Genesis of the Kashmir and Junagadh Issues: Embedded in the Deviations between the Principles Founded vs the Principles Implemented

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Abstract

Since the partition of the Subcontinent in 1947, India and Pakistan have been in active conflict or situations like that due to a number of unresolved issues. These disputes are not new but have roots back in 1947 partition. In addition to the issue of Kashmir, there are issues like Sir Creek and Junagadh which are the main hurdles in creating a friendly environment between the two nuclear-armed neighbours. Like Kashmir, Junagadh issue remains unresolved. These two issues have deep roots within the process of partition where defined rules for princely states were not applied as were defined in the British policy. With reference to the British policy for the princely states in the pre-partition Subcontinent, this study aims to explore the deviations between the principles founded vs the principles implemented for their accession with the new dominions. An extensive account on the Instrument of Accession of both states and the circumstances at the time of accessions are produced and compared.

Keywords

Kashmir, Junagadh, Instrument of Accession, Dispute, Geographical Contiguity, Majority of Population

Introduction

Founding Father of Pakistan Muhammad Ali Jinnah wrote in a letter to Mountbatten on September 25, 1947:

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> The Position of Indian States is very clearly defined and it has been repeatedly accepted that after the lapse of Paramountcy every Indian State is Independent and sovereign and free to join Pakistan or the India Dominion. You [Lord Mountbatten] are now trying to import fresh criteria into this matter limiting the free exercise of choice by the States. (Zaidi, 1993)

During the partition of the Indian Subcontinent, the fate of more than 565 princely states was also to be determined for their new future course. Princely states were given the right, as per lapse of paramountcy, the choice to join either dominion, as they wished so. Policy for their future was announced by British Prime Minister Attlee in the Parliament in February 1947. Lord Mountbatten was given the task of implementing the policy as a crown representative (Dar, 2014).

After his address to Chamber of Princes on 25th July 1947, Lord Listowel had responded about the policies of Lord Mountbatten which we will discuss later in this article (Mansergh, 1983). Muhammad Ali Jinnah had clearly written to Mountbatten when he deviated and imposed new and fresh criteria when Junagadh had decided to accede to Pakistan (Zaidi, 1993).

Scholars and historians have extensively studied the princely states and their integration into India and Pakistan. Prominent works include Bangash (2015), Hodson (1969), Lamb (1994), Ankit (2016), Copland (1997), Burke and Quraishi (1994), Menon (1956), Dar (2014), Afraz (1989), Ali and Ahmad (2022), Guha (2007), Ernst (2007), and Lakhani (1989). These studies largely focus on the overall policies concerning princely states or provide detailed accounts of significant disputes involving Kashmir, Hyderabad, and Junagadh.

A vast body of literature exists on the genesis and evolution of the Kashmir and Hyderabad conflict, reflecting its centrality in discussions of post-colonial statehood and geopolitical tensions. However, there is a notable gap in scholarly work when it comes to the Junagadh issue, especially on comparative analysis of Kashmir and Junagadh accession process. While Junagadh is often mentioned as part of broader studies on princely states, its specific context—particularly the role of British policy

in shaping and influencing the events surrounding its accession—remains underexplored.

This study seeks to address this gap by examining the genesis of the Junagadh issue through the lens of British policy formation and implementation. It will offer an in-depth analysis of the political, social, and diplomatic factors that influenced Junagadh's trajectory during the critical period of 1947–1948. By doing so, the research aims to contribute a nuanced perspective to the historiography of princely state accession and shed light on lesser-explored dimensions of the British withdrawal from India.

Junagadh was the first princely state which announced on August 15, 1947 to accede to Pakistan. Mountbatten along with Indian leadership rejected the accession on the grounds that Junagadh is not geographically linked with Pakistan and the majority of the people of the state were Hindu (Ali, 2009). Dishearteningly, it was against the adopted policy for the princely states. Intentions behind these deviations were to make the maximum number of states to join India (Hodson, 1969). This study will examine the policy adopted by the British and analyse the Junagadh issue in the context of Kashmir. Two key questions addressed in this paper are as follows:

1. How did the British policy, regarding the accession of princely states, deviated from the set criteria while its implementation during the partition of India in 1947, particularly in the cases of Junagadh and Kashmir?

