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# Identity in Limbo: The Asymmetrical Evolution of Administrative Setups in Gilgit-Baltistan, Pakistan

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*Pakistan historically governed the area of Gilgit Baltistan without integrating it constitutionally. Recently, Pakistan has announced its intention of giving Gilgit-Baltistan a provisional constitutional status of a province. To understand the peculiar political nature of GB, it is essential to go through the administrative reforms made by Pakistan over the years. This article has focused on the administrative reforms through which GB has been governed throughout its history. As Pakistan is a federal parliamentary state, knowledge of the manifestation of federalism is important to understand the approach of governance which Pakistan has used to administer the region of Gilgit-Baltistan.*

**Key Words:** Asymmetrical Federalism, KANA, FANA, GB Order, GB Council

## Understanding Gilgit-Baltistan through Asymmetrical Federalism

Federalism is a prehistoric concept with its origin tracing back to the Greeks but its inception in Europe dating to the sixteenth century. In 1787, federalism emerged as a modern theory as the United States of America came into being as a federal state. Initially, the federal system was a product of necessity used to pursue economic and military interests but it was later developed to unite cultural differences among units of federal states.<sup>1</sup> The traditional assumption about symmetry in federalism was that balance in power between units and centre must be a norm because the parliamentary states, following a federal system, had more symmetrical authorities set in their constitution. The concept of symmetry and asymmetry in federalism was first introduced by an American scholar Charles D. Tarlton in 1965. According to him, symmetry in federalism denotes the amount of resemblance or likeness in power relations of federating units among themselves as well as the federal system (centre) as a whole.<sup>2</sup> Asymmetry in federalism is, as explained by Tarlton, the level of diversity between federating units which occur because of differences in power and autonomy given by the centre to them.<sup>3</sup> He also clarifies that different political, economic, social, and cultural combinations lead to the inequalities in powers of differing federating units. Asymmetric federalism can further be divided into two types namely *de facto* and *de jure*. Canadian Professor Ronald L. Watts defines *de facto* asymmetry in federalism to be the outcome of preconditions in the society which are present in most of the states using federalism as a governing framework. The nature of these preconditions can be cultural, economic, social, and political and can affect the power-sharing relations among federal units as well as the relations of these units with the central federal government.<sup>4</sup> Watts describes *de jure* asymmetry in federalism as a constitutional asymmetry where there is an unequal distribution of powers and autonomy for different federating units is set in the constitution of the federal state<sup>5</sup>.

Briefly speaking, in case of GB, in 1935, the state of J & K was leased by the British government from the Maharaja due to the geographical importance of the region. The lease agreement came to an end when the British decided to give back the agency to the Maharaja before the announcement of the partition of the Sub-Continent. The Muslim majority population opposed the decision of the Maharaja to accede to India and when he did, they revolted against his administration with the help of the British and as a result, liberated the region, and wished to accede to

Pakistan which it accepted. Pakistan began running the Northern Areas (GB) without any official agreement.

Meanwhile, the Kashmir Dispute emerged as a pivot of conflict between India and Pakistan as war broke out between the two in early 1948. India took the conflict to the United Nations and, as a result, ceasefire was agreed with the UN as mediator, and the former state of J & K was divided between India-controlled and Pakistan-administered regions. As GB was a part of the erstwhile state of J & K, Pakistan linked its political future with the resolution of the Kashmir dispute and started administering the region directly.

The political and administrative status of GB after its accession to Pakistan was very different from the other regions of the former state of J & K that was divided between India and Pakistan. Azad Jammu & Kashmir (AJK), after its liberation, was treated as a separate state by Pakistan and India-controlled Jammu & Kashmir was granted a special status in the constitution of India. GB, even after its willing accession with Pakistan, was not administered by the state of Pakistan unlike AJK. Instead it was directly ruled through an extension of colonial laws and presidential orders. The asymmetry in Pakistan's administration is apparent in the mode of administrative reforms applied in GB since its inception. This asymmetry is well defined by German Social Scientist Martin Sökefeld, who writes about the administrative journey of GB. He argues that because of the linkage of GB with the Kashmir dispute, the validity of Pakistani rule is assumptive, religiously as well as in the milieu of national interests. He further describes that the state of Pakistan continued following the laws made by the British to administer the region by arguing that the British political agent was replaced by the Pakistani political agent.<sup>6</sup> In order to understand the administrative journey of GB since 1947, this article is divided into three phases which are being elaborated in the following.

### **Phase I: The Phase of Constitutional Void (1947 to 1974)**

When Maharaja of the state of J & K signed the Instrument of Accession with India in October 1947, the Gilgit Scouts, some portion of the local population, along with the help of British officers, revolted against the *Dogra* rule of the Maharaja and liberated the region. On 1 November 1947, Gilgit emerged as an independent state and remained so for 15 days. Pakistan took charge of GB by sending a political agent to the region on 16 November 1947. The political agent Sardar Muhammad Alam was a *Tehsildar* (a revenue officer) in the North-West Frontier Province (NWFP)

of Pakistan.<sup>7</sup> So, initially, Pakistan administered the region through NWFP government and extended the Frontier Crimes Regulation (FCR) to the Northern Areas. FCR was a colonial law with the help of which the political agent used to exercise all the administrative and judicial powers. It was only in 1949 through the Karachi Agreement<sup>8</sup> that the Pakistani government took control of the region directly.

