

# Jammu & Kashmir Affairs:: Mishandled :: Misquoted :: Miscarried (Daya Sagar)

**Jammu & Kashmir Affairs:: Mishandled :: Misquoted :: Miscarried (Daya Sagar)**

## 1 Preface

Kashmir issue { Jammu and Kashmir } needs an honest and clear understanding. It is an issue of the type that needs one to keep his personal likes / dislikes on the shelf while penning on it.

*The questions, quarries and opinions that need be addressed carefully and truly for carrying amongst the people of India { Jammu and Kashmir in particular} could be like {i} as regards historical and cultural ties of Jammu and Kashmir State with India [ii] is Kashmiri a Nationality {iii} can the needs / aspirations of Jammu and Kashmir be seen only in Kashmir Valley {iv} was accession of Princely State of Jammu and Kashmir with India conditional {v} was accession of Jammu and Kashmir made with India under any special circumstances compulsions {vi} was the text of instrument of accession signed by Maharaja Hari Singh of Jammu and Kashmir State with India different than the text of instrument of accession { where ever signed by 15 August 1947 } signed by other Princely States {vii} could any one else other than Maharaja of Princely State of Jammu and Kashmir decide for the future status / nationality / citizenship after withdrawal of British from India {viii} did the Indian Independence Act 1947 lay down that a Prince could not decide on making accession to Dominion of India or new Dominion of Pakistan after 15 August 1947 {ix} why did not Maharaja Hari Singh take decision regarding acceding to either Dominion or staying Independence by 15 Aug 1947 {x} was issue of accession with India a dispute {xi} was a commitment made for holding plebiscite or referendum in Jammu and Kashmir , who made it,, when was it made, was it legitimate {xii} why did need for UN Security Council resolutions emerge {xiii} did Indian Independence Act 1947 any where lay down that a Prince of Princely State could accede to either Dominion only for three subjects {xiv} Did the Prince matter to the affairs of a Princely State after it acceded to either Dominion {xv} why was article 370 needed in Indian Constitution and that only for Jammu and Kashmir {xvi} even after incorporation of article 370 in Constitution of India in 1950 why was need still felt for an arrangement like 1952 Delhi Agreement when the Constituent Assembly of Jammu and Kashmir was already on JOB and had all the elected members from National Conference { xvii} do separatist ideologies / special orientations pertain to whole of Jammu and Kashmir {xviii} what was the relevance of 1974 Indira Sheikh accord {xix} is not National Conference bound with what Sheikh Abdullah Government assessed after 1974 “ Indira Sheikh accord” {xx} moving to pre 1953 Constitutional status would mean JK having no Constitution and would return to Monarchy {xxi} was Jammu and Kashmir or Kashmir Valley simply purchased by Gulab Singh from British, how did rule of Maharaja Gulab Singh of Jammu / Ladakh extend to Kashmir valley {xxii} was British Paramountcy as regards the Princely States also particularly transferred to independent dominions with retreat of British .*

***I shall be making a humble effort to draw attention , of all those who are concerned, towards some salient features that could be considered for addressing to questions / quarries like listed here.***

## 2. Identities of J&K

The oldest known history of Kashmir Valley that could be traced world over would not reveal anything beyond the Bharat (India sub continent) and Bhartiya Sanskriti . Similarly all that has happened, over centuries / millenniums , over the lands on which the Jammu And Kashmir State extends too must be seen in the context of Bharat itself. Anyone who would like to open the chapters on the basis of the religion or the faith of the people would only get lost in unending discussions and debates. Starting with Hindu traditions the affairs may trace through Buddhist,

Islamic, Pathan, Sikh, Catholic traditions. But nothing will be identified alien to Indian lands and traditions.

Before coming under the rule of Maharaja of Jammu, large part of Kashmir Valley was under the Sikh empire of Punjab. The Kashmir valley had also attracted the rulers / Mughals/ Pathans/ British the most for its beauties and hence it has remained a scene of attraction during nearly the millennium before 1947. British as well as the Maharaja paid more attention to Kashmir valley than any other part of Jammu and Kashmir because of the reasons of its pleasant summer climate and scenic beauties. Therefore, although the State was named as Jammu & Kashmir it was, at occasions, referred in discussions and documents also as Kashmir State. Where as very less reference is seen as Jammu State although Gulab Singh was more identified with Jammu Empire. Further since the Himalayan borders of India were touching Afghanistan / China / Russia the Kashmir Valley was more prominently looked at by the British and hence the Maharaja of Jammu and Kashmir. Further the influence of Mughals, Pathans and Muslim rulers too had been more on Kashmir Valley. A good number of invading soldiers / sardars settled in Kashmir Valley ( followers of muslim religion increased and also there were more social conversions to Muslim religion ).

So naming the identities of J&K with the religion or faith of autocratic eras of a few decades or centuries would not be fair

.And if still any one attempts to work otherwise, then Pakistan would be a most unfortunate Nation of people having no traditional history of their own. So taking a “bucket” of water from the Ocean and then defining the water body in the bucket with reference to only “ Bucket walls” would be too ignorant an exercise.

### **3. Princely State { of British Indian Empire } of Jammu and Kashmir**

Jammu and Kashmir State was consolidated by Maharaja Gulab Singh with the fellowship of the British Raj (East India Company). The regions / sub regions of Jammu / Poonch / Pir Panchal line// Chenab line /, Gilgit, Muzafarabad / Kashmir Valley came together as a unit during Maharaja Gulab Singh's time. Before Kashmir Valley came under Gulab Singh { 1846} other regions were already part of Jammu Raj.

The “Kashmir { Jammu and Kashmir } “State of Hari Singh that was part of British Indian Empire in 1947 comprised of three distinct regions in the broader sense. Maharaja had hence classified the management of His State in 3 administrative units, {i} The Province of Jammu ( headed by a Governor and had two jagirs also associated with it i.e Poonch and Chenani), {ii} The Province of Kashmir ( headed by a Governor ) and {iii} Ladakh headed by a Wazir E Wazarat.

Pirpanchal mountain range separated the Province of Jammu from the Province of Kashmir. Srinagar was the summer capital of Maharaja and Jammu was the winter capital of Maharaja.

During the time of Maharaja Hari Singh ( 1900s) majority of the population of Kashmir Valley was of Muslims and the small Hindu population there comprised mostly of Kashmiri Brahmins ( Pundits) and those close to Hari Singh government. The literacy rate in Kashmiri Hindu was very high where as at a particular time amongst Kashmiri muslim it was very very low ( say 10 %). ***The process initiated for restricting the jobs and lands to outsiders after the State Subject Law of 1927 by Maharaja was the result of movement initiated by Kashmiri Hindu ..***

In the nineteenth century Maharaja Gulab Singh of Jammu & Kashmir extended the Geographical boundaries of India to the other side of Himalayas. Maharaja's forces even routed the Tibetan army. Raja Gulab Singh's General Zorawar Singh had followed the route through Kishtwar in 1830s since at that time Kashmir valley was not governed by Gulab Singh. Even Muzafarabad was not part of Kashmir Valley before 1846 and Kishtwar was with Jammu Raj under Gulab Singh. For Gulab Singh, Raja of Jammu, his Kishtwar Governor conquered the Suru valley and Kargil (around 1835), other areas of Ladakh region (1836–40) and even Baltistan by 1840 AD. Zorawar Singh then marched towards Tibet in the east. Gulab Singh's forces { may be 6000 to 7000 in number }

that included men from Kishtwar, Ladakh, and Baltistan moved eastwards overpowering Tibetan and Chinese forces and set up a base at ***Taklakot near the holy Mansarovar Lake by September 1841 at a distance of nearly 725 Kms beyond the point that was at that time considered Indian frontier point.*** It was due to extreme cold that Zorawar Singh's men could not continue their adventure and Sino-Tibetan forces overpowered them around 12 December 1841. Gulab Singh too was at that time engaged in Peshawar leading the Anglo-Sikh operations. The Tibetans and their Chinese allies invaded Ladakh but were defeated by the Dogras in the battle of Chushul. ***The boundary { we can say Indian boundary } between Ladakh and Tibet was finally settled with the efforts of Forces of Gulab Singh with the Treaty of Chushul. This treaty was later violated by the rulers of China in the 1950s.***

The State of J&K as was ruled and administered by Maharaja Hari Singh was larger than the princely state of Hyderabad . J&K was two thirds of the size of Bombay Presidency and was larger than the States of Mysore, Bikaner , Gwalior and Baroda put together. The total area of Jammu and Kashmir State of Hari Singh is 84471 square miles plus 1609 sq mile jagirs / {218958 sq Km plus 4150 sq km jagirs } and lies between 32 .17 and 36.58 North Latitude and 73.26 and 80.30 East Longitude and was the largest Indian State of pre 1947 days . **In addition to a small strip of land along the borders of Jammu { a continuation of great plains of the Punjab} and a bleak tract adjoining the Karakorum Mountains ,the territories of the Maharaja of J&K included valleys formed by the Chenab and Jhelum rivers and the middle reaches of the Indus.** On the north it is / was bounded by Chinese and Russian Turkistan , on the east by Chinese Tibet, on the south by the Punjab and on the west by the North Western Frontier Province. The territories of three powers viz Britain, China and Russia and the Independent kingdom of Afghanistan met at the Northern Borders of the State in 1947. ***In 1935 when Soviet Russia nearly over ran Eastern Turkistan , the British executed an agreement with Maharaja Hari Singh and took Gilgit on lease under which the administration and defence of Gilgit became the subject of the British. An irregular corps , the Gilgit Scouts was raised for the purpose. In 1947 Gilgit was administratively/ technically transferred back to Maharaja***

#### **4. Need has arisen for clearing some misunderstandings :**

To many the State of Jammu and Kashmir is this day known as KASHMIR. No doubt even in British times the Princely State of Jammu and Kashmir was also referred as KASHMIR State , but such a reference has made many people to feel that Jammu and Kashmir State prominently comprises of Kashmir Valley only whereas the Kashmir Valley is a small part of Jammu and Kashmir State.

A brief review of the Geo -Administrative order of Maharaja Hari Singh's Princely State of British Indian Empire would give some true understanding about Jammu and Kashmir State and affairs of this most discussed { internationally} Indian state . As already stated **earlier in the nineteenth century Maharaja Gulab Singh of Jammu & Kashmir extended the Geographical boundaries of India to the other side of Himalayas .Maharaja's forces even routed the Tibetan army. Raja Gulab Singh's General Zorabar Singh had followed the route through Kishtwar in 1830s since at that time Kashmir valley was not governed by Gulab Singh. Jammu Region and Ladakh region were already part of Jammu Raj before the control of the Kashmir Valley was also transferred to Jammu Raj { Maharaja Gulab Singh } by the British India Crown when the Kashmir valley was surrendered to the British India by the Punjab Sikh Empire as compensation for the battle the Sikhs lost to the British in 1846. Hence the Jammu Raj was named as the State of Jammu and Kashmir.**

*A fair and honest trial could be done by looking at the structure of Civil Administration given to J&K by Maharaja Hari Singh.*

#### **Civil Divisions / Administration**

For the purposes of civil administration, the state was divided into three parts ; 1. Province of

Jammu [ app 14010 sq Miles /36315 Sq Km } 2. Province of Kashmir { 8569 sq miles / 22000sq Km} 3. District of Ladakh. The head of revenue administration in each province was a Governor. Ladakh district was under a Wazir Wazarat.

**Kashmir Province** : { 8569 sq miles / 22000sq Km} :

The Geographical Division of J&K comprising of the Jhelum valley (consisting of the valleys that drained into the Jhelum and Krishan Ganga rivers ) and the lateral valleys of the Sind as well as that of Liddar together form the famous Kashmir valley. Kashmir Valley along with the hilly track of Muzaffarabad included in Kashmir Province. *It is the Kashmir Region of today.*

Province	District	Tehsil	Niabat
1. Kashmir	1. Anantnag	1. Anantnag. 2. Kulgam 3. Awantipura. 4. Srinagar– 1. Baramulla 2. Sripratapsinghpura	–
	2. Baramulla	3. Uttarmachhipura	1. Gurez. 2. Sopore

**3. Muzaffarabad**  
**d** 1. Muzaffarabad. 2. Uri 3. Karnah

**Jammu Province:** { app 14010 sq Miles /36315 Sq Km } . It extended over the Semi- mountainous and Sub-mountane tract consisting of the plains contiguous to the Punjab and broken *Kandi* country skirting the Himalayan ranges. The rivers Ravi, Chenab, and Jhelum and several perennial streams flowing through. The hills in Bhaderwah, Doda, and Kishtwar formed part of this Division. Jagirs of Poonch & Chenani too were with this Province. **This Division comprised the whole area covered by the ranges of low hills to the south of Pir Panjal Mountains which divide the two provinces of Jammu and Kashmir.**

Province	District	Tehsil	Niabat
2. Jammu	1. Jammu <b>2. Mirpur</b>	1. Jammu . 2 Samba 3. Akhnoor 4. Ranbirsingh Pura <b>1. Mirpur . 2. Bhimber. 3. Kotli</b> 1. Udhampur. 2. Ramban 3 Ramnagar. 4. Bhadarwah	– <b>1. Noushera</b>
	3. Udhampur	5. Kishtwar	–
	4. Reasi	1. Reasi. 2. Rajouri	1. Gulabgarh
	5. Kathua	1. Kathua. 2. Jasmergarh. 3. Basoli	–
3 Jagirs*	<b>*Jurisdictional</b> 1. Poonch Jagir		2. Chenani Jagir

**District of Ladakh {63554 sq miles / 164748 sq km }:** The Tibetan and Semi Tibetan tract, that consisted of middle reaches of the Indus formed this Division ( Ladakh DISTRICT OF Maharajas Administration comprising of district of Gilgit and the frontier illaquis of Skardu, Ladakh and Kargil}).

The river Indus having it's source in Mansarovar lake in Tibet traversed the whole of this Division (district) running from south east up to the bend around the Nanga Parbat, where it assumes a south westerly course. **Except in Gilgit, the ranges in this Division Vary from 17000 feet to 22000 feet.** . Crop area in Ladakh was very small. Mountains in the North stretch up to Pamirs. Mount Godwin Astin, 28265 feet above MSL was the second highest known peak in world. Bhotia and Shina spoken in Ladakh and Gilgit remained confined to Ladakh .

Province	District	Tehsil	Niabat
<b>Ladakh had direct Administration</b>	1. Ladakh	1. Ladakh 2. Kargil	–

# Astore was under a Revenue Assistant and ## Ladakh had nearly Direct Administration under a Wazir Wazarat. In 1935 when Soviet Russia nearly over ran Eastern Turkistan , the British executed an agreement with Maharaja Hari Singh and took Gilgit on lease under which the administration and defence of Gilgit became the subject of the British. An irregular corps , the Gilgit Scouts was raised for the purpose. In 1947 Gilgit was administratively/ technically transferred back to Maharaja. Frontier illaqaas of Skardu , Ladakh and Kargil was 63554 square miles (approximately 1,65000 square kilometers). The population was very sparse.

*In Jammu Province of erstwhile Princely State of Maharaja Hari Singh the Muslim formed a large portion of population but the Jammu Province still extended over larger part of the domain as compared to Kashmir Province without any communal overtones and considerations. Where as a just and rational segmentation of the civil administration looking at the ethnic/ cultural /geographical physicals for the welfare of the masses had been the prime consideration with Maharaja. On the whole the Muslim population was nearly 77 % of total population of the State as per 1941 census*

**Since the common man has very less information and is innocent, some have succeeded in even terming the demand for separate State of Jammu { extending over the territories of Jammu Province of the State of Jammu and Kashmir as a Hindu dominated area demand ,which is surely a wrong propaganda.**

### 5. Unrest against the British

In 1920s Indian independence movement had started taking visible strides. Indian National Congress was in the lead line. Even Mohd Ali Jinha was a crown Congress man. The oneness of Hindu and Indian Muslims had shaken the British Company Raj in 1857. So, there after , the divide and rule game plan was more cleverly used by the British. It was in 1930s that British could prompt the muslim voice for division of India ( in the event of British retreat as and when it would be ). The British used more sweet traps to rope in the Princes too. Economic poverty as well as the social civic traditions amongst the Hindu were used to further fragment the Hindu society.

But since the Mughals [ more identified with Jalalu din Akbar } had accepted Bharat as their own country and hence the Hindu Muslim ties were still strong enough to be torn apart so easily. Similarly the leaders like Maulana Abul Kalam Azad and Baba Saheb Bhim Rao Ambedkar proved too hard for the British to succeed in their designs. But still some muslim leadership fell prey to the British designs and vouched for a separate country only for Muslims ( Islamic Pakistan) .

No doubt at that time there was a very large chunk of Muslims in India who did not want partition / Islamic state. It was also quite evident that as and when Islamic Pakistan will be created there will still be a very large number of muslims that will stay back in India. Sheikh Mohd Abdullah was a Kashmiri muslim leader ( Jammu Kashmir Muslim Conference ) who was working in 1930s for the welfare of Kashmiri muslims during the rule of Maharaja Hari Singh. On all India basis it was Muslim league that was more activated by Mohd Ali Jinha after he returned from exile ( from Britain ). Jinha was a also Congress man earlier and talked of Pakistan for Muslims only after the British succeeded in raising doubts in his mind for the socio- economic security of Muslims in Hindu majority India. Sheikh Mohd Abdullah preferred to stay away from Jinnah because of his policies.. He later came closer to Jawahar Lal Nehru and became Nehru's dearest "friend". For coming more closer to Nehru and his Congress Sheikh Abdullah opened the doors of Jammu Kashmir Muslim Conference to non muslims as well and in 1939 . Muslim Conference was later named as National Conference.

### 6. British Cabinet Mission and Indian Princes

The British Cabinet Mission { headed by Lord [Pethick-Lawrence](#), the British [Secretary of State](#) for India } on India presented a memorandum on 12-05-1946 to Chancellor of Chamber of Princes in

India (Nabab of Bhopal). The possible Future of Princely States was briefed in said memorandum on States Treaties and Paramountcy. Para {2} of the memorandum said : that during the interim period, which must elapse before the coming into operation of a new constitutional structure under which British India will be independent or fully self governing , paramountcy will remain in operation. ***But the British Government could not and will not in any circumstances transfer paramountcy to an Indian Government.*** Para {4} of the memorandum said : during the interim period it will be necessary for the States to conduct negotiations with British India in regard to the future regulation of matters of common concern, especially and economic and financial field. Such negotiations , which will be necessary whether the States desire to participate in the new Indian Constitutional structure or not, will occupy a considerable period of time, and some of these negotiations may be incomplete when the new structure comes into being , ***it will, in order to avoid administrative difficulties, to arrive at an understanding between the States and those likely to control the successor Government or Governments that for a period of time the then exiting arrangements as to these matters of common concern should continue until the new agreements are completed.*** In this matter , the British Government and the Crown Representative will lend such assistance as they can , should it be so desired.. Similarly Para {5 } said : when a new fully self governing or independent government or Governments come into being in British India, His Majesty's Government 's influence with these Governments will not be such as to enable them to carry out the obligations of paramountcy. Moreover , they cannot contemplate that British troops would be retained in India for this purpose. Thus, as a logical sequence and in view of the desires expressed to them on behalf of the Indian States, His Majesty's Government will cease to exercise the powers of paramountcy. This means that the rights of the States which flow from their relationship to the Crown will no longer exist and all the rights surrendered by the states to the paramount power will return to the States. ***Political arrangements between States on one side and the British Crown and British India on the other will thus be brought to an end . The void will have to be filled either by the States entering into a federal relationship with successor Government or Governments in British India , or failing this, entering into particular political arrangements with it or them. Keeping the spirit resting in the memorandum since Paramountcy was to practically lapse { as regards the British commitments on treaties } on 15-08-1947, the Princes were free to accede to one or the other dominion or remain independent.. Ofcourse the obligation of British to defend their boundaries was to lapse and not transfer. The void will have to be filled either by the States entering into a federal relationship with successor Government or Governments in British India , or failing this, entering into particular political arrangements with it or them.***

#### **7. Quit Kashmir Call, Nehru, Patel, All India State People's Conference :**

**In May 1946 Sheikh Mohammed Abdullah's National Conference launched Quit Kashmir Movement.** Sheikh's call had surprised even the Indian leaders . Sheikh did have the support of Jawahar Lal Nehru.. ***Quit Kashmir call was on the lines of Quit India movement. But the call was not against the British Crown. The Quit Kashmir Call was against the Maharaja.*** Even Mohamed Ali Jinnah termed it as a agitation of a few "mal" contents who were out to create dis order in J&K State. . It was on Pandit Nehru's encouragements that even Kashmir day was observed in Srinagar on 2<sup>nd</sup> June 1946 .

