

**GILGIT
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– POLITICAL
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By

R Chandrashekar, Senior Fellow, CENJOWS



Centre for Joint Warfare Studies

Kashmir House, Rajaji Marg, New Delhi-110 001

Tel. Nos : 011-23792446, 23006535, 23006538/9, Fax : 011-23792444

Website : <http://cenjows.gov.in>, e-mail : cenjows@yahoo.com

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The Gilgit and Baltistan regions of Jammu and Kashmir State, has been under illegal occupation of Pakistan since 1947.

Besides it being amongst the most scenic and spectacular regions of the world with enormous natural resources with several mineral deposits, some aspects of the region that set it apart from Pakistan and the POk are its being a region with diverse languages and dialects and contrary to the preponderance of Sunnis amongst the populations of other Provinces of Pakistan, Gilgit Baltistan is a region where the Shias and other denominations of Muslims are in a relative majority.

Political Control: Timeline

An appropriate start point for the purpose of this discussion is 1877, when the then British Government in India sought to establish a Gilgit Agency comprising the Gilgit Wazarat; the State of Hunza and Nagar; the Puniyal Jagir; the Governorships of Yasin, Kuh-Ghizr and Ishkoman, and Chilas. In 1935, the British sought direct control over most part of the Agency and sought it being leased to them for

a period of sixty years, a request the Hari Singh the then Maharaja of Jammu and Kashmir State, could not but acquiesce.

This leased region was then treated as part of British India, administered by a Political Agent at Gilgit responsible to Delhi, first through the Resident in Jammu and Kashmir and later a British Agent in Peshawar. During this period the Jammu and Kashmir State flag remained hoisted over residency along with the Union Jack. However, the Jammu and Kashmir State no longer kept troops in Gilgit and a mercenary force, the Gilgit Scouts, was recruited with British officers and paid for by the Government in India.

In April 1947, with the prospect of Indian Independence becoming clearer, the British Government decided to formally retrocede the leased areas to Hari Singh's Jammu and Kashmir State, a transfer that took place on 01 August 1947. Interestingly, Mahatma Gandhi, who visited Srinagar on that day and witnessed the city being lit up in celebrations for the return of Gilgit (quite in contrast to the violence occurring in other parts of the country), is said to have observed that it would be better if Gilgit was awarded local area autonomy to govern itself and to preserve its traditional ways. Maharaja Hari Singh however chose not to accept that advice and his representative, Maj Gen Ghansara Singh assumed Governorship of Gilgit on 01 August 1947. Also important is that notwithstanding its status as an Agency under direct British control, State elections had been held in the region in 1934, 1937 and 1941, with theebeing representation even in the last State assembly that terminated in 1947.

The local people, though overwhelmingly Muslim, had also welcomed the return of the Maharaja's administration after

the period of British rule. The subordinate chiefs under the Governor of Gilgit at that time were the the Mir of Hunza, the Mir of Nagar, the Raja of Punial, and the chieftains of Koh Ghizar, Yasin and Ashkoman. Of these, only the Mirs of Hunza and Nagar were hostile to the Maharaja re-assuming rule of the region. Their hostility proved very damaging seriously impacted the future of the region as a large majority of the troops of the Gilgit Scouts were from the Hunza and Nagar regions. Subedar Major Babar Khan, a key troop commander of the Gilgit Scouts was the uncle of the Mir of Nagar and married to the sister of the Mir of Hunza.¹

The Gilgit Scouts Rebellion

On 01 November 1947, (a few days after Maharaja Hari Singh acceded to India on 26 October 1947), a mutinous Operation codenamed 'Datta Khel' was carried out by Major William Brown, the then Commander of the Gilgit Scouts along with Captain A S Mathieson and Subedar Major Babar Khan, in which Maj Gen Ghansara Singh, the Governor appointed by the Maharaja was overthrown. and on the next day, 02 November 1947, the Pakistani flag was raised over the Headquarters of the Gilgit Scouts with Maj William Brown claiming that both he and Capt. Matheison having opted for service with Pakistan. (In spite of his actions being abjectly disloyal and contrary to the purpose and role of the Gilgit Scouts which, post the British handing the region back to the Maharaja of Jammu and Kashmir, was a force under the command and control of the latter. The award of the *"Most Exalted Order of the British Empire"* in 1948 clearly indicates towards British complicity and support to the Major Brown led 'Datta Khel' mutiny.

