A SHORT HISTORY OF THE STATE OF JAMMU AND KASHMIR
CHAPTER 2:
A SHORT HISTORY OF THE STATE OF JAMMU & KASHMIR

2.1 GEOGRAPHICAL LOCATION OF THE STATE

To understand the complex legal and political events that lead to the development of the Kashmir issue as we see it today, it is necessary to study the history of the State along with the geographical, social, economic, religious and also political developments that occurred within of the State of Jammu and Kashmir. India's Geographical conditions profoundly influenced her historical development.\(^1\) The geographical location of the State of Jammu and Kashmir is of utmost importance. The State is a mountainous region, renowned for its scenic beauty, snow clad mountains and lushful valleys, but more important than the scenic beauty of the State is its strategic position. The State situates at the apex of the Indian Sub-continent and shares common borders with China, Tibet, Pakistan and Afghanistan. The State of Jammu and Kashmir is located in a very strategic position which has made it the center of several intense international rivalries.\(^2\) The State being almost entirely a mountainous region it forms a natural barrier protecting India from foreign invasion. The occupation and control over the valley is therefore of great military importance.

---

\(^1\) Glimpses of Indian History – Subhas Chandra Basu.
Jammu and Kashmir lies between 30 degrees and 37 degrees North and 73 degrees and 80 degrees East and comprises of four natural regions being Kashmir, Jammu, Gilgit and Ladakh. The Districts included in Jammu and Kashmir are Anantnag, Astore, Baramulla, Chenani, Jammu, Kathua, Ladakh, Mirpur, Muzaffarabad, Poonch, Reasi, and Udhampur.¹ The State of Jammu and Kashmir comprises of an area of approximately 2,22,236 sq. Km, out of which 78,114 Sq Km has been under the occupation of Pakistan since 1948, out of which 5,180 sq Km of Gilgit and Baltistan has been illegally handed over to China by Pakistan in 1963 and is presently under the occupation of China. This includes 37,555 sq km, which has been under illegal occupation of China since 1962. The State of Jammu and Kashmir is the only State in the Indian Union whose borders are not yet settled.²

The Princely States geographically formed a part of India.³ Kashmir, one of the Princely States, is therefore, no doubt geographically a part of Indian Territory. Since time immemorial the State of Jammu and Kashmir been considered to be an integral part of India. It has been said that the “Country which lies to the South of the Himalayas and North to the Ocean is called Bharat and the Bharatiyas are the people of this country”.⁴ It has further been stated, “The name Bharat Varsha is not a mere

---

⁴ Translated from the Vishnupurana Ch. 3-1
geographical expression like the term ‘India’ having only a physical reference. It has a deep historical significance symbolizing a fundamental unity”.¹ The geographical unity of the Indian sub-continent fostered the political unity of India.² “The above facts indicate that anatomy of Kashmir is such that it is an integral part of the body of our Country, just as any part of a human body constitutes of an individual and it is inseparable”.³ In spite of the fact Kashmir is an inseparable part of India, the history of Jammu and Kashmir shows that the State, during various periods, enjoyed its own sovereignty and/or autonomy.

2.2 KASHMIR PRIOR TO THE REIGN OF GULAB SINGH

India is a country of people having diverse cultures and religions. The people of the State of Jammu and Kashmir, also known as Koshurs, are no exception and they have a distinct cultural heritage of their own. Though the people of the State were originally Hindus, religions such as Buddhism and Islam influenced the State and presently the State has a Muslim majority population. However it may be mentioned that even though the State has a Muslim majority population, maximum Muslims are residing in the Kashmir valley and in general it is found that Jammu has a predominant Hindu population and Ladakh has a predominant Buddhist population. All

¹ Fundamental Unity of India – Radha Kumud Mukherjee
² Glimpses of Indian History – Subhas Chandra Basu.
³ Autonomy to Kashmir – Organiser – August 20, 2000 - Mr. M. Rama Jois – former Chief Justice, Punjab and Haryana High Court
these three sections present three isolated peculiarities. Their ways of life and attitude towards life are totally different from one another.¹

