



## Gilgit-Baltistan and Pakistan: A Constitutional Dilemma in the Shadow of Kashmir

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### **Abstract**

*This article examines the constitutional status of Gilgit-Baltistan (GB) within Pakistan, focusing on the governance challenges and ambiguities stemming from its association with the Kashmir dispute. Despite GB's distinct historical and political trajectory, its constitutional position remains undefined. The region achieved independence through a local uprising shortly after Pakistan's inception and voluntarily acceded to Pakistan on November 16, 1947, following a brief period as an autonomous state. In contrast, Azad Jammu and Kashmir (AJK) gained autonomy through the Pakistan-India war and operates under its own constitution (enacted in 1974).*

*Gilgit-Baltistan, however, remains neither a province nor an autonomous region. It is governed through presidential orders that have established a legislative assembly with limited powers and*

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*judicial bodies such as the Chief Court and Supreme Appellate Court. These courts lack constitutional authority, as GB falls outside the ambit of Pakistan's 1973 Constitution. The GB Governance Order, therefore, functions as the region's supreme law, while the 1973 Constitution is selectively applicable and requires formal validation for enforcement. The constitutional ambiguity surrounding GB is closely tied to the unresolved Kashmir conflict. This article proposes that granting GB provisional provincial status with enhanced legislative and administrative powers could serve as an interim solution, addressing the aspirations of its residents while preserving Pakistan's diplomatic stance on the Kashmir issue.*

**Keywords:** *Gilgit-Baltistan, constitutional ambiguity, governance, Kashmir dispute, provisional provincial status, Pakistan.*

## **Introduction**

Gilgit-Baltistan (GB), formerly known as the Northern Areas, is a region characterized by limited autonomy and self-governance. Spanning an area of 72,971 square kilometers,<sup>1</sup> GB comprises three divisions and ten districts. Historically, the region's journey toward integration with Pakistan began in 1947 when the people of GB revolted against the rule of Maharaja Hari Singh under the leadership

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<sup>1</sup> Muhammad Shafique and Gohar Ali Iftikhar, "Regional Dynamics of China Pakistan Economic Corridor: The Case of Gilgit-Baltistan," *Journal of Historical Studies* 3, no. 2 (2017). [https://jhs.bzu.edu.pk/upload/vol%2011-17\\_2.%20Cepc%20Article.pdf\\_17.pdf](https://jhs.bzu.edu.pk/upload/vol%2011-17_2.%20Cepc%20Article.pdf_17.pdf)

of Colonel Mirza Hassan Khan and other prominent figures. On October 31, 1947, Brigadier Ghansara Singh, the Maharaja's Governor of the Gilgit Agency, was taken into custody, and the region declared its independence on November 1, 1947. For 16 days, Gilgit functioned as a sovereign state with Shah Raees Khan as its president and Colonel Mirza Hassan Khan as the army chief of the Gilgit Scouts, a precursor to the modern-day Northern Light Infantry Regiment. On November 16, 1947, the leadership of Gilgit voluntarily acceded to Pakistan unconditionally. However, the region's constitutional ambiguity persists due to its connection with the Kashmir dispute.<sup>2</sup>

Renowned for its breathtaking natural beauty, GB lies at the confluence of three major mountain ranges: the Himalayas, Karakoram, and Hindukush. Geographically, it shares borders with Afghanistan to the north, China to the northeast, Khyber Pakhtunkhwa to the west, and Azad Jammu and Kashmir (AJK) to the southeast. The current political structure of GB was formalized in 1970 under the leadership of Prime Minister Zulfikar Ali Bhutto, who merged the Gilgit Agency, Baltistan Agency, and the princely states of Hunza and Nagar into a single administrative unit, dismantling the

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<sup>2</sup>M. M. Asghar, Yasmin Roofi, Sarfaraz Batool and Muhammad Rauf, "Sectarian Diversity in Gilgit-Baltistan and Role of Successive Governments in Resolving the Conflict and Improving Harmony within the Region," *PalArch's Journal of Archaeology of Egypt* (2020).

[https://scholar.google.com/citations?view\\_op=view\\_citation&hl=en&user=IX\\_uOvUAAAAJ&citation\\_for\\_view=IX\\_uOvUAAAAJ:3fE2CSJlrl8C](https://scholar.google.com/citations?view_op=view_citation&hl=en&user=IX_uOvUAAAAJ&citation_for_view=IX_uOvUAAAAJ:3fE2CSJlrl8C)

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feudal system and the Frontier Crimes Regulation (FCR). Despite these reforms, GB remains entangled in constitutional ambiguity due to its association with the Kashmir conflict, a legacy of its inclusion in the princely state of Jammu and Kashmir under the Treaty of Amritsar in 1846.

GB's governance is currently regulated by the "Gilgit-Baltistan Governance Order 2018," which serves as the region's supreme law. This order provides limited legislative and administrative powers while excluding local institutions from amending the governance framework. The constitutional status of GB remains a point of contention, as the region falls outside the scope of Pakistan's 1973 Constitution, leaving its residents as *de facto*, but not *de jure*, citizens of Pakistan. The absence of constitutional integration has resulted in administrative challenges and limited representation in Pakistan's federal institutions.

