Appendix-I

INSTRUMENT OF ACCESSION OF JAMMU KASHMIR

WHEREAS 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, 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 WHEREAS the Government of India Act, 1935, as so adapted by the Governor-General provides that an Indian State may accede to the Dominion of India by an Instrument of Accession executed by the Ruler thereof;

NOW THEREFORE

JAWAHAR SINGH, Elected Ruler of JAMMU, KASHMIR, brings it to your know ledge that the Ruler of JAMMU, KASHMIR, in exercise of my sovereignty in and over this State do hereby execute this my Instrument of Accession and

1. I hereby declare that I accede to the Dominion of India with the intent that the Governor-General of India, the Dominion Legislature, the Federal Court and any other Dominion authority established for the purposes of the Dominions shall, by virtue of this my Instrument of Accession, be subject always to the terms thereof, and for the purposes only of this Dominion exercise in relation to the State of JAMMU, KASHMIR (hereinafter referred to as “this State”) such functions as may be vested in them by or under the Government of India Act, 1935, as in force in the Dominion of India on the 15th day of August 1947 (which Act as such force is hereinafter referred to as “the Act”).

2. I hereby assume the obligation of ensuring that due effect is given to the provisions of the Act within this State so far as they are applicable thereto in virtue of this my Instrument of Accession.

3. I accept the matters specified in the Schedule hereto as the matters with respect to which the Dominion Legislature may make laws for this State.

4. I hereby declare that I accede to the Dominion of India on the assurance that if an agreement is made between the Governor-General and the Ruler of this State whereby any functions in relation to the administration in this State of any law of the Dominion Legislature shall be exercised by the Ruler of this State, then any such agreement shall be deemed to form part of this Instrument and shall be construed and have effect accordingly.

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 by an Instrument supplementary to this Instrument.

6. Nothing in this Instrument shall empower the Dominion Legislature to make any law for this State authorising the compulsory acquisition of land for any purpose, but I hereby undertake that should the Dominion for the purposes of a Dominion law which applies in this State deem it necessary to acquire any land, I will at their request acquire the land at their expense or if the land belongs to me transfer it to them on such terms as may be agreed, or, in default of agreement, determined by an arbitrator to be appointed by the Chief Justice of India.

7. Nothing in this Instrument shall be deemed to commit me in any way to acceptance of any future constitution of India or to fetter my discretion to enter into arrangements with the Government of India under any such future constitution.
8. Nothing in this Instrument affects the continuance of my sovereignty in and over this State, or save as provided by or under this Instrument, the exercise of any powers, authority and rights now enjoyed by me as Ruler of this State or the validity of any law at present in force in this State.

9. 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.

Given under my hand this 26th day of October, Nineteen hundred and forty seven.

[Signature]

I do hereby accept this Instrument of Accession.

Dated this 3rd day of August, Nineteen hundred and forty seven.

[Signature]

(Governor-General of India)

Source: Troubled Kashmir by Mahander M. Gupta
Appendix-II

The Delhi Agreement, 1952

In view of the uniform and consistent stand taken up by the Jammu and Kashmir Constituent Assembly that sovereignty in all matters 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.

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 powers 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;

As the President of India commands the same respect in the State as he does in other Units of India, Article 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.

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 recognized 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 recognized.

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 recognized 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 President of India. With regard to the powers and functions of the following argument was mutually agreed upon.

The Head of the State shall be a person recognized 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;

He may, by writing under his hand addressed to the President, resign his office;
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;

Provided that he shall, notwithstanding the expiration of his term, continue to hold the office until 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 defense (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 (I)

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.

The Jammu and Kashmir Constituent Assembly discussed this arrangement and finally adopted a motion of approach on August 21, 1952.

The agreement was discussed in the Union Parliament on August 7, 1952 and accepted.

This arrangement was later on known as the ‘Delhi Agreement, 1952’.

Source: Troubled Kashmir by Mahander M. Gupta
Appendix-III

WHITE PAPER ON ELECTIONS IN KASHMIR

The state of Jammu and Kashmir covers an area of 84,471 square miles. Of this area India occupies 49,560 square miles and Pakistan controls the rest. The state, lying between 32°-17’ and 36°-58´ North latitude and 73°-6´ and 80°-30´ East longitude is surrounded by China, Tibet, Pakistan, India and Afghanistan. There is no doubt that it is of great strategic importance because it has survived despite the many threats from Soviet and Chinese Communist expansionism. Mahnaz Ispahani, an expert in South Asian geopolitics, stated that "with the partition of the sub-continent, Kashmir itself became of even greater strategic value than in imperial times."