***Sardar Vallabh Bhai Patel had while addressing the General Council of the All India State People's Conference on 8 June 1946 advised the subjects of Princely States not to get involved in direct isolated actions in states at that moment but to be patient and carry on the agitation peacefully for responsible government.*** But Nehru in the case of J&K did not hold fast to what he ( Patel ) said and hence ultimately the circumstances in J&K from August 1947 onwards landed both Maharaja and GOI in a ditch where Sheikh stood on the wheel with rope in his hand although a year earlier 26 September 1946 } Sheikh was at the mercy of Maharaja Hari Singh as well as GOI with only Nehru providing him moral and personal support. Such actions made some local leaders ( may be very small in number ) of Kashmir and those in favour of two nation theory more and more

ambitious with each day passing.

#### **8. Sheikh Abdullah wanted a different plan of Action for J&K:**

**The love and lust that Nehru showed for Sheikh Abdullah, the closeness that Nehru had with Mountbatten and the manner in which Nehru overlooked the Quit Kashmir movement that Sheikh Abdullah's NC launched in May/ June 1946 had agitated Hari Singh.**

In view of the apparently changing approach of National Conference Maharaja's government arrested Sheikh Abdullah and some other NC leaders on 20-05-1946. In June 1946 Nehru decided to visit Kashmir to support/ defend Sheikh's case. But Nehru was arrested / stopped at Kohala Bridge by Maharaja forces. Nehru did not relish it. *Abdullah was tried on charges of sedition and sentenced to three years rigorous imprisonment in July 1946. After Sheikh Abdullah pledged loyalty to Maharaja Hari Singh on 26 September 1947 and under the pressure of Government of India Sheikh Mohd Abdullah was released from jail. By this time 15<sup>th</sup> August 1947 had passed.* All India State Peoples Conference had drawn out a policy paper as regards immediate local governance in the Princely States of British India after they accede to Indian Dominion. **The Prince had to stay as the head of the State** and local Government of the people to work under the guidance of the Dewan / Prime minister of the Prince till the final arrangements for governance of even the Dominion were drawn out. Sheikh Abdullah wanted a different plan of Action for J&K. **Nehru too wanted to treat J&K as an exception { I have not been able to find any logical justification}**. Ofcourse Vallab Bhai Patel differed in principle with Nehru. **Maharaja Hari Singh was hence not making his plans open / final in terms of Cabinet Mission memorandum dated 12-05-1946 as was presented to Chancellor of Chamber of Princes in India and the Indian Independence Act 1947. He was making consultation.**

#### **9. Nehru backing Sheikh Abdullah annoyed the Maharaja**

Nehru even indirectly supported the memorandum that a "committee" of the National conference had sent to the British Cabinet Delegation raising the question of 16<sup>th</sup> March 1846 Amritsar Treaty (The treaty between the British Government on the one part and Maharajah Gulab Singh of Jammu on the other concluded on the part of the British Government by Frederick Currie, Esq. and Brevet-Major Henry Montgomery Lawrence, acting under the orders of the Rt. Hon. Sir Henry Hardinge, G.C.B., one of her Britannic Majesty's most Honorable Privy Council, Governor-General of the possessions of the East India Company, to direct and control all the affairs in the East Indies and by Maharajah Gulab Singh in person – 1846) and demanding that with the British retreating from INDIA this Treaty be abrogated and Kashmir be taken to be ruled by the people of the State who should decide the future of Kashmir / later JK State and not the Maharaja. **British was to hand over the power to Congress leadership in India so should with the annulment of Treaty of 1846 Maharaja's government should also pass on to Sheikh Abdullah's National Conference.** This new policy of the Sheikh Abdullah (May 1946) did become a cause of the growing tension between the Sheikh Abdullah / Nehru and Hari Singh. **Sheikh Abdullah launching the Quit Kashmir Movement without consulting Congress and Nehru backing Sheikh Abdullah annoyed** the Maharaja and even made him think ( may be faintly ) of Independent State as an alternative for which his supporters could advance arguments. But surely it was the cause for Hari Singh not being that eager to sign accession with India although he had no liking for Pakistan.

Jawahar Lal Nehru himself said on 26-05-1946 that although it has been the policy of All India States Peoples Conference to demand full responsible popular government in all the States under the aegis of the Ruler ( the Prince), who is to act as a Constitutional head of the State concerned. But to justify his special approach as regards J&K ( Sheikh Abdullah & Kashmir ) he accused the State authorities of pursuing policies of direct hostility to the proposed popular movement in Kashmir. Surely this argument of Nehru was not truthful. Later also in December 1947 **Nehru had**

*first agreed that after accession Maharaja Hari Singh should notify for formation of interim Government in Jammu and Kashmir on a model similar to Mysore model but later on backed out from that. This only manured the so far feeble plans of Sheikh Mohd Abdullah*

**Nehru had even admitted that** it was unfortunate that *the new policy (Quit Kashmir) as made public by Sheikh on his own was a marked variation in the policy of both Congress as well as the All India States Peoples Conference (AISPC) and should not have been made public without full consideration of the respective bodies and further added that he (Nehru) liked to make it clear that the policy of AISPC remained what it was, ie. responsible government under the aegis of the ruler.* But Nehru did not check / attempt to correct Sheikh Abdullah and he was late even in making such remarks. India is paying price even after 6 decades.

**On the face of the indicators like above Indian Congress was more to favour** Sheikh Abdullah in 1940s and even after 18 August 1947 where as it should have been more for timely Accession of J&K with Indian Dominion ( Bharat) or otherwise .No doubt the Maharaja of J&K was the only designate authority to decide regarding accession with either Dominion of India or Pakistan or any thing else.

#### **10. Princely States, Princes and Dominions :**

*Although the Indian Independence Act { An Act to make provision for the setting up in India of two independent Dominions, to substitute other provisions for certain provisions of the Government of India Act, 1935, which apply outside those Dominions, and to provide for, other matters consequential on or connected with the setting up of those Dominions } was passed by British Parliament on 17-06-1947 but the future of Princely States had already been some what defined in memorandum dated 12<sup>th</sup> May 1946 on States Treaties and Paramountcy as was presented by Cabinet Mission to Chancellor of Chamber of Princes in India ( Nabab of Bhopal). The British Parliament's Indian Independence Act, 1947 received Royal Assent on 18<sup>th</sup> July same year creating two independent Dominions of India and Pakistan out of the British India Provinces. **The Act was also to free the Indian Princely States of Indian British Empire from the Crown's paramountcy but denied them dominion status while advising them to accede to India or to Pakistan in their own interest.** The power was transferred to the people in British India. +The Government of India Act 1935, as adopted in the Indian Independence Act, 1947, provided, "An Indian State shall be deemed to have acceded to the Dominion if the Governor General has signified the acceptance of an Instrument of Accession executed by the ruler thereof." ....., Pakistan and even Britain were party to these provisions. So the choice of joining either of the Dominions was left to the Rulers of the States concerned. Moreover, in the Indian Independence Act, 1947, there was no provision for any conditional accession.*

**The Mountbatten Plan** about partition of India and withdrawal of British from India by 15-08-1947 was announced on **3rd June 1947**. This plan theoretically conceded an independent status to all the Princely States of Greater India of British Empire after the lapse of British paramountcy. The Plan also advised the Princes that it was in their ( princes) own interest (as well as interest of new dominions of India and Pakistan) to join one of the two Dominions before 15 August (the deadline for British withdrawal ). Obligation of British to defend their ( Princely States) boundaries was to also lapse. Hence the preparations for the future status/ policy/ working arrangements had started in 1946 itself at the level of Princes, the proposed Governments of Pakistan and India as well as the local leaderships in some States and J&K in particular. **As per the Cabinet Mission memorandum { may 1946 } also ,with the lapse of Paramountcy , the princes were free to accede to one or the other dominion or could decide otherwise. Maharaja of Jammu and Kashmir did not accede to either dominion upto 15 August 1947. Rather he offered a time being standstill agreement to both India and Pakistan, Pakistan accepted it , but India wanted to discuss.**

#### **11. Final Radcliffe award on boundaries could be reason :**

The Governor General of India Lord Mountbatten visited Srinagar for 4 days from 19-06-1947. As

per Mountbatten he found Maharaja elusive and had to return without discussing with him. .

*As per the evidence available at that time under the likely proposed plans Gurdaspur District was to be part of Pakistan. Mountbatten well knew that J&K would have no link road available with India as per the draft plan of boundaries made known till 14 August 1947. Later on the final Radcliffe award that retained parts of Gurdaspur District including Pathankot as part of Indian independent Dominion was announced only on 16/17-08-1947 i.e after 15<sup>th</sup> August 1947. Lord Mountbatten the then Governor General of India well knew the importance of this award in the absence of which J&K would have no immediately operational road or/ rail link with Indian Dominion in case Maharaja decided in favour of India by 14<sup>th</sup> August 1947. Hence there are reasons to assess that he ( Mountbatten) was not for India.*

**Why Radcliff award was made public after 15 August , appointed date :** A crude border had already been drawn up by [Lord Wavell Viceroy of India](#) prior to his replacement in February 1947. He was replaced by [Lord Louis Mountbatten](#). As per Indian Independence Act of July 1947 Section 4 Schedule Second DISTRICTS PROVISIONALLY INCLUDED IN THE NEW PROVINCE OF WEST PUNJAB. { West Pakistan } were from the Lahore Division, the districts of Gujranwala, Gurdaspur, Lahore, Sheikhupura and Sialkot. ; from Rawalpindi Division , the districts of Attock, Gujrat, Jhelum, Mianwali, Rawalpindi and Shahpur. And from the Multan Division, the districts of Dera Ghazi Khan, Jhang,- Lyalpur, Montgomery, Multan and Muzaffargarh.

In order to determine exactly which territories to assign to each Country, in June 1947, the British Government appointed Sir Cyril Radcliffe as Chairman for the Boundary Commission for Bengal and Boundary Commission for Punjab. The Commission was advised to “demarcate the boundaries of the two parts of the Punjab on the basis of contiguous majority Muslim areas and non Muslim areas. Ofcourse there were some other undefined factors like “natural boundaries, communications, watercourses , irrigation systems, as well as socio-political consideration.. Each commission also had 2 representatives from the [Indian National Congress](#) and 2 from the [Muslim League](#). **Radcliffe reached India in 2nd week of July 1947 { may be 8 July } and had just 5 weeks to complete most hard task. He expressed concern on the short time frame, but was prevailed upon to finished the task by 15 August.** Mountbatten was (it is said so) very particular for an early deadline for completing the partition. No doubt the Radcliff completed the job a couple of days before 15th August 1947 { British withdrawal} **but it would remain a question why the Radcliffe award on borderlines was published / made public two days after {17 August 1947 } the grant of Independence to India and Pakistan. The Radcliffe Line became the border between [India](#) and [Pakistan](#) on 17 August 1947.**

**[Gurdaspur district](#), except for the sub-division of Shakargarh, was given to India.** Gurdaspur was large district of British India . It included [Deoband](#), Bareilvi as well as culture centres of [Ahmadiyya](#) community. The district had Muslim population of a little over 50 percent including [Ahmadiyas](#) who had been declared non-Muslim by some Muslim clergy. Ahmadiyas spiritual centre was at [Qadian](#) in Gurdaspur district).. The [tehsils](#) of [Shakargarh](#) and [Gurdaspur](#) had a Muslim majority of 51% each; Batala tehsil had a Muslim majority of 53%; Pathankot tehsil had a majority of non-Muslims at 67%.. So only Shakargarh tehsil separated from the rest of the district by the [Ravi river](#) was awarded to Pakistan, leaving the rest of the district with a slight majority of non-Muslims. Another point was that Batala and Gurdaspur would provide a buffer to the Sikh holy city of [Amritsar](#) which otherwise would be surrounded by the Muslim territory of Pakistan. The last point that was argued before the boundary commissions was that if the area east of the Ravi river was considered as one block, consisting of Amritsar and most of Gurdaspur district (excluding Shakargarh), it would have a slight non-Muslim majority. Also, by doing this, the majority of the Sikh population (58%) would fall in East Punjab; by doing the opposite, a slight majority would be left in Pakistan and this would increase the number of Sikh refugees. This could pacify the Sikhs because they lost major tracts of lands in [West Punjab](#). Although in larger probability [Pathankot](#) tehsil would have gone to India as it had a direct rail road link with the adjoining areas of

Hoshiarpur and Kangra districts of East Punjab. But fears were there that the mention of Gurdaspur district in Schedule 2 of the Indian Independence Act may not create problems of Jammu and Kashmir state in case it acceded to India. Even if Maharaja Hari Singh had otherwise intentions still he could defend the delay in accession due to such like reasons. Similarly intention of Radcliffe to transfer Ferozpur and Zira tehsils to Pakistan was opposed by the Maharaja of Bikaner because Harike headworks on the confluence of the Satluj and Beas rivers, the only source of water for his desert state was in Ferozepore. It was only after he told Mountbatten that he would accede to Pakistan if Ferozepur was awarded to West Punjab, award was changed at the last minute awarding Ferozepur district to India.

**Maharaja Hari Singh** did have an excuse for being late in taking decision (not before 15 August 1947) under the argument that under the interim division of the British India as contained in the Indian independence Act 1947 the district of Gurdaspur that included rail head of Pathankot providing the only road link between Jammu and East Punjab (part of Dominion of India as it was to be after 14 August 1947) had been first included in West Pakistan (west Punjab that was to form Dominion of Pakistan). The announcement of Radcliffe award that awarded some areas of Gurdaspur / Pathankot to India was made public after 15 August and hence Maharaja Hari Singh could be in fix to take a decision for accession with India before 15 August 1947. It has been opined that the announcement of Radcliffe Award was intentionally delayed by **Mountbatten who did not want Hari Singh to accede to India and hence Maharaja** was kept under pressure, could be argued. **Till early 1946 Anti British attitude and progressive/ pro independence ideas of Hari Singh had been irritating British Raj, more particularly after he attended the Round Table Conference { 3 RTCs were held in 1930, 1931 and 1932 }.**

## **12. Was Nehru's nominee Sheikh the cause for delay :**

*No doubt Hari Singh deferred accession even after announcement of Radcliffe Award ( 16/17 -08-1947) although Hari Singh 's sentiments/ choice stood in the way of his opting accession with Pakistan but now it was Nehru's nominee Sheikh in the way of Hari Singh signing accession with India.*

**Even Mahatma Gandhi visited Kashmir and impressed upon Maharaja Hari Singh for conceding the "demand of people" for a constitutional government ( actually it was for handing over local administration solely to Sheikh Abdullah as Prime Minister) . Where as for the general policy of acceding States it was to be a local popular working government duly elected with a Chief Minister and the Prime Minister / Dewan of the acceding Prince holding a superior position till any other settlement was made after the Government of independent Dominion took over.** Indian Independence Act had been passed by British Parliament on 17-06-1947. Independent new Dominion of Pakistan was to be born on 14 August 1947 and India had to become independent Dominion on 15th August Mid night. Maharaja did not agree for conceding to Quit Kashmir theory of Abdullah in favour of National Conference like Quit India theory in favour of Congress. May had some one else been promoted by New Delhi government, Hari Singh would not have waited so long for accession after 17 August 1947. ***This inference drawn by me is supported with fact that in November / December 1947 Nehru had first agreed that Hari Singh should notify for formation of interim Government in Jammu and Kashmir on a model similar to Mysore model but later on backed out from that. This only manured the so far feeble plans of Sheikh Mohd Abdullah for drifting Kashmir away from Indian Dominion.***

## **13. Historical ties Jammu and Kashmir ::: Pakistan ::: India**

Jammu and Kashmir State was one of the five Princely states of the British Indian Empire that was directly handled by the Governor General of India / Viceroy of India. British had acknowledged a 21 Gun Fire Salute status for Maharaja of Jammu and Kashmir { Hari Singh Bahadur } as was for the Prince of Mysore, Baroda, Gwalior and Hyderabad.. Historically Kashmir had been for times immemorial identified with Bharat { India }. The boundaries / territories of India too have deep historical land marks although there have been a variety of governing compositions of the local

governance. The cultural traditions / practices and the socio religious identities that one could so easily trace for commonness from Himalayas to Kanya Kumari { even through to Sri Lanka and Islands around } can not be overlooked , though many may try to workout new / tailored or temporarily alien identities for India. It is a hard , painful, regretful and most agonizing fact of modern history of India that some people fell into the trap of the British rulers and a separate { new } country Pakistan was carved out of India on the demand of some muslim leaders from the same India where the Muslim and Hindu so unitedly rose against the East India Company in 1957 and later carried through solidly till 1942 against the British Crown.

Still after 15 August 1947 muslims in equal numbers preferred to stay back in India and did not move to the “Islamic Republic” of Pakistan { Dominion of Pakistan } that took birth in 1947. Both Hindu and Muslim have paid the price for the misadventure of some of their own people. Lakhs of people died and huge number suffered loss of honour / wealth. There are many in India and Pakistan who this day curse those who pushed the culturally and traditionally monolithic Indian people into the dilemma of 1947 partition of India. People of Pakistan have not still been able to address their identity without referring to India and further broke into two parts in 1971. The foundations raised only on religious considerations have collapsed just in two decades. The masses in Pakistan and Bangla Desh are the worst sufferers of the misadventure of Muslim League.

The people of India too have been feeling the heat all these years since disturbed Pakistani governments so far kept on diverting the attentions of their people from the local mis governance in the name of enmity with” Hindu” India although India has as large a muslim population as Pakistan has. But the worst sufferers have been the people of Jammu and Kashmir State.

Immediately after 1947 most of the people of Jammu and Kashmir considered the accession of JK with India as truthful and final. A small number would surely have been there who had inclination towards to wards Pakistan in terms of the two nation theory. But I am pained to write that any separatist ideology that is seen in 2010 in JK { Kashmir Valley in particular } is more due to wrong and insincere handling of the JK affairs at the level of Delhi. The misfortune of the people of JK started right after 1946 . Since Kashmir affairs were particularly handled by Jawahar Lal Nehru before accession and after accession, I would opine that all what we see today is due to the wrong handling by Jawahar Lal Nehru Jee’s Government and thereafter also mostly by Governments where Congress held the reins at New Delhi and even in JK including the period after 2002. I should not be misunderstood as a votary against Congress whose leadership did many goods for Indian people except the manner in which its leadership handled Jammu and Kashmir affairs. Mishandlings passed from one hand to another , non Congress Governments at New Delhi too could not work for effective corrections and believed more in temporary and cosmetic corrections. So the separatists and anti accession propaganda/ campaigns have succeeded in bringing some people near to their belief. The most effective tools used has been {1 } 1947 Accession of Kashmir with Indian Dominion was not truthful {ii} 1947 Accession of Kashmir with Indian Dominion was conditional {iii} 1947 Accession of Kashmir with Indian Dominion was not complete And no doubt where ever possible they could also use { outside the scope of the principles laid down for accession } parameter that it was a Muslim majority Princely State. The people of Jammu and Kashmir have remained in confusions and elusions over last 6 decades.

#### **14. The then Government at Delhi faltered:**

Hari Singh acceded to Indian Dominion on 26 Oct 1947 under a legitimate instrument of accession. Lord Mountbatten Governor General of India had addressed a letter to Hari Singh that is being primarily used by some separatist elements to call the acceptance of Accession as conditional. politically after the Prince of Jammu and Kashmir transferred the power to the people. Hence J&K continuously remained disturbed politically. Hardly any leader worked treating J&K affairs outside personal political gains / extending favours to the friends / kins. Some mainstream leaders in J&K have this day even suggested joint control of India and Pakistan over J&K and still New Delhi has been treating them as main stream leaders. The quotes made in the media have not been denied by

such leaders. This is a clear reflection of the state of affairs where in Jammu and Kashmir has landed this day. Such acts can otherwise be seen as attempts to negate the October 1947 accession of J&K with Dominion of India. To more a disadvantage of India inter regional divides too are emerging in J&K and there is utmost need to remedy the local doubts and grievances. Need has hence arisen for early settlements and cooling down of the tempers of even those who have never talked against Indian nationality but have surely complained of a local region based neglect. **Such issues may cause more disturbing stresses and strains than even what the militancy has caused.**

**Militancy that had hit Kashmir Valley in late eighties of 20<sup>th</sup> Century has nearly engulfed the whole of J&K.** Material loss the people of J&K have suffered is surely too dwarf before the social and communal divides that have started appearing on the agenda of some leadership of the day.

