

The Gilgit-Baltistan Reforms 2009
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Gilgit-Baltistan Empowerment and Self-governance Order 2009

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THE GILGIT-BALTISTAN REFORMS 2009

1- Background

The Government of Pakistan introduced Gilgit-Baltistan Empowerment and Self-Governance Order, 2009¹ on August 28, 2009. The reforms package was introduced through a presidential order which was approved by the Federal Cabinet and set forth for immediate implementation. It was a matter of celebration for the people of GB that they are going to have their own Governor and Chief Minister and the status similar like a province but not a province because of denied representation in the Parliament and the Senate of Pakistan. Through the reforms another setup has been created similar like Azad Jamu and Kashmir, the GB Council headed by the Prime Minister of Pakistan. These two parallel arrangements on the other hand, increase the prevailing confusion of the local population in order to explain the future of the area with regards to its constitutional inclusion in Pakistan as fifth province or integration with Jamu and Kashmir as one of the unit of probable plebiscite.

The Northern Areas of Pakistan now named as “Gilgit-Baltistan” is the homeland of 1.5 million people left constitutionally indeterminate state for long time after its annexation with Pakistan in 1947. The area is divided into two entities of Gilgit and Baltistan which further divided into seven administrative districts of, Gilgit, Ghizer, Hunza-Nagar, Astore, Diamer, Ghanche and Skardu. Gilgit-Baltistan (GB) is situated in the north of Pakistan bordered with China, India, Afghanistan and Tajikistan via Wakhan Corridor. The GB covers about 72,400 square kilometers area, hosting the intersection point of world’s largest mountain ranges of Himalaya, Hindukush and Karakoram, second highest peak of the world K-2 and the largest ice mass out of poles in the world. The GB’s geo-strategic relevance has been growing rapidly in the last few decades as an emerging hinterland for energy, trade and water corridors linking South, West and Central Asia. The intense debate about providing access to one of the world’s largest oil reserves located in Central Asia to energy-starved global economies is provoking new strategic thinking in many important capitals.

The GB was called Frontier Province of Jammu and Kashmir State after its occupation by Dogra Kashmiris in the nineteenth century. British government took possession of Gilgit Agency from the Kashmir State Government through a lease agreement for 60 years on March 29, 1935 and returned back the area to the State Government on August 1, 1947, following the decision of British Government of dividing sub continent into two sovereign states of India and Pakistan. During the joint rule by British and Dogras the area was administratively divided into Gilgit Wazarat and Ladakh Wazarat. Gilgit Wazarat had no representation in State Assembly while five (5) representatives from Ladakh Wazarat were elected in the elections held during 1934, 1937, and 1941 and in the last assembly which was terminated in 1947¹.

¹ Tareekh –e- Jammu and Kashmir

In 1947 when the British Government decided to return the GB to State of Kashmir, the local armed groups under the command of local Rajas² and Mirs joined by Muslim officers of the State Army revolted against the Governor of State of Kashmir and the whole area was liberated on November 1, 1947. An interim Revolutionary Government was constituted under Raja Shah Rais Khan of Gilgit as head of the State. This self government survived for sixteen days and then approached to the government of Pakistan for assistance in running affairs of the newly established government of GB. Responding to the request, a junior (non-commissioned) officer was sent to Gilgit on November 16, 1947 as political agent by Government of Pakistan³.

An agreement was signed between the Government of Pakistan and Government of Azad⁴ Jammu and Kashmir (AJ&K) in April 1949 in which the administrative control of Gilgit and Baltistan was temporarily assigned to Government of Pakistan (vide sub-clause 8 of section-3 of the Agreement). This agreement further enhanced the legitimacy of controlling GB by Government of Pakistan through appointment of a Political Agent⁵. When the United Nations established the Cease-fire Line in 1949, in Kashmir and later renamed as Line of Control (LoC) under Shimla Agreement in 1972, the Cease-fire (control) Line was also established in GB and U.N. Observers were posted on the control line between Ladakh and Gilgit Baltistan borders.

Sinkiang-Kashmir Border Agreement or Sino-Pak Boarder Agreement signed between Pakistan and China in 1963 includes a clause (article 6) which clarifies that after the Kashmir dispute is resolved; the government in power in Northern Areas and the Peoples Republic of China will re-negotiate the agreement. "Through its letter dated 16th March 1963, addressed to the President of the U.N. Security Council India lodged protest against the Sino-Pak Agreement and termed the agreement as violation of the resolutions of the Security Council and the U.N Commission for India-Pakistan (UNCIP⁶). Pakistan's clarified its position saying that Northern Areas were integral part of the disputed state of Jammu and Kashmir, and their fate is yet to be decided along with the rest of the State of Jammu and Kashmir, through a plebiscite as provided in the U.N. resolutions. The Government of Pakistan further clarified that the Boundary Agreement

2 Raja and Mir: Ruler of the State

3 Reference books and articles on History of Gilgit-Baltistan by various authors

4 Azad in Urdu refers to free and independent status. Government of Pakistan named the territory of Jammu Kashmir came under its control in 1947 as Azad Jammu and Kashmir (AJ&K). The Government of AJ&K has independent status out of the federation of Pakistan with its own President, Prime Minster and the flag.

5 Karachi Agreement between Government of Pakistan and Government of AJK in 1947

6 Just after the Truce Agreement between Pakistan and India after 1948 war over Jammu and Kashmir United Nation formed (United Nation's Commission for India and Pakistan (UNCIP) which adopted several resolution including one accepting the right of self determination for people of Kashmir through expression of free will on August 13 1948.

