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Identity Crisis and Constitutional Limbo: A Case of Autonomy and
Self-Determination in Gilgit Baltistan

“A No-Man's Land”

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Dedication

I dedicate this work to all the oppressed people of Gilgit-Baltistan. Long live resistance.

Abstract

Gilgit-Baltistan has a long history of foreign incursions and continuous resistance. It had remained under the indirect control of the British, who governed the region through local Rajas. Before departing from Gilgit-Baltistan, the British decided to transfer the administration of Gilgit-Agency (a small part of Gilgit-Baltistan) to the Dogra's (the rulers of Jammu and Kashmir), which resulted in a revolt and declaration of independence of Gilgit-Baltistan on 1st November 1947. Due to the dubious role played by Major Brown (British Military Officer), Pakistan took administrative control of the region on 16th November 1947. Pakistan signed Karachi Agreement in 1949 with the Azad Kashmir government which associated Gilgit-Baltistan to the Kashmir issue. The independence gained from Dogra was subsequently lost to Pakistan. Since then, Gilgit-Baltistan had remained in a constitutional limbo, unable to decide its political status, which resulted in systematic human rights violations of 1.5 million people. Pakistan's ruthless control over the people continues even after seventy-six years. The calls for autonomy and self-determination, which according to UN Charter and human rights instruments are fundamental rights went unheard. Frustrated by the situation, the youth and nationalists now explore international legal and political options (including the UN system) to struggle for self-governance, autonomy, and self-determination.

Keywords: Autonomy, Self-governance, Self-determination, Constitutional limbo, Political Status, Human Rights, Identity Crisis

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List of Abbreviations

ATA – Anti-Terrorism Act

BNF – Balawaristan National Front

BRI – Belt and Route Initiative

CCPR – Covenant on Civil and Political Rights

CESCR – Covenant on Economic, Social, and Cultural Rights

CPEC – China-Pakistan Economic Corridor

FCR – Frontier Corps Regulations

GB – Gilgit-Baltistan

HRCPP – Human Rights Commission of Pakistan

ICJ – International Court of Justice

ICT – Islamabad Capital Territory

IoK – Indian Occupied Kashmir

KANA – Kashmir Affairs and Northern Areas

KNM – Karakoram National Movement

LFO – Legal Framework Order

NAAC – Northern Areas Advisory Council

NAC – Northern Areas Council

NALC – Northern Areas Legislative Council

NARoB – Northern Areas Rules of Business

NWFP – Northwest Frontier Province

OBOR – One Belt One Rout

PML-N – Pakistan Muslim League Nawaz

PoK – Pakistan Occupied Kashmir

PPPP – Pakistan Peoples’ Party Parliamentarians

PTI – Pakistan Tahreek e Insaf

SHO – Station House Officer

UN – United Nations

UNCIP – United Nations Commission for India and Pakistan

UNGA – United Nations General Assembly

UNSC – United Nations Security Council

Introduction

This thesis aims to thoroughly examine the case of self-determination and/or self-governance in Gilgit-Baltistan in the light to historical events, human rights situation, and politico-legal developments in the region since 1947. And to explore a suitable alternative for empowerment of the people of Gilgit-Baltistan, who remain in constitutional limbo and identity crisis for last seventy-six years under de facto administration of Pakistan. The presumed association of Gilgit-Baltistan to the state of Jammu and Kashmir came in the wake of the Treaty of Amritsar- a treaty between the British colonizers and the Raja Ghulab Singh of Jammu after the first Anglo-Sikh war.¹ A part of the region subsequently remained under control of both the Kashmiri rulers and later under the British rule until 1st November 1947. Gilgit-Baltistan declared its independence from the Kashmir rule but lost its independence to Pakistan with a telegram sent by Major Brown – the British military office to the so-called authorities in Pakistan. The request of the accession and the acceptance had remained confidential and dubious till date. Gilgit-Baltistan once again was linked and associated with Kashmir issue by signing Karachi agreement between government of Pakistan and Azad Kashmir government (PoK). Since then, the political, legal, and constitutional policy of Pakistan had remained ambiguous. For seventy-six years, Gilgit-Baltistan is administered through executive order, while the people of Gilgit-Baltistan continue to suffer gross and systematic human rights violations. No attempts are made to address their concerns, hence creating great resentment and suspicion towards the government of Pakistan. Hence, there is a need to exploring political and legal

¹Kashmir Legal Documents Treaty of Lahore Archived, available at: Wayback Machine, accessed on 3rd July 2023.

means for empowerment of the people and protection of their fundamental human rights through UN system and local arrangements.

This thesis is divided into three chapters each discussing and analyzing different aspects of the topic. In the first chapter, I attempted to lay a foundation for the case of Gilgit-Baltistan in the historical aspect. A detailed account of the historical events both from the pre-colonial era and post-independence are discussed and analyzed. This is important for the discussion in the subsequent chapters because the current politico-legal system and any future aspirations for empowerment and self-determination in Gilgit-Baltistan are connected directly and indirectly with these historical events. It also attempts to explore the geo-political and geo-strategic position of Gilgit-Baltistan as a hotspot between three nuclear nations i.e. Pakistan, China, and India, especially in the context of current shift of power dynamics in the Global South.

In the second chapter, I made an attempt to critically analyze the politico-legal system in Gilgit-Baltistan. In doing the legal and political analyses, particular detail legal analysis of the laws enforced in Gilgit-Baltistan since the takeover of Pakistan is presented. Most importantly, the Supreme Court's judgement on the famous Al Jihad Trust case and Gilgit-Baltistan Empowerment and Self-Governance Order 2009 are analyzed and discussed in detailed as these documents have shaped and have implications on the present governance system and also on the future politico-legal changes. Additionally, an analysis of the United Nation resolution regarding Kashmir issue and their impacts on Gilgit-Baltistan are presented.

The third and final chapter of the thesis explores the options available for the people of Gilgit-Baltistan to achieve their future political and legal aspirations. Two important concepts of self-determination and self-governance are

discussed and explored in length. Particular emphasis has been made to explore the options within the UN system. Special attention has been paid to the UN Charter and the provisions related to non-self-governing territories and trust territories while exploring the two available options. References also include the UN resolution on Declaration of Independence to Colonial Peoples. Finally, an analysis of the major stakeholders regarding the political status on Gilgit-Baltistan are presented along with suggestions and recommendations.

Research Methodology

With a view of exploring the possible options for political status of Gilgit-Baltistan, a legal and political interpretative approach along with a critical analysis of the relevant laws was adopted as the main methodological approach for investigation of politico-legal setup in Gilgit-Baltistan. Historical events and documents are critically analyzed. A critical legal analysis approach is adopted in investigating the legal documents, judgements, and UN resolutions.

Limitations

A significant research scholarships gap exists regarding the political and legal status of Gilgit-Baltistan. This is partially due to the sensitivity of the subject and the region and partially due to censorship by the state. I must admit the very limited availability of literature regarding the history and few sources to validate them. Confidentiality and limited access to the legal documents as they lie in the archives of different countries is yet another issue.

1 Chapter One: Gilgit-Baltistan: Past and Present – From Independence to Subjugation

1.1 Introduction

In the context of decolonization and globalization, Right to self-determination as enshrined in the United Nation's Charter², is perhaps, the most significant principle of international law accepted by all free and civilised nations. The History of Gilgit-Baltistan is both intriguing and tragic at the same time. Intriguing because of the significance it enjoyed due to marvelous historical, cultural, geostrategic and geopolitical position as a group of small yet sovereign and self-sufficient princely states until 1947. Tragic because of the transition from an independent state to statelessness under occupation and subjugation of the state of Pakistan. Twentieth century is marked for beginning of decolonization for some nations and colonization for the others. Struggle for right to self-determination, autonomy, and independence resulted in culmination in the control of colonial powers over many nations in Africa, Europe, and Asia, while for other it had brought tremendous human suffering, systematic human rights violations, and subjugation. Gilgit-Baltistan is a classical yet ignored case of colonization, decolonization, and recolonization. The current governance system in Gilgit Baltistan can alternatively be regarded as colonization with a modern outlook i.e. with a so-called democratic outlook but with a far worst internal political, legal, and governance mechanism. Understanding of the current governance system is possible only with an in-depth analysis of the historical events prior to the division of Indian subcontinent into the dominion of Pakistan and India to the present day. The detailed accounts and analysis of which are unavoidable and form a foundation

² UN Charter (1945), available at: [UN Charter | United Nations](#), accessed on 5th May, 2023.

for further discussion on the right to autonomy and self-determination in Gilgit Baltistan. It is equally imperative to discuss, in the current global dynamics, the geo-strategic, geo-economic, and geo-political standing and importance of Gilgit-Baltistan for two important reasons. First, to truly appraise the urge among the peoples of Gilgit-Baltistan for greater autonomy, self-governance, and to an extent for self-determination – viable options, which shall be discussed in the light of legal and historical documents/events in the later chapters. Second, to compensate for the lack of sufficient scholarships on the subject, which for long have contributed in the confusion i.e. association of Gilgit-Baltistan with Jammu and Kashmir and essentially with Kashmir issue.

1.2 Historical Overview

Gilgit-Baltistan is a sparsely populated, located among some of the world's highest and largest mountain ranges in the North of Pakistan³. The political history of GB for the purpose of our discussion can be categorized into two parts. First, the political history before the partition of Indian subcontinent and second, from the independence i.e., 1st November till present. The old mighty silk route traverses through Gilgit Baltistan, making it a significant trade route in the world.⁴ Gilgit Baltistan now serves as the Gateway and nerve of China Pakistan Economic Corridor (CPEC)⁵, a project under China's one belt one route initiative (OBOR)⁶. Gilgit Baltistan was

³ Gilgit-Baltistan, available at: <https://visitgilgitbaltistan.gov.pk/>, accessed on 6th May 2023.

⁴ Khan, A. (2015). Wakhan Corridor: An opportunity, available at: Wakhan Corridor...An opportunity! | Pakistan Defence, accessed on 6th May 2023.

⁵ McCartney, Matthew. 2020a. "The China-Pakistan Economic Corridor (CPEC): Infrastructure, Social Savings, Spillovers, and Economic Growth in Pakistan." *Eurasian Geography and Economics* 1–32, available at: *The China-Pakistan Economic Corridor (CPEC): Infrastructure, Social Savings, Spillovers, and Economic Growth in Pakistan: Eurasian Geography and Economics: Vol 63, No 2* (tandfonline.com)

⁶ Du, M.M. (2016) China's "One Belt, One Road" Initiative: Context, Focus, Institutions, and Implications. *The Chinese Journal of Global Governance*, 2, 30-43. Available at: <https://doi.org/10.1163/23525207-12340014>, accessed on 7th May 2023.

historically a significant geopolitical and strategic point where the Soviet Union, China, and Great Britain intersected.⁷ The issue of its political and constitutional status dates back to the partition of the Indian subcontinent and the subsequent creation of Pakistan and India. The region's constitutional dilemma took a major turn when it supposedly acceded to Pakistan in 1947-1948, an action that was met with disapproval by Pakistan⁸. An attempt was made to legitimize this accession through the controversial Instrument of Karachi⁹, which the region's inhabitants dispute as a one-sided agreement. However, despite various factors at play, the desired constitutional status envisioned by the people of Gilgit Baltistan has yet to be realized. While an administrative structure resembling a province is in place, Gilgit Baltistan remains a disputed territory, distinct from the complexities of the Kashmir issue. Consequently, this situation has both positive and negative ramifications, leading to human rights violations, insurgencies, and external interference. In recent years, there has been a rising awareness among the general populace of Gilgit Baltistan, resulting in an increased demand for a comprehensive political and constitutional framework. Mainstream and federal political parties capitalized on this sentiment during recent elections in 2020 by mobilizing the public and promising to secure their constitutional rights. The international significance of Gilgit Baltistan's constitutional status is amplified by its role as a vital pathway for the China-Pakistan Economic

⁷ Sering, S.H. (2012) Expansion of the Karakoram Corridor: Implications and Prospects, Institute for Defence Studies & Analysis, New Delhi, p.8. Available at: https://idsa.in/system/files/OP_Karakoramcorridor.pdf, accessed on 14th May 2023.

⁸ Ali, S. (2022) 'Gilgit Baltistan: identity crisis and a constitutional limbo', Int. J. Human Rights and Constitutional Studies, Vol. 9, No. 3, pp.294–306. Available at: <https://www.inderscienceonline.com/doi/abs/10.1504/IJHRCS.2022.123695>, accessed on 12th May 2023.

⁹ Karachi Agreement (28th April 1949), available at <http://prfjk.org/wp-content/uploads/books/historical-doc/karachi%20agreement.pdf>, accessed on 14th May 2023.

Corridor. Gilgit Baltistan serves as the entry point for China to access Pakistan and international waters¹⁰, elevating its importance. Therefore, addressing the constitutional status of Gilgit Baltistan requires immediate attention from local leaders, as well as sincere engagement from Pakistan, India, the international community, and specifically the United Nations. It is imperative to ensure that the rights of this marginalized region are duly recognized and protected.

1.3 Pre-Partition History

The confusion regarding the link between Gilgit-Baltistan being part of Kashmir as claimed by Pakistan and India is based on the ambiguous relationship between both states i.e., Gilgit-Baltistan and Kashmir. At the peak of British rule in Indian Subcontinent, the colonial rulers defeated Maharaja Ranjit Singh in Punjab, and transferred (sold) Kashmir to the Dogra (the rulers of Jammu were known as Dogras) Raja Gulab Singh by signing the Treaty of Amritsar in 1846.¹¹ Later, this treaty would serve as a bone of contention between Gilgit-Baltistan and Kashmir. As reported by Sokefeld, “By assuming the power in Kashmir, Gulab Singh also became successor of the Sikhs in Gilgit, even though Gilgit was formally excluded in the Treaty of Amritsar, which ceded only territories east of the Indus to Gulab Singh. Gilgit is situated northwest of the river”.¹² The area transferred to Gulab Singh by the

¹⁰ Syed Atif Yasin & Muhammad Qasim (2020), China-Pakistan Economic Corridor and the Significance of Gilgit-Baltistan Constitutional Status, PUTAJ – Humanities and Social Sciences, Vol.27, No.2, pp. 79-93. Available at: http://journals.uop.edu.pk/papers/Article-08_Qasim%20-%20CPEC.pdf, accessed on 14th May 2023.

¹¹ Treaty of Amritsar (1846), available at: [treaty.pdf \(kashmirnetwork.com\)](http://treaty.pdf(kashmirnetwork.com)), accessed 10th July 2023.

¹² From Colonialism to Postcolonial Colonialism: Changing Modes of Domination in Northern Areas of Pakistan, p.945, available at: https://www.researchgate.net/publication/231954559_From_Colonialism_to_Postcolonial_Colonialism_Changing_Modes_of_Domination_in_the_Northern_Areas_of_Pakistan, accessed on 21st April 2023.