In November 2021, the Gilgit-Baltistan Legislative Assembly (GBLA) unanimously passed a resolution demanding constitutional recognition, either as a fully integrated province or as an interim province with representation in Pakistan's Parliament. However, these demands remain unmet, leaving GB without voting representation in federal legislative bodies. Comparatively, non-voting representation exists in democratic states like the United States, where Puerto Rico's Resident Commissioner participates in Congress.

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The constitutional ambiguity of GB is further underscored by Article 257 of Pakistan's Constitution, which outlines the prospective relationship between Pakistan and Jammu & Kashmir upon the resolution of the Kashmir dispute, as per the aspirations of the region's people. However, Article 1(2) of the Constitution excludes GB and AJK from Pakistan's territorial framework, leading to conflicting interpretations of their status. Some argue that the regions are "otherwise included" under Article 1(2)(d), while others contend this interpretation is legally inaccurate. Notably, Article 257 envisions a "future" relationship contingent on the resolution of the Kashmir issue.<sup>3</sup>

Additionally, the violation of the State Subject Rule (SSR) of 1927 has exacerbated the socio-political challenges faced by GB. The SSR, originally designed to safeguard the rights of permanent residents of Jammu and Kashmir, prohibited non-residents from owning property, voting, contesting elections, or securing government jobs and scholarships. Its enforcement in GB historically protected local demography and resources. However, the rule's violation has led to concerns over land ownership, electoral rights, and access to public resources. Reinstating and enforcing a modified version of the SSR could restore public confidence and safeguard the rights of GB's

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<sup>3</sup> Nadeem Shaukat, & Pakistan. The Constitution of the Islamic Republic of Pakistan, 1973, 20th amendment. Legal Research Centre, (2012). <https://sbplibrary.sbp.org.pk/book/detail/89792/1>

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residents, addressing their longstanding grievances and ensuring constitutional and socio-political stability.<sup>4</sup>

In the context of international law, GB's unresolved status remains subject to the United Nations' resolutions on Jammu and Kashmir. Granting the region conditional constitutional recognition, either through devolution of powers to local institutions or provisional provincial status, could address its administrative challenges and align with broader international obligations.

### **Historical development in the Status Quo of Gilgit-Baltistan**

The history of Gilgit-Baltistan can be categorized into four distinct eras: the Ancient Era, spanning from the BC era to the 7th century; the Medieval Era, from the 8th to the 18th century, during which Islam was introduced to the region; the Dogra Rule, lasting from 1840 to 1947-48; and the Post-Liberation phase, from 1947 to the present.<sup>5</sup>

Between the 7th century and early 19th century, various dynasties ruled Gilgit-Baltistan, including the Tarkhans, Maghlots, Ayashos, Burshais, Maqpoons, Anchans, and Yabgos. The last Buddhist ruler,

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<sup>4</sup>Review of *State Subject Rule*. 1927.

[https://www.satp.org/satporgtp/countries/india/states/jandk/documents/actsandordinances/State\\_Subject\\_Rules.htm](https://www.satp.org/satporgtp/countries/india/states/jandk/documents/actsandordinances/State_Subject_Rules.htm).

<sup>5</sup> Hussain Abadi, Muhammad Yousuf. *Baltistan Book Depot* (Skardu). Skardu, Pakistan: *Baltistan Book Depot* (Skardu), 2003. [http://116.0.36.99:8080/cgi-bin/koha/opac-detail.pl?biblionumber=21653&shelfbrowse\\_itemnumber=21402](http://116.0.36.99:8080/cgi-bin/koha/opac-detail.pl?biblionumber=21653&shelfbrowse_itemnumber=21402)

Sri Badat, During his rule, Islam began to operate in Gilgit.<sup>6</sup> Prior to 1874, GB (Gilgit-Baltistan) and Jammu & Kashmir were distinct entities, ruled by a Hindu dynasty until the 14th century, and later by a Muslim dynasty until 1841. By 1842, Sikh rule extended to Gilgit after Raja Karim Khan of Nagar invited the Sikh ruler of Punjab to occupy the region, and the sikh ruler accompanying with Dogra commander Colonel Nathe Shah with forces to capture it.<sup>7</sup> The Treaty of Amritsar in 1846 transferred GB's sovereignty to Maharaja Gulab Singh, marking the beginning of Dogra rule. The region's natural beauty, resources, and strategic importance attracted British interest, leading to the First Anglo-Sikh War and solidifying the Treaty of Amritsar.<sup>8</sup> In 1937, British officials, wary of Russian expansion, convinced the Maharaja of J&K to relinquish civil and administrative authority to them. At independence, the province was returned to the Maharaja, amid ongoing regional instability.<sup>9</sup> The region was recaptured by Maharaja Ranbir Singh in 1860, which annexed it to the state of Jammu and Kashmir and established a Wazarat in Gilgit in 1866.<sup>10</sup> With the awakening of Muslims across the subcontinent,

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<sup>6</sup> Singh 1995,p.30,New Delhi

<sup>7</sup> FM Hussain, the northern gate of India, p. 150

<sup>8</sup> John F. Riddick, "The History of British India," *Praeger* (2006), <https://www.abebooks.com/9780313322808/History-British-India-Chronology-Riddick-0313322805/plp>

<sup>9</sup> Pushpam, Akshat , and Ramesh Kumar. Review of *Strategic Importance of Gilgit - Baltistan in India's*

*Neighborhood Foreign Policy*. ResearchGate,(October), 2021.

