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OF BROKEN SOCIAL CONTRACTS AND ETHNIC VIOLENCE: THE CASE OF KASHMIR

Neera Chandhoke
Developing Countries Research Centre
University of Delhi, India

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Of Broken Social Contracts and Ethnic Violence: The Case of Kashmir

Neera Chandhoke

Developing Countries Research Centre, University of Delhi

How to find a form of association which will defend the person and goods of each member with the collective force of all, and under which each individual, while uniting himself with the others, obeys no one but himself, and remains as free as before. This is the fundamental problem to which the social contract holds the solution

Jean Jacques Rousseau¹

Introduction

Though what is euphemistically termed 'the Kashmir problem' has stalked political life in India since the advent of independence in 1947, it was really in 1988 that the issue acquired serious proportions. For in that year we were to witness a popular uprising in the valley *against* the Government of India and *for* independence, or *azadi*. Prior to 1988, Jammu and Kashmir constituted the linchpin of tensions between India and Pakistan. But it is of some interest to note that Pakistan's forays into the region in 1947 and 1965 brought forth scant support from the people of the valley. The popular upsurge in the valley of Kashmir in 1998, however, cast serious reflections on the state of India's democracy in general and the record of democracy in the state in particular. The uprising subsided within four years, but it opened the gates for the entry of extremist elements into the valley, and as recent events have shown, into the rest of the country.

I argue in this paper that the main reason for political discontent and resort to violence in Kashmir has to do with repeated infringement of the social contract by the central government of India, acting often in tandem with the state government. This has been accompanied by the insistent erosion of the democratic space that permits articulation of political discontent. In effect, in Kashmir not only did the state violate the social contract, democratic institutions and organisations failed to channel political restiveness. Dissatisfied groups had therefore little option but to resort to the use of violence; and since violence not only breeds its own trajectories but is self-reinforcing, conflict in the Kashmir valley took on a life of its own.

It is true that other parts of India have also undergone massive discontent. For instance, a movement for secession appeared in Tamil Nadu in the early 1960s, following the attempt to impose Hindi as a national language upon non-Hindi speakers. Bihar and Gujarat erupted in a major social movement under the leadership of J. P. Narayan in the early 1970s to protest against the authoritarianism of Prime Minister Indira Gandhi. But these conflicts pale before the scale of violence that was seen in Kashmir in the late 1980s, as well as in the Punjab and the North East.

Although many have lain the blame for the intensity of the violence on the ethnic factor, I trace the politicisation of identity to processes that are internal to democracy and federalism in India. I argue that the strong sense of ethnic identity that has been forged and propelled into the public sphere in the valley is the outcome of sheer bad faith on the part of the Indian

¹ Jean Jacques Rousseau, *The Social Contract*, Harmondsworth: Penguin, 1968, p.60.

state.² Arguably, ethnic identities are constructed in and through a series, or a combination of, political processes. But however constructed ethnic identities may be, once they have been constituted, in often inflexible and antagonistic modes, they lend a rather sharp edge to the weapon of political discontent. Further, once ethnic identities have been catapulted into the public realm as political strategy they prove, as history has shown, not only inflammatory, they also outstrip all efforts to contain them. An analysis of the way in which political discontent has sharpened ethnic identities and vice versa is woven through the discussion below. In short, I argue that despite the fact that much ink has been spilt on exploring the ethnic dimension of politics in the valley, and though more than a little academic energy has been expended on the 'Pakistan' factor, the *roots* of the Kashmir problem lie in processes that are internal to democracy and federalism in India. Quite what these processes are forms the substance of this paper.

The paper builds on a survey conducted in the district of Srinagar, which is classified as a high conflict area. We used three indicators to identify high conflict districts:³ murders, kidnappings and riots. This choice was corroborated by our finding that the incidence of murders, kidnappings and riots went up phenomenally during the phase of the conflict. On the basis of these three criteria we identified Anantnag, Baramula, and Srinagar districts in Kashmir as high conflict districts. For security reasons we were unable to conduct a survey in Anantnag and Baramula, therefore we choose Srinagar district. Through consultation with the district commissioner, police officers in the *thanas* of the district, academics, activists, and journalists, we identified the villages that have been *most* affected or *not* affected at all by the conflict. These were categorised as High Conflict Areas (HCA) and Low Conflict Areas (LCA). We interviewed a minimum of 150 respondents in each of these categories.

The paper is laid out in four parts. First, I discuss the theoretical debates concerning nationalism and ethnicity and ideas about the social contract. The second section is historical inasmuch as I focus on the controversy that surrounded the signing of the original contract in Kashmir. In the third part I investigate the manner in which the social contract has been infringed over time. The argument in this section is organised around some of the preliminary findings of a survey conducted in Kashmir. In the final section I draw out the implications of this analysis for theories of ethnic conflict.⁴

Addressing a Debate about Ethnic Conflict and Self-determination

Despite all claims to the contrary we still seem to live in an era of nation states. Therefore it is not surprising that the rise of ethno-nationalist movements that seek to reorder state boundaries sends political theorists and policy planners alike into a tizzy.⁵ Though some

² Jammu and Kashmir (J and K) border a neighbour, Pakistan, which rocked by its own political instability has repeatedly fished in troubled waters for various reasons. While I do not take up this issue more than tangentially, I believe that far too much has been laid at the doors of Pakistan and the Islamic brand of 'terrorism' that it is said to export.

³ These indicators are drawn from various reports *Crime in India*, published by the National Crime Records Bureau, Home Ministry, Government of India.

⁴ I do not examine in detail the course of violence in the state, and the role of the diaspora in fomenting conflict in this essay, not because these are not constitutive of militancy, but for reasons of space. Therefore, even as I take cognisance of these constitutive factors, I leave a detailed discussion on them for another time and another paper.

⁵ For an excellent review of literature on the theme, see Ian S. Lustick, *et al.*, 'Secessionism in Multicultural States: Does Sharing Power Prevent or Encourage It?', *American Political Science Review*, 98:2 (May 2004), pp.209-229.

scholars have normatively defended the right of ethno-nationalist groups to a 'state of their own',⁶ on the whole the scholarly community is opposed to secession. Take Allen Buchanan's argument: though Buchanan accepts that the right to secede is a moral right, he concludes that the normative principle of self-determination of groups ought to be abandoned since the costs of even wanting to implement the right are prohibitive.⁷ Scholars have legislated objections to the right of self-determination on various moral, legal, and practical grounds. Let me deal with just two of these.

For one, secession in the name of the self-determination of a people begs the question of who exactly these people are: whether an intangible entity called the 'people' does not contain significant minorities that do not subscribe to the goal of secession. There are other disturbing considerations that need to be taken into account, for instance that any 'disputed' territory is likely to be inhabited by a plurality of groups, each of which think of the world in ways that are different to the manner in which the group demanding secession does so. As Schofield suggests in the context of the Kashmir problem, there is no collective will for secession among the heterogeneous inhabitants of Jammu and Kashmir (J and K).⁸

This recognition may have some bearing on our understanding of ethnic conflict. Ethnic conflict, it is generally agreed, is about the terms on which a group seeks to redefine its own territorial boundaries at the expense of the larger territorial unit of which it has till then formed a part. What we need to recognise is that internal minorities within the group that demands a 'state of its own', as well as other ethnic groups within the territory, are also parties to the conflict inasmuch as their interests are affected both by the conflict and by the outcome.⁹ What about the rights of these groups/minorities to determine their own future? No self-respecting democrat can afford to overlook this aspect: not these days when minority rights have been fore-grounded in much of the literature on democracy.¹⁰

But this would mean that ethnic conflict is not only about one group, which united by a sense of political grievance confronts the state through the use of violence; it is also about the ways in which the leaders of the group seek to monopolise power in a given territory. To put it differently, ethnic conflict is basically about who will have control of power in a defined area through the employment of violence, not only against the state, but also against dissenting groups.

Therefore the proposition that every ethnic group should have a 'state of its own' on demand may not prove a sensible option. For the partition of a territory into two or more sovereign units has seldom resolved the issue of minority rights within the 'new' state. Consider the case of Pakistan: within a short span of twenty-four years after the formation of the state, erstwhile

⁶ Lustick *et al.* (2004), p.209.

⁷ Allen Buchanan, *Secession: The Morality of Political Divorce: From Fort Sumter to Lithuania and Quebec*, Boulder, Colorado: Westview Press, 1991. Self-determination is not a right to which all people or ethnic or cultural groups have simply by virtue of being distinct groups, argues Buchanan, and only those groups whose predicament satisfies the conditions laid down in any of the several sound justifications for secession have this right. In effect, the right to secede is a special selective right that obtains only under certain conditions (Buchanan, 1991, pp.151-62).

⁸ Victoria Schofield, *Kashmir in Conflict: India, Pakistan and the Unending War*, New Delhi: Viva Books, 2004, p.xv.

