

# **JOINT HUMAN RIGHTS COMMITTEE**

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## **TRUTH ABOUT ACCESSION OF JAMMU & KASHMIR STATE**

**(Accession Day Anniversary, 26<sup>th</sup> October 2020)**

The Princely States of India, including Jammu & Kashmir State, were on the agenda of partition of India in 1947, is a travesty of history and a part of diplomatic offensive, Pakistan has launched to mislead the international opinion about its claim to Jammu & Kashmir. Distortion of the history of the partition of India, false propaganda and lies, shroud the accession of Jammu and Kashmir to India in 1947, as well as the exclusion of the State from the Indian Constitutional organization by virtue of Article 370 of the Indian Constitution in 1950.

The Indian political class in its attempt to substitute “greater autonomy” of the State for the “right of self-determination” that Pakistan and Muslim separatist forces have been demanding during the last nearly seven decades, has undermined the national consensus on the unity of India and the secular integration of the people of the State and the people of India on the basis of the general right to equality.

Today, the whole nation is confronted with a situation which threatens to disrupt the unity of the country and endanger its territorial integrity. The people of India need to stand up as one man to expose the perfidy which has virtually pushed the State of Jammu and Kashmir to the brink of disaster. Nearly half of the State is under the occupation of Pakistan. To allow the reorganization of the other half into a separate sphere of Muslim power, will eventually pave the way for the disintegration of the civilizational boundaries of the Indian State.

The creation of two Dominions of India and Pakistan was restricted to the division of British India and the separation of the British Indian provinces of Sindh, Baluchistan, North-west Frontier Province, the Muslim majority contiguous regions of the province of the Punjab, the Muslim majority eastern region of the province of Bengal, along with the Muslim majority regions of the Hindu majority province of Assam. The princely States, which formed an integral part of the British Indian Empire, were not brought within the scope of the partition plan.

The Indian Independence Act did not lay down any provisions in respect of the procedure for the accession of the princely States to the two dominions and the terms on which the accession would be accomplished. After the 3 June Declaration of 1947, the States Department of the Government of India was divided into two sections: the Indian Section which was placed under Sardar Vallabhai Patel and the Pakistan Section which was placed under Sardar Abdur Rab Nishtar of the Muslim League. The task of laying down the procedure of the accession of the States to India was entrusted to the Indian Section and the task of laying down the procedure for accession of the States to Pakistan was entrusted to the Pakistan Section. The Indian Section drew up an Instrument of Accession for the accession of States to India, so did the Pakistan Section for the accession of States to Pakistan. The Instrument of Accession enshrined the procedure and the terms in accordance with which the rulers acceded to either of the two Dominions.

The Instrument of Accession drawn up by the Indian Section laid down two sets of terms and procedures, one for the larger princely States and the other for the smaller

princely States. It is important to note here that the States were provided no option, except to accede to India on the terms and conditions laid down by Indian Section, or to accede to Pakistan on the terms and conditions laid down by the Pakistan Section of the Indian States Department. All the larger princely States which acceded to India, including Jammu and Kashmir, signed the same standard form of the Instrument of Accession and accepted the terms it enshrined. The Instrument of Accession enshrined acceptance by the rulers of princely States to unite their domains with the Dominion of India on terms and conditions and in accordance with the procedure laid down by it. The princely States were never recognized by the British as independent entities. They formed a subsidiary structure of the British colonial organization of India which was subject to the British Crown. The lapse of Paramountcy did not alter their status. The Instrument of Accession signed by the rulers of the princely States, including Jammu and Kashmir, stipulated the unification of the States with the two successor States of the British Empire in India. The transfer of power in India underlined the creation of only two successor States of the British Indian Empire: the Dominion of India and the Dominion of Pakistan. The lapse of the Paramountcy put the States on the inevitable course which led them to accede to either of the two successor States.