British rulers and its territorial limits according to Article 1 of the Treaty of Amritsar are, "...all the hilly or mountainous country, with its dependencies, situated to the eastward of the river Indus, and westward of the river Ravi, including Chamba and excluding Lahore, being part of the territory ceded to the British government by the Lahore state,..."¹³ It is important to note that the treaty did not explicitly mention Gilgit and its surrounding area in the territories made over to Gulab Singh, which later became a bone of historical contention between Gilgit-Baltistan and Kashmir. However, this ambiguity was defended in favour of the Dogra rulers by Frederic Drew, an English official who served Gulab Singh's son, by emphasizing that "...the framers did not know very exactly nor care to express very closely how the countries lay."¹⁴ The claims of the likes of Drew that the framers of the treaty did not know the location of Gilgit and its adjoining areas were refuted by the reports and mapping of a British Commission led by Vans Agnew, who put the location of Gilgit and surrounding areas to the north of the Indus.¹⁵ Hence, the claims that the territory sold to the Dogras by the British include Gilgit and its surrounding does not have a factual foundation rather a convergence of political discourse between the Dogra rules and British. Later, due to the divergence of this discourse and question of loyalty of the dogras that the British started asserting their direct influence in the region.¹⁶ Afterwards, as a policy of direct influence the British established Gilgit Agency in 1878 and

¹³CU Aitchison, *A Collection of Treaties, Engagements and Sanads Relating to India and Neighboring Countries Vol IX* (Calcutta: Government of India Central Publication Branch) 353. Available at: dl.tufts.edu/pdfviewer/c821gw91h/6w924p796, accessed on 9th July 2023.

¹⁴Frederic Drew, *The Jammu and Kashmir Territories: A Geographical Account*, p.440. Available at: [Google Libri](#), accessed on 9th July 2023.

¹⁵Reynell G Taylor, *Political Diaries of Lt. Reynell G Taylor, Mr. P Sandys Melvill, Pundit Kunhaya Lal, Mr P.A Vans Agnew, Lt. J Nicholson, Mr L Bowring and Mr A.H Cocks* (Lahore: Sang-e-Meel Publications 2006) 290.

¹⁶ALDER, G. J. 1963. *British India's Northern Frontier: A Study in Imperial Policy*. London: Longmans, 1865–95.

subsequently in 1889.¹⁷ Hereafter, the interest of the British to have a direct influence over Gilgit-Baltistan brought the dogras and British in strategic confrontation with each other. However, the British “In order to ease the tensions of ‘dual control’ between the Wazir-e-Wazarat and the Political Agent, the British Government in 1935 leased from Maharaja Hari Singh for sixty years that part of the Gilgit Wazarat which is situated on the western banks of the Indus.”¹⁸ All these exchanges and events between the British and dogras made clear that the Gilgit Valley and the neighbourhoods had never become part of Kashmir. On the occasion of Maharaja of Kashmir’s consideration of joining of Indian federation, the British maintained that “It will be observed that the Political Department are of opinion that Hunza, Nager, Chilas, Koh Ghizar, Iskhuman and Yasin, though under Kashmir’s suzerainty, were never recognized as a part of Kashmir.”¹⁹ However, weeks before the partition of the Indian Subcontinent, the British transferred the administrative control of the Gilgit-Agency to the dogras, and the local officers of Gilgit-Baltistan refused to take oath of loyalty to the Maharaja, and when the Maharaja declared the accession of Kashmir to India, the local forces revolted, arrested and removed the Maharaja’s representative from Gilgit-Baltistan.

1.4 Geo-strategic and geo-economic importance of Gilgit-Baltistan

Gilgit-Baltistan had enjoyed tremendous geo-strategic and geo-economic

¹⁷Yasin, Madhavi. 1984. *British Paramountcy in Kashmir 1876–1894*. New Delhi: Atlantic Publishers. Available at: [Free Download, Borrow, and Streaming : Internet Archive](#), accessed on 17th June 2023.

¹⁸Martin Sökefeld, ‘Not Part of Kashmir, but of the Kashmir Dispute’: *The Political Predicaments of Gilgit-Baltistan*, p. 134. Available at: [\(cambridge.org\)](#), accessed on 21st May 2023.

¹⁹Martin Sökefeld, ‘Not Part of Kashmir, but of the Kashmir Dispute’: *The Political Predicaments of Gilgit-Baltistan*, p. 135. Available at: [\(cambridge.org\)](#), accessed on 21st May 2023.

importance in the past for being a pivotal and central position in the old Silk Route. GB in the past was known as the ‘axis of Aisa’, ‘the hub’, ‘the Crown’s nest’ and ‘the fulcrum’²⁰ for being the convergence point of the three greatest empires i.e. The Russian empire, the British empire, and the Chinese empire.²¹ The total population of GB according to 2017 census is about 1.5 million souls²² with a total land area of 72,000 square kilometers²³ (excluding the 5000 square kilometers given to China by Pakistan). Gilgit-Baltistan is home to world’s second tallest mountain i.e., K2 (also known as Godwin Austin) along with other five ‘eight thousanders’.²⁴ It is also the home of the largest glaciers outside the polar region²⁵ including Siachen glacier²⁶, Biafo glacier²⁷, and Batura glacier.²⁸ The presence of lofty mountains and glaciers make it an important tourist destination. GB shares its borders with Pakistan occupied Kashmir (Azad Kashmir) to its south, Khyber Pakhtunkhwa province of Pakistan to its west, Wakhan corridor to the north (A small strip, Afghanistan

²⁰Keay, J. (2003). *The Gilgit Game – The Explorer of the Western Himalayas (1865-95)*. Oxford University Press

²¹Sering, S.H. (2012) *Expansion of the Karakoram Corridor: Implications and Prospects*, Institute for Defence Studies & Analysis, New Delhi, p.8. Available at: https://idsa.in/system/files/OP_Karakoramcorridor.pdf, accessed on 14th May 2023.

²²Gilgit-Baltistan: Population Census 2017, available at: <https://www.citypopulation.de/en/pakistan/cities/gilgitbaltistan/>, accessed on 14th May 2023.

²³Importance of Gilgit-Baltistan: Description, available at: <https://visitgilgitbaltistan.gov.pk/blog/100>, accessed on 15th May 2023.

²⁴ Gilgit-Baltistan, available at: <https://www.pakistanembassy.gr/gilgit-baltistan>, accessed on 14th May 2023.

²⁵Pakistan has more glaciers than almost anywhere on Earth. But they are at risk, published on August 12, 2016, available at: <https://www.washingtonpost.com>, accessed on 15th May 2023.

²⁶Shroder, J.F., Jr., and Bishop, M.P., 2000, *Unroofing the Nanga Parbat Himalaya*, in Khan, M.A., Treloar, P.J., Searle, M.P., and Jan, M.Q., eds., *Tectonics of the Western Himalaya and Karakoram: Geological Society of London Special Publication 170*, p. 163–179

²⁷Hewitt, Kenneth, Wake, C.P., Young, G.J., and David, C., 1989, *Hydrological investigations at Biafo Glacier, Karakoram Himalaya — An important source of water for the Indus River: Annals of Glaciology*, v. 13, p. 103–108.

²⁸Shi Yafeng, and Wang Wenyong, 1980, *Research on snow cover in China and the avalanche phenomena of Batūra Glacier in Pakistan: Journal of Glaciology*, v. 26, no. 94, p. 25–30.

and Tajikistan (20 kms) which joins Gilgit Baltistan to both countries), the autonomous Xinjiang region of China to the east through Khunjerab Pass (the highest paved international border crossing situated 15,000 feet above sea level) and north east and Jammu and Kashmir and Ladakh to the southeast.²⁹ One of the world's ancient civilizations i.e., the Indus Civilizations³⁰ which emerged on the banks of river Indus originates from GB and culminates in the Indian Ocean. On its way to the Indian Ocean, the water from the Indus River is used in vast areas of Pakistan for agricultural purposes as well as for the development and functioning of other industries.

²⁹Geography and Demography of Gilgit-Baltistan: Geography, available at: <http://www.gilgitbaltistanscouts.gov.pk/TOGeography%20.html>, accessed on 15th May 2023.

³⁰The civilizations of the Indus Valley were among the earliest in the world to become settled or 'urban'. There are four principal settlements known to archaeologists today; Mohenjo-Daro and Harappa, in Pakistan, and Lothal and Kalibangan in western India. It was between these ancient societies that the earliest trade routes were established. The Indus Civilization, available at: <https://en.unesco.org/silkroad/knowledge-bank/indus-civilization>, accessed on 19th May 2023.

Figure 1: GB's Geographical Location



Gilgit-Baltistan held great historical importance as a crucial trade route connecting the East and West through the old Silk Road, which significantly enhanced its strategic and economic significance in ancient times.³¹ However, after Pakistan assumed administrative control of the region with the assistance

³¹Sering, S.H. (2012) Expansion of the Karakoram Corridor: Implications and Prospects, Institute for Defence Studies & Analysis, New Delhi, p.9. Available at: https://idsa.in/system/files/OP_Karakoramcorridor.pdf, accessed on 14th June 2023.

of China, a new highway was constructed. The construction of the Karakoram Highway, also known as the Friendship Highway in China, began in 1966 and was completed and opened for transportation in 1979.³² The region's significance in international trade is evident from the importance China placed on its reconstruction and expansion plans, involving billions of dollars. Through China's One Belt, One Road initiative, the Karakoram Highway became a vital component of the China-Pakistan Economic Corridor (CPEC). This road provides China with convenient access to the Middle East and the warm waters crucial for its trade activities. With future expansion plans for this initiative, Gilgit-Baltistan could play an indisputable role in facilitating trade for landlocked countries in the former Soviet Union. Given the hundreds of billions of dollars' worth of trade passing through this region, its geo-economic significance cannot be underestimated.³³ In the current global political and strategic landscape, the global significance of Gilgit-Baltistan, particularly with the shifting of global power towards the global south, cannot be ignored. Considering the geographical and geo-economic importance attached to Gilgit-Baltistan, the issues of human rights and constitutional status cannot be left unresolved for an extended period. The investment in or through a disputed territory, as presented by Pakistan and India, carries risks and uncertainties that are not guaranteed or supported by international law.

1.5 Struggle for independence and the Question of Accession:

Upon the partition of the Indian subcontinent, India and Pakistan emerged as independent nations. In Gilgit Baltistan, unrest arose among the local

³²Anwar, S., Khan, F.A. and Rahman, A. (2019) 'Impact of karakoram highway on land use and agricultural development of Gilgit-Baltistan, Pakistan', *Sarhad Journal of Agriculture*, Vol. 35, No. 2, pp.417–431.

³³Hussain, M. and Jamali, A.B. (2019) 'Geo-political dynamics of the China-Pakistan economic corridor: a new great game in South Asia', *Chinese Political Science Review*, Vol. 4, No. 3, pp.303–326.

population and authorities when the Maharaja of Jammu and Kashmir suddenly acceded to India. This unrest gradually evolved into a rebellion, known as the war of independence, although the exact details remain unclear. Notably, four individuals played significant roles in this rebellion, with three of them asserting themselves as its architects. Major Brown, the military commander during that time, positioned himself as the spearhead of the rebellion, which ultimately led to the emergence of Gilgit Baltistan as an independent state. He claims to have ordered the arrest of Governor Gansara Singh and supported the region's accession to Pakistan. Subedar Major Babar Khan, a resident of Gilgit Baltistan and an officer in the Gilgit Scouts, proclaims himself to be the leader of the entire revolt. After the region gained independence, he became the chief commander of the Gilgit Scouts. Babar Khan maintains that he ordered the arrest of Governor Gansara Singh and detained Major Brown on October 31, 1947. According to his memoirs, he also dispatched a portion of the Gilgit Scouts to Bunji to confront the state forces. Consequently, he claims full credit for the revolt and its subsequent events. Captain Hassan, a member of the Jammu and Kashmir state forces, asserts himself as the sole architect of the revolt and the hero behind Gilgit's secession. In his memoirs, he argues that he was the one who gave the orders to Subedar Major Babar Khan and Lt. Majid for the arrest of Governor Gansara Singh, as well as the arrest of Major Brown on November 1, 1947³⁴. The exact accounts of the events of the revolt, secession and who controlled the region after the independence cannot be ascertained in absence of independent evidence. It is however noteworthy that Major Brown dispatched a telegram on 1st November 1947 to Col. Bacon, who was the premier of NWFP at the time. A glimpse of the accounts of the

³⁴MIRZA HASSAN KHAN, Col. 1984. *lang āzādi ki kahāni*. In: Manzum Ali (Ed.), *Bolōristān*. Government Degree College, Gilgit: 7-21.

situation post revolution can be ascertained from the Major Brown's telegram: "Revolution. Night 31st to 1st in Gilgit Province. Entire pro-Pakistani populace has overthrown Dogra regime. Owing imminent chaos bloodshed Scouts and Muslim state forces running administration temporarily. Request higher authorities be approached immediately and reply through wireless. Can carry out meantime. Commandant Scouts."³⁵

To understand the constitutional transition and struggle, it is important to discuss the events which contributed to shaping the constitutional journey of Gilgit Baltistan. After the independence the most important matter at hand of the architects of the revolution was the political status of the independent region, realizing the urgency of the matter, the leaders of the independence gathered at Babar Khan's residence. Major Brown was among the people who attended the meeting and was asked to join the local authorities in forming a provisional administration. Major Brown noting the events of the meeting held by the local leaders, they unaware of the fact that Major Brown had already dispatched a telegram to Lt. Canon, Mirza Hassan stepped up, addressed Major Brown:

"We know of course that you are loyal to Pakistan, all Britishers are, but it is not our intention to join Pakistan. We intend to set up an independent Islamic state called United States of Gilgit, and although we shall keep the friendliest relations with Pakistan, we shall in no way owe allegiance to that Dominion."³⁶

A provisional government was set up on 2nd November 1947 with Shah Rais

³⁵Brown, W. (2014) Gilgit Rebellion, Pen and Sword. Available at: <https://pahar.in/pahar/1998-the-gilgit-rebellion-1947-by-brown-s-pdf/>, p 154. Accessed on 19th May 2023.

³⁶Brown, W. (2014) Gilgit Rebellion, Pen and Sword, p 161. Available at: <https://pahar.in/pahar/1998-the-gilgit-rebellion-1947-by-brown-s-pdf/>. Accessed on 19th May 2023.

Khan as the president, Captain Hassan Khan as commander in chief, Lt. Haider as commissioner and Major Brown as chief military advisor. By forming the provisional government and explicitly upholding the idea of creating a state, the intentions of the leaders of the independence clearly seem not to have accession of the region with Pakistan. Additionally, two instances of Pakistan's position on the accession are worth mentioning. First, in a meeting held on 28th July 1948 between the representatives of United Nations commission for India and Pakistan, the then foreign minister of Pakistan Sir Mohammad Zafrullah Khan asserted regarding the position of Gilgit Baltistan and noted by Dr. Lozano, a UN representative as follows:

“Sir Mohammed stated that another problem which was of concern to Pakistan was the position of Gilgit Agency. In late October 1947, representatives of Gilgit agency had requested accession to Pakistan, but Pakistan Government had not taken any decision at that time. There had been frequent requests from Gilgit Agency which had clearly indicated that if no action were taken by Pakistan, they would seek accession to the Soviet Union. He had received reports a few days ago Gilgit town had been bombed by the Indian Air Force. This was wanton murder, as there were no military targets. Sir Muhammed felt that Pakistan would soon be requested to send military aid to Gilgit Agency and that, if it did not do so, such aid would be obtained elsewhere.”³⁷

Yet, another occasion of how the Dominion of Pakistan viewed the accession can be understood through the comments made on 18th November 1947 by the political agent of Pakistan, Alam Khan and noted by Major Brown, “You are a crowd of fools led astray by a madman. I shall not tolerate this nonsense for one instance. Another squeak out of you, and Major Brown and myself will

³⁷UNCIP Interim Report (1948), Available at: <https://digitallibrary.un.org/record/486069?ln=en#record-files-collapse-header>, accessed on 19th May 2023.

pack up..... It will not be long before the country plunged into civil war. And when the Indian army starts invading you there will be no use screaming to Pakistan for help, because you won't get it.”³⁸

The legitimacy of the accession to Pakistan is a matter of contention due to disparities in the narratives between the local populace and the Government of Pakistan. Moreover, the absence of a formal written agreement between the concerned region and the Dominion of Pakistan has led to an ambiguous and unclear situation regarding the accession. The legality of such accession is disputed on the grounds that it failed to consider the opinion of the people residing in the region. However, it should be noted that Pakistan has exercised administrative control over the region for a span of seven decades, successfully propagating a pro-Pakistan perspective by associating it with the Kashmir dispute. Nonetheless, the political and constitutional status of Gilgit-Baltistan still remains unresolved.