2. To what extent did geographical contiguity and the wishes of the majority of the population influence the decisions regarding the accession of princely states, and how were these factors applied in the cases of Junagadh and Kashmir?

Research Methodology

The research methodology for this study involves a comprehensive approach to examine the accession of Junagadh and Kashmir to Pakistan or India. Firstly, a thorough literature review is conducted to analyse existing scholarly works, books, and official documents related to the

accession process. It provided a foundation for understanding the historical context and the legal framework surrounding the accession of princely states. Secondly, primary documents, including the Instrument of Accession with Pakistan signed by the Nawab of Junagadh and the Instrument of Accession of Kashmir with India are analysed critically. This analysis focuses on the legal validity and historical circumstances of each accession, and sheds light on controversies.

A comparative analysis is then carried out to highlight the differences between the Kashmir and Junagadh accession processes, including an examination of the principles of geographical contiguity and the wishes of the majority of the population, and how these principles were applied in each case. Additionally, a legal analysis is conducted to evaluate the legal standing of the accession documents and the legal challenges to these instruments. This analysis provides insights into the legal frameworks governing the accession of the princely states.

Finally, a qualitative analysis is employed to interpret the findings and draw conclusions regarding the authenticity and legal value of the accession documents. It is intended to help clarify the original picture of the policy for the accession of princely states with either dominion. Overall, this research aims to provide a comprehensive and detailed analysis of the accession of Junagadh and Kashmir, aims to fill the gap in existing research and strives to contribute to a better understanding of the historical and legal aspects of the accession process.

Principle of Accession

First of all, to clarify the first argument of the majority of the population and the contiguity of the land border, we should look back to the partition principle for the princely states given by the British Parliament in the Indian Independence Act of 1947. Most importantly, separate partition policy was adopted by Britain for princely states (areas under British suzerainty) and British India (areas under British sovereignty). According to the *Interpretation Act 1889*, the areas which were directly ruled by Britain were called as British India. These areas were divided during the partition on the basis of religious majority. Princely states were treated absolutely differently from British India

because these areas were not under the direct British rule. These territories were governed by indigenous rulers but under British paramountcy or suzerainty (Ramusack, 2004). The British supremacy over these states meant that these states had surrendered some degree of sovereignty to Britain and were independent in their internal affairs. According to the historian Henry Vincent Hodson, the citizens of these states were not subject of Brittain. Their status was the 'British Protected Persons' (Hodson, 1969).

British policy regarding partition towards princely states was made public during the early months of 1947. The first statement came from the British Prime Minister in his 20th February 1947 address to the British Parliament, where he stated a separate policy for the princely states, saying:

> With regard to the Indian States, as was explicitly stated by the Cabinet Mission, British government wouldn't hand over their powers and obligations under paramountcy to successor government. (Mansergh, 1983)

This statement describes that after the creation of two new dominions of India and Pakistan, the powers surrendered by princely states shall be transferred back to these states and not to the India or Pakistan. An explicit policy for the princely states was stated precisely in the 3rd June Plan of Partition. According to this plan the future of princely states would be decided according to the principle laid down in the Cabinet Mission Memorandum of 12th May 1946. Paragraph 18 of the 3rd June Plan of Partition by the British government declares:

> His Majesty's Government wish to make it clear that the decision announced above relate only to British India and their policy towards Indian States contained in the Cabinet Mission Memorandum of 12th May 1946 unchanged. (Mansergh, 1983)

Thus, the 3rd June plan stated a separate policy for the British India (directly ruled areas) and princely states (indirectly ruled areas under British *paramountcy* and *suzerainty*).

An important question arises here: what was stated in the Cabinet Mission Memorandum of 12th May 1946 regarding the princely states

which was mentioned by the British Prime Minister in the parliament and the 3rd June Plan of Partition?

