

**Perspectives on Kashmir Imbroglio-A Case Study of Indo-Pak  
Relations**

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**Abstract**

Kashmir today is easily the most inflammable issue and it remains an unfinished agenda of partition. The crisis of Kashmir has been the outcome of the deep rooted discontent accumulated over the past decades. This paper examined the historical and geographical features of the state of Kashmir. Here I am trying to analyze the factors responsible for accession with the Indian union. After the accession the political arrangement that evolved in the state has suffered serious crisis of legitimacy. This paper analyzed the various factors responsible for Kashmir imbroglio. In fact the successive governments both at the level of the state and the centre have only aggravated the situation to the extent that accumulated discontent has burst in a violent manner. This paper strives to examine how far Indo-Pak relations worsened the issue. The article discusses the various wars fought between India and Pakistan. The issue is primarily a dispute about justice and people, although its territorial dimensions are complicated enough. The most important after effect of the issue is the emergence of terrorism especially Cross-border terrorism. The Pakistan sponsored terrorism had always been a threat to the national security of India. The military and civilian governments in Pakistan had not made any visible positive changes in the Indo-Pak relations especially Kashmir.

**Keywords-** Instrument of Accession, Deletion, Terrorism, National security.

## **Introduction**

Jammu and Kashmir came into existence as a separate state only in 1846. The Treaty of Amritsar marks the commencement of the history of the Jammu and Kashmir as a political entity. The treaty put Gulab Singh, as Maharaja, in possession of all the hill country between the Indus and Ravi, including Kashmir, Jammu, Ladakh and Gilgit. The state of the Jammu and Kashmir which had earlier been under the Hindu rulers and Muslim sultans became a part of Mughal empire under Akbar, after a period of Afghan rule in 1756, it was annexed to the Sikh kingdom of the Punjab in 1819. In 1846 Maharaja Ranjith Singh gave the territory of Jammu to Maharaja Gulab Singh. After the decisive battle of Sabroon in 1846, Kashmir was also made over to Maharaja Gulab Singh. At the time of the partition, the state had important international boundaries. To the east was Tibet, to the north lay the Sinkiang province of China and to the north-east was Afghanistan. Geographically the state falls into four natural regions. In the south lies Jammu, in the centre is the Valley of Kashmir which contains the summer capital, Srinagar; to the north is Gilgit; and between the Kashmir Valley and Tibet is the province of Ladakh.

Jammu and Kashmir always had a preponderance of Muslims. But the population ratio was affected to some extent after the partition, particularly in Jammu, as a result of migration to and from Pakistan. In Ladakh the majority are Buddhists. The valley of Kashmir is the heart of the state and it is inhabited by the Kashmiri speaking population. The history of Kashmir has largely been the history of the Kashmiris. Jammu had greater contacts with neighboring states in India and is inhabited mainly by the Dogras, with some Punjabi speaking areas also in it. Ladakh has a distinct group as its population, and culturally it has close links with Tibet. Likewise the Poonchis constitute a different linguistic group. In August 1947, when the paramount of the British crown lapsed Kashmir became an independent state and under the Partition settlement it had the option to accede either to India or Pakistan or to remain independent. The Maharaja of Kashmir, Hari Singh decided, to maintain the independence of Kashmir and as such it did not accept either of the two instruments of accession that were forwarded to him by the Government of India and Pakistan. Three days

before the partition (August 12, 1947) the Maharaja proposed a “Stand- Still Agreement” with India and Pakistan for maintaining a statusque in economy and communication.

Pakistani acceptance of the standstill agreement was only superficial as within a month of the agreement it started harassing the people of Kashmir by stopping economic activities, food and fuel supplies from Pakistani side to Kashmir. This economic boycott appeared to be designed to force Kashmir’s accession to Pakistan. The Maharaja, however, did not show any inclination to accede to Pakistan and his reluctance made Pakistan eager to put military pressure for security its desire-accession of Kashmir to Pakistan. It was inconceivable to Pakistan that Kashmir should not become a part of the new Muslim state. It consequently engineered a tribal invasion of Kashmir. In October 1947, armed tribesmen started invading Kashmir. On October 15, 1947 nearly 5000 raiders began to attack Kashmir, and by October 22, infiltration and raids were transformed into full scale military attack upon Kashmir. These raiders were openly supported by Pakistan and were in fact Pakistani soldiers in tribal clothes. Kashmir came under the eminent danger of falling to invaders. The Maharaja of Kashmir requested India for help, but the latter refused to comply until a decision in favour of Kashmir’s accession to India was made.

