

## Application of Autonomy to Intrastate conflicts — A Comparative view of Kashmir and Aland Islands

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### Abstract:

*Autonomy as a conflict resolution model has been a modern introduction in to the field of political science and peace studies literature. Territorial autonomy is a significant alternative of conflict resolution methods. Territorial autonomy arrangement, which could be realized even outside federal system of governance, is a compromise between a region or minority aiming at self-determination and a state protecting its sovereignty. Territorial autonomy is increasingly advocated as a solution to intra-state conflicts by academicians, political theorists and policy makers, while being a solution to many conflicts, there is reason to suspect that autonomy can, under certain circumstances, act as a catalyst of conflict. This paper has taken Kashmir and Aland islands, both autonomous parts of Indian Union and Finland respectively, for comparative analysis. This paper has also delineated into the issue that how autonomy arrangement has evolved in both the regions with varied results.*

**Key words:** Autonomy, Conflict Resolution, Kashmir, Aland Islands, Intra-sate Conflict

### INTRODUCTION

Territorial autonomy is a significant alternative of conflict resolution methods. The territorial autonomy arrangement, which could be realized even outside federal system of

governance, is a compromise between a region or minority aiming at self-determination and a state protecting its sovereignty. Territorial autonomy is increasingly advocated as a solution to intra-state conflicts by academicians, political theorists and policy makers, while being a solution to many conflicts, there is reason to suspect that autonomy can, under certain circumstances, act as a catalyst of conflict. This is quite evident in the Indian context, where the erosion of Kashmir Autonomy further complicated the already existing bilateral conflict between India and Pakistan. Erosion also proved a prominent source of conflict between Jammu and Kashmir with the Union of India.

Many theorists have found that solutions involving regional autonomy are effective in dealing with ethnic conflicts. Ted Gurr, for example, has argued that “negotiated regional autonomy has proved to be an effective antidote for ethnopolitical wars of secession in Western and Third World States.”<sup>1</sup> Similarly, Kjell-Åke Nordquist has observed that creating autonomy—“a self-governing intra-state region—as a conflict-solving mechanism in an internal armed conflict is both a theoretical and, very often, a practical option for the parties in such conflicts.”<sup>2</sup>

However, Central governments are almost universally reluctant to accede to demands for autonomy for several reasons. First and foremost, they fear that granting territorial autonomy to a minority group would be merely the first step toward the eventual secession of the region. Second, granting autonomy to one region may be perceived as discrimination against other inhabitants or groups. Third, autonomy increases the risk of intervention by a foreign state affiliated with the

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<sup>1</sup>Gurr, Ted Robert. "Peoples against States: Ethnopolitical Conflict and the Changing World System." *International Studies Quarterly* 38 (1994): 366-377.

<sup>2</sup>Nordquist, Kjell-Ake. "Autonomy as a Conflict-Solving Mechanism: An Overview." In *Autonomy: Applications and Implications*, by Markku Suksi, 59. Hague, 1998.

specific minority population. Nevertheless, in spite of such reservations an increasing number of ethno-political conflicts over territory have been settled by compromises involving regional autonomy, such as the provision to *Miskitos* of Nicaragua in 1987 and the *Gagauz* of Moldova in 1994. The popularity of autonomy as a solution undoubtedly stems from its being one of the few conceivable compromise solutions in conflicts over the administrative control of a specific territory. Indeed autonomy represents a compromise on the issue of state sovereignty itself. Autonomy indeed appeared to be a very flexible political tool which can be used in order to pacify the concerns of minorities within a State. In other words, autonomy is a stabilizing tool which is a better compromise for parties concerned, even though their aims might be quite far away from that solution.

There is a vast literature on the topic of concept of territorial autonomy and autonomy in general which is commonly perceived as a useful tool for accommodation of sub-state nations. Many authors, in their works, focus on positive impacts that autonomy has, for instance easing of ethnic tensions, prevention of secession or preservation of unity within a state and complexity of its application like proper negotiations, territorial limitations etc. Will Kymlicka, an eminent theorist, has developed in his work a liberal opinion which is very supportive towards accommodation of minorities within what he calls multination federalism which recognizes cultural diversity of the country by creating territorial units. Such accommodation implies certain limitations of state sovereignty and basically giving minority many powers to express and diffuse its language and culture at the sub-state level that majority groups exercises through the central state.<sup>3</sup>

On the other hand, another authority on the subject, Hurst Hannum is very careful with usage of the concept of

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<sup>3</sup>Kymlicka, Will. *Multicultural Odysseys: Navigating the New International Politics of Diversity*. Oxford University Press, 2007.

territorial autonomy and stresses, “it is indeed one of the tools which remain useful, but only if it is clear for which purposes it has been used. And more importantly, it can be successful only if it is based on strong willingness of people to live together.” He is of the opinion that the best advantage of autonomy as a solution to ethnic conflicts is its flexibility. Autonomy encompasses a wide range of constitutional relationships including separated legislature, judiciary and financial independent authority or powers over language, education or culture. It is also perceived as a successful response to concerns about minority rights and as an instrument which maintains the territorial integrity of existing state, since autonomous units are not becoming sovereign. In this way, autonomy is based on contributing both, majority concerns and minority demands.<sup>4</sup> Yet Ruth Lapidoth, another international expert on autonomy indicates flexibility of autonomous arrangements or rather at the necessity to establish them in the way that allows their modification in future. Lapidoth points at its proper usage and warns about future difficulties, usually regarding different opinions of actors on devolution of power or clashes between them. For this reason arrangements of autonomy should not be rigid, but rather flexible which allows introduction of changes in future.<sup>5</sup> While as Stefan Wolff says that the biggest advantage of territorial autonomy is that this concept is the only one among territorial claims, which does not aim to change internationally recognized boundaries, but express desire of a particular ethnic group to gain some form of self-governance within its homeland. In some cases, autonomy is, however, not desired it is rather the second best option either when the

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<sup>4</sup> Hurst Hannum, *Autonomy, Sovereignty and Self-Determination: The accommodation of Conflicting Rights*, Philadelphia: University, Pennsylvania Press, 1996, pp. 1-3

<sup>5</sup>Lapidoth, Ruth. *Autonomy: Flexible Solutions to Ethnic Conflicts*. Washington, DC: United States Institute of Peace Press, 1996.

particular ethnic group notices that the recognition of their separated statehood is unlikely to happen or when their ability to survive as an independent state would be contained. Because of its non-disturbing impact on existing states, the international community has been long defender of this accommodation, since autonomy provides for a viable compromise between states and minorities.<sup>6</sup>

Thus, it is quite clear that the question of autonomy has gained a lot of significance in the methodology of conflict resolution in the contemporary times. Therefore, the study of various models of autonomy has become subject matter of the Political Science, International Relations and Peace Studies. The problem is significantly related to the present study as both the case studies; Kashmir issue and Aland Islands Autonomy model undertaken for comparison have autonomy as a common factor. Nevertheless, that does not mean that the model of autonomy and its working has been similar in both the situations. We are proceeding with an assumption that in the context of Aland, autonomy evolved from 1920's, has worked successfully because of which ceased to be a problem. While as in the case of Kashmir, autonomy as provided under Article 370 of the Indian Constitution was substantially eroded, consequently Kashmir continues to be an issue. Thus, many political forces in Kashmir including one of the mainstream political party 'Jammu and Kashmir National Conference' suggested that in order to address the Kashmir issue the autonomy need to be restored in its pristine form. Besides, over the years, Indian State has been facing enormous challenges at different levels. There are different regional forces striving for the transformation of Indian quasi-federal structure into a genuine federal system in which regional parties have a say vis-à-vis their domestic policies, politics and administration are concerned. In the light of these developments, the current study

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<sup>6</sup>Wolff, Stefan. *Ethnic Conflict: A Global Perspective*. Oxford: Oxford University Press, 2007.

proposed to look in the various insights that can be drawn and will have relevance for the problem of Jammu and Kashmir.