Isolated demands for regional councils have been now extended to the demand for reorganization of J&K State into State of Jammu extending over the erstwhile Jammu Province of 1947 Princely State of JK, State of Kashmir { Valley } extending over the area of Kashmir valley 1947 Princely State of JK and part three as the Union Territory comprising of Ladakh district of 1947 Princely State of JK. How fair and administratively practical is the demand of those who are asking for reorganization of J&K will also have to be seen in reference to the erstwhile States of Punjab, Uttar Pradesh, Bihar and Madhya Pradesh : ofcourse with due consideration to the Constitutional provisions but where prime National interests demand Parliament, if felt necessary, may have to go for remedying some chapters of Constitution as well. No doubt the technical / constitutional arguments for and against could be extended by either side. But the Constitution is made by the people of India and it could be redrafted / amended by the same people. But as regards JK the other most worrying issue for India is that earlier the demands from Kashmiri leaders { valley } emerged mostly for re drafting center state relations but now questions on validity of Accession 1947 are being boldly raised by some in Kashmir valley who have gone unchecked and are making their humble strides to other parts of the State as well. So as on date the question is more for ideologically beating the separatist elements and the challenges they throw than contesting and discussing article 370 of Indian Constitution / demands for restoration of Autonomy to State as made by National Conference / Autonomy Resolution of JK Assembly. Ofcourse all these years Farooq Abdullah { son of Lt Sheikh Mohd Abdullah } has so far firmly held to the irrevocable doctrine of 1947 Accession of J&K with Indian Dominion and his suggestions too could be taken for addressing the problem..

### **15. Princely State of J&K Accedes to Indian Dominion.**

The text of Instrument of Accession executed by Maharaja Hari Singh was the same as was signed by other rulers of the princely States. Similarly, the acceptance of the Instrument of Accession by the Governor General was also identical in respect of all such instruments. He was to write, "I do hereby accept the Instrument of Accession." ***It could not be conditional as a mere acceptance by the Governor General was complete and final.*** { Indian Independence Act, 1947, provided that as from the fifteenth day of August, 1947, there shall be set up an independent Dominion known as INDIA, and that the Government of India Act, 1935, shall with such omissions, additions, adaptations and modifications as the Governor-General may by order specify, be applicable to the Dominion of India; The Act further provided that the Government of India Act, 1935, as so adapted by the Governor-General provided that an **Indian** State may accede to the Dominion of India by an Instrument of Accession executed by the Ruler thereof }

**A close look at the Instrument Accession** that Maharaja Hari Singh of Jammu & Kashmir signed on 26 October 1947 and as was accepted by Governor General of India, Lord Mountbatten of Burma, on behalf of Government of Indian Dominion on 27th October 1947 would reveal that very vital questions remain still unanswered as regards the manner in which Government of India disposed of the Instrument of accession as was sent by Maharaja Hari Singh through Mr. V. P. Menon. ( a Secretary in States Ministry GOI ). The questions should agitate the reasoning minds

for a better understanding so that a widely acceptable thought could be made to emerge to settle the confusions as created over the years in the innocent minds of subjects of Jammu & Kashmir in general and those from Kashmir Valley in particular.

I would refer to some specific portions of the Instrument of Accession of J&K with India that was signed by Maharaja Hari Singh of Jammu & Kashmir on 26 Oct 1947. The instrument said : I quote contents of the Instrument of Accession where it says that :

*“ Where as the Indian Independence Act , 1947, provides that as from the fifteenth day of August 1947 there shall be set up an Independent Dominion known as India, and that the Government of India Act of 1935 , shall, with such omissions , additions, adaptations and modifications as the Governor – General may by order specify be applicable to the Dominion of India. And where as the Government of India Act’1935, as so adapted by the Governor General, provides that an Indian State may accede to Dominion of India by an Instrument of Accession executed by the Ruler thereof :* Now therefore, I, Shriman Indar Mahandar Rajrajeshwar Maharajadiraj Shri Hari Singhji, Jammu and Kashmir Naresh Tatha Tibbet adi Deshadhipati, Ruler of Jammu & Kashmir State in the exercise of my sovereignty in and over my said State do hereby execute this my Instrument of Accession and .....3... **I accept the matters specified in the schedule thereto as the matters with respect to which the Dominion Legislature can make laws for this State...5.. The terms of this my Instrument of Accession shall not be varied by any amendment of the Act or of the Indian Independence Act ,1947 , unless such amendment is accepted by me , an Instrument supplementary to this Instrument... 8....** I hereby declare that I execute this Instrument on behalf of this State and that any reference in this Instrument to me or to the Ruler of the State is to be construed as including a reference to my heirs and successors” need to be observed for the purpose. . **And Lord Mounbatten of Burma**, the then Governor General of India signed the acceptance on 27 October 1947 as ..... **“ I do hereby accept this Instrument of Accession dated this 27<sup>th</sup> day of October , nineteen hundred and forty seven”.**

**Hari Singh’s letter dated 26 Oct 1947 :**

The Instrument of Accession signed by Maharaja was covered with a letter of circumstances & reasons and so was the acceptance of the Instrument of accession .*Maharaja Hari Singh did try to explain some reasons in his letter dated 26 October 1947 addressed to Mounbatten Governor General of India ( GGOI ) for not signing the Instrument of Accession with either Dominion by 14-08-1947. No doubt Maharaja of J&K as per the Indian Independence Act1947 read with Government of India Act 1935 was the only authority to take a decision regarding a State of British Empire that was outside British India and make any observations on the circumstances as prevailed around him while taking a decision regarding accession to any of the dominion or otherwise relationships.*

**Maharaja in his letter said**, I quote a;“ I have to inform your Excellency that a grave emergency has arisen in my State and request the immediate assistance of your Government. *As your Excellency is aware , the State of Jammu & Kashmir has not acceded to either of the Dominion of India or Pakistan. Geographically my State is contiguous with both of them. Besides, my State has a common boundary with Union of Soviet Socialist Republics and with China. In their external relations the Dominions of India and Pakistan can not ignore this fact .” The Maharaja further said, “ I wanted to take time to decide to which Dominion I should accede or whether it is not in the best interests of both the dominions and of State to stand Independent*, ofcourse with friendly and cordial relations with both.....*The mass infiltration of tribesmen drawn from distant areas of North West Frontier Province, coming regularly in motor trucks, using the Mansehra-Muzaffarabad road and fully armed with up-to-date weapons, cannot possibly be done without the knowledge of the Provincial Government of North West Frontier Province and the Government of Pakistan.* In spite of repeated appeals made by my Government no attempt has been made to check these raiders or to stop them from coming into my State. In fact, both radio and press of Pakistan have reported these occurrences . Pakistan radio even put the story that a provisional

government has been set up in Kashmir”....**Regarding his people the Maharaja said**, I quote :“  
The people of my State, both Muslims and non Muslims , generally have taken no part at all.....  
“*With the conditions obtaining at present in my State and the great emergency of the situation as it exists, I have no option but to ask for help from India Dominion..... Naturally they can not send the help asked for by me without my State acceding to the Dominion of India. I have accordingly decided to do so and I attach the Instrument of Accession for acceptance by your Government.*” ...”  
**I may Inform your Excellency’s Government that it is my intention to at once set up an interim government and ask Sheikh Abdullah to carry the responsibilities in this emergency with my Prime Minister. “**

**Lord Mountbatten also wrote to Maharaja on 27 Oct1947:**

Lord Mountbatten also wrote a letter dated 27 Oct 1947 to Hari Singh acknowledging the Instrument of Accession as signed by Hari Singh on 26 Oct 1947. This letter surely has left some vital questions unanswered. Even Jawahar Lal Nehru’s then Cabinet could be questioned for the same , I would say even Vallab Bhai Patel could be . **The core of the letter is reproduced here for those who would like to join the discussion initiated by me.**

**Lord Montbatten said**, I quote : “*Your Highness’s letter dated 26 Oct 1947 has been delivered to me by Mr. V.P.Menon. In the circumstances mentioned by your Highness, my Government have decided to accept the accession of Kashmir State to the Dominion of India. In consistent with their policy that in the case of any State where the issue of accession has been the subject of dispute, the question of accession should be decided in accordance with the wishes of the people of the State, it is my Government’s wish that , as soon as the law and order have been restored in Kashmir and its soil cleared of the invader, the question of State’s accession should be settled by a reference to the people. Meanwhile, in response to Your Highness’s appeal for military aid, action has been taken today to send troops of Indian Army to Kashmir, to help your own forces to defend your territory and to protect the lives, property and honour of your people. My Government and I note with satisfaction that Your Highness has decided to invite Sheikh Abdullah to form an interim Government to work with your Prime Minister.*”

**16. It is a point here:**

Maharaja in his letter of 26<sup>th</sup> Oct 1947 had said “The people of my State, both Muslims and non Muslims , generally have taken no part at all... It is worth noting here that the letter from Mountbatten was dated 27 -10-1947 and by then neither the Maharaja nor Government of India had gone to UN / UN Security Council . India had made a complaint against Pakistan in Security Council on 1-1-1948. And so strangely **on the on set itself { 27 Oct1947 }** Lord Mountbatten Governor General of India did not accept the instrument of Accession dated 26-10-1947 as signed by Hari Singh in full and Lord Mountbatten on behalf of his Government laid down the condition of final settlement of the Accession by reference to the people **and he classified J&K State as a State where the issue of Accession was a dispute**. In the circumstances as explained by Maharaja in his letter there was no reference of any dispute or resistance from the people of his State where as Mountbatten had written to Maharaja that, “*In the circumstances mentioned by your Highness, my Government have decided to accept the accession of Kashmir State to the Dominion of India. In consistent with their policy that in the case of any State where the issue of accession has been the subject of dispute, the question of accession should be decided in accordance with the wishes of the people of the State, it is my Government’s wish that , as soon as the law and order have been restored in Kashmir and its soil cleared of the invader, the question of State’s accession should be settled by a reference to the people*”. Where as the Maharaja of Jammu & Kashmir who was the sole designated authority to assess the circumstances and requirements of his Princely State , after the lapse of British Paramountcy

had no where given any indication that there was a accountable objection to accession with India from his people as could over ride Prince’s right for decision making as a Prince of State. **The Maharaja had no where talked of any dispute regarding accession of J&K and involvement of**

*people of Jammu and Kashmir State { even Kashmir Valley in particular , rather in Kashmir valley persons like +Mohd Maqbool Sherwani were tortured to death by invaders for offering resistance to their plans } in the turmoil / emergency that prevailed in Jammu and Kashmir in Oct 1947. [+Mohd Maqbool Sherwani : A civilian 19-year-old unsung hero, who laid down his life in 1947. Very very few people outside Baramulla do in 2010 know about Mohd Maqbool Sherwani , how he died and what decisive role he played in saving Srinagar from falling to raiders / Pakistani raiders who attacked Kashmir. ..*

Sherwani was a boy of 19 who single-handedly thwarted the advance of thousands of raiders (Kabailis) from Baramulla , thereby giving some lead time to the Indian Army to land in Srinagar. He went around on his bike telling the Kabailis, who stormed Baramulla on October 22, 1947, not to advance towards Srinagar as the Indian Army had reached the outskirts of Baramulla. His bluff worked. The enemy froze in its tracks for four days. By then, 1st Sikh had landed in Srinagar, on October 27 { now celebrated as Infantry Day }.

Later the tribals / Kabailies crucified him and shot dead. One Ali Mohammed Bhat, recollected after 60 years that the Kabailis couldn't digest that a young boy had fooled them. He had seen a Kabaili on a motorcycle with an almost dead Sherwani slung across the petrol tank who was later was put on a wooden cross, nailed and fired upon 10-15 times. "Sherwani" remained like that for two to three days and his body was brought down when the Army reached the place. Army got time to prepare for the historic Battle of Shalateng, near Srinagar where over 700 raiders were killed. As per Col Harwant Singh (Retd) who fought at Shalateng, Sherwani's contribution changed the complexion of the 1947 operations tide in India's favour. No doubt Acknowledging Sherwani's contribution, the Army's 19 Division has set up a community hall here in his memory at a cost of almost Rs 1 crore.

One Francis Rath, an octogenarian Baramulla doctor, said, "I was on my way to Srinagar after the fighting was over. Vultures and dogs were feeding on the bodies of the Kabailis. Shalateng became their graveyard because of Sherwani.....The sacrifice of one Master Abdul Aziz too was exemplary. The invaders who raped the nuns and wanted other non-Muslim women to be handed over to them, Master Abdul Aziz, a tailor by profession, held the holy Quran in his hand and said that they can touch the women only after they pass over his dead body and the holy Quran. The brutal killers did not spare him either.}+

**Then why this condition** of settlement of issue of accession by reference to the people and what was the basis for **Government of India to call the issue of accession a dispute as regards J&K when Maharaja Hari Singh Bahadur in his letter dated 26 Oct 1947 had clearly informed that the people of his State ( J&K) , both muslims and non muslims, had taken no part at all {were not by and large involved in the disturbed conditions as prevailed in the State at time in view of the aggression from across the borders along with the newly created Dominion of Pakistan } , remains unanswered**

#### **17 .Earlier the people of JK took Pakistan as an aggressor:**

New Delhi has done very very little to undo influence and campaigns of the anti accession elements . Rather a good **number** of people of other Indian states too do not that conceptually hold that firm to the trueness of the 1947 accession . It is more due to ignorance. They have been thinking that JK accession is a dispute between India and Pakistan where as in the earlier years the people of JK took Pakistan as an aggressor country. As on date there are / and have been cultivated many wrong conceptions amongst the people JK { particularly Kashmir Valley } about India / trueness of 1947 Accession.

Ofcourse more of the confusions about the 1947 accession of JK with India have been created by the manner in which the accession was accepted by Government of India on 27 Oct 1947 and the manner in which Jawahar Lal Jee Nehru { I regret the miseries of the people have forced me to name Nehru jee who otherwise is one of our most respected elders } treated the affairs of JK { Kashmir Valley in particular }, much different than other Indian princely states.

Surely so bad a handling of Jammu and Kashmir affairs has made people of JK to carry blood stain tears. Since June 2010 the Kashmir valley is emotionally bleeding { physical bleeding could be repaired with not much difficulty but the emotional / ideological bleeding / injuries are not that easy to repair. Indians go back slogans / banners are not a rare sight in Valley these days but those in government at New Delhi still name the reasons as lying in unemployment and economic needs. No doubt these parameters could assist the separatists to cultivate against India but seeing total reason in these is surely unwise thinking.

### **18. One Lakh families in exile for 20 years:**

The opinion makers do not even know that the State of Jammu and Kashmir in its true prospective. May be due to such approach adopted in past too, even some media men too get carried with the explanations and information that the separatists have been promoting over the years. The result has been that those people who considered JK as a truly acceded State with India are under the pressure of the separatists who appear to have made New Delhi to yield and are freely advocating against JK being Indian state. The state of affairs could be seen from the fact that nearly 1 lac families { Hindu and some non State Subject Muslims also } have migrated from Kashmir Valley and even after 20 years GOI has not set their return as priority number one. Why, no one appears to have questioned that forcefully.

The affairs need very serious and honest handling otherwise it is feared that very soon the religion based divisive ideologies may not inflict Jammu and Ladakh regions as well that have no less the people than Kashmir Valley and have instead many many times more area than Kashmir valley { Jammu region has nearly double the area of Kashmir valley and Ladakh Region has five times larger area than Kashmir Valley.

### **19. Another question still unanswered**

*Where as the letter dated 27 Oct 1947 from Governor General of India Lord Mountbatten to Maharaja Hari Singh has also over the years provided working grounds to separatist organizations like Jammu & Kashmir Liberation Front and others who have pleaded against totalness of 1947 Accession Princely State of J&K with India..* The said letter has been used by anti India elements to term the accession as conditional, even temporary. Rather some say that Government of India had not totally accepted the Accession. And if so, has any where in the past New Delhi been questioned by Indian people for a conditional acceptance? *Is another question still unanswered.*

### **20. Mountbatten was a close family associate of Nehru :**

**Any how from technical angles, the accession of a Princely State had to be executed in reference to Government of India Act 1935 and Indian Independence act 1947. But the wisdom of Lord Mountbatten the Governor General of India had adjudged the issue of Accession of J&K as a Dispute. Mountbatten was also a close family associate of Pt Jawahar Lal Nehru, the Prime Minister of India.** Mountbatten could not on his own lay down such condition. **Maharaja Hari Singh after thoughtful consideration** and apparently prolonged deliberations with his nears, dears, advisors and men of confidence had taken decision to accede with Dominion of India. *Where as government of India had no logical reason or any special / social authority or any provision of Law or any valid justification for not accepting the Accession or to accept it conditionally.*

Then whose choice or will had prevailed? **Even if it is assumed that Government of India ( after Independence) still wanted to act as per her own wishes inspite of there being no provision/ directions like this in Indian Independence Act 1947, why did GOI wish like this and made the acceptance of the Accession to look like a Conditional one. ?** Sardar Vallbh Bhai Patel, the Dy Prime Minister, was against it. Dears of Nehru could well be questioned even now. *Mountbatten could surely not lay down this condition on his own. Although such a question may be disposed by some as saying that what the Governor General wrote in his letter of 27 Oct 1947 was*

*not the part of instrument accession and more over there is no written acceptance of alleged conditional acceptance from the Prince signing the instrument of accession in terms of the condition / clause 4 and 5 in particular of the Instrument of Accession .It could also be said that no such modification had been made to the provisions of the Govt of India Act 1935 by the Governor General in terms of the provision of Indian Independence Act 1947 till 15 August 1947 { or even upto 26 Oct 1947}.. But now since much time has been lost , the questions and demands can not be so simply disposed off on the basis of technicalities . The facts, though late, shall have to be taken to the common people to undo the conceptual deformation done by the anti India / anti accession elements.*

### **21. Separatists Quote and use :**

Those who advocate negation of Instrument of accession or / and ask for ascertaining the choice of People of Jammu & Kashmir under the supervision of some independent agency also quote the condition laid down in the letter of Mountbatten ( GGOI) . **They contest that the said letter had become part of Instrument of Accession .In this regard it has to be also kept in mind that as per the terms and conditions laid down in the Instrument of Accession signed by Maharaja any amendment to the terms of Instrument had to have the consent of the Maharaja .** Therefore , even this demand could be argued that for a conditional accession the consent of the Maharaja Hari Singh was must and since it was not obtained , the letter has no significance. Maharaja had not made any conditional accession. Hence technically the Accession of J&K with Indian Dominion has been surely there *and those asking for right of self determination in the context of political and national status of J&K have to first call for secession of J&K from Union of India and may be even undoing the Indian Independence Act of British Parliament as of 1947. Ofcourse the same Acts had given the Princes of Princely States a sole right to decide on accession to either of the dominions i.e Independent Dominion of India and new dominion of Pakistan.* But unfortunately since the affairs have not been properly handled by New Delhi , the separatists and others have been able to seek the assistance of the letter of Mountbatten for carrying their message to outside world. *Any contest has to be on technical grounds . But it is also hard reality that the secessionists have been able to sow seeds of distrust against the 1947 Accession of J&K with India even without having any technical reasons for nullifying Accession.*

**Greatest tool with secessionist to make world community listen to them has been the letter of 27<sup>th</sup> October 1947 of Nehru's friend Mountbatten that made the accession to look temporary and some speeches of Nehru immediately thereafter asserting fulfillment of promise made for reference of the issue of accession to people.**

### **22.Nehru did not want take any chance :**

May be Nehru feared ( he appeared to fear ) that Hari Singh would use the provisions of Independence Act and deny opportunity to Sheikh Abdullah to become head of the democratic government in State. **Hence under the circumstances in hand today India can not so easily brush aside the acts of Mountbatten and Nehru that have provided ink to the drafts of demands of separatists and Pakistan to draft petitions against India. These have to be exposed and nullified before the common people of Kashmir as well as the international community rather sleeping over the requirement. Rather wrongs have to be explained to common man of Kashmir valley and international community, rather even to people of other Indian states as well..** People of J&K , in particular, have paid enough price for the mistakes of New Delhi in terms of some loss to communal harmony, mutual trust, disturbed conditions, loss of blood and property of innocent subjects right from 1947. And above all billions of rupees sent to JK by new Delhi as extra special assistance too have gone into the drains and could not win the trust of the people Kashmir Valley. **Let there be no political gamesmanship now.** Indian politicians should not be allowed to cement the bricks of their Delhi thrones with gimmicks over so called Kashmir affair.

