Appendices
THE TREATY OF AMRITSAR, 1846

TREATY BETWEEN THE BRITISH GOVERNMENT on the one part and MAHARAJA GULAB SINGH OF JAMMU on the other concluded on the part of the BRITISH GOVERNMENT by FREDERICK CURRIE, Esquire, and BREVET-MAJOR HENRY MONTGOMERY LAWRENCE, acting under the orders of the RIGHT HONOURABLE SIR HENRY HARDINGE, G.C.B., one of HER BRITANNIC MAJESTY'S MOST HONOURABLE PRIVY COUNCIL, GOVERNOR-GENERAL of the possessions of the EAST INDIA COMPANY, to direct and control all their affairs in the EAST INDIES and by MAHARAJA GULAB SINGH in person 1846.

Article 1

The British Government transfers and makes over for ever in independent possession to Maharaja Gulab Singh and his 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 Lahul, 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

The eastern boundary of the tract transferred by the foregoing article to Maharaja Gulab Singh shall be laid down by the Commissioners appointed by the British Government and Maharaja Gulab Singh respectively for that purpose and shall be defined in a separate engagement after survey.

Article 3

In consideration of the transfer made to him and his heirs by the provisions of the foregoing article Maharaja Gulab Singh will pay to the British
Government the sum of seventy-five lakhs of Rupees (Nanukshahee), fifty lakhs to be paid on ratification of this Treaty and twenty-five lakhs on or before the 1st October of the current year, A.D. 1846.

**Article 4**

The limits of the territories of Maharaja Gulab Singh shall not be at any time changed without concurrence of the British Government.

**Article 5**

Maharaja Gulab Singh will refer to the arbitration of the British Government any disputes or questions that may arise between himself and the Government of Lahore or any other neighbouring State, and will abide by the decision of the British Government.

**Article 6**

Maharaja Gulab Singh engages for himself and heirs to join, with the whole of his Military Forces, the British troops, when employed within the hills or in the territories adjoining his possessions.

**Article 7**

Maharaja Gulab Singh engages never to take or retain in his service any British subject nor the subject of any European or American State without the consent of the British Government.

**Article 8**

Maharaja Gulab Singh engages to respect in regard to the territory transferred to him, the provisions of Articles V, VI, and VII, of the separate Engagement between the British Government and the Lahore Durbar, dated 11\(^{th}\) March, 1846.\(^1\)

**Article 9**

The British Government will give its aid to Maharaja Gulab Singh in protecting his territories from external enemies.
Article 10

Maharaja Gulab Singh acknowledges the supremacy of the British Government and will in token of such supremacy present annually to the British Government one horse, twelve shawl goats of approved breed (six male and six female) and three pairs of Cashmere shawls.

This Treaty of ten articles has been this day settled by Frederick Currie, Esquire, and Brevet-Major Henry Montgomery Lawrence, acting under direction of The Right Honourable Sir Henry Hardinge, G.C.B., Governor-General, on the part of the British Government and by Maharaja Gulab Singh in person, and the said Treaty has been this day ratified by the seal of The Right Honourable Sir Henry Hardinge, G.C.B., Governor General.

(Done at Amritsar the sixteenth day of March, in the year of our Lord one thousand eight hundred and forty-six, corresponding with the seventeenth day of Rubee-ul-Awal 1262 Hijree).

(Signed) H. HARDINGE [SEAL]

(Signed) F. CURRIE

(Signed) H.M. LAWRENCE

By Order of the Right Honourable the Governor-General of India.

(Signed) F. CURRIE
Secretary to the Government of India,
With the Governor-General

1. Referring to jagirdas, arrears to revenue, and the property in the forts that are to be transferred.
INSTRUMENT OF ACCESSION OF JAMMU AND KASHMIR STATE

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, adaptation~ and modifications as the Governor-General may by order specify, De 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, I, Shriman Indar Mahandar Rajrajeshwar Maharajadhiraj Shri Hari Singhji, Jammu Kashmir Naresh Tatha Tibbet adi Deshadhipathi, Ruler of JAMMU AND KASHMIR State, in the exercise of my sovereignty in and over my said 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 Dominion shall by virtue of this my Instrument of Accession, but subject always to the terms thereof, and for the purposes only of the Dominion, exercise in relation to the State of Jammu and 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 so in 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 therein by 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 function 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 authorizing 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.