Autonomy, in the framework of a modern democratic state, was first established in 1921 in Finland's Aland Islands. Later, such concept of power sharing has been implemented in all the continents, and in 2009 it was operational in at least 60 different regions in 20 different States.<sup>7</sup> Particularly, after World War II, the idea of autonomy for the protection of ethnic or national minorities and the resolution of self-determination conflicts became a political reality in various European States and as well as in Asia. In most cases, regional autonomy provided the legal-political framework for the internal self-determination of smaller or indigenous people or of an ethnic minority, preserving a specific ethno-cultural identity while maintaining the sovereignty of the state in which they live. Not only could autonomy bring about peace and stability in conflict-ridden societies, but it could also enhance new partnerships between the centre and the regional community.

Over the years, many analysts and political scientists have proposed different proposals and models for resolving the Kashmir conflict. One such model suggests granting the Jammu and Kashmir region a similar status as of the Aland Islands of Finland. The Aland Islands status within Finland seems to be suitable for addressing the demands of the people of Jammu and Kashmir for self-governance and India's pre-condition of 'not redrawing of borders' and 'within pillars of Indian constitution'. In such a situation this could be one of the most optimal and feasible solutions to the question of political status of Jammu and Kashmir state. As the autonomy of both Kashmir and Aland islands has been analysed in previous chapters, it now is less complicated to compare them. Both these autonomies possess many features which are similar and also there are features which are different too. The two have

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<sup>7</sup>Benedikter, Thomas. *Solving Ethnic Conflict through Self-Government: A Short Guide to Autonomy in South Asia and Europe*. EURAC, 2009.

been compared in the sections below on a point to point basis considering one feature at a time.

## **GEOSTRATEGIC POSITION**

Jammu and Kashmir is the Northern most state of India. To its north lie China and Russia, on its east is Chinese Tibet, on the south and south-west lie the Indian states of Punjab and Himachal Pradesh and in the west is the North West Frontier Provinces of Pakistan, China and Russia. The state of Jammu and Kashmir consists of three divisions Jammu, Kashmir Valley and Ladakh with their own ethnic composition. The different parts of Jammu and Kashmir as we know before 1947, is presently in possession of India, Pakistan and China. Because of its geostrategic location, after World War II most of the world powers had their eye on Kashmir. The leadership in Kashmir from the beginning was ideologically influenced by Russian socialism and adding to it the geographical proximity of the J&K state with Soviet Union did not auger well with western powers; they obtained their ally in the form of Pakistan. The involvement of foreign powers in the Kashmir dispute had its impact on the events which unfolded afterwards.

Pertinently, Aland Islands in a similar setup is located between Sweden and Finland at the entrance of the Gulf of Bothnia in the Baltic Sea. Like Jammu and Kashmir, the Aland Islands have been a subject of geopolitical game by various powers over centuries due to their strategic location. In 1714, the region was occupied, albeit for a short time, by Russia under Peter the Great. During the consecutive years, Russia and Sweden fought several wars for the control of the region, which changed hands from one side to the other in the process. Only after the 1808-1809 military campaign, Russia finally managed to control the Aland Islands and other Finnish territories that were under Swedish control at that time.

Prominent writer James Barros depicts the Swedish negotiators who “vainly insisted upon the fact that the Aland Islands has never been anything other than a Swedish province” to which Russian commissioners replied, “We are not concerned with old Swedish frontiers, but with new Russian frontier.”<sup>8</sup> In another account Barros states, “having used the Aland Islands as a military base against the Swedes, the Russians were aware of their strategic importance, not only for the defence of Finland but also for control of the Baltic, especially domination of the Gulf of Bothnia”.<sup>9</sup> Strategic location of both Aland and Kashmir has linked their destinies and political future with the powers around whom they were historically linked. Since 1921 the Aland zone has been delineated by a system of coordinates enumerated in a convention of 1921 on the demilitarization and neutralization of the Aland Islands. An international strait, South Quarcken, between the Aland Islands and Sweden forms the passageway between the Baltic Sea proper and the Gulf of Bothnia. The shipping route passes through Swedish territorial waters between two small islets; Understen on the Swedish side, and Marketrock, which is divided between the Alands (Finland) and Sweden. Thus, in geostrategic position both Aland and Kashmir are in a similar setting and of strategic importance to its neighbours.<sup>10</sup>

## **NATURE OF CONFLICTS**

The conflict history of both Aland Islands and Kashmir regions are comparable on the grounds that both regions have been contested by different powers at different points of time. Both these conflicts have been referred to international organizations

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<sup>8</sup> James Barros. 1968. *Aland Island Question, Its Settlement by League of Nation*. London, New Haven, Yale University Press, p.2

<sup>9</sup>Ibid., p.3.

<sup>10</sup> A.G. Noorani, 2005, January 15-28. The Alands Model. *Frontline*, 22-2.



and have been mediated although, with varied results. As for as internal dimension of these conflicts within the Finish and Indian limits are concerned autonomy or special status, within the parameters of Finish and Indian Constitution ,were proposed to meet the demands of the people and or for conflict resolution. These along with other factors portrays that the nature of conflict appeared more or less similar.

The problem of Kashmir as it emerged shortly after the independence of India was in many ways a by-product of political complexity, that the subcontinent had undergone during the colonial period, which culminated in its division. With the lapse of British paramountcy, Princely states including the state of Jammu and Kashmir were asked to choose between the two dominions; India and Pakistan. Several factors were responsible in complicating the context in Kashmir. One that the state of Jammu and Kashmir in its geo-ethnic structure was heterogeneous and diverse with divergent political orientations and aspirations, Secondly the situation, in which partition took place, created political uncertainty within and outside state. The Maharaja found it difficult to decide in favour of the either side. During the crucial years proceeding 1947 there were different types of forces within the state operating for divergent political ends. There were forces active for Kashmir's accession to Pakistan and forces that wanted Kashmir to accede to India. In addition, there has always been strong opinion in favour of Kashmir remaining independent. However, none of the forces had an easy choice because of various checks and balances operating from within and outside. Maharaja Hari Singh failed to take a prompt decision about the future shape of his state, It is only after being confronted by a compelling situation created as a result of the tribal entry into the state that he acceded to the Indian dominion by signing the instrument of accession on 26 October 1947. Under the instrument of accession, powers concerning Defence, External Affairs and Communication were transferred to the Indian

dominion. Maharaja clarified in the instrument that, “nothing in the instrument shall be deemed to commit me in any way to the acceptance of any future constitution of India or to fetter my discretion to enter into arrangements with the government of India under any such constitution.” The National Conference Leaders while endorsing the accession did not want the quantum of accession to exceed the items which had been transferred to dominion government under the instrument of accession. Negotiations on the provisions in the proposed constitution of India in relation to the Jammu and Kashmir state’s membership of union began when a meeting of leaders of the national conference and of the central leadership was held in Delhi on March 15 and 16, 1949. After hectic negotiations the state was then accorded a special status under article 370 of the Indian constitution. So, it is evident that the nature of conflict was such that it had an internal and an external dimension. Externally it was contested by India and Pakistan and internally there was a deep cleavage in relations between the Indian Union and the state of Jammu and Kashmir.

