

FAQs on the State of Jammu and Kashmir

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Executive Summary

- *The State of Jammu and Kashmir with a population of 12.5 million is one of India's 29 States.*
- *Legally and constitutionally Jammu and Kashmir is an integral part of the Indian Union, with its own Constitution. Jammu and Kashmir's accession to India was full and final. The only issue that remains unsettled is the return to India of all those parts of the State that are under the illegal occupation of Pakistan.*
- *Pakistan's claims to Jammu and Kashmir are neither supported by international law nor history. Pakistan sees Kashmir only in religious terms, as a Muslim majority area. Kashmiri languages and culture have nothing in common with the Punjab dominated ethos of Pakistan. Pakistan's self-professed role as the homeland of the Muslims of the Indian sub-continent was rejected by the creation of Bangladesh in 1971, and by the fact that the third highest population of Muslims in the world today lives in India.*
- *India's federal, democratic and pluralistic Constitution and ethos contain enough safeguards for dissent to be aired, and for all differences to be resolved through peaceful and Constitutional means. This is true for Jammu and Kashmir as it is true for any other part of the Indian Union.*
- *Since 1947, the Government of India and the Government of J&K have invested billions of dollars into the development of the State's infrastructure, telecommunication, IT, roads and highways, water resources, education, health, tourism, agriculture, industry and handicrafts. Today, the State's social and economic indicators are better than of many other States in the country.*
- *Kashmiri youth live, work and study all across India, including in para-military and Armed Forces of the country. Many are part of the Indian diaspora in other countries.*

- *Like other Indian citizens, the people of J&K have exercised their democratic right of franchise repeatedly at all levels since India's independence – national, State, and local. In all cases, transfer of power at the State level after elections has been peaceful and within the Constitution.*
- *The root of the problems in J&K has been Pakistan's sponsorship and support to cross-border terrorism. The Pakistan Army and ISI have for decades created, financed and nurtured a huge infrastructure of terrorist organisations as part of a 'proxy war' to destroy Kashmiri society, its culture and its people with the aim of radicalising society and promoting extremist and violent ideologies, loss of lives, and creating disaffection among the population.*
- *India, in the fulfilment of its duties to defend and protect its citizens from external danger, has taken whatever steps are necessary to preserve the country's Constitution, unity and integrity and value systems.*
- *Today, Pakistan has become the epicentre of terrorism. Its own creations are biting Pakistan's back. All Pakistan's neighbours have either been victims or feel threatened by its terrorist infrastructure. International bodies such as the UN Security Council and the Financial Action Task Force and many countries, including some of Pakistan's close friends and allies, have asked Pakistan to give up its terrorist ideology and join the mainstream of the civilised world.*
- *The FAQs below seek to correct the distorted and false narrative that Pakistan has been trying to create on J&K at great cost to its financial resources and to its international credibility.*

Section I: J&K – An Integral Part of India

Question: What is the legal basis for J&K's status as an integral part of India?

Answer:

1. The legal basis for J&K's accession to the Union of India is the Instrument of Accession that was signed by the then ruler of J&K, Maharaja Hari Singh, on October 26, 1947 and accepted by the then Governor-General of India, Lord Mountbatten.

2. The Instrument of Accession of the State of J&K was the same as the ones executed by 562 princely states in India. It had been executed in accordance with the procedures outlined in the Government of India Act 1935, as per which, on the termination of British Paramountcy after August 15, 1947, the princely states including J&K, had the right to accede to either the Dominion of India or Pakistan. Furthermore, the sovereign rulers of the princely states (in the case of J&K, Maharaja Hari Singh) were to be the sole repositories of authority to offer accession to either of the two Dominions.

3. Therefore, as per the Government of India Act 1935 which states that, "*An Indian State shall be deemed to have acceded to the Dominion if the Governor-General has signified his acceptance of an Instrument of Accession executed by the ruler thereof whereby the ruler on behalf of the State [...] declares that he accedes to the Dominion [...]*", the accession of Jammu and Kashmir to the Indian Dominion is legally valid and constitutionally complete.

4. The accession of the State of J&K to India was ratified by the J&K Constituent Assembly in 1954 and the Constitution of J&K which came into force in 1957, thereby making it full and final.

Question: Why did J&K accede to India?

Answer:

1. Prior to the transfer of power by the United Kingdom to the Dominions of India and Pakistan, the princely state of J&K had been in

treaty relations with the British Crown, which controlled its foreign relations and was responsible for its defence. The Treaty relations ceased with the transfer of power on 15 August 1947, and Jammu and Kashmir, like other States, acquired the right to accede to either Dominion.

2. Pakistan set the stage for invasion of the State of J&K right after independence. In order to build pressure, Pakistan enforced a loose economic blockade by holding up supplies of essential commodities such as fuel, wheat, cloth as well as snapping post and telegraph services which was in violation of the Standstill Agreement it had signed with Maharaja Hari Singh.

3. On 22nd October 1947, Pakistan under the guise of tribal raiders besieged the western flanks of J&K from Muzaffarabad making their way right up to Baramulla. The organized nature of the attack as well as the unimpeded supplies of ration, vehicles and ammunition to the raiders by Pakistan, left no doubt with regard to the active complicity of Pakistan in the attack. Pakistan's Army officials had imparted training and operational guidance to these armed raiders, most of whom were from the Mehsud tribe of its tribal areas.

4. The heinous nature of the attacks has been documented in various accounts of the events of October 1947, including by non-Indian historians, scholars and correspondents. A memorandum dated December 12, 1947 by the Chief Secretary of the North West Frontier Province (NWFP; now Khyber Pakhtunkhwa) has recorded that *lashkars* (armed bands) were making their way to Kashmir.

5. In his submission to the UN Security Council the Indian Representative to the UN, Shri P.P. Pillai stated (1 January 1948) that nearly 19,000 raiders faced the Dominion forces in the areas adjoining Uri (J&K). In addition to those who were actively participating in the raid, tribesmen and others, estimated at 100,000, had also collected in different places in the districts of West Punjab bordering the Jammu and Kashmir State.

6. Subsequently, on 24 October 1947, Maharaja Hari Singh appealed to the Indian government for military help. He also requested that J&K should be allowed to accede to the Indian dominion. An appeal for help was also received by India from the largest popular organisation in Kashmir, the National Conference headed by Sheikh Mohammed Abdullah. In his speech at the Constituent Assembly on 5 November 1951 Sheikh Abdullah stated, *“When the raiders were fast approaching Srinagar, we could think of only one way to save the State from total annihilation – by asking for help from a friendly neighbour. The representatives of the National Conference, therefore, flew to Delhi to seek help from the Government of India.”*

7. The grave threat to the life and property of innocent people of Kashmir valley and to the security of the State of J&K demanded immediate decision by the Indian government on both the requests. India could not allow a neighbouring and friendly State to be compelled by force to determine either its internal affairs or external relations. Apart from India’s moral obligation to the people of J&K in the throes of the marauding forces, it was also clear to India that the advances were not designed to stop at Srinagar.

8. On receiving the Maharaja’s emergency telegram and request for troops, VP Menon, Secretary of State, Government of India arrived in Srinagar on 25 October 1947. Subsequently, on 26 October 1947, the Instrument of Accession was signed by Maharaj Hari Singh in Jammu. The 1st Battalion of the Sikh Regiment landed at Srinagar on 27 October 1947 and Pakistani invaders were eventually pushed back from Srinagar and large parts of Kashmir valley.

9. Sending in raiders and its own army personnel and denying its involvement went on to become the standard modus operandi of successive Pakistani governments. The pattern of behaviour of Pakistan in October 1947 was repeated in August 1965, 1989-90, and during the Kargil War in 1999.

Question: Why did India go to the UN?

Answer:

1. On 28 October 1947, Pandit Jawaharlal Nehru, the then Prime Minister of India sent a telegram to Liaquat Ali Khan, the Prime Minister of Pakistan, informing him of the terms under which the accession of Kashmir were accepted by the Government of India; seeking cooperation in ousting raiders from Kashmir and creating conditions under which the commitment of a reference to the people could be carried out. In response, Pakistan accused India of preparing entry of troops and accession.
2. On 22 December 1947, the Indian Prime Minister in a letter to the Prime Minister of Pakistan recounted the various forms of aid given by Pakistan to the invaders and said that this constituted "*an act of aggression*" against India and requested for the prompt end of the aggression. He also stated that if there was no response from Pakistan to India's formal request, the Government of India "*will be compelled to take such action, consistently with the provisions of the United Nations Charter, as they may consider necessary to protect their interests, and to discharge their obligations to the government and people of Kashmir.*" There was no reply from the Pakistani side.
3. As a result, India formally referred the issue of Kashmir to the United Nations Security Council on 1 January 1948.
4. The Indian Representative to the UN Security Council, Shri P.P. Pillai conveyed to the Council that since the aid received by the invaders from Pakistan is an "*act of aggression against India*", the Government of India is entitled, "*under international law and in self defence*", to send its armed forces across Pakistan territory for dealing effectively with the invaders, in the event that Pakistan does not stop aiding them. Since "*such action might involve armed conflict with Pakistan, the Government of India, anxious to proceed according to the principles and aims of the Charter of the United Nations, desire[s] to report the situation to the Security Council under Article 35 of the Charter*".