The 20th century dawned and the world witnessed struggles against autocracy, feudalism and colonialism. The winds of these revolutions crossed the peaks of the Himalayas and touched Kashmir. Repressed for years, the Kashmiri people were already frustrated. In the year 1924, these sentiments came to the fore in the form of a memorandum, which was presented to Lord Reading, Viceroy of India, upon his arrival in Kashmir.

In 1931, the people's dissatisfaction with the condition under which they lived erupted and soon took the form of a popular movement. This movement resulted in the end of feudal rule in 1947. But this, in and of itself, did not bring freedom to the people of Jammu and Kashmir. In fact from 1947 onwards a new chapter of slavery was added to the history of this state. The British Empires closed its show in the subcontinent and sailed lock, stocked and barreled, back to England; but with the end of the British Raj came a period of neo-colonial rule.

It was 9.00 a.m. on October 27, 1947, when Indian troops officially started landing at the Srinagar airfield. In the words of British historian, Alastair Lamb, "From their arrival on October 27, 1947 to the present day, Indian troops continued to occupy a larger proportion of the state of Jammu and Kashmir despite the increasingly manifest opposition of the majority of the population to their presence." To give legality to the invasion of a sovereign country, India adopted various methods. The state of Jammu and Kashmir was designated as a princely state within the British Indian Empire. With the lapsing of the British Paramountcy in the princely states, the state of Jammu and Kashmir became independent by "default." This gave the Maharaja the option of joining either of the two countries. This was a requirement under the rules of the British transfer of power in the Indian subcontinent or what is called the Indian Independence Act.

The Act was enthusiastically welcomed by Quaid-I-Azam Mohammed Ali Jinnah. In his words, "constitutionally and legally the Indian states will be independent sovereign states on 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 remain independent." Jinnah's stand was in accordance with the law. But Congress' leadership was averse to the idea and to them lapsed Paramountcy meant reversion to Independent status. The devotees of Congress felt jittery over the granting of independent status to any of the princely states. Professor Gowher Rizvi, MacArthur Fell, professor of International Relations at Oxford University, put it this way: "The states were compelled to accede to one or the other dominion in accordance with the broad principles of Partition itself: Muslim majority states located in territories contiguous with Pakistan would accede to Pakistan and the rest would go to India . . . in these circumstances Kashmir too would easily be disposed of. Over seventy-five percent of the population was Muslim (according to the 1942 census, of a total population of 40,021,616, Muslims accounted for 31,000,000 and Hindus 809,000 approximately) the
state was adjacent to Pakistan and irrespective of the wish of the ruler, the state would be integrated with Pakistan."

When the Maharaja requested a standstill agreement from Pakistan, it agreed. But India rejected his request outright. India adopted various tactics to lend credibility to its invasion of Kashmir. On January 1, 1948, India took the issue to the United Nations. The UN adopted two resolutions, on August 13, 1948 and January 5, 1949. These resolutions granted the right to self-determination through a plebiscite, to be held under the supervision of a UN-appointed plebiscite administrator. Both India and Pakistan accepted this resolution.

Mahatma Gandhi said, "... the will of Kashmiris is the supreme law in Kashmir." Prime Minister Jawaharlal Nehru said in Parliament, "From the very beginning it has been our declared wish that the people of Kashmir should themselves decide their future. We will continue to adhere to our policy whatever happens. In a pursuance of our policy, we agreed to hold a plebiscite provided the condition necessary for its peaceful conduct were fulfilled." Nehru reiterated this stand on a number of occasions. He once reminded the president, Dr. Rajinder Prasad, "We are committed to abide by the decision of the people of Kashmir, whatever it might be. We are committed secondly to a plebiscite. If the people of Kashmir decide to remove or do away with their old ruler, we must accept that decision in view of our repeated assurances to that effect. If they want to leave India, that also we have to accept because of our assurance. We could of course want this done in the proper way and having due regard to constitutional proprieties."

Selected works of Jawaharlal Nehru, second series, volume 18, April 1-July 15, 1952. Ed. S. Gopal: "Plebiscite was not a foreign phenomenon to the process of India's partition. The fact of the matter, however, was that the plebiscite policy had been established long before the Kashmir crises erupted in October 1947. It was an inherent part of the process by which the British Indian Empire was partitioned between two successor Dominions."

Why did India take the issue to the United Nations? There was no sincerity of purpose nor did it have the intention of allowing the people of Kashmir to exercise their right to self-determination. Pervez Iqbal Cheema, Professor and Chairman of the Department of International Studies at Quaid-I-Azam University, Islamabad, expressed the following perspective: "The simple answer seems to be the initial Indian attempts were to enforce a military solution in Kashmir, but failed to throw tribesmen out of Kashmir territory and to annihilate the Azad Kashmir forces. It was the failure of the Indian army to enforce a quick military solution because of the strong resistance of the Azad Kashmir forces which prompted India to take the case to the United Nations. This could be one of the reasons, I believe, that India wanted to buy time to consolidate its position in Kashmir and then follow its plan of annexation."