In a similar pattern in case of Aland Islands, by the Peace Treaty signed at Fredrikshamn on 17 September 1809, Sweden ceded to Russia, Finland as well as the Aland Islands. Russia governed them as part of an autonomous Grand Duchy of Finland till 1917 and it imposed sheer despotic rule. The Russian Revolution of March 1917 put an end to it and on 7 November 1917, came the Bolshevik Revolution. Under its influence on 15 November 1917, the Soviet government published a declaration on the rights of foreign peoples to self-determination. Events moved at a breathless pace in those revolutionary times and Finland's senate declared the country an independent republic on 6 December 1917 with the Soviet regime promptly recognizing it on 2 January 1918. Alanders did not watch these events as passive spectators. On 20 August 1917, representatives of all the districts of Aland held a secret meeting at the Aland Folk High School at Finstrom where they

decided to work for a reunion of Aland with Sweden. This wish was conveyed to the King and Government of Sweden by four elected Aland representatives by a petition signed by 96 percent of Alanders of legally competent age. They also elected an unofficial legislature in 1918, to pursue the goal of reunion with Sweden. It was an impressive demonstration of the popular will. In total 7,135 persons signed the address from 20-25 December 1917, which was presented to the King of Sweden on 3 February 1918. In June 1919 in an unofficial plebiscite around 95 percent of the people voted for unification with Sweden. Finland pinpointed procedural flaws in both the exercises, but the nature of the popular verdict was unmistakable. Alanders appealed to the U.S., Britain and France and sent a delegation to the Peace Conference at Versailles and to the League of Nations in July 1920. They setup a legislature 'the Landsting', comprising delegates from the municipal councils. After unsuccessful exploratory soundings, Sweden formally took up the matter with Finland in November 1918, asking for a plebiscite. It received a snub in June 1919 in the form of two moves which Finland made, one adroit and the other clumsy. <sup>11</sup> Its Parliament enacted, on 6 May 1920, an Autonomy Law for the Alands to fortify its case before world opinion. Prime Minister Rafael Erich, with two colleagues, went to the Alands' capital, Mariehamn, to explain the law and persuade delegates of the communes to accept it. Their leader Julius Sundblom replied, on behalf of the Landsting, that they would not renounce their demand for a plebiscite. It was an angry encounter. On the following day, 5 June 1920, Sundblom and the President of the Landsting, Carl Bjorkman, were arrested for high treason and taken to Abo in Finland as they had been to Sweden earlier to seek its support. The arrest of Sundblom and Carl Bjorkman in Aland was relatively similar to the arrests of Sheikh Abdullah and Mirza

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<sup>11</sup> A.G. Noorani, 2005, January 15-28. The Alands Model. *Frontline*, 22-2.

Afzal Beigh in Kashmir. These arrests in Aland and in Kashmir by the Finish and the Indian governments respectively served in a negative way by enhancing the sense of betrayal and alienation among common masses.

## **ROLE OF INTERNATIONAL ORGANIZATIONS**

The Aland dispute acquired a new shape and format that facilitated its solution. On 12 June 1920, the acting British Foreign Secretary Lord Curzon, wrote to Sir Eric Drummond, the Secretary-General of the League of Nations "in exercise of the friendly right conferred by Article XI of the Covenant of the League of Nations to bring to the attention of the Council of the League the case of the Aland Islands, as a matter affecting international relations which unfortunately threatens to disturb the good understanding between nations upon which peace depends." He had informed the Governments of Sweden and Finland of his intention to move the League. The Council had nine members consisting of the five Great Powers and four others elected by the Assembly as non-permanent members. In case of Kashmir, Britain might well have made a similar friendly move in 1947 in order to avert a war between India and Pakistan, but that was not done. Mountbatten mooted the idea to both, Nehru and Liaquat Ali Khan on 8 December 1947, doubtless, with London's backing and his proposal was to ask the U.N. "to send out observers or advisers" to help "solve the impasse" over a draft agreement which V.P. Menon and Mohammed Ali had drawn up. Why not "a joint approach to UNO"? He asked, Liaquat agreed. Nehru rejected it "entirely". He "asked under what section (sic.) Of the Charter any reference to UNO could be made." The U.N. could come in only after the raiders were driven out, he said. By 22 December, Nehru had decided to refer to the U.N. Pakistan's complicity in the tribesmen's raid into Kashmir. But the appeal was made, not under Chapter VII of the U.N. Charter "acts of aggression"

but under Chapter VI "peaceful settlement of disputes". The draft was thoroughly vetted by M.C. Setalvad, one of the foremost lawyers in India, Nehru's letter to him, on 20 December; itself predicted that the Security Council might appoint a commission, which it did. Setalvad explicitly warned Nehru and others that the whole scheme of the Charter was that the Security Council should try and bring about a solution of the disputes between nations by mediation and other measures. Mountbatten feared that if Uri fell to the raiders, they would move towards Baramulla and Srinagar, driving Nehru to attack West Punjab. It was a stark choice between the U.N.'s mediation and an all-out war. India opted for the former, consciously. If war had broken out, mediation would have followed under duress.<sup>12</sup>

Concerning Aland Islands, the council of the League of Nations met in the glittering St. James Palace in London on 9 July 1920. The meeting had representatives of Britain, France, Italy, Japan, Belgium, Brazil, Greece and Spain, US had already opted out of the League. Finland was represented by Enckall and Sweden by Branting. Branting argued by tracing the history of the islands and concluded by urging that they be conceded the right of self-determination. Enckall countered by arguing that there was 'no war or threat of war' to warrant the Council's intervention and it was, in any case, barred from doing so because the dispute arises out of a matter which by international law is solely within the domestic jurisdiction of Finland. The Alands' representative also submitted a statement to the Council. He pleaded for a plebiscite on the question of joining Sweden. Branting responded thus; "The inhabitants of the Aland Islands shall be permitted to decide immediately by plebiscite whether the Aland archipelago shall remain under Finnish sovereignty or be reunited with the Swedish Kingdom?" On 12 July, Balfour read a Declaration on behalf of the Council,

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<sup>12</sup> A.G. Noorani, 2005, January 15-28. The Alands Model. *Frontline*, 22-2.

which both sides accepted and which read that before trying to settle the dispute, the preliminary issue of domestic jurisdiction must be settled. Since the Permanent Court of International Justice had not yet been established at Hague to give its advisory opinion, the Council sought an opinion from a Commission of three international jurists. It resolved, unanimously, with the consent of both parties, to seek an advisory opinion from the jurists on two questions: on the domestic jurisdiction and on the present state of the international obligations regarding the demilitarization of the Aland Islands.<sup>13</sup>

The President appointed three jurists: F. Laurande of France, Max Huber of Switzerland and A. Struycken from Netherlands. The Commission of Jurists submitted its report on September 5, 1920 after hearing all the three parties. It held that the right to self-determination was not inscribed in the Covenant of the League nor was it a rule of international law. Cession of territory was a sovereign right in the state's discretion and others cannot demand it. In this regard, the Alands case differed fundamentally from Kashmir situation. India had pledged itself to hold a plebiscite on 31 October 1947, to the people of Kashmir and to the world. The pledge was incorporated in two resolutions of the UN Commission for India and Pakistan, dated 13 August 1948, and 5 January 1949. Both countries accepted them and Krishna Menon correctly characterized them in the UN Security Council on 8 February 1957 as India's "international engagements.....we have entered into." It is on the basis of these engagements that the Constituent Assembly adopted Article 370 of the Constitution of India on 17 October, 1949. Its mover, Sir N. Gopalaswamy Ayyangar, explicitly referred to 'the Kashmir problem' before the UN and to India's commitment "that an opportunity would be given to the people of the State to decide for themselves

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<sup>13</sup> Ibid.

whether they will remain with the republic of India or wish to go out of it. We are also committed to ascertaining this will of the people by means of a plebiscite."<sup>14</sup> Article 370 is based on this pledge and provides in clause (3) for its own extinction ('cease to be operative') and thereby severance of the link between the State and the Union if the plebiscite's verdict went against India. That was the only way Kashmir could have constitutionally seceded from India. Plebiscite was official Indian policy from 1947 to 1954. It was part of the process of the partition of the subcontinent in 1947. It is another matter that by mid-1948 Nehru had privately resolved not to hold a plebiscite and in 1965 Pakistan disintegrated itself from demanding it by launching a war in Kashmir. Finland on the other side never made any such pledge in respect of the Alands. Its neighbour demanded a plebiscite, in what in law was Finnish territory, on grounds of ethnic and linguistic affinity. The world community was alive to the consequence, if this principle was accepted in respect of minorities occupying a compact area adjoining another state with which they had affinities, linguistic, ethnic or religious. The Jurists' Report noted that the people of Finland and of the Alands had "totally different aspirations", though they acted in unison in their separation from Russia. The dispute arose out of a certain situation at the end of the First World War "and finds its source in the separatist demonstrations of the people invoking the principle of self-determination". It therefore, did not relate to a matter, which in international law came exclusively within Finland's domestic jurisdiction. An important principle was laid down that an international dispute of this kind did not become a domestic matter because secession was ruled out. It had to be settled by an international agreement and it cannot be settled unilaterally.