The Cabinet Mission Memorandum of 12th May 1946 provided that when the Subcontinent would have independence from Britain, His Majesty's Government would no longer be able to carry out the obligations of paramountcy, and all the rights surrendered by the states to Britain would be returned back to the states. Britain's paramountcy, therefore, would lapse on its withdrawal from India and would in no circumstances be transferred to the government of either of the new dominions. The void created by the lapse of paramountcy and cessation of political and other arrangements between the states and the British crown was, "to be filled either by the states entering into a federal relationship with the Successor Government or Governments in British India, or failing this, entering into particular political arrangements with it or them." (Mansergh, 1983)

According to the Indian Independence Act of 1947, Section 7, Clause 1 (b), it was declared that on August 15, 1947, "suzerainty of His Majesty over the Indian States lapses and all the agreements between British and princely states would end*."* (Mansergh, 1983)

Indian Independence Act had clear and explicit provisions regarding the partition of Subcontinent into two new Dominions: India and Pakistan. It had plain provisions which geographically divided the Subcontinent into two administrative categories: entire territory of the Subcontinent under the *sovereignty of His Majesty* and territories under the *suzerainty of His Majesty* (the princely states)**.**

Basically, Section 2 of the Indian Independence Act of 1947 provides the territories of the new dominions of India and Pakistan. According to section 2(1), "territories under the Sovereignty of His majesty…" would be the territories of India and Pakistan e.g., territories of Pakistan are categorically stated in section 2(2b) having no option to accede or not to accede with Pakistan and the same is the case for India. Hence, these territories are not given the choice of accession in section 2 of the Indian Independence Act 1947.

Another important section 2(4) had provisions for the princely states. It states categorically that new dominions cannot create hindrance of any kind whatsoever in the possible accession of any princely state to whichever of the dominions it wishes to accede. Section 2(4) further directs the new dominions of India and Pakistan that they could not reject accession of any princely state if it wishes or force any of the princely states for accession against its determination. As written in section 2(4), "nothing in this section shall be construed as preventing the accession of Indian states to either of the new Dominions." (Mansergh, 1983)

Section 7 (b) of the Indian Independence Act of 1947 also had provisions for the future of territories considered princely states under Britain's suzerainty. According to this section "the suzerainty of his majesty over Indian states lapses, and with it, all the treaties and agreements in force…" thereby gaining their independent status. These territories, therefore, cannot be realised as the territories of either of the new dominions, India and Pakistan, mentioned in the section 2. Hence, no section of the Indian Independence Act of 1947 allude to any limitations in the sovereignty of princely states regarding their accession and future status.

Policies of Congress and Muslim League Regarding the Princely States

On April 18, 1947, during the All-India States' People's Conference at Gwalior, Nehru categorically stated that any state which did not come into the Indian Constituent Assembly would be regarded as hostile and would have to bear the consequences of being so regarded (Burke & Quraishi, 1994). Due to aggressive policies, many princes and rulers of the princely states were frightened and disliked Nehru (Guha, 2007). The policies adopted by Congress with regard to states was purely based on the Chanakya principle of Danda. After the occupation of Junagadh Sardar Patel threatened the Hyderabad State, "If Hyderabad does not see the writing on the wall, it goes the way Junagadh has gone" (Dawn, November 1947). During the course of the partition Sardar Patel and other Indian leadership did the same what they had said about the states (Kashmir, Junagadh, Hyderabad etc).

However, Jinnah's statement of 17th June 1947 maintained:

> Constitutionally and legally the Indian States will be independent sovereign States on the termination of paramountcy and they will be free to decide for themselves to adopt any course they like; it is open to them to join the Hindustan Constituent Assembly, or the Pakistan Constituent Assembly, or decide to remain independent. (Zaidi, 1993)

Practically, statement of Jinnah depicts the essence of the Indian Independence Act of 1947 which had virtually three options for the Indian princely states after the lapse of suzerainty of His Majesty, including: 1) accede with Pakistan, 2) accede with India, or 3) remain independent.

Implementation of Policy

Lord Mountbatten took the charge of Viceroy General of British India from Lord Wavell on March 22, 1947. Before the transfer of power, he was working as Viceroy and Crown Representative of British King. His duty, with regard to states, was to facilitate the princes, to negotiate with either dominion to adopt future relations with Indian and Pakistani constitutional assemblies and to protect their interests. With lapse of paramountcy, British policies regarding the princely states fell into ambiguity, with serious lack of any heed for their future status.

