CHAPTER 1
INTRODUCTION

1.1 Genesis of the Conflict

The Jammu and Kashmir State never existed before 16th March 1846, it was on this date that the state came into being, when the British handed over the state to Raja Gulab Singh through the treaty of Amritsar, prior to this, its three regions (Kashmir valley, Jammu and Ladakh) were governed separately under different rulers (Verma, 1994, p.9). It was this treaty of Amritsar which made Gulab Singh to include not only his native Jammu in to his estate but the Himalayan kingdom of Kashmir, Ladakh and Baltistan, which Gulab Singh’s famous General Zorawar Singh, had conquered on behalf of the Sikhs in 1840 (Schofield, 2004, p.7 ). The treaty of Amritsar occupies an important place in the political history of the region, as the treaty was a commercial transaction which was concluded between the British and the Dogra rulers. By the treaty of Amritsar, the imperial authorities transferred “forever” the Kashmir valley and its adjoining territories to Maharaja Gulab Singh and the heir’s male of his body, in exchange for the payment of a large sum of money (Bose, 1997, p.23).

In consideration of this transfer under the treaty the Maharaja had to pay to British Government “the sum of seventy five lakh of rupees (nanakshahi). The treaty also made it obligatory upon Maharaja Gulab Singh not to make any alteration in the territories of his state without the due consideration of the British government. Also the Maharaja was not allowed to employ or retain in his service any British or European or American subject without the consent of the Government of India. The treaty also had promised the British aid and help to Maharaja Gulab Singh for defeating and protecting his territories from external enemies (Bamzai, 1994, p.666). The Maharaja was under obligation under the treaty to submit any dispute that

1 Raja Gulab Singh (1772-1857) was the founder and first Maharaja of the State of Jammu and Kashmir.
2 For full text of the treaty of Amritsar see appendices.
might arise between the state of Jammu and Kashmir and any other neighbouring state to the British arbitration, whose decision was to be binding on the Maharaja as well as his male heirs.

The treaty made Maharaja to recognize and acknowledge the supremacy of the British Government and in token of such supremacy Maharaja will annually present to British Government one horse, twelve perfect shawl goats of approved breed (six males & six females) and three pairs of cashmere shawls (Dasgupta, 1968, pp.387-388). Thus, the state of Jammu and Kashmir was formed as a result of agreement (more commercial in nature) between East India Company and Maharaja Gulab Singh. Therefore the three regions having distinct culture, language and ethnic characters were brought under one administrative unit for the first time. However, certain parts in the north-west were added to it later (Vaid, 2002, p.15).

It is worthwhile to mention here that with the acquisition of the valley, Maharaja Gulab Singh became the master of practically all the distinct regions that came to comprise the historical territory of the princely state of Jammu and Kashmir. Indeed by the time the end of empire came, Jammu and Kashmir was the largest of the system of 562 such princely states that the British had created throughout the subcontinent (Covering 45 percent of its land area). Undoubtedly the most marvelous achievement of their famed construct, was their indirect rule that lasted exactly a century, till the moment of decolonization (Bose, 1997).

The State of Jammu and Kashmir is a multi lingual and multi-racial state. Different languages are spoken in the state and people have different religions. People conform to different traditions in dress, manner and customs. Being primarily a political entity the state is a conglomeration of at least six distant people’s inhabiting well defined parts or zones of the state and each having a distant language, culture, customs, manners and history (Madhok, 1949). The imperial gazetteer in 1908, shows that 34 per cent of the population spoke Kashmiri, 15 percent Dogri, while Punjabi was the language of nearly 30 per cent. A variety of languages were used to be spoken in various parts of the state by comparatively small numbers (Imperial Gazetteer of
India [IGI], 1908, p.99). As reported by Khan Bahadur (1927) the census of 1921 showed that 1, 81,739 spoke Bhotia (Ladakhi and Balti) 12, 56,886 spoke Kashmiri and 4, 25, 850 spoke Dogri (p.4).

As far as the distribution of population in the state is concerned, the census of 1941 shows that the overall population of state was 40,21,616. The population of Kashmir province was 17,28,705 and of Jammu it was 19,81,433, while the population of frontier region was 3,11,478. Similarly, the religious distribution among the population showed Muslims 31,01,247, Hindus 8,09165, Sikhs 65,603, Buddhists 40,696 and others it was 4605 (Census of India, 1941). According to the census (2001) conducted after 20 years, the size of the Jammu & Kashmir population is 10,069,917, which is 0.98 per cent of the country’s total population. One could find here such exotic people like Baltis, the nomadic Gujjars, and the Dards. As well as it’s the only regions where the Buddhists (Leh district) and the Ismaili’s (Hunza) were in majority. It was this unique diversity in culture that was rudely distributed in the aftermath of partition.

1.1.1 Area and location of the state

The State of Jammu and Kashmir as it existed in 1931 lies between 32° and 37° North latitude and 73° and east 80° east longitudes. From north to south it extends over 640 k.m and from east to west 840 k.m. Looking at the area, it was the largest state of the British Indian empire with an area of 218780 square k.m. (Census of India, 1931). However, after the marking of cease fire line between India and Pakistan in Jammu and Kashmir state on January 1, 1949, the area under India was reduced to 138,992 sq. Kilometers only, leaving 79,788 sq. Kilometer of area under illegal occupation of Pakistan’s and 37,555 sq. km. under China. In addition to this, 5,180 sq. km. of Jammu and Kashmir were illegally ceded to China by Pakistan under the March 1963 Sino-Pak Boundary agreement (Raina, 2002). Geographically the state comprises three main regions, namely, Jammu, Kashmir and Ladakh. The state shares a 221-kms international boundary with Pakistan in the Jammu region and 365 km. with China in its Ladakh. The line of control (LOC), which divides the part of state of
Jammu and Kashmir and Pak-occupied parts of the state, is 1,001 km. long (Jammu - 205 kms, Valley - 460 kms and Ladakh/Siachin area 336 kms.). The border with China is 465 kms long.

The Jammu region comprises the plains, hills and mountains south and west of the mighty Pir Panjal range that separates Kashmir Valley from the plains of the subcontinent. Ladakh constitutes the eastern-most part of the state of Jammu and Kashmir. It comprises two districts, namely, Leh and Kargil. Ladakh is one of the highest places on earth with the average altitude being above 12,000 feet. The Kashmir region or valley is a significant part of the state. The valley is an ancient lake basin 140 km. long and 32 km. wide. The state has the distinction having diverse neighbourhood with Turkistan (soviet) in the north and Sinkiang (Xingxiang), in the east its Tibet. Afghanistan and Pakistan on the west, while on the south Pakistan’s Punjab province. Geography of the state has always been crucial factor in determining the strategic and political importance of the state. With countries that deserve constant vigil and as such it has made the State very important geographically, politically, economically and from the military point of view (ibid).

1.1.2 The Kashmir valley

Between the Pir Panjal and the western end of the Great Himalayan ranges lies a deep asymmetrical basin called the Vale of Kashmir. Lawrence (1992) described it as: “If one looks at the map of the territories of His Highness the Maharaja of Jammu and Kashmir one sees a white foot-print set in a mass of black mountains. This is the valley of Kashmir, known to its inhabitants as Kashmir” (p.12).

The valley of Kashmir is a central irregular oval of land and one of the most beautiful places in the world and the most important part of the state, the valley of Kashmir has been noted for its scenic beauty. The valley is an ancient lake basin 140 kms long and 32 kms wide. The average elevation of the valley is 5,300 feet above sea level. The tall mountains that surround the valley rising up to 16,000 feet ensure that the weather here is pleasant for most of the year. Its rich alluvial soil well drained
by rivers and streams, yields rice, saffron, vegetables and a variety of fruit. For centuries travellers have delighted by the beauty of Kashmir and has been an object of attention of poets, painters, philosophers and travelers. Unfortunately it is this beauty of Kashmir which not only attracted the poets, painters, philosophers and travelers but a number of invaders who wanted to gain the control over this beautiful region.

Within the valley dwell the people, known as Kashmiri’s distinct from their co-nationals of the distinct inaccessible areas, gentle and friendly people of little stamina who in trouble loudly, but who seldom really bite (Birdwood, 1956, p.20). Accordingly, the census of (1941) which shows that the region of valley was dominated mainly by three religious communities namely, Muslims, Hindus and Sikhs. Other religious communities like, Christians, Jains and Buddhists were almost absent. The way geography has divided the portion from the rest of state, so were the people divided and separated by cultural differences. The people living in the valley mostly comprised of Muslims and a tiny majority of Kashmiri Pandit’s who are the members of the Brahmin Caste (Vaid, 2002, p.20). The composite cultural identity called Kashmiriyat is a special feature transcending religious barriers; the people are hospitable and engage in Sufi tradition (Singh, 1995, p.240).

Before any attempt is made to develop an argument for the emergence of armed conflict in the state of Jammu and Kashmir and it’s after effects, it becomes imperative to understand the genesis of the armed conflict. The historical facts are presented which shall be helpful in understanding various dimensions of the impact of armed conflict. In the present study the life of people during the time of Dogra rule is highlighted as this was the period which was the highly volatile and in a way formed the basis for a concrete and strong political revolt of the people.