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<sup>14</sup>*Constituent Assembly Debates*; Volume 10; page. 424.

On the second issue pertaining to demilitarization, the Report recalled the convention, which Britain, France and Russia signed in Paris on 30 March, 1856, declaring that "no military or naval establishment will be maintained nor set up on the Islands". It was annexed to the Peace Treaty signed after the Crimean War. It remained valid despite its breaches during the First World War. The report, thus, put the ball back in the Council's court. Its jurisdiction upheld by the Council decided, on 20 September 1920, to set up a Commission of Rapporteurs "to recommend the solution which it considered the most equitable and most appropriate to the question". The rapporteurs were Felix Calonder, B. Beyens and Abram J. Elkus. Their report, submitted on 16 April, 1921 is a masterly document, even if some of its formulations may not be appropriate. It carefully traced the history of the islands and closely analysed the issues involved. The report charted the path that led to a settlement eventually. The Rapporteurs agreed with the jurists on the issue of domestic jurisdiction as also on the Alanders' manifest desire for union with Sweden. But they had been part of Finland and could not claim secession, as Finland did for itself. The rapporteurs also emphasized that there is another consideration which excludes the analogy which it is wished to establish between the Finnish people and the Aland population. Finland has been oppressed and persecuted and her tenderest feelings have been wounded by the disloyal and brutal conduct of Russia. The Alanders have neither been persecuted nor oppressed by Finland and the separation of a minority from the state of which it forms a part and its incorporation in another state can only be considered as an altogether exceptional solution, a last resort when the State lacks either the will or the power to enact and apply just guarantees. In case of the Alanders, it was accepted that the important question is the protection of their language - the Swedish language and it was said that its language is the very soul of a people and if it were true that incorporation with



Sweden was the only means of preserving its Swedish language for Aland we would not have hesitated to consider this solution but such is not the case.

## **DEMILITARIZATION AND MILITARIZATION**

The Aland Islands form in many ways an interesting case in European security policy and in the gradually evolving European security system. Owing to its location, Aland has for centuries been of great strategic interest for states in its neighbourhood. When Finland—and Aland with it—were transferred from Sweden to the Russian Empire in 1809, Sweden started to push for the demilitarization of Aland. After the 1854–56 Crimean War, during which major operations took place on Aland, an appendix to the 1856 Treaty of Paris forbade Russia from establishing fortifications or maintaining or building up a military presence and naval forces on the islands.<sup>15</sup>

After Finland gained independence from Russia in 1917, Aland became for a number of years a source of controversy between Finland and Sweden as a result of the Alanders' demand for Aland's reunification with Sweden. In the summer of 1921 the League of Nations resolved the Aland question and maintained that Aland should remain a part of Finland but would be granted autonomy, which along with the historically rooted principles of neutrality and demilitarization would be supported by international guarantees. In October 1921 the Convention relating to the Non-fortification and Neutralization of the Aland Islands was signed by Denmark, Estonia, Finland, France, Germany, Italy, Latvia, Poland, Sweden and the United Kingdom. Russia was not accepted as a party to the convention

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<sup>15</sup> The parties to this treaty were France, the United Kingdom and Russia. Ahlström, C., *Demilitariseradeochneutraliseradeomraden i Europa* [Demilitarized and neutral areas in Europe] (Alandsfreds- institut: Mariehamn, 1995), p. 24.

because the Western powers did not regard Bolshevik Russia as a sovereign state after the revolution of 1917. Under the demilitarization provisions of the Aland Convention, Finland confirmed its commitments in the 1856 treaty.<sup>16</sup> The 1921 convention prohibits the building or maintenance of any military, naval or air force installations or bases of operation on the islands as well as any other installations intended for military purposes.<sup>17</sup>

The Aland Convention also contains provisions on the neutralization of the territory in case of war and states that it may not, directly or indirectly, be used for military purposes. The legal international basis of demilitarized and neutralized status of the Islands which is considered part of their autonomous arrangement is found in the 24 June Resolution of the Council of the League of Nations. According to the second paragraph of the Resolution, “the interests of the world, the future of cordial relations between Finland and Sweden, the prosperity and happiness of the Islands themselves cannot be ensured unless (a) certain further guarantees are given for the protection of the Islanders; and unless (b) arrangements are concluded for the non- fortification and neutralization of the Archipelago”.

As a matter of fact, the above mentioned sentences gather together the institutions of autonomy and military status, which would be part of the “indivisible trinity” of Aland’s status.<sup>18</sup> In addition, it also mentions together all the interests protected by the Resolution (cordial relations,

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<sup>16</sup> Rosas, A., ‘The Aland islands as a demilitarised and neutralised zone’, eds L. Hannikainen and F. Horn, *Autonomy and Demilitarisation in International Law: The Aland Islands in a Changing Europe* (Kluwer: The Hague, 1997), p. 125.

<sup>17</sup>Ahlström, C., *Demilitariseradeochneutraliseradeomraden i Europa [Demilitarized and neutral areas in Europe]* (Alandsfreds- institut: Mariehamn, 1995),p.28

<sup>18</sup>Fagerlund N., *The Special Status of the Aland Islands in the European Union*, in *Autonomy and Demilitarization...*, cit., p. 194).

prosperity, happiness) and all the subjects which might be said to hold those interests, so that one might think that each of the subjects mentioned in it – that is Finland, Sweden, Aland and even the whole world – had a legal interest both in the recognition of the Islands' autonomy and their demilitarization. Alanders had never sought the demilitarization of their Archipelago, but only its reunion with Sweden.

To start with the autonomy, the relevant provisions are the third and fourth paragraphs of the Resolution. According to the fourth paragraph, the Autonomy Act of 1920 had to be supplemented so as to include provisions aimed “at the preservation of the Swedish language in the schools, at the maintenance of the landed property in the hands of the Islanders, at the restriction, within reasonable limits, of the exercise of the franchise by new comers, and at ensuring the appointment of a Governor who will possess the confidence of the population”. On the other hand, the demilitarization of the Islands is based on the fifth paragraph of the decision, according to which “an international agreement in respect of the non-fortification and the neutralization of the Archipelago should guarantee to the Swedish people and to all the countries concerned, that the Aland Islands will never become a source of danger from the military point of view”. This way the demilitarization of the Aland Islands has become an integral part of its autonomous character and also has ensured a peaceful resolution of the dispute. So, it can be said that demilitarization is a pre-requisite and a factor in making the autonomy regime successful in any region.