[https://www.researchgate.net/publication/363611069\\_Strategic\\_Importance\\_of\\_Gilgit\\_-Baltistan](https://www.researchgate.net/publication/363611069_Strategic_Importance_of_Gilgit_-Baltistan)

<sup>10</sup> ICG,Asia Report 31, 11 2007 p. 3



the people of Gilgit-Baltistan also rose against Dogra rule. They successfully defeated the Dogras on November 1, 1947, in Gilgit and declared their accession to the newly established state of Pakistan.<sup>11</sup> The rulers and people of the majority states like state of Hunza, Nagar, Yasin, and the tribal areas of Darel and Tangir also voluntarily acceded to Pakistan. The liberation struggle persisted, and on August 14, 1948, the Dogras were defeated in Baltistan (now the districts of Skardu, Ghanche, Shigar, and Kharmang), leading to the region becoming part of Pakistan.<sup>12</sup>

After gaining independence, Gilgit-Baltistan (GB) experienced various changes in its administrative and political status. Initially, the newly-formed Republic of Gilgit opted to accede to Pakistan, although the princely states of Hunza and Nagar within GB retained their autonomy until their formal annexation by Pakistan in 1974. Pakistan's strategic control of the region was motivated by its significant location between China, Afghanistan, and India. To manage the region's administration, Sardar Alam Khan was appointed as a political agent, and the area was governed under the Frontier Crimes Regulation (FCR) and other laws to maintain law and

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<sup>11</sup> Brown, William. "Gilgit Rebellion : The Major Who Mutinied over Partition of India." Pen et Sword, 2014. [http://www.worldcat.org/title/gilgit-rebellion-the-major-who-mutinied-over-partition-of-india/oclc/900436370&referer=brief\\_results](http://www.worldcat.org/title/gilgit-rebellion-the-major-who-mutinied-over-partition-of-india/oclc/900436370&referer=brief_results)

<sup>12</sup> Afridi, Banat Gul. Baltistan in History. 1St ed, Emjay Books International, 1988. <https://books.google.com.pk/books?id=mQFuAAAAMAAJ>

order.<sup>13</sup> Notably, Hunza, Nagar, and Baltistan remained independent for a period, maintaining diplomatic relations with Kashmir and China. Over time, however, these regions joined the Gilgit Agency and became part of Pakistan.

The political awareness of GB's residents remained limited until the completion of the Karakoram Highway in 1970, which increased connectivity and visibility for the region. Following the 1948 Kashmir war, which arose from Pakistan's objection to Maharajah Kashmir's unilateral accession to India, the Kashmir dispute remained unresolved. India's submission of the case to the United Nations (UN) led to a ceasefire and the adoption of two UN resolutions, declaring Kashmir and GB as disputed territories and calling for a plebiscite to determine their future. Both India and Pakistan failed to comply with the UN's directive to withdraw forces from these areas, and the status of GB remained unchanged, leaving its people deprived of basic and fundamental rights.<sup>14</sup>

In 1949, Pakistan signed the Karachi Agreement, granting administrative control over GB while also granting state status to Azad Jammu and Kashmir (AJK). However, this agreement was

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<sup>13</sup> Javaid Shaheen Sardar, and Rehman Ali. "Indigenous Peoples and Ethnic Minorities of Pakistan: Constitutional." *Taylor & Francis*. Taylor & Francis, February 1, 2013.

<https://www.taylorfrancis.com/books/mono/10.4324/9780203824344/indigenous-peoples-ethnic-minorities-pakistan-shaheen-sardar-ali-javaid-rehman>

<sup>14</sup> UNSC Resolution 38, 39, 47, 51 (1948), 229th, 230th, 286th, 312th meetings of the Security Council.

controversial, as the people of GB had no direct involvement in the decision, and it denied them the right to self-rule. The situation persisted for decades until significant changes occurred in the 1970s.<sup>15</sup> In 1972, under Prime Minister Zulfikar Ali Bhutto, the government abolished the FCR and feudal systems that had previously dominated the region<sup>16</sup>, establishing the Northern Areas Advisory Council with 16 elected members. This council functioned until 1999 when it was reorganized as the Northern Areas Legislative Council (NALC), with expanded powers to manage relations with the federal government and address GB's legislative and administrative needs.<sup>17</sup>

During General Zia-ul-Haq's rule from 1977 to 1988, the region's administrative structure was reorganized into three districts, and the imposition of martial law further consolidated central control over the area. This led to a movement advocating for GB's constitutional integration into Pakistan, with demands for the right to vote, the release of political prisoners, fair pay for civil servants, and equal opportunities for students. Despite these demands, the Northern Regions were still designated as a separate martial law zone, and their

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<sup>15</sup> Karachi Agreement between Pakistan and Azad Jammu and Kashmir (AJK), 1949.

