



Indian Council of World Affairs
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New Delhi

The Unfortunate History of Gilgit-Baltistan since 1947

by



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5 September, 2018

Gilgit-Baltistan (GB) has an unfortunate and tragic history as a region which is a part of the Indian state of Jammu and Kashmir but under Pakistan's illegal occupation since 1947. *Northern Areas* is the name given by Pakistan after 1947 to the area comprising Gilgit-Baltistan. This area has been neglected, isolated, disfranchised and its status kept deliberately ambiguous and undefined. None of the constitutions of Pakistan of 1956, 1962, 1972 and 1973 recognised the *Northern Areas* as a part of Pakistan. Likewise, the 1974 interim constitution of Pakistan Occupied Kashmir (POK) also did not include Gilgit and Baltistan as its part.

To begin with, it would be prudent to have a brief idea of the location, geography, and the people of the *Northern Areas*. The total geographical area of the State of Jammu and Kashmir is 222,236 sq. km. Of this, at present, 101,437 sq. km is under India's administrative control. Parts of the territory of the Jammu and Kashmir are under illegal Pakistani/Chinese occupation. The POK, which consists of the so-called *Azad Kashmir* (*herein after referred to as Azad Kashmir only to differentiate it from rest of PoK*) and Gilgit-Baltistan, covers an area of 78,114 sq. km. Of this, the territory of Gilgit-Baltistan (*Northern Areas*), is five times the area of so-called *Azad Kashmir*. This apart, the area under Chinese control is 42,685 sq. Km, which includes 5,180 sq. km illegally ceded to China by Pakistan in 1963. Gilgit is the capital of Gilgit-Baltistan. It has nine districts. The districts of Baltistan region include Ghanche, Skardu, Kharmanu and Shigar.

The religious groups in the Gilgit-Baltistan region include the Shia (Twelvers), Nurbakhshi (Twelvers), Ismaili, Sunni and Ahle-hadith. The languages spoken are Shina, Balti, Wakhi, Khowar, Gujjari, Burushaski, Puriki, Kashmiri and Pashto.¹ Gilgit-Baltistan, a multi-lingual region with socio-cultural and ethnic diversity, is surrounded by the Hindu Kush and the Karakoram mountains. According to the Pakistani census of 2017, the population of Gilgit-Baltistan is 1.8 million against 870,347 recorded in the previous census of 1998. The Shias constitute 39.85 per cent, Sunnis 30.05 per cent, Ismailis 24 per cent, and Noorbakshis 6.1 per cent. According to the same 2017 Pakistan census, the population of *Azad Kashmir* was 4.45 million against 2.97 million in the 1998 census. In terms of natural resources, Gilgit-Baltistan is rich in hydroelectric and minerals and has several tourist attractions too. Polo is the popular game of the area. However, due to a number of reasons, the benefit of these has not accrued to the local population.

In 1947, Gilgit-Baltistan formed a part of the State of Jammu and Kashmir, under Maharaja Hari Singh's rule. Since then, Pakistan made few piecemeal changes in respect of Gilgit Baltistan which even when taken together have not made any material change in the lives of the people. In November 1947, Pakistan sent Muhammad Alam as its representative to Gilgit to run the local administration. Two years later by virtue of the Karachi agreement of 1949, the

Azad Kashmir government, on the pretext of geographical and administrative reasons, was asked to surrender administrative and legal control of Gilgit-Baltistan to the federal government of Pakistan. Henceforth, the political and administrative affairs of Gilgit-Baltistan were managed through the Frontier Tribal Regulation (FTR). Accordingly *Azad Kashmir* and *Northern Areas* became two distinct entities, without having any formal official relationship between them. The Karachi Agreement also gave the Pakistan government the responsibility for defence and foreign affairs of *Azad Kashmir*.