Initially, Lord Mountbatten stated on June 4, 1947, "…with the lapse of paramountcy, they would assume an independent status and were absolutely free to choose to join one constitution assembly or the other, or make some other arrangement." (Khan, 2009)

When the 3rd June Plan of Partition was announced, a meeting of the viceroy with the members of the States' Negotiating Committee was arranged. However, during a discussion with the States' Negotiating Committee, the viceroy observed that to fill the administrative gap after the lapse of paramountcy, standstill arrangements would have to be made for the interim period, till the establishment of fresh arrangements. During the meeting, the Raja of Bilaspur enquired about the "entry of states into either Dominion Constituent Assembly was a matter of free choice' the viceroy confirmed it" (Mansergh, 1983).

In simple words, the general principle was that the states would be free from Britain after the lapse of paramountcy and suzerainty over them, and legally would become independent. Then *what were the options given to them for the future?* The options were that these states could enter into the federal relations with either dominion or they could also form their own units or groups and then enter into specific arrangements with either dominion. Initially states of *Kashmir*, *Hyderabad*, and *Travancore* decided to adopt independent status. The Nawab of *Bhopal* with the ruler of *Indore* was interested in forming groups or units of states. Nawab of *Junagadh* had decided to accede with Pakistan (Ali, 2009).

Therefore, as far as British policy in its entirety is concerned, as stated by Prime Minister Attlee and mentioned in other relevant policy documents that included the Cabinet Mission Memorandum of May 12, 1946, 3rd June Plan, and Indian Independence Act of 1947, it was clear that princely states could decide their own future freely after the lapse of paramountcy, without any compulsion of the majority of the population and geographical contiguity. A pertinent point to note is that the rulers of the states had signed agreements with the British Crown. So, it was clear that rulers of the states had surrendered their rights to the British crown which they gained back after the lapse of paramountcy on August 15, 1947.

Where did the principles of geographical contiguity and the majority of the population come from? Officially, on the insistence and pressure of Indian leadership to secure the accession of the maximum number of princely states and to avoid balkanization of India (Menon, 1956), Lord Mountbatten added compulsions of geography in his last address to the princes of states on July 25, 1947 in the Chamber of Princes.

V. P. Menon admitted in his book that when he realized the sensitivity of the issue of princely states, he found that some states were trying to get independent status, which he perceived would balkanize India. He also conceived that this situation had to be carefully handled. Before taking charge as secretary of the States Department, he persuaded Vallabhi Patel that the cooperation of Viceroy Mountbatten was very important to solve the problem of states (Menon, 1956). He had viewed

that his role would be very crucial because, "apart from his position, his grace and his gifts, his relationship to the royal family was bound to influence the rulers" (Burke & Quraishi, 1994). Menon asked the Viceroy for his help to secure the maximum number of states into the Indian fold on three subjects: defence, foreign affairs, and communication, which he accepted (Menon, 1956). After that he plunged into the task with his '*customary vigour'* (Burke & Quraishi, 1994).

During his address to the Conference of the Rulers and Representatives of Indian States, he forced the states to negotiate with either dominion for the future. Here he fixed the date August 15, 1947 for the states to accede with either of the dominions. His speech pleased Menon so much that he called it '*the apogee of persuasion*' (Burke & Quraishi, 1994).

After seeing the tilt of Mountbatten toward India, Political Advisor of States Department Conrad Cornfield left his job and flew back to England on July 23, 1947 (Corfield, 1975). Nawab of Bhopal was extremely critical to the policies adopted by the Viceroy for princely states. He resigned as a Chancellor of the Chamber of Princes and even did not attend the meeting of 25th July. He protested in these words, "rulers were being invited like oyster to attend the tea party with the walrus and the carpenter" (Burke & Quraishi, 1994).

