SUMMARY

State autonomy has been a pivotal issue in the modern federations on account of two reasons. The first reason is the rise of terrorism, globalization and economic depression that have necessitated the modern federations to have strong and dominant Centre. Even in a federation like the USA, where the Centre has been given limited powers by the Constitution, with the passage of time the Centre has turned out to be strong in order to meet the serious challenges of wars, economic crisis and social service. The same is true to other federations like Switzerland, Australia etc. The second reason responsible for serious concern for state autonomy is the growth of multi-lingual, multi-ethnic and multi-cultural societies which in turn need a great degree of autonomy to maintain their unique identities. Gone are the days of Imperialism that suppressed the identities of the colonized and tried to impose a homogenous identity on them. Nowadays every community, whether big or small, asserts its identity and even travels back in time to resurrect its buried identity. Therefore, any attempt to tamper with its identity is considered intolerable. Thus, it can be said that in today’s world, federations are experiencing the pulls of the above mentioned two opposite forces that have made the issue of state autonomy a sensitive one. India is no exception to it. The Indian Constitution which is federal in nature, quasi federal in working and absolutely unitary in emergency, is perhaps one of the few Constitutions that makes conscious efforts to incorporate and strengthen the idea of co-operative federalism. Still, in Indian federation state autonomy has always been a volatile issue.

The State autonomy is one of the most controversial issues of the Indian Federation. The reason which makes State autonomy a highly inflammable issue is the complex nature of Indian Federation. The complex nature of Indian Federation is mainly due to cultural pluralism. Most of the state of Indian federation have distinct cultural and linguistic identities. To keep their identities intact, the States are sensitive to the issue of state autonomy. They demand more autonomy for the fulfillment of their psycho-cultural aspirations.

Financial autonomy is also demanded by States in India. India is a developing economy. The resources are scarce and demands disproportionately heavy. So, States demand more financial autonomy to pay due attention to their backward regions.

Any discussion of State autonomy in India is incomplete without a reference to the demand of State autonomy made by the State of Jammu and Kashmir. Time and again, there has been clamour for more autonomy from the State of Jammu and Kashmir. It is well known that the State of Jammu and Kashmir enjoys a special position in Indian Union. Owing to the special
circumstances in which the former Princely State was able to negotiate its accession to India, it is the Article 370 of Indian Constitution, which defines the relations of Indian Union with the State of Jammu and Kashmir.

The Princely States were to take a decision in respect of accession before 15th August, 1947, the day fixed for the transfer of power. The State of Jammu and Kashmir did not accede to either dominion by the 15th August, 1947. Maharaja offered to sign a standstill agreement with both India and Pakistan aimed at continuing the existing relationship pending his final decision regarding the future of the State. The agreement with Pakistan was concluded on 15th August, 1947, but India neither accepted the standstill agreement nor rejected it and instead instructed the State Government to send a properly accredited representative to the Indian Capital to discuss the implications of the agreement.

The Standstill agreement between the State and Pakistan was short lived. In early September 1947, Pakistan organized massive infiltration of its agents into Mirpur and Poonch districts. Both the districts flared up in revolt against the Dogras. Meanwhile, Pakistan imposed an embargo on the transit of supplies to the State and sealed off the two communication lines, which ran into Pakistan and linked the State with the outside world.

On October 20, 1947, a large column of several thousand tribesmen launched a heavy military offensive against the State. The remnants of the Dogra army, depleted and poorly equipped, offered dogged resistances to the raiders. The tribal invasion caused great devastation. The States was in imminent peril. Maharaja Hari Singh, then Maharaja of Jammu and Kashmir, thought of accession to save his State.

On 26th October, 1947, Maharaja Hari Singh sent Instrument of Accession duly signed by him to Lord Mountbatten, the then Governor-General of India. This was accepted by the Governor General of India on 27th October, 1947. This Instrument of Accession was in no way different from that executed by other Princely States. It bound the State of Jammu and Kashmir and India together legally and constitutionally. The constitutional relationship between Union of India and State of Jammu and Kashmir is governed by Article 370 of Indian Constitution. The future relations of Kashmir with India are to be governed by Article 370 of Indian Constitution. The provisions of the Constitution of India which apply to the State of Jammu and Kashmir are contained in the Constitution (Application to Jammu and Kashmir) Order, 1954. This order
was first amended in 1956 and after it, it was amended several times. It is the only State in Indian Union which is having its own Constitution.

The demand of autonomy made by the State of the Jammu and Kashmir is the demand for pre-1953 status, which in simple words means the Centre will have no role in the affairs of the State apart from Defence, External Affairs and Communications. The demand for greater autonomy by Jammu and Kashmir has both supporters and protestors. Some view the demand for more autonomy as genuine and a solution to Kashmir problem whereas there are some people who believe that this is pretence to hide the desire for secession.

The demand of more state autonomy has assumed not only national but international importance. In a nutshell, it can be said that the issue of autonomy has strained Center-State relations many times since independence but in case of Kashmir, this issue has been a constant source of concern for the survival of the Federal set-up.

Owing to the special circumstances in which the former princely State was able to negotiate its accession to India, it is the Article 370 of Indian Constitution, which defines the relations of Indian Union with the State of Jammu and Kashmir.

It is a hard fact that Jammu and Kashmir cannot be treated in isolation from the rest of the country. It cannot be denied that the acceptance of the demand of pre-1953 status by the State of Jammu and Kashmir will result in similar demands from other States which may lead to balkanization of the country. Such autonomy which is at the cost of integrity and sovereignty of the country cannot be of benefit for the common man. It should be remembered that autonomy cannot be an end in itself. It must be a means to an end.

The Republic of India in its size, population and resources is the world’s biggest parliamentary democracy. No doubt, in a democracy, the ends which are served by autonomy is the welfare of the people, more active participation of people in the governance of the country and more contact between the people and their representatives. In other words, real autonomy is one which brings government down to the people. It encourages the grass-root levels of democracy. Thus, in a democratic set-up autonomy implies decentralization. To make democracy meaningful and welfare-oriented, sovereignty should percolate from the higher apex of authority to the lower rungs of power. In India’s democratic and federal set-up, the autonomy which is construed as synonymous with decentralization would be most suited. But when autonomy is construed as ‘Utmost autonomy’ that is maximum autonomy which a State in a federal set-up can enjoy, the concept of autonomy becomes incongruous in a complex federal set-up of a country like India as it can lead only to anarchy. But one should remember as concept of ‘Utmost autonomy’ is against the integrity of India, in similar way, undue over-centralization of power is also against unity of India and creates disharmony between Centre and State governments. The solution to this problem lies in providing enough room in the form of autonomy to constituent federating units to grow and branch out with simultaneous devolution of power to grass-root levels but autonomy given at the same time should be such which enhances co-operation and co-ordination between the Centre and federal units.