In case of Kashmir, the first war between India and Pakistan began in October 1947 and ended in December 1948. The origins of the first war between India and Pakistan can be traced to the final status of Kashmir following the establishment of an independent India and Pakistan on 15 August 1947. British policy held that the various princely states would have to accede to either Pakistan or India based

on geographic location and on demographics. While the final status of many of the states was easily concluded, Kashmir and two other states posed special problems. Tensions between Pakistan and the government of Kashmir grew as the Maharaja's indecision frustrated Pakistan and pro-Pakistani factions within Kashmir. Hostilities began in early October 1947 when a tribal rebellion broke out in Poonch in southwest Kashmir. By October 20th the Pakistani Army entered the conflict in support of the tribal forces in a multi-pronged effort designed to capture Uri, Jhangar, Rajuara, and Naushera in the opening days of the campaign. The Maharaja, facing overwhelming odds and near certain defeat, asked India for military support. India agreed to help provided that Kashmir acceded to India and that the Prime Minister of Kashmir endorsed the accession. Both the Maharaja and the Prime Minister agreed to these terms and on 26 October the Maharaja signed the Instrument of Accession. The post partition events shaped up in such a way which brought both Indian and Pakistani military in Kashmir. Led by Britain and the United States, the U.N Security Council passed a resolution (Resolution 47) on 21 April 1948, which enlarged the membership of the UNCIP from 3 to 5 and called for cessation of hostilities between India and Pakistan, withdrawal of all Pakistani troops and tribesmen and bulk of Indian troops(except for a minimal number required for maintaining law and order), allowing return of refugees, release of political prisoners and holding of a UN supervised Plebiscite in the State of Jammu and Kashmir to determine the aspirations of her people. The Plebiscite was to be held by a UN appointed Plebiscite administrator. Unfortunately, the whole case shaped contradictory to what happened to Aland Islands in the League of Nations. Neither the force withdrawal nor the plebiscite has taken place in the state of Jammu and Kashmir. Since then the Kashmir issue remained alive and the process of militarization continued. With the rise of militancy in 1990 there were about

150,000 soldiers stationed in Kashmir, i.e. about 17 soldiers per square mile and one soldier for every 17 civilians. Subsequently, an independent estimate in 1994 put the soldiers' number in Kashmir to 400,000 which represented just under half or 44 percent of the total Indian army at that time. In 2004, this number was estimated between 500,000 to 700,000 or one soldier for every 10 civilians. The former Deputy Chief Minister of the state informed the state assembly in 2006 that there were more than 667,000 forces personnel in the state for a population of 12 million. In 2007, the army sources gave the figure of 3, 37,000; one trooper for every 18 persons. In this way Kashmir was made the "most heavily militarized zone" in the world. It was essentially in this context that the U.S. State Department's top official characterized Kashmir as the "most dangerous spot in the world".

## **INSTITUTIONAL MECHANISM**

The purpose of this comparative analysis is not to apply legal labels used for the definition of the relationship between other autonomous regions and the respective central government. Legal definitions like "federalism" or "regionalism" are very vague and do not help understanding complex legal phenomena, mostly when there is no agreement among legal scholars even on the basic elements of these definitions. Moreover, even identical institutions might have very different developments depending on practical circumstances and political attitudes in the different constitutional systems.<sup>19</sup> Nevertheless, comparisons remain interesting in order to have a deeper knowledge of not only similar institutions, but different situations resolved with similar

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<sup>19</sup> Claudio Scarpulla, *The Constitutional Framework for the Autonomy of Aland: A Survey of the Status of an Autonomous Region in the throes of European Integration*, Second revised edition, Meddelanden från Alandshögskola nr 14, Mariehamn 2002

methods of solutions and to understand the reasons of their different development. In addition, comparisons may help forecasting the impact of possible constitutional reforms on the development of a particular autonomous system. Finally, comparisons with Autonomy of Jammu and Kashmir are particularly interesting in the present stage of conflict resolution.

Comparisons may be made on different grounds. To start with, a first comparison could take into account the constitutional basis of autonomy. In this respect, the kind and level of entrenchment would make the difference, together with the procedure according to which the devolution is carried out. As far as this criterion is concerned, Like Aland Islands Jammu and Kashmir enjoyed special status under Article 370 in Indian constitution vis-a-vis legislative, administrative and financial matters. Aland autonomy operate in a Unitarian Finish state while as Kashmir enjoying special status in a state to which K.C. Wheare, says quasi federal state. Apart from the formal basis of autonomy and its level of entrenchment, other similarities and differences can be found between the autonomy of Aland and that of Kashmir.

International organization like the League of Nations undertook to oversee the enforcement of the guarantees provided by the “Aland Agreement” makes the Aland’s case different from Kashmir. Still, as far as the domestic legal system is concerned, stating that the autonomy of Aland is founded on International Law seems slightly excessive. In this respect, it is also essential to recall the enhancement of legal protection provided by the Finnish Constitutional system holds key.

A further comparison could be drawn in relation to the contents of autonomy, particularly in relation to the powers granted to the autonomous units. In this respect, on the grounds that all these autonomous communities enjoy legislative powers, the Constitution (Application to Jammu and

Kashmir) Orders promulgated by the President of India in 1954, and subsequently, have brought the State within the ambit of the legislative relations between the Union and the States envisaged by the Constitution of India. However, the exceptions and reservations, specifically with regard to the residuary powers, leave a wide field of legislative authority to the Jammu and Kashmir State. Residuary powers are a vital part of the legislative competence, which in the Indian federal organization, are vested with the Union Government. The elaborate enumeration of the powers, the Seventh Schedule underlines, adds to the importance of the residuary powers, mainly because any such enumeration can be far from exhaustive and the State Government has the opportunity to block a national decision on important matters of government, which may arise from time to time. In such a case, the Jammu and Kashmir State retains the initiative to legislate on matters, which may conflict with national consensus and force the Parliament to amend Article 370, since the State Government would not be prepared to give concurrence to a change in the operation of Article 370, which the President of India would seek to bring about.

Aland's autonomy seems much closer to the American type, which is usually referred to as federalism. Indeed, broad as it may be, Aland's autonomy is enshrined in a constitutional text. In this respect – set aside the need to have the amendment approved by the Provincial Legislative Assembly, it remains fixed for as long as the complicated mechanisms for the amendments of the Constitutional texts have not been accomplished. Moreover, although Finland has no system of judicial review, compliance with the constitutional system of distribution of authority is ensured by juridical or quasi-judicial mechanisms, like the veto right of the President of the Republic on Aland's legislation. In fact, the President may apply his veto only on juridical grounds, when Aland's legislation acts *ultra vires*, after having heard the opinion of the Supreme Court.

Moreover, a fully juridical model applies to the supervision of state legislation in relations to Aland's autonomy, since it is for the courts to decide whether or not a State Act should apply to Alandic matters.

The constitution of Jammu and Kashmir (under sec 144) provided a separate flag of the state which is a very significant exception in the whole Indian union. This feature is identical with Aland Islands. Aland has its own flag, has issued its own postage stamps since 1984, runs its own police force, and is a member of the Nordic Council. Since 2005 the Aland Islands also have had their own airline, Air Aland. The islands are demilitarized, and the population is exempt from conscription. Although Aland's autonomy preceded the creation of the regions of Finland, the autonomous government of Aland also has responsibility for the functions undertaken by Finland's regional councils. Aland is a member of the Small European Postal Administration Cooperation.

## **CITIZENSHIP**

Generally, in a federal setup a person is a citizen not only of the state in which he resides but also of the federation, and both the federal and State governments, each independent of the others, operating direct upon the citizen who is thus subject to the two governments and owe allegiance to both, but the Indian Constitution like Canadian, does not introduce any dual citizenship, only one citizenship i.e., the citizenship of India (Article 5), while as birth or residence in a particular state does not confer any separate citizenship. Here an important but controversial exception has been made through the constitution of India for the permanent residents of Jammu and Kashmir. The state of Jammu and Kashmir grants dual citizenship to its permanent residents. Every person who is, or is deemed to be, a citizen of India shall be permanent resident of the State. If on the 14 May 1954 he was a State subject of class I and class II,



or, having lawfully acquired immovable property in the State, he has been ordinarily resident in the State for not less than 10 Years prior to that date. Any person who before the fourteenth day of May, 1954, was a State subject of class I or class II and who, having migrated after the first day of March 1947, to the territory now included in Pakistan, returns to the State under permit for the resettlement in the State or for permanent return issued by or under the authority of any law made by the State Legislature will on such return be a permanent resident of the State. The permanent residents will have all rights guaranteed to them under the Constitution of India.