Lord Mountbatten also admitted during his address to princess that, "the states have complete freedom-technically and legally they are independent." (Mansergh, 1983). He further stated that,

> The states are theoretically free to link their future to whichever dominion they may care. But when I say that they are at liberty to link up with either of dominions, may I point out that there are certain geographical compulsions which cannot be evaded. (Mansergh, 1983)

Mountbatten had also pressurized the states that, "if you do not link up with one or the other of the dominions, you will be cut off from any source of supplies of up-to-date arms and weapons" (Mansergh, 1983). On the evening of July 28, 1947, as the deadline for the transfer of power was approaching – August 15 – Mountbatten arranged a reception for

over fifty ruling princes and a hundred representatives of states. Menon in his book termed this gathering as "a last-minute canvassing of voters near the polling booth" (Menon, 1956). Interestingly, he added these two compulsions for rulers and states when he was acting as British representative in the capacity of Viceroy and Crown representative, but he forgot the same compulsions in the case of Kashmir, while acting as the Governor General of independent India. Even he applied these compulsions on Hyderabad, Jodhpur, Bhopal, Travancore, and Junagadh. When Junagadh officially acceded to Pakistan, then Indian leadership including Mountbatten had also added the compulsion of the majority of the population. They also threatened the Nawab of Junagadh to reverse back his decision of accession with Pakistan (Ali & Ahmad, 2022).

The letter written by Lord Listowel to Mountbatten on August 1, 1947, after his address of July 25, 1947 is especially important in this debate. In his letter, he made general observation that British authorities must not add to the pressure under which the states were already labouring. He had categorically made two objections. He said he was doubtful about Mountbatten's statement that "if states did not link up with one or other dominos, they would be cut off from any source of supplies of up-to-date arms or weapons". Another objection that Lord Listowel had raised, he was not clear why the states would be given the time limit of joining before August 15, which was not set by the parliament. Listowel said that first states should wish to see the constitution and then decide to opt for any constitutional assembly of either dominion. Listowel also said clearly to Mountbatten that "we may be asked in parliament that your speech implies any departure from policy regarding states, particularly as stated in the Prime Minister's speeches in the debate on Indian Independence Act" (Mansergh, 1983).

To cut the long story short, it is visible that there had been no compulsions of contiguity of geography and the majority of the population in Britain's stated policy as far as princely states were concerned. These two compulsions were added by Mountbatten on the insistence of Indian leadership. Because he himself admitted that "if I can bring in a basket full of states before 15th August, Congress will pay whatever price I insist for the basket" (Dar, 2014). If the letter of Lord

Listowel is analysed, in which he raised objections to Mountbatten's address to princes, it can be deduced clearly that in the stated British policy for states, Mountbatten had no right to put pressure on the princes or add new compulsions in the stated policy.

Accession Documents of Kashmir and Junagadh: Historical and Legal Perspective

The debate surrounding the accession documents of Kashmir and Junagadh is a complex and contentious issue. It requires a thorough examination from both historical and legal perspectives. After consulting the State Council, the sovereign of Junagadh State Nawab Mahabat Khanji sent a delegation to Pakistan for negotiations on the Standstill Agreement and terms of Accession. He himself wrote to Pakistan: "My government had decided to accede to Pakistan, join Pakistan Constitutional Assembly. Shortly, deputing representatives for negotiating terms of accession and of standstill agreement. Kindly arrange to confirm." (Zaidi, 1993)

Nawab Mahabat Khanji announced his decision to accede to Pakistan, which was published in the Gazette of Junagadh 'Dastrural Amal Sarkar Junagadh' on August 15, 1947. The decision of the Government of Junagadh reads as:

> The Government of Junagadh has during the past few weeks been faced with the problem of making its choice between accession to the Dominion of India and accession to the Dominion of Pakistan. It has had to take into very careful consideration every aspect of this problem. Its main preoccupation has been to adopt a course that would, in the long run, make the largest contribution towards the permanent welfare and prosperity of the people of Junagadh and help to preserve the integrity of the State and to safeguard its independence and autonomy over the largest possible field. After anxious consideration and the careful balancing of all factors, the Government of the State has decided to accede to Pakistan and hereby announces its decision to that effect. The State is confident that its decision will be welcomed by all loyal subjects of the State who have its real welfare and prosperity at heart. Now that the

