic jurisdiction, although the object is to divert attention from the repressive policy by exploiting communal feelings. I think we should continue to watch events a little longer'.¹¹⁷

In 1954, the United Front coalition came to power in East Pakistan, buoyed partially by support in favour of the language movement. 'There could be no doubt', Acharya declared, 'that such a victory will affect not only 'local' politics in East Bengal, but also the Constitution and the policies of the Central Pakistan Government'¹¹⁸. It was a decisive victory against the Muslim League, which had been in government since its victory of the province in 1946. Moreover, the verdict seemed to favour greater regional autonomy, and had rejected the support which the League enjoyed in Karachi. The scale of the United Front victory, moreover, certainly came as a surprise in Karachi. Mohan Singh Mehta, then the Indian High Commissioner, reported from Karachi that the expectation was that the League would win in East Bengal. He pointed out that enormous sums of money had been devoted to a frenetic campaign in that province, and that the party had, albeit belatedly, conceded the principle of Bengali being adopted as a state language.¹¹⁹

The question thus arose, as to how Delhi should react. The coming of the United Front to power was seen as an opportunity. On the face of it, it seemed that a verdict against the Muslim League in East Bengal would be a verdict in favour of looser control over the border with India, more trade, and more economic cooperation. In particular, Suhrawardy as well as Fazlul Haq had been emphasising that if the United Front came to power, they would abolish the Passport system, and would

¹¹⁷ Ibid

¹¹⁸ Ibid

¹¹⁹ File No. L/54/1331/202; 'General Elections in East Bengal: Reports from the High Commissioner for India at Karachi and the Deputy High Commissioner for India in Dhaka'; ARM Archives. New Delhi

remove restrictions on trade with India'¹²⁰. The economy of East Bengal, it was thought, was particularly dependent on trade relations with India. Yet, New Delhi was hesitant about appearing too eager to partner with the United Front. Mohan Singh Mehta, then High Commissioner at Karachi, cautioned that 'nobody in authority in India should make any comments on these Elections until things have taken shape in Karachi and Dhaka... it would give a wrong and unnatural direction to public opinion in Pakistan.'¹²¹ It was also noted that 'The present leaders of the United Front... are very anxious to come to some sort of arrangement with the centre, because the implementation of most of these requires some action on part of the centre...'¹²² In a letter to Bakshi Ghulam Muhammad, Nehru noted that the situation in Pakistan seemed to be 'fluid', but that he was unsure whether these results would bring any substantial changes in Karachi.¹²³ That language and the desire of East Bengalis to have a separate government would be critical issues facing the Pakistan government was certain; yet it was still unpredictable as to how the results would play out.

Nonetheless, while it was hoped that the election results of 1954 would change the balance of power in Pakistan to India's advantage, the prospect of a paradigmatic shift in favour of better relations with India was never anticipated. Certainly, what was recognised by all parties at the time, was that a mere provincial election result -- no matter how decisive -- could not materially alter the nature of bilateral relations. It is however interesting that even when given a mandate as decisive as this no party was willing to follow through to set up arrangements which materially altered the

¹²⁰ File No. L/54/1331/202, Elections in East Pakistan, MEA Archives

¹²¹ File No. L/54/1331/202; 'General Elections in East Bengal: Reports from the High Commissioner for India at Karachi and the Deputy High Commissioner for India in Dhaka'; ARM Archives. New Delhi

¹²² File No. L/54/1331/202, MEA File, NAI

¹²³ Nehru to Ghulam Muhammad, File No. L/54/1331/202, Elections in East Pakistan, ARM archives, New Delhi

balance of power of India or Pakistan. All concerned wanted, and continued, to work within the paradigm of existing relations, rather than change it, even when given a mandate from which it could be conceivably argued that relations between India and Pakistan could be improved, or at least changed in some aspects.

On both the Language question in East Bengal, as well as the elections, most of those concerned with policy with Pakistan, from Nehru downwards, had detailed knowledge and opinions, yet, on the surface, at least, were unwilling to upset too drastically the balance already in place with West Pakistan. Thus, decisions regarding how this exchange should be facilitated or hampered tended to be made in Delhi and Karachi, and often contrary to the recommendations of their missions. Secondly these decisions were crafted while giving more weight to the positions in Karachi and Delhi, rather than the developments in East Bengal.

At the same time, both governments had realised that their entanglement with the concerns of minorities across the border was inevitable. It was therefore necessary to set in place structures of the state through which these engagements could be carried out. This would provide for a clear separation between the states of India and Pakistan, even while they continued to be, paradoxically, intimately involved with the concerns of minorities across the border. Such an exercise moreover required a substantial amount of bilateral cooperation, for if the two new states were to have sovereign, and separated existences, then it was necessary to put in place the apparatus of two states into the concerns of those who sought the protection of both.

TRADE AND FINANCIAL RELATIONS BETWEEN

INDIA AND PAKISTAN

Indo- Pakistani trade was one of the earliest -- as well as most lasting -- issues that emerged in the making of the bilateral relationship between the two countries. A very substantial, and vital, flow of commodities, which included jute, cotton, coal and cement, was carried out within the subcontinent, regardless of the partition. Yet, relatively after 1947, the governments of India and Pakistan made it their object to create, at least the semblance of separate and independent economies. Both governments strove to differentiate their economies from each other- and regulate and quantify relations between them- from a very early date in their independent existence. This task was carried out with a view to fashion the two newly demarcated territories into sovereign and self sufficient entities. An exercise in disentangling a hitherto single economic structure which had operated over territories which now formed India and Pakistan was complicated, and impacted many areas of governance, as well as economic activity. Both countries imposed regulations on foreign trade, domestic production, and began to explore avenues of state involvement in economic activity.

In this context, crafting policies on trade between India and Pakistan could not be an exercise independent of other economic and political trends in both countries. Policies on the Indo Pakistani relationship were however influenced by a variety of economic, as well as domestic and international political concerns which preoccupied the leadership in both countries. However, such exercises were also as much a testament to what the role of government was conceived as in this period, as it was about an act of demarcation from one another. These policies were not driven

only by the need to define the economic positions of India and Pakistan as opposed to each other, but also part of an exercise that had to be carried out regardless. Policies on Indo Pakistani trade were thus heavily influenced by these wider overarching aims that both governments adopted after 1947, to demarcate their economies as clearly as possible. The pattern of Indo- Pakistani trade in the first decade of independence was also a reflection on many other political and economic concerns that prevailed at the time, as it was on the state of relations between the two countries. The early economic policies followed by the government of India and Pakistan also had to be contextualised as a means of trying to control the dangerous economic situation in both countries, impacted by the second world war, new negotiations of how the sterling balances were to be settled, attempts at utilising opportunities from international economic conditions, as well as shaping a coherent economic structure at home. This chapter will explore how the crafting of policies on bilateral trade – an activity that was impossible to completely stop anyway – were a reflection on the development of the economies of India and Pakistan, as well as being impacted by the bilateral relationship between India and Pakistan. I argue that neither government was particularly happy about its dependence on the other, and worked consistently to try to overcome these. Inter-dominion trade was closely monitored on both sides, and both governments closely regulated this activity. At the same time, however, in the decade following the partition, a fairly substantial degree of exchange of commodities was inevitable, and the bilateral relationship between the two countries was an important tool for negotiating the terms in which it could be carried out, as well as monitoring its extent.

Shaping Two Self Sufficient Economies

Both governments placed a high premium on strengthening their economic standing, as well as making them into self sufficient entities. Such ambitions could be seen in a range of activities of the new government in both countries. In India, the setting up of institutions such as the planning commission and the economic committee of the cabinet, would provide the basis for the subsequent characterisation of the era as that of the heyday of socialistic state intervention in the management of the economy, and the height of the 'Nehruvian State'.¹ The economic committee of the cabinet included many seasoned faces in leadership positions both within and outside the Congress. Key members of the committee numbered J. M. Matthai, Jagjivan Ram, K. C. Neogy, Gopalaswami Ayyangar, and S. P. Mookherjee. It was of paramount concern to them to build a strong Indian economy, and one in which, moreover, the state held an important stake in heavy industries. Their deliberations covered a variety of issues, such as the advantages of deregulation of some aspects of trade in the economy, as well as ways of positioning the economy in the broader backdrop of the conditions of the American, Far Eastern and European economies in the aftermath of the War, and subsequently, the Korean crisis. Their recommendations were not, however, unanimous, and did not constitute an easy or even universally agreed upon course. Indeed, there was a substantial amount of dissension and critique of the various economic policies of the day from both within and outside the government; and the nature, and decision- making about the extent of state intervention in economic activity was in fact contingent, and consistently questioned, from various positions in the government.² At the same time, the

¹ Broadly stated, as Benjamin Zachariah has done, the 'Nehruvian consensus' was an obligatory language of legitimacy, based on a pre-existing formulae recognising the centrality of the State in 'uplifting' the country by setting the agenda for development. See Zachariah, B., *Nehru*, London, 2002

² See, for instance, Kudaisya, M. 'A Mighty Adventure: Institutionalising the Idea of Planning in Post Colonial India, 1947- 60'. *Modern Asian Studies* (2009)

differences in the principles of Nehru's economic policies, varied fairly substantially with the ways in which they were translated on the ground.³

Similarly, the government of Pakistan adopted a proactive role in the development of its economy from an early stage. Import Substitution was a key concern in Pakistan- the Industrial Policy Document published in 1947 by the Government of Pakistan, highlighted the need for industrialisation policy geared at reducing dependence on imports. By 1949, control of industrial development was made into a central subject.⁴ A 'Council of Industries' was constituted, which consisted of representatives of strategic industries, trading interests, and members from state governments. This Council would advise the government on its Industrial policy, such as target setting for various industries, and regulations to be imposed by the centre. By 1950, the government of Pakistan had set up boards for the regulation of production and export of its key commodities, such as cotton, wool and jute⁵. Similarly, the Industries Development Corporation Act was passed in 1950, according to which a Corporation would be set up for the promotion of those industries considered vital to well being of the national interest. These industries included jute, paper, heavy engineering, heavy chemicals and fertilizers.⁶ The provincial governments also directed their efforts at rehabilitating refugees by providing support for industrial and commercial ventures.⁷ Organisations such as the Pakistan- Punjab Refugees Council were key beneficiaries of government efforts to revive the economic wellbeing of that province.

³ Frankel, Francine R, *India's Political Economy, 1947- 1977; The Gradual Revolution*, Princeton University Press, 1978

⁴ Industrial Development was a provincial subject under the Government of India Act 1935.

⁵ Annual Economic Report for the year 1950- 51 from the India Government Trade Commissioner in Karachi, Pakistan, File No. 2-30/51- Pak- I; MEA File; MEA Archives, New Delhi

⁶ Annual Economic Report for the year 1950- 51 from the India Government Trade Commissioner in Karachi, Pakistan; File No. 2-30/51- Pak- I; MEA File, MEA Archives, New Delhi

⁷ Talbot, Ian, 'A Tale of two Cities: The Aftermath of Partition for Lahore and Amritsar, 1947- 1957', *Modern Asian Studies*, 41, 1 (2007)

Policies to wean off dependence on provisions from across the border were self consciously adopted by both sides. While agreements on coal, jute iron and steel could not be avoided, both countries nonetheless also conducted in parallel the search for these supplies from other sources. For instance, after a bilateral trading agreement was signed in 1949, the economic committee of the cabinet issued a directive to the Ministry of Agriculture to 'devise plans for the expansion of production of cotton of the varieties imported from Pakistan, so as to make India independent of Pakistani cotton within a period of two years'.⁸ These considerations, then, also tempered the negotiations on trade between the two countries. By 1952, one of the most important commodities in Indo- Pakistani trade, jute, had become less relevant in the negotiations: '... Indian mills are not attracted towards Pakistani jute as there is still a large disparity between the prices of Indian jute and Pakistan jute. It is therefore clear that it will not be necessary in connection with the new agreement to barter away some concessions for the sake of securing sufficient jute supplies from Pakistan.'⁹ Both countries, therefore deliberately embarked on paths that disrupted the hitherto unitary economy in the subcontinent.

At the same time, both the Indian and Pakistani economies were in fact heavily dependent on one another after the partition, and questions relating to how this trade could be regulated while at the same time promoting measures for greater self sufficiency within both economies needed to be carefully chalked out. These dilemmas had been explored in a variety of contexts in the aftermath of the Second World War. The questions of how trading policies could co-opt, subvert, or strengthen the sovereignty of multiple nation states had been entered into great detail in Europe, after the Allies victory over Germany. The questions of how free

⁸ Record of Meeting of Economic Committee of the Cabinet, on 28th June, 1949, File No. 15 (27)ECC/49; Cabinet Secretariat File; National Archives of India

⁹ Indo- Pakistan Trade Agreement, 1952, File No. 28- Pak (15)/ 52; MEA File, NAI

trade areas could be crafted had gained greater prominence, as a means to contain the economic and military might of Germany. This induced a greater liberalisation of trade regulations within Europe.¹⁰ The creation of the Free Trade Area in Europe, and the signing of the Treaty of Rome in 1957 indicated possibilities of the shifting, and even subjugation of the sovereignty of a single nation to that of a larger economic zone.

Both India and Pakistan were also now signatories of the General Agreement of Trade and Tariffs. Both India and Pakistan had trade delegations at the second round of talks of the GATT in 1949, which took place in the scenic settings of Annecy, in the south of France. The object of these agreements was to reduce barriers for international trade, as a means of preventing further warfare between nations.¹¹ At the same time, such agreements were frequently side-stepped by many countries in the crafting of their international trading policies.¹² David Yoffie has argued, for instance, that such agreements -- such as the provision of the Most Favoured Nation, according to which all countries were to be treated equally in international trade relations -- were based on ideal conditions of liberal economics, which could not in fact be realistically applied to the political and strategic concerns that accompanied most patterns of international trade.¹³ At these meetings, the Indian and Pakistani delegations raised the matter of the collection of excise duties. Pakistan argued that the terms of the MFN clause were being violated, because excise duty was still

¹⁰ See, for instance, Laurent, Pierre Henri, 'The Diplomacy of the Rome Treaty, 1956-7', *Journal of Contemporary History*, Vol. 7, No. 3, (Jul- Oct 1972); Lynch, Frances M. B., 'De Gaulle's First Veto: France, the Rueff Plan and the Free Trade Area', *Contemporary European History*, Vol. 9, No. 1, (Mar 2009)

¹¹ Yoffie, David, *Power and Protectionism: Strategies of the Newly Industrialising Countries*, Columbia University Press.

¹² Ibid

¹³ One example of this was in the case of Canadian agricultural exports to the USA: 'Voluntary Export Restrictions' were applied to Canadian exporters for the produce they could sell to the USA in the late forties. Yoffie

charged by India on the inflow of goods from Pakistan.¹⁴ India's object of entering into a commodities agreement with Pakistan, as discussed at an inter- ministerial meeting, in May 1949, was to ask for an arrangement whereby the import and export controls for commodities flowing between India and Pakistan could be removed; given that both countries could specify the quantitative limits for allowing the flow of goods.¹⁵ Yet, the fact that trade between India and Pakistan was addressed according to these terms is significant. Decisions on the controls over Indo- Pakistani trade, and whether certain rebates or tariffs need be abolished or not, were a way of changing the terms of trade from what they had been prior to the partition, and ensuring that they were brought into the realm of international trade, and therefore regulated by the two governments.

Principles governing Indo-Pakistani trade were also based on the prevalent economic wisdom of the time. For example, Albert Hirschman, an influential developmental economist in the fifties, argued that all international trade was carried out according to the logic of states in the pursuit of their own strategic self interest. One argument made at the time about the objectives of foreign trade was that this should be based on considerations of the 'supply effect' and 'influence effect' of foreign trade.¹⁶ Foreign trade could either be a tool by which to consolidate military might, by importing the goods which were likely to strengthen the country. Such trade would be more profitably carried out with countries that were in a weaker position, or with whom there already existed friendly ties. A second effect of foreign trade, argues Hirschman, was the influence effect; through which the foreign trade of a country might become a direct source of power.

¹⁴ File No. 15 (27)ECC/ 49; Cabinet Secretariat File; NAI

¹⁵ Ibid

¹⁶ Hirschman, Albert O., *National Power and the Structure of Foreign Trade*, University of California Press, 1945

At the same time, both countries were aggressively searching out other markets for the sale of their produce. In 1950, for example, the government of Pakistan had some 650,000 tonnes of surplus wheat for export, and it was necessary for her to find international buyers for her products. At a meeting between Aziz Ahmed, the chief secretary of east Bengal and the British treasury secretary in London, on 30 January 1950, Mr Ahmad enquired about the British capacity to purchase Pakistani wheat. He was informed that the percentage already purchased in Britain could not be exceeded, and, moreover, that the prices charged by Pakistan exceeded the amount laid down by the International Wheat Agreement. Aziz Ahmed replied that the government of Pakistan was also attempting to sell wheat to the government of West Germany, but admitted to difficulty regarding the price.¹⁷

The two countries were also eager to increase their share of dollar reserves. This was a complicated task, since both the Indian and Pakistani currency were backed by the sterling, would entail a net loss of sterling reserves. The Sterling balances consisted of the share of expenditure of the government of India on mobilisation of armed forces during the Second World War. In principle, the sterling balances were to be drawn on by India and Pakistan for their developmental needs. It was hoped that the sterling debt could be used for development projects in the Commonwealth, but the 'balances' were notional, and were to be supported by the existence of a certain amount of reserve in the British economy which could support this withdrawing. These issues also impacted on their patterns of trade with the rest of the world. The United Kingdom High Commissioner, for example, noted in a telegram to the Commonwealth Relations Office:

¹⁷ Note of conversation between British treasury official and Aziz Ahmed in office of high commissioner of Pakistan to UK; File No. File No. DO 142/ 183, PRO

‘We are much exercised about the problem of Pakistan seeking from overseas supplies which she ought to get from India... The Pakistan delegation said that if their normal requirements of coal could be guaranteed them from India or elsewhere they would try to get out of the obligation to take the further 120,000 tons from the USA... We propose therefore, at this stage to try to maintain the attitude that we will not provide exchange for any purchases of coal and sugar by Pakistan from overseas beyond the 80,000 tons of coal and 20,000 tons of sugar already committed and that they would have to come to some sensible agreement with India on these and other similar matters in the forthcoming trade talks between them.’¹⁸

Under the sterling balances arrangement, India owed a substantial sum to Pakistan in sterling, which, Indian negotiators hoped, could be reduced by exporting the equivalent value of goods to Pakistan. Thus, in the initial years after partition, principles guiding the negotiations for the commodities agreement held in Karachi would have to revolve around these goals.¹⁹ In 1948, the fact remained however, that certain essential goods had to be secured from the other side of the border; policy would have to be geared towards these goods being secured, and for the time being India was in the weaker bargaining position. The crucial commodities, that impelled India and Pakistan to sit on a negotiating table were, jute, coal, cotton, tobacco, iron and steel, and mustard oil. It was also in Indian interests to liberalise her exports to Pakistan on as large a scale as possible, to try to improve her balance of payments position.²⁰

The bilateral trade policies of 1949- 1952 were thus impacted by this environment and crafted accordingly. Trade negotiations were structured according to the

¹⁸ Telegram from U.K. high commissioner in India, 11 February 1948, File No. E(B) Coll. 50/4, ‘Sterling Balance Negotiations: Question of Sterling/ Dollar Sources of Raw Material’, IOR, BL

¹⁹ Ibid

²⁰ Extract from letter of Indian Government Trade Commissioner in Pakistan, dated 27th May, 1949; File number File No. 15(27) ECC/49; Cabinet Secretariat File, NAI

patterns of demand in each country: in India, the principle adopted was of a quid-pro-quo with regards to trading with Pakistan. For instance, if Pakistan agreed to import on a larger scale Indian cotton textiles, then India would consider releasing a larger supply of coal, or cement. Yet, the report of the Indian government trade commissioner noted that 'All elaborate plans for the expansion of the Indian textile industry will receive a serious setback if we were to lose a substantial portion of the cotton market in Pakistan.'²¹ Similarly, he recommended to Delhi in May 1949 that the regulations for trading with Pakistan should be reduced. He argued that 'It is true that the Pakistan government have used recently a portion of their foreign exchange for the importation of certain capital goods and a variety of consumer goods. The view usually put forth by the Pakistan government is that they have had to embark on substantial imports from other foreign countries because they could not get the required goods from India in time'.²² Moreover, he pointed out, that this situation would not be improved unless there was a reduction in the import and export duties for goods from Pakistan, accompanied with a simplification of import and export regulations.

Yet, there was disagreement with these kinds of policies being adopted. This could be seen, for example, in a letter from Sardar Patel to Nehru, counselling him that 'discussions on trade, tariff policy, customs and economic control be carried out in a more 'coordinated' manner, particularly when they concerned Pakistan.'²³ He argued that the 'barter agreements' which had been concluded with Pakistan, providing for an exchange of cotton cloth for cotton, and wheat for rice, would, in the long run, endanger India's positions of advantage with regard to Pakistan.

²¹ Letter from Indian government trade commissioner, Karachi, May 1949 to CC Desai, Commerce Secretary; File number File No. 15(27) ECC/49; Cabinet Secretariat File, NAI

²² File No. 15(27) ECC/49; Cabinet Secretariat File, 1949, National Archives of India

²³ Note by Sardar Patel, 3 February 1948; File No 94/CF/47, Part II; Cabinet Secretariat File, NAI

Agreements concluded in isolation of the complete picture, would, he argued present [a] '...substantial danger of our sacrificing the bargaining advantage which we undoubtedly hold in certain matters and of Pakistan securing advantage over us in certain others in which we are in a comparatively weak position.' Therefore, he suggested, a committee should be set up in Cabinet 'to coordinate all our dealings with Pakistan on fiscal, financial, economic and other matters'. He also suggested that future negotiations with Pakistan be presided over by the ministry of external affairs. This Committee would include secretaries of all ministries concerned in negotiations with Pakistan, such as the Food, Relief and Rehabilitation, and Industry and Supply. Patel also recommended that H. M. Patel, and H. V. R. Iengar, senior civil servants, who had had experience in dealing with matters arising out of partition, be placed on the Committee. In accordance with this suggestion, such a committee was then set up, consisting of the Prime Minister, the Finance Minister, the Commerce Minister the Minister for industry and supply, the minister for relief and rehabilitation and the minister for food. Thus, although trade relations between India and Pakistan did continue, they were also certainly impacted by other disputes within the relationship.

At the same time, inter-dominion trade relations had to be governed with the objective of making both states in fact self sufficient from the goods of the other. Regulation of inter-dominion trade was strictly monitored by both governments, and anxiously controlled. Indeed, the crafting of policies on bilateral trade were also a reflection of the separation of the economic trajectories of India and Pakistan, both of whom were eager not to rely on the other for the development of their economies. It was necessary, however, for India and Pakistan to firmly uphold the principles of their separation and sovereignty, particularly in setting out the terms of inter-dominion trade.

Trade relations between India and Pakistan quickly became another arena in which to delineate the internal and the external; and, by extension, the place for claiming the right to decide internal reaction, to 'external' decisions. Nonetheless, trade policy could not be cut off from the political compulsions, and commercial concerns in both countries. The Secretary for Food in the government of India also argued, in May 1950, that 'we shall need all we can get from Pakistan during the period the new agreement with Pakistan is likely to cover...to my mind, therefore import of grain from Pakistan is essential'.²⁴ In November 1950, the Economic Committee of the Cabinet in India held a meeting to ascertain just how much steel could be exported to Pakistan, and whether this quantity could be increased. The meeting was also attended by representatives from the Tata steel company. It was decided that while Pakistan's demand of ... tonnes could not be entirely met, a certain proportion of that demand could be sent across.²⁵ Policies on trade between India and Pakistan, were thus hesitantly made, both countries being anxious to develop their trading patterns in different directions. Since bilateral trade could not be stopped, it was necessary to change its terms to reflect the fact of the partition, and that India and Pakistan were now two entities.

Sterling Balance Negotiations and the Devaluation Crisis

The financial assets of both countries included the sterling balances, and one set of negotiations between India and Pakistan examined the ways in which the sterling balances could be utilised for financial transactions between the two. The Sterling Balances of India and Pakistan, were thus also largely a notional debt, which could be used to guarantee the expenditures of both government with regard to their foreign trade. The developments in the sterling area were significant to the

²⁴ File No. 15(27)/ECC-49; National Archives of India

²⁵ File No. 15(27) ECC/49; Cabinet Secretariat File, 1949, National Archives of India

economies of India and Pakistan. India and Pakistan were both members of the Sterling Area -- countries that traded with each other based on the standard of the pound. Both the Indian and Pakistani currency, moreover was backed by the sterling.²⁶ The Sterling Balances therefore were an important consideration in the framing of economic policy and external trade relations, at least in the early stages of their economic planning. The Sterling area offered an opportunity to define the shape of the role of the Commonwealth, as well as an avenue of positioning the economies of India and Pakistan within it.