### **Establishment of Ministry of Kashmir Affairs and Northern Areas**

Ministry of Kashmir Affairs and Northern Areas (KANA) was established in 1950 by Pakistan and GB was handed over to it. The designation of the political agent of NA was upgraded to political resident and the joint secretary of KANA, who was based in Islamabad, was made the political resident for NA.<sup>9</sup> The transferring of the affairs of NA to KANA was an indication that Pakistan had made it a part of the former state of J & K and accepted the disputed status of the region. Initially, the political resident had legislative and administrative powers including the enforcement of FCR in the region but in 1967, KANA gave them the powers of Revenue Commissioner and High Court.<sup>10</sup> KANA also updated the political resident to resident with their headquarters based in Gilgit. Two political agents, each for the agencies of Gilgit and Baltistan, were appointed under the resident.

### **Pak-China Border Agreement (1963)**

This agreement has deep roots in the historical relations of NA (Hunza) with the Chinese province of Sing Kiang. Even before the *Dogra* and British rule, the Mir (ruler) of Hunza and the rulers of Sing Kiang used to exchange gifts and goods annually indicating their friendly relations. The British saw these relations as a threat to their sovereignty over the region, fearing the expansion of the adjoining Chinese and Russian empires. When the British invaded Hunza in 1891, they replaced the Mir of Hunza and appointed their loyal Mir while putting an end to the tradition of exchanging goods annually and banning the relations of Hunza with Sing Kiang. Despite the official ban, the exchange of goods and livestock remained in the remote areas of the border until 1947. These events show the deep-rooted cordial relations of Sing Kiang and Hunza.

After the Partition, the border separating Hunza and Sing Kiang was never demarcated formally. In the aftermath of the Sino-Indian War of 1962, China showed some part of NA in Hunza-Sing Kiang border as its own territory in their official map. Pakistan expressed concerns over the map but there was no formal reply from China. Only after Pakistan voted in favour

of China for a seat in UN Security Council did China agree to negotiate on the border issue. Both China and Pakistan agreed to resolve the issue mutually and talks began at the end of 1962. On 2 March 1963, the agreement was signed by the representatives of China and Pakistan. The signatories of the agreement were Zulfikar Ali Bhutto, Minister of External Affairs representing Pakistan and Chen Li, Minister of Foreign Affairs representing China. The boundary began from North-West through different passes at the height of 5600 meters, namely Kilkik, Mintak, Khunjerab, Shimshal and Muztagh through the K-2 Peak, Broad Peak, and Gasherbrum heights and ended in the East at Karakoram Pass.<sup>11</sup> The agreement had 7 articles and both the parties to the agreement agreed that upon the resolution on the Kashmir Dispute, they would negotiate again on their boundaries. The agreement was not welcomed by the people of NA, however, they were of the view that Pakistan had sold their territory to China without consulting the local population. India protested against the agreement in the UN and claimed that it was a violation of the UN resolutions on Kashmir. Pakistan and China both gained economic goals as after a few years, the construction of Karakoram Highway started along the ancient Silk Route, connecting both the countries through difficult terrain and high mountainous region.

### **Introduction of Administrative Reforms**

As discussed above, Pakistan extended the colonial law FCR to NA just like the other tribal areas. General Yahya Khan, the second military ruler of Pakistan, made the first ever representative body for NA named as Northern Areas Advisory Council (NAAC) in 1969.<sup>12</sup> The first ever elections (non-party based) for a 16-member NAAC were held in NA in 1970, but the council was ineffective in almost all the administrative powers except that it could approve development schemes for the region. At first, the resident used to head the council but was replaced by the Minister of KANA later.<sup>13</sup> In 1972, Z.A. Bhutto abolished the colonial law FCR and replaced it with common law just like the other territories of Pakistan. Bhutto also ended the feudal system and merged the states of Hunza and Nagar in NA. The local people of NA were not happy with the strict feudal rule so its termination was well appreciated by them. The agencies of Gilgit and Baltistan were converted into districts with the addition of a new district Diamer. The resident of NA was renamed as commissioner and the political residents became deputy commissioners. During his visit to NA in 1974, Bhutto also announced the new districts of Ghanche and Ghizer.<sup>14</sup> NAAC was renamed to Northern Areas Council (NAC) and a package of reforms in judiciary and administration was introduced. These changes in the administration of NA

were the first time when the region was given standing at a national level. Bhutto government assured to improve the administrative structure of NA so that it could be developed on par with other provinces in the period of ten years.

