

Research article

# The Chemistry of Kashmir Question

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## Abstract

The makes an effort in evaluating the historical background of Kashmir issue with its relevance in the present context. Moreover, there is also analysis on the multi –dimensional nature of the dispute and different strategies adopted by both entities in finding a lasting solution which may wither away the shadow of war in the region for the larger interest of all. No single entity in the game could be blamed for the mess that the region witnessed in 1947-48, 1965, 1971, and 1999 purely because there has been a trust deficit between the two entities and both fear each other's intentions and actions so the region becomes possible victim of prisoners' dilemma. **Copyright © AJSSAL, all rights reserved.**

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## Introduction

Jammu and Kashmir war ruthlessly ruled by a ruler commonly known as shri Maharaja Hari Singh.He was the heredity ruler the state since 1925 . As soon as partition took place the state was set free from the British suzerainty and left to decide its future in either of the three options they are standstill which virtually meant independence , accession with Indiawhich would mean becoming part of Indiaor accession with Pakistan which would have meant

becoming part of Pakistan. Since Maharaja technically wanted to free as well as remain in the good books of India and Pakistan to avoid any confrontation with either of the two. But, things turned ugly for Kashmir and Maharaja when the tribal men from Pakistan invaded Kashmir which ultimately resulted in Maharaja signing controversial instrument of accession with Indian on some terms and conditions those conditions still loom the peace in the region.

When India and Pakistan gained their independence on 15 and 14 August 1947, respectively, there were, at that time, standstill agreements of J&K with Pakistan and India. However, in October 1947, Muslim tribes, supported by the government of Pakistan, attacked Jammu and Kashmir. To save his state Maharaja Hari Singh (the then ruler of J&K) chose to accede Jammu & Kashmir to India on certain terms and conditions so that India could help in defending the state. Jammu and Kashmir acceded only on external affairs, communication and defence while as rest of the powers remained with Jammu & Kashmir. Hence, internal autonomy vested with the Jammu & Kashmir state until it was eroded by one agreement and the other.

Indian first prime minister Jawaharlal Nehru in the Lok Sabha on 26 June 1952 “And I say with all respect to our Constitution that it just does not matter what your Constitution says; if the people of Kashmir do not want it, it will not go there. Because what is the alternative? The alternative is compulsion and coercion-presuming, of course, that the people of Kashmir do not want it. Are we going to coerce and compel them and thereby justify the very charges that are brought by some misguided people outside this country against us? Do not think you are dealing with a part of Uttar Pradesh, Bihar or Gujarat. You are dealing with an area, historically and geographically and in all manner of things, with a certain background. If we bring our local ideas and local prejudices everywhere, we will never consolidate. We have to be men of vision and there has to be a broadminded acceptance of facts in order to integrate really. And real integration comes of the mind and the heart and not of some clause which you may impose on other people”.

On 14 August 1947, the State of Jammu and Kashmir was one of the 565 Indian States under the paramountcy of the British Crown. Its territory was not component of British India and its people were subjects of the British Crown. As Lord Mountbatten, the British viceroy, told the princes on 25 July 1947. ‘the Indian Independence Act releases the States from all their obligations to the Crown. The States have complete freedom- technically and legally they are Independent’ He however proceeded to say that ‘ the States are theoretically free to link their future with whichever they may care. But when I say they are at liberty to link up with either of the dominions may I point out that there are certain geographical compulsions which cannot be evaded?’ Lord Mountbatten put advanced before the rulers two documents: one the instrument of Accession and two a Standstill Agreement for the continuance for the time being of agreements and arrangements in matters of common concern between the States and the Dominion of India.

The position which the leaders of the two Dominions took at this time may be mentioned. In a proclamation issued on 30 July, Mr M.A. Jinnah, the Governor General –Designate of the Dominion of Pakistan, said:

The legal position is that with the lapse of paramountcy on the transfer of power by the British all Indian. States would automatically regain the full sovereign and independent status . They are therefore free to join either of the two Dominions or to remain independent.

The All India Congress Committee (AICC), in a resolution dated 15 June 1947 held ‘that the lapse (of suzerainty) does not lead to the independence of the States’ and said ‘it clear that the people of the States must have a dominating voice in any decisions regarding them’.

## **Lets evaluate the politics over accession.**

Maharaja was personally in favour of standstill agreement which meant independence for jammu and Kashmir not to save the country from India or Pakistan but to safeguard his political privilege of being maharaja that was the head of state for J&K. If maharaja would have wished to join either of the two it would have meant democracy reaching the corridors of power in Kashmir.

On 22 September, the Governor-General of India wired to the Governor-General of Pakistan "Acceptance of accession to Pakistan cannot but be regarded by the Government of India as an encroachment on Indian sovereignty and inconsistent with friendly relations that should exist between the two Dominions. This action of Pakistan is considered by the Government of India to be a clear attempt to cause disruption by extending the influence and boundaries of the Dominion of Pakistan in utter violation of the Principles on which partition was agreed upon and effected".