<sup>16</sup> Singh, Priyanka. *Gilgit Baltistan: Between Hope and Despair* - IDSA. Institute for Defence Studies and Analyses, 2013. Last modified 2013.

[https://www.idsa.in/monograph/GilgitBaltistan\\_psingh](https://www.idsa.in/monograph/GilgitBaltistan_psingh)

<sup>17</sup> Hermann Kreutzmann, "Kashmir and the Northern Areas of Pakistan: Boundary-Making along Contested Frontiers," *Erdkunde* 62, no. 3 (2008).

<https://www.erdkunde.uni-bonn.de/article/view/2611>

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representatives in the Majlis-i-Shura (National Assembly) were granted observer status only.<sup>18</sup>

In 1988, Prime Minister Benazir Bhutto implemented reforms in GB, replacing two advisors with the Northern Areas Council. Subsequently, in 1994, the Legal Framework Order was introduced, transforming the Northern Areas Council into the Northern Areas Legislative Council, but with limited legislative powers. Under this new structure, the chief executive of the Northern Areas was appointed by the federal government.<sup>19</sup>

Further changes occurred under General Pervez Musharraf's leadership, particularly after his visit to the Northern Areas in 2006. In 2007, Musharraf established the Northern Areas Legislative Assembly (NALA), granting it more authority, including the power to collect taxes. The leader of the house became the chief executive, and the minister for Kashmir Affairs and Northern Areas assumed leadership of the legislative assembly. In 2009, Prime Minister Yousaf Raza Gilani renamed the legislative body as the GB Legislative Assembly (GBLA) and established the Gilgit-Baltistan Council (GBC) through the GB Empowerment and Self-Governance Order. However, the Council, which was headed by the Prime Minister of Pakistan, held more power than the GB Legislative

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<sup>18</sup> Jamil Nagri and Tariq Naqash, "Almost' Pakistan: Gilgit-Baltistan in a Constitutional Limbo," Dawn, 2015, <https://www.dawn.com/news/1198967>.

<sup>19</sup> Parliament. Northern Areas Legal Framework Order 1994.

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Assembly, and the ability to amend the Legal Framework Order was eliminated.<sup>20</sup>

In 2015, the government formed a committee under the supervision of Foreign Minister Sartaj Aziz to address the constitutional rights of GB. This committee recommended granting provisional constitutional rights and representation in the National Assembly and Senate. However, by 2017, the federal government altered these recommendations, ignoring both the committee's report and the Supreme Court's advice in the Al-Jahed Trust case. Instead, the government implemented the GB Governance Order of 2018, which was criticized for centralizing power under the Prime Minister of Pakistan and failing to provide sufficient local empowerment.<sup>21</sup>

The historical development of GB's status reveals a complex and evolving relationship with Pakistan, characterized by periods of limited autonomy, external intervention, and ongoing struggles for greater self-governance and constitutional recognition. Despite various administrative changes, the region continues to face challenges in securing full political rights for its people, who remain subject to a status quo that remains largely shaped by Pakistan's broader geopolitical concerns and administrative priorities.

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<sup>20</sup> Parliament. Empowerment and Self-Governance Order 2009

<sup>21</sup> PLD 2019 Supreme Court of Pakistan PARA 18.

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1947	Frontier Crimes Regulations (FCR) implemented
1949	Karachi Agreement GB administration to federal government.
1950	Ministry of Kashmir Affairs and NA created Affairs of NA handed Over to the Ministry of Kashmir Affairs and NA (KANA).
1952	Political Resident was Appointed who have excessive legislative, judicial and administrative powers over NA.
1967	Political Agents appointed KANA and inherit powers of the High Court and Revenue Commissioner to the Resident and appointed two Political Agents for two divisions.
1970	Established Advisory Council for Northern Areas Council included 21 members headed by resident as chairman.
1975	The Advisory Council for NA was replaced by Northern Areas Council Framework Order 1975, Jagirdari nizam and FCR was abolished.
1977- 1988	Zia-ul-Haq's rule dividing the Northern Regions into three districts. Declared martial zone and representation in Majlis-i-Shora as observer status.
1988	Prime Minister Benazir Bhutto reforms in GB by replacing two advisors with the NA Council.

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1994	Northern Areas Council(NAC) Legal Framework Order of 1994, Replaced NA Council into Na Legislative Council
1999	Al Jihad Trust judgment (1999 SCMR 1379) directed the federal government to ensure fundamental rights as provided to Pakistani citizens within six months.
1999	NA Council Legal Framework (Amendment) Order, 1999 The NAC was renamed as the NA Legislative Council (NALC) and powers to legislate on 49 subjects.
2006	General Musharraf visited the Northern areas he established the Northern-Area Legislative Assembly (NALA) in 2007,
2009	Prime Minister Yousuf Raza Gilani renamed the GB Legislative Assembly (GBLA) and Gilgit-Baltistan Council (GBC) through the GB Empowerment and Self-Governance Order 2009. The governor and chief minister were also given new titles and introduced de-facto province
2015	A committee were constituted for reforms in GB headed by sirtaj aziz
2018	Introduced GB governance order 2018 and empower GB with more powers
2019	GB resident challenged the 2018 order and appellate court suspended the order on appeal before supreme

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court full bench and SC recommended some reforms in judiciary and other sub-constitutional bodies and proposed new order which is still not implemented.