### **Administrative Structure during General Zia's Martial Law**

General Zia-ul-Haq imposed martial law in Pakistan in July 1977 after terminating the democratic government of Pakistan Peoples Party (PPP). General Zia made the four provinces of Pakistan as martial law zones A, B, C, and D and extended it to NA declaring the region as zone E.<sup>15</sup> This move created confusion about the political status of NA as the area was not a constitutional part of Pakistan. General Zia also appointed three members from NA in his legislative body Majlis-e-Shura. Initially, Zia was very outspoken about the political status of NA. On many public occasions, he referred to Gilgit, Hunza, and Skardu as parts of Pakistan. Zia's opinion was opposed by the political leadership of AJK who sent a joint letter to the dictator while explaining the political status of NA as a part of J & K in accordance with the UN resolution. The opposition compelled Zia to be less vocal about the region. In 1985, during a meeting with a delegation from NA, General Zia pointed out that NA would have their representatives in the National Assembly and Senate in the coming elections. The same year, a committee was formed to discuss the future of NA. The committee included federal secretaries of ministries of Law, Finance, Interior, Establishment, KANA, and Education as its members. The committee recommended appointing Aga Ahmed Ali Shah as Advisor to the Minister of KANA.<sup>16</sup> However, the committee remained unsuccessful in bringing any change in the administrative structure of NA. Zia's era also saw sectarian tension in the area which further deprived the area politically and economically.

### **Phase II: Arbitrary Power-Sharing Arrangements between Pakistan and Northern Areas (GB) 1994 to 2007**

All reforms, which were introduced during the Z. A. Bhutto government, were halted during the Martial Law (1977-1988). In 1988, when PPP came into power and Benazir Bhutto was elected as the Prime Minister, she promised to continue the vision of Z. A. Bhutto by reforming the administrative structure of NA. Chairman of PPP for NA, Qurban Ali was appointed as an Advisor to the PM of Pakistan and was given the status equal to a state minister. During the second tenure of PPP government in 1994, the federal cabinet introduced reforms package for NA named Legal

Framework Order (LFO). The package brought many reforms in the administration and judiciary of NA and it was the first time that a more complete set of rules were penned down to run the state machinery of NA. This was the beginning of an alignment of NA towards the administrative structure of Pakistan without being its part constitutionally.

### **Legal Framework Order (1994)**

The LFO renamed the NAC into Northern Areas Legislative Council (NALC) and also increased the number of its seats. The Order gave the position of the Chief Executive of NALC to the Federal Minister for KANA thus giving them all the powers of legislation. NALC consisted of 29 members with 6 members each from Baltistan, Gilgit and Diamer districts and 3 each from Ghanche and Ghizer. In addition, 5 seats, reserved for women, were also included which were to be elected by the other members.<sup>17</sup> The important features of the reforms package were as under<sup>18</sup>:

- The head of the legislative body of NALC would be the Chief Executive who would be the Federal Minister of KANA.
- The Deputy Chief Executive would be elected by the members of NALC through majority vote system and be appointed by a formal notification issued by the Chief Executive.
- Three advisors having equal status of a Minister would be appointed by the Chief Executive.
- LFO empowered the NALC by giving it powers to legislate in 49 subjects mentioned in Schedule II.
- The positions of Chief Secretary and four Civil Secretaries under him were created.
- The position of Judicial Commissioner was abolished and replaced by a Chief Court of 3 member Judges under a retired Judge.
- Northern Areas Rules of Business (NARoB) were framed through the LFO.

The first ever party based elections were held under LFO in 1994. Although the reforms package was a breakthrough in mainstreaming the administration of NA into the administration of Pakistan, all the powers were assigned to the Chief Executive. The Chief Executive could approve any legislation and amend the LFO as per requirements without consulting the members of NALC, while the NALC could not pass any law or bill without the consultation of the Chief Executive. Since all of the authority was vested to a non-representative (Chief Executive), the representatives of

the NALC, including the Deputy Chief Executive, were deprived of any decision-making regarding the governance of NA.<sup>19</sup>

### **AJK and Pakistan Supreme Court Verdicts and Amendments in LFO**

A petition filed by two residents of NA named Haji Mir Jan and Malik Muhammad Maskeen and an advocate from AJK, Sheikh Abdul Aziz, was accepted by the AJK High Court in 1993. The petition was about challenging Pakistan's authority to run the administration of NA directly. It said that Pakistan had no legality for detaching NA and its people from AJK because NA have been a part of J & K. The High Court ruled that the AJK government should assume the authority of administrative control of NA by integrating it with the AJK state and the Pakistan government should help in doing so. In reply, the Pakistan government appealed to the Supreme Court of AJK which ruled that though NA are part of former state of J & K, they are not a territory of AJK so its government could not take control of the administration of NA.<sup>20</sup>

Another petition was filed, this time in the Supreme Court of Pakistan, by founder of Al-Jihad Trust Rawalpindi Habib-ul-Wahab al-Khairi and nine other petitioners. The petition was about giving political representation and basic human rights to the people of NA. The Supreme Court in its famous decision in 1999, directed that in six months the Government of Pakistan should give fundamental rights to the people of NA as entrenched in the Constitution of Pakistan and treat the people of NA equal to the people of other provinces while ensuring that the stance of the state of Pakistan on the Kashmir Dispute not be altered.<sup>21</sup> However, the Court also ruled that because the NA had a link with the Kashmir Dispute and a plebiscite had to be held under the UN in case of resolution of said dispute, it could only direct the Government of Pakistan to implement it.