To forge ahead with its plan of annexation, to be defiant in the face of the intensity of the UN resolution, and to back-track from its commitment of granting the rights to self-determination, India has enacted the modern drama of forcing a process of "rigged elections and sham democracy," in the words of a senior Indian journalist, Tavleen Singh, upon the Kashmiri people.

The first elections were held in September 1951 and 73 or 75 members of this Assembly ran uncontested. The electorate boycotted the whole affair. The assembly was to "... determine the future shape and affiliation of the state of Jammu and Kashmir." India's intelligence Chief, Mr. B.N. Mullick, exposed the government's method of rigging the election: "Nomination papers of most of those who could form an opposition were rejected."
By no acceptable standard was the Constituent Assembly a representative body. Justice Mufti Bahudin Farooqi characterized the members as "nodding goats of Sheikh Abdullah." Most of the members of this Constituent Assembly were semi-literate. In the words of historian M.S. Pampori, "Most of this Constitution-making body was chosen if not from illiterates, then from semi-literates who could not understand even the definition of the Constitution, not to speak of its language and implications." Noted jurist of the Bombay High Court, A.G. Noorani, recently wrote in *The Statesman*, that "Sheikh Abdullah rigged the polls with merciless efficiency, drawing grateful applause from Nehru. His advice to the Sheikh's successor, Bakhshi Ghulam Mohammad, was not to refrain from rigging, but to leave just a few seats for the Opposition and thus provide a fig-leaf to cover the nudity of ravaged credibility. The advice was repeated later by one of Indira Gandhi's closest advisors . . ."

The words of Syed Mubarik Shah Naqshbandi, delivered at the State People's Convention at Srinagar in 1968, are as relevant today as they were then. He said, "... the resolutions passed by the Security Council had vested the people of J&K with the right to a plebiscite, and these resolutions could not be abrogated except by an agreement between India, Pakistan, and the people of Jammu and Kashmir." India, which had taken the issue to the UN, has never moved for amending or dropping the resolutions of 1948 and 1949. Therefore India is fully aware that the Constituent Assembly has no authority to ratify the accession of the state to India, as it has attempted to do. Indeed, on March 30, 1951, the UN Security Council confirmed this and emphasized the irrelevance of the Constituent Assembly in deciding the future of Kashmir.

It is absolutely clear that there is no moral or legal leg upon which the State Constitution can stand much less upon which the elections from 1951 can be justified. Indeed, the 1951 elections, as well as the recent ones, are a naked attempt to hoodwink international opinion and divert attention from the primary issue and that is: settling the status of Kashmir in accordance with the resolutions passed by the United Nations.

Even senior members of the Indian intelligentsia have ridiculed these elections as fraudulent. G.M. Sadiq, a member of Bakhshi Gulam Mohammed's cabinet, stated that "In the recent by-elections to the Charar-I-Sharif Assembly Constituency the ruling party managed, despite the withdrawal of opposition candidates, to pull in over 90 percent of the votes. These undemocratic practices permeate even election to the local bodies. In the elections held in November 1957 to the Town Area communities of the six towns in the valley, 78 nomination papers out of 81 belonging to the opposition were rejected on the flimsiest grounds." The elections during the time of G.M. Sadiq were no different from those held during the Abdullah or Bakhshi rule. Commissioner Abdul Khaliq in fact declared all 16 candidates of the Sadiq Congress elected as they were unopposed.

In the 1977 elections, the National Conference party won 48 seats in a house of 76. The Janata Party, which ruled in New Delhi, won 13 seats; Congress 12, and the Jama’at-i-Islami won one. The National Conference ferociously contested the Government of India's official stand on Kashmir, stating that the issue of accession had yet to be settled. In scores of speeches, Sheikh Abdullah and his lieutenants pronounced that "This election was in fact an anti-India vote."

In 1983, another sham election was held in Jammu and Kashmir. Farooq Abdullah returned to power with active help from various levels of the Government of India. In 1988, Parliamentary elections were held in Kashmir. Only two percent of the electorate turned out to vote.

In the post 1989 period, the people's movement for the right to self-determination assumed new dimensions. After exhausting all peaceful options to make India honour its word, a section of Kashmiri youth took up arms against India's illegal occupation of Jammu and Kashmir. These young men nursed the sapling of Kashmir's freedom struggle with their warm blood. Thousands of them attained martyrdom;
thousands were maimed and disabled. The youth in particular, along with countless thousands made immense sacrifices to attain the cherished goal of freedom. According to a conservative estimate, more than fifty thousand people have been killed by Indian forces in Kashmir since 1989.