Sheikh Abdullah was released from jail in September 1947. Soon after release he said: 'if the forty lakhs of people living in Jammu and Kashmir are bypassed and the State declares accession to India or Pakistan, I shall raise the banner of revolt and we face a struggle.' Mr Menon's book describes firmly the proceedings leading to accession. He says:

On the evening of October 24, the Government of India received a desperate appeal for help from the Maharaja. They also received from the Supreme Commander, information regarding the raiders, advance and probable intentions. On the morning of October 25, a meeting of the Defence Committee was held, presided over by Lord Mountbatten. This Committee considered the request of the Maharaja for arms and ammunitions and for reinforcements of troops. Lord Mountbatten emphasized that no precipitate action should be taken until the Government of India had fuller information. It was agreed that I should fly to Srinagar immediately in order to study the situation on the spot and to report to the Government of India.

## **Menon reaches kashmir**

Accordingly, Mr Menon flew to Srinagar where he met the Maharaja. On 26 October, the Maharaja and Mr Menon left Srinagar. Mr Menon reported to a meeting of the Defence Committee "Lord Mountbatten said that it would be improper to move troops into what was at the moment an independent country, as Kashmir has not yet decided to accede to either India or Pakistan. If it were true that the Maharaja was now anxious to accede to India, then Kashmir would become part of Indian territory. This was the only basis on which Indian troops could be sent to the rescue of the State from further pillaging by the aggressors. He further expressed the strong opinion that in view of the composition of the population, accession should be conditional on the will of the people being ascertained by a plebiscite after the raiders have been driven out of the State and law and order have been restored. This was readily agreed to by Nehru and other ministers".

## **Menon reaches Jammu**

Mr Menon flew to Jammu to meet the Maharaja. He writes "I woke him (Maharaja) up and told him what had taken place at the Defence Committee meeting. He was ready to accede at once. Then he composed a letter to the Governor-General describing the plight of the State and reiterating his request for military help with the instrument of accession and the Maharaja's letter I flew back at once to Delhi. Sardar was waiting at the aerodrome and we both went straight to the Defence Committee which was arranged for that evening. There was a long discussion, at the end of which it was decided that the accession of Jammu and Kashmir should be accepted, subject to the proviso that a plebiscite would be held in the State when law and order situation allowed. . . . This decision had the fullest support of Sheikh Abdullah".

## **Maharaja signs controversial instrument of accession.**

Whereas the Government of India Act, 1956, as adopted by the Governor-General, provides that an Indian State may accede to the Dominion of India by an Instrument of Accession executed by the Ruler thereof;

Now therefore I Shriman Indar Mahander Rajrajeshwar Maharajadhiraj Shri Hari Singh Ji Jammu Kashmir State in the exercise of my sovereignty in and over my said State do hereby execute this my Instrument of Accession....

Lord Mountbatten, the Governor-General of India indicated his acceptance in the following words:

### **I do hereby accept this Instrument of Accession.**

Dated this twenty-seventh day of October Nineteen hundred and forty-seven.

However, Pakistan refused to recognize this accession, Mr. Liaquat Ali Khan saying (the dawn):

We do not recognize this accession. The accession of Kashmir to India is a fraud, perpetrated on the people of Kashmir by its cowardly Ruler with the aggressive help of Indian Government.

A few days later the same Newspaper quoted the Prime Minister of Pakistan saying:

There is not the slightest doubt that the whole plot of accession of Kashmir to India was preplanned. It cannot be justified on any moral or political grounds.

The same thesis was presented by Sir Mohammad Zafarullah Khan, Pakistan's Foreign Minister in 1951. Sir Zafarullah also suspected in support of his argument that the Maharaja had no authority to sign the Instrument of Accession as he had lost the confidence of his people.

## **Kashmir reaches UNO**

The Indian complaint on 31 December 1947 to the UN says:

In order to avoid any possible suggestion that India had taken advantage of the State's immediate peril for her own political advantage, the Dominion Government made it clear that once the soil of the State had been cleared of the invader and normal conditions were restored, the people would be free to decide their future by the recognized democratic method of plebiscite or referendum, which, in order to ensure complete impartiality, may be held under international auspices. Mr N. Gopalaswami Ayyangar presented the Indian case to the Security Council. Addressing the 227<sup>th</sup> Security Council meeting on 15 January 1948, he said “

In accepting the accession they refused to take advantage of the immediate peril in which the State found itself and informed the Ruler that the accession should be finally settled by plebiscite as soon as peace has been restored. They have subsequently made it clear that they are agreeable to the plebiscite being conducted if necessary under international auspices”.

### **He elaborates it as;**

The question of the future status of Kashmir vis-à-vis her neighbors and the world at large, and a further question, namely, whether she should withdraw from her accession to India and either accede to Pakistan or remain independent, with a right to calm admission as a member of the United Nations- all this we have recognized to be a matter for unfettered decision by the people of Kashmir after normal life is restored to them.