### **Ambiguity in current status of Gilgit Baltistan**

In the past seven decades, Gilgit-Baltistan has undergone a phased development in its constitutional and administrative structure. Despite India's position on the matter, Pakistan has consistently treated Gilgit-Baltistan as distinct from Azad Jammu and Kashmir<sup>22</sup> Gilgit-Baltistan is a diverse society, characterized by multiple sects, ethnicities, languages, and cultures. The region is home to seven primary languages: Shina, Balti, Burushaski, Khowar, Wakhi, Domaki, and Gojri due to which GB remained as an ethical and religious conflicts within the region for a long periods of year.<sup>23</sup>

Gilgit-Baltistan (GB) remains in a state of constitutional ambiguity, which has resulted in several governance challenges. The region's legal status is not fully integrated within the framework of Pakistan's Constitution, leaving the GB Legislative Assembly with limited powers. While the Assembly is an elected body, its ability to independently address issues such as healthcare, education, and

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<sup>22</sup> Khan, Mirza Hasan Colonel., "Shamsheer Se Zanjeer Tak". 3rd edition Northern Printing Press, 2010. <https://books.google.com.pk/books?id=Gcq0YgEACAAJ>

<sup>23</sup> Ehsan Mehmood Khan, "Constitutional Status Of Gilgit- Baltistan: An Issue of Human Security,"

<https://margallapapers.ndu.edu.pk/site/issue/download/12/128>



infrastructure is constrained by the need for approval from the federal government and the Ministry of Kashmir Affairs. This reliance on federal approval for both developmental and non-developmental budgets has led to a lack of autonomy in governance and widespread dissatisfaction among the people of GB. Furthermore, the 2018 Governance Order has not yet been sufficiently discussed or addressed at the constitutional level, contributing to the uncertainty surrounding GB's political and legal status.<sup>24</sup>

The constitutional framework governing Gilgit-Baltistan is distinct from that of Azad Jammu and Kashmir (AJK), which enjoys a higher degree of autonomy. AJK has its own constitution and a self-governing system that allows for amendments through its Legislative Assembly and the AJK Council. In contrast, the GB Governance Order of 2018 limits the legislative power of the GB Assembly, transferring the authority to amend laws solely to the federal government.<sup>25</sup> Similarly the constitution of AJ&K could be amended by the assembly of AJ&K itself with exception to certain articles which includes 31, 33 and 56 by the assembly and after assent of president it would be considered constitutional amendment *prima Facie* denotes its autonomy within the region.<sup>26</sup> This disparity

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<sup>24</sup> Ibid

<sup>25</sup> Government of Gilgit-Baltistan Order, 2018. n.d. Vol. section 60(3,4). <https://gilgitbaltistan.gov.pk/storage/downloads/J5bZ0pu8knGg1TjybOLGjDqZsJfCvW-metaR0IgT3JkZXIzMjAxOC5wZGY=-.pdf>.

<sup>26</sup> AJ&K Interim Constitution, 1974. n.d. Vol. section 33 ,34.

<https://ajkassembly.gok.pk/wp-content/uploads/2022/04/Act-1974.pdf>.

highlights the unequal political and legal status of the two regions, despite both being administered by Pakistan. The lack of local autonomy in GB has become a central issue, particularly as the region continues to seek constitutional rights similar to those enjoyed by AJ&K.<sup>27</sup>

A significant issue under the 2018 Governance Order <sup>28</sup>is the centralization of power in the hands of the Prime Minister of Pakistan. The order designates the Governance Order as the supreme legal authority, sidelining the Constitution of Pakistan as the ultimate law for the region. This has led to a situation where the GB Legislative Assembly has limited legislative authority, and the Prime Minister possesses the power to override the Assembly's decisions. This centralization contrasts with the autonomy granted to Pakistan's provinces, where provincial assemblies have a more significant role in legislative affairs. The Prime Minister's control over judicial

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<sup>27</sup> Ibid

<sup>28</sup> In the judicial system of GB, the appointment of judges, even at the apex courts we have seen practically is based on religious base always in ratio rather than merit. An interesting provision in the 2018 order states that the Chief Justice of the Supreme Appellate Court(SAC) must be a retired judge from the Supreme Court of Pakistan or a retired Chief Justice from the High Court of the Islamic Republic of Pakistan, as specified in section 75(7) of the Order. Unfortunately the citizens cannot be judges in other provinces due to disputed status of territory but people of other provinces can be a chief justice in disputed territory without any hurdle, Instead of that the Chief Justice and judges of the SAC is appointed based on seniority basic from chief court as in other courts of Pakistan, under the Constitution of Pakistan. These controversial clauses in the GB governance order of 2018 have faced strong opposition from the people, as they are deemed unacceptable. See, Parliament. Gilgit-Baltistan Governance Order 2018. Vol. PART. XI-THE JUDICATURE section 75.

appointments, as well as other administrative matters, undermines the democratic principles of local representation and accountability, leaving the people of GB without a direct say in the decisions that affect their daily lives.