(between Pakistan and China) would not affect the status of the territory of Jammu and Kashmir.⁷”

⁷ Institute of Policy studies Pakistan Policy Perspectives, Vlm 1, No.1

2- Introduction

Since 1947 the constitutional and administrative status and fundamental human and political rights of the people of GB has been a discussion point between Government of Pakistan, Government of AJ&K and Jammu and Kashmir and to some extent with the government of India although it has been a non negotiable issue on the agenda of Pakistani delegates visiting India. The Constitutions of 1956, 1962 and 1973⁸ of Islamic Republic of Pakistan do not recognize GB as part of Pakistan but democratic governments and Military Dictators of Pakistan have introduced various governing reforms in the area under different names in order to align it with the emerging economic and political needs of the country.

A number of measures taken by Government of Pakistan to annex the region with its federation which include the reforms of ZA Bhutto in 1970's and declaration of Martial Law Zone E in the regime of Zia ul- Haq in 1977, that further blurred the picture of legal and constitutional status of the region. The position of Pakistan with reference to its stance on Kashmir Issue has been totally different to its actions in GB. Both the courts of laws of AJ&K and Pakistan were knocked through civil petitions by the people to clarify the legal and constitutional status of GB.

March 18, 1993: Decision of Azad Kashmir High Court (Full Bench)

The Northern Areas (Gilgit and Baltistan) are part of Azad Kashmir, historically and constitutionally.

Under the Provisional Constitutional Act, 1974, the (A.K.) High Court has the right to hear all petitions concerning Azad Kashmir and the Court also has right to hear cases in all matters pertaining to Northern Areas.

The Azad Kashmir government should establish administrative and legal institutions in these areas (GB).

September 14, 1994: Decision of Azad Kashmir Supreme Court against decision of High Court March 18, 1993

No doubt, that Northern Areas is part of the state of Jammu and Kashmir – but not of Azad Kashmir. Therefore, the government needs not to take administrative control of these areas.

May 29 1999: Decision of Supreme Court of Pakistan (reference to AJ&K HC Decision)

...“that Northern Areas were constitutional part of the state of Jammu and Kashmir... that the people of the Northern Areas are citizens of Pakistan for all intent and purposes”.

The government of Pakistan should ensure that basic human rights and other political and administrative institutions are provided in the areas within six months. However, the action should not adversely affect Pakistan's stand concerning the Kashmir dispute.

The Chief Justice AJ&K High Court (Retired) Majid Malik commented on the decision of the Supreme Court against his decision he said “Actually the Supreme Court had agreed with my decision but section 2 of the Interim Constitution of AJ&K 1974 confines the boundaries of AJ&K to its present

8 Article-1, of the Constitution of Islamic Republic of Pakistan 1973.

limitation and the supreme Court considered that GB doesn't fall under the jurisdiction of the AJ&K High Court while my interpretation about the jurisdiction is that the area got free from Dogra Rule in 1947-48 including all parts of GB is under the jurisdiction of constitutional ambit of AJ&K"⁹.

⁹ Personal interview with Justice Retired Majid Malik for this paper.

3- Chronological Order of Administrative and Self-Governance Reforms (1947- 2009)

After taking over of the control of GB by Government of Pakistan in 1947, the colonial law of Frontier Crimes Regulations (FCR) was enforced over whole area. The FCR was imposed in all the agencies annexed with Pakistan including Federally Administrative Tribal Areas. Under this English law for the tribal areas and GB a civil servant exercised all judicial and administrative powers. However, before November 1947 under the state of Jammu and Kashmir, an independent judicial system for the areas was in placed, with right of appeal before the Kashmir High Court. While under the FCR the Political Agent in Gilgit was placed under the Political Resident of the NWFP which was an attempt to include the area into administrative control of a province of Pakistan. Over the time administrative and political reforms were introduced by the Government of Pakistan responding to increasing demand from the local people are listed mentioned in chronological order:

1950 Establishment of the Ministry: The federal Government established the Ministry of Kashmir Affairs and Northern Areas (KANA) and transferred the affairs of the Northern Areas to the Ministry.

1952 Appointment of Resident: A Joint Secretary of the Ministry of Kashmir Affairs was appointed as Resident in the Northern Areas with all administrative and judicial authorities.

1967 Empowerment of Resident: The Ministry of Kashmir Affairs introduced reforms by transferring powers of High Court and Revenue Commissioner to the Resident and appointed two Political Agent one each for Gilgit and Baltistan. District level powers delegated to the Political Agent to act as District and Session Judge, Revenue Collector, Commissioner for FCR, Chief of Police and Controlling Officer of Cooperative Society.

1970 Establishment of Representative Body of Northern Areas: The elections of 16 members of Northern Areas Advisory Council (NAAC) were conducted for the first time. While the Council had the power to sanction development schemes and all other matters were beyond its powers.

1972 Re-designation of the post of Resident as Resident Commissioner: Through a Presidential order 1972, the post of Resident was re-designated as Resident Commissioner and Gilgit and Baltistan Agencies were transformed into districts by appointing Deputy Commissioners along with creating an additional district of Diamer.

1974 Z.A Bhutto Reforms: The government of Z. A. Bhutto announced a package of administrative and judicial reforms by abolishing the State of Hunza and Frontier Crime Regulation (FCR). The Rajas (rulers) of abolished States were given government jobs and maintenance allowances. Two additional districts Ghizer and Ganche were created.

1977 Imposition of Martial Law and Zone E: When General Zia-ul-Haq imposed Martial Law in Pakistan the GB was declared as Zone-E and imposed Martial Law in the area. This was the first major step towards the deviation of Pakistan's stand about on GB with regard to

Kashmir issue. The representatives from GB were included in the Majlis-e-Shura.

1985 Appointment of Advisor to Kashmir Affair: A high power Committee was constituted by the government including Federal Secretaries of Finance, Planning, Law, Interior, Education, and Kashmir Affairs and Northern Areas (KA&NA) for introducing the reforms in GB. On recommendations of the committee a representative from Northern Areas Aga Ahmad Ali Shah was appointed as Advisor to Minister Kashmir Affairs.