1.6 Administrative Arrangements and Governance in Gilgit-Baltistan: 1947-2022

After declaring independence from Dogra regime and taking control by the political agent of Pakistan of the region, the constitutional struggle could not materialize even after seven decades. No representation is given in the parliament of Pakistan nor is Gilgit Baltistan made part of the Constitution of Pakistan. The annexation of Jammu and Kashmir State by its ruler to the Indian Union created a new uncertainty among the populace of Gilgit Baltistan. Pakistan occupied Kashmir (Azad Kashmir) soon followed the path of its counterpart Jammu and Kashmir and the Government of Azad Kashmir signed an agreement with the Government of Pakistan on 28th April 1949. The

³⁸Clemens, J. (2001) 'William A. Brown: The Gilgit Rebellion 1947', *Internationales Asienforum*, Vol. 32, Nos. 3–4, pp.390–392.

participants of this agreement include one Pakistani official and two representatives from Kashmir; Mushtaq Ahmed Gurmani who was the then Pakistan's minister without portfolio and in charge of the ministry of Kashmir affairs, Sardar Mohammed Ibrahim Khan, the then president of Azad Kashmir and Chaudhry Ghulam Abbas, head of all Jammu and Kashmir Muslim conference³⁹. It is striking to note that no opinion of either the people of Gilgit Baltistan or any representative of the region was part of this agreement which pushed the region to a constitutional despair for the coming years.

In 1950, the Gilgit Agency and Baltistan were placed under the jurisdiction of KANA (Kashmir Affairs and Northern Areas), and the Frontier Crimes Regulation (FCR) was extended to the region. Subsequently, in 1957, the Joint Secretary of KANA was vested with additional powers to control and administer the region, with their base of operations in the Federal Capital. To establish a local administrative structure, arrangements were made in 1967 to appoint a Political Resident for the Northern Areas, designating Gilgit as the headquarters. This Political Resident held extensive authority over the local administration, judiciary, enforcement of the FCR, and exercised limited legislative powers in consultation with the federal government. In 1969, the federal government created the Northern Areas Advisory Council (NAAC) under the authority of the Political Resident, although this council possessed no decision-making powers.

Significant reforms were introduced in 1974 by the first elected Prime Minister of Pakistan, Zulfikar Ali Bhutto. These reforms involved substantial administrative changes, including the abolition of the Agency system and the repeal of the FCR, which was deemed to be a law of harsh nature. The Northern

³⁹Karachi Agreement 1949, Available at, <http://prfjk.org/wp-content/uploads/books/historical-doc/karachi%20agreement.pdf>, accessed on 10th May 2023.

Areas Council (NAC) was established as a replacement for the NAAC, with its members to be elected through adult franchise. However, despite these reforms, the local populace and their representatives were not granted significant administrative or legislative powers.

In 1994, without consulting the local population, a new administrative order called the Northern Areas Council Legal Framework Order (LFO) was introduced in the region, accompanied by the enactment of the Northern Areas Rules of Business (NARoB) as the fundamental law governing the region. Under the LFO, the Northern Areas Council was transformed into the Northern Areas Legislative Council (NALC), which possessed only limited advisory functions and lacked substantial legislative powers. Additionally, the NALC remained under the executive control of KANA, with no real authority over the executive branch.

In 1999, the Supreme Court of Pakistan delivered a significant judgment in the case of *Al Jihad Trust vs. Government of Pakistan*, wherein it emphasized the extension of all constitutional and human rights to Gilgit Baltistan within a period of six months from the date of the judgment, which was May 23, 1999. The Court stated the following:

“The two million people of Northern Areas are citizens of Pakistan with all intents and purposes and the fundamental rights as guaranteed in the constitution of Pakistan are very much available to the citizens of Northern Areas, now Gilgit Baltistan (GB), and these must be protected and enforced by making necessary amendments in the constitution of Pakistan and relevant laws and notifications as applicable.”⁴⁰

⁴⁰PLD (1996) *Al-Jehad Trust vs. federation of Pakistan*, SC 324.

Table 1 shows the hierarchy of administrative and constitutional developments since 1947.

Table 1 Hierarchy of administrative and constitutional developments in Gilgit-Baltistan since 1947

<i>Sr. no.</i>	<i>Year of promulgation</i>	<i>Legislative promulgation</i>
1	1947	Frontier Crimes Regulation (FCR)
2	1949	Agreement of Kashmir
3	1950	Creation of Ministry of Kashmir Affairs and Northern Areas (KANA)
4	1952	Appointment of Political Resident
5	1967	Appointment of Political Agents
6	1969–1970	Northern Areas Advisory Council (NAAC) created
7	1974–1975	Creation of Northern Areas Council (NAC) and abolishment of FCR
8	1994	Promulgation of Northern Areas Council Legal Framework Order (LFO)
9	1994	Promulgation of Northern Areas Rules of Business (NARoB)
10	1999	Landmark decision of Supreme Court of Pakistan's judgement in <i>Al Jihad Trust vs. Federation of Pakistan</i>
11	2009	Enactment of Gilgit-Baltistan Empowerment and Self-governance Order
12	2018	Promulgation of Gilgit-Baltistan Reforms Order 2018 (Suspended by Supreme Appellate Court of Gilgit Baltistan) and

		reinstated by Supreme Court of Pakistan.
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Though, even after such remarks by Pakistan apex court in May 1999, which stirred some hope in the masses of Gilgit Baltistan, no substantial efforts were made to address the identity crisis and constitutional status of Gilgit Baltistan till day.

2 Chapter Two: Politico – Legal System (A Constitutional Limbo): An Analysis

2.1 Introduction

Since the independence of Gilgit-Baltistan on 1st November 1947⁴¹, two and half month after the inception of Pakistan and India as independent dominions, the governance system in Gilgit-Baltistan had remained in continuous uncertainty until today. The analysis of the historical accounts suggests that the architects of the war of independence wished to form an independent and sovereign state (United States of Gilgit-Baltistan) combining all the existing princely states in the region. Gilgit-Baltistan remained an independent and sovereign state until the arrival and takeover of the administration by a representative of the government of Pakistan on 16th November 1947⁴², the legality of which remains questionable to this day. Gilgit-Baltistan had remained under de facto control of Pakistan since 16th November 1947. After the de facto control of the region, continuous efforts have been made by Pakistan to link the region with Kashmir dispute in an attempt to ensure majority votes in case a plebiscite is decided on the Kashmir issue under auspices of the United Nation (UN). It was through the infamous instrument of Karachi that the government of Pakistan had made former attempt to link and associate Gilgit-Baltistan with Kashmir issue in the wake of the Maharaja

⁴¹History: The Gilgit-Baltistan Conundrum, published on 1st November 2020. Available at: <https://www.dawn.com/news/1587950>, accessed on 5th May 2023.

⁴²The Status of Gilgit-Baltistan, published on 18th April 2018, available at: <https://dailytimes.com.pk/229481/the-status-of-gilgit-baltistan/> accessed on 5th May 2023.

of Jammu and Kashmir acceding to India⁴³, the content and legality of which shall be discussed in the following paragraphs.

It was until 1974 that no political or legal reforms were introduced in Gilgit-Baltistan except for the introduction of Frontier Corps Regulations (FCR)⁴⁴, a colonial draconian law which kept the people of Gilgit-Baltistan deprived of their human and political rights. Keeping in view the importance of Karakoram Highway i.e., one of the highest paved international highways linking Pakistan and China through Gilgit-Baltistan, that the then Prime Minister of Pakistan, Zulfikar Ali Bhutto introduced the first significant administrative reform in Gilgit-Baltistan in 1974 by creating Northern Areas Council (NAC)⁴⁵ i.e., a local representative body, along with the abolition of FCR. Until 1974, the people in Gilgit-Baltistan were under direct control of the government of Pakistan through a political agent, with no rights to vote and elect their own representatives. Furthermore, it is worth mentioning that, perhaps, Gilgit-Baltistan was and still is, among one of the regions in the world, which is governed by a government to which the people had no right to vote, vis-à-vis the government of Pakistan.⁴⁶ Surprisingly, it still remains the fact that, the people are represented by a head of government and state, which they have no right to vote and elect. Yet another crisis confronted by people of Gilgit-Baltistan was citizenship and statelessness, as it was not until 1981 that the people of Gilgit-Baltistan were allowed to possess an identity card and a

⁴³Adarsh Sein Anand, ACCESSION OF JAMMU AND KASHMIR STATE – HISTORICAL & LEGAL PERSPECTIVE, available at: <https://www.jstor.org/stable/43953394>, accessed on 7th May 2023.

⁴⁴GB's Long Struggle, published on 21st October 2020, available at: <https://www.dawn.com/news/1586185>, accessed 23rd May 2023.

⁴⁵Brief History, available at: <https://gba.gov.pk/brief-history/>, accessed on 23rd June 2023.

⁴⁶Gilgit-Baltistan: No Vote for Region's Inhabitants during Pakistani Elections, published on 27th July 2018, available at: <https://unpo.org/article/20990>.

passport issued by the authorities in Pakistan⁴⁷, this situation had kept the people in a state of statelessness for 34 years.

Perhaps, the most important documents which essentially explain how Gilgit-Baltistan is administered are the judgment of the Supreme Court of Pakistan decision in Al Jihad Trust case, Gilgit-Baltistan (Empowerment and Self-Governance Order 2009⁴⁸, and Gilgit-Baltistan Order 2018⁴⁹. It is noteworthy that the whole region of Gilgit-Baltistan consisting of approximately 1.5 million⁵⁰ people is run through ordinances from the President of Pakistan, since the parliament lacks the jurisdiction and authority to legislate on the matters related to Gilgit-Baltistan due to its exclusion from the constitution of Pakistan. The constitution of Pakistan 1973⁵¹ empowers the president through article 89 to promulgate ordinance in extraordinary circumstances when the parliament is not in session, however, the validity of such ordinances are subjected to a limitation of 120 days from the day of its promulgation.⁵² In case of Gilgit-Baltistan, these ordinances had remained in operation for decades, which renders them unconstitutional and illegal. This explains a systematic suppression of the human rights and complexities of political system in Gilgit-

⁴⁷Anita Raman, *Of Rivers and Human Rights: The Northern Areas, Pakistan's Forgotten Colony in Jammu and Kashmir*, 2004, pp. 187-228, available https://brill.com/view/journals/ijgr/11/1-2/article-p187_8.xml, accessed on 23rd June 2023.

⁴⁸ Gilgit-Baltistan (Empowerment and Self-Governance) Order, 2009, available at: <https://gilgitbaltistan.gov.pk/system/files/GovernanceOrder-converted.pdf>, accessed on 23rd June 2023.

⁴⁹ Government of Gilgit-Baltistan Order 2018, available at: <https://gilgitbaltistan.gov.pk/system/files/Gilgit-Baltistan-Order-2018-Promologated1.pdf>, accessed on 24th May 2023.

⁵⁰ Ashar Muhammad Malik, *Community health revolving Fund: Equity fund for MCCS Final Strategy Document Technical Report* (March 2014), available at: https://www.researchgate.net/figure/Estimated-population-target-population-in-Gilgit-Baltistan_tbl1_339254749, accessed on 27th June 2023.

⁵¹ The Constitution of the Islamic Republic of Pakistan (as modified upto 2012), available at: https://na.gov.pk/uploads/documents/1333523681_951.pdf, accessed on 1st July 2023.

⁵² Article 89(2)(a)(1), The Constitution of the Islamic Republic of Pakistan (as modified upto 2012), available at: https://na.gov.pk/uploads/documents/1333523681_951.pdf, accessed on 1st July 2023.

Baltistan, which had time and again urged the people for greater autonomy and in many case for self-determination in Gilgit-Baltistan. The following sections attempt to discuss the important administrative, legal, and political developments in Gilgit-Baltistan since its independence in 1947, and in the light of these developments, an analysis of their content, legality, and implementation shall be taken to understand, how the state had time and again used these documents to exert their authority on the people of Gilgit-Baltistan, which had not only caused resentment among the people but essentially entailed the whole region into a political and constitutional limbo. We will further discuss and analyze the relevant or irrelevance of the region with Kashmir issue in the light of different agreements and UN resolutions.

2.2 The Question of Accession:

It is rightly argued by the renowned jurist and philosopher of law, Hans Kelsen in his positivist theory of law that political facts form a “Grundnorm” for creation of a legal order. In opinion of Kelsen, a Grundnorm is a statement from which the validity of duty statements originates from.⁵³The current governance, administrative, and political system in Gilgit-Baltistan, its effectiveness and legality can only be understood by examining the historical and political events as Grundnorms, which led to its independence from the Maharaja of Kashmir and subsequent alleged accession of the region to Pakistan, as these events had shaped the current situation of the region. It also helps to understand how the independence won in 1947 was lost to Pakistan subsequently. Like all other histories of the world, the exact accounts of the events during the independence cannot be independently verified, our reliance will be on the alleged request of accession and will of the architects/heroes of the war of independence.

⁵³ Available at: <https://plato.stanford.edu/entries/lawphil-theory/>. Accessed on 10/06/2023

As in the view of Dr. Sokefeld, the war of independence, locally known as the Jang azadi, is “unanimously regarded as one of the most important periods of Northern Areas history”.⁵⁴ An independent state and interim government was established in Gilgit-Baltistan with Shah Rais, one of the local leaders as its president. However, the independence was lost through a telegram dispatched by Major Brown, one of the military officers of the colonial British Empire. To this day, no evidence is presented by government of Pakistan for any accession request by the representatives of the interim government established in Gilgit-Baltistan after the war of independence, which renders the telegram dispatched by Major Brown questionable as to its validity and legality for various reasons.

The telegram sent by Major Brown to Col. Bacon, another British officer, stationed at the Northwest Frontier Province (NWFP) province of Pakistan in the night of 31st October 1947 reads:

““Revolution. Night 31st to 1st in Gilgit Province. Entire pro-Pakistani populace has overthrown Dogra regime. Owing imminent chaos bloodshed Scouts and Muslim state forces running administration temporarily. Request higher authorities be approached immediately and reply through wireless. Can carry out meantime. Commandant Scouts.”⁵⁵

The legality and legitimacy of this telegram from Major Brown, which had become the major cause of Gilgit-Baltistan losing its independence and subsequently a ground for gross human rights violations and turned into a political and constitutional limbo becomes questionable and loses its authority as Major Brown being a colonial military officer bears no authority and say in

⁵⁴ Martin Sökefeld, Jang Äzädi: Perspectives on a Major Theme in Northern Areas' History (1997), p 61, para 6. Available at: https://epub.ub.uni-muenchen.de/49581/1/Sokefeld_Jang_azadi_Perspectives_on_a_Major_Theme_in_Northern_Areas_History.pdf, accessed on 3rd July 2023.

