

Between War and Refuge in Jammu and Kashmir

DISPLACEMENT, BORDERS, AND THE BOUNDARIES
OF POLITICAL BELONGING

THE PRINCELY STATE OF JAMMU AND KASHMIR was formed by treaty agreement between the British Colonial Government of India and the Sikh governor of Jammu in 1846. The state was ruled by the Dogra Maharajas until 1947, when internal political and armed resistance and war between the new postcolonial nation-states of India and Pakistan ended monarchical rule. The Indian Princely States were not subject to the partition of the British territories in 1947; the accession of each principality was negotiated between the monarch of the State and the leaders of both the Indian National Congress and the Pakistan Muslim League—the political parties that ran the first postcolonial governments of India and Pakistan during the period of constitution formation. When the British Government of India transferred power to the independent postcolonial states of India and Pakistan on August 14, 1947, the monarch of the Princely State of Jammu and Kashmir had acceded to neither India nor Pakistan. Within months of independence, India and Pakistan had troops on the ground in the Princely State's Kashmir Province. This first war between India and Pakistan was ambiguously resolved with a United Nations–negotiated ceasefire in 1949. The state was functionally divided, and nearly a quarter of its people were displaced within the territories of the former Princely State or into India and Pakistan.

This politico-geographical division was supposed to be temporary, until a United Nations–recommended referendum could be carried out. There was, at first, no question of changing the terms of legal political belonging to the Princely State of Jammu and Kashmir. The people of the Indian Princely States were “state subjects,” not British colonial subjects; unless an Indian monarch had acceded to one or the other of the Dominions before the Partition, the ruler's displaced subjects were not counted as refugees who

would have to be rehabilitated. Both people who were displaced by political violence in the Princely State of Jammu and Kashmir between 1947 and 1949 and relief administrators in Pakistan and India made an important distinction between those (Kashmiri) refugees who were to return to their homes and those (Partition) refugees who would be resettled as permanent immigrants; “hereditary state subjects” of the Princely State of Jammu and Kashmir were supposed to return to their homes, lands, and properties. By the time the matter of princely state subjects was negotiated in the Karachi Agreement of March 1949, the (former) Princely State of Jammu and Kashmir was a “disputed territory” and the subject of a UN resolution. Its refugees were a specifically named part of the dispute-resolution process. Practices of identifying, regulating, and documenting Kashmiri refugees developed historically in the context of regional and international concern for (and dispute over) a Jammu-and-Kashmir that is both a former and a not-yet or a never-to-be political entity. The Hereditary State Subject provisions were adopted by the provincial successor states of both Jammu and Kashmir State (in India) and Azad Jammu and Kashmir (administered by Pakistan) as the basis of their legal frameworks for recognizing citizen-subjects of the disputed former Princely State of Jammu and Kashmir.

The 1949 UN Ceasefire Line—now called the LoC (military Line of Control)—simultaneously symbolizes and obscures the historical experiences of people who live in the divided regions of the former Princely State. On post-1949 maps of India and Pakistan, the LoC is a dotted line, representing its contested status. On the ground, it has been a permeable boundary without exact demarcation that has nonetheless shaped people’s apprehension of the political landscape. It forged a frontier through landscapes that people had previously experienced as contiguous, and these displaced people encountered the line not as a specific place but as a profound shift in the ways they experienced political power. Paradoxically, the LoC has had a more concrete presence when its physical location has been less certain—during periods of warfare. Thus, the line has had a cyclical as well as historical temporality; it has become more borderlike over time, but it has shifted in each war and has been serially revisited as a site of possible territorial settlement between India and Pakistan. This speculation has made it possible to envision the LoC gone or redrawn, even while it has become more entrenched. It has become an object of ideological struggle in daily life, even as the act of transgressing it has been criminalized by the state. The LoC becomes a real social object at the moment when people encounter new regimes of power,

but it does not exclusively regulate the conception of either relatedness or political belonging. Instead, the social dynamics within bisected regions of the (former) Princely State of Jammu and Kashmir reveal the importance of cross-border alliances—including those that are interrupted—to the ongoing cultural construction of social relatedness. In this sense, the greater Kashmir region was, and remains, a borderland in which forms of social regulation contest rather than buttress the regulatory processes of the state.¹

The Kashmir Dispute is often called the “unfinished business of Partition.” Explanations of the dispute paradigmatically begin by recounting the origins of the territorial dispute between India and Pakistan.² The story I tell here is different, and it has a different history. The continuing conflict in the Kashmir region is fundamentally *not* a territorial dispute between states. It is a struggle by the ruled to establish limits on the sovereign power of their rulers. Social groups, political parties, and the regional successor states of the monarchical State of Jammu and Kashmir employ the symbolic territoriality inherent in categories of political identity to make claims on absent and lost geographic territories through the territory of the political body. In the context of unresolved political status, the Kashmir borderlands extend not only across the disputed LoC or into the “occupied” territories but also through the indeterminate sovereignty of the bodies of the borderlands’ subjects.

