



## **Gilgit-Baltistan: Constitutional Status Swung Between Hope and Dream**

Asif Abbas<sup>1</sup>, Shoaib Malik<sup>2</sup> & Mushahid Hussain<sup>3</sup>

<sup>1</sup> MPhil Scholar, NIPS, QAU, Islamabad

<sup>2</sup> Bachelor of Public Administration, QAU, Islamabad

<sup>3</sup> Bachelor of Economics, QAU, Islamabad

### **Abstract**

*A huge variety of discussions and arguments over Gilgit–Baltistan’s constitutional status have existed for a long time in political quarters but still no fruitful result has come out. The rest of the provinces, Gilgit Baltistan is not properly incorporated into Pakistan, even all of its major function is governed and administered by Islamabad. This makes the situation unclear and releases a gap in the power of constitutional status which remained an outstanding issue from day one to the present now. During the partition of the sub-continent of India in 1947, Gilgit Baltistan was part of the princely state of Jammu and Kashmir. The Maharaja of Kashmir made an instrument of accession with the state of India in October 1947 which is a false instrument of accession by Pakistan and having no proof of such accession being made. This decision caused a series of tensions between India and Pakistan by having a situation of dialogue. On this decision, both the two world majors narrated the entire part of Jammu and Kashmir to their part. The situation further got aggravated and triggered when the local people of Gilgit Baltistan decided to rebel against the Maharaja, forces and took control of the area and made it part of Pakistan. The people of Gilgit raised the flag of Pakistan and made an interim government under the supervision of Shah Raess Khan. On 16 November 1947, Sardar Alam arrived as a Pakistan political agent for Gigit. On 6 April 1948, the Gigit agency was made part of the northwest frontier province KPK, to oversee the affairs of the Gigit agency and include the states within it. Baltistan was also part of the Gigit agency and was under the control of political agents named as residents at that time.*

### **Keywords**

Gigit Baltistan, Constitutional Status, Limbo, Federal Government

### **Introduction**

Gilgit Baltistan is a unique land of the world, with no constitutional provision enforcement. Major steps are taken from the initial day to the present times. But none of these reforms are granted the provincial step up for Gilgit Baltistan and to determine the fate of 2 Million people of the region. After the independence of Pakistan, the region of Gilgit Baltistan made their affiliated with Pakistan. Due to the issue of Kashmir, the game of Gilgit Baltistan also remained dominated by the unclear stance of both countries. Despite of many series negotiations, no results came out and both states made the knock to the United Nations in 1948. In 1948 United Nations Security Council Resolution 47 made the provision for conducting a referendum to determine the fate of Jammu and Kashmir, Gilgit Baltistan. That implies that the region is disputed and needs the utilization of international parameters of law to prevail. Despite of mentioned the provision of a plebiscite never gets to happen. That made the conflicts to be unresolved and the fate of people remained stuck with no progress. Seeing no progress and development the regime of that comes with the policies of colonial law known as FCR. In other words, it is recalled Frontier Crime Regulations which is a series of Black Laws. In this provision, all powers of judicial and administrative powers are granted to the civil bureaucracy in the sphere of tribal and Gilgit–Baltistan.

This was power vested with the absence of local community and rule of the federal government on the indigenous people. Another upset in the journey of the constitutional status of Gilgit Baltistan caused huge concerns on 28 April 1949, when the federal government of Pakistan represented by the minister no assumed office, made a series of negotiations with the AJK leadership, neglecting the representation from Gilgit Baltistan to be made of Karachi Agreement. This Agreement was made without consulting the major stockholders of Gilgit Baltistan. It allowed the Government of Pakistan to control the reins of power-related affairs of Gilgit. The administration of Gilgit Agency apparatus was being transferred from the NWFP Province to the government of Pakistan. In 1950 another separate ministry of Kashmir Affairs and Northern Area was established. It was formulated to look at the affairs of northern territories and hold policies executed for this region.

Till 1952, the joint secretary of the ministry has been performing the duties of residents in the regions of the north with all major administrative and judicial power. Having all authority in his hand to properly perform his function, So far in 1967, the Ministry of Kashmir and Northern Area shifted the jurisdiction of power of the High Court and the Revenue Commissioner to the presence of residents and divided political agents for Gilgit and Baltistan to oversee affairs of daily government and people's interests.