(Sd.) HARI SINGH
Maharaja dhiraj of Jammu and Kashmir State

I do hereby accept this Instrument of Accession.

Dated this twenty seventh day of October nineteen hundred and forty seven.

(Sd.) MOUNTBATTEN OF BURMA
(Governor-General of India)
[370. Temporary provisions with respect to the State of Jammu & Kashmir (1) notwithstanding anything in this Constitution.

(a) the provisions of article 238 shall not apply in relation to the State of Jammu & Kashmir.

(b) the power of Parliament to make laws for the said State shall be limited to;

(i) those matters in the Union List and the Concurrent List, which, in consultation with the Government of the State, are declared by the President to correspond to matters specified in the Instrument of Accession governing the accession of the State to the Dominion of India as the matters with respect to which the Dominion Legislature may make laws for that State; and

(ii) such other matters in the said Lists, as, with the concurrence of the Government of the State, the President may by order specify.

Explanation - For the purposes of this article, the Government of the State means the person for the time being recognized by the President as the Maharaja of Jammu & Kashmir, acting on the advice of the Council of Ministers for the time being in office, under the Maharaja’s Proclamation dated the fifth day of March, 1948.

(c) the provisions of article 1 and of this article shall apply in relation to that State;

(d) such of the other provisions of this Constitution shall apply in relation to that State, subject to such exceptions and modifications as the President
may by order specify:

Provided that no such order which relates to the matters specified in the Instrument of Accession of the State referred to in paragraph (i) of sub-clause (b) shall be issued except in consultation with the Government of the State:

Provided further that no such order which relates to matters other than those referred to in the last preceding proviso shall be issued except with the concurrence of that Government.

2. If the concurrence of the Government of the State referred to in paragraph (ii) of sub-clause (b) of clause (1) or in the second proviso to sub-clause (d), of that clause be given before the Constituent Assembly for the purpose of framing the Constitution of the State is convened, it shall be placed before such Assembly for such decision as it may take there on.

3. Notwithstanding anything in the foregoing provisions of this article, the President may, by public notification, declare that this article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify:

Provided that the recommendation of the Constituent Assembly of the State referred to in clause (2) shall be necessary before the President issues such a notification.

Notes:


2. In exercise of the powers conferred by this article, the President, on the recommendation of the Constituent Assembly of the State of Jammu & Kashmir, declared that, as from the 17th day of November, 1952, the said art. 370, shall be operative with the modification that for the
Explanation in cl. (I) thereof the following Explanation is substituted, namely:

Explanation - For the purposes of this article, the Government Of the State means the person for the time being recognized by the President on the recommendation of the Legislative Assembly of the State as the *Sadari-Riyasat of Jammu & Kashmir, acting on the advice of the Council of Ministers of the State for the time being in office”.

*Now “Governor” (Ministry of Law Order No. C.O. 44. dated the 15th November, 1952).

THE DELHI AGREEMENT, 1952

Main features of the agreement:

(i) in view of the uniform and consistent stand taken up by the Jammu & Kashmir Constituent Assembly that sovereignty in all members 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 is vested in the Centre in respect of all States other than Jammu & Kashmir, in the case of the latter they are 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 & 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 the other units of India, Articles 52 to 62 of the Constitution relating whim should be applicable to the State. It was further agreed that the power to grant pardons and remission of sentence, etc., would also be vested 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 recognized that the Union flag should have the same status and position in Jammu & Kashmir as in the rest of India, but for historical reasons

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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 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; 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 recognized by the President of the Union on the recommendations of the Legislature of the State;

(b) he shall hold office during the pleasure of the President;

(c) he may, by writing under his hand addressed to the President, resign his office;

(d) 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;

(e) provided that he shall, notwithstanding the expiration of his term, continue to hold the office until his successor enter upon his office;

(vi) 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 view of the peculiar
position in which the Stale was placed, the whole chapter relating to the ‘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 of fundamental rights should form a part of the State Constitution or of the Constitution of India, as applicable to the State;

(vii) 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;

(viii) 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 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.
Appendix –V

DELHI ACCORD, 1975

The following is the text of the agreement reached on November 13, 1974:

1. The State of Jammu & Kashmir, which is a constituent unit of the Union of India, shall in its relations 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 declaring, questioning or disrupting the sovereignty and territorial integrity of India, or bringing about cession of a part of the territory of India, or 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 & 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 one proposed in this behalf being considered on its merits; but provisions of the Constitution of India already applied to the State of Jammu & Kashmir, without adaptation or modification, are unalterable.