The accession of Kashmir to India in October, 1947 was not a conditional one .The Indian Independence Act ,1947 did not envisage conditional accession. The Act conferred on the rulers of the Indian States absolute power in their discretion to accede to India or to Pakistan. The Governor General of the dominion was given the power to accept the accession or reject the same but he was given no power to keep the question open or attach conditions to it. The circumstances and the manner in which this accession happened provide vital clues to our understanding of the vicissitudes of its later politics and its emotional, political and constitutional ties with the rest of the country. The Hindu Maharaja of the state, who had the constitutional authority under the Indian Independence Act to decide its future affiliations when the country was partitioned into two dominions, was reluctant to opt for India. It was not anymore easy for the larger Muslim population to take such a decision especially as the partition line was being drawn more or less along communal lines. Maharaja signed the instrument of accession which the Governor General accepted on 27<sup>th</sup> October. The Indian army was rushed to clear the state of invaders. Kashmiris welcomed the army as the defenders of their “honour, freedom and identity.” The accession of the state of Jammu

and Kashmir to India, supported by the constitutional authority of the Maharaja and politically and emotionally by the people of Kashmir was the greatest triumph of Indian nationalism after independence. It was Sheikh Abdullah who led Kashmiris accession to India. The ignorance and distrust shown by the Pakistani rulers to sharp contrast to the empathy of the Indian leaders pushed Kashmir to the Indian Union.

The Pakistan force which crossed into Kashmir on October 22, 1947 comprised of regular troops in disguise. The invaders, after an unopposed thrust, accompanied by murder were about to seize Srinagar. It was then that the Maharaja of Jammu and Kashmir stopped dreaming about the future of the state and signed the Instrument of Accession to India. The Instrument of Accession was executed by Maharaja Hari Singh on October 26, 1947 and accepted by the Governor General of India Lord Mountbatten.<sup>1</sup> The instrument of accession could be extended to the state only with the prior consent of the ruler. The instrument of accession could not be modified without the formal consent of the Maharaja, that the Dominion legislature was not competent to make any law for compulsory acquisition of the land in the state and that the Maharaja had full powers to deal with the matter. On certain ancillary subjects such as elections to the Dominion legislature, breaches of law etc the centre could make laws for the state. But the consent of the ruler of the state was necessary for the enforcement of such laws. Lastly the power of the Maharaja suffered no diminution under the terms of the Instrument of Accession. The state enjoyed complete internal autonomy in all subjects except the three specifically (defense, foreign affairs and communications) transferred to the jurisdiction of the central Government. Thus the states and centre had relations with each other in legislative and administrative spheres but not in the judicial sphere. Similarly the accession did not entail any financial liability for the acceding state. Pakistan forcibly occupies northern and western part of the state of Jammu and Kashmir which is still disputed territory. Pakistan emerged from the Partition of British India on August 14, 1947. Kashmir problem is the lethal combination of Islamic fundamentalism and Pakistan's political adventurism, Kashmir is an unfinished agenda of partition.

India has shown its willingness many times to settle all outstanding bilateral problems through a dialogue. The main stumbling block has been Pakistan's insistence on reopening the

outdated and valid accession of Jammu and Kashmir to Indian Union in 1948. Even today, the ruling elite in Islamabad has not succeeded in reconciling itself to the ground realities.

The Indo-Pakistan relations had strained since partition. The Kashmir issue is the main issue between India and Pakistan. After the accession, Pakistan refused to accept the accession of Kashmir to India and described it as a “fraud perpetrated on the people of Kashmir by its cowardly rulers with the aggressive help of the Government of India.

## **Major Political developments in Kashmir**

The beginning of the muddle in Kashmir can easily be traced to the opportunism of Hari Singh, the then Maharaja of Kashmir. The irony of fate was that he ultimately ended up getting the worst of both. It was very much apprehensive- that Jinnah would dethrone him for religious reasons, at the same time, he hated Nehru for his socialist proclivities and democratic demands. In this connection Sardar Patel and Menon have also been blamed for not having taken sufficient interest in the Kashmir despite its having been the third largest princely state after Hyderabad and Mysore.