The issue of citizenship in Gilgit-Baltistan has also become a contentious point under the 2018 Governance Order. While the Citizenship Act of 1951<sup>29</sup> does not recognize the people of GB as citizens of Pakistan, the Governance Order of 2018 defines citizens of GB as anyone with a domicile or residence in the region.<sup>30</sup> This provision has raised concerns about the changing demographic composition of GB, as the influx of non-locals may dilute the political rights of the indigenous population. Critics argue that this approach undermines the region's claim to self-determination and weakens the local community's control over their political future. The ongoing demographic shifts, compounded by the lack of full constitutional integration, further complicate the region's quest for autonomy and fair representation.<sup>31</sup> There are some exceptions in laws of Pakistan for citizenship that Individuals from Kashmir (AJK and GB) who migrate to Pakistan for residence until the Kashmir dispute is resolved are considered full citizens of Pakistan while residing in

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<sup>29</sup> Pakistan. 1954. The Pakistan Citizenship Act, 1951. Act No. II of 1951.

<sup>30</sup> Yasir Abbas, "Governance of Gilgit Baltistan: Issues and Solutions" (Research Society of International Law, October 2022). <https://rsilpak.org/2022/governance-of-gilgit-baltistan-issues-and-solutions/>

<sup>31</sup> Tariq Naqash, "AJ&K Govt Opposes Moves to Convert GB into Province," Dawn, 2016. <https://www.dawn.com/news/1232018>

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Pakistan. Secondly the people of Kashmir living abroad are considered as pure citizens of Pakistan.<sup>32</sup>

Similarly due to ambiguous status of Kashmir (GB and AJK) they are none a member of NFC award due to which it face difficulty to grant of fund from federal government and due to lengthy and needless procedures that have been operating for decades, even a simple routine such as transferring development money from the Centre to Gilgit-Baltistan might take up to 40 days . According to the records money from Centre to AJK it takes only ten days to transfer on the account within 10 days.<sup>33</sup> Due to lack of proper procedure for the release of funds for GB it affects the Gilgit-Baltistan administrative affairs. The system of grant for GB always creates problems due to the lack of fund for GB.<sup>34</sup> It is suggested that GB and PAJK be named permanent members of the NFC award. The calculation indicates that there is no discernible difference between the two territories' shares of the "proposed" horizontal distribution and the ad hoc federal grants. Increasing the share of vertical distribution to the quantity of each territory in the "proposed" horizontal distribution is the best way to accommodate this<sup>35</sup>

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<sup>32</sup> *Citizenship Act*. 1951. Vol. section 8 and 14-B.

<sup>33</sup> Hyder, Wajiha. 2018. "The Award and the G-B Problem | Special Report <https://www.thenews.com.pk/tns/detail/566553-award-g-b-problem>.

<sup>34</sup> Ibid

<sup>35</sup> Khan, Naimat Ullah. 2019. "Vertical Distribution of Divisible Pool of NFC Award for Azad Jammu Kashmir (AJK) and Gilgit-Baltistan (GB)." December 31, 2019.

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## Decisions of Apex courts on GB status

The constitutional status of Gilgit-Baltistan (GB) has been the subject of significant judicial scrutiny over the years, with decisions from Pakistan's Apex courts shaping the legal framework governing the region. The first landmark case regarding the constitutional status of GB was presented before the Supreme Court of Pakistan in 1994, through two constitutional petitions. The petitions, filed by the inhabitants of the Northern Areas and the Al Jihad Trust, sought clarity on the constitutional position of GB in Pakistan. On May 28, 1999, the Supreme Court delivered a historic ruling affirming that the residents of the Northern Areas (now Gilgit-Baltistan) were Pakistani citizens, entitled to the same fundamental rights as other citizens of Pakistan.<sup>36</sup> The Court recognized their right to participate in local governance, access an independent judiciary, and enjoy fundamental freedoms such as the right to life and property. It also emphasized the need for legislative amendments to ensure that these rights were fully protected. The Court ordered that within six months, the federal government should take necessary steps to amend the Constitution to grant provisional constitutional status to GB. However, despite the Court's clear directive, the federal government has not yet followed

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[https://www.researchgate.net/publication/341105864\\_Vertical\\_Distribution\\_of\\_Divisible\\_Pool\\_of\\_NF\\_C\\_Award\\_for\\_Azad\\_Jammu\\_Kashmir\\_AJK\\_and\\_Gilgit-Baltistan\\_GB](https://www.researchgate.net/publication/341105864_Vertical_Distribution_of_Divisible_Pool_of_NF_C_Award_for_Azad_Jammu_Kashmir_AJK_and_Gilgit-Baltistan_GB)

<sup>36</sup> Al-Jihad Trust Case Paragraph 16 Supreme Court (PLD 1999,1379). <http://nasirlawsite.com/historic/aljihad.htm>