4. With a view to assuring freedom in the State of Jammu & Kashmir, to have its own legislation on matters like welfare measures, personal law and procedural laws in a manner suited to the special conditions in the State, it is agreed that the State Government 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 be taken under Article 254 of the Constitution of India. The grant of President’s assent to
such legislation would be sympathetically considered. The same approach would be adopted in regard to the laws to be made by the Parliament in future under the proviso to clause 2 of that Article: the State Government shall be consulted regarding the application of any such law to the State and the views of the State Government shall receive the fullest consideration.

5. As an agreement reciprocal to what has been provided under Article 363, a suitable modification of that Article as applied to the State should be made by a Presidential Order to the effect that no law made by the Legislature of the State of Jammu & Kashmir, seeking to make any change in or in the effect of any provision of the Constitution of the State of Jammu & Kashmir relating to any of the undermentioned 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 superintendence, direction and control of elections by the 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, 140 and 50 of the Constitution of the State of Jammu & Kashmir.

This agreement is called the Kashmir Accord.
Appendix –VI

The recommendations of Srinagar Conclave held on October 5, 1983

To delete Articles 200, 201, 249, 250 and 360 from the Constitution of India;

To amend Articles 356 and 357 in such a way as to prevent their misuse;

To give residuary powers to the states;

To give statutory recognition to the institutions of Planning Commission and the National Development Council;

To deploy Central Reserve police in the states with the consent of the State Governments;

To appoint the Governor from a penal forwarded by the concerned State Government;

To make the All India services while serving in the state subjected to the supervision and disciplinary control of the state Government;

To establish an Inter-State Council under Article 263 as a point of reference for all centre-state relations;

To create a central communication council for preventing the misuse of mass media.

To extend the membership of the election Commission to three members; and

To create a judicial council consisting of Supreme Court judges for making recommendations regarding the appointments of the judges of Supreme Court and the appointment and transfers of the judges of the High Courts. For this state Governments should be consulted before recommendations are made to that effect.

The advice of the Judicial Council should be binding on the president.

With the above discussion certain questions may arise; e.g.,

What are the reasons for states to rise against the Centre?
Why do the states feel dissatisfied with the existing Constitutional arrangement?

Why do they itch for more and more powers?

Why do they struggle for securing to themselves the autonomy under a reconstructed structure?)
DOCUMENT OF PDP (Peoples Democratic Party) SELF RULE IN KASHMIR

The Peoples Democratic Party prepares and offers this working paper on J&K as an act of hope. The hope lays in the belief that if the decision-makers and responsible political parties discern the categorical imperatives that have impelled this formulation, realize its intent and motive and examine its contents on merits, objectively and realistically, and not on partisan considerations or with chauvinistic mind-set, it will be possible to forge a consensus on the way forward.

The Peoples Democratic Party is not presenting a solution; nor does it pretend to have one. Indeed, it is our belief that roadmaps prejudge the issue; readymade solutions make the problem a distorted image of what it actually is; and models make a mockery of specificity of the issue. As such, what we have attempted in this document is an internally consistent framework and indicative direction for resolution. We have tried to contextualize the issue at various levels and drawn the contours of a process for building sustainable peace in the State and the region. The essence of this document lies in trying to suggest a creative framework for resolution of the issue without compromising the sovereignty of the two nation states involved.

We are convinced that various proposals and measures, as fleshed out in this document, address both the internal and the external dimensions of the problem in, and about Jammu and Kashmir, in a manner that is realistic and practical. Our effort has been to root these in the ideals of justice and empowerment for all the people of the State. We see our recommendations, as catalysts for change and instruments for fulfilling the aspirations of all the peoples of J&K, and regions and sub-regions of the State.

We have not looked for solutions in the past, but we have made an effort find a way in the future. A return to the past may not be possible - indeed, if may not even be desirable. The past offers no hope. Our party recognizes that we are living through a period where definitions of cultures, societies, sovereignty, and nationality are changing very rapidly and radically. All these issues have gone through a large
number of transformations and sometimes, dramatic shifts. The world has undergone a change and we have to be a part of that changed system.

EXECUTIVE SUMMARY

1. The J&K issue cannot be resolved on the basis of exclusively intrastate level initiatives. It requires a combination of intra-state measures with inter-state and supra-state measures. This approach, which is underlying the concept of self-rule, is a practical way that would eliminate the sources of ethno-territorial conflicts, entrenched in the traditional notions of sovereignty, self-determination, national and ethnic borders.