5. In this context, the Government of India requested the Security Council to “call upon Pakistan to put an end immediately to the giving of such assistance, which is an act of aggression against India” and to ask the Government of Pakistan “to prevent Pakistan personnel, military and civil, from participating or assisting in the invasion of the Jammu and Kashmir State”; to “deny to the invaders access to and the use of its territory for operations against Kashmir, military and other supplies, and all other kinds of aid that could prolong the struggle”.

6. It was not out of military desperation that India took the matter of Kashmir to the UNSC. Indian forces were in a comfortable position with regard to stalling the advance of the tribal raiders in J&K and had also gained back some ground.

7. The UN Security Council (UNSC) on January 20, 1948 passed Resolution 39 under which it established the United Nations Commission for India and Pakistan (UNCIP). The Resolution invested the Commission (UNCIP) with dual functions – (i) To investigate the facts pursuant to Article 34 of the Charter, and (ii) to exercise any mediatory influence to smooth away difficulties, to carry out the directions given by the UNSC and to report how far the advice and directions of the Security Council has been carried out.

8. Subsequently, United Nations Security Council, under Chapter VI of the UN Charter, adopted Resolution 47 on April 21, 1948 which, *inter alia*, laid down a set of measures to “bring about a cessation of the fighting and to create proper conditions for a free and impartial plebiscite”. These, *inter alia*, were:

(A) *Restoration of peace and order*

1. *The Government of Pakistan should undertake to use its best endeavours:*

(a) *To secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistani National not normally the residents therein who have entered the State for the purpose of fighting, and to prevent any intrusion into the State of such element and any furnishing of material aid to those fighting in the State;*

2. *The Government of India should:*

(a) When it is established to the satisfaction of the Commission set up in accordance with the Council Resolution 39 (1948) that the tribesman are withdrawing and that arrangements for the cessation of the fighting have become effective, put into operations in consultation with the Commission a plan for withdrawing their own forces from Jammu and Kashmir and reducing them progressively to the minimum strength required for the support of the civil power in the maintenance of law and order;

1. The same Resolution 47 also laid out conditions for the immediate cessation of hostilities and proposed a ceasefire and truce arrangements for acceptance by both governments. These were detailed in the UNCIP Resolution of 13 August 1948, which, *inter alia*, stated that:

Part I (Ceasefire order)

A. *“The Governments of India and Pakistan agree that their respective High Commands will issue separately and simultaneously a ceasefire order to apply to all forces under their control in the State of Jammu and Kashmir as of the earliest practicable date or dates to be mutually agreed upon within four days after these proposals have been accepted by both governments.*

B. *The High Commands of the Indian and Pakistani forces agree to refrain from taking any measures that might augment the military potential of the forces under their control in the State of Jammu and Kashmir.*

(For the purpose of these proposals forces under their control shall be considered to include all forces, organized and unorganized, fighting or participating in hostilities on their respective sides.)”

Part II (Truce agreement)

A. 1. *“As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from that State.*

2. *The Government of Pakistan will use its best endeavour to secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistani nationals not normally resident therein who have entered the State for the purpose of fighting.*

3. *Pending a final solution, the territory evacuated by the Pakistani troops will be administered by the local authorities under the surveillance of the Commission.*

B. 1. *When the Commission shall have notified the Government of India that the tribesmen and Pakistani nationals referred to in part II, A, 2 hereof have withdrawn,*

thereby terminating the situation which was represented by the Government of India to the Security Council as having occasioned the presence of Indian forces in the State of Jammu and Kashmir, and further, that the Pakistani forces are being withdrawn from the State of Jammu and Kashmir, the Government of India agrees to begin to withdraw the bulk of its forces from that State in stages to be agreed upon with the Commission.”

9. On 5 January 1949, the UNCIP adopted another Resolution which laid down basic principles for a plebiscite. It laid down that –
- i. *“The question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite.”*
 - ii. *“A plebiscite will be held when it shall be found by the Commission that the ceasefire and the truce arrangements as set forth in parts I and II of the Commission’s Resolution on 13 August 1948 have been carried out and arrangements for the plebiscite are completed.”*

Question: Why were the UN Resolutions not fulfilled?

Answer:

1. The UN Security Council’s Resolution No. 47 clearly laid down sequential steps, for resolving the Kashmir issue. These steps were reiterated in the UNCIP resolution of 13 August 1948.
2. The steps included Cease Fire, Pakistan withdrawing its troops entirely from Kashmir and using its best endeavours to secure the withdrawal from the State of Jammu and Kashmir of “*tribesmen*” and “*Pakistani nationals not normally resident therein who have entered the State for the purpose of fighting*”. Once Pakistan completed these actions, India would withdraw the bulk of its forces in stages.
3. The conditions laid down in the above Resolutions have never been met by Pakistan. Pakistan not only continues its military occupation of a part of J&K but has increased it dramatically. Pakistan thus failed to honour UN Security Council Resolution No. 47 and UNCIP Resolutions of 13 August 1948 and 5 January 1949, thereby rendering the holding of a plebiscite legally untenable and impossible.

4. In his speech to the Lok Sabha on 29 March 1956 Pt. Jawaharlal Nehru recalled that “*due of the admission of aggression, the first thing the Commission required was that Pakistan should withdraw its armed forces from the area of the State occupied by it*”, while India “*were asked to withdraw bulk of our armed forces later, that is, on Pakistan withdrawing from that area*”. “*Today, eight and a half years after that, those armed forces of Pakistan are still there. Therefore, all this talk of plebiscite and other things is completely beside the point.*”

5. On March 29, 1956 India withdrew the offer of a plebiscite on three grounds, viz., as per UN conditions, Pakistan had to first withdraw its forces from J&K; the Jammu and Kashmir Constituent Assembly had approved the merger with India and accepted the Indian Constitution; and Cold War security alliances reflected Pakistan’s desire to seek military solutions which had changed “*the entire face of the problem*” by altering the objective situation drastically. All the above had “*destroyed the roots of the foundation of the plebiscite proposal in Kashmir*”.

6. Apart from Pakistan’s non-fulfilment of preconditions under the various UN Resolutions, Pakistan has also sought to change the status quo with the continued presence of the Pakistani Army in PoJK (including G-B); the passage of enactments such as the Interim Constitution Act, 1974; the Gilgit-Baltistan (Empowerment & Self-governance) Order, 2009 (as amended in 2018); separation of G-B from occupied parts of J&K and abolishment of the ‘state-subject’ stipulation in the region; and illegal ceding of 5,180 sq. km of J&K to China under the 1963 Sino-Pakistan Boundary Agreement.

7. Since 1947, Pakistan has systematically altered the status-quo in J&K by the settlement of Pashun and Punjabi population in Gilgit-Baltistan as well as PoJK and in recent years, construction of China-Pakistan Economic Corridor (CPEC) through disputed territory – which is a violation of India’s territorial integrity.

Question: What does the Simla Agreement say?

Answer:

1. The Simla Agreement, signed on July 3, 1972 makes it incumbent on India and Pakistan to resolve the Kashmir issue through bilateral negotiations or by any other peaceful means mutually agreed upon. This agreement has once and for all overtaken all the United Nations Resolutions on Kashmir.

2. The Agreement states, *inter alia*:

- i. That the two countries are resolved to settle their differences by peaceful means through bilateral negotiations or by any other peaceful means mutually agreed upon between them. Pending the final settlement of any of the problems between the two countries, neither side shall unilaterally alter the situation and both shall prevent the organization, assistance or encouragement of any acts detrimental to the maintenance of peaceful and harmonious relations.*
- ii. That the prerequisite for reconciliation, good neighbourliness and durable peace between them is a commitment by both the countries to peaceful co-existence, respect for each other's territorial integrity and sovereignty and non-interference in each other's internal affairs, on the basis of equality and mutual benefit.*
- iii. That the basic issues and causes of conflict which have bedevilled the relations between the two countries for the last 25 years shall be resolved by peaceful means.*
- iv. That they shall always respect each other's national unity, territorial integrity, political independence and sovereign equality.*
- v. That in accordance with the Charter of the United Nations, they will refrain from the threat or use of force against the territorial integrity or political independence of each other”.*

3. As per the Agreement, both the Governments agreed that in order to initiate the process of the establishment of durable peace:

- i. “The Indian and Pakistani forces shall be withdrawn to their side of the international border.*
- ii. In Jammu and Kashmir, the line of control resulting from the cease-fire of December 17 1971 shall be respected by both sides without prejudice to*

the recognized position of either side. Neither side shall seek to alter it unilaterally, irrespective of mutual differences and legal interpretations. Both sides further undertake to refrain from the threat or the use of force in violation of this line.