Hari Singh wallowed in his indecision till the Pakistanis engineered the infamous raid of the tribals on October 22, 1947. This tribal invasion made him to sign the Instrument of Accession. Once the Instrument of Accession was signed the Indian forces went to his rescue and staged a historic defense.<sup>2</sup> On the advice of Lord Mountbatten, India refused the Kashmir issue to the United Nations on January 1, 1948.<sup>3</sup> Initially Pakistan did not even accept the presence of its troops in Kashmir. However following the UN Security Council resolution dated January 20, 1948 a three member UN delegation visited the place ultimately. Pakistan was forced to admit the presence of its troops. There were only two tangible results. The first was the cease- fire that came into effect from January 1, 1949. The second was the adoption of the two resolutions by the UNO, one on August 19, 1948 and the other on December 11, 1948. The line separating the two warring armies came to be known as the “Cease-Fire Line” (CFL). During the next two decades the Kashmir issue was endlessly debated in the United Nations. Later these two resolutions were amalgamated into a single

resolution on January 5, 1949. Thus introduced the element of the plebiscite into the affair and has, since then, provided leitmotif for the fulmination of the insurgents.

The Governments of India and Pakistan also accepted the following principles.

- a) The question of the 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.
- b) A plebiscite will be held when it shall be found by the commission that the ceasefire and true agreements set forth in the Commission's Resolution of August 13, 1948 have been completed.
- c) All citizens of the state who have left it on account of the disturbances will be invited and be free to return and to exercise all their rights as such citizens. For the purpose of facilitating repatriation, there shall be two commissions. One composed of nominees of Pakistan. The commission shall operate under the direction of the plebiscite administrator.
- d) At the conclusion of the plebiscite, the plebiscite administrator shall report the result there of to the commission and the Government of Jammu and Kashmir.
- e) It should be clear from the above that legally it was rather complicated affair and stood to have some practical relevance only when the two governments offered fullest cooperation

## **The Beginning of the crisis**

Hari Singh had agreed to set up an interim government in Kashmir. Sheikh Mohammed Abdullah became the first prime Minister of the state under the new constitution. Shortly thereafter, he reached an agreement with Prime Minister Nehru in 1952 that granted Kashmir a large degree of autonomy under the constitutional order. The first general election in Jammu and Kashmir after its accession was held in October 1951. In this election, all the 75 Assembly seats were won by the ruling National Conference led by Sheikh Abdullah. It is alleged that with the obvious intention of diluting the influence of Sheikh Abdullah, Delhi was cultivating the moderates in the National Conference like Bakshi Ghulam Mohammed.

In the 1967 elections, the Congress bagged 60 out of the 70 seats. Farooq Abdullah managed to come back to power in the 1983 election but the Congress also managed sizeable presence in the House. Farooq's government was toppled a year later, the Congress having engineered the defection of G. M. Shah and his supporters. On the fateful day of July 2, 1984 Governor Jagmohan summoned Farooq and G.M. Shah assumed power, with the support of the congress from outside.

The period of G. M Shah should be remembered for his misrule. For the first time in its history after independence the state witnessed serious communal violence during February-March 1986. Even the Congress found it different to put up with Shah anymore. Eventually he was dismissed on March 7, 1986. President's Rule was imposed in the state on September 7, 1986.

It was a realpolitik at its naked best a custom built design to prove that there are no permanent friends or enemies in politics; only self- interest is permanent. Ironically Farooq swallowed the bait and was back in power on November 7, 1986. The Farooq Abullah-Rajiv Gandhi accord of 1986,an electoral alliance between the congress and the National conference, proved to be yet another nail in the secular coffin.From 1984 to 1986, the NC had projected itself as a party of resistance to the center's domination and painted the Congress as a usurper.When the NC joined hands with the congress, people felt they have been betrayed.The accord destroyed the raison d'etre of both the parties and forced all types of discontented kashmiris to seek fundamentalist or secessionist outlets.

