CHAPTER-II

HISTORICAL BACKGROUND OF KASHMIR

Kashmir land locked between Himalayas, Kara Korams and Hindukush, has its own glorious past. It experienced different regimes of both home as well as foreign rulers. Its origin is based on a legend in Hindu mythology. It is believed that the name of the state, Kashmir, is known after the name of rishi Kashayapa who practiced penance for a very long period to get rid of a ferocious demon, named Jaldeo, dwelt there.

Apart from mythological evidence, one has to rely on the Rajatarangini, (the River of Kings) by Kalhana who flourished in the Twelfth Century, when there was a rule of Jay Simha in Kashmir. Rajatarangini, a long Sanskrit prose poem, covers the chronicle of the rulers of the valley since Gonanda I, i.e., the thousands of years from the earliest times down to his own day. The name of Lord Krishna, is also associated with the era of Gonanda I. In Eleventh Century, Albernui, the great Arabic scholar who followed Mahmud Ghaznavi to India, said about Kashmiris that their land is the high school of Hindu science. Administration was based on Dharma. Such a peaceful and high level society this was. (Gajenderagadkar, 1995, p. 43).

Gradually, tribal economy began to shake with the emergence of new trading class. Its connection with outer world challenged the Brahmanical tenets. Brahimin - Kshatriya alliance was on the decay. Growing power of trading class turned the ruling class towards such commercial class. Brahmins had now no such previous place in society as they had in the past. In such a transforming stage of society, Buddhism

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smoothly entered the valley with the victory of Ashoka, the great Buddhist ruler, over Kashmir in 250 B.C. It is believed that he was the founder of the city of Srinagar. His period proved a regime of tolerance in which all religions were equally treated and respected. Kanishka, the Kushan king of Gandhara, was the another most notable figure among foreign kings to rule Kashmir. In his time, Buddhism flourished in the lap of the valley. In order to resolve the differences between contending sects, he organised third Buddhist Council near Srinagar.

Invasions of Tartar chiefs, about two Centuries before Christian era and Indo-Sithian monarch damaged the Buddhism in the valley. The raids of white Huns forced Buddhism to exist from the valley. During the first quarter of Seventh Century, Buddhism was on the decay. Oppressed Buddhists had to flee to take shelter in Tibet.

Decline of Buddhism in the valley, provided an easy way for Hindu Monarch to come back. Lalitaditya (724A.D. to 760 A.D) extended his empire well beyond valley deep into India and Central Asia. During his time class-struggle entered into a new phase in the history of Kashmir, i.e., feudal or land owning class versus growing rich commercial class. The latter class supplied the ruler with finance to conduct warfare. Avantivarman (855 A.D. - 883 A.D.), known as a town planner and great builder led the valley on the path of prosperity.

The condition of women during pre-Islamic period was very well. They were treated equal to men. Women were not confined to household chores. They went about freely unveiled and enjoyed equal civic rights. They owned immovable property, managed their own estates and even fought at the head of their troops. (Kapur, 1976, pp.72-73).²

Kashmir Shavism or *Trikha*, a religious philosophy evolved here which is fusion of the ancient Vadic and Buddhist belief towards the end of eighth or at the beginning of ninth century of Christian era. Based on monism (*Advaita*), *Trikha* resolved the conflict between Buddhism and Brahmanism by containing positive achievements of both. Intellectual class and masses, both accepted the new philosophy. It eased the peaceful passage from one religion to another. After the period of Harsh (1089 A.D. - 1111 A.D.), who was a great patron of art and learning, an era of unrest and insecurity followed. Hindu society in Kashmir had now degenerated.

Now, Islam was at the doorsteps of the valley. Raja Simhadev (1295 A.D.-1324-25 A.D) provided services to Renchen, a Buddhist chieftain from Tibet, Shahmir, a Muslim adventurer from Swat and Lankar chak from Dardistan. Zagirs were granted to them. They took the advantage of invasion of Dulacha (a descendant of Chengez Khan) in 1322 A.D. on Kashmir. Raja Simhadev fled away and his general, Ramchand declared himself king when enemy had gone back. But soon Renchen, and Shahmir killed him treacherously. Renchen married Kuta Rani, the daughter of Ramchand, acquired the political powers. Inspired by the austerity of Sufi divine he embraced the Islam and assumed the title of Sadar-ud-din, the Kashmir's first Muslim ruler.

The first *Sultan* of the valley had a very brutal behaviour towards Hindus. He disfavored and persecuted them. The soil of the valley began to be soft for sowing the seeds of religious conflict unknowingly. Muslim preachers were now common in Kashmir. Islam started to flourish on the basis of power and sword. The era of Sikander, the Iconoclast, crossed the every limit of cruelty towards a particular religious community. He is still known in the valley as 'But- Shikan', the idol breaker. 'A time came
in history when there were only eleven families of Kashmiri Pandits’. (Bhattacharjea, 1994, p.38).³ Shahi Khan who took the title of Zaniul Abidin, was an exception among Muslim rulers. His secular spirit provided a glorious period for the people of Kashmir. The concluding years of local Muslim rulers were full of fight to capture the power from each other among different groups. Shia-Sunni conflict arose. But they revealed the spirit of local patriotism against the forces of foreign Muslim rulers. When Babar, the founder of Mughal Dynasty in India, attempted to bring Kashmir under his rule, Kashmiris unitedly repelled his forces and his efforts failed.

The Chaks (1554 A.D.-1586 A.D.) also experienced their brief reign in the valley. They had come from the country of Dards and belonged to Shia community. Conversion from Hindus to Shia Muslims was made at large scale. Yusuf Shah Chak, the second last Chak ruler, had to face his nobles’ revolt because of his negligence towards administration. He asked Akbar's help to crush the revolt. It was an unknown invitation to foreign domination in the valley. Under the command of Raja Bhagwan Dass, Akbar ordered to march. Then a successful attack on Kashmir by Akbar's army brought Kashmir under Mughal rule in 1586 A.D.

With the annexation of Kashmir in the Mughal empire, foreign domination paved its way into the valley. Akbar's period brought sad chapter of the last days of the valley’s independent Sultans to an end. An uniform administrative policy was introduced in the valley which was strictly political and secular and was not based on religion.

Aurangzeb, the descendant of Akbar, was a rigid Sunni. He proved an other end of the diameter. He was considered cruel towards Hindus and Shia Muslims. His unstable governance to the state made the public unrest. Mughal empire was declining. Its hold and influence on the whole country (Kashmir was not exception) was no more. In such unbalanced political and social circumstances and prevailing civil disorder, Afghans used the opportunity. Mughal troops failed to repel the army of Ahmed Shah Durrani, an Afghan ruler. Thus Kashmir came under the Afghan rule in 1752 A.D.

Oppression and tyranny were on peak during the rule of Afghan rulers in Kashmir. Hindus and Shia Muslims were badly treated. Women were molested and used as concubines. Atrocity was the main feature of Afghan rule. Forceful conversion was the matter of day. People had to choose either death or flight or conversion. Sir Walter Lawrence trimmed this period as "a time of brutal tyranny, unrelieved by the good works, chivalry and honour. (Lawrance, 1967, p.197)."

On the other side, regional Sikh forces were emerging in Punjab to challenge the monopoly of North - West power. Earlier Sikhs were divided into twelve different missals (groups). Maharaja Ranjit Singh of Shukarchakiya missal organised such scattered groups of Sikhs under his own flag on the basis of power and laid the foundation of Sikh Rule. The brutality of Afghan rulers towards Hindus had reached at the extreme. Victimized community approached the Maharaja Ranjit Singh, the lion of the Sikhs in that region, for help. The ambitious Sikh ruler was already in the search of such opportunity. The Battle of Shupayan was fought in 1819 and Afghan army met its waterloo. It extended its power in the deep of the valley. The centre of power slipped from the hands of Kabul and

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fell down in the lap of Lahore. With the end of Afghan rule, Sikh power marked the elimination of Muslim rule after nearly five hundred years.