1988 Appointment of Advisor to Prime Minister: The democratic government of Ms. Benazir Bhutto appointed an elected representative of Northern Areas Council Mr. Qurban Ali as Advisor to Prime Minister with equal status of a State Minister.

1994 Benazir Bhutto Introduced Reforms: The Federal Cabinet approved a “Reforms Package” as Legal Framework Order 1994 through which Northern Areas Rules of Business were Framed, Chief Secretary and Civil Secretariats were established and judicial reforms were introduced. The post of Judicial Commissioner was abolished, and a 3-member Chief Court was constituted under the chairmanship of a retired Judge. Any senior judicial officer belonging to federation or the provincial High Court was eligible to be deputed as member of the Chief Court, whereas a District Session Judge from the Northern Areas is eligible to be its member.

1999 Delegation of Legislative Powers to the NALC: The LFO of 1994 was amended by empowering the Northern Areas Legislative Council (NALC) to legislate on 49 subjects as envisaged in schedule –II of the LFO.

2005 Establishment of Apex Court: Northern Areas Court of appeals was established in addition to increasing number of six (6) reserved seats for technocrats and one additional seat for women in Northern Areas Legislative Council.

2006 Empowerment of NALC: Six (06) Advisors were appointed from the NALC members and NALC members brought at par with members of AJ&K Assembly for pay and privileges.

2007 Changing Name of NALC: The Northern Areas Legal Framework Order 1994 was renamed as Northern Areas Governance Order 1994 and amended, similarly NALC was renamed as Northern Areas Legislative Assembly.

4- Political Movements

Demand for fundamental human, political and constitutional rights was raised by the local people of GB time to time without any significant revolt against the government of Pakistan but peaceful political and constitutional efforts continued. During the course some organized and unorganized reactions erupted in the area against the decisions of officers appointed by the government of Pakistan but these issues were resolved through interventions from Islamabad.

Colonel Mirza Hasan Khan an ex-officer of State Army and one of the heroes of the freedom war of Gilgit-Baltistan established a political party “The Gilgit League” in 1957 against the FCR and the party demanded political freedom and democratic rights for the people of GB. This was the first political organization established by the inhabitants of Gilgit and Baltistan in the area but was not registered under the Pakistani constitution. After the 1958 Martial Law, the organization was banned, and Col Mirza Hasan joined Civil Services of AJ&K in 1961. Mirza Hasan then joined Pakistan People’s Party and was arrested by ZA Bhutto regime on political differences in 1973 and put in jail¹⁰.

In early seventies on dismissal of the headmistress of Girls School Gilgit, a local delegation went to see the Political Agent of Gilgit; the officer insulted the local delegation. This triggered violence in the whole area. As a result, a nationalist organization “Tanzeem-e-Millat¹¹” was established and violence erupted in the whole area. During the violence one protester Mr. Rajab was killed by the government officials and arrested the top leadership of the organizations. People attacked on Gilgit Jail and set freed their arrested leaders. Some of the top leaders of the organization were re-arrested and placed in Pakistani Jails including Haripure Jail in NWFP. This was a significant mass mobilization and political movement against the FCR and against the powers exercised by the Political Agent. The first lawyer of Gilgit-Baltistan Mr. Johar Ali was the leaders of TEM movement. This moment was diluted through abolition of FCR and introduction of administrative reforms by ZA in 1972.

Later Mr. Johar Ali with his comrades established a political organization named “Gilgit-Baltistan Jamhoori Mahaz”. His party started educating local people on their basic political and constitutional rights and staged several demonstrations against the policies of Government of Pakistan. In 1973, Mr. Johar Ali joined Pakistan People Party. He never practiced law in the court and did not recognize the state courts as constitutional setup. In eighties he was isolated from government affairs and official functions because of his nationalist ideology. He died in early nineties but still he is considered as symbol of nationalism in the area and got status of a saint for many people.

10 Wajahat Hassan son of Mirza Hasan in a personal interview for this paper

11 The organization was established in Gilgit with the name of Tanzeem-e-Millat in 1971. Tanzeem-e-Millat is an Urdu term refers to an organization of people belongs to a nation (nationalists). The objective of the organization was to eliminate State Subject Rule and get constitutional status.

5- The Gilgit-Baltistan Empowerment and Self-Governance Order 2009

The federation of Pakistan comprises of four provinces and for all practical purposes four non-provincial units, namely FATA, Northern Areas (GB), Azad Jammu and Kashmir and the Islamabad Capital Territory. The people of the Gilgit-Baltistan have been living in a constitutional vacuum for over 60 years; they are neither represented in the parliament, nor given the constitutional mandated to the local assembly. Whereas the Azad Jammu and Kashmir (AJK) have an elaborate governance structure operating under an Interim Constitution enacted by the Legislative Assembly in 1974. Even Indian-held J&K is tied to the Indian Constitution under Article 370 and has its own State Constitution (1957) – which made the status of the GB, quite illogical and unjustified even more disputed than the other disputed parts of the former princely state of Jammu & Kashmir. The other two parts the Capital Territory and the FATA have their representatives in the Parliament and the Senate.

The Gilgit-Baltistan Empowerment and Self Governance Order 2009 was introduced in August 2009 which is heavily influenced by the AJK setup and provincial setups of Pakistan. It explains that on continues demand of local people, the democratic government of Pakistan has decided to take the GB further towards full internal autonomy and bring it at par with the provinces of Pakistan but not a province. It clearly explains that GB is not part of Pakistan in terms of Article-1 of the Constitution of Islamic Republic of Pakistan which spell out the territorial limits of the country. However, the present package of reforms is in-fact further up gradation of what the Northern Areas Council Legal Framework Order 1994 and the Northern Areas Governance Order 2007 offers.