The rulers located within the geographical boundaries of the Dominion of Pakistan, acceded to Pakistan. The ruler of Kalat, who was opposed to the accession of Kalat to the Dominion of Pakistan, was smothered into submission by the Muslim League with the active support of the British, included Bahawalpur as well. All other princely States were situated in the geographical boundaries earmarked for the Dominion of India. The State of Jammu and Kashmir was contiguous with both India and Pakistan. Its borders stretched along the boundaries of the Dominion of Pakistan in the West and South-west, while its borders in the East and South-east rimmed the frontiers of the Dominion of India. The ruler, Maharaja Hari Singh, harboured no illusions about the accession of his State to Pakistan and eagerly awaited a clearance from the Congress leaders, who had secretly advised him not to take any precipitate action in respect of the accession of his State, till Hyderabad and Junagarh were retrieved. He himself was aware of the dangers of any wrong step on his part, which he knew would lead to a chain reaction in the States ruled by the Muslim rulers. He did not want his State to be used as a pawn by Pakistan.

Pakistan had no special claim to Jammu and Kashmir on the basis of the Muslim majority composition of its population. As already mentioned, the Muslim League strongly opposed any suggestion to recognize the right of the people of the princely States to determine the future of the States. It was only when Pakistan failed to grab Jammu and Kashmir after it invaded the State in October 1947, and the Indian military action frustrated its designs to swallow Hyderabad and Junagarh, both States located deep inside India, that Pakistan raised the bogey of self-determination of the Muslims of the State of Jammu and Kashmir on the basis of their numerical majority. The Instrument of Accession was executed by the ruler of Jammu and Kashmir State on the terms specified by the Dominion of India. Neither the ruler of the State, Maharaja Hari Singh, nor the National Conference leaders played any role in the determination of the terms the Instrument of Accession underlined. Sheikh Mohammad Abdullah and many National Conference leaders were in jail when the transfer of power in India was accomplished by the British. Sheikh Abdullah was released from jail on 29 September 1947, about a month and a half after the British had left India.

Three days after the release of Abdullah, the Working Committee of the National Conference met under his presidentship and took the decision to support the accession of the State to India. The decision of the Working Committee was conveyed to Nehru by Dwarka Nath Kachroo, the Secretary General of the All India States Peoples' Conference, who was invited to attend the Working Committee meeting of the National Conference as an observer. Kachroo was a Kashmiri Pandit who had steered the movement of the All India States Peoples' Conference during the fateful days in 1946-1947, when partition and the transfer of power in India were on the anvil.

Interestingly, the National Conference leadership kept the decisions of the Working Committee a closely guarded secret. Within a few days after the Working Committee meeting, the National Conference leaders sent secret emissaries to Mohammad Ali Jinnah and other Muslim League leaders. While Sheikh Mohammad Abdullah held talks with a number of Muslim League leaders of the Punjab, who had come to Srinagar after his release, he sent two senior most leaders of the National Conference, Bakshi Ghulam Mohammad and Ghulam Mohammad Sadiq, to Pakistan to open talks with Muslim League leaders. Jinnah spurned the offer of reconciliation the National Conference leaders made and refused to meet the emissaries. Sadiq was still in Pakistan when Pakistan invaded the State during the early hours of 22 October 1947.

Hari Singh upturned the whole game-plan of Pakistan. While the invading army spread across the State, Hari Singh sent his Prime Minister, Mehar Chand Mahajan to Delhi to seek help to save his State from the invasion and offered accession of the State with India. Sheikh Mohammad Abdullah had already reached Delhi. He made no secret of the danger the State faced and asked Nehru to lose no time in accepting the accession and ensuring the speedy dispatch of Indian troops to the State. The instrument of Accession was taken to Jammu by V.P. Menon, where it was signed by the Maharaja. Menon then rushed back to Delhi and got the Instrument accepted by Mountbatten. Next day, the airborne troops of the Indian Army reached Srinagar. On November 1, 1947, the Gilgit Scouts, a local Muslim militia raised by the British for the defences of Gilgit Agency, revolted and declared the accession of Gilgit Agency to Pakistan. Major Brown, a British adventurer who commanded the Gilgit Scouts, hoisted the flag of Pakistan over the Agency. The Governor of Gilgit, Gansara Singh was put into prison. The State army garrison at Bunji in Askardu, mostly Muslim, followed the Gilgit Scouts, opening the way for the invading forces of Pakistan, to take hold of Baltistan.