The background to this story is about the conflicts and contestations for political recognition that were happening at the time of decolonization, when Kashmiri peoples’ struggles for political rights were with the monarch of Jammu and Kashmir, not with the British colonial power or with the post-colonial nation-states of India and Pakistan.

THE PRINCELY STATE OF JAMMU AND KASHMIR AT THE END OF EMPIRE

The Partition of British India was a long process of creating political and cultural (rather than simply territorial) separations.³ In this process, the post-colonial states were formed not only by dividing colonial holdings but also by dissolving the borders of hundreds of tributary polities and integrating the semi-autonomous Indian Princely States and their peoples.⁴ The postcolonial historiography of India and Pakistan has highlighted the forms of modern collective politics that were prominent in British India, but the decolonization and partition process was also shaped by political forms that emerged

in the Princely States and that disappeared after their integration.⁵ In the Princely State of Jammu and Kashmir, an articulation of subject peoples as rights-bearing subjects developed during the period when sovereignty was vested with the monarchical court. This idea of the distinct identity and rights of the people-of-the-state (*awām-e-riyāsat*) or people-of-Kashmir (*awām-e-kashmīr*) still underlies and competes with other postcolonial articulations of political and cultural belonging.

The Indian Princely States were governed by hereditary monarchs under relationships of suzerainty and paramountcy with the British colonial government of India. How autonomous these states really were is the subject of significant debate in the historiography of South Asia.⁶ One of the challenges in the historiography of the Indian States, specifically in evaluating their relative sovereignty, has been their vast differences in size and historical state formation. There were numerous small states that commanded little autonomy (on the scale of Jammu and Kashmir's smaller *jaḡīrs* and much smaller than its internal *wazārats*).⁷ There were also much larger Indian States, like Jammu and Kashmir, with composite political structures, heterogeneous regional cultures, and transregional networks of relationships to other Princely States that exercised aspects of sovereign control over their subjects.⁸ The monarchs of these more autonomous states had to establish new forms of legitimate authority over their subjects as they centralized their power during the colonial period.⁹

The Treaty of Amritsar, signed in 1846, demarcated the territorial borders of a new Princely State of Jammu and Kashmir—the *riyāsat-e-jammū-o-kashmīr*. Unlike established Indian States with hereditary thrones, Jammu and Kashmir had not had a political center of historical state expansion, and sovereignty within the state was dispersed. Like other Indian Princes, the Maharajas' political universe included limitations on their influence in matters outside their territorial boundaries, but they enjoyed considerable security at the treaty boundaries of the state. While the Maharajas of Jammu and Kashmir struggled with British attempts to influence the internal politics of the court, the real challenge of kingship in the Princely State was to centralize power and establish new relationships between the ruler and his subjects and between the state and its political community, which eliminated the intermediate forms of layered sovereignty within the treaty state.¹⁰

The first political movements in the Princely State of Jammu and Kashmir developed out of demands for protections against arbitrary rule and guarantees of patronage and employment for its subjects. Out of those movements, the “hereditary state subject” emerged as the primary category of political

identity for the State's peoples, and the legal provisions for state subject recognition were codified and elaborated by the Maharaja's government between 1912 and 1932.¹¹ Protections from arbitrary rule were linked with establishing and recognizing land-holding rights, both usufruct and proprietary, which created a distinction between the monarchy's sovereignty over territory and its sovereignty over its subjects. The first articulation of this distinction emerged during the period of agrarian land reforms, and the category *mulki* (the people of the land) emerged as a legal-administrative category in the Kashmiri Nationals' Law of 1912. The Hereditary State Subject Order of 1927 (amended 1932) clearly distinguished between state subjects who had rights to government office and land use and ownership versus those (non-state subjects) who did not have such rights. The concept of the *awām-e-kashmīr* or *awām-e-riyāsat* became a political category through which it was possible to articulate new limits on princely sovereignty, and Jammu and Kashmir state subjects demanded further political recognition in the form of representation and franchise.