The ancient history relating to the Hindu period of Kashmir is not clear due to inadequate historical literature and texts. Kalhana’s “Rajatarangini” is practically the only source of Kashmir’s ancient history. According to Kalhana the history of Kashmir can be traced back to the reign of King Gonanda I. King Jalauka of Kashmir who reigned a few decades earlier to 1184 BC had organized his Government with eighteen departments: – “Having created eighteen traditional departments of State, the King inaugurated during his reign the same type of constitutional system of government that Yudhistira (of Mahabharata) had adopted”.²

However, from the reign of King Ashoka, the historical material available is more authentic. During the 3rd Century B.C. Kashmir was a part of the kingdom of King Ashoka who was a powerful Hindu king who had expanded his kingdom considerably by conquests. After seeing the bloody aftermath of the Battle of Kalinga he underwent great change and embraced Buddhism and it was mainly during his reign that Buddhism was introduced in the State of Jammu and Kashmir. At the beginning of the Christian era Kashmir was invaded and plundered by the Tartas, and later,

² Rajatarangini – 1-120 – English version by R. S. Pandit
by the Huns. Powerful Hindu rulers like King Lalitaditya also ruled over the Kashmir Valley.

Muslim influence was felt in 712 AD when Muhammad Ibu Kasim invaded India. During the early 11th Century AD Muhmud of Ghazi conquered the Punjab and eventually Punjab was converted into a Muslim state. However, Muhmud of Ghazi was unsuccessful in conquering Kashmir. The Shah Mirs were the first Muslim Rulers of Kashmir who ruled from 1342 onwards. It was mainly during the reign of Sikander (1389-1413) that the Islamisation of the Kashmir valley occurred. Some of the main factors leading to the Islamisation of the State were the influx of immigrants, mainly Arabs, Turks, Pathans, Afghans and Persians; inter-marriages between the Muslim rulers and Army Commanders with the local Hindus; conversions of Hindus to Islam, both voluntary and forceful; etc. Sultan Zain-ul-Abidin ruled Kashmir for half a century, between 1420 and 1470 and was a popular ruler and had the favour of both the Muslims and the Hindus. Gazi Khan became the ruler of Kashmir in 1554 and the Mughal Emperor Akbar invaded the Kashmir valley in 1586. Kashmir remained under the control of the Mughals for more than one and a half centuries and was ruled by other great Mughal emperors like Jehangir and Shah Jehan.
In 1750 the Afghans under Ahmed Shah Abdali invaded the Kashmir valley. Afghan rule in Kashmir was a reign of terror and was so harsh that the people of Kashmir were left with no other alternative but to request Maharaja Ranjit Singh of Punjab to come and save them from the tyranny of the Afghan rulers. In 1819, Maharaja Ranjit Singh sent Raja Gulab Singh, a Dogra Rajput King, to the Kashmir valley who defeated the Afghan Governor and established the sovereignty of the Sikhs in the Kashmir valley. Kashmir remained under the control of the Sikh Durbar from 1819 till 1846, when the Sikhs were ultimately defeated at Sobraon by the British. Ladakh was an independent kingdom under the suzerainty of the grand Lamas of Tibet until Raja Gulab Singh captured Ladakh in 1834.

2.3 THE ADVENT OF MAHARAJA GULAB SINGH

The Sikh Durbar proved to be a formidable force developing on the western flanks of British India and the British wanted to curtail the power of the Sikhs in order to secure and consolidate their position within India. War started at Sobraon between the Sikhs and the British in November 1845. The Sikhs wanted Raja Gulab Singh to lead them in the battle against the British. Raja Gulab Singh advised the Sikh Army not to attack the British and to wait until he joined forces with them. But Raja Gulab Singh delayed his assistance and deliberately allowed the Sikhs to be defeated by

---

the British. By doing so, Raja Gulab Singh successfully won the favour of the British and was immediately made the Prime Minister of the Punjab.