In 1970, the Advisory Council for Northern Area was formulated as a platform with having constitutional provision of the Northern Area Council having 21 members chaired by the residents. Various administrative, judicial, and political reforms were made in 1975 under the Legal Framework Order for the Northern Areas Council. It has provided the mechanism for the abolished local jagiradi system and the extension of civil and criminal law jurisdiction to the northern area. On 28 May 1999, the Supreme Court of Pakistan landmark judgment in the Al Jidad case verdict. Declaring all people of Gilgit Baltistan are citizens of Pakistan. The Supreme Court also instructed the federal government to provide the fundamental rights that the people of the region are deprived of and have the right to enjoy the fundamental rights. In 1999 Northern Area Council was renamed the Northern Area Legislative Council which expanded the position of Speakers and Deputy Speaker and three women's seats.

### **Strategically Absence of Legality Provision**

Gilgit-Baltistan (GB), a strategically significant region of Pakistan, remains in a constitutional limbo despite decades of political promises and reforms. Its unique geopolitical position, historical context, and socio-political fabric have fuelled a debate over its legal and constitutional status. This paper explores the historical evolution, constitutional status, and socio-political aspirations of the people of Gilgit-Baltistan. It also critically examines the legal and political challenges that hinder its integration into Pakistan's constitutional framework while addressing the implications for regional stability and Pakistan's stance on the Kashmir dispute. By analyzing past reforms and contemporary developments, this study aims to provide a comprehensive understanding of the challenges and prospects for granting Gilgit-Baltistan its long-anticipated constitutional recognition.

### **Kashmir and GB Matter of Dispute**

Gilgit-Baltistan, often described as Pakistan's "northern gateway," occupies a pivotal role in South Asia's geopolitics. Bordered by China, India, and Afghanistan, this region is a cornerstone of Pakistan's strategic and economic interests, particularly with the China-Pakistan Economic Corridor (CPEC) passing through it. Despite its importance, Gilgit-Baltistan's constitutional status has been a source of contention since Pakistan's independence. While the region has been administratively controlled by Pakistan since 1947, it has not been granted full constitutional status, leaving its residents in a state of political uncertainty. The question of Gilgit-Baltistan's status is intertwined with Pakistan's stance on the Kashmir issue. Any move towards its integration risks undermining Pakistan's position on Kashmir at international forums. Conversely, the region's ambiguous status fuels local grievances and hampers socio-economic development. This paper examines the historical trajectory, constitutional developments, and political dynamics of Gilgit-Baltistan while exploring the challenges and opportunities for resolving its status.

### **Historical Background**

The region of Gilgit-Baltistan was historically part of the princely state of Jammu and Kashmir. Its strategic importance was recognized by British colonial powers, who established the Gilgit Agency in 1877 to oversee the area and counter Russian advances in Central Asia. The administration of the

region oscillated between the Dogra rulers of Kashmir and the British government until the lapse of British paramountacy in 1947.

After the partition of British India in 1947, the people of Gilgit-Baltistan, led by local militias, rebelled against Dogra rule and declared independence. They subsequently acceded to Pakistan, albeit without a formal agreement. Pakistan took administrative control of the region but refrained from fully integrating it into its constitutional framework, citing the unresolved Kashmir dispute.

### **Legal and Constitutional Ambiguities**

#### **UN Resolutions and the Kashmir Dispute**

Pakistan's position on Gilgit-Baltistan is deeply tied to its stance on Jammu and Kashmir. United Nations resolutions on the Kashmir dispute emphasize the region's disputed nature, urging a plebiscite to determine its future. This has led Pakistan to maintain Gilgit-Baltistan as a separate entity, administratively distinct from its provinces, to bolster its claims on Kashmir.

#### **Governance Reforms over the Years**

**Gilgit-Baltistan (Empowerment and Self-Governance) Order, 2009:** This reform introduced a quasi-provincial setup, establishing a legislative assembly and a chief minister's office. However, ultimate authority remained with the federally appointed governor.

**Gilgit-Baltistan Order, 2018:** This order further expanded administrative powers but fell short of granting constitutional status, sparking protests and criticism from local leaders and activists. The Gilgit-Baltistan Empowerment and Self-Governance Order of 2009 marked a significant milestone in the region's political and administrative history. Issued by the Government of Pakistan, this order aimed to provide greater autonomy to Gilgit-Baltistan, formerly known as the Northern Areas, while stopping short of granting it full provincial status. The order was a response to long-standing demands for self-governance and representation in national decision-making processes.