⁵⁵ William A. Brown, The Gilgit Rebellion 1947, Ibx 1998, p.155.

deciding the will of the people whether to remain an independent state or accede to Pakistan. Therefore, an argument by any party i.e. Pakistan considering this request from Major Brown as a request by the people of Gilgit-Baltistan lacks credibility and legality. Secondly, the depiction by Major Brown of the people of Gilgit-Baltistan as pro-Pakistan, can be regarded a mere assumption and a narrative built on his own bias, since the architects of the war of independence time and again accused him of being a pro-Pakistani, which he never disputed. Moreover, the enmity of Major Brown towards the local leaders of war of independence in general and Captain Hassan, one of the most important leaders of war of independence in particular attests to the narrative him being a pro-Pakistani. Hence, his assumption and telegram doesn't provide any political or legal authority for the government and state of Pakistan to assume the administration of the region based on such request. Thirdly, according to the accounts of Major Brown, the telegram was sent to Col. Bacon on the night of 31st October 1947 without the leaders i.e., Captain Hassan Khan and Babar Khan of the war of independence being aware of a telegram dispatched by Major Brown, hence negating the narrative of the telegram being sent by the representatives of the Gilgit-Baltistan. Additionally, the fact that independence from the Dogras of Kashmir was not announced until 1st November 1947, which raises further questions on how and why such a telegram was communicated by Major Brown even before the independence was declared. Moreover, the arrest of Major Brown on the night of 31st October⁵⁶ further raises legitimate questions on the authenticity, legal and political authority of the telegram.

Finally, the will of the leaders of the war of independence, which was expressed in a meeting after declaring independence, as noted by Major Brown

⁵⁶ BABAR KHAN, Cpt. 1973. Chauda javänönne Gilgit men dögrön ke iqtedär kä khätima kar diä. In: *Bebäk*, January 20th- February 10th: 23-28, 82-83. Muzaffarabad.

in his book ‘Gilgit Rebellion’ clearly and in unequivocal terms attests for the urge among the people to establish an independent and sovereign state. According to the accounts of Major Brown, the meeting called to decide the fate of the newly born independent state and urgency of the matter, which he himself attended, Captain Babar Khan unaware of the telegram sent by Major Brown addresses him as:

“We know of course that you are loyal to Pakistan, all Britishers are, but it is not our intention to join Pakistan. We intend to set up an independent Islamic state called United States of Gilgit, and although we shall keep the friendliest relations with Pakistan, we shall in no way owe allegiance to that Dominion.”⁵⁷

This clearly negates the notion of Major Brown, and assumption by many scholars regarding the request by Major Brown and confusing it with the request by the people of Gilgit-Baltistan for accession with Pakistan is unfounded. However, it is astonishing how a piece of telegram wrongly interpreted had caused irreparable loss and paved the way for grievous human rights violations of 1.5 million people, including but not limited to freedom of expression,⁵⁸ right to representation, property rights,⁵⁹ right to vote,⁶⁰ and most importantly political participation and right of the people to decide their way of governance and political status (Right to self-determination), which were guaranteed in international human rights instruments and forms a basis of United Nations Charter.⁶¹

⁵⁷ William A. Brown, *The Gilgit Rebellion 1947*, IbeX 1998, p.155.

⁵⁸ Article 18, Freedom of Speech etc, The Constitution of the Islamic Republic of Pakistan, 1973, available at: https://na.gov.pk/uploads/documents/1333523681_951.pdf, accessed 3rd July 2023.

⁵⁹ Article 24, Protection of Property Rights, The Constitution of the Islamic Republic of Pakistan, 1973, available at: https://na.gov.pk/uploads/documents/1333523681_951.pdf, accessed 3rd July 2023.

⁶⁰ Article 51(2), The Constitution of the Islamic Republic of Pakistan, 1973, available at: https://na.gov.pk/uploads/documents/1333523681_951.pdf, accessed 3rd July 2023.

⁶¹ Article 1, United Nations Charter, available at <https://www.un.org/en/about-us/un-charter/chapter-1> accessed on 7th June 2023.

2.3 The Constitution of Pakistan and Exclusion of Gilgit-Baltistan

A constitution is regarded as the supreme law of a country from which every other laws, rules, and regulations emanate from. It defines the division of power between three branches of the government i.e. legislature, executive, and judiciary. Pakistan is a federal republic and govern through the constitution of 1973.⁶² It further defines the jurisdictions and power sharing between the federation and provinces. The form of government in Pakistan according to the constitution of 1973 is a parliamentary democracy. The parliament being the supreme legislative institution is divided into two chambers i.e., the National Assembly and the Senate. The members of the National Assembly are elected every five years through universal suffrage, which in turns elects the Prime Minister – the head of the government.⁶³ While, the members of the senate are elected on the proportionality basis for each party according to the number of seats won in the National Assembly. The number of seats are divided equally among the provinces to ensure equal representation of the federating units in the upper house of the parliament.⁶⁴ Furthermore, perhaps, one of the most important functions of the constitution of Pakistan 1973 is to describe the territories and territorial limitations of the state and defines its jurisdiction. Article 1 of the constitution enlists the following territories forming the federal republic:

Pakistan shall be Federal Republic to be known as the Islamic Republic of Pakistan, hereinafter referred to as Pakistan.

(2) The territories of Pakistan shall comprise—

⁶²The Constitution of 1973 -- The Existing Constitution, available at <https://embassyofpakistan.com/pages/view/3> , accessed on 7th June 2023.

⁶³Article 90(1), The Constitution of the Islamic Republic of Pakistan, 1973, available at: https://na.gov.pk/uploads/documents/1333523681_951.pdf, accessed 3rd July 2023.

⁶⁴Senate – Composition/Structure, available at <https://senate.gov.pk/en/essence.php?id=10&catid=4&subcatid=138&leftcatid=125&cattitle=0>, accessed on 5th June 2023.

- (a) the Provinces of Balochistan, the Khyber Pakhtunkhwa, the Punjab and Sindh;
 - (b) the Islamabad Capital Territory, hereinafter referred to as the Federal Capital; and
 - (c) such States and territories as are or may be included in Pakistan, whether by accession or otherwise.
- (3) Majlis-e-Shoora (Parliament) may by law admit into the Federation New States or areas on such terms and conditions as it thinks fit.

As indicated in Article 1 of the constitution, the territorial jurisdiction of Pakistan extends to four provinces i.e. Balochistan, Khyber Pakhtunkhwa, Punjab, and Sindh. Additionally, Islamabad, the capital city is separately included within the territorial jurisdiction, as it doesn't fall in the territorial limits of any of the provinces stated above. According to the official estimates the total territorial land area of Pakistan is 803,940 sq.km.⁶⁵ This total territorial area is combination of the four provinces and Islamabad Capital Territory (ICT) i.e., Punjab (205,344 sq.km)⁶⁶, Sindh (140,914 sq.km)⁶⁷, Balochistan (347,190 sq.km)⁶⁸, Khyber Pakhtunkhwa (101,741sq.km)⁶⁹, and ICT (906 sq.km)⁷⁰. Gilgit-Baltistan though under occupation/de facto administration of Pakistan is neither included in the constitution as one of its

⁶⁵ Pakistan: Basic Facts – Area - Total, available at <https://www.pakistanembassytokyo.com/node/17>, accessed on 1st June 2023.

⁶⁶ Pakistan: Basic Facts – Area - Punjab, available at <https://www.pakistanembassytokyo.com/node/17>, accessed on 1st June 2023.

⁶⁷ Pakistan: Basic Facts – Area - Sindh, available at <https://www.pakistanembassytokyo.com/node/17>, accessed on 1st June 2023.

⁶⁸ Pakistan: Basic Facts – Area - Balochistan, available at <https://www.pakistanembassytokyo.com/node/17>, accessed on 1st June 2023.

⁶⁹ Pakistan: Basic Facts – Area - Khyber Pakhtunkhwa, available at <https://www.pakistanembassytokyo.com/node/17>, accessed on 1st June 2023.

⁷⁰ Pakistan: Basic Facts – Area - Islamabad, available at <https://www.pakistanembassytokyo.com/node/17>, accessed on 1st June 2023.

territories nor its area (72,496 sq.km)⁷¹ forms part of the total territorial area of Pakistan. This state of affairs had resulted in widespread human rights violations in Gilgit-Baltistan, which the constitution guarantees to protect. Excluding Gilgit-Baltistan from the constitution means the legislature, executive, and judiciary cannot legislate and adjudicate on the matters and cases related to Gilgit-Baltistan, since the authority of the legislature and judiciary extends only to the territorial limits set in the constitution. It is important to explore in this context, under what authority Gilgit-Baltistan is governed when no such authority rests with the legislature, executive, and judiciary of Pakistan.

Furthermore, as stated earlier in the above sections, the people of Gilgit-Baltistan, according to the constitution are not entitled to vote for the election for the head of the government i.e. the Prime Minister of Pakistan. Hence, they are represented a Prime Minister they did not elect. Moreover, Gilgit-Baltistan and its people are neither represented in the National Assembly nor in the Senate of Pakistan. Article 51⁷² of the constitution defines the criteria for the sake of right to vote for the election of the National Assembly, which states:

“(1) There shall be three hundred and forty-two seats for members in the National Assembly, including seats reserved for women and non-Muslims.

(2) A person shall be entitled to vote if—

- (a) he is a citizen of Pakistan;
- (b) he is not less than eighteen years of age;
- (c) his name appears on the electoral roll; and
- (d) he is not declared by a competent court to be unsound mind.”

⁷¹ Gilgit Baltistan, available at <https://www.pakistanembassy.gr/gilgit-baltistan>, accessed on 2nd June 2023.

⁷²Article 51, Constitution of the Islamic Republic of Pakistan, available at https://na.gov.pk/uploads/documents/1333523681_951.pdf, accessed on 30th May 2023.

For all intents and meaning of this article, a person who is entitled to vote and follows the criteria set the sub-sections 2b, 2c, and 2d for the election of National Assembly shall be considered a citizen of Pakistan, which alternatively means, any person who is not entitled to vote for the election of the National Assembly is not a citizen of Pakistan. Since, the people of Gilgit-Baltistan are not entitled to vote for the elections of the National Assembly and in this capacity, they are not citizens of Pakistan.

The representatives to the National Assembly are elected through universal suffrage of all the citizens of Pakistan eligible to vote. The seats are allocated to the provinces proportionate to their population. According to article 51 (3)⁷³ of the constitution, the seats of the National Assembly shall be allocated to the provinces as under:

	General Seats	Women	Total
Balochistan	14	3	17
Khyber Pakhtunkhwa	35	8	43
Punjab	148	35	183
Sindh	61	14	75
Federally Administered Tribal Areas	12	-	12
ICT	2	-	2
Total	272	60	332

⁷³ Article 51(3), Constitution of the Islamic Republic of Pakistan, available at https://na.gov.pk/uploads/documents/1333523681_951.pdf, accessed on 30th May 2023.

The seats in the National Assembly are divided among the four provinces i.e. Balochistan, Khyber Pakhtunkhwa, Punjab, Sindh, Federally Administered Tribal Areas (Now included in the Khyber Pakhtunkhwa province), and ICT. No seats are reserved and allocated to Gilgit-Baltistan, which again attest for the absence either of the constitutional rights and protection as well as autonomy for the people of Gilgit-Baltistan. The systematic denial of political, constitutional, and human rights by the state of Pakistan to the people of Gilgit-Baltistan reflects Pakistan's disregard of its international commitments and violations of international human rights instruments to which Pakistan is a signatory. Likewise, to be qualified for the member of the National Assembly, among other qualifications, a member must be a citizen of Pakistan, which again automatically disqualifies people of Gilgit-Baltistan to be a member of the National Assembly.⁷⁴ It is odd to control the administration of a territory and govern through a constitution which does not recognize it.

In modern day's democratic political systems, judiciary is undoubtedly play the most important function for protecting the human rights of people and to ensure necessary checks on laws and public authority from abusing the fundamental rights of the people. It is unfortunate that, Gilgit-Baltistan, after the takeover of administrative control by Pakistan remained without a judicial system, with no courts to protect the fundamental rights and abuses perpetrated by the government authorities until 1974 since the region was governed by FCR (A draconian colonial law), which did not provide for the establishment of courts.⁷⁵ Moreover, like on other matters of legislature and executive, the constitution of Pakistan does not provide for establishment of courts in Gilgit-

⁷⁴ Article 62(1), Constitution of the Islamic Republic of Pakistan, available at https://na.gov.pk/uploads/documents/1333523681_951.pdf, accessed on 30th May 2023

⁷⁵ Gilgit-Baltistan Chief Court – GB District Judiciary, available at [Gilgit-Baltistan Chief Court \(gicc.gov.pk\)](http://gicc.gov.pk), accessed on 10th May 2023.

Baltistan. The constitution provides for the establishment for the Supreme Court, High Courts for the four provinces, and a High Court for ICT. The Supreme Court of Pakistan is the apex court with the power of judicial review, has jurisdiction all over Pakistan except for Gilgit-Baltistan, which remained outside its jurisdiction. The absence of a judicial system in the region had kept the people not only in a political and constitutional limbo but essentially also in a judicial one. The procedure for the establishment of the courts have been provided in article 175⁷⁶ of the constitution, which states:

“(1) There shall be a Supreme Court of Pakistan, a High Court for each Province 1[and a High Court for the Islamabad Capital Territory] and such other courts as may be established by law.”⁷⁷

(Explanation. — The word —High Court| wherever occurring in the Constitution shall include the High Court for the Islamabad Capital Territory). No court shall have any jurisdiction save as is or may be conferred on it by the Constitution or by or under any law.”⁷⁸

Since no procedure is described for the establishment of Courts in Gilgit-Baltistan in the constitution, no constitutional courts exist in the regional. However, it is now that a judicial system has been put in place but without a constitutional cover. The operation of such a judicial system without a constitutional protection cannot effectively protect the rights of the people, if at all with any legality. This is of particular importance because according to the constitution, “No court shall have any jurisdiction save as is or may be conferred on it by the Constitution or by or under any law”⁷⁹. Since, the courts

⁷⁶ Article 175, Constitution of Pakistan, available at https://na.gov.pk/uploads/documents/1333523681_951.pdf, accessed on 13th June 2023.

⁷⁷ Article 175 (1), Constitution of Pakistan, available at https://na.gov.pk/uploads/documents/1333523681_951.pdf, accessed on 13th June 2023.

⁷⁸ Article 175 (2), Constitution of Pakistan, available at https://na.gov.pk/uploads/documents/1333523681_951.pdf, accessed on 13th June 2023.

⁷⁹ Ibid

in Gilgit-Baltistan are neither established under the constitution or under any law of the parliament, nor their jurisdiction is defined in it, it as irony as to how these courts and under what law these courts perform their judicial function. Furthermore, under the constitution, the Supreme Court, which is also the highest court of appeal in Pakistan has no jurisdiction in Gilgit-Baltistan. The Original jurisdiction of the Supreme Court as defined by the constitution is limited only to decide the disputes between governments of two or more provinces. “The Supreme Court shall, to the exclusion of every other court, have original jurisdiction in any dispute between any two or more Governments”.⁸⁰ Also, the appellate jurisdiction of the Supreme Court is limited only to the appeals from the High Courts established under the constitution i.e. the provincial High Courts and ICT High Court,⁸¹ hence, putting the courts established in Gilgit-Baltistan out of Supreme Court’s original and appellate jurisdiction. This position of Supreme Court’s jurisdiction was maintained until 2018 when the then Chief Justice of Pakistan, in a dubious decision extended the Supreme Court’s jurisdiction to Gilgit-Baltistan.⁸² The decision by the Supreme Court raises question both of legal and political nature. Legally, the authority of the Supreme Court (a constitutional court) to extend its jurisdiction to a territory which doesn’t fall within the constitutional territories seem both illogical and unconstitutional. At the same time, it undermines the independence of the judicial system in Gilgit-Baltistan i.e. the authority of the Supreme Appellate Court of Gilgit-Baltistan

⁸⁰ Article 184 (1), Constitution of Pakistan, available at https://na.gov.pk/uploads/documents/1333523681_951.pdf , accessed on 13th June 2023.