But change could not bring prosperity for the people of Kashmir. The economy of the valley deteriorated. Agriculture was ruined by the heavy rate of taxes. In the words of William Moorcraft and George Treback "Everywhere the people were in the most abject condition, exorbitantly taxed by the Sikh Government and subjected to every kind of extortion and oppression." (Moorcraft and Treback quoted in Bhattacharjea, 1994, p.48). The regimes of Moti Ram (1819-24 A.D), Diwan Kirpa Ram (1827-1831 A.D.) and Colonel Mian Singh (1834-1841 A.D) (the Sikh Governors in the valley) witnessed the era of humanity and kindness but the assassination of Mian Singh put the valley into disorder and anarchy. The death of Maharaja Ranjit Singh was the beginning of the end of Sikh rule.

At this time, great colonial power, i.e., British, had captured all the regional powers and princely states of Hindustan. Now, the Punjab was their target as it was frontier state. It was unfortunate that Sikh army lacked the integrated leadership after the death of Maharaja Ranjit Singh. It became the cause of their defeat in the battle of Sabraon which was fought between the successors of Maharaja Ranjit Singh and British power. It was 9th March, 1846, when Kashmir came under the British Rule according to the ‘Treaty of Lahore' following the same battle. Sikhs had to deliver Kashmir to the British government in the lieu of war indemnity.

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It was difficult for the British government to govern the valley directly because of its geographical situation. A way was found out. A deal related to Kashmir took place between Raja Gulab Singh (the founder of Dogra dynasty) and British Government under the ‘Treaty of Amritsar’ 16 March, 1846.\(^6\) Bargain was concluded in 75 lakhs of rupees. Besides paying this amount, Gulab Singh, acknowledged the British supremacy and promised to pay horses, goats and cashmere shawls.

Actually, Gulab Singh was the Prime Minister of Sikh government when the battle of Sabraon was fought in 1846. His diplomatic and opportunistic nature put him in winning side. Betraying his masters, he joined the camp of enemies, i.e. Britishers. He purchased Kashmir and laid down the foundation of Dogra dynasty.

Infact, Gulab Singh provided the present form of the state of Jammu and Kashmir. The credit goes to him to bring the distinct regions - Jammu, Kashmir valley and Ladakh Plateau under the uniform administrative unit for the first time. On the basis of religion, culture, ethnicity and language, these regions differ from each other. Proportion of Muslim population was more than that Hindus of in the valley. While in Jammu region such ratio was in favour of Hindus. And Ladakh region was dominated by Buddhist population.

Inspite of an orthodox Hindu, Gulab Singh provided a firm administration to the state. But his discriminated policy towards Kashmiris and Ladakhi people sparked the regional sentiments.

The seeds of regional conflict were sown during Gulab Singh's period. Jammu was always regarded as a native place while Kashmir and Ladakh were considered as conquered territories. A sense of

\(^6\) Annexure I, The Treaty of Amritsar, 16 March 1846.
discrimination developed among Kashmiris and non-Kashmiris. The former always felt to be discriminated in comparison to those of latter.

Ranbir Singh, the son of Gulab Singh succeeded him. He provided his loyalty towards Britishers by providing army help to them to recapture Delhi in 1857. He retook the Gilgit region. Under the influence of European culture and institution, he tried to establish schools and dispensaries. Unfortunately, he was also not free from the allegation of favoritism towards Dogras like his father.

The underlying objective of British policy was to take exclusive control of Gilgit, near Afghan-Russia border. A British resident was imposed on the state. Maharaja was just nominal head. Without taking the responsibility of direct rule, interference of Viceroy mounted in the state when he wished. Besides land reforms, cooperative banks were established and new roads were constructed. During the period of Pratap Singh, Kashmir came into the contact of modern era. In the words of Sisir Gupta “as the valley was prominently dominated by Muslims, their condition was worst. Jammu and Kashmir state is labouring under many disadvantages with a large Mohammedan population absolutely illiterate, labouring under poverty and very low economic conditions of living in the villages and practically governed like dumb driven cattle. There is no touch between the government and the people, no suitable opportunity for representing grievances, and the administrative machinery itself requires overhauling from top to bottom to bring it up to the modern conditions of efficiency. It has at present little or no sympathy with the people's wants and grievances”.(Gupta, 1966, p.51).  

Dogra rulers made the Kashmiris unsatisfied. Although Dogra rulers ignored both communities, i.e. Hindus and Muslims in the valley. But because Muslim were in majority, so it took the communal shape afterwards. Therefore, it rightly seems that regional conflict converted into religious one in coming years.

The movement of `Kashmir for Kashmiris’ launched by Pandits in 1925 testifies this fact that the people of the valley were ignored by the Dogra rulers irrespective of religion as the valley was always treated as a conquered territory. The actual fact was that both Hindus and Muslims of Kashmir were the victims of the Dogra Policy. The movement of 1925 highlights the fact that a common Kashmiri was far from religious fanaticism at that stage. But it is also notable that seeds of religious conflict were latent into the manifest regional unrest because of the uneven proportion of population of both communities in the valley.

'Kashmir for Kashmiris' movement was launched during the regime of Hari Singh the nephew of Partap Singh. It was the result of widening gulf of Kashmiris and non-Kashmiris. Unfortunately, this movement became the victim of Dogra politics that played a card of religion. The main demands of the movement were; share in jobs in the public services, freedom of press and to form associations and establishment of a representative legislature. These demands were partially accepted by the authorities. But these were approved in such a way that Dogra Rajputs and Pandits could get the benefits. Condition of Muslims remained almost unchanged. It was nothing but a political attempt to keep a wider distance between two religious communities.

Complete negligence towards Kashmiri, more than ninety percent among them were Muslims and their growing discontent prepared a
ground to struggle against Dogra rulers. Achieving higher education enlight youth belonging to the lower and middle class Muslim families. Though they failed to get any suitable jobs but they were now fully aware about their rights. Aligarh Muslim University became a centre of discussion of the problems of muslim community.

Infact in early twenties freedom struggle had spread all over the country. Every class of society was in touch with freedom struggle. Kashmir was not an exception. Educated youth and middle class Muslims were inspired by the growing intensity of freedom struggle in all over the country. Certainly, it contributed a lot in mass awakening of Kashmiris. The Khilafat movement evoked widespread response in the Kashmir province. Kashmiri Muslims sympathized the Indian Khilafat Committee under the leadership of Mirwaij Yusuf Shah who afterwards became the opponent of Sheikh Abdullah. Kashmiri leadership succeeded to convince the audience that Muslims were in the worst condition. Their religious rights were being smashed. In order to oppress the mass awakening in the state, Maharaja Hari Singh issued oppressive orders on 22nd July 1930. But even the oppressive orders failed to crush the enthusiasm and zeal of discriminated public.

Hindus of the State remained far from the movement against Dogra rulers at the initial stages because their interests were safe in feudal regime of Dogras. Dealing of state authority with the movement of 1925 had benefited the Hindu Community. The goal of the freedom struggle in the state was to secure a fair proportion of jobs in the administration at that stage. Hindus, particularly, Dogras had captured the significant posts in the administration. Educated Muslim youth raised their voice under the leadership of Sheikh Abdullah. But State Government turned down their demand to make reservation of jobs for Muslims. A movement for civil
rights and political reforms was launched in 1931 that produced a mass leader in the person of Sheikh Abdullah. He emerged as a powerful leader of the valley in the later years. Sheikh Abdullah also admitted that Kashmir was completely influenced by the freedom movement. He wrote in the preface to ‘New Kashmir Programme’ that It was during this period that the whole of India was shaken into a new awakening following the Civil Disobedience Movement of 1931 and it had its own psychological influence.

Gradually civil right and political reforms movement gathered momentum among the Kashmiri Muslims in early thirties. The state government became the target of unsatisfied Muslims. The protest meetings were held in which state government was openly condemned on the ground of its communal attitude. In June 1931, a meeting was held in which seven prominent leaders of the state were elected to submit grievances to the Maharaja Hari Singh. Sheikh Abdullah and Chowdhry Gulam Abbas, a Jammu leader (who went on to reconstitute Muslim conference from pro-Pakistan elements in the state when they revolted against the Maharaja in 1947 and went on to form Ajad Kashmir) were among them.