> Dominions of India and Pakistan have been admitted into the fellowship of independent sovereign States on an equal footing, it is to be hoped that vast avenues of progress will be thrown open to the peoples of both Dominions in every walk of life and that the peoples of both Dominions will combine to derive the fullest benefit from the opportunities which will now be made available to them in peace and cooperation with each other. The Government of Junagadh will continue to make every endeavour to secure for all classes of the people of Junagadh without distinction, in fullest measure, the blessings of security, peace and prosperity and is confident that in the furtherance of this object, it will receive the fullest cooperation from all classes and sections of the subjects of His Highness the Nawab Saheb Bahadur. (Zaidi, 1993)

The process of accession of the State of Junagadh with Pakistan was actualized on September 15, 1947. It was accomplished in genial circumstances without any coercion or pressure from Pakistani side. It became part of Pakistan and Pakistani flag was hoisted at Junagadh. India put objections on the accession of Junagadh to Pakistan. The Indian leadership had sent the Sectary of States VP Menon to Junagadh on September 17, 1947 (Menon, 1956), where he pressured and threatened Nawab of Junagadh to roll back his decision.

On September 17, 1947, Sardar Patel, Pundit Nehru and all members of the cabinet, before meeting with Mountbatten, had decided to take military action against the Junagadh state and they were anxious that the "Government of India should not show weak over the Junagadh issue..." (Hodson, 1969). Indian leadership wanted to put maximum direct or indirect pressure on Nawab and thus stationed the troops around the borders of Junagadh. On the same day, Indian troops were dispersed around the borders of Junagadh. Kathiawar Defence Force was formed for military action in Junagadh. An economic blockade was imposed as well. All rail communications from India to Junagadh were cut off. There was also a serious shortage of food. The officials of the Indian Government including Patel and Menon created and supported the gunmen and goons of the so-called Provisional Government (*Arzi Hukumat)* under the leadership of Shamal Das Gandhi, After the

occupation of Junagadh, Sardar Patel visited Junagadh. During his visit, in an open gathering Shamal Das Gandhi admitted that all activities of Provisional Government were supported by Patel (Dawn, 1947). He was the nephew of Gandhi and a non-resident of Junagadh state. The activities of *Arzi Hukumat* brought the Junagadh administration to a complete breakdown. In the last week of October 1947, Nawab of Junagadh State was in Pakistan for negotiations with the leadership of Pakistan (Pakistan Times, 1947).

When examining the Indian claim on the accession of the state of Kashmir with the Indian Dominion, one encounters narrative rich in historical, legal, and political complexities. A significant event in this regard took place on July 19, 1947. A meeting of All Jammu and Kashmir Muslim Conference with its representatives from all around Kashmir was held at the residence of Sardar Muhammad Ibrahim Khan in Aabi Guzar area of Srinagar. A resolution of Kashmir's accession to Pakistan was passed unanimously (Pakistan Times, 1947). Interestingly, the resolution was passed before the creation of Pakistan which is a clear demonstration of a popular public demand. After the partition, initially, the Maharaja of Kashmir had wished to remain independent but signed a standstill agreement with Pakistan. India had refused to sign a standstill agreement with Kashmir.

Now we come to the situation of Kashmir which prevailed when the alleged Kashmir's Instrument of Accession was signed with India. There was a public uprising, revolt against the ruler, unrest and chaos in the state. This public revolt of Muslims did not emerge suddenly, but it was actually rooted in decades-long brutalities of the Dogra Raj. Here to correct the historical record, there was no public uprising against Nawab of Junagadh during the state's accession with Pakistan. Junagadh remained perfectly normal. It was Indian leadership which instigated the revolt against Nawab. It provided assistance to non-residents of Junagadh on Indian soil after the accession of the state in September 1947. However, in case of Kashmir, the revolt was indigenous. Because of the rebellion, Maharaja fled from the capital of the state. These were the circumstances which actually made Maharaja to seek help from India.

The leadership of India set the condition of accession of the state with any favours in this regard.

The alleged accession letter written by Maharaja on October 26, had two historical significances. One is related to the timing of the letter written by Maharaja Hari Singh and the instrument of accession document itself, which was delivered to Mountbatten. The other two documents were the acceptance of the instrument of accession and the letter for the landing of Indian troops on the morning of October 27, 1947.