1 Based on

http://www.sikhiwiki.org/index.php/The_fall_of_Gilgit

An important aspect to note is that till the time of the handover of the region to the Maharaja, neither the local people showed signs of being inflamed by communal passions that had by then spread through Punjab and there were no instances of killing or forced conversion of non-Muslims. However the troops of the 6 J&K Infantry, less about two companies, garrisoned at Bunji (about 54 kms from Gilgit), a Battalion composed of Muslims and Sikhs in almost equal proportions and commanded by Lt. Col. Abdul Majid Khan. The Muslim troops of this Battalion mostly hailed from the Poonch region and were well aware of the violence taking place elsewhere. With indicators emerged of Major Brown and Sub Major Babar Khan of the Gilgit Scouts planning some trouble, the Governor was advised to call up the 6 J&K Infantry from Bunji but was then realised that the Muslim component of that Battalion were even more disaffected than those of the Gilgit Scouts and Lt Col Abdul Majid Khan, the Commanding Officer opposed the calling up to Gilgit of only the Sikh troops.²

Initial Post-Mutiny Administrative Arrangements

After the overthrow of the J&K State Governor, a provisional government was initially established by the Gilgit locals with Raja Shah Rais Khan as the President and Mirza Hassan Khan as Commander-in-Chief. Two weeks later, a nominee of the Pakistan government, Sardar Mohammed Alam, was appointed the **Political Agent**. In follow up to Major Brown's coup in Gilgit, Sir George Cunningham, then Governor of North-West Frontier Province, instructed him to restore order, thereby giving Pakistan de facto control of the region.

2 Based on http://www.sikhiwiki.org/index.php/The_fall_of_Gilgit

Upon the region coming under control of Pakistan, the colonial law of Frontier Crimes Regulations (FCR) was enforced over whole area as had been imposed in all the agencies annexed with Pakistan including Federally Administrative Tribal Areas. Under this English law for the tribal areas, a Civil Servant exercised all judicial and administrative powers (in contrast to the independent judicial system with right of appeal before the Kashmir High Court in the period of the Maharaja's rule).

The Karachi Agreement (28 April 1949)³

In April 1949, an agreement was reached between the government of Pakistan and the illegal Government of POK through which the administrative control of Gilgit and Baltistan was temporarily transferred to the government of Pakistan. The affairs of Gilgit and Baltistan thereby came under the

control of Political Agent appointed by the government of Pakistan. *(This Agreement, known as the The Karachi Agreement, signed on 28 April 1949 by Mushtaq Ahmed Gurmani, Pakistan's 'Minister without Portfolio' in charge of the Ministry of Kashmir Affairs, Sardar Mohammed Ibrahim Khan, the 'President' of POK and Chaudhry Ghulam Abbas, Head of All Jammu and Kashmir Muslim Conference has been kept as a 'Secret' document up to the 1990s till revealed in a verdict on Gilgit and Baltistan (Northern Area) by the High Court of Azad Kashmir. And later published as the Appendix XVII of The Constitution of POK is 2008).*

The agreement consists of three parts - Part I being the structure and operation of the 'Civil Administration', Part

3 Based on http://www.jammu-kashmir.com/shabir/shabir_1949_03_1.html

II dealing with financial arrangements by which Pakistan would advance money and Part III with the `Division of functions between the Governments of Pakistan, POK and the Muslim Conference. It is in Part III that the Pakistan government allocated to itself eight important matters including Defence, negotiations with the UNCIP, foreign policy, publicity in foreign countries, coordination of refugee relief and rehabilitation, coordination of all arrangements for a plebiscite, all activities within Pakistan with regard to Kashmir and, finally, all affairs of the `Gilgit and Ladakh areas' (which were then under the control of the political agent at Gilgit).

Initially, the Political Agent was also placed under the Political Resident of the NWFP, but in 1950, the affairs of the Northern Areas (the term then used to refer to Gilgit and Baltistan Regions) were brought under the administrative control of Ministry of Kashmir Affairs and Northern Areas.

A post of **Political Resident** was created in place of the Political Agent and in 1952, a Joint Secretary of the Ministry of Kashmir Affairs was appointed Resident for the Northern Areas. Two Political Agents were appointed, one each for Gilgit and Baltistan, the two 'Agencies'. Administrative and judicial authorities thus remained centralized with the Resident with there being no political representation.

Significantly, the geographic details and explanation of the areas under Pakistan, as given in the Constitutions of 1956, 1962 and 1973, do not cover the Northern Areas as part of Pakistan. ***When Martial Law was imposed in 1958, it was not extended to Northern Areas, because according to the principle stand of Pakistan, these areas (still) did not belong to Pakistan.***

In 1967, Reforms were introduced by transferring powers of the High Court and Revenue Commissioner to the Resident and appointment of a Political Agent each for Gilgit and Baltistan. District level powers were delegated to the Political Agent who could thereby act as District and Session Judge, Revenue Collector, Commissioner for FCR, Chief of Police and the Controlling Officer of Cooperative Societies.