- iii. *The withdrawals shall commence upon entry into force of this agreement and shall be completed within a period of 30 days thereof”.*

4. The Simla Agreement is a ‘Peace Treaty’ under the 1969 Vienna Convention on the Law of Treaties (Vienna Convention). The Agreement’s ‘entry into force’ has established the unconditional consent of India and Pakistan to be bound by its provisions.

5. The commitment to resolve the Kashmir issue bilaterally, in accordance with the Simla Agreement, was again reiterated in the Lahore Declaration signed by the Prime Ministers of India and Pakistan on 21 February 1999.

Question: What does the international law say about the right to self-determination?

Answer:

1. The right to self-determination is not absolute. It is applicable only to people struggling to free themselves from colonial and foreign domination.

2. This right cannot be utilised for “authorising or encouraging any action which would dismember or impair totally or in part the territorial integrity or political unity of sovereign or independent states”.

3. The former UN Secretary General, U Thant in 1970 asserted that ‘self-determination of peoples does not imply self-determination of a section of the population of a particular member state’. When ‘a state applies to be a member of the UN and when the UN accepts that member then the implication is that the rest of the membership of the UN recognises the territorial integrity, independence and sovereignty of this particular member state”.

4. The legal basis for the ‘right to self-determination’ is mostly drawn from Chapter I, Article 1 (2) and Chapter IX, Article 55 of the UN Charter

in the context of developing “friendly relations among nations” and promoting “equal rights”. Though ‘self-determination’ does not find mention in the rest of the Charter, inferences to the concept are mostly drawn from Chapter XI and XII and the principle of ‘self-governance’. All inferences to ‘self-determination’ drawn from the UN Charter are applicable only in the context of colonial and non-self-governing territories – and therefore, do not apply to J&K as it is neither.

5. Such applicability of the ‘right to self-determination’ to only colonial/non-self-governing territories is also emphasised by UN General Assembly Resolution 1514 (XV) of 1960 on the ‘Declaration on the Granting of Independence to Colonial Countries and Peoples’ and UN General Assembly Resolution 1541 (XV) of 1960 on principles that govern ‘self-determination’.

6. In addition, in international law, ‘self-determination’ is not and cannot be a basis for secession. This principle is highlighted in the UN General Assembly Resolution 2625 (XXV) of 1970, which when elaborating on the ‘Principle of Equal Rights and Self-Determination of Peoples’ states that, “Nothing....shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States..”.

7. The Indian state of Jammu & Kashmir is not a colonized territory but an integral part of India.

Section II: Unique Status of J&K

Question: What is the Constitution of J&K?

Answer:

1. The people of Jammu and Kashmir convened a Constituent Assembly in 1951, which once again reaffirmed the Accession of the State to India in 1956 and finalised the Constitution of the State.

2. The Constitution of J&K was adopted on 17th November 1956.

3. The Preamble of the Constitution of J&K reads as under - *“We, the people of the State of Jammu and Kashmir, having solemnly resolved, in pursuance of the accession of this State to India which took place on the 26th October 1947 to further define the existing relationship of the State with the Union of India as an integral part thereof...”*

➤ *Section 3 of the Constitution of J&K reads as – “The State of Jammu and Kashmir is and shall be an integral part of the Union of India.”*

➤ *Section 4 of the Constitution of J&K reads as – “The territory of the State shall comprise all the territories which on the 15th August 1947, were under the sovereignty or suzerainty of the Ruler of the State.”*

➤ *Section 5 of the Constitution of J&K reads as – “The executive and legislative power of the State extends to all matters except those with respect to which Parliament has power to make laws for the State under the provisions of the Constitution of India.”*

4. Under Article 1 of the Indian Constitution, the State of Jammu and Kashmir is an integral part of India. The territory of the J&K is defined in Schedule 1 of the Indian Constitution.

Question: What did Sheikh Abdullah say at the inaugural session of J&K’s Constituent Assembly on 5 November 1951?

Answer:

1. Sheikh Abdullah delivered a historic inaugural speech to the Jammu and Kashmir Constituent Assembly on 5 November 1951, justifying the decision of J&K to accede to India. All the reasons given by him are valid even today.

2. **The Constitutional argument:** Sheikh Abdullah stated that the Constitution of India has provided for a federal union, and in the distribution of sovereign powers “*has treated us differently from other constituent units. With the exception of items grouped under Defence, External Affairs and Communications in the Instrument of Accession, we have complete freedom to frame our Constitution in the manner we like*”.

3. Speaking on the merits of J&K’s accession to India, Abdullah had pointed out that :

“in the last four decades, the Government of India had never tried to interfere in the internal autonomy of J&K” [...] The Indian Constitution has set before the country the goal of secular democracy based upon justice, freedom, and equality of all, without distinction. This meets the argument that Muslims of Kashmir cannot have security in India, where the large majority of the population is Hindus. Any unnatural cleavage between religious groups is the legacy of imperialism, and no modern state can afford to encourage internal divisions if it is to achieve progress and prosperity. The Indian Constitution has amply and finally repudiated the concept of a religious state, which is a throwback to medievalism, by guaranteeing the equality of rights of all citizens irrespective of their religion, colour, caste and class. The national movement in our State naturally gravitates towards these principles of secular democracy. The people here will never accept a principle which seeks to favour the interests of one religious or social group against another”.

4. **The Military argument:** Elaborating on Pakistan’s action in invading Kashmir in 1947, Sheikh Abdullah observed that it was morally and legally incorrect, judged by any nor of international behaviour. This was echoed in the report of UN sponsored mediator, Sir Owen Dixon dated 15 September 1950 according to which the crossing of frontier of the State of J&K by hostile elements was contrary to international law. Therefore, it was not justified to treat India and Pakistan at par in matters pertaining to Kashmir.

5. He said, “*In fact, the force of the logic dictates the conclusion that the aggressor should withdraw his armed forces, and the United Nations should see that Pakistan gets out of the State.*”

6. **The Religious argument:** Sheikh Abdullah noted how Pakistan has argued that since a majority of the people of Kashmir are Muslims, it should have acceded to Pakistan which is a Muslim State. He observed that :

“this claim of being a Muslim State is of course only a camouflage. It is a screen to dupe the common man, so that he may not see clearly that Pakistan is a feudal state in which a clique is trying by these methods to maintain itself in power. In addition to this, the appeal of religion constitutes a sentimental and a wrong approach to the question [...] Some argue that the survival or annihilation of Kashmir depends on its accession to Pakistan. Facts have disapproved this. Pakistan is not an organic unity of all Muslims in the subcontinent. It has, on the contrary caused the dispersion of the Indian Muslims for whose benefit it was claimed to have been created [...] The total population of western Pakistan, which is contiguous to our State, is hardly 25 million, while the total number of Muslims resident in India is as many as 40 million. If one Muslim is as good as another, the Kashmir Muslims, if they are worried by such considerations, should choose the forty millions living in India [...] religious affinities alone do not and should not normally determine the political alliances of States.”

7. **The Economic argument:** On the economic benefits of joining India, Sheikh Abdullah stated :

“India being more highly industrialised than Pakistan, can give us equipment, technical services and materials. She can help us too in marketing. Many goods also which it would not be practical for us to produce here – for instance, sugar, cotton, cloth, and other essential commodities – can be got by us in large quantities from India. It is around the efficient supply of such basic necessities that the standard of living of the man-on-the-street depends.” Alluding to a recent land legislation that was passed by the Government of India, Sheikh Abdullah questioned, “We have been able under present conditions to carry these reforms through; are we sure that in alliance with landlord-ridden Pakistan, with so many feudal privileges intact, that these economic reforms of ours will be tolerated? We have already heard that news of our Land reforms has travelled to the peasants of the enemy-occupied area of our State, who vainly desire a like status and like benefits.” On the issue of traditional art and crafts of J&K Sheikh Abdullah averred that the “traditional market for these precious goods, for which we are justly

known all over the world, have been centered in India. The volume of our trade, in spite of our dislocation of the last few years, shows this.”

Question: What are the administrative arrangements for governing J&K?