### **23. Political Activism and Jammu and Kashmir :**

**I would also beg to make here some reference to the conditions as prevailed in J&K as well as in British India after 1930 . The need is felt by me to paint some picture about the local politics in J&K as well as the circumstances and the environment that might have been influencing the decision making by the then Ruler of J&K, Maharaja Hari Singh , as regards accession to India or Pakistan or to stay neutral before 15 August 1947 or even there after..**

The partition of Bengal { British India } in 1905 and the performance of Agha Khan deputation in 1906 and subsequent formation of Muslim League in British India and introduction of separate electorates for muslims in 1909 were calculated steps of British in dividing the strength of movement for Indian independence. Since J&K was a muslim majority state under Hindu Maharaja who was proving to be inconveniently independent and patriotic { pro independence of India } , the British decided to make the conditions difficult for Maharaja Hari Singh. Direct and indirect methods of confrontations were conceived. **. In 1924 a memorandum was got architected for presentation to Viceroy Lord Reading during his visit to Kashmir Valley demanding rights to peasants, services for more muslims, better facilities for education, against beggar, etc . In September 1925 Maharaja Hari Singh rose to the throne. Then followed another slogan ” Kashmir for Kashmiries ” under the leadership of Shankar Lal Koul demanding provisions / laws / policies like placement of educated sons of soil in government service, ban on sale of land to outsiders, freedom of press, freedom of association and elected legislature to voice the views on affairs of the State ; and the result was State Subject Law of 1927.**

**Sheikh Mohd Abdullah was a wise active concerned local muslim youth with post graduate degree who got appointment as a teacher. He joined a local “reading room group” / a local youth club in Srinagar that later formed All J&K Muslim Conference { 1930 }. Some local muslims { muslim dominated Srinagar } and some from Mirpur/ Poonch provided the starting point. J&K Muslim Conference began as religio political movement of Muslims .Its activities were later aimed particularly against Hindu Maharaja Hari Singh. Some Mullahs also joined the anti Maharaja/**

Hindu propaganda .The muslim masses of Kashmir valley , in general, were innocent, large majority was not educated /were illiterate and were firm believers of their religion ; so they could be easily carried by co religious fellowmen/ local leaders who had influence on their local life/ activities **Hence mainly Kashmir valley and some parts of Jammu province allegedly saw anti Dogra Raj/ Hindu Muslim tension in June 1931. On 13 July In 1931 demonstration against Govt/ Maharaja was held outside Srinagar jail where trial of a muslim agitator was going on and 21 persons died in police firing.** An inquiry commission was appointed under the chairmanship of B. J. Glancy ( political department Government of India ) with 4 members from J&K and Maharaja was almost forced to accept a number of British Officers. **Glancy Commission report ( 1934) had to be accepted in toto by Hari Singh to the extent that even undergraduate Muslim applicant were to be preferred to a graduate Hindu for recruitment in State services.**

Sheikh Mohd Abdullah had gained leads in Muslim Conference ,an organization originating from a reading room party / social group for the welfare of local Kashmiri muslims. **Sheikh had made up his mind some where in 1937 to seek the political support of Indian National Congress that had won 8 out of 11 British Indian Province elections ( including Muslim dominated NWFP) for his movement against the Dogra Raj. Muslim League had secured only one of 90 seats in Punjab Legislature. So for window dressing it was in 1938 that Sheikh Abdullah decided to open the doors of Muslim Conference for Hindu (all ) as well . He moved a resolution in the WC meeting of JK Muslim Conference on 28 June 1938 at Sopore for making recommendations to the General council for making the change and the same was carried through although his colleagues Bakshi Gulam Mohammad and GM Sadiq are said to have opposed it . It was on 11-06-1939 that Muslim**

Conference was renamed as All J&K National Conference {NC}.. **Party decided to work for the welfare and political rights of all the subjects of J&K irrespective of caste, creed, and religion.** . A number of senior Muslim leaders from Kashmir Valley and some from Jammu region were against the proposal of Sheikh Abdullah Some Muslims of Jammu and Mirpur/ Poonch / Muzaffarabad refused to follow Sheikh in 1939 and held back the banner of Muslim Conference predominantly in Jammu, Mirpur, Poonch and Muzaffarabad. NC did not find much acceptance in Jammu. The main leadership of Muslim Conference after 11-06-1939 passed into the hands of Punjabi speaking Muslims like Chaudhary Gulam Abbas and Sardar Mohamad Ibrahim. It continued its work in Kashmir under the leadership of Maulvi Mohammad Yusuf, the priest of Srinagar. Maulvi's Party was nick named as *bakra {goat} party* and Sheikh's party as *sher {loin} party*. **The present day Awami Action Committee of Maulvi Farooq could be said as a new version of Muslim Conference in Kashmir** {the objective of the party was the welfare and upliftment of Muslims of Kashmir valley only}..

**In 1940 Jawahar Lal Nehru and Khan Abdul Gaffar Khan** visited Kashmir and encouraged National Conference . At that time Muslim League was the main emerging principal political party in British India along with Indian national Congress. Indian leaders were well received by the National Conference cadres in Kashmir.. Muslim League too had by that time obtained recognition and patting from the British. This was the turning point of *political career of Sheikh Abdullah and his "Freedom movement"*. It was in 1941 that J&K National Conference joined All India States Peoples Conference { AISPC } and Sheikh Abdullah came more close to Nehru and Indian National Congress.

.NC started working in association with AISPC. Abdullah came closer to INC. It was on August 9, 1942 that Congress adopted a resolution for Quit India movement against the British Raj. National Conference working committee also passed an official resolution supporting Quit India Movement. But to the surprise of many in India National Conference celebrated 23 rd August 1942 as KASHMIR National day. At that time no one could imagine that this would follow with a Quit Kashmir call by National Conference in May 1946. No doubt this quit Kashmir call was later explained by Sheikh Abdullah and his men to be against the Prince of Jammu and Kashmir as part of Quit India movement. *Quit Kashmir call was in way a game plan that indirectly suggested that Sheikh Abdullah wanted that on Hari Singh acceding to India , local government should be handed over to National Conference by the Maharaja like British was to do with Congress in India.*

Mohd Ali Jinnah also visited Kashmir Valley in June 1944. Publicly Jinnah said he was on a private visit due to health reasons. But he was on a political mission. Jinnah did not receive any favourable response from All J&K National Conference. Where as August 1945 session of NC at Sopore had Jawahar Lal Nehru, Abdul Gaffar Khan and Maulana Azad as special invitees. It was in this session that Sheikh Abdullah spelt his concept of Naya Kashmir. Sheikh Abdullah declared before Nehru and Azad that the future and independence of J&K was inextricably linked with future and independence of India. Even then **Sheikh Abdullah did not give any hint for his Quit Kashmir call that could followed in 1946. May be privately he had shared his intentions with Nehru. This later became the cancerous irritant for Maharaja Hari Singh , more after extreme support was extended to Sheikh Abdullah.**

#### **24. Quit Kashmir Call of Sheikh Abdullah was not that fair :**

It was the quit Kashmir call of Sheikh Abdullah that had not been rightly addressed / responded by Congress. And now even in 2010 the same is being quoted by his men in power seat as a principled opinion that the Kashmiries carried before 1947. I would hence briefly discuss the Treaty of Amritsar 1946 March under which Kashmir valley was transferred to Maharaja Gulab Singh, the then Prince of Jammu/ Poonch/ Kishtwar/ Ladakh/ Baltistan/ Gilgit etc. {Treaty of Amritsar ,March 16, 1846 ::: A treaty between the British Government on the one part and Maharajah Gulab Singh of Jammu on the other concluded on the part of the British Government by Frederick Currie, Esq. and Brevet-Major Henry Montgomery Lawrence, acting under the orders of the Rt. Hon. Sir Henry

Hardinge, G.C.B., one of her Britannic Majesty's most Honorable Privy Council, Governor-General of the possessions of the East India Company, to direct and control all the affairs in the East Indies and by Maharajah Gulab Singh in person – 1846 } Reads Article 1 <Article 1 The British Government transfers and makes over for ever in independent possession to Maharajah Gulab Singh and the heirs male of his body all the hilly or mountainous country with its dependencies situated to the eastward of the River Indus and the westward of the River Ravi including Chamba and excluding Lahol, being part of the territories ceded to the British Government by the Lahore State according to the provisions of Article IV of the Treaty of Lahore, dated 9th March, 1846.> Article 2 reads <The eastern boundary of the tract transferred by the foregoing article to Maharajah Gulab Singh shall be laid down by the Commissioners appointed by the British Government and Maharajah Gulab Singh respectively for that purpose and shall be defined in a separate engagement after survey.>. and Article 3 Reads < In consideration of the transfer made to him and his heirs by the provisions of the foregoing article Maharajah Gulab Singh will pay to the British Government the sum of seventy-five lakhs of rupees (Nanukshahee), fifty lakhs to be paid on or before the 1st October of the current year, A.D., 1846. >. This article explicitly negates all those who say that Gulab Singh had purchased Kashmir valley from the British where as the fact is that Raja Gulab Singhs territories of Jammu, Poonch, Kishtwar, Ladakh , Gilgit , even Baltistan and the governor of Kashmir Valley was under the Suzerainty Punjab Sikh Empire {also called Lahore State} that had fallen before the British and the defeated Sikh Empire had ceded to the British Government b under the provisions of Article IV of the Treaty of Lahore, dated 9th March, 1846 suzerainty of these areas / compensations for the battle. Under the Amritsar treaty the British India Government recognized as independent Maharaja out side the Lahore State and hence Kashmir Valley also became part of Dogra Raj, Princely State of Jammu and Kashmir appeared. No doubt some ministers / advisors in Lahore Darbar of Dhuleep Singh was envy to the influence of Gulab in Lahore Darbar so proposed to surrender some parts under the influence of Sikh Empire including Kashmir Valley territories/ some areas of Gulab Singh to the British expressing inability to pay the war compensation demanded / imposed by British Raj . So had come the Amritsar treaty with Gulab Singh who had very close / cordial relations with British Raj. He had earned the British appreciation in operations in Afghanistan. A part of text from Lahore Treaty of 9 March 1846 bet the [East India Company](#) and, for the Sikhs, by the seven year old [Maharaja Duleep Singh Bahadur](#) would be quite revealing here :::a < Article 1. There shall be perpetual peace and friendship between the British Government on the one part and Maharajah Dhuleep Sing, his heirs and successors on the other. ....Article 3. The Maharajah cedes to the Hon'ble Company, in perpetual sovereignty, all his forts, territories and rights in the Doab or country, hill and plain, situated between the Rivers Beas and Sutlej.Article 4. The British Government having demanded from the Lahore State, as indemnification for the expenses of the war, in addition to the cession of territory described in Article 3, payment of one and half crore of Rupees, and the Lahore Government being unable to pay the whole of this sum at this time, or to give security satisfactory to the British Government for its eventual payment, the Maharajah cedes to the Honourable Company, in perpetual sovereignty, as equivalent for one crore of Rupees, all his forts, territories, rights and interests in the hill countries, which are situated between the Rivers Beas and Indus, including the Provinces of Cashmere and Hazarah.....Article 5. The Maharajah will pay to the British Government the sum of 60 lakhs of Rupees on or before the ratification of this Treaty. I hope these quotes would settle some misunderstandings.

Similarly it is not wise to accept some actions / compositions / orders of the British and reject the others. The British was a foreign power that had unduly and un legitimately encroached upon the lands and rights of the people of Indian sub continent. Indian people have every right to undo and reject the “destiny” as was written for India by the British parliament. But for the sake of peace in the sub continent and welfare of their own people , the people of Indian sub continent { India / Bharat in Particular } of 1940s { 1945 to 1947 } had even accepted the judgments written by those who had been the aggressors. No doubt if the Indian history is seen and felt from the near it can be inferred that the Indian people exercised a very special type of democracy while the Monarchs

ruled India. So every Indian has right to profess / chose for a governing system of his choice but no one has any right to disintegrate the territories of India. And in case any one dares to do so then the Parliament of India has all powers / responsibilities to nullify any provision or amend any provision that can be used against the Nation .Those who attempt going to the extent of pleading against India before foreign countries need be treated under the law they deserve.

## **25 Cabinet mission plans, Accessions, Instrument of Accession:**

I shall just draw the attention to a few of the records that are related to independence of British India, preparations before passing of Indian independence act , exercise done by British for peaceful transition and facilitating entering in to some relationship by the Freed Princes with the Indian Dominion / Pakistan Dominion / Staying outside on interim basis / permanent basis till the Dominions / Princes draw out their own constitutions / policy of governance { particularly as regards the Princely States after the Crowns cover / Paramountcy would not be available to the Princes in practice }. So , those who contest that the Indian Independence 1947 lays down that Princely States will have to / or can accede to either dominion only for three subjects had made / are making over statement. The Indian independence Act 1947 of British parliament no where said like this. No doubt as said earlier by me in view of the time and circumstances in hand the best immediate path that was suggested / taken was that the acceding states that did not decide immediately for total merger decided for in a way accepting the paramountcy of the either dominion for three subjects that earlier the Crown handled to avoid crisis and misgovernance as immediate measure. It need be appreciated that [Sir Cyril Radcliffe](#) who got hardly 6 weeks to decide final boundaries for new Dominion of Pakistan to be carved out from from British India { commonly understood as Radcliffe Line} before 15 Aug 1947, could not complete the exercise about the future of the Gurdaspur District of East Punjab.

**In 1927 the British proposed a Constitution for India on the recommendations of the [Simon Commission](#) . No success was obtained.** The election of [Ramsay MacDonald's Labour](#) government in [1929](#) aroused new hopes for progress towards self-government in India. Gandhi traveled to London. The fall of the Labour government in 1931 weakened the hopes. **The British for the first time proposed in the 1935 [Government of India Act](#), to hand over substantial power to elected Indian provincial legislatures, with elections to be held in [1937](#).** After the elections the League took office in Bengal and Punjab with Jinnah again taking over the reins. Congress won office in most of the other Indian states. **At a League Conference in [Lahore](#) in 1940, Jinnah said: “Hindus and the Muslims belong to two different religions, philosophies, social customs and literature”.**

The world economic order changed of 2<sup>nd</sup> World War .By 1946 the British had neither the will, nor the financial or military power, to hold India any more.

Early in 1946, the Labour Government in Britain dispatched an all-party parliamentary delegation { also known as Cabinet Mission } to India to meet Indian leaders to stress the British desire for an early settlement of the Indian constitutional issue. The [British Cabinet Mission](#) of [1946](#) to [India](#) aimed to discuss and finalize plans for the transfer of power from the [British Raj](#) to Indian leadership, providing India with independence under [Dominion](#) status in the [Commonwealth of Nations](#) . Britain's Prime Minister, [Clement Attlee](#), sent the mission to India ( three Cabinet Ministers, Lord Pethick-Lawrence. Sir Stafford Cripps and Mr. A. V. Alexander ). The mission arrived on March 24, 1946. The Mission purpose was: A.. Hold preparatory discussions with elected representatives of [British India](#) and the Indian states in order to secure agreement as to the method of framing the constitution. B .Setting up of a constitution body. C. Setting up an Executive Council with the support of the main Indian parties. The negotiations were conducted on behalf of the Congress by Abul Kalam Azad assisted by Nehru and Patel. Gandhi . The negotiations were bogged down on the basic question whether India was to remain united or to be split up to satisfy the Muslim League's demand for Pakistan. The Congress opposed to the partition of the country.

**The Cabinet Mission also presented a \*\*Memorandum on States Treaties and Paramountcy**

**to His Highness the Chancellor of the Chamber of Princes { Nawab of Bhopal} on 12 May 1946 . The brief from the text said :: 1. Prior to the** recent statement of the British Prime Minister in the House of Commons an assurance was given to the Princes that there was no intention on the part of the crown to initiate any change in their relationship with the Crown or the rights guaranteed by their treaties and engagements without their consent. ....The Chamber of Princes has since confirmed that the Indian States fully share the general desire in the country for immediate attainment by India of her stature. His Majesty's Government have now declared that if the successor Government or Governments in British India desire independence , no obstacle would be placed in their way. The effect of these announcements is that all those concerned with the future of India wish her to attain independence within or without the British Commonwealth . The delegation has come here to assist in resolving the difficulties which may stand in the way of India fulfilling this wish....**2. During** the interim period , which must elapse before the coming into operation of new constitutional structure under which British India will be independent or fully self governing , the paramountcy will remain in operation. But British Government could not and will not in any circumstances transfer paramountcy to an Indian Government...3.....4.....5. When a new fully self governing or independent government or Governments come into being in British India, His Majesty's Government 's influence with these Governments will not be such as to enable them to carry out the obligations of paramountcy. Moreover , they cannot contemplate that British troops would be retained in India for this purpose. Thus, as a logical sequence and in view of the desires expressed to them on behalf of the Indian States, **His Majesty's Government will cease to exercise the powers of paramountcy. This means that the rights of the States which flow from their relationship to the Crown will no longer exist and all the rights surrendered by the states to the paramount power will return to the States. Political arrangements between States on one sides and the British Crown and British India on the other will thus be brought to an end . The void will have to be filled either by the States entering into a federal relationship with successor Government or Governments in British India , or failing this, entering into particular political arrangements with it or them.**

**Cabinet Mission proposed Plan of 16 May 1946 ( Promulgated on [May 16, 1946](#), the plan to create a united dominion of India as a loose [confederation](#) of provinces came to be known its date of announcement: 1.A united Dominion of India would be given independence. 2 Muslim-majority provinces would be grouped – [Baluchistan](#), [Sind](#), [Punjab](#) and [NWFP](#) would form one group, and [Bengal](#) and [Assam](#) would form another ([Assam](#) was a [Hindu](#)-majority province, while both Punjab and Bengal consisted of large populations of Hindus and [Sikhs](#)). 3 Hindu-majority provinces in central and southern India would form another group. 4 The Central government would be empowered to run foreign affairs, defence and communications, while the rest of powers and responsibility would belong to the provinces, coordinated by groups.**

**Cabinet Mission Proposed Plan of 16 June 1946 (An alternative plan proposed on [June 16, 1946](#) was to arrange for India to be divided into Hindu-majority India and a Muslim-majority [Pakistan](#). The [princely states of India](#) would be permitted to accede to either dominion or attain independence ). Though not immediately accepted , this plan proved very near to the final settlement later.]**

**When talks nearly broke down , Attlee sent [Earl Mountbatten](#), India's last Viceroy, to negotiate the partition of India for early withdrawal of British.**

From all technical angles the Accession of J&K as of 1947 with Indian dominion is complete and legitimate. Under the Indian Independence act Prince of J&K was the only designate authority to decide for Accession or otherwise and Maharaja Hari Singh unconditionally acceded to Dominion of India and also initiated for a duly elected Constituent Assembly where in all the 75 National Conference leaders got elected. Though not required as per the instrument of Accession signed by the Prince of J&K , still the Constituent assembly also confirmed (6-2-1954) the accession with India..