It was as if Kashmir had been transformed into a vast cemetery. Under the auspices of the Carnegie Endowment for International Peace, Dr. Paula R. Newberg wrote: "Srinagar, once known for shimmering lakes, ornate house boats, and majestic Himalayan peaks, is now a city of cemeteries. Along its meandering lanes and riverbanks, Kashmiris bury their dead and mark their calendars by atrocities that kill their children . . . Since 1989, the number of dead has reached tens of thousands, the exact number unknown. Mostly boys and men, they have died for their religious beliefs, their political beliefs or because they were in the way. The circumstances of birth have become the accidents of death."

To perpetuate its occupation of Kashmir, the Indian Government has deployed more than half a million soldiers and a quarter of a million paramilitary forces. In 1993, the London-based Observer indicated that the army/civilian ratio was as high as one to eight. The Observer . . . "It is difficult to count uniformed men in Kashmir. Indian newspapers occasionally print government figures that indicate as few as 150,000; but officials in Kashmir, foreign diplomats and journalists have always assumed that this is the number of regular army only in or near the valley. Paramilitary troops account for 100,000 to 400,000 more men, depending on seasons, political events and the seriousness of military engagements. Even though the most visible of the security forces in urban areas parade in full light of day, those in hills are harder to find. By the beginning of 1995, over 400,000 troops were reportedly deployed in Kashmir, including eight army divisions and other independent brigades across the state."

Jane's Intelligence Review reports that "at least fifty-six of 148 battalions of Border Security Forces - each including one thousand men - are engaged in Kashmir. Thirty-nine in the valley and seven in Doda District are involved in counter-insurgency operations. Ten along the line of control are involved in border security operations." Indian sources suggest that more BSF battalions have been deployed in the last year. The Central Reserve Police Force has the second largest presence. It was substantially increased in the summer of 1994 to as many as eighteen battalions each of the Territorial Army, the National Indo-Tibetan Border Police, the National Security Guards and the Jammu and Kashmir Armed Police. Since the summer of 1994, between three and thirty battalions of Rashtriya rifles, trained by the Army, were on duty a week later in Srinagar and Udhampur Doda Consistencies. If one looks at the number of security forces in one constituency and number of voters, the ratio is nearly one to one. Nowhere else in the world have elections been marshaled in this manner.

Not satisfied with the hundreds of thousands of soldiers and paramilitary personnel to subjugate the people of Kashmir, India introduced bands of renegades--hard-core criminals and hoodlums--to add to the miseries that already characterizes daily life in Kashmir. These renegades who operate under the direct command of the Indian army and Border Security Forces have been programmed to kill freedom-lovers, eliminate journalists, knife political activists and butcher human rights activists. They have killed thousands of people, plundered thousands of houses, raped hundreds of women and looted the natural wealth of Kashmir. One such famous renegade is Kuka Parray, who has had a change of career: once a smuggler of Kashmir's timber resources, he now leads a band of thugs under the banner of India.

Veteran journalist A.G. Noorani called these renegades the "vigilantes hired to kill." He wrote, "The technique of state sponsored terrorism was tried out not only in Punjab but also in the Northeast. The experiment in Kashmir is on a far larger and more ruinous scale." With regard to the coalition between the army and the renegades he wrote, " . . . it is no longer a state secret to be admitted in private. It is a public scandal." Mr. Bairaj Puri said that this is " . . . not an outside import into the valley but entirely conceived and produced by New Delhi."
In its report on "India's Secret Army in Kashmir" (May of 1996) Human Rights Watch/Asia states, "Officials in Kashmir routinely claim that the detainee was killed in an 'encounter' with the security forces ... Security legislation has increased the likelihood of such abuses by authorizing the security forces to shoot to kill and to destroy civilian property. Under these laws, the security forces are protected from persecution for human rights violations ... There is no question that civil and security officials in Kashmir are aware of the widespread use of torture. Petitions pending before the Jammu and Kashmir High Court provide ample documentation, including medical evidence, of the systematic use of torture."

To stage the drama of a political process, these armed gangsters were made to launch parties and to participate in the sham elections. The role conceived by the army and other intelligence agencies for these renegades even ruffled the feathers of pro-India politicians.