Answer:

1. The structure of J&K government is laid down in the State's Constitution. The Governor (formerly known as the *Sadar-i-Riyasat*) is the Executive head of the State, appointed by the President of India. However, it is the Chief Minister who is vested with most of the Executive powers.

2. The Legislature of the State of J&K consists of the Governor and the two Houses known as the Legislative Assembly and the Legislative Council. The Legislative Assembly consists of one hundred and eleven members chosen by direct election from territorial constituencies of the State; provided that the Governor may, if he is of the opinion that women are not adequately represented may nominate not more than two women in the Assembly. The Legislative Council consists of 36 members. The State has 6 Lok Sabha constituencies.

3. The State has been administratively divided into three regions, namely; Jammu, Kashmir and Ladakh. They have 37, 46 and 4 Assembly seats respectively. According to the Constitution of J&K, 24 seats in the Legislative Assembly have been kept vacant until the area of the State under illegal occupation of Pakistan ceases to be occupied and the people residing in that area elect their representatives. The three administrative districts of Jammu, Kashmir and Ladakh have been further divided into 22 districts.

Region	Area (Sq. Miles)	Population (2011 Census)
Kashmir Valley	8,639	5.4 million
Jammu	12,378	7.0 million
Ladakh	33,554	290,000
Total	54,571	12.5 million

4. J&K also has local self-government bodies. These are governed by the J&K Panchayati Raj Act of 1989, Panchayat Rules, 1996 for rural areas; and J&K Municipal Act, 2000 and J&K Municipal Corporation Act, 2000 for urban areas. Elections for 4,483 Panchayats (and consequently 4,483 Sarpanches and 35,029 Panches) and for 79 Urban Local Bodies (1,145 Councillors were elected) took place in October-December 2018.

Section III: The People of J&K

Question: Who are the Kashmiris?

Answer:

1. As per the 2011 Census, the population of J&K is 12.5 million which represents 0.93% of the population of India comprising about 6.6 million males and 5.9 million females. About 75% of the population resides in rural areas and 25% in urban areas.

2. The State is characterised by linguistic diversity. The main languages spoken are Urdu, Dogri, Kashmiri, Pahari, Ladakhi, Balti, and Gojri/Gujar. Kashmiri is the local language of the State.

Language Spoken	Population (2011 Census)
Kashmiri	6,700,000
Hindi	2,600,000
Dogri	2,500,000
Gujar	1,200,000
Punjabi	200,000
Pahari	41,000
Urdu	20,000
Balti	12,000
Pashto	18,000

3. As per the 2011 Census, the religious composition of J&K is as follows:

Religion	Population (2011 Census)	Percentage
Muslims	8.6 million	68%
Hindus	3.6 million	29%
Sikh	235,000	2%
Buddhist	110,000	<1%
Christian	36,000	<0.30%
Others	24,000	<0.20%
Total	12.5 million	

4. Thousands of Kashmiri students and professionals study and live in various parts of India for better education, employment and income opportunities. Several Kashmiris have distinguished themselves inside and outside the country in different fields, and risen to the highest of positions. They have excelled in the fields of public service, government, defence forces, the arts, literature, film, TV and sports.

5. The Indian Army has three Infantry Regiments – the Jammu & Kashmir Light Infantry, J&K Rifles and Dogra Regiment. The J&K Light Infantry is one of the most highly decorated regiments of the Indian Army. The regimental centre of J&K LI regiment is located in Srinagar and recruitment for the regiment is carried out from all three geographic regions of J&K, i.e., Kashmir, Ladakh and Jammu regions. Each recruitment rally held for the enrolment into the regiment attracts thousands of youth as volunteers for joining the Indian Army. Parents proudly attend the passing out parades in the centres and military academies and send their children to join the armed forces. Battalions of the Regiment which have served as part of UN Missions abroad have earned huge respect for showcasing India's and J&K's secular and inter-faith culture.

Question: What is Kashmiriyat?

Answer:

1. Kashmiriyat represents the secular and syncretic culture of the state which has been its hallmark for over five centuries.

2. Kashmir has a distinct spiritual legacy. According to Kashmiri folklore, the whole Valley was once a huge lake called "Satisar". The scantily populated outer hillocks were beset with a constant threat from demons, chief among them was Jaladbhav. Answering the collective prayers of the sufferers, God sent a saintly person named Kashyap Rishi who appeared and killed the demon. He also drained the water out of the valley to make it fit for habitation. The emerging land mass was named after the Rishi as "Kashyapmar". The word Kashyapmar gradually changed to Kashmir though other words are also abound. The word "ka"

means water and “shimira” refers to dried land. Among intellectuals, Kashmir is popularly referred to as “*Rishwaer*” i.e. abode of Rishis and “*Pirwaer*” which means abode of saints. There is hardly any place in the valley where there is no shrine or temple or *Khankah* like spiritual place (buildings designed specifically for Sufi gatherings).

3. Kashmiriyat denotes the philosophy of peace co-existence, brotherhood and communal harmony. It preaches mutual respect and togetherness with its history tracing back to the famous Kashmiri King Zianul Abideen (1420 AD to 1470 AD) who was an epitome of tolerance and inter-religious harmony. King Abideen, popularly known as Budshah ordered the translation of Mahabharata into Persian. The 16th Century poet Shrivar Pandit translated Persian masterpiece Yusuf Zuleikha into Sanskrit.

4. One of the hallmarks of Kashmiri culture is peaceful co-existence. The shared traditions of Hindu-Muslim unity came to be called as the “Rishi-Sufi” movement. Kashmir’s towering mystic personalities – Lalla Ded and Sheikh-ul-Alam (Sheikh Nooruddin Wali) – are one of the strongest proponents of this philosophy. Mutual recognition and togetherness constitute the core of their philosophy of co-existence. Due to the shared inter-religious harmony, Kashmiri Muslims consider Lalla Ded a motherly figure. The construction of a shrine at Bijbehara by Muslims in the name of Lalleshwari (Lalla Ded) is a testimony to the Kashmiris belief in co-existence. Similarly, Sheikh-ul-Alam, who is also called as Sazanand by Kashmiri Hindus is considered a revered saint and guide. Reverence of such mystic figures highlights the shared religiosity and cultural practices of various faiths.

5. Another aspect of the Kashmiri ethos and culture is its literary and intellectual richness and diversity. J&K enjoys the distinction of having produced internationally acclaimed philosophers, poets and thinkers like Abhinavgupta (650 AD to 1016 AD); Kshemendra (11th Century Sanskrit Poet); Pandit Kalhanana who gave the historical account of Kashmir in “Raja Taringini”; Habba Khatoon, Mahmood Gami, Mahjoor and Rehman Rahi.

Question: How big is the J&K economy?

Answer:

1. From a figure of US \$ 14 billion in 2013-2014, the forecasted GDP of Jammu & Kashmir in 2018-2019 is US \$ 24 billion. This is larger than the combined GDP of Baluchistan, which has the population of the same size as J&K, PoJK and Gilgit-Baltistan put together, and almost equal to the GDP of Khyber – Pakhtunkhwa, whose population is three times the size of J&K.
2. These figures indicate the much higher levels of prosperity in J&K despite all the setbacks the State has faced on account of Pakistan sponsored terrorism of many decades.

Question: What is Jammu and Kashmir famous for?

Answer:

1. Jammu and Kashmir has the distinction of having a multifaceted, variegated and unique cultural blend. Its different cultural forms like art and architecture, fairs and festivals, rites and rituals and languages speak volumes of unity in diversity with unparalleled cultural cohesion.
2. J&K excels in the manufacture of silk carpets. The designs and patterns in Kashmiri carpets continue to be predominantly inspired by classical Persian and Central-Asian rugs. The origin of hand-knotted carpets locally known as “Kal Baffi” dates back to the 15th century after which it attained a high degree of perfection. It is said that Sultan Zain-ul-Abidin brought carpet weavers from Persia and Central Asia to J&K to train local weavers. The intricately woven carpets from Kashmir have a high international demand. As per the economic survey of J&K, total carpet exports in J&K in 2016-17 amounted to \$ 56 million.
3. J&K has a vast area under forest cover which provides raw material for a number of forest based industries such as paper, pulp, match, delicate boxes, sports goods, furniture, toys, artifacts as well as decoration products. Kashmiri carvers are well known for their skill in

woodwork. The shrine of Naqshbandi and that of tourist reception centres are examples of Kashmiri woodwork.

4. Horticulture is the mainstay of the rural economy of J&K. Apple production was almost 2 million metric tonnes in 2017-18. Jammu and Kashmir is the largest producer of saffron spice in India. Food processing and agro-based industries are critical components of the State's economy.

