



Contesting Conquerors: Chronicles of Jammu & Kashmir (1925-1952)

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Abstract

The region of Jammu & Kashmir has been quite prominent especially during the partition where it was in the crossfire between the two countries that lie on either side of it. The accession of the (former) State to India and the Special Status it gained after, is probably one of the hot topics discussed worldwide. Despite the popularity gained by the region, the complete information and facts are possessed by few. This paper aims to highlight what the region has witnessed from when it was ruled by Maharaja Hari Singh to how it got caught in the middle of India and Pakistan and under what circumstance it decided to accede to India.

Keywords:

Accession;
Dogra;
Standstill Agreement;
Plebiscite;
Special Status;
Article 370.

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1. Introduction

Amidst the political scenario India is facing today, it has become very easy for people to believe the information being spread by various sources, unable to differentiate facts from mere political views. The intent of this research is to highlight the happenings so that one can form an opinion after looking at the entire picture. Maharaja Hari Singh, the fourth and final king of the Dogra Dynasty, is known famously and infamously for his decision to accede to India but very few are aware of his policies, his ideologies and how he was as a ruler overall. This region has a history of over 6,000 years where it was ruled by rulers of various religions. Upon the signing of Treaty of Amritsar in 1846, the region came under the Dogra rule through Raja Gulab Singh.

2. Research Method

This research paper has obtained its information for Secondary sources that include books published by various authors like "Is God Dead: The Truth about Jammu & Kashmir" by Raghbir Lal Anand, "Kashmir in the crossfire" by Victoria Schofield and many more. Digital media websites like the "The Print" and "The Quint" have been referred as well.

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Online news channels like BBC, The Hindu and the Economic Times have been used and official websites of the United Nations and Ministry of External Affairs of India have been referred.

I. Hari Singh (1925 – 1952)

Maharaja Hari Singh was the descendant of Raja Amar Singh, the nephew of Pratap Singh and the last king to rule the princely state, Jammu & Kashmir. As Pratap Singh had no children of his own, the kingship was transferred to Hari Singh in 1925. He was born in the Amar Mahal palace in Jammu on 23 September 1895. After the death of his father in 1909, the British aided him to complete his schooling in “Mayo College”, Ajmer, Rajasthan and the “Imperial Cadet Corps” in Dehradun, an institution run by the British for military training.

After the demise of his uncle in 1925, Hari Singh acceded the throne. After which, Primary education was made mandatory in the State, places of worship were constructed for the lower caste and laws were introduced that prohibited child marriage (Lal 2014).³



Fig 1.1: Maharaja Hari Singh

Source: https://upload.wikimedia.org/wikipedia/commons/0/01/Hari_Singh_1931.jpg

He married four times. His first wife was Dharampur Rani Sri Lal Kunverba Sahiba who died during her pregnancy in 1915. He married for the second time in 1920 to Rani Sahiba. The third time he got married to was Maharani Dhanvat Kunveri Baiji Sahiba in 1923. In 1928, he got married for the fourth time to Maharani Tara Devi Sahiba of Kangra who gave him his first issue (including all the four marriages). His son was named Yuvraj Karan Singh and was born on 9 March 1931.

In a conversation with The Print, an Indian digital news online-newspaper, the director of an Institute of Kashmir studies based in Srinagar and a professor of History named Dr. M.Y. Ganie said, “After Hari Singh ascended the throne, he took many measures. The Muslim population of the state was quite disenfranchised till his arrival. Hari Singh introduced rules under which children were forced to receive modern education in what came to be known as Jabri schools. Jabar means force,” he said.

Several corrections were introduced in Hari Singh’s regime like reinforcing the “Jammu and Kashmir Tenancy Act 1923” that ensured landless peasants got their share and reconstructing the bureaucracy of the State that would strengthen its governance. In order to bring that into effect, several bureaucrats were

³Anand, Ragubhir Lal (1 February 2014). *IS God DEAD?????*. Partridge Publishing. p. 26. ISBN 978-1-48281-823-9.

transferred “from other parts of British India, especially Bengal” to Jammu and Kashmir. Although the British were delighted with the reforms, the Kashmiri Pandits were unhappy.