In 1948, India had proposed that a currency exchange control be worked out between the two governments. Pakistan had argued that the trade with India be valued, and paid for, in terms of sterling; and the extent to which this could be agreed to by India was the subject of many of her discussions on the 'Payments Agreement' with Pakistan. Pakistan was, moreover, owed some £6 million sterling under the allocations of the Sterling debt.²⁷ In India, however, it was argued:

'It is not possible to consider the Commodities agreement in isolation, as our payments liabilities would be an important determining factor for our general as well as particular import and export control policies in regard to Indo- Pakistani trade. If our views on the payments question are not accepted by Pakistan, our objective should be to import from Pakistan only the minimum quantities of essential commodities and export to that country Indian goods as liberally as possible, in order to reduce our deficit in the balance of payments position.'²⁸

²⁶ Catherine R. Schenk, *Britain and the Sterling Area: From Devaluation to convertibility in the 1950's*, London, 1994

²⁷ Note of conversation between Secretary of State for Commonwealth Relations, Nehru and Ghulam Muhammad at Columbo Conference, File No. 142/ 201, 'Pakistan Decision not to Devalue Rupee'; PRO

²⁸ 'Summary for the Economic Committee of the Cabinet', September 1949 , File No. 15(27) ECC/49; Cabinet Secretariat File, NAI

Payment of the sterling balances from the United Kingdom to the governments of India and Pakistan took place in various forms: as securities for the issue of Indian currency, in the supply of 'essential goods' from Britain on the Open General License under various Trade Agreements with India and Pakistan, and as funds released for developmental expenditure in the two countries under various arrangements with the Commonwealth. A large share of the concerns relating to the framing of Trade Agreements between UK and India and Pakistan related to outstanding sterling balances. In 1948, the impasse on arrangements for payments for trade between India and Pakistan were, similarly, of concern to Britain, since, 'In these circumstances our only card of entry seemed to be to put the matter to the Indian delegation on the grounds that the dollars, involved in Pakistan's being compelled to buy coal from the USA, if her economy were not to come to a standstill, were an alarming and unnecessary drain on the control Reserves'.²⁹

One way of giving shape to the sterling balances of the colonies was to harness them for development plans in the commonwealth. In 1950, the Colombo Plan was finalised, according to which India, Pakistan and Ceylon would utilise a planned, annual drawings on the balances for the development expenditure in these countries. The Commonwealth Finance Ministers' Conference in London in November 1950 also floated the idea of the balances being used as a base for development of the Commonwealth area. Yet this was largely unsuccessful, since most countries opted to utilise the sterling balances for their own development, rather than as a collective resource.³⁰ It was difficult to get agreement from all the members of the Commonwealth as how to how the balances could be used

²⁹ Telegram from UK High Commissioner in India to Commonwealth Office, 11 February 1948, File no. IOR: L/E/9/303, 'Sterling Balance negotiations 1948', Economic and Overseas Department Collections, India Office Records, British Library

³⁰ Catherine R. Schenk, *Britain and the Sterling Area: From Devaluation to convertibility in the 1950's*, London, 1994

collectively. Yet, what was also increasingly discussed was how the claims on sterling could be settled with contributions from dollar based reserves.

Negotiations between India and Pakistan and the United Kingdom began immediately after independence, and continued till the end of 1948. Since the debt was notional, negotiations on the balances were aimed at limiting the extent to which Britain would be liable for the sterling debt, a weight that Britain's post war economy could not support. It was argued that the unstable ratio of the Sterling reserves against the Sterling Balances would adversely affect the stability of the economy. The vision of the commonwealth as a 'third force' briefly entertained in the Foreign Office during the war were not destined to be fulfilled. Britain's professed intentions of maintaining ties with India and Pakistan through the Commonwealth; and her priorities of utilising of the Commonwealth as a means of influencing events in these countries were eventually suborned to her aim of remaining an influential power after the havoc of the war.³¹ As far as Britain was concerned, the sterling debt was seen as a hindrance to her post war economic recovery, regardless of the arguments made by those who saw the settlement of these debts as a 'moral responsibility'.³² However, these discussions can also help to clarify the extent to which the subcontinent, and Britain's ties to the Commonwealth were negotiable with her other strategic concerns. B. R. Tomlinson points out that economically, the subcontinent's position as a strategic asset drastically declined after the war, and therefore a resolution of the Balances question was not seen as critical to British strategic interests.³³

³¹ Anita Inder Singh: *The Limits of British Influence: South Asia and the Anglo American Relationship, 1947- 56*; London, 1993

³² See, for instance, Gilpin, A. C. *India's Sterling Balances: A Report prepared for the Indian Affairs Group of the Fabian Society*; April 1946

³³ Tomlinson, B. R. 'Indo British Relations in the Post Colonial Era: The Sterling Balances Negotiations, 1947- 1949'; *Journal of Imperial and Commonwealth History*, vol 13, no. 3, May 1985

At the same time, difficult relations between the governments of India and Pakistan would also hamper the sterling balance negotiations, since the two countries would have to resort to importing essential items from other countries, and draw on their sterling reserves to do so. For instance, the sterling balances delegation was instructed to 'discuss with India and Pakistan the possibility of further dollar saving by the stepping up or the redirection of their own exports and the restriction of imports in certain cases'³⁴. A meeting of the 'Overseas Negotiations Committee' in February 1948 noted that 'It was difficult to judge the merits of any proposals for dealing with India without also considering the treatment of Pakistan. If we gave India less dollars than they had planned to spend, the Indian government might succeed in redressing their balance at the expense of Pakistan, in which case we should find it difficult to refuse additional assistance to Pakistan.'³⁵

Yet, the importance of the Sterling Area as an economic unit steadily had reduced in the decade following 1947, with a corresponding increase with their engagement with dollar based economies. The team of British negotiators on the Sterling Balance question was headed by Jeremy Raisman, an erstwhile member of the Indian Civil Service, and who had held a variety of posts in his career in the government of India, including Finance Member of the Governor General's Council during the war.³⁶ Much of the correspondence between the Treasury in London, and their representative in Delhi, Sir Raisman was on means by which to beat down the Indian and Pakistani claims on the sterling reserves. An anxious telegram was despatched

³⁴ 'India and Pakistan: Note by the Treasury', March 1948, File no. IOR: L/E/9/303, 'Sterling Balance negotiations 1948', Economic and Overseas Department Collections, India Office Records, British Library

³⁵ Extract from Draft Minutes of a Meeting of the Overseas Negotiation Committee held on 2 Feb, 1948, File no. IOR: L/E/9/303, 'Sterling Balance negotiations 1948', Economic and Overseas Department Collections, India Office Records, British Library

³⁶ Raisman also became famous for his personal austerity during the wartime: as petrol rationing intensified, he took to cycling to office in the fog laden winter mornings of Delhi. See, Chadavarkar, Anand, 'Sir (Abraham) Jeremy Raisman, Finance Minister, Government of India (1939- 1945): Portrait of an unsung Hero Extraordinaire', *Economic and Political Weekly*, Vol. 36, No. 28, (July 14-20, 2001)

to Sir Raisman as concerns about India's expenditure from the sterling reserves increased: 'The basic fact is that we are not in a position to afford the continuance of drawings by India upon reserves of Sterling Area in order to finance her dollar deficit, and we should find difficulty in accepting any agreement which does not start from this postulate.'³⁷ Yet, he also pointed out that 'there will be great difficulty in getting the Indian Ministers to agree to any proposals definitely limiting their dollar drawings on the sterling pool in the first half of 1948. The leader of the Indian Delegation told him privately that if this was forced upon them, the Indian government might have to dollar invoice the United Kingdom for essential goods such as jute.'³⁸ Moreover, the balances were also linked with the quest for dollar reserves, which became an important economic objective for both countries, particularly in the aftermath of the Korean War.

The issue of dollar- based imports acquired increasing significance in terms of trade in the sterling area. Converting sterling balances into dollar purchases became an increasing worry to policy makers in Britain, as it was feared that, if uncontrolled, this would put pressure on the sterling to be able to maintain its standard. In September 1949, Sir Stafford Cripps, then Chancellor of the Exchequer, announced that the pound sterling would be devalued by 30%. One explanation offered for this, was that the sterling at its un- devalued rate, would be unable to support the claims on it from the commonwealth area.³⁹ Moreover, it was argued that the artificially high rate of the sterling as a currency with which to trade in the Sterling area, was also impeding the development of the British domestic economy. Sterling

³⁷ Telegram from Raisman to Commonwealth Relations Office, 21 January 1948, File no. L/E/9/303, Sterling Balance negotiations 1948, Economic and Overseas Department Collections, India Office Records, British Library

³⁸ Ibid

³⁹ Catherine R Schenk, *Britain and the Sterling Area: From Devaluation to convertibility in the 1950's*, London 1994

devaluation was also welcomed by the United States, as this was thought to be a step in the direction of freer trade interests.

The decision to devalue the Indian rupee with the sterling, moreover, was largely seen as unproblematic. For example, B. N. Ganguli, faculty at the Delhi School of Economics, and then a member of the Fiscal Commission in the government of India, for instance, argued that in view of the failure of (the inflationary policies of the government with regard to currency exchange), there was 'no option' but to devalue along with the sterling.⁴⁰ Similarly, C. D. Deshmukh wrote that 'Devaluation was forced on India by economic circumstances; its allegiance to and participation in the Sterling Area only influenced the timing of her decision.'⁴¹

Nine other countries in the Sterling Area -- Australia, New Zealand, India, South Africa, Ireland, Norway, Egypt and Israel-- followed suit, and devalued their own currencies accordingly on the same day. Pakistan announced its decision not to devalue her own currency. This announcement was met with consternation and anger in India, and led to apprehensions of lasting damage to the economies of both countries. It effectively became more expensive for India to trade with Pakistan. This decision found a great deal of support from business and trading lobbies, and was stridently defended by the *Dawn*.⁴² Moreover, the *Economist* noted, for instance, that the decision was based on reasonable concerns:

'First, Pakistan's balance of payments with the rest of the world, including the United States, is favourable. Secondly, Pakistan has embarked on a process of industrialisation and therefore needs to import

⁴⁰ B. N. Ganguli, 'Devaluation of the Rupee: What it means to India'; *Occasional Papers of the Delhi School of Economics*.

⁴¹ Deshmukh, C. D., *Economic Developments in India: 1947- 1956: A Personal Retrospect*, Bombay, 1957

⁴² 'Indo Pakistan Trade Agreement of 1949-50 for the exchange of essential commodities; Devaluation of Indian Rupee and Non Devaluation of Pak Rupee; Effect on Trade Agreement and Indian Trade in general'; File No. 21(3)- Pak. (A); MEA File, NAI

capital goods as cheaply as possible. Thirdly, Pakistan government believes that its exports have inelastic demand. Finally, Pakistan wants to bring about a fall in domestic prices.’⁴³

The new rate of exchange would entitle Pakistan to a larger supply of coal, cotton textiles, vegetable oils, steel and tobacco from India, while being on an advantageous position in the balance of trade with India.⁴⁴ But even at the time of the devaluation crisis, it was impossible to close off the economic links between India and Pakistan. In a conversation with the British high commissioner in India, Ambegaonkar the Indian finance secretary, stated that with regard to the International Monetary Fund’s acceptance of Pakistan’s exchange rate, ‘Although in fact India would have to accept whatever parity was approved by the IMF, (or cease to be a member of the fund), it was impossible on political grounds for her to give such assurances in advance.’⁴⁵ Moreover, C. D. Deshmukh conceded, that trade in the commodities listed in the July 1949 Agreement would have to carry on even without an agreement on an India-Pakistan exchange rate. This would have to be done, with ‘one or more barter arrangements covering the commodities or groups of commodities to be supplied by each side.’ At the same time, Deshmukh warned of the difficulties in arriving in such arrangements, and ‘was not hopeful of a successful outcome of the proposed [Columbo] conference.’⁴⁶

Bajpai met with Grafftey-Smith, the U. K. high commissioner on 22 September 1949 to discuss the devaluation crisis. He argued that while Pakistan had ‘shown a most regrettable lack of commonwealth solidarity’ in her decision not to devalue, and, finally, he concluded India, had ‘in this, as in so many other matters, shown herself

⁴³ ‘Pakistan at Par’, in *The Economist*, 15 November 1949, excerpted in File no. 142/183, ‘Repercussions of Pakistan’s decision not to Devalue Rupee’, PRO

⁴⁴ Jalal, Ayesha, *The State of Martial Rule: The Origins of Pakistan’s Political Economy of Defence*, Cambridge University Press, 1990

⁴⁵ Telegram from UK high commissioner to Commonwealth Relations Office, 7 February 1950, File No. DO 142/183, ‘Repercussions of Pakistan’s decision not to Devalue Rupee’, PRO

⁴⁶ Ibid

to be a reliable member of the Commonwealth, and a true friend of the United Kingdom'. Nonetheless, Bajpai went on to argue, that India would be able to procure the items hitherto received from Pakistan, such as jute and cotton, from other markets, such as Egypt, and Uganda, and Australia.'⁴⁷ Thus, although the trade and financial relationship between India and Pakistan were often potentially damaging to each other, the attempts to build separate trajectories of trade with other countries were also consistently sought. India was thus fairly willing to continue trading in the sterling area. In a speech on All India Radio following the devaluation of the rupee, Nehru argued 'The Sterling Area is important to us in our international economic relations. A great part of our international trade is with this area. Most of our export markets are also in this area, and it is important that we should not only maintain but improve our export position.'⁴⁸

At the same time, the devaluation crisis did have an adverse impact in some sectors of industries on both sides. As a despatch from the British high commissioner in Delhi, in February 1950 noted, 'As a result of the continued economic deadlock between India and Pakistan, the steamer companies that ply between East and West Bengal are suffering heavy losses'. In India, another sector which suffered heavy losses in this period was the Bombay textile industry. The high commissioner's report noted '... this has so far caused the complete closure of 15 mills, the partial closure of 20, and what a Press Note issued by the Bombay government describes as "widespread unemployment"'.⁴⁹ In his budget speech of 1950, the Indian Finance Minister, John Matthai argued that, in view of the discrepancy in the currency of the two countries, no tangible result could be gained from negotiations with Pakistan

⁴⁷ Telegram from Grafftey-Smith to Commonwealth Relations Office, 22 September 1949, File No. DO 142/183, 'Repercussions of Pakistan's decision not to Devalue Rupee', PRO

⁴⁸ Nehru's broadcast to the nation, All India Radio, 20 September 1949, SWJN, SS, Vol. 13, p.41

⁴⁹ UK high commissioner to Commonwealth Relations Office, Report from 19 January to 2 February 1950; File No. DO 142/183, 'Repercussions of Pakistan;s decision not to Devalue Rupee', PRO

over trade, unless the two sides could negotiate on an exchange ratio and prices. However, this position was not held for long: as the speech itself recognised, 'key industries, namely cotton and jute, had been affected.' The Indian government repeatedly complained of their supplies of jute, that had been paid for, being held up in East Bengal. A despatch from the U. K. high commission in December 1949 noted that 'if India does not get satisfaction over the release of jute... she will suspend operation of inter-dominion commodities agreement, and cut off supplies of coal to Pakistan.'⁵⁰

The 'deadlock' ensued in Indo- Pakistani trade for seventeen months, since it was feared that trading with Pakistan at the prevailing rate of exchange, would disrupt India's economy. The question was discussed between Ghulam Muhammad, the Pakistani Finance Minister, Nehru and the British Secretary of State for Commonwealth Relations, during the Columbo Conference of Finance Ministers of the Commonwealth in January 1950. The Secretary of State for Commonwealth Relations, had a meeting with Nehru and Ghulam Muhammad over how this question should be addressed. The Secretary for State even pointed out that 'he had made considerable efforts to get rid of regulations for trade in Europe, and that considerable results had been achieved.'⁵¹ He pressed 'continuation of conflict within the Commonwealth would be unfortunate from everybody's point of view'. Although both Nehru and Ghulam Muhammad agreed with this, there was no substantial change in the position of either with regards to the devaluation question. Indeed, although the problems relating to trading with Pakistan, and her policies on devaluation, were loudly aired, both sides were also attempting to craft their

⁵⁰ Telegram from U. K. high commissioner in Pakistan, 20 December 1949, File No. DO 142/ 201, 'Decision of Pakistan not to Devalue Rupee', PRO

⁵¹ Telegram from UK delegation at Columbo, of meeting between Gordon Walker, Ghulam Muhammad and Nehru; 12 January 1950; File No. DO 142/ 201, 'Decision not to Devalue Pakistani Rupee', PRO

economies in ways that would be insulated from decisions made across the border. Moreover, the actual trade between India and Pakistan did continue regardless, over this decade, although the ways in which economic ties between the two could be severed were also consistently explored. While the devaluation crisis was loudly publicised by both governments, in effect their policies carried on as before. It led to neither government in fact to change the nature of their policies with regard to inter-dominion trade.

Inter-dominion Trade

Cutting off trading links entirely, however, was not as simple an option as may have been hoped. It was nobody's case that all trade between the two countries ought to be brought to a complete halt -- indeed this was impossible. Meetings of the economic committee of the cabinet began to consider options for damage control, if trade to Pakistan should suffer, in the wake of the devaluation crisis. In fact trading had not -- indeed could not be -- completely stopped. C. C. Desai was another erstwhile member of the I. C. S., Secretary in the ministry of Commerce in 1949, and who had also advocated greater de-regulation by the government of rationed commodities for the past year. Nonetheless, he pointed out, cutting off coal supplies to Pakistan, even after the devaluation, should only be carried out once the consequences of such an act had been apprehended as much as possible. 'It is not expected that in any such situation only Pakistan will be harmed. Naturally both countries may have to suffer hardships, but the final decision will depend on the relative degree of hardships and

the comparative power of endurance.⁵² Moreover, a note from the Ministry of Commerce pointed out that the import of cotton seed from Pakistan, would also have to continue, though if possible this should be secured at pre-devaluation prices.⁵³

Opportunities to revive the trade 'deadlock' between the two countries were thus, on the lookout for. The Deputy High Commissioner in Dhaka urged that this would be a desirable course of action, arguing 'A year ago, a suitable Trade Agreement could have been made for all goods without political considerations. Today, it is possible, but difficult. In another six months, to a year, Pakistan would attach political conditions to the resumption of trade. We have much to gain from a long term arrangement... ⁵⁴ What was also generally recognised in most files regarding Indo-Pakistani trade talks, was that India could not afford to be intransigent over Pakistani demands for coal, cement, and steel; her own jute and textile industries would correspondingly suffer. Furthermore, Pakistan's cooperation had to be secured if goods were to flow to Indian enclaves in East Pakistan, as well as to states such as Tripura, which could most easily be reached by crossing the border.

In the annual report for inter-dominion trade in 1950, the Indian trade commissioner in Karachi noted that 'Pakistan was in a happy position of having consumers at her door prepared to buy jute and cotton, practically at any price'⁵⁵ International demand for jute and cotton sky-rocketed in the wake of the Korean War which created endless demand for raw materials for munitions. In 1950, C. D. Deshmukh,

⁵² Note by C. C. Desai, November 1949, File No. 15 (116)- P/49; Economic Committee of the Cabinet, Cabinet Secretariat File, NAI

⁵³ 'Indo Pakistan trade', File No. 3(IV)- ECC/50; Economic Committee of the Cabinet, Cabinet Secretariat File, NAI

⁵⁴ Trade Report from deputy high commissioner, Dhaka, January 1950, File No. F 20 (8) -Jute 14/51,

⁵⁵ Annual Economic Report for the year 1950- 1951, from the India government trade commissioner in Pakistan, Karachi; File No. 2-30/51-Pak-I, MEA File, MEA Archives, New Delhi

the Indian Minister for Finance approached the Pakistani high commissioner at the Commonwealth Conference in London to explore possible compromises.⁵⁶ In February 1951 a Trade Agreement was completed between India and Pakistan, according to which, exchange transaction would be permitted on the basis of existing value of the Pakistani currency. The terms of the February 1951 trade agreement were, moreover, not to India's advantage in the post devaluation financial context. India agreed to trade with Pakistan on the basis of the non-devalued Pakistani rupee; Rs. 100 (Indian) would be the equivalent of Rs. 69 Pakistani; such transactions could moreover be converted into sterling by the other country.⁵⁷ It was agreed that India would export coal, steel, pig iron, cement timber and textiles to Pakistan, and import from Pakistan jute, cotton, food grain, hides and skins.⁵⁸

The trade agreement of February 1951 was seen all over the world as a triumph of economic common sense over politics. The agreement had been reached despite the differences in the value of currency after devaluation. Such an agreement was moreover also seen as a climb down on India's part since she had agreed to trade at the non- devalued rates. Many countries, including the Soviet Union, France, and Italy, sent in their congratulations to the Ministry of External Affairs for the conclusion of the treaty. Yet what this shows is not in fact the victory of a 'conciliatory' approach to bilateral relations over those who advocated a tougher approach, as much as simply bringing into the fold of both governments, an activity which would have carried on anyway. Secondly, once this was accomplished, neither government went out of their way to 'facilitate the process of bilateral trade', but in fact created, and implemented various restrictive regulations, such as permits

⁵⁶ 'Indo- Pakistan Trade Talks and Agreement', File No. PII/ 52/ 2316/2; MEA File, MEA Archives

⁵⁷ Pillai to Ikramullah, File No. F 20 (8) -Jute 14/51, Ministry of Commerce and Industry, Jute (Pakistan) Section, NAI

⁵⁸ Ibid

for entry, for the carrying out of trade. Moreover, this policy had been more or less consistently adopted by both governments within a short period of their gaining independence.

In 1947, the Partition Council had convened an Expert Committee to consider the prospects of what would become Indo-Pakistani trade.⁵⁹ The Committee recommended a Standstill Agreement be put in place, according to which existing lines of trade would be allowed to continue until March 1948. These agreements concerned a variety of items, the most important of which were jute, cotton, and coal. Even before this term expired, however, the notion of this system being allowed to continue unchanged was challenged. In particular, the matter of who had the right to claim duties on raw jute quickly became an issue. S. Bhootalingam, a former student of economics at Cambridge, and the first finance secretary in India, submitted a note on the forecasted changes that the termination of the Standstill agreement would bring: 'The effect of the termination of the present so- called standstill arrangement with Pakistan will be that Pakistan will become like any other foreign country for the purposes of our trade. Our exports to Pakistan will earn foreign currency, while our imports will be paid for in foreign currency.'⁶⁰ Payments for the supply of coal into Pakistan were made from the balances Pakistan continued to hold in the State Bank in India⁶¹. Bhootalingam however ended his note warning of the dangers of hasty changes made with regard to trading conditions with Pakistan. For instance, he argued, 'We have to be extremely cautious before taking any steps to rashly to increase the production of raw jute in India which would

⁵⁹ White Paper on Indo- Pakistan Trade Relations (15August 1947- 31 December 1949); Government of India; in Sreedhar and Kaniyalil, J (ed.) *Indo- Pak Relations: A Documentary Study*; New Delhi 1993

⁶⁰ Mr Bhootalingam's note, dated February 1948. File No. 15(27) ECC/49;Economic Committee of the Cabinet, Cabinet Secretariat Files, National Archives of India.

⁶¹ White Paper on Indo- Pakistan Trade Relations (15August 1947- 31 December 1949); Government of India; in Sreedhar and Kaniyalil, J (ed.) *Indo- Pak Relations: A Documentary Study*; New Delhi 1993

merely have the result of a fall in all jute prices. In the long run both India and Pakistan gain by ensuring that their combined production of jute is not greater than the world demand.’⁶²

Regarding the movement of raw jute from Pakistan to India, the government of Pakistan argued that it should be given a share in the revenue earned from the export duties in Calcutta port.⁶³ In December 1947, Sri Prakasa, received an aide memoire from the government of Pakistan. The note argued, for instance, that in the case of excise duty on goods exported from India to Pakistan, the government of Pakistan was not currently entitled to collect her rightful share. Under the present provisions, the note continued:

‘no refund or rebate of excise duty is being granted on goods exported from India to Pakistan. On the other hand, cotton and other commodities produced in Pakistan are being exported to India without any payment of duty. The Pakistan government therefore consider that for the period of 7 ½ months ending on 31st March, 1948, Pakistan should be given a reasonable share of the total central excise revenue, on the basis of the quantity of excisable goods consumed in Pakistan territory.’⁶⁴

The two governments concluded a series of treaties on the terms of bilateral trade. They were usually divided into ‘schedules’ of goods, classified into goods that could be exported and imported within certain limits; goods that were exported and imported in any quantity, though taxes may be imposed on them on arrival; and a separate schedules of goods which were permitted under the heading of ‘border trade’. Interestingly, goods included in the first schedule, such as manufactured jute, mill made cloth, iron and steel, were also the ones which were associated with

⁶² Ibid

⁶³ Ibid

⁶⁴ Extracts from Pakistan’s Aide Memoire, dated 13 December, 1947, Annexure to White Paper on Indo- Pakistani Trade Relations, in *Indo Pak Relations: A Documentary Study*

powerful trading lobbies, which would push for higher taxes to be imposed on competing products that were imported. Goods in the second schedule included fruit and vegetable, betel leaf, herbs, medicine, coir yarn and betel leaf, coir yarn and mustard oil'.⁶⁵ A large number of items in the second schedule were predominantly exchanged at the border- and the flows of these items indeed pre dated the border. The Schedules were thus an attempt by both governments to arrive at controls which encompassed the exchanges of goods; an attempt by the state to recognise a system of exchange which would, necessarily, have continued anyway.

A great deal of this trade was conducted via East Bengal, and was vital to the economies of eastern India. One aspect of the trade negotiations concerned the logistics of transport: the railway wagons by which commodities were to flow between India and Pakistan were the subject of debate, as the Eastern India railways had to be divided between India and Pakistan. Similarly, the Chittagong port also became the object of discussion as to which vessels were to be allowed into the port. At the same time however, cross border trade was also accompanied consistently by what became the 'illegal' flow of goods across the border.⁶⁶ Trade along the border continued, whether sanctioned by the government or not, simply because it had done so for many years pre- dating partition. Indeed, between September 1948 and April 1950, when there was supposed to have been a complete deadlock in trade relations, it was reported that more than three lakhs bales of jute were smuggled into India from East Bengal.⁶⁷

In June, 1949, India and Pakistan had ratified an agreement stating that both would grant rebates to excisable items that they exported to each other, provided that this

⁶⁵ Summary of Trade Agreement, Note for Economic Committee for Cabinet, File No. 28- Pak (15)/52; 'India Pakistan Trade Agreement, 1952', MEA File, MEA Archives

⁶⁶ Van Schendel, W. *The Bengal Borderland: Beyond State and Nation in South Asia*, Anthem Press, London 2005

⁶⁷ Vakil, C. N. *Economic Consequences of Divided India*, New Delhi, 1950

was done on a mutual basis. In a telegram exchange between Ghulam Muhammad and K. C. Neogy, regarding the terms of tariff and rebates, Neogy argued that Pakistan's proposals that 'impairment should not result from any action taken by the Dominion granting the rebate only, and not the other Dominion will detract from the scope of the agreement as a whole which is designed to increase Inter-dominion Trade. For example if Pakistan imposes an import duty on an excisable commodity at a level which would handicap our exports to Pakistan, the spirit in which the informal talks took place would be lost.'⁶⁸ However, this agreement did not extend to jute or cotton- amongst the most important trading commodities for India and Pakistan, causing the Indian minister for Industry and Supply to observe that without these items within the purview of the agreement, it would be reduced to a 'façade of little value.'⁶⁹

The trade treaties between India and Pakistan were revised annually, and when the two delegations met for discussion in February 1952, the talks broke down. By that year, India's own reliance on supplies from jute had diminished somewhat, and a greater quantity of jute had been grown within the country. The question of trade along the border provinces, however, proved to be the major stumbling block.⁷⁰ A key issue was obtaining permission from Pakistan for the transportation of goods to other parts of India without circumnavigating the long border between India and East Pakistan. For instance, one bottleneck in the transport of goods into Tripura occurred in Akhaura -- a railway station in East Pakistan, where goods headed for Tripura from the rest of India could most easily be off loaded -- where they

⁶⁸ Neogy to Ghulam Muhammad, File No. F 20 (8) -Jute 14/51, Ministry of Commerce and Industry, Jute (Pakistan) Section, NAI

⁶⁹ Ibid

⁷⁰ Indo- Pakistan Trade Talks and Agreement, July 1952; File no. PII/52/2316/2; MEA File, Pakistan II Section, MEA Archives

encountered East Pakistani customs barriers.⁷¹ The Tripura Merchants Association made several representations to the government of India, as well as to the Ministry of External Affairs in particular to take this matter up at Indo-Pakistani forums.