From Farooq Abdullah to Taj Mohuddin, these politicians made fervent demands to the government of India to disarm the renegade forces. Commenting on the role of the renegades in the sham elections of May 1996, Taj Mohuddin, a Congress party candidate, said "the Election Commission has shut its eyes. I have lost my faith in the set-up. He even threatened self-immolation if the Government did not disarm the renegades." Janata Dal candidate from Anantnag Maqbool Dar also made repeated demands that they be disarmed, even after he was inducted as a State Minister of Home Affairs in New Delhi. Only after agencies sponsoring these elements prevailed upon him did he backtrack on this demand.

The lack of credibility of these elections--held under the shadow of guns, both with the army and these hired killers under the government's wing--has been exposed by politicians pushing the interests of New Delhi in Kashmir. Farooq Abdullah, who has earned the dubious distinction of defending India's policy of arson, rape, plunder and killing in many international forum also pronounced these elections as "Farcical and rigged." Gulam Rasool Kar, another Indian protégé in Kashmir, and president of the National Conference, demanded repolling in seventy booths. Indian Home Minister, Mr. Inderjit Gupta, while talking to the press in August of 1996, and as reported by the BBC India Service, said "... in Jammu and Kashmir all elections held to date were rigged to serve the interests of successive Congress governments."

The May 1996 elections in Jammu and Kashmir were not only farcical but were also a blemish on the concept of democracy. It was an election without voters or candidates. To enact the drama of elections, the Indian government had to invent candidates as well. This was done with the help of its intelligence agencies. Most of the candidates were armed mercenaries, working in conjunction with Indian security forces. Even politicians who have been holding a brief in Kashmir for India disassociated themselves from these sham elections. The state Janata Dal leader had expressed concern over the party high command decision to field party candidates. In an interview with *The Kashmir Times*, 4th April 1996, it was reported that he had already communicated to the party high command that the atmosphere was not conducive to hold elections and participate in them. Another politician holding a brief for India in Kashmir, Congress party candidate Mian Bashir Ahmad, told *The Kashmir Times*, 6th April 1996: "The coming elections will be marred by large scale rigging and there was every likelihood that the electorate would not be allowed to exercise their right of franchise freely and fairly." He added, "the situation was not conducive for the holding of elections." Even the National Conference, which plays India's card in Kashmir, stayed away from these polls.

How can one claim to have democratic elections without the people's participation? It was said by the people to have been "a big joke." The government of India failed to even rope in employees and was forced to import election staff from outside the state. On 14th April, *The Sunday Times of India* published that "About 46,000 employees will be deployed on election duty at 6,190 polling stations spread across six constituencies. The majority of these employees will be central government staff from Delhi. These employees would be handling 4.4 million voters in 14 districts of the state. The Union Home Ministry and
the DOPT are coordinating election duty of the employees. Each polling booth will be manned by five persons which includes one Urdu speaker. The government will provide a personal security of at least two persons to each of the employees. . . . A circular by the Department of Personnel and Training (DOPT) to the employees who are short listed by the Union Government for Kashmir duty will be given one month's basic salary . . . before their trip to the troubled state." They were also given insurance of Rupee five hundred thousand.

The All Parties Hurriyet Conference (APHC) boycotted these sham elections. The adverse attitude of the general public towards these elections was pointed out by The Hindustan Times on 15th April 1996: "Unnoticed by casual onlookers, parliamentary candidates enjoy bullet-proof cars . . . escort vehicles piloting them up and down Kashmir is indeed a luxury for them. But that is hardly enthusing the people in the Valley. They continue to remain indifferent."

At election time, the government imposed a virtual ban on the publication of newspapers in the Kashmir valley. First, all the newspaper editors were summoned by the State Home Department, and were asked to strictly follow the code of conduct drawn up by the Government. This was followed by the issuance of a circular which imposed a restriction on the reporting of facts. In order to make newsmen tow the Government line, journalists were kidnapped and turned into hostages by the mercenaries working under direct command of the Indian Defence Ministry. Reporters working from New Delhi who ventured to file reports in violation of the restrictions earned the wrath of the Government: many received threatening phone calls from the State Information Department. Essentially, the Government's objective was to prevent the message of the APHC from reaching the people.

The entire state had been converted into a battle ground, with barracks, army and other forces dotting every nook and corner of Kashmir. It made free expression impossible. The holding of public rallies and meetings remain banned.

In order to educate people about the implications of the farcical elections, the APHC launched a mass contact programme by going door to door. To prevent this, Indian authorities made attempts on the lives of the APHC leaders. On May 9, in Sopore, the leaders were fired upon. In Narabal, a land mine was detonated near where some leaders had gathered. This left only one option for expressing dissent against the atrocities and elections. They began to observe shut-downs, wheel jams, and hartals (strikes).