“The Kashmiri Pandits under the Dogra regime were highly educated and intellectually very strong. They knew that importing officials from Bengal would have long-term ramifications on governance and policy, hence they resisted,” Ganie said. He also quotes, “They compelled the Maharaja to introduce the State Subject law, which defined citizenship of Jammu and Kashmir. This according to me is the bedrock of J&K’s special status. The tussle within the services became the foundation for the movement to protect the state’s indigenous identity,”

Zafar Choudhary, a Jammu- based journalist and political analyst suggests that history has been unfair to Hari Singh. He opines that although his administration was feudal, “the initiatives taken by him” aren’t remembered. “Whenever Maharaja Hari Singh is discussed, it is in the context of the events of 1947-48, which is unfortunate. History has not been fair to him,” he said (Javaid 2019).⁴

P.N. Bazaz, a Kashmiri author of “*Inside Kashmir*” wrote, “Speaking generally and from the bourgeois point of view, the Dogra rule has been a Hindu Raj. Muslims have not been treated fairly, by which I mean as fairly as the Hindus. Firstly, because, contrary to all professions of treating all classes equally, it must be candidly admitted that Muslims were dealt with harshly in certain respects only because they were Muslims.” There were several riots in opposition to the Dogra rulers, primarily in 1865, 1924 and 1931. (Ali 2019).⁵

II. The Uprising of 1931

The Uprising of 1931 began against Hari Singh when Abdul Qadeer Khan Ghazi of Swat (Present Day Pakistan) was put on a trial a treachery and allegations on plotting a coup d’état against Hari Singh’s administration. He was a workman hired by an English army officer. In lieu of this, the Kashmir Martyr’s day “(*Youm-e-Shuhada-e-Kashmir*)” is observed every year on 13 July to pay tribute to 22 Kashmiris who lost their lives that summer (Javaid, 2019).⁶

As stated in “*Birth of a Tragedy: Kashmir 1947*” by Alastair Lamb, post 1931 witnessed a shift in the sentiments against the Dogra ruler among the people. This was mainly headed by “Reading Room Party” which was a tiny group of Muslim intellectuals that believed in the left wing ideology, the forerunner to Sheikh Mohammad Abdullah’s “Muslim Conference” that later on formed to be “Jammu & Kashmir National Conference”. Sheikh Abdullah demanded for a better governance and was popular among the masses that led to his arrest by the Maharaja repeatedly from 1931 to 1947.



⁴ Azaan Javaid (2019), <https://theprint.in/theprint-profile/hari-singh-the-last-dogra-king-who-gave-jk-its-special-status-was-an-autocrat-too/227573/>

⁵ Sajid Ali (2019), <https://theprint.in/past-forward/how-on-this-day-72-years-ago-jammu-kashmir-agreed-to-become-a-part-of-india/311724/>

⁶ Azaan Javaid (2019), <https://theprint.in/theprint-profile/hari-singh-the-last-dogra-king-who-gave-jk-its-special-status-was-an-autocrat-too/227573/>

Fig 1.2: Kashmiris mourning the killing of 13 July 1931 martyrs in the compound of historic Jamia Masjid, Srinagar.
Source: <https://www.kashmirilife.net/wp-content/uploads/2013/07/July-13-1931-at-Jamia-Masjid-Srinagar.jpg>

III. Sheikh Mohammad Abdullah

Commonly known as “*Sher-e-Kashmir*” (“Lion of Kashmir”), he founded the National Conference and played a major role in the politics of J&K. In 1938, he along with his liberal friends devised the National Demands, the precursor of “Naya Kashmir” (New Kashmir) Manifesto including Prem Nath Bazaz, Kashyap Bandhu, Pandit Sudama Sidha, Sardar Budh Singh and Jia Lal Kilam. The Manifesto demanded a Democratic Constitution which pledged in the interest of the people of the State which was presented to the Maharaja in the form of a speech on 28 August 1938 who rejected it.

Sheikh Abdullah and many others were prisoned for “defying prohibitory orders” and were sentenced to jail for 6 months with an additional fine. The arrest upset the public who were later on consoled by M.K. Gandhi. He was released on 24 February after having served his time, with people of Srinagar hosting a celebration where he spoke about the significance of the unification among Muslims, Sikhs and Hindus (Taseer, 1973).⁷

“In May 1946, Sheikh Abdullah launched the Quit Kashmir agitation against the Maharaja Hari Singh and was arrested and sentenced to three years imprisonment but was released sixteen months later” (Abdullah & Taing, 1985).⁸



Fig 1.3: Sheikh Mohammad Abdullah

Source: https://akm-img-a-in.tosshub.com/indiatoday/sheikh_647_120517035456.jpg?b.ZX_4pLL2ZqInX1wK5oYjUj3Okn3Vo

IV. The Standstill Agreement

The “*Indian Independence Act of 1947*” had clearly stipulated the withdrawal of the British from the subcontinent and assured division into “two new dominions”. A “Standstill Agreement” was consolidated on 3 June 1947 in order to make the transition of power smooth and so that “all the administrative arrangements that existed between the British crown and the princely state would continue unaltered between the signatory dominions (India and Pakistan) and the state, until new arrangements were made”.