In a meeting with the Pakistan High Commissioner, H. V. R Iengar, the Commerce Secretary argued that there would be 'serious difficulty in persuading the state governments that a trade agreement was of any value if it did not settle the problem of border trade.'⁷² Border communities on both sides, particularly in the hill districts of Assam and Tripura, were dependent on supplies of fish, salt, kerosene, and a certain amount of food grains from the other side of the border.⁷³ Items on the Open General License for import into India included 'fish- fresh and dried to be allowed into East Pakistan'. In return, the quota for trade of cattle into East Pakistan was to be fixed.⁷⁴

Mohan Sinha Mehta had also written separately to the Prime Minister, in the aftermath of the breakdown of the trade talks between India and Pakistan, complaining of the petty interests and mutual suspicion that led to the breakdown, even though there was no disputing that the economies of India and Pakistan were complementary. Yet, the Commerce Secretary, C. C. Desai, argued against this, complaining that 'he was at a loss to understand the approach of our High Commissioner'. Desai had argued that provisions for trade along the border were crucial to any success of a trade treaty between the two countries. This, he felt had to

⁷¹ 'Difficulties of Agartala Merchants in connection with the in- transit goods through Pakistan via Akhuara'; File No. PII/ 54/2341/202; Ministry of External Affairs Archives

⁷² 'Indo- Pakistan Trade Talks, March 1953'; File No. PII/ 53/ 2341/1-2; Ministry of External Affairs Archives

⁷³ Indo- Pakistan Trade Talks and Agreement, July 1952; File no. PII/52/2316/2; MEA File, Pakistan II Section, MEA Archives

⁷⁴ Letter from N Ikramullah to B Pillai, 25 February 1951, File No. F 20(8) -Jute 14/51, Ministry of Commerce and Industry, Jute (Pakistan) Section, NAI

be incorporated into any treaty, although Mohan Sinha Mehta repeatedly found that this was difficult to push through.

The subject of border trade was addressed in successive trade talks. Synonymous with setting up the paraphernalia of cross border trade, occurred the phenomena of 'smuggling' in the Indo- Pakistani context. A report from the Committee on Border Trade, compiled for the trade conference of 1953, concluded '... a certain amount of [illegal] trade continues to take place even as things are. By regularising it and properly defining its scope there was much less danger of smuggling and other evils than by driving it underground.'⁷⁵ Items which were not sanctioned by both governments to be available for trade in both countries were thus illegally brought across the border. While regulations on cross border trade deemed a large volume of traffic between India and Pakistan to be illegal, both governments were at least partly complicit in allowing such traffic to continue. Border officials on both sides were actively involved in such arrangements, and regulations made in Calcutta, Delhi and Karachi were not necessarily implemented on the borders. The very paraphernalia of the state -- represented in check points and customs posts brought about a qualitative difference in the system of exchange of goods across the new border. Moreover, there was a connection between the regulation of trade and the state's attempt to territorially define itself; to reassure itself that its boundaries were clearly demarcated.⁷⁶ Willem van Schendel points out that although both states were keen to promote self sufficiency in their economies, they were also eager to reap the benefits from cross border trade, in terms of collecting taxes, as well as by securing goods and commodities that would ultimately benefit their own economies.⁷⁷

⁷⁵ 'Indo- Pakistan Trade Talks, March 1953'; File No. PII/ 53/ 2341/1-2; Ministry of External Affairs Archives

⁷⁶ Van Schendel, Willem, *The Bengal Borderland: Beyond State and Nation in South Asia*, London 2007

⁷⁷ Ibid

Policies on bilateral trade were also an engagement with the attempt to firmly fix the border, and display the ability to control movement of goods, labour, and commerce across it. At the same time, however, the illegal movement of goods across the border was as frequent an occurrence as that which was 'sanctioned' by both governments.

Such uneasiness -- with the unavailability, yet undesirability -- of trade between India and Pakistan was manifested most clearly in the position of those traders and businessmen who actually held contracts to carry out the trade. In August 1953, M. H. A. Fazalbhoi, an influential solicitor, and from a powerful Bombay family himself, submitted a memorandum to the MEA on behalf of members of the trading community. He argued that Indian Muslim businessmen in particular were subject to suspicion and mistreatment by the Indian government. 'Evacuee property proceedings have been started on the flimsiest of grounds making them incur the cost of extensive legal proceedings and otherwise...It is therefore necessary that trade between the two countries should not only be made free... but a mandate should be given against undue suspicion on the part of government officials and the policy of black listing merchants having business dealings with Pakistan.'⁷⁸ Fazalbhai went on to number the ways in which conditions of trade could improve: establishment of branch offices in both countries to facilitate exchange and movement of funds; facilities for prosecute dishonesty in dealings between traders in both countries; and greater ease in travel, for, 'at present, if a person makes even a temporary visit to Pakistan, he has to face an enquiry from the evacuee officers'.⁷⁹

Badrudin Tyabji, by then Commonwealth Secretary in the MEA, and who had signed off on files relating to different aspects in the relationship with Pakistan for

⁷⁸ Memorandum from Mr. MAH Fazalbhai, Indo Pakistan Relations- Commercial and Finance, File. No. PII/53/67819/1-2; MEA Archives

⁷⁹ Ibid

some years now, headed a meeting to consider Fazalbhai's memorandum. He argued that rules relating to trade and commerce with Pakistan, as well as the evacuee property rules, should be implemented keeping in mind that a long term relationship with Pakistan was unavoidable. Tyabji also pointed out that it was India who stood most to gain from open and extensive trade with Pakistan. Therefore, he argued, regulations such as the evacuee property laws should not be evoked when they would harm India's commercial interests in the long run. This approach was insufficient in making any dents to the rapidly hardening stances taken in India with regard to dealings with Pakistan. A representative from the relief and rehabilitation ministry countered that 'while the evacuee property laws admittedly had abnormal features, they were inevitable in the context of current Indo-Pak relations.'⁸⁰ A letter from the Indian Deputy High Commissioner in Karachi on this matter was even blunter: 'It would be putting the cart before the horse because free trade between the two countries is quite obviously the result of good relations on the political sphere and it is meaningless to state that if there were free trade between India and Pakistan all the major problems that would have stood in the way of happy relations between the two countries would not have arisen.'⁸¹

These decisions were not, however stuck to in absolute terms- they were constantly subject to re- examination and debate. On the process of granting licenses for the import of cotton seed, for instance, the Ministry soon received an indignant despatch from the High Commissioner in Karachi, observing 'Several people are getting licenses from the government of India for importing cotton seed from Pakistan, and that they are, after profit making, selling them off to Muslims... [furthermore], if no import license was given, the price of cotton seed would fall further in Pakistan, and

⁸⁰ Ibid

⁸¹ Ibid

would further deteriorate the economic position in this country..⁸² In response, K. C. Neogy argued that 'I am anxious that this matter should not become a scandal of any kind', and so the economic committee of the cabinet should deliberate whether there was in fact, any pressing need for the licensing of imports of cotton seed.⁸³

By 1953, the situation had changed, and the terms that India and Pakistan could negotiate with had altered. Pakistan was in urgent need of wheat. Moreover her foreign exchange position had weakened, and it would have been cheaper to import rice from India. This agreement extended for three years, and also stipulated that India would supply coal to Pakistan at prices applicable within India, if Pakistan would reduce her export duties on jute to India. While all aspects of the Indo Pakistani relationship were to some extent interrelated, it is interesting to examine in this context, how both countries attempted to use issues in which they had the advantage at the time, as a way of gaining greater leverage for the other issues. At the same time, however, this nonetheless required a substantive and continual process of bilateral dialogue. Even when they were in the midst of disentangling themselves from the other, the requirements of asserting a complete sovereignty necessitated a dense, rich dialogue between the two.

Thus, Indo-Pak trade policies were also informed by the fact that it was impossible for the flow of goods and commodities to come to a halt entirely. So, although there was a great deal of discussion and debate about whether the negotiations over trade could, and should, be tied to other areas of India- Pakistan relations, such as the Evacuee Property dispute, the fact was that there did continue to be trade between the two countries. Yet, what the negotiations for trade do reveal was the constitution

⁸² 'India-Pakistan Trade', Economic Committee of the Cabinet, File No. 3(IV) – ECC / 50; Cabinet Secretariat File, NAI

⁸³ Ibid

of the basis of agreement between the two states, on the need to regulate inter-dominion economic activity. If the exchanges of goods were to be carried out in any case, then it was necessary for both governments to enter into this activity and attempt to ensure that this was carried out on the basis of two separated states. A great deal of the correspondence in the MEA files on trade with Pakistan, were to do simply with the question of the *logistics* of the exchange of commodities, rather than curmudgeonly deliberations of whether or not to trade at all. Arrival at such agreements did not imply that there would be no room for further jostling in these matters. The ostensible granting of right of freeway for goods in transit across the border was not necessarily implemented on the ground. The implementation of such agreements leaned more towards attempts at establishing just where the nation's boundaries were delineated.

The larger question in all this is how, and why, the governments of India and Pakistan both decided to actively engage with the ongoing trade. Had they not, the case could be made that the 'traditional' routes of trade and economic activity would have continued undisturbed. Alternatively, the devaluation crisis could have conceivably provided a pretext to halt the trade entirely. Yet, for the time being, this was not possible. Asserting control over bilateral trade was also a means of displaying the state's mastery over its territorial limits, as well as finalising the delineation of these boundaries. Finally, Indo- Pakistani trade was one of the issues that was at the heart of bilateral relations; and was thus an issue for negotiation between two governments. It became an additional bargaining counter in the overall framework of bilateral relations, subject to sudden disruption, but also tangible motive for potential gain.

DELINEATING THE BOUNDARY LINE

If two countries are to assert their separation from one another, then a borderline has to be clearly delineated. But for India and Pakistan, this task presented peculiar problems. The process of shaping the territoriality of India and Pakistan were not products of self-evident certainties, but of protracted negotiations and wrangling by the Congress and the Muslim League. The boundaries between India and Pakistan were drawn by a Boundary Commission, by processes that seemed arbitrary, and therefore open to question. The experience of emerging out of partition was certainly not conducive to fostering notions of the unquestioned fixity of the territoriality of the nation state. Negotiations on border delineations, therefore offer a valuable insight into how the questions of needing to present a inviolate and firmly fixed territorial shape to India and Pakistan were actually handled on the ground. I will examine the ways in which the boundary line was imposed, and how these processes are a lens through which the bilateral cooperation between India and Pakistan can be analysed.

Along with giving an account of the complex processes by which the actual border was put in place, this chapter will examine how firmly that border was reinforced by officials on both sides -- many of whom, in fact, proved to have been more open to it being a negotiable quantity than might be expected. It also examines how the assumption of a fixed border (and a more fixed sovereignty) was routinely tested by the governments on both sides. There remained a number of questions regarding the actual minutiae of how the boundary line between India and Pakistan could be

drawn, even after the Radcliffe Award. An additional set of Boundary Tribunals had to be assembled to decide the boundary line between Assam, Tripura and East Bengal; as well as between Sind and the Rann of Katch. Finally, considerations of how the boundary line fell made themselves felt most strongly in areas where the importance of assets that they cordoned off was the highest. Where the boundary line offered control over the head-works of the Indus Canals, for instance, it had to be asserted particularly forcefully. Both states were present in these areas, but even here, their strength was not necessarily absolute.

Many stretches of the Indo-Pakistan border were in fact not clearly demarcated. The boundaries between the states of West Bengal, Assam, and Tripura, and that of East Bengal were not clearly delineated on the ground long after the Radcliffe Award had been announced. These included uncertainties between Sylhet and Assam, the exact boundary line running through Dinajpur, Nadia, and Kushtia in Bengal, the line running through Patharia Hill Reserve Forests, and numerous other 'smaller scale' boundary uncertainties. Along the western border similarly, large stretches of the boundary line along the Sind province and the Rann of Kutch in India were also badly defined. Negotiations on how the boundary would lie was carried out between the two governments well into the 1950s, and, in many cases, still remained uncompleted. In the section on border delineation, I shall concentrate mainly on the problems in the eastern zone, as this was where the processes of dialogue were particularly indicative of the nature of cooperation in India-Pakistan relations in this period. My argument, however is that the 'firmness' with which the boundary line was imposed was mainly a factor of the value of the assets that it cordoned off. In fact, cooperation on delineating the boundary line was at its most flexible when it traversed areas which were not as valuable to either side. This chapter shows that the very ambivalence that the artificial imposition of a borderline created was not

only straight away recognized, but accepted, and sometimes actively and jointly exploited by the governments of India and Pakistan.¹

Creating a Boundary

The Radcliffe Boundary Commission had a mandate to draw the boundary line 'on the basis of ascertaining the contiguous majority of areas of Muslim and non Muslims, [and] to take into account other factors.'² But by all accounts, the Boundary Commission's decisions were made in a hasty and politically motivated process. Details of the various possible awards were leaked as they were being drawn up, and both the Congress and Muslim League leadership loudly criticised the decisions. The leadership in both the parties had also deliberately sought to distance themselves from the Boundary Commission, since its awards were bound to be unpopular in any case. What is evident, however, is that there was nothing immutable about where the boundary line was drawn: where the boundary line fell was subject to many contingencies, and was not a faithful representation of the numerical distribution of religious communities. This would lead to a lasting suspicion that the drawing of the boundary line had not been removed from the concerns of politicians and statesmen who would reside in the newly demarcated countries.³

Chaudhri Muhammad Ali, Prime Minister of Pakistan from 1955-1956, and during the partition, in the very thick of events as representative of the Muslim League in

¹ Van Schendel, W., *The Bengal Borderland, Beyond Nation and State in South Asia*, London 2005

² *Partition Proceedings, Vol. VI, Reports of the Members and Awards of the Chairman of the Boundary Commission*; NAI

³ For more on the Radcliffe Commission, see for example, Chester, Lucy P., *Borders and Conflict in South Asia: The Radcliffe Boundary Commission and the Partition of Punjab*, Manchester, 2009; Chatterji, Joya, 'The Fashioning of a Frontier: The Radcliffe line and Bengal's Border Landscape, 1947- 1952', *Modern Asian Studies*, Vol. 33, No. 1, February 1999; Tinker, Hugh, 'Pressure, Persuasion, Decision: Factors in the Partition of the Punjab, August 1947', *The Journal of Asian Studies*, Vol 36, No. 4, Aug 1977

the Partition Council, and subsequently a High Commissioner for Pakistan to the United States, published his memoirs in 1967. In them, he argued that the Radcliffe tribunal had been skewed from the beginning against Pakistan's interests.⁴ He claimed that the ostensibly impartial boundary commission was in fact subjected to pressure from Mountbatten and the Congress leadership, and thus prejudiced in many ways against the economic and strategic interests of Pakistan. The very composition of the tribunal was contrary to the proposals made by Jinnah, who had requested that three impartial English judges, on recommendation from the UN, be appointed to head the commission. The Commission that did come into being was headed by a lawyer, Cyril Radcliffe, who would oversee and, in effect decide on, the boundary drawing process in both Punjab and Bengal. The awards of the Boundary Commission, moreover, left the state of Pakistan with many disadvantages and denied to it territories of vital economic and strategic interest. On the Punjab side, the Gurdaspur and Batala tahsils within Gurdaspur district, which were contiguous Muslim majority areas, were nonetheless awarded to India, giving her road and railway links into Kashmir. Finally, Radcliffe decided to give Ferozepur, which contained the headworks of the canal systems irrigating large parts of what would become Pakistani Punjab. By giving control of important canal headworks on the Sutlej and Ravi rivers to India, Muhammad Ali argued, Radcliffe 'put the economic life of West Pakistan in jeopardy.'⁵ There were thus serious questions about the appropriateness of the Radcliffe awards, and it was conceivable that they would be challenged. Apart from Kashmir, the critical issues which the demarcation of the border impacted were the Canal Waters issue, and the borderline along the Chittagong hill tracts. Moreover, since he was chairman of both the Punjab as well as the Bengal Boundary Commissions, some impulses towards 'balancing' the

⁴ Ali, Chaudhry Muhammad, *The Emergence of Pakistan*, Columbia University Press, 1967

⁵ Ibid, p.215

disadvantages of the awards of one side of the border by compensating in the other, could also have been in play. The decision to award the Chittagong Hill tracts to Pakistan was strongly contested by India. Radcliffe himself maintained, however, that this had not been the reasoning behind individual decisions in the award. Indeed, in March 1948 Pakistan contemplated the question as to whether Sir Zafrullah Khan should raise the issue of the justice of the Radcliffe Commission at the UN.⁶

Sir Zafrullah had argued the Muslim League's case in front of the Punjab Boundary Commission. Immediately after the hearing, his impression was that Radcliffe was in favour of allotting the Ferozepur district to Pakistan, although he was less certain in the case of Gurdaspur district.⁷ When the Boundary Commission awards were finally published, some ten days later, it was found, however, that both Ferozepur and Gurdaspur had gone to India. These were critical decisions, since the head-works of the Sutlej Valley Canal systems were located just outside Ferozepur town, and therefore gave to India control over the head-works of the irrigation channels crucial for the agriculture of the Punjab province. The suspicion that Radcliffe's boundary line in the Punjab had been changed at the last minute, and in favour of India, was repeatedly voiced in the months following the partition. Zafrullah Khan argued, 'the inference is almost irresistible that Mr. Nehru must have approached Mountbatten to procure a modification of the award in that respect'.⁸ Zafrullah Khan, in his memoirs, recalls that on the Punjab side, the representatives of the Muslim League had been suspicious that Radcliffe was contemplating making an award which would adversely affect Pakistan. Justice Muhammad Munir, a member

⁶ Mountbatten to Lord Ismay, 2 April 1948, Singh, Kirpal, (ed.), *Select Documents on Partition of Punjab- 1947, India and Pakistan*, p. 703

⁷ 'The Reminiscences of Sir Muhammad Zafrullah Khan', Interviews conducted by Professors Wayne Wilcox and Aislie T Embree for Columbia University, url: <http://www.apnaorg.com/books/zafrullah-1/zafrullah.php?fldr=book>, last seen 31 August 2012

⁸ Ibid

of the Punjab Boundary Commission, and a representative of the Muslim League, told him that even prior to hearing the cases presented on the demarcation, Radcliffe had proposed to go on an aerial survey over the areas to be partitioned. The route he wanted to follow was along the boundary line as it was subsequently demarcated- as the river Ravi flowed along the plains of the Punjab, and following its course into Lahore district, and then to veer left towards Ferozepur.

The deliberations of the Radcliffe Boundary Commission, as well as its consequences, have been fairly extensively researched over the last few decades. There had certainly been a substantial degree of jockeying for influence on how the boundary line was drawn. In the case of Bengal, Joya Chatterji has shown how, in the chaotic jostling to secure as much territory as possible, the representatives of the Congress and the Muslim League in Bengal presented arguments to the Boundary Commission for the maximum possible amounts of territory. The ensuing boundary line, was, on the ground, bewilderingly difficult to administer, as it zig-zagged across administrative units, and agrarian communities.⁹ Delineating the boundary line on the ground, therefore, was a hugely difficult task, and was not, moreover, seen as self-evident, by either side.

Even in February 1948, it was still conceivable that the basis of the boundary awards could be challenged. Upon hearing that Zafrullah Khan had approached Phillip Noel Baker at a conference, and informed him of Pakistan's suspicions of the Boundary award being 'tampered' with, Mountbatten wrote to Lord Ismay with his reaction. Mountbatten did not expect the matter to be seriously pursued, and, with characteristic complacency, added that Zafrullah was simply 'trying this on'. In any

⁹ Chatterji, J., 'The Fashioning of a Frontier: The Radcliffe line and Bengal's Border Landscape, 1947-1952', *Modern Asian Studies*, Vol. 33, No. 1, February 1999

case, 'there could be little evidence in Jenkins' file to show that the award was tampered with'.¹⁰

Yet it is significant that while the possibility of challenges to the boundary awards were raised well into the months following Independence, neither side in fact actively pursued a course of actually refusing to accept the boundary line. Once put in place, for all the opposition and grumbling about the awards, both countries decided to retain the decisions of the Radcliffe award, even while not observing it in uniform strictness throughout its course. Further questioning of the basis of the Radcliffe award though, once it had already been made, was a course from which both governments shied away.

Nonetheless, sections of the boundary line continued to remain notoriously ill-defined. Indeed, when it came to actually demarcating Radcliffe's awards on the ground, the question of what the inter-dominion boundary would look like still presented numerous problems. The question of where exactly the border line could be drawn differed, in the opinion of the two countries, at several points from where Radcliffe himself had suggested.

Managing the boundary was in fact a complex business, and there was no hard and fast rule as to how disputes relating to the boundary could be tackled. The Bengal borderline was not in any way obvious on the ground, and had to be imposed through the joint efforts of the provincial governments on either side of it. The question of how the geographical limits of India and Pakistan were to be delimited called for various kinds of cooperation between the two countries. Indeed, officials in East Pakistan realized by 1948 that large stretches of the Radcliffe line allowed for plenty of room for manoeuvring. Borders, were, in fact the subject of negotiations;

¹⁰ Lord Mountbatten to Lord Ismay, 12 February 1948, '*Select Documents from the Partition of the Punjab*', p .700

negotiations moreover, that did not only consist of an implacable adherence to a particular line.

In December 1947, the question arose as to which province had jurisdiction over Char Sarandajpur, an island or sandbank in the middle of the Ganges, and which faced the town of Rajshahi in East Pakistan. The government of East Pakistan sent a telegram to the Indian side, complaining of the attempts made by authorities in Murshidabad to establish control over this piece of land.¹¹ The letter recommended that this could be examined jointly by the two Directors of Land Records and Surveys (DLRs). In response, the government of West Bengal replied that the land under question was included within Murshidabad district, within India, and that the police forces of West Bengal had been posted there to maintain their possession. It was then suggested by the government of West Bengal that the two sides simultaneously withdraw their police forces from the area, the status quo be restored, and the position be examined by the DLRs without prejudice to the rights of either side. The production of a boundary line was an important concern to both newly independent governments; yet, negotiations around it also reveal how distant the actual proceedings were from the rhetoric of the integrity of the territory of the nation state. While concerns relating to the security of the border in terms of the prevention of illegal migration from across the border hangs heavy in the analysis of India-Pakistan relations, the actual processes of demarcating the border were in fact remarkably matter of fact.

In December 1948, an inter-dominion conference decided to appoint an 'Indo-Pakistan Boundary Disputes Tribunal', presided over by a former high court judge from Sweden, Algot Bagge. Judges from India and Pakistan, C. Aiyar and M

¹¹ File No. 12-65/49, Bundle 3, Political Confidential Files, 1950, Dhaka Archives

Shahbuddin respectively, were members of the tribunal.¹² In a letter to Gopalaswami Ayyangar, Justice Kania, who had been invited to give his opinion as to who the Indian representative of the Boundary Commission should be, remarked:

‘...The selection of the man on our side will depend on the scope of the reference. If the terms of reference of the Commission are to ignore the Radcliffe Award, and the subsequent inconveniences found in working it, the Commission would have to make fresh awards. Therefore, the Indian representative will need to be not only a lawyer, but someone with sound common sense and who is able to make the Pakistani nominee realize what is strong common sense and the practical view.’¹³

The Bagge tribunal would work within the parameters already accepted by the Radcliffe awards. Eventually, as mentioned above, Justice Chandrasekhar Aiyar, a retired Judge from the Madras High Court, was selected for the position. Justice Shahbuddin, a Judge at the East Bengal High Court, was appointed as the representative of Pakistan; and Justice Algot Bagge, a 73 year-old judge in the Supreme Court in Sweden, was appointed as Chairman. The work of the Tribunal would begin in November 1949, and, it was expected that it would be completed within three months. Its instructions were to adjudicate on boundary disputes along East and West Bengal, and East Bengal and Assam. The delegates were instructed to carry papers regarding the maps and arguments that the Radcliffe Commission had considered; and present arguments as to why the physical demarcation of the boundary was difficult to implement.¹⁴ This was a complex exercise, since it also involved the logistics of travel for map-making officials, and had to be carried out with an eye on the weather conditions. In fact the work of the tribunal was delayed

¹² Ahmad, Nafis, ‘The Indo- Pakistan Boundary Disputes Tribunal, 1949- 1950’ *Geographical Review*, Vol. 43, No. 3 (July 1953), pp 329- 337

¹³ Justice Kania to Gopalaswami Ayyangar, 16 December 1948, File no. 12-26/49-Pak III, Pak III Branch, MEA File, NAI

¹⁴ Ibid

by several years. A letter from the government of Pakistan to the Indo-Pakistan Boundary Disputes Tribunal in Sweden acknowledged that 'the demarcation of this boundary is not likely to be completed by the 5th of February 1953, and the governments of Pakistan and India have therefore agreed that the Tribunal be approached for extending the time allowed for completing the demarcation'.¹⁵ Subsequently, an agreement signed between Justice Shahbuddin and Justice Chandrashekhar Ayyar, on behalf of the governments of India and Pakistan, and Justice Bagge, allowed the time for the demarcation to be finalized to be extended to February 1953. This system, moreover, continued to remain in place until February 1954.¹⁶

One decision reached at the end of the Inter-dominion conference held in Calcutta, in December 1948, was that decisions relating to the boundary be made at the Chief Secretary's Conference.¹⁷ These conferences, attended by chief secretaries of the provinces of West Bengal, Assam, Tripura and East Bengal, were aimed primarily at addressing concerns about interactions between border provinces, such as economic transactions, transportation, and various means of implementing inter-dominion agreements. A frequently-discussed concern at these meetings was the demarcation of the borderline. At the 12th Chief Secretaries' Conference in February 1948, the Survey Officers were issued instructions to settle the outstanding disputes along the border demarcation between Rajshahi and Murshidabad.¹⁸ This actual demarcation process was handled by Directors of Land Records and Surveys. The negotiations thus involved the provincial governments of the border provinces. Although

¹⁵ Secy. General, Indo-Pakistan Boundary Tribunal to Ministry of External Affairs, 10 January 1953, File No. PIII/53/1932/1; BL Branch, MEA Files, NAI

¹⁶ S. K. Bannerji, File No. PIII/53/1932/1; BL Branch, MEA Files, NAI

¹⁷ File No. 12-65/49, Bundle 3, Political Confidential Files, 1950, Dhaka Archives; see also, Van Schendel, Willem, *The Bengal Borderland: Beyond Nation and State in South Asia*, London, 2005

¹⁸ File No. 12-65/49, Bundle 3, Political Confidential Files, 1950, Dhaka Archives

discussions over these issues were prolonged, and subject to numerous delays, they were also part of a machinery which allowed for both governments to work through the division of the Bengal delta. Although the process of division along this region presented a number of challenges to the settlement of the partition, it was necessary for both governments to insert their state infrastructures into this process.