Setting up of the Advisory Council for Northern Areas (Gilgit and Baltistan Agencies) (1970): ⁴Known as the NAAC, was constituted through an order of the Ministry of Kashmir Affairs and Northern Areas on 18 November 1970 comprised of 21 elected and non-elected members headed by the then Resident for Gilgit and Baltistan as Chairman.

- Eight elected members from the Gilgit Agency elected on basis of adult franchise, two members each from the Gilgit and Astore Sub-divisions, two from the political districts of Puniyal, Ishkoman, Yasin and Koh-e-Ghizer, one member each from Darel/ Tangir and from Chilas.
- Six elected members from Baltistan Agency, one each from Rondu, Skardu, Shigar, Khaplu Parkuta, Khaplu and Kharmang.
- Five Official Members to be Nominated by the Resident (including a representative each from the Ministries of Finance and Foreign Affairs).

The elections conducted for membership of the NAAC were the very first time that elections had been held in the region under Pakistani occupation.

4 Source: <http://gbla.gov.pk/page/history>

Re-designation of Appointment of Resident (1972):

Through a Presidential order 1972, the post of Resident was re-designated as Resident Commissioner of Gilgit and Baltistan Agencies. Gilgit and Baltistan were sub-divided into 'Districts' with a Deputy Commissioner for each.

The Reforms Package of 1972: The government of Z. A. Bhutto announced a package of administrative and judicial reforms by abolishing the State of Hunza and Frontier Crime Regulation (FCR). The President of Pakistan, through the proclamation of August 1972, brought about fundamental structural reforms:

- (a) The system of Feudal Lords, Rajas, Mir of Nagar and Agency was abolished. (The Rajas of abolished States were given government jobs and maintenance allowances).
- (b) Gilgit and Baltistan agencies were given the status of Districts;
- (c) "Resident" and "Political Agent" were re-named Commissioner and Deputy Commissioner, respectively.
- (d) A general amnesty was granted.
- (e) Creation of two additional districts Ghizer and Ganche was announced.

In September 1974, Prime Minister Bhutto visited Northern Areas and declared Ganche and Ghazar as two new districts and abolished the state of Hunza.

Imposition of Martial Law and being placed in Zone 'E'

(1977): When General Zia-ul-Haq imposed Martial Law in Pakistan it covered the area of Gilgit Baltistan which was placed in Zone E. Members from the area were included

in the Majlis-e-Shuraan advisory council constituted by under a Presidential Order on 24 December 1981, which re-introduced limited and controlled political activity.

Zia-ul-Haq's Position on Northern Areas (1982) :In April 1982, the then President of Pakistan, Gen Zia-ul-Haq stated that Gilgit, Skardu and Hunza were not “disputed” areas, but part of Pakistan. Addressing the Majlis e shura on 09 May 1982, he stated that *“I am not talking of Kashmir; I am talking about the Northern Areas, which make part of Pakistan.”*⁵ Zia’s statement de facto deprived the people of the region the right to participate in the eventual plebiscite to be held across the erstwhile State of Jammu and Kashmir.

High Power Committee to settle future of Northern Areas (1984-85): A high power Committee was constituted in 1984-85 to settle the future of the Northern Areas. Members of the Committee included the Secretaries of Divisions/ Ministries of Establishment, Finance, Planning, Law, Interior, Education, and Kashmir Affairs and Northern Areas. **The report of this Committee was neither implemented, nor made public.**

Appointment of Advisor to Prime Minister (1988) : The democratic government of Ms. Benazir Bhutto appointed an elected representative of Northern Areas Council, named Mr.Qurban Ali as Advisor to Prime Minister who was accorded status equal to a State Minister.

5 <http://www.ips.org.pk/northern-areas-of-pakistan-facts-problems-and-recommendations/>

Benazir Bhutto Introduced Reforms (1994)⁶: The Federal Cabinet approved a “Reforms Package” under which a Northern Areas Executive Council with 24 elected members was set up though with limited authority and the Northern Areas Rules of Business framed.

