

Kashmir's Accession to India Re-examined

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Abstract

The developments leading to the Accession of the State of Jammu and Kashmir to India are closely linked to with the scheme of partition of British India. With the partition of the Indian Subcontinent Jammu and Kashmir presented a very chaotic and confusing picture. The Kashmir dispute is certainly a territorial dispute between India and Pakistan, it also has aspects of a domestic political issue for both countries. The fact which is important above all is that the two countries are multiethnic nations, and that the Kashmir dispute has directly influenced the respective countries' ethnic issues and national unity. This precisely forms the crux of the Kashmir dispute, a dispute that is more than a traditional bilateral conflict over territories and borders.

Both India and Pakistan wanted to control Kashmir because of its strategic location and geo-political importance. However, events moved with lightening rapidity and the state ended up being part of India by virtue of the controversial accession. In the light of the recent debates on the status of Kashmir and its equation with the Indian Union and Pakistan, this paper attempts to make a fresh appraisal of the contentious issues of date and time of the signing of the instrument of accession between the Maharaja of Jammu and Kashmir and the Government of India.

Key Words

Partition, Accession, Tribal Uprising, Kashmir Dispute, UNO

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Introduction

On 20 February, 1947, the British Prime Minister, Lord Clement Attlee made a statement in the British Parliament by announcing 'His Majesty's, Government wish that it was their definite intention to take the necessary steps to effect the 'transfer of power' into the responsible Indian hands by a date not later than June 1948.ⁱ They made it very clear about their desire that wished to hand over its responsibility to the authorities established by a constitution approved by all political parties in India in accordance with the Cabinet Mission Plan.ⁱⁱ The main objective of the Government was to obtain a Unitary Government for British India and the Indian States if possible within the British Commonwealth, in accordance with the Cabinet Mission plan.ⁱⁱⁱ

On 24 March, 1947, Lord Mountbatten was sworn as a Governor-General and Crown Representative.^{iv} He immediately realized that given the current ideological differences between Indian National Congress and the Muslim League, it was not possible together to create a common Government. Thus, he declared that he would proceed on the basis of two separate Governments. On June 3, 1947, the British Government confirming the decision of Lord Mountbatten published a plan for the partition of India into two Dominions i.e. India and Pakistan. In this regard the Indian Independence Bill was introduced in the British Parliament on the 10 July, 1947, and later, it was passed as the Indian Independence Act of 1947.^v

The concept of the Instrument of Accession was introduced by the Government of India Act 1935, wherein a ruler of a princely state could accede his kingdom into the 'Federation of India'. This was initially opposed by the Indian princes, but accession of all the princely states was almost complete when World War II broke out. The Indian Independence Act of 1947 provided that with the lapse of Paramountcy on 15 August 1947, the relationship between the crown and the princely states would get terminated and that would leave the princely states completely independent. It was on part of the respective rulers to decide whether to accede to India, to accede to Pakistan or to remain independent. (Owing to the geographical location many of them had already been dependent on the Government of India for defence, finance, and other infrastructure).

The Princely States of India, their number was around about 565, and were scattered all over the Indian sub-continent at the end of the British Raj. Some states were big and small in size, such as the Nizam of Hyderabad, were

about the size of Germany. Other Princely States were small in size and population. The overwhelming majority of them were Hindu, only a half dozen were Muslim.^{vi}

Events leading to the signing of the Instrument of Accession with the state of Jammu and Kashmir

In the immediate aftermath of India's independence, three rulers had still not merged their states with India despite Sardar Patel's untiring efforts. They were the Nawab of Junagadh, the Nizam of Hyderabad, and Maharaja Hari Singh of Kashmir. Although accession of Hyderabad and Junagadh had their share of drama, the accession of the state of Jammu and Kashmir to India became one of the most momentous as well as contentious events in the politics and history of the subcontinent.