1.1.3 The Dogra rule

The peace loving people of the valley have been described but outsiders as worshipers of tyranny, attributed mainly to the cowardly character of the people which some historians held responsible for the frequent conquest of the valley
But according to G.M.D. Sofi (1948) a well known historian, he
believes that the people of Kashmir are fearless warriors of an ancient day who
through centuries of oppression lost their fighting qualities. However the long history
of invasion, tyranny and suppression starting from Mughals to Dogras was bound to
create in the minds of people an intense desire for self governance and democracy.
The first Dogra ruler of the state was Maharaja Gulab Singh. It was on the 9th of
November 1846, That Gulab Singh entered Srinagar as its ruler. The Dogra rule after
the previous rulers was no improvement for the population, it was the proverbial from
frying pan into the fire (Naqash & Wani, 1993, p.20).

The Dogra rulers continued with what used to be the exploitative and
suppressive policies of earlier rulers. There rule brought more sufferings and miseries
to the people of valley. The economic backwardness of the masses was due to the
very character of the state, its institution of Jagirdari system and the system of
revenue taxation and corrupt administration. The state of Jammu and Kashmir had a
feudal character as was evident in the claims of its ruler that all land in Kashmir
belonged to him. The maharaja was thus the biggest Jagirdar of the state which
comprised of large number of Jagir granted to the members of the royal family and
those who proved by service or otherwise their loyalty to the person or the ruler as
well as his throne (Khan, 1980, p. 11). The feudal hardly allowed agriculture, trade
and industry to flourish. The cultivators greatly suffered due to heavy taxation
collected either by officials or through middle man. As walter. R Lawrence puts it,
their position was infinitely worse than Tier_ekat, before the French revolution
(Lawrence, 1992).

There was still much of the waste land available which the people were
unwilling to put under cultivation, because under the existing system of land revenue
administration they could be sure that they would ever receive the fruits of their

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3 The property rights in all lands in Kashmir belonged to the ruling chief exclusively for the
simple reason that the territories of Kashmir were purchased by my late lamented grand father
Maharaja Gulab Singh. Letter from Maharaja Pratab Singh to his prime minister, December
14,1918.File No.191/H-75,Kashmir government records,(J&K State archives)
labour (Younghusband, 1924, p.260). Robert Thorpe (1870, p.8-55) while highlighting the problems of the population living in valley says that only death or migration is the only escape available for the people in order to save themselves form of servitude. Population from all sections of society particularly the working class comprising of Butchers, Bakers, Carpenters, Boatman, Laboures etc. were taxed for practicising their trade.

A specific tax was levied on sacrifices of goats and sheep’s on the occasion of Muslim religious festivals. (Thorpe, 1870). The burden of these taxes is given in the table:

**Table -1.1: Taxes paid by the Population towards Dogra Rulers.**

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Name of commodity</th>
<th>Tax Paid</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>For each milk cow</td>
<td>1 ½ seers of ghee</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>For each Household</td>
<td>1-10 fouls</td>
<td>According to the number of inmates</td>
</tr>
<tr>
<td>3.</td>
<td>Fruit</td>
<td>¼ of the total produce</td>
<td>It was realized on walnuts, apples, pears, apricots, almonds etc</td>
</tr>
<tr>
<td>4.</td>
<td>For each village producing 500 karwars of grains</td>
<td>2 or 3 goats or sheep</td>
<td>Annual tax, half of the value was returned to the zamindars</td>
</tr>
<tr>
<td>5.</td>
<td>For each village</td>
<td>1 pony</td>
<td>Under conditions mentioned in serial no.4</td>
</tr>
<tr>
<td>6.</td>
<td>Puttoo (wool)</td>
<td>1 loie or woolen blanket</td>
<td>This tax was realized in the honey producing areas.</td>
</tr>
</tbody>
</table>


The other most heinous form of oppression under the Dogra rule was the practice of *Begaar* or forced labour. Under the system thousands of citizens were forcibly driven off every year to toil as carriers of burden on the most dangerous and risky Gilgit road (Knight, 1893, p.68). The practice of forced labour was so frightening that the very word would bring terror to the people. When there was a call
for it, the villagers would reluctantly leave their homes for two or three months with the prospect of death from cold or starvation (Khan, 1980, p.11). The officials exploited this system and would take things like milk, poultry, grain, blankets, ponies, cows and sheep as bribe from villagers just to keep them exempt from the Begaar (Koul, 1889).

However, there is no denying the fact that the geography of the state played its part in it. While commenting on the importance of Begaar system P.N.K.Bamzai, (1994) a well know historian and political analyst while defending this system puts forward its necessity because of the surrounding mountains and the absence of any transport facility to carry essential commodities into or out of the valley. Bamzai argues that “Maharaja Gulab Singh undertook the reform of Begaar system. He tried to rationalize the system and to mitigate some of the hardships it entailed” (p.672). To do so they were to be paid one of rice per month in pay and free ration when employed and those who were not called upon to do beggar in the course of year were only to be paid six khawar for that year. An office was appointed to take charge of this work (Panikkar, 1953, p.136). But without much success, as most of the ills of this system continued for some decades more and finally it was till 1920, when public opinion against it developed in and outside Kashmir, that the Begaar system was abolished altogether (Bamzai,1994, pp. 671-672).

Similarly, in other fields of life the worst part of the Dogra administration was its communal approach. This approach of the Dogra rulers was quite evident from the fact that, there was a prominent discrimination on the basis of religion in the state army and civil services. (Khan, 1980, p.11; Bazaz, 1984, pp.140-160)

There was no proper improvement in the health and welfare of the people. In 1939, there was only one boy’s primary school for every 66 square miles and for every 3,850 people, and one girl’s school in every 467 square miles and for every 25,670 persons. Surprising is the fact that in whole of the country there existed only

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4 One khawar of weight in Kashmiri language is equal to 80 kilograms of weight.
one college. As per the (1941) census 93.4 percent of the population was illiterate. Similarly, the tax burden also played its part, as late as 1944-45, per capita income was only 11 rupees and ironically out of this income 21 percent had to be paid tax per head (Korbel, 1966, p.16). The history of invasions, suppression, exploitation and oppression was bound to create in the minds of people a strong desire for democracy and self governance, where masses have equal right to participate and decide.

It was the year 1925, Maharaja Hari Singh, mounted the throne. Till then the absence of a mass uprising against this oppressive regime was being attributed to largely to the exceptionally docile nature of the peasantry in the vale (Lamb, 1966). But for the first time political awakening was seen among the population of Kashmir valley particularly among the Muslim youths of the valley. The Kashmiri Muslims for the first time began to demand their share in government and other administrative services and with this objective formed the “first Reading Room Party” in 1930 so that they are able to mobilize and develop the public opinion in their favour, with the result this small political step helped them to spread their message form intelligentsia to general masses at the call for inclusion of all irrespective of religion against the regime of Maharaja. Worthwhile to mention here is that a few Hindu and Sikh members of the small urbanized intelligentsia responded enthusiastically and party included cadres from religious minorities as well (Bose, 1997, p.25).

It was in the year 1931 that the dissatisfaction among the masses and policy of operation of the state was opposed by the masses in a very organized way and it was led by a school teacher, Sheikh Mohammad Abdullah. On July 13, Dozens of demonstrator’s demonstration against the policies of state were gunned down by Maharaja’s Police in Srinagar. The Maharaja declared emergency and threw Sheikh Mohammad Abdullah into prison for several weeks. This first abortive attempt, however, was highly significant. It was for the first time in the centuries that the Kashmiri people responded to the leadership of one who sought to throw off the old yolk of oppression (Korbel, 1966, p.19).
The changes which were happening on the political ground of Kashmir demanded an organized and strict political movement which would channel the grievances of population. This led to the formation of Muslim Conference in 1932. Sheikh Mohammad Abdullah and Ghulam Abbass were elected its President and General Secretary respectively. The Muslim conference also adopted the flag of Muslim league and determined to safe guard the interests of Kashmiri Muslims (Saraf, 1977, p.483).

However a split developed in the Muslim conference in 1938 when almost its entire organization in the Kashmir valley, led by the dynamic Sheikh Mohammad Abdullah, reconstituted itself as the National Conference. This new force declared its intend to end communalism by ceasing to think in terms of Muslim and non-Muslim and invited all Hindus and Sikhs who like ourselves believe in the freedom of their country from the shackles of an irresistible rule to participate as equal in the democratic struggle (Lamb, 1966, p.31). The National Conference leadership cadre included religious minorities as well as Muslims to give it a secular character. The main feature of the Sheikh Mohammad Abdullah’s political struggle was that he believed in fight against oppression of both the Muslims and Hindu poorer classes (Scheofield, 2004, p.18).