⁹ Sumantra Bose is one of the few scholars on Kashmir who has tried to grapple with this specific issue by building the interests of other groups living in Kashmir into his solution for the problem (*Kashmir: Roots of Conflict: Paths to Peace*, Delhi: Vistaar Publications, 2003).

¹⁰ Neera Chandhoke, *Beyond Secularism: The Rights of Religious Minorities*, Delhi: Oxford University Press, 1999.

East Pakistan seceded to form Bangladesh on the ground that the Bengali-speaking community was discriminated against by West Pakistan.

Secondly, we need to accept that partitions are seldom clean affairs: not only do they imprint bitter and un-erasable memories on the collective consciousness; they also leave legacies of unresolved boundary disputes and of other matters half done. India and Pakistan have on three occasions gone to war over disputed boundaries, and on other instances have come close to war. Or take Ethiopia and Eritrea, two of the poorest countries in the world. After a thirty-year war, Ethiopia recognised the independence of Eritrea in 1993. However, within five years war once again broke out between the two countries. Beginning as a minor border dispute, the war, which lasted from May 1998 to June 2000, resulted in an estimated 70,000-100,000 deaths, cost each country \$1 million a day,¹¹ diverted funds from much needed development activities into military action and weapon procurement, and resulted in gross human rights violations. Thousands of Eritreans were forced to migrate and join the ever swelling ranks of refugees in Sub-Saharan Africa.¹² All this took place in the midst of a severe drought that threatened to spiral into a famine as severe as the one that had afflicted the region in 1984. Five years after the Algiers Peace Accord of 2000, the border dispute remains unresolved.

It is not surprising that liberal democrats, always uneasy with nationalism's capacity to arouse primeval and belligerent emotions, are noticeably appalled when it comes to ethno-nationalism.¹³ For ethno-nationalism has invariably been accompanied by violence, xenophobia, ethnic cleansing and genocide. After all, when a group tries to construct a nation in order to demand 'a state of its own', this invariably is at the cost of other groups who do not fit into narrow and exclusive constructions of nationhood. "Very many of the potential nations of this world", wrote Ernest Gellner:

live, or until recently have lived, not in compact territorial units but intermixed with each other in complex patterns. It follows that a territorial political unit can only become ethnically homogenous, in such cases, if it either kills, or expels, or assimilates all non-nationals.¹⁴

For these reasons, democrats feel that the dark flanks of ethno-nationalism have to be contained in order to prevent another Croatia, another Serbia, another Rwanda, another Burundi, and another Sri Lanka.

Consequently, scholars have worked hard and worked overtime to draft solutions to a rather intractable problem. If we were to sum up the proposals on offer they boil down to essentially two sets of recommendations: power sharing and protection of cultural rights.¹⁵ In effect, the only way to prevent secession is to practice the politics of redistribution and recognition of ethnic groups. Both these suggestions inevitably dilute, if not dissolve, images of homogenous and centralised nation states. More importantly, mechanisms of power sharing, regional autonomy, linguistic and religious rights, representation of group interests in decision-making bodies, and decentralisation will, it is hoped, reduce the intensity of separatist demands and neutralise challenges. Institutionalisation of power sharing may well reassure secessionist or potential secessionists that their interests will be represented and their vital concerns protected

¹¹ *Mail and Guardian Online*, at <http://www.mg.co.za>, 23 October 2004.

¹² See <http://www.globalpolicy.org/security/issues.ethindex.ht>.

¹³ See, for instance, Chaim Gans, *The Limits of Nationalism*, Cambridge: Cambridge University Press, 2003.

¹⁴ Ernest Gellner, *Nations and Nationalism*, Oxford: Blackwell, 1983, p.2.

¹⁵ Wayne Norman, 'Theorizing Nationalism (Normatively): The First Steps', in Ronald Beiner (ed.), *Theorising Nationalism*, Albany: SUNY Press, 1999.

within the existing political community.¹⁶ Of course the danger is that monopoly over resources within the territory may also fuel separatist ambitions. But on balance, the federal argument is infinitely preferable to one that opposes federal arrangements. “Whereas decentralisation may provide cultural minorities with greater resources to engage in collective action”, writes Hechter, “at the same time it may erode the demand for sovereignty”.¹⁷

Arguably, the idea that federalism and cultural rights may serve to resolve problems of separatism, presumes that the predicament was created in the first place by the centralisation of power and denial or suppression of cultural rights. Get rid of these distortions, suggest theorists, and you will have resolved the crisis. The problem is that the post-1988 armed conflict in Kashmir does not perfectly fit into the theoretical slot constituted by this genre of reasoning. For one, the Muslim community in Kashmir – sections of which lead militancy in the valley – was at least in theory granted control over power in the state. Secondly, the Indian Constitution specifically guarantees the educational and cultural rights of minorities through articles 29 and 30. Thirdly, the state has undergone the kind of economic and social transformation that the rest of the country has reason to envy, with a massive programme of land reforms ushering in an epoch of relative equality. For instance, poverty figures in the state are extremely low compared to Bihar, Uttar Pradesh, and Orissa.¹⁸ In sum, central government policy towards J and K may have been mixed, often misguided, often arbitrary and unjust, at times overtly coercive, and at other times overtly accommodating. But to say that the inhabitants of the Kashmir valley have been subjected to outright repression or denial of cultural rights would be to misrepresent the issue.

Yet from 1988 onwards, Kashmir has been wracked by brutal violence. Confrontation between militants and security forces has led to thousands of deaths, the imposition of draconian laws, and massive violations of civil liberties; and the cost ordinary people have had to pay for a conflict that is not of their making is stupendous. Consider that out of the 322 respondents that our research team interviewed in the district of Srinagar, 45 percent of the respondents (55 percent in the HCAs and 34 percent in the LCAs) told us that the conflict had affected them personally. 26 percent told us that they were subjected to harassment by the security forces, and 21 percent said that they were suffering from psychological depression. The incidence of psychological depression in HCAs in Kashmir is 27 percent compared to 11 percent in LCAs. That 34 percent of the respondents in LCAs suffer harassment at the hands of the security forces, compared to 21 percent in HCAs, is deeply suggestive of the fact that people who do not live in conflict areas are adversely affected by the fall out of the conflict.

What was the cause for the outbreak of violence in Kashmir? The outbreak of conflict does not belong to the sphere of ‘happenstance’. Conflicts are produced and reproduced through political acts as much as they are resolved through political acts. In the rest of this paper I will argue that the reasons for the outbreak of militancy have to be looked for in the failure of political institutions and organisations in Kashmir, notably in the violation of the social contract, which set the ‘rules of the game’ in the first place. But fortunately contracts are not set in stone, and it is possible therefore to either renegotiate the social contract or to craft a new one that incorporates new demands and that rectifies shortcomings of the earlier one.¹⁹

¹⁶ See Ulrich Schneckener, ‘Making Power-Sharing Work: Lessons from Successes and Failures in Ethnic Conflict Regulation’, *Journal of Peace Research*, 39:2 (2001), pp.203-228.

¹⁷ Michael Hechter, *Containing Nationalism*, Cambridge: Cambridge University Press, 2000, p.146.

¹⁸ The number of people below the poverty line is only 3.48 percent (Planning Commission, *State Development Report: Jammu and Kashmir*, New Delhi: Government of India, 2003, p.43).

¹⁹ The argument is, of course, directly applicable to Kashmir, which is amidst conflict, but it can be generalised to other states.

Just one point needs to be clarified here. I employ the generic concept of the ‘social contract’ to encompass both the democratic and the federal contract, for these are not two separate contracts. Federalism or decentralisation and devolution of power in a large, multilingual and multireligious society like India, is indispensable for the realisation of substantive democracy for two reasons. One, vertical and horizontal division of power between different organs of the government and different territorial units prevents concentration of power, because the latter is counterproductive for democratic life. Secondly, substantive democracy necessarily implies popular participation, and popular participation is both possible and effective in territorial units that are smaller than the nation state. In sum the realisation of democracy demands federalism and vice versa.

The Social Contract

Social contract theory has been subjected to a great deal of criticism, notably on the ground that history does not bear witness to the signing of the contract. These critiques, it seems to me, are misplaced for two reasons. Firstly, the social contract is not entirely fictitious, even if it is not entirely factual. What the notion of the social contract does is to provide us with a metaphor for the ordering of all manners of relationships in the modern world, marked as modernity is by the loss of moral obligation. “The choice” of the use of the social contract, writes two scholars:

may be to create society; civil society; a sovereign; procedural rules of justice; or morality itself. The choice may be historical, ideal or hypothetical, its expression explicit or tacit, and the contractees may be each individual contracting with every other, individuals contracting with their rulers and God...the heads of families agreeing among themselves, corporations or cities contractually bound to a superior, or the people as a body contracting with a ruler or a king.²⁰

The contract, in other words, lays down procedures and establishes institutions to regulate relationships between individuals, between entities and individuals, and between entities. The establishment of procedural rules in turn engenders expectations that relationships will be ordered ‘this’ way and not ‘that’. Simply put the metaphorical signing of the contract begets hope that institutions will provide order, predictability and certainty to life itself.