Major administrative provisions of the 1994 ‘package’ were:

- the Federal Minister of Kashmir Affairs, to be the will be the Chief Executive of the Council and to be assisted by a Deputy Chief Executive to be elected by the Council.
- Three to five members of the Council to be taken as Advisors to the Chief Executive who will enjoy the status of provincial ministers. Their appointment however will be at the discretion of the Chief Executive.
- The post of Judicial Commissioner was abolished, and a 3- member Chief Court constituted under the chairmanship of a retired Judge. The Court was however, not authorized to hear writ petitions.
- For the first time, a Chief Secretary and four Secretaries of the federal government appointed in the area.

A positive outcome from the package had been that party-based elections were held for the first time in 1994.

6 Based on Gilgit-Baltistan Reforms - Center for Civic Education Pakistan @ www.civiceducation.org/wp-content/uploads/2010/08/Gilgit-Baltistan-Reforms.do

Developments leading to the Present Day Situation

Petition before the Pakistan Supreme Court (1999): In a petition brought before the Supreme Court of Pakistan by Habib Wahab al-Khairi (founder of Al-Jihad Trust, Rawalpindi) in 1999, for which the Secretary, Ministry of Kashmir Affairs and Northern Areas was made Defendant, a plea was made to restore the basic human rights of the people of the area on grounds that though the constitutional position of the Northern Areas is that they are part of the state of Jammu and Kashmir, there is persistent confusion in the administrative and judicial structure that gave rise to various problems and the people of the area that needed to be redressed.⁷

The Judgement of Pakistan Supreme Court⁸: In their judgement, the Pakistan Supreme Court held that the two million residents of Gilgit Baltistan were citizens of Pakistan and directed the Federal Government to assure they are given rights as provide in the 1973 Constitution. The Judgement also asked the Federal Government to ensure that the region's Chief Court be equated with a High Court and the powers of the Courts in the region be enlarged to include the powers of entertaining constitutional petitions seeking fundamental rights. The Judgement set a period of six months to bring about necessary changes in the statutes, laws and regulations to give effect to its judgement.

Response of the Government of Pakistan to the Supreme Court Directions (October 1999): In response to the Pakistan Supreme Court's directions, the then Minister for Kashmir Affairs and Northern Areas Lt Gen (Retd) Abdul

7 Based on <http://gbtribune.blogspot.com/p/history-dispute.html>

8 Based on <https://www.scribd.com/document/371779084/1999-S-C-M-R-1379>

Majeed Malik made a detailed visit to the area and on October 2, 1999 where after he announced Government's intent to bring a constitutional reforms package that would elevate the Northern Areas Council into Northern Areas Legislative Council. The Federal government also announced the holding of elections for the Council and local bodies.

The main features of the 1999 Reforms Package were:

- Northern Area Council was renamed "Northern Area Legislative Council" and authorized legislation on 40 subjects.
- Membership of the Gilgit Baltistan Council was raised to twenty-nine. Five seats were reserved for women - one elected indirectly, from each district.
- "Chief Executive" will not be from amongst the Council members.
- Speaker of the Council to be elected by the majority of Council members and would preside over Council's meetings.
- The Council Members to be empowered to approve development schemes.
- The Deputy Chief Executive to be authorized to transfer officers of various grades but not the Deputy Commissioner or the Superintendent of Police (for which he would need prior approval of the Chief Secretary).

Though it was expected that the "package" would lead to the setting up of local government with powers being devolved, the real transfer of power and decision-making the elected representatives did not take place and power continued to vest with the bureaucracy. *However, even*

as the modalities for holding elections under the Package were under deliberation, Pakistan came under martial law once again on October 12, 1999. The new government nevertheless decided to hold the elections as scheduled and these were held under the supervision of the Military.

Establishment of Apex Court (2005) :A Northern Areas Court of Appeals was established.

Empowerment of NALC (2006) : Six Advisors were appointed from the NALC members and NALC members brought at par with members of POK Assembly for pay and privileges.

NALC Renamed (2007) :NALC was renamed as Northern Areas Legislative Assembly.

The Gilgit Baltistan Reforms Package 2007⁹

On August 23, 2007, President Parvez Musharraf visited Gilgit and declared the promulgation of an amended version of the existing Legal Framework Order (LFO) to fulfil a longstanding demand of the local people.

As per the new amendments, the powers of the federal Ministry of Kashmir Affairs and Northern Areas have been curtailed and vested in the elected government. The Deputy Chief Executive was promoted to the position of Chief Executive, while the Minister of Kashmir Affairs and Northern Areas would be the Chairman of the Northern Areas government.