## **The 1987 election and its consequences**

It was this Congress- NC alliance which went to the hustings for the 1987 election. In the 1987 elections, the Kashmiri Muslim identity was mobilized by a broad coalition of Islamic groups called Muslim United Front(MUF).The blatant rigging of the 1987 elections and abandonment of constitutional processes proved to be the last straw,persuading the young protagonists that "the bullet will deliver where the ballot had failed".<sup>4</sup> This election constituted the most important turning point for the phenomenon of insurgency in Kashmir.

## **Indo-Pak relations**

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## **Wars between India and Pakistan**

### **Tribal invasion**

As charges were being made by Pakistan and Kashmir, on 22 October 1947, fully armed tribesmen from the northwest of Pakistan and other Pakistani nationals entered Kashmir in a full scale invasion to march towards the capital of the state, occupy it and decide the fate of Kashmir once again in its history with the sword. The tribal invasion caused very much destruction and it is in this context Kashmir thought of acceding to India and seeks assistance to stop the raiders before they could occupy Srinagar, set up a provincial Kashmir government and decide the fate of the state.

The 1947 war ended in a military stalemate ,giving India control over half of Jammu and Kashmir, including its political centre the valley and Pakistan the other half. This outcome the war itself taught Pakistan few lessons, however, as the military confrontation in 1965 made clear.

### **The second Kashmir war**

The second Indo- Pakistani war, also fought over Kashmir, underscored the logic of windows of opportunity. Pakistan chose to attack India in 1965 because it perceived that various other options for winning the territory had been exhausted. The war failed to resolve the Kashmir dispute. At a regional level, the US largely disengaged itself from South Asia in the aftermath of the war .American withdrawal from the region permitted the Soviets to expand their influence in the region and to curb Chinese efforts to play a significant role. At another level, the war set a precedent for future Indo- Pakistani wars.

### **The Bangladesh war**

The origins of the 1971 war were markedly different from those of the two previous Indo – Pakistani conflicts. Whereas Pakistan initiated the first two wars, India began the third. The origins of the 1971 war however were more complex. The underlying precipitants of the 1971 conflict were rooted in the exigencies of Pakistani domestic politics, Pakistan's failure of federative arrangements within the polity. This war led to the breakup of Pakistan and the emergence of a new state. Pakistan lost a big part of its territory. In place of two,

there emerged three independent sovereign states on the sub- continent. It gave a serious blow to the two nation theory and to the principle of religion as the key factor of a nation.

India though emerged stronger and victorious from the war yet never showed any inclination to unnecessarily punish or humiliate Pakistan. It did not want to utilize its position as a major power of South Asia for securing certain ends. In fact, the day Bangladesh was liberated, it offered the cease fire to Pakistan and on 31<sup>st</sup> December 1971 the Indian prime Minister declared the direct negotiation with Pakistan was the only way to solve the existing problems between the two countries. Pakistan at this stage was trying to keep alive the issue of Bangladesh along with issue of Kashmir.

Pakistan has always been offensive in their approach towards India. It had failed in the three wars which fought against India. Pakistan knew that in the wake of Afghan crisis it could divert some of the weapons to the terrorists operating in India. Terrorist activity in Punjab did not succeed as the Hindu Sikh fraternity was strong enough to bear the brunt of Pak sponsored terrorism.

Pakistan found the prevailing situation conducive for their intervention. Pakistan supported Taliban against the various groups holding the position of authority. Emboldened by its role in Afghanistan, Pakistan diverted all its resources to Kashmir. Pakistan wanted Kashmir to be given right to self determination and it wanted third party mediation in the Kashmir dispute which would internationalize the issue. This, in effect, is a clear violation of Simla Agreement.