Secondly, the social contract is important because it signifies a transition from state x to state y, as for Thomas Hobbes for whom the social contract inaugurated a transition from the state of nature to political society. In the process, Hobbes significantly reversed the Aristotelian dictum that political society, or *koinonia politike*, is natural to human kind. For Hobbes political society is *constructed* for a specific end: to secure the basic right of human beings to self-preservation. This right is so important that the inhabitants of the state of nature are willing to surrender their natural freedom in return for assurances that their lives will be secured by the sovereign. The contract is thus a *trade off* between freedom granted by the law of nature and security provided by the state. But, *if* the Leviathan set up via the social contract violates the basic provisions of the contract, or *if* he fails to safeguard the right of self-preservation in any manner, individuals have the right to dissolve the social contract and opt out of political society.²¹ Hobbes has generally been seen as a defender of the absolutist state, but it seems to me that he has given us the basic precepts of modern democratic thought:

²⁰ David Boucher & David Kelly, ‘The social contract and its critics: an overview’ in David Boucher & David Kelly (eds), *The Social Contract from Hobbes to Rawls*, London: Routledge, 1994, p.2.

²¹ Thomas Hobbes, *The Leviathan*, New York: Prometheus Books, 1988 [1651].

popular sovereignty, consent, the idea that individual rights pre-exist political society, political legitimacy and the limits of political obligation.

Accordingly social contract theory is significant for democratic practices. Firstly, the social contract lays down the rules of the game inasmuch as it establishes both power and the limits of power, and political obligation and the limits of political obligation. Towards this end the contract institutes procedures and institutions, rules division of power between organisations, and provides for regulation of disagreements. Secondly, social contract theory tells us that government is a trust and that people delegate power to the state. For this very reason the state is compelled to respect the wishes of the people. If the state violates the terms of the contract in any way, citizens are no longer obliged to heed its diktats. They can vote it out of power, much as the Hobbesian individual can rebel if the Leviathan cannot provide him with the means of self-preservation. In sum, the social contract assures us that an activity that the Greeks called 'politics' is conducted in accordance with certain norms, that differences are contained /regulated / arbitrated / negotiated procedurally, and that no party can contravene these procedures/norms easily. The argument of the social contract, suggests Hampton, has been important in thinking through the idea of the government as the creation of the people, which they can and should judge, and which they have the right to overthrow if they find it wanting. Defenders of modern democracy, Hampton goes on to argue, self-consciously recognise one of the main descriptive points of the contractarians, namely that democratic societies are created and maintained by the people who are ruled by them.²² Two rather momentous implications follow: unless political aspirations are channelled and democratic accountability institutionalised, and unless state power is self-limiting, not only will politics spill out into the streets; it may well challenge the institutionalisation of politics itself.

Historical Roots of the Social Contract in Jammu and Kashmir

It is perhaps significant that the 'signing' of the social contract, which incorporated J and K into the Indian Union,²³ was accompanied by acrimony and bitterness. In order to understand the complexities of the issue we need to briefly examine the political biography of J and K. Till 1947, J and K was a princely state that lay outside formal control of the colonial state. The state itself had come into existence in 1846, when the British East India Company, deeply unsettled by the factionalism which had pervaded Punjab in the aftermath of the death of Maharaja Ranjit Singh in the 1830s,²⁴ and motivated by geo-strategic considerations, sold "all the hilly or mountainous country... eastward of the river Indus and westwards of the river Ravee... being part of the territories ceded to the British Government by the Lahore state" to the Hindu/Dogra ruler of Jammu Gulab Singh, for a sum of Rs 7,500,000. Separate territories under different sovereignties were patched together to create the state of J and K: Jammu, the Kashmir valley, Ladakh and Baltistan (which had been occupied by Gulab Singh in the period 1830-1840), and Gilghit (which was captured by him in 1860). In 1935, the British government formally leased the Gilghit agency, which had been under their *de facto* control,

²² Jean Hampton, 'Democracy and the rule of law' in I. Shapiro & R. Barnett (eds), *Nomos*, New York: New York University Press, 1992.

²³ The Indian Union was forged through two separate and parallel processes. In the first instance, the immediate post-independence government fashioned constituent states of the federation out of the territory formerly known as British India on the twin principles of linguistic identity and territorial contiguity. In the second instance, hitherto autonomous princely states were incorporated into the Union through instruments of accession signed by the rulers.

²⁴ Kashmir was part of Ranjit Singh's Sikh empire.

for a period of sixty years. In 1936, Poonch, formerly an independent kingdom, became a part of J and K.²⁵

“The underwriting of Dogra rule by the British”, writes Rai, “began a process that enabled the overlooking, if not the outright exclusion, of the elementary rights of the people of Kashmir”.²⁶ From 1846 onwards, Dogra policy towards the Muslim inhabitants of the valley was based on religious discrimination, economic exploitation, heavy taxation, and denial of political rights. This not unexpectedly created massive discontent, which was tapped by Sheikh Abdullah in 1932 when he set up the All Jammu and Kashmir Muslim Conference. The objective of the party was to protect the interests of the Muslim community against the tyrannies of the Maharaja. In 1939, the Muslim Conference was replaced with the secular and more inclusive Jammu and Kashmir National Conference (NC). Other non-Kashmiri Muslim leaders, such as Chowdhry Ghulam Abass, resurrected the Muslim Conference in the aftermath of the Pakistan Resolution of 1940, but it was the NC that was popularly seen as representing the interests of the people of the state. In the meanwhile, Sheikh Abdullah had allied with the Indian National Congress, which was at the forefront of the struggle for independence, and established close personal relations with Pandit Nehru in 1938.

On 17 July 1947, the British government enacted the Indian Independence Act and set the stage for the transfer of power to India and the partition of the country. The Viceroy, Lord Mountbatten, advised rulers of all princely states to join either India or the new state of Pakistan. When it came to J and K, the Maharaja decided to keep his options open and proposed a ‘Standstill Agreement’ with both countries on 15 August,²⁷ though he did consider the option of joining Pakistan if that would leave his powers and privileges intact. On 15 August, the British restored Gilgit Agency to J and K; and on 18 August, the Radcliffe Award on boundaries gave India a road link to the state through Gurdaspur in Punjab.

There then began a period of tussle between India and Pakistan for control over J and K for a number of reasons. For one, since the frontiers of undivided J and K border China and Afghanistan, the region is geo-strategically significant for both the countries.²⁸ Secondly, all the rivers upon which Pakistan is dependent for its water supply flow out of the state. Thirdly, the western flank of J and K borders Pakistani Punjab, and this, according to the Government of Pakistan, gave it rights to the territory. Fourthly, Pakistan claimed J and K because an overwhelming majority of the population in the valley was Muslim. On the other hand, for India the incorporation of J and K into the Union was crucial, because this would both

²⁵ The state, which is multilingual, multireligious and multicultural, consists of three regions each of which has distinctive characteristics. The region of Jammu is predominantly inhabited by Hindus, with Muslims being concentrated in the districts of Doda and Rajouri. Approximately half of the population of Ladakh, which is sparsely populated, is Buddhist, and the other half is composed of Shia Muslim and Hindus. In Pakistani-Occupied Kashmir, Shia Muslims predominate in the Northern Areas of Hunza, Gilgit, Nagar, and Baltistan, and Sunnis in Kotli, Poonch, Mirpur, and Muzaffarabad. Groups in that part of Kashmir are as culturally distinct from each other as in Indian Kashmir.

²⁶ Mridu Rai, *Hindu Rulers, Muslim Subjects: Islam, Rights, And the History of Kashmir*, Delhi: Permanent Black, 2004, p.27.

²⁷ A standstill agreement *vide* the Government of India Act 1935 ensured the continuation of essential relations in communication, trade, and posts between a princely state that had not decided upon its options and one or both dominions.

²⁸ At the time of partition of India, J and K, including Aksai Chin, stretched over an area of 222,236 square kilometres; the valley constituted 10 percent of the total area, Jammu 14.4 percent, and the frontier districts as much as 75.6 percent. According to the 1941 census, Muslims formed 77 percent of the population and Hindus 20 percent.

validate its declared policy of secularism and invalidate the two-nation theory, which had led to partition.

Pakistan was well aware that the Maharaja would opt to join India if his wish for independence was thwarted. It was equally clear that Sheikh Abdullah, who became the head of the emergency administration in the state in September 1947, would opt for India, given the close links of his party with the Congress, his own personal links with Pandit Nehru, and the fact that NC had officially adopted secularism.²⁹ Further, the Sikhs, the Hindus, and the Buddhists in Jammu and Ladakh would oppose accession to Pakistan.