Alastair Lamb questions the credibility and authenticity of the Instrument of Accession of Jammu and Kashmir. According to his arguments:

> On 26th of October 1947, the Maharajah of Jammu & Kashmir was travelling by road from Srinagar to Jammu. His Prime Minister, M.C. Mahajan, who was negotiating with the Government of India, and the senior Indian official concerned in State matters, V.P. Menon, were still in New Delhi where they remained overnight, and where their presence was noted by many observers. There was no communication of any sort between New Delhi and the travelling Maharajah. Menon and Mahajan set out by air from New Delhi to Jammu at about 10.00 a.m. on October 27, and the Maharajah learned from them for the first time the result of his Prime Minister's negotiations in New Delhi in the early afternoon of that day. The key point, of course, as has already been noted above, is that it is now obvious that these documents could only have been signed after the overt Indian intervention in the State of Jammu & Kashmir. When the Indian troops arrived at Srinagar airfield, that State was still independent. Any agreements favourable to India signed after such intervention cannot escape the charge of having been produced under duress.

He further added that,

> The far more important document i.e. the alleged Instrument of Accession was not published until many years later, if at all. It was not communicated to Pakistan at the outset of the overt Indian

> intervention in the State of Jammu & Kashmir, nor was it presented in facsimile to the United Nations in early 1948 as part of the initial Indian reference to the Security Council. The 1948 White Paper in which the Government of India set out its formal case with respect to the State of Jammu & Kashmir, does not contain the Instrument of Accession as claimed to have been signed by the Maharajah: instead, it reproduces an unsigned form of Accession such as it is implied, the Maharajah might have signed. (Lamb, 1994)

If that alleged accession is considered true then the acceptance letter written by Indian Governor General Mountbatten on October 27, 1947 in response to Maharaja Hari Singh's letter of October 26, was the basis on conditional acceptance of Instrument of Accession of Kashmir with Indian Dominion. He had written,

> It is my government's wish that as soon as law and order have been restored in Kashmir and her soil cleared of the invader the question of State's accession should be settled by a conference of people.

According to Mountbatten's words, the acceptance of the alleged accession letter was conditional. Indian leadership itself took the Kashmir issue into United Nations Security Council.

Therefore, the argument that Kashmir had signed an instrument of accession with India just like Nawab of Junagadh signed accession with Pakistan, is not true. Another question arises whether Pakistan or the Governor General of Pakistan accepted Junagadh's accession conditionally just as stated by Indian Governor General Lord Mountbatten?

The response of the Governor General of Pakistan to Mountbatten on the accession of Junagadh is recorded as:

> The position of Indian States is very clearly defined, and it has been repeatedly accepted that after the lapse of Paramountcy, every Indian State is Independent and sovereign and free to join Pakistan or the India Dominion. You (Lord Mountbatten) are now trying to import fresh criteria into this matter limiting the free exercise of choice by the States.

He explained to Mountbatten:

> The division of British India, agreed upon between the Congress and the Muslim League, has nothing whatever to do with this as the Question of States was dealt with quite separately and stands on a different footing. In these circumstances, you will agree that Junagadh, like any other state, was entitled and free to join Pakistan and has done so. (Zaidi, 1993)

Muhammad Ali Jinnah was very astonished on the view expressed by Mountbatten in which he had threatened to the Dominion of Pakistan that,

> Such acceptance of Accession by Pakistan cannot but be regarded by Government of India as an encroachment on India's sovereignty and territory and inconsistent with friendly relations that should exist between two Dominions.

He made it clear to Mountbatten that:

> India Dominion has no right of sovereignty, territorial or otherwise over Junagadh. We entirely- fail to understand how the accession of Junagadh to Pakistan can be regarded as an encroachment upon India's Sovereignty and as inconsistent with friendly relations between the two Dominions.

Regarding Mountbatten's suggestion for a plebiscite, Muhammad Ali Jinnah's views were that "This was a matter Between the Ruler, the constituted authority, and the people of Junagadh" (Zaidi, 1993).