The Government of Pakistan could not follow through with the decision of the Supreme Court even after 21 years but due to the ruling of the Court, some amendments to the LFO of 1994 were made in 1999. The Government of Pakistan empowered the NALC by giving some financial and administrative powers to it. For Gilgit and Baltistan, separate divisions were created. The Chief Secretary of NA was given authority and status equal to the chief secretaries of other provinces of Pakistan.<sup>22</sup> The Deputy Chief Executive was given limited powers to transfer and post government officers up to grade 18 with the exception of the Superintendent of Police and Deputy Commissioner and the elected speaker of NALC would now head the council meetings.<sup>23</sup> In 2005, the members of NALC were increased

from 29 to 36 by adding 1 seat for women representation and the other 6 seats for technocrats. In addition to it, 6 more advisors were appointed from the NALC to head different departments in the NA administration. A judicial package with a three member Chief Court and NA Court of Appeal was also created. NALC members were paid equally and were given privileges same as the members of AJK assembly.<sup>24</sup>

### **Reforms Package 2007**

General Musharraf, the then President of Pakistan and military ruler, during his visit to NA in October 2007, announced a reforms package which resulted in a series of amendments in the LFO of 1994. According to the reforms package, the NALC was updated to Northern Areas Legislative Assembly (NALA) and the former Deputy Chief made its new Chief Executive. Minister for KANA was made ex-officio Chairman of the NALA. The members of the legislative assembly were given powers to give a vote of no-confidence against the Chief Executive, the Deputy Speaker, and the Speaker of the assembly. NALA was entitled with approving the budget annually for NA.<sup>25</sup> The package did not make any changes in the judiciary of NA.

The package empowered the administration of NA to be on a nearly as equal footing as the AJK administration. The AJK leadership unlike the past did not oppose the package as it did not jeopardize the Kashmir Dispute and Pakistan's standing regarding the status of NA. The package, however, gave the Chairman of NALA who was also the Minister for KANA, absolute powers over the administration of NA. According to the package, the members of the legislative assembly could not table a vote of no-confidence against them. Without their approval, the NALA could not legislate on any administrative affair while the Chairman was not accountable or answerable before the assembly.<sup>26</sup>

### **Phase III: The Contemporary Landscape**

#### **The Gilgit-Baltistan Empowerment and Self-Governance Order 2009**

For 62 years, the people of GB were deprived of their basic constitutional and fundamental rights. They were not given any representation in the lower and upper houses of the parliament of Pakistan nor considered a territorial part of Pakistan constitutionally because of GB's historical linkage with the Kashmir Dispute. The other party to the Kashmir Dispute, AJK has its own constitution and a complete administrative structure with the powers to legislate in all internal matters. The state of Pakistan, in

accordance with the Supreme Court's decision of 1999, wanted to initiate a process of administrative and governmental infrastructure which would help the region of GB reach the same level in the mainstream administration of Pakistan as the other provinces and administrative units. In August 2009, the government of PPP introduced the Gilgit-Baltistan Empowerment and Self-Governance Order (GBESGO) through a presidential ordinance. The Order was very much influenced by the administrative setup of AJK and other provinces of Pakistan, and was the extension of LFO of 1994 and reforms package of 2007. Through the GBESGO, the Government of Pakistan wanted to give GB the autonomy it required without making it a full-fledged province of Pakistan while providing a semi-autonomous province like setup. A committee was formed under the PM of Pakistan which included the minister of KANA as Chairman. The members of the committee were the heads of Inter-Services Intelligence (ISI), Intelligence Bureau (IB), the ministers for Justice and Law, the secretaries for KANA, Cabinet, Law, and Justice, and the advisor for Interior.<sup>27</sup> After many discussions about the previous reforms introduced for GB by the committee, the Cabinet approved GBESGO which was assessed by the division of Law and Justice.

The GBESGO renamed the region from Northern Areas (NA) to Gilgit-Baltistan (GB) which was a long time demand of the people of GB. Offices of the Chief Minister and Governor were created. Like AJK, a GB Council (GBC) headed by the PM of Pakistan was established having the power to approve the region's budget for the first time. The idea of a consolidated fund was included and GB Legislative Assembly (GBLA) was given the power to legislate on 61 subjects (previously 49) along with the jurisdiction power on the subjects not under the GB Council while the Council itself was handed the power to legislate on 55 subjects.<sup>28</sup> The process of administrating and functions of GB government were embedded in the GB Rules of Business 2009 with the structure of budgeting and finance laid down in Article 22 (5) of the Order.<sup>29</sup> According to the Order, GB would have the positions of Auditor General, Chief Election Commissioner and also have the Public Service Commission like other provinces and AJK. Just like the AJK Council, the Governor GB would appoint the Auditor General as per the advice of the GB Council. The Chairman of the GB Council, on the advice of the Governor, would appoint the Chief Judge and the other Judges of the GB Chief Court while increasing the number of Judges from 3 to 5. The structure of GB Assembly and GB Council is as under.