Geographically speaking, Jammu and Kashmir was located nearer to the area that would later on come to be Pakistan (the North Western Frontier Province and Western Punjab). This area had several transitory points such as the sole railway line that connected via Sialkot to Jammu, the Sialkot-Jammu road and the Srinagar-Muzaffarabad Jhelum Valley road. It was via these points that majority of the trade were witnessed in items such as petrol, kerosene, sugar, flour etc. On 10 August 1947, Janak Singh was made the Prime Minister of

⁷ Rasheed Taseer (1973): *Tareekh e Hurriyat e Kashmir* (URDU)

⁸ Abdullah, Sheikh; Taing, M. Y. (1985), *Atish-e-Chinar* (in Urdu), Srinagar: Shaukat Publications

J&K who was previously the army minister and later the revenue minister in Maharaja Hari Singh's Government (Wirsing, 1998).⁹

A Standstill Agreement was requested by the State with India and Pakistan on 12 August 1947, stating, "Jammu and Kashmir government would welcome standstill agreement with Union of India/Pakistan on all matters on which there exists arrangements with the outgoing British India government."

Pakistan agreed to this and a transmission was sent to Janak Singh, the prime minister of J&K after three days i.e. 15 August 1947 while India disagreed. A communication was sent to the Maharaja saying, "Government of India would be glad if you or some other minister duly authorised in this behalf could fly to Delhi for negotiating Standstill Agreement between Kashmir Government and India dominion. Early action desirable to maintain intact existing agreements and administrative arrangements," Despite this, no representative from J&K visited Delhi for the discussions.

V. The Issue of Accession

The withdrawal of the British from the subcontinent posed two major issues for J&K which would heavily impact the state, not positively. One, the Maharaja could no longer depend on his ally, the British to help suppress any aggression, like the incidents of 1931. Second, the Maharaja would find it difficult to keep an eye on the state's border that wasn't tightly secured and was prone to an external aggression. William Norman Brown opines that the Maharaja's situation after 15 August was "precarious". "He disliked becoming part of India, which was being democratised, or Pakistan, which was Muslim... He thought of independence,"

Due to the anti-administration sentiment among the population of the State, the Maharaja was under immense pressure, which was aggravated as Sheikh Abdullah was in prison in spite of recurring appeals to release him by several noted people like Jawaharlal Nehru, Vallabhbhai Patel and the Viceroy, Lord Mountbatten. In the meantime, India had not signed the Standstill Agreement issued by J&K which led Pakistan to presume that the State would accede to Pakistan sooner or later. Hence, Mohammad Ali Jinnah sent Khurshid Hasan Khurshid who served as his private secretary, to receive some reassurance from the Maharaja.

On 24 August 1947, within two weeks of signing the Standstill Agreement, Pakistan wrote to the Maharaja saying, "The time has come for Maharaja of Kashmir that he must take his choice and choose Pakistan. Should Kashmir fail to join Pakistan, the gravest possible trouble will inevitably ensue". On the contrary, Mahatma Gandhi and Jawaharlal Nehru wanted J&K to accede to India. Nehru had roots in Kashmir and his close friendship with Sheikh Abdullah added to it. According to Rajmohan Gandhi, a historian, "Vallabhbhai (Patel)'s lukewarmness about Kashmir had lasted until September 13, 1947." Patel had written to "India's First Defence Minister", Baldev Singh that suggested that "if (Kashmir) decides to join the other Dominion", he would agree to it.

VI. The Infiltration

In June 1947, a "no-tax campaign" was initiated against the Maharaja by approximately 60,000 ex-army men, typically in Poonch which later on turned into a secessionist movement when Poonch Muslims erected Pakistani flags after 14 and 15 August. In reaction to this, "the Maharaja imposed a Martial Law in Poonch" which resulted in more aggravated Muslims. With ammunition and support of tribals of Pakistan's North-

⁹Robert. G. Wirsing. India, Pakistan, and the Kashmir Dispute. On Regional conflict and its Resolution. P.33. St Martin's Press, New York, 1998

West Frontier Province, the situation got complicated, according to “*Kashmir in Conflict: India, Pakistan and the Unending War*” by Victoria Schofield.

“On 4 September 1947, General Henry Lawrence Scott, commander of the Jammu and Kashmir state forces, complained about multiple covert incursions from Pakistan and asked the Maharaja’s government to raise this issue with Pakistan. The same day, the J&K PM Janak Singh officially complained to Pakistan and asked for ‘prompt actions’.”

Subsequently, Maharaja let out Sheikh Abdullah, who said, “The demand of the Kashmiri is freedom” in his foremost public gathering. He also commented about Pakistan’s suggestion of J&K’s accession to them by saying, “How can Mr Jinnah or the Muslim League tell us to accede to Pakistan? They have always opposed us in every struggle. Even in our present struggle (Quit Kashmir), he (Jinnah) carried on propaganda against us and went on saying that there is no struggle of any kind in the state. He even called us goondas”.