Hari Singh laid no conditions for the accession of the State to India. The National Conference leaders were nowhere in the process of the Accession of the State, to lay down any condition for the accession of the State to India. The Congress leaders including Nehru made no promises to the National Conference leaders. The terms of the Instrument of Accession were not altered in any respect by the Viceroy. Neither, Nehru, Patel, nor any other Congress leader gave any assurance to the Conference leaders about autonomy or Special Status of the State. In fact the National Conference leaders did not make any such demands at any time, while the process of accession was in progress. The Instrument of Accession was an act performed by the ruler of Jammu and Kashmir to unite his domains with the State of India. Mountbatten, in his capacity as last Viceroy and first Governor General of India, had only one power in this respect: to accept the Instrument of Accession executed by the ruler of Jammu and Kashmir. His power derived

from the Indian Independence Act, which was strictly limited to his acceptance of the accession of Jammu and Kashmir that Hari Singh offered. It is important to note that Mountbatten could not refuse to accept the Accession of Jammu and Kashmir to India, or indeed, of any other princely state. Hence he did not refuse to accept the accession of Junagarh, which was accomplished in a political crisis caused by the rebellion of the people of the State against the ruler. The Nawab of Hyderabad was keen to align his State to Pakistan against the wishes of his people. Hyderabad lay deep inside the Indian mainland, south of the Vindhyas; Junagarh was situated in the midst of Kathiawad States which had acceded to India. The accession of Junagarh to Pakistan and the insistence of the Nawab of Hyderabad threatened to disrupt the unity of India and balkanize it. Nehru and Patel pleaded with the Nawab of Hyderabad to ascertain the wishes of his people in respect of the accession of his State. Nehru and Mountbatten repeatedly requested the leaders of Pakistan to agree to refer the accession of Junagarh to Pakistan, to the people of the State. While Mehar Chand Mahajan was pleading with Nehru to accept the accession offered by Hari Singh, Junagarh was in a state of civil war and the Nawab of Hyderabad was secretly plotting with Pakistan the course of action he would take after Hari Singh had acceded to India. Nehru sought to reinforce his interests in Hyderabad and Junagarh by repeating the offer of eliciting the opinion of the people of Jammu and Kashmir in respect of their accession. The withdrawal of the invading army of Pakistan from territories of the State under its occupation was the precedent condition, laid down by Mountbatten, Nehru and the Security Council, for any reference to the people of Jammu and Kashmir,

National Conference leaders demanded the exclusion of Jammu and Kashmir from the Indian constitutional organization in the summer of 1949, when the Constituent Assembly of India was in the midst of framing the Constitution of India. This was the time when foreign power intervention in Jammu and Kashmir had just begun to have its effect on the deliberations of the Security Council as well as the developments in the State. Pakistan refused to withdraw its forces from the occupied territories of the State. It has so far distorted the discourse regarding the accession of the State to suit its denial. The Instrument of Accession was a political instrument and the accession of Jammu and Kashmir was a political act, which had international implications as it formed a part of the process of the creation of the State of India. As such, the Instrument of Accession executed by Maharaja Hari Singh was irreversible and irreducible, irrespective of the circumstances and events in which it was accomplished.

Finally, the princely states were not required to execute any Instrument of Merger. The claim made in some quarters in Jammu and Kashmir that the State had not signed the Instrument of Merger, which such quarters insist, saved Jammu and Kashmir from being integrated in to the constitutional organization of India, is a travesty of history. The State Department of India laid down a procedure for the integration of smaller princely States into administratively more viable Unions of States. To complete the procedure of this integration, the State Department drew up an Instrument of Attachment, erroneously described as an Instrument of Merger. The major Indian States, including Jammu and Kashmir, were not required to sign the Instrument of Attachment. Moreover, the Instrument of Accession had no bearing on the integration of the States into the Indian Constitutional organization.

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