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through on these recommendations, citing various reasons over the years.<sup>37</sup>

In 2018, the federal government issued the controversial GB Governance Order, which was challenged in the Supreme Appellate Court of GB. The court initially suspended the order until the completion of the tenure of the GB Legislative Assembly,<sup>38</sup> but the federal government appealed this decision. On January 17, 2019, the Supreme Court of Pakistan, in a detailed ruling, reinstated the GB Governance Order 2018, albeit with modifications. The Court upheld the legality of the order but recommended that the federal government take further steps to grant GB a provisional constitutional status with enhanced rights, subject to the holding of a plebiscite in line with the United Nations' resolutions on Kashmir. The Court emphasized that granting rights to the people of GB would not affect the resolution of the Kashmir dispute, which requires a joint plebiscite between India and Pakistan. The ruling reiterated that residents of GB are entitled to fundamental freedoms, local governance, and access to an independent judiciary as Pakistani citizens. However, despite these recommendations, the federal government has once again failed to implement the Supreme Court's directions, leaving the constitutional status of GB unresolved.

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<sup>37</sup> Ibid

<sup>38</sup> Dawn Newspaper. "Court Strikes down GB Order 2018", July 14, 2018.  
<https://www.dawn.com/news/1419991>

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From the above discussion it is *Res ipsa loquitor* that the GB court does not have jurisdiction to entertain the matter outside GB or which does not fall in the ambit of Order 2018. The apex courts of GB are the constitutional court to the extent of GB order only to interpret it and the said court can never set aside the order and question on validity of laws enforced by federal government through presidential order<sup>39</sup> according to section 118 Court, including the Gilgit-Baltistan Supreme Appellate Court and the Gilgit-Baltistan High Court, shall call into question or permit to be called into question, the validity of this Order.

In a related development, the High Court of Azad Jammu and Kashmir (AJK) also examined the status of GB, challenging Pakistan's direct administrative control over the region. The court ruled that Islamabad had no legitimate authority to exclude GB from the administrative control of AJK, as both regions were considered integral parts of Kashmir, sharing the same political and legal status. The High Court directed the AJK government to take administrative control of GB and integrate it into the AJK administration. The court also ordered the Pakistan government to facilitate this transition.<sup>40</sup> In response, the federal government appealed the decision to the Supreme Court of AJK, which ultimately overturned the High Court's ruling. The Supreme Court held that while GB is indeed part of

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<sup>39</sup> Review of *GB Constitutional Status Case*. 2019.

[https://www.supremecourt.gov.pk/downloads\\_judgements/Const.P.\\_50\\_2018.pdf](https://www.supremecourt.gov.pk/downloads_judgements/Const.P._50_2018.pdf)

<sup>40</sup> 1993. AJK High Court.

Jammu and Kashmir, it is not a part of AJK. Therefore, the federal government was not obligated to follow the direction to transfer administrative control of GB to AJK. This legal conflict highlights the complex and contradictory nature of GB's status, as various judicial bodies and political actors present divergent views on its future and its relationship with both Pakistan and AJK.<sup>41</sup>

The decisions of the Apex courts of Pakistan and AJK reveal the ongoing ambiguity surrounding the constitutional status of Gilgit-Baltistan. Despite clear judicial rulings affirming the rights of the people of GB and calling for their integration into Pakistan's constitutional framework, political and legal obstacles persist, preventing any meaningful change. The failure to implement these rulings has left the people of GB in a state of uncertainty, with no clear path toward achieving the political and constitutional rights they have long been promised. As the legal and political discourse surrounding GB continues, it remains to be seen whether the federal government will take concrete steps to resolve the region's ambiguous status in accordance with the directives of the Apex courts.<sup>42</sup>

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<sup>41</sup> Samuel, Northern Area, jackboot pp 147-67

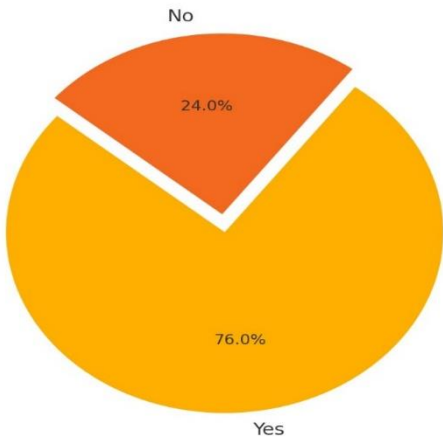
<sup>42</sup> Gilgit-Baltistan Tribune, History & Dispute <http://gbtribune.blogspot.in/p/historydispute.htm>



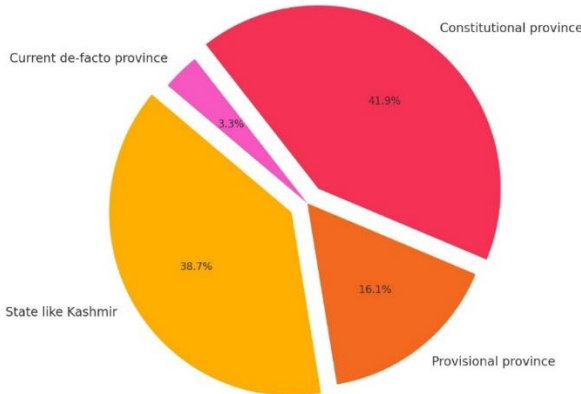
## Public Survey about GB Status Quo

For this research study a public survey conducted exclusively among the residents of Gilgit-Baltistan (GB) to gather their perspectives on the region's status quo, the authority of institutions, and other related issues. A total of sixty-four individuals participated in the survey, responding to a series of specific questions outlined below.