9 Based on https://www.jstor.org/stable/42909184?seq=1#page_scan_tab_contents

Gilgit Baltistan Empowerment and Self-Governance Order, 2009¹⁰

On August 29, 2009, the Gilgit Baltistan Empowerment and Self-Governance Order 2009, was passed by the Pakistan Cabinet and later signed and promulgated as law by the President of Pakistan. The major provisions of the Order are:

- (a) Grant of self-rule to the people of Gilgit–Baltistan, by creating, an elected Gilgit Baltistan Legislative Assembly and Gilgit Baltistan Council. GilgitBaltistanthusgaineddefactoprovince-likestatus without constitutionally becoming part of Pakistan.
- (b) Gilgit Baltistan Legislative Assembly to be a 33-seat unicameral legislative body. Of the 33 seats, 24 are filled by direct elections. In addition, the reserves 3 seats for technocrats and 6 seats for women.
- (c) A Speaker and a Deputy Speaker to be elected by the Assembly from amongst its members. After the election of the Speaker and the Deputy Speaker, the Assembly cannot transact any other business unless it elects the Chief Minister.
- (d) The Chief Minister is elected in a special session, summoned by the Governor on a day specified by the President. The Chief Minister obtains vote of confidence from the Assembly within 60 days of assuming office.
- (e) The Legislative Assembly has powers to make laws on selected 61 subjects. (The Gilgit Baltistan

10 Based on <http://www.gbchiefcourt.gov.pk/downloads/self-governance-order-2009.pdf>

Council, in contrast, had the powers to legislate on 52 subjects including mining, tourism and water resources).

(f) A Gilgit Baltistan Consolidated Fund set up and the annual budget to be presented to the Assembly and voted upon as per practice in other Provinces (of Pakistan).

Longstanding Greivances

Imposition of ‘Nizam-e-Mustafa’¹¹: General Zia-ul-Haq who assumed power as the Martial law Administrator through the 1980s imposed Sharia with a distinct pro-Sunni bent and interpretation. Several Sunni Islamic parties and Deobandi Groups had come up during his rule which caused disaffection amongst the majority Shia community in Gilgit Baltistan.

Tilting the Demographic Balance¹²: There has been a perceptible policy, since the Zia era, of altering the demographic balance of Shia-dominated Gilgit Baltistan by settling outsiders in the area. It is reported that, as of January 2001, the old population ratio of 1:4 (non-locals to locals) has now changed to 3:4 (non-locals to locals). The Shia pockets of Skardu and Gilgit are witnessing a constant increase in the population of non-Shias. In the Gilgit and Skardu areas, large tracts of land have been allotted to non-locals. Other outsiders have purchased substantial stretches of land since they are economically better off than the locals. The rapid induction of Punjabi and Pushtun

11 Based on <http://indiafoundation.in/factors-responsible-for-sectarianism-in-gilgit-baltistan-region/>

12 Based on <https://www.linkedin.com/pulse/sectarianism-gilgit-baltistan-maha-hamdan>

outsiders has created a sense of acute insecurity among the locals.

Political Rights as in other Provinces of Pakistan: This has been the consistent political demand of the people of Gilgit Baltistan that they did not enjoy equal rights as citizens of Pakistan and had thereby come to be 'second-class' citizens with no or little stake in the political process.

Gilgit Baltistan to be a Province of Pakistan: The amalgamation of the region into Pakistan, first announced by then President Zia-ul-Haq in 1982, be taken to its logical conclusion and Gilgit Baltistan be made the fifth province of Pakistan.

Recent Protests

The Protests of 2016 and the CPEC Factor: Hundreds of protesters took to the streets across Gilgit-Baltistan region against human rights abuses and crackdown by the Pakistani security forces. Angry protesters said these young men were imprisoned for demanding political rights and asking the Pakistani Army to leave the soil of Gilgit. An important reason for the discontent among the people of Gilgit against Pakistan is the growing presence of China. The CPEC, signed in 2013 passes through Gilgit and is widely seen as a project that benefits China and Punjabi traders with little gain to the region. There were also growing apprehensions due to an increasing number of Chinese workers and soldiers becoming visible. Angry protesters took to the streets in Gilgit town, Astore, Diamer and Hunza with some even raising "anti-Pakistan" slogans.