National conference was slowly consolidating its base and ultimately in the year 1944, it adopted a programme of socialistic pattern of society as its goal. It laid down a plan for overall development along all avenues of human activity regulated in a democratic manner on a country wide scale. The plan covered agriculture, industry, transport, distribution, utility service, currency and finance. The new ideology gave meaning to the common man’s struggle for freedom, and assured his unstinted loyalty to the conference and its leaders (Bamzai, 1994, p.741).

National conference went from strength to strength, despite severe repression. In May 1946, The National conference launched a mass agitation which it called “Quite Kashmir” on the lines of “Quite India movement of 1942 against the last Maharaja, Hari Singh. Abdullah declared that there is no place for the treaty of
Amritsar and resolved that the “Quite Kashmir” movement is not a question of revolt, it is a matter of right (Akbar, 1985, pp.227-228).

Challenged by the popular movement for democratic change within his domain was desperately trying to find a way to preserve his autocratic power, the Maharaja found himself finding answers about future of the state.

1.2.1 Partition of Sub-Continent

The Indian independence Act of 1947 made provisions for setting up in India two independent dominions, India and Pakistan. The state of Jammu and Kashmir immediately became the subject of conflict between the two new countries. With the choice of joining either of the two dominions was left to the rulers of the state. The princely state of Jammu and Kashmir was one of the 562 princely states of India on which the British paramountcy lapsed at the stroke of mid night of August 1949. However, the provisions of the Indian independence Act 1947, regarding these princely states were not very clear. It only provided for the lapse of the British Government over Indian states and the termination of all agreements (Mansergh, 1980, p.233). The rulers of the princely states were made to act very fast as, Lord Mountbatten advised the rulers of the states to accede to either of the two dominions, India or Pakistan on the issue of defense, communication and foreign affairs otherwise they may be cut off from any source of supplies up to date arms and weapons (p.347). Similarly the secretary of state for India Lord Listowel, warned these states that the British government will not recognize your independence, no one else will, you have no choice but to opt either for India or Pakistan (Burke & Ziring, 1990, p.16).

Though all the states acceded to India or Pakistan on various dates before or immediately after 15th of August, The Maharaja of Jammu and Kashmir delayed his decision in regard to accession. He has shut his eyes to the historic forces that were shaping the destiny of one-fifth of the world’s population (Bamzai, 1994, p.750). Therefore, the state of Jammu and Kashmir was one of those princely states which did
not join the constituent assembly of India set up under the cabinet mission plan (Puri, 1995, p.23). Maharaja despite the warnings by J.L.Nehru “that such an act by any state would be considered hostile” refused to acceded to any of the two states” (HT, 1947). The unequivocal support of the Muslim league to the sovereign right of the princes strengthened the decision of Maharaja in not joining the constituent assembly (Leader, 1947). Even when the partition was inevitable the Maharaja was in no mood to join Indian dominion.

The Maharaja was harbouring the idea of independent state of Kashmir and this idea was supported by loyal Hindu leaders in Jammu who vociferously argued that a Hindu state, as Jammu and Kashmir claimed to be, should not be merge its identity with a secular India (Bose,1997, p.5). The working committee of the Jammu and Kashmir Rajya Hindu Sabha formally adopted a resolution in May 1947 reiterating its faith in the Maharaja and extending its support to whatever he was doing or might do on the issue of accession (IGI, 1908). Muslims of the state also reiterated their support to the decision and will of the Maharaja. In a press release on May 1947, Chowdhary Hamidullah Khan, the acting president of All Jammu and Kashmir Muslim conference, also urged his highness to declare Kashmir independent immediately and establish a separate constituent assembly to frame the constitution of the state. He assured Muslim cooperation and support to the Maharaja as the first constitutional ruler of an independent and democratic Kashmir (Teng & Koul, 1977, p. 534).

Mountbatten in his efforts to persuade Maharaja and his Prime Minister not to make any declaration of independence, but to find out in one way or another will of the people of Kashmir and to accede to the dominions which the people prefer particularly before 14th August 1947. As Mountbatten believed that had he acceded to Pakistan before August 14, the future government of India had allowed me to give his highness an assurance that no objection whatever would be raised by them. Had his highness acceded to India by Aug 14, Pakistan did not then exist, and therefore could not have interfered. The only trouble that could have been raised was by non
accession to either side (Mountbatten, 1949, pp.268-269). Pakistan suspected Mountbatten’s visit to Kashmir and said that the government of India is trying to exercise coercion upon Maharaja just to compel him from the accession of the state with India (TD, 1947).

The time was running very fast for the Maharaja, the Maharaja sought from both the dominions a standstill agreement to come into effect on 15th August 1947. The standstill agreement with Pakistan was focused on communications, supplies and post office and telegraphic arrangements (Khan, undated, p.101). While with India, it consisted all the provision which the state had earlier with the outgoing British Government according to the treaty of Amritsar. These arrangements according to the treaty of Amritsar of 1846, comprised the use of Indian forces if there was internal rebellion or invasion by a foreign Government. The government of India, however, did not accept the offer immediately and wanted to negotiate the issue with Maharaja Hari Singh, but before anybody could go to Delhi to discuss the standstill agreement, Kashmir was invaded by the Pakistan backed tribal’s resulting in the agreements interruption. Subsequently, Pakistan began an economic blockade of the state despite a standstill agreement with the ruler. (Bamzai, 1994, p.752).

Thereafter, things started to go awry from this point. Between August and October, a major local revolt against the Maharaja’s authority developed among the Muslims in the north-western Poonch area of Jammu. Hari Singh claimed quite plausibly, that elements in the Pakistan government were actively aiding this revolt (Bose, 1997, p. 26).

1.2.2 Poonch Revolt and Tribal Invasion

The communal violence which swept India after partition had its impact in Jammu and not especially in Kashmir valley. Amid allegations that the Maharaja government was involved in attacks on Muslims, a secessionist movement appeared in mid-1947 in Poonch, the area most recently incorporated into the state (Bowers, 2004, p.12). However, the valley of Kashmir never had any influence on it secular
nature and character of these events. The holocaust which raged through certain states like Bengal and Punjab in 1947, failed to have any impact in the Kashmir valley which had as many as 93.7 per cent Muslim population. The Hindus in the Kashmir Valley remained safe and protected even in the wake of communal killings of Muslims in the Hindus dominated Jammu region. Credit for this mainly goes to Sheikh Abdullah and his colleagues in the party (Verma, 1994, p.34). The trouble in Poonch began with Maharajas refusal to accept the soldiers from Poonch and Mirpur into the state army after their return from the World War II fearing increased agitation against the state. The soldiers mainly Muslims, found themselves in a bad state of affairs after their return. As issue got mixed up, the agitation turned communal. The state army was used to crush the local unrest, but the traditional loyalty of a large number of Muslim troops of the state forces towards the Maharaja could no longer be taken for granted under the changed circumstances (Das, 1971, p.71). The soldiers particularly Muslims refused to fire on the demonstrators. They deserted the army and agitation took the form of an armed revolt. The supply of ammunition and other types of assistance from across the border gave further strength to the revolt (Bose, 1997, p.7).

Meanwhile, the rebels soon established contact with the tribal Pathan’s in Pakistan for securing locally manufactured arms. Apparently Pakistan’s grand design was to draw out the state forces from Jammu and Kashmir to outer posts like Poonch-Mirpur in preparation for invasion of the valley by the tribal’s, in October 1947 (Sinha, 1975, p.137). Thus the rebellion grew in strength as more and more ex-soldiers rallied to the cause, either bringing their weapons with them or capturing rifles from the State forces. By the second week of September the Maharaja's position in Poonch and Mirpur, at least in the countryside as the towns were still secure enough, was extremely precarious. It is recorded that by 13 September that no fewer than 60,000 Hindu refugees had passed from the Poonch-Mirpur area towards Jammu and about half the total Hindu and Sikh population had fled the areas of disturbance (Lamb,1997, p.123). The situation was aptly exploited by the Pakistan. On October 22,
a large band of tribesmen supported by Pakistan army crossed the border and entered into Kashmir to wage a “Holy War” against the Dogra forces. These people advanced rapidly and occupied some of the important areas of Jammu and Kashmir like Muzafarabad, Baramulla, and Bhimber, Kotla etc. and it seemed quite impossible that the capital and its airport would fall. Both India and Kashmir declared it a full-fledged invasion and pre planned aggression by Pakistan (Gupta, 1966, p.12).

The tribal invader were not good to the people of Kashmir, they left a trail of atrocities and torture. Thousands of people were killed there by the tribesmen The Baramula town was by this time virtually deserted, the Muslim population having fled, initially to avoid the attentions of tear away tribesmen. Their primary objective was riot and loot. In this they made no distinction between Hindus, Sikhs and Muslims. (Lamb, 1997, pp.186-187).

1.2.3 Accession to the Dominion of India

Unable to prevent the raiders from committing large-scale killings, loot and arson, the Maharaja requested the Government of India on October 26, 1947 that the State of Jammu and Kashmir be allowed to accede to India (Kotru, 2010). Sheikh Abdullah along with Meherchand Mahajan urged Nehru to accept their offer of sending troops to rescue Kashmir (Abdullah, 1986, p.418).