The Prime Minister of Islamic Republic of Pakistan constituted a high powered Committee under the Chairmanship of Minister for Kashmir Affairs and Northern Areas. The DG Inter Services Intelligence (ISI) and Intelligence Bureau (IB) were the members of this Committee along with Minister for Foreign Affairs, Minister for Law and Justice, Secretary Law and Justice, Secretary Cabinet, Secretary KANA and Advisor for Interior. In its various sittings the Committee discussed the present status and the reforms introduced so far in the Northern Areas and consulted informally the members of Northern Areas Legislative Assembly and the like minded public opinion leaders from different for drafting the Gilgit-Baltistan Order 2009. The draft reforms package was vetted by the Law and Justice Division and approved by the Cabinet.

Under the Gilgit-Baltistan Empowerment and Self-governance order 2009 the name of the area has been changed from Northern Areas to Gilgit-Baltistan, Offices of Governor, Chief Minister and Ministers are created. On pattern of AJK Council the Gilgit-Baltistan Council headed by the Prime Minister of Pakistan was introduced, the Gilgit-Baltistan Assembly is delegated with the powers of approving budget, the concept of Consolidated Fund was introduced and the legislative powers of the Assembly are increased from 49 to 61 subjects along with powers to legislate on all other subjects not in the domain of the Gilgit-Baltistan Council. Gilgit-Baltistan

Council has the power to legislate on 55 subjects. The detailed functions and procedures of running various organs of Gilgit-Baltistan's government in light of Gilgit-Baltistan Empowerment and Self-Governance Order 2009 will be laid down in Gilgit-Baltistan Rule of Business 2009 and system of Financial Management and Budgeting which in accordance with Article 22 (5). The GB Assembly will formulate its own Rules of Procedures while legislation on various subjects pertinent to governance will be done by the Council and Assembly in their respective jurisdiction.

1- Gilgit Baltistan Assembly

The Legislative Assembly shall consist of thirty three members of whom-

(a) Twenty four members shall be elected directly on the basis of adult franchise

(b) Six women members shall be elected on the pattern as in case of reserved seat in Pakistan. One additional women seat (total 07) was created for newly created district of Hunza Nagar.

(c) Three technocrats and professional members shall be elected on the pattern as in case of reserved seat in Pakistan.

The Assembly will have its Chief Minister, Speaker and Deputy Speaker elected by the house. The lower house will have 61 subjects for legislation given in the fourth schedule of the presidential order. Mr. Mehdi Shah has been elected as Chief Minister¹², Mr. Wazir Beig as Speaker and Mr. Jamil Ahmad as Deputy Speaker.

2- Gilgit Baltistan Council

Gilgit Baltistan Council shall consist of the following members

Prime Minister of Pakistan

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

The Prime Minister of Pakistan shall be the Chairman of the Council whereas The Governor shall be the Vice-Chairman of the Council and the Minister of State for Kashmir Affairs and Gilgit-Baltistan shall be an ex officio non voting member of the Council. The council will legislate in 55 subjects given in the third schedule of the Presidential order. The Governor

¹² Mr. Mehdi Shah is native of Baltistan educated in local school and completed Secondary School Certificate course, he studied in Intermediate College Skardu (Baltistan) but did not complete the intermediate course. He served in one of the schools of Baltistan for a couple of years as teacher and then joined Pakistan People Party.

shall be appointed by the President of Pakistan on advice of the Prime Minister. The Federal Minister Information (Ex-Minister Kashmir Affairs and Northern Areas) Mr. Qamar Zaman Kaira has been appointed as interim Governor till the appointment of a local Governor from GB. On December 27, 2009 the President of Pakistan has announced that the new Governor of GB will be a woman.

The appointments on constitutional positions like Governor, Chief Court with provision of 5 Judges, Auditor General, Chief Election Commissioner and Chairman Public Service Commission enhance credibility of the reforms and provide relief to the people of Pakistan similar to the people in other provinces.

3- Stakeholder's Views

The GB Empowerment and Self-Governance Order 2009 was appreciated and welcomed by large segments of the society including media, civil society and political parties of Pakistan in general. However, some segments of right wing political parties have shown their reservations referring the reforms as deviation from the principal stand of Pakistan on Kashmir issue and raised their concerns on the process of consultation through which the reforms prepared and introduced. On the basis of stakeholders view three main arguments were phrases as:

- 1- Majority in general and insiders of the area in particular have the opinion that the present reforms is a right step and timely decision of the government of Pakistan and sufficient to bring the people of GB at par with other provinces.
- 2- A considerable number of opinion leaders inside the GB and outside have the opinion that the present reforms is a positive step of the government but insufficient to bring the area at par with other provinces because this does not provide any assurance of parity.
- 3- The third group mainly people from civil society and human rights organization express the opinion that the present reforms is an eye wash and demands for more concrete steps like changing and amendments in the constitution of Pakistan to include the area as its constitutional parts.

Main political parties of Chartered of Democracy (CoD) signed between Benazir Bhutto and Nawaz Sharif on May 14, 2006 considers the reforms as implementation of its sub- clause- (9) under the heading constitutional amendments says “Northern Areas shall be developed by giving it a special status and further empowering the Northern Areas Legislative Council to provide people of Northern Areas access to justice and human rights”.

The only opposition against the reforms came from political parties of Jammu and Kashmir except PPP AJK from both sides of Line of Control. In a conference of stakeholders called by National Press Club Islamabad facilitated by Lord Nazeer of UK which was attended by more than twenty representatives of major political parties from AJK where all the Kashmiri leaders showed their reservations with the plea that the “*reforms are equivalent to taking out Gilgit Baltistan from Kashmir issue*”. Some of the leaders including the nationalists and mainstream political parties like Jammu and Kashmir Muslim Conference declared that they were not taken

into confidence and the action of Pakistan would give an upper hand to India as it wants the existing line of control to be accepted as international border.