It had been decided that the Directors of Land Records and Surveys of East Pakistan and Assam would meet in October 1949 to carry out the actual demarcation of the border as far as it extended into these two provinces.¹⁹ Talks between these officials, however, broke down over the procedure to be adopted when delineating the border. The Indian side argued that the plan of delineation ought to be carried out first, and the basis of demarcation be agreed upon and records be exchanged accordingly, before the exercise was carried out on the ground. Their counterparts in East Bengal argued that the region be mapped first, and the basis for demarcation decided subsequently.²⁰ The difference was a matter of how the Radcliffe award ought to be interpreted, and whether the boundary should consist of natural frontiers, including the river flowing in that region, or whether the administrative divisions would suffice. However, the issue continued to be raised at the conferences until the early fifties, and in the mean time, both sides agreed to allow the border to remain more notional than real.

Border-making along many stretches of the boundary line was a remarkably languid exercise. It was frequently held up on account of simple inter- provincial bickering, or the vagaries of geography and climate. Such a state of affairs, moreover, was allowed to continue by a de facto recognition by both sides of the necessarily uncompleted nature of the task. This was partly motivated by a desire on both sides

¹⁹Indo- Pakistan Secretariat Level Conference, (Agendas and Briefs) File No. 7-5(II) Pak III/50, MEA Archives, New Delhi

²⁰ Ibid

not to further disrupt local economies based on criss-crossing the region divided by the Radcliffe line. Secondly, there was also plenty of resistance put up by the provincial governments situated along the border, which were disinclined, and often simply unable, to part with records relating to the administration of areas along the border. Studying such arrangements alongside the very serious conflicts in the broader India-Pakistan relationship, therefore, allows us to consider the possibility of two states willing not to escalate disagreements that could, after all, have been a far more fiercely contested.

The Directors of Land Revenue carried out their work well into the 1950s. At a meeting between the Directors of Land and Revenue Records of East and West Bengal in March 1952, it was decided that work on the border along Tripura would begin in October that year, and since the government of Tripura was unequipped, the DLR, West Bengal, 'also agreed to supply the necessary subordinate staff to carry out the work'.²¹ At a conference in Dhaka in August 1952, the Directors of Land Records and Surveys of East Bengal and West Bengal agreed to undertake the demarcation work along the Tripura, Sylhet, and Tipperah State. Thus bilateral negotiations on this question were carried out with the assumption that there was, and would be, a great deal of dialogue on this at the level of the state governments. Since a final demarcation of the boundary line was often simply impossible, moreover, it was necessary for the provincial governments to come to a series of interim agreements relating to how this could be dealt with. While there were numerous differences between officials on both sides regarding the processes of demarcating the border, this took place within a framework where the boundary line could, nonetheless, remain undefined.

²¹ 'Demarcation, Tripura- East Bengal', File No. PIII/ 52/ 19325/1, MEA Archives, New Delhi

The demarcation work was held up on account of differences on the two sides with regards to the methods to be used for carrying out the land surveys. In June 1948, the District Magistrates of Rajshahi and Murshidabad, however, signed an agreement to the effect that the Choukidari arrangements in the disputed areas would be the basis of administration over these areas. Subsequently, however, the East Bengal government dispatched a notice to West Bengal stating that this arrangement could not be recognized by the government.²² Moreover, the telegram pointed out, that since the District Magistrate of Rajshahi possessed the records relating to the revenue collection of that area, it was he who could determine how the jurisdiction over the areas in dispute would fall. Yet getting the state governments to part with their revenue records was a nearly impossible task. What remained in the interim, however, with regard to cases of straying across the border, were a series of ad-hoc arrangements between provincial officers on both sides.

One implication of the boundary line was that revenue and administrative records for districts that fell on the other side needed to be exchanged. In order to be able to effectively administer the areas falling within their side of the border, officials required copies of administration records of the districts or 'thana' units which had been divided by the partition. Such records included maps, police registers, and, most crucially, revenue records of these areas. A 'mini-separation council' set up for the administrative tasks of the division in Bengal, also ruled, 'records which relate to the entire district, or two or more thanas which have fallen in the two different provinces should be copied, and each Province should have copies of these records.'²³ Thus, in the case of the borderline with West Bengal, the records of the newly divided districts -- including 24 Paraganas, Maldah, Nadia, West Dinajpur

²² Political Confidential Reports, November 1950; File No. 19- 167/ 48; National Archives, Dhaka

²³ Political Confidential Reports, November 1950; File No. 19- 167/ 48; National Archives, Dhaka

and Jalpaiguri in India, and Dinajpur, Rajshahi, Kushtia and Jessore, in East Pakistan—had to be divided. Yet, these transactions were frequently delayed. For example, revenue records relating to the Kushtia district had to be transferred from the Nadia collectorate in West Bengal. The matter was delayed, because the collector of Nadia, in West Bengal refused to hand over records such as touzi rolls and ledgers relating to estates that now lay in Kushtia, East Bengal. The collector of the district argued that the records need not be handed over, until the boundary disputes between Nadia and Kushtia districts were settled. This complaint was brought up at the next chief secretary's conference, but, for the time being, the file also noted that this was not necessarily a disadvantage:

‘If the government of West Bengal desire that they would not part with the revenue records now in dispute with regard to the Kushtia Nadia border, the division of records in the Matabhanga area in Daulatpur thana can be kept in abeyance now’.²⁴

This was also the case in the correspondence between the government of Assam, and East Bengal. The division of records between these two governments had been carried out to some extent, but remained incomplete. One reason that was often cited by district officials was that the border demarcation had to be finalized before relevant revenue records could be transferred to the other side. While the Assam government pressed for the transfer of those records relating to undisputed territories, East Bengal argued that the records not be transferred until the demarcation of the boundary, including the Patharia and Kasuriya hill tracts, was completed. They met with varying degrees of success; although some records relating to estates that fell exclusively into Assam were transferred, officials also noted:

²⁴ File No. PIII/54/19382/2, ‘Indo- Pakistan Boundary, Demarcation of Assam- East Bengal Sector’; MEA Archives, New Delhi

‘this will involve considerable time... Many bundles require handling several times- first in taking records of the disputed areas, and then in taking remaining records of Assam estates, and the Assam records relating to the common estates relating to disputed areas...’²⁵

Both sides were hesitant, and occasionally simply unequipped, to part with records relating to these boundary divisions. At the Chief Secretary’s Conference held at Shillong, in August 1955, it was acknowledged that the process of exchange of records had not been speedy. The Chief Secretaries promised to instruct the Deputy Commissioners of Cachar and Sylhet to see that the work of delivering the records be completed by December 1955.²⁶ Yet, what these exchanges also show is that in the more remote areas of both countries, finalising the demarcation of the boundary was not necessarily a high priority. Delays in the process of demarcation amounted to a tacit understanding between the two countries about not having clearly defined borders in more remote areas. It was also recognised moreover, that it was in fact impossible to completely seal off sections of what was, in fact a very porous region. What both decided, however, was to embark on a process of cooperation that would enable sections of the border to be a boundary-in-progress, rather than finalising a irreversible sealing off.

The demarcating of the boundary line between India and Pakistan reveal how notions of the sacrosanct territoriality of India and Pakistan was subject to a certain kind of skepticism in both governments: and this allowed for extensive lengths of the boundary line to be left unidentified for a substantial period of time after the partition. The ways in which the physical demarcation of Radcliffe’s boundary line was undertaken by both governments, reflect, moreover, a more conciliatory attitude

²⁵ ‘Division of records relating to Patharia Hills and the Kusiya block in Sylhet District’, File No. 23 (102)- Pak III/ 50; MEA Archives, New Delhi

²⁶ ‘Indo- Pakistan Boundary, Demarcation of Assam- East Bengal Sector’, File No. PIII/54/19382/2, MEA Archives, New Delhi

towards delineating the border than might be expected. Indeed, the extent, and nature, of cooperation on this issue are symptomatic of the larger impetus which propelled the bilateral relationship forward.

Implementing the Boundary Line

The ways in which India and Pakistan undertook to implement the boundary, therefore reveal not only how they developed the structures to ostensibly assert absolute authority over certain spaces in conjunction with one another; but also, how the authority of such structures was simultaneously left quite open-ended. While both governments repeatedly made their cases in terms of how the border should lie, as well as raising the numerous instances of trespass across the border, it was also recognized at the Chief Secretary's conference that it was in fact impossible to impose an irreversibly 'firm' boundary onto the inhabitants of these areas. These meetings and conferences acted as a pressure valve in reducing the potential for more serious conflict arising from these differences. The proceedings of the Chief Secretary's Conferences over 1948 - 1950, for instance, are filled with dispensing of incidents relating to problems along a badly delineated border. The physical drawing of the boundary line along stretches of East Bengal boundary line, for instance along Murshidabad- Joynagar, was less fraught than a depiction of two states hyper-sensitive about their security from one another would suggest. The question of inter- governmental dispute over the village of Joynagar was raised in the Chief Secretary's Conference of May 1950.²⁷ The main issue, in this case, came down to the railway lines that passed through the village of Joynagar, situated along the border in the Kushtia district. Both governments made cases for their jurisdiction over the village. The two sides' case over who could claim jurisdiction over this area

²⁷ Political & Confidential Reports, Bundle#3, May 1950, File No 3C-2/50, '15th Chief Secretary's Conference to be held at Dacca, 4-5 May, 1950', Dhaka Archives

hinged on who had previously exercised police jurisdiction. The report on this matter argued that 'though the village Joynagar is actually included in thana Damurhuda of East Bengal according to the thana notification in force immediately before the partition, it has been under the actual control of West Bengal after the partition.'²⁸ For the moment, however, the conference concluded, until the demarcation was carried out by the Directors of Land Revenue, both the state governments would accept the status quo with regard to the administration of the village. A similar decision was reached a few years later for the border along Goalpara and Rangpur. At the Chief Secretaries' Conference in April 1952, the question of the as yet incomplete border demarcation between Goalpara and Rangpur was brought up. The Chief Secretaries agreed that until the boundary was properly demarcated, neither side would attempt to disrupt the status quo, or occupy by force any territory, whether disputed or not.²⁹ Thus state officials on both sides were hesitant in disrupting a viable pattern of administration, even when such acts could technically be construed as being a violation of the others' sovereignty. Physically demarcating a clumsily drawn boundary-line in more remote areas along the border, thus, were often simply left undone. Yet, it is important to note that such decisions were mutual and consensual.

The other major topic of concern at the meetings related to the flow of traffic along the border, and the ways in which both governments ought to regulate this. 'Border incidents', when parties of cultivators would cross the border and try to seize goods and cattle from the other side, were also frequently topics of discussion at these meetings. The area north of the Piyan river, which acted as a boundary between the Khasi and Jaintya Hills in Assam, and Sylhet in East Pakistan, and where millet was

²⁸ Ibid

²⁹ 'Alleged Communal Incidents in Bihar' File No. L/52/6544/1, MEA File, NAI

grown in large quantities, were a frequent site of such contestations. In January 1952, for instance, it was reported that crop reaping activities in this localities had been interfered with by 'Pakistani armed forces'.³⁰ The report alleged that '15 personnel from the Pakistan armed forces in the Masimpur camp, accompanied by 50- 60 Pakistani nationals of Gamirtola, Masimpur and Kandapara trespassed into Ulonngkuna, a village within Indian Union territory, and looted the properties of the whole village, worth Rs. 1,549.'³¹ Later that year, in December 1952, an instance of cow slaughter led to violence in the border district of Mankachar in Assam. A group of police men attacked nine Muslim men, and, in the nearby bazaar, further scuffles broke out. The Chief Commissioners' report on the incident noted that 'some local people got panicky and ran towards the border, but eventually returned'³². C. C. Biswas, the Indian Minister for minority affairs received a telegram about this incident from Azizuddin Ahmed, and ordered that the State Minority Commission visit the area. S. K. Datta in the government of Assam, in a letter to the center, noted that with regard to such incidents, the 'local Army Commander has made it quite clear that our military forces are under strict orders not to get involved in such incidents.'³³ Nonetheless, he added, incursions of such kind had been reduced after 'manning of our border posts this year with armed police and the infliction of sharp punishment to Pak armed trespassers in one or two places.'³⁴ Yet, in general such incidents were not dealt with, or actively pursued by either side. Indeed, a report on the frequency of such incidents noted: 'It is observed that out of the 39 incidents on the borders of Assam- East Bengal reported during the year 1951, only 11 cases were taken up with the government of East Bengal by the government of Assam.'³⁵ The

³⁰ Ibid

³¹ Ibid

³² File No. L/52/6544/1, MEA, BL Branch, NAI

³³ Ibid

³⁴ Ibid

³⁵ Ibid

machinery for bilateral cooperation, thus allowed for such incidents being isolated from the larger matter of the sovereignty of either state.

In 1953, the Government of Bihar suggested that restricting the use of firearms to prevent shooting in the border areas within a specified perimeter, be examined as a possible measure by the other state governments. While the state governments of Kutch, West Bengal and Punjab were in favour of this suggestion, Assam and Tripura argued against it. The Assam government felt that this would 'interfere with the duties of their patrols along the border', while the Tripura government argued, in view of the dependence of their inhabitants along the border regions on game from the forests resources, and 'in the view of the absence of any natural features marking the boundary line, it will be difficult to determine the points in the border areas beyond which shooting was prohibited.'³⁶ Moreover, the Home Ministry also noted that 'this might be worth taking if we were faced with a situation where incidents of this nature were numerous, but, for the moment, they are not...'³⁷

Yet 'border incidents' continued to arise. In July 1951, the District Magistrates of Murshidabad, in West Bengal, and Rajshahi, in East Pakistan, met to discuss the recent case of 'unripe paddy being cut and forcibly carried from lands falling in the Indian Union.'³⁸ The two heard complaints from local residents, regarding the difficulties that arose from the ban on movement of paddy across the border, particularly for those who resided in one dominion, and cultivated lands in the other. Such appeals largely went unaddressed, and the 'interim' state of affairs was largely allowed to continue. Similarly, in February 1952, in the Char Narendrapur district in Murshidabad, another altercation over possession of a piece of land across

³⁶ 'Indo-Pakistan Border: Prohibition of shooting in the region, suggestion from Bihar', File No. L/53/1935/1, BL Branch, MEA File, NAI

³⁷ Ibid

³⁸ File No. L/52/1935/202, MEA, BL Branch, NAI

the border broke out, in which 'a Pakistani national, with a cart and seven heads of cattle was arrested on the spot by Indian nationals'³⁹. The letter from the government of West Bengal over this incident registered 'a strong protest against such deliberate violation of Indian territory'.⁴⁰

Yet at a meeting between officials of Tripura State and the government of East Bengal, in January 1949, it was, agreed that 'no useful purpose will be served by discussing such [border incidents] in detail, as both sides had a long list of complaints against the other and that joint enquiries may be if necessary conducted into major incidents only.'⁴¹ This was reiterated a few years later, at a meeting between the Pakistan Interior Minister and the Indian Home Minister in 1955. It was pointed out that a large number of border incidents were due to the indefinite nature of the boundary -- a situation which would improve only when the boundary was in fact finally demarcated. As an interim measure, however, it was also decided that the numbers of police posts along the border of both sides be adjusted so that they corresponded with one another, as this would correspondingly reduce the number of border incidents on either side.⁴²

Neither side wished to exhaustively pursue relatively minor cases of trespass across the border. Yet this also necessitated the establishment of a machinery for dialogue and cooperation for handling such cases. Putting such machinery in place allowed for both states to assert their control up until the boundary, yet curiously, at the same time also required a tacit agreement between the two sides on their inability to secure the more remote areas of the border. The machinery for bilateral cooperation

³⁹ Ibid

⁴⁰ Ibid

⁴¹ 'Meeting at Agartala on 12-1-1949 between Diwan of Tripura and certain District Magistrates of East Bengal', File No. 12 (15)- Pak (A), NAI

⁴² 'Minutes of a meeting held in New Delhi on Sunday, 15 May 1955', File No. 3/13/55- BL; NAI

thus offered a means by which the incomplete nature of the border could be jointly papered over.

Complaints regarding the unwarranted search and detainment of migrants of the minority community are an interesting example of the way in which the border was shaped. Check posts along the border, and the practices of customs and border officials, were subjects of lengthy bilateral discussion. In 1952, the branch secretariat in Calcutta had been in correspondence with the government of Pakistan regarding an ordinance passed by the latter, providing for more stringent measures to be taken to prevent smuggling. The Indian High Commission informed the Ministry of Foreign Affairs in Karachi that the latest ordinance was 'a unilateral violation of the existing agreements reached at the inter-dominion conference held at Calcutta in April 1948 and at New Delhi in December 1948'.⁴³ Another letter from B. K. Acharya to the MEA in Delhi noted that the 1948 inter-dominion agreement had included provisions against unwarranted searches, inserted at the time at the insistence of the government of Pakistan, which had protested against the measures taken by the West Bengal government to prevent large scale smuggling of cloth. The Chief Secretary to the Assam government complained to his counterpart in East Bengal, Azizuddin Ahmed, that 'these armed forces stop the trains, busses, private cars etc near the border and conduct searches even after the usual customs check by the Pak Customs staff...'.⁴⁴ Similarly, in a letter written to I. A. Khan, Deputy Secretary of the Government of East Bengal, N. N. Chatterji, his counterpart, argued: 'Ever since these border searches began, the evidence of oppression and harassment has mounted so alarmingly as thousands of frightened men and women and children

⁴³ Letter dated 17 September, 1952, High Commission of India to the Ministry of Foreign Affairs and Commonwealth Relations, Karachi. File No. L/52/55218/202, MEA, BL Branch, NAI

⁴⁴ Chief Secretary, Assam, to Chief Secretary East Bengal, 9 October 1952; File No. L/52/55218/202, MEA, BL Branch, NAI

pour into West Bengal all along the border.’⁴⁵ He added that ‘since great anxiety prevails in this State over this matter it is necessary from time to time to inform the people that this government are in urgent communication with the Government of East Bengal in order that such harassment and oppression might cease.’⁴⁶ The government of Pakistan argued that smuggling had escalated to ‘scandalous proportions’ in the year 1951-2, and the provisions of the agreement were not intended to curtail either government to take preventive measures against such a ‘menace’.⁴⁷ Countless numbers of migrants complained of having been delayed and harassed by border officials on suspicion of smuggling jute, or cotton. Concerns about smuggling, thus, were an important factor in giving firmer shape to the border. At the same time, however, it was also recognised that border could not be effectively sealed off completely, and the flow of traffic from one side to the other needed to continue. This provided for a basis of cooperation and dialogue along the border, even while both sides protested against depredations by the other.

The everyday lives of ‘borderlanders’ offer a prism through which to study the ways in which the authority of the state can be challenged, since the border areas are frequently found to lack sufficient infrastructure with which to assert the absolute authority of the state. That the imposition of an international border could have ambivalent meanings in the everyday lives of those living in the border area is a phenomenon which has been described in detail by a number of scholars looking at the evolution of boundary- lines into borders across the world.⁴⁸ However it should also be recognized that the state itself is equally versatile in incorporating within

⁴⁵ File No. L/52/5528/202; BL Branch; NAI

⁴⁶ Ibid

⁴⁷ From I.A. Khan, Dy. Secretary to Govt. of East Bengal, to Govt. of West Bengal; 2 October 1952, File No. L/52/5528/202; BL Branch; NAI

⁴⁸ The literature on border studies is diverse; this has been addressed and approached from a variety of disciplines, and inter-disciplinary perspectives, including the anthropological, historical, legal, and gendered studies of borderlands. For the purposes of this chapter, I have cited works relating mainly to the Bengal Borderland.

itself potential challenges to its functioning, and is as an active agent in the crafting of trans-national and international identities.⁴⁹ The very vagaries in how a border is formed, therefore, can also be indicative of, not merely the weaknesses of the reach of state infrastructure in these areas, but also its deliberate positioning with regard to how these ambivalences may be jointly controlled. What is striking about the discussions on the border in this area is that they were less explosive than might have been expected. This allows us to consider the possibility that the actions of a state in delineating a borderline were not necessarily only geared towards perpetuating a violent relationship.

Much of the rhetoric around the construction of the border also reveal the ways in which, what Krishna Shankaran has called the 'cartographic anxiety' of the nation state is constituted.⁵⁰ Shankaran has argued that the process of depicting maps of India, and the necessity of having this embossed on to the 'national consciousness', is constitutive of a cartographic anxiety of the nation state. Furthermore, such manifestations are also indicative of the very uncertainty of the state over the fixity of its territory. Yet, the manifestations of anxiety over the security of the border, and concerns about infringement into border areas, stand in marked contrast to the often messy ways in which these were delineated and imposed. For the India-Pakistan relationship, therefore, the boundary areas required the maintenance of a certain fiction: while both needed to assert their authority over the entirety of their territories, the ways in which their authority ended at a particular point were left unclear. Delineating a boundary line was undoubtedly critical to the notions of sovereignty of both countries. Yet, neither state was equipped to effectively man one

⁴⁹ See, for instance, Donnan, H., and Wilson, T., *Borders: Frontiers of Identity, Nation and State*, Oxford, 1999

⁵⁰ Sankaran, Krishna, 'Cartographic Anxiety: Mapping the Body Politic in India', *Alternatives: Global, Local, Political*, Vol. 19, No. 4, Fall 1994

of the longest boundary lines in the world. Thus it was necessary for both to set in place structures which could take into account the vagaries of such a line, while at the same time protecting the notions of territorial integrity. A mechanism for bilateral cooperation, thus was crucial for both states, even while they voiced vociferous accusations at each other for violating the boundary line. Cartographic silences and anxieties about this, thus, were mutually constituted.

The Indus Water Dispute: A New Interpretation

As has been seen, neither government in fact chose firmly to impose a border over its more remote territories. But their concerns about strictly delineating the boundary line were acute when the assets that they cordoned off were of perceived to be of great value.

In Punjab, a key implication of Radcliffe's boundary was its effect on the water supply and irrigation in the region. From the outset, both governments recognized that as a result of how Radcliffe's boundary was drawn, they would need to negotiate over how control over the water supplies would be exercised. Effectively, the decade long negotiations over the Canal Waters were an act of border demarcation. The negotiations involved both sides making a case for how the waters could be divided for their separate uses. At the same time, although the Indus Waters treaty was signed only in 1960, a de-facto system of usage of sharing the canal waters had been set in place by 1948. Thus the Indus waters negotiations shared the characteristics of other boundary negotiations: an interim system had been put in place, while a formal decision was postponed.

The Arbitral Tribunal had decided that the canal systems would be valued, and that both the provinces would pay a proportionate share of interest for its benefits. It

ruled that the government of West Punjab pay a tax for the waters received from the Indus canals, since the development from this irrigation had taken place mainly in areas that now fell in Pakistan.⁵¹ Similarly, in March 1948, the Tribunal attempted to decide how the financial settlements between the two Provinces, in terms of the division of assets and liabilities, could be worked out.⁵² The ratio upon which the financial settlement could be worked out, was however disputed between the two sides, with the East Punjab side trying to secure a greater sum of compensation from the other side. What became clear in the immediate aftermath of partition, therefore, was that the fact of the boundary line would necessarily change the terms in which access to irrigation systems would operate. Control over the irrigation systems would necessarily have to be negotiated through the additional minefield of India-Pakistan relations.

Preserving the unity of the irrigation canal systems of the Punjab had obviously been an overriding factor in the logic of drawing the boundary line across Ferozepur. Radcliffe noted that '...there are factors such as the disruption of railway communication and water disputes that ought in this case to displace the primary claims of a contiguous majority.' He concluded by urging the two Dominions towards an 'agreement ... for some joint control of what has hitherto been a valuable common service... where the drawing of a boundary line cannot avoid disrupting such unitary services as canal irrigation, railways, electric power transmission.'⁵³ It was almost immediately apparent, however, that this would not be the case. Agricultural cultivation in West Punjab was heavily dependent on irrigation plying

⁵¹ 'The Reminiscences of Sir Muhammad Zafrullah Khan', Interviews conducted by Professors Wayne Wilcox and Aislie T Embree for Columbia University, url: <http://www.apnaorg.com/books/zafrullah-1/zafrullah.php?fldr=book>, last seen 31 August 2012

⁵² A Record of Decisions of the First Meeting of the Punjab Partition Committee, held on 1 July 1947, Singh, K. (ed.) *Select Documents in the Partition of the Punjab*, p.128

⁵³ Reports of the Members and Awards of the Chairman of the Boundary Commission, Partition Proceedings, Vol. IV; p. 304

from 'Bari Doab' and 'Dipalpur' canal systems, whose headworks were located at Ferozepur, now in India. In November 1947, the Arbitral Tribunal, which oversaw the division of assets between the two Dominions heard a case submitted by Sardar Harnam Singh, Advocate General of East Punjab, and G. N. Joshi and Gurdev Singh from East Punjab.⁵⁴ They argued that since West Punjab would continue to benefit from the irrigation canal system which been constructed by the province as a whole, 'East Punjab was entitled to a financial adjustment on the basis of capitalized profits from irrigation system of Punjab Province.'⁵⁵ In December 1947, a 'Standstill Agreement' between the two Punjab governments was signed, to the effect that the provisions for irrigation across both states would continue as they had prior to the partition, upto 30 March 1948. This agreement would expire on the day the term of the Arbitral Tribunal ended.⁵⁶

The apprehension that, once the control of the head-works came to India, she would prove unwilling to equitably share the waters from the canal systems was justified. On 1 April 1948, a day after the term of the Arbitral Tribunal expired, the government of East Punjab cut off the supply of water going into West Punjab, on the grounds that in order for the water to continue to flow, the agreement would need to be formally extended. The East Punjab government argued that their actions were intended to clarify their exclusive ownership of the Upper Bari Doab Canal. They argued that, in the absence of any formal agreement, if East Punjab had not closed the water supply, at least temporarily, this might have led to West Punjab acquiring legal rights on the UBDC, for the benefit of the lower section of the Canal,

⁵⁴ 'Select Documents on Partition of Punjab- 1947, India and Pakistan', 'Award of the Arbitral Tribunal on Reference of the Punjab Partition Committee', pp 585

⁵⁵ 'Award of the Arbitral Tribunal on Reference of the Punjab Partition Committee Reference No. 1', Singh, Kirpal (ed.) *Partition of the Punjab, 1947: India and Pakistan*, p. 584

⁵⁶ For a discussion of the chronology of the Indus Waters dispute, see Michel, A. A. *The Indus River: A Study of the Effects of Partition*, New Haven, 1967

now in Pakistan.⁵⁷ Nehru's letter to Gopichand Bhargava on the issue was disapproving: he was 'greatly worried', at the stoppage of canal water into Lahore, 'as there is little doubt that this act will injure us greatly in the world's eyes'.⁵⁸ Moreover, he pointed out, such an action was, after all in the short term quite futile, since 'water will have to be allowed in future because such stoppages cannot occur normally unless there is actual war'.⁵⁹ Yet, the provincial government's action was not unequivocally condemned by Delhi. It was generally accepted that although the water flow could not be stopped to Pakistan, such access would need to be determined on the basis of an agreement.