Internal developments in J and K provided Pakistan with the opportunity it was looking for to intervene in the state. In August 1947, the Muslim community of Poonch, provoked by the misrule of the Maharaja and by reports of massacres of Muslims in Hindu-dominated eastern Jammu districts during the partition,³⁰ revolted under the leadership of demobilised soldiers.³¹ By 3 October, the rebels, who had acquired control over much of the district of Poonch, along with the pro-Pakistani chieftains of Muzaffarabad and Mirpur in Western Jammu district, proclaimed the formation of '*azad Kashmir*' in Pakistan. Shortly afterwards, on 18 November 1947, Gilgit and neighbouring states, including Hunza and Nagar, signed Instruments of Accession with Pakistan.³²

On 21 October 1947, an armed incursion into the state by some several thousand Pashtun tribals from the North West Frontier Province took place. It was generally felt that Pakistan had backed the raid,³³ though the Pakistani government insisted that it was not involved. After taking the town of Muzaffarabad, the raiders headed for Baramulla where they inflicted unimagined atrocities on the population. Killing almost 3,000 of the 14,000 population of the town, they subsequently moved towards Srinagar. The Maharaja, forced by circumstances to make up his mind on accession, signed the Instrument of Accession with India on 26 October 1947, and sought military assistance to repel the invaders.³⁴ The Instrument was accorded legality when Lord Mountbatten, the Governor General of India, accepted it the next day. But here occurs a twist in the tale that haunts politics in the Kashmir valley till today. In the letter that accompanied the acceptance of the Instrument of Accession, Lord Mountbatten stipulated that after the invasion was cleared and law and order restored, the question of the State's accession should be settled by reference to the people. This was consistent, wrote Mountbatten, with the policy of the Government of India that in the case of any state where accession was disputed, accession should be decided in accordance with the wishes of the people.

²⁹ Zutshi quotes Sheikh Abdullah as saying, in a public meeting after his release, that the question of accession would be decided in the best interests of the people of Kashmir. He is reported to have stated that "freedom before accession" was important for the people of the state (Chitrakha Zutshi, *Languages of Belonging: Islam, Regional Identity, and the Making of Kashmir*, Delhi: Permanent Black, 2003, p.306).

³⁰ On the other hand, the entire Hindu and Sikh population of Muslim majority districts in western Jammu districts (Muzaffarabad, Baramulla, Rawalakot, Kotli, Mirpur and Bhimbar) were forced to migrate or killed.

³¹ The revolt had begun earlier but was suppressed by the Maharaja's soldiers.

³² However, they have never been formally accepted as a part of Pakistan, and as part of the Northern Territories along with Baltistan, they remain under Pakistani administration without the same rights and privileges as the rest of the provinces in the country.

³³ The Maharaja of J and K, in a letter that accompanied the Instrument of Accession, stated that the "mass infiltration of tribesmen...fully armed with up-to-date weapons, cannot possibly be done without the knowledge of the Provincial Government of the North-West Frontier Province and the Government of Pakistan" (cited in Vivek Chaddha, *Low Intensity Conflicts in India*, Delhi: Sage, 2005, p.59).

³⁴ The Government of India had insisted that it could not send troops to an independent country.

Since the Maharaja had acceded to India, on 27 October 1947, Indian troops arrived in Srinagar in order to contain the onslaught of the tribal raiders. By 14 November, Baramullah and Uri had been recaptured by the Indian army. In the meanwhile, a meeting between Lord Mountbatten, Jinnah and Liaquat Ali Khan in Lahore on 1 November to resolve the continuing tension caused by the tribal incursion came to naught, because the Pakistani government continued to insist that accession of the state of J and K to India was based on fraud and violence, and was therefore not *bona fide*.³⁵ On 1 January 1948, India lodged a formal complaint against Pakistani aggression in the United Nations Security Council under article 35 of the UN Charter. Later that month, the UN set up a three member UN Commission for India and Pakistan (UNCIP) to mediate the problem.

Fighting resumed in April 1948 when Pakistan sent three brigades of regular troops into the valley. In April-May 1948, the Indian army retook Rajouri in Jammu, and moved north. The Security Council, under the heavy influence of the US and the UK, both of which were interested in protecting their strategic and economic interests in West Asia, adopted three resolutions in 1948 and 1949 calling for the withdrawal of Pakistani forces, reduction of the Indian presence in the state, and the appointment of a Commissioner who would oversee the holding of a plebiscite. The UN resolution adopted on 13 August 1948 recommended that a final decision on the status of J and K “shall be determined in accordance with the will of the people”. Thus not only was a bilateral problem internationalised, a rider was once again attached to the act of accession: the holding of a plebiscite. This was followed by a call for a ceasefire in August 1948 as an essential step for the holding of the plebiscite to determine the wishes of the people.

The ceasefire finally came into effect on 1 January 1949. In July 1949, the military representatives of the two countries signed the Karachi Agreement demarcating the ceasefire line, which stopped short at the Siachen Glacier, and both troops withdrew to behind the line.³⁶ In effect the ceasefire formalised the tripartite division of J and K, with India keeping less than half of the undivided state, which is the major part of Jammu, Ladakh and the Kashmir valley. One third of the region, which consists of a sliver of territory extending from the north to the south of western Jammu district, is under the control of Pakistan. Pakistan also controls Skardu in Ladakh, and the thinly populated Northern Territories of Gilgit and Baltistan. Aksai Chin, occupying 16.9 percent of the area of the state and almost no population, came under the control of China during the 1950s. In 1963, Pakistan ceded to China another 2.33 percent of the land claimed by India.³⁷

In March 1950, the UN wound up the UNCIP, and appointed a UN representative in India and Pakistan, and a Plebiscite Commissioner. However, the recommendations of the Plebiscite Commissioner did not find favour with the Prime Ministers of either country. In December 1952, another UN resolution called for troop reduction by both countries. Whereas Pakistan

³⁵ Schofield (2004), p.61.

³⁶ Since 1949, the ceasefire line has remained the *de facto* border between the two parts of Kashmir on the one hand, and between India and Pakistan on the other. During the 1972 Simla negotiations between India and Pakistan, the ceasefire line was renamed the Line of Control (LOC). The LOC stopped short at the Siachen glacier, which extends for forty miles to the *de facto* border with China. In 1984, Indian troops took control of part of the glacier, and now Indian and Pakistani troops confront each other in the highest war zone in the world.

³⁷ Today 45.62 percent of the original territory of the state is with India, 35.15 percent with Pakistan, and 19.23 percent with China. The valley of Kashmir consists of 15.8 percent of the area of Indian J and K, Jammu consists of 25.9 percent, and Ladakh 58.3 percent. According to the 2001 census, the population of Kashmir totals 10.01 million, of which Muslims form 64.2 percent, Hindus 32.2 percent, and others 3.6 percent. Muslims form 95 percent of the population in the valley.

accepted this, India did not. In the meanwhile India had tilted towards the Soviet Union, which had emerged as a formidable power in the UN even as Pakistan allied strategically with the US. The Soviet Union backed India's position that the accession of J and K to India was not in dispute, and further discussions in the UN were deadlocked. Subsequently, though the Kashmir issue has been periodically raised in the UN, the problem has not been resolved.

The promised plebiscite was never held, but Kashmir's accession to the Indian Union was seen by India as settled for the following reasons. One, the Maharaja had signed the Instrument of Accession. Secondly, though Sheikh Abdullah, the leader of the most popular political party in the state and the head of the state government since 1947, vacillated on the issue of whether J and K should opt for independence or join India or Pakistan, in 1948 he declared in the Security Council that "Kashmir and the people of Kashmir have lawfully and constitutionally acceded to the dominion of India".³⁸ Thirdly, a few weeks after the Maharaja had acceded to India on 27 October 1947, the working committee of the NC passed a resolution recommending the accession of J and K to India, and the resolution was ratified by a special convention of the representatives of the people of the state. Throughout the war, from October 1947 to December 1948, the NC supported India. Fourthly, the State Constituent Assembly which was convened in October 1951, and to which delegates were elected on the basis of full adult franchise, approved accession. The Constitution of J and K, which was adopted in 1957, made the state an integral part of India. The then Prime Minister of the state, Bakshi Ghulam Mohammed, declared in the first broadcast he made to the nation that: "The democratic movement in the State has been consistently fighting for the realisation of an autonomous status for the State within the Indian Union".³⁹ Whereas accession was not disputed, the issue of autonomy of J and K was. Finally, though the Security Council had recommended that Pakistan withdraw its troops from the territory as a condition for holding the plebiscite, this was not carried out. In fact in 1948 India had accepted the recommendation of the UN Commission on India that a plebiscite be held in J and K, but Pakistan rejected the idea on the assumption that given the strong influence of Sheikh Abdullah the state would opt for India.