As for as Aland Islands is concerned, People from Aland have joint regional (Aland) and national (Finnish) citizenship. People with Alandic citizenship (*hembygdsrätt*) have the right to buy property and set up a business on Aland, but Finns without regional citizenship cannot. Finns can get Alandic citizenship after living on the islands for five years, and Alanders lose their regional citizenship after living on the Finnish mainland for five years.<sup>20</sup>

## **HEADSHIP OF THE REGIONS**

Under the Constitution of Jammu and Kashmir, there was a difference in the nomenclature for the head of the state. In the rest of India, the head of the state executive is called “Governor” and he is appointed by the President (under Arts.152 and 155), while as in the state of Jammu and Kashmir the Executive head of the State of Jammu and Kashmir was called *Sadar-i-Riyasat* and he was to be elected by the State Legislative Assembly. This anomaly has, however, been removed by the Constitution of Jammu and Kashmir under 6<sup>th</sup> Amendment Act, 1965, as result of which the nomenclature has been changed from *Sadar-i-Riyasat* to Governor and he is to be

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<sup>20</sup>[http://en.wikipedia.org/wiki/Multiple\\_citizenship](http://en.wikipedia.org/wiki/Multiple_citizenship)

appointed like any other Indian state by the President of India. With the result, there is no difference on this point, between Jammu and Kashmir and other states. On the other hand the position of Provincial Governor of Aland is one of the special features of the relationship between the province and the State of Finland. The Governor represents the State in Aland, but only a person accepted by the Alanders themselves can become Governor. He or she is appointed by agreement between the President of Finland and the Speaker of the Aland Parliament.

## **LANGUAGES AND CULTURE**

The official language of the State of Jammu and Kashmir is Urdu different from Indian Union where it is Hindi and English. But English will, unless the legislatures by Law or otherwise provides, continue to be used for all official purposes of the State of Jammu and Kashmir (Sec.145).As for as Aland Islands is concerned besides legislative and administrative institutions of its own, which are elements of autonomy, Aland also has concrete rules aimed at preserving the Swedish language and the local culture and customs. When the League of Nations had resolved the question of Aland in 1921, a set of rules was established in order to preserve this heritage. Special requirements were laid down concerning mainly the language, land ownership, the right to exercise a trade and the right to vote. Aland is a monolingual Swedish-speaking province, which means that Swedish is the official language of the province and its municipalities and the State too uses Swedish as its official language in Aland. All documents addressed by State authorities to Aland have to be written in Swedish. Swedish is the language of instruction in all Alandic schools. The Alanders are active in defending their monolingualism, and an Alandic identity can be said to exist separately from the Finnish identity. As for as socio-religious life of Aland Islands is concerned the vast majority of the population i.e., 94.8 percent

belongs to the Evangelical Lutheran Church. Most inhabitants have Swedish (the sole official language) as their first language accounting to 90.2 percent and only 5.0 percent speak Finnish. It is thus evident that Aland is a homogenous province of Finland.<sup>21</sup>

On the other hand Jammu and Kashmir is a multi-lingual and multi-religious state and each group has its own distinct and peculiar cultural ethos further deepened by geographical divisions created by formidable mountain ranges. The Jammu region is dominantly Hindu with Muslims being in the majority in certain areas. The Kashmir Valley presents a heterogeneous population with two broad divisions i.e., Muslims and Kashmiri Pandits, both of whom speak Kashmiri, The people of Ladakh are believed to be descendants of a blended race of the Mons of North India, the Dards of Baltistan and the Mongols of Central Asia. Majority of the population is Buddhist. This *heterogeneity* has given rise to several political alignments along *linguistic, regional and religious* lines which has also made Kashmir issue an internally complex affair to deal with.

## **PROCEDURE FOR AMENDING THE CONSTITUTION**

The Jammu and Kashmir State Constitution may be amended by introducing a Bill in the legislative Assembly and getting it passed in each house by a majority of not less than two-third of the total membership of that House. But no Bill or amendment seeking to make any change in the provision relating to the relationship of the State with Union of India (Sec.3). The extent of the executive and legislative powers of the State (Sec.5) or the provisions of the Constitution of India as applicable in relation to the State shall be introduced or moved in either House of the Legislature (Sec.147.2 Proviso). Same is the case

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<sup>21</sup>[http://en.wikipedia.org/wiki/%C3%85land\\_Islands](http://en.wikipedia.org/wiki/%C3%85land_Islands)

with Aland Islands autonomy which has a very strong constitutional protection. The Act on the Autonomy of Aland may be amended only by the Parliament of Finland as provided for the amendment and repeal of the Constitution, and by a decision of the Aland Parliament. One of the major differences between Aland Islands and Kashmir Autonomy is an institution of Aland delegation. Aland Delegation is an institution for mediation which is proving supportive in resolving any sort of conflict or difference between Aland Islands and Finland. In case of Kashmir this kind of Institution is missing.

Another institutional difference between Aland Islands and Jammu and Kashmir State lies in the independence of local politics from the central political parties. Indeed, the development and even the survival of a strong autonomy is extremely unlikely if local politics and political parties are not independent from the ones which lead the state policy. As a matter of fact, this element represents a big difference between Aland's autonomy and that of the Jammu and Kashmir. In case of Kashmir major national political parties has not only their presence but they also play prominent role in government formation that too in the era of coalition governments.

## **EROSION AND EVOLUTION OF AUTONOMIES**

On the promulgation of the constitution on 26 January 1950, It became clear that only two of its Articles, *viz.* Article 1, which declared Jammu and Kashmir to be the part of Indian union, and Article 370, which defined the special status granted to the state, became applicable to Kashmir. While framing the constitution, incorporation of Article 370 was not an easy task from very beginning of Indian state in 1947. Political forces did not favour a truly federal state to emerge in India in the background of partition. In this context provision of article 370 provided a different model and it limited the accession to only three items in relation to Kashmir. But there were some

integrationist element in centre that look nation building project from more centralized and integrationist perspective. That is why from the very beginning of the constitutional operation a number of forces in India get activated against the retention of article 370. The assimilationist arguments and their practice has been perceived and experienced as betrayal in Kashmir. The eventual erosion of the special position that Kashmir had secured further intensified their sense of betrayal. The pressure for the erosion started shortly after the adoption of the Indian constitution in 1950. As a result of this, the cordiality between the governments headed by Sheikh Mohammad Abdullah and Pandit Nehru was replaced with anger, Open bitterness and frustration *Vis-a Vis* each other. The political events of 1953, that led to the dismissal of Sheikh Mohammad Abdullah, The most potent advocates of state's autonomy starting casting their shadow on state's special position.<sup>22</sup> This facilitated the process of greater merger of the state within the Indian union beginning with the presidential order 1954. In 1965 union government got several amendments passed in state assembly; the nomenclature of Sadr-i-Riyasat was replaced by a governor, a political nominee appointed by the centre, the title of head of the government was changed from prime minister to chief minister, which was the regular title of heads of government within the Indian union, state representative to the lower house (Lok Shaba) of Indian parliament would no longer be nominated by state legislature but would be elected. These amendments were highly centrist and were designed to erode the autonomy of Jammu and Kashmir State provided by Article 370. This Perspective has lead to gradual erosion of autonomy and has been one of the

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<sup>22</sup> Baba, Noor, Ahmad. 2002, "Origin and Dimensions of Crisis in Kashmir". In Shiri Prakash and Ghulam Mohd. Shah. *Towards Understanding the Kashmir Crisis*; Delhi Gyan Publusing House, 2002.p.183

contributing factors for alienation in Kashmir which resulted in violent armed movement in 1990's. With the emergence of violence and rise of separatist sentiments the conflict in Kashmir consumes a lot of human, economic, social and psychological resources.