The Instrument of Accession was accepted the next day by the Governor General of India, Lord Mountbatten. The first contingent of the Indian Army flew into Srinagar on October 27, to repulse the invaders. Therefore, on October 27, 1947, Indian army landed in Srinagar and saved the city and simultaneously recaptured the areas from tribal’s, However about one third of the state territory came under the occupation of Pakistan, most of which constitutes the present Pakistan occupied Kashmir. Irrespective of Kashmir’s accession it was the duty of Government of India to help the ruler against the invasion on account of being the successor state to the former British government which was responsible for the protection of all Indian states from foreign aggression (Government of India [GOI], nd).
1.2.4 Internationalization of Kashmir Issue

The accession of Jammu and Kashmir to the Indian dominion, though constitutionally and politically valid, did not end the uncertainty over the final status. The Jammu and Kashmir State thenceforth became the integral part of the Dominion of India and its defense becomes the concerns of whole country. To remove any apprehensions that the people of Kashmir may have with regard to accession, a letter conveying his Government’s decision to accept the accession Lord Mountbatten declared that in the case of any state where the issue of accession has been the subject of dispute, the question of accession should be decided in accordance with the wishes of the people of the state, it is my government’s wish that as soon as law and order have been restored in Kashmir and its soil is cleared of the invaders, the question of the state should be settled by a reference to the people (GOI, 1948). This commitment demonstrated the Government of India’s trust in the people of Kashmir and exposed Pakistan’s distrust of them (Puri, 1993). This promise of government of India was fulfilled later with the holding of election on universal adult franchise to the constituent assembly of the state which approved the state having acceded on 26th of October 1947 (Bamzai, 1994, p.760). Mountbatten’s offer to resolve the issue of Kashmir by getting a verdict from the people did not find any takers from Pakistani side. As Mountbatten’s offer to hold a plebiscite under the auspices of the United Nations was not acceptable to Jinnah, who instead proposed that he and Mountbatten should have plenary powers to control and supervise the plebiscite (Hudson, 1969).

Failure of indo-Pak talks on Oct-Nov 1947 and anxious for a peaceful settlement compelled India to take the issue to United Nations and on January, 1 1948 in a complaint lodged with United Nation against Pakistan, requested the Security Council to call upon Pakistan to put an end immediately to the giving of assistance to invaders, which is an aggression against India. If Pakistan did not do so the government of India may be compelled in self defense to enter Pakistan territory in order to take military action against the invaders (Sharma, 1967). It is worthwhile to mention here that India which was later to place the utmost emphasis on her allegation
that Pakistan was the “aggressor” in Kashmir and also to deny that Kashmir issue constituted a “dispute” filed her petition in the Security Council under section 35 of the Chapter VI which relates to the pacific settlement of disputes and not under Chapter VII which deals with the act of aggression (Bose, 1997, p.16). This diplomatic lethargy and casual approach of Indian foreign affair experts made Kashmir pot boiling right from 1948 up to this day. While looking at the Pakistan’s interest in Kashmir, often stressed by her, is economics. According to (Poplai, 1947, p.389) the prosperity of western Pakistan depends on the six rivers, three of which pass through Kashmir. And also the minerals and forest rich areas of Kashmir are the point of attraction for Pakistan.

However when the question of accession come up, India in defense of it said that the request had come not from Maharaja only but from the people of Kashmir through their representative party the National Conference headed by Sheikh Mohammad Abdullah. Pakistan responded to the allegation of India with regard to the involvement of Pakistan in the tribal invasion responded by denying any involvement in the invasion and charged India of acquiring the accession of Kashmir by fraud and violence (UNSC, 1948).

Acknowledging the fact that dispute of Kashmir was the main bone of contention between India and Pakistan United Nation’s Security Council passed the first resolution on Kashmir on 17 January 1948, which called upon the government of India and Pakistan “to take immediately all measure within their power (including public appeals to the people) calculated to improve the situation and to refrain from making any statement and from doing or causing to be done or permitting any act which might aggravate the situation” (Bowers, 2004). Thus it can be said that the emphasis was on the improvement in the situation.

The Security Council’s resolution 39 of 29th January 1948 established the United Nations commission for India and Pakistan (UNCIP). Then on April 21 in another resolution recommended the government of Pakistan to secure the withdrawal from the state of Jammu and Kashmir of tribesmen and Pakistani nationals who have
entered the state for the purpose of fighting while after satisfied that tribes men were withdrawing, the Indian government should in consultation with the commission design a plan for withdrawal of forces and reducing them progressively to the minimum strength require for maintaining law and order. Thereafter, Security Council in its resolution of 13 August 1948 proposed to determine the future status of the state of Jammu and Kashmir in accordance with the will of the people. However, the presence of Pakistani troops in the territory of the state was established. The commission recommended the withdrawal of Pakistani nationals from the state which Pakistan always evaded for long, Pakistan mood to evade its acceptance till 20, December 1948 and thereafter accepting it must have been influenced by the heavy blow inflicted by the Indian army on the Pakistani forces (Bose, 1997, p.16). India accepted the resolution adopted by the commission while Pakistan objected to it that it did not contain detailed guarantees for a free plebiscite (Hassan, 1966, p.180).

The way was thus clear for a cease fire which became operative on 1 January 1949. Later on July 22 1949 cease fire line was established by mutual agreement and admiral Chester W. Nimitz was nominated as the “Plebiscite administrator”. March 14 1950 witnessed the disbanding of UNCIP and its replacement with UN representative Sir Oven Dixon, an Australian Jurist. Mr.Dixon observed that there is no realistic chance of settling the disagreement in accordance with the existing plans for plebiscite. He put forward two suggestions:

a) a plan for taking the plebiscite by sections or areas and the allocation of each section or area according to the result of the vote therein or,

b) a plan by which it was conceded that some areas were certain to vote for accession to Pakistan, some for accession to India, and by which, without taking vote therein, they should be allotted accordingly and the plebiscite should be confined only to the uncertain area, which i said appeared to be the valley of Kashmir and perhaps some adjacent country (Lakhanpal, 1965). The Dixon plan was dropped by both the countries and deadlock continued. United Nation’s mediation continued through 50’s and 60’s but to a little effect. Even
UN encouraged direct negotiations between India and Pakistan, but these too produced no results.

However, inside the state of Jammu and Kashmir new developments were taking place at various fronts which provided the breeding ground for armed insurgency in the valley which resulted in armed conflict.

1.3.1 Kashmir towards Armed Conflict

The armed insurgency in the valley of Kashmir which led to large scale violence has a political base and it became imperative for the researcher to explore and unveil various events and circumstances which went into giving birth to it.

After the accession Kashmir was granted what was called a special status in the Union of India under the Article 370 of the Indian constitution. This gave a much needed emotional satisfaction especially to the Muslims of the valley that they were not to be controlled by a distant dispensation in Delhi (Birdwood, 1956, p.178). In 1951, Sheikh Abdullah organized elections to form assembly for the state of Jammu and Kashmir. His National Conference won all the 75 seats uncontested. As Sumantra Bose (1997) points out that “there was no question of anyone opposing National Conference in the Valley, Where Abdullah was running a virtual state party. But no contest was permitted even in Jammu, where the Praja Parishad, a Hindu nationalist group, was arbitrarily prevented from participating in the polls” (p.31).

However, in Jammu, whose political leaders had not reconciled themselves to living under what they considered to be a Kashmir rule. A more explosive situation was brewing up there. As before independence, Jammu had been larger in area and population than Kashmir apart from being the centre of power. Also the numerical superiority of Kashmir over Jammu was nominal with 53 percent population living in the valley compared with 45 percent in Jammu. But the latter’s share in the new administration was nominal and marginal (Puri, 1981). Accession of the state to India and the draw of democracy for the people of Jammu, meant transfer of power from a Jammu based ruler to a Kashmir based leadership. The philosophy of Kashmiri
nationalism was incapable of extending its influence to Jammu or understanding the minds of its people, whether Hindu or Muslim. It was also because of the prejudice against its basic aspirations various events or steps taken by the Kashmir based leadership of National Conference resulted in the situation that was at Jammu. Among the few are, repeatedly changing the office bearers and making the National Conference committees in Jammu non functional, and in addition to this the socio economic condition of Jammu had suffered greater inequality and retardation than the valley. Indeed Jammu lagged behind the valley even in road construction and rural electrification (Tremblay, 1992).

Furthermore, the transfer of land to the tiller without compensation had affected the feudal leadership of Jammu. But more importantly the status reversal also affected the psychology of the common people, who felt hurt by what some Kashmir base National conference leaders termed the reversal of 100 years of “Dogra Rule”over Kashmir. The step motherly treatment given to the people of Jammu as is evident from the fact that out of the total cabinet of five, Jammu had only one representative even though the numerical superiority of Valley is nominal. Also, all the office bearers of the Ruling party-President, Vice President, General secretary and treasurer-also belonged to the valley (Puri, 1993, p.28). At the end of 1952, the Praja Parishad launched the massive agitation for one constitution, one flag and one president for Kashmir and the rest of India, which caused fresh misgivings among many Kashmiri Muslims, who began to feel that there entity seemed in danger (Puri, 1966). The Praja Parishad modified its demands and demanded the abrogation of Article 370\(^5\). It provoked an angry reaction in Kashmir. Sheikh Abdullah was accused of preventing the merger of state with the dominion of India. Abdullah called the demand unrealistic, childish and insane (Puri, 1993). These developments shook the foundations of the nationalist tradition of the state. The growth of Hindu communalism and the weak position of Nehru justified Abdullah’s fear.