When the APHC called a strike, the response was overwhelming. The Kashmir Times (22nd May 1996) reported, "the city wore a deserted look with people preferring to remain indoors. All the shops, business establishments, government and semi-government offices besides banks were closed. Transport was off the roads."

On 23rd May 1996, polling was held in Anantnag and Baramulla. The Kashmir Times described it as a "Tamasha," a joke. Sabina Inderjit of The Times of India wrote, "A polling station about 20 km. from here . . . wore a deserted look with no civilians about except a group of security personnel . . . A short drive ahead, hordes of people were seen trekking on the highway, under the watchful eyes of the army . . . a group from Hatiwara village in Anantnag alleged: The army came at 5 a.m. and threatened us that if we did not vote, we would be killed and our house burnt down." The case was the same at Bijbihara, Pampore, and Pulwama. "Arthur Max of The Associated Press, described the scene: '[Baramulla] Indian Army troops herded Kashmiris to the polls yesterday for the rebellious state's first elections in seven years, forcing Kashmiris to participate in an Indian government election they want no part of . . . soldiers roused villagers and townspeople from their homes soon after dawn and escorted them to the polling stations . . . in nearby Sopore, hundreds of people gathered in a square and shouted independence slogans, defying orders to vote . . . At Delina . . . a half dozen soldiers herded a line of men towards a polling
station. Wearing camouflage helmets, the soldiers blew whistles and waved sticks to keep the men moving."

Resident Mohammad Shafi said, "the army came early in the morning and dragged people from their houses. But we gathered all the men, women, boys and girls to come here, we will not vote. We do not want to be with India. They have destroyed our lives. We want only freedom."

Reporting from Baramulla, John F. Burns wrote for The New York Times, 24th May 1996: "Indian troops moved into villages and urban neighborhoods, across the vale of Kashmir at dawn today (23rd May 1996) herded the villagers from their beds to vote . . . but after widespread allegations that tens of thousands of troops were deployed to force Muslims to vote at a gunpoint, the message India wanted to send to the world appeared likely to be lost or at least heavily muffled." His headline read. "A showcase election in a Muslim state becomes a show of force by New Delhi." The Washington Post carried a picture of women shouting anti-India slogans outside the polling place. Similar reports were carried in newspapers all over the world.

Indian authorities at New Delhi, their agents at Srinagar, and Indian diplomats unnerved with these reports started a campaign against newsmen from various parts of the world and called these reports "exaggerations." But Indian mediamen were telling the same story. Ajith Pillai of The Outlook reported, " . . . in village after village this correspondent visited, the story was the same. Crowds of people squatted outside polling stations like herds of sheep." Ritu Sarin of The Indian Express reported, "Three persons were killed when BSF jawans and armed renegades opened fire in a crowded market. Two among the dead were brothers: Yusuf Altaf (15) and Tahi Altaf (14). Their shattered father sat in a room full of mourners . . . He said that even if his two sons had not been killed, nobody in his neighborhood would have cast their vote on 30th May." He announced, "If there is death on one side, and a ballot box on the other, we would choose death."

In the month of September, India has started the process all over again, having called for state assembly elections in Kashmir. The outcome has been no different than it was in May.

For centuries Kashmiris have lived under suppression and subjugation. The worst hit by this has been the Kashmiri Muslim. In the words of the Muslim Conference leader, the late Chowdhary Ghulam Abbas, "The condition of Muslims in all respects was very bad . . . Poverty, penury, helplessness and humiliation was their destiny. They earned livelihoods from menial jobs." A Kashmiri Muslim was all along discriminated against by Hindus, who were in a minority, but were always hand in glove with the ruling Hindu elite. Sir Walter Lawrence, who was appointed as the settlement Commissioner by Maharaja Ranbir Singh writes in his book, The valley of Kashmir, "in recent times there were very few Pundits who were not in receipt of pay from the state, and the number of offices was legion." But though this generosity in the matter of office establishment was an enormous boon to the Pundit class, it was a curse and a misfortune to the Muslims of Kashmir; for " . . . the Pundit does not value a post for its pay, but rather for its perquisite." The laws were discriminatory against Muslims, and there was no aspect of life for which Muslims were untaxed. William Moorcraft writes about Dogra rule: "The murder of a native by a Sikh is punishable by a fine to the government from sixteen to twenty rupees . . . [from this amount] four rupees were paid to the family of the deceased if he was a Hindu and two rupees if he was a Mohammedan."

Source: The All Parties Hurriyat Conference (APHC), Srinagar, Kashmir
Appendix-V

Text of the Joint Memorandum submitted by Mirwaiz Umar and Yasin Malik
Memorandum to the All Party Delegation

"Let me say clearly that we accept the basic proposition that the future of Kashmir is going to be decided finally by the goodwill and pleasure of her people. The goodwill and pleasure of this Parliament is of no importance in this matter, not because this Parliament does not have the strength to decide the question of Kashmir but because any kind of imposition would be against the principles that this Parliament holds’.