As far as, with concern to Kashmir issue, Kashmir is an internationally recognized disputed territory and the United Nations Security Council has passed more than one dozen resolutions to give Kashmiris the right to self-determination to decide their future. This is not because of Indian Independence Act, rather it was because of public uprisings, Maharaja losing his authority, and objections on accession letter. Whereas the accession of Junagadh was complete with Pakistan as per Indian Independence Act and all the norms of international law. So, at the conclusion of the debate:

1. The Instrument of Accession of Junagadh State with Pakistan was carried out with due process and published while the alleged Instrument

of Accession of Kashmir with India was based on fraud and even the objectionable letter was conditional.

2. There was an indigenous public uprising and revolt against Dogra Raj in Kashmir by Kashmiris while on the other hand, in Junagadh State it was gangsters *so-called Arzi Hukumat,* who were created at Indian soil, nourished and received every assistance from Indian leadership (admitted by Shamal Das Gandhi).

3. Kashmir is an internationally recognized disputed territory while Junagadh's case, which legally acceded to Pakistan, is pending in the United Nations Security Council.

Indian Stance

Prime Minister of India Nehru in his letter to Pakistani counterpart first admitted that, "It has all along been understood that a State is free to accede to either of the two Dominions" but then he expressed his opinion that "but the choice of a State in regard to accession must, in our opinion, necessarily be made with due regard to its geographical contiguity. Junagadh is nowhere contiguous to the Pakistan Dominion." (Zaidi, 1993)

The Indian leadership, including Lord Mountbatten, had raised three major objections while refusing to recognize the accession of Junagadh with Pakistan, those objections were as following: The first objection was that 80% of the population of Junagadh was Hindu, so its accession to Pakistan was illogical. The second Indian objection was Junagadh had a geographically connected land border with India so it should be part of India. Similarly, the third objection was that the Muslim ruler Nawab had no right to decide, but only the people of Junagadh could make a decision about who they wanted to join (Bhasin, 2012).

In this manner, India demonstrated its double standards. When situations favour India, such as in the case of Kashmir's Instrument of Accession, they adhere to it. However, it rejects such principles when they lose interest, as seen in their treatment of Junagadh's Instrument of Accession. India's first double standard was that Junagadh's accession to Pakistan could not be recognized because 80% of its population is Hindu, so how could Kashmir be acceded to India when the majority of

Kashmir's population was also Muslim? Why could India not implement the Junagadh formula in Kashmir and Hyderabad and interestingly in those Muslim majority states having non-Muslim rulers? However, Pakistani leadership maintained the stance laid in the principle of Independence Act and thus accepted accession of Junagadh and questioned Indian illegal accession of Kashmir.

Another Indian double standard is that if Junagadh's accession to Pakistan was not acceptable to the Indian leadership, including Lord Mountbatten, because Junagadh was geographically close to India, then why Lord Mountbatten did not apply the same principle to Kashmir? They all were well aware of the fact that Kashmir was geographically contiguous and connected with Pakistan. According to India, if the decision of Junagadh accession was to be made by the people instead of the ruler, then why did India not apply the same principle to Kashmir? Why is India not recognizing the right of self-determination of people in Kashmir not only at that time but even after seven decades?

Conclusion

The accession of the princely states to either India or Pakistan was not solely based on principles of geographical contiguity and the wishes of the majority, but rather imposed by external factors like Mountbatten. After analysing various historical facts on Junagadh and Kashmir, it is visible and clear that the stance of Pakistan on Junagadh is very strong due to the reason that Pakistan has a credible, published, authentic, genuine, and unconditional Instrument of Accession signed by Pakistan and the state of Junagadh. This is still intact. Interestingly, Pakistan in its new political map also has shown Junagadh as part of its territory. On the other hand, the Indian claim and stance on Kashmir are disputed and weak, while Pakistan’s claim on Junagadh is legal and valid. The case of Junagadh strengthens Pakistan’s stance on Kashmir. There are many states in the world which are controlling their territories having no land border with them. For example, the United States of America is controlling the state of Alaska having no land border with it. Junagadh legally acceded to Pakistan, and thus is a legitimate part of its territory. It

is India which illegally and by naked aggression used its force both in Junagadh and Kashmir and occupied these territories.

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