Under this framework, the Northern Areas were renamed Gilgit-Baltistan, and a comprehensive governance structure was introduced. The order established the Gilgit-Baltistan Legislative Assembly and the Gilgit-Baltistan Council, both of which played vital roles in legislating and decision-making. The Legislative Assembly, comprising elected representatives, was empowered to legislate on a range of subjects, while the council, chaired by the Prime Minister of Pakistan, retained authority over key areas such as defense, foreign affairs, and taxation.

The region's Chief Minister and Governor positions were also created, bringing Gilgit-Baltistan's administrative setup closer to that of Pakistan's provinces. This structural change was aimed at promoting development, addressing governance issues, and enabling the people of the region to have a greater say in their affairs.

Despite these advancements, the 2009 Order received mixed reactions. While it was lauded for enhancing self-rule and introducing democratic reforms, critics argued that it fell short of granting Gilgit-Baltistan constitutional recognition as a province of Pakistan. This lack of provincial status continued to affect the region's representation in the National Assembly and Senate, leaving its residents without a direct say in federal legislation.

In conclusion, the Gilgit-Baltistan Self-Governance Order of 2009 was a landmark step towards autonomy and development for the region. However, it also underscored the complexities and limitations of addressing Gilgit-Baltistan's unique political and constitutional status within Pakistan.

### **Socio-Political Aspirations**

#### **Local Sentiments**

The people of Gilgit-Baltistan have long demanded constitutional recognition and representation in Pakistan's parliament. The lack of basic political rights, coupled with economic underdevelopment, has led to widespread dissatisfaction. Local leaders argue that integration into Pakistan's constitutional framework is essential for addressing these grievances.

#### **Role of Civil Society and Youth Activism**

Civil society organizations and youth groups in Gilgit-Baltistan have been at the forefront of advocating for constitutional rights. Social media and grassroots movements have amplified their demands, drawing national and international attention to the region's plight.

#### **Challenges to Constitutional Integration**

#### **Geopolitical Implications**

Integrating Gilgit-Baltistan into Pakistan's constitutional framework could undermine Pakistan's position on the Kashmir dispute. India views such a move as a violation of international law,

potentially escalating tensions in an already volatile region. Pakistan's political leadership remains divided on how to address Gilgit-Baltistan's status. While some advocate for provincial status, others caution against actions that could complicate the Kashmir issue or provoke international backlash.

Despite its rich natural resources and strategic location, Gilgit-Baltistan faces significant socio-economic challenges, including inadequate infrastructure, limited access to healthcare and education, and high unemployment rates. Addressing these issues is essential for winning local support for any constitutional reforms.

### **Recent Developments and Prospects**

#### **The 2020 Provincial Status Proposal**

In 2020, Pakistan's government announced plans to grant provisional provincial status to Gilgit-Baltistan. While the move was welcomed by some as a step towards integration, others criticized it as insufficient and politically motivated.

The China-Pakistan Economic Corridor has brought renewed attention to Gilgit-Baltistan's strategic importance. However, the lack of constitutional status has raised concerns about the equitable distribution of benefits from CPEC projects.

#### **International Reactions**

India's strong opposition to any changes in Gilgit-Baltistan's status underscores the international sensitivity of the issue. The region's status remains a contentious point in Pakistan's foreign relations, particularly with China and India.

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#### **Diversity of Opinions on Gilgit-Baltistan's Constitutional Status**

Gilgit-Baltistan (GB) occupies a unique and contested position within Pakistan's administrative framework, sparking a range of opinions about its constitutional status. The region, while governed under Pakistan's administrative control, does not enjoy full constitutional rights or representation, a situation rooted in historical, legal, and geopolitical complexities.

##### **1. Advocacy for Full Integration**

A significant section of political leaders, legal experts, and local activists argue for GB's integration into Pakistan as a full-fledged province. They emphasize the necessity of granting the region representation in Pakistan's parliament and ensuring constitutional protections equivalent to other provinces. Advocates cite long-standing grievances of disenfranchisement and demand equitable access to political and economic rights.