At the historical juncture of liberation struggles against monarchical rule and the dissolution of colonial India, the relationship between land rights and protection from arbitrary rule informed both elite and popular political mobilization in the Princely State of Jammu and Kashmir. Between 1947 and 1949, the "Azad Kashmir Government" based in the town of Pulandri, in the Poonch Jagir, maintained the state subject as its definition of Kashmiri political identity, as did the "Emergency Interim Government of Jammu and Kashmir State" based in the city of Srinagar, the summer capital of the Princely State. After 1950, both India and Pakistan began to integrate the regions of the former Princely State that were under their control. The Princely State's own competing successor regimes—the Government of Azad Kashmir (in Pakistan-administered territory) and the Government of Jammu and Kashmir State (in Indian-administered territory)—struggled to maintain regional autonomy from the administrator states of India and Pakistan; they did this in part by maintaining the historical distinction between the subject-citizens of the former monarchical state and citizens of the new nation-states of Pakistan and India.

The Awām-e-Riyāsat: Making the State, Making Its Subjects

In 1846, the new Princely State of Jammu and Kashmir had been a unified polity only in name, and only at its borders. The Treaty of Amritsar, which

set the state's territorial borders, was part of the negotiated settlement that ended a war between the British and Sikh rulers of the Punjab and brought the Punjab under colonial control. Within the new state were numerous hereditary estates and chieftainships that had been awarded by the Sikh court at Lahore and by the Mughal, Afghan, and Tibetan monarchs who had once had feudatory arrangement with rulers within the treaty borders.¹² With the borders of the new state secure, but internal control uncertain, the Dogra Maharajas of Jammu and Kashmir focused on consolidating political and administrative authority.¹³

The eventual internal organization of the Princely State reflected localized sociopolitical alliances as well as the monarchs' uneven consolidation of political power within the borders established by the Treaty of Amritsar—a process by no means complete in 1947. Jammu Province, Kashmir Province, and the Frontier Ilaquas (Frontier Areas) made up the state's three large administrative units. The administrative hierarchy was most consolidated in Jammu and Kashmir Provinces; each was divided into districts that were in turn distinguished by taxation units called *tehsils*. Chenani Jagir and Poonch Jagir were incorporated into Jammu Province only in the 1930s. The Frontier Ilaquas consisted of the Ladakh Wazarat, the Gilgit Agency, the vassal states of Hunza and Nagar, and the tribal region of Chilas (which was never successfully surveyed by the monarchical state). These areas had a semi-autonomous feudatory status within the Princely State, which had limited administrative control.¹⁴

To establish their power, the Princely State's first Maharajas (Gulab Singh and Ranbir Singh) began consolidating the dispersed *jāgīrdārī* system of land tenancy and revenue administration, in which the revenue of a territorial estate (*jāgīr*) and the responsibility of governing it accrued to an appointed official (*jāgīrdār*) who owed allegiance to the monarch.¹⁵ Establishing a consolidated administrative hierarchy involved bringing the semi-independent hereditary *jāgīrs*—such as Chenani Jagir and Poonch Jagir—into a subordinate relationship with the Maharaja's court and enforcing the state's claim that all land was government property (*khālsab*).¹⁶ The Maharajas also extended the system of containment and exit permits (*rehdārī*) that had been used by the Sikh governors of the Kashmir Valley to the whole of the Princely State, in an effort to prevent people who were subject to taxation in the form of compulsory corvee labor (*bēgār*) from leaving the state or migrating out of their taxation divisions.¹⁷

Identifying *awām-e-riyāsat* (people of the state) as a category of political belonging, administration, and governance first developed in the 1880s,

during the agrarian land reforms of the *jāgīrdārī* system.¹⁸ During that period, famine and excessive *bēgār* led to large-scale migrations to the Punjab.¹⁹ The colonial administration of Punjab wanted a stable rural agricultural population; the British India Office considered migrations a security issue because the Princely State of Jammu and Kashmir had become a frontier between the British colonial empire and Russian imperial projects in Central Asia.²⁰ The land-settlement assessments in the state began in 1887, carried out by an officer of the British colonial government. British colonial permanent settlement practices were associated with the introduction of capitalist revenue systems and gradually transformed occupancy rights into proprietary rights. However, in the Princely States, these settlements transferred usufruct rights but not proprietary rights, which remained instead with the monarch, albeit in attenuated form.²¹ In Jammu and Kashmir, land reforms focused on imposing limitations on *bēgār* by establishing taxation assessments in cash or as a share of agricultural product and by granting occupancy and usufruct rights to cultivators. The Jammu and Kashmir Land Settlement Act identified people—*kashmīr mulkī*—who had usufruct claims on land and who had rights to state patronage in the form of government employment. The legislation also articulated a category of people who did not have such rights—the *gairmulkī* (people not of the land).²²