Though in November 2004 President Musharraf of Pakistan dropped the demand for a plebiscite, this remains on the political agenda, albeit a contested political agenda. Schofield points out that in 1989, when the valley witnessed a popular uprising, some were still fighting for a plebiscite so that they could join Pakistan, and others wanted a plebiscite for the exercise of the third option: that of independence. Yet other inhabitants of the state (the Buddhists, the Ladakhis, and the Shia Muslims of the Kargil area) have not demanded the holding of a plebiscite and did not support the uprising. The formerly nomadic Gujar and Bakherwal Muslims also did not support the uprising, and the Hindus and the Sikhs have in any case regarded J and K as an integral part of India.⁴⁰

Contractarians assume that the social contract is binding because parties consent to the terms voluntarily and in full awareness of what they are giving up and what they expect to receive in return. The problem is that contract theorists abstract the metaphorical 'signing' of the contract both from the messiness of political life and from histories and biographies. Consider,

³⁸ Cited in Riyaz Punjabi, 'Kashmir imbroglio: the socio-political roots', *Contemporary South Asia*, 4:1 (1995), p.47. However, as Punjabi notes, Sheikh Abdullah declared in a public meeting in September 1947 that "Our first demand is complete transfer of power to the people in Kashmir. Representatives of the people in a democratic Kashmir will then decide whether the state should join India or Pakistan" (Punjabi, 1995, p.46).

³⁹ Cited in Punjabi (1995), p.49.

⁴⁰ Schofield (2004), pg xiii.

for instance, how the Hobbesian state of nature is both pre-political and ahistorical. In the real world, however, matters cannot but be different, because the parties to the contract (individuals/groups and the state) are embedded in history as well as politics. In the case of Jammu and Kashmir, since the signing of the Instrument of Accession was accompanied by the commitment to hold a plebiscite in the state, the failure of the Indian government to hold the plebiscite for reasons detailed above, led to the feeling among some sections that the contract itself was not legitimate.

Consequently, political grievances that had accumulated in and through the controversy that surrounded the 'signing' of the contract continue to stamp collective memories. The scars could have healed if the central government had respected the terms of the contract. Political passions could have been soothed and aroused popular energies could have been channelled through democratic processes. But since, as I seek to show below, the central government failed precisely on this account, historical memories of 'harm done' were to feed into the inventory of political grievances to create an explosive situation in the state within a rather short span of time.

The Social Contract: Politicisation of Ethnicity and Violence

It is generally agreed that the first generation of Indian leaders was remarkably prescient inasmuch as it recognised that the federal system had to be based on geography as well as identities. Today the idea that cultural groups should control power in their own spaces has taken hold of intellectual imaginations the world over. But in India the principle, which was accepted as far back as 1908, was institutionalised in 1956 through the formation of linguistic states. In J and K this assurance was given to the Muslim majority in the valley. For despite the fact that the state is both multireligious and multicultural, it is the Muslim majority in the valley that has, through a series of historical events detailed above, become politically significant. Further, the special status accorded to J and K should have assuaged any fears that the rights of the community would be infringed in any way.

If this constituted the core of the federal contract between the centre and the states, the establishment of democracy in the country assured citizens that their interests would be protected. Most democrats agree that the best way to prevent discontent, which is arguably an intrinsic feature of mass politics, from spilling over into the streets is to channel it through institutions and procedures. Defenders of federalism concur that the best way of preventing discontent is to decentralise power to local elites. If division of powers between central and state governments provides the core safety valve in a federal system, political and civil rights, a functioning rule of law, and a free press constitute the hub of democratic practices. It is this understanding that is codified in the (federal/democratic) social contract. It follows that if the social contract is violated in any way by any entity, if the expectations generated by the social contract are frustrated, if governments and political parties and the institutions through which they operate fail to neutralise discontent, practitioners of politics may well feel that they are justified in taking up arms. It is precisely this that happened in J and K.

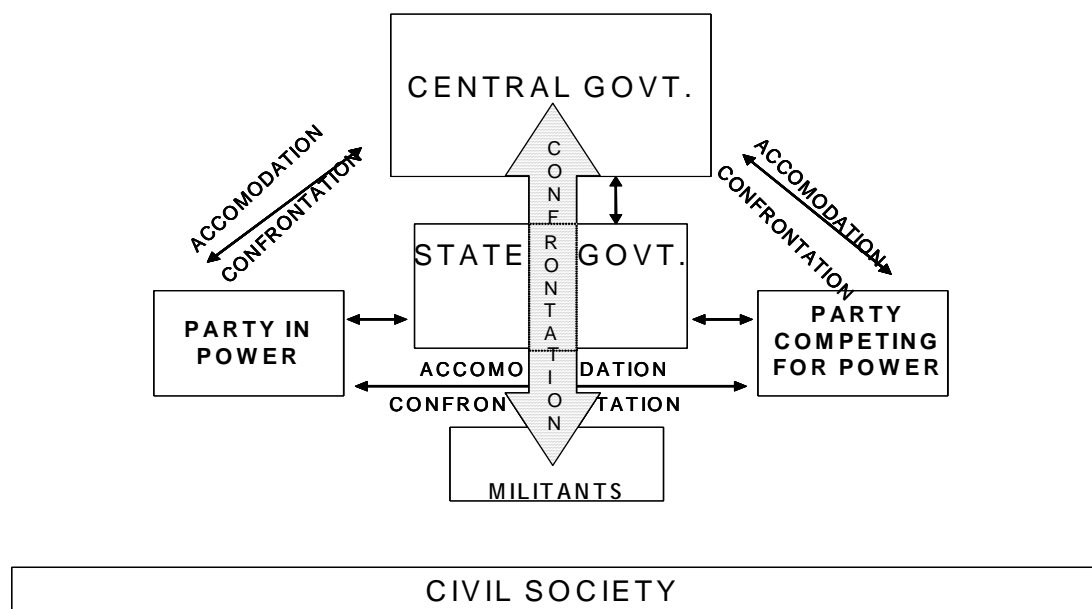
In the late 1990s, the federal system in the country underwent a historic transformation because of the rise of regional parties and the establishment of coalition governments in the centre. In earlier times, however, the principle of state autonomy has been somewhat unhappily violated by the central government under the control of the Congress party and Prime Minister Indira Gandhi. Even as the Congress attempted to monopolise and centralise power through a series of manoeuvres targeting non-Congress governments, the space of state

autonomy shrank drastically. This led to massive discontent in various parts of the country. But the consequences proved disastrous when it came to Kashmir, for the violation of the federal principle tended to be interpreted as a threat to the right of the dominant ethnic group to control power. In sum, the politicisation of ethnic identities that had taken place during the time that preceded the signing of the contract, added an extra dimension to centre-state relations. It is this extra dimension that has made conflicts within the state so inflexible.

In effect, we can discern two sets of tensions at work in the federal system. The first set of tensions marked relationships between the central government and state governments with each struggling to expand its domain. The second set of tensions operated between political parties, which claimed to represent the interests of the community: the National Conference on the one hand, and political parties such as the Congress on the other. Often the two sets of leaders worked against each other, with one set invariably siding with the central leadership. Intra-elite competition for control of respective states often took ugly forms and resulted in factionalism and defections. This in turn led to the collapse of state governments, political instability, the imposition of presidential rule, and suspension of democratic life.

The inability of state leaderships to safeguard state autonomy, and their collaboration with the central leadership in the making and the unmaking of governments, resulted in a third set of tensions erupting onto the political scene: between the central/state elites on the one hand, and 'new' leaders who challenged the legitimacy of the former, often through the use of extra-institutional methods. In J and K, these political leaders were forced to resort to the use of violence because they were denied opportunities to participate in the democratic process.

If we were to map out the various dimensions of tension-ridden relationships between political actors, it might look something like this:



Given that the central government, the state government, and political parties vying for power failed to respect the respective mandates of the federal/democratic social contract, it is not surprising that citizens in the state, as our research shows, hold these three political entities responsible for the outbreak of violence. During the course of the survey, the research team

asked respondents who they thought were responsible for the outbreak of violence: political parties, the state government, the central government, security forces, external powers, separatist organisations, or other organisations. In Kashmir, a large percentage of 322 respondents in both HCA and LCA held that three political entities (political parties, central government and state government) were responsible for the conflict in some way or the other (see Table 1).

Table 1: Fixing Responsibility

	HCA	LCA
Political Parties	47.2%	62.0%
State Government	56.0%	74.0%
Central Government	44.0%	63.0%
External Powers	52.1%	57.4%
Security Forces	50.3%	59.0%
Militant Groups	32.0%	23.0%

The largest number of respondents in HCA and LCA in Kashmir feel that the state government is responsible. Given that the conflict continues, particularly in HCA in Kashmir, it is significant that after the state government, external powers, security forces and political parties in that order, are held more responsible for the problem than the central government. In the LCA, on the other hand, the state government, central government, political parties, and external powers are seen as more responsible than security forces for the problem. Substantially lower numbers of people in Kashmir hold the separatist groups responsible, though it is interesting that the percentage of people in HCA who think that separatist groups are responsible is higher than in the LCA. On balance, however, the three political entities (the central government, the state government, and political parties) are held responsible for the conflict in both the states in one way or another.