## **Responses to the Gilgit-Baltistan Empowerment and Self-Governance Order**

The GBESGO was widely appreciated in Pakistan. The fragments of the Pakistani society including political parties, media, and civil society cherished the Order regarding it as a step forward in bringing the people of GB on par with the other citizens of Pakistan. However, some part of the civil society argued that the reforms were not enough and there should be some amendments in the constitution in order to integrate GB into Pakistan. Some fractions of political parties felt that these reforms would diverge the stance of Pakistan on the Kashmir Dispute.

The only strong opposition of the GBESGO was from the domestic political parties of both AJK and Indian-occupied Kashmir (IOK). They feared that the reforms would remove GB from the equation of the Kashmir Dispute. They were of the view that these reforms would back the Indian position of making the LOC into an international border. The views of the people of GB about the GBESGO were divided. Majority of the population of GB were in favour of integrating GB into Pakistan as its fifth province. They saw the reforms as a way forward in the merger of GB into Pakistan in the future. Some fractions of the people of GB were of the view that, because of GB being a part of J & K historically, the region should be given equal status to AJK while not disturbing the link of GB with the Kashmir Dispute.

## **Sartaj Aziz Committee and its Recommendations**

In 2015, when the Pakistan Muslim League-Nawaz (PML-N) was in power in both Pakistan and GB, the GBLA passed a resolution demanding that GB should be made a province of Pakistan. In response to this, the then PM of Pakistan Muhammad Nawaz Sharif formed a committee in October 2015 under the then Advisor to the PM on Foreign Affairs and National Security Advisor, Sartaj Aziz. The other members of the committee were Attorney General of Pakistan, CM of GB, Secretary KA and GB, Chief Secretary GB, Advisor to the PM, Foreign Secretary, and Director General Military Operations while DG South Asia acted as the Committee's Secretary. The committee had to assess the administrative and constitutional position and evaluate its deficiencies. The committee also had to inspect if the territorial boundaries of GB intersected the territory of the former state of J & K and recommend governmental and constitutional changes in purview of the UN resolutions on the Kashmir Dispute.

The committee, after examining and studying the historical archives about GB, recommended following suggestions in March 2017 to the PM of Pakistan<sup>30</sup>:

- GB should be given a provisional provincial setup until the resolution of the Kashmir Dispute by making GB a *de facto* part of Pakistan.
- GB should be given representation in the parliament by allocating three seats to the three districts: Gilgit, Baltistan, and Diamer with one seat for women to be elected by the GB Assembly. GB should also be given three seats in the Senate.
- To bring the GB Assembly at the level of other provinces of Pakistan, all the legislative powers of GB Council may be transferred to the GBLA.
- GB should be given representation in the Indus River System Authority (IRSA), National Finance Commission (NFC), and National Economic Council (NEC).
- To devolve powers to the grassroots level, a system of local government should be introduced in GB.

### **The Government of Gilgit-Baltistan Order 2018**

The PML-N government, after reviewing the recommendations of the Sartaj Aziz committee and the demands of the people of GB to give them the fundamental rights, promulgated the Government of GB Order 2018 on 1 June 2018. The PML-N government headed by the then PM of Pakistan Shahid Khaqan Abbasi, promised that the new reforms order would make the GB government as powerful as it is observed in other provinces and also grant the people of GB the same fundamental rights as the other citizens of Pakistan. The PM also said that just as the eighteenth amendment in the Constitution of Pakistan had devolved powers to the provinces, the GB Order 2018 would do the same to the GB government.

The Government of GB Order 2018 replaced the GBESGO 2009. The Order, while guaranteeing the residents of GB their constitutional protection, also devolved powers of administration and finance to the GB government. The GBLA was renamed into GB Assembly and was given the powers to legislate on 62 subjects under the authority of the PM of Pakistan. The powers of GB Council were transferred to the GB Assembly involving the legislation on tourism, mineral, and hydro power sectors. The role of GB Council would no longer be executive and overriding but only be advisory. As the GB Assembly would have all the legislative powers, the

influence of KA and GB Ministry would be almost diminished. According to the order, the Chief Court would be renamed as High Court consisting of 7 Judges to be appointed from the local population. GB would have its own Auditor General just like the other provinces and also have the institution of Public Service Commission. The Council of Islamic Ideology (CII) would prolong its jurisdiction to GB. GB would be given non-voting representation in CII, NFC, NEC, and IRSA. All the federal taxes would be diminished and GB would have a quota in Civil Services.<sup>31</sup>

### **Criticism on the GB Order 2018**

The Order was widely criticized in GB declaring it as PM centric. According to the Order, the PM of Pakistan had absolute powers over legislation, imposition of taxes, administration, finance, and judiciary while making the Governor, CM, and Chief Judge of Supreme Appellate Court obedient to them. According to the Order, the GB Assembly could not question the authority of the PM who could enjoy more powers in the administration and legislation of GB than the head of any other region or province of Pakistan.