"Kashmir is very close to our minds and hearts and if by some decree or adverse fortune, ceases to be a part of India, it will be a wrench and a pain and torment for us. If, however, the people of Kashmir do not wish to remain with us, let them go by all means. We will not keep them against their will, however painful it may be to us… However sad we may feel about leaving we are not going to stay against the wishes of the people. We are not going to impose ourselves on them on the point of the bayonet."

Jawaharlal Nehru, Speech to the Indian Parliament, August 7, 1952

"When a question becomes an international question like the Kashmir question, this Parliament can take many steps, of course, but it cannot solve the international part of it… the accession of Kashmir to India… was in that sense complete, not subject to anything except subject to the goodwill of the people of Kashmir… It is a very important thing and by that declaration we are going to stand. It is left to their decision... Now it is before an international forum and how can I or this Parliament take it away?

Jawaharlal Nehru, Speech to the Indian Parliament, 25th March 1952

The All-Party Delegation from Delhi comes to Srinagar on the heels of some of the most vexed circumstances that Jammu & Kashmir has faced.

The assault on the life and dignity of the average Kashmiri has been relentless. Daily life in our homes and streets has been turned into a nightmare as an entire population is treated as hostages on their own soil. Just a simple act of stepping out of our own houses has been turned into an act fraught with danger, threat and menace with unprecedented prolongation of the brutal curfew, ruthless persecution, topped up by some of the most uncivilized acts by a nation that claims to abide by democratic practice and the rule of law. The blockading of food, fuel and medical supplies with even life-saving drugs and ambulances being prevented from reaching their destinations, nocturnal raids and illegal detention of children and teenagers, clampdown on the local media and thrashing of media persons in recent days, is clearly an attempt at bullying and humiliating the Kashmiri population with base and inhuman tactics employed earlier only by rogue regimes in some notorious instances of international shame like in Kampuchea, Bosnia Palestine and Sri Lanka.

We cannot help but feel that we Kashmiris have been corralled into a concentration camp of concertina wires, jack-booted surveillance and vengeful assault by the Indian State, which deliberately chooses to deny this part of its ‘claimed’ nation the constitutional guarantee of ‘the Right to Life’. And we have not even begun talking yet about the more than 100 Kashmiri youngsters senselessly but brutally killed by the Indian security forces in just over 100 days. It follows the thousands of lives already lost over the past decades due to the unresolved Kashmir Dispute.

All this Precipitates Your Visit Today.

We had hoped the 21st Century would offer our children a new world of opportunities. Indeed, both Prime Ministers Atal Behari Vajpayee and Manmohan Singh gave us reason to hope for an honourable and lasting solution to the Kashmir Dispute through their multiple public declarations on Kashmir. We believe these statements represented not only their personal or partisan views but a commitment on behalf of the Indian people which your delegation today now represents.

We started this decade with the intention of engaging in a meaningful process to resolve the Kashmir Issue and we continue to be committed to that objective. However, for the people of Jammu & Kashmir, this first decade of the century has only been one of continued human misery, unfulfilled promises, false
hopes and failed efforts to resolve the issue.
Failure has bred cynicism and destroyed hope.
In recent times, the struggle in Kashmir has transformed from a violent to a non-violent movement and the new generation has adopted the mode of democratic protest rather than the gun to voice its aspiration. It leaves us shocked and resentful that rather than listening to and engaging with this call from the streets of Kashmir, India is responding to it with bullets and violence.

We are at a threshold and it is vital that a new generation of Kashmiris should not be pushed to the wall. Dialogue and negotiation must come to the front, not a new chapter of violence and instability. Nobody will gain and we will all lose, if such a situation develops.
The passage of time over the past 63 years has, in fact, made the Kashmir Problem more, rather than less, intractable. Allowing this dispute to fester will only extract increasing human costs from the people of Jammu & Kashmir and, for that matter, the people of India and Pakistan.
Frankly, today we hope to make a break from the past.
What we have seen for the last 63 years and what we are seeing in the current bloodshed is an aggregation of failed approaches. Above all we are seeing a failure to develop and evolve a sustainable, purposeful, results-oriented process of dialogue and negotiation aimed at tangibly resolving core issues rather than dealing with the crisis of the day.
We are concerned that domestic politicking in India has again started to create hurdles on the way to developing a meaningful process of negotiation. This has been a phenomenon right from the inception of the Kashmir Conflict. Due to domestic politics in both India and Pakistan, the windows for working towards a solution to Kashmir have been narrowed or interrupted and, as a result, the people of Jammu & Kashmir have had to suffer dearly.