The 'Anti Tax' Movement of Nov-Dec 2017: The Gilgit-Baltistan Council Income Tax (Adaptation) Act 2012, had been passed by the GB Council in 2012 that authorised the

adaptation of Pakistan's Income Tax Ordinance, 2001 to all of Gilgit Baltistan. Large scale protests had broken out throughout the region against the new tax regimen and saw a ten day 'Shutter down' in all districts of Gilgit Baltistan. The agitation subsided after notification by the Department of Inland Revenue Gilgit-Baltistan directing tax agents to withhold collecting tax until amendments have been made in the Income Adaptation Act, 2012 by Gilgit-Baltistan Council. The protests were on the principle that there should be **'No imposition of Taxes until GB is a constitutional part of Pakistan'**. In subsequent developments, the GB Council decided that instead of bringing a new taxation Act, the existing Gilgit Baltistan Council Income Tax (Adaptation) Act, 2012 shall be amended by incorporating the desired changes in consultation with all the stakeholders.

The Sartaj Aziz Committee

A nine-member constitutional committee headed by Sartaj Aziz, the then adviser to the PM on foreign affairs, was formed on Oct 29, 2015, to recommend steps to bring political and constitutional reforms in GB. The mandate of the Committee included:

- (a) Review of the current constitutional and administrative arrangements in Gilgit Baltistan and analyse any shortcomings in relation to aspirations of the people;
- (b) After studying the historic record and relevant treaties, examine whether the existing external boundaries of the territories that constitute Gilgit Baltistan overlap with territories that formed part of the state Jammu and Kashmir and if so, make recommendations for corrective measures;

(c) recommend constitutional and administrative reforms for GB, keeping in view the implications of these recommendations vis-a-vis the UN resolutions on Kashmir.

The Committee, which submitted its Report to the Pakistan Federal Government on 10 March 2017 inter alia recommended:

(a) de-facto integration of GB with Pakistan but not a de-jure change since that will affect Pakistan's principle position on Kashmir. It recommended delegating further legislative, administrative and financial powers to GB to enhance the people's sense of participation and to improve service delivery.

(b) The GB Legislative Assembly be brought on a par with other the provincial assemblies, with all legislative subjects, other than those enumerated in article 142 of constitution of Pakistan and its fourth schedule be devolved from the GB Council to to the GB Legislative assembly.

(c) The GB government may be given representation in constitutional bodies like NEC, ECNEC, the NFC, and IRSA as an observer.

(d) One or more SEZs be set up in GB under CPEC to provide larger employment opportunities for GB people.

(e) People of Gilgit Baltistan be given special representation in the parliament.

On July 3, 2017, the Sartaj Aziz Committee was reconstituted to include the Ministers of Finance, Law and Kashmir Affairs. The Committee thereafter submitted

a Supplementary Report on 26 September 2017 making some further recommendations, importantly:

(a) Provision of funds through an agreed formula to cover the revenue deficit in GB budget.

(b) Transfer of development funds directly to Gilgit Baltistan Government rather than through the ministry of Kashmir Affairs.

(c) Shifting of budget of Gilgit Baltistan Supreme Appellate Court and Chief Court to Gilgit Baltistan Council.

(d) The Ministry of Kashmir Affairs to consult the Government of Gilgit Baltistan. before extending any federal government notification to Gilgit Baltistan.

(e) Gilgit Baltistan to be accorded 'Observer' status in the Executive Committee of the National Economic Council (ECNEC), the National Economic Council (NEC), the Indus River System Authority (IRSA) and the Council of Common Interests (*formed under 1973 Constitution and presently consists of the Prime Minister of Pakistan and all four provincial Chief Ministers. The CCI is mandated under the Constitution to meet at least once in 90 days*).

The suggestion to give representation to Gilgit Baltistan in the National Assembly and Senate was not accepted.

Annulment of the Gilgit Baltistan Council

In February 2018, Pakistan's Prime Minister Abbasi announced the decision to annul the Gilgit-Baltistan Legislative Council (*established under GB (Empowerment and Self Governance) Order in 2009 and headed by the Prime Minister of Pakistan had the mandate to legislate in*

52 subjects). While some hailed the decision as 'historic' others thought it as a ploy to shift the Council's powers to the Ministry of Kashmir Affairs and Gilgit Baltistan. There was also no clarity on other demands of the people such as representation in the Pakistan Parliament and in bodies such as the Council of Common Interests, the National Finance Commission and the Indus River Systems Authority. A 'technical' objection raised by the Secretary, Ministry of Kashmir Affairs and GB to the disbanding on grounds that the Council was set up under a Presidential Order and hence cannot be abolished through a Government order, which was resolved.

The Gilgit Baltistan Order, 2018

The Gilgit Baltistan Order of May 2018 replaces the Empowerment and Self-Governance Order of 2009 and seeks to bring Gilgit Baltistan region on a par with other provinces by devolution of devolve greater authority and financial powers, empower the Gilgit Baltistan Assembly with the same legislative powers as other provinces of Pakistan including powers under the Schedule-IV of Pakistan's Constitution.