In October, the Maharaja brought the Pakistan’s Foreign Ministry’s attention to the penetration of tribals into hundreds of kilometers into Jammu region’s border. Pakistan denied this allegation. He instead complained to the Maharaja about “terror and atrocities perpetrated by J&K forces against the Muslim population of Poonch” which it proposed were giving rise to “spontaneous reactions both within J&K and from ethnic and religious kin across the border”.

The violence in Jammu and Poonch is not much known about and very few reports are found regarding the same in British publications like “*The Times*” and “*The Spectator*”. The former stated: “2,37,000 Muslims were systematically exterminated — unless they escaped to Pakistan along the border — by the forces of the Dogra State headed by the Maharaja in person and aided by Hindus and Sikhs”.

Sardar Ibrahim Khan, a J&K Legislature member became headed the “Poonch Liberation Movement”. He had also served as a “legal officer” to the Maharaja. He united small organized dissented groups in Poonch and also contacted significant players of Pakistan’s Muslim League, including the “Prime Minister” Liaquat Ali Khan. He played a major role in forming an “Azad Kashmir” administration in Rawalpindi.

At this point, Pakistan wanted to capture J&K forcefully due to the hostility towards the Muslim League showed by Sheikh Abdullah. As the relationship between the Maharaja and Pakistan was not so cordial, it feared it would lead to the State being acceded to India. Geographically, the location of J&K was strategic, and if it decided to accede to India, it would prove to be a weakness for Pakistan, in two aspects; Military and Politics, which added to Pakistan’s fear. Dr. Sanjay Kumar in his paper titled “*India-Pakistan Relation Past Present and Future*” states “Kashmir’s accession to Pakistan was not simply a matter of desirability but of absolute necessity for its separate existence”.

VII. Operation Gulmarg

On 22 October 1947, Operation Gulmarg was launched by Pakistan which sent tribals from the North-West Frontier Province. About 2,000 tribals who were completely armed with modern weapons infiltrated Muzaffarabad through buses and on foot. They were controlled directly by the “Pakistan Army Generals”. As they captured Baramulla and Uri with low opposition from the Maharaja’s forces, Srinagar started to slip out of the Maharaja’s hands and in order to handle the situation, after 2 days, on 24 October 1947, Maharaja Hari Singh asked for India’s armed assistance.

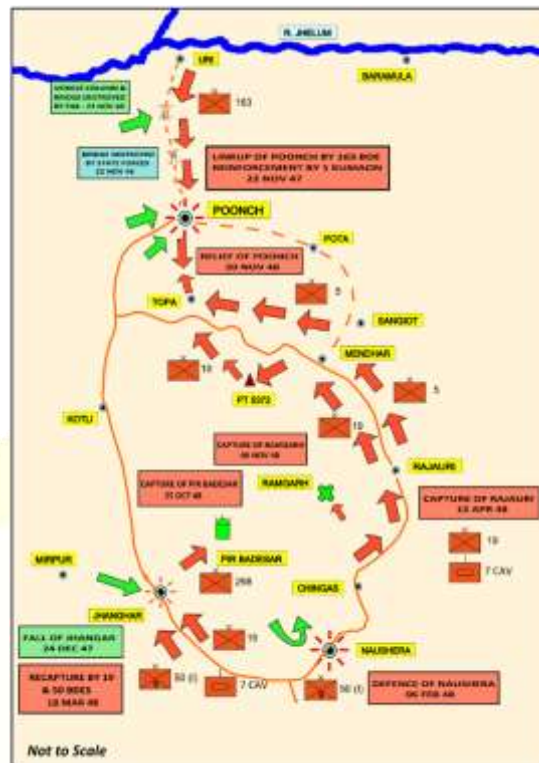


Fig 1.4 : Operation Gulmarg map

Source: https://upload.wikimedia.org/wikipedia/commons/7/7c/Relief_of_Poonch_%28Op_Easy%29.png

The request was considered on the following day, 25 October 1947 in a meeting of “India’s Defense Committee” which was commanded by Mountbatten that included Nehru, Patel, Baldev Singh, Gopalaswami Ayyangar and the “British Commanders-in-chief” of the Army, Navy and Air Force. Lt Gen. K.K.Nanda has written in “*War with No Gains*”, that the committee decided, “the most immediate necessity was to rush arms and ammunition already requested by the Kashmir government, which would enable the local populace in Srinagar to put up some defence against the raiders”. Having said that, according to “*Jammu and Kashmir*” written by Jyoti Bhusan Das Gupta, Mountbatten alerted that “it would be dangerous to send in any troops unless Kashmir had first offered to accede”, suggesting that it may end up in a war between India and Pakistan. He was of the opinion that the accession must be thought of as interim, “When law and order had been re-established in Kashmir, a plebiscite should be held as regards Kashmir’s future”.