\(^5\) Article 370 is the special provision given to the state of Jammu and Kashmir by Constitution of India according to which this article except for Defence, Foreign Affairs, Finance and Communications, (matters specified in the instrument of accession) the Parliament of India needs the State Government’s concurrence for applying all other laws.
According to Prakash Chandra (1985) Sheikh now came to the conclusion that theirs was no middle course between full integration and full autonomy, and as the majority in Kashmir would not accept the first alternative, there was no choice but to accept the second (p.51).

Finally in the year 1952, Nehru and Abdullah entered into what became known as the Delhi Agreement on centre state relations. It was decided that under the agreement, the Union flag will occupy the supremely distinctive place in the state (which had its own flag also). “The fundamental rights of the Indian constitution would apply to the state, and the jurisdiction of the supreme court would be extended to the state in regard to the fundamental rights as well as in respect to disputes between states and between the state and the centre (THT, 1952). Sheikh Abdullah’s position in 1952 was consistent with the central theme of independence. He did not favour the involvement of either of the two countries and was of the opinion that both of them cannot put spokes in the progress of our state (Korbel, 1966, pp.206-207). Finally Sheikh Abdullah was arrested on 8-9 August 1953 and one of the Sheikhs top lieutenants, Bakshi Ghulam Mohammad, was installed as the new Prime Minister of Kashmir. The outcry at Sheikh Abdullah’s arrest was not sufficient to destabilize Bakshi’s new government. The Pakistan however reacted angrily at Abdullah’s dismissal, despite their earlier criticism of the Sheikh’s pro India stance. Pakistan went on to strike and the Government of Pakistan announced the cancellation of their August independence day celebrations (Kak, 1977, p.27).

The appointment of Bakhshi had other things to offer which included the finalization of the details of Kashmir’s accession to India. In 1954, a constitutional (Application to Jammu & Kashmir) order was promulgated by the president of India, which empowered the Indian government to legislate on all matters on the union list, not just defense, foreign affairs and communication. Bakshi’s government gave its concurrence legally necessary to validate this law. This order practically annulled the 1952 Nehru-Abdullah accord. This measure was also to end all discussion of a plebiscite. Other integrative measures included the adoption of new constitution by
the ‘duly constituted’ Kashmir government in 1957 and in 1958, a constitutional amendment was effected, whereby Jammu and Kashmir was brought under the purview of central administrative services.

Bakshi’s Government lasted till 1963 which was not popular. He managed to secure the funds for economic development, building and road construction and it was during his tenure that centre undertook the construction of a one and a half –mile long tunnel under the Banihal pass (Korbel, 1955, p.319). While on the other hand political discontent was crushed by him. The basic liberties of the common man were denied and people were forced to accept the bad practices of the government. Similarly, newspapers critical of the government were banned (Verma, 1995, p.52).

In the elections of 1962 the National Conference headed by Bakhshi won 97 per cent of seats. The ruling party’s candidates were returned unopposed in almost all seats in the valley, nominal contests were mostly confined to Jammu. The elections of 1962 were so evidently rigged, that Jawaharlal Nehru commented “In fact, it would strengthen your position much more if you lost a few seats to bonafied opponents (Schofield, 2004, p.96).

Bakshi remained in the office till 1963, and G.M Sadiq eventually installed in his place. The period of Bakhshi is noted for the steady erosion of the special status of Kashmir which formed the basis of relationship with the Indian dominion resulting in the increased suspicion amongst the Kashmiri’s that, the state of Jammu and Kashmir was being made to conform to the other states of India. The suspicious further increased with the announcement of Bakshi shortly before his resignation that the head of the Kashmir state would, in future, be called Chief Minister rather than prime minister and that the sadr-e- riyasat would be known as Governor. Finally Bakshi was arrested under the Defence of India Rules in 1964 immediately after an organized effort to initiate a no confidence motion against G.M Sadiq’s government.

The Government of G.M Sadiq was no different from the Bakshi. Sadiq’s Government proceeded with the same policies followed by the previous government.
Continuing with strengthening the links of the state with the rest of the country, in the year 1964-65, articles 356-357 of the Indian constitution, which respectively empower the central government to dismiss elected provincial governments and to assume all legislative functions of the latter, were made applicable to Jammu and Kashmir. Article 249, which empowers central government to legislate even on the subjects on the provincial list was similarly made applicable to Jammu and Kashmir. Thus, any trace of substantive autonomy had been eradicated from Kashmir without any reference to the wishes of its people (Bose, 1997, pp.34-35).

Meanwhile, the ruling National conference was converted into Pradesh Congress Committee. The people of the Valley reacted with anger, as protest rallies were held in the valley as well in Pakistan-held part of the state. People responded to the call for social boycott of Muslim congressmen by Sheikh Abdullah. The resentment of the people was neither always non-violent nor non-communal nor disciplined. Meanwhile Sheikh Abdullah and Mohammad Afzal Beg were arrested on their arrival from the Haj pilgrimage on May 8, 1965 (Abdullah, 1993). The protests were again suppressed with brute force.

It was this particular sensitive situation that was exploited by the Pakistan to send armed infiltrators in August 1965. It is worthwhile to mention here that this rampant discontent of people did not translate into pro-Pakistan sentiments which Pakistan had otherwise thought. The population turned hostile and population was less enthusiastic to accept the invaders as their new masters and therefore withheld their cooperation. The Indian armed forces were able to spot the foreign raiders from the indifferent Kashmiri population and rounded them up. Finally Pakistan withdraws its forces from Kashmir on 23 September (Puri, 1995, p.32). This attempt on part of the Pakistan to settle the issue by force was criticized by the western press. The claims made by the Pakistani authorities that there was a popular revolt against Indian rule was exposed by the western press. John Freeman, the high commissioner for United Kingdom in India, Observed that the world is deeply impressed by the behaviour of Kashmiri people with infiltrators (TS, 1965).
The plebiscite front, an organization formed by sheikh Abdullah in 1955 took birth after 1965 war. To break the stalemate, Sheikh Abdullah convened Jammu and Kashmir peoples convention in October 1968 in his inaugural address Jayaprakash Narayan suggested that after 1965 war, Pakistan had no locus standi in Kashmir dispute which would now only be settled within the frame work of Indian constitution (Puri,1981, p.174). He further added emphasized the needlessness of the slogan of plebiscite had and suggested that the Kashmiri leaders should chalk out some new course (Qasim,1992, pp.297-298).The elections of 1967 went on smoothly with 22 out of 42 congress candidates elected unopposed. But problem arose in 1972, when the plebiscite front an organization formed by Sheikh Abdullah in 1955 was declared unlawful. It was in the same year that Sheikh Abdullah along with his wife and Mirza Mohammad Afzal Beg were banned from entering the state as sheikh Abdullah for the first time after his dismissal from power in 1953, decided to take part in the elections to the state assembly, and showed his willingness for a dialogue with the prime minister for a settlement of the Kashmir dispute. However its members were debarred from taking part in the elections. Syed Mir Qasim chief minister at that time admits in his biography that counter any group with support from Abdullah to contest congress, they enlisted the services of Jamaat-e- Islami to fill the vacant political space and allegedly guaranteed its success in five constituencies. This was perhaps the first political recognition given to the Jammat –e-islami (ibid).

In the year 1975 sheikh Abdullah finally renounced the self determination platform. Perhaps the reason was the defeat of Pakistan in the 1971, Bangladesh war, which forced Pakistan to sign Shimla Treaty (1972) which led to the independence of East Pakistan as Bangladesh. The agreement laid down the principles that should govern their future relations. It also conceived steps to be taken for further normalization of mutual relations. Most importantly, it bound the two countries to settle their differences by peaceful means through bilateral negotiations.

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6 Shimla treaty was signed between India and Pakistan in 1972 soon after the 1971 war that had led to the independence of East Pakistan as Bangladesh. The agreement laid down the principles that should govern their future relations. It also conceived steps to be taken for further normalization of mutual relations. Most importantly, it bound the two countries to settle their differences by peaceful means through bilateral negotiations.
return of Abdullah release and his reinstatement as chief minister of Jammu and Kashmir, his deputy, Mirza Mohammad Afzal Beg signed another agreement called Delhi Agreement. This agreement reaffirmed the Kashmir’s incorporation into the Indian Union and was instrumental in almost complete end of the movement for self determination (Verma, 1994, p.57). It was this accord that paves the way for the first reasonably democratic elections in 1977 (Bose, 1997, p.41). The Janta party government in the centre decided to mobilize all anti-Abdullah elements under one banner resulting in the polarization of politics around two parties, National conference, and Janta party. The election result was stunning with Janta party winning only two seats out of the forty two seats in the valley. The experience was thrilling for the people it made them realize for the first time of being a citizen of India. The Kashmiri’s took pride in being the proud citizen of India. Earlier notions of being loyal to India or Kashmir were raised to ground with the results of election which were responsible for the emotional integration of Kashmir to the union of India (Puri, 1993, p.51).