Several powers hitherto dealt by the Gilgit Baltistan Council would henceforth be dealt by the Gilgit Baltistan Assembly have been included in a List of subjects that both the Prime Minister of Pakistan as also the GB Assembly can pass orders / legislate with the proviso that Orders of the Prime Minister would require to be considered and passed by the GB Assembly and approved by the GB Governor. These include the subjects of minerals, hydropower and tourism.

Insofar as residents of the region are concerned, hitherto they had been guaranteed only 17 basic rights and that too was limited only to GB. In terms of the Order, they are now empowered to those rights anywhere in Pakistan and have access to all apex courts of Pakistan.

Short of Expectations?

Notwithstanding the very substantial devolution of powers to the elected representatives of the region, a complete strike was observed across Gilgit-Baltistan on the call of the Opposition to protest against the order even calling it 'anti people' as the Order is completely silent on the basic political and constitutional status of the area and hence a sham and a farce. A high point of the protests was when at a Joint Session of the GB Legislative Assembly and GB Council, members from the Opposition shouted slogans disrupting the address of the Prime Minister Shahid Khaqan Abbasi¹³, who could only do so after the protesting members walked out.

The following text of an interview with Afzal Ali Shigri, a former Inspector General of Police who has written extensively on issues concerning the region, provides a crisp sum-up of the issues.

13 Address of Pakistan Prime Minister at <https://www.youtube.com/watch?v=wa3mvhcPPhE>

Question: Is the new order an improvement on the one introduced by PPP in 2009?

Answer: It is not an improvement because under the 2009 order the legislation on the federal laws was adopted on the recommendations of a council that had the representation of six members elected by the GB Legislative Assembly along with an equal number of members nominated by the prime minister. The GB's chief minister and governor were also members of this council. In 2018 all these powers have been entrusted to the federal government, thus eliminating even a semblance of an elected body. This will restore the old bureaucratic structure, with the prime minister and bureaucrats, who are not accountable to the people, controlling the affairs of GB.

Q: Why are there such violent protests?

A: The people of GB acceded to Pakistan unconditionally. Pakistan defined the area as a disputed one and started administering it through a black law, the Frontier Crimes Regulations (FCR)... There was no justification for a draconian law like the FCR. Zulfikar Ali Bhutto repealed the FCR and also abolished the princely states. In 1994 came limited empowerment. In 1999 the Supreme Court ordered grant of full constitutional rights without disturbing the status of a disputed area. Again, the PPP moved forward with the 2009 order.

Now there is a strong realisation that the government is denying constitutional rights to the region on the pretext that it's a disputed territory connected to the Kashmir issue. The demand for status of a province has grown and the assembly has passed a resolution (on the issue). The government set up a committee under Sartaj Aziz, which recommended that most of the demands should be accepted.

However, under the influence of the Kashmiri leadership its recommendations were ignored. The educated youths understand the implications of these policies and have joined the protest. Use of social media has further aggravated the situation.

Q: Do the people of GB see their fate tied with Azad Jammu and Kashmir (AJK)?

A: The people of GB due to their loyalty and devotion to Pakistan have accepted the linkage of their area with the Kashmir dispute. They however do not consider themselves as part of Kashmir. They speak languages totally different from the Kashmiris. Similarly, they have a distinct culture... Their commitment to Kashmir is limited to casting their vote in favour of Pakistan as and when plebiscite is held under the UN.

Q: Is there any legal impediment to GB's integration with Pakistan?

A: The GB Legislative Assembly has passed a unanimous resolution for their merger with Pakistan as a province provisionally till the settlement of the Kashmir issue. Their demand is based on a historical legal document on a provisional international border agreement with China.

Q: Will granting status of a province to GB have any legal implications internationally that will compromise the stance of Pakistan government?

A: Way back in 1974 Agha Shahi said that legally merger was permissible but India could exploit it. Foreign Minister Inamul Haq observed that international dimension of the Kashmir issue will not be impacted by the grant of political and constitutional rights to the people of AJK and GB. A number of Foreign Service officers have expressed similar views.

Q: Some people say that for too long the GB's status has remained in limbo. Has it not changed with the new law/ordinance?

A: Change came with the 2009 order. The 2018 order has reversed the structure and reintroduced direct administrative control of federation without any accountability.

Q: What exactly are the opposition parties asking for?

A: The opposition and the civil society want status of a province. In order to address the issue of Kashmir they are ready to accept a provisional status. As a matter of fact, the assembly has passed such a resolution. They were forced to vote for the 2018 order.