When asked why these entities were responsible, the answers ranged from corruption in all three, failure to meet basic needs in the case of the state government, and failure to respect identity in the case of the central government; and when it came to the question of how far these three entities had helped to resolve the problem, the almost-majority opinion was that they have exploited the conflict for political and economic gains. The question that becomes significant in this context is: in what way did political institutions and organisations contribute to the conflict?

Much of the anger in the Kashmir valley has been fuelled by two developments in state politics. One, that the terms on which the state was incorporated into the Indian Union have been massively violated by the central government in connivance with the state government. Secondly, whenever political groups other than those belonging to the dominant political party in the state (the National Conference) have tried to enter the democratic process, their efforts have been frustrated. This, as we shall see, has led different political groups, which before the 1987 elections to the state legislative assembly were perfectly willing to participate in the democratic process, towards militancy. As far as the people of the valley are concerned, the state government (dominated till 2002 by the NC) and the central government controlled by the Congress party, are deeply compromised. All three entities have played their part in thwarting the aspirations of the people of the state, in preventing the expansion of the democratic space, proscribing the entry of new political groups into the political process, and in generally infringing the democratic rights of the people of the valley. If this has led to

militancy on the one hand, on the other it has led to deep disenchantment with the political process.

As Koithara points out, the contest in Kashmir is not just between India and Pakistan, there is an important third party to the conflict: the large number of discontented people in the state. Though Pakistan has been trying to destabilise the region for long, Koithara goes on to argue, its efforts bore fruit only in the 1990s because of the intensification of frustration within the valley;⁴¹ and Widmalm suggests that the roots of political violence in J and K lie in the acts of the political elites and the weaknesses of institutions in the late 1980s. Resultantly, by 1988 the political opposition in the state relinquished its faith in the usefulness of competing within what was left of the democratic framework.⁴² It is not that democracy and federalism were not established in J and K; it is that both these processes were not given a chance to be institutionalised. Even as the people of the state were denied access to governments and political parties that could channel popular aspirations and guide expressions of discontent into permissible forms, even as the federal contract was repeatedly flouted, even as opposition to policies in particular and to politics in general was interpreted as anti-national, and as threatening to the territorial integrity of the nation, protests took the form of extreme violence. It is not surprising that discontent was harnessed to the cause of Islamic *jihad* by Pakistani-sponsored elements.⁴³ What is surprising is that the Indian state failed to see that this would necessarily happen if democratic institutions degenerated.

Consider, for instance, how the terms of the original contract were violated within a period of barely ten years. In May 1949, the leadership of the central government and that of the NC decided that the provisions of the Indian Constitution with regard to the powers of the central government *vis a vis* the state governments would not apply to J and K, and that the state would have a constitution of its own framed by a constituent assembly. This gave J and K a unique status as the only state that is governed by a constitution of its own. The accession of the state to the Indian Union was formalised *vide* the Indian Constitution, and the Constituent Assembly, honouring the 1949 settlement with the leadership of the NC, incorporated Article 370, which laid down special provisions for the State. Accordingly the powers of the Indian Parliament to make laws for the state were limited to defence, external affairs, and communication. The government of J and K was not only granted complete jurisdiction over other areas in the state, but also given the right to have its own flag.⁴⁴ More importantly, the provisions of the Indian Constitution could be extended to the state only with the concurrence of the state government and ratification by the constituent assembly. Article 370 was implemented by the first Constitution [Application to Jammu and Kashmir] Order in 1950.

In October 1951, the J and K Constituent Assembly was elected on the basis of adult franchise. On 24 August 1952, the Delhi Agreement, which was the product of negotiations between the central leadership and the leadership of the NC, stated that:

⁴¹ Vergehes Koithara, *Crafting Peace in Kashmir: Through a Realist Lens*, Delhi: Sage, 2004, p.53.

⁴² Sten Widmalm, 'The Rise and Fall of Democracy in Jammu and Kashmir', in Amrita Basu & Atul Kohli (eds), *Community Conflicts And The State In India*, Delhi: Oxford University Press, 1998, pp.180-181.

⁴³ Chaddha (2005), p.53. Also Praveen Swami, 'The Laskkar-e-Taiba, theory and practice', *The Hindu*, 3 November 2005.

⁴⁴ This provoked the ire of the right wing party, the *Praja Parishad*, which was composed mainly of Jammu-based Hindus and dominated by the communal Hindu Mahasabha, was worried about the fate of Hindus in the state if the plebiscite favoured Pakistan. The *Parishad* demanded a final settlement of the Kashmir issue. To date the BJP, the right wing party in India, demands the scrapping of Article 370 and full integration of J and K into the Indian Union.

- All powers other than those specified in the Instrument of Accession would remain with the state government;
- The state government would regulate the rights of the permanent residents of J and K;
- Though the provisions of the fundamental rights chapter of the Indian Constitution applied to the residents of J and K some exemptions were made particularly in regard to compensation for land reforms;
- Hereditary rule was abolished;
- Disputes between the centre and the states and between states would be arbitrated by the Supreme Court;
- The jurisdiction of the Election Commission would extend in the case of J and K only to elections to parliament and elections of the President and the Vice President;
- Whereas Article 352, which empowers the central government to declare a state of emergency, was applicable to J and K only in cases of external aggression, in cases of internal disturbances emergency provisions could be extended to the state only with the concurrence of the state government;
- Article 356, according to which President's rule can be imposed in the states, and Article 360, which gives the power to the central government to declare financial emergency, could not be extended to J and K.

In 1953, Sheikh Abdullah was arrested because he, despite his own earlier defence of accession to India in the Security Council, had made public statements on independence for J and K. Bakshi Ghulam Mohammed took over as 'Prime Minister' of Kashmir, a post that he occupied for ten years. The period was marked by the gradual, but insistent, erosion of the special status accorded to J and K. In 1957, the constituent assembly ceased to exist after having drafted a constitution for J and K that came into force on 26 January 1957, and after having formalised accession to India on 15 February 1954. Now the only barrier to the full integration of J and K into the Indian Union was the state government; a barrier that was removed by the compliant prime minister of J and K. The violation of the social contract began in earnest even as the jurisdiction of the central government was gradually extended to cover all subjects in the Union list.

In 1958, the special provisions that governed the representation of the citizens of the state in the civil services were abolished, and the state ceased to be financially autonomous. In 1959 and 1961, the permit system that governed the entry of non-citizens into the state was done away with, and the jurisdiction of the Supreme Court and the Central Election Commission was extended to the state. In 1964, Article 356 of the Indian Constitution, which allows for the take-over of the state by the central government, was made applicable to J and K, and a Delhi-appointed governor replaced the *Sadar-i-Riyasat* who was formerly appointed by the state legislative assembly. However, the governor of J and K continued to exercise the powers meant for the *Sadar-i-Riyasat* under Article 92 of the J and K Constitution, without the Governor being responsible to the legislative assembly.

In sum, the social contract, which had allotted to J and K a great deal of autonomy, and which had limited the powers of the central government over the state, was dissolved by the central

government in connivance with the state leadership over a span of a decade and a half. The controversy that had dodged the signing of the original contract was intensified in the process.

The situation was still manageable, for as Sheikh Abdullah wrote in his autobiography about the Indira Gandhi-Sheikh Abdullah accord, which ensured his release from prison in 1975:

I told my Indian friends that there is no difference of opinions as far as Kashmir's accession to India is concerned. However, I have differences on the limits of accession. We had defined limits of accession through mutual agreements and it had resulted in the shape of Article 370 (of Indian Constitution guaranteeing the special status of Kashmir). The Indian leaders distorted this article forcibly and unconstitutionally, which separated us (from the Indian mainstream). If this situation is retrieved and the status quo ante is restored, our differences would be resolved.⁴⁵

But further events cancelled out such a resolution, because in 1985 the residuary powers of the state government were transferred to the central government. It is not surprising that all conversation in the valley on the origins of the conflict begin with complaints about the breach of the social contract.

If the federal principle, and particularly the special status accorded to J and K, was insistently eroded by the central government, internal politics in the state were marked by two factors, both of which inhibited democracy in a major way. Firstly, the NC monopolised political power right up to 2002, often through massive electoral malpractices, denying thereby space to other political formations that could otherwise have become a part of the democratic process.⁴⁶ Secondly, the NC entered into often amoral alliances with the Congress party in order to retain its hold on power, a fact that led to tremendous disillusionment particularly in the aftermath of the 1987 elections.⁴⁷ That political groups were forced to resort to extra-institutional means, particularly the use of violence, to press their point is not entirely unexpected. The findings of the research project – that the largest numbers of respondents in the Kashmir valley hold the state government and political parties above the central government responsible for the conflict – makes sense only in this context.