After the permanent settlements in Kashmir Province and Jammu Province (1887–1905), successive Maharajas faced pressure to recruit only state subjects for employment in state administration. Populist demands to reserve “Kashmir for Kashmiris” erupted, and the state’s first political parties organized protests.²³ The Kashmir for Kashmiris demand required a clear definition of who a Kashmiri was, and Maharaja Pratap Singh first established a bureaucratic definition of Jammu and Kashmir nationality in 1912. That definition was based entirely on the conferment and recognition of land occupancy and proprietary rights, and it limited state patronage to those who possessed an *ijāzatnāmah* (document of permission [to hold land]) issued by the Maharaja’s Darbar, or the state administrative bureaucracy. The Maharaja had full discretion to confer state-owned community land; therefore, he was empowered to confer or to withhold subject status.²⁴ This popular demand for an articulation of state identity was at first primarily about patronage, but it became increasingly connected to rights claims through the franchise and antitaxation movements of the 1920s.

The 1912 national definition excluded nomads and migratory people such as the Gujars and Bakerwal herders, whose grazing lands were generally held

as *khālsab* (government property).²⁵ It also excluded residents of Jammu and Kashmir's internal feudatory dependencies (e.g., Poonch Jagir, Chenani Jagir, and the frontier chieftainships). In mass protest movements in the 1920s and 1930s, members of excluded groups demanded the benefits of recognition as state nationals. In 1927, Maharaja Pratap Singh instituted the Hereditary State Subject Order of 1984 (1927 C.E.),²⁶ which defined hereditary state subjects as "all persons born and residing in the State before the commencement of the reign of His Highness the late Maharaja Gulab Singh Sahib Bahadur (1846 C.E.) and also persons who settled therein before the commencement of Samvat 1942 (1888 C.E.)."²⁷ The 1927 state subject definition established that subjects of the monarchy had durable rights. By limiting the Maharaja's ability to confer land rights and by restricting employment in government institutions to established state subjects, it also created a legal mechanism through which they could make claims on the Princely State. At the same time, state subjects also became the site of new forms of control, regulation, and political contestation. Whereas the regulatory acts of the nineteenth century had focused on the border, during the 1920s to 1940s, the Maharaja used the legal category "state subject" to exert claims over his subject nationals when they were in foreign territories. The category also facilitated the development of legal mechanisms to exclude foreigners and seditious (i.e., antimonarchist) ideas from the Princely State.²⁸

Demands on the Maharaja's government for patronage and legal recognition of proprietary rights continued into 1931, culminating in riots at religious sites in the Kashmir Valley, Mirpur district, and the city of Jammu.²⁹ The subsequent Glancy Commission Report reflected British colonial anxieties about communal politics in British India. However, the commissioners' recommendations reflected the emphasis within the state on legal and rights-based definitions of political belonging; the report recommended that government jobs be reserved for state subjects, that full proprietary rights be allocated to land occupants, that the state pay for all forms of labor services as a resolution to remaining *bēgār* taxation, and that state subjects participate in state government.

Between 1932 and 1936, Maharaja Hari Singh redefined the state subject and accepted the Jammu and Kashmir Constitution Act of 1996 (1934 C.E.),³⁰ which established the state's first Legislative Assembly—the Praja Sabha. An amended Hereditary State Subject Order (1932) was drafted concurrently with the Constitution Act of 1934; it established three classes of state subjects and a hierarchy of rights firmly based on claims to immovable property and

agricultural land, bureaucratic labor, and limitations on taxation.³¹ Although these rights were not directly linked to political representation, the Praja Sabha representatives (who were appointed by the Maharaja) used the recognition and distribution of land rights as a means of conferring political rights. The Praja Sabha passed a number of regulations that prevented the commodification of property and transferred some of the power of conferring political status from the Maharaja to the Legislative Assembly. Similarly, the Maharaja's council used the connection between land rights and state subject status to extend its own administrative control in the many internal feudatories it did not fully control. Poonch Jagir, for example, was not represented in the first Praja Sabha because in 1934 it was still an independent *jāgīr* with its own hereditary Rajas. In 1939, the council brought the Poonch Jagir into the Princely State's direct administrative structure—and more pointedly shifted the right of taxation to the Maharaja—by conferring land rights, and thus state-subject status and Praja Sabha representation, to residents of the Poonch Jagir.³²