The “Defence Committee” sent the then Ministry of State, V.P Menon to “make an on-the-spot-study” on the very day. He came back to New Delhi the following day and recommended troops be sent to Kashmir highlighting the “supreme necessity to save Kashmir from raiders”. Meanwhile, the new “Prime Minister” of J&K, Mehr Chand Mahajan stated, “We have decided by 25th evening to go to India if we get a plane or else to Pakistan to surrender”. “Subsequently, Menon flew to Jammu to advise the Maharaja about the Government’s view after which the Maharaja signed the Instrument of Accession on 26 October and Menon returned to Delhi along with Mahajan” (Ali, 2019).¹⁰

¹⁰ Sajid Ali (2019), <https://theprint.in/past-forward/how-on-this-day-72-years-ago-jammu-kashmir-agreed-to-become-a-part-of-india/311724/>

VIII. The Instrument of Accession

The “Instrument of Accession” is an official and legal binding document implemented by Maharaja Hari Singh who “agreed to Kashmir’s accession to India, on the condition that Kashmir be permitted to retain its own constitution” (Gossman, 1993).¹¹

The following day, a letter was sent to the Maharaja by Lord Mountbatten accepting the accession and said, “It is my Government’s wish that as soon as law and order have been restored in Jammu and Kashmir and her soil cleared of the invader the question of the State’s accession should be settled by a reference to the people” (Millar, 1967).¹²

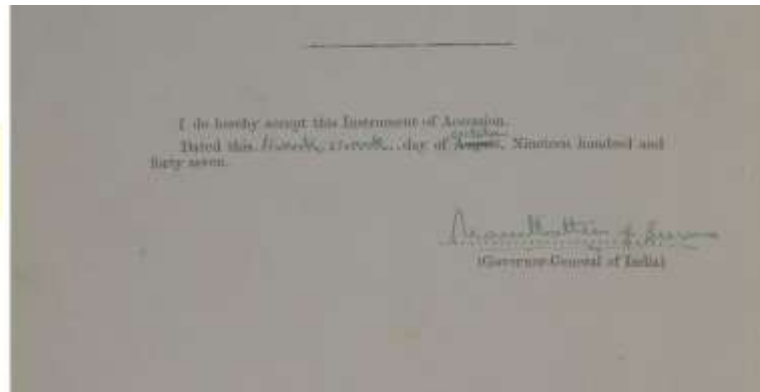


Fig 3.12:

Source: <https://thewire.in/wp-content/uploads/2016/10/jkcrop4.png>

“In the context of Pakistan's claim that there is a dispute over the state of Jammu and Kashmir, the accession issue forms a significant aspect of their argument. By stating that the Instrument of Accession was signed on 26 October, when it clearly was not, Pakistan believes that India has not shown good faith and consequently that this invalidates the Instrument of Accession. Indians argue, however, that regardless of the discrepancies over timing, the Maharaja did choose to accede to India and he was not under duress” (Schofield, 1996).¹³

¹¹Patricia Gossman, [Vincent Iacopino](#), Physicians for Human Rights, “The crackdown in Kashmir” (1993),[page 10](#)

¹²Thomas Bruce Millar, “The Commonwealth and the United Nations ”(1967),[page 26](#)

¹³[Kashmir: The origins of the dispute by Victoria Schofield](#)