Maharaja Hari Singh harboured the idea of carving out an independent kingdom for himself. He used to lend his ears to courtiers, who offered him advices buttered in sycophantic language. He was under the spell of Ram Chander Kak, the then Prime Minister, and Raj Guru Swami Shant Dev. They planted the idea of independence in his mind and convinced him that he could save his empire for his future generations by declaring himself independent. To influence Maharaja Hari Singh, who was hesitant in making up his mind, the then Congress president, Acharaya Kripalani paid a brief visit to Kashmir in May, 1947. But he failed in persuading Hari Singh to take any decision and returned unsuccessful. Next month, on 19th June, Lord Mountbatten visited Kashmir and stayed for four days. Mountbatten on these occasions urged Maharaja Hari Singh and his Prime Minister, Pandit Kak, not to make any declaration of Independence, but to find out in one way or another the will of people of Kashmir as soon as possible, and to announce their intention by 14th of August 1947.^{vii} Thus Mountbatten's visit also bore no fruit and ended in a complete failure. He returned disappointed without convincing Hari Singh to join either way.

The sands were running out fast, and fearing a breakdown of the communication system through Pakistan and the rich export trade with India, the Maharaja sought from both the Dominions a Standstill Agreement to come into effect on 15 August 1947. Even after the conclusion of a standstill agreement with Pakistan, the relations between Jammu and Kashmir and Pakistan were hardly friendly. Pakistan did not honour her obligations and

started a policy of coercion so that the state could accede to Pakistan. She applied the tactics of putting economic pressure upon Jammu and Kashmir.

Meanwhile the Pakistani forces intensified their incursions into the state and by 22nd October, 1947 infiltrations and raids were transformed into a full scale military invasion of the state of Jammu and Kashmir. They were led by Pakistani commander Major General Akbar Khan, under the title of General Tariq and other Pakistani officers fully conversant with modern strategy and warfare. ^{viii} The state was at that time in imminent peril and the Maharaja saw his dream of independence shattered like a '*House of cards*'. ^{ix} Therefore he thought of accession to save his state.

In such circumstances, Maharaja Hari Singh made a desperate appeal for help to the Government of India on 24th October, 1947. So, on the morning of 25th October, 1947, a meeting of the Defence Committee was held under the Chairmanship of Lord Mountbatten. Finally a decision was taken by the Defence Committee to send three men to Srinagar; V.P. Menon, Colonel Sam Manekshaw and an air force officer were dispatched to Kashmir in order to get the acceptance of Hari Singh, whether he is interested in acceding to India, and make a study of military situation in Srinagar.

V.P. Menon, accompanied by Mehr Chand Mahajan flew to Jammu and informed the Maharaja about the Defence Committee's decision. The Maharaja was prepared to accede to India at once. He drafted a letter to the Governor-General Lord Mountbatten, in which he expressed the distressing conditions of his state and reiterated the request for Military help and the Instrument of Accession signed by Maharaja Hari Singh on 26th October, 1947 was attached for acceptance by Governor-General.

Maharaja Hari Singh on October 26, 1947 wrote to Lord Mountbatten:

"With the conditions obtaining at present in my State and the great emergency of the situation as it exists, I have no option but to ask for help from the Indian Dominion. Naturally they cannot send the help asked for me, without my State acceding to India. I have accordingly decided to do so and I attach the Instrument of accession for acceptance by your Government." ^x

The instrument of accession was signed by Sheikh Mohammad Abdullah on behalf of National Conference who was present in Delhi at the residence of Pandit Jawaharlal Nehru. ^{xi} The premier of State, Mehar Chand Mahajan was

also present on the occasion and signed the document of accession. By instrument of accession, Maharaja handed over the three subjects Defence, Foreign affairs and Communication to the Government of India while it remained autonomous in all other respects.^{xii}

India and Pakistan have had different views on the Instrument of Accession and the circumstances under which it was executed. To India, a state which had acceded to, was being invaded and massacred by raiders from another country and new India thought first to clear the soil of the invaders and next bring a reference to the people of the Issue of accession. To Pakistan, a state which it hoped was about to accede to her and where popular outbursts were taking place had now acceded to India and future had become a fait accompli, unless the same way could be revised to keep the issue open. Whereas India was charging Pakistan of army raid, Pakistan was charging India of forcing Kashmir to accede to India. No other alternative could be found by both the Government than to decide to have talks on this issue.