The hidden reflection of communal feelings began to manifest as the Hindu population did not support the freedom movement against Dogra rulers. Some incidents occurred, which were interpreted as an insult of Islam. It was morning of 4th July 1931. A Hindu head constable found a Muslim constable, Fazaldad, sitting on his bedding and reading Koran instead of getting ready to undertake his routine affairs. Head constable rolled up his bedding and throw on his box. The punjsura fell the ground. Subsequently, this incident caused communal unrest in the
state.'(Khan, 1980, p.126). In another incident, police arrested Abdul Qadir for urging the general massacre of Hindus. 13th July, 1931 was fixed for the beginning of his trial. Police fired on a large crowd gathered outside the central jail in Srinagar. Twenty one people died. Common people, challenged the Dogra authority first time. Since then, 13th July is celebrated as the 'Martyrs' day' in Jammu and Kashmir.

It was for the first time when valley passed through serious communal riots after these incidents. Three Hindus were killed, many more wounded and hundred shops looted. Abdullah and Abbas were arrested and released afterwards. Prem Nath Bajaj was then personally involved in political activities. He recalls the outcome in his book, 'The History of the Struggle for Freedom in Kashmir' that Public opinion among the Muslims had by this time crystallized on the point that the government and the Hindus were inseparable and one stood for the other. Almost all the officials were Hindus and the Maharaja was a Hindu. So responsibility for the actions of the government must be shared by the Hindus. The jail firing which killed several Muslims created great resentment in the mob mind against the Hindus. So when the procession reached Maharaj Gani, a busy trade centre of the city, Hindu shops which had been closing owing to panic after hearing of jail incident, were broken open and looted."(Bajaj, 1954, pp. 153-54).

Other areas of the state were also affected. In Mirpur, Poonch and Rajouri, anti-moneylender movement sprang up in November 1931. Mostly moneylenders belonged to Hindu community and poor labour

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class of Muslims revolted against them. Maharaja had to sought British assistance to put it down.

The movement of civil rights of 1931 had not gone unnoticed in the eyes of authorities. Maharaja had to appoint Grievance Enquiry Commission under the chairmanship of a British officer, Bertrand Glancy. Proprietary rights to zamindars were granted. The demand of appropriate representation of different communities in jobs was accepted by the Commission. Government was asked to hand over the religious places to their corresponding communities.

Muslim leaders in the valley were not satisfied with such concessional grants. An organised struggle against the Jammu based Dogra rulers was the demand of time. Sheikh Abdullah laid down the foundation of "All Jammu and Kashmir Muslim Conference" on 16th October, 1932 for such objective. An era of communal politics began. Later on the movement was divided into two factions of Muslims. Sheikh Abdullah was leading one group while other group was led by Mirwaiz Yusuf Shah.

Economic interests of both the communities were clashing. This factor contributed as an impediment to form a general opinion on the major issues like 'responsible government' and 'implementation of Glancy Commission'. Muslims were aiming to achieve their goals while Hindus aimed at securing their existing privileges and concerns.

In 1934, elections for 'Praja Sabha' were held. From the civil right point of view, these elections marked a significant feature that about 6 percent of the population was given right to cast its vote. Out of 75 members of 'Praja Sabha', only 33 were elected. Another more significant feature of the elections of 'Praja Sabha’ was that these were
contested on communal line. Sharp communal conflict emerged not only between Muslims and non-Muslims but also within the Muslim community itself. Some Muslims gathered under the banner of "All Jammu and Kashmir Muslim Conference" and other supported the 'Ajad Muslim Conference'. The former was led by Sheikh Abdullah while Mirwaiz Yusuf Shah led the latter. This time Sheikh was emerging as a strong leader of Kashmiris. And Yusuf Shah, under the personality clash, set up a faction of Muslim Conference. On the other hand, Hindu community was mobilised by 'Sanatan Dharam Yuvak Sabha of Kashmiri Pandits' and Jammu based 'Hindu Sikh Naujawan Sabha.

Meantime the movement of freedom struggle had affected every nook and corner of the country at national level. Indian National Congress had emerged as a national party that had its roots in every village. Congress was fighting and struggling to gain independence from British Government. Sheikh Abdullah came into the close contacts of Indian National Congress.

Pandit Jawahar Lal Nehru, one of the most prominent leaders in Indian National Congress was impressed by the personality of Shiekh Mohammed Abdullah. He wanted to promote such Muslim leader in the valley who had a commitment to secularism and anti feudalism. It was quite right choice in those circumstances. It was Sheikh Abdullah who made a declaration in his first presidential address in October, 1932 that "our country's progress is impossible so long as we do not establish amicable relations with different communities."(Kaul, 1985, p.15). Abdullah also admitted Nehru's influence on him. Abdullah was

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completely convinced that freedom struggle movement in the state could not be confined only to religious boundaries. The fight for independence could not be successful without involving the other communities which constituted a comparatively low but significant percentage of population in the valley. Muslims were in majority in Jammu and Kashmir as compared to other parts of sub-continent. So, they had no such problem of identity crisis. They felt less threatened. So, changing character of Muslim conference into National Conference was not harmful for them (despite their unhappy experiences with Dogras).

The State Muslim leader and national level main stream Muslim politics was not on cordial terms already. Firstly, changing character of state level Muslim organisation into secular one developed more distances with Muslim League. Secondly, National Conference was getting more close to the Indian National Congress. On the ideological basis, both Muslim League and Indian National Congress were the two ends of a diameter. The Muslim League had its base on the strength of religion while Congress believed firmly in the spirit of secularism.

National Conference had to face benefit and loss both at the same time. The changing character of Conference had widened its base among non-Muslim communities in Kashmir. But on the other hand, it had faced some loss among Muslim masses. Chowdhry Ghulam Abbas left the party and revived the Muslim conference in 1941. Mirwaiz Yusuf Shah, who had already broken his ties with Sheikh Abdullah, supported Abbas. The revived party also got the moral and ideological support of Muslim league that was also struggling for freedom against British Government but on the different lines than that of Congress. Soon after
its birth, Muslim Conference accepted the Muslim League's resolution for creation of Pakistan.

In other words, it ratified the concept of Two Nation theory of Mohammed Ali Jinnah, the President of Muslim league and prospective founder of Pakistan. On the other side, Sheikh Abdullah denounced the said resolution and disapproved the Two Nation Theory. As noted by a scholar that the Sheikh, in fact, wrote that “those areas where Muslims predominated including his own state, had no need of Pakistan. Further he said that Muslims would gain nothing from the partition.”(Heehs,1988, pp. 159-60).\footnote{Heehs, Peter. (1988). \textit{India’s Freedom Struggle (1857-1947) A Short History.} (Delhi : Oxford University Press.} As National Conference was getting deep attraction with Indian National Congress, distance were growing more and more from Muslim League. It fully supported the 'Quit India Resolution' in 1942. At this time, movement in Kashmir was inseparable from the National Movement.

In 1944, Mohammad Ali Jinnah, the President of the Indian Muslim League, visited the valley with a mission to bring Kashmir back into the Muslim Conference fold. Sheikh Abdullah told that the purpose of Jinnah's visit was to transform the National Conference into Muslim Conference, but Sheikh refused. Jinnah could not succeed in his mission. He was greeted with warm welcome by Sheikh Abdullah but his farewell was not as such. His severe criticism of National Conference and abusive language for the organization failed to make an impact on the people of Kashmir. Jinnah's open canvassing in favour of Muslim Conference and speeches against Sheikh Abdullah could not mobilise the people.