5. The costumes of J&K are well known for their embroidery and intricate designs, which reflect the richness of the culture and the landscape of the region.

6. Due to Jammu and Kashmir's close proximity to Central Asia, Eastern Asia and southern Asia, a unique blend of music has evolved encompassing the music of the three regions.

7. Jammu and Kashmir is a tourists' paradise. There has been an exponential growth in tourism to the State since the 1950s, despite Pakistan sponsored terrorism. In good years, J&K has witnessed more than 1.5 million tourists annually, excluding the pilgrimage sites of Vaishno Devi and Amar Nath. The State has a potential of attracting several more million tourists round the year.

Section IV: Terrorism in J&K

Question: How does Pakistan see J&K?

Answer:

1. Pakistan sees J&K as a piece of land in its geostrategic rivalry with India, and the people of J&K only through the religious lens of a Muslim majority area. In doing so, it remains in denial about the fact that the only issue left to be settled between India and Pakistan is the return of the occupied territory of PoJK to India, and the fact that India has 180 million Muslims who live across the country.

2. Pakistan's claim to J&K is neither based on the Indian Independence Act of 1947 nor on the legal stand of Mohammad Ali Jinnah on the issue of lapse of British paramountcy. It is also not based on ethnic or linguistic affinity. The only ground advanced by Pakistan is that the population of the Kashmir valley is Muslim. This narrow argument overlooks the basic fact that Kashmiris are ethnically and linguistically separate from the various population groups in Pakistan. Their history is also separate from Pakistan. Moreover, at the time of partition, there were more Muslims in India than in Pakistan [as per the first Indian Census in 1951, there were 34 million Muslims in India whereas as per the first Census of Pakistan 1951, the total population of West Pakistan was 33.7 million which included Hindus (13%) and other religious groups] Going by the religious argument, the Muhajirs in Pakistan are larger in number than the Kashmiri Muslims and have much closer affinity and blood ties with the Indian Muslims.

Question: How does Pakistan support terrorism in J&K?

Answer:

1. The real problem in the Indian State of Jammu and Kashmir is cross border terrorism which is supported, sustained and perpetuated by Pakistan. Pakistan regards the use of terrorism as a legitimate instrument of statecraft and provides sanctuary to UN-designated terrorists.

2. Pakistan has been funding, training and arming terrorist groups like Jamaat-ud-Dawa (JuD)/Lashkar-e-Tayyaba (LeT), Jaish-e-Mohammad (JeM), Hizbul Mujahideen (HM) and Al-Badr Mujahideen (ABM) and using them to infiltrate into J&K to carry out attacks. Pakistan's Inter-Services Intelligence (ISI) has set up a vast infrastructure in Pakistan and PoJK for this purpose. It has established several terrorist training camps in PoJK and Pakistan to train terrorists, one of which was targeted by the Indian Air Force in Balakot on 26 February 2019. These camps are used to provide ideological and military training to terrorists by leaders and experienced cadres of these groups as well as Pakistan's Inter-Services Intelligence (ISI) officials. Pakistani army facilitates terrorists while infiltrating into the Indian territory by providing operational/tactical support on infiltration routes as well as cover fire to the infiltrating terrorists. There are launching detachments and communication control systems which are run by the Pakistan Army to support infiltration of terrorists into J&K.

3. Terrorist groups and their politico-religious front organisations operate a network of mosques, madrassas and large religious complexes, also known as *markaz* across Pakistan and PoJK including Gilgit-Baltistan. The religious complexes solicit public support to help build terrorist infrastructure. Some of the well-known centres are Markaz Al-Qadsiya, Chaburji in Lahore which is run by JuD and Markaz Uzman-o-Ali in Bahawalpur run by JeM. Leaders of terrorist groups use these mosques and madrasas to deliver religiously charged sermons and also to solicit logistics/financial support and join jihad against India. Millions of dollars are collected in the form of donations, *Zakat* and *Ushr* and sacrificial hides during Eid as funds.

4. In addition, Pakistan sponsors extremist groups such as Jamaat-e-Islami/J&K and Jamiat Ahle Hadis/J&K and uses them for radicalization and strengthening of religion based political narrative among Kashmiri youth.

5. Pakistan seeks to project terrorism in Kashmir as an indigenous freedom movement and terrorists killed in Kashmir as "freedom fighters" and "martyrs". Pakistani terrorist outfits organise funeral prayers in-

absentia for the militants killed in J&K in which militants are projected as “martyrs” and their kin are honoured for their contribution to “jihad” in Kashmir. These meetings are used to mobilise public support and motivate innocent youth to join jihad in Kashmir.

6. Thousands of innocent Kashmiris and security forces have been killed in J&K due to cross-border terrorism by Pakistan.

Question: What the world says about Pakistan’s role as a sponsor of terrorism?

Answer:

1. Pakistan’s role as a sponsor of terrorist groups, extremism and radical ideologies has been documented in numerous international forums, as well as confirmed in statements by Pakistan’s own leaders and writings.

2. In recent times, Pakistan’s abetment to terrorism has been recognised and documented by the UN Security Council and the Financial Action Task Force (FATF). 24 Pakistan-based groups have been proscribed by the UN Security Council¹.

3. Jamaat ud Dawa and its Chief Hafiz Saeed have not only been proscribed by the UN but also by numerous UN member states under their domestic counter terrorism laws, including the US, the UK, Japan, EU member states, Canada and Australia.

4. Following the terrorist attack against a CRPF convoy in Pulwama in J&K on February 14, 2019, the United Nations Security Council issued a statement on 21 February 2019 condemning the “*heinous and cowardly suicide bombing*” for which the Jaish-e-Mohammed has claimed responsibility. The Council reaffirmed that “*terrorism in all its forms and*

¹ UNSC Consolidated List of Proscribed Organisations; <https://scsanctions.un.org/consolidated/#alqaedaent> Afghan Support Committee; Al Rashid Trust (JeM’s front); Al-Akhtar Trust (linked with Harakatul Mujahideen); Al-Haramain Foundation; Al Qaeda; Emarat Kavkaz; Haji Basir Hawala; Haji Sattar Money Exchange; Haqqani Network; Harakatul Mujahideen; Harakatul Jihad Islami; Islamic Movement of Uzbekistan; Jaish-e-Mohammad; Jamatul Ahrar; Khatiba Imam Al-Bukhari; Lashkar-e-Jhangvi; Lashkar-e-Tayyba/Jamaat ud Dawa; Rabita Trust; Rahat Trust; Al Furqan Welfare; Roshan Money Exchange; Tariq Geedar Group; Tehrik-e-Taliban Pakistan; Ummah Tameer e-Naw and Al Wafa.

manifestations constitutes one of the most serious threats to international peace and security.” The members of the Security Council underlined the need to “*hold the perpetrators, organisers, financiers and sponsors of these reprehensible acts of terror accountable and bring them to justice*”, and urged all states to cooperate actively with the Government of India and all other relevant authorities in this regard.

5. A few days later, the FATF in its Plenary held on 22nd February 2019, stated that, “*Pakistan does not demonstrate a proper understanding of the terrorist financing risks posed by Daesh, Al Qaeda, Jamaat-ud-Dawa, Falah-i-Insaniyat Foundation (FIF), Lashkar-e-Tayyaba, Jaish-e-Mohammad, Haqqani network and persons affiliated with the Taliban.*”

6. After the Pulwama attack, Pakistan’s intelligence agency, ISI instructed Pakistan and PoJK-based terrorist groups such as Jaish-e-Mohammad, Lashkar-e-Tayyba and Hizbul Mujahideen to convey to their cadres operating in J&K to avoid any sort of reference to their Pakistan or PoJK-based handlers during their communications. Many senior terrorist leaders were also shifted from their training camps in PoJK to other locations within Pakistan.

Question: What did Pakistan commit on 6th January 2004?

Answer:

1. Pakistan, for the first time in 2004, acknowledged that terrorism was being spread from its territory and gave an assurance to India that it will not permit its territory to be used to support terrorism. A joint press statement was issued after a meeting between Prime Minister A. B Vajpayee and Pakistan’s President Gen. (Retd.) Pervez Musharraf in Islamabad on 6th January 2004. In response to Prime Minister Vajpayee’s statement that in order to take forward and sustain the dialogue process, “*violence, hostility and terrorism must be prevented,*” President Pervez Musharraf “*reassured Prime Minister Vajpayee that he will not permit any territory under Pakistan’s control to be used to support terrorism in any manner.*”

2. The fact is that since 2004, 1900 terrorists of Pakistan origin have been killed in J&K.

Question: Whose terror is Pakistan a victim of?