The British after defeating the Sikhs signed two treaties. On 9th March 1846 the Treaty of Lahore was concluded between the British and Raja Dhuleep Singh of Lahore, whereby Raja Dhuleep Singh was compelled to recognize the independent sovereignty of Raja Gulab Singh. On 16th March 1846, the Treaty of Amritsar was concluded between the British and Raja Gulab Singh, whereby, under Article 1 of the said treaty, the British Government transferred and made over 'forever, in independent possession, to Maharaja Gulab Singh and their heirs male of his body' the entire State of Jammu and Kashmir. The said Treaty further provided in Article 3 that 'in consideration of the transfer made to him and his male heirs by the provisions of the forgoing Articles, Maharaja Gulab Singh will pay to the British Government the sum of seventy-five lakhs of Rupees (Nanukshahee), fifty lakhs to be paid on ratification of this Treaty, and twenty five lakhs on or before the first October of the current year, AD 1846'. It is for this reason that the Treaty of Amritsar is notoriously referred to as the 'Sale Deed of Kashmir'. The said treaty nowhere mentioned what would be the rights and interests of the millions of people of Kashmir who were sold by the said transaction like sheep and cattle.¹

The said treaty drew much criticism. Unlimited power was transferred to a Dogra Hindu ruler to rule over a Muslim majority population.¹ By the said Treaty, Maharaja Gulab Singh became the undisputed ruler of Kashmir. Thus by the culmination of the Amritsar Treaty, 1846 and acceding of the Valley of Kashmir with Jammu emerged the State of Jammu and Kashmir with the sovereignty of Maharaja Gulab Singh (1846-1857).² Dogra rule was harsh and extortionist, focused on a rapacious relationship with the people.³

Maharaja Gulab Singh, during his short reign of eleven years, between 1846 and 1857, was eager to establish and consolidate his newly acquired kingdom, and was able to bring all the territories of Kashmir under his direct control. He invaded Tibet and extended the border of India to the other side of the Himalaya. He was proved to be a just and strong ruler and was eager to improve the condition of his subjects. He introduced various reforms in the State’s administrative, agricultural and revenue system. He also introduced certain reforms in the State’s education system. A great historian like Sardar K. M. Panikkar who also wrote a biography of Maharaja Hari Singh said, “In a century barren of historical achievement in India, Gulab Singh stands out a solitary figure of political eminence.”⁴

³ Grim Realities of Life, death and Survival in Jammu and Kashmir - Peoples Union for Democratic Rights, Delhi - Page 53.
2.4 THE REIGN OF MAHARAJA RANBIR SINGH

Maharaja Gulab Singh died on 25th Sawan 1914 (1858 AD). He was succeeded by his third son Maharaja Ranbir Singh, two years prior to his death, on 18th Phagan 1912 (1856 AD). During his short reign from 1846 till 1857, Maharaja Gulab Singh was unable to establish an effective administrative system within the State of Jammu and Kashmir and it became essential for Maharaja Ranbir Singh to thoroughly reorganize the States administrative system. To improve the State’s administrative system he divided the Province of Jammu into seven ‘wazarats’ and divided Kashmir into six ‘wazarats’. The Province of Jammu was under the direct administration of Maharaja Ranbir Singh, while the Maharaja through a Governor administered the Province of Kashmir. This may account for the feeling amongst the people of Kashmir province that the Maharaja did not regard them as “his own”. Maharaja Ranbir Singh also made some major reforms in the State’s revenue system. Previously revenue was collected in kind and not in cash. In 1860, Maharaja Ranbir Singh abolished the system of collection of revenue in kind in the province of Jammu, though the old system on collection of revenue in kind, continued in the province of Kashmir throughout his entire reign, and was later abolished by his successor, Maharaja Pratap Singh.

Various reforms were also introduced in the State’s judicial system. Chief Courts known as Adalat Sadars were set up at Jammu and Kashmir, and in 1877 a High Court known as Adalat-I-Alia was set up, which was the highest court of appeal or revision, subject to the judicial powers of the Maharaja. ‘Wazarat courts’ were set up in each Wazarat. Maharaja Ranbir Singh took great personal interest in the State’s judiciary and tried his best to improve the condition of the State’s judicial system.

The armed forces under Maharaja Ranbir Singh were well trained and equipped and followed the fashion of the British drill and dress. The army comprised mainly of Dogras, Dards and Punjabis. Kashmiris in general were disqualified from joining the armed forces. Maharaja Ranbir Singh remained a friend of the British and played an important role in suppressing the Indian Mutiny, for which the British honoured Maharaja Ranbir Singh with the title of Grand Commander of the Star of India.