A counter visit was paid by prominent Congress leaders in the valley in August 1945 to negate the nominal influence of Jinnah. Jawahar
Lal Nehru, Maulana Abul Kalam Azad and Khan Abdul Gaffar Khan attended the annual session of National Conference in Srinagar. Their goal was to strengthen Sheikh Abdullah. Secular character of Congress impressed the people. Nehru mobilised Pandits to extend their support to National Conference. In public meeting at Sheetal Nath in Srinagar, he said, "If Kashmiri Pandits want to live in Kashmir they should join the National Conference or they should bid goodbye to the state. National Conference is the real national organisation. If Pandits do not join it, no safeguards and weightages can protect them. There is no alternative for them except to join the National Conference. (Raina, 1990, pp.30-31)."\(^{12}\)

A wave of secularism and nationalism was flowing in the valley during the peak periods of freedom struggle. The base of National Conference was broadening among non-Muslims because Hindu Pandits found it antithetical to the age-old traditions of communal amity in the valley. 'On the one hand Muslim leadership had rejected the ideology of Indian Muslim League. And on the other hand, the leader of Kashmiri Pandit, Shiv Narain Fotedar did not accept the philosophy of V.D. Savarkar, the President of All India Hindu Mahasabha.'(Kaul, 1985, p.15).\(^{13}\)

Now, the Indian freedom struggle had entered into its last phase. Negotiations for independence had been initiated. Accession of different states to two dominions-Hindustan and Pakistan started. Cabinet Mission announced the setting up of The Constituent Assembly of India on 16\(^{th}\) May, 1946. A group of princes led by Nawab of Bhopal opposed the joining of Constituent Assembly and stressed on the sovereignty and


autonomy of the States. The Jammu and Kashmir state was one of those Indian Princely states which did not join the Constituent Assembly of India.

Nehru and Jinnah's reactions towards the attitude of Princely States regarding Constituent Assembly were extremely opposite to each other. While Jinnah endorsed the views of the Princely States but Nehru regarded them as States. In address to All India Congress Committee meeting, Nehru had said, that any recognition of such Independence by any foreign power would be considered as an unfriendly act. In a support to views of Princely States, Jinnah said that “Constitutionally and legally the Indian States will be independent and sovereign on the termination of paramountcy and they will be free to decide for themselves to adopt any course they like, it is open to them to join the Hindustan Constituent Assembly or the Pakistan Constituent Assembly or to decide to remain independent.”(Lal,1958,p.342).

The Constituent Assembly started its work in December 1946. Maharaja Hari Singh remained indecisive regarding the state's accession to either of Dominion and did not take part in Constituent Assembly. Both religion based organisations, Muslim Conference and Hindu Sabha supported Maharaja when he refused to join the Constituent Assembly. They were not in favour of merging with a secular state. At this stage, they favoured the independence of the State completely. Chowdhary Hamidullah Khan, the acting President of Muslim Conference urged the His Highness on 10th May, 1947 in a public conference, "Declare Kashmir independent immediately and establish a separate Constituent Assembly to frame the constitution for the according to the wishes of the

Hindu Sabha saw the future of Hindu State under the rule of a Hindu Raja and did not want to blend its identity with such a vast country like India having multi-religions and multi-races.

The Plan for partition of the country was announced on June 3, 1947. But Maharaja was completely failed to make up his mind. The reflection of his hidden ambition of independent Kashmir was shown in his indecisive attitude. He lingered on the matter to satisfy his unsuccessful wish. He tried till the last to remain independent. When he signed the Instrument of Accession, he said, "whether it is not in the best interests of both the Dominions and my State to stand independent of course with friendly and cordial relations with both." He was still hoping to rule over Kashmir as a Raja.

One month before the independence of India and Pakistan, the Muslim Conference signalled the soft corner for India. Chowdhary Hamidullah Khan said if the Pakistan invaded, Muslims of the State would rise in arms against Pakistan and if necessity demanded they would seek Indian help. But soon, Muslim Conference twisted from its earlier stand and reflected its inclination towards Pakistan but was firm on the stand of independence. Leaders of Muslim Conference appealed to Maharaja to declare internal autonomy of the state as soon as possible and himself assuming the position of a constitutional monarch, establish a constituent assembly and simultaneously accede to dominion of Pakistan in the matter relating to defence, communication and external affairs. Hindu Sabha that did not want to lose its identity by merging with a Muslim state. So, it reposed its faith in Maharaja to decide the issue of

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accession to India at any appropriate time. It had realized that its interests are more safe in a secular State than a Muslim State.

What happened that these communal forces shifted from their earlier stand? Why did such forces diverge from Maharaja in the opposite directions? Actually, interests of both the communal forces rested on the base of religion. The spirit of Kashmiri Nationalism was eclipsed by the strong religious factor. A principle grew that the ruler should decide but should take into account the wishes of people. A situation of confusion was created in those States where ruler and the majority of the people were not of the same religion. Kashmir was also influenced by such circumstances. Ruler was Hindu and majority of population was Muslim. Muslim Conference feared that former might be inclined to India. While Hindu Sabha had a doubt that majority population would prefer Pakistan.

National Conference, due to its secular feature, had a very significant base among the general public comparatively to Muslim Conference and Hindu Sabha. Its closeness with the Indian National Congress also contributed a lot to strengthen its hold among the masses. Congress, at that time was enthused by the spirit of patriotism and freedom. Mahatma Gandhi, had emerged at the top of the leader queue of freedom struggle movement. Even he started his such career in his forties but his firm determination towards truth and nonviolence made him world-wide personality.

On 12th August, 1947, a proposal of a Stand Still Agreement16 was sent by the Ruler of Kashmir, Maharaja Hari Singh to Govt. of India and Pakistan. It assured that arrangements for trade, travel, communication and other services would continue as it was in British India. While

16 Annexure II, Stand Still Agreement with India Pakistan, August 12, 1947
Pakistan agreed to accept the Stand Still agreement. But India did not sign this agreement and desired further discussion with representatives of Government. By not signing the Stand Still Agreement, India lost nothing as Kashmir was dependent on Pakistan (Of undivided India) for communication and supply. It was an indication to Maharaja Hari Singh that India would not accept the status quo indefinitely.

It was 15th of August, 1947, when India got independence from the British Colonial rule. Jammu and Kashmir state neither acceded to India nor Pakistan. Maharaja Hari Singh's prolonged decision to take either option kept the Kashmir in dilemma. Three main facts emerged- Firstly, Ruler of the State was Hindu. Secondly, majority of the population was Muslim and third factor was that National Conference which had a great influence in the state was fully inclined to secularism at that time. Although its religious affinity could have demand the accession to Pakistan and secular character of National Conference could have inclined to secular India. Hindu ruler might see his interests safe in India with Hindu majority rather than Pakistan.

Three princely states- Jammu and Kashmir, Hyderabad and Junagarh had not acceded to either of dominion on the eve of partition. There was a similar factor in these three states that the religion of ruler was different and religion of majority population was different that caused trouble. Lord Ismay, Chief of Staff to Mountbatten, who was now India's Governor General, visited Karachi and questioned on the accession of Junagarh. This put an acute dilemma. H.V. Hodson (constitutional adviser to a previous Viceroy, Lord Linlithgow, who had access to state papers and British officials in both Dominions) wrote
about India's confusion in this regard, "If the Indian Government acquiesced (in Junagarh's accession to Pakistan), admitting the undoubted legal right of the ruler to decide which way to go, the precedent of a Muslim Prince taking a Hindu-majority state into Pakistan, not withstanding geographical and communal arguments to the contrary, could be applied to the far greater prize of Hyderabad. If the Indian Government intervened with force, besides the harm it would do itself without side opinion, it would set up a contrary precedent, to be applied by Pakistan to Kashmir, were the latter's Maharaja to accede to India. If India, demanded as alternative to force a plebiscite in Junagarh, this could be adopted as a general principle which when applied to Kashmir and Jammu would, in Karachi's estimation, take the State to Pakistan."

(Hudson, 1969, p.430).  

Junagarh was a small princely state embedded in Kathiawar with a Hindu majority population and a Muslim ruler, Sir Mahabat Khan Rasul Khanji, Nawab of Junagarh announced its accession to Pakistan that was accepted by Karachi on 13th September 1947. Nawab's administration began to break into small fragments. Public demonstration took place. Military pressure was built up. Pakistani protests multiplied and there was talk of war. In early October, New Delhi had to refer the question of Junagarh's future to the people of the state for decision by general vote i.e. referendum as a gesture to avert hostilities (A referendum in Junagarh was actually held on 20th February, 1948. Out of 1,90,870 persons voted, only 91 favored Pakistan). The proposal of referendum in Junagarh set a precedent for the state of Jammu and Kashmir. Pakistan's real objective was fulfilled. In the loss of Junagarh, Jinnah saw the chances of winning Kashmir.