In 1969, the Northern Areas Advisory Council (NAAC) was set up; but it did not give any decision making power to the local authorities. In 1970, Hunza and Nagar, a part of *Azad Kashmir*, were amalgamated with Gilgit-Baltistan. This did not go down well with the local people who started protesting against the federal government. In 1974-75, on account of protests by the local population, Prime Minister Zulfikar Ali Bhutto abolished FTR and introduced the *Northern Areas* Council Legal Framework Order. It brought in some administrative and judicial reforms but did not in any way empower the people of Gilgit-Baltistan. In 1977, General Zia-ul-Haq came to power by unseating Bhutto in a military coup. He thought of making *Northern Areas* a part of Pakistan. In 1982, Zia-ul-Haq proclaimed that the people of *Northern Areas* were not a part of the state of Jammu and Kashmir and extended his martial law to *Northern Areas* but not to the *Azad Kashmir*. With this act, he drew a clear distinction between *Northern Areas* and *Azad Kashmir*. In an exclusive interview to the Indian journalist, Kuldip Nayyar (on 1 April 1982), Zia-ul-Haq said Gilgit, Hunza, and Skardu of the *Northern Areas* were not a part of the disputed area.²

General Zia's Announcement and India's Protest

While addressing the *Majlis-e-Shoora* (Pakistani Parliament) on 3 April 1982, General Zia announced that three observers from *Northern Areas* would be appointed to the Federal Council or the *Majlis-e-Shoora*. Three hours later the Indian Chargé d'affaires in Pakistan, who was present at the *Majlis-e-Shoora* session, along with other Foreign Heads of Diplomatic Missions in Islamabad, lodged a protest at General Zia's announcement to the Pakistan Foreign Office. Twelve days later on April 15, 1982, the Minister of External Affairs, Shri P.V. Narasimha Rao, informed the Lok Sabha that Northern Areas are 'Juridically and constitutionally part of the Indian State of Jammu and Kashmir. Our Charge d'affaires' has already lodged a protest over the matter with Pakistan Foreign Office' and the Government was awaiting a response of the Pakistan Government. There was no official reply to this but Pakistan did not appoint an observer from Northern Areas to the *Majlis-e-Shoora*.

During her first tenure as Prime Minister (1988-90), Benazir Bhutto appointed a local PPP leader, Qurban Ali, as advisor to the Prime Minister for *Northern Areas*. In her second

tenure in 1994, her government introduced the *Northern Areas* Legal Framework Order (LFO). According to this Order, all executive powers were vested with the Federal Minister of Kashmir Affairs and *Northern Areas*. He also doubled up as the chief executive of the *Northern Areas* Legislative Council (NALC). His authority was absolute, and no legislation could be passed unless it had his prior approval. In 1999, the Supreme Court of Pakistan directed Islamabad to extend fundamental freedom to Northern Areas following which General Pervez Musharraf regime delegated administrative and financial powers to NALC. This was done by introducing minor amendments to the 1994 Legal Framework Order. These were, however, insignificant.

In 2007, the NALC was upgraded to a Legislative Assembly. The Pakistan Minister of Kashmir Affairs continued to function as the ex-officio chairman of the Legislative Assembly. In August 2009, the PPP led Federal Government introduced the Gilgit-Baltistan Empowerment of Self-Governance Order. It changed the name of the region from *Northern Areas* to Gilgit-Baltistan, and created the new offices of Governor and Chief Minister. Now, Gilgit-Baltistan was also entitled to have its own Public Service Commission, Election Commission, and an Auditor General. It also established an Upper House in the Gilgit-Baltistan Council which comprised of 15 members, with the Prime Minister of Pakistan as its ex-officio Chairperson. The elected Legislative Assembly was functional only in name as all decisions were effectively taken by the Federal Government in Islamabad. Indeed, the Order of 2009 was on the lines of the *Azad Kashmir* Interim Constitution Act of 1974, and both offer the two respective territories much less autonomy than what has been granted to the four provinces of Pakistan.³

There had been wide spread criticism by the local population for depriving Gilgit-Baltistan of any political or economical benefits. There were also reports that China wanted greater federal control of the area. The choices before the Pakistan government were to either merge *Northern Area* with *Azad Kashmir*, to which there was local resistance, or declare the area as the Fifth Province of Pakistan, which too was not considered appropriate as it would have adversely affected Pakistan's position on Jammu and Kashmir. Therefore, in June 2018, the outgoing Abbasi Government of Pakistan decided only to make some changes through the Gilgit Baltistan Reform Order 2018, which replaced the earlier self governance order of 2009. Under this new order, all powers earlier exercised by the Gilgit-Baltistan Council, including passing legislation regarding minerals, hydropower and tourism sectors, were shifted to the Gilgit-Baltistan Assembly.