Recently Blour¹³-Jammu and Kashmir All Parties National Alliance (APNA) arranged a stakeholder's dialogue in National Press Club Islamabad. During the dialogue the following main statements/suggestions came out:

- 1- Mr. Nadir Hasan a nationalist leader from GB representing two Thinker Forums said that "we welcome the reforms but we need more, an independent interim local government of Gilgit-Baltistan is our right according to UNCIP Resolutions".
- 2- Professor Khaliq a nationalist leader of Kashmir said "any party or a group has no right to change the status of either part of the disputed territory including Gilgit-Baltistan if done this would not be a justified act".
- 3- Choudhary Munir advocate Kashmiri Nationalist went to the extent that "Azad Jammu and Kashmir should be merged in Gilgit-Baltistan to intact the integrity of the state and on all the important positions like President and Prime Minister should be appointed from the integrated area (GB).

Former AJK Prime Minister and President, Muslim Conference, Sardar Attique Ahmed Khan welcomed the reforms package saying "I fully support the reforms package as it was the need of hour to empower the people of Gilgit and Baltistan because their rights were being denied for the last 65 years,".

Terming the Gilgit-Baltistan reforms as a 'colonial-type' package, the Jammu and Kashmir Liberation Front (JKLF) has said that it would stage a long march to Islamabad demanding the withdrawal of the package. JKLF president Syed Faisal Nazki said that "The Kashmiris considered the Gilgit-Baltistan package as an attempt to divide their homeland".

A Quetta-based development analyst, Syed Fazl-e-Haider said that the reforms, which were announced, are targeted at providing an enhanced security cover for the region which has seen some massive Chinese investments in the recent past... Both Beijing and Islamabad are also planning to link the Karakorum Highway (KKH) to the southern Pakistani port of Gwadar in southwestern Balochistan province through the Chinese-built Gwadar-Dalbandin railway, which extends up to Rawalpindi (ANI).

The Indian Government summoned the Deputy High Commissioner of Pakistan Riffat Masood and registered its strong protest against the Government of Pakistan's "Gilgit-Baltistan Empowerment and Self Governance Order -2009". An Indian government spokesman described the "Gilgit-Baltistan Empowerment and Self Governance Order -2009" was yet another cosmetic exercise intended to camouflage Pakistan's illegal occupation of the region (ANI).

Pakistan Army also has a stake in the area in-terms of deployment of soldiers in the border area of GB including Siachen Glacier, and

13 Blour is an old name of Gilgit-Baltistan

establishment of the Headquarter Force Commander (Maj. General) Northern Areas in GB but no clear statement released on the reforms package. The landline telephone communication system is still under army control in GB.

4- People of Gilgit-Baltistan

Though the opinion is divided among the masses about the reforms package however, in general the people of GB have high expectations in this regards. Majority of the people have ambitious and expectations to be part of Pakistan as a province, it was proved in the elections where people participated in high number in polling. Some of the highlights of the expectations of people of GB are presented as under because the reforms are in the initial stage of implementation phase:

- 1- The reforms would give the area provincial status within the constitutional jurisdiction of Pakistan
- 2- The powers will be shifted to Gilgit Baltistan and undue interference of Ministry of Kashmir Affair and Northern Areas (KA&NA) in the petty issues of the area will end.
- 3- The reforms package will provide means and ways to the people of Gilgit and Baltistan to be part of the national legislature of Pakistan i.e. National assembly and Senate.

5- Challenges

Apparently there is no opposition and disagreement on the contents, proposals and language of the reforms 2009. However, the package is not without challenges and difficulties in terms of its implementation and smooth sailing.

Legal and constitutional protection

The reforms package has been promulgated through a presidential order after its approval by Federal Cabinet. The reforms were not presented before either house of the parliament with the plea that the area does not come under the purview of Pakistan's legislature and cannot be discussed there. According to the constitution of Pakistan the president has an authority to issue orders through Ordinances whereas the same would have to be placed before the parliament for its approval with simple majority to make it an Act of the Parliament before 120 days after the ordinance was issued. In the recent past, the National Reconciliation Ordinance (NRO) issued by Ex-President Musharaf could not get approval of the parliament and become nullified. The executive order of the President has no legal and constitutional binding on future governments to continue the reforms.

Integration into the Federation

Gilgit-Baltistan has been gradually upgraded to the status of an administrative unit on the pattern of a province from 1972 to 2009 through various reforms. All the reforms were extra constitutional and out of the framework of settlement of Kashmir issue provided under the UNCIP resolutions. As a separate administrative unit the area has to function like other provinces in Pakistan without its representation in the legislative bodies like national Assembly and Senate. After the elections in Gilgit Baltistan, the Chief Minister of GB has been invited to participate in the meetings of Federal Cabinet as an observer that has also provided with an opportunity to interact with the top decision makers of Pakistan. Interestingly all the major political parties of Pakistan including Pakistan People Party and Muslim League (N) already integrated GB in their Central Executive Committee providing opportunity to participate in the national decision making processes. The representation in other forums like National Finance Commission (NFC) where all the Finance Ministers of provinces and Federal Finance sit and decide about distribution of financial resources among federating units is yet to be materialized. Even if the area is included in NFC, as non constitutional unit under the Article 160(1) of the 1973 constitution the representatives of GB would have no equal say in the forum where decisions are made on majority vote basis.