Article 2 (b) redefined the citizens of GB while stating that in addition to having a domicile of GB, one should also be a citizen under the Pakistan Citizenship Act of 1951.<sup>32</sup> This Article was criticized by the locals because the redefinition allowed people of other regions of Pakistan to have the citizenship of GB, which could change the demography of the region. Article 75 (7) of the Order stated that to be the Chief Judge of the highest judicial institution of GB, the Supreme Appellate Court, one had to be a retired Judge of the Supreme Court or High Court of Pakistan.<sup>33</sup> This Article is an example that the people of GB could not access the judiciary's highest ranks. Article 57 of the Order restricted the GB Assembly from discussing the matters regarding defense, internal security, and foreign affairs.<sup>34</sup>

### **Court Decisions and Amendments in GB Order 2018**

On 20<sup>th</sup> June 2018, responding to a petition filed by a member of GB Council, the Supreme Appellate Court of GB suspended the GB Order 2018 and restored GBESGO 2009.<sup>35</sup> The federal government appealed against the ruling of Supreme Appellate Court of GB in the Supreme Court of Pakistan. While responding to the petition of the federal government, the Supreme Court of Pakistan restored the GB Order 2018. The then Chief Justice Saqib Nisar said that the Government of Pakistan was responsible to guarantee that the people of GB be treated equally as the people of other regions of

Pakistan.<sup>36</sup> From August to October 2018, many petitions were filed in the Supreme Court of Pakistan against several features of the GB Order 2018. This resulted in a decision made by a bench of 7 Judges headed by the CJ Saqib Nisar on 7 January 2019. The ruling stated that GB Order, with amendments, would be reenacted and restored. The Supreme Court extended its jurisdiction to GB and the people of GB could now challenge the rulings of Supreme Appellate Court of GB in the Supreme Court of Pakistan. The court also ruled that the Government of Pakistan should give the people of GB due fundamental rights equal to the other citizens of Pakistan constituted in the law of land (Constitution of Pakistan) until the holding of a plebiscite according to the UN resolutions in the region.<sup>37</sup>

In 2018, the Government of Pakistan Tehreek-e-Insaf (PTI) came into power in Pakistan. As the PML-N government in GB was completing its tenure in June 2020, the PTI government wanted to amend the GB Order 2018 for the formation of a caretaker government and the holding of transparent elections in GB. On 15 May 2020, the President of Pakistan Arif Alvi, during his visit to GB, announced the GB Elections and Caretaker Amendment Order 2020 through a presidential ordinance. The new amendment would include Article 48-A and after it the new Article would extend the Election Act of 2017 to GB.<sup>38</sup>

Pakistan administered AJK and GB differently although both of them were a part of the former J & K state. AJK given a setup under Muslim Conference, evolved through reforms and its first Constitutional Act in 1974, which introduced a parliamentary setup with a State Council. Yet, defense, foreign and currency were controlled by Pakistan. GB on the other hand, is administered by Pakistan through Presidential Orders and federal administrative agreements till now. However, both the regions remained linked to the Kashmir Dispute under the UN Resolutions.

## Conclusion

The chronological examination of administrative developments and reforms given by Pakistan to GB explain how these developments increased the administrative autonomy of the region *vis-à-vis* Pakistan. With the passage of time, the demand of wanting political and constitutional rights by the people of GB equal to that of the citizens of Pakistan increased. These demands exerted pressure on the central administration as Pakistan always tried to enhance the region's autonomy while also considering these reforms are not affecting its stance on the Kashmir Dispute. Administrative developments in AJK by Pakistan were always in the context of the larger

Kashmir Dispute while AJK and GB were administered differently. The most recent development in this regard was the announcement of giving provisional provincial status to GB by PM of Pakistan Imran Khan in his visit to GB on GB's Independence Day in 2020 (Figure 2). Pakistan is going to give more autonomy to GB because of its geographical importance but it is a fact that the political fate of both GB and AJK is to be decided in accordance with the UNSC Resolutions in case of the Kashmir Dispute's resolution in the future. The following flow chart explains the administrative developments of GB and its political future.