⁸¹ Article 185 (1), Constitution of Pakistan, available at https://na.gov.pk/uploads/documents/1333523681_951.pdf, accessed on 13th June 2023

⁸² Civil Aviation Authority Vs. Supreme Appellate Court Gilgit Baltistan etc., Const.P.50/2018, available at, https://www.supremecourt.gov.pk/downloads_judgements/Const.P._50_2018.pdf, accessed on 14th June 2023.

(the highest court of appeal) becomes compromised due to parallel jurisdiction of both courts. Politically, the judgement has been criticized for making yet another attempt to link and associate Gilgit-Baltistan with Kashmir dispute, thereby consolidating Pakistan's state narrative on Kashmir issue.

2.4 Karachi Agreement – An Attempt of Linking GB to Kashmir Issue

Perhaps, the infamous Karachi Agreement (not to be confused with Karachi Agreement brokered by United Nations between Pakistan and India) is one of the first and unfortunate attempt by the state of Pakistan to associate Gilgit-Baltistan to Kashmir issue, the state with which the people of Gilgit-Baltistan had fought a war and declared their independence just a year and half ago. To get recognition for their own autonomous state and to formalize their relations with Pakistan, the Kashmiri leadership concluded an agreement with the state authorities in Pakistan. The agreement famously known as “the Karachi Agreement” was secretly signed on 27th-28th April 1949 by and between Mushtaq Ahmed Gurmani, the then Pakistan's Minister without Portfolio, Chaudhry Ghulam Abbas, Head of All Jammu and Kashmir Muslim Conference, and Sardar Muhammad Ibrahim Khan, the then president of Azad Kashmir⁸³. The agreement (a two-page document) was structured into three parts, the first two parts outlined the administrative and financial compromises between Pakistan and Azad Kashmir.⁸⁴ Surprising, rather ironically, in the last and most important section, a single line was added among other matters transferring the powers to administer Gilgit-Baltistan to Pakistan. It included a list of eight matters under Pakistan's authority.

The list included:

Defence, including complete control over Azad Kashmir Forces;

⁸³ Snedden, *The untold story of the people of Azad Kashmir*, (Published Hurst & Company, 2012), p. 90

⁸⁴ Ibid

Negotiations with UNCIP;

Foreign Policy of the Azad Kashmir government;

Publicity in Pakistan and foreign countries;

Coordination of arrangements for relief and rehabilitation of refugees;

Coordination of publicity and arrangements in connection with the plebiscite;

All activities within Pakistan itself with regard to Kashmir such as the procurement of food and civil supplies transport, running of refugee camps, medical arrangements etc.;

All affairs of the Gilgit and Ladakh areas under the control of the political agent at Gilgit.⁸⁵

The rationale behind the Karachi Agreement are multifold for both Pakistan and Azad Kashmir government. Pakistan's acceptance of the agreement was based on a simple logic of getting control over Kashmir and to effectively neutralize the Indian claims and presence on the other side of the Kashmir (Indian Occupied Kashmir). Secondly, control over Kashmir gave the power of controlling the resources specially water resources required by Pakistan for agricultural use, since Pakistan is an agricultural country. Thirdly, the agreement gave a monopoly over the Kashmir issue at United Nations to Pakistan. On the other side, the Kashmiri leaderships also benefitted in various ways. First, by signing the agreement the newly formed government in Azad Kashmir was successful in consolidating sufficient support from Pakistan for running the government. Secondly, for a resource less state, financial considerations were an important matter for survival and effective administration, which they were able to secure through the agreement from Pakistan. Thirdly, with the end of the war between India and Pakistan in 1948 over Kashmir, there was general fear among the people and leaders in Kashmir

⁸⁵Section III (viii), Karachi Agreement 1949, Available at, <http://prfjk.org/wp-content/uploads/books/historical-doc/karachi%20agreement.pdf>, accessed on 10th May 2023.

of Indian aggression, which they were in no position to repel, hence by agreeing to transfer the military matters to Pakistan, they effectively settled the question of defence. As a matter of fact, the Kashmiri leadership was ambidextrous, since they had nothing to lose and everything to gain.

However, it is important to look into the content and the way in which the agreement is framed and written. It is important to analyze the third section of the agreement to understand why Northern Areas (Now Gilgit-Baltistan) is mentioned in the agreement and to understand the validity and legality of such inclusion. Six points out of the total eight points in the last section of the agreement are directly or indirectly related to the plebiscite in Jammu and Kashmir under UN. Under the agreement, the responsibility for the publicity and propaganda regarding the plebiscite to decide the fate of Jammu and Kashmir was given Pakistan. It is in this context that the attempt was made to create an existential link to associate Gilgit-Baltistan to Kashmir issue. The Pakistan's rationale for creating the linkage is to secure maximum number of vote in case a plebiscite is held under UN for the right to self-determination and by creating the linkage, Pakistan had made an effort of including the people of Gilgit-Baltistan in the plebiscite and luring them through state propaganda to secure their votes,⁸⁶ hence, increase its prospect of winning the referendum. The agreement has time and again been condemned by the people and political leaders of Gilgit-Baltistan alike throughout the history.⁸⁷ Since, no representative of Gilgit-Baltistan was part of the agreement neither anyone was taken in confidence, the applicability of the agreement to Gilgit-Baltistan and its link to Kashmir loses validity and legal authority. Additionally, depriving

⁸⁶ Robert G. Wirsing, *India, Pakistan and the Kashmir Dispute: On Regional Conflict and its Resolution* (London, 1994), p. 64

⁸⁷ GB's Aspirations, published in the DAWN on June 16, 2015, available at <https://www.dawn.com/news/1188410>, accessed on 12th June 2023.

human rights and right to decide their political status cannot be done without involving the people in the decision-making process. Since, the people of Gilgit-Baltistan were in no way either informed or taken into confidence while concluding the agreement, thereby making the agreement inapplicable to the people of Gilgit-Baltistan. Finally, neither the Pakistani government nor the Kashmiris by law had any power making an agreement deciding the future of the people of Gilgit-Baltistan. Because Gilgit-Baltistan has not been a constitutional part of Pakistan, which restricts the authority of Pakistan making a decision which may have an adverse impact on the human and political rights of the people. The authority of the Kashmiri leadership making such an agreement is out of question as the people of Gilgit-Baltistan won and declare their independence on 1st November 1947. Accepting an agreement by Azad Kashmir government and efforts of Pakistan to legalize it is like India concluding an agreement with the United Kingdom transferring the matters related to Pakistan to United Kingdom, which of course will be regarded illegal and out of authority of India.

2.5 Administrative Packages/Developments in Gilgit-Baltistan since 1947

To understand the systematic denial of human, constitutional, and political rights to the people of Gilgit-Baltistan and existence of an urge for greater autonomy and to an extent of self-determination, an examination and analysis of the administrative/legal and development packages offered by the state of Pakistan to the people of Gilgit-Baltistan. These so-called administrative/legal/developments packages form the government of Pakistan are famously referred by the People of Gilgit-Baltistan as “lollipops”, a term best describing the frustration among the people caught between desire and despair for autonomy, human and political rights.

The following table shows the administrative instruments enforced in Gilgit-Baltistan since 1947.

Sr. No.	Year of Promulgation	Legislative promulgation
1	1947	Frontier Crimes Regulation (FCR)
2	1949	Agreement of Kashmir
3	1950	Creation of Ministry of Kashmir Affairs and Northern Areas (KANA)
4	1952	Appointment of Political Resident
5	1967	Appointment of Political Agents
6	1969–1970	Northern Areas Advisory Council (NAAC) created
7	1974–1975	Creation of Northern Areas Council (NAC) and abolishment of FCR
8	1994	Promulgation of Northern Areas Council Legislative Framework Order (LFO)
9	1994	Promulgation of Northern Areas Rules of Business (NARoB)
10	1999	Decision of Supreme Court of Pakistan's judgement in <i>Jihad Trust vs. Federation of Pakistan</i> urging government of Pakistan to recognize human rights in Gilgit-Baltistan
11	2009	Enactment of Gilgit-Baltistan Empowerment and Governance Order 2009
12	2018	Promulgation of Gilgit-Baltistan Reforms Order 2018 (Suspended by Supreme Appellate Court of Gilgit-Baltistan). The decision of Supreme Appellate Court of Gilgit-Baltistan was later suspended by Supreme Court of Pakistan in 2019

Table 1 Hierarchy of administrative and constitutional developments in

Gilgit-Baltistan since 1947⁸⁸

However, in the real sense of the word, the most significant if not the only development is the promulgation of Gilgit-Baltistan Empowerment and Self-Governance Order 2019⁸⁹. Hence, the discussion will be limited and will only analyze this order.

2.6 Gilgit-Baltistan Empowerment and Self-Governance Order, 2009

Gilgit Baltistan though under administrative control (occupation, to put in exact terms) of Pakistan for last seven decades has not been included in the constitution of Pakistan as one of its territories.

However, the federal government led by Pakistan People's Party⁹⁰ promulgated a presidential Ordinance on 9th September 2009 through the then president of Pakistan, Asif Ali Zardari⁹¹. This presidential order was termed as Gilgit-Baltistan Empowerment and Self-Governance Order, 2009. Though controversial, this order was thought to be a realization and result of long awaited judgement by the Supreme Court of Pakistan in 1999, issued by the Government of Pakistan for the Gilgit- Baltistan. The preamble of the Order reads as follows:

“To provide greater political empowerment and better governance to the people of Gilgit-Baltistan:

Whereas it is expedient to undertake necessary legislative, executive and judicial reforms for granting self-governance to the people of Gilgit-Baltistan

⁸⁸ Ali, S. (2022) ‘Gilgit Baltistan: identity crisis and a constitutional limbo’, *Int. J. Human Rights and Constitutional Studies*, Vol. 9, No. 3, p. 301

⁸⁹ Gilgit-Baltistan Empowerment and Self-governance Order, 2009, available at <https://gilgitbaltistan.gov.pk/system/files/GovernanceOrder-converted.pdf> accessed on 5th June 2023

⁹⁰ Pakistan Peoples Party, Islam is our Faith. Democracy is our Politics. Socialism is our Economy. All Power to the People. Martyrdom Is Our Path, <https://ppp.org.pk/>.

⁹¹ List of the former presidents of Pakistan, available at <https://president.gov.pk/former-presidents> , accessed on 10th June 2023.

and for matters connected therewith or included thereto”.⁹²

Though, this order provided a relief for the grievances and to address longstanding demands of the people of Gilgit-Baltistan but fell short of granting effective autonomy according to the wishes of the people. It was for the first time that; the name of the region was changed from Northern Areas to Gilgit-Baltistan. In shape, a province like government system was introduced with the Chief Minister as the head of the government. In an unprecedented move, the offices of the Chief Minister, Governor and ministers were introduced under order. The legislative assembly was termed as Gilgit Baltistan legislative assembly and the number of members was fixed to 33. Unlike the legislative assemblies of other provinces, a bicameral legislature was established under the Order i.e. Gilgit-Baltistan legislative assembly with the elected representatives and Gilgit-Baltistan Council as the upper chamber. Article 35 of Gilgit-Baltistan Empowerment and Self-governance Order 2009 states:

1 The legislative Assembly shall consist of thirty-three members of whom:

Twenty-four members shall be elected directly on the basis of adult franchise.

Six women members shall be elected on the patterns as in case of reserved seat in Pakistan.

Three technocrats and other professional members shall be elected on the pattern as in case of reserved seat in Pakistan.⁹³

Some legislative powers were delegated to the legislative assembly including

⁹² Preamble, Gilgit-Baltistan Empowerment and Self-governance Order, 2009, available at <https://gilgitbaltistan.gov.pk/system/files/GovernanceOrder-converted.pdf> accessed on 5th June 2023.

⁹³ Article 35, Gilgit-Baltistan Empowerment and Self-governance Order, 2009, available at <https://gilgitbaltistan.gov.pk/system/files/GovernanceOrder-converted.pdf> accessed on 5th June 2023.

budget approval and the subjects on the legislative list were increased from previous 49 to 61 along with power to legislate on the subjects which did not fall in the domain of Gilgit-Baltistan Council, while the GB Council was given the power to legislate on all other subjects. Article 33 of the order details the formation of Gilgit-Baltistan Council with the Prime Minister of Pakistan as its chairman and reads as:

There shall be a Gilgit-Baltistan Council consisting of

The Prime Minister of Pakistan;

The Governor;

Six members nominated by the Prime Minister of Pakistan from time to time from amongst Federal Ministers and members of Parliament:

Provided that the Federal Minister for Kashmir Affairs and Gilgit-Baltistan shall be an ex officio member and Minister Incharge of the Council;

The Chief Minister of Gilgit-Baltistan;

Six members to be elected by the Assembly in accordance with the system of proportional representation by means of a single transferable vote.⁹⁴

The Gilgit-Baltistan Council was constituted as a body of 16 nominated members with the Prime Minister as its chairman having the power to legislate on fifty-five subjects. It is noteworthy that the authority to nominate the majority of the Council members was given to the federal government to ensure effective control of the federation over the legislative process. Moreover, the council is given great legislative power paving way for the control of Federation on Gilgit- Baltistan. An Order promulgated to provide autonomy to the people of Gilgit-Baltistan was in fact designed to ensure systematic control of the state of Pakistan over the region.

⁹⁴ Article 33, Gilgit-Baltistan Empowerment and Self-governance Order, 2009, available at <https://gilgitbaltistan.gov.pk/system/files/GovernanceOrder-converted.pdf> accessed on 5th June 2023.

Article 47 (2c) of the order states:

“The council shall have the power to adopt any amendment in the existing laws or any new law in force in Pakistan.”⁹⁵

Furthermore, Article 47 (3) of the order states:

“The Government of Pakistan shall have exclusive power to make laws in respect of any matter not enumerated in the council legislative list or the assembly legislative list by order in the official Gazette.”⁹⁶

Through the above articles, a greater authority is provided to the federal government pertaining to the legislative matters, effectively curtailing the legislative powers of the Legislative Assembly.

2.7 United Nations Resolutions and Kashmir Issue

Soon after the partition of Indian sub-continent into two independent dominions, i.e., Pakistan and India and subsequent war of 1948 between both of these countries over Jammu and Kashmir, India was the first to take the matter to the United Nations. This unresolved issue of Jammu and Kashmir resulted in this region being one of the most military volatile regions in the world with four wars already fought between the two rivalry nations.

No substantial solution is achieved despite four wars and the consequent intervention of United Nations Security Council. In this regard, a number of resolutions were passed by the United Nations Security Council in an effort to plead peace and claim between the rivalry nations. In this connection, the first resolution was passed by the UNSC on January 17th, 1948 on the request of India through a letter dated January 1st, 1948 to invoke article 35 of the

⁹⁵ Article 47(2c), Gilgit-Baltistan Empowerment and Self-governance Order, 2009, available at <https://gilgitbaltistan.gov.pk/system/files/GovernanceOrder-converted.pdf> accessed on 5th June 2023.