In the late 1930s, political parties and subaltern movements began to argue for direct franchise rights for state subjects. The Praja Sabha allowed for only minimal direct popular participation and had only advisory power. Its formation, however, legalized political parties in the Princely State, and a number of regional and transregional parties developed after 1932. Political party development in Jammu and Kashmir was not a simple extension of anti-colonial and nationalist movements in British India. Parties developed from networks of educational reading groups and religious associations that had been legally permitted formal associations before 1932. During the agitations of 1931, members of these groups, including the prominent leaders Ghulam Abbass, Sheikh Mohammad Abdullah, and Prem Nath Bazaz, met in the Maharaja's prisons. They went on to found a number of parties, including the Praja Parishad, the Dogra Party, and the Kashmir Kisan Mazdoor Party, as well as the All Jammu and Kashmir Muslim Conference (AJKMC), which later split, forming a new AJKMC and the All Jammu and Kashmir National Conference (AJKNC).³³ After 1941, the AJKMC was generally referred to as “the Muslim Conference” and the AJKNC as “the National Conference.”

Party leaders were influenced by global anticolonial, nationalist, and socialist thinking, but political parties in Jammu and Kashmir took up the issues that were of particular concern to the subjects of the Princely State.³⁴ The Quit Kashmir protests, centered in the Kashmir Valley, and the armed Azad Kashmir insurrection, which began in Poonch, indicate how strongly

the connection between land and rights influenced Kashmiri political identity and grounded political movements in the Princely State of Jammu and Kashmir by the 1940s.

Azad Kashmir and the Quit Kashmir Movement

A working committee of the National Conference first articulated the concept of popular sovereignty as a right of Jammu and Kashmir state subjects in its *Naya Kashmir* (New Kashmir) Manifesto, which the party adopted in 1944.³⁵ The manifesto blended socialist land reform with sovereign rule by the people of the state, defined as “the people of the Jammu, Kashmir, Ladakh and the frontier regions, including Poonch and Chenani Ilaquas.”³⁶ This notion of self-rule was extended in the call for *āzād kashmīr* (Liberted/Free Kashmir) at a meeting sponsored by the Kashmir Kisan Mazdoor Party in May 1946. Representatives of various state political parties from Kashmir Province, Jammu Province, and the former Poonch Jagir attended the meeting, including members of the National Conference, the Muslim Conference, the Dogra Party, and the Praja Parishad. The meetings concluded with a demand for the liberation of the Princely State of Jammu and Kashmir and the creation of a free state in which the “people of the state” would be sovereign.³⁷

Sheikh Abdullah, a politician educated at the modernist Aligarh University and well versed in European social and political theory, also demanded self-rule under the slogan “Quit Kashmir.” The Quit Kashmir Declaration of 1946 held that the “people of the state” henceforth abrogated the Treaty of Amritsar between the British and the Sikh princes, in which the people of the state has been ceded as well as the land itself.³⁸ In a telegram to the Cabinet Mission officials responsible for partitioning British India, which was printed in the Srinagar newspaper *Khidmat*, Sheikh Abdullah announced the Quit Kashmir Movement as the last stage of Kashmiri peoples’ struggle for self-rule.³⁹ This movement was led by Sheikh Abdullah and the AJKNC party, but it depended on multiple party affiliations and interregional networks. The movement’s popular appeals invoked a sovereignty based in the region’s previous land-rights movements and protests.

The AJKMC and other regional political parties did not initially endorse the Quit Kashmir statement, and the National Conference provided the public leadership of the movement. However, the involvement of the state’s various parties became clear as prominent party leaders were arrested by the Maharaja’s government in 1946 and 1947. By the end of 1946, supporters of

the National Conference and of the Muslim Conference were engaged in a violent struggle for control of the Quit Kashmir movement. This so-called Sher-Bakra conflict resulted in the exodus of the National Conference's political opponents from the Princely State, either as direct exiles from Srinagar or as political exiles from the Maharaja's detention centers.⁴⁰ When the Maharaja, beset by internal revolt and external invasion, signed the Instrument of Accession to India in November 1947, the National Conference was the clearly dominant political party in Srinagar.