### The Illustration Through Figures

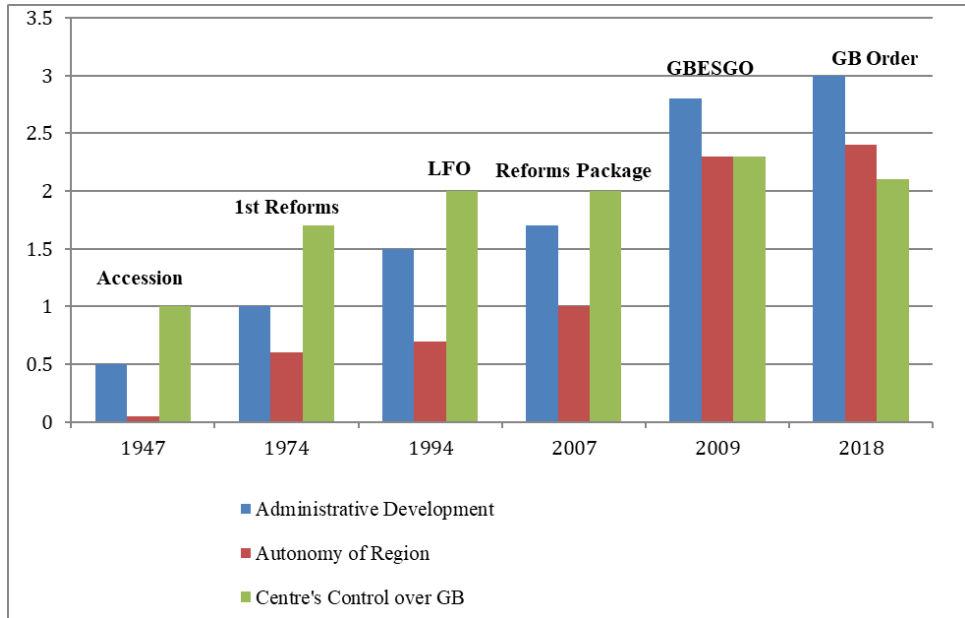


Figure 1. A Comparative Analysis of the Administrative Structures of Azad Jammu and Kashmir and Gilgit-Baltistan (Source: authors)

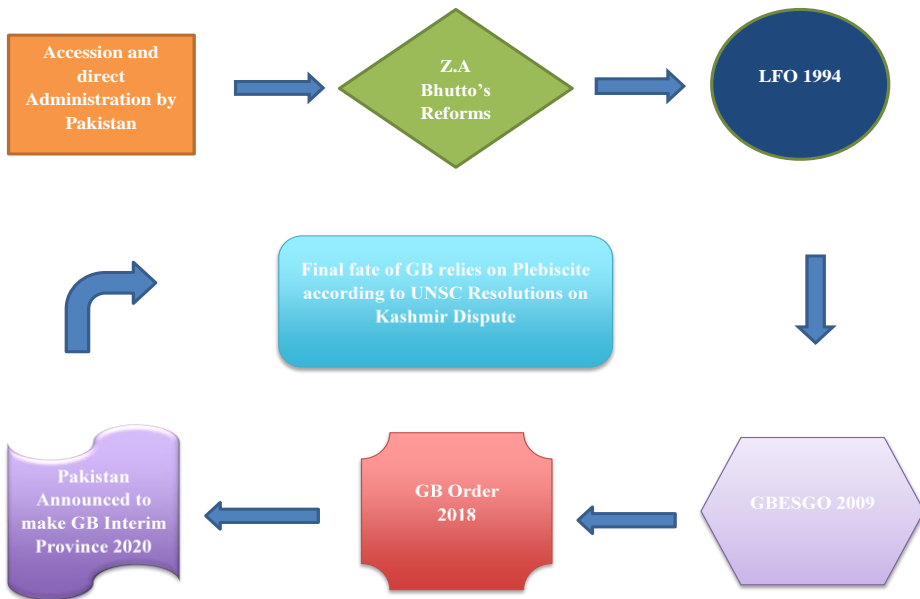


Figure 2. Flow Chart – Administrative Developments in Gb (Source: authors)

## Notes and References

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- <sup>1</sup> Kosar, Nasreen. “Asymmetric Federalism: A Case Study of Pakistan.” *Pakistan Journal of History and Culture* 40, no. 1 (2019): 81–100.
- <sup>2</sup> Tarlton, Charles D. “Symmetry and Asymmetry as Elements of Federalism: A Theoretical Speculation.” *The Journal of Politics* 27, no. 4 (1965): 861–874. <https://doi.org/10.2307/2128123>
- <sup>3</sup> Ibid.
- <sup>4</sup> Watts, Ronald L. *Comparing Federal Systems*. Montréal: McGill-Queen’s University Press, 2008.
- <sup>5</sup> Ibid.
- <sup>6</sup> Sökefeld, Martin. “From Colonialism to Postcolonial Colonialism: Changing Modes of Domination in the Northern Areas of Pakistan.” *The Journal of Asian Studies* 64, no. 4 (2005): 939–73.
- <sup>7</sup> IPS Task Force. “Northern Areas of Pakistan – Facts, Problems and Recommendations.” *Policy Perspectives* 1, no. 1 (2004): 123.
- <sup>8</sup> The Karachi Agreement of 1949 emerged amidst Pakistan's struggles following Independence, including administrative chaos, financial crises, and managing an influx of immigrants. Compounded by the Kashmir Dispute, where parts of J&K were liberated while most remained under Indian control, Pakistan anticipated a UN-brokered plebiscite favoring its claims. Hence, the agreement assigned Pakistan responsibility for defense, foreign affairs, and negotiations regarding GB, which lacked representation and remained confidential until 1990.
- <sup>9</sup> IPS Task Force. “Northern Areas of Pakistan – Facts, Problems and Recommendations.” *Policy Perspectives* 1, no. 1 (2004): 123.
- <sup>10</sup> Shahzad, Midhat, Sabahat Akram, and Saadia Bano Hashmi. “Azad Jammu and Kashmir and Gilgit Baltistan: Historical, Constitutional & Administrative Development.” *Journal of Contemporary Studies* 5, no. 1 (2016): 69–85.
- <sup>11</sup> “Sino-Pak Border Agreement (1963),” <https://people.unica.it/annamariabaldussi/files/2015/04/China-Pakistan-1963.pdf>.