##### **2. Proponents of Autonomy**

Another perspective supports greater autonomy for GB while maintaining its current status as a semi-autonomous territory. This view aligns with the sensitivities of the Kashmir dispute, arguing that fully integrating GB into Pakistan might undermine its international stance on the unresolved

Kashmir issue. Autonomy proponents propose a model akin to the Azad Jammu and Kashmir framework, which could provide local governance while respecting international diplomatic concerns.

### **3. Kashmir-Centric Perspective**

From the standpoint of some Kashmiri leaders and international observers, GB is viewed as an integral part of the broader Jammu and Kashmir territory. This perspective posits that GB's constitutional fate should be tied to the final resolution of the Kashmir dispute. Supporters argue that any unilateral move to alter GB's status might weaken Pakistan's claim over Kashmir and contravene UN resolutions.

### **4. Local Sentiments**

Locally, opinions are divided. While many residents support full provincial status for GB to secure political representation and rights, others express concerns about losing the region's distinct identity and autonomy. Additionally, there is a strong desire among locals for improved infrastructure, education, and healthcare, irrespective of the constitutional arrangement.

### **5. International and Geopolitical Considerations**

The strategic location of GB, bordering China, Afghanistan, and India, adds an international dimension to the debate. Some analysts argue that altering GB's constitutional status could provoke regional tensions and complicate relationships with neighboring states, particularly India. The constitutional status of Gilgit-Baltistan remains a contentious and multifaceted issue. Any resolution must balance local aspirations, national interests, and international obligations. A participatory and inclusive dialogue involving all stakeholders is critical to addressing this longstanding question in a manner that upholds the principles of justice and equity.

### **Possible Solutions for the Gilgit-Baltistan Constitutional Issue**

The constitutional status of Gilgit-Baltistan (GB) remains a complex and unresolved matter, with its people seeking full integration into Pakistan's political framework. Several possible solutions can address this issue while considering regional, national, and international concerns:

#### **1. Granting Full Provincial Status**

One viable solution is to declare GB as the fifth province of Pakistan. This would provide the region with representation in the National Assembly and Senate, ensuring its residents has a voice in national policymaking.

However, this move must address Pakistan's international commitments regarding the Kashmir dispute, as GB's integration could impact the United Nations' resolutions on the matter.

Pakistan could adopt a constitutional amendment to recognize GB as a region with special status. This framework would allow GB to have representation in the national legislature while preserving its unique identity.

This model could draw inspiration from arrangements such as India's special provisions for regions like Ladakh or the European Union's approach to semi-autonomous regions.

#### **2. Linking with the Azad Jammu and Kashmir (AJK) System**

One recommendation is to integrate GB into the AJK administrative framework, as both regions share historical and geopolitical ties. This solution, however, may face resistance from GB residents who seek distinct recognition.

### **Local Governance**

Empowering the GB Legislative Assembly with more legislative and fiscal powers could bridge the gap without altering Pakistan's constitutional position.

Enhanced autonomy under a robust governance framework would address local aspirations while minimizing international complexities.

### **Recommendations for Resolving the Constitutional Status of Gilgit-Baltistan**

Resolving the constitutional status of Gilgit-Baltistan (GB) requires a balanced approach that considers local aspirations, Pakistan's national interests, and international sensitivities. Below are key recommendations for addressing this longstanding issue:

#### **Conduct a Comprehensive Consultation Process**

A participatory approach is essential for ensuring the legitimacy of any resolution. This process should include:

**Local Voices:** Engage GB's political leaders, civil society, and residents in discussions about their preferences and priorities.

**National Dialogue:** Involve stakeholders across Pakistan, including legal experts, parliamentarians, and policymakers, to align any proposed solution with the national framework.

**Regional Stakeholders:** Consult with representatives from Azad Jammu and Kashmir (AJK) to maintain coherence with Pakistan's stance on the Kashmir dispute.

#### **Grant Provisional Provincial Status**

One feasible solution is granting GB provisional provincial status. This would:

Provide GB representation in Pakistan's National Assembly and Senate, ensuring its residents have a voice in national decision-making.

Allow the region to benefit from constitutional protections and equitable allocation of resources. Frame this status as provisional, pending the resolution of the broader Kashmir dispute, to align with Pakistan's international commitments.