Taxation and revenue generation

As an administrative unit with its own governance structure the government of GB would be generating its financial resources to make its budget which is based on its resources besides the GB Consolidated Fund. To this effect the newly established government of Gilgit Baltistan and all future government would impose local taxes on public which would be highly unpopular decisions in a least developed area where economic opportunities and tax related institutional capacities are minimal and the

people are living in non tariff area where a tax holiday is going on for the last 6 decades. The revenue generation and tax imposition would make the reforms unpopular among the masses. The GB government seems reluctant to imposed taxes like, income tax, sale tax, wealth tax because some of the members are planning to move a bill in the first sessions of the Assembly for removal of tax on importing goods from China¹⁴. The excise and taxation department has already established excise and taxation department in Gilgit recently under the Finance department and planning to expend it to other districts. The current function of the department is to collect only the vehicle token (private vehicle ownership tax) which was collecting by the traffic police for several years. Since a couple years people of GB are demanding removal of the custom on import of goods from China for GB consumption. A few years back tax was introduced through telephone bills but people resisted and this tax was withdrawn.

Defining roles and responsibilities

The reforms were introduced in a simple presidential order and no debate has taken place on pros and cons of the initiative. There are some drastic changes in the reforms where a Governor and Federal Minister would be working parallel one as In-charge of the Gilgit Baltistan Secretariat and the other as Deputy Chairman as well as head of the Government of Gilgit Baltistan. As the Gilgit Baltistan has been ruled by the Ministry of Kashmir Affairs for long time and the new governance structure with ambiguities and anomalies in roles and responsibilities among different offices would cause delays in delivery of services which would ultimately affect the performance of the government and effectiveness of the reforms.

¹⁴ Views of elected member Mirza Hussain of PML (Q)

6- Elections of Gilgit Baltistan 2009

With the announcement of the Gilgit Baltistan Self governance Order 2009 the existing Northern Areas Legislative Assembly was dissolved and date for new elections was announced. Though an independent Chief Election Commission for GB was appointed from Islamabad under the self governance order section 82 but the elections were held under the previous arrangement (Voter's lists existing limitations of constituencies). The election were held on November 14, 2009 for 23 GBLA seats (in one constituency the election were postponed due to death of MQM candidate)

Table showing the party position in Elections of GBLA

Party Positions in GBLA

A total number of 256 candidates contested elections for the 23 legislative assembly seats after weeks of campaigning. The total number of registered voters in the GB is over 700,000 and votes were cast in nearly 1000 polling stations. Ten political parties including the PPP, PML-N , PML-Q , MQM , JUI-F , JI , ANP , PTI and the Gilgit-Baltistan Democratic Alliance nominated 91 candidates and 165 independent candidates contested the elections.

Pakistan People's Party (PPP)

Party	General Seats	Women	Technocrats	Total
Pakistan People's Party	14	4	3	21
Pakistan Muslim League (Q)	2	1		3
Pakistan Muslim League (N)	2			2
Jamiat Ulema -e- Islam	3	1		4
Mutaihida Qaumi Movement	1			1
Independent	2			2
Total	24	6	3	33

Pakistan People's Party has been emerged as largest single party in the elections of GBLA as it won 14 seats out of its total 23 candidates fielded. This party has been pioneer in introducing party based elections in the region and has introduced reforms during its tenure as ruling party in Pakistan. It has two members from Gilgit Baltistan in its Central Executive Committee (CEC) at national level. The party has strong position in all the Districts due to its reforms in 70's and afterwards.

Pakistan Muslim League Quaid-I- Azam (PMLQ)

PMLQ is formed of the leaders of Pakistan Muslim League defected during Musharaf Regime and some ex- leaders of defunct Tehreek -e- Jafaria (TJ) after it was banned in Pakistan. The party could get 2 general seats out of its 14 candidates contesting elections and a women seat in the elections of special seats. PMLQ had a credit of development of the area in road communication and other infrastructure during the Musharaf era.

Pakistan Muslim League Nawaz (PMLN)

Pakistan Muslim League Nawaz contested the elections for 15 seats and won only 2 in the GBLA. The party has representation in its Central Executive Committee at National level from Gilgit Baltistan and enjoys support of people in some of the areas like Gilgit and Diamer districts.

Jamiat Ulema –e- Islam Fazal u Rehaman (JUIF)

JUI has support of local Sunni Muslims particularly in Diamer District. The party got two general seats and a women seat in the elections. JUI will be a potential ally in the new government as per the understanding of the party with ruling PPP.

Mutahida Qaumi Movement (MQM)

Mutahida Qaumi Movement is a new addition in the politics of Gilgit Baltistan. MQM had fielded 20 candidates which is second largest after people's party and won a single seat. The party is supported by the people of Gilgit Baltistan settled in Karachi and the local youth. Though the party has got only one seat in the elections but the political analyst predict the region being fertile for the slogans of MQM in future.

Gilgit Baltistan Democratic Alliance (GBDA)

GBDA is an alliance of the nationalists parties like e.g Karokram National Movement, Balawaristan National Front (Hamed Group) etc. They had fielded 10 candidates and boycotted the elections in some of the constituencies as protest upon police action against their office bearers and polling offices on November 1, 2009 on the occasion of Independence Day of Gilgit Baltistan. However, the alliance contested election but could not get a single seat.

Balawaristan National Front(Nawaz)

Balawaisrtan National front (Naji) was the only nationalist party with demand for total autonomy of the region had fielded 4 candidates and lost all the seats.

Apart from the above local and Political parties Tehreek e Insaaf, Awami national Party and Jamat-e- Islami also contested the elections but could not win a single seat.

Independent Observers

The Free and Fair Election Network (FAFEN), a coalition of thirty leading Pakistani civil society

Organizations, was established in 2006 to observe election processes, educate voters, and advocate for electoral and democratic reform. FAFEN had deployed 23 constituency coordinators in as many constituencies and about 150 Election Day Observers who observed more than 600 of a total of 1022 polling stations. The Chief Election Commissioner Gilgit-Baltistan had instructed the District Election Commissioners/Deputy Commissioners to facilitate FAFEN observers to that effect. The Chief Secretary also supported for independent observation of the electoral exercise.