2. Self-rule is a formulation that will integrate the region without disturbing the extant sovereign authority over delimited territorial space. It doesn't impair the significance of the line of control as territorial divisions but negates its acquired and imputed manifestations of state competition for power, prestige, or an imagined historical identity. It is a way of "sharing sovereignty", without need or commitment to political merging. It is based on the creation of innovative international institutional arrangements that have a political, economic and security character. Self-rule encompasses the society, the state, and the economy. Self-rule, being a trans-border concept, has a pan-Kashmir dimension but at the same time seeks to regionalise power across J&K.

3. Self rule as a political philosophy is being articulated around the conception of federalism and confederation that allow for sharing of power between two levels of government, for the sharing of sovereignty in a coordinated but not subordinated to one another, each exercising supreme sovereignty in its constitutional prerogatives. The comprehensive formulation of self-rule has three subcomponents:

   i. A new political superstructure that integrates the region and empowers sub-regions

   ii. A phased economic integration that transcends borders

   iii. Constitutional restructuring that ensures sharing of sovereignty without comprising political sovereignty of either nation state.
New political superstructure:

4. The centerpiece of the governance structure under self-rule is the cross border institution of Regional Council of Greater Jammu and Kashmir. The Regional Council of Greater Jammu and Kashmir will replace the existing Upper House of state assembly, and will be a kind of a regional senate. Members of the Regional Council will be from J&K as well as from Pakistan administered Kashmir. At present the state assembly of J&K holds 20 seats for representatives from across the line of control. These will be given up and replaced by the same number of seats in the Regional Council of Greater Jammu and Kashmir. This will serve as a major cross-border institution, which will ensure long-term coordination of matters and interest relating to the state.

5. Moreover, such an institutional structure will provide a framework within which certain matters between the two parts of the State and their respective mainland, that need to be sorted out to infuse in people a sense of empowerment and a feeling of belonging. This will require devising an improved constitutional, political and economic relationship between the two parts of the State and their respective main lands.

6. In order to empower various sub-regions within the J&K state, a tier of sub-regional councils, will be added to the domestic legislative structure. While the national Parliament will have representations to the sovereign, the state assembly will continue to be a sub-national institution, the sub-regional councils will complete representative character of governance by bringing in the territorial representation in the state.

Economic Integration:

7. A critical element of self-rule is the economic integration across the line of control. This integration can be pursued in different degrees, deepening the process as we go along and as the system and society adapts to change. The process can be started by declaring the intention to establish common economic space and sign an agreement with a roadmap which envisages:
   
i. Establishing a common economic space;
ii. Instituting a dual currency system

iii. Coordinating economic policy, harmonization economic legislation and synergising regulations

8. The process of economic integration of the two parts of Jammu and Kashmir can start with the easiest form of economic integration, a Preferential Trade Agreement. In the PTA the two countries, India and Pakistan would offer tariff reductions, or eliminations confined to the geographical boundaries of "Greater Jammu and Kashmir" and restrict it to some product categories. Stage II would be to make GJAK a regional free trade area, with no tariffs or barriers between with GJAK, while maintaining their own external tariff on imports from the rest of the world, including India and Pakistan. GJAK will set a common external tariff on imports from India and Pakistan.

9. Further, instead of looking for a monetary union, a new system of "Dual Currency" will be created, where the Indian and Pakistani rupees are both made legitimate legal tenders in the geographical areas of GJAK. A better description of this system is a "co-circulation of two currencies" in J&K. It is being proposed that Indian and Pakistani rupees should be the medium of exchange in J&K. To be more precise, it means, allowing circulation of the Pakistani rupee in the Indian part of J&K currency and circulation of Indian rupee in the Pakistan administered Kashmir. This has to be done if we want cross the Line of control trade to flourish.

10. Our vision is to move towards an economic union, which will maintain free trade in goods, and services, set common external tariffs, allow the free mobility of capital and labour, and will also relegate some fiscal responsibilities to a supra-national agency. Consistent with our legislative design, the economic integration will be deepened through sub-regional integration; that is formation of different sub-regional groups. Appearance of different sub-regional projects can generate multi-speed integration. It needs to be understood that GJAK is being proposed as a regional organisation to facilitate political cooperation as well as promote cooperation between India and Pakistan, and regaining Kashmir's place at the heart of Central Asia.