Even though the reign of Maharaja Ranbir Singh was full of turbulence he was able to prove himself as a strong and capable ruler. In spite of his friendship with the British, he strongly opposed all attempts made by the British Government to appoint a British Resident in Kashmir. He made it very clear to the British that under the Treaty of Amritsar, 1846 and the Queens Proclamation, 1958 the British Government had absolutely no right to interfere with the internal affairs of the State. During the reign
of Maharaja Ranbir Singh the British were unable to and unsuccessful in appointing a British Resident in the State of Kashmir.

2.5 THE REIGN OF MAHARAJA PRATAP SINGH

Maharaja Ranbir Singh after falling ill expired on 14th September 1885, and was succeeded by his eldest son Maharaja Pratap Singh who ascended the throne in the same year. During the reign of Maharaja Ranbir Singh the British, inspite of several attempts, were unable to appoint a British Resident in the State of Jammu and Kashmir. Taking advantage of the death of Maharaja Ranbir Singh, the British, who were still very much eager to get a British Resident posted in Kashmir, sent Mr T. C. Plowden, the Resident-Designate to Kashmir. Maharaja Pratap Singh, who was still in mourning after the death Maharaja Ranbir Singh, strongly opposed this, but in vain, and ultimately a British Resident was appointed in the State of Jammu and Kashmir. Even though Maharaja Pratap Singh was unable to prevent the British from appointing a British Resident within the State, still he was a strong and capable ruler like his predecessors. He too was eager to improve the State’s administrative, judicial and revenue systems. He took keen interest in the State’s armed forces and like his father continued to exclude Kashmiris from both the Army and the civil services. This deliberate and continued exclusion of Kashmiris from serving in high posts
of both the military and civil services lead to the growth of dissatisfaction in the minds of the Kashmiri people.

In 1888, Maharaja Pratap Singh proposed to introduce a new Constitution for the State, which the Viceroy and Governor-General of India did not accept. The plan of the new Constitution came into operation in 1889. The Council proposed under the said Constitution totally left out the Muslims. The object of establishing the Council was to reduce the powers of the British Resident and this caused much annoyance to the British who wanted the Resident to control the affairs of the State. Maharaja Pratap Singh’s attempt to curb the power of the British Resident in Kashmir caused so much dissatisfaction in the minds of the British Government that he was temporarily dispossessed of all powers between 1889 and 1905, and all powers were to be exercised by the Council of Regency, subject to the control of the Resident.

The reasons given by the British for dispossessing Maharaja Pratap Singh were that Maharaja Pratap Singh of having entered in “treasonable correspondence” with Czarist Russia and that the administration of the State had collapsed and that the State’s Treasury was empty resulting in over burdening of the subjects with high taxes. These reasons were however not acceptable. However, this was a common practice of the British Government meted out to friendly native States. The act of dispossessing Maharaja Pratap Singh by the British Government was
in gross violation of the Treaty of Amritsar, 1846 and the Queen’s Proclamation, 1858. But such action on the part of the British Government was an ‘Act of State’ and the same could not be challenged in any court of law, as ‘Acts of State’ are not subject to the jurisdiction of the Municipal Courts.\(^1\) A similar view was taken in the case of the Secretary of State for India –vs- Kāmachee Boye Sabha\(^2\) where it was stated that even if a wrong has been done, it is a wrong in which no Municipal Court of Justice can afford any remedy. The only course left open to the Maharaja was to wait for a change in his fortune\(^3\).

Maharaja Pratap Singh was reinstated to his throne in 1905, though his powers were now largely curbed and were subject to the veto of the British resident. Matters such as finance, taxation granting of jagirs, foreign relations, etc, were no longer under the Maharaja’s control and remained under the control of the Government of British India. The annual budget and all expenditure of the State were to be made subject to the approval of the Resident. In short, the Maharaja in most administrative matters had to take the consent of the Resident.