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Pandit Nehru, soon, realized the slipping of Kashmir from his country's grip in the light of Junagarh crisis. He considered a counter-strategy. A meeting was set up between him (then Prime Minister of India) and Liaquat Ali Khan, the Prime Minister of Pakistan by Lord Mountbatten. He indicated words 'general election' synonymous to referendum, he said that, "India would always be willing to abide by a decision obtained by a general election, a plebiscite or a referendum, provided it was conducted in a fair and impartial manner." (Hudson, 1969, p.436). Nehru's this strategy actually came into play when the UN Security Council failed to held plebiscite and New Delhi decided that the future of Jammu and Kashmir could not remain undecided indefinitely. Accordingly, elections in the state were treated as an adequate test of public opinion though Pakistan questioned its fairness.

Sheikh Abdullah, the leader of National Conference was in jail when India won freedom. He did not deny the solid grounds for the accession to Pakistan but was not sure about Kashmir's bright future in its hand. Infact he realized the dim chances of his own political career if state was acceded to Pakistan. So, he found more suitable opportunities for himself in other option, i.e., in merging with India. He expressed following reasons for the accession to India to cover his hidden ambition. First, India's secular nature which gives the equal rights to all religions, impressed him. Secondly, economic interests of Kashmir also attracted him. But, he knew the hard realities of defense. He realised that state's geographical position from the defense point of view would not be secure as an independent state. By seeing secular character of India and economic and defensive interests, Sheikh Abdullah favoured the accession of the state to the Dominion of India.

18 Ibid.
It was 29\textsuperscript{th} September, 1947, when release of Sheikh Abdullah was made. Three factors worked for his release - first there was popular agitation for his release. Second was New Delhi pressure Because Nehru always supported him. Thirdly, in order to neutralize the aggressive postures of pro-Pakistan Muslim Conference, Maharaja had to take such step.

Sheikh Abdullah, after his release, began to work for communal harmony and launched a campaign for representative government. He stated, In Kashmir we want a people's Government. We want a government which will give equal rights and equal opportunities to all men, irrespective of caste and creed. The Kashmir Government will not be the government of any one community. It will be a joint government of Hindus, Sikhs and Muslims. That is what I am fighting for.(Gupta, 1980, p.11).\textsuperscript{19} Abdullah disagreed with the stand of Muslim League and rulers of Pakistan on two vital points. Firstly, on the Two nation theory' and secondly, on the right of rulers to decide the future of their subjects. On both these two points he was completely agreed with the Indian leaders. But his Kashmiri nationalism superseded the Indian Nationalism. He raised a slogan of freedom before accession. In a public speech in October, 1947, he said, "Accession is of little importance. Freedom is more important. We do not want to join either dominion as slaves. I warn the Government of India and Pakistan that if Maharaja decides to join either of them without our consent, we shall rise in revolt against such a decision"

Actually, the border trouble had been started in the beginning of October 1947. Poonch in Jammu region, shared the border with Pakistan, was flash point. Mainly dominated by Muslim population, Poonch was a separate state within the territory of Jammu and Kashmir and owed allegiance to the Maharaja of Kashmir. Racially they were close to Punjabi's rather than Kashmir's. The inhabitants of Punch area was a martial community. Who contributed 60, 402 soldiers to British Army during the second world war out of 71667 from the whole state. (Korbel, 1954, p.55).\(^{20}\) Inspite of this fact, Maharaja Hari Singh disfavored and distrusted this community. It was alleged that his communal attitude stimulated the resentment in this area, it was alleged that he was religiously biased in the recruitment of army towards Hindus, Sikhs and Gorkhas. After the second World War, he refused to accept Muslim soldiers into the force. Most of them went back for farming in their home regions of Poonch and Mirpur. In 1947, many Poonch tribesmen returned from service with the Indian Army and they found that their state had been dispossessed of its ruler because of a lawsuit. Also, the vicious system of taxation prevailing in the rest of Jammu and Kashmir had been imposed.

The unsatisfied Muslims revolted against the oppressive policies of Maharaja. Communal factor worked speedily, when Muslim soldiers of state troops (who were sent to suppress the revolt) joined the revolt. It goes without saying that Pakistan encouraged it. But, oppression of Dogra rule can not be ruled out. Thereafter, this force formed the hard core around which the Azad (Free) Kashmir movement gathered strength. ‘About 4,00,000 Muslims fled to Azad Kashmir and at least another

1,00,000 to Pakistan (Birdwood, 1956, p.51). It was Sardar Mohammed Ibrahim Khan who led this movement in Poonch and later on, founded, Azad Kashmir Government in Pakistan side of cease-fire line, and set up headquarters at Muzaffarabad.

In a political development in Jammu and Kashmir, Mehar Chand Mahajan was appointed as the new Prime Minister of Jammu and Kashmir on 15th October, 1947. Meantime, Pakistan had made a breach of Stand Still Agreement. It had imposed blockade. Supply of essential commodities was stopped. State was facing worst conditions. Thus Pakistan Government put economic pressure and stopped the supply of essential goods (Birdwood, 1956, p.46). Communication lines were blocked. Post and telegraphs department within the state (which were under the administrative control of Pakistan under Stand Still Agreement dated August 12, 1947) were not rendering loyal service. This was nothing but an attempt for forceful accession. Seeing such position Mehar Chand Mahajan sent a detailed telegram regarding such problems directly to Mr. Jinnah, the President of Pakistan. He wrote if unfortunately, this request (to stop all these iniquities) is not heeded, the Government fully hope that you would agree that it would be justified in asking for friendly assistance and oppose trespass on its fundamental rights (Bhattacharjea, 1994, p.127-128). But Pakistani media continued the propaganda against Maharaja's government. The same approach of threatening and pressurizing the Jammu and Kashmir Government was continued.

In the same month of October, an emissary Major A.S.B. Shahi, was sent by Jinnah to Srinagar. He visited Mr. Mehar Chand Mahajan and revealed the purpose of his visit. He pressurized him to decide the question of accession immediately otherwise serious consequences might come out. In a personal telegram to Maharaja Hari Singh, on 20th October, 1947, Jinnah alleged the Kashmir Government with suppressing Muslims in every way. He concluded, -- "The real aim of your government's policy is to seek an opportunity to join the Indian Dominion through a 'coup d'etat by securing the intervention and assistance of that Dominion" (Lakhanpal, 1965, pp. 50-54). Dina Nath Raina writes in his book an account of tribal attack. It was the early morning of 22\textsuperscript{nd} October, 1947 when major tribal invasion occurred. The citizens of Muzzfrabad, the last town on Pakistan border were in the lap of sleep. Raiders had crossed the frontier from Garhi Habibullah and given a successful blow to the Jammu and Kashmir forces defending this frontier post. Actually, the Muslim soldiers of J & K forces betrayed their masters and made an easy success to the valley for raiders. They joined the enemy enbloc and gave them complete information about the defense setup in the entire area. They revolted, killed their comrades and commanding officers. Thus, Muzzfarabad was given over to the fire and sword before its sleeping citizens could realize what had happened (Raina, 1990, pp.57-58). The invasion had code name 'Operation Gulmarg.' It was mastermind by a regular officer of Pakistan Army Major General Akbar Khan who had assumed the name of General Tariq (Tariq was the name of Moorish hero who had defended Islam in Spain over thousand years before.

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Raiders were looting the villages and towns. Incidents of arson were going on. Women were being raped. With such horrible spirit, the tribal raiders were approaching to Srinagar. Jammu and Kashmir State Forces were facing such a sudden brutal attack without any pre planning. It was why Brigadier Rajinder Singh, the Chief of the Kashmir State Forces, had to jump personally into the battle without any availability of regular units.