This order [Article 41 and Article 60 (4)] vests huge powers in Pakistan Prime Minister who in fact is far stronger than the Assembly. Opposition parties in Gilgit-Baltistan protested against this order as they felt that the new order enhanced the role of the Federal Government rather than resulting in any substantive devolution. They dubbed the order as Prime Minister centric. The government of India also protested. The MEA statement mentioned that "the entire

state of Jammu and Kashmir which also includes the so-called ‘Gilgit-Baltistan’ areas is an integral part of India” and “any action to alter the status of any part of the territory under forcible and illegal occupation of Pakistan has no legal basis whatsoever, and is completely unacceptable.”

It is interesting to note that most of the administrative changes made in 1974, 1988, 1994 and 2009 were made when there was a PPP government in Islamabad. It may, however, be mentioned that the changes in 2009 had been under consideration since 2006-07. The changes made in June 2018 were made under the PML Government. There are at least four major issues in respect to the Gilgit-Baltistan. These include *inter alia* the way India responded to the changes introduced by Pakistan from time to time, growing sectarian tensions in the region, and Chinese role, especially under the China-Pakistan Economic Corridor (CPEC) framework.

Response of the Government of India

As would have been observed whenever necessary the views of Government of India have been stated in clear and unequivocal terms in respect of the status of Gilgit-Baltistan—whether it was the protest made by the Charge d’affaires immediately after Gen. Zia’s speech in Islamabad on April 03, 1982, the statement of External Affairs Minister in the Lok Sabha on April 15, 1982 or the comment of the Ministry of External Affairs after the latest order of Government of Pakistan in June, 2018. Ever since 1963, India has challenged the legitimacy of the Sino-Pak agreement by which Pakistan ceded territory to China. It is noteworthy that India’s position has also been clearly conveyed in other forums and negotiations. In his recently published book, *Neither a Hawk nor a Dove* (2015), former Pakistani Foreign Minister Khurshid Mahmud Kasuri writes that during back channel discussions on Kashmir (*during the tenure of Dr. Manmohan Singh*), Pakistan accepted Gilgit and Baltistan as a part of Jammu & Kashmir. He added:

Before Independence, the *Northern Areas* including *inter alia* Gilgit and Baltistan, were part of the princely state of Jammu and Kashmir...During the back channel negotiations also, the Indians made it abundantly clear that they could only accept an agreement regarding Jammu & Kashmir if the *Northern Areas* were also included in the entire scheme. We confronted a dilemma....We therefore reached an agreement after many arguments and negotiations that there would be two units for the purposes of the agreement...comprising the areas respectively controlled by India and Pakistan.⁴

Separation of Gilgit-Baltistan from *Azad Kashmir*

Right from the beginning, Pakistan separated Gilgit-Baltistan from *Azad Kashmir* so as to maintain greater control over it. This had throughout caused great concern to people of the area. A writ petition challenging the position of Pakistan on the status of *Northern Areas* was filed in the High Court of *Azad Kashmir* in the 1990s in what came to be known as the Muskeen case.⁵ The High Court of *Azad Kashmir* decided that the *Northern Areas* were a part of *Azad Kashmir* and its administrative control should be with the government of *Azad Kashmir (POK)* and not the government of Pakistan. Pakistan did not implement that decision and had it vacated by its Supreme Court, which maintained that the High Court had no jurisdiction to issue any such order in the matter. It described the matter as political rather than a legal issue.