## **Kargil War**

The battle undergone in Kargil is a Pakistani ploy to bleed India and also to increase the volatility in Kashmir and threaten peace in region. The Pakistani intrusion in Kargil is a blatant violation of Simla pact and Lahore declaration which seek to resolve the Kashmir issue through peaceful means. Battle on Kargil may not, be in the same mould as it was same in the previous three wars. Pakistan is very well convinced by the fact that it would not be able to defeat. Indian policy makers to nurture any idea of scoring victory over Pakistan in Kargil. The Kargil conflict as compared with earlier wars against, India was more intense and of longer duration. The Kargil conflict emerged out of a tactical maneuver of

limited dimensions but has significant strategic effects. The initiative was wrested from India; an imbalance was created in the Indian system of forces. The Kargil conflict also brought about a significant change in the concept of operations at high altitudes. Musharraf is of the view that whatever movement has taken place so far in the direction of finding a solution to Kashmir is due considerably to the Kargil conflict. Pakistan also used a variety of deception measures to depict the Pakistan army regulars as Mujahideen in order to maintain the façade that the intruders were "Kashmiri freedom fighters". But in the war, the Pakistan army was defeated. The Kargil war ended in 1999.

Kargil has brought India and Pakistan to a turning point. It is time to look beyond Kargil to the long term security implications of the Kashmir issue for the well being of the two countries. Kargil totally undermines the assumption that nuclearisation has imparted stability or maturity to India- Pakistan relations, or reduced the danger of conventional conflict.

Within a year there was another brief thaw that ended all too predictably with the Agra Summit of July 2001. Pakistan sponsored terrorist attacks that had mounted in intensity from 1998 led, five months after Agra, to the biggest military confrontation, the two countries ever had, lasted till October 2002. Relations once again began to thaw in April 2003 and in January 2004, the parties agreed to resume their composite dialogue. The role played by America, Russia, China and United Nations were also pertinent. The attitude of India and Pakistan with regard to the submission of Kashmir issue before UN is entirely different. The western countries exert pressure upon India to accept proposals for a plebiscite, administration and demilitarization put forth in 1949 by UN Security Council. Both India and Pakistan rejected Owen Dixon's 1950 proposal for partitioning Jammu and Kashmir, and subsequently plan for demilitarization. Interestingly, none of the countries supported the idea of independent Jammu and Kashmir.

UN deliberations had produced an unsatisfactory outcome for all the players. The US, concerned more about its global interests than about Kashmir's fate. Although USA and UK were unable to deliver Kashmir to Pakistan, their support for Pakistan in the Security Council was considerable enough to alienate India. Between 1948 and 1957, the Supreme Court debated the Kashmir dispute eighteen times to no avail. What it had secured was a ceasefire and a guarantee from both India and Pakistan that they would not resort to arms to resolve the issue. It is significant to note that UN mediation had not made any positive impact on solving the Kashmir dispute. The dispute is still continuing, worsening Indo-Pak relations till this time.

## **Pakistan's aggressive Policy towards Jammu and Kashmir**

Pakistan could not be unaware of events in the valley. It was a tempting scenario, another chance to make up for the failures of 1947 and 1965, coupled with the desire to take revenge for the loss of Bangladesh in 1971. One of the most important characteristic features of India's foreign policy after independence was the vigorous pursuit of nonalignment. Independent foreign policy was not only adopted by India but Pakistan also adopted the policy of non commitment to either of the power block in the initial stages. Pakistan's first Prime Minister, Liaquat Ali Khan, believed in and followed a policy of non-commitment and he maintained, "Pakistan", had, all along been uninfluenced by the international block struggle going on in the world". He claimed that it was on this principle that Pakistan had voted in the UN, sometimes with western bloc at other time with Communist bloc. Liaquat Ali Khan tried to gain friendship and goodwill of all nations. But there is difference between Pakistan's desire for friendly relations with US and her military alliance with US later.<sup>5</sup> Pakistan's desire pursue a foreign policy independent of both the power blocs was her effort to forge an "Islamic bloc to resist political and economic infiltration of the West" and pursue a "middle path" between capitalism and communism. How far this policy had undergone success, is yet to be decided because of the changing relations between Pakistan and super powers. In 1984, Pakistan was pre-empted in Siachen and at about the same time,

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a movement for Restoration of Democracy (MRD) headed by Benazir Bhutto was launched in Pakistan directed against General-Zia's military dictatorship. To divert attention from this military set back and domestic problems, Zia chalked out a strategy to create trouble in Punjab and Jammu and Kashmir. Although Zia planned the strategy for insurgency in Jammu and Kashmir in 1985, it could not be put into operation then as Pakistan was deeply engaged in Afghanistan and its soldiers were fighting side by side with the Mujahideen. But before Zia was killed in a plane crash at Bahawalpur. On 17th August 1988, he had set his plan in motion and it continued unimpeded under the new administration of Benazir Bhutto. It is estimated that about 15,000-20000 persons exfiltrated from Jammu and Kashmir to POK/Pakistan for arms training in 1987- 88.