The Quit Kashmir movement began with a clearly articulated political ideology and organized, party-led protests. The armed Azad Kashmir movement coalesced around a tax protest in the Poonch Jagir, where the Maharaja's government had been attempting to regularize and increase land-revenue assessments since 1940, when it had been integrated into the Princely State. In June 1947, the Kashmir State Dogra Army began to disarm Muslim peasants and redistribute the weapons to Hindu and Sikh landlords. Men from Poonch brought women and children to towns on the border of the Princely State and the NWFP, notably to the army cantonment towns of Murree and Abbottabad, and returned to Poonch with weapons that they smuggled across the Jhelum River into the Princely State.⁴¹ By late August, the tax protests had shifted to a full revolt against the Maharaja's authority; armed fighting began between Kashmir State Dogra Army troops and protesters in Poonch who concurrently made demands for Azad Kashmir and *ilhāq-e-pakistān* (accession to Pakistan).⁴²

Political leaders in Poonch declared in August 1947 that they had overthrown the Maharaja's government, and in October, they announced the establishment of what they called the Provisional Revolutionary Government of Azad Kashmir: "Maharaja Hari Singh's title to rule has come to an end from August 15, 1947 and he has no constitutional or moral right to rule over the people of Kashmir against their will. He is consequently deposed with effect from October 4, 1947. All the Ministers and officials of the State will henceforth be duty-bound to carry out the orders of the Provisional Revolutionary Government. Anyone disobeying this duly constituted Government of the People of Kashmir or in any way abetting the Maharaja in his usurpation of the rule of Kashmir will be guilty of an act of high treason and will be dealt with accordingly."⁴³ The Revolutionary Government described itself as a war council. It formed an army it called the "Azad Forces," with three zones of military command—one in Kashmir Province, one in Jammu Province, and one in the former Poonch Jagir.

Several weeks later, prominent AJKMC leaders reconstituted the Provisional Revolutionary Government as the “Azad Kashmir Government,” run by the Central Committee of the Muslim Conference. This committee included leaders from the Kashmir and Jammu Provinces of the Princely State—such as Sardar Mohammad Ibrahim Khan (a Praja Sabha representative from Poonch), Ghulam Abbas (who had been recently released from Jammu Jail), and Yusuf Shah (the Mirwaiz of Kashmir, who was in exile from Srinagar). On the matter of political rights, the Azad Kashmir Government addressed India and Pakistan, not the Maharaja, whom it considered already deposed: “The Azad Government hopes that both Dominions [India and Pakistan] will sympathize with the people of Jammu and Kashmir in their efforts to exercise their birthright of political freedom. . . . The question of accession of Jammu and Kashmir to either dominion can only be decided by the free vote of the people in the form of referendum. . . .”⁴⁴ As Sardar Mohammad Ibrahim Khan, the president of the first Azad Kashmir Government, announced in November 1947: “Our Government is [a] Government of the people and has behind it a majority of the elected representatives in the Kashmir Assembly. Today the major portion of the State Territory is in our hands and we alone are the real government of Kashmir. . . . On the other hand, the despotic Maharaja has brought foreign aid [and] armies of occupation are pouring in from the Indian Union.”⁴⁵

In late October 1947, loosely organized *lashkars* (militias) of Pathans from the Northwest Frontier Provinces (NWFP) of Pakistan entered the Princely State of Jammu and Kashmir at Muzaffarabad, the frontier administrative outpost of the Kashmir Province, and advanced along the Jhelum River road toward the capital of Srinagar.⁴⁶ Maharaja Hari Singh quickly signed an Instrument of Accession that conferred defense, foreign affairs, and communications to the Government of India. The accession agreement reserved all residual powers for the Princely State government, and the Maharaja ceded internal administration to the National Conference party.⁴⁷ In Srinagar, Sheikh Abdullah declared the National Conference to be the state’s “Emergency Interim Government,”⁴⁸ and he mobilized civil defense committees.⁴⁹ Indian Army forces joined the Kashmir State Dogra Army in fighting on the Jhelum road at Baramullah and in the Poonch region of Jammu. The government of Pakistan did not accept the Maharaja’s accession and sent in its own army troops to prevent the capture of Jammu and Kashmir by India. Thus, by mid-November 1947, the armies of the newly independent nation-states of India and Pakistan were fighting their first war in Jammu and

Kashmir, and two different internal governments claimed to be the government of the entirety of the former Princely State and its state subjects.