The separatists / votaries of conditional accession do plead that J&K can not be compared with other Princely States that acceded with India. Some have also succeeded in carrying untruthful message that the Instrument of accession signed by Maharaja Hari Singh was special one and unlike other States it was only for three subjects. They have also succeeded in carrying this message to innocent masses in Kashmir valley and outsiders professing simultaneously against trueness of 1947 Accession. They have taken decades , so India too will have to work for undoing the anti accession ideology and convictions that might have { in fact have } registered confusions, misunderstandings or / and protests in the minds of people of J&K in general and Kashmir Valley in particular. Where as the fact was the structure and the text and the spirit of the instrument of accession used by almost all princely states that acceded India dominion was the same

**I shall produce here some relevant portions from the Address by Lord Mount Louis Mountbatten < Representative of the British Crown > to a Special Full Meeting of the Chamber of Princes on 25 July 1947 :::" ...It took two years to separate the province of Orissa from Bihar. Gentlemen , we decided that in less than two and half months we shall have to go through the partitioning of one of the biggest countries in the world with 400 million inhabitants. There was a reason for the speed . I was quite certain that while the British over lordship remained no satisfactory conclusion could be reached psychologically between parties . So once we got the two governments set up and separated , they would be able to try and finish out the details in an atmosphere of goodwill. Now the Indian Independence Act releases the States from all their obligations to the Crown. The States will have complete freedom... technically and legally they**

become independent..... The first step was to set up some machinery by which it was possible to put the two future Governments of India .. The Dominion of India and Pakistan... into direct touch with the States. So I conceived the scheme of setting up two States departments with in the future Governments. ... the States Departments are to take over those subjects gradually which have nothing to do with paramountcy but which will be concerned with relations with neighbouring States and also provide the machinery to negotiate in such matters. In India States Department is under the admirable guidance of Sardar Vallhbhai Patel with my own Reforms Commissioner, Mr. V. P. Menon, as Secretary. In Pakistan the department is under Sardar Abdur Rab Nishtar with Mr. Ikramullah as Secretary. .... But when I say that they are at liberty to link up with either of the Dominions, may I point out that there are certain geographical compulsions which can not be evaded? **Out of some thing like 563 States, the vast majority are irretrievably linked geographically with the Dominion of India.** The problem therefore is of the greater magnitude with the Dominion of India than it is with Pakistan. In case of Pakistan++ the states though important are not so numerous, and Mr. Jinnah the future GG of Pakistan, is prepared to negotiate the case of each State separately and individually. **But in the case of India where the overwhelming majority of States are involved, clearly separate negotiations with each State is out of question.** . *The first step that I took was to suggest that in the Bill before Parliament ...the Indian Independence Act... a clause should be put which would enable certain agreements to continue until renounced by either side. That was only done to ensure that there should be some continuity if in short time available it was not possible to get the agreement through with every State representative. It does not replace the need for stand still agreement. ; it gives a small breathing time.* ..... Now I say it is no exaggeration to say that most Rulers and Dewans were apprehensive as to what be when paramountcy lapsed. .... You can imagine how relieved I was, and I am sure you will yourself have been equally relieved, when Sardar Vallhbhai Patel on taking over the States Department made, if I may say so, a most statesmanlike statement of what he considered were the essentials towards agreement between the States and Dominion of India. Let us turn for one moment to the Cabinet Mission of 16 May 1946. In this Plan the proposal was that the States should surrender to the Central government three subjects..Defence, External Affairs and Communication. That was a plan, that to my belief every Ruler and State accepted as reasonable, fair and just. .... Therefore . I am sure you will agree that these three subjects have got to be handled for you for your convenience and advantage by a larger organization...**The draft Instrument of Accession which I have caused to be circulated as a basis for discussion { and for publication} to the representatives of the States provided that the States accede to the appropriate Dominion on three subjects only without any financial liability...But I must make it clear that I have still to persuade the Government of India to accept it...:::** But many may be surprised to learn that that New Delhi has not been able carry the fact down to people that the draft instrument of accession proposed all the Princely States had the same subjects and text. [++ +The Princely States that joined / acceded Pakistan were very less in number . Some of them were not more than small Jagirs. The states that could be listed are [Amarkot \(Umerkot\)](#) in [Sindh](#) Pakistan {also known as Rana Jagir population 12000, Amarkot Ranas extended assistance Mughal Humayun when he was escaping the Afghan Sher Shah Suri, it is said that it became the birthplace of Akbar}, [Amb](#) (Tanawal state) Pakistani [Frontier state](#) , [Baltistan](#) (western Tibetan kingdom, since 1840 subject to Kashmir) in Pakistan occupied, [Chitral](#) Pakistani Frontier State , [Dir](#) (Dhir) Pakistani Frontier State , [Hunza](#) Pakistani Frontier State, [Kalat](#) in Pakistani Baluchistan ,[Khairpur](#) in Pakistan ,[Kharan](#) in Pakistani Baluchistan ,[Las Bela](#) in Pakistani Baluchistan ,[Makran](#) in Pakistani Baluchistan ,[Swat](#) Pakistani Frontier State ;: [Bahawalpur](#),++].

## 26 Indian complaint to security Council :

Over the years Pakistan and the anti India forces have succeeded in describing the Indian complaint in United Nations security council as a dispute between India and Pakistan or for some as dispute between the Kashmiries and new Delhi or for some a dispute regarding 1947 accession of JK with India.. All this has happened also due to wrong handling, unwise documentation and insincere

attitude of Indian leaders towards the National issues { Indian dominion interests }. A dispute has been got registered at international levels out of no dispute by anti India / anti 1947 accession elements.. And it is Kashmir / J&K dispute

New Delhi failed on many counts. To quote let me draw the attention to the text of *Letter Dated 1 January, 1948, from the Representative of India to the President of the Security Council (S/628) submitted telegraphically* **Para {2} reads** ::::: “ From the middle of September 1947, the Government of India had received reports of the infiltration of armed raiders into the western parts of Jammu Province of the Jammu and Kashmir State; Jammu adjoins West Punjab which is a part of the Dominion of Pakistan. These raiders had done a great deal of damage in that area and taken possession of part of the territory of the State. On 24 October, the Government of India heard of a major raid from the Frontier Province of the Dominion of Pakistan into the Valley of Kashmir. Some two thousand or more fully armed and equipped men came in motor transport, crossed over to the territory of the State of Jammu and Kashmir, sacked the town of Muzaffarabad, killing many people, and proceeded along the Jhelum Valley road towards Srinagar, the summer capital of the Jammu and Kashmir State. Intermediate towns and villages were sacked and burnt, and many people killed. These raiders were stopped by Kashmir State troops near Uri, a town some fifty miles from Srinagar, for some time, but the invaders got around them and burnt the power house at Mahora, which supplied electricity to the whole of Kashmir “ **Para {4} reads** :::. “ **Immediately after the raids into the Jammu and Kashmir State commenced, approaches were informally made to the Government of India for the acceptance of the accession of the State to the Indian Dominion.** (It might be explained in parenthesis that Jammu and Kashmir form a State whose ruler, prior to the transfer of power by the United Kingdom to the Dominions of India and Pakistan, had been in treaty relations with the British Crown, which controlled its foreign relations and was responsible for its defence. *The treaty relations ceased with the transfer of power on 15 August last, and Jammu and Kashmir like other States acquired the right to accede to either Dominion.*) . **Para { 5} reads**.. Events moved with great rapidity, and the threat to the Valley of Kashmir became grave. **On 26 October, the ruler of the State, His Highness Maharaja Sir Hari Singh, appealed urgently to the Government of India for military help. He also requested that the Jammu and Kashmir State should be allowed to accede to the Indian Dominion. An appeal for help was also simultaneously received by the Government of India from the largest popular organisation in Kashmir, the National Conference, headed by Sheikh Mohammed Abdullah. The Conference further strongly supported the request for the State’s accession to the Indian Dominion.** *The Government of India were thus approached not only officially by the State authorities, but also on behalf of the people of Kashmir, both for military aid and for the accession of the State to India.* **Para {6} reads**” . The grave threat to the life and property of innocent people in the Kashmir Valley and to the security of the State of Jammu and Kashmir that had developed as a result of the invasion of the Valley demanded immediate decision by the Government of India on both the requests. **It was imperative on account of the emergency that the responsibility for the defence of the Jammu and Kashmir State should be taken over by a government capable of discharging it. But, in order to avoid any possible suggestion that India had utilised the State’s immediate peril for her own political advantage, the Government of India made it clear that once the soil of the State had been cleared of the invader and normal conditions restored, its people would be free to decide their future by the recognised democratic method of a plebiscite or referendum which, in order to ensure complete impartiality, might be held under international auspices.**

Through the text of this letter { Indian Complaint of 1<sup>st</sup> January 1948 to UN SC} , which is self explanatory , I do not think Pakistan or Kashmiri separatists or even the votaries of conditional accession have not been provided enough material to throw challenges on India about the 1947 Accession that was otherwise with in and as per the provisions available..

**27. Indian independence Act too not well carried :**

Even the contents of the Indian Independence Act 1947 have not been properly carried to the people as regards the timing / circumstances of accession as well as the rights of the Raja / Maharaja/ Nawab of a Princely / Native State.. In this regard particular reference is drawn to Section 2, Section 5 and Section 7 of Indian Independence Act 1947 . Section {2} < Nothing in this section shall prevent any area being at any time included in or excluded from either of the new Dominions, so, however, that- (a) no area not forming part of the territories specified in subsection (1) or, as the case may be, subsection (2), of this section shall be included in either Dominion without the consent of that Dominion; and (b) .. area which forms part of the territories specified in the said subsection (1) or, as the case may be, the said subsection (2), or which has after the appointed day been included in either Dominion, shall be excluded from that Dominion without the consent of that Dominion. (4) **Without prejudice to the generality of the provisions of subsection (3) of this section, nothing in this section shall be construed as preventing the accession of Indian States to either of the new Dominions** > Section 5 < For each of the new Dominions, there shall be a Governor- The Governor- General who shall be appointee by His Majesty and shall represent General of His Majesty for the purposes-of the government of the Dominion ; the new Dominions. Provided that, unless and until provision to the contrary is made by a law of the Legislature of either of the new Dominions, the same person may be Governor-General of both the new Dominions.>. 7 SECTION < (1) As from the appointed day- (a) His Majesty's Government in the United Kingdom have no responsibility as respects the government of any of the territories which, immediately before that day, were included in British India ;(b) the suzerainty of His Majesty over the Indian States lapses, and with it, all treaties and agreements in force at the date of the passing of this Act between His Majesty and the rulers of Indian States, all functions exercisable by His Majesty at that date with respect to Indian States, all obligations of His Majesty existing at that date towards Indian States or the rulers thereof, and all powers, rights, authority or jurisdiction exercisable by His Majesty at that date in or in relation to Indian States by treaty, grant, usage, sufferance or otherwise , and (c) there lapse also any treaties or agreements in force at the date of the passing of this Act between His Majesty and any persons having authority in the tribal areas, any obligations of His Majesty existing at that date to any such persons or with respect to the tribal areas, and all powers, rights, authority or jurisdiction exercisable at that date by His Majesty in or in relation to the tribal areas by treaty, grant, usage, sufferance or otherwise. *Provided that, notwithstanding anything in paragraph (b) or paragraph (c) of this subsection, effect shall, as nearly as may be, continue to be given to the provisions of any such agreement as is therein referred to which relate to customs, transit and communications, -posts and telegraphs, or other like matters, until the provisions in question are denounced by the Ruler of the Indian State or person having authority in the tribal areas on the one hand, or by the Dominion or Province or other part thereof concerned on the other hand, or are superseded by subsequent agreements.* (2) The assent of the Parliament of the United Kingdom is hereby given to the omission from the Royal Style and Titles of the words " Indiae Imperator " and the words " Emperor of India " and to the issue by His Majesty for that purpose of His Royal Proclamation under the Great Seal of the Realm.>. **It could be inferred { particularly in view of Section 7 that the right of the Prince of Jammu and Kashmir has not been honoured by the then Government of Independent India Dominion.**

### **28.Stand Still Agreement:**

In view of the local political irritants and circumstances in hand like the delayed Radcliffe award on the east Punjab and West Punjab { West Pakistan} boundaries , it was on 12-08-1947 that Maharaja of J&K decided to negotiate { for the time being } a standstill agreement with India & Pakistan. Government of India sent a telegram for Maharaja or his representative to visit Delhi for discussions. Where as Pakistan accepted and Stand Still agreement was formally signed with Pakistan on 18-08-1947. Pakistan was authorized to operate Kashmir posts and telegraph department. Pakistan was also obliged to supply food stuffs and other necessary items under the agreement. But conditions in J&K did not remain calm even after the Stand still agreement was signed by Pakistan, as per Maharaja Hari Singh Pakistan indirectly violated agreement. .

Section 7 of the Indian Independence Act 1947 too had provided ....” *Provided that, notwithstanding anything in paragraph (b) or paragraph (c) of this subsection, effect shall, as nearly as may be, continue to be given to the provisions of any such agreement as is therein referred to which relate to customs, transit and communications, -posts and telegraphs, or other like matters, until the provisions in question are denounced by the Ruler of the Indian State or person having authority in the tribal areas on the one hand, or by the Dominion or Province or other part thereof concerned on the other hand, or are superseded by subsequent agreements”.*

### **29. Sheikh Abdullah pledged loyalty :**

Under pressures **from** the Government of Jawahar Lal Nehru and undertakings /assurances from Sheikh Mohd Abdullah , he and most of his colleagues were released from jails on 29-09-1947 by Maharaja’s Government.. Sheikh Abdullah’s letter dated 26 September 1947 addressed Maharaja Hari Singh , among other things, said “ *Inspite of what has happened in the past , I assure Your Highness that myself and my party have never harboured any sentiment of disloyalty towards Your Highness’s person, throne or dynasty...I assure your highness the fullest and loyal support of myself and my organization.....Before I close this letter I beg to assure Your Highness once again of my steadfast loyalty and pray that God may grant me opportunity enough to let this country attain under your Highness’s aegis such an era of peace, prosperity and good government... ”* Later while addressing a mammoth public meeting at Hazuri Bagh, Srinagar on October 1, 1947, Sheikh Mohd Abdullah had made his views clear about the future of the state obvious when he said, “Till the last drop of my blood, I will not believe in two-nation theory” . Finding their designs on Kashmir not fructifying, Pakistan rulers allegedly launched / engineered / tailored a armed attack on Jammu and Kashmir to annex it.

### **30. May be Hari Singh would have done it earlier :**

**J&K State had the maximum confusions & ambitions / hopes** and fuel was added to the same by the extra favoritism NEHRU showed for Sheikh Abdullah to the annoyance of Maharaja Hari Singh . ***Hari Singh did have preference for India over Pakistan . But surely Maharaja did not relish handing over power to Sheikh Mohd Abdullah like the British was to hand over to Congress .May be Hari Singh would have settled before 15 August 1947 or even a month later with some other leader from NC if proposed by Indian leadership.*** One thing is sure that Jawahar Lal Nehru was very particularly rigid to simultaneously appoint Sheikh Abdullah as head of the Local State Administration ( Prime Minister) as a precondition to Dominion of Independent India accepting the Instrument of Accession (in case Maharaja went for that). . This was not agreeable to Maharaja and was also not in line with the policy of the All India State people’s Conference / INC as regards other Princely States ie. Responsible government under the aegis of the Ruler., This surely resulted in delayed accession for which discussions had started in 1946 itself. No “ logical” reason could be found by me to justify Nehru for his keeping special proposals for J&K, say Sheikh Abdullah only, even some thing like more the Prince of State.

The delay on the Part of Maharaja Hari Singh also provided about two months time to Mohd Ali Jinnah and his Pakistan to gain some oxygen and think of military action in Muslim majority Princely State of J&K or for playing the card of religion or both. Pakistan leadership had started since September 1947 sending Pakistanies across Jehlum/ from Rawalpindi to mix with locals and arouse their religious sentiments.

***Sensing differences between Nehru & Hari Singh Pakistan Government started offering attractive terms to Hari Singh for joining Pakistan , though he did not oblige Pakistan.*** Ofcourse after 15 August 1947 Hari Singh and his advisors ( including Ram Chand Kak, then PM of State ) had also started receiving suggestions on the available option of remaining outside of both the Dominions of India and Pakistan Changed circumstances around could prompt Hari Singh for option for independence as did also happen later with Sheikh Mohammad Abdullah. Maharaja Hari Singh had given geographical justifications for such proposals being under examination in his letter dated 26 Oct 1947 addressed to Mountbatten covering the instrument of accession as was

sent to GOI through V. P. Menon..

### **31. Sheikh Abdullah too feared ::**

Circumstances as emerged in J&K from August 1947 onwards landed both Maharaja and GOI in a puzzle where Sheikh Abdullah started appearing as a quiz master.

It appeared that Jawahar Lal Nehru still feared that Sheikh may not be removed by Maharaja later and for Nehru Sheikh's interest was more important than any thing else. Irritants were hence still kept in Kashmir that could deepen the confusions and aspirations floated since 1946 in the Quit Kashmir policy that Sheikh Abdullah announced ignoring leadership of Congress as well as All India States Peoples Congress.. *Sheikh too had some fears* in the minds regarding there being some possibilities ( may be remote) of democratic power going in the hands of some other leader / political group of J&K in case a regular democratic course was adopted for interim Government since Sheikh's National Conference had the Muslim Conference opposing it in Kashmir Valley, in Jammu Province the National Conference did not have much base and the Muslim leaders of Jammu, Poonch, Rajouri and other non Kashmiri speaking areas of J&K ( even in Kashmir Province) were also not unanimously in favour Sheikh's National Conference. *It was on 30th October 1946 that A.N. Vaid General secretary State Congress Committee wrote from Jammu to Sardar Vallab Bhai Patel ( as President Parliamentary Committee All India Congress Committee) that a joint meeting of NC/ Congress / Progressive Hindus was held and it was concluded that January 1947 elections to State Assembly in Jammu Province should be fought on Congress ticket since National Conference held little influence in Jammu Province and there were misgivings about NC as turncoat of Muslim Conference and NC has done very less ground work in Jammu and hence in case elections are fought on Congress ticket on a joint manifesto four Hindu seats out of 7 and one Mohamaden seat out of two will be won by Congress otherwise all will be lost*

### **32. Later Sheikh became a socio political problem for Nehru:**

It could be inferred from the events that earlier Jawahar Lal Nehru supported Sheikh Abdullah for personal reasons and later on Nehru supported Abdullah in view of the situations that emerged due to delays and confusions before and after the 26<sup>th</sup> October 1947 accession . **Sheikh Mohd Abdullah was nearly open in his objectives. He worked for the common Kashmiri and won legitimate support. From a social activist he turned into a political leader . He had his own concepts and targets.** He understood that the *question of application of two national theory based on religion did not have any lawful sanctity as regards the Princely State of J&K..Partition of India on religious lines was not to cover the state of J&K..* Sheikh Mohd Abdullah was surely not in favour of Mohd Ali Jinnah's Muslim League. He expressed his thinking openly in 1946 when he questioned the Kashmir agreement that the British India had entered with Maharaja Gulab Singh in 1846. He wanted the Maharaja Hari Singh to also surrender his rights over Kashmir with the retreat of British on 14-08-1947 and transfer of power to National Conference in Kashmir as it was to be for Congress in India. . Ofcourse Sheikh had said plain no to Pakistan. Sheikh Abdullah did not accept a status like other princely states for Kashmir . Till then he was bold enough to call himself an Indian, but a special Indian.

### **33. Pakistan violates stand still agreement**

**Pandit Ram Nath Kak, Maharaja's Prime Minister, was relieved of his responsibility in Oct 1947. On Oct 15 – Justice Mehar Chand Mahajan took over as the Prime Minister of Jammu and Kashmir. And on 18 Oct Maharaja's Government, through a telegram to Pakistan Prime Minister, protested against the violation of Standstill Agreement by Pakistan. Pakistan, though entered into Standstill Agreement, had an eye on Jammu and Kashmir. Before the Prime Minister of Maharaja Mr. Mehar Chand Mahajan could visit New Delhi for discussions regarding Stand Still Agreement J&K was openly invaded by infiltrators { tribes men from North West Frontier Province of West Pakistan } violating borders adjoining Pakistan on 21 October 1947. Even National Conference appealed to Pakistan not to precipitate**

matters . In policy Sheikh Abdullah and his party rejected any possibility of accession with Pakistan since it attacked Kashmir and the very basis of birth of Pakistan was against the principles of NC. Sheikh Mohd Abdullah had made his views clear about the future of the state obvious when he said, “Till the last drop of my blood, I will not believe in two-nation theory”

#### **34 .India did not immediately extend military help :**

Maharaja had been requesting India for supplying Petrol and Ammunition on payment basis.. Sheikh Abdullah also flew to New Delhi in October 1947 and appealed to Indian Cabinet to dispatch armed forces to help Maharaja’s forces for expelling the invaders. Maharaja appealed to India for military help on 24-10-1947 and 25-10-1947. *A defence Committee headed by Mountbatten considered the request of Maharaja Hari Singh for supply of Arms and ammunition on 25-10-1947. But the Indian Cabinet was of opinion that it could not send troops to Srinagar unless J&K acceded to India.* The invader forces, allegedly let loose by Pakistan on the State , were marching on with the aim of capturing Srinagar, the summer capital of his government, as a first step to overrunning the whole State.