In the immediate aftermath of the crisis, a team was dispatched from Pakistan to work out a settlement for continuing water supply from the Upper Bari Doab Canals (UBDC) and other canal systems. This included the Finance Minister of Pakistan, Ghulam Muhammad, and two ministers of West Punjab, Shaukat Hayat Khan, and Mumtaz Daultana. An agreement was signed, on 4th May 1948, according to which Pakistan would have access to the water flow, and water was restored to the Dipalpur and UBDC canals. However, the agreement also specified that the West Punjab government seignorage charges to India for the cost of transporting the water. In addition, India would gradually diminish water supplies flowing into Pakistan, so West Punjab would have to tap alternative sources eventually. This agreement was fiercely criticized in Pakistan. Chaudhry Muhammad Ali asserted that its delegates had been forced to sign it because of the urgency of the circumstance, but was, as such, greatly against Pakistan's favour. The agreement, Muhammad Ali continued, was laid out in front of Ghulam Muhammad, who was

⁵⁷ N. D. Gulhati, *Indus Waters Treaty, An exercise in International Mediation*, Bombay, 1973

⁵⁸ Nehru to Gopichand Bhargava, 28 April 1948, SWJN, SS, Vol. 6, p. 61

⁵⁹ Ibid

'asked to sign without changing a word or comma'.⁶⁰ Yet although the government of Pakistan repeatedly criticised the treaty, and attempted to introduce modifications to its provisions, it remained the main basis of water sharing over the next decade.

Ghulam Muhammad, who in 1948 had come to Delhi as a delegate for the conference regarding Indus Waters, visited Nehru. It was clear that the Agreement discussed was not to Pakistan's satisfaction. Ghulam Muhammad pressed for a 'provisional agreement might be arrived at so that water should be paid for by the East Punjab government, and supplied by the West Punjab government.'⁶¹ Nehru was, however, clear that 'After the provisional agreement which ended on 31 March, and the Arbitral Award, the rights in the canal head-works and the water vested completely in East Punjab.'⁶² In a famous interview, he told the journalist Nicholas Mosley, 'What India did with India's rivers was India's concerns.' In 1953, the site of the Bhakra dam construction, moreover, moved Nehru sufficiently enough for him to declare that it was 'something tremendous, something stupendous, something which shakes you up when you see it. Bhakra, the new temple of resurgent India, is the symbol of India's progress'.⁶³

The Indian Prime Minister, for all his concerns about peace with Pakistan, was in fact fairly easy to persuade for putting on a strong defence of the Canal Waters issue. The use of the water to prioritise India's development was, not in the end, something which that could be compromised. His concerns mainly related to how adversely India would be affected in the world's eyes over the sharing of the waters. He noted wearily write to Gopalaswami Ayyangar 'I do hope that there is going to be no

⁶⁰ *Emergence of Pakistan*, p. 321

⁶¹ Nehru's Record of a Interview with Ghulam Muhammad, 3 May 1948, SWJN, SS, Vol. 6, p. 61

⁶² *Ibid*

⁶³ Cited in Michel, A. A. *The Indus Rivers*

cutting off the water supply on the part of East Punjab. This will give a great outcry against us all over the place'.⁶⁴

Although the agreement of May 1948 formed the basis for further negotiations, it was also clear that it would not be unquestioningly adhered to, by either side. Just how this treaty could be defined, however, posed further questions. One option was to register the May 1948 Agreement with the United Nations, thereby formalising it into an international treaty. This debate, however, opened up a veritable hornet's nest with regard to India-Pakistan relations. The main advantage for registering the agreement was so that it could later be cited as justification, when, as was widely expected, Pakistan would bring its case on the Canal Waters dispute, to the International Court of Justice.⁶⁵ Nehru was, however, unimpressed by this logic. He argued 'it is exceedingly doubtful whether such interim agreements can be considered international agreements of the kind referred to Article 102 of the UN Charter. It is certainly not a treaty... I see no particular good coming from registration, and it may well result in complications and needless troubles for us.'⁶⁶ He also argued that by this logic, all the scores of inter-dominion, and inter-provincial agreements that had thus far been signed, would have to also be registered by the United Nations. Formalising the agreement in itself was not particularly appealing to New Delhi: the major incentive that the Indus Waters Treaty had offered was the opportunity of funding from the World Bank.

So the positions that India and Pakistan took with regard to the Indus Canal dispute had been more or less set in the first few months of its arising. India and Pakistan embarked on separate courses of development almost immediately following

⁶⁴ Nehru to G. Ayyangar, 29 September 1948, SWJN, SS, Vol 7, p.124

⁶⁵ File No. 23(106) Pak III/50, 'Inter-dominion Agreement on the Canal Waters Dispute between East and West Punjab', MEA Archives, New Delhi

⁶⁶ Ibid

Independence, and, within a few years of Independence, were firmly committed to for projects for the separate utilisation of waters of the Indus Basin. Yet, given such a potentially serious cause for conflict, revolving, after all, around access to a very basic commodity—what is notable, is that the bilateral relationship was able to encompass it without resorting to war.

Although the agreement was renewed at various intervals, its terms were strongly disputed by Pakistan. There was disagreement with regard to the sum for the 'seignorage charges'.⁶⁷ Furthermore, water was not restored to some of the smaller distributaries flowing into Pakistan.⁶⁸ Muhammad Ali was the leader of the Pakistan delegation at an Inter-dominion Conference held in Karachi in March 1950. Although alternatives to the current arrangements were explored, such as building additional storage dams (jointly funded by India and Pakistan) were discussed, these plans were shelved fairly quickly in favour of continuing the terms of the Delhi Agreement. From India's perspective, moreover, a series of interim measures regarding the water share, worked out between the provinces, would have been a sufficient answer. Nehru wrote to Gopalaswami Ayyangar: 'On the whole I do not see why we should worry greatly... the 4 May Agreement entitles us to use the water progressively for East Punjab, [and] take any other steps that we might consider desirable.'⁶⁹ The agreement of May 1948, was indeed, repeatedly referred to by India in their subsequent negotiations with Pakistan over the Canal Waters issue.

The government of East Punjab, however was particularly insistent that any agreement with Pakistan was to be done on terms that would secure India the right to access the share of water required for her own uses. In September 1950, C. M.

⁶⁷ Undala Z. Alam, *Water Rationality: Mediating the Indus Waters Treaty*, Unpublished PhD Dissertation, University of Durham, 1998

⁶⁸ Muhammad Ali, Chaudhry, *Emergence of Pakistan*, p 330. Water was still withheld from the Bahawalpur State distributary and nine lesser distributaries of the Central Bari Doab systems.

⁶⁹ Nehru to Gopalaswami Ayyangar, 24 January, 1949, SSJN, SS, Vol. 9

Trivedi wrote to Nehru on the issue of the upcoming Inter-dominion Conference to discuss the Indus Waters. He argued that Pakistan's proposals that no further irrigation works be embarked on pending further arbitration on the matter would not be satisfactory to India. This would imply that the work on the Harike and Bhakra Projects would be halted.⁷⁰ He argued that it was essential for the conference to come to the understanding that 'there can be no question whatever of stopping the works at Bhakra or Nangal.'⁷¹ The provincial governments of both the Punjabs, thus, were critical in shaping the Indus Waters negotiations, as well, indeed, as the interim sharing of the river waters.

As the summer of that year wore on, both countries embarked on irrigation projects which contradicted the 'Standstill Agreement'. In May, Nehru learnt of an irrigation project being embarked on in West Punjab, by which waters from the Sutlej, hitherto flowing from the Ferozepur and Dipalpur headworks, would be diverted. This could, Nehru wrote to Sri Prakasa, 'render the headworks at Ferozepur itself useless'.⁷² Work also began in Pakistan on the Mangla Dam on the Jhelum River, as part of the effort to have a secure water supply.⁷³ Nehru dispatched cables to Liaquat and Zafrullah Khan, on 18 May, warning that this would adversely affect the supply of water in India: 'Should West Punjab complete this work it would cause a disaster for the Ganga Canal Colony in Bikaner State. East Punjab government would not be able to feed their canal throughout the winter... and possibly, even during the summer.'⁷⁴ The reply from Zafrullah Khan on this was unapologetic. In view of their recent experience, Zafrullah asserted, 'you will agree that the government of West

⁷⁰ C. M. Trivedi to Nehru, 2 September 1950, *Sardar Patel's Correspondence, 1945- 1950*, Vol 10, Chp. 15, p.427

⁷¹ Ibid

⁷² Nehru to Sri Prakasa, 16 June 1948, SWJN, SS, Vol. 6, p. 74

⁷³ Ali, Chaudhry Muhammad, *Emergence of Pakistan*, p. 324. The Thal project was also commenced, which also provided employment and opportunities for settlement for refugees in West Punjab.

⁷⁴ Nehru to Liaquat Ali Khan, 18 May 1948, SWJN, SS, Vol. 6, p. 66

Punjab are fully justified in taking precautionary measures.’⁷⁵ Moreover, he argued the government of West Punjab would continue to take precautions to ensure a secure supply of water within its own territory, ‘subject to saving our full legal rights and any final agreement.’⁷⁶ It was thus clear from a very early stage that irrigation works based on the utilization of the Indus Canals would have to be carried out for the separate purposes of India and Pakistan.

The provincial governments continued, however, to limp along in an awkward and unwilling cooperation. In September 1948, the Chief Engineers of both sides met at Wagah to talk over further details with regard to the water sharing system. Over the question of payment by West Pakistan, N. D. Gulhati, leader of the Indian delegation in the World Bank negotiations, and an irrigation engineer, noted that the agreements had been arrived at by the provincial, and not central, governments.⁷⁷ This agreement—technically unrecognized by both central governments—allowed for a certain fixed quota of water share for both the provinces⁷⁸. The amount that the West Punjab government was liable to pay for the irrigation waters was in dispute. Water continued to be supplied, however, on the condition that the disputed payment continue to be made to an ‘escrow’ account- one which could not be used for India’s purposes⁷⁹. Indeed, when a letter of complaint arrived from M. R. Sachdev, Chief Secretary of East Punjab arrived at the Ministry of External Affairs, arguing that ‘Pakistan has refused to make any ‘disputed’ payments... even though it continues to enjoy the benefits of canal water’, Y. K. Puri at the Ministry replied saying that, in strictly legal terms, ‘a mere denial of the validity of the agreement,

⁷⁵ Ibid

⁷⁶ Ibid

⁷⁷ File No. 6- Pak III/51, ‘Canal Water Charges, Payment by Pakistan to India’, MEA Archives, New Delhi

⁷⁸ File No. 6- Pak III/51, ‘Canal Water Charges, Payment by Pakistan to India’, MEA Archives, New Delhi

⁷⁹ File No. 6- Pak III/51, ‘Canal Water Charges, Payment by Pakistan to India’, MEA Archives, New Delhi

and refusal to deposit the disputed sums are not in themselves enough to invalidate the Agreement of 1948.⁸⁰ Thus, New Delhi was largely in favour of allowing the continuation of the 1948 canal waters agreement, although the government in Punjab argued that it was entitled to more compensation from Pakistan.

Meanwhile, the MEA received a letter from the Foreign Ministry in Pakistan relating to the everyday maintenance of the 'left marginal bund at Suleimanke', which would require permission by Indian officials to allow entry to Pakistani engineers.⁸¹ The letter argued that more facilities should be afforded to Pakistan for its engineers to visit, and carry out maintenance works at the left marginal bund at Suleimanke. In any case, it continued, 'The owners of the head-works in either case are interested in the proper upkeep of the marginal bund located in the other country.'⁸² It was quickly retorted that this would be contingent on Indian engineers having access to dam controls in Ferozepur, which were located within west Punjab. 'The only practicable arrangement', noted S. K. Banerji in the MEA, would be for the engineers of the Indian and Pakistani Punjab to come to an informal understanding that dam controls operative to the other country, but located on this side of the border, would be maintained on either side. However, it was also repeatedly argued that it would be unwise to commit to formal arrangements with Pakistan regarding the maintenance and upkeep of the canal systems which might imply any surrender of its own control over them. What was recommended regarding these questions, in terms of how strictly the boundary should be laid down in view of these

⁸⁰ File No. 6- Pak III/ 51; 'Canal Waters Dispute', MEA Archives, New Delhi

⁸¹ File No. 6(3) Pak III/50, 'Boundaries Indo- Pakistan- Punjab (I)- Punjab (P) Sector', MEA Archives, New Delhi

⁸² Ibid

considerations, was that a series of 'informal arrangements' come into being with the state governments across the border.⁸³

It became clear relatively quickly, however, that any system of joint usage of the basin would be impossible to achieve. Such development would entail a specification by either country of the amount of water it was liable to lose. All construction however had to be carried out without foreign aid. India and Pakistan had applied to the World Bank – then known as the International Bank for Reconstruction and Development -- for funds, but were refused on the grounds that the World Bank could not fund development works which were disputed internationally. In December 1950, India received some bad news from the World Bank over an application it had made for financial and technical assistance over its projected Bhakra Dams, owing to concerns that this could exacerbate further the tensions between India and Pakistan over the canal waters. In 1951, the Bank did, however offer to mediate between the two sides over the canal waters question. In a letter to the Prime Ministers of India and Pakistan, Eugene Black, the President of the World Bank, offered his offices for mediating in the dispute. Solutions which 'meet... the requirements of both countries for expanded irrigation through cooperative construction and operation of storage dams and other facilities [would] be financed in part, perhaps by this Bank'. Although both sides accepted, certain premises laid out by the Bank already caused unease. One such cause was a committal to the 'future needs' for water and a matter of debate whether this could be categorically fixed, within a system of joint usage.⁸⁴

By 1952, it was decided that the 'eastward' rivers, of Beas, Ravi, and Sutlej, which were flowing within India, would be for the exclusive use of India; while the

⁸³ 'Boundaries, Indo- Pakistan- Punjab (I)- Punjab (P) Sector File No. 6(3) Pak III/ 50, MEA Archives

⁸⁴ Michels, A. A., *The Indus Rivers*, p. 226.

westward rivers of the Indus, Jhelum and Chenab were for the use of Pakistan.⁸⁵ Yet this seemingly simple solution took nearly ten years to finally formalise. The completed agreement, finally signed in September 1960, would be successfully implemented only when both countries would receive massive funds, not only from the World Bank, but other aid-giving countries, to be able to fulfil their sides of the promises. The Treaty was worded to avoid mention of the Kashmir dispute, and provided for, moreover a set of back-up mechanisms for any situations likely to arise that would contravene its functioning. The agreement on the Canal Waters was also therefore an act of border demarcation: of a division which had been recognized in practice over a considerable length of time, and the agreement was a means by which this was officially recognized. At the same time, however, both sides had continued to tap the water as they required. There was unwillingness, moreover, on both sides to formally sign away right to use of waters from rivers that flowed in the other country.

It is worth exploring, then, the reasons why either country chose to enter into the treaty.⁸⁶ The terms of the treaty provided for the setting up of an 'Indus Basin Development Fund' to which the World Bank, as well as other countries would contribute a sum of some 640 million dollars to construct replacement works in Pakistan, as well as additional water resource development projects in India. The government of East Punjab was strongly in favour of signing the treaty, and had welcomed the prospect of funding and investment from the Bank. The solution that

⁸⁵ For a discussion of the World Bank negotiations for the waters treaty, see also Nehru, B. K. *Nice Guys Finish Last*, New Delhi, 1997. Nehru was the head of the Indian delegation at the Bank from 1949- 1954.

⁸⁶ The Water Wars Rationale, were frequently applied to India and Pakistan in these decades: it was predicted that two countries in dispute over a resource as essential as water, two countries moreover, already in the midst of a broader conflict, would probably resort to warfare. Undala Z. Alam, in his doctoral dissertation on the World Bank mediation on the Indus Rivers, points out, that contrary to the 'water war rationale', India and Pakistan were after all able to come to agreement. This agreement, moreover lasted across two wars between India and Pakistan as well as numerous skirmishes.

both sides chose to grasp at, moreover, was one that provided a lasting division of the water supplies, and prospects for the perusal of divergent policy directions with respect to the development of the Indus Basin.⁸⁷

The Indus Treaty was not hailed in either country as a triumphant success. Accepting it meant that possibilities for the optimal development of the Indus Basin were given up by both sides. Had the initial proposals of the World Bank for joint usage of the Indus Canals been accepted, benefits immensely valuable to two poverty-stricken countries, such as the development of hydro- electric projects, would not have been foregone.⁸⁸ Critics in both countries felt that the other stood to gain more from the Treaty. Pakistani critics of the treaty argued that she 'sold' the waters of the Eastern Rivers to India, and had received inadequate compensation in return. Similarly, in India it was felt that the provisions of the Treaty had been too lenient with Pakistan, who obtained from it, a better position for potential development.

Yet those in favour of the treaty felt that it presented the best outcome possible under the circumstances. Muhammad Ayub Khan, who had come to power in Pakistan by the time the treaty was signed, writes in his autobiography '... The only sensible thing to do was to try and get a settlement, even though it might be second best, because if we did not, we stood to lose everything... while there was no cause for rejoicing at the signing of the treaty, there was certainly cause for satisfaction that a possibly very ugly situation had been averted'.⁸⁹ This argument is echoed in an article by Jagat Mehta, who had argued that while the opportunity costs that were

⁸⁷ Undala Z. Alam, *Water Rationality: Mediating the Indus Waters Treaty*, Unpublished PhD Dissertation, University of Durham, 1998

⁸⁸ Mehta, J., Mehta, J., 'The Indus Water Treaty: A Case Study in the Resolution of an International River Basin Conflict', *Natural Resources Forum*, Vol. 12, No 1, Feb. 1988

⁸⁹ Muhammad Ayub Khan. *Friends, Not Masters: A Political Autobiography*, London 1967

given up in terms of a joint development of the Indus Basin were immense, the Indus Treaty was the best solution under the circumstances.⁹⁰

The India-Pakistan border, therefore, was always a negotiable quantity. The process of implementing the boundary line was often based on a series of interim arrangements, rather than a sudden snapping. The negotiations about the border demarcation revolved around what best terms could be secured for both countries with it in place, rather than a contestation of how the awards were made in the first place. Even given the many problems with what the borderline was, as well as the daunting complexities in actually imposing it, the decisions made in both countries was to proceed with this borderline – in some places, simply notionally, but in other places, with grim precision.. The process of implementing this borderline required a certain kind of agreement on the part of the two new governments. Bilateral negotiations on the physical demarcation of the borderland revealsome areas of fierce contestation over the securing of as much territory as possible, and much as a matter-of-fact consideration of the extent to which the boundary could actually be imposed between the various border provinces of India and Pakistan. This called for a variety of approaches, yet it was consistently agreed by both sides that a bilateral mechanism was necessary to come to terms of agreement as to how an often ‘invisible’ boundary line could be translated into the division of rights and responsibilities in the areas that it cut through. Such cooperation was necessary for maintaining the de facto notions of sovereignty of both sides, but also had implicit within it a tacit agreement of the need to jointly paper over the de jure limits to such notions.

⁹⁰ Mehta, J., ‘The Indus Water Treaty: A Case Study in the Resolution of an International River Basin Conflict’, *Natural Resources Forum*, Vol. 12, No 1, Feb. 1988

BILATERAL NEGOTIATIONS ON EVACUEE

PROPERTY

The evacuee property debates in India and Pakistan took place at a critical juncture. They were had while Constituent Assemblies in both countries were sitting, and offered a critical opening into establishing firm positions on citizenship, and re-examining principles of the ownership of land. They also asserted control over the means by which inter-dominion contacts between refugees and their assets could be controlled.

Decisions on the question of regulation of evacuee property were made, moreover at a time when both governments faced overwhelming demands from their new citizens for the use of abandoned evacuee lands. Evacuees in both countries looked to their governments to provide compensation for the assets they had had to leave behind. This was actively vocalised and pursued by various sections of the government on both sides, who pressurised in favour of greater resources being granted for refugee rehabilitation. In a letter to Nehru, a senior Indian refugee politician, Mehr Chand Khanna wrote, that as far as the evacuee property question was concerned 'The average displaced person... though he may acknowledge that something has been done for him, he feels that his ultimate rehabilitation is largely dependent upon the liquidation of his own assets in Pakistan'.¹ Similarly, these impulses also crystallised particularly clearly in the speeches of Tafazzal Ali, a member of the Legislative Assembly of East Bengal. During a debate on the measures the state could take to requisition evacuee land, he pointed out, 'the

¹ Mehr Chand Khanna to Nehru, 12 January 1949, File No. 11(4)- Pak III, 'Implementation of Karachi Agreement of January 1949'; NAI

partition of Bengal was an unexpected event, and though I am sure it will be considered unfortunate by both Hindus and Muslims, the partition had to be accepted as a compromise. The partition lead to a great deal of speculation in lands, [and unless the authority of the state to requisition land is strengthened], it will give impetus to people to sell of their lands, which will lead to profiteering in lands...'²

The whole question of refugee resettlement had led to a great deal of tension between the centre, and provinces, in both countries. Urban centres across the northern part of the subcontinent found themselves engulfed by a sea change in demography resulting from the scale of partition migration, which presented many critical tasks for both the governments. The most pressing of these were refugee rehabilitation. Provincial ministers regularly hurled accusations at the centre over its unhelpfulness in the matter of rehabilitation of refugees, as well as asserting their own inability to accommodate more numbers. This necessitated a form of cooperation between the two governments in order to decide how the evacuee property question on both sides could be utilised. The task of rehabilitation required cooperation with the other side in being able to produce land for refugee allotment.

What was also remarkable about the progress of the evacuee property legislations in both India and Pakistan was that they were almost clean mirror images of each other, reciprocating increasingly restrictive control of the Custodian over property. The Civil and Military Gazette of May 1950 commented 'The constantly growing mass of increasingly complicated rules and regulations, which the two governments have formulated for the control of evacuee property, apparently in keen competition with each other has caused H. E. the Governor of the Punjab to remark that government policy seems chiefly concerned with safeguarding this property against

² The East Bengal (Emergency) Requisition of Property Bill, 1948, East Bengal Legislative Assembly Proceedings, Official Report, Second Session, Vol. II, 7-15 June 1948, Proceedings on 9th June 1948, National Archives Bhabhan, Dhaka, EBLA, 14 June 1948, p. 106

its rightful owners.³ Yet, although the negotiations on evacuee property were frequently portrayed as being mired in deadlock and non-compromise, it is nonetheless important to examine the dialogue that was carried out on this question, as well as to explore the considerable areas in which the two sides spotted opportunities for compromise. While negotiations on this question were consistently skewed against the interests of evacuees being able to exercise control over their lands while in the other dominion, the ways in which this was implemented was strikingly similar on both sides, and was, moreover, premised on a mutual agreement on the need to sever as much as possible, inter-dominion control by individuals, over assets.

What evacuees attempting to re-establish control over their property quickly discovered, were the growing tentacles of the office of the custodian of evacuee property, and the restriction placed in the way of their individual transfer, sale, or exchange of the land. Yet, the process through which these decisions were enacted in both countries was remarkably consistent. Although the legislations passed with regard to evacuee property were not necessarily aimed at enabling a greater control of evacuees over the properties they left behind, it was nonetheless important to both governments to discuss the nature of these legislations, and to attempt their calibration.

This was a difficult task, since the kinds of properties that this entailed, as well as their geographical spread, meant that there could not be a uniform approach by either government on how these could be regulated. Evacuees looked to their government for recompensation of assets both tangible and notional: their properties included various types of titles to land, bank account savings and pensions, as well as moveable assets whose worth was highly valuable, such as machinery and factory

³ Editorial, 12 May 1950, *Civil and Military Gazette*, in File No. F. 10 (55) Pak III/50; MEA Archives

equipment. The ways in which these assets could be sold or transferred was a critical task in the bilateral relationship between the two Dominions. Indeed, the very infrastructure required for the dialogue on evacuee property necessitated a significant expansion in the machinery of bilateral relations: both governments set up a huge number of offices to deal with the claims on property from the other side. Moreover, the story of the evacuees' property was also closely linked with measures that both governments took for relief and rehabilitation of incoming migrants. What both governments repeatedly examined in their debates, were how the definition of the evacuee could be settled, and the corresponding arrangements of who would be entitled to rehabilitation from the state. It was recognised that measures which were too drastic in this regard could lead to further instability and volatility in the populations of both countries. So, the construction of the terms 'evacuee' as well as 'evacuee property' entered the domain of Indo-Pakistani relations. Evacuee property laws in both countries were increasingly characterised in terms of their hostility to the minority community in both countries, and acquired the potential to drive out the minorities from their properties.