Until Abdullah death in 1982 the situation in Jammu and Kashmir remained overall calm and stable, it was in the elections of 1983 that sheikh’s eldest son Farooq Abdullah led National Conference to a victory with 46 assembly seats out of the total of 76. However after the fall of Janta Party at the centre, congress assumed the role of opposition in the state assembly. The party showed promise to capitalize on the acts of omission of the Government of Farooq Abdullah. However, engineered defections resulted in the imposition of G.M Shah’s Government in the state. However the G.M shah Government was finally dismissed in March 1986, on the pretext of his government’s inability to control riots against the Pandit minority of the valley. The decision to help impose an unpopular and non elected government had a disastrous impact on the congress party’s parliamentary poll results in the state. While congress swept rest of the India, all three constituencies in the valley returned Pro-Farooq candidates with huge majorities. However, congress party emergence as the single largest party in the parliamentary elections of 1984 resulted in the giving up of
opposition role by national conference which offered unconditional support to prime minister Rajiv Gandhi, Farooq Abdullah failed to mobilize the popular anger against his dismissal earlier rather he made a way for fundamentalist forces to use this popular anger for their own means. As Balraj Puri (1993) put it that “Farooq Abdullah thus betrayed his people and the cause of Democracy” (p.51).

The unconditional support given to the Rajiv Gandhi government by Farooq Abdullah resulted in the Rajiv Farooq- Accord which culminated into National conference –Congress coalition government on November, 7, 1986. The accord was defended by the two parties mainly on the ground that it would ensure a large inflow of funds from centre to state. The Press and political analysts welcomed the accord with similar arguments and welcomed it on the ground that this accord will unite the secular forces. While Farooq Abdullah more explicitly spoke about the importance of sharing power with the centre in order to form the government in Jammu and Kashmir (TKT,1992). The argument put forth by Farooq Abdullah clearly indicates that people wishes and support did not matter much. The most striking fact that came out of this accord was that there was no secular went to the anger and opposition of the people against the government. Both parties at some point of time helped to provide a channel to the public outcry in a more secular manner. Thus the accord while blocking the secular channels of protest, provided a ripe conditions to secessionists and fundamental forces to consolidate this opposition in the formation of Muslim United Front led by Maulvi Abass Ansari was the Jamat-i-Islami founded in 1942, the party had first fielded candidates in 1972 and later in 1977 but without any gains in political arena. The Muslim United Front was joined by at least ten other smaller Islamic parties. Abdul Ghani Lone’s Peoples conference and G.M Shah’s Awami National conference held discussions with Muslim United Front. In addition to this, Moulvi Farooq’s Awami action Committee also expressed solidarity with Muslim United Front. This potential combination of the opposition parties presented the first real challenge to National Conference since it had returned to active politics after Sheikh Abdullah’s 1975 accord (Schofield, 2004, pp.136-137)
Muslim United Front’s election manifesto stressed the need for a solution to all outstanding issues according to Shimla Treaty. Muslim United Front promised employment to educated youth and an end to government corruption, the latter being an especially sensitive issue with Kashmiris. But in the end it was politics and not the economics which proved more important for Kashmiris. As Mrs. Khemlata Wakhloo (1992) one of the twelve National Conference defectors of 1984 writes “there was only one voice on the lips of people, that in a democracy we would bring the party of our choice to power, a party that will genuinely meet the aspirations of the people and heed their grievances” (p.321).

The elections were held on 23 March there was nearly 75 percent participation, the highest ever recorded in the state, with nearly 80 percent overall voting in the valley. The national conference-congress alliance won 66 seats. Muslim United Front won only 4 seats. The election results reflected a phenomenal increase and rise in the strength of fundamental forces in the valley (Verma, 1994, p.141-159).

However there were widespread allegations of poll rigging. To this day Farooq Abdullah denies all charges of rigging. ‘The rigging was blatant,’ writes Tavleen Singh (1995) a well known journalist “in Handwara, for instance, Abdul Ghani Lone’s traditional baston, as soon as counting began on 26 March, lone’s counting agents were thrown out of the counting station by the police” (p.102). The elections were followed by the mass arrest of Muslim United Front leaders and activists resulting in the absence of any institutionally sanctioned opposition. This is very crucial for any democratic order to be a legitimate one. The need of the hour was to unlock the institutional channels of protest and descent and ensure the healthy political debate and provide a space for opposition to direct their discontent and dissatisfaction at the particular government rather than at the regime. This in turn would ensure the allegiance of citizenry to the established framework of authority (Jung & Sheparo, 1995, pp.271-273).

As Juan Linz’s (1978) believe that, there is every possibility that a political opposition which would otherwise be loyal to the system will gradually be
transformed into a disloyal opposition, i.e., one that rejects the entire institutional framework as illegitimate and seeks to undermine or overthrow it (pp.28-33). This was what happened in Jammu and Kashmir after the elections.

Despite the political discontent resulting out of the outcome of elections, the situation remained calm. However, it was in May 1987 that the first major act of violence against Farooq Abdullah was perpetuated when his motorcade was attacked on the way to the mosque (Singh, 1995, p.108). Throughout the year 1988 there were continuous disturbances, like demonstration in Srinagar against the sudden rise in the electricity tariff. The death of three civilians in the police firing further infuriated the people. The government rejected the demand for enquiry and instead accused anti-national elements behind the agitation, resulting in more violent protests. However, the first incident of armed violence occurred on July 1988 when two bomb blasts which just missed the central telegraph office and Doordarshan Kendra Srinagar. Thereafter, in September there was an attack on the Director General of Police. Finally, it was on 6 October, the union home minister announced that there were over 100 armed infiltrators in the state who made their entry during the preceding two months to create disturbances. (THT, 1988b). In the month of November, the Director General of police claimed to have arrested 29 youths who had crossed over to the valley after getting arms training in Pakistan. The Director General identified camps across the border where the Pakistani army, Field Intelligence Unit and the Inter-services intelligence were allegedly imparting training to the Kashmiri youths in the age group of 18 to 30 (THT, 1988a). The situation deteriorated and in late 1989 a full-scale insurgency broke out (Bowers, 2004).

In the year 1989, the insurgents were successful in imposing a bandh throughout the Kashmir valley on the India’s republic day (THT, 1989).

As Balraj Puri (1993) has aptly described the situation between 1987-89 by saying that the “incidents from mid -1987-89 did not always represent the reaction of the people to particular issue but were manifestations of accumulated anger”(p.56). The government’s failure to encourage certain channels of protests, and discourage
others and inability to identify the qualitative difference of administrative, economic and religious sentiments from the anti–India specific sentiments. There was no clear demarcation made between the legitimate right to protest under the constitution and illegitimate rights and form of protests, and no distinction between violent and peaceful as also terrorist and non terrorist forms of protest. All this resulted in the same method adopted to deal with the issues without giving due importance to the varied nature of issues. The government took the uniform approach to tackle which intensified the anti government sentiment into anti India sentiment and enabled the militants to identify completely with the non-militant popular protest (ibid).

The mishandling of situation within the valley by the government provided a ripe situation for Pakistan to use it for its own long cherished goals against India. As some observers believe that all those events which were taking place in the Kashmir valley tempted Pakistan to make up for failures of 1947 and 1965, coupled with a desire to take revenge of loss of Bangladesh in 1971, in which Indian infiltrators had played a role (Bhattacharjee, 1994, p.255). The Pakistan’s role in supporting the armed insurgency in the state of Jammu and Kashmir was perhaps the revival in mid 1980’s of plan hatched as early as 1982 by General Zial-ul-Haq to train Kashmiri youths to launch an armed crusade in the valley, which did not meet with much success (Verma, 1994, p.208). According to Newberg (1995) who believed that the “armed insurgency for Kashmiri’s was the only option left after all the politics seemed to fail, the politics of Kashmir’s, the politics between Srinagar and New Delhi and the politics between India and Pakistan”(p.73). As described by George Fernandez (1992) when he was minister of Kashmir affairs in 1990: “I do not believe any foreign hand created the Kashmir problem, the problem was created by us, others decided to take advantage of it”(p.286). On the other hand Farooq Abdullah held central government responsible for the rising discontent in the valley. He accused central government of not keeping its promise of funds as per Rajiv-Abdullah accord.