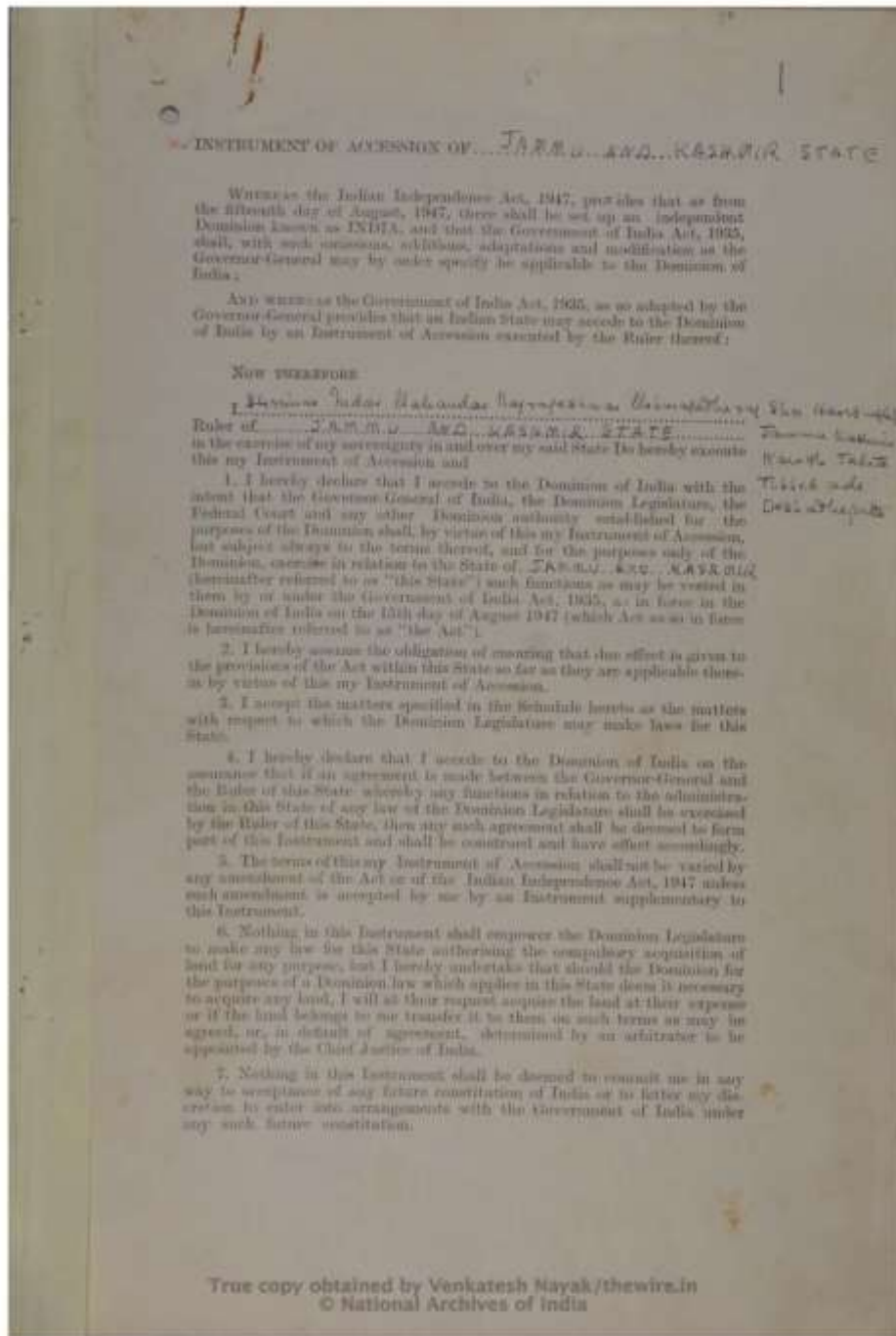


Fig 3.13: First page of the Instrument of Accession

Source: <https://thewire.in/wp-content/uploads/2016/10/JK1-680x1024.jpg>

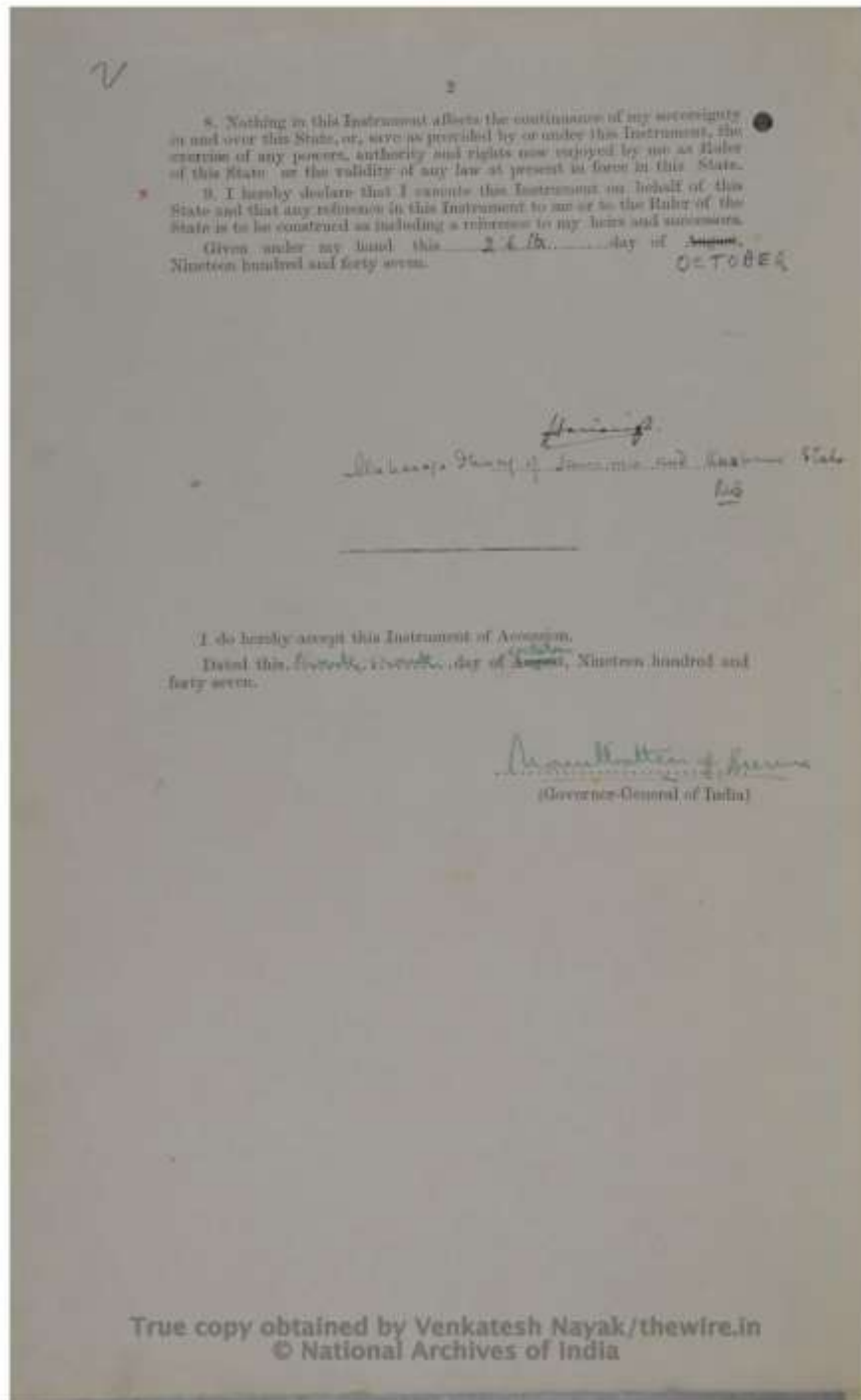


Fig 3.14: Second page of the Instrument of Accession

Source: <https://thewire.in/wp-content/uploads/2016/10/JK2-680x1024.jpg>

IX. Post Instrument of Accession

“In the early hours of 27 October 1947, the Indian air troops were airlifted to Srinagar in order to fight the tribals. Pakistan immediately challenged the accession, calling it fraudulent and that the Maharaja had acted under force and pressure and had no right to an agreement with India while the standstill agreement with Pakistan was still in force. Pakistanis also argue that since Hari Singh fled from the state, he was not in control of his state and hence wasn't in a position to take a decision on behalf of the people” (BBC News, 2002).¹⁴

X. The Plebiscite Story

On 1 January 1948, the Government of India raised the “Kashmir issue” in the United Nations (UN) under “Article 34 and 35” of “United Nations Charter”. Article 34 states, “The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.” Article 35 states, “Any Member of the United Nations may bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Security Council or of the General Assembly” (UN Charter).¹⁵ India claimed that Pakistan was invading Kashmir and requested the United Nations Security Council (UNSC) to take an initiative to put a stop to it. Subsequently, the UN passed a resolution and “United Nations Commission for India and Pakistan” (UNCIP) was formed to probe and arbitrate between the two countries. In April 1948, a second resolution was passed that increased the size of the commission (Goel, 2019).¹⁶ A three part process was recommended to resolve the dispute by the UNCIP.

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

The second being the “Truce Agreement” of which part A clearly stipulates “The Government of Pakistan will use its best endeavor to secure the withdrawal from the State of Jammu and Kashmir of tribesman and Pakistani nationals not normally resident therein who have entered the State for the purpose of fighting” and it “will be administered by the local authorities under the surveillance of the Commission”.

Part B of the same specifies “When the Commission shall have notified the Government of India that the tribesman and Pakistani nationals” (mentioned in Part A of the Truce Agreement) “have withdrawn, thereby terminating the situation which was represented by the Government of India to Security Council as having occasioned the presence of Indian forces in the State of Jammu and Kashmir, and further, that the Pakistani forces are being withdrawn from the State of Jammu and Kashmir, the Government of India agrees to begin to withdraw the bulk of its forces from that State in stages to be agreed upon with the Commission”.