This process, however, was not smooth, and there was consistently an articulate critique against the perils of excessive appropriation of evacuee land. Attempts to address such concerns, thus, formed the crux of the bilateral negotiations on evacuee property. The two governments wrangled extensively on who an evacuee was- and therefore whose land could be appropriated by the Custodian of Evacuee Property- and thus shaped, not only the contours of their own debates on citizenship, but also the measures adopted by both governments simply to acquire more land. Yet, this

was a hugely complicated undertaking, and which left a permanent mark on the structures of governance in both India and Pakistan.⁴

Mechanisms determining exactly how land should be prized away from evacuees, needed to be decided, and evolved bilaterally. Indeed, evacuee property was a pivotal issue which shaped how relations between the two countries would proceed. Significantly, this was treated by both governments as a bilateral and diplomatic issue. This required an enormous amount of mutual exchange of rent records and details of land holdings of refugee claimants. The institutions for bilateral cooperation were at their most successful, for instance, in cases of retrieving the movable assets of evacuees, and transferring them between the dominions. Indeed, the very infrastructure built for mediating these negotiations- the conferences, the prominent position that diplomatic missions had for dealing with problems relating to evacuee property- gave additional weight to the diplomatic infrastructure that both countries established in their relations with each other. This chapter will examine how the debates on Evacuee Property were inscribed onto the bilateral relationship between India and Pakistan.

The ways in which the transfers of populations shaped the nature of politics, and patterns of land ownership in both rural and urban settings have been recently examined in localised, as well as on wider basis, by several prominent historians of post colonial south Asia.⁵ They have shown that patterns of refugee resettlement were critical in fashioning the urban demographics and politics of both post colonial nation states. The rehabilitation of refugees was critical in fashioning the narrative of legitimacy to both nation states. Moreover, as Sarah Ansari has pointed out, the

⁴ See, for instance, Tan, Tai Yong and Gyanesh Kudaisya (eds.), *The Aftermath of Partition in South Asia*, New York, 2000

⁵ See, for instance, Chattha, I., *Partition and Locality: Violence, Migration and Development in Gujranwala and Sialkot, 1947- 1961*, Karachi, 2011; Ansari, S., *Life After Partition: Migration, Community and Strife in Sindh, 1947- 1962*, Oxford, 2005; Kudaisya, G., *Region, Nation, "Heartland": Uttar Pradesh in India's Body Politic*, New Delhi 2006

tussle between the *muhajir* population and original settlers in the province of Sindh was crucial in how the politics of that province evolved. Similarly, in 'The Long Partition', Vazira Zamindar argued that the tussle over evacuee property was one of the lengthy – and unresolved – shadows that partition left behind. Zamindar demonstrates how the hierarchy of prioritisation of who could own land took shape after the partition: In India, Hindu males were ideally placed, while Muslim property owners struggled to retain control over their lands. Zamindar demonstrates how the Office of the Custodian of Evacuee Property shaped the politics of minorities rights in the two post-colonial states.⁶ The process of being named an 'evacuee', and therefore potentially being divested of ones' land, were critically bound to the logic of the Custodians' office.

However, the mutual inter-referentiality between the two governments in fashioning the rules around the control over evacuee property has been studied in less detail.⁷ In her recent work, Joya Chatterji has shown how the evacuee property legislations were mirrored on both sides of the border, and argues that this was a key component in the shaping of the nation states of India and Pakistan. These decisions on the right to own land were also part of an attempt in both countries to make this an exclusive decision: it was not possible to own land in both countries. In this sense, cooperation on the issue of evacuee property was a most essential task, since it entailed the clear assertion of the directions that both governments wanted to adopt, on the question of laws on the ownership of property. Yet, neither Chatterji nor Zamindar have explained how this 'mirror image' actually came about through diplomatic dialogue. Nor do they take into account the fact that this was also a fairly contingent process, and there was a good deal of dissent and criticism voiced in both governments over

⁶ Zamindar, Vazira F. Y., *The Long Partition and the Making of Modern South Asia: Refugees, Boundaries, Histories*, New York, 2007

⁷ Chatterji, J., 'From Subjecthood to Citizenship: Migrants and the Making of Nationality in South Asia, 1947- 1955', *Historical Journal*, forthcoming

the progress of handling the evacuee property question. Thus, the question that this chapter seeks to address is: if it was always inevitable that the property of evacuees would be appropriated by the state, then why were there a series of conferences on evacuee property? This chapter will, therefore highlight how the element of bilateral cooperation was necessary in the making of evacuee laws, since not only was the acquisition of assets for rehabilitating refugees crucial to both governments, it was also necessarily to effectively sever the trans- dominion ownership of property.

Office of the Custodian of Evacuee Property

The situation was discussed formally between the governments as early as August 1947, at a meeting of the Joint Defence Council, chaired by Mountbatten. In September that year, a joint statement was issued, to the effect that all illegal seizures of abandoned property would not be recognised by either government and that Evacuee land would be temporarily put under the protection of a Custodian of Evacuee Property. The Office of the Custodian of Evacuee Property which was established as an emergency, and as a provisional measure, quickly came to be identified with a pressing need of the state: more land, for incoming refugees. In August 1949, T. B. Coeh, an official at the Ministry of Foreign Affairs in Karachi wrote to the Ministry of External Affairs protesting against 'discriminatory laws affecting Muslims are enforced in areas in India in contravention of an Inter-dominion Agreement, and in a spirit of revenge against Muslims'.⁸ The office of the Custodian placed increasing restrictions in the way of the individual transfer, sale, or exchange of land. Yet, these regulations were also the product of bilateral dialogue. The role of the Custodian's Office, a circular noted in 1949, would include informing its officers of 'all instructions, directives, copies of all inter-dominion agreements';

⁸ File No. 11(4)- Pak III, 'Implementation of Karachi Agreement of January 1949'; NAI

and, moreover, 'all instructions having a bearing on policy or inter-dominion relations shall be issued only in consultation with the ministry of rehabilitation.'⁹ Furthermore, since the notion of 'evacuee property' became synonymous with that of rehabilitation, the acquisition of more property by the Custodian became a legitimate pursuit by that office, frequently regardless of the current location of the owner.

The ways in which control over evacuee property was farmed out to the offices of the Custodian, and was to be integrated into the programs of rehabilitation in the country, had been defined by 1948. The Pakistan Protection of Evacuees Property Ordinance defined this as property that was obtained from an evacuee on or after the 1 August, 1947. The Rehabilitation Commissioner of the government of Pakistan was to repair the dislocation to the economic life of the Dominion, and authorised to undertake expenditure for 'the management of abandoned property and dispose of movable property subject to directions issued by the Custodian of the Evacuee Property'. The Protection of Evacuee Property Ordinance of Pakistan, passed in 1948 provided for the 'appointment of one or more Custodians of Evacuee Property in such areas as may be specified by a notification.' Moreover, in these areas, the Custodian was entitled to examine, and if necessary, revoke, leases for agricultural land granted after the 1 August 1947.¹⁰

Once the offices of the Custodian of Evacuee Property were established in the Rehabilitation Ministry, their functioning required a separate logic. The task of the Ministry of Relief and Rehabilitation evolved from being a temporary caretaker of evacuee property, into a more permanent entity within a few years of the partition.

⁹ Note from V. D. Dantiyagi, Joint Secretary to GOI to Chief Secretaries of all Provinces, 3 November 1949, File No. D5111-R/49, Ministry of Relief and Rehabilitation File, NAI

¹⁰ Ordinances promulgated by Governor General to Ensure Rehabilitation and Protection of Evacuee Property, Pakistan News, Issued from the Office of High Commissioner for Pakistan, London, File No. 12-20/49- Pak A, MEA File, NAI

The drive to acquire more land under the jurisdiction of the custodian became predominant. The working of this ministry was premised on the understanding that control over lands left behind by evacuees had to be better integrated within the working of the government, rather than left to open negotiation regarding questions of ownership. Indeed, the major preoccupation of the Indian Ministry for Relief and Rehabilitation in the early years after independence, was how control over Evacuee Property could be tightened. One letter from a Joint Secretary in the Relief and Rehabilitation Ministry, V. D. Dantiyagi, to all state governments where the agreement would operate stated that 'As the number of refugees to be provided for in the Indian Union is still considerable, it is requested that restoration of property to evacuee owners should be allowed only after obtaining the consent of this Ministry'.¹¹

In India, the office of the Custodian became increasingly concerned with limiting the sales of Muslim property holders, of what was potentially evacuee land. A letter from the Ministry of Relief and Rehabilitation to the provincial governments included within the 'Agreed Areas' of the Evacuee Property agreement, urged that they take suitable steps to 'prevent the frittering away of Muslim property by sale, especially to non refugees'.¹² The means of privately disposing off of property by Muslims in India was certainly strictly restricted, and the Ministry of Relief and Rehabilitation went to considerable lengths to ensure that this be stemmed. A note from the Ministry of Rehabilitation to state governments stated 'the government of India are anxious to have all available information regarding any attempts by Muslims to remove their property or its sale proceeds to Pakistan.' To this end, it continued, 'censoring communications between India and Pakistan, we have been

¹¹ V. D. Dantiyagi to Chief Secretaries of State Governments, 19 January, 1949, File No. D 387- G (R) 49; Ministry of Relief and Rehabilitation File, NAI

¹² File No. D 798- G (R) 49; Ministry of Relief and Rehabilitation, 1949, National Archives of India

able to secure very valuable information leading to the property of Muslims, which had previously escaped undetected.’¹³

The question of how this process could become more efficient became a foremost concern at the Ministry of Rehabilitation. For example, in July 1949, one proposal from the Ministry of Rehabilitation argued that it would be more efficient to make the administration of Evacuee Property into a Central (rather than provincial) subject. This, argued V. D. Dantyagi, joint secretary at that ministry, would ensure uniformity of legislation relating to Evacuee Property in all areas of the country, as well as enable quick action in a matter that was a subject of discussion with a foreign country.¹⁴ The issue of the expansion of lands under the control of the Custodian of Evacuee Property also entered into the dialogue between the two countries. Indian delegates pressed for the expansion of the area in which the writ of the Custodian would apply. This would imply that the amount of land under the control of the custodian -- and therefore more removed from complete ownership by evacuees-- could increase. This became increasingly central in the negotiations at the Inter-dominion Conferences.

In India, the issue of how the writ of Evacuee Property Law was to be extended, and, if it were centrally enacted, it could apply to the state governments of Bihar, Uttar Pradesh, and, subsequently, Hyderabad, were also repeatedly considered. By July 1949, less than a year after the police annexation of the state, discussions to extend the Evacuee Property Law in Hyderabad were underway. Extension of central legislation on administering evacuee property entailed that provisions of previous State law on the subject would no longer apply. The issue arose as to how an Evacuee would be defined in the case of Hyderabad, where large scale migration

¹³ Note to State Governments, 14 January 1950, File No. 7-R(Sec), Min. of States File, NAI

¹⁴ V. D. Dantyagi, July 1949, File No. 10 (27)- Pak III/ 50; Ministry of External Affairs Archives, New Delhi

had recently taken place as a result of the police action. In July 1949, a meeting of representatives from the Ministries of Rehabilitation, external affairs, and various State governments was held to discuss this question. The question of migration as a result of the police action should bear on a person being declared an evacuee was discussed. However this did not alter the definition of an evacuee, since 'It was pointed out that the police action itself was a result of the setting up of the two Dominions and that the migration to Pakistan was also a corollary of that event'.¹⁵

By August 1952, the possibility of the utilisation of evacuee property for the benefit of displaced persons in India had taken firm shape. In September 1952, a conference was held at the Central Secretariat Office in New Delhi, where the machinery for implementing such a re-distribution was held.¹⁶ The ministry of rehabilitation was contemplating the ways in which the claims of displaced persons from West Pakistan could be compensated. These advantages of various schemes were to be considered at a Secretaries conference, at which a representative from the ministry of external affairs would also be present.¹⁷ One option was that the 'titles of evacuee owners would be extinguished by enacting special legislation so that permanent titles may be conferred on the buyers and allottees of evacuee property'.¹⁸ If such a course were to be taken, the matter would have to be handled carefully, and a meeting of the Cabinet took place on the 19th of August 1952 to consider its various dimensions. Those present included Nehru, Gopalaswami Ayyangar, by now Minister of Defence, and Ajit Prasad Jain, the Minister for Rehabilitation. Since a great deal of evacuee land was falling into disrepair and incurring unsustainable expenditure to the government it was argued, the best course would therefore be to

¹⁵ File No. 1(43)- H/49; Ministry of States, Hyderabad Branch; National Archives of India

¹⁶ N. C. Srivastava, Ministry of Rehabilitation to Y. K. Puri, Ministry of External Affairs; File No. PII/ 52/ 67820/201, Ministry of External Affairs Archives.

¹⁷ Letter to Y. L. Puri, Joint Secretary MEA from Ministry of Relief and Rehabilitation, 21 August, 1952, File No. PII/ 52/ 67820/201; MEA Archives.

¹⁸ Ibid

formally hand over such properties to refugees, and quash the titles that evacuees held over this land. At this meeting, it was decided that the ministry of rehabilitation would dispatch a note to the government of Pakistan stating that the Indian government would be happy to accept arbitration on the matter by a group of people agreed to by both governments, or by reference to an international court. Subsequently, the Indian prime minister could write to the Pakistan prime minister over this matter. At the same time, the ministry of rehabilitation would prepare a draft bill along the lines of their proposed measures with regard to Evacuee property. In his opening address at the conference for redistributing evacuee property, the Indian minister for relief and rehabilitation stated 'While we are approaching the Pakistan government for a settlement of the evacuee property question, as you know, we cannot expect much from Pakistan. Perhaps, there may be some counter- accusations. Anyway, we have now decided to proceed in our own way, whether Pakistan agrees, or does not agree'.¹⁹

Evacuee Property Conferences

Inter-dominion conferences on evacuee property were held in quick succession over 1948 and 1949. They were attended by a diverse cast of characters, who came from across the political spectrum in both countries, including Gopalaswami Ayyangar, the Indian Minister without Portfolio, Mehr Chand Khanna, an Indian minister for rehabilitation, and the Pakistani ministers for rehabilitation, Khwaja Shahbuddin, and Mian Iftikaruddin. These included several inter-ministerial and prime-ministerial conferences, held at frequent intervals immediately after partition; in

¹⁹ Opening Address of Ajit Prasad Jain, Indian Minister for Rehabilitation, September 17, 1952, File No. PII/ 52/ 67820/201; MEA Archives.

Delhi in December 1947; in Lahore in March 1948; Dhaka in April 1948; Lahore in July 1948, and Karachi in January 1949, May 1949 and April 1950. Much of the exchange at the early Inter-dominion Conferences on Evacuee Property was, in fact, constructive dialogue on how this problem could be handled. But its premise had increasingly shifted towards the understanding that considerations of ownership on land in the other dominion were unviable.

Negotiations on evacuee property concerned three kinds of property: that of agricultural property, urban immovable property, and finally movable property. The subject matter of evacuee property conferences concerned the terms of negotiation, the scope of agreement over the kinds of evacuee property laws to be constituted, who they would apply to, and where they would apply. The terms of these conferences concerned the disposal of evacuee property claims in 'agreed areas' which had been marked out in both countries. According to the proposed agreements, evacuee property, located within certain 'agreed areas' in both countries could be disposed off by their owners, by means of sale or exchange with other evacuees. 'Agreed areas' were those localities from which mass migration had taken place, and a large part of the negotiations concerned what could be done with these properties. While large parts of the Punjab had come under the agreed areas in the rehabilitation scheme after the partition, the continuing flow of refugees from other parts of the subcontinent, such as Bengal and Bombay, led to the decision to extend the custodian's jurisdictions into these provinces.²⁰

Agreed areas connoted those from which evacuees had fled from under duress; and so were entitled to compensation from the government. In these areas, the custodian's jurisdiction could apply; refugees could be settled in the property of the

²⁰ Wright, T.P., Indian Muslim Refugees in the Politics of Pakistan, *Journal of Commonwealth and Comparative Politics*, Vol. 12, No. 2

custodian. At a conference in Lahore, on 22nd July, 1948, Indian and Pakistani delegates considered the expansion of areas where land could be declared 'evacuee property', and which would, in India's case extend the arrangement to Ajmer Merwara, Malerkotla State, the Matsya and Rajasthan Unions, Saurashtra, the States of Jaipur and Jodhpur, and Western Districts of United Provinces.²¹ Yet, what increasingly happened, in both India and Pakistan, were enactments of legislation increasing the area where the writ of the custodian could apply, regardless of their commitments for restraint at the inter-dominion conferences. The agreements of 1948, for instance, provided for 'individual exchange' of private property within the 'agreed areas' in India and Pakistan. The possibility of exchange of urban property on either side of the border between individual owners was also examined, and generally accepted, at this conference. Finally, principles according to which compensation for the requisitioning and leasing of evacuee property were also agreed to.²²

Such an arrangement, however, was not sustained for the long term, and both delegations at future conferences argued that this agreement had been sidestepped. At the conference on Evacuee Property in January 1949, the Pakistani delegation continued to press for an agreement allowing property to be exchanged privately, between individual owners of corresponding pieces of property, on either side of the border. The Indian delegation however argued that such an arrangement would place owners of small pieces of property at a disadvantage. Instead, India asked for a

²¹ 'Implementation of Karachi Agreement of January 1949', File No. 11(4)- Pak III, NAI

²² 'Press Note on Inter-dominion Conference on Urban Immovable Property, January 1949', File No. 11(4)- Pak III, NAI

‘government to government’ exchange, whereby the two governments would estimate the value of the property in their territories, and then settle the difference.²³

In India, the argument was repeatedly made that the government should also requisition land outside the ‘agreed areas’, and the authority of the custodian of Evacuee Property should apply in areas such as, for instance, Bombay, which were outside the remit of the agreement. Developments such as these thus provided openings for accusations of non adherence to inter-dominion agreements on both sides -- a situation, however, that neither government in fact totally opposed. In applying the writ of the custodian beyond these areas, however, India was sidestepping the agreement. The conferences were, however, nonetheless necessary to calibrate the process. Yet, the coordination of these areas had to be calibrated carefully; expansion of rehabilitation into ‘non agreed areas’ was consistently resisted by both sides. Moreover, provincial governments in both countries vehemently protested against being slotted in the ‘agreed areas’ as this would tax their own budgets too far.²⁴

Notwithstanding the vocal exchanges of acrimony during many inter-dominion conferences on evacuee property, it is important to recognise that this was a machinery for agreement. Both sides could accuse the other of non fulfilment of their contracts on evacuee property, yet within this framework, there was in fact considerable room for accommodation. The need for modalities of disposal of evacuees properties, provided for areas of agreement on the ways in could be requisitioned, or exchanged. Although the removal of property from the hands of

²³ Schechtman, Joseph B., ‘Evacuee Property in India and Pakistan’, *Pacific Affairs*, Vol. 24, No. 4, December 1951

²⁴ Ilyas Chattha has shown, for example, how the government of West Punjab was ambivalent on its responsibility to rehabilitate refugees from ‘non- agreed’ areas, and had led to tensions with the Centre. The question led to the resignation of the Minister of Rehabilitation at the centre, Mian Iftikaruddin. See Chattha, Ilyas, *Partition and Locality: Violence, Migration and Development in Gujranwala and Sialkot, 1947- 1961*, Karachi, 2011

evacuees was consistently forwarded, the conferences were necessary for firming up the ways in which this was done in both countries. Moreover, it was necessary to secure agreement on the ways in which both states would operate in forwarding this. Although the ways of transferring the worth of the property to the other side was often hindered, bilateral negotiation was necessary to outline the extent to which it could be done.

At a conference held in June 1949, in Lahore, it was also agreed that 'an officer of the other dominion should be associated with the custodians of evacuee property of each dominion with a view to ensuring equitable management and early payments of rents due to evacuee owners'.²⁵ A press note following the inter-dominion conference also stated that within certain provinces of India and Pakistan, owners of urban immovable property could arrange privately for the sale and exchange of their properties.²⁶

Yet, negotiations in this conference were mainly unsuccessful. N. G. Gopalaswami Ayyangar led the Indian delegation at the inter-dominion conference in Karachi in June 1949. Upon his return to Delhi, he called a press conference on June 27. The latest conference he said, had 'resulted in nothing but an exchange of complaints' for several reasons. Pakistan had argued that India's enactment of legislation providing for the uniform administration of evacuee property throughout the country was a breach of the previous agreement. In particular, the Pakistani delegation had argued, the application of the evacuee property laws to Bombay, where considerable, and valuable, swathes of evacuee land were situated, was an infringement on the rights of Muslims in that province. Yet, statements about deadlocks at such bilateral conferences should also be analysed against the grain: the evacuee property

²⁵ 'Minutes of the inter-dominion conference held in Lahore on 22nd July 1948', File No. F. 10 (55) Pak III/50; MEA Archives

²⁶ Rao, Uma Bhaskar, *The Story of Rehabilitation*, Govt. of India Publications Division, Delhi 1967

conferences were necessary for both countries to calibrate the process by which their refugees were being rehabilitated. The conferences attempted to draw up the places where the writ of the custodian could apply, in a step-by-step process.

At a discussion between Nehru and Khwaja Shahbuddin, which took place at the same time as the inter-dominion conference of 1950, the possible means of finally resolving the evacuee property dispute were examined, although it would take a few years yet for this to in fact 'complete'. Later, in May 1950, Ayyangar despatched a telegram to the Pakistani minister for rehabilitation, Khwaja Shahbuddin, and stated 'We are determined to solve this evacuee property problem on the basis of the very friendly relations between the two governments brought about by the Nehru- Laiqat Pact'.²⁷ One option was that all declarations of evacuee property could cease as of 8 April 1950. The possibility was repeatedly examined by officials on both sides. Subimal Dutt, for instance listed out the merits of the suggestion of the Pakistani prime minister that declarations of evacuee property cease after a certain date. Dutt pointed out that if this provision were to be accepted, the urge towards pushing out members of the minority committee in order to claim their properties might reduce.²⁸ Dutt went on to argue that both governments should facilitate the process of sales and exchange of evacuee property where these could take place. Similarly, the provision for the collection of rent from urban immovable evacuee property, and exchanging the amounts on a government to government basis also soon ran into hurdles. The proposal for setting up a joint agency for the collection of income tax from immovable agricultural property, was, however, he felt unfeasible. The joint collection of revenue from evacuee property would have implied prolonging the uncertainty of ownership over this land. The right to claim rent from evacuee

²⁷ Telegram, 9 May 1950, G. Ayyangar to Khwaja Shahbuddin, File no. F. 10(55) Pak III/50; MEA Archives, New Delhi

²⁸ S. Dutt, File No. 10 (55) Pak III/50; MEA Archives

property, thus, was consistently undermined in favour of finalising its transfer to new occupants.

Moreover, possibilities for agreements on evacuee property, though conceivable, were not easy to put into motion. The question of urban immovable property could well have produced 'satisfactory, agreed decisions between the two countries in the new atmosphere'²⁹, at an inter-dominion conference scheduled for May, 1950. However, Nehru noted that though this was possible, the 'main difficulty will be to carry our large population of displaced persons with us in any agreement we may come to with Pakistan.'³⁰ The possibilities of satisfactory solution to the evacuee problem, thus were always accompanied by powerful hurdles in their complete implementation. Moreover, the terms of a solution favourable to evacuees, which would, after all, involve the loss of a great deal of revenue to both governments, were never completely embraced by either country. In May 1950, Mr. Mohammad Ali, Secretary General of the Government of Pakistan met S. Dutt, Commonwealth Secretary in the Ministry of External Affairs, and argued that although the government of Pakistan were amenable for facilities to be set up for the removal of movable properties, the question of a solution to rural immovable properties was tied up with 'a solution of the canal waters dispute and Kashmir Dispute... once these were settled, the Evacuee Property problem would present no difficulty'.³¹ Compensation for evacuee property, thus, was relegated to a position of 'unfinished-ness'. It was not possible for either government to bring a lasting solution once and for all over this question; yet, the issue was to be melded into the infrastructure of

²⁹ File No. F. 10(55) Pak III/ 1950; MEA Archives

³⁰ 'Extract from note of Conversation between Prime Ministers of India and Pakistan, 26 and 27 April, 1950', File No. F. 10(55) Pak III/ 1950; MEA Archives

³¹ 'Note of Discussion with Mr. Mohammad Ali', File No. F. 10 (55) Pak III/50; MEA Archives,

the dialogue between the two countries. Yet, this process also did leave room for the possibilities of new agreements.

Propaganda against the various shortcomings of the other side on the question of evacuee property and refugee rehabilitation were certainly loudly voiced on both sides. This was important in the fight for legitimacy in refugees' eyes, for both governments. The Indian side put forward a claim that 'Hindu and Sikh urban evacuee property in West Pakistan at Rs. 525 crores and Muslim urban evacuee property in India at Rs. 125 crores.'³² It was argued that the value of the land left behind by those who had left Pakistan was some five times as that of land left behind in India.³³ Yet, the nature of such a claim also reveals the extent of dialogue there was between the two sides regarding this question, and how it was to be settled. A fortnightly report from Mohan Singh Mehta, the High Commissioner in Karachi noted 'Official circles in Pakistan have dismissed the estimates of Mr. Jain evaluating as a 'propaganda lever against Pakistan' and for the appeasement of the Indian refugees who are becoming uneasy at the non fulfilment of assurances given by Mr. Jain's predecessor.' Yet, the High Commissioner also noted, such statements were also 'ignored', at a time when 'negotiations for an amicable settlement of all outstanding disputes were going on between the two Prime Ministers in an admittedly cordial atmosphere.'³⁴

The need for evacuees to be allowed to retain control over their land had initially formed the common basis for negotiations. The possibilities for a solution acceptable to evacuees seeking to retain control over their land had been known, broached, and articulated in the immediate months and years after the partition. Increasingly,

³² Fortnightly report of the High Commissioner for India in Pakistan for the period ending 30 June 1953, File No 45-R&I/53, Research and Information Branch, MEA File, NAI

³³ Ibid

³⁴ Fortnightly report of the High Commissioner for India in Pakistan for the period ending 30 June 1953, File No 45-R&I/53, Research and Information Branch, MEA File, NAI

however, what also evolved alongside these negotiations was the tacit understanding that the implementation of these agreements would remain incomplete. Moreover, the writ of the custodian in extending his jurisdiction was increasingly being implicitly accepted in the negotiations. The seemingly straightforward solution of allowing evacuees to carry out 'individual exchanges' of their properties in agreed areas of their properties was examined at an early stage.