Consider, for instance, the way in which the NC employed every means available to monopolise power. In 1953, Sheikh Abdullah, vacillating between defending accession to India, independence for J and K, the holding of a plebiscite in the state, and ensuring the greatest possible autonomy for the state, was arrested. He was released in 1958, only to be re-imprisoned within three months. Subsequently he was in and out of prison until 1975. The 1953 arrest catapulted Bakshi Ghulam Mohammed into the political domain as the Prime Minister of J and K, and he was responsible for allowing the central government to whittle down the autonomy granted to J and K. Under the leadership of Bakshi Ghulam Mohammed, the NC won a majority in the 1957 and 1962 elections. It also won the 1967 elections and 1972 elections after it had merged with the Congress party in 1965. In January 1975, Sheikh Abdullah took over as Chief Minister with the support of the NC, which had merged into the Congress. In July, he resurrected the NC. The Sheikh, as the leader of the NC, came back to power in the June-July 1977 elections – generally hailed as the most free and fair elections ever held in the state. This was mainly because the Congress had been weakened with the

⁴⁵ Cited in Punjabi (1995), p.51.

⁴⁶ Interviews with respondents, with scholars, with political analysts, and with concerned citizens in the valley.

⁴⁷ Interviews.

dismissal of Indira Gandhi's emergency regime in the 1977 general elections, and the Janata Party under Prime Minister Morarji Desai was in power at the centre.

For the first time since 1947 democracy was given an opportunity to work in J and K. For ten years that state witnessed not only democratic practices but relative stability, calm and the absence of any kind of religious fundamentalism or violence. According to Widmalm Amanullah Khan, the head of the separatist group JKLF operating in '*azad kashmir*' is reported to have said that even in 1983 conditions for launching a military campaign were not favourable. Widmalm concludes that when democracy was functioning in a relatively peaceful way in J and K, the demand to change the political status of the region was neither heard nor supported.⁴⁸

The tide turned in 1982, when Sheikh Abdullah died and the mantle of leadership of the NC fell onto the shoulders of his son, Farooq Abdullah. From here a period of deliberate subversion of democratic institutions and organisations, which despite five years of democratic rule were still weak, and the subversion of the democratic tradition, which was still fragile, began. The NC, already associated with large-scale corruption and nepotism, and wracked by factionalism, was to further add to its blemished record, when under Farooq's leadership it entered into a series of sordid compromises with the Congress party.

Prior to the 1983 state elections, the Congress, determined to capture the mandate in J and K, began to negotiate with the NC for an electoral alliance. Differences, however, cropped up over the Resettlement Bill,⁴⁹ and the two parties were unable to resolve the issue of seat-sharing. Consequently, the Congress and the NC contested the elections separately and the NC won 46 seats from the valley with Congress winning 26 seats from Jammu. Notably the two communal parties (the BJP and the Jamaat-i-Islami) did not secure any representation in the legislature. However, the elections, which saw an electoral turnout of 70 percent, were accompanied by widespread malpractices, an event that accelerated the erosion of the already insubstantial democratic spirit.

Factionalism in the NC was used by the Congress party to destabilise the state government. In July 1984, the new Governor of the State, Jagmohan, dismissed the Farooq government on the charge that his party had lost a majority in the state following the defection of thirteen members of the government, of which twelve belonged to the NC. Farooq was ordered to step down *without* a vote of confidence in the assembly. The move expectedly aroused a storm of protest as one more proof of Prime Minister Indira Gandhi's arbitrary treatment of non-Congress governments. A new government, in which Shah was sworn in by the Governor as the Chief Minister, lasted only two years. In March 1986, the central government withdrew its support to Shah and imposed Governor's rule. But six months before the Governor's rule was to end, the central government reinstalled Farooq Abdullah as the Chief Minister. The re-establishment of cordial relations between the Congress and Farooq Abdullah, who had barely two years earlier become a victim of the power play of the former, generated tremendous distrust of both the state government controlled by the NC and the central government controlled by the Congress. This was exacerbated when the two parties, blithely ignoring earlier differences, allied to fight the 1987 elections.

The turn out in the election was as high as 75 percent, and the NC won in the valley and the Congress in Jammu, but communal organisations arrived onto the scene with the BJP securing

⁴⁸ Sten Widmalm (1998), pp.153-154.

⁴⁹ The Bill permitted those who had left J and K for other areas, including Pakistan, to return.

two seats and with four of the eight independents belonging to the Muslim United Front. The 1987 elections themselves were marked by coercion, electoral malpractices of a high order, and massive rigging.⁵⁰ From here began the slide into violence that heralded the arrival of fundamentalist organisations in the valley.

The near monopoly exercised by the NC over state politics, either as a part of the Congress or in alliance with the Congress, meant that independent political organisations had little chance of entering the arena of formal politics. This is not to say that independent political organisations did not exist. In 1963, the Awami Action Committee, led by Miwaiz Mohammed Farooq, and the Plebiscite Front, led by Mirza Afzal Beg, had become the focal points of political dissent. In 1964, the Kashmir Liberation Front was set up in Pakistan, which later became the Jammu and Kashmir Liberation Front (JKLF). In 1969, when Sheikh Abdullah announced that the Plebiscite Front would contest elections, he was expelled from the valley and the Front was declared unlawful. It was only in January 1973 that the ban on the Plebiscite Front was lifted.

In 1987, only a few days after the alliance was forged between the Congress and the NC, a hitherto unknown organisation called the Muslim United Front (MUF), led by the *Jamaat-e-Islami* under the leadership of Ali Shah Geelani and several other Islamic groups, called for a strike in the valley.⁵¹ Though the MUF secured four seats in the legislature, other leaders were prevented from doing so through rigging.⁵² For instance, the founder of the Peoples' Conference in 1978, Abdul Ghani Lone, contested the 1987 elections from Handwara, where he confronted a NC candidate, Chowdry Muhammad Ramzan. The counting of votes was disrupted by the police, both Lone and his lawyer were prevented from observing the counting of votes, and Lone was declared to have lost the elections despite all evidence to the contrary. Subsequently Lone opted out of electoral politics. Representing the moderate voice of dissidence, Lone was assassinated in 2002. Bose suggests that electoral malpractices in the 1987 elections were the reason why Yusuf Shah, who belonged to the *Jamaat-i-Islami* and who contested under the banner of the MUF, became Syed Salahuddin, the commander in chief of the dreaded *Hizb-ul-Mujahideen*, the largest guerrilla force fighting the Government of India in the valley. For though he was reportedly winning the 1987 elections, his opponent who belonged to the NC was declared the winner. When Yusuf Shah protested, he was imprisoned along with Yassin Malik, his election officer. Upon his release, Yassin Malik joined the JKLF as a core member after having received training in arms in the Pakistani controlled parts of Kashmir.⁵³ In summary, leaders who were denied a chance to participate in electoral democracy turned to militancy, simply because the democratic system was corrupted by two parties who were determined to hold onto power.

The controversial 1987 elections proved the flashpoint in the turn to armed struggle. Reportedly thousands of young men crossed the border to undergo training in Pakistan. The NC and Congress passed the JK Special Powers Press Bill in the legislative assembly, which imposed complete censorship in the state. In 1988, widespread protests and violence rocked the valley, and three bombs exploded in Srinagar. MUF members quit the Legislative

⁵⁰ Press reports.

⁵¹ Sumantra Bose cites a news magazine which described the MUF as an "improvised ad hoc bloc of diverse groups consisting of educated youth, illiterate working class people, and farmers who expressed their anger at the family rule of the Abdullah's, government corruption, and lack of economic development. For the first time the valley was sharply divided between the NC and its support base and thousands of people who entered the political process under the umbrella of the MUF" (Bose, 2003, p.48).

⁵² Bose (2003), p.48.

⁵³ Bose (2003), pp.48-50.

assembly and formed the extremist *Hizbul-ul-Mujahadeen*. Jagmohan, who was brought back as Governor, dismissed Farooq Abdullah's government and imposed presidential rule, which led to protests, demonstrations, large scale arrests and police firing. In February 1988, the state assembly was dissolved. By 1990, violence had escalated and the army's presence in the valley was reinforced with the extension of the Armed Forces Special Powers Act and the introduction of the Disturbed Areas Act. These Acts, along with the J and K Public Safety Act and the Terrorist and Disruptive Activities [Prevention] Act, which were introduced in 1978 and 1987, completely paralysed democratic life in the state. Even as moderate leaders belonging to the JKLF were arrested, the *Hizbul-ul-Mujahadeen*, which is backed by Pakistan, came to play a dominant role in militant politics. The JKLF launched a movement in 1990 against the Indian government and to reunite the state with Pakistan Occupied Kashmir (POK). This received immense support. The scale of the popular uprising took everyone, including the JKLF, by surprise.