#### **35.Menon did succeed in making Hari Singh a little soft .:**

*It was on 25-10-1947 that Mr. V. P. Menon , Secretary in States Ministry , was sent to Srinagar to explain to Maharaja the position. He met Maharaja. Menon found conditions grave in Srinagar. But Hari Singh was not ready to accept quit Kashmir plan of Sheikh and Nehru. Menon did succeed in making Hari Singh a little soft towards Sheikh Abdullah. He advised Maharaja to leave for Jammu so that raiders are not able to lay hands on him directly or with local help. Maharaja Hari Singh left Srinagar by car and reached Jammu in the morning of 26-10-1947. VP Menon returned to Delhi from Srinagar on 25-10-1947 ( some say in the morning of 26 Oct). Defence Committee again met on 26-10-1947 and decided to accept the instrument of accession if executed by the Maharaja. Menon again came to Jammu with the standard draft of instrument of accession on 26-10-1947 itself. Maharaja had traveled during last night from Srinagar and was in sleep. V.P Menon got the instrument of accession signed by Maharaja on 26-10-1947 and carried to New Delhi under a covering letter the same day. Maharaja also conveyed to Lord Mountbatten that he is going to ask Sheikh Abdullah to carry the responsibilities of interim Government in the emergency with his Prime Minister Mehar Chand Mahajan .. Mehar Chand Mahajan was an irritant for Nehru from day one of his appointment/ selection as Prime Minister of J&K by Maharaja Hari Singh in October 1947. Vallab Bhai Patel ( Minister for Home and States Ministry) was for Mehar Chand Mahajan.*

Maharaja in his letter dated Oct 26th did convey to Mountbatten that Afridis, soldiers in plain clothes, and desperadoes with modern weapons have been allowed by Pakistan to infiltrate into his State , at first in the Poonch area, then from Sialkot and finally in a mass in the area adjoining-Hazara district on the Ramkote side and number of women have been kidnapped and raped making his heart bleed.

Maharaja had conveyed that , both Muslims and non-Muslims of his State , have taken no part at all in disturbing the government. But Nehru and Mountbatten were still hesitant. It is also said by the elders that Mehar Chand Mahajan even threatened to proceed to Karachi and offer Kashmir to Jinnah to secure safety of people of J&K. { may be some hints emerge from letter of 27<sup>th</sup> Oct that Mehar Chand Mahajan PM of Hari Singh wrote to Sardar Patel ...” My dear Sardar Patelji, His Highness and Myself are deeply grateful to you for what you did for Kashmir yesterday. H. H. asks to me to convey to you personally his sense of deep obligations for this timely help which was so quickly given. I only depend on your valuable advice and guidance ***I apologise for any foolish words I may have said.*** Now the whole matter is in your hands. Kindly send me the Mysore Model and I will send you my views how far it can be adopted to a backward State like Kashmir . You can yourself with Bakshiji { Bakshi Tek Chand} finalise it and I will come when called for discussions. With kindest regards and my thanks once again. was a most momentous and quick decision ever taken by politicians in india “ }.

So strangely Nehru and Mountbatten combine made the accession conditional. Mountbatten Signed the instrument of accession on 27 Oct 1947 and conveyed to Maharaja under his letter of even date that in consistence with the policy of his government that in the case of any State where the issue of accession has been the subject of dispute, the question of accession should be decided in accordance with the wishes of the people of the State and it was the wish of his Government that, as soon as law and order have been restored in Kashmir and its soil cleared of the invader, the question of the State's accession should be settled by a reference to the people. So it was nearly laid down to hold a plebiscite in the State when law and order situation permitted so. Maharaja of J&K is remembered by well meaning people for the stand he took in Round Table Conference in London in favour Independence of India. Then Hari Singh had almost advised the British to leave it to Princes for post Independence settlement with the Governments of proposed Dominions of India and Pakistan ; and do not worry that much for the personal status / condition of Princes of the acceding states. .

### ***36. Start of local governance in Indian Jammu and Kashmir :***

Mehar Chand Mahajan ( J&K PM ) had sent a strong worded telegram to Mohammed Ali Jinnah the Governor General of Pakistan on 18-10-1947 asking to personally interfere to check the violation of State borders and in case of failure J&K Government will have no option than to ask for friendly help from out side. The same day ( 18 Oct 1947) telegram was sent to PM of U.K. by J&K Government informing that about one Lakh muslims from India have been given safe conduct to their new abodes in Pakistan. All knew that raiders were cutting across State borders in J&K. .The J&K Prime Minister also informed Indian Leadership that Kotli had been beseized by Pakistani raiders and Poonch was similarly being invaded and there were signs that Mirpur and Bhimber may be the next objective and repeated the request to send ammunition and arms as was requested long back.. But still Lord Mountbatten the Governor General of India wrote to Patel on 25th October 1947 that as per information received from Maj Thomas Wyndord Rees head of Military Engineering Staff attached to Emergency Committee of Cabinet it **appeared that KOHALA had not been attacked till then ( where as raiders were far inside Kashmir Valley and Tribesmen advancing at Uri were intercepted by Kashmir State Troops and heavy battle appeared to be in progress }**. Mountbatten showed so much of ignorance, rather pretended

**May be** Mountbatten was still thinking in his mind that “needed delay” in sending troops/ accepting accession has been made to enable raiders cut off Kashmir from India. To impress his innocence Lord Mountbatten again wrote to Patel on 27 October that there **was no doubt that if India had sent forces a fortnight ago to Srinagar or could have relieved the State Forces in Jammu to go to Srinagar the position could have been held with comparative ease . Mountbatten opined while writing to Patel that though Indian troops had landed at Srinagar on 27 Oct 1947 the risk was great and chances of keeping raiders out of Srinagar were no good . Mountbatten further said that it was fortunate that the tribes men were on loot and since non Muslims were very less in number ( in Valley) they will only loot and massacre their own co religionists and this will give India a political advantage. People of J&K were bleeding and the British man was still looking for political advantages in the blood of the innocent common man.**

**Nehru's love and lust for Sheikh Abdullah had delayed the signing of instrument of accession by Hari Singh** and Mountbatten not playing honest Governor General of India had made Kashmir very near to landing in a place of no return. Kashmir too would have been lost to Mountbatten's imagination had the delay been not there at the part of the Raiders who had come more out of lure for loot and women than for any thing else and had stopped on way lured by autumn atmosphere, beautiful land scape of Barmulla, rich prospects of loot and rape of women and had forgotten Jinnah's resolve to celebrate Eid on 25 October 1947 in Srinagar. Raiders converted every mosque into a brothel and European Nuns of local mission hospital were also brutally molested/ raped. **Had they not done so and not spent a couple of days there , Kashmir would have been lost in the name of Nehru and Mountbatten.**

Mountbatten formally signed the acceptance on Instrument of Accession on 27 Oct and returned a copy of instrument under cover of a letter to Maharaja. And the First contingent of Indian troops landed at Srinagar airport in the morning of 27 Oct 1947. Sheikh Abdullah was invited by Maharaja to form an interim Government on 30 Th October and carry work in the emergency with his Prime Minister { Mehar Chand Mahajan}.

### **37.India takes issue to UN Security Council: :**

On January 1, 1948 India took up the issue of Pak aggression in Jammu and Kashmir in UNO under Article 35 of its charter. The Government of India in its letter to the Security Council said, "...Such a situation now exists between India and Pakistan owing to the aid which invaders, consisting of nationals of Pakistan and tribesmen... are drawing from Pakistan for operations against Jammu and Kashmir, a State which has acceded to the Dominion of India and is part of India. The Government of India requested the Security Council to call upon Pakistan to put an end immediately to the giving of such assistance which is an act of aggression against India and submitted that if Pakistan did not resist, the Government of India would be compelled, in self defence, to enter into Pakistan territory to take military action against the invaders." Presence of Pak regular troops in the Valley was pointed out even by UNCIP documents (UNCIP first report). It was exactly after one year on 1-1-1949 that India declared ceasefire with the intruders from across the borders of J&K with Pakistan.: At the time of cease-fire, Pakistan was holding 78114 sq.Kms illegally and this aggression on that territory continues even today. During one of the debates in UN Security Council on February 5, 1948, Sheikh Mohd Abdullah had pleaded that "aggression and not the accession is the issue". But the way GOI drafted complaint and pursued it further did unduly make the position difficult.

### **38 At last Hari Singh was made to leave the State:**

On October 30, 1947 an Emergency Administration headed by Sheikh Abdullah { Maharaja Hari Singh appointed Sheikh Mohammad Abdullah as the Head of the Emergency Administration } took up the job for carrying out emergent needs along with the Dewan of Maharaja Hari Singh { Mehar Chand Mahajan} in the State of J&K.. Relations between Maharaja and Sheikh did not remain normal. Though Government of India did accede to wills of Sheikh still Maharaja's Dewan Mehar Chand Mahajan was nearly made defunct. **On March 5, 1948, the Maharaja announced the formation of an interim popular Government with Sheikh Mohammad Abdullah as the Prime Minister.** *It was 1<sup>st</sup> May 1949 that Sardar Patel suggested Hari Singh for a temporary exit from the State in a meeting at Delhi. Kashmir It was suggested that Yuvraj Karan Singh be appointed as Regent by Maharaja in his absence. He placed some security and economy related conditions before Patel on 6-05-1949. Patel assured Maharaja on 23-05-1949 of the security of Yuvraj Karan Singh as Regent and representative of Maharaja. Maharaja accepted the same and communicated his consent while he was staying in Imperial Hotel New Delhi. - Maharaja Hari Singh signed on 20 June 1949 proclamation at Delhi making Yuvraj Karan Singh as the Regent Mr. Karan Singh went to Srinagar on 20 June 1949 for the first time as Regent. And the temporary exit of Hari Singh from J&K became his permanent exit. He hence quit the State of J&K after delegating royal powers of His Highness to Yuvraj Karan Singh. Any how same powers of Regent were used in August 1953.to dislodge Sheikh Mohd Abdullah from the position of Prime Minister. I would reproduce here some text of letter of 6 May 1949 written by Maharaja Hari Singh to Sardar Patel inference to meeting held on 29<sup>th</sup> April and 1<sup>st</sup> May .. "" ...I have been content to follow , sometimes even against my own judgment and conscience, the advice in regard to the constitutional position in the state which I have been receiving from the Prime Minister of India or yourself , sometimes even against arrangements which were agreed to only a few months before. Now would it be fair on my part to conceal from you my own feelings that while Sheikh Abdullah has been allowed to depart, from time to time as suited his inclinations , from the pledged and written word, to act consistently in breach of the loyalty which he professed to me prior to his release from jail and the oath of allegiance in a campaign of vilification and foul calumny against me , both inside the State and outside.I should have had to be driven from position to position..*

each of which I thought I held on the advice of the States Ministry.....The question that I should remain out of the State for three or four months for reasons of health, will I am afraid, not be believed by any body and is likely to give rise to many misgivings and speculations within and outside the State as {i} every body knows that I am not in such a state of health as would necessitate a long outside State..... “” . Similarly it was on 18 May 1949 that Nehru had written to Patel that ...”....I hope you will explain to the Maharaja and Maharani as well as the Yuvraj the agreements arrived at between us and Sheikh Abdullah and his colleagues. The written agreement rightly does not say anything about Maharaja going out of the State. But this was a private assurance given by us and we have naturally to stand by it ....” The references made here would be enough to convey the state of affairs Hari Singh was faced with.

### **39 Constituent Assembly of J& K and ratification of accession :**

Proclamation directing formation of State Constituent Assembly was issued on 1<sup>st</sup> May 1951 by Regent Yuvraj Karan Singh. In 1951, the State Constituent Assembly was elected by the people. The Assembly met for the first time in Srinagar on October 31, 1951 with Maullana Masoodi in Chair and all 75 members elected out of NC candidates. The Constituent Assembly elected the Yuvraj as the Sadar-I-Riyasat on November 15, 1952,. This brought to end the 106 year old hereditary rule in Jammu and Kashmir .The State Constituent Assembly ratified the accession of the State to the Union of India on February 6, 1954 > The President of India subsequently issued the Constitution (Application to J&K) Order 1954 **May 14** under Article 370 of the Indian Constitution extending the Union Constitution to the State with some exceptions and modifications..

.The State's own Constitution came into force on January 26, 1957 under which the elections to the State Legislative Assembly were held for the first time on the basis of adult franchise the same year. **This Section 3 of the Constitution says, “The State of Jammu and Kashmir is and shall be an integral part of the Union of India.”** The Section 4 of the Constitution defined the territories which on the fifteenth day of August, 1947, were under the sovereignty of suzerainty of the Ruler of the State.”

### **40. Article 370 of Constitution of India :**

Article 370 was incorporated in Constitution of India provided very very special status to the State of Jammu and Kashmir . No other acceding Princely State that acceded to India in 1947 by executing a similar type instrument of accession was given such a constitutional position in the Constitution of India that came into force on 26 January 1950.. To be brief even after the Complete Constitution of India was drawn out , the relationship of Jammu and Kashmir with India was restricted to only those three subjects { Foreign affairs, defence, Communications and allied matters } that were included in the Instrument of Accession as interim arrangement ; and it was left to the Constituent Assembly of JK / Assembly of JK to endorse other subjects to the jurisdiction of Indian Parliament where ever felt wise. . In a way simply for logic sake it could be alleged or inferred by some that the Status of the British Crown as regards the Princely State of Jammu and Kashmir was replaced by the Dominion of India. Yes may be there are still some people in JK who have grievance against Nehru / Congress for putting the people of JK in illusions or still keeping JK like a Colony, earlier it was of the British and now it is of India under article 370. All may not question like this , but those who would , surely may appear convincing at the first sight. I would not discuss the reasons / objectives / relations behind this except saying that if the people of India did not ask their leaders for this, then why should the People of JK question article 370.

**Article 370 controversies have damaged even the socio- communal fabric of J&K.** A seminar specifically on the need for abrogation of Article 370 was organized by Bhartiya Janta Yuva Morcha on 13-6-92 at Jammu. Then BJP National Vice president Mr. Sikander Bakht also attended. All speakers advocated for the abrogation (may be people from other schools of thought were not invited even then also ). Sikandar Bhakht appreciated the pains taken by the speakers to win opinions for abrogation .But he also opined that inspite of the “logics” given for abrogation, the reasoning have all along failed to carry along the masses of India.. Sikandar Bhakht opined that it is

not only the Kashmiri Muslims who think that such demands are anti Muslim but the people in other states too think that demand for abrogation of Article 370 is anti Muslim. Those who occasionally rise only to oppose abrogation have so far succeeded. The *article lays a special treatment for only J&K State and not for muslims outside J&K. Some “experts of Kashmir affairs” advocate its retention and a few even ask for Article 370 like provision to more states ( though such number may be very very less/ microscopic }.*

Mr. L.K. Advani had said on 5-10-97 at Calcutta (44<sup>th</sup> death anniversary of Dr. Syama Prasad Mookerjee) that “Syama Prasad Mookerjee was epitome of national unity and he died in prison strongly advocating scrapping of the government’s dual policy to-towards Kashmir”, further adding that BJP would launch a mass agitation for repeal of Article-370 of Constitution of India . Mr. Atal Behari Vajpayee too had talked on 21-12-97 for a **national debate on Article370 while** speaking at the 3 day National Executive Meet of BJP at Bhuvneshwar .Repeal of this article was retained in the 1998 election manifesto of BJP. And Dr. Farooq while addressing an election rally at Marh (Jammu) on 13-2-98 said that article 370 can not be scrapped even if all MPs in parliament belong to one party and claimed that Atal Behari Vajpayee had privately admitted that this article can not be scrapped. . PTI had reported on 11-2-97 that as per a press release of a private network Dr. Farooq Abdullah had cautioned against such moves and had gone to the extent of saying that he would lead the revolt. And Mr. Kedar Nath Sawhney then had said on 13-2-1998 while at Jammu that if the J&K Chief Minister claims that a revolt may occur in the country with the abrogation of this Article (370) and the country will not be able to control it then he will be the biggest fool. Many challenges and claims could be listed from 1997 through to date. But India has celebrated many republic days there after with Article 370 still in place.

Article 370 controversies have surely done damage even to the socio- communal fabric of J&K. The situation is so bad this day that even national level Indian political parties want to ride on the chariot of “Article 370 Controversies.” Many even in India have started thinking that defending this article is defending Muslim cause and abrogation of this article is anti Muslim. So why keep this issue a feeding ground for the politicians? Let all the Indians know well about it. *So ,we should force the rival parties* to change the discussions from “closed door seminars” or debates to open seminars. No doubt such issues could better be settled in seminars and not debates. But it has to be an open seminar.

*Broadly people from three schools of thought participate in discussions on Abrogation of article 370.*Category (1) are those who advocate it’s abrogation pleading that since J&K is an integral part of India, it is an Indian State. They argue that constitutional provision of ,a Separate State Flag and emblem for Jammu and Kashmir have provided enough of tools to those who advocate against J&K remaining a State of Bharat / separatists.. Category (2) are those who advocate for the abrogation because they believe that this article has so far been misused by those who have remained at the helm of J&K affairs to benefit their own self and their kins by using it as a tool to exploit the local sentiments of particularly of innocent Kashmiri muslims. Category (3) are those who plead that it’s retention is in the interest of the people of J&K as a whole. .

It was on January 31<sup>st</sup> 1992 that I first called for a National Seminar [ in a seminar there is no question defeat or victory} (not “closed door”) on Article # 370# through a column in leading paper of Jammu and Kashmir . Call was repeated year after year.. But all kept cooking in their own “kitchens”.

While making the call I had drawn attention to some other allied issues also that required careful and truthful considerations for carrying the process of bringing peace and normalcy in Jammu and Kashmir. The reference points still hold good and are like ::: (1) Why did Maharaja Hari Singh not accede to Union of India on or before 14<sup>th</sup> August 1947? (2).Was there any commitment with Maharaja Hari Singh of the type of the contents of Article 370 of Indian Constitution ? (3) Did Hari Singh do some rethinking at the eleventh hour? Was he under the influence of some local advisors ( may be from Jammu Province) on the subject? ( 4 ) Was the text of instrument of accession for J&K

different than that was for other acceding princely states?. ( 5 ).Did Sheikh Abdullah before 14-8-1947 any time advocate Independent Kashmir or J&K? (6) Was there any other political group in J&K (August 1947) comparable to National Conference in Jammu Province?. ( 7 ) What did the then leadership from Jammu province & that of Ladakh look at? (8) Was J&K part of any country other than Bharat in the past? (9).Do we really need a 'bridge' like Art 370 between India and J&K ?. (10) Why was INC not active in J&K in forties?. (11). Why did Lord Mountbatten , the then Governor General of India while accepting the Instrument of accession on 27<sup>th</sup> October 1947 say “ It is my Government’s wish that as soon as law and order have been restored in Kashmir and it’s soil cleared of invaders, the question of State’s accession should be settled by a reference to the people” ?. (12) Had Pundit Nehru made any personal commitment to Sheikh Abdullah ?(13) Why did the Government of India not manage abrogation of “temporary” Art 370 even upto 1975?.(14). How did Pandit Nehru look at the need for incorporation of Article 370? (15) Why has Delhi agreement remained a nearly concealed document till this day? (16) Can J&K still be constitutionally like other Indian States? 17) Are the contents of this article drawn out carefully? (18) Has Article 370 outlived it’s utility ? (19) Should this article be modified or there is no alternative than to abrogate it? How could it be abrogated without giving a chance to a politician to exploit a Muslim or a Kashmiri Muslim ?. (20) Do we need to rewrite / recast the Constitution of J&K ? (21) Will the parliament of India for ever remain helplessly looking towards Legislature of J&K?. (22) Are the people of J&K not ‘azaad’ (independent) yet? If yes, then why was not the then Prime Minister of India Mr. Narasimha Rao questioned for offering some thing short of Azaadi to people of J&K?. (23) .What difference will it make to the people of India in case J&K is given some thing like Autonomy Resolution that was passed by J&K Legislature in 2000?. (24) Common people in other Indian States have not agitated against J&K having her own Constitution then why oppose issues like the resolution as passed by J&K assembly on Autonomy? Only BJP has raised some questions.. (25 ) How well are the people of other Indian states informed about J&K? (26).In case J&K has to have her own Constitution and her own Flag then what is the harm in limiting the accession only to the subjects as were mentioned in the instrument of accession ? (27) .What is the simple definition of National Conference’s Greater Autonomy? (28) .What is the harm or benefit in “Autonomy”? (29) With J&K having her own constitution and two flags fluttering on equal masts can the world still acknowledge J&K as India? (30). Section (3) of J&K State Constitution states that J&K is and shall remain an integral part of Union of India. , why do some say that abrogation of this Article shall de link J&K from India ? ( 31) Are only Kashmiri leaders more in favour of this Article, if so why?