Local Authorities and Successor States

During the war of 1947–1949, both the “Emergency Interim Government” based in Srinagar and the “Azad Kashmir Government” based in Palundri, claimed to function in place of the Praja Sabha (the state’s legislative assembly). International representatives and relief workers recognized both of these governments as “local authorities.” They negotiated with both administrations on pragmatic issues, such as entry into specific territories, and on humanitarian issues, such as refugee relief, protection of minorities, and prisoner exchanges.⁵⁰ The United Nations Commission on India and Pakistan (UNCIP) tacitly acknowledged both the Interim Government and the Azad Kashmir Government in Security Council resolutions on Kashmir. The resolutions distinguished the Azad Kashmir Government from the Government of Pakistan and the Interim Government from the Government of India, instructing the UN to work with local authorities in reestablishing law and order and arranging for a popular referendum to determine the political future of Jammu and Kashmir.⁵¹

Neither government recognized the authority of the other, however. The National Conference and Sheikh Abdullah (who represented Jammu and Kashmir at the UN in Geneva), claimed to be the local authority for the whole of the former Princely State.⁵² The Muslim Conference identified the Azad Kashmir Government as the government of both “territories of the State of Jammu and Kashmir which have been liberated by the people of that state” and of “the people of the state of Jammu and Kashmir” as a whole.⁵³ As soon as the 1949 ceasefire between India and Pakistan was established, this recognition of local authorities became a central problem for UN mediators, who were trying to carry out the Security Council resolutions by arranging a popular referendum on the future political status of the state. The Government of India and the National Conference’s Interim Government refused to recognize the Muslim Conference’s Azad Kashmir Government, suggesting instead that all officials in AJK territory be replaced with Kashmir State officials appointed by Sheikh Abdullah. They also insisted not only on the withdrawal of Pakistan Army troops but also on the complete disbanding of the Azad Forces and Azad Government Police Services, to be replaced by Kashmir State Troops. The British Commonwealth appointed mediators

in 1950 and in 1951, both of whose proposals eventually failed, at least in part, over the question of recognizing the actual authority of the Azad Kashmir Government.⁵⁴ During these negotiations, refugees from Jammu and Kashmir were recognized as a nascent political constituency when the Government of India agreed to keeping civil armed forces in Azad Kashmir territories, provided that the troops consisted of “residents of the territories who were not followers of the Azad Government,” preferably refugees from the Kashmir Valley.⁵⁵

The National Conference’s Interim Government and the Muslim Conference’s Azad Kashmir Government each operated under the legal provisions and practices established by the Maharaja’s court.⁵⁶ Each government attempted to establish its legitimacy by claiming to represent displaced people who were dispersed across spaces not under the governments’ actual territorial control. By 1951, the definition of a “refugee of Jammu and Kashmir” had been firmly established through principles laid out in bilateral Inter-Dominion agreements between India and Pakistan and in the actual administrative practices of allocating temporary land and properties to people displaced from and unable to return to their homes and lands. A Kashmiri refugee was defined as a state subject of the Princely State of Jammu and Kashmir who was displaced from his or her home or who could not return as a result of the war of 1947–1948.

Jammu and Kashmir State maintained a distinct “permanent resident” status that conferred separate state rights and privileges even after the Delhi Agreement (1952) gave Indian citizenship to Jammu and Kashmir state subjects.⁵⁷ This separate status was important for many reasons, not least because it recognized the continuing and uninterrupted status of displaced state subjects resident in Azad Kashmir territory and in Pakistan. In his address to the Constituent Assembly of Jammu and Kashmir on August 11, 1952, Sheikh Abdullah instructed the representatives to recognize the rights of “State Subject Evacuees [who were] living as refugees in [Pakistan and Azad Kashmir].”⁵⁸ The constitution that the assembly drafted based Jammu and Kashmir state “permanent resident” status on the 1932 Hereditary State Subject definition⁵⁹; the rights reserved for permanent residents of Jammu and Kashmir were the same as those granted state subjects under the Maharaja’s government. These included the exclusive right to acquire and hold property in the state, to stand for election or be employed by the government, and to receive any form of patronage, such as scholarships.⁶⁰ Adopted in 1956, the Constitution of Jammu and Kashmir State defined

the state as “all the territories which on the 15th day of August, 1947, were under the sovereignty or suzerainty of the Ruler of the State.”⁶¹ This included the territories actually controlled by the Azad Kashmir Government and by Pakistan, for which twenty-five seats in the new Legislative Assembly were reserved and held vacant for representatives from the “Pakistan-Occupied territories.”⁶²

Unlike Jammu and Kashmir State in India, Azad Jammu and Kashmir did not adopt a formal constitution until 1970; instead, a series of provisional orders defined the state’s administrative structure until the Azad Jammu and Kashmir Interim Constitution Act was ratified in 1974. In the 1960s, political leaders in AJK debated the transition to a democratic legislative system.⁶³ The Muslim Conference particularly resisted the transition to an electoral system on the grounds that “the institution of democracy would damage the freedom movement and that the area [AJK] would become a settled territory and not a base camp for the liberation of the State.”⁶⁴ Also unlike Jammu and Kashmir State in India, AJK is not represented in the federal Pakistan Legislative Assembly, and it maintains constitutional autonomy from Pakistan as an internationally disputed territory.