On 24th October, raiders were not far from Srinagar. They were just fifty miles away from it. In few hours, Srinagar might be victim of tribal raid and future of Kashmir might be different from today. When raiders had reached the power station at Mahura, the lights of the city were failed. It was the moment, when raiders’ presence was realised in Srinagar. Such situation made Hari Singh to seek help from India. In his autobiography, Mehar Chand Mahajan recalls the incident that" On 24th October, the Deputy Prime Minister, RL Batra left Srinagar for Delhi carrying a letter of accession from the Maharaja and a personal letter to Pandit Jawahar Lal Nehru and another to Sardar Patel asking for military help in men, arms and ammunition. (Mahajan, 1963, p.150). The Indian Cabinet meetings were regularly going on but it did not reach some concrete decision. Grim reports from the state were being received continuously. Same on 24th October, cabinet decided to send V.P. Menon, Secretary (State’s Ministry) to Srinagar to meet Hari Singh and discuss the different options and also to advise him to move from Srinagar to Jammu for further negotiations with the Indian Government.

Menon did as per the instruction. Maharaja Hari Singh arrived in Jammu on 25 October, but the public suspected that he had run away and had also taken with him all his personal jewelery and ornaments. In fact, it was not more than a 'coward’ that was spread by communist elements within the National Conference. Actually, Maharaja had not taken any jewelery. And all his personal jewelery, ornaments etc. were in state Government's Toshkhana. And afterwards, it also became the subject – matter of litigation between Dr. Karan Singh, the Maharaja Hari Singh's son and the State Government. (Raina, 1990, p.63).  

Menon told Maharaja that it was necessary to send Mahajan personally to New Delhi if military help was required. He further said RL Batra's visit (who already gone to New Delhi with letter of accession) was not much significant as of Mahajan. Thus, Mahajan accompanied Menon to New Delhi.

Mahajan has given a detail of his meeting with Nehru on the issue of accession and sending military help to Kashmir in his book 'Kashmir's Accession to India: Inside story'. According to Mahajan, he met the Prime Minister and Deputy Prime Minister of India and apprised them of serious and dangerous situation in the state. He solicited army help and said that the Army must be flown at once otherwise the whole town of Srinagar and all they hold valuables could be completely destroyed. He was asked how army could be sent at a moment's notice. But he insisted that the army must fly to Srinagar this evening otherwise he would go and negotiate terms with Jinnah to save the city. On this the Prime Minister, Nehru flew into rage and gave an exhibition of his temper and told him to get out. Just as he was getting up, Sheikh Abdullah (who was staying in the Prime Minister's house, was overhearing the talks), sensing a critical

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situation he sent a slip of paper to Prime Minister who read it and said that what Mahajan was saying was also the view of Sheikh Sahib and Nehru's attitude was completely changed. How far Nehru was influenced by the Sheikh Abdullah. Earlier in cabinet meeting of 24th October, he insisted that Abdullah's cooperation should be secured when accession was to be made. Mahajan's write up about his meeting with Prime Minister, Nehru was also confirmed by Sheikh Abdullah in his autobiography - 'Aatish - e -Chinar.' He recalled the incident that Nehru was brought round only after he intervened to assure him that he and the National Conference supported accession. (Abdullah, 1993, p.95).

Besides personal persuasion of Sheikh Abdullah to Nehru to send troops to Kashmir, countrymen urged the central government of India to take immediate steps to protect the Kashmir and its people by sending army to the State without any wasting time. The whole of India was in anger because of tribal attack on Kashmir. There were countrywide demonstrations expressing their solidarity with the people of Kashmir in their hour of trial. The situation in the country turned away very inflammable and was at boiling point. Along with it, a tremendous pressure from the Chief Ministers of several states increased developed in the country. They urged the central government to save the Kashmir.

A meeting of Defense Committee took place on 26th October. Mountbatten and Chiefs of Staff, all Britishers, advised against flying troops to Kashmir. But their views were ignored completely by the cabinet and he had to give in. He argued that it would be improper to send troops into an independent country since Pakistan might do exactly the

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same. (Johnson, 1951, p.225).\textsuperscript{30} Why was Mountbatten against saving Kashmir from the Raider's attack? It seems that he was favouring Pakistan in the curtain of international law. It was unfortunate that the formula proposed by Mountbatten in the cabinet meeting was adopted later on. This formula suggested that the Maharaja would accept the temporary accession until the will of people could be ascertained after law and order had been restored. Unluckily, this proposal contained the seeds of forthcoming crisis in the states which were planted by the British Governor-General of India.

After the cabinet decision, V.P. menon flew to Jammu and obtained the Instrument of Accession duly signed by Maharaja and supported by Sheikh Abdullah. In a covering letter of 26th October 1947, to Lord Mountbatten, Maharaja Hari Singh revealed his compulsion to accede to Indian Dominion. He wrote, with the conditions obtaining at present in my State and the great emergency of the situation as it exists, I have no option but to ask for help from the Indian Dominion. Naturally, they can't send help asked for by me without my State acceding to the Dominion of India. I have accordingly decided to do so and I attach the Instrument of Accession for acceptance by your Government.\textsuperscript{31} He further assured that “I may also inform your excellency's Government that it is my intention at once to set up an Interim Government and ask Sheikh Abdullah to carry responsibilities in this emergency as my Prime Minister.\textsuperscript{32}

\textsuperscript{31} Annexure III, \textit{Extracts from the text of Hari Singh's letter to Mountbatten}, October 26, 1947.
\textsuperscript{32} \textit{Ibid.}
Instrument of accession\textsuperscript{33} was accepted by Lord Mountbatten. But it was unfortunate that he succeeded to introduce the clause of plebiscite which became the cause for present crisis of Kashmir. He included the following in his covering letter of 27\textsuperscript{th} October to Hari Singh, when he accepted the Instrument of Accession. “In consistence with their policy that in the case of any State where the issue of accession has been the subject of dispute, the question has been the subject of dispute, the question of accession should be decided in accordance with the wishes of the people of State, it is my Government's wish at as soon as law and order have been restored in Kashmir and her soil cleared of the invaders the question of the State's accession should be settled by a reference to the people.”\textsuperscript{34}

Why did Lord Mountbatten introduced the clause of plebiscite, While Instrument of Accession signed by Maharaja Hari Singh was of standard form which all the rulers of Indian states were required to sign. Maharaja Hari Singh, the ruler of Jammu and Kashmir state, while exercising his constitutional and legal rights, offered the accession of his state fully, unconditionally and permanently, did Mountbatten want to keep open the doors of Kashmir for Pakistan by taking such step?

After getting the Instrument of Accession, The Cabinet ordered to fly an infantry battalion to Srinagar. Indian troops arrived just in time to beat the invading tribesmen back from the city. Sheikh Abdullah himself organised the defence of Srinagar with his workers. This gesture raised his prestige and popularity. The gallant defence of Brigadier Rajinder

\textsuperscript{33}Annexure IV, Instrument of Accession October 26, 1947.
\textsuperscript{34}Annexure V, Extracts from text of the Lord Mountbatten’s reply to Maharaja Hari Singh, October 27, 1947.
Singh and Colonel Ranjit Singh (both were killed) shattered the dream of raiders of capturing Srinagar. A decisive battle was fought near Shalteng at door steps of Srinagar between Indian troops and raiders. Now, there was no threat to Srinagar from raiders.

The High commissioner of India, Mr. V.K.Krishna Menon told in his first conference with the representatives of the world press in London on 7th November, 1947 that the passage of the invaders into Kashmir had the sanction or connivance of the Pakistan Government, or the latter had not the desire or the power to stop them. He further said, that the invaders were heavily armed with small arms, but the fact that they also had trench, mortars, machine guns and even flame-throwers, showed without the slightest doubt that there was a proper organisation behind them. It was wrong to call it a raid, it was an invasion.

Pakistan instigated tribesmen in the name of Islam to go to Kashmir to save their Muslim brothers. They were further lured by the promise that they could keep gold and money, which they would get in the rich and beautiful state. Pakistan used the most ungovernable, wildest, hardest and cruelest community of fighters in the world i.e. Afridis, Wana Wazirs, Swaits and Burnerwal for its interest in Kashmir.