Q: Until a few years ago people of GB did not even have half the rights they have today. Although progress is slow, isn't Islamabad moving in the right direction?

A: The federation has ignored a Supreme Court judgement and even the recommendations of the committee set up under Sartaj Aziz. This committee's recommendations have not even been shared with members of the local assembly. People have waited too long and are not ready to accept the status quo. Even in the China-Pakistan Economic Corridor the region has not been given its due share.

Q: Is there a viable solution to the GB issue where Islamabad can give the people more rights without compromising its position on the Kashmir dispute?

A: Briefly, the Sartaj Aziz Committee report. Yes, the provisional status of a province. Already examined in detail by a think tank under former chief justice of the AJK Supreme Court Manzoor Ahmad Gilani. Proposal in their report was the basis for the recommendations of the Sartaj Aziz Committee.

Source: <https://www.dawn.com/news/1411321>

Indian Protest to the GB Order 2018

On 27 May 2018, the Deputy High Commissioner of Pakistan to India was summoned to the MEA and a strong protest made against the so-called “Gilgit Baltistan Order 2018”. As per the MEA Media Release, *“the entire state of Jammu and Kashmir which also includes the so-called ‘Gilgit-Baltistan’ areas is an integral part of India by virtue of its accession in 1947. Any action to alter the status of any part of the territory under forcible and illegal occupation of Pakistan has no legal basis whatsoever, and is completely unacceptable. Instead of seeking to alter the status of the occupied territories, Pakistan should immediately vacate all areas under its illegal occupation”*. It was further conveyed that *“such actions can neither hide the illegal occupation of part of the state of Jammu and Kashmir by Pakistan nor the grave human rights violations, exploitation and denial of freedom to the people residing in Pakistan occupied territories for the past seven decades”*.

Addressing the media on the occasion of completion of four years of the NDA government, MEA Minister Sushma Swaraj said that the Gilgit-Baltistan Order, 2018 is *‘laughable’* emphasising that while Pakistan *‘tried to teach us history it always ‘distorts history and doesn’t believe in law’*.

Pakistan, expectedly rejected the Indian protest. “Pakistan categorically rejects India’s protest against the Gilgit-Baltistan Order 2018 emphasising that “everything from history to law to morality to the situation on the ground belies India’s spurious claim.”

Serving China's Interests?

Gilgit Baltistan is an inevitable corridor for its access to the Arabian Sea, a factor that China realised very early and assiduously pursued its objectives to secure its interests in the region. Besides the strategic value of the 'connect' to the Arabian Sea, Chinese interests in Gilgit Baltistan are several – ranging from the rich mineral resources of the region most particularly in the potential Uranium deposits, hydel projects, agriculture and gems and stones. With China's overarching presence in the area and its very substantial investments, there is no gainsaying it being a stakeholder in the region.

Conclusion

So, what has the Government of Pakistan seeking to achieve through the promulgation of the GB 2018 Order? Several important aims in one stroke:

- (a) Just as in 2009, the 2018 Order too stops short of granting the status of 'full province' status to Gilgit Baltistan thereby seeking not to dilute Pakistan's position on Kashmir.
- (b) Devolution of some certain powers to the GB Assembly and having orders that the Federal Government wants implemented be approved by the Assembly a pretence of bowing to public expectations and sentiments has been maintained.
- (c) Partially addressed some of the grievances raised during the 'No tax' protests, as such 'no taxation without representation'.

As Federally sponsored legislation would now be formally ratified by an empowered Gilgit Baltistan Assembly,

it would have been invidious for a 'higher' Council, chaired by the Prime Minister of Pakistan to 'recommend' legislation for ratification by the 'lower' Assembly. The Council being abolished and the Ministry of KA&GB made the nodal agency to forward / suggest proposals to the Assembly is correct. The important aspect would be as to what would be forwarded for such consideration. The 'thorn' of public protest would hereafter be aimed at the Assembly and therefore locally contained.

The China aspect clearly underlies the promulgation of the Order. A number of infrastructure projects are planned in Gilgit Baltistan, under the CPEC and otherwise to be executed by Chinese companies. With the GB Assembly being forum to finally approve these proposals, the public angst against the (erstwhile) GB Council of arbitrarily approving mega projects has been shifted to the 'near'-provincial government and assembly upon who the onus of assuaging public opinion would now come to bear on it rather than on the Federal Government.

In balance, through the GB Order 2018, Pakistan seeks to 'achieve a lot without conceding substantive powers' particularly in core areas of national interest.

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