Actually, Jammu and Kashmir has been the trump card for all Pakistan leaders. They want to capture Jammu and Kashmir through an overall strategy of offensive defence in which terrorism in Jammu and Kashmir and parts of India shall force India to attack Pakistan where Pakistan using its nuclear weapons would inflict heavy losses on them while USA and Western Europe would give military help to Pakistan and pressurize India to stop the conflict. Sponsored terrorism and socio-economic subversion has been designed to contribute to the eventual collapse of the administrative, social and economic infrastructure of India. The state sponsored terrorism had always been a threat to the national security of India. The military and civilian governments in Pakistan had not made any visible positive changes in the Indo-Pak relations especially Kashmir. The former President Musharraf's statement that India can be attacked by inflicting hundreds of wounds over its body is evidence to Pakistan's position on terrorism. The present Mumbai attack in November 26, 2008, also showed the evil phase of terrorism promoted by Pakistan. We can see that the present civilian government Pakistan by Asif Ali Sardari is doing the same.

In the mean time certain political events takes place in Jammu and Kashmir. The 2008 Assembly in Jammu and Kashmir was a victory for Democracy and the large turn out of votes was a vote for democracy and for national integration. The National Conference had formed the government with the support of Congress and Omar Abdullah became the political head of the state. This coalition government must rewrite history. Omar Abdullah's success will not be confined to the Kashmir Valley. If Abdullah succeed in putting in place a new administrative protocol of good governance in Jammu and Kashmir, it is just possible that both India and Pakistan may be able to discover the potential of the democratic processes for sanity, reconciliation and peace. The post Mumbai mood in the two countries does not

countenance any suggestion of a mutually workable, cooperative relationship, but this moment of madness too will pass. And then it will be back to the "Kashmir problem" and its possible solutions that will define the India-Pakistan equation as also our own internal security ethos. It is in this context that democratic voices will wish that let the democratic ideas and practices strike root in the torn Valley. The 2010s were marked by further unrest in the valley. The Indian government blamed separatists and Pakistan based terrorists for creating problems in the valley. The 2014 elections were held in J&K assembly and these elections recorded the highest voters turn out in last 25 years. The European also appreciated the fact that a large number of Kashmiri voters turned out despite calls of boycott election by separatist forces. Yet the situation again worsened in 2016. The 2016 Kashmir issue erupted after the killing of Hizbul Mujahideen militant Burhan Wani by Indian security forces. And again issues happened in the valley after the Pulwama attack.

## **Deletion of Article 370 and recent developments in J&K**

In the year 2019, Aug 5, the government of India announced of removing the special, autonomous status that served as the foundation for Kashmir joining India more than 70 years ago. Article 370 allowed Kashmir to retain autonomy in all matters except defence, currency and foreign affairs. As a result of this article, all the provisions of the Indian constitution are not applicable in Kashmir and need concurrence of the local government. The central government is removing Kashmir, special status "keeping in view the prevailing internal security fuelled by cross-border terrorism, Amit Shah said in a statement. Indian Prime Minister Narendra Modi pointed to economic reasons as the rationale arguing that changes to Kashmir's status would bring economic development and infrastructure developments in the region. The situation in the valley had changed a lot and the opposition has criticised a lot and they decried it as an attack on Indian democracy and the analysts described it as unprecedented. Political leaders in Kashmir called it as illegal and unconstitutional. But central government's attitude was that this move is to stabilize and integrate J&K with Indian state. The Modi government's decision is aimed at promoting local governance and encouraging investments in the state. The discussions and arguments related with the issue of J&K still continuing. From the above discussion it is clear that Jammu and Kashmir problem could not be solved easily. From the partition to the present, this issue remains a headache to the politicians, policy makers, people of both the countries, especially the people of Kashmir. However the recent incidents will definitely have an impact on Kashmir imbroglio. We can hope that more democratic movements and civil society initiatives can have an impact on this issue.

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