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<sup>12</sup> International Crisis Group. “Discord in Pakistan’s Northern Areas,” April 2, 2007, <https://www.crisisgroup.org/asia/south-asia/pakistan/discord-pakistan-s-northern-areas>.

<sup>13</sup> IPS Task Force. “Northern Areas of Pakistan – Facts, Problems and Recommendations.” *Policy Perspectives* 1, no. 1 (2004): 123.

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*

<sup>16</sup> *Ibid.*

<sup>17</sup> Ali, Syed Waqas, and Taqi Akhunzada. “Unheard Voices: Engaging Youth of Gilgit-Baltistan.” UK Conciliation Resources, 2015, <https://tinyurl.com/att6enh7>.

<sup>18</sup> Sharma, Surinder Kumar, Yaqoob ul Hassan, and Ashok K. Behuria. *Pakistan Occupied Kashmir: Politics, Parties and Personalities*. New Delhi: Pentagon Press, 2019.

<sup>19</sup> IPS Task Force. “Northern Areas of Pakistan – Facts, Problems and Recommendations.” *Policy Perspectives* 1, no. 1 (2004): 123.

<sup>20</sup> Sharma, Surinder Kumar, Yaqoob ul Hassan, and Ashok K. Behuria. *Pakistan Occupied Kashmir: Politics, Parties and Personalities*. New Delhi: Pentagon Press, 2019.

<sup>21</sup> Hussain, Altaf. “The Gilgit-Baltistan Reforms 2009,” <http://gbpolicyinstitute.org/wp-content/uploads/Gilgit-Baltistan%20Reforms%20AHussain%20FinalDec09.pdf>.

<sup>22</sup> Ali, Syed Waqas, and Taqi Akhunzada. “Unheard Voices: Engaging Youth of Gilgit-Baltistan.” UK Conciliation Resources, 2015, <https://tinyurl.com/att6enh7>.

<sup>23</sup> IPS Task Force. “Northern Areas of Pakistan – Facts, Problems and Recommendations.” *Policy Perspectives* 1, no. 1 (2004): 123.

<sup>24</sup> Hussain, Altaf. “The Gilgit-Baltistan Reforms 2009,” <http://gbpolicyinstitute.org/wp-content/uploads/Gilgit-Baltistan%20Reforms%20AHussain%20FinalDec09.pdf>.

<sup>25</sup> Mahmud, Ershad. “The Gilgit-Baltistan Reforms Package 2007: Background, Phases and Analysis.” *Policy Perspectives* 5, no. 1 (2008): 23–40.

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<sup>26</sup> Ibid.

<sup>27</sup> Hussain, Altaf. “The Gilgit-Baltistan Reforms 2009,” <http://gbpolicyinstitute.org/wp-content/uploads/Gilgit-Baltistan%20Reforms%20AHussain%20FinalDec09.pdf>.

<sup>28</sup> Ibid.

<sup>29</sup> “GBESGO,” <https://www.satp.org/Docs/Document/845.pdf>.

<sup>30</sup> Aziz, Sartaj. “Future Status of Gilgit-Baltistan.” *The Friday Times*, September 27, 2020.

<sup>31</sup> Abbasi, Aftab. “The Gilgit-Baltistan Order 2018.” *Jahangir’s World Times*, <https://tinyurl.com/hhddvyjr>.

<sup>32</sup> “Gilgit-Baltistan Order 2018,” <https://www.satp.org/Docs/Document/847.pdf>.

<sup>33</sup> Ibid.

<sup>34</sup> Ibid.

<sup>35</sup> Nagri, Jamil. “Appellate Court Suspends GB Order 2018.” *Dawn*, June 21, 2018.

<sup>36</sup> Bhatti, Haseeb. “SC Restores GB Order 2018, Tells Govt to Ensure Equal Rights for Region’s People.” *Dawn*, August 8, 2018.

<sup>37</sup> Hussnain, Syed Sabeehul. “SC Orders Promulgation of Modified G-B Order Forthwith.” *The Nation*, January 18, 2019.

<sup>38</sup> Nagri, Jamil. “Presidential Order for Holding Elections, Forming Caretaker Govt in GB Issued.” *Dawn*, May 17, 2020.