On the other side Pakistan had also alleged India that the latter's decision to fly troops was not spontaneous, rather it was detailed and deliberated planning for many weeks. But it was not true. The three British Chiefs of the Army, Air Force and Navy signed statements asserting that the operation was entirely spontaneous.(Birdwood, 1956, p.59). Actually, orders for the unprecedented air lift to Srinagar were finalized on the evening of 26th October. According to Major S.K.Sinha

(later Lt. General and Vice Chief of Army staff), It was ten at night by the time, the staff were rounded up and assembled, and most of us were dressed in out dinner jackets and add colour to our costumes, the duty officer was in his pajama suit. (Bhattacharjea, 1994, p.142). 

Pandit Nehru himself asserted that both the Kashmir government and National Conference had pressed them to accept the accession of Kashmir to the Indian Union. They had decided to accept this accession and to send troops by air. In his speech on 25th November, 1947 he announced, we were asked at this stage, both on behalf of the Maharaja and Sheikh Abdullah, to accept the accession of the State to the Indian Union and to intervene with the armed forces of the Union. An immediate decision was necessary, and in fact it is now clear that if we had delayed the decision even by 24 hours Srinagar would have fallen and would have suffered the tragic fate that befell Muzaffarabad, Baramulla and other places. (Grower, 1995, p.131).

On the question of accession of Jammu and Kashmir to Indian Dominion some national organizations reiterated their stand demanding state’s accession to Pakistan on the basis of its geographical continuity. All Jammu and Kashmir Kissan Mazdoor Conference, the Kashmir Socialist Party, Communist Party of India, and the Democratic Party were among them. (Naqash and Shah, 1997, p.68). The Communist Party of India did not approve the state's accession to India. Before independence, it demanded right to self determination for every national unit. After Kashmir's accession to India it condemned its treacherous character.

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The state of Jammu and Kashmir was overwhelmingly Muslim majority state. There is great significance of the accession of such state to Hindu majority India. At that time it was looked as an ideological, political, institutional, diplomatic and monumental triumph for India. But, it is unfortunate that the triumph has been proved a temporary one as it has endangered the peace roots of subcontinent. Today, Kashmir has reached on international platform as a big problem in South Asia.

The accession of Jammu & Kashmir to Indian Dominion was formally completed on 27th October 1947. But it could not immediately solve the deteriorating position in the State. On the one hand negotiations went on regarding the withdrawal of raiders between Pakistan and India. And on the other, situation got worsened. According to The Tribune, "About a dozen villages in Jammu province were in flame on Thursday night when they were looted and burned in sudden daring strike by a force of raiders estimated at 3000. Refugees from these villages said many of the raiders were Pathans, some on horse back, carrying stenguns and small arms." (Raiders Attack on Jammu in October 1947). It was not the incident of one day but had become the matter of day in the life of Jammu and Kashmir people even after the accession of the State.

Differences took place afterwards whether accession was complete and final and without any legal and constitutional disability. Earlier UN Secretary General Trygiva Lie issued the following statement vide UN Press Release dated August 12, 1947, Kashmir was not a neighboring area, it was a part of India. As the Government which by law has succeeded the British power in Delhi, the Government of India had a responsibility regarding Kashmir so long as it did not take a decision.

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about accession. (Raina, 1996, p.20). And at last, Maharaja Hari Singh opted Indian Dominion under whatever circumstances that does not matter, when one sees the legality of accession. Even Jinnah had openly proclaimed that, `the choice of the ruler would prevail over the wishes of the people of the State.’ (Mahajan, 1953, p.131). Although he had made such policy and viewpoint keeping in mind the position of Junagarh and Hyderabad. Alan Campbell Johnson, Press Secretary to Viceroy of India during the relevant period had said, The legality of Kashmir's accession to India is beyond doubt. It should be stressed that accession has complete validity both in terms of British Government and Jinnah's expressed policy statement. (Raina, 1996, p.22).

Sheikh Abdullah, the President of National Conference, said in his first prime minister ship tenure that the accession was irrevocable and final. Speaking before the Constituent Assembly of Kashmir on 11th August, 1952, he recounted the events of those days and said," Legal complications came in the way of India rendering the State any immediate help for its defense against aggression. The Government of India could send their army only if the State would accede to that Dominion. In accordance with the Indian Independence Act, 1947, the Instrument of Accession had to be executed by the ruler of the State in order to make it legally valid. Secondly, with the backing of the most popular organization in the country, the Maharaja signed the Deed of Accession on 26th October, 1947 and the State of Jammu and Kashmir

became the part of Indian Union." (Ali, 1964, p.8).\textsuperscript{43} Also Sheikh Abdullah has written in his autobiography, 'Aatish-e-Chinar' that the Instrument of Accession signed by Hari Singh was the same as those signed by rulers of other princely states. According to it, once accepted, accession was full, final, unconditional and irrevocable.

On the other side, talks between India and Pakistan to counter the raiders' attack and withdrawal of Indian troops were going on. But such talks failed when Pakistan Government declared his inability to stop raiders and India refused to withdraw her troops until they did.

On such a static point between two Dominions, Lord Mountbatten made a suggestion to call United Nations by India unilaterally. Menon writes that he (Mountbatten) was feared by the possibility of open war between India and Pakistan. Was his fear real or did he want to open a option for Pakistan in the case of Kashmir in coming future.

It was on 30\textsuperscript{th} December, 1947 when Government of India took a decision to raise Kashmir issue in the UNO. (The Tribune, 1947).\textsuperscript{44} Referring matter to UN Security Council was not welcomed both by India and Pakistan. Acharaya JB Kripalani, who was the Congress President at that time, made the following observation a few year later: Why was the Kashmir issue referred to the UNO.? This is something known only to a few in the Government of India., Evidently, it was to avoid trouble with Pakistan. But this as, after events have shown, could not be avoided. It is believed that reference was made on the advice of the British. (Raina,


\textsuperscript{44} Kashmir Issue raised in U.N. (1947, December 31). Shimla: \textit{The Tribune}.  

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1988, p.167). Mr. Zahid Hussain, the Pakistan High Commissioner in India, said in an interview at Lahore on 1st January, 1948 that government of India's decision to refer the Kashmir issue to Security Council of the UNO. would lead to more complications rather than facilitate solution. He said, "It would have been much better if the dispute had been mutually settled by negotiations between the Pakistan and Indian Governments and a reference to UNO. had been avoided. Kashmir occupies a strategic position and other powers will also be naturally interested in its future. Members of the UNO. are more inspired by other motives than altruistic principles. (The Tribune, 1948).

There is no doubt on the sincerity of Nehru to solve the Kashmir issue but his decision to refer the matter to the UN was perhaps wrong. By this act Kashmir issue has been completely internationalized by India itself. This step has worked as a hurdle for the political reconciliation in the State. India has been facing difficult situation at every step. Now Kashmir has become almost a permanent item on the agenda of United Nations.

The matter that was referred to UN as 'Kashmir Dispute' converted into the 'India - Pakistan case' with the clever managed representation of Pakistan. Now, it became the issue of Indo-Pak relations in the eyes of the world. Kashmir was represented by the two dominions in their own way. Both had difference not only on the cause and nature of the problem but also on the methods to solve it. For India's concern the cause of the conflict was tribal invasion and Pakistan's assistance to them. And India appealed UN for taking immediate actions to stop the raiders attack.

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While from the view point of Pakistan, Kashmir was only a part of troubled relations between India and Pakistan.

It was unfortunate, that both the parties, India and Pakistan, were treated on an equal basis on the platform of Security Council ignoring the fact that India was the complainant, the aggrieved party, while Pakistan was the accused. This approach definitely favored Pakistan. Thus, in the very inception of Kashmir dispute, it seemed Security Council was inclined more towards Pakistan.