⁹⁶ Article 47(3), Gilgit-Baltistan Empowerment and Self-governance Order, 2009, available at <https://gilgitbaltistan.gov.pk/system/files/GovernanceOrder-converted.pdf> accessed on 5th June 2023

charter of United Nation and after hearing both Pakistan and India. It is worth mentioning that the letter from India which resulted in the UN resolution was clearly in respect to the state of Jammu and Kashmir and Gilgit-Baltistan was not mentioned in the letter which reads as follows:

“... Such a situation now exists between India and Pakistan owing to the aid which invaders, consisting of nationals of Pakistan and of tribesmen from the territory immediately adjoining Pakistan on the North-West, are drawing from Pakistan for operations against Jammu and Kashmir...”⁹⁷

As a result, the United Nations resolution 38 of January 17, 1948 was specifically passed in respect of Jammu and Kashmir and does not include Gilgit-Baltistan. Neither the subsequent resolutions addressed the position of Gilgit-Baltistan which clearly meant that this region was not intended to be dealt as a part of Kashmir issue nor as part of Jammu and Kashmir state.

Similarly, the committee formed by United Nations to probe into the dispute and provide recommendations for a viable and long-lasting solution to the dispute did not take into consideration Gilgit-Baltistan as part of dispute as well as part of Jammu and Kashmir state. It is therefore obvious that the resolutions of United Nations and the subsequent resolutions are all and only limited to Jammu and Kashmir State excluding Gilgit-Baltistan.

⁹⁷ United Nations Security Council (1948), Resolution on the India-Pakistan question/submitted jointly by the representatives of Belgium, Canada, China, Colombia, the United Kingdom and the United States of America, adopted at the 286th meeting of the Security Council, 21 April, UNSC, New York.

3 Chapter Three: Autonomy Vs. Self-Determination – A Viable Option

3.1 Introduction

The question of autonomy, self-determination, and sovereignty always been an important topic of discussion and of much controversy in international relations and international law, not only in the modern times but also in the past. Struggle for independence, secession, and autonomy after World War I, World War II, and especially after the Cold War had brought both tremendous misery, gross human rights violations, and destruction for some regions and states, while on the other hand it was it the source of right to decide the political future and protection of human rights for others. As a concept, unfortunately, right to self-determination and subsequently of the recognition of independent states has been based on political interests on international community, hence, it is afforded to some peoples and denied to others. The acceptance and implementation of the right to self-determination becomes difficult because it clashes and challenges the existing and established principles of global order, integrity of many states, and self-interest of the parent states from which independence or autonomy is sought. As an established principle in international law and subsequently in human rights instruments, started with the recognition of right to self-determination as a ‘principle’ under the Charter of United Nations (UN).⁹⁸ However, it is noteworthy that, the guiding principle of the UN referred self-determination as a principle but not a right. This use of language and its interpretation has caused contestation and denial of the right

⁹⁸ Article 1, United Nations Charter, Chapter I: Purposes and Principles, available at <https://www.un.org/en/about-us/un-charter/chapter-1>, accessed 7th July 2023.

to self-determination to many seceding states, culminating in tremendous human suffering and human right abuses. Further, two important human right instruments i.e., the Covenant on Civil and Political Rights (CCPR)⁹⁹ and the Covenant of Economic, Social, and Cultural Rights (CESCR) provide a firm commitment for right to self-determination in context of human rights. However, perhaps, the most important development and acceptance of right to self-determination among the international community and of the UN system was the adoption by the UN General Assembly (UNGA) in the form of a resolution of the Declaration of Independence to Colonial Peoples.¹⁰⁰

Unfortunately, despite the presence of well-founded principles and acceptance of the right to self-determination as a human right under international law, UN system, and human rights instruments, its implementation and recognition has been rather selective. Gilgit-Baltistan as mentioned elsewhere represents a classic case of neglect and non-recognition by the international community in general and UN system in particular of the right to self-determination even after suffering gross and grievous human rights violations at the hand of the government and military establishment of Pakistan. More interesting is the fact that right to self-determination has been recognized for Jammu and Kashmir through various UN resolutions. These resolutions are in fact nowhere accepted GB as part of Jammu and Kashmir hence clearly negates the state narrative of Pakistan i.e., GB being part of Kashmir issue – which in fact was an attempt by the state of Pakistan to secure the majority votes in case of a plebiscite in Jammu and Kashmir. Furthermore, despite the commitments and principles established under the UN Charter and its preamble underlining the

⁹⁹ Article 1, International Covenant on Civil and Political Rights, 1976, available at: <https://www.ohchr.org/sites/default/files/ccpr.pdf>, accessed on 13th June 2023.

¹⁰⁰ Article 1, International Covenant on Economic, Social and Cultural Rights. 1976, available at: <https://www.ohchr.org/sites/default/files/cescr.pdf>, accessed on 13th June 2023.

purposes of the UN i.e., establishment of peace and friendly relations among the states, the right to self-determination so far has only been applied and recognized only after conflicts and great human suffering. Given the development or lack of developments for the past seventy-six years coupled with enforcement of harsh colonial era laws, gross human rights violations, deprivation of participation in political process and representation, and desire for effective self-governance, in this chapter we will discuss the viable options available for the people of GB to decide their future political status and discourse. However, it is imperative to underline and understand the concept of self-determination, autonomy, and self-governance before discussing the viable option for the people of GB.

3.2 Self-Determination: Connotations and Use

The concept of self-determination has always been an important topic of discussion and controversy in the global political landscape and international relations since 20th century, not as a pure legal context but in a political one¹⁰¹, which later became a legal ‘grundnorm’. No specific definition of self-determination has been established since it has been used over the years in different political, legal, and human rights dynamics. Its use can be traced in economic, cultural, political, and legal connotation as used in international law and human rights instruments. In general terms, self-determination refers to “the right claimed by a ‘people’ to control their destiny”.¹⁰² It is this general proposition that establishes self-determination as a right to be claimed, which means the establishment of the right-holder ‘people’. A right, a choice, through

¹⁰¹ L. Dembiński, *Self-Determination In The Law And Practice Of The United Nations*, Warsaw 1969, P. 35

¹⁰² Berman, "Sovereignty In Abeyance: Self-Determination And International Law" In Koskenniemi (Ed), *International Law* (1992) 389, 390

which ‘people’ can decide and control their political destiny, if the proposition is used in the political context. The political and legal connotation of the right to self-determination merited attention in international law by its inclusion within the UN system through the UN Charter. Of particular importance in this context are Article 1 & 55 of the UN Charter, which though don’t provide a meaning or definition of the self-determination yet provide the purpose and outcomes of the principle of self-determination. Article 1 of the UN Charter enlists the purposes of the establishment of the UN, which includes among other fundamental principles and purpose, the principle of self-determination. Article 1(b) reinstates the commitment of creating peace and friendly relations among the states as described in the preceding article, and presents the principle of self-determination to attain these results. In the language of this article, one of the purposes of the UN is “To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace”.¹⁰³ Though, this provides a foundation and subsequent transition of the self-determination principle to a legal and human right, but it doesn’t in itself recognizes self-determination as right but as a principle to achieve other outcomes i.e. development of friendly relations and peace among the nations. A similar type of commitment and principle is laid down in article 55 of the Charter, which states; “With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote...”¹⁰⁴. Both these articles i.e.,

¹⁰³ Article 1(b), United Nations Charter, Chapter I: Purposes and Principles, available at <https://www.un.org/en/about-us/un-charter/chapter-1>, accessed 7th July 2023.

¹⁰⁴ Article 55, United Nations Charter, Chapter IX: International Economic and Social Cooperation, available at <https://www.un.org/en/about-us/un-charter/chapter-9>, accessed on 7th July 2023.

1&55 of the Charter merely establishes the principle of self-determination for the purpose of achieving other objectives and ends rather than laying down the self-determination as a principle or right in itself. A mere embracing of a principle under the UN Charter without providing more details and context have resulted in much anticipated confusing and debate, hence, it requires more understanding and interpretation in other UN promulgated instruments. One of the most important developments in providing a clearer notion on the principle came with the adoption of the famous Declaration on the Granting of Independence to Colonial Peoples through a UN General Assembly resolution 1514 in 1960.¹⁰⁵ It is important to note that the declaration lays down self-determination as right in relation both of the ‘peoples’ and territories. Article 2 of the Declaration states; “All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development”¹⁰⁶. The article reinstates three important principles regarding self-determination. First, by proclaiming self-determination not a mere principle but as a right of all peoples. Second, the political connotation of the right to self-determination, which guarantees the right to ‘all peoples’ to determine and decide their own political status, governance system, and political destiny. Third, the expansion of the self-determination to the fields of economic, social, and cultural rights. Yet another important article of the declaration, which not only reiterates the notion of right to self-determination but provides further elaboration on what

¹⁰⁵ General Assembly resolution 1514 (XV), Declaration on the Granting of Independence to Colonial Countries and Peoples, 4th December, 1960, available on <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-granting-independence-colonial-countries-and-peoples>, accessed on 2nd July 2023.

¹⁰⁶ Article 2, General Assembly resolution 1514 (XV), Declaration on the Granting of Independence to Colonial Countries and Peoples, 4th December, 1960, available on <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-granting-independence-colonial-countries-and-peoples>, accessed on 2nd July 2023.

self-determination may entail is Article 4 of the Declaration. According to Article 4 “All armed action or repressive measures of all kinds directed against dependent peoples shall cease in order to enable them to exercise peacefully and freely their right to complete independence, and the integrity of their national territory shall be respected”¹⁰⁷. By incorporating the notion of ‘complete independence’, the Declaration recognizes the right of people not only of self-determination but also of the external aspect of the right to self-determination vis-à-vis complete independence and both internal and external sovereignty. Moreover, the right to self-determination has been accepted and incorporated into subsequent human rights instruments both in the context of civil and political rights as well as economic, social, and cultural rights. The CCPR lays down self-determination as a civil and political right whereas the CESCR defines the economic, social, and cultural context of the right to self-determination.

As a principle of International law, the right to self-determination has been accepted and acknowledged in different cases by the International Court of Justice (ICJ). In its Namibia opinion, the ICJ referred to the right of self-determination as “a principle in international law as enshrined in the Charter and its further development in the Declaration on Colonialism (1514(XV)), which refers to a right to self-determination”¹⁰⁸. Moreover, in the East Timor case (Portugal Vs. Australia), while adjudicating on the case emphasized that

¹⁰⁷ Article 2, General Assembly resolution 1514 (XV), Declaration on the Granting of Independence to Colonial Countries and Peoples, 4th December, 1960, available on <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-granting-independence-colonial-countries-and-peoples>, accessed on 2nd July 2023.

¹⁰⁸ Lee C. Bucheit, *Secession: The Legitimacy of Self-Determination* 9 (1978).

the right to self-determination is “one of the essential principles of the contemporary international law”¹⁰⁹.

It is now consensus in the UN system that all peoples have the right to self-determination both internal and external. Further, it is acknowledged by majority of the nations as a civil, political and economic, social, and cultural right, the absence which may endanger other human rights. However, the application and implementation of right to self-determination under human rights instruments and international law had so far been largely based on the different circumstances. For some ‘peoples’ it had been made readily available and for others it has completely been denied. This unequitable approach of acknowledging and application had resulted in the distrust and criticism towards UN both my scholars and people. Additionally, the acknowledgement of right to self-determination only after wars, conflicts, systemic and gross human rights violations, and destruction resulted in the calls for a fresh approach of right to self-determination. The critics had long argued that the enforcement of right to self-determination only after conflicts and human suffering impedes the very purpose of UN, which was established for promoting global peace, security, and human rights.

3.3 Autonomy and Self-Governance

As oppose to the concept of self-determination i.e. independence and sovereignty, autonomy refers to arrangements of power and responsibility sharing between two governments or territories belonging to the same state – Power sharing between a central government and a subnational government(s). Various reasons require delegation of greater governmental powers to the subnational or governments of peripheries including the local government’s

¹⁰⁹ Malcolm N. Shaw, *International Law*, Fifth Edition (Cambridge: Cambridge University Press, 2003), P. 225

ability to better understand the local needs/challenges hence being in a position to have a better response to such local needs and challenges. Other reasons may include, the refusal or lack of acceptance by the local populace to accept the powers of the central governments due to social, cultural, and political sensitivities. Disputed and occupied territories are mostly susceptible to central governments, which they may not perceive as their representative. In some cases, the violations of human rights and oppressive measures by the national governments may raise concerns among the local masses and hence create desire for effective autonomy and self-governance. This have resulted in different governance systems, power sharing mechanisms, and self-governance methods across the globe the above mentioned challenges. Before we discuss autonomy as a viable option for the people of GB in the view of ongoing oppressive measures and human rights violations, it is important to discuss some conceptual foundations of autonomy.

Autonomy, in general terms can be understood as a political and legal concept as a middle way between complete independence/secession and complete dominance between a national government and a government of a certain territory. Autonomy refers to “the ability of a region or community to organise its affairs without interference from the central government.”¹¹⁰ Territorial autonomy according to the definition means decentralization and devolution of more powers from the central government to the territorial government in question. Autonomy is an effective way of managing the governance concerning minorities, hence it is on occasions referred to as the “queen of minority protection instruments.”¹¹¹ As a global political phenomenon for

¹¹⁰ Ghai, Yash and Sophia Woodman, eds. 2013. *Practising Self-Government: A Comparative Study of Autonomous Regions*. Cambridge: Cambridge University Press, p 5.

¹¹¹ M. Brems, *Die politische Integration ethnischer Minderheiten* (Peter Lang, Frankfurt a.M., 1997) p. 14

accommodating the demands of religious, cultural, ethnic minorities or otherwise of disputed and non-self-governing territories have helped managed the tensions and challenges across the globe. Quebec in Canada is an effective example of successful self-governing and autonomous territory.

3.4 Why There is a Desire for Autonomy and/or Self-Determination in GB

As a state narrative, the state of Pakistan had intentionally associate GB with Kashmir issue, however, the people of GB had never been treated politically and legally like the people of Kashmir. On one had Pakistan occupied Kashmir (PoK) has been granted complete autonomy with an affective governance system and a constitution which was adopted in 1974¹¹². The constitution establishes a legislature with full powers to legislate on all matters related to PoK along with an independent judiciary and executive. The state is represented by the president of PoK and the government by a prime minister who is elected by universal suffrage of the PoK citizens. Moreover, an independent judiciary is established to protect the human rights of the citizens of PoK, with a supreme court as the apex court. On other hand, GB has never been given autonomy neither a legislature or an independent judiciary. GB has been governed through executive orders which are not acts of the parliament and their legal duration is limited to 120 days from its promulgation. Furthermore, the involvement of the central government in the appointment of judges compromises the independency of the judiciary. The indifference of the legal and political treatment between GB and Kashmir despite frequent association of GB with Kashmir issue had caused resentment in the people of GB, which resulted in frequent calls for autonomy and self-determination.

¹¹² AJ&K Interim Constitution, 1974, available at: https://ajksupremecourt.gov.pk/?page_id=149 , acceded on 12th June 2023.

Furthermore, sustain denial of legal and constitutional rights in the pretext of the linkage with Kashmir issue had resulted in mistrust and suspicion among the people of GB towards the federal government. All or at least all major political and legal decisions regarding the region are made by the federal government without taking the local narrative and opinion in the decision making process and their implementation in the region without public will had caused sufficient sense of deprivation among the people. This complete disregard of the local opinion in the political decision-making process is yet another reason for frequent calls empowerment and self-governance.

The representation of the people of GB in the parliament and other constitutional institutions of Pakistan had always remained a point of concern and sense of deprivation among the people. The lack of representation in both houses of the parliament (National Assembly and Senate) deprives the right of people of GB to mainstream their issues and challenges. Unlike Indian occupied Kashmir (IoK) to which the Indian government had given representation in both houses of the Indian parliament¹¹³. The issue of right to vote and political participation for the election of the prime minister and president elevates the sense of deprivation and raises concerns of political nature i.e. a prime minister and a president representing and making decisions regarding the people of GB whom they didn't elect. Furthermore, it is important to note that no person from GB is eligible to be elected as the prime minister of Pakistan, which the people view as discrimination, violation of their rights, and their treatment as second-class citizens.