Curiously, what provided the Indian authorities ostensible justification for retaining control over evacuee property were corresponding actions of the Pakistan government. It was frequently argued that agreements arrived at in Inter-dominion Conferences could not apply in India if they were violated in Pakistan. In November 1949, a directive was sent round from the Office of the Custodian General stating that:

'The Government of Pakistan has not honoured any agreement on Evacuee Property. The policy of the government of India regarding sales so far, therefore, is not to allow any transfer of Evacuee Property in India and the same policy is to govern cases of exchange... [This] will not only reduce the pool of Evacuee Property in this country but may be used by Pakistan government as an argument against our demand for government to government settlement of the problem'.³⁵

The government of Pakistan pointed out in 1955 that 'that almost every conference or discussion since held on the subject has broken down on account of the Government of India's insistence to settle the problem only on the basis of Govt.-to-Government liability.' Sardar Amir Azam, Minister for Rehabilitation in the Pakistan Government, argued that this could only be explained by the 'desire of the government of India to obtain as large a compensation for the evacuee properties in Pakistan as possible in the course of what may be protracted negotiation spread over

³⁵ File No. D. 5111- R/49; Ministry of Relief and Rehabilitation File, NAI

several years'. The agreement of January 1949, moreover had been consistently disregarded by India by their permitting the extension of the rights of the Custodian of Evacuee Property.³⁶ Finally, Amir Azam concluded, that in view of the actions of the Indian government already taken with regard to the evacuee property in their territory, and their *subsequent* invitation to Pakistan to 'settle the manner in which compensation could be distributed as if the govt. of Pakistan have been party to or had approved the expropriatory action taken by the Government of India in utter violation of the Agreement of January 1949', discussions on this basis could only be fruitless.³⁷

Yet, this process did not take place without any resistance. What was also commonly recognised across both sides on bilateral negotiations, and by many influential policy advisors and bureaucrats, was that too harsh an application of evacuee laws relating to property could only lead to further instability. Indeed, a key complaint at inter-dominion conferences was that the processes of declaring 'evacuees' was leading to yet more landless, and dispossessed numbers streaming in from across the borders in search of compensation and rehabilitation. The vision of the relentless progress of the custodian of evacuee property systematically appropriating lands belonging to minorities and driving them across the border in unsustainable numbers, although frequently conjured by delegates at these negotiations, did not, however, ring entirely true. The course of the evacuee laws was not without obstacles, and there was consistently an articulate critique against the excessive control assumed by the office of the custodian of evacuee property. The dangers of the full implications of the process of the evacuee law were also clearly recognised even at the time, and attempts were made on both sides to stabilize this situation.

³⁶Copy of telegram from Sardar Amir Azam to Mehr Chand Khanna, 9 March 1955, File No. PII/52/67237/201, MEA Archives

³⁷ Ibid

The question of how an evacuee, as well as his property were to be defined, were integrally connected to the practises regarding this in the other dominion. The evacuee property laws offered both governments the opportunity to define which of their erstwhile citizens could legitimately be termed evacuees. In April 1950, the constituent assembly debated legislation regarding evacuee property which would extend the date for migration for people to be declared as evacuees. The bill proposed that those who had migrated to Pakistan after August 1947 would be declared 'evacuees'. The debate around these provisions highlights some of the ways in which the control over property of Muslim residents was sought to be tightened. Sucheta Kripalaani, a member of the constituent assembly, for instance argued that provisions related to remittances being sent across the border were too lenient. She argued 'We know of cases where the head of the family has remained here, while his son or his nephew or his relations went over there; they bought Hindu or Sikh property for a song and carried on business there; gradually he liquidated his property here and smuggled all the money out to the other territory.'³⁸

At a Conference in July 1948, the Pakistan delegation proposed that migrants who moved from India to Pakistan after a certain date -- 30 September 1948 -- should not be declared as Evacuees by India.³⁹ Gopalaswami Ayyangar had rejected this proposal, arguing that it would be unfair to those who had already migrated. Yet, the definitions of 'intending evacuees' were also being discussed in India, and introduced in the legislations on evacuee property in provinces such as West Bengal and United Provinces. The 'intending evacuee' was defined comprehensively:

'persons who have transferred their assets wholly or in part, or have acquired either personally or through any dependent relative any right to,

³⁸ Sucheta Kripalani to Constituent Assembly, 12 August 1949, Constituent Assembly of India Debates (Proceedings), Vol. IX

³⁹ 'Implementation of Karachi Agreement of January 1949', File No. 11(4)- Pak III; NAI

interest in, or benefit from any evacuee or abandoned property in Pakistan or by the execution of any document, or any other document in writing sought to effect exchange of the whole or part of the property in India with property in Pakistan can be declared as an intending evacuee'.⁴⁰

The circumstances in which the property of a person declared as an 'intended evacuee' could be acquired, were also listed out in detail, and eventually concluding: 'The person is not declared an evacuee, but his property becomes evacuee property'.⁴¹ The apparatus of the bilateral relationship, thus, was necessary to how the process of evacuee law could be drafted in both countries. The process by which individuals could be named evacuees was carried out in consultation with legislation on the other side. Although this frequently led to accusations of how such legislations were driving out members of the minority across the border, it was nonetheless one that was carried out within the bilateral framework.

In a note by Nehru on the forthcoming inter-dominion negotiations on this issue, Nehru stressed 'The fact is, that in our application of evacuee property laws and rules, we have to be exceedingly careful in future and take up only special cases, which must be borne in mind by all the Custodians. Justice is to be done in all the cases, and where there is the slightest doubt, it has to be in favour of the person concerned'.⁴² Similarly, in September 1949, C. N. Chandra, a secretary to the government of India, wrote to the chief secretaries of the states, cautioning them that the indiscriminate application of evacuee property laws would be undesirable. He argued that

'it seems imperative for the officers charged with the duty of administering the law to realise that these powers must be exercised with the utmost care

⁴⁰ 'Inter-dominion Agreement on Evacuee Property: proposal to issue a Central Legislation covering all Agreed Areas', File No. 1(12)-G. (R), Ministry of States; NAI

⁴¹ Ibid

⁴² Nehru's letter to chief ministers, 1 December 1949, SWJN, SS, Vol. 14, Part 1, p. 369

and circumspection... [and] it must be always kept in mind that the evacuee legislation is an extraordinary piece of legislation which has been forced on us by circumstances altogether beyond our control'.⁴³

In a report compiled on this issue, by Mridula Sarabhai, she argued that the evacuee property problem did not elicit a uniform reaction among either refugees or, indeed, evacuees.⁴⁴ Her report noted that the Muslim community in India was ambivalent about the idea of a government to government exchange, as this 'would only lead nowhere, and to the perpetuation and increment in the scope of partition.'⁴⁵ One feature of refugees' sentiments on this problem, she argued, was that in the event of their being allowed to return in large numbers to their own properties in Pakistan, the two governments should not have snatched away their rights over their properties. At the same time, she noted, there was a great deal of support for the notion of 'nationalising' the evacuee properties within India, failing, or even accompanying, a government-to-government settlement of the issue.⁴⁶ At the most extreme end of this spectrum, the RSS, she noted, were 'advocating their extreme theory of 'Every penny from Pakistan/ Every penny to the Refugees'.⁴⁷ But it would be rash, she argued, to force through a uniform legislation on evacuee property, since the question was so complex, and elicited so many reactions. While the rehabilitation of refugees was certainly a priority, the option of whole-scale requisitioning of evacuee land needed to be carefully considered.

The long term disadvantages of the forceful requisitioning of land were thus clearly recognised even at the time itself. Shaping policy on Evacuee Property therefore, was

⁴³ 'Administration of the Evacuee property Ordinance of East Punjab, Delhi etc'; File No. 1(7)-R, Ministry of Relief and Rehabilitation, 1949; NAI

⁴⁴ Gundevia, Y. D., *Outside the Archives*, Hyderabad, 1984

⁴⁵ 'Some Feelings about the Evacuee Problem', note by M. Sarabhai, File No. F. 10 (11) Pak III/50; Ministry of External Affairs, Pak III Branch, 1950, 'Evacuee Property- Agreement on Movable Evacuee Property- Implementation of'; MEA Archives, New Delhi

⁴⁶ Ibid

⁴⁷ Ibid

not just a blind reaction forced on by hordes of incoming refugees and fuelled from the bitterness of partition, but in fact a more painstaking series of developments. In 1953, the question arose as to whether the titles of land-holdings of Muslim evacuees could simply be unilaterally quashed, as a means of simplifying issues of current land ownership. Badruddin Tyabji argued that the option of quashing the titles of Muslim evacuees who owned land in India, so that refugees from West Pakistan could be rehabilitated, was short sighted. He pointed out that to do so, would go against the International Court of Justice, which had ruled that a government could not, by means of its internal legislation, deprive a foreign citizen of their proprietary rights. This, he argued, would leave India vulnerable to action taken against her by the government of Pakistan in the International Court of Justice. Furthermore, he argued such an action would '... necessarily equate the claims of India and Pakistan to property left behind by their citizens, even though India's claims to property in Pakistan is larger.'⁴⁸ These objections were echoed in a note drafted by Sir B. N. Rau on the contemplated action on Evacuee Property, although he also noted that the prospects of Pakistan in fact raising this issue at the International Court of Justice, given that the proportion of Evacuee Property was greater in Pakistan, was uncertain.⁴⁹

Legislation passed by the government of East Bengal in 1952, to the effect that the rights of refugees who did not possess sale or exchange deeds for the property they currently resided on, would get validated. This however, ran counter to a declaration made a few months ago by the Ministers for Minorities for India and Pakistan which recognised that land transactions made during the disturbances may well have been unfair. By 1952, however, the State governments of Assam, Tripura

⁴⁸Badruddin Tyabji on draft from Ministry of Relief and Rehabilitation, 7-2-1953; File No. PII/ 52/ 67820/201, Ministry of External Affairs Archives, New Delhi

⁴⁹ Ibid

and West Bengal were asked to consider the merits of passing similar legislation in their own states. The West Bengal government argued that there was need for central legislation on this issue, although this ran counter to the view of the Central minister, who argued 'any legislation should be enacted for the purpose of validating the transactions only if it appears that the sale or exchange had been on a fair basis. Otherwise the transactions ought to be set aside, and the parties should be put back in possession of their respective properties, with profits to each for interim occupation.' What this exchange also shows, is that in fact, the shaping of policy on evacuee property was a more painstaking, and contingent series of events, rather than the vision of land being systematically appropriated by the Office of the Custodian, as was frequently asserted by delegates at the conferences.

The ways in which a consensus ossified around whether and how evacuee land should be appropriated was thus very contingent, and not necessarily destined towards a vengeful end because of the bitterness that partition left behind. There was, consistently, an articulate critique of the dangers of enforcing the evacuee laws to their fullest extent, as well as the over-zealousness of the office of the custodian of evacuee property. Alternatives to these arrangements were also minutely examined, and, initially, had been actively pursued. Yet the consensus which eventually evolved in the case of evacuee land favoured those whom the state now had to rehabilitate, namely, the incoming refugees. The possibility of those who were now across the border to continue retain control over their land could not, however, be sustained indefinitely- this was contrary to the logic which propelled cooperation between the two governments on this question.

This process had striking similarities in East Pakistan. The East Bengal State Acquisition Bill, by which the government would be entitled to convert into evacuee

property those who had left for India, was fiercely opposed by Hindu MLAs, as the debate raged in the assembly in the 1949 and 1950 sessions. They were also a powerful opposition of the Bengal Zamindari Bill. These debates, and the State Requisitioning and Tenancy Act in particular, became very acrimonious, and was fought clause by clause by the Hindu MLAs of the assembly in sessions from 1947-1953. The State Requisitioning Act effectively transferred the interests of the—substantially Hindu—rent receiving classes to the government. Nurul Amin had accused the MLAs of directing their speeches to an ‘inter national’ audience as the MLAs protested that the measure would further deteriorate the security of the minority community in the province.⁵⁰

Moreover, the process of passing legislation in favour of more requisitioning by the state of evacuee property was given similar justifications. Tafazzal Ali, a member of the legislative assembly who proposed a motion in favour of greater requisitioning argued: ‘A house on Sri Ramakrishna Road has been sold by the Hindu owner to a Muslim gentleman who now occupies it. Now the tactics adopted by that particular gentleman were merely a subterfuge in order to defy the requisition of that house so that he may make some gain by selling his house privately’.⁵¹ Brushing aside the objections of his opposition, who argued that places of religious worship or private charitable institutions ought to be exempt from this bill, Tafazzal Ali went on to argue that ‘there may be cases where, even though a particular place is dubbed as a place of charitable institution or as a place of educational activities, it may be found on enquiry that this institution or place does not really serve any useful purpose, and

⁵⁰ EBLA proceedings, 4th Session, 1949- 1950; 30 November to 5 December, 1949; National Archives Bhabhan, Dhaka

⁵¹ The East Bengal (Emergency) Requisition of Property Bill, 1948, East Bengal Legislative Assembly Proceedings, Official Report, Second Session, Vol. II, 7-15 June 1948, Proceedings on 9th June 1948, , National Archives Bhabhan, Dhaka, p.73

so in the larger interest of the State, even though it may cause inconvenience to some, is to requisition...'⁵²

That the question of evacuee property would have to be settled, and quickly, was recognised clearly by all sides. What was fascinating about the tussle on evacuee property was not so much working out the technicalities of the solution- which appeared to be obvious from a very early date; but the obstacles placed in its path. The modalities of viable solutions were also clearly detailed in the inter-dominion conferences, in terms of the recognition of the rights of evacuees to receive compensation, their entitlement to disposing of their land, and mechanisms that could be set up for collecting rents from evacuee property. The problem, thus, was not of a *lack* of solution, or the unawareness of its possibilities and advantages, as much as the hindrances placed in its path, and the choices made, coolly and deliberately, in favour of cutting off the links of those who had already left the nation, from their properties.

Role of the High Commissions

The High Commissions were frequently the primary port of information and assistance regarding these matters. The offices processed huge amounts of correspondence from displaced persons seeking advice on these matters. It was also the High Commissions that planned for, and created means of implementing the requirements of the agreements. Secondly, the question of how the governments could handle control over Evacuee Property, whether income tax would apply to such land, and the modalities of collecting rent on behalf of evacuee owners, had to be worked out. This gave the missions an unusual prominence and immediacy in the everyday lives of those distended by the partition. A despatch from the High

⁵² Ibid, p. 74

Commission of India in January 1949 pointed out that following the announcement of the January 1949 agreement, 'a host of enquiries regarding the machinery which is being set up in Lahore by the Indian government to facilitate such sales and exchanges'.⁵³ At the same time, the report continued, 'It is felt that if the sale and exchanges is left entirely to the personal resourcefulness of property owners or Property Agents, much of the good that is expected to come out of the agreement will not materialise.' The High Commissioner argued that for these transactions to be ultimately successful, the governments of both countries would also have to provide more help to evacuees. Finally, the despatch concluded, the working of the present permit system between India and Pakistan was a deterrent for owners of land in Pakistan to come from India, so 'it was essential that both governments should agree to provide 'repeated journey permits' to bonafide property owners in either Dominion.'⁵⁴

Such recommendations were also endorsed by the Deputy High Commissioner in Dhaka, in 1949. In a fortnightly report in August 1949 S. K. Banerji noted 'the promulgation of the Evacuee Property Ordinance in different provinces of India has worried many Muslim gentleman... They are making anxious enquiries from us in this respect, and enquiring whether there is any likelihood of the Ordinance being promulgated in West Bengal also'.⁵⁵ Similarly, the Branch Secretariat of the Ministry of External Affairs in Calcutta often dealt with complaints from Pakistani citizens about the requisition of their land by the East Pakistan government. The Office of the Deputy High Commission in Dhaka also routinely forwarded complaints of forcible occupation of land, or land not being restored to returning Hindu migrants, to the Government of East Bengal. The work of the missions, therefore, very quickly

⁵³ 'Implementation of Karachi Agreement of January 1949', File No. 11(4)- Pak III,; NAI

⁵⁴ Ibid

⁵⁵ Fortnightly report of the Deputy High Commissioner for India in Dhaka, for the fortnight ending 15 August 1949, File No. D2576- Pak A/49, MEA File, NAI

became attuned to those who had concerns across the border. Yet, this infrastructure was designed to contain, and eventually remove such ties, rather than allow them to operate freely.

An active role of the high commissions in questions regarding evacuee property had been envisioned from early on. Dealing with the question of evacuee property also brought about a growth in the size of machinery to facilitate dialogue at various bilateral levels. The infrastructure to deal with claims relating property allotment, verification of abandoned land, and channels of revenue collection were instituted by both governments from an early stage. The governments of both East and West Punjab, exchanged copious amounts of records relating to rent collection and methods of revenue calculation for the evacuee property in their territories. Work on the exchange of revenue records (*jamabandis*) began as early as July 1947, when the Rehabilitation Secretariat in Jullundar started to receive copies of the land ownership details of evacuees who were coming in from West Punjab.⁵⁶ It was decided that agricultural evacuees from West Punjab would be resettled in East Punjab and the PEPSU states. This process carried on until the end of October 1948. Indeed, the volume of this work called for the increase in manpower at the Secretariat, which peaked at some 7,000 officials for carrying out the work of re-allotment of land⁵⁷. This kind of work was particularly hectic on the side of the Punjab border in the months that followed partition, and the avenues of bilateral cooperation, especially in terms of exchange of information on refugees, was thus well established, and fairly dense.

The Indian missions in Pakistan contained branches of the pertinently named 'Office of Movable Property'. Yet, this was a potentially valuable source of evacuee

⁵⁶ Randhawa, M. S., *Out of the Ashes*, Patiala, 1978

⁵⁷ Ibid

property, as it encompassed the bank account holdings of many evacuees now in India. Evacuees could petition their High Commission for the recovery of safe deposits in banks, deposits in courts, and pensions and provident funds. To this end, the two governments arrived at a Banking Agreement in April 1949.⁵⁸ These were technically part of the Ministry of Relief and Rehabilitation, and supposed to assist evacuees in India with the recovery of movable property that they had left behind in Pakistan. The Lahore branch was situated at 105, Upper Mall Road, and carried out the largest proportion of the work of recovery of movable property. In February 1953, the Indian Minister for Rehabilitation recommended that the Office of Movable Property be closed down, due to 'almost total non implementation of the Movable Property Agreement in Pakistan, [which] does not justify retention of separate Property Organisations'.⁵⁹ The Indian Ministry of External Affairs disagreed with this suggestion, and maintained that the office should remain open. S. K. Banerji, Deputy High Commissioner for India, argued, that offices for such work had to continue, 'if this Mission is able to justify its existence in the eyes at least of evacuees in India'. Badr-ud-din Tyabji pointed out that 'this would result in an additional burden on our Pakistan branches... which will also not result in efficiency. Secondly, the burden of this work, considering its nature and implications, should not be laid on the diplomatic chanceries of our missions in Pakistan'.⁶⁰ It was also noted that the Pakistan government would continue to maintain its own office for the recovery of movable property in Jullunder. Furthermore, Nehru pointed out, this would 'cause embarrassment and hardship to our refugees, and this would give the Pakistan government the chance to accuse us of not carrying out the agreement arrived at'.⁶¹

⁵⁸ C. N. Vakil and G Raghava Rao, *Economic Relations between India and Pakistan: Need for International Cooperation*, Bombay, 1950

⁵⁹ 'Partition Affairs; Misc.; Winding up of the Property Organisation at Lahore and Karachi', Note from Ministry of R&R, 2 February 1953, File no. PII/52/679121/201; MEA Archives

⁶⁰ Ibid

⁶¹ Ibid

Finally, he argued, the timing for closing down the property offices was not right: 'A reply is shortly expected from the Pakistan government to the Government of India's proposal regarding the two governments taking over the urban evacuee properties within their territories. This is hardly the time for closing down the present skeleton property organisation here'. In case an agreement could be arrived at, later in the year to settle the Evacuee Property question, moreover, 'It is during the first month or two after signing of an Indo Pakistan agreement that its proper implementation is possible; thereafter differences begin to crop up on both sides which clog up full implementation. Much valuable time was lost after the signing of the movable property agreement in June 1950, and when the organisation got going in September 1950, 2 ½ months of valuable time had already been lost'.⁶² Thus, it was argued that the office remain open, so that in periods of greater amity between the two countries, it would be able to access more property for evacuees in India. Thus, while the process of agreement worked frequently worked in fits and starts, the *structures* for these remained largely in place.

In 1953, the office received some 6,780 letters from evacuees in India with details of the movable assets they had left behind, and where they could be recovered.⁶³ According to the Annual Report of this office in 1953, the approximate value of the movable property recovered by the Movable Property Office amounted to Rs. 1,70,329/-. This office also carried a great deal of diverse and minute work relating to the concerns of evacuees in India, for instance recovery of buried treasure of those who had left, and the transfer of contents of their bank lockers. They dealt with claims relating to the verification of pensions claims, government provident funds, Leave salaries of displaced government servants, etc, on behalf of evacuees in India.

⁶² Partition Affairs; Misc.; Winding up of the Property Organisation at Lahore and Karachi', Note from Ministry of R&R, 2 February 1953, File no. PII/52/679121/201; MEA Archives

⁶³ 'Partition Affairs; Misc.; Winding up of the Property Organisation at Lahore and Karachi', File no. PII/52/679121/201; MEA Archives.

The Office of the Deputy High Commissioner at Lahore owned a bank account at Ferozepur in India, which contained the amounts recovered on behalf of evacuees in India. The amounts due to evacuee owners in India, received in Pakistani currency, were to be paid in the equivalent sum in Indian currency. These arrangements, however, suffered a check in the form of objections from the Ministry of Finance, which argued that given the terms of the exchange control of Indian and Pakistani currency, it would not be feasible to make these payments to Indian evacuees. Eventually, it was decided that where the sums for payment were quite small, and less than Rs. 5,000/-, these procedures could be permitted. At the same time, however, such processes were also extremely lengthy. Mr. Gurditta Mal Bhasin, currently resident in Meerut, in Uttar Pradesh, and evacuee from Rawalpindi carried out an exhaustive correspondence with the office of the Deputy High Commissioner in Lahore, regarding the payment of Rs. 1,390/- which was due to him from his Provident Fund Account in Pakistan. He had applied for the payment of interest from his Provident Fund Account in Pakistan be transferred to him, through the offices of the Deputy High Commissioner. Although the Deputy High Commissioner was enabled, by an India- Pakistan Agreement on Moveable Evacuee Property to receive payments due to Indian evacuees, the question of currency regulations made it more difficult for these payments to be completed.⁶⁴

Delegates at the inter-dominion conference at Karachi in January 1949 decided that the high commissions of both countries would include an office specifically for the work of dealing with evacuees attempting to dispose of their properties. The inter-dominion Agreement of January 1949, signed at Karachi, also that 'It is the responsibility of the Dominion Government to ... provide facilities to enable

⁶⁴ File No. PII/ 52/ 67237/201

transfers to be affected by sale, exchange or otherwise...'⁶⁵ Questions relating to the implementation of these agreements would also be examined by a Commission on Evacuee Property, which would include high commissioners of both countries. This Commission was designed to speed up the process of its transfer, sale and exchange. The commission would meet bi-annually to compare the progress of implementation of its aims. There was a substantial amount of cooperation at these meetings, and the tasks of setting up and promoting avenues for completion of transfer and exchange of property were fairly thoroughly gone into. For example, the commission decided that the requirements for certificates of income tax clearance for the final disposal of evacuee property need not be mandatory. These were proving to be an additional hurdle to the transfer of property. At their meeting in New Delhi, in March 1949, it was decided that the period by which such certificates had to be produced could be extended.⁶⁶ In many inter- governmental discussions on evacuee property, the willingness, as well as the means for straightforward solution were clearly articulated and explored. However, the means of derailing such agreements were also always easily accessible, and the likelihood of them being put into motion was also consistently strong.

Following the agreement on evacuee property in January 1949, The high commissioner in Karachi issued 'No Objection to Return' certificates to many property- owners who wished to return to India. The high commission in Karachi was also instructed to issue 'Stamp Paper' which certified to the sale and exchange of Urban Immovable Property.⁶⁷ It was noticed that large numbers of migrants were arriving in India to dispose of their properties. In a letter that the Under Secretary to

⁶⁵ File No. D387- G(R) 49; Ministry of Relief and Rehabilitation, National Archives of India

⁶⁶ Minutes of Second Meeting of Inter-dominion Commission on Evacuee Property, held in New Delhi, 11 and 12 March, 1949, File No. D 387- G (R) 49; Ministry of Relief and Rehabilitation File, National Archives of India,.

⁶⁷ File No. 1(25)-R (Secret), 'Working of the Evacuee property Ordinance in the States and Union of States, Misc. matters'; Ministry of Relief and Rehabilitation, 1949; NAI

the Government of India, Mr. Y. L. Puri, wrote to the Chief Commissioners of the provinces, the undesirability of such action was highlighted. 'I am to point out that it is extremely essential that Muslims coming to India on temporary visits are not allowed to dispose of their properties in India and that any property which is evacuee property under the law, is taken over by the Custodian concerned.'⁶⁸ In a meeting on the extension of legislation of evacuee property to more States in India, on 25th July, 1949, it was noted: 'Till recently, in a number of cases the authorities in the Provinces and States concerned very readily issued 'No Objection to Return' Certificates. Our High Commissioner at Karachi, has therefore been instructed that such certificates issued before the 15th May 1949 need not be acted upon.'⁶⁹

In March 1955, C. C. Desai, Indian High Commissioner at Karachi, wrote to the Indian Minister for Rehabilitation, Mehr Chand Khanna, asking him to come for a visit to Karachi. Desai argued that conditions favoured the prospects of agreement with Pakistan on the more difficult aspects of the evacuee property dispute. The recently signed agreements on movable property, had been arrived at 'with a desire to bury the hatchet after more than seven years of the partition'.⁷⁰ Should Mehr Chand Khanna come to Karachi, opportunities for fruitful discussion with Ministers such as Iskandar Mirza and Khan Sahib to resolve outstanding points of difference. These, continued Desai, could even encourage evacuee property laws to be abrogated, as had been done by now in India.⁷¹ He concluded that 'if we solve the problem of moveable property and evacuee law, we shall have gone a long way towards reducing the problem of refugees and rehabilitation'.⁷² Similarly, in April 1956, Mehr Chand Khanna wrote to his counterpart arguing that the evacuee laws

⁶⁸ Ibid

⁶⁹ Ibid

⁷⁰ C. C. Desai to Mehr Chand Khanna, 14 March 1955, File No. PII/53/679238/1-2; MEA Archives

⁷¹ Ibid

⁷² Ibid

had been abrogated in India now for more than two years, and expressed his hope that the Pakistan government could look at avenues to do the same. He argued that the law should not target the small Hindu population still resident in Sind.⁷³ Mohan Singh Mehta noted that the actions of the government of India in auctioning evacuee properties to try and settle the long standing claims of the refugees in India, was causing some concern amongst government circles in Pakistan. It was being argued that evacuee property laws could be scrapped entirely 'if only some satisfactory agreement could be reached between the two countries.'⁷⁴ What such an action also pointed to, was recognition of the fact that the worth of property left behind by evacuees in Pakistan was, by and large, now lost. However, the continuance of evacuee law at this stage would no longer be as worthwhile, and the repeal of such a law, at this stage, might result in the greatest degree of stability.