7- Recommendations

- 1- The entire government machinery in Gilgit Baltistan has been working under a bureaucratic atmosphere and is not used to work in a democratic environment. Through various reforms the power delegated to the NALC regarding legislation were not really exercised during the period because of a strong bureaucratic setup of the federal government in the area and the lacking institutional capacity of the NALC. The capacity of the local institutions (GBLA) should be built so that they could deliver according to the requirements of the new reforms.
- 2- The role of GBLA has now been changed from a development oriented platform to a law making body while the members of GBLA are still with the agenda of development projects to their respective constituencies. The change of approach of members from development of their constituencies to policy making would be a challenging task to make GBLA an effective legislature. Orientation and capacity building of members of GBLA should be considered a priority to make the GBLA an effective body.
- 3- Addition of the Gilgit Baltistan in Article 1 of the 1973 Constitution as territory on provisional basis – subject to final resolution of the Kashmir dispute – and provide the people of NA representation in the National Assembly and the Senate of Pakistan as a federating unit and on adult franchise basis. GB has before the precedent of a border agreement between Pakistan and China signed in 1968, which is also provisional and is subject to revision upon resolution of the Kashmir dispute. If the Government of Pakistan can enter into an agreement concerning territories of Gilgit-Baltistan with a third party, there is no justification for not entering into an accord with its own people, and providing them their due representation in the law making, judicial and decision making bodies of their country.
- 4- The consultation process adopted for preparation of reforms package was criticized by various stakeholders including the people of GB because the reforms are significantly impacting lives of 1.5 million people directly, if taken into confidence the local people and the main stakeholder before announcing the reforms may create ownership and positive impression on the role of Government of Pakistan.

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Annexure

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THIRD SCHEDULE

COUNCIL LEGISLATIVE LIST

[See Article 47(2) (a)]

1. Post and telegraphs, including telephones, wireless, broad-casting and other like forms of communications; Post Office Saving Bank.
3. Public debt of the Council, including the borrowing of money on the security of the Council Consolidated Fund.
4. Council public services and Council Public Service Commission.
5. Council pensions, that is to say, pension's payable by the Council or out of the Council Consolidated Fund.
6. Administrative courts for Council subjects.
7. Council agencies and institutions for the following purpose, that is to say, for research, for professional or technical training, or for the promotion of special studies.
8. Nuclear energy, including.-
 - (a) mineral resources necessary for the generation of nuclear energy;
 - (b) the production of nuclear fuels and the generation and use of nuclear energy; and
 - (c) ionizing radiations.
9. Aircraft and air navigation; the provision of aerodromes; regulations and organization of air traffic and of aerodrome.
10. Beacons and other provisions for safety of aircraft.
11. Carriage of passengers and goods by air.
12. Copyright, inventions, designs, trademarks and merchandise marks.
13. Opium so far as regards sale for export.
14. Banking, that is to say, the co-ordination with the Government of Pakistan of the conduct of banking business.
15. The law for insurance and the regulation of the conduct of insurance business.
16. Stock-exchange and future markets with object and business not confined to the areas comprising Gilgit-Baltistan. .
17. Corporations, that is to say, the incorporation regulation and

winding up of trading corporations including banking, insurance and financial corporations, but not including corporations owned or controlled by the Provincial Government of Gilgit-Baltistan and carrying on business, co-operative societies, and of corporations, whether trading or not, with object not confined to the Gilgit-Baltistan, but not including universities.

18. Planning for economic coordination, including planning and coordination of scientific and technological research.
19. Highways, continuing beyond the territory of the Gilgit-Baltistan excluding roads declared by the Government of Pakistan to be strategic importance.
20. Council surveys including geological surveys and Council meteorological organizations.
21. Works, lands and buildings vested in, or in the possession of the Council, for the purpose of the Council (not being Military, Naval or Air Force works), but as regards property situated in the Gilgit-Baltistan, subject always to law made by the Legislative Assembly, save in so far as law made by the Council otherwise provides.
22. Census.
23. Establishment of standards of weights and measures.
24. Extension of the powers and jurisdiction of members of a police force belonging to the Gilgit-Baltistan or any Province of Pakistan to any area in such Province or the Gilgit-Baltistan, but not so as to enable the police of the Gilgit-Baltistan or such province to exercise powers and jurisdiction in such Province or the Gilgit-Baltistan without the consent of the Government of that Province or the Gilgit-Baltistan; extension of the powers and jurisdiction of members of a police force belonging the Gilgit-Baltistan or a Province of Pakistan to railway areas outside the Gilgit-Baltistan or that Province.
25. Election to the Council.
26. The salaries, allowances and privileges of the members of the Council and Advisors.
27. Railways.
28. Mineral oil natural gas; liquids substances declared by law made by the Council to be dangerously inflammable.
29. Development of industries, where development under Council control is declared by law made by Council to be expedient in the

public interest.