Successive administrations of the Azad Kashmir Government, like those of Jammu and Kashmir State (India), extended citizenship recognition to all hereditary state subjects. The Rules of Business of the Azad Kashmir Government of 1950 reserved state employment and property ownership for state subjects and recognized all displaced state subjects as Kashmiri refugees. Once franchise rights were made a part of an electoral process, all hereditary state subjects were guaranteed electoral representation, AJK political parties demanded that the 1932 Hereditary State Subject law be integrated into the constitutional definition of state citizenship when the first Interim Constitution Act was drafted in 1970.⁶⁵ The Azad Jammu and Kashmir Interim Constitution Act of 1974 structured the state as a parliamentary democracy, with an elected Legislative Assembly. The franchise was extended to “any state subject who left the Indian-occupied part of Jammu and Kashmir due to the “War of Liberation” and who was living in Azad Kashmir territory or in Pakistan⁶⁶ and to state subjects who left their homes after 1947 due to the “Indian occupation of the State.”⁶⁷ Under the Act, displaced state subjects (*muhājarīn-e-riyāsat-e-jammū-o-kashmīr*) living in Pakistan elect representatives to twelve seats in the Assembly. These seats are not linked to residential electoral areas but rather are allocated according to constituencies based on the last district of residence in the former Princely

State. Six of the seats are allocated for refugees displaced from the Kashmir Province and six for refugees displaced from the Jammu Province.

The reservation of refugee seats carries an important representational force with lasting political effects. The equal division of AJK assembly seats does not proportionally represent the refugee electorate, since the overwhelming majority of refugees living in Pakistan were displaced from Jammu Province and most refugees from Kashmir Province are resettled in AJK territory. Instead, it represents the state's territorial claims through the property claims of refugees in Pakistan. Their participation in AJK elections serves as a ritual that demonstrates the continuous and distinct identity of people from the former Princely State of Jammu and Kashmir, and their registration by district of origin maintains the AJK government's claims over territories that it does not administer.

LOCATING DISPLACEMENT: THE LINE OF CONTROL AND ITS REFUGEES

When the war between India and Pakistan ended with a UN-negotiated ceasefire on January 1, 1949, the former Princely State of Jammu and Kashmir had two successor political regimes, each of which claimed the legitimate right to rule over the whole state. The so-called UN Ceasefire Line divided the former Princely State's Kashmir Province, Jammu Province, and the Frontier Areas into regions controlled by India and those controlled by Pakistan. It re-oriented historical regional routes of trade and travel such as the Jhelum River Road, which had connected Muzaffarabad city to Srinagar, to the silk route and the Central Asian cities of Kabul and Kashkar, to Leh and the Tibetan Plateau, and to the Punjabi cities of Lahore and Amritsar. It also restructured the former Princely State's internal relationships among administrative districts, social networks, and political authority (see maps 3 and 4).⁶⁸ The decades after the 1949 division of the Princely State saw the Ceasefire Line become a frontier of political as well as military control. The Ceasefire Line moved with the front of military control during the 1965 and 1971 wars, and it was renamed the Line of Control (LoC) in the Simla Agreement of 1972 that ended the 1971 war. No plebiscite as envisioned by the original UN agreements was conducted in the former Princely State. In the absence of an internationally recognized political status for the territories under Indian and Pakistani control, the LoC became the de facto border



MAP 3. The Princely State of Jammu and Kashmir (1946).

between the semi-autonomous provincial states of Jammu and Kashmir State and the Ladakh Autonomous Hill Province (administered by India) and Azad Jammu and Kashmir and the Northern Areas (administered by Pakistan).

Both the movement of people and the movement of borders created a population of refugees from the State of Jammu and Kashmir living in Pakistan and Pakistan-administered Kashmir. In 1947 and 1948 there were only military front lines that shifted, sometimes drastically. Some people found themselves on the same side of the line as their lands and properties; others found themselves not temporarily displaced but “refugees” only miles from their former homes. Many who became refugees did not know that there was an Azad Kashmir distinct from the Jammu and Kashmir where they had always lived; many had never heard of Pakistan, or if they had, did not know what or where it was. In 1949, seven hundred fifty thousand people were displaced, nearly twenty percent of the four million state subjects enumerated in the census of 1941.⁶⁹ More were displaced in the wars that