#### **Ensure Local Autonomy within a Federal Framework**

For those concerned about the implications of full provincial integration, a model of enhanced autonomy could be implemented, similar to arrangements in Azad Jammu and Kashmir. Key elements include:

**Legislative Autonomy:** Empower the GB Assembly with greater legislative authority over local matters.

**Judicial Reforms:** Establish a robust judicial framework that ensures access to justice within GB while maintaining links to Pakistan's higher courts.

**Economic Independence:** Introduce financial autonomy by allowing GB to manage its natural resources and revenue generation under federal oversight.

#### **Legal and International Considerations**

**Constitutional Amendments:** Ensure any resolution is backed by clear amendments to Pakistan's Constitution, preventing legal ambiguities

**Align with UN Resolutions:** Frame the solution within the context of international law emphasizing that it does not prejudice the outcome of the Kashmir dispute.

**Diplomatic Engagement:** Proactively communicate Pakistan's position to the international community, addressing concerns that may arise from India or other stakeholders.

#### **Promote Unity and National Integration**

Efforts should be made to integrate GB's residents into Pakistan's national fabric through cultural exchanges, representation in federal institutions, and fostering a sense of belonging. Simultaneously, measures should be taken to protect GB's unique cultural and ethnic identity.

#### **Conclusion**

The constitutional status of Gilgit-Baltistan remains a complex and contentious issue, shaped by historical legacies, geopolitical dynamics, and socio-political aspirations. While recent reforms signal progress, they fall short of addressing the region's long-standing grievances. Achieving a balance between national interests, international obligations, and local aspirations is crucial for resolving the constitutional limbo of Gilgit-Baltistan. Moving forward, a comprehensive approach that prioritizes inclusive dialogue, socio-economic development, and legal guarantees is essential for transforming the hope of constitutional recognition into a tangible reality.

For decades, the constitutional status of Gilgit Baltistan has not been clear. The fate of 2.5 Million individual is associated with constitutional linkage still waiting to determine their position. That is forcing the local and common natives to worry about dealing with affairs with the government, population proportion, and higher platform. Their voices begin unheard because of the lack of representatives to raise their demands in front of higher-power platforms. It is creating a gap of problematic concerns for not possessing power over those subject matters related to government affairs. Even having ruled and judgment marked the apex court of Pakistan to grant provision of the constitutional marked subject. The constitutional status is unclear and marked between hope and dream for the people of Gilgit Baltistan.

#### **References**

Ahmed, S. (2019). "CPEC and Gilgit-Baltistan: Opportunities and Challenges." *Economic and Political Weekly*, 54(34), 10-15.

Herald. "The Last Colony." *The Karachi 'Outlook*, August 14, (1964): 44. Hong, Caylee. "Law and Liminality in Gilgit-Baltistan: Managing Natural Resources in Constitutional Limbo." *Canadian Journal of Poverty Law* 2, no. 1 (2013): <https://www.tandfonline.com/toc/>

- ccsa20/current Hussain, Altaf. "Gilgit-Baltistan Reforms 2009." Ministry of Foreign Affairs Pakistan, (2009): 15-18. Hussain, Yasir. "Social Media as a Tool for Transparency and Good Governance in the Government of Gilgit-Baltistan, Pakistan," *Cross Roads Asia* 22, (2014):.
- Karim, Maj Gen Afsir. *Kashmir the Troubled Frontiers*. Lancer Publishers Limited Liability Company 2013. Kasuri, Khurshid Mahmud. *Neither a Hawk nor a Dove: An Insider's Account of Pakistan's Foreign Policy*. Penguin UK, 2015.
- Kasuri, Khurshid Mahmud. *Neither a Hawk nor a Dove: An Insider's Account of Pakistan's Ministry of Kashmir Affairs and Gilgit-Baltistan*. (2020). "Provisional Provincial Status for Gilgit-Baltistan: Policy Paper." Islamabad.
- Snedden, Christopher Aziz Ali. "Boundaries and Identities: The Case of Gilgit-Baltistan." (2016). 133 *Journal Articles*
- Sözeri, E. (2020). "Gilgit-Baltistan's Strategic Importance and the Kashmir Dispute." *Journal of South Asian Studies*, 45(2), 123-145.
- Supreme Court of Pakistan. (2019). *Judgment on the Legal Status of Gilgit-Baltistan*. Islamabad.