30. Removal of prisoners and accused persons from the Gilgit-Baltistan to Pakistan or from Pakistan to the Gilgit-Baltistan.
31. Measures to combat certain offences committed in connection with matters concerning the Council and the Government and the establishment of police force for that purpose or the extension to the Gilgit-Baltistan of the jurisdiction of police force established in Pakistan for the investigation of offences committed in connection, with matters concerning the Government of Pakistan.
32. Prevention of the extension from the Gilgit-Baltistan to Pakistan or from Pakistan to the Gilgit-Baltistan of infections or contagious diseases or pests affecting men, animals or plants.
33. Boilers.
34. Electricity and bulk water storage.
35. Newspapers, books and printing presses.
36. Works, lands and buildings vested, or in the possession of Government for the purpose of Gilgit-Baltistan Council (not being air force, military or navel works) save in so far as the Council Act otherwise provides.
37. Curriculum, syllabus, planning, policy, centers of excellence and standards of education.
38. Sanctioning of cinematography films for exhibition.
39. Tourism.
40. Forest.
41. Minerals and Mineral Wealth.
42. Duties of customs, including export duties.
43. Duties of excise, including duties on salt but not including duties on alcoholic liquors, opium and other narcotics.
44. Taxes on income other than agricultural income.
45. Taxes on corporations.
46. Taxes on the sale and purchases of goods and services imported, exported, produced, manufactured or consumed.
47. Taxes on the capital value of the assets, not including taxes on capital gains on immovable property.
48. Taxes and duties on the production capacity of any plant, machinery, under taking, establishment or installation in lieu of the taxes and duties specified in entries 42 and 43 or in lieu of

either or both of them.

49. Terminal taxes on goods or passengers carried by railway or air, taxes on their fares and freights.
50. Fees in respect of any of the matters enumerated in this list, but not including fees taken in any court.
51. Jurisdiction and powers of all courts with respect to any of the matters enumerated in this list.
52. Offences against laws with respect to any of the matters enumerated in this list.
53. Inquires and statistics for the purpose of any of the matters enumerated in this list.
54. Matters which under the Act are within the legislative competence of the Council or relates to the Council.
55. Matter incidental or ancillary to any of the matters enumerated in this list.

FOURTH SCHEDULE

ASSEMBLY LEGISLATIVE LIST

[See Article 47 (2) (b)]

1. Public order (but not including the use of Naval, Military, Air Force, or any other armed forces of the Federation in aid of the civil power).
2. Preventive detention for reasons in connection with the maintenance of public order; persons subjected to such detention.
3. Prisons, reformatories, borstal institution and other institutions of a like nature and persons detained therein, arrangements with other provinces for the use of prisons and other institutions.
4. Land, that is to say, rights in or over land; land tenures, including the relation of landlord and tenant, and the collection of rents; transfer, alienation and devolution of agricultural land; land improvement and agricultural loans; colonization.
5. Land revenue, including the assessment and collection of revenue, the maintenance of land records, survey for revenue purpose and records of rights and alienation of revenues.
6. Works, lands and buildings vested in or in the possession of the Gilgit-Baltistan Administration.
7. Compulsory acquisition or requisitioning of property.
8. Agriculture, including agricultural education and research protection against pests and prevention of plant diseases.
9. Local Government, that is to say, the constitution and powers of municipal corporations, improvement trusts, district council's settlement authorities and other local authorities for the purpose of local self-government or village administration.
10. Preservation, protection and improvement of stock, and prevention of animal diseases; veterinary training and practice.
11. Pounds and the prevention of cattle trespass.
12. Drinking water supplies, irrigation and canals, drainage and embankments; flood control.
13. Libraries, museums and ancient and historical monuments.
14. Botanical, zoological and anthropological surveys.
15. Theaters; cinemas; sports; entertainments and amusements.
16. Public health and sanitation; hospitals and dispensaries.
17. Registration of births and deaths.
18. Burials and burial grounds; cremations and cremation grounds.
19. Relief of the disabled and un-employed.
20. Intoxicating liquors, that is to say, the production, manufacture, possession, transport, purchase and sale of intoxicating liquors and other narcotic drugs.
21. Markets and fairs.
22. Money lending and moneylenders; relief of indebtedness.
23. Protection of wild animals and birds.
24. Prevention of cruelty to animals.

25. Adulteration of food-stuff and other goods.
26. Betting and gambling.
27. Fisheries.
28. Professions.
29. Inns and in-keepers.
30. Orphanages and poor houses.
31. Taxes on agricultural income and on the value of agricultural land.
32. Lunacy and mental deficiency including places for reception of treatment of lunatics and mental deficient.
33. Duties in respect of succession to agricultural land.
34. Estate Duty in respect of agricultural land.
35. Taxes on lands and buildings.
36. Taxes on advertisement.
37. Taxes on goods and passengers carried by road or on inland waterways.
38. Taxes on vehicles, whether mechanically propelled or not, suitable for use on a road; on boats, launches and steamers on inland water; on tram cars.
39. Taxes on animals and boats.
40. Tolls.
41. Capitation taxes.
42. Taxes on luxuries, including entertainments and amusements. Taxes.
43. Taxes on profession, trades, callings and employment.
44. Relief of poor; un-employment.
45. Offences against laws with respect of any of the matters in this list.
46. Inquiries and statistics for the purpose of any of the matters in this list.
47. Cesses on the entry of goods into a local area for consumption, use or sale therein.
48. The salaries, allowances and privileges of the Speaker, Deputy Speaker, Chief Minister, Ministers and Members of the Assembly.
49. Dues on passengers and goods carried on roads or inland waterways.
50. Management of Gilgit – Baltistan Consolidated Fund.
51. Environmental pollution and ecology.
52. Population planning and social welfare.
53. The setting up and carrying on of labour exchanges, employment information bureaus and training establishments.
54. Regulation of labour and safety in mines and factories.
55. Trade unions; industrial and labour disputes.
56. Gilgit–Baltistan public services and Public Service Commission.
57. Gilgit–Baltistan pensions, that is to say, pension payable out of Gilgit–Baltistan Consolidated Fund.
58. Administrative Courts for subjects within purview of Gilgit – Baltistan Legislative Assembly.
59. Gilgit–Baltistan agencies and institutions for the following purpose, that is to say, for research, for professional or technical training, or for the promotion of special studies.

60. Fees in respect of any of the matters enumerated in this list, but not including fees taken in any court.

61. Jurisdiction and powers of all Courts with respect to any of the matters enumerated in this list.

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