Finally, an examination of the progress of evacuee laws in both countries also show that the process of the progress of the Custodian of Evacuee Property acquiring land was in fact quite complex, and was faced a variety of criticisms. There was in fact, a great deal of debate on the pros and cons of the use of such an office. The dangers of the full implications of the process of the Evacuee Law were also recognised: they were not pushed through because of a blind frenzy against minorities in the country. It is important to recognise that the process of re-arrangement of the rights of land ownership were not in any way an accidental, or knee jerk reaction to even such a mammoth event such as the partition, but in fact fairly carefully thought out, and deliberately pursued by both the new governments.

⁷³ Mehr Chand Khanna to Sardar Amir Azam; April 26, 1956; File No. PII/53/679238/1-2; MEA Archives

⁷⁴ Fortnightly report of the High Commissioner for India in Pakistan for the period ending 31st October 1953, File No 45-R&I/53, Research and Information Branch, MEA File, NAI

The whole-scale requisitioning of evacuee land was not a unanimously agreed upon course. There was a fair amount of internal debate on this question, and consistently an articulate critique against the excessive application of the Custodian's authority. Shaping policy on Evacuee Policy, therefore, was not a blind reaction forced on by hordes of incoming refugees, and fuelled from the bitterness of Partition, but in fact a more painstaking series of developments. If the structures of two nation states had to solidify, then the question of evacuees retaining control over their property across the border had to be discarded as completely as possible. Indeed, the evacuee property legislations, as well as the conferences and dialogue on this issue reflected a broader imperative: the control of the nation state of property within her territory had to be paramount. What the conferences had provided for was the insertion of state infrastructure into an area where the reach of the private individual across the border could not go unregulated. The wrangling over the question of the fairness of the evacuee property settlement was thus designed to mask a process through which the agencies of the government could secure the greatest control over potentially undefined pieces of land.

CONCLUSION

The bilateral relationship occupies a strange place at the heart of both nation states: even when events are at their most conflicted, its importance, if anything, increases. While the ties are frequently strained, the very infrastructure of separation acts as a deterrent from seeking the outright destruction of either state. This fact positions the state of the relationship on an edgy precipice, yet also gives it a curious stability. The bilateral infrastructure was established from very early on, and proved to be durable even at the point of serious inter-dominion tensions. Indeed, in order to be able to assert the differences between India and Pakistan, an infrastructure that established their separation was necessary. This gives the India-Pakistan relationship its unique texture.

Thus, even as the two sides vocalised the differences between them from the beginning, it was essential for both to build an infrastructure which reflected the separation of India from Pakistan, and vice versa. Having been conceived of through a partition, it was critical for both states to uphold the consequences of this partition as far as possible. The two governments inserted the machinery of their states into issues that could potentially threaten the certainties of the partition. This could be seen in a host of situations, including the offices for the disposal of evacuee property, District and Provincial Minorities Boards, inter-dominion collaboration between the

Ministers for Minorities, as well as the role of the diplomatic missions. All these were institutions which were products of a partition, and served to highlight the separation of the two countries; they were also inextricably linked to the bilateral relationship, and could not be done away with by either side. Thus, even when India-Pakistan relations were at their most tense, the bilateral dialogue also encompassed these questions, providing a lasting, if paradoxical, basis of agreement.

This logic displayed itself from the earliest days following the partition, and subsequently played itself out in a variety of different situations. The activities of the Partition Council in the immediate aftermath of partition were geared towards addressing the demands of two separated states, rather than to merely oversee a hasty division of the spoils. Furthermore, with regard to the minorities question, both governments put in place structures which established that the infrastructure of the state was the primary intermediary between individuals seeking to establish inter-dominion contact; and, moreover, that such contact was determined on the basis of nationality and citizenship. Similarly, the question of evacuee property had to be determined on the basis of an exclusive nationality, and the need to terminate all possibilities of inter-dominion ownership of property. The same concerns were reflected in question of demarcating boundaries: while such a task has proved nearly impossible to complete, it was nonetheless necessary to evolve systems through which both states could establish their sovereignty based on their agreements on this exercise. With regard to inter-dominion trade, it was imperative for both countries to maintain their self sufficiency, and the possibilities of such trade were only reluctantly admitted. Indeed, the nature of this cooperation was that it often took place at the expense of those who wished to retain inter-dominion ties. Thus, in order to pursue separate, and often mutually hostile, trajectories it was necessary for the

two governments to enter into acts of cooperation that established with clarity the permanence of their separation.

The cooperative impulses were not particularly warm; nor did they arise out of a sense of nostalgia for the past, but arose due to a commonality in the areas that were mutually beneficial for consolidating the self-sufficiency of both states. Yet, such areas have proven to be durable, even when relations between the two countries are tense. In order to legitimise the sets of grievances that both states voiced with regard to one another, it was necessary to first establish that the structures of a viable existence were present on both sides. Moreover, the differences needed to be articulated in terms of those which threatened the sovereignty of either side, rather than reprisals for historic wrongs. The pursuit of the foreign policies of both countries was to secure a greater stability of their own states, and to this end, if possible, a stable coexistence. The bilateral relationship thus, arose out of the instincts of self preservation of both sides: in order to uphold their own sovereignty, India and Pakistan had to recognise each other's. This played out in a variety of complicated ways in their dealings with one another on various issues, yet, the need for cooperation and negotiation also remained a constant, and consistent, factor in the history of the relationship. The ways in which this objective is deviated from is not so much a testimony to the acrimony between India and Pakistan, as to the fact that both do pursue their own self interest.

The bilateral relationship between India and Pakistan served to reinforce the centrality of the state into the politics of India and Pakistan. It is necessary, thus, to contextualise this relationship in terms of the development and consolidation of two state structures, rather than one of unthinking religious animosity. The argument in

favour of bilateral cooperation, thus, was the same as that in favour of strengthening the state structure of the two countries. This was frequently a hostile relationship, yet, one which endorsed the fabric of both states. It was in order to gain legitimacy that the two countries undertook to cooperate to give shape to the certainty of partition.

This account of the India-Pakistan relationship, however, differs from a conventional analysis of a rivalry based on power play. Although this was undoubtedly present in the relationship, it is also necessary to look behind these manoeuvrings to examine the deeper mainsprings of the relationship, and analyse *why* these acts of cooperation and dialogue proved to be so durable. While both pursued agendas which were hostile to the other, neither could do away with the bilateral relationship entirely and had to remain tethered to its concerns. At the same time, the sets of issues encompassed in the relationship were of vital interest in the politics of both countries, and were often shaped by factors critical to the legitimacy of both states. Thus it was important for both governments to be seen to be pursuing these issues with each other, even though this process frequently ran into 'deadlocks'. Yet, the India-Pakistan relationship also put in place a series of 'interim' measures, which were in fact a way of securing a greater stability over these questions.

Moreover, the India-Pakistan relationship was also a product of circumstances which 'sprung up' from the ground. With regard to bilateral trade, and drawing the boundary line, for example, both states were also acknowledging the need to give shape to events which had already taken place on the ground. What is also fascinating is that this relationship was not one crafted solely by the leaderships on either side. It could not be simply addressed by a single policy directive from New

Delhi and Karachi, but rather, often took place irrespective of them. Indeed, in many instances, the cooperation that came about between the two sides was a function of having to catch up and, where possible, control, what was already taking place. These sets of concerns gave the India-Pakistan relationship its unique texture. The cooperation and dialogue between the leadership on either side was not only a matter of pursuing a desired foreign policy agenda, but also an inevitability which both sides were compelled to factor in.

Bilateral relations were thus a process, rather than a single decision. Whether it was the case of a territorial dispute, or property or people, the approach that both governments took in forming their bilateral positions, were very consistent. Arrangements to prolong the various links across the subcontinent which had existed before the partition were consistently undermined by both governments. What emerged instead, were varied and numerous insertions of the state apparatus in areas where the certainties of the closure of partition could be challenging.

Questions which arose in the bilateral relationship thus were frequently given flexible, and 'interim' answers within this framework, rather than those which closed off all possibility of future dialogue. What evolved in the first decade were a series of structures that remained as durable as the conflict. The process of establishing two sovereign states in the aftermath of partition, therefore, required a substantial degree of compromise and cooperation from both sides. Such cooperation was moreover, integral in maintaining the notions of sovereignty of both countries and, therefore, the nature of this cooperation was a permanent ingredient in the bilateral relationship. It is necessary to contextualise the violence and acrimony in the India-

Pakistan relationship, thus, against the backdrop of the imperative of having to stay clearly separated.

This kind of cooperation rests uneasily, yet with a curious logic, alongside the fact that the India-Pakistan relationship is crafted at so many levels of both governments. Structures of bilateral cooperation were dispersed all across the machinery of government on both sides. The set of issues which the India-Pakistan relationship encompassed was too broad to be handled by a single set of officials. This meant, paradoxically enough, that even while the two sought to disentangle themselves from the other, concerns about development across the border pervaded throughout the structures of the government of both sides. Yet, such a dynamic was, in fact, critical to the nature of the relationship: the task of upholding the sovereignty of the other implied complicity on the part of both governments. An analysis of India-Pakistan relationship thus has to take into account the necessity of retaining the structures of government of both countries. In the immediate decade after partition, the leadership on both sides took measures to ensure that these structures remained permanent. This level of inter-governmental cooperation gives an added texture to the India-Pakistan relationship, which, indeed is integral to the making of both states. The necessity of undertaking such cooperation arose not necessarily out of concern for those who had, after all, belonged within a unitary government of India; but instead was vital to the continuing viability of both states.

Finally, this thesis explores the machinations behind policy making within the two ministries, and argues that these policies were not self evident, but rather the subject of a great deal of debate, internal criticism, and questioning. It is thus difficult to predict the trajectories of India-Pakistan relationship at any given point, because of

the multiple alternatives and possibilities available to both sides. The possibility of compromise and agreement has always been in sight in the India-Pakistan relationship. This is indicative of the fact that both states need to recognise the sovereignty of each other. While both frequently voice, and indeed pursue agendas which are hostile to the other, it is nonetheless within a parameter which cannot destabilise the viability of the other. The history of conflict in the '60's and '70's must be looked for in that period, rather than to look further back to the deeper origins. The India-Pakistan story, thus, does not boil down to the bitterness of the partition, but is rather, in fact, a search by both parties to move beyond it. While this did not necessarily imply a secure, peaceful coexistence, it was nonetheless based on both parties acting on the basis of a viable state structure.

Moreover, it is also important to recognise that the sets of agendas in India and Pakistan in shaping the bilateral relationship, were in fact very clearly a function of the contemporary timeframe rather than being easily traced back to the acrimony of the partition. Moreover, agendas which were hostile to Pakistan were directed more to the audiences at home, rather than to those on the other side of the border. It is necessary, thus, to examine all the pronouncements with regard to inter-dominion relations not merely as a statement of intent on the nature of the relationship to be pursued with the other, but with regard to political positioning at home. Concerns relating to India-Pakistan relations were clearly opportunities for a great deal of jostling on both sides, but it is necessary to historicise them in their specific contexts, rather than viewing them as being necessarily a direct fallout of the partition. India and Pakistan remain uppermost on each other's agendas; yet even while this is so, it is necessary for them to be clearly separated from one another. Their concerns, moreover, relate as much with the strengthening of the state, rather than on the need for dialogue on the basis of a shared past.

At the same time, this thesis stops short of analysing the differences between India and Pakistan in terms of the differing 'personalities' of the two countries but argues, rather, that the bilateral relationship was crafted according to the needs of both post-colonial states. Differences as well as commonalties arose in the India-Pakistan relationship not merely due to their differing approaches and personalities, but rather in ways that fulfilled the requirements of the two states from this relationship. The bilateral mechanism for cooperation, thus was often not necessarily a manifestation of the 'differences' between the two states, as much as one representing the possibilities of agreement between them. Moreover, while the indications of a serious -- and lasting -- acrimony had been present in the India-Pakistan relationship from the beginning, it was also necessary for both to counter-fold this into a structure of cooperation that could, in fact, serve to uphold their differences. At the heart of the relationship, therefore, lies not a corrosive hatred, but a recognition of the basis of agreement.

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APPENDICES

I. Chronology of Major Agreements in India-Pakistan Relations, 1947- 1957

15 August 1947	Division of the sub-continent into two Dominions, India and Pakistan
29 August 1947	A conference of the Governor Generals and Prime Ministers of India and Pakistan with their Military Commanders in Lahore to devise means to stop communal rioting in Punjab
08 September 1947	Joint Statement issued by Prime Ministers Nehru and Liaquat Ali Khan warning that armed bands in West and East Punjab would be punished by separate governments
18 September 1947	Liaquat Ali Khan arrives in Delhi to discuss the question of Minorities
20 September 1947	India and Pakistan issued a Joint Statement for the establishment of peaceful conditions in both countries so that the minorities could live in security
08 November 1947	Governor General Mountbatten and Nehru meet Governor General Jinnah and Liaquat Ali Khan at the meeting of the Joint Defence Council in Lahore
10 December 1947	Agreement for the Avoidance of Double Taxation of income between India and Pakistan
12 December 1947	Financial Agreement between India and Pakistan announced in Indian Parliament. Pakistan to get Rs. 750,000 from the balance of the cash of undivided India
22 December 1947	The Joint Council of India and Pakistan met in New Delhi and considered matters arising out of the partition of the armed forces
11 January 1948	Joint Defence Council meet in Lahore and discuss the division and delivery of arms and equipment of the old Indian Army
19 April 1948	India and Pakistan sign a charter intended to protect the Hindu Muslim minorities in both countries. It was agreed at a joint conference that both Dominions should stop mass exodus and encourage refugees to return.
04 May 1948	Joint Agreement between India and Pakistan on canal dispute between East and West Punjab governments issued
23 June 1948	Air Transport Agreement signed between India and Pakistan
22 July 1948	Inter-dominion conference on Evacuee Property; Agreements reached on 'Agreed Areas' where evacuee property could be classified; systems for exchange of property outlined.
06 December 1948	Representatives of India and Pakistan meet in Delhi to consider the problem of migration of minorities, particularly those in East and West Bengal

15 December 1948	Agreement signed between India and Pakistan providing for the establishment of a Tribunal to settle boundary disputes between East and West Bengal and between East Bengal and Assam
02 February 1949	Indian Parliament ratifies the General Agreement on Trade and Tariffs with Pakistan
25 May 1949	India-Pakistan Trade Agreement finalised
24- 27 June, 1949	Evacuee Property Conference held in Lahore
06 January 1950	Nehru disclosed that he had proposed to Pakistan that they could ban war as a means of solving their problems
05 February 1950	Decision by the special tribunal on the boundary disputes – partial revision of the Radcliffe Award. Tribunal presided over by Justice Bagge of Sweden
07 February 1950	Government of India White Paper on India-Pakistan trade relations published
02 April 1950	Liaquat Ali Khan arrives in New Delhi for talks with Nehru
02- 08 April 1950	Nehru and Liaquat Ali Khan sign the India-Pakistan Minorities Agreement (Nehru-Liaquat Pact) in New Delhi at the conclusion of talks.
27 April 1950	Nehru arrives in Karachi for talks with Liaquat Ali Khan
23 May 1950	India Pakistan Agreement on Exchange of Prisoners reached.
30 May 1950	India Pakistan trade talks begin in Delhi
28 June 1950	India and Pakistan reach 'complete agreement' for the settlement of moveable assets abandoned by both Hindus and Muslims in 1947
24 November 1950	Nehru announces that India's efforts for an India-Pakistan 'No War Declaration' has failed
25 February 1951	India and Pakistan signed a Trade Agreement in Karachi according to which Pakistan would supply raw jute, raw cotton and foodgrains, in return for Indian coal, steel, textiles and cement
18 June 1951	India Pakistan Permit conference held in New Delhi
16 September 1951	Nehru reiterates his offer of a No War declaration to Pakistan at a public meeting in Lucknow
05 August 1952	Trade Agreements between India and Pakistan signed in New Delhi
21 August 1952	West Bengal- East Pakistan boundary agreed upon at a joint meeting of the high commissioners of the governments of India and Pakistan in New Delhi
23 August 1952	Passport system between India and Pakistan come into force on August 23; official announcement made in New Delhi
24 September 1952	Government of India express concern to government of Pakistan regarding the influx of non-Muslim migrants from East Bengal into West Bengal
31 January 1953	India and Pakistan agree to liberalise the passport system: agreement concluded in New Delhi
20 March 1953	Trade Agreement valid for 3 years concluded with Pakistan

19 March 1954	Election Results of East Pakistan announced: Muslim League defeated by United Front
27 August 1954	The World Bank suggests fresh proposals for the settlement of the Canal Waters dispute between India and Pakistan
15 March 1955	India-Pakistan Joint Communique issued, stating that the two Governments had reached full agreement in talks on moveable evacuee property and banking arrangements
17 May 1955	India-Pakistan ministerial level talks in New Delhi: agreement reached on the prevention of border incidents and preservation of shrines and holy places in both countries
03 November 1955	An ad-hoc transitional agreement concluded between India and Pakistan concerning the use of waters of the Indus Rivers system
12 December 1955	Discussions concluded in Lahore between officials of the World Bank, Pakistan and India on steps to be taken in restoring canals and links in West Pakistan damaged in the recent floods.
11 April 1956	India-Pakistan boundary talks between survey officials of both countries on the demarcation of boundary begins in New Delhi
05 August 1956	Prime Ministers Nehru and Muhammad Ali of Pakistan discuss bilateral relations in London
22 January 1957	Trade Agreement between India and Pakistan signed in New Delhi

II. Text of April 1950 Inter-Dominion Agreement on Minorities¹

AGREEMENT BETWEEN THE GOVERNMENTS OF INDIA AND PAKISTAN REGARDING SECURITY AND RIGHTS OF MINORITIES (NEHRU-LIAQUAT AGREEMENT)

New Delhi,

8 April 1950

A. The Governments of India and Pakistan solemnly agree that each shall ensure, to the minorities throughout its territory, complete equality of citizenship, irrespective of religion, a full sense of security in respect of life, culture, property and personal honour, freedom of movement within each country and freedom of occupation, speech and worship, subject to law and morality. Members of the minorities shall have equal opportunity with members of the majority community to participate in the public life of their country, to hold political or other office, and to serve in their country's civil and armed forces.

Both Governments declare these rights to be fundamental and undertake to enforce them effectively. The Prime Minister of India has drawn attention to the fact that these rights are guaranteed to all minorities in India by its Constitution. The Prime Minister of Pakistan has pointed out that similar provision exists in the Objectives Resolution adopted by the Constituent Assembly of Pakistan. It is the policy of both Governments that the enjoyment of these democratic rights shall be assured to all their nationals without distinction. Both Governments wish to emphasise that the allegiance and loyalty of the minorities is to the State of which they are citizens, and that it is to the Government of their own State that they should look for the redress of their grievances.

B. In respect of migrants from East Bengal, West Bengal, Assam and Tripura, where communal disturbances have recently occurred, it is agreed between the two Governments:

- (i) That there shall be freedom of movement and protection in transit;
- (ii) That there shall be freedom to remove as much of his moveable personal effects and household goods as migrant may wish to take with him. Moveable property shall include personal jewellery. The maximum cash allowed to each adult migrant will be Rs. 150 and to each migrant child Rs. 75;
- (iii) That a migrant may deposit such of his personal jewellery or cash as he does not wish to take with him with a bank. A proper receipt shall be furnished to him by the bank for cash or jewellery thus deposited and facilities shall be provided, as and when

¹ Reprinted from 'Bilateral Documents' included in the Indian Ministry of External Affairs website, <http://meaindia.nic.in/mystart.php?id=53051785>; last visited: 1 September 2012.

required for their transfer to him, subject as regards cash to the exchange regulations of the Government concerned;

(iv) That there shall be no harassment by the Customs authorities. At each customs post agreed upon by the Governments concerned, liaison officers of the other Government shall be posted to ensure this in practice;

(v) Rights of ownership in or occupancy of the immoveable property of a migrant shall not be disturbed. If, during his absence, such property is occupied by another person, it shall be returned to him provided that he comes back by the 31st December, 1950. Where the migrant was a cultivating owner or tenant, the land shall be restored to him provided that he returns not later than the 31st December, 1950. In exceptional cases, if a Government considers that a migrant's immoveable property cannot be returned to him, the matter shall be referred to the appropriate Minority Commission for advice. Where restoration of immoveable property to the migrant who returns within the specified period is found not possible, the Government concerned shall take steps to rehabilitate him.

(vi) That in the case of a migrant who decides not to return, ownership of all his immoveable property shall continue to vest in him and he shall have unrestricted right to dispose of it by sale, by exchange with an evacuee in the other country, or otherwise. A committee consisting of three representatives of minority and presided over by a representative of Government shall act as trustees of the owner. The Committee shall be empowered to recover rent for such immoveable property according to law. The Governments of East Bengal, West Bengal, Assam and Tripura shall enact the necessary legislation to set up these Committees. The Provincial or State Government, as the case may be, will instruct the District or other appropriate authority to give all possible assistance for the discharge of the Committee's functions. The Provisions of this sub-paragraph shall also apply to migrants who may have left East Bengal for any part of India, or West Bengal, Assam or Tripura for any part of Pakistan, prior to the recent disturbances but after the 15th August, 1947. The arrangement in this sub-paragraph will apply also to migrants who have left Bihar for East Bengal owing to communal disturbances or fear thereof.

C. As regards the Province of East Bengal and each of the States of West Bengal, Assam and Tripura respectively the two Governments further agree that they shall:

(1) Continue their efforts to restore normal conditions and shall take suitable measures to prevent recurrence of disorder.

(2) Punish all those who are found guilty of offences against persons and property and of other criminal offences. In view of their deterrent effect, collective fines shall be imposed, where necessary. Special Courts will, where necessary, be appointed to ensure that wrong doers are promptly punished.

(3) Make every possible effort to recover looted property.

(4) Set up immediately an agency, with which representatives of the minority shall be associated, to assist in the recovery of abducted women. 53 NOT recognise forced conversions. Any conversion effected during a period of communal disturbance shall

be deemed to be forced conversion. Those found guilty of converting people forcibly shall be punished.

(6) Set up a Commission of Enquiry at once to enquire into and report on the causes and extent of the recent disturbances and to make recommendations with a view to preventing recrudescence of similar trouble in future. The personnel of the Commission, which shall be presided over by a Judge of the High Court, shall be such as to inspire confidence among the minority.

(7) Take prompt and effective steps to prevent the dissemination of news and mischievous opinion calculated to rouse communal passion by press or radio or by any individual or organisation. Those guilty of such activity shall be rigorously dealt with.

(8) Not permit propaganda in either country directed against the territorial integrity of the other or purporting to incite war between them and shall take prompt and effective action against any individual or organisation guilty of such propaganda.

D. Sub-paragraphs (1), (2), (3), (4), (5), (7) and (8) of C of the Agreement are of General scope and applicable according to exigency to any part of India or Pakistan.

E. In order to help restore confidence, so that refugees may return to their homes, the two Governments have decided

(i) to depute two Ministers, one from each Government, to remain in the affected areas for such period as may be necessary;

(ii) to include in the Cabinets of East Bengal, West Bengal and Assam a representative of the minority community. In Assam the minority community is already represented in the Cabinet. Appointments to the Cabinets of East Bengal and West Bengal shall be made immediately.

F. In order to assist in the implementation of this Agreement, the two Governments have decided, apart from the deputation of their Ministers referred to in E, to set up Minority Commissions, one for East Bengal, one for West Bengal and one for Assam. These Commissions will be constituted and will have the functions described below:

(i) Each Commission will consist of one Minister of the Provincial or State Government concerned, who will be Chairman, and one representative each of the majority and minority communities from East Bengal, West Bengal and Assam, chosen by and from among their respective representatives in the Provincial or State Legislatures, as the case may be.

(ii) The two Ministers of the Governments of India and Pakistan may attend and participate in any meeting of any Commission. A Minority Commission or any two Minority Commissions jointly shall meet when so required by either Central Minister for the satisfactory implementation of this Agreement.

(iii) Each Commission shall appoint such staff as it deems necessary for the proper discharge of its functions and shall determine its own procedure.

(iv) Each Commission shall maintain contact with the minorities in Districts and small administrative headquarters through Minority Boards formed in accordance with the Inter-Dominion Agreement of Decemeber, 1948.

(v) The Minority Commissions in East Bengal and West Bengal shall replace the Provincial Minorities Boards set up under the Inter-Dominion Agreement of Decemeber, 1948.

(vi) The two Ministers of the Central Governments will from time to time consult such persons or organisations as they may consider necessary.

(vii) The functions of the Minority Commission shall be:

(a) to observe and to report on the implementation of this Agreement and, for this purpose, to take cognizance of breaches or neglect;

(b) to advise an action to be taken on their reommendations.

(viii) Each Commission shall submit reports, as and when necessary, to the Provincial and State Governments concerned. Copies of such reports will be submitted simultaneously to the two Central Ministers during the period referred to in E.

(ix) The Governments of India and Pakistan and the State and Provincial Governments will normally give effect to recommendations that concern them when such recommendations are supported by both the Central Ministers. In the event of disagreement between the two Central Ministers, the matter shall be referred to the Prime Ministers of India and Pakistan who shall either resolve it themselves or determine the agency and procedure by which it will be resolved.

(x) In respect of Tripura, the two Central Ministers shall constitute a Commission and shall discharge the functions that are assigned under the Agreement to the Minority Commissions for East Bengal, West Bengal and Assam. Before the expiration of the period referred to in E, the two Central Ministers shall make recommendations for the establishment in Tripura of appropriate machinery to discharge the functions of the Minority Commissions envisaged in respect of East Bengal, West Bengal and Assam.

G. Except where modified by this Agreement, the Inter-Dominion Agreement of December, 1948 shall remain in force.