Now considering the Aland Islands, it is apparent that more than nine decades of Aland's autonomous life have not been static. The status has evolved over time, in response to arising needs and changing times. After thirty years of autonomy governed by the Agreements of 1921. The autonomy of Aland has been expanded through two major revisions to the autonomy act in 1951 and in 1991. The first revision was initiated after the Second World War, when a new generation of politicians came to power. A regional movement also developed in Aland during the years 1950-1975. National symbols (the Aland flag, stamps and a national museum) were created. The 1951 Autonomy Act introduced the specific right of domicile or regional citizenship, although elements of it already existed in the previous act. In the Autonomy Act of 16 August 1991, which entered into force on 1 January 1993, satisfactory knowledge of Swedish as a requirement for regional citizenship was added. The other aims of the 1991 revision, enacted with the mutual consent of both the Finnish government and the Aland legislative assembly, was to define more clearly the legislative competencies of the state and of the provincial authorities to transfer additional areas of competence to Aland and to provide for the later transfer of increased authority in other areas and to expand autonomy in the economic sphere.<sup>23</sup>

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<sup>23</sup> Claudio Scarpulla, *The Constitutional Framework for the Autonomy of Aland: A Survey of the Status of an Autonomous Region in the throes of European Integration*, Second revised edition, Meddelanden från Alandshögskola nr 14, Mariehamn 2002

## **CONDUCT OF FOREIGN AFFAIRS**

In Aland Islands as per present domestic distribution of competence between the State and the Provincial authorities – military matters and foreign relations (still) fall within the complete domain of the State. This does not mean, however, that the Alanders have no say in military matters, as far as these Islands are concerned, as a matter of fact any democratic system, which supports local autonomy, must somehow afford the local communities the opportunity to manifest their will. Thus, even if the provincial authorities lack the power to decide similar matters alone, they have the possibility to influence the decisions of the competent bodies. Indeed, the democratic principle implies that all local authorities, which represent the people, may pursue a generality of aims, according to the institutional chances provided to them. As far as matters in which the Alanders have an actual interest are concerned, several institutional mechanisms may be used in order to influence the State decision-making process also in the fields of the external security and foreign relations. In this respect, the main resources in Aland's hands are.<sup>24</sup>

- a) The right of the Legislative Assembly to “submit initiatives on matters within the legislative power of the State which the Government of Finland shall present for consideration of the Finnish Parliament”
- b) The similar right of the Government of Aland to submit initiatives on matters within the competence of the State “for the issuance of administrative provisions and regulations for Aland”
- c) The right of the Government of Aland to be heard “before the enactment of an Act of special importance to Aland”

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<sup>24</sup> Hannum, Hurst. 1993. Documents on autonomy and minority rights. Dordrecht: Martinus Nijhoff. p.116

- d) The right of the Government of Aland to “propose negotiations on a treaty with a foreign State to the appropriate State officials”
- e) The possibility to take initiatives and influence the decision-making in the Finnish Parliament through the representative elected in the Aland constituency.
- f) The general right of the Legislative Assembly, in its capacity as the legal representative of the people of Aland in matters related to its autonomy, to express the will of the people in all of these matters. Indeed, according to the Report of the Government on the Government Proposal to Parliament for a new Act on the Autonomy of Aland, it is the duty of the Legislative Assembly to express the will of the people in matters relating to autonomy. The duty is performed by using the right of the Legislative Assembly to make decisions, submit motions and express opinions, as referred to various provisions of the Autonomy Act. In connection with autonomy it may become necessary to address issues that do not directly relate to the autonomy matters referred to in the Autonomy Act, but rather to the bases of autonomy or the sphere of Aland authority. The Legislative Assembly represents Aland in these situations.

Should it be concluded that these mechanisms are too weak in so far as the actual power to decide the matter does not fall into Aland’s hands? It does not hold true, mostly in the light of the fact that Finland has based its relations with its autonomous Province on the principle of consensus.<sup>25</sup> In such a situation, similar “weak mechanisms” can result much stronger than one could believe after a *prima facie* evaluation. In this respect, it is noteworthy that the Aland authorities and the Finnish

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<sup>25</sup> Cf. Johansson Lars Ingmar, *The Autonomy of Aland - Background and Present Situation*, in *The Aland Islands Demilitarized Region*, cit., p. 56.



Ministry of Defence have “agreed that the Governor of Aland (who represents the Finnish Government) will be informed about each visit of Finnish warships in advance, and he in turn will pass on the information to the Aland authorities”.<sup>26</sup>

The situation has been totally different in case of Jammu and Kashmir, On 26 October 1947, the State of Jammu and Kashmir acceded to the Dominion of India when its ruler Maharaja Hari Singh signed an Instrument of Accession and the Governor General of India, Lord Mountbatten accepted the instrument. With this Maharaja made accession of his state, Jammu and Kashmir, to India. This was the time when thousands of tribal groups had raided the State. By the Instrument of Accession, the Maharaja of Jammu and Kashmir accepted three subjects on which the Dominion Legislature may make laws for the State. Indian Constituent Assembly in 1949 adopted Article 370 of the Constitution, ensuring a special status and internal autonomy for Jammu and Kashmir with Indian jurisdiction in Kashmir limited to the three areas: defence, foreign affairs and communications. Kashmir and Aland Islands differ as far as ‘say in foreign affairs’ is concerned. In Indian case foreign affairs fall in jurisdiction of dominion power as has been accepted by state in instrument of accession while as anything which has its bearing in Aland autonomy is to acquire Aland island opinion.

## **DIFFERENCES IN ECONOMIC SETUP**

Jammu & Kashmir, being part of the Indian Himalayan Region, has some unique economic disadvantages arising out of political history, remoteness and poor connectivity, hilly and

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<sup>26</sup>Rosas, A., ‘The Aland islands as a demilitarised and neutralised zone’, eds L. Hannikainen and F. Horn, *Autonomy and Demilitarisation in International Law: The Aland Islands in a Changing Europe* (Kluwer: The Hague, 1997), p. 33.

often inhospitable terrain, vulnerability to natural disasters, a weak resource base, poor infrastructure, shallow markets and most importantly long standing conflict. Taken together, all these factors have resulted in low economic activity, low employment and low-income generation.

With the decolonization of Indian sub-continent accompanied by partition of the Indian subcontinent and conflict between the two succeeding states of India and Pakistan. The problem of the political arrangement of state of Jammu and Kashmir, which had close and intimate contacts with both of them, increased manifold, needless to say that the status of the state of Jammu and Kashmir is the bone of contention in their conflicts.<sup>27</sup> At the time of independence of the Indian sub-continent, there were three highways linking the state with the outside world. They were Jhelum Valley Road from Srinagar to Kohala via Baramulla and Domel; Banihal Road from Srinagar to Sialkot via Banihal and Jammu and Abbotabad Road from Domel to Abbotabad via Ramkot. There was also a rail link from Jammu to Sialkot forming part of the pre-partition N.W. Railway system. These highways were connecting the state of Jammu and Kashmir with Punjab which had become the part of Pakistan. The accession of Jammu and Kashmir with the Indian union and the subsequent declaration of Pakistan as an enemy country by the Nationalists who were in power in the state, all these highways and waterways became entirely useless for the people of the state.<sup>28</sup> The age-old economic ties of the people living in the state, particularly on its borders, with those living on the other side of the frontiers had been cut-off, thereby shattering the entire economic structure which was so

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<sup>27</sup>Sisir Gupta, *Kashmir: A study in India-Pakistan Relationships* (Bombay: Asia Publishing House, 1967), p. 30.