It is disconcerting that today the BJP has taken a hard line on Kashmir. This is the same party whose veteran leader Prime Minister Atal Behari Vajpayee went to Lahore and declared from the base of Minar-e-Pakistan: "It is my dream and wish to resolve the Kashmir Issue." This is the same BJP who initiated peace talks with the then united APHC under the chairmanship of Syed Ali Shah Geelani. This is the same party that engaged Hizbul Mujahideen in a cease-fire and talks process in the summer of 2000. This is the same BJP that declared a unilateral cease-fire in the Month of Ramadhan and then offered talks "under the constitution of Insaniyat". This is the same BJP whose Prime Minister Vajpayee laid out an inspiring agenda on Kashmir from Kumarakom on January 2, 2001: "We shall not traverse solely on the beaten track of the past. Rather, we shall be bold and innovative designers of a future architecture of peace and prosperity for the entire South Asian region".

We are now disheartened to see the same party advocating a contrary view as the principal Opposition in the Indian Parliament. It is time to develop a peace process on Kashmir that is immune to domestic politics and power tussles, both in India and Pakistan.

On many occasions, in 2004 and again in 2006 from Amritsar, Prime Minister Manmohan Singh talked boldly about engaging in an irreversible process of dialogue to reach a political solution on Kashmir. We are concerned that the recent statements of the Prime Minister suggest that the Kashmir Problem is being seen as a matter of unemployment and that conditions are being imposed on the dialogue process.
For an entire generation, more than 20 years, we have engaged in multiple exercises of dialogue and talks with the Government of India. We took risks to do so and some amongst us sacrificed their lives to tread the path of peacemaking, while others amongst us paid with our credibility. we give some suggestions with a view to generating a favourable political climate for a purposeful dialogue like (a) revocation of draconian laws, (b) release of political prisoners (c) withdrawal of troops and (d) zero tolerance for human rights etc but these suggestions were not taken seriously.
We are now wary that your visit today, however well-intentioned, represents only an effort at short-term crisis management and that there is no clear commitment nor path towards effective resolution of the Kashmir Issue and addressing the aspirations and interests of the people of Jammu & Kashmir.

We have seen in the past that it is only when a major crisis erupts that visible efforts are made to engage and understand our aspirations. And as soon as the immediate crisis subsides, the demonstrated and inherent political complacency and negligence is restored.
Today in light of the concerns expressed above and to voice our unequivocal condemnation of the killings of our children and youth, we choose not to meet with your delegation.

Today, we ask not for unilateral political concessions but rather a joint commitment to a meaningful process that guarantees results. We believe this is possible only if serious efforts are made to create a conducive environment for dialogue by removal of the harsh and repressive measures that are in force here, to suppress our aspirations and our fundamental democratic rights.

We look forward to entering into a dialogue based on the following shared commitments:

To create a beginning and to sustain the process of dialogue we need to create a process in which all views and options – most of all Kashmiri aspirations will be considered and explored before arriving at an acceptable solution.

Let resolving the Kashmir Dispute in accordance with aspirations of the people of Jammu & Kashmir become a Common Minimum Programme shared by all political parties in India and in Pakistan. Achieving a solution to the Kashmir Issue should now rise above vote bank politics and be taken up as a national agenda shared by all, worked for by all, and risked for by all major political parties of India.

Let the Government of India act on the suggestions given by the Kashmiris and facilitate to establish and empower an official body, a Kashmir Committee, consisting of senior representatives of all major Indian political parties to develop and enter into a process of engagement with the representatives of the people of Jammu & Kashmir. Let this process be transparent designed to deliver a negotiated solution to the Kashmir Issue that is mutually worked towards by and acceptable to all parties concerned.

We believe that a similar Kashmir Committee, bringing together all political forces, should also be established in Pakistan. We will advocate to the political parties in Pakistan that this be done. This will ensure that all major political forces in India and Pakistan are on board with the peace process and it will help institutionalize and sustain the process to resolve the Kashmir Problem. We must render the process immune from domestic politics and tendencies to act as spoilers.

On our part we are ready and willing to engage and sustain a meaningful and irreversible process of dialogue designed to avoid the failures of the past and to jointly develop and implement a solution to the Kashmir Dispute that is acceptable to all sides – India, Pakistan and above all the people of J&K.

Sincerely,

SD/ Mirwaiz Umar Farooq,
SD/ Muhammad Yasin Malik
All Parties Hurriyat Conference,
Jammu Kashmir Liberation Front