Answer:

1. Pakistan is a victim of its own policy of using non-state actors and terrorism as an instrument of state policy and a tool to achieve its strategic objectives.
2. The motivations underlying Pakistani adventurism in the region are not far to seek. The former Pakistani Prime Minister Zulfikar Ali Bhutto in his death cell testimony "*If I am assassinated*" compared the Pakistani army to the Prussian Army which, engulfed by the revolutions in Europe, had expanded beyond the resources of Prussia. The situation became so untenable that it was said, "*Prussia is an army with a country and not a country with an Army.*" He pointed out that like Prussia, Pakistan had either to expand or to reduce the army or collapse under the weight of the large standing army.
3. The Tehrik-i-Taliban Pakistan (TTP) which is responsible for the killing of thousands of civilians is a result of Pakistan's own policy of "going hard and going soft" against terrorists. Most of the groups constituting the TTP were created by Pakistan to pursue its policy in Afghanistan and they worked closely with the Pakistan Army and ISI. Mullah Fazlullah who was the TTP leader until 2018 was the son-in-law of Sufi Muhammad, leader of the extremist Wahabi organisation Tehrik-i-Nifaz-i-Shariat-i-Mohammadi. This organisation was formed in 1992 to fight alongside the (Afghan) Taliban against the Northern Alliance. Following international pressure after 9/11, Pakistan was forced to take action against these groups, but each military action was followed by a peace agreement (Shakai Agreement in 2002; Sargodha Agreement in 2005; Miramshah Agreement in 2006) that gave legitimacy to these groups and allowed them the opportunity to strengthen themselves militarily.
4. Sectarian groups like Sipah-e-Sahaba Pakistan /Ahle Sunnat Wal Jamaat, Lashkar-e-Jhangvi, Sipah-e-Muhammad Pakistan and Imamia Students Organisation which are responsible for the killing of hundreds of

people in Pakistan have emerged due to Pakistan's own policy of mixing religion with politics and promoting a radical form of Islam. Successive military rulers used religion to gain legitimacy and to suppress growing sub-nationalist tendencies in Pakistan. Gen. Ziaul Haq, in particular, promoted the Sunni Deobandi-Wahabi ideology in the 1980s that helped mobilise support and fighters for jihad against Soviets in Afghanistan that resulted in the spread of jihadi culture in Pakistan. This period coincided with the Iranian Revolution of 1979 that gave confidence to Pakistan's Shias to rise against the Sunnis, thereby resulting in a class war between the Shia landlords and the Sunni landless in South Central Punjab.

5. Pakistan has taken only selective action against the TTP. It has left the terror infrastructure of groups involved in violence against Afghanistan (Afghan Taliban and Haqqani Network), India (LeT, JeM, HM) and Iran (Jundullah, Jaish-e-Adl) untouched. The senior leadership of the Haqqani network which was based in North Waziristan were forewarned and allowed to escape by the Pakistan military to other areas before the launch of operation Zarb-e-Azb in June 2014. LeT and JeM were placed in the least priority groups for action in the so called "National Action Plan", and only cosmetic action was taken against these groups after Pakistan was placed in Financial Action Task Forces Grey List in June 2018.

Section V: Human Rights Situation in J&K

Question: What is the OHCHR (Office of UN's High Commissioner for Human Rights) report on the Situation of Human Rights in Kashmir, dated 14 June 2018?

Answer:

1. The Report of the United Nations High Commissioner for Human Rights released on 14 June 2018 is fallacious, tendentious and motivated. It is a selective compilation of largely unverified information. Moreover, there are serious methodological and analytical failures in the report. It offers a random list of vague claims from various groups without any assessment of veracity. Further, the Report gives insufficient credence to contrary official documentary evidence.

2. The report is overtly prejudiced and seeks to build a false narrative on J&K by ignoring key facts. For instance, the OHCHR seems to assume that the security forces are engaged in killing civilians with impunity. The report acknowledges the allegations against security forces had been investigated by the government.

3. The fact is that terrorism is the most egregious violation of human rights. Yet, the Report has conveniently ignored the pattern of cross-border terrorism emanating from Pakistan and territories under its illegal control. In 2018, there were 390 incidents of ceasefire violations, an increase of 10% since 2017. Activities of terrorist organisations like Lashker-e-Tayyaba, Hizbul Mujahideen and Jaish-e-Mohammad grew in 2018. Cross-border terror and incitement is aimed at suppressing the will of the people of Jammu and Kashmir, disrupting its political and social fabric and undermining India's integrity.

4. The motivated report deliberately ignores that fundamental rights and freedoms guaranteed under the Constitution to every Indian citizen, including in the state of Jammu & Kashmir, are protected also by an independent judiciary, Human Rights Commissions, free and vibrant media and an active civil society. India is a democratic country known for

its judicial independence, free media and strong Constitutional protections.

5. As a democratic country, India keeps the doors open for negotiations with dissidents even while using the security forces to contain violence.

6. All allegations of human rights violations are investigated and action taken against the guilty. At the same time, the Indian Army is engaged in Operation Sadbhavana (Operation Goodwill) under which it has established 46 Army Goodwill schools and rendered assistance to approximately 1900 State Government run schools in remote areas. Nearly 15,000 students have benefited in the last 15 years at the middle and higher secondary level education.

Question: What has happened to the Hindus in J&K?

Answer:

1. After the accession of J&K to India, there has been a systematic campaign of violence against Hindus in the Kashmir valley, known as Kashmiri Pandits, by Pakistan based terrorists and extremists. Since the late 1980s, Pakistan-based terrorists created divisions in the society, where none existed before. They threatened Kashmiri Hindus to follow Islamic rules, including abidance by Islamic dress code, a prohibition of alcohol, cinemas and video parlors.

2. The minority Hindu community was subjected to communal violence. Their shops, factories, temples and homes were burned or destroyed. The social, religious and cultural symbols of the minority Hindus were targeted. All office buildings, shops and establishments were colored green as a sign of Islamic rule. Hindu temples were desecrated or slowly turned into lands under occupation of Muslim trusts. An Indian Express report dated December 15, 1992 revealed that 150 temples and 150 houses belonging to the Hindus has been destroyed by militants in the preceding five days. The destruction of temples and usurping of the

Hindu premises by terrorists was a part of the process of extermination and cleansing of the Hindu minority from J&K.

3. The terrorist violence in Kashmir also involved genocide of Hindus at the hands of Kashmiri Muslim terrorist groups. Several noted Kashmiri Hindus were gruesomely murdered by Pakistani terrorist groups.

4. The attacks and threats from Pakistan-based terrorist groups forced hundreds and thousands of Hindus to flee Kashmir and seek shelter in Jammu and other parts of India. There are an estimated 62,581 Kashmiri migrants of which 41,248 live in Jammu, 19,338 are in Delhi/National Capital region and 1,995 are living in other parts of India.

Question: How have the people of J&K exercised their civil and political rights?

Answer:

Legal Rights

1. The people of J&K enjoy the same freedoms as are enjoyed by the people of the rest of India, in addition to what they are guaranteed under the Constitution of J&K. As a mature and vibrant democracy, India has robust mechanisms to protect and promote human rights in all parts of the country, including the state of Jammu & Kashmir.

2. The J&K State Human Rights Commission which was formed in 1997 under the J&K Protection of Human Rights Act, 1997 is the nodal agency for enquiring and investigating into human rights violations in the State. It is an independent and autonomous body, free from any influence or control of central and State governments. Any aggrieved citizen can bring his or her grievance to the Commission. In addition, the Commission takes *suo motu* cognizance of human rights violations in the State. Cases pertaining to custodial deaths; alleged killing of civilians by the army and paramilitary forces; alleged use of pellets and pepper gas on protesters by law enforcement agencies; official apathy; rights of jail inmates; distribution of government services have been taken up by the Commission from time to time. As of 30th November 2018, 8,381 cases

have been taken up by the Commission of which 7,616 have been disposed of.

3. In addition, the State has a robust judicial system. The High Court of Judicature was established in 1957 by the Jammu and Kashmir Constitution Act. Currently, there are 45 Courts of District judges, 50 Sub-Judges' courts and 79 Courts of Munsifs. The State High Court was for the first time given power to issue writs for enforcement of the fundamental rights so far as they are applicable to the State of J&K. The government has also undertaken measures for speedy investigation and disposal of justice. In 2013, the provision of "Zero First Information Report (FIR)" was introduced under section 154 of Indian Criminal Procedure Code (CrPC) which makes it mandatory for the police station to register an FIR even if the offence has been committed outside its jurisdiction.