Finally, the third part mentions “Government of India and the Government of Pakistan reaffirm their wish that the future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people and to that end, upon acceptance of the truce agreement, both Governments agree to enter into

¹⁴http://news.bbc.co.uk/2/hi/south_asia/1762146.stm

¹⁵<https://www.un.org/en/sections/un-charter/un-charter-full-text/>

¹⁶Kritika Goel, (2019), <https://www.thequint.com/explainers/kashmir-plebiscite-india-pakistan-explained>

consultations with the Commission to determine fair and equitable conditions whereby such free expression will be assured” (Times Of India, 2013).¹⁷

Though both the Governments agreed to the proposal, according to “Kashmir: The True Story”, a position paper published by MEA in 2004, Pakistan didn’t hold their side of the bargain and it blames India for not keeping its side. A ceasefire was achieved by the UN in 1949 but declared its failure in respect to the Kashmir issue the same year. In 1951, “United Nations Military Observer Group in India & Pakistan” (UNMOGIP) was set up to overlook the ceasefire line, later on called the “Line of Control” in Kashmir. Post the Indo-Pak War 1971, the “Simla Agreement” was signed between both the countries that aim to resolve the Kashmir issue bilaterally which denies a third party’s interference, including the UN. However, the UNMOGIP still maintained its presence post the agreement.”

XI. President’s Order in Kashmir

In 1953, National Conference’s leader, Sheik Abdullah was jailed and later on a President’s order stipulated that any matter that concerns the “national interest” or “enemy aggression” can be executed through a “Presidential Ordinance” which doesn’t require it to be ratified by the State Assembly. Originally through the Instrument of Accession, India had power in areas of Defence, Communication and External Affairs in the State but post the presidential order, the authority of the “Supreme Court of India” and “Election Commission of India” was extended which led to reduction to powers of the State. Earlier, the State had a President, as opposed to a Chief Minister but the nomenclature of the J&K’s assembly went through a change.

Experts are of the opinion that there is no likelihood of a plebiscite in J&K anymore. Ashok Pandey, an author speaks to The Quint, “I don’t think there is a possibility of a plebiscite firstly because of the 1972 accord and secondly because both, India and Pakistan, didn’t honour their commitments back in the time.” In an article written by Noorani titled “*Kashmir: Bridge, not a battle ground*”, he says “Plebiscite is dead. Independence is a mirage” (Goel, 2019).¹⁸

XII. Special Status of J&K Stripped

The Article 370 gave special status to J&K from 1954 to 31 October 2019 and was written in the Indian Constitution under “Temporary, Transitional and Special Provisions”. “The Constituent Assembly ceased to exist in January 1957 with the coming into being of the J&K Constitution. Before its dissolution, it did not take a decision in favour of abrogation of Article 370 – the constitutional provision, which is the fountainhead of the special status and privileges granted to J&K in accordance with the Instrument of Accession.” (Rajagopal, 2019).¹⁹

Along with this, “Article 35A allows the Jammu and Kashmir legislature to define permanent residents of the state. It was inserted through the Constitution (Application to Jammu and Kashmir) Order, 1954, which was issued by President Rajendra Prasad under Article 370, on the the advice of the Nehru-led Union Government. When the J&K Constitution was adopted in 1956, it defined a permanent resident as someone who was a state subject on May 14, 1954, or who has been a resident of the state for 10 years, and has lawfully acquired immovable property. So under this clause no outsider can own property in J&K or get a

¹⁷<https://timesofindia.indiatimes.com/UN-resolution-of-1948/articleshow/367468.cms>

¹⁸ Kritika Goel, (2019), <https://www.thequint.com/explainers/kashmir-plebiscite-india-pakistan-explained>

¹⁹ Krishnadas Rajagopal, (2019), <https://www.thehindu.com/news/national/who-can-recreate-jk-constituent-assembly-supreme-court-asks-shah-faisal/article30278405.ece>

state job.” (The Economic Times, 2019). ²⁰On 5th August 2019, Amit Shah, the Home Minister of India announced the abrogation of “Article 370” and “Article 35 A”. The bifurcation of the State was also spoken about into two Union Territories; Jammu and Kashmir and Ladakh, where the former would have a legislature and the latter would not (The Economic Times, 2019). ²¹

4. Conclusion

The Accession of Jammu & Kashmir to India had taken place in quite an unusual circumstance where neither India nor Pakistan agree on a single premise. The Accession was entirely based on the fact that a Plebiscite must be conducted after, which will allow the people of Jammu & Kashmir to express their will decide their own fate. The study considers that there are five major reasons why the Plebiscite was not or more so, could not be held which are Failure of India and Pakistan to resolve the conflict bilaterally, Failure of India and Pakistan to cooperate with the United Nations Security Council, The drafting of the Simla Agreement that prevented the interfering of a third party, including the UN, The dissolution of the J&K constituent assembly prior to making a decision regarding the Special Status and The revocation of the Special Status by the Indian Government that will now allow it to have a direct control over the region.

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