The armed insurgency in Kashmir cannot be a result of economic and administrative reasons alone, as they could lead to the individual grievances which
rarely lead to political terrorism. On the other hand poverty and unemployment leads to class discontent but not community discontent. Economic misery, administrative victimization and neglect can be a cause of community discontent, but only when it is forms the part of policy of discrimination of the authority perceived by the community. This perception of community emerges mainly due to the deprivation of political power which makes community to feel dishonored and worthless. Again community discontent cannot always culminate into secessionist–terrorist movement, rather it would seek expression of secessionist outlets if there is a lack of any provision of expression. Thus ultimately, if there is no peaceful avenue for the expression of secessionist expression movement, it might assume a terroristic form (Puri, 1993, p.23).

Farooq Abdullah’s government lasted till January 1990 with the imposition of governor rule. However the insurgency was slowly and slowly gaining ground. The armed groups in the state particularly in the valley grouped under various names and intensified their operations against the security forces, which resulted in numerous acts of human rights violation by both the parties to the armed conflict.

1.4 Disappearance Phenomenon

From the days of yore, it is a commonplace phenomenon in every society that some people find their lives spending in disdain rather the feeling of disenchantment seeks prominence. They cut down all relations from the regular mundane or day to day life. The reason for this disenchantment could be myriad. From sociological point of view when people feel little security from social ties, they may churn out some feasible place to live in, commonly away from the native society, but sometimes certain social institutions like religion, instill such values in human beings that they find no way but to severe their relations from the whole world to achieve their religious goals.

As far as the economical point of view is concerned the reason for this could be the economical pressures that make no way for a person to bear the responsibility
rendered to him by the society thereby leaving the web of relationships. The people who usually go missing reflect different social situations in which going missing occurs. Going missing is one of a range of choices which people in difficulties may make, depending on their approach to problems in their lives and the availability of opportunities. Such people leave behind families with practical and emotional difficulties (Pyane, 1993). Whatever could be the reasons, but such a phenomenon can never be treated as a pathological till its rate is contained, but the moment it assumes credibility and more and more people disappear from social milieu it becomes an aberration and invokes a lot of attention from social workers, Sociologists, psychologists and other social scientists of the society. Therefore, research about young people and adults who go missing raises important issues for social work and the social services in particular (ibid). History stands witness to the fact that the armed conflicts world over have resulted in numerous human rights violations. The violations include, rape, torture, murders, illegal detention and disappearance of persons. The missing or disappearances of persons are either forcible or in circumstances other than forced.

Disappearances of individual without his/her will is one of the gravest crimes in international law which constitute crimes against humanity, whether committed in times of war or times of peace. The disappearance of a person from a particular place as a result of armed conflict is being witnessed throughout the globe. Disappearance emerges, as a major issue among the several serious human rights issues in the armed conflicts world over. This phenomenon is universally accepted as a gross human right violation of not only of the person who is disappeared but his/her family as well. Families are often left without any information of whereabouts or fate of the disappeared family member. Families of the dead can mourn and gradually rebuild their lives, but for the families of the disappeared there is no end to their pain. Sons, husbands, wives and daughters have disappeared, and their families are still waiting to know where they are. Not knowing the whereabouts of a loved one creates what has been described as tormenting uncertainty (Humanist Committee on Human Rights &
They desperately search for information until they know for sure whether their relatives are alive or dead. This leads tens of thousands of family’s world over face the agony of uncertainty for years. This uncertainty prevents them from achieving closure until they find an answer. Furthermore, the disappearance of their family member is often accentuated by the psychological, economic, social and legal problems.

In case of this study the phenomenon of “Disappearance” refers to the phenomenon of disappearance of persons following the emergence of armed conflict in the Kashmir valley of the state of Jammu and Kashmir and those whose fate is unknown, regardless of perpetrator (if any) from 1 January 1989 to 31 December 2007, and whose families remain without any news of their whereabouts. For those families whose loved ones have disappeared as a result of the conflict are the research subjects of this study. Families however are continuously waiting for news of the many young people who disappeared at the time. It has been found that long time incommunicado is an act of inhumane treatment (Human Rights Committee [HRC], 21 July 1983). In some cases it may be found that an act of disappearance ipso facto may cause a sufficient degree of psychological suffering, both for the victim and family members, which amounts to torture. As put forth by the office of the High Commissioner of Human Rights in its Fact Sheet number 6 on Enforced or Involuntary Disappearances Disappearance also violates a number of rights stipulated in the International Covenant on Economic, Social and Cultural Rights, such as the right to family life, right to adequate standard of living and right to education.

The armed conflict in the state of Jammu and Kashmir has affected every section of society not only physically but psychologically as well. The armed conflict has had a very strong impact on the population. The WHO (2001) estimated that, in the situations of armed conflicts throughout the world 10 percent of the people who experience traumatic events will have serious mental health problems and another 10 percent will develop behavior that will hinder their ability to function effectively. The most common conditions are depression, anxiety and psychosomatic problems such as
insomnia, or back and stomach aches. A large population of the Kashmir valley has been witness to various traumatic events as is evident from a community survey done by Médecines Sans Frontières (2005) in Kashmir valley found high levels of ongoing violence across the region, with civilians caught in the middle. The majority of people surveyed stated having been exposed to crossfire (86%) and round-up raids (83%). High numbers of people reported being subjected to maltreatment (44%), forced labour (33%), kidnapping (17%), torture (13%) and sexual violence (12%). In addition to the human impact the conflict has also eaten its share in terms of infrastructure as over 1,100 government buildings, 640 educational buildings, eleven hospitals, 337 bridges, and more than ten thousand privates houses and shops have been destroyed in violent incidents since the conflict began (International Center for Peace Initiatives, 2004).

The valley of Kashmir is no exception when it comes to the disappearance of the persons from the society. But the problem was felt after the year 1989. It was in 1989 that a full-fledged armed conflict started in the State of Jammu and Kashmir. Unofficial sources claim that approximately 44,000 people, thousands of whom are elderly, women and children, have been killed since the eruption of armed conflict (Amnesty International [AI], 2003).

As far as the number of disappeared persons in Kashmir valley is concerned, non-governmental organizations claim that more than 10,000 people have been subjected to disappearance by state Agencies. While the government figure is 3744, out of whom 135 were declared dead and that “the number of disappeared could be even more” (Chenoy, 2007, pp.170-171). Though the nongovernmental organizations claim a large number of disappeared in the state but so far the most prominent organization which is spearheading the campaign of disappearance in the state, The Association of disappeared persons has documented only 1,417 cases of disappearance (“APDP Seeks Probe Into 1417 Disappeared”, 2011). It would be unfair to blame state agencies for all the disappearances as in such situation the fate of people who disappear or their whereabouts become unknown for a variety of reasons.
They may be refugees, displaced, forcibly detained or recruited to fight and are without any means of communication or people who have died and whose identities were not recorded (ICRC, 2003, p.11).

1.4.1 Emergence

Disappearance of any person resulting because of armed conflict is a brutal practice and violates a number of internationally recognized human rights. The severity of the gruesome act cannot be underestimated. Human Rights that are violated are, inter alia, the right to recognition as a person before the law, the right of liberty and security of a person, the right not to be subjected to torture or other inhuman or degrading treatment or punishment and the right to life.\(^7\)

The phenomenon of disappearance occurring as a result of armed conflict is often used by humanitarian organizations in the sense of “Enforced disappearance” (Wallensteen & Sollenberg, undated, pp.629–644) as it is believed that people are made to disappear by the parties to the conflict as a war strategy. But the fact is whether it is enforced or voluntary, with no news about their family member the phenomenon leaves the families of disappeared in a state of trauma and pain. It is however found that the practice emerged as an involuntary one leaving numerous people disappear from the society. That is why more and more literature talks about the enforced disappearance of persons.

Enforced disappearance is unfortunately a widely practiced phenomenon in the world today (Linghammar, 2008). The problem of enforced disappearance is global and is not concentrated at any particular region or country of the world. In 2007 the United Nations Working Group on Enforced or Involuntary Disappearance (WGEID) transmitted 629 new cases of disappearance to 28 governments. The total number of cases transmitted from the working group to governments since its inception is now 51,763 concerning 78 states. (HRC, 2008, para.9).

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Enforced disappearances were used by the Nazi regime during World War II to deliberately spread terror throughout the population and to suppress dissent (International Military Tribunal, 1951) one finds that this practice as a weapon of war was started by adolf Hitler in 1941 and it is believed to have started with the Nacht und Nebel Erlass (Night and Fog Decree) created by Adolf Hitler. The programme of Night and Fog program represents the earliest forms of enforced disappearance as state policy (Hall, 2008). Under this system, persons from the occupied areas were seized and taken to Germany where they were executed without any information of their whereabouts to their families and the public (Ratner & Abrams, 2001). The intentions of the decree according to Wilhelm Kietel, the chief of German forces high command, who was charged with implementing the order, explained the purpose of the Night and Fog Decree in a cover letter attached to the Decree was that for crimes against the state, life imprisonment and even life imprisonment with hard labour ,was regarded as a weakness, he believed that the effective punishment would be death penalty or by taking measures which leave the family and the public unknown about the fate of the offender, for achieving this deportation to Germany will help. It seems that Hitler clearly understood the effect enforced disappearance would have on the relatives and the community of the disappeared and that was why he used it (Citroni & Scovazzi, 2007, pp. 4-7). Enforced disappearance became more widely practices during the 1960 and 70’s by many of the Latin American military regimes such as Guatemala and Brazil, Argentina. The regimes used enforced disappearance of people a weapon to deter people from propagating any government ideas. By making some persons disappear, the regimes managed to create an atmosphere of fear that helped to control the society and to undermine the political opposition (Vranckx, 2006). It is thought that approximately 7000 persons were secretly arrested, transferred and likely executed under the Decree 29 (AI, 1981). It might have started with the Nacht Und Nebel Erlass but it was the military regimes in latin America that popularised the

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8 Letter from the Chief of the High Command of the Armed Forces, Subject: Prosecution of offences committed within the occupied countries against the German State or the Occupying Powers (Dec. 12, 1941) reprinted in 7 NAZI CONSPIRACY AND AGGRESSION, at 873 (1946)
practice. They were also employed extensively as a ‘virulent form of state terrorism’ by several governments in Latin America throughout the 1960s and 1970s (Berman & Clark, 1982).