A recommendation was made to set up a five member commission. The function of this commission would be to go to the subcontinent and play a role of good office and mediate between the two Dominions at their disposal. (Jagmohan, 1991, p.90).^47

One other important UN Security Council resolution, dated August 13, 1948 was passed. `The United Nations Commission for India and Pakistan (UNICP) submitted simultaneously to the governments of India and Pakistan the following proposals:

**Part I: Cease-fire Order.**

The Governments of India and Pakistan at the earliest practicable date would issue cease-fire order separately and simultaneously to all forces under their control in the state of Jammu and Kashmir and both the governments would appeal to their respective people to assist in creating and maintaining an atmosphere favourable to the promotion of further negotiations.

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Part II: Truce Agreement.

The Truce Agreement made it incumbent upon Pakistan to withdraw all its forces, regular and irregular, while India was required to reduce the strength of its forces.

Part III: Referendum

The Government of India and the Government of Pakistan reaffirm their wish that the future status of Jammu and Kashmir shall be determined in accordance with the will of the people and to that end, upon acceptance of the truce agreement, both Governments agree to enter into consultations with the Commission to determine fair and equitable conditions whereby such free expression of the will be assured. (Jagmoohan, 1991, pp. 51-53).\(^{48}\)

The above Resolution was completely accepted by India on 20 August, 1948. During the course of discussions and correspondence United Nations Commission assured India regarding following reservations:-

1. the proposed administration by "local authorities" of the territory evaluated by Pakistan troops could not question the sovereignty of the Jammu and Kashmir Government in that area nor afford any recognition to the "Azad" Kashmir authorities;

2. the time when the withdrawal of Indian forces......is to begin, the stages in which it is to be carried out and the strength of Indian forces to be retained in the state would be decided by Indian and the Commission-to the absolute exclusion of Pakistan;

\(^{48}\) *Ibid.*
3. Part III (of the resolution) does not in any way recognize the right of Pakistan to have any part in a plebiscite. (Diwan, 1995, p.359).49

It is evident from the above assurance given by UNCIP to India Pakistan shall be excluded from all affairs of Jammu and Kashmir in particular in the plebiscite, if one should be held and plebiscite proposal shall not be binding upon India if Pakistan does not implement parts I and part II of the resolution of 13th August, 1948.

Pakistan virtually rejected the August 13, Resolution. As for Pakistan's 'locus standi'; the Commission completely excluded it from having any role in the final disposal of Indian troops and the government of Kashmir was recognized as lawful government. But it is unfortunate, that rejecting the part I and II of the August 13, Resolution, Pakistan is continuously insisting on the implementation of Part III of the Resolution i.e. plebiscite.

The matter was referred to UN exactly a year before the world body's pressure resulted into a cease-fire. But as usual, while date was fixed no strategic concerns were considered by New Delhi. Military comrades were not consulted. The winning military battle was lost under the carpet of political solution. It was rightly said "We were politically unwise in accepting the cease-fire in view of our successes at the time in the Uri, Tithiwal, and Kargil sectors."(Kaul, 1971, p.9).50

It was only in June, 1949, when Indian constituent Assembly was passing through its final stages, the Jammu and Kashmir state realized its representation by its four representatives Sheikh Abdullah, Mirza Afzal

Beig, Maulana Masoodi and Pt. Moti Ram Baigra. However, even before this, the right to have its own Constituent Assembly was conceded in favour of Jammu and Kashmir a right which no other acceding state enjoyed. And after the adoption of the Indian Constitution on January 26, 1950, the Jammu and Kashmir state was irrevocably brought under the territorial and constitutional jurisdiction of India by dissolving the jurisdiction exercised by the Maharaja.

A special status for the state of Jammu and Kashmir was discussed in the Constitution of India by the Constituent Assembly. Some experts considers the communist for injecting the germs of Kashmir. According to Prem Nath Bajaj, it was because of Sheikh Abdullah and his colleagues insisted upon this demand on the advice of Communists. Indian Communists love for Soviet Union and Red China inspired Sheikh and his team to insist to establish semi-independent Kashmir with the glittering hope of turning at an opportune movement into an outer Mongolia on the sub-continent appeared to be their bold dream. (Korbel, 1954, p.267). Then after discussions, the makers of the Constitution decided to respect the wishes of the representatives from Jammu and Kashmir considering the prevailing circumstances both inside the State and UN. Gopalaswami Ayyangar drafted the special provisions to the state of Jammu and Kashmir and negotiated with Sheikh Abdullah and his associates. The special status to the State within the framework of Indian Constitution was granted by Parliament of India by adopting Article 370 on October 17, 1949.

Initially, the Article 370 states that:

"370. 1) Notwithstanding anything in this Constitution,-

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a) the provisions of Article 238 A shall not apply in relation to the State of Jammu and Kashmir;

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

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

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

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

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

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

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

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

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

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

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

Actually, the special status was provided to the State of Jammu and Kashmir for the time being only. Because matter was then being discussed before the United Nations and Pt. Nehru had suggested a plebiscite in the State. Pakistan had challenged India that it had annexed Jammu and Kashmir forcibly. When the insertion of the Article 370 was being debated in the Constituent Assembly, it was made clear that-this Article was placed for a temporary period till the UN Security Council would be able to respond to the India's complaint regarding vacation by
Pakistan of one-third territory of Jammu and Kashmir State occupied by sheer aggression. While placing the article 370 before the Indian Constituent Assembly, Mr. Gopalaswami Ayyangar then Union Cabinet Minister and former Diwan of Jammu and Kashmir State, expressed the hope on the behalf of "everybody here that, in due course, even J & K will become ripe for the same sort of integration as has taken place in the case of other states." (Malkani, 1989).  

Article 370 restricted the powers of Indian Parliament to make laws for Jammu and Kashmir State to foreign affairs, defense and communications. Otherwise it could do so only with the consent of the State Government. The Jammu and Kashmir was provided a degree of autonomy that other acceded states to Indian Dominion did not enjoy. This was broadly in accordance with Abdullah's stand. Earlier one day before its adoption, on 16th of October, 1949, Sardar Patel wrote to Gopalaswami Ayyangar, who had drafted the Article, "I find there are some substantial changes over the original draft, particularly in regard to the applicability of fundamental rights and directive principles of State policy. You can yourself realize the anomaly of the State becoming part of India and at the same time not recognizing any of these provisions......Any question of my approval doesn't arise. If you feel it is the right thing to do you can go ahead with it." (Das, 1971, p.305).

Even the Congress was not in the favour of the insertion of Article 370 for giving special status to the State of Jammu and Kashmir. 'Before formally moving the article in the Constituent Assembly, Mr. Ayyangar spelt out his proposals in the Congress Parliamentary Party His

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presentation provoked a storm of angry protests from all and Gopalaswami Ayyangar found himself a lone defender with Maulana Azad an ineffective supporter.(Shankar, 1992).\textsuperscript{54} Afterwards, Pandit Nehru defended the Article 370 in the course of a longish statement on Kashmir made in Lok Sabha on July 24, 1952, on the ground that as the issue had been referred to United Nations "the whole was in a fluid state."(Shankar, 1992).\textsuperscript{55}

Also it is evident from the title Temporary Transitional and Special Provision of the part XXI of the Constitution that includes Articles from 369 to 392 that it is not a permanent part of the Constitution. The article 370 was included in view of the problems arising in respect of the State of Jammu and Kashmir and also the fact that the government of India had given their assurance to the people of the State that their political future would be finally determined by themselves. The policy of the Constitution which appears from this Article is that the Constitution was framed for the entire Union of India but the provisions of that Constitution should not apply to the territories of the State of Jammu and Kashmir until and unless the President makes an order for its application. The Article was inserted as a temporary provisions until the Constituent Assembly of the State met and decided the political future of the State. The President was empowered by the Article itself to decide at the appropriate moment whether the article should be abrogated or be retained subject to exceptions and modifications.

Simultaneously, the period after second world war brought significant change in world politics. The United Nations, the product of


\textsuperscript{55} \textit{Ibid.}
Second World War, was dominated by powerful nations. Kashmir had become an issue in United Nations between India and Pakistan. On the issue of Kashmir world politics began. The policies of both the Government India as well as Pakistan on the issue of Kashmir got effected by world politics.