The concept abrogation of this article has to be carried., particularly the people of Kashmir valley, both technically and conceptually. Simple technicalities would not do in case India looks for long term peace .

#### **41. Delhi Agreement 1952 :**

An agreement was drawn between New Delhi and JK leadership in 1952 commonly understood as Delhi Agreement. Thinking minds generally call it an agreement between Jawaharlal Nehru and Sheikh Abdullah. Some even say that it was a document prepared through which Jawaharlal Nehru wanted to make the desires of Sheikh Abdullah all imposing for any one in Chair who followed after Nehru. A very simple question could be raised by any one who has no bias. The question is :::: When article 370 was already in place wef from 26 January 1950, what was the need for entering into the Delhi Agreement in August 1952 ? Here again I would ask was Jawaharlal Nehru / his cabinet superior to the Constitution of India or the Parliament of India or the Constituent Assembly of Jammu and Kashmir { that started her proceeding on 31 Oct 1951}.. No doubt it is asserted that the agreement was discussed in the Union Parliament on August 7, 1952 and was accepted. The Jammu and Kashmir Constituent Assembly discussed this arrangement and finally adopted a motion of approach on August 21, 1952. How funny JK Constituent Assembly adopted a motion of acceptance after Parliament. It could be said that the Delhi Agreement was the will of Sheikh Mohd Abdullah endorsed by Jawahar Lal , but Sheikh still feared that the Constituent

Assembly of JK may not surrender fully before his desires and hence the Delhi Agreement was also discussed in Parliament before the Constituent assembly had it. Otherwise there was no need for this. More over in case the Constituent Assembly had finalised all its policy and draft articles / sections of the State Constitution, then why did it take 5 more years to accept and put in force the State Constitution. It is also alleged that Sheikh Mohd Abdullah was working on some net work of plans woven around his own person / interest of his men and therefore he feared that the democratic assemblies / governments ahead may not force him to enter into competitive power games, that he would not afford. So Sheikh Abdullah though was totally for Indian state wanted to make his position unquestionably sure, he might have used the texts of mistakes done by Jawaharlal Nehru before and at the time of acceptance of 1947 Accession as well as filing complaint In UN Security Council against Pakistan on 1 Jan 1948, to pressurize Jawahar Lal Nehru..

As regards the said Delhi agreement Sheikh Mohammad Abdullah, the then Prime Minister of Jammu and Kashmir, had earlier said “the main consideration before our Government was to secure a position for the State which would be consistent with the requirements of maximum autonomy for the local organs of the State power which are the ultimate source of authority in the State while discharging obligations as a Unit of the federation”.

Later there appeared some difference in the Sheikh Cabinet itself. The difference of opinion reached a peak when Sheikh Abdullah, instead of implementing the agreement, allegedly started advocating some thing like ultimate distancing from the other States of the Union. The people of the State were quick to perceive the danger of such a course as they had already seen the tribal attack in 1947 that had caused devastations as a direct consequence of Kashmir’s isolated position. There were even rumours that United States was prompting Kashmir’s independence”. Events thereafter point that Sheikh Abdullah was accused both by his colleagues in the Cabinet and people of trying to create a State for himself. In fact, it was said that three members of his Cabinet had submitted a memorandum to Sheikh Abdullah labeling accusations / charges on him. The whole matter was spotlighted when Bakshi Ghulam Mohd { Dy PM in Sheikh’s cabinet} took over as Prime Minister of Jammu and Kashmir on 9 August 1953 after Sadar-i-Riyasat reacting on the prevailing situations dismissed Sheikh Abdullah from the post of Prime Minister of Kashmir on 8 August 1953 and dissolved the Cabinet.

{The Delhi Agreement as quoted at places mentions:

i.in view of the uniform and consistent stand taken up by the Jammu and Kashmir Constituent Assembly that sovereignty in all matters other than those specified in the Instrument of Accession continues to reside in the State, the Government of India agreed that, while the residuary powers of legislature vested in the Centre in respect of all states other than Jammu and Kashmir, in the case of the latter they vested in the State itself;

ii.it was agreed between the two Governments that in accordance with Article 5 of the Indian Constitution, persons who have their domicile in Jammu and Kashmir shall be regarded as citizens of India, but the State legislature was given power to make laws for conferring special rights and privileges on the ‘state subjects’ in view of the ‘State Subject Notifications of 1927 and 1932: The State legislature was also empowered to make laws for the ‘State Subjects’ who had gone to Pakistan on account of the communal disturbances of 1947, in the event of their return to Kashmir;

iii ..as the President of India commands the same respect in the State as he does in other Units of India, Articles 52 to 62 of the Constitution relating to him should be applicable to the State. It was further agreed that the power to grant reprieves, pardons and remission of sentences etc; would also vest in the President of India’

iv the Union Government agreed that the State should have its own flag in addition to the Union flag, but it was agreed by the State Government that the State flag would not be a rival of the Union flag; it was also recognised that the Union flag should have the same status and position in Jammu

and Kashmir as in the rest of India, but for historical reasons connected with the freedom struggle in the State, the need for continuance of the State flag was recognised

v. there was complete agreement with regard to the position of the Sadar-i-Riyasat; though the Sadar-i-Riyasat was to be elected by the State Legislature, he had to be recognised by the President of India before his installation as such; in other Indian States the Head of the State was appointed by the President and was as such his nominee but the person to be appointed as the Head, had to be a person acceptable to the Government of that State; no person who is not acceptable to the State Government can be thrust on the State as the Head. The difference in the case of Kashmir lies only in the fact that Sadar-i-Riyasat will in the first place be elected by the State legislature itself instead of being a nominee of the Government and the President of India. With regard to the powers and functions of the Sadar-i-Riyasat the following argument was mutually agreed upon

a. the Head of the State shall be a person recognised by the President of the Union on the recommendations of the Legislature of the State; he shall hold office during the pleasure of the President;

b. he may, by writing under his hand addressed to the President, resign his office;

c. . . subject to the foregoing provisions, the Head of the State shall hold office for a term of five years from the date he enters upon his office;

d. . . provided that he shall, notwithstanding the expiration of his term, continue to hold the office until his successor enters upon his office”

With regard to the fundamental rights, some basic principles agreed between the parties were enunciated; it was accepted that the people of the State were to have fundamental rights. But in the view of the peculiar position in which the State was placed, the whole chapter relating to ‘Fundamental Rights’ of the Indian Constitution could not be made applicable to the State, the question which remained to be determined was whether the chapter on fundamental rights should form a part of the State Constitution of the Constitution of India as applicable to the State;

With regard to the jurisdiction of the Supreme Court of India, it was accepted that for the time being, owing to the existence of the Board of Judicial Advisers in the State, which was the highest judicial authority in the State, the Supreme Court should have only appellate jurisdiction;

There was a great deal of discussion with regard to the “Emergency Powers”; the Government of India insisted on the application of Article 352, empowering the President to proclaim a general emergency in the State; the State Government argued that in the exercise of its powers over defence (Item 1 on the Union List), in the event of war or external aggression, the Government of India would have full authority to take steps and proclaim emergency but the State delegation was, however, averse to the President exercising the power to proclaim a general emergency on account of internal disturbance.

In order to meet the viewpoint of the State’s delegation, the Government of India agreed to the modification of Article 352 in its application to Kashmir by the addition of the following words:

*”but in regard to internal disturbance at the request or with the concurrence of the Government of the State.”*

At the end of clause (1)

Both the parties agreed that the application of Article 356, dealing with suspension of the State Constitution and 360, dealing with financial emergency, was not necessary.

On above basis it could be said that the State of Jammu and Kashmir enjoys a special position in the Union of India, and this position of the State has been permitted by Article 2 of the Constitution itself.

#### **42. Indira Sheikh Accord 1974 :**

Known as Kashmir Accord it was signed on 13 November 1974 between then Prime Minister Indira Gandhi and Sheikh Mohd Abdullah { in what capacity is not officially made public }. At the maximum this could be called an agreement between Sheikh Abdullah and Indira Gandhi or maximum Congress { I } After this .Congress party made way for Sheikh Abdullah becoming CM of JK with the Support of Congress in February 1975 when Sayeed Mir Qasim stepped down on his own. The accord said : The Content of the Accord are worth reproduction here :

1.The State of Jammu and Kashmir which is constituent unit of Union of India , shall, in its relation with the Union, continue to be governed by Article 370 of the Constitution of India.

2.The residuary powers of legislation shall remain with the State; however , Parliament will continue to have power to make laws relating to the prevention of activities directed towards disclaiming, questing, disrupting the sovereignty and territorial integrity of India or bringing about secession of a part of the territory of India from the Union or causing insult to the Indian National Flag, the Indian national Anthem and the Constitution.

3.Where any provision of the Constitution of India had been applied to the State of Jammu and Kashmir with adaptations and modifications , such adaptations and modifications can be altered or repealed by an order of the president under Article 370, each individual proposal in this behalf being considered on its merits , but provisions of the Constitution of India already applied to the State of Jammu and Kashmir without adaptation or modification are unalterable.

4.With a view to assuring freedom to the State of Jammu and Kashmir to have its own legislation on matters like welfare measures, cultural matters, social security, personal law, and procedural laws, in a manner suited to the special conditions in the State, it is agreed that the State can review the laws made by Parliament or extended to the State after 1953 on any matter relatable to the Concurrent List and may decide which of them in its opinion, needs amendment or repeal.. Thereafter, appropriate steps may taken under Article 254 of the Constitution of India. The grant of Presidents assent to such legislation would be sympathetically considered. The same approach would be adopted in regard to laws made by parliament in future under the Proviso to clause 2 of the Article. The Government shall be consulted regarding application of any such law to the State and the views of the State Government shall receive the fullest consideration.

5.As an arrangement reciprocal to what has been provided under article 368 , a suitable modification of that Article as applied to the State should be made by Presidential order to the effect that no law made by the legislature of the State of Jammu and Kashmir , seeking to make any change in or in the effect of any provision of the Constitution of the State of Jammu and Kashmir relating to any of the under mentioned matters , shall take effect unless the bill , having been reserved for the consideration of the President , receives his assent; the matters are

{a} the appointment ,powers, functions , duties , privileges and immunities of the Governor, and

{b} the following matters relating to Elections namely, the superindence, direction and control of Elections by election Commission of India, eligibility for inclusion in the electoral rolls without discrimination, adult suffrage and composition of the legislative Council, being matters specified in sections 138, 139, 140 and 50 of the Consttution of the State of Jammu and Kashmir .

6. No agreement was possible on the question of nomenclature of the Governor **and the** Chief minister and matter is therefore, remitted to the Principals.

After Sheikh became the CM , a committee was constituted for reviewing the status of laws and it was inferred that no such correction / repealing / medication was necessary and no extensions made till then were bad in intentions / result. **Further one would ask had Indira Gandhi taken any mandate from the Parliament for signing an agreement with an individual of Jammu and Kashmir. Did she take into confidence the people of JK some of whom had been till then under the impression that Sheikh was dislodged in 1953 for an Act some thing like sedition. Similar type commitments had been made by Jawaharlal Nehru with Sheikh Mohd Abdullah**

as claimed in 1947 and stated with regard to 1952 Delhi Agreement. How could any one make agreements at the personal level involving matters of national and international significance with individuals has never been asked by the people of India. But for all this it is the people of Jammu and Kashmir from all the three major regions { Jammu , Ladakh and Kashmir valley } who have paid price and are paying even today. Similarly questions could be raised on the wisdom of the legislators who were in the JK Assembly in June 2000 when a resolution on the Autonomy was passed without commenting on the Status of Indira Sheikh Accord of 1974 that had been consigned to files after a review exercise. Such like questions need to be answered to enable the common man of JK make up his mind as regards the needs and affairs of JK. It is also the duty of new Delhi in their interest to reach the people to reestablish the trueness of New delhi.

#### **43.Valley centric approach: Muslim Majority areas Jammu too Suffer :**

Indications are there that J&K State may see a new phase of transition in times ahead. All these years the political leadership that has been ruling at New Delhi remained occupied with Kashmir { Valley} Centric approach. Even during times of Maharaja Hari Singh all the areas of Doda/ Rajouri/ Poonch/ Banihal were kept with Jammu Province due to socio – geographical priorities. Even Delhi have all along talked of development in the name of Kashmir or Kashmiri, employment prospects in the name of Kashmiri youth and so on. Programmes & statements made by the Prime Ministers and other Indian leaders at different times have been making more reference to Kashmir and Kashmiri people than it would refer to people of J&K. Ghulam Nabi Azad when took over as the Chief Minister in 2005 people of Jammu carried him on top as a CM from Jammu. But even Mr. Ghulam Nabi Azad remained so much under pressure from the prevailing Kashmir centric political culture that he kept on making indirect efforts to even prove that he was more a Kashmiri. He often referred at occasion that he has been the student of SP College Srinagar, he rarely made any reference to a institution he studied in Jammu region. He even at occasions referred that his elders belonged to Kashmir Valley. **It is bitter truth that even when BJP was in the power seat at New Delhi it too had no different an approach than Congress of the past years as regards Kashmir affairs.** And surely over and above all these years since 1947 all other political parties of India too had kept the Kashmiriat and people of Kashmir Valley in a very very special slot over other people of J&K State as well as people of other Indian states **It is a hard truth, ofcourse a bitter one. It could also be said that most of them were under compulsions since it as since 1946 that even Maharaja Hari Singh had to face neglect at the hands of Delhi simply to accommodate any type of demand / proposal of Sheikh Mohd Abdullah .Only by keeping all this in mind one can value the political compulsions of Ghulam Nabi Azad { Congress} .** Surely it was due to political compulsions before him . And to add to this the anti India activities and elements had been allowed to comfortably survive in the Kashmir Valley even after 1989..Any one who talked of Jammu making reference to Jammu Province have been misquoted as referring to Jammu city or maximum Jammu District. of J&K. This way even the people of districts other than Jammu District of Jammu province / region too remained in illusion .

A Commission under Justice J. N. Wazir was formed on Nov 12, 1981 for studying different issues including rationalisation of Administrative Units (Districts). After exhaustive study, interaction and factual position, Wazir Commission submitted its report on January 3, 1984. The Commission recommended creation of three more districts in Jammu region to be carved out one each from existing Jammu, Doda and Udhampur districts. Where as It recommended only one new district { Bandipora out of Baramulla} for Kashmir region . Wazir commission appeared to have been under pressure to nearly accept, as legitimate, the additional 3 districts already created in Kashmir Division by State Government in 1978/79 early eighties { Out of District of Anantnag , Anantnag and Pilwama , out of District Srinagar ,Srinagar and Badgam , and out of District Baramulla, Baramulla and Kupwara }. Even then had the recommendations been accepted Number of District Administrative units in Jammu Division would have gone up from six to nine where as for Kashmir region from six to only 7 in 1984 itself. The Wazir Commission would have surely

taken cognizance of area, backwardness, topography, geographical continuity and distribution of population. Areawise (excluding POK and allied areas) Jammu region has 26,293 sq. km. Kashmir region 15948 while Ladakh topping the list with 96,701. At the times when Wazir commission was on job road network was nearly 5000 Km in Kashmir Division as against less than 3500 km in Jammu Division. Even un divided Districts of Baramulla ,Anantnag and Srinagar were very very small in comparison to the district of Doda. The total combined area of Baramulla and Kupwara districts is 6977 sq kilometers where as that of Doda district is 11691 sq kilometers. Even the area of Doda district excluding forest area is 5843 sq kilometer and that Baramulla Kupwara combine excluding forest is only 2639 sq kilometers. Area of Kishtwar tehsil of Doda District was 4550 sq kilometers. In general the developmental plan funds and other allocations are made by Government taking District Administrative unit / Community development block as the basis. The recommendations of the Wazir Commission if accepted would have made the backward areas of Jammu Division entitled for more fund allocations in comparison to Kashmir Division on basis of Districts. As also it would have been difficult for any new Delimitation Commission to keep the single member Assembly Segments ( MLA seat in Assembly) in the J& K Legislative Assembly for Jammu Division less than Kashmir Division. These two major reasons that would tilt the balance towards Jammu Division may explain reluctance of Kashmir centric politicians to keep the Wazir Commission report under the carpet for over 22 years. Imagine loss suffered by the Doda, Udhampur and other zones of Jammu region from 1984 to 2006.. Those who have kept the Wazir Commission report under the carpet for over 22 years have surely done a great injustice to the people of Kishtwar Tehsil. Kishtwar and Bhadarwah Tehsils of Doda districts are the poorest of the poor areas of J&K inspite of the fact they had the major portion of forest wealth of J&K and at least half as large a tourism potential as the Kashmir valley has..

After mid 1995 the Kashmiri leadership has started pretending to have more love and lust for the people of Rajouri, Doda , upper Udhampur and Poonch Distircts since they have reasonably large population of Muslims. But so far Kashmiri leaders have not succeeded.

The people of Rajouri, Poonch and Doda are economically and educationally most backward. The road infrastructure and the tourism infrastructure is the poorest of the poor in these districts. Districts like Doda / Rajouri / Poonch / Udhampur have so large a potential for commercial tourism that a tourist could so easily plan a stay of 15 days during summer months .Bhaderwah has been called the mini Kashmir . But nothing has been done to build infrastructure and conduct the tourist to these areas. The local horticulture has been totally neglected. No body knows about Apple of Doda / Kishtwar and Poonch Distircts. No body knows about Walnut of Doda district and other upper reaches of Jammu region.. Mr. A. R. Zargar the then Agriculture Minister had disclosed on 1-03-2005 in the J&K Assembly that Kishtwar *Kesar* ( saffron ) could sell @ of Rs. 400 a tola { 10.7 gms} as compared to Rs.250 per tola for Kashmir Kesar being superior. But hardly any tourist visiting J&K may be knowing that Kishtwar Kesar from jammu Province / region is of first quality . I in 2005 tried to collect the data on Kesar ( saffron ) production in Kishtwar from Director Agriculture Jammu but to my surprise it was not readily available to me even upto August 2010.. This I have just quoted to refute the trueness of the affections that some separatist Kashmir Valley leaders are showing for the people of Poonch, Rajouri and Doda Districts .Had the Kashmiri leaders any true love for the people of these areas outside Kashmir Valley { muslim majority} then they should have not allowed the economic backwardness of these areas to keep growing over the years. They are only trying to exploit the religious sentiments of Muslims of Jammu province for the sake of numbers. I doubt they would succeed.

It was in 2006 that Ghulam Nabi Azad congress lead JK Government reorganized the Districts under the garb of Wazir Commission report { 1981 to 1984 }.. Wazir Commission had recommended only one { Bandipore} new district for Kashmir Valley but Government ordered four { Bandipore Ganderbal, Shopian, Kulgam} . But also gave only four { Kishtwar, Reasi, Bahu / Samba , and Ramban } new districts to Jammu Division where Wazir Commission had already recommended three { Kishtwar, Reasi, and Bahu / Samba } more districts 22 years earlier.

In a way Jammu region got just 33 percent more than what Wazir Commission recommended for as against Kashmir Region getting 300% more than what was recommended by WC.. And in nutshell Kashmiri got nine times more than Jammu region .The Wazir Commission remained on job from 12-11-1981 to 3-1-1984 and took 3 years to analyze and make recommendations. Previous governments could not assess the genuineness of Wazir Commission Report even in 21 years , but Ghulam Nabi Azad government could reassess the whole issue in just half a year and finally order creation of 8 new districts in J&K instead of 4 districts recommended by Wazir Commission. Making districts in Kashmir valley again equal to Jammu Division. { 10 each}..Point I wish to make here is that inspite of so extra economic, administrative and political favours extended to Kashmir valley New Delhi has not been able to win the confidence of people of Kashmir valley to the extent that there are some who even challenge the 1947 Accession of JK with India. .