Some scholars have questioned the official date of the signing of the accession document by the Maharaja. They maintain that it was signed on 27 October rather than 26 October. However, the fact that the Governor General accepted the accession on 27 October, the day the Indian troops were airlifted to Kashmir, is generally accepted. An Indian commentator, Prem Shankar Jha, has argued that the accession was actually signed by the Maharaja on 25 October 1947, just before he left Srinagar for Jammu. A British researcher, Andrew Whitehead, argues that the document was signed in Jammu on 27 October 1947 a few hours after the beginning of an Indian military airlift to Srinagar to repulse an invading force of Pakistani tribesmen.

Though the Instrument of Accession executed on October 27, 1947 between the ruler of Kashmir and the Governor General of India was a legal act, Pakistan chose to refute it more than once almost from day one. So ultimately the talks were held between Mountbatten and Jinnah on 2 November 1947. Jinnah began by complaining that the accession of Kashmir to India had been brought by violence and that Pakistan would not recognize it. Lord Mountbatten retorted that the violence had come from the tribal invaders and as the Indian troops in Srinagar were being built up, no tribesmen would ever enter Kashmir afterwards. On 4th November in broadcast speech from Lahore the Prime Minister of Pakistan referred to Indian action in Kashmir and alleged India's 'Immoral and illegal ownership' of Kashmir, resulting from the 'infamous'

Amritsar Treaty of 1846. Mr. Liaqat Ali Khan contended that it was a dishonest rewriting of history to present the rebellion of the enslaved people of Kashmir as an invasion from outside. Just because some outsiders had shown active sympathy with it.^{xiii} It was under these circumstances that Mountbatten mooted the idea of referring the matter to the United Nations if the negotiations between the countries were to fall ultimately. On 21st November Nehru made a statement in the Constituent Assembly reiterating his promise that the 'people of Kashmir would be given the chance to decide their future under the supervision of an impartial tribunal such as the United Nations Organization'.

On January 1, 1948, India submitted a formal complaint to the Security Council under chapter VI of the charter, as India was anxious to avoid a direct conflict with the Pakistan. In her complaint India specifically referred to the fact that Kashmir had acceded to India and set out briefly the facts of invasion by the raiders and several acts committed by their onward march through the territory of Kashmir.^{xiv} On 16 January 1948, the Kashmir issue was debated in the Security Council of the United Nations. Much to the annoyance of the Indian, Sir Zafrullah Khan, Pakistan's Minister of Foreign Affairs, made a bold speech in Security Council. In his address he refuted Indian allegations, "The Pakistan Government categorically denied that they are giving aid and assistance to the so-called invaders or have committed any act of aggression against India." He further stated: Kashmir must be cleared of everybody. Normal administration must be restored. There should be no kind of pressure, either from the Muslim Conference being in power and holding the administration or the National Conference being in power and holding the reins of administration. No kind of pressure should be brought upon the people. Take steps for the establishment of an impartial administration in the State, and thereafter should hold a plebiscite to ascertain the free and unfettered will of people of the state as to whether they intend to accede to India or to Pakistan."^{xv}

In conclusion Pakistan requested the Security Council to examine her case in to and not to concentrate on the Kashmir dispute alone which was only one of the many facts of the unhappy relations between India and Pakistan.^{xvi} Long discussions were held, Pakistan clearing its own stand and India speaking in its own favour from time to time. As a result of this Security Council passed four resolutions on different dates:-

1. 21 April, 1948^{xvii}

2. 13 August, 1948^{xviii}

3. 5 January, 1949^{xix}

4. 2 December, 1957^{xx}

In all the four resolutions the Security Council's conclusion was the question of accession of the state of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite.^{xxi}

Kashmir is the core issue that continues to bedevil relations between India and Pakistan. It is also one of the oldest conflicts in the UN history. Despite a series of UN resolutions, the two countries have been unable to resolve the dispute. India also claimed that Pakistan was the original invader and the Pakistan's support for the Kashmir insurgency was its attempt to take over Kashmir by force. Pakistan, on the other hand, claimed that Kashmir's accession to India was illegal and undemocratic. Further, Pakistan argued that India's continued refusal to hold plebiscite on the question of accession denied right to self-determination of the Kashmiri people.