---

\(^1\) Rustamji –vs- Queen 1876(2) QBD 69 @ 73  
\(^2\) 1859 (13) MooPC 22  
In spite of the intervention of the British Resident and the various restrictions imposed by the government of British India, Maharaja Pratap Singh was a progressive and capable King and made several improvements in the State’s Administration and Judiciary. He appointed a Council of Ministers to conduct the State Administration and formed a Legislative Assembly for framing and enacting various laws. These modifications introduced by Maharaja Pratap Singh by way of a Regulation in January 1922, were largely accepted by the British and are known as the ‘Sri Pratap Singh Reforms’. Even though the British were eager to oust Maharaja Pratap Singh from power, he was ultimately conferred with the honour of Grand Commander of the Star of India in 1921.

It should be noted that during the period Maharaja Pratap Singh was dispossessed of the throne of Kashmir, there was a great influx of outsiders from the neighbouring states into the State of Kashmir. Many of the outsiders had Western education and were appointed in a large number of administrative posts. This onslaught of outsiders into the State along with the advancement of education amongst the people, added to the dissatisfaction of the people and lead to an agitation with a slogan, “State for State’s People” that later took the shape of a National Struggle.
2.6 THE REIGN OF MAHARAJA HARI SINGH

Maharaja Pratap Singh died in 1925 without any heir and was succeeded by his brother Amar Singh's only son, Hari Singh. Maharaja Hari Singh was already the Commander-in-Chief of the State Army and was also a senior member of the State Council. On ascending the throne Maharaja Hari Singh introduced a series of reforms in the State’s economic, social, judicial and education systems.

During the reign of Maharaja Hari Singh the Kashmiri Pundits had also started an agitation within the State known as ‘Kashmir for Kashmiris’. The demand of the leaders of the said movement was the recruitment of the educated sons of the soil in Government services, ban on the sale of land to outsiders, freedom of the press, freedom of association and assembly. On 31st January 1927, Maharaja Hari Singh issued an order defining the term ‘Mulkis’, i.e. the State Subjects. The said order provided that the State Subjects would be preferred over outsiders in cases of employment in the Government services. The said order also provided that outsiders, from now onwards, would be unable to purchase immoveable property within the State of Jammu and Kashmir. On 20th April 1927 the Maharaja issued a notification being No. I-L/84, defining the State Subjects. The said Notification states as follows:
The term State Subject means and includes—

Class I- All persons born and residing within the State before the commencement of the reign of His Highness the Late Maharaja Ghulab Singh Sahib Bahadur, and also persons who settled therein before the commencement of Samvat year 1942, and have since been permanently residing therein.

Class II- All persons other than those belonging to Class I who settled within the State before the close of Samvat year 1968, and have since permanently resided and acquired immoveable property therein.

Class III- All persons other than those belonging to Classes I and II permanently residing within the State, who have acquired under a rayatnarna any immoveable property therein or who may hereafter acquire such property under an ijazatnarna or rayatnarna after ten years continuous residence therein.

This regulation was meant to protect the people of Jammu and Kashmir from outsiders coming from the neighbouring State's but discrimination within the State still continued, especially against the Muslim majority. All official high posts were still occupied mainly by Dogras and Rajputs and the State Army comprised only of Dodras and Dards and Kashmiris were intentionally excluded from the Armed Forces. On 14th August 1931, the All India Kashmir Muslim Conference of Lahore
observed a Kashmir Day throughout India, including Kashmir.\footnote{Jammu and Kashmir: Article 370 of the Constitution of India – Page 15 – Prof K. L. Bhatia} By 1931, the protest by the Kashmiri Muslim population against communal discrimination became so vocal that the Maharaja had to use all means at his disposal in order to control the said agitations. Ultimately the Maharaja was compelled to make a proclamation announcing that any section of his subjects could submit their reasonable demands for consideration of the Maharaja and on the basis of the said proclamation Maharaja Hari Singh received several memorials for consideration. The common demand made in the said memorials was a demand for representative government along with equal rights and equal treatment of all the State Subjects.

2.7 THE GLANCY COMMISSION AND REGULATION NO. 1 OF 1934

Maharaja Hari Singh received the demands made in the said memorials and gave them his careful and sympathetic consideration. He set up a commission under the chairmanship of Mr. B. J. Glancy, referred to as the ‘Glancy Commission’ for the purpose of enquiring into the grievances of the people and to make its recommendations on the basis of such enquiry. The Glancy Commission submitted its report on 22nd March 1932 and made several recommendations mainly on the basis of religion, education and employment in the State services. On the basis of the
recommendations made by the Glancy Commission, Maharaja Hari Singh signed a notification dated on 10th April 1932.