Some people in Jammu region have started saying openly that the backwardness, poverty, under development, unemployment , poor tourist infrastructure and remoteness of people of this region is overlooked / neglected since they have never raised questions on the validity of 1947 accession of JK with India or accused India of being unfair in holding commitments made with people of JK in 1947 and have instead held firmly to the suggestions for totalness with India.

Jammu region as a whole has been denied its due share of seats ( MLAs ) in the legislative Assembly. Here again the Districts like DODA/ Kishtwar/ Ramban/ Udhampur have been put to more disadvantage by the Kashmir centric rulers with the backing from Delhi. . Doda District {now split in 2006 Kishtwar/ Doda/ Ramban} } has on date 4 to 5 seats less in the assembly than its due share. As per the J&K Representation of the People Act of 1957 the seats in the assembly are not to be provided only on the basis of population. J&K Representation of People Act of 1957 suggest five factor for deciding the distribution of MLAs in the assembly . The parameters under Section- 4, Sub Section –2 are Population, Geographical Compactness , :Nature of terrain , Facilities of Communication and the like considerations . The factors of Geographical Compactness , :Nature of terrain Facilities of Communication are surely more in favour of the Disticts of DODA, Poonch , Rajouri , Kathua and Udhampur in comparison to Disricts of Srinagar, Anantnag, Pulwama ,Badgam , Kulgam, Ganderbal, Shopian. Since the last Delimitation of Assembly Segments was done 1995 based on 1981 census I would discuss here only the data of those days ( although 8 more new districts of Ramban, Kishtwar Samba, Reasi, Bandipora, Shopian, Ganderbal and Kulgam were ordered in July 2006 ) . As per the Act Area / geographical compactness , the means of communication , nature of terrain are to be given due weightage so that the MLA is more near to his voters. Population as a parameter could contribute not more than 25% of the weightage .To quote Area of erstwhile DODA district was 11691 Sq kilometers and population as per 1981 census was 425662 and only 6 seats ( MLA ) in assembly were allocated . Where as the Anantnag District had area of only 3984 sq Km and population of 656351 but seats allocated were 10 . Pulwama had area of only 1398 sq km and population of 404078 where as seats allocated were 5. Badgam had a area of only 1371 sq km and population of 367267 but here too seats allocated were 5. Srinagar District had an area of 2226 sq km and population of 708328 but was allocated 10 seats ( MLAs ). The % of area covered by roads in Jammu Region was just 18 % in 1981 where as in Kashmir Region it was 40%. The position for districts like DODA and Udhampur would have been much less than even 18% . Where as the area covered by good roads in Districts like Pulwama, Badgam and Anantnag was surely around 40 % .

The J&K Representation of People Act 1957 was designed in a very very special manner could well be seen from the contents of clauses a ( i) to a (v) of Sub Section ( 2) of section- (4) of this Act. So far a MLA of nearness has been denied to the people of the far flung areas, to people with lesser means of connectivity and those living in geographically lesser compact areas. Such areas could fall more in Districts like Doda, , Rajouri, Poonch. In view of the terrains the MLAs are not able to regularly reach their areas to check the requirements and also to address to the problems. This clearly speaks of the injustice done to even these muslim majority Districts by the Kashmir

centric Kashmiri leaders. The data and details as would have been available to the K. K. Gupta Delimitation Commission in 1994-95 have been used above.

As on date a new Delimitation Commission can not be constituted till 2031 unless a Bill is passed in the J&K Assembly to undo the ban imposed by 29<sup>th</sup> Constitutional Amendment to Section 47 of J&K Constitution. This way after 1947 local leaders have inflicted a permanent damage on the people of districts like Doda, Rajouri, Poonch, Ramban, Kathua, Reasi, It is a logic that unless the Kashmiri leadership/ GOI would have influenced the intentions of Delimitation Commission it was not possible that any delimitation commission would have done delimitation by totally neglecting the requirements of JK Representation of the People Act 1957. Kashmiri leaders have hence sealed the fate of the people of Doda, Rajouri, Kishtwar, Ramban, Kathua, Reasi in Legislature till 2031 unless the amendment to Section 47 of J&K Constitution / 29<sup>th</sup> Constitutional amendment is undone. Under a fair delimitation the MLAs for Jammu region would be 45 to 46 and for Kashmir region it would be only 37 to 38 where as the position at present is reverse. The seats that would increase for Jammu Region would go more to the purse of Doda/ Kishtwar/Udhampur/Kathua/Reasi/Rajouri.

Over and above areas falling in Jammu Region have constitutionally more members in JK Legislative Council than Kashmir region but last delimitation distributed more seats in Legislative Assembly for Kashmir region than for Jammu Region. Under Section -50 of JK Constitution areas falling in Jammu region are allocated 14 elected members in Legislative Council (MLC) where as those in Kashmir Region have been allocated only 12 elected MLCs. Even the first Delimitation Commission constituted under J&K Representation of the People Act of 1957 had not worked truly while deciding the distribution of the Seats in Legislative Assembly. How could any one justify allocating 42 seats in assembly to areas ( Kashmir Region ) that had only 12 elected seats in Legislative Council and 32 seats to areas ( Jammu region ) that had 14 elected seats in the Legislative Council ? Any fair delimitation would have reversed the distribution. That is the reason for the Kashmir valley leaders never having been that particular for Delimitation of Assembly segments 10 years. On this count also it is the Muslim majority areas of Jammu region that have been the losers.

**Neglect is not new. Behavior of Delhi towards these areas was no different in October / November 1947. Mehrchand Mahajan, The Prime Minister of J&K/ Dewan of Maharaja of J&K had written on 18<sup>th</sup> November 1947 to S. Baldev Singh, Defence Minister that situation required personal attention of Defence Minister. Mahajan also told this in person to Major General Kulwant Singh as well as GOC Western Command General Carriappa when he visited Jammu. He conveyed to S. Baldev Singh about collection of very large number of Pathans across border on Sialkot side. On 18 November 1947 for defence of Jammu there was not even a full battalioan of troops available and road from Jammu to Kathua was within 3 to 4 miles from border. Mirpur was completely unprotected. The trouble about Mirpur would have been much less had the military moved earlier towards that side. Gilgit had already been lost, province of Ladakh was not by then protected. Mahajan further informed that Kargil was a crucial point, Iskardu the winter capital of Ladakh Province had only two platoons; Chitralis and Swati may infiltrate into Iskardu via Rondu side, so atleast a company or two be sent more to Kargil to strengthen Iskardu garrison**

.Meher Chand Mhajan after returning from Delhi wrote to Nehru on 30 Nov 1947 that on reaching Jammu from Delhi he has come to know that {i} Indian Troops had abandoned Kotli, {ii} Mirpur was abandoned earlier and had been destroyed by enemy. {iii} border from Bhimber to Rajouri had been occupied by enemy, {iv}, that enemy was pushing towards Akhnoor; {v} Poonch area except the Poonch town, district of Mirpur, Muzaffarabad and a part Jammu district were in enemy possession and {vi} only a directive from him ( Nehru, Indian PM) could regain the positions. **But still many referred areas could not be saved.**

The people of Punjabi speaking muslim majority areas of Mirpur, Poonch, Bhimber and Rajouri of Jammu Province were poor. Some people of these areas had in 1947 times come under the

influence of adjoining areas of Rawalpindi, Jehlum, and Gujarat. But the Muslim Chiefs/ Jagirdars were Rajput converts who had some loyalty to Maharaja Hari Singh. And Muzaffarabad too could not be termed as Kashmiri Speaking area.. So question could be , Why did Sheikh Abdullah not pressurize GOI for getting the other areas ( mostly Punjabi Speaking ) cleared of Pakistani troops or invaders when he was so dear to Jawahar Lal Nehru {who had placed the crown of J&K on Sheikh's head } ?

In an interview to Doordarshan on 5-04-2005 Srinagar Lt.(Retd) S. K. Sinha Governor of J&K described the then proposed opening of Uri Muzaffarabad road as an event of great personal significance to him . He told that he was among the few who witnessed its closure on 14 November 1947 since orders from Government **deprived them of the** opportunity to reach Kohalla and Domel . Mr. Sinha informed that in 1947 Kashmir had stood against the Raiders challenging “ Hamlawar khabardar, hum kashmiri hain tayyaar”.

*There are many such things in store to demonstrate the neglect that the people of other regions of Jammu and Kashmir faced over last 60 years. So any love and care that the Kashmiri leaders are today pretending for the people of muslim dominated districts / areas of other regions are no more than exploiting sentiments on religious lines..*

#### 44. EPILOGUE

**Jammu Region and Ladakh region were already part of Jammu Raj before the control of the Kashmir Valley was also transferred to Jammu Raj by the British India Crown . Kashmir valley was surrendered to the British India by the Punjab Sikh Empire as compensation for the lost battle in 1846. .{ Jammu region has nearly double the area of Kashmir valley and Ladakh Region has five times larger area than Kashmir Valley } After the British retreat the Princes were free to accede to one or the other dominion or remain independent..** The Government of India Act 1935, as adopted in the Indian Independence Act, 1947, provided, “An Indian State shall be deemed to have acceded to the Dominion if the Governor General has signified the acceptance of an Instrument of Accession executed by the ruler thereof.”....So the choice of joining either of the Dominions was left to the Rulers of the States concerned. Moreover, in the Indian Independence Act, 1947, there was no provision for any conditional acceptance of accession.

Fears were there that the mention of Gurdaspur district in Schedule 2 of the Indian Independence Act 1947 may not create problems of Jammu and Kashmir State in case it acceded to India.. **Maharaja Hari Singh** did have an excuse for being late arguing that under the interim division of the British India as contained in the Indian independence Act 1947 the district of Gurdaspur that included rail head of Pathankot had been first included in West Pakistan and actual position was known only after 17 august 1947 {Radcliffe Cliff award}..

Hari Singh acceded to Indian Dominion on 26 Oct 1947 under a legitimate instrument of accession.. But the letter addressed by Mountbatten GGOI to Maharaja acknowledging the instrument of accession is being primarily used by some separatist elements to call the acceptance of Accession as conditional..**The Indian leadership that is inheriting the name of Jawahar Lal Nehru must reply such quarries. To more of a disadvantage of India inter regional divides too are emerging in J&K and there is utmost need to remedy the local doubts and grievances. .** So as on date the question is more for ideologically beating the separatist elements and the challenges they throw .

The text of Instrument of Accession executed by Maharaja Hari Singh was the same as was signed by other rulers of the princely States.. ***It could not be conditional as a mere acceptance by the Governor General was complete and final. The maharaja said the terms of this my Instrument of Accession shall not be varied by any amendment of the GOI Act 1935 or of the Indian Independence Act ,1947 , unless such amendment is accepted by the acceding prince by an Instrument supplementary to this Instrument. But since it is now too late ,*** a widely acceptable thought need be made to emerge to settle the confusions as created over the years in the innocent

minds of subjects of Jammu & Kashmir in general and those from Kashmir Valley in particular

The Government of India should not have ignored the statement of Hari Singh as made in his letter of 26 Oct 1947 **regarding his people**. I quote :“ The people of my State, both Muslims and non Muslims , generally have taken no part at all { disturbances} “***The Maharaja had no where talked of any dispute regarding accession of J&K and involvement of people of Jammu and Kashmir State { even Kashmir Valley in particular }.*** Then why this condition of settlement of issue of accession by reference to the people. Confusions about the 1947 accession of JK with India have been created by the manner in which the accession was accepted by Government of India and the manner in which Jawahar Lal Jee Nehru handled Kashmir affairs. People of India must forcefully question New Delhi otherwise it will continuing mishandling Kashmir affairs. For a conditional accession the consent of the Maharaja Hari Singh was must and since it was not obtained , the letter has no significance. *But it is also hard reality that the secessionists have been able to sow seeds of distrust against the 1947 Accession of J&K with India ..* **Hence under the circumstances in hand today India can not so easily brush aside the acts of Mountbatten and Nehru that have provided ink to the drafts of demands of separatists and Pakistan to draft petitions against India. These have to be exposed and nullified before the common people of Kashmir as well as the international community rather sleeping over the requirement. Rather wrongs have to be explained to people of other Indian states as well..**

It was in 1941 that J&K National Conference joined All India States Peoples Conference { AISPC } and Sheikh Abdullah came more close to Nehru and Indian National Congress. Sheikh Abdullah declared before Nehru and Azad that the future and independence of J&K was inextricably linked with future and independence of India. It is not wise to selectively accept some actions / compositions / orders of the British and reject the others. The British was a foreign power that had unduly and un legitimately encroached upon the lands and rights of the people of Indian sub continent. Indian people have every right to undo and reject the “destiny” as was written for India by the British parliament. But for the sake of peace in the sub continent and welfare of their own people , the people of Indian sub continent { India / Bharat in Particular } of 1940s { 1945 to 1947 } had even accepted the judgments written by those who had been the aggressors. No doubt if the Indian history is seen and felt from the near it can be inferred that the Indian people exercised a very special type of democracy while the Monarchs ruled India. So every Indian has right to profess / chose for a governing system of his choice but no one has any right to disintegrate the territories of India. And in case any one dares to do so then the Parliament of India has all powers / responsibilities to nullify any provision or amend any provision that can be used against the Nation Those who contest that the Indian Independence 1947 lays down that Princely States will have to / or can accede to either dominion only for three subjects had made / are making over statement. The Indian independence Act 1947 of British parliament no where said like this.

The separatists / votaries of conditional accession do plead that J&K can not be compared with other Princely States . Some have also succeeded in carrying untruthful message that the Instrument of accession signed by Maharaja Hari Singh was special one and unlike other States it was only for three subjects. . Where as the fact was the structure and the text and the spirit of the instrument of accession used by almost all princely states that acceded India dominion was the same. **Out of some thing like 563 States, the vast majority were irretrievably linked geographically with the Dominion of India.** So in view of time constraints a common draft for instrument of accession was prepared.. States who had to accede to Pakistan were not more than 15...

Over the years Pakistan and the anti India forces have succeeded in describing the Indian complaint in United Nations security council as a dispute between India and Pakistan or for some as dispute between the Kashmiries and new Delhi or for some a dispute regarding 1947 accession of JK with India.. All this has happened due to wrong handling, unwise documentation and insincere attitude

of Indian leaders towards the National issues { Indian dominion interests }. A dispute has been got registered at international levels out of no dispute by anti India / anti 1947 accession elements..

***Maharaja did not relish handing over power to Sheikh Mohd Abdullah like the British was to hand over to Congress .May be Hari Singh would have settled before 15 August 1947 or even a month later with some leader other than Sheikh Abdullah if proposed by Indian leadership. But Nehru was very particular for Sheikh Abdullah. Sheikh too had some fears in the minds regarding there being some possibilities ( may be remote) of democratic power going in the hands of some other leader / political group of J&K in case a regular democratic course was adopted for interim Government since Sheikh's National Conference had the Muslim Conference opposing it in Kashmir Valley, in Jammu Province the National Conference did not have much base and the Muslim leaders of Jammu, Poonch, Rajouri and other non Kashmiri speaking areas of J&K ( even in Kashmir Province) were also not unanimously in favour Sheikh's National Conference. It could be inferred from the events that earlier Jawahar Lal Nehru supported Sheikh Abdullah for personal reasons and later on Nehru supported Abdullah in view of the situations that emerged due to delays and confusions before and after the 26<sup>th</sup> October 1947 accession. .The State Constituent Assembly ratified the accession of the State to the Union of India on February 6, 1954 > The President of India subsequently issued the Constitution (Application to J&K) Order 1954 **May 14** under Article 370 of the Indian Constitution extending the Union Constitution to the State with some exceptions and modifications..No doubt constitutional provision of a Separate State Flag and emblem for Jammu and Kashmir have provided enough of tools to those who advocate against J&K remaining a State of Bharat / separatists..***

How could Article 370it be abrogated without giving a chance to a politician to exploit a Muslim or a Kashmiri Muslim has to be worked out. Will the parliament of India for ever remain helplessly looking towards Legislature of J&K is the other question that the experts need to deliberate. The concept of abrogation of this article has to be carried., particularly the people of Kashmir valley, both technically and conceptually. Simple technicalities would not do in case India looks for long term peace . The other question is :: When article 370 was already in place wef from 26 January 1950, what was the need for entering into the Delhi Agreement in August 1952 . In a way it had no legal sanction except that it was held by Jawaharlal Nehru. Kashmir Accord was settled on 13 November 1974 between then Prime Minister Indira Gandhi and Sheikh Mohd Abdullah { in what capacity is not officially made public }. At the maximum this could be called an agreement between Sheikh Abdullah and Indira Gandhi or maximum Congress .

After Sheikh became the CM , a committee was constituted for reviewing the status of laws and it was inferred that no such correction / repealing / medication was necessary and no extensions made till then were bad in intentions / result.

Inspite of so extra economic, administrative and political favours extended to Kashmir valley New Delhi has not been able to win the confidence of people of Kashmir valley to the extent that there are some who even challenge the 1947 Accession of JK with India. .

Some people in Jammu region have started saying openly that the backwardness, poverty, under development, unemployment , poor tourist infrastructure and remoteness of people of this region is overlooked / neglected since they have never raised questions on the validity of 1947 accession of JK with India or accused India of being unfair in holding commitments made with people of JK in 1947.. **Delhi has no doubt used Jammu only as their votary against separatists. Jammu migrants have been ignored for two decades only to project that militancy is limited only to Kashmiri Valley. Where as separatist ideology may be more limited only to Kashmir Valley but the militancy has equally affected the life , property, economy , progress, schooling of children in the remote areas of Doda, rajouri, Udhampur, Pooch, Kishtwar, Ramban, even Kathua. Special packages need be worked out / pursued for these people atleast now to save them from taking to other routes..**

How fair and administratively practical is the demand of those who are asking for reorganization of

J&K will also have to be seen in reference to the erstwhile States of Punjab, Uttar Pradesh, Bihar and Madhya Pradesh

Ofcourse Now the disease can not be medicated simply on technical lines , it will have to be addressed at social levels as well. In Kashmir Valley. The memories of Maqbool Sherwani { who stood against the invaders in Oct 1947 for India } are today lost in the name of Maqbool Bhat. { , Bhat was hanged for killing (1966) a CID inspector of J&K Police in Maqbool was found guilty and sentenced to death in 1968. Bhat, along with two others, managed to dig a tunnel under the Srinagar prison, and escaped to Pakistan, where they were briefly arrested. Maqbool Bhat masterminded 1971 the hijacking of an Indian [Fokker](#) aircraft to Lahore Pakistan and the hijackers declared affiliation with JKLF under the leadership of Maqbool Bhat. He was released in 1974, and two years later, Bhat returned to India.. His earlier death sentence was still valid, and he petitioned to the President of India [Giyani Zail Singh](#) for clemency. On February 6, 1984, the JKLF murdered the Indian diplomat [Ravindra Mhatre](#), in [Birmingham](#). One of the demands in this kidnap was that Maqbool Bhat be released. After this, his petition for clemency was quickly rejected, and Bhat was executed in the [Tihar Jail](#) in [New Delhi](#) on February 11, 1984.}. The falseness will have to worked into trueness by the government.

No purpose would be served by simply carrying rakes of iron and bricks to Kashmir Valley . Surely the actions and pogrammes like return of the migrated Hindu ( Hindustani ) to would return honour of India to Kashmir Valley. Those who pushed Jammu and Kashmir in dark holes by treating the accession of Jammu and Kashmir with India in an irresponsible manner , issues of constitutional integration and, agreements with leaders from Kashmir Valley as their personal subjects , need to be questioned more than even the separatists.

**The issues and demands regarding Article 370. Autonomy, Self Rule, Reorganization of Jammu and Kashmir and UN Security Council resolutions can not be discussed in detail here. But I hope an humble attempt made my me would help those concerned regarding the plight of JK to carry the issues and efforts ahead for achieving peace. Jammu and Kashmir can not afford any more political gamesmanship .**

**(\*Daya Sagar Author is a social activist and a senior coloumnist on Kashmir affairs)**