¹¹³ The Constitution of India, Fourth Schedule, available at: <https://cdnbbsr.s3waas.gov.in/s380537a945c7aaa788ccfcdf1b99b5d8f/uploads/2023/05/2023050195.pdf>, accessed on 17th June 2023.

3.4.1 Human Rights Violations

The rights of the people of GB since their independence on 1st November 1947 from Dogras and subsequent takeover by Pakistan, had never been acknowledged in first place, and when accepted are not equally treated like other Pakistani citizens. The enforcement of FCR by Pakistan soon after the takeover and continued until mid-1970s is the first instance of systematic denial of human rights to the people who were left at the behest of a non-local political agent with all legislative, executive, and judicial powers.¹¹⁴ The right to be represented by their chosen representatives was not recognized until 1980s. Non-existence of a judicial system had entrenched human rights violations within the political system and perpetrators and oppressors had along avoided justice.

3.4.2 Indiscriminate Use of Anti-Terror Law

The indiscriminate use and extension of the anti-terrorism act of 1997¹¹⁵ to GB has caused great concern among the members of civil society, political activist, and people of GB. According to Human Rights Commission of Pakistan's (HRCP)¹¹⁶ fact finding report on GB in 2016, the HRCP's mission acknowledged the "rampant misuse of the anti-terrorism act (ATA) by state institutions in Gilgit-Baltistan".¹¹⁷ The law since its implementation has widely

¹¹⁴ Livia Holden. Law, Governance, and Culture in Gilgit-Baltistan: Introduction. South Asian History and Culture, 2019, 10 (1), pp.1-13. Available at: <https://hal.science/hal-03601086/file/Holden-LawandGovernanceinGB-final.pdf> accessed on 19th June 2023.

¹¹⁵ Aspirations for Identity, Integration & Autonomy: Report of an HRCP fact-finding mission to Gilgit-Baltistan, 2016. Available at: <https://hrcp-web.org/hrcpweb/fact-finding-reports/>, accessed on 19th June 2023.

¹¹⁶ Established in 1986 and registered in 1987, the Human Rights Commission of Pakistan (HRCP) is the country's apex independent human rights body. A non-political, not-for-profit organisation, HRCP is committed to realising the entire ambit of human rights—civil, political, economic, social, and cultural—for all citizens and persons present in the country

¹¹⁷ Gilgit-Baltistan Aspirations for identity, integration & Autonomy (2016) available at: <https://hrcp-web.org/publication/wp-content/uploads/2017/04/Gilgit-Baltistan-report-Aspirations-for-identity-integration-autonomy.pdf>, accessed on 2nd July 2023.

been used to suppress political activists, members of civil society, and members of Nationalist parties which call for greater autonomy and right to self-determination. In this context, the HRCP further reported that, “Hundreds of individuals continue to languish in the jails under ATA and the law has been used extensively to suppress any voices raised for the rights of the people of Gilgit-Baltistan”.¹¹⁸ Many nationalist leaders and youth calling for the rights of the people of GB are continuously booked under sedition and anti-terror charges. The courts under ATA are considered to be under the influence of Pakistan military establishment of Pakistan, hence undermining their process of working, independence, and fairness of trials. Among several cases of misuse of ATA to suppress voices, the case against the leader of Awami National Party¹¹⁹ along with eleven other just for protesting for the rights of the Attabad lake disaster tells the folklore of the state’s countless attempts to silence the voices of the nationalist narratives. Due to lack of access to information about the number of arrests and cases of anti-terrorism, it is not possible to know the exact number, however, in the year 2016 alone, 140 anti-terrorism related cases were reported.¹²⁰ It is worth mentioning that, no inputs were taken from the government of GB in making or extending the law to the region. Furthermore, the act was intended to be operational only within the territories of Pakistan i.e. territories mentioned in the constitution of Pakistan, as the act itself describes the limits of its application “It extends to the whole

¹¹⁸ Aspirations for Identity, Integration & Autonomy: Report of an HRCP fact-finding mission to Gilgit-Baltistan, 2016, p.17. Available at: <https://hrcp-web.org/hrcpweb/fact-finding-reports/>, accessed on 19th June 2023.

¹¹⁹ National Assembly of Pakistan: Awami National Party (ANP) Seats Distribution, available at: https://na.gov.pk/en/members_listing.php?party=130, accessed on 16th June 2023.

¹²⁰ Strict watch: 140 people placed under Schedule–IV of anti-terrorism act, available at: <https://tribune.com.pk/story/1100218/strict-watch-140-people-placed-under-schedule-iv-of-anti-terrorism-act>, accessed on 2nd July 2023.

of Pakistan”.¹²¹ Hence, its application in GB has always been called in question as malicious and a repressive action by Pakistan. The behaviour and treatment of the state is such that, as per the HRCP’s report “every time they protest or demand the rights of the people of Gilgit-Baltistan, they are declared enemies of the state, booked under the ATA, and arrested”.¹²² Not only the members of political and national parties but also of the civil society are booked and arrested under ATA, if they in any way highlight or organize activities related to the human rights violations in GB. Moreover, the ATA has been frequently for acquisition of lands for China Pakistan Economic Corridor (CPEC), a part of China’s flagship project and Belt and Route Initiative (BRI)¹²³. People who refuse to give their lands and homes or protest for forceful eviction from their homes or for payment of inadequate compensation are booked under ATA.

3.4.3 Application of Schedule Four for Curbing Political Activities in Pretext of Security

Among other provision of the ATA, the most frequently applied article to control the political activities of the nationalist political parties, members of the civil society, and youth is article 11EE¹²⁴ of ATA, which is commonly referred to as schedule four. Members of nationalist political parties and human rights activists are enlisted in the schedule in the pretext of danger to peace and

¹²¹ Article 1(b), Anti-Terrorism Act, 1997, available at:

<https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/81777/88943/F435058093/PAK81777.pdf>, accessed on 3rd July 2023.

¹²² Gilgit-Baltistan Aspirations for identity, integration & Autonomy (2016) available at:

<https://hrcep-web.org/publication/wp-content/uploads/2017/04/Gilgit-Baltistan-report-Aspirations-for-identity-integration-autonomy.pdf>, accessed on 2nd July 2023.

¹²³ China's Belt and Road Initiative (BRI) development strategy aims to build connectivity and co-operation across six main economic corridors encompassing China and: Mongolia and Russia; Eurasian countries; Central and West Asia; Pakistan; other countries of the Indian sub-continent; and Indochina.

¹²⁴ Article 11EE, Anti-Terrorism Act, 1997, available at:

<https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/81777/88943/F435058093/PAK81777.pdf>, accessed on 3rd July 2023.

security. The movement and activities of the person enlisted under schedule four are continuously monitored. They are forced to report their movements to the Station House Officer (SHO) of the local police station. According to article 11EE(c) of the act a proscribed person is required;

- (i) that his movements to be restricted to any place or area specified in the order;
- (ii) him to report himself at such times and places and in such mode as may be specified in the order;
- (iii) him to comply with both the direction; and
- (iv) that he shall not reside within areas specified in the order.¹²⁵

The law grants wide range of powers to the police and other law enforcing agencies to restrict the movements of such individuals even at district levels. The failure to comply with the above section can result in the arbitrary arrest of the individuals. In most of the occasions, the charges against the person enlisted in the schedule are not communicated.

3.4.4 Land Grabbing and Exploitation of Natural Resources

Gilgit-Baltistan due to its conspicuous geographic location possess tremendous amount of natural resources in the form of minerals, water resources, and tourism potential. One of the most important economic aspect of GB is the linkage it provides between Pakistan and China, especially in the context of CPEC i.e. Multi hundred-billion-dollar project between Pakistan and China. The land and natural resources of the people of GB are exploited by the state

¹²⁵ Article 11EE(c), Anti-Terrorism Act, 1997, available at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/81777/88943/F435058093/PAK81777.pdf>, accessed on 3rd July 2023.

institutions in the name of Khalsa Sarkar. Khalsa Sarkar are laws “by virtue of which the government could claim ownership of barren or uncultivated land, even if it was collectively owned by the community”.¹²⁶ The illegal land grabbing by the state and state institutions dates back to Pakistan takeover of the administrative control of the region. However, it was through the Northern Areas Nautore Rules 1978-80¹²⁷, imposed by the military dictator General Zia-ul-Haq that attempts were made by the federal government to dispose the rights of the land without paying compensation to the people of Gilgit-Baltistan. These practices still existed and incorporated in the Gilgit-Baltistan Empowerment and Self-Governance Order 2009. Such continuous and prolonged discriminatory and oppressive treatments by the state aggravated the demands for autonomy and self-governance among the people of the region. Furthermore, the natural resources of GB had continuously been appropriated by state institutions, state-sponsored business in the wake of development projects, security installations, and projects of public interests, which had caused further resentment, mistrust, and suspicion towards the federal government and essentially towards the state of Pakistan. Gilgit-Baltistan serves as a gateway for CPEC, which is thus far one of the most important strategic and economic initiative for both China and Pakistan. CPEC runs at least 300km through Gilgit-Baltistan from Xingjiang province in China before culminating in the Khyber Pakhtunkhwa province in Pakistan.¹²⁸ The project

¹²⁶ Gilgit-Baltistan: The long wait for a constitutional identity (2022), available at: <https://hrcp-web.org/hrcpweb/wp-content/uploads/2020/09/2022-Gilgit-Baltistan-The-long-wait-for-a-constitutional-identity.pdf>, accessed on 4th July 2023.

¹²⁷ Muhammad Ajmal Bhatti , Zahir Ali, Land Tenure and Title System in Gilgit-Baltistan (2016), Journal of Studies in Social Sciences, Volume 15, Number 1, pp. 1-31. Available at: <https://www.infinitypress.info/index.php/jsss/article/viewFile/1327/597>, accessed on 21st June 2023.

¹²⁸ Ahmad Rashid Malik, "The China–Pakistan Economic Corridor (CPEC): A Game Changer for Pakistan’s Economy," in *China's Global Rebalancing and the New Silk Road*, ed. B. R. Deepak (Singapore: Springer, 2018), 69-83.

gives China the easy access to Indian Ocean by reducing the previous distance of 13000km to only 2500km.¹²⁹ While entering into the partnership with China, the people of Gilgit-Baltistan were not taken on board, while their lands have been utilized in the projects. Since then a notion that “Pakistan wants only the ownerships of the lands of Gilgit-Baltistan and not of its people” had become common among the people of Gilgit-Baltistan. Furthermore, no due share for Gilgit-Baltistan had been given under the project, depriving the people from employment opportunities and economic benefits. All these factors together have increased the pre-existing urge for self-governance, autonomy, and self-determination in the region.

3.4.5 Change in Demography, Freedom of Speech, and Huge Military Presence

At the time of the independence, the population of Gilgit-Baltistan was composed mostly of the indigenous people. However, since 1947, Gilgit-Baltistan has gone under significant demographic change. Up until 1974, the imposition of State Subject Rule had protected the demographic composition in Gilgit-Baltistan. With the abrogation of State Subject Rule in 1974, the demographic composition of Gilgit-Baltistan started changing significantly. This has mainly shifted the demography in the main cities in Gilgit-Baltistan i.e. Gilgit and Skardu. This perhaps has been a deliberate and intentional move by the government of Pakistan, either as a result of distrust for the local population in case of a plebiscite in Kashmir or to increase the number of votes in case of the referendum.¹³⁰ The government had sponsored the settlement of

¹²⁹ Khalid Alam, Xuemei Li and Saranjam Baig, "Impact of Transport Cost and Travel Time on Trade under China-Pakistan Economic Corridor (CPEC)," *Journal of Advanced Transportation* vol. 2019, available at: <https://doi.org/10.1155/2019/7178507>, accessed on 5th July 2023.

¹³⁰ Rasul, Ghulam. *Azad-e-Gilgit-Baltistan or Haqaiq [Independence of Gilgit-Baltistan and Realities]*. One International Publishers, Pakistan. 2004. p. 79

the non-locals in the region, creating imbalance in the local to non-local population, which resulted in rifts in the cultural and social fabric.¹³¹ The indigenous communities had long resisted these sponsored settlements, however, the disagreements among the locals and non-local settlements on many occasions led to clashes. The state had frequently increased the deployment of armed forces and law enforcing agencies in pretext of keeping security, law and order. In fact, this is for the state of Pakistan had been an opportunity of divide and rule policy and to strengthen its grip of governance in Gilgit-Baltistan. In the view of the nationalist political party's (Balawaristan National Front) leader "The Pakistani administration has been involved in efforts to alter the demographic profile of Pakistan-occupied Gilgit Baltistan, reducing the indigenous people to a minority. 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 Pashtun outsiders has created a sense of acute insecurity among the locals".¹³² Additionally, the whole region of Gilgit-Baltistan have been heavily militarized, the exact number of arm forces deployed in the region are unknown, given the secrecy and sensitivity of the region, however, according to the reports there is huge presence of Pakistan military in Gilgit-Baltistan.¹³³ The army not only controls the law and order situation but also the communication system, involved in

¹³¹ Kriti M Shah, "The Kashmir that India Lost: An Analysis of India's Post-1980s Policy on Gilgit Baltistan," ORF Occasional Paper No. 354, April 2022, Observer Research Foundation, available at: <https://staging.orfonline.org/research/the-kashmir-that-india-lost-an-analysis-of-indias-post-1980s-policy-on-gilgit-baltistan>.

¹³² Abdul Hamid Khan, "Balawaristan: The Heart of Darkness," South Asia Intelligence Review, Volume 1, No. 5, August 19, 2002

¹³³ Gilgit-Baltistan Economic Report Broadening the Transformation (2010), Report No. 55998-PK, available at:

<https://documents1.worldbank.org/curated/en/971671468057878511/text/559980ESW0Gray1OFFICIAL0USE0ONLY191.txt>, accessed on 3rd July 2023.

construction enterprises, and track down nationalist voices. The whole telecommunication system was control of the military (Special Communication Organization – the army wing controlling telecommunication in GB) until 2020, and other operators were denied internet operations.¹³⁴ This was particularly designed to control freedom of expression and cases were filed against the youth and people raising their voices on the social media and other platforms against human right violations in Gilgit-Baltistan. The hegemonic control of the whole region by the army and military intelligence can only make sense for brutally suppressing the voices asking for protection of human rights, autonomy, and self-determination. Such people are booked for sedition charges and in many cases forcefully disappeared. Keeping in mind these oppressive measures, Pakistan is doing in GB exactly what India does in IoK.