4. Special detailed provisions have been put in place for compensation of victims of terrorist violence in J&K.

5. Under the Jammu and Kashmir (Compassionate Appointment) Rules 1994, the J&K government also provides compassionate appointment to people who are family members of a government employee or a civilian who had been killed in militancy related action. In 2013, the J&K government set up a "Victim Compensation Fund" to provide relief and rehabilitation to victims or their dependents who have suffered loss or injury.

Political Rights

6. There have been periodic elections, with relatively significant popular participation to the state Legislative Assembly, Parliament and Panchayat bodies. This is in stark contrast to the situation in PoJK, wherein pro-independence political parties and activists are not allowed to participate in the political process while political leaders seen to be opposing Pakistani rule have been subject to surveillance, harassment and imprisonment.

7. The first elections were held in 1951 to J&K's Constituent Assembly, which framed the Constitution of the State. Since then, 11 elections to J&K's Legislative Assembly and 13 Lok Sabha elections have taken place. At the local level, five Municipal elections, three Panchayat elections and four elections to the Ladakh Autonomous Hill Development Council (LAHDC)-Kargil and five elections for LAHDC-Leh have been conducted.

8. The Panchayati Raj model in J&K is regarded as one of the best models of Panchayati Raj in the country. Under the Jammu and Kashmir Panchayati Raj Rules, 1996, there is a three tier set up consisting of Halqa Panchayat at the lowest rung, Block Development Council and District Planning and Development Board at the apex level. The J&K Panchayati Raj Act has been recently amended with the result that the Panchayats of J&K enjoy the greatest amount of powers compared to the rest of the country.

9. Similarly Jammu and Kashmir has its own Municipal Council and Municipal Corporation Acts, in accordance with which there are 79 Municipal Corporations and 1,145 Municipal Wards.

10. In 2018, elections for Urban Local Bodies and Panchayats were held peacefully despite threats by Pakistan-sponsored terrorist outfits and separatists to foment trouble and eliminate candidates. The overall polling was 74% (Valley – 41.3%, Ladakh – 67.8% and Jammu – 83.5%).

Region	Total Seats	
	Sarpanch Halqas	Panch
Kashmir	2176	17396
Ladakh	193	1437
Jammu	2121	16311
Total	4490	35096

11. Elections for Ladakh Autonomous Hill Development Council, Kargil (LAHDC) in 2018 and for LAHDC-Leh in 2015 also witnessed an electoral participation of 70% and 65.6%, respectively.

12. Previous Parliamentary and Assembly elections in the state, especially 2014 Legislative Assembly elections, in J&K also generated good response, thereby underling the 'people's wish' to participate in electoral politics of India. Parliamentary elections to the Lok Sabha were held peacefully in the State in April-May 2019.

Question: What socio-economic developmental activities have taken place in J&K?

Answer:

1. Prime Minister Narendra Modi had announced a package of Rs. 80,068 crores (US \$ 11.5 billion) towards Special Assistance to J&K on 7th November 2015 for infrastructure development in the State. 83% of this amount has already been sanctioned and 36% has been released.

2. The package included an amount of approximately US \$ 9 billion for new initiatives / projects in the following sectors:-

- Construction of roads
- Health
- Power
- New and Renewable Energy
- Tourism
- Education
- Urban Development
- Water Resources
- Sports
- Defence
- Textiles

3. In addition, the J&K government has set up the Jammu and Kashmir Infrastructure Development Finance Corporation Limited (JKIDFC) in 2018 to raise funds to the tune of more than US \$ 1 billion to complete ongoing projects including roads, buildings, bridges and drinking water schemes. Plans to set up Mass Rapid Transit Corporations for building metros in Jammu and Srinagar are underway. In a major achievement, all

households in J&K achieved complete electrification by 30th November 2018.

Education: From a very low level in 1947, the literacy rate of J&K as per the 2011 census has risen to 67.16% as against 74.04% at the national level. The State has more than 1.3 million and 1 million students enrolled in 23,819 government and 5,516 private schools respectively. The Gross Enrolment Ratios at primary, upper primary and secondary levels are 77%, 68% and 67% respectively.

Number of Schools	
Primary School	14,721
Middle School	10,335
High School	3204
Higher Secondary	1075
TOTAL	29,335

Higher Education: Over the years, J&K has achieved many milestones in higher education. In 1950, there were only seven Government Degree Colleges. By 2017-18, the number of colleges had increased to 96 including 12 women colleges. Subsequently, the general enrolment in the Government Degree Colleges has increased from less than 3000 in 1950-51 to almost 170,000 in 2018-19. The institutional capacity of the State has also increased. Two Central Universities, one each at Jammu and Srinagar, and seven other Universities, i.e. two State, two Cluster and three government-aided universities are also functional in the State.

Health: The government has undertaken efforts to improve the health sector of J&K. The National Health Mission is being actively implemented in the State. There are 22 district hospitals, 88 sub-district hospitals, 406 Primary Health centres, 597 New Type Primary health Centres and 2847 Sub-centres in J&K besides 557 of Indian Systems of Medicine. Two new AIIMS-like Institutions, one at Awantipora Pulwama in Kashmir Division and another at Vijaypur Samba in Jammu Division have been sanctioned. In addition, the government has approved five new Medical Colleges in Baramullah, Anantnag, Kathua, Rajouri and Doda. The Unani medical college in Ganderbal Srinagar is at an advanced stage of completion.

Section VI: Illegal Occupation of J&K by Pakistan

Question: Which parts of J&K are occupied by Pakistan?

Answer:

1. Pakistan Occupied Jammu and Kashmir (PoJK) which measures 13,297 sq kms and Gilgit-Baltistan (GB; referred to as Northern Areas till August 2009) measuring 64,817 sq kms are under Pakistan's illegal occupation. PoJK comprises three different divisions – Mirpur, Muzaffarabad and Poonch and a total of ten districts.

Division	District	District Hqrs	Area (km ²)	Population
Mirpur	Mirpur	New Mirpur city	1,010	460,000
	Kotli	Kotli	1,862	780,000
	Bhimber	Bhimber	1,516	420,000
Muzaffarabad	Muzaffarabad	Muzaffarabad	1,642	650,000
	Jhelum Valley	Jhelum valley	854	230,000
	Neelam Valley	Athmuqam	3,621	191,000
Poonch	Poonch	Rawalakot	855	500,000
	Heveli	Forward Kahuta	600	152,000
	Bagh	Bagh	768	370,000
	Sudhanoti	Palandri	569	290,000
Total	10 Districts		13,297	4.0 million

2. **Ethnic Distribution:** The majority of people in PoJK are ethnically Punjabi. The culture of PoJK differs from the Kashmir Valley and is culturally close to that of Punjab (Potohar) and Jammu regions. There are other ethnic communities living in PoJK such as - Gujjars (agricultural tribe); Jats (mostly in Mirpur, Bhimber and Kotli); Awans (mostly in Bagh, Poonch, Jhelum valley and Muzaffarabad); Abbasis (mostly in Bagh, Jhelum valley and Muzaffarabad); Pahari Rajputs (a community of Pahari/Potohari speaking Rajputs); and Kashmiris (found mostly in Neelam Valley and Leepa valley).

3. **Language:** While Urdu remains the official language of PoJK, a number of other languages are spoken in the region. These include: Pahari-Pothwari, Hindko, Gurjari, Parmi and Kundal Shahi.

Gilgit-Baltistan (GB)

4. Gilgit-Baltistan has an area of 64,817 sq kms. It is a part of the princely state of Jammu and Kashmir. In April 1949, the so-called Karachi Agreement was signed between the government of Pakistan and the representatives of PoJK and All J&K Muslim Conference without the will and consultation with the local people. The Agreement transferred all affairs of Gilgit-Baltistan to Islamabad and thereafter deprived the Kashmiri leadership of any future political, judicial and economic role in the region. Since then, Pakistan has steadily usurped Gilgit-Baltistan by various legislative/administrative measures and coercive tactics.

5. Pakistan is contemplating options to declare Gilgit-Baltistan as its fifth province. The former Prime Minister of Pakistan, Nawaz Sharif had constituted a committee led by Mr. Sartaj Aziz to recommend constitutional reforms in GB. The Committee submitted a report in March 2017 in which it recommended GB to be made a “provisional” province of Pakistan. A Pakistan Supreme Court bench passed a verdict (January 17, 2019) on the Constitutional status of GB in which it directed the President of Pakistan to promulgate an order (GBO-2019) to provide for further political empowerment in GB.

6. Pakistan’s efforts to integrate GB not only violates J&K’s legal accession to India but also violates the India Independence Act, 1947 and the Government of India Act, 1935 that laid the foundations for the creation of India and Pakistan.