On 22nd April 1934, Maharaja Hari Singh, in order to establish a Legislative Assembly and in order to secure his legislative, executive and judicial powers enacted a Constitutional Act known as Regulation No. 1 of Samwat 1991 (1934 AD). Under the said regulation a Legislative Assembly for the State called the Praja Sabha consisting of a total of 75 members was constituted. Of the 75 members, 33 members were elected members of whom 21 members were Muslims, 10 members were Hindus and 2 members were Sikhs. But the right to vote was restricted to only 3% of the total population. Only literate persons having an annual income of Rs 400/- or more were permitted it vote. Women and illiterates were totally debarred from exercising any franchise. Though the said modifications were meant to give ventilation to the growing dissatisfaction amongst the Muslim population of Kashmir, the Maharaja continued to be the absolute Monarch exercising all his previous legislative, executive and judicial powers\(^1\) without surrendering any of his previous powers. No rule made by the Praja Sabha would be deemed to be passed until and unless the Maharaja gives his assent thereto\(^2\). The said regulation did not satisfy the peoples demand for representative government.

\(^1\) Regulation No. 1 of Samwat 1991 (1934 AD) – Section 3
\(^2\) Regulation No. 1 of Samwat 1991 (1934 AD) – Section 30
2.8 THE MUSLIM CONFERENCE AND A DEMAND FOR 'RESPONSIBLE GOVERNMENT'

Another major event was the formation of the Muslim Conference under the President ship of Sk. Mohammed Abdullah in the year 1932. Due to the formation of the Muslim Conference the people were now able to ventilate and express their grievances in a more organized and effective manner. The people were totally dissatisfied with the Regulation No. 1 and regarded the Legislative Assembly formed under it as a 'mock' Assembly.\(^1\) Being totally dissatisfied with the said Regulation No. 1 the Muslim Conference made an immediate demand for 'Responsible Government', which was there and then rejected by Maharaja Hari Singh. In protest the Muslim Conference called upon the people to observe 'Responsible Government Day'. Sheikh Abdullah wanted all Muslim and Non-Muslim groups to participate in the said agitation, but the Hindus and other Non-Muslim groups refrained from participating in the said movement. However, Sheikh Abdullah’s Muslim Conference was successful in winning the support of the oppressed Muslim majority population.

2.9 BIRTH OF THE IDEA OF PAKISTAN AND THE INCLUSION OF KASHMIR WITHIN HER FOLD

It should be noted that during this period another interesting development was the birth of the idea of Pakistan that was to provide a

---

Page 36 - Dr. A. S. Anand
A separate homeland for the Muslims of North-Western India, including Kashmir as one of its primary regions. In 1930, one Muhammad Iqbal, a Kashmiri Muslim, suggested the formation of an Islamic State by the union of the Frontier Provinces, Baluchistan, Sindh, and Kashmir forming a Federation of Muslim States. In 1933, a Cambridge student Choudhari Rehmat Ali informally floated the idea of Pakistan comprising Punjab, Afghaniya (North Western Frontier Province), Kashmir, Sindh, and Baluchistan. The Muslim League rejected the idea, calling it “chimerical” and “impracticable”. But later, in 1940, at the Lahore session of the Muslim League, Jinnah ‘formally’ proposes the idea of Pakistan.¹ This idea of Iqbal was further developed by Rehmat Ali to provide for a separate homeland for the Muslims. That is why Pakistan craves for inclusion of Kashmir in her fold, and so also Kashmiri Muslims.² The formation of the idea of Pakistan and the need for inclusion Kashmir in her fold is relevant as the birth of the idea of Pakistan added further complexity to the problem prevailing in Kashmir. It also throws light on the resentment that was prevailing in the minds of a section of Kashmiri Muslims at that time and to a certain extent explains why Pakistan has a special interest in Kashmir.

¹ Outlook – Page 21 – July 23, 2001