3.5 Autonomy Vs Self-Determination: A Suitable Option for GB

The Supreme Court of Pakistan's decision of 1999 is perhaps the most authoritative document in context of Gilgit-Baltistan's political and legal status. Apart from directing the federal government to ensure human rights of the people of Gilgit-Baltistan, the court expressed its limitation on deciding the form of government GB and expressed its opinion as, "It may be observed that since the geographical location of the Northern Areas is very sensitive because it is bordering India, China, Tibet and USSR, and as the above areas in the past have also been treated differently, this Court cannot decide what type of Government should be provided to ensure the compliance with the above mandate of the Constitution. Nor we can direct that the people of Northern Areas should be given representation in the Parliament as, at this stage, it may

¹³⁴ Army's telecom wing allowed 3G, 4G services trial run in GB (26th April 2018), available at: <https://www.dawn.com/news/1403965/armys-telecom-wing-allowed-3g-4g-services-trial-run-in-gb>, accessed on 1st July 2023.

not be in the larger interest of the country because of the fact that a plebiscite under the auspices of the United Nations is to be held”.¹³⁵ As a consequence of prolonged constitutional limbo and identity crisis, Gilgit-Baltistan has been searching for a viable option for protecting the rights of the people. Arguably two alternative options can be explored from within the UN system and UN Charter. The option of right to self-determination as enshrined in article 1(2) of the UN Charter, which guarantees it to all peoples “To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace”.¹³⁶ For all intents and purposes of this article, the people of Gilgit-Baltistan constitute “peoples” to which the article refers for self-determination. As such, legally speaking the people of GB can invoke the right to self-determination under this article of UN Charter. Moreover, the right to self-determination guaranteed under Declaration on the Granting of Independence to Colonial Peoples can be made the basis for demanding self-determination for the people of Gilgit-Baltistan. However, how practicable this option is, given the political and ground realities can be arguable. It seems unlikely given the position and actions of the consecutive Pakistani governments since 1947 that Pakistan is ready to give any concession to the people of Gilgit-Baltistan to invoke the right to self-determination. However, it legally remains an option if Gilgit-Baltistan is able to galvanize international support for its cause in the light of the human right violations which had continuously taken place for seventy-six years.

As an alternate and feasible option in the current political situation, autonomy and self-governance under the UN Charter can be invoked by the people of

¹³⁵ Al-Jehad Trust v. Federation of Pakistan 1999 SCMR 1379

¹³⁶ Article 1(2), United Nations Charter, Chapter 1: Purposes and Principles. Available at: <https://www.un.org/en/about-us/un-charter/chapter-1>, accessed on 17th June 2023.

Gilgit-Baltistan. Article 73 and 76 of the UN Charter respectively guarantees autonomy and self-governance in respect of non-self-governing and trust territories. Article 73 of the UN emphasizes the member states “to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement”¹³⁷. Since Gilgit Baltistan is a non-self-governing territory and no representation has been given in the parliament of Pakistan, it has the right to demand self-government on the basis of the above article. Furthermore, with regard to trust territories the UN Charter obliges the member states “to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence...”¹³⁸. Pakistan is the member state of the UN, it can be convinced with the involvement of the international community or regional countries such as China to extend autonomy and self-governance in Gilgit-Baltistan. The right to autonomy and self-governance has already been partially accepted by Pakistan in the form supreme court’s judgement of 1999 and subsequently to a lesser extent by promulgation of Gilgit-Baltistan empowerment and self-governance order 2009. Hence, granting of effective autonomy to the people of Gilgit-Baltistan seems to be available option until the region is successful

¹³⁷ Article 73(b), United Nations Charter, Chapter XI: Declaration Regarding Non-Self-Governing Territories, available at: [Chapter XI: Declaration Regarding Non-Self-Governing Territories \(Articles 73-74\) | United Nations](#), accessed on 6th July 2023.

¹³⁸ Article 76(b), United Nations Charter, Chapter XII: International Trusteeship System, available at: [Chapter XII: International Trusteeship System \(Articles 75-85\) | United Nations](#), accessed on 6th July 2023.

in convincing the UN member states to support its claim for right to self-determination.

3.5.1 Stakeholders' opinion

The state propaganda throughout last seventy-six years has greatly influenced the opinion regarding constitutional status and politico-legal system in Gilgit-Baltistan. “The opinion regarding the constitutional status and accession to Pakistan had never been unanimous among the people of Gilgit-Baltistan”¹³⁹. Perhaps this division of opinion had helped shaped the current political system in Gilgit-Baltistan. However, what is unanimously accepted is that Gilgit-Baltistan is not part of Kashmir as opposed to the Pakistani narrative.¹⁴⁰ The future political aspirations also differ among the people, members of mainstream Pakistani political parties, and the Nationalist political leaders. The main different opinions can be divided into the following categories:

3.5.1.1 *The People:*

The opinion of the people of Gilgit-Baltistan differs regarding the political status of Gilgit-Baltistan. However, “the indigenous people of the region maintain that no formal annexation request has been made by the people of the region and no written agreement of the same has been entered into with Pakistan”¹⁴¹. The opinion of the people, however, has now been shaped

¹³⁹ Ali, S. (2022) ‘Gilgit Baltistan: identity crisis and a constitutional limbo’, Int. J. Human Rights and Constitutional Studies, Vol. 9, No. 3, pp.294–306. Available at: <https://www.inderscienceonline.com/doi/abs/10.1504/IJHRCS.2022.123695>, accessed on 12th May 2023.

¹⁴⁰ Ali, Syed Waqas and Taqi Akhunzada. 2015. Unheard Voices: Engaging Youth of Gilgit-Baltistan.

London Conciliation Resources. Available at: <https://rc-services-assets.s3.eu-west-1.amazonaws.com/s3fs-public/CR%20Unheard%20voices%20from%20Himalayas.pdf>, accessed on 10th June 2023.

¹⁴¹ Ali, S. (2022) ‘Gilgit Baltistan: identity crisis and a constitutional limbo’, Int. J. Human Rights and Constitutional Studies, Vol. 9, No. 3, pp.294–306. Available at:

under the influence of state propaganda on sectarian lines. The majority Shia sect demands full constitutional status and greater autonomy for Gilgit-Baltistan, this opinion is also shared by the Ismaili minority sect. The Ismailis also emphasize that since Gilgit-Baltistan is linked with the Kashmir issue, a provisional provincial system is acceptable until the Kashmir issue is resolved. On the other hand, the Sunnis, which form almost 30 percent of the population, stress that the status of Gilgit-Baltistan shouldn't be changed in the way which may jeopardize the final outcome of the Kashmir issue. Hence, they favor more political decision-making powers through the current administrative setup. However, many people from all the sects express their willingness and demand a PoK-like setup.

3.5.1.2 *The Nationalists:*

The first attempt against the Pakistani rule in Gilgit-Baltistan came from one of the main architects of the war of independence i.e. Col. Mirza Hassan Khan, who in 1956 formed a nationalist political party i.e. Gilgit League. The main purpose of the party is to demand political reforms and abolition of FCR¹⁴². However, in the pretext of martial law, the party was banned in 1958 and was subsequently dissolved. Among the most active and most vocal nationalist political parties currently operating in Gilgit-Baltistan are the Karakorum National Movement (KNM) and the Balawaristan National Front (BNF). KNM since its inception has maintained that the people of Gilgit-Baltistan form a nation and as such demands more constitutional and human

<https://www.inderscienceonline.com/doi/abs/10.1504/IJHRCS.2022.123695>, accessed on 12th May 2023.

¹⁴² Sökefeld, M. (2017). 'Not Part of Kashmir, but of the Kashmir Dispute': The Political Predicaments of Gilgit-Baltistan. In C. Zutshi (Ed.), *Kashmir: History, Politics, Representation* (pp. 132-149), available at:

<https://www.cambridge.org/core/books/abs/kashmir/not-part-of-kashmir-but-of-the-kashmir-dispute-the-political-predicaments-of-gilgitbaltistan/5D01C63E81DDD515A0F29FC75C89164E>, accessed on 5th May 2023.

rights. It further demands full control over the resources and representation in the parliament of Pakistan until Kashmir issue is resolved. On the other hand, BNF, the leader of which, Nawaz Khan Naji emphasis that the people of Gilgit-Baltistan form a separate nation and demands the right to self-determination and full autonomy for Gilgit-Baltistan. Hence, in the view of the nationalists, the people of Gilgit-Baltistan have the right to self-determination or at least full autonomy with control over the natural resources. They further stress that Gilgit-Baltistan cannot be associated with either Kashmir issue since the people of Gilgit-Baltistan fought and ended their occupation from the parts under their influence, thus declaring their independence.

3.5.1.3 Mainstream Political Parties

Though unwillingly, the people of Gilgit-Baltistan in general and the politician in particular had joined mainstream Pakistani political parties to fill the political vacuum. These political parties include Pakistan Political Party Parliamentarians (PPPP), Pakistan Muslim League Nawaz (PML-N), Pakistan Tahreek e Insaf (PTI) and others. Since, these parties are based on the modern political party system and are required to operate under the party policy, which are designed in Pakistan. The local leaders of these political parties share a common approach to politico-legal and constitutional issues. Two commonly prevailing demands put forward by these parties are; First, a full constitutional province with the same structure and powers like other provinces in Pakistan. For this, there is a demand for an amendment in the constitution of Pakistan and inclusion of GB as one of the territories of Pakistan. Second, a provisional provincial status without making GB as a territory of Pakistan under the constitution. However, Pakistan is reluctant to accept both of the demands and maintains that until the Kashmir issue is resolved, the status of GB cannot be changed.

3.5.1.4 *State of Pakistan:*

Pakistan since 1947 had associated Gilgit-Baltistan with Kashmir issue. Though under de facto administrative control, Pakistan had never accepted GB to be its territory neither it had accepted the accession request by Major Brown as evident from subsequent letters to the UN. Furthermore, Pakistan had attempted time and again to link Gilgit-Baltistan to Kashmir issue by signing the Karachi agreement and maintained that the change in political and constitutional status of Gilgit-Baltistan may jeopardize Pakistan's long-standing narrative on Kashmir. "In view of this stance, even after elapse of seven decades Pakistan did not integrate the region into political mainstream. No representation in any of the constitutional organization including the parliament has been provided for the people of Gilgit-Baltistan to present their grievances. This led Pakistan to formulate only administrative packages to the region. Attempts have been made to deliver more powers in the form of a legislative assembly, but these efforts failed to meet the demands of the people for more power and autonomy. This stance of Pakistan is based on treating Gilgit-Baltistan in view of Kashmir issue, pending the Kashmir issue; it is unlikely for Pakistan to extend full autonomy or full constitutional status to the region"¹⁴³.

3.5.1.5 *Kashmir*

The government of PoK due to their presence in some parts of Gilgit-Baltistan before declaration of independence regard Gilgit-Baltistan as their integral part of Jammu and Kashmir state. However, the PoK government through the Karachi agreement transferred all powers in relation to Gilgit-Baltistan to the government of Pakistan in 1949. Due to their stance, the PoK

¹⁴³ Ali, S. (2022) 'Gilgit Baltistan: identity crisis and a constitutional limbo', Int. J. Human Rights and Constitutional Studies, Vol. 9, No. 3, p.304.

government opposes any constitutional reforms extended to Gilgit-Baltistan. The government had long emphasized that the constitutional status of Gilgit-Baltistan shouldn't be changed, nor autonomy be given until Kashmir issue is resolved under UN resolutions.

3.6 Suggestions and Recommendations

Every passing day without political and legal reforms towards effective autonomy and self-governance results in systematic human rights denial and abuse, potentially causing increasing resentment, mistrust, and desire for complete independence from the state of Pakistan. Any political decision made without the involvement of the local population becomes objectionable and resistible. In order to address the growing mistrust and hate towards the state of Pakistan, urgent and necessary steps are required for a complete overhaul of the political process and extension of effective autonomy or self-determination to the people of GB by their choice. This requires the consideration of the following recommendations and suggestions.

1. A change in state narrative of associating GB with Kashmir issue.
2. Recognition of right to self-determination for the people of GB, which is guaranteed under UN Charter, human rights instruments, and international law.
3. Ensuring independence of judiciary free from the influence of the federation along with establishment of a Supreme Court with the powers of judicial review to ensure the protection of human rights of the citizens of Gilgit-Baltistan.
4. Immediate reinstating of State Subject Rule and declaring the people settled in Gilgit-Baltistan after 1947 as non-local residents.
5. Ensuring full property and land rights to the people and abolishment of Khalsa Sarkar laws.

6. Immediate revocation of mining licenses granted to non-locals.
7. Reduction of military personnel and transfer of peace keeping duties to the local law enforcement agencies and Gilgit-Baltistan Scouts.
8. Removing the restriction on the nationalist parties and permission to fully participate in elections.
9. Granting greater and efficient autonomy as per the wishes of the people of Gilgit-Baltistan.
10. An immediate referendum among the people of GB in presence of impartial international observers to decide their affiliation with Pakistan or otherwise.

Conclusion

Gilgit-Baltistan is a complex case of identity crisis, marginalization, human rights violations, and constitutional limbo. The history both pre-partition and post-partition is full of ambiguities and subjugation. Probably, one of the biggest mistakes by the local historians is their inability to reduce their history into writing. As the colonials always does, creating rifts and ambiguities in the history, divide and rule. Such an attempt is the treaty of Amritsar between the British rulers in India and Sikh rulers in Jammu, making parts of present day Gilgit-Baltistan part of the state of Jammu and Kashmir. Gilgit-Baltistan due to its important geo-political and geo-strategic location remained under British rule until 1947. Many scholars argue that Gilgit-Baltistan was the centre stage of the “Great Game” in nineteenth century and first half of the twentieth century. However, when the British rulers decided to leave Indian subcontinent, they decided to hand over parts of Gilgit-Baltistan to the Kashmiri rulers. The indigenous people of Gilgit-Baltistan revolted against this decision and liberated the parts of Gilgit-Baltistan and declared independence on 1st November 1947. However, it is rightly argued by Sokefeld that the independence won from the dogras was subsequently lost to Pakistan. After the war between Pakistan and India on Kashmir issue, a UN led commission was formed to formally end the war. In anticipation of the negotiation and in view of the UN resolution regarding the peaceful settlement of Kashmir issue, Pakistan signed the infamous Karachi agreement with the government of PoK. Though without any authority, the PoK government transferred the administrative powers to govern Gilgit-Baltistan to the government of Pakistan. This decision on part of Pakistan makes sense in the view of scoring majority of the votes in case of a plebiscite in Kashmir, as guaranteed under UN resolution of 1948. It is important to note that the UN resolution regarding Kashmir makes no mention and reference to Gilgit-Baltistan. From the

beginning of Pakistani rule in Gilgit-Baltistan, the people of the region had been dealt as second class citizens without any politico-legal system, oppression, and systematic human right violations. The region was run under CFR, a draconian law for deterring and oppressing the masses. The first so-called reforms were introduced in 1974 with the abolishment of the FCR and establishment of a council. Devoted with any actual political power, the reforms were meant to ease the growing demands of self-governance and self-determination in the region. In an acknowledgement of the grievances regarding the systematic human rights violations and deprivation, the Supreme Court of Pakistan in 1999 ordered the federal government to treat the people of Gilgit-Baltistan as equals to the other citizens of Pakistan. The court emphasized reforming the political system to give more autonomy and self-governance to Gilgit-Baltistan within six months of the judgement, however, the orders were disregarded. The first reforms in the form of an executive order, the validity of which remains arguably in question, were introduced in 2009 through Gilgit-Baltistan empowerment and self-governance order 2009. The opinion regarding the political status of Gilgit-Baltistan is contested and differs among the political leaders, the nationalist parties, and the people of Gilgit-Baltistan, perhaps influenced by a prolonged state propaganda, and probably, this explains Pakistan's successful oppression of the demands for autonomy and self-determination. The most recent reforms package was introduced in 2018, which was challenged in the Supreme Appellate Court of Gilgit-Baltistan, which declared the order illegal. However, in an astonishing move, the Supreme Court of Pakistan for the first time by self-extending its jurisdiction to Gilgit-Baltistan quashed the decision of the Gilgit-Baltistan Supreme Appellate Court. Subsequently, the order was enforced in the region

and the current political and legal system is based on this order. Under UN based system two alternatives for the political identity and status exist in UN Charter i.e. self-governance and self-determination. The struggle of the 1.5 million people of Gilgit-Baltistan for autonomy and self-determination continues in the face of state oppression and fundamental human rights violations. In the changing global political dynamics and shift of the power to the global south, perhaps, the attention of the international community may provide solace for the political aspirations of the people and protection of their human rights.

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