As suggested above, in major part the uprising was propelled by the fact that democracy was not given a chance to be institutionalised in the valley. To this was added discontent over the political economy of the state. The latter is cause for some regret because the scale of economic and social transformation in the state finds little parallel in the rest of the country. As early as April 1948, Sheikh Abdullah, in keeping with the promises made in the manifesto '*Naya Kashmir*', which had been adopted by the NC in the 1940s, had launched upon the most ambitious land reform programme in the country. Land reforms transferred a total amount of 92,927 acres in 1951-52, 66,755 acres during 1952-53, and 36,619 acres during 1953-54, to the tiller. Approximately 230,000 acres of cultivated land was transferred to 200,000 tillers by the end of 1953, and about 800,000 acres up to 1961.⁵⁴ Land reforms changed the structure of rural economy, and the pattern of land holdings was reversed from large landholdings to smaller ones. 70 percent of holdings are below the size of one hectare and big farms of five hectares and above constitute only 2 percent or less of total holdings. The average land holding in the region is only 0.9 hectare compared to 1.82 hectare in the rest of the country, and 46 percent of landholdings do not exceed half a hectare.⁵⁵

The increase in smallholdings created a greater sense of equality and social justice. However, the problem is that small landholdings are negatively correlated with productivity, unless land redistribution is accompanied by productivity improving measures such as irrigation, accessible finance and new technology. In J and K, 60 percent of the sown area is heavily dependent on rainwater for irrigation. Secondly, small landholdings did not benefit from modern techniques of production: tractors, chemical fertiliser, and plant protection measures. In sum, by the mid 1960s institutional change via land reform had failed to transform agriculture. Subsequently, however, in order to increase productivity, the state initiated various policy measures such as public finance, a public delivery system, responsive price mechanism, and a diversification of commodity markets. A strategy promoting an 'Intensive Agricultural District Programme' and a 'High Yielding Varieties of Seeds programme' was pursued from 1960 onwards. This was accompanied by the grant of major subsidies, which amounted in 1981 to Rs 260.3 million. A cooperative movement was established to accelerate

⁵⁴ Government of J & K, *Agricultural Census Reports of J and K*, Jammu: Government of J & K, 1971, 1976, 1981, 1985; also Siddhartha Prakash, 'Political Economy of Kashmir since 1947', *Economic and Political Weekly*, 10 June 2000, pp.2051-2060.

⁵⁵ N. S. Gupta & N. C. Prabhakar, *Socio-Economic Development of Jammu and Kashmir*, Jammu: Jay & Kay Press, 1988, p.51.

the pace of growth by providing finance for crops, to facilitate marketing, and to raise the standard of living in the countryside.

These strategies have achieved some positive results in the form of high yields of food, rice, maize and wheat, which are grown in 75 percent of the total cropped area in the state. However, cropping patterns, lack of irrigation due to power shortages, climatic difficulties, and the small size of landholdings in a context of still undeveloped infrastructure have resulted in a deficit of food grains. The state has to import grain, milk, mutton, cereals, vegetables and wool from neighbouring states. Moreover, Kashmir has a weak industrial base and it possesses no large-scale industries. Medium-scale industries operating under the public sector have performed poorly, as a result of which under-employment and unemployment have grown into severe problems. Verma has shown that areas of highest conflict in the valley (Anantnag, Baramulla, and Sophe) are precisely areas that suffer from high unemployment.⁵⁶

Conceivably, frustration over the lack of democratic opportunities was exacerbated by the lack of economic opportunities. These two factors combined to create a popular upsurge in the valley in 1990. By the early years of the 1990s, the movement subsided and gave way to extremist forms of politics, even as the spiral of popular discontent against denial of democratic rights was harnessed by pro-Pakistani militants, such as the *Hizbul-ul-Mujahadeen* and by Islamist *jihadis*. Violence rapidly spread to the rural areas, leading to the large scale exodus of the Kashmiri Pandits. By 1993, thousands of militants, including those belonging to the *Harkat-ul-Ansar*, which is associated with the Afghan Mujhadeen, were operating in the valley.⁵⁷ In the meanwhile, a number of former militant leaders formed the All Party Hurriyat Conference (APHC) in 1993, renounced violence and disassociated themselves from the militants. The APHC provides a moderate voice in the valley for independence with pro-Pakistani groups being in a minority in the alliance. However, prone to factionalism and to splits, the APHC has not been able to make an impact on politics in the valley or displace existing political parties.⁵⁸ In the meanwhile the valley continues to be torn by violence. Even as an elected government practices formal politics and the Hurriyat shows itself willing to participate in formal politics, the militants practice extra-institutional politics. The Kashmir valley has had to pay a heavy price for the subversion of democratic norms and the undercutting of democratic institutions and organisations.

Implications for Conflict Theories

Conflict breeds its own trajectories and it becomes difficult to analyse with cool analytical precision why it erupted in the first place; and when it comes to ethno-national conflict, matters become even more complicated. Not only does ethno-nationalism appeal to complex emotions, such as the desire for shelter in a homeless world, and complain that the community that can provide such a home is itself in search of a safe haven, it also offers simplistic solutions for current predicaments: 'a state of one's own'. For these reasons, ethnic identities acquire a larger than life presence in any conflict and it becomes difficult to sort out which precise combination of factors led to the conflict in the first place.

⁵⁶ P. S. Verma, *Jammu and Kashmir at the Political Crossroads*, Delhi: Seema Publications, 1992.

⁵⁷ Koithara (2004), p.63.

⁵⁸ The NC was voted out of power in the 2002 elections by a relatively new political party, the Peoples Democratic Front, in alliance with the Congress.

Perhaps the only way to do this is to see how ordinary people, especially those who live in high conflict zones, view the entire situation. Our research shows that despite the fact that identity politics is generally seen as the reason for militancy in the Kashmir valley, 59 percent of respondents in Kashmir feel that political state and central governments are responsible for the conflict. 30 percent of respondents said that political parties are responsible for the conflict because they do not raise issues of basic needs. But only 7 percent of respondents feel that political parties do not raise issues of identity.

In response to a question of why the state government is held responsible for the conflict, the pattern of opinion toward state and central government is a little different. 44 percent of respondents in the valley feel that the state government is corrupt, 41 percent are of the opinion that the state government is responsible for the conflict because it does not resolve the issue of basic needs, and 7 percent opine that the state government is responsible because it does not raise issues of identity. As far as the central government is concerned, 16 percent of respondents said that the government is corrupt, 35 percent of respondents said that the central government is responsible for the conflict because it does not address issues of basic needs, and 27 percent feel that the central government does not address issues of identity.

If we compare the responses of the inhabitants in the HCA and LCA in Kashmir, the figures are the following (Table 2):

Table 2: Fixing Responsibility, Kashmir (%)

	Political Parties			State Government			Central Government		
	HCA	LCA	Avg.	HCA	LCA	Avg.	HCA	LCA	Avg.
They are corrupt	52.6	64.6	58.6	42.4	44.7	43.6	18.9	12.0	15.5
Do not raise/resolve issues of basic needs	34.2	25.3	29.8	43.5	37.7	40.6	35.1	35	35.1
Do not raise issues of identity	9.2	4.0	6.6	6.5	7.9	7.2	21.6	33	27.3
Some other reason	3.9	6.1	5.0	5.5	9.7	7.6	8.2	7.0	7.6
Don't know	0.0	0.0	0.0	2.2	0.0	1.1	1.4	0.0	0.7
No response	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total	100	100	100	100	100	100	100	100	100

In summary, an overwhelming percentage of respondents in Kashmir hold state and central government and political parties responsible for the conflict because of corruption and because of failure to negotiate basic needs. In comparison, the percentage of people who think that the failure of governments and parties to heed issues of identity led to the conflict are minuscule. These findings hold rather interesting implications for our understanding of the causes of political conflict. Perhaps the causes for ethnic violence have to be sought in violations of the social contract and in the failure of governments and parties to channel democratic practices.

To return to the debate with which the argument in this paper began, federalism, democracy and minority rights are the best tools to deprive potential separatists of incentives to demand a state of their own. However, this prescription can only work if the rules of the game codified in the social contract are respected and if the expectations generated by the contract are not

belied. More important than formulas that seek to resolve conflict and violence, is respect for the basic precepts of the democratic and federal contract. Short of that, movements demanding statehood will inevitably spring up with large numbers of people feeling that it is more profitable to employ 'terrorism' to force recognition of the right to self-determination than to force one's way into political spaces that have been closed to them.

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Department of Sociology
(University of the Witwatersrand, Johannesburg)

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Development Research Centre,
Development Studies Institute (DESTIN),
LSE, Houghton Street, London WC2A 2AE
Tel: +44 (0)20 7849 4631 Fax: +44 (0)20 7955 6844
e-mail: csp@lse.ac.uk