Conclusion

After India's independence and after partition three princely rulers had still not merged their states with India despite Sardar Patel's untiring efforts. They were the Nawab of Junagadh, the Nizam of Hyderabad, and Maharaja Hari Singh of Kashmir. Although accession of Hyderabad and Junagadh had their share of drama, the accession of the state of Jammu and Kashmir to India became one of the most momentous as well as contentious events in the politics and history of the subcontinent. During the partition the people of Jammu and Kashmir were also got politically divided. There was no all-out support for either India or Pakistan and strong voices advocating independence of the state for different reasons existed. People of Jammu and Kashmir were politically divided. Maharaja Hari Singh harboured the idea of carving out an independent kingdom for himself. Two political leaders Sheikh Abdullah and Chaudhary Ghulam Abbas made a united stand on the question of accession impossible. Congress backed Sheikh Abdullah, projected him as representing the majoritarian opinion, played the religious card with Maharaja and utilised every possible means to secure accession of the state to the Indian Union well before the tribal invasion of the state and out-witted and out-manoeuvred the Muslim League.

Finally Maharaja Hari Singh drafted a letter to the Governor-General Lord Mountbatten, in which he expressed the distressing conditions of his state and reiterated the request for Military help and the Instrument of Accession signed by Maharaja Hari Singh on 26th October, 1947 was attached for acceptance by Governor-General. Then there came controversy related accession of Jammu and Kashmir with India, Pakistan referred to Indian action in Kashmir and alleged India's 'Immoral and illegal ownership' of Kashmir, resulting from the 'infamous' Amritsar Treaty of 1846. It was under these circumstances that Mountbatten mooted the idea of referring the matter to the United Nations if the negotiations between the countries were to fall ultimately.

As per the assurance given to the Security Council, the question of accession has been finally set at rest by the people of the State through their elected representatives in 1954 and 1957. If the accession of Kashmir has to be reopened, the same reopening would imply going back 46 years and reopening the whole question of the independence of India and Pakistan, for it was the same statute as provided for the accession of the princely States to either of the dominions which also granted independence to India and Pakistan.

References

- i) H.V. Hodson, *The Great Divide: British- India-Pakistan*, Hutchinson of London, 1969, P.199.
- ii) Ibid., p. 189.
- iii) V. P. Menon, *The Transfer of Power in India*, Orient Longman, London, 1957, P.351.
- iv) H.V. Hodson, *The Great Divide: British- India-Pakistan*, P.203.
- v) Victoria Schofield, *Kashmir In Conflict India Pakistan & The Unending War*, I.B. Tauris, London, 2003, p. 28.
- vi) Alastair Lamb, *Incomplete partition, The Genesis of the Kashmir Dispute 1947-1948*, Oxford University press, Delhi, 1997, p.4.
- vii) Allen Campbell Johnson, *Mission With Mountbatten*, Aico Publishing House, Bombay, 1951, p. 120.
- viii) P.N.K. Bamzai, *Culture and political history of Kashmir*, p.754.
- ix) A.S. Anand, *The Constitution of Jammu and Kashmir, its development and comments*, p.65.
- x) A.S. Anand, *The Constitution Of Jammu And Kashmir Its Development & Comments*, 5th Edition, Universal Law Publishing, Delhi, 2006, p. 65.
- xi) S.M. Abdullah, *Ātish-i-Chinār*, p. 418.
- xii) P.N. Lakhnapal, *Eseential Documents and Notes on Kashmir Dispute*, international Books, Delhi, 1965, p. 58.
- xiii) V.P. Menon, *Story of Integration of Indian States*, p.406.
- xiv) Faizanullah, *Kashmir And The United Nations*, City book centre, Srinagar, 2008, p. 14.
- xv) SCOR, 3rd Year: 28th meeting, 16 January 1948, Lake Success New York.
- xvi) SCOR 646 meeting, 15 January, 1948.
- xvii) SCOR, 3 Dec. 1948, S/ 726.
- xviii) SCOR, supplement for November 1948 .UN Dec. S/ 1100.
- xix) SCOR, Supplement for January, 1949 UN. Dec. S/1196.
- xx) SCOR, Supplement for October-December, 1957, UN Dec. S/3922.
- xi) In all the resolutions of the- Security Council the above list was repeated again and gain.