Growing Sectarianism in Gilgit-Baltistan

The three main communities in Gilgit-Baltistan—Shias, Ismailis and Sunnis—lived peacefully in communal harmony till the 1970s in the Kashmiri tradition prevalent before 1947. Differences started to emerge from 1975 onwards. Skardu has a predominantly Shia population. The Sunnis have lived mostly in Diamir, and the Ismailis in Hunza. The first sectarian clash occurred in 1975 when a Shia Muharrum procession was fired at from a Sunni mosque in Gilgit. The next major clash was in 1998 over the sighting of the moon to mark the end of Ramadan. By this time, sectarian violence had become a common occurrence, and manifested itself even more after the killing of foreign mountaineers in 2014. A few days ago, on August 03, 12 schools were burnt down in Diamir. Similar attacks, according to Pakistan News Agencies, in the past, have been blamed on Militant organisations. The fact that Shias and Sunnis live in separate areas has adversely affected cohesion.

The Karakoram Highway (KKH) linking Pakistan with Gilgit-Baltistan has resulted in the influx of weapons and drugs and attacks by religious militia into the region, leading to a change in demography. The non-violent Ismaili community also started becoming targets of attack. The Agha Khan foundation has been active in developmental work in the area, and there were reports that even their workers have been targeted. The decision to abolish SSR (State Subject Rule)⁶ was an attempt at upsetting the demography of the region. This paved the way for settling outsiders—mostly Sunni ethnic Pathans and Punjabis—in Gilgit-Baltistan. General Musharraf, (then Brigadier) in 1988, under President Zia's rule played a role in crushing the Shia revolt.⁷

Chinese Role in Gilgit-Baltistan

An important reason why Gilgit-Baltistan was separated from *Azad Kashmir* and kept under direct supervision and control of Pakistan was the China factor. The area ceded by Pakistan to

China in 1963, south of the Mintaka Pass, belonged to Hunza. The Border Agreement of 2 March 1963 changed the alignment of the boundary line between the Sinkiang province of China and the contiguous area under the actual control of Pakistan. India protested to both Pakistan and China about this agreement. Ceding territory to China was not even discussed in Gilgit-Baltistan as it did not have any elected assembly of its own. Articles I, II and VI of the 1963 Sino-Pakistan Agreement, accepted that the area covered by the Agreement was disputed. Article VI of the Agreement stated that:

the two parties have agreed that after the settlement of the Kashmir dispute between India and Pakistan, the sovereign authority concerned will reopen negotiations with the government of the People's Republic of China on the boundary as described in Article II of the present Agreement of Kashmir so as to sign a boundary treaty to replace the present agreement...

Article I of the Agreement accepts that the India-Pakistan boundary in this area is not delimited or defined. It states that:

in view of the fact that the boundary between China's Sinkiang and the contiguous areas, the defence of which is under the control of Pakistan, has never been formally delimited, the two parties agree to delimit it on the basis of the traditional customary boundary.

Here, China concedes that the area is not under the sovereign control of Pakistan, a fact that becomes important when seen in the context of the CPEC. In respect of the South China Sea, China has based its claims of sovereignty on the historical context. But these seem to have become secondary and extraneous to China in the context of the CPEC projects in POK. Both history and sovereignty issues do not favour Chinese arguments here. They are, therefore, using commercial arguments for their political and strategic investments in Pakistan for transiting through POK.⁸

China-Pakistan Economic Corridor (CPEC) and Gilgit-Baltistan

The CPEC passes through POK which is a part of the Indian State of Jammu and Kashmir. The shortest route from Gwadar to Kashgar runs through Panjgur, Quetta, Zhob, Dera Ismail Khan, and then into Punjab through Mianwali, onto Islamabad, and then the KKH to Xinjiang/Sinkiang. There were reports that China was not comfortable about the route passing through Balochistan and Khyber Pakhtunkhwa on account of protests against CPEC and the security situation prevalent in those areas.⁹ It was decided by the Pakistan Government on account of these considerations and because of reservations expressed by the governments of Baluchistan, Khyber Pakhtunkhwa and Sindh to change the alignment of the route of CPEC, so

that it could pass mainly through Punjab. As a result, the CPEC is being dubbed as the China-Punjab Economic Corridor.