<sup>28</sup> Joseph Korb, *Danger in Kashmir*, (Jammu: Vinod Publishers and Distributors, 1992), p. 3.

laboriously and diligently built through centuries.<sup>29</sup>The conflict between India and Pakistan besides blocking the historical routes of the state and splitting its territory, also led to the imposition of restrictions on other activities which had long term impact on state's economy. Per capita income of Jammu Kashmir is Rs 24,214 which is quite low as compared to the national average of 33,283. According to the latest comparable data, Jammu Kashmir is ranked at the 21st position in terms of per capita income among all the Indian states.<sup>30</sup>

The Jammu and Kashmir economy depends mostly on traditional forms of occupation. The economy of Jammu and Kashmir is an undeveloped one. Unaffected and unaltered by modern day industrial developments and changing times because of the reason that the state is affected by continued violence, insurgency and uncertainty. In a recent survey conducted by United Kingdom based Chatam House, their report says, 96 percent of respondents from Kashmir Valley identified unemployment as one of the main problems facing J&K, along with conflict and corruption.<sup>31</sup>With the number of registered unemployed youth crossing 6 lakh, Jammu and Kashmir has the highest unemployment rate of 5.3 percent in comparison to its four neighbouring states. The number of unemployed youth registered in various District Employment and Counselling Centers is 6.01 lacs ending till September 2011, Economic Survey for the financial year 2011-12 has revealed.<sup>32</sup> As for as state's financial viability is concerned, Political conflict has impaired the state's ability to raise financial resources to have a stable economical growth. Presently the state's debt accumulation is serious. States debt-to-gross state domestic product (GSDP) ratio rose to 75.03 per

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<sup>29</sup> Techno-Economic Survey of Jammu and Kashmir (New Delhi: National Council of Applied Economic Research, 1969), p. 14

<sup>30</sup> Economic survey of India 2011

<sup>31</sup> 15 Sep 2011, *Greater Kashmir*

<sup>32</sup> 2 March 2012 *Greater Kashmir*

cent in 2010 - up from 69.78 per cent in 2008-09. That is a recipe for disaster. The Reserve Bank of India report says that among all the states in India, J&K's debt-to-GSDP ratio was the highest in 2008-09 - except for the four tiny states of Mizoram, Sikkim, Manipur and Arunachal Pradesh.

Now focussing on the economic setup in Aland Islands, It need to be underlined that Aland is a small society with an open economy that is dependent on trade with neighbouring regions. The Islands' location midway between two expanding economic centres, southern Finland and the Stockholm region, is a major advantage, but also makes Aland sensitive to economic fluctuations in its two neighbouring markets. Aland's economy is heavily dominated by shipping, trade and tourism. Shipping represents about 40percentof the economy, with several international carriers owned and operated from Aland. Most companies apart from shipping are small, with fewer than ten employees. Farming and fishing are important in combination with the food industry. A few high-profile technology companies contribute to a prosperous economy. Wind power is rapidly developing, aiming at reversing the direction in the cables to the mainland in coming years. In December 2011 wind power accounted for 31.48 percent of Aland's total electricity usage. The abolition of tax-free sales on ferry boats travelling between destinations within the European Union made Finland demand an exception for the Aland Islands on EU's VAT rules. The exception allows for maintained tax-free sales on the ferries between Sweden and Finland (provided they stop at Mariehamn or Langnas) and at the airport, but has also made Aland a different tax-zone, meaning that tariffs must be levied on goods brought to the islands. Unemployment is well below than that of surrounding regions, 1.8 percent in 2004.The Finnish State collects taxes, duties and fees also in Aland. In return, the Finnish Government places a sum of money at the disposal of the Aland Parliament. The sum is 0.45 percent of total Government

income, excluding Government loans. In 2006, the sum was about€ 182 million. According to Eurostat, in 2006 Aland was the 20th wealthiest of the EU's 268 regions, and the wealthiest in Finland, with a GDP per inhabitant 47 percent above the EU mean. Aland enjoys the largest state subsidies of any Finnish region (maakunta/landskap), totalling annually about 4,000 EUR per inhabitant more than the Alanders pay in state taxes (2006 figures). While the official currency is the euro, the Swedish krona also circulates freely in Aland.

## **CONCLUSION**

Kashmir is an illustrative example of an autonomy granted primarily as a result of historical and political contexts. Kashmir conflict is a testing ground for autonomy as a conflict resolution instrument under the aggravating circumstances of deep social polarization along communal lines, political interference from the central government as well as militancy and insurgency supported by the neighbouring state Pakistan. No doubt there are demographic, geographic and historical differences between Aland and Kashmir. In Aland case Conflict ends with three parties which is same as for as Kashmir is concerned. What was more common was that the conflict resolution in both the cases was looked from the state sovereignty paradigm. As for as original constitutional provisions with regards to special status for both the regions are concerned there is not enough difference between Aland and Kashmir still some constitutional provisions and institutions like Aland delegation, say in foreign affairs, Aland administration, The position of governor are some of the aspects of Aland autonomy which provide distinction to Aland Islands over Kashmir autonomy granted under Article 370 of Indian constitution. After analyzing both the cases, the nature of autonomy seems to be similar in both cases. But the nature of

‘nurture and management’ resulted peace for Aland and continued conflict for Kashmir.

Despite ample similarities there are many reasons of success for Aland autonomy and lack of comparable success of Autonomy in Kashmir. International guarantees system seem to be reason for success of Aland autonomy. In spite of having international guarantees if Finland would have desired to integrate and assimilate Aland Islands through erosion like what happened in Kashmir, they could have done it. The main guardian of international guarantees was League of Nations, which lost its relevance after World War II. In spite of erosion, Finland holds Aland centric policies and granted more and more autonomy when demanded. Unlike Aland Island, Kashmir Autonomy happens to be an internal mechanism for the devolution of powers between the Centre and the State without any third party or international influence. Secondly in both the cases irrespective of diversity and size of the territory, conflict touched crucial issues of political theory like self determination, sovereignty and security. In Aland case parties involved and international community have been able to milk these crucial issues. While as in case of Kashmir policies are still framed under such presumed consideration. Thirdly, Finland accepted the autonomy model as a conflict resolution mechanism, while in case of Jammu and Kashmir Indian government accepted it more as an expediency to meet the internal and international challenges that it was facing on Kashmir at the time of framing of its constitution which is evident from the historical evolution of Aland autonomy and gradual erosion of Article 370 of Indian constitution. In Aland case the agreements that were finally achieved were not considered as the end point, but rather as the beginning of a long process of giving the concept of autonomy a meaning in everyday life of the Aland Islands that continues until today. The whole point of autonomy as conceived for the Aland Islands was not one of separation, but of establishing a relationship that is securely grounded in law but sufficiently

flexible to adaption where changing circumstances so require. We nowadays take the Aland Islands autonomy as an example of successful conflict resolution. We will have to explore more and more how it was possible to reach to an autonomy arrangement which proved a win-win situation for all the parties and to pacify a potentially very volatile conflict, regarding a major territorial dispute, and to avert the risk of war in a tense atmosphere.

We can think about the possibility of Aland autonomy model within the constitutional set up of India. Kashmir is proving an irritant for India in its way for development. India is facing enormous challenges at national and international level. In such a situation it is possible for India to treat Kashmir as the way Finland has treated Aland Island. Aland Islands autonomy has not let disintegration of Finish sovereignty over Aland Island, that way it is also possible for India to adapt Aland model. India may not be Finland, neither Jammu and Kashmir is Aland Islands and nor Pakistan is Sweden. What is important here is not a political or economic situation in one or the other country, but the nature of the power-sharing structure within the arrangement itself that could result in a desired and mutually acceptable solution. Aland Islands model, with some modifications, could constitute a stable and long-term solution for the Kashmir conflict. It would allow the two neighbouring nations India and Pakistan to coexist peacefully and end decade's old hostilities.