The practice of enforced disappearance was particularly widespread in Argentina, during the so-called ‘dirty war’. Argentina’s National Commission on Disappeared People, established in 1983, has recorded 8960 cases of enforced disappearance and estimates that the actual figure could be higher (AI, 1998). Disappearances were also prevalent in Chile, Peru, El Salvador (Pasqualucci, 1994) Colombia, Uruguay and Honduras. The broad objective in practicing enforced disappearances during this period was to dispose of political opponents secretly (AI, 1993).

Sadly, enforced disappearances have become a truly universal phenomenon believed to be occurring in approximately 90 countries, in all regions of the world and affecting tens of thousands of people.

1.4.2 Conceptualizing Disappearance

Various definitions to define the phenomenon have been propounded by various organisations. In 1994 inter-American convention’s article II defined enforced disappearance as “the act of depriving a person or persons of his or their freedom, in whatever way, perpetrated by agents of the state or by persons or groups of persons acting with the authorization, support, or acquiescence of the state, followed by an absence of information or a refusal to acknowledge that deprivation of freedom or to give information on the whereabouts of that person, thereby impeding his or her recourse to the applicable legal remedies and procedural guarantees” (Organization of American States, June 9 1994, Art 2).

Another definition included in the UN Convention article 2 defines enforced disappearance as “the arrest, detention, abduction or other form of deprivation of liberty committed by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to
acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law”. 9

These two conventions are basically on the same page when it comes to the definition with only minor differences. The third legal instrument dealing specifically with disappearance, the International Criminal Court (ICC) Statute, does however contain a definition that is somewhat different, the definition is found in article 7(2)(i) “Enforced disappearance of persons” means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.10 However, the Rome Statute appears to diverge from this customary trend by extending its definition to include non-state actors — that is, persons acting with the ‘authorization, support or acquiescence’ of non-state political organizations (ibid). This represents a departure from the position under the Enforced Disappearance Declaration and the Inter American Convention, both of which limit the definition of enforced disappearance to an act committed by state-supported actors. This could be a significant departure - while most acts of enforced disappearance appear to be perpetrated by state agents, a significant number are perpetrated by non-state actors, in relation to the situation in Nepal where hundreds of people were subjected to disappearance by rebel maoist.

There is a need to understand that people are made to disappear not only by state sponsored agencies but other parties to the conflict as well. The other parties

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could be militant organisations, militia, terrorists, drug mafia etc. In case of the definitions provide all except the one given by International criminal court talks about the non state actors as it also includes disappearances made by political organisations which may include the terrorist organisations as well. As in case of Nepal, Maoist insurgent forces have themselves perpetrated numerous enforced disappearances against perceived ‘informers’ or ‘enemies of the revolution.\textsuperscript{11}

\textbf{1.4.3 Families as Victims}

While the disappeared are victims themselves, but their families or dependents are also victims or in other words the secondary victims. Individuals are affected according to their relationship to the Missing person, mediated by the culture and society in which they live. Females especially are the worst affected as they are usually pushed so as to carve out a space for themselves and their families humanitarian demands such as locating the 'disappeared' men (Butalia, 2001). Type of relationship will have a different reaction to disappearance, and different needs, from a victim’s wife, children and parents, the principle unit affected by the phenomenon is the family. Defining the victim of this gruesome crime, is the another question that has always been at the centre of debate. The Problem becomes more grave with the misery and trauma to which the families of the victims are forced to experience. The families or the relatives of the disappeared persons have been regarded as the victims of the act by most of the internationally recognised documents. It is visible from the various definitions of victims given by many international agencies. The United Nation’s convention which has been signed by over 80 states has very clearly defined the victim in Article 24 of the UN convention. Article 24 of the convention defines the victim as “the disappeared person and any individual who has suffered harm as the direct result of an enforced disappearance.\textsuperscript{12}


It is thus not only the actual disappeared who is defined as the victim, but also others who have suffered harm as a result of the disappearance. These others can be family or friends of the disappeared. This is a very broad definition of a victim of the violation. As a victim of the violation the victim has a right to know according to article 24(2) the truth regarding the enforced disappearance, the progress and results of the investigation and the fate of the disappeared. This measure is not common in international human rights treaties, another example of it can only be found in the Geneva convention optional protocol 1 article 32 which states that there is a “the right of families to know the fate of their relatives”. The Convention does however give the right to know to a broader group than the protocol since it is not only the family that can be considered a victim (McCroty & Susan, 2007, pp. 557-588). The broadly defined victim also has the right to “reparation and prompt, fair and adequate compensation”. 13

Similarly, the Inter-American Court of Human Rights has recognized that relatives of the victims of forced disappearance are also to be considered as victims. The court refers to the Declaration against Enforced Disappearance article 1(2) states that enforced disappearance causes grave suffering to the family of the disappeared and that therefore the family is considered a victim and has the right to a effectively investigation of the death and disappearance of the disappeared(Inter-American Court of Human Rights, 1998, para.97).The 1994 Inter-American Convention however does not discuss the nature of the victim.No matter which of the parties to the conflict is responsible for the disappearance of people, but it is a fact that disappearances of persons in the situations of armed conflict or internal violence has made countless families suffer great anguish when their loved ones go missing and they make desperate attempts to find them. Very often, the families of missing persons are unable to overcome their pain and rebuild their lives again. The traumatic impact that occurs in the mind of persons that have been victims of enforced disappearance is hard to come down.

13  Ibid, article 24(4).
The combination of aspects makes the phenomenon of disappearance into a very complicated one that should not be approached solely from a political or technical perspective. On the contrary, one has to include a clear concept of intervention from a psychosocial and economical point of view, which takes in mind the socio-economic effects of the phenomenon as well as the traumatic impact that occurs in the mind of persons who have been victims of enforced or voluntary disappearance. Enforced disappearance is a phenomenon that still exists in different parts of the world and produces anguish, fear and unspeakable sorrow for thousands of families. The disappearance of a person has a direct effect on the lives of their family members giving birth to numerous problems which are social, economic and psychological in nature. The unmitigated pain that the disappearance brings into the families makes them to live in state of hope and fear. In case of Nepal, after the ten year old conflict was over, the victims are still suffering from its effects. (ICRC, 2009, p.4) The families live in a constant pain and despair, the wait for the loved ones makes the families of the dead can mourn and gradually rebuild their lives, but for the families of the missing there is no end to their pain: sons, husbands, wives and daughters have disappeared, taken by both parties to the conflict, and their families are still waiting to know where they are. Since the end of the conflict in 2006, the ICRC has been working both with the relevant authorities and with the missing persons' families to try to ensure that the latter's needs resulting from the absence of missing family members are addressed. The ICRC has recorded over 1,300 persons reported missing in relation to the conflict whose families remain unaware of their fate (ibid, p.5).

In the case of Kashmir, there have been protests concerning the ‘disappeared’ in the shape of the Association of Parents of Disappeared Persons (APDP). This organisation, formed in 1994, has been active in trying to bring the phenomenon of disappearance to forefront by ways of protest against the Government’s treatment of relatives of the disappeared and to appeal for perpetrators to be held accountable for their actions. Whilst this hunger strike has not achieved its main aims, Former Chief
Minister Mufti Mohammad Sayeed was prompted to promise to set up an independent Commission to help locate the missing persons and was forced to admit, at the state assembly, that 3744 persons had gone missing since 2000 (Naqshabandi & Powell, 2003).

However, families of the missing may form support groups and associations that encourage discussions and expressions about the past as well as enable collective action and empowerment (Harvard University, 1997).

It becomes very important to identify and analyse the impact on the families of the disappeared persons. An additional reason to query a trauma-centered approach to disappearance is evidence that the impact of disappearance is very different from that of a single, traumatizing event, being of a chronic nature that has emotional, psychological, economic and social consequences (Blaauw & Lahteenmaki, 2002).

It is in this context that there arises a need to have a thorough investigation into the multi-dimensional problems of families of disappeared persons. Though various national and international organization are engaged in addressing their issues but a more scientific and need based approach is required to be adopted in order to help families live a normal life.