Additionally, there have been reports in the Pakistani media that China was equally concerned about regular protests in Gilgit-Baltistan about CPEC as 600 km of the proposed 2,000 km Kasghar-Gwadar corridor passes through the region. Consequently, there has been apprehension that the pace of progress of implementation of the project could get affected. Pakistan, therefore favoured greater federal control over Gilgit-Baltistan on Chinese insistence.¹⁰ Some other media reports revealed that there are more than 5,000 Chinese troops across the Middle-East and Asia to protect China's economic corridor. The largest number (1800) in this list is deployed on the China-Pakistan corridor. Many of them could be stationed in the POK, and be a cause for concern in India.¹¹

Imran Khan on CPEC

Pakistan's new Prime Minister Imran Khan, had in the past been critical of the CPEC. However, he later changed his view point to avoid offending China and in a meeting with the Chinese Ambassador, explained that he was concerned about the transparency of the project and did not want it to pass only through Punjab but also through Khyber Pakthunkhwa.¹² After the elections in July 2018 he stated, 'We want to work towards success of CPEC.'¹³ Commenting on Imran Khan's change of attitude, Fakir Aijazuddin, a Pakistani scholar has now mentioned that "Imran Khan (once as Anti-CPEC as Theresa May was once anti-Brexit) referred in his victory speech to China offering a huge opportunity through CPEC, to use it and drive investment into Pakistan"¹⁴

Conclusion

The location of Gilgit Baltistan is unique. In addition to India and Pakistan it has borders with Afghanistan and China. India's stand about GB being a part of the Indian State Jammu & Kashmir has been consistent. Pakistan has shown greater concern for the territory of Jammu and Kashmir it occupied than for the people living there. It is quite evident the way Pakistani governments handled the issue. None of the governments at the helm have ever shown any genuine interest to address the issues pertaining to the economic and the political interests of the people of the area. Instead, these have throughout been neglected. The demography of the area has been changed. Outsiders were settled in this area to achieve this objective. In 1948, Shias and Ismailis constituted 85 per cent of the population of the area. Today it is around 50 per cent. This is also evident from a comparison between the last two censuses in 1998 and 2017. Whereas the population of Pakistan increased by 56%, from 1998 to 2017, that of Gilgit-Baltistan doubled during the same period. The desire of the people of Gilgit-Baltistan to be

connected with India has always been prevented and suppressed by Pakistan. Two land routes—Kargil and Leh on the Indian side of the LoC connect with Skardu and Khaplu (PoK side) but Pakistan has not permitted interaction on these routes.¹⁵ *Northern Areas* were separated from rest of PoK to ensure greater Federal Control.

There has been pandering to China's concerns. China since 1962 and after the Sino-Pak agreement of 1963 is occupying nearly 19 per cent of the territory of J&K which includes some vital territory of Northern Area. China and Pakistan have been using the territory of the area to the detriment of Indian interest. There has also been criticism in Pakistan itself about the treatment meted to the people of Gilgit-Baltistan. Right from the beginning, Pakistani rule has been identified with the story of deprivation of the people of the *Northern Areas*. The Pakistani magazine 'Herald' termed the *Northern Areas* as 'the last colony.' As far back as August 14, 1964, the Karachi *Outlook* wrote, 'the uncomfortable truth is that the Ministry of Kashmir Affairs has acquired a vested interest of its own. It treats *Azad Kashmir* territory and Gilgit-Baltistan areas as its own domain ...The Ministry likes to deal with puppets not with the presidents who take their position too literally.'¹⁶

Despite the passage of time, there has not been any material change. The people of Gilgit-Baltistan have been denied basic rights and privileges. *K-2*, the leading newspaper of the region, has always carried on its masthead the phrase *Sarzamin-Be-Ain Ki Awaz* (Voice of the constitution-less land). This in itself explains the misery of the people. It is time the international community took note of the sufferings faced by the people of Gilgit-Baltistan.

(Based on a speech delivered by the author at the Annamalai University on 9th August 2018. The author is Chairman, Ananta Aspen Centre, and former special envoy of the Prime Minister of India, and former High Commissioner to Pakistan.)

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