7. In addition, instead of withdrawing their forces from these regions, Pakistan has multiplied its forces. Pakistan Army’s 10 Corps is deployed in PoJK which consists of Force Commander Gilgit-Baltistan (FCGB), 12 Infantry Division, 19 Infantry Division, 23 Infantry Division and 111 (1)

Infantry Brigade. As of March 2019, there are a total of 17 Infantry Brigades which are deployed in PoJK under these formations.

Question: What is Aksai Chin?

Answer:

1. Under the Ladakh-Tibet Treaty of 1684 and Kashmir-Tibet agreement of 1842 Aksai Chin became a part of Ladakh region of the erstwhile Princely State of J&K.
2. Aksai Chin is a high altitude plateau measuring 37,244 sq kms. It lies between Karakoram pass in the north to the tri-junction of Ngari Prefecture (Tibet) and La Dwags (Ladakh) and Himachal Pradesh.
3. About 32,500 sq km of the Aksai Chin area is under the illegal control of China since 1962, and forms the Hotan County of the Xinjiang Autonomous Region (XAR).
4. China illegally constructed (Sept 1957) Tibet-Xinjiang road (Western Highway G 219) along the ancient Silk Route passing through Aksai Chin. The Line of Actual Control (LAC) denoting actual troop positions on the ground separates J&K from Xinjiang Autonomous Region (XAR) in Aksai Chin today.

Section VII: Situation in PoJK

Question: What is the Human Rights situation in PoJK?

Answer:

1. Pakistan's position regarding Pakistan occupied J&K (PoJK) and Gilgit-Baltistan (GB) is that it is merely responsible for the interim administration of these two territories, pending the final settlement of the Kashmir dispute. Despite this legal fiction, both territories are firmly controlled by the Federal Government in Islamabad, where all decisions on PoJK and Gilgit-Baltistan are taken.

2. Pakistan has been constantly violating human rights of Kashmiris in PoJK. The Pakistani deep state has orchestrated demographic change by bringing in Punjabis and Pashtuns, absorption of occupied territories, denial of basic Constitutional, political, civil and economic rights, systemic army persecution and violence against the people. Deliberate discriminatory policies have caused extreme poverty, underdevelopment and forcible deprivation of land. All independent voices in PoJK, be it media, civil society or political dissidents are regularly silenced.

3. This has been well-documented by various international organisations. The Human Rights Watch (HRW) Report titled, "*With friends like these...Human Rights Violations in Azad Kashmir*" (2006) gave an account of the unprecedented violations of human rights in PoJK. According to International Crisis Group's report "*Steps Towards Peace: Putting Kashmiris First*", while AJK has the "*trappings of a sovereign state, it is only nominally independent*". Baroness Emma Nicholson's report to the EU and various articles published by the UNO (Unrepresented Nations and Peoples Organisation) also reveal the grim situation in PoJK.

Misuse of counter terrorism laws

4. According to Human Rights Commission of Pakistan, there has been "*rampant misuse of Pakistan's Anti-Terrorism Act 1997 by GB authorities, particularly against young activists.*" Pakistan has used the

National Action Plan (NAP) as an effective tool to suppress internal dissent and opposition.

5. The broad definition of terrorism contained in Pakistan's Anti-Terrorism Act-1997 and its supremacy over other laws are aimed at depriving the people of PoJK basic Constitutional rights and giving protection and impunity to the security agencies. The Anti-Terrorism Act 1997 removes legal safeguards against torture that are otherwise provided to persons deprived of their liberty. It is used by Pakistan to target opposition parties, civil society activists, journalists and local residents in PoJK. It has also been used against people who have been protesting the acquisition of their lands for the China Pakistan Economic Corridor (CPEC). For instance, a prominent political activist, Baba Jan (Vice President, Awami Worker's Party) was falsely convicted under the Anti-Terrorism Act 1997 for environmental activism in August 2011 and sentenced to life imprisonment. Other political leaders/activists who have been detained by Pakistan include – Husnain Kamal (Jammu and Kashmir National Awami Party); D.J. Mathal (Editor-in-Chief of Daily 'Bang-e-Sahar') and Qadim Qasmi (journalist arrested for highlighting corruption).

6. In Gilgit-Baltistan, Section IV of the Anti-Terrorism Act -1997 has been used for surveillance of youth activists, human rights defenders and political workers.

7. **Torture and Other Forms of Mistreatment:** Human Rights Watch and others have long reported on the routine use of torture by the authorities in Pakistan, both in common criminal cases and against alleged political opponents. Politically motivated torture is typically used to compel politicians, political activists and journalists critical of the government to change their views or silence them. The Asian Human Rights Commission in its August 2016 report records that excessive use of police force has been a regular phenomenon in Pakistan, and it refers to the lack of basic facilities and proper administration in Gilgit-Baltistan that has resulted in large scale resentment among the residents of the region. Human Rights Watch has quoted instances of large numbers of

Kashmiri detainees who have been held for long periods by the Pakistani military in secret detention facilities in PoJK and in Pakistan. It has documented accounts of dozens of individuals, who allege that they had been severely tortured, illegally detained for several years, and then released in designated clusters. Freedom House, a Human Rights organisation based in Washington DC, in its 2019 Report concluded that the *Paharis* (tribals) in PoJK have less freedom than Kashmiris in J&K.

8. Restrictions on the Right to Participate in Elections: Pakistan's Constitutional provisions preclude all political choices to Kashmiris except to support its accession to Pakistan. Under the "Azad Jammu and Kashmir (PoJK) Interim Constitution Act 1974", aspiring candidates are pre-screened to ensure that only those who support Kashmir's annexation with Pakistan can contest elections. Shamshad Hussain Khan, an PoJK Supreme Court lawyer, summed up the situation arising from the constitutional framework: "*The document referred to as the Constitution of AJK is a sham. It's a biased document. These laws and practices are in contradiction to the pledges made by the government to the international community and the UN.....we have been and are being persecuted – through arbitrary arrests, torture, curbs on movement and by being barred from seeking higher education or employment...*" The Constitution of so-called "Azad Kashmir" was drafted by the Pakistani government rather than by elected representatives of PoJK themselves.

9. Restrictions on freedom of Religion: PoJK's Interim Constitution also defines who may be considered to be a Muslim. This definition is used to declare members of the Ahmaddiya community as non-Muslims. On 6 February 2018, the PoJK Legislative Assembly passed a Constitutional Amendment that declared Ahmaddiyas to be non-Muslims.

10. Local anger against China's intrusion: Many activists from PoJK and Gilgit Baltistan are questioning the Pakistan government for allowing China's slow and gradual take-over of Gilgit Baltistan, depriving the locals their livelihood. There is strong anger among the local population who feel that the government has grabbed their ancestral land to facilitate Chinese projects.

Question: What are the restrictions on the right to Freedom of Expression in PoJK?

Answer:

1. Tight control on freedom of expression has been a hallmark of the Pakistan's policy in PoJK. It has placed several restrictions on dissenting voices and those who question the "accession" of PoJK and Gilgit Baltistan to Pakistan.

2. No person in PoJK can be appointed to any government job, including the judiciary, unless he or she expresses loyalty to the concept of Kashmir's accession to Pakistan. The oath of office for the President, Prime Minister, Speaker, Member of the legislative assembly or the Azad Kashmir Council also incorporates the following statement : *"I will remain loyal to the country and the cause of accession of the state of Jammu and Kashmir to Pakistan"*

3. The Gilgit-Baltistan Empowerment and Self-Governance Order-2009 imposes restrictions on freedom of expression and association of people under its jurisdiction. Article 9 (2) under the Fundamental Rights Section states, *"No person or political party in the area comprising GB shall propagate against, or take part in activities prejudicial or detrimental to the ideology of Pakistan."*

4. The Pakistani government strictly controls and censors dissemination of news in PoJK. For many years, PoJK had only one daily newspaper. Media organisations need permission from Pakistan's Ministry of Kashmir Affairs and GB to operate in PoJK. According to international human rights groups, media houses in PoJK are known to practice self-censorship to avoid harassment by state authorities. This is in contrast to the situation in J&K where the local media is allowed to operate freely and without any let or hindrance by the State/Central government. This is precisely why dissident voices in J&K are able to find their way into international platforms, while grievances of the Kashmiris in PoJK are muzzled and unable to surface outside Pakistan.

5. Pakistan has gradually expelled foreign NGOs and human rights organisations from the region to prevent any international scrutiny of the ongoing violations by Pakistan security forces. For instance, in December 2017, at least 10 international NGOs including Open Society Foundations and Action Aid were asked to shut down their offices in the country.

6. Pakistan also places restrictions on assembly and association. Protesters are often persecuted, harassed and kept under close surveillance. Some activists have been charged for sedition and are facing long-term imprisonments without proper trials and convictions.