Mr Ayyangar traced the History of the dispute and said that on 15 August 1947, ‘ Jammu and Kashmir like other States became free to decide whether she would accede to one or the other Dominion or remain independent.’

On 25 January 1948, Mr M.C. Stalvad , a member of the Indian Delegation, addressing the Security Council, said “The Indian Government was careful, even though the request came from both (the Maharaja and Sheikh Abdullah) to stipulate that it was accepting the accession only on the condition that later, when peace had been restored, the expression of popular will should be ascertained in a proper manner. It was on that condition and that condition alone, that the Indian Government accepted the accession”.

In a speech on 16 February 1948, the leader of the Indian Delegation, Mr Gopalaswami Ayyangar “

We accepted Kashmir’s offer of accession at a time when she was in peril, in order to be able to effectively save her from extinction. We will not, in the circumstances, hold her to this accession as an unalterable decision on her part. When the emergency has passed and normal conditions are restored, she will be free, by means of a plebiscite, either to ratify her accession to India or to change her mind and accede to Pakistan or remain independent. We shall not stand in the way if she elects to change her mind”.

## **Kashmir and UNO**

India invoked Article 35 of the Charter of United Nations and complained to the Security Council against Pakistan. Under Article 35, a member is entitled to bring before the Security Council a ‘situation’ which imperils the international peace. The Government of India appealed to the Security Council, to ask the Government of Pakistan:

To prevent Pakistan Government personnel, military and civil, participating in or assisting the invasion of Jammu and Kashmir State; To call upon other Pakistani nationals to desist from taking any part in the fighting in Jammu and Kashmir State; To deny to the invaders: Access to and use of its territory for operations against Kashmir;

### **Military and other supplies;**

All kinds of aid that might tend to prolong the present struggle.

This was India’s case and as Lord Birdwood observed, “Illegal act of aggression by Pakistan and a legal accession of Kashmir to India is therefore, the basis of the Indian case”.

On January 15, 1948, there was delivered to the Secretary General of the Security Council a letter from the Pakistan Government emphatically rejecting the Indian charges. The letter made counter charges against India. These amongst others included:

### **A persistent attempt to undo the partition scheme;**

A preplanned and extensive campaign of genocide against the Muslims in East Punjab and Punjab princely States;

The acquisition of Kashmir’s accession by fraud and violence.

The result of these deliberations at the floor of the Security Council was the resolution dated January 17, 1948, which both India and Pakistan accepted. In this resolution the Security Council called upon India and Pakistan “to take immediately all measures within their power (including public appeals to their people) calculated to improve the situation and to refrain from making any statements and from doing or causing to be done or permitting any acts which might aggravate the situation.....”

On January 27, 1948, India and Pakistan submitted draft proposals to the President of the Security Council on the appropriate methods of solving the Kashmir Dispute.<sup>6</sup> It was in this proposal that India agreed to the holding of a

plebiscite in Kashmir as the ultimate determinant of Kashmir's status. The Indian representative observed on the floor of the Council.

### **Different agreements since 1947.**

Right from the partition both India's well as Pakistan came into certain agreements on the possible solution of Kashmir issue. Apart from the IndiaPakistan even the political leadership of Kashmir also signed certain agreements with government of India from time to time. It may be needless to elaborate them one by one yet it is necessary to make mention of certain major events since 1947 that was the time when the dispute erupted. Delhi agreement 1952, 1965 amendments in the constitution of Kashmir, 1966 Tashkent agreement, 1972 Simla agreement, 1975 Kashmir accord, 1987 Rajiv -Farooq accord.

### **Possible solution of the issue in the given conditions.**

A workable solution to the Kashmir dispute must begin with an ambience for peace and the two countries (India and Pakistan) cutting down rhetoric, and increasing normal diplomatic and political relations and to involve all shades of opinion in order to get rid of this festering wound or what then P.M. Vajpayee called "headache". Our understanding of the subject is that India, Pakistan and the representatives of Kashmir should sit together and everyone should give an extremely patient hearing to others' argument and dwell on the prepositions which are common to all parties. Afterwards the differences should be tried to be sorted out. All these should be carried out of the media glare so that the process wouldn't be hijacked by vested interests. May be no one wins outrightly, but all of them may win something in the present nuclear era of overkill where this issue may lead to human catastrophe at some point of time in future despite the famous phrase of "DEMOCRATIC PEACE" which history has failed to sustain and may again if the lion is left free with all claiming him their proprietor but the lion renders all vulnerable.

### **Conclusion**

There is no dispute or issue in the world today which may not be brought to its logical conclusion provided there is sincerity honesty and political will among the players to find a way. The fairest solution is what every one wishes, what does that solution mean? If it means "independence" would New Delhi not totally be a display ball with that in arguing the subject to be the integral part. If it means power transfer like 1953 or 1975, would it be a final solution acceptable to all? The common man dreams of an amicable settlement which he believes to lie behind the sincerity of those in the higher echelons of power. There has to be a show of submissiveness and humbleness which might demand stooping low in one's station and accepting something which though bitter would be in the interest of all.

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