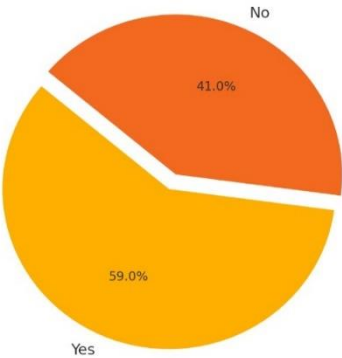
Satisfaction with the Current Status of GB



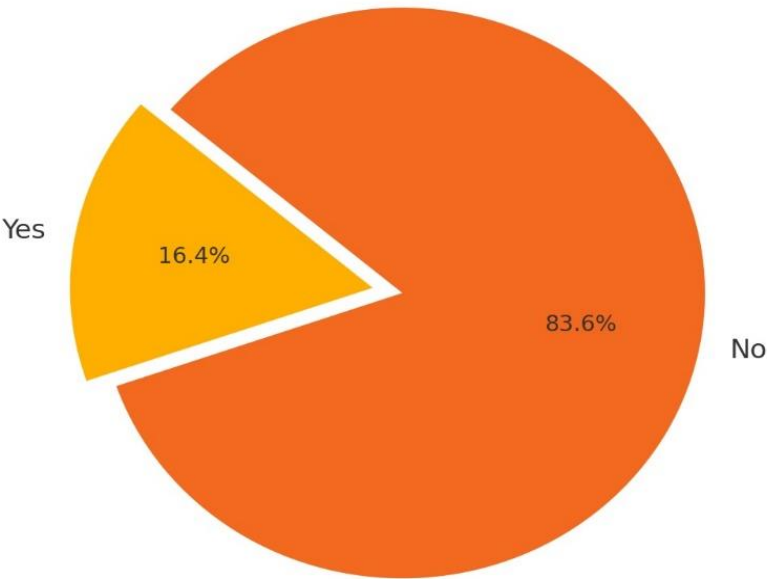
Preferred Status for GB



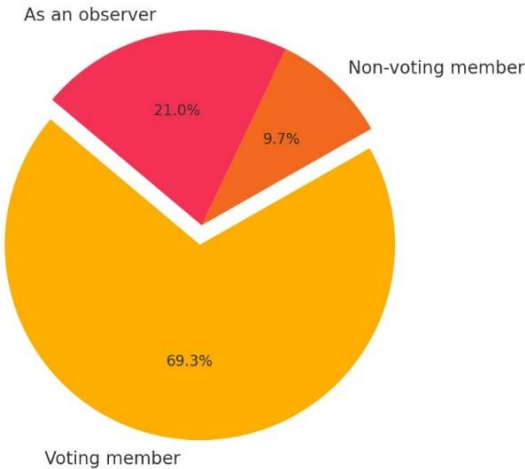
Opinion on Reforms (Order 2018) for Future Legal and Constitutional Development of GB



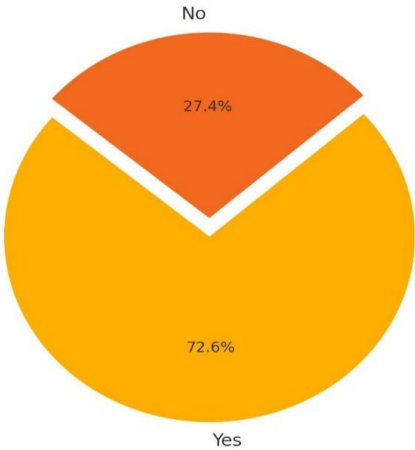
Satisfaction with the Power of GB Assembly



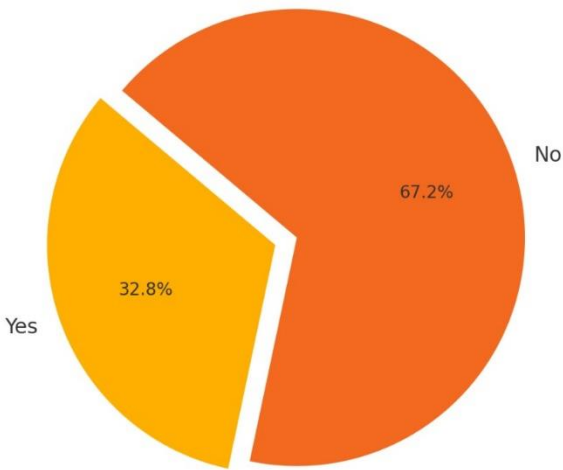
Preference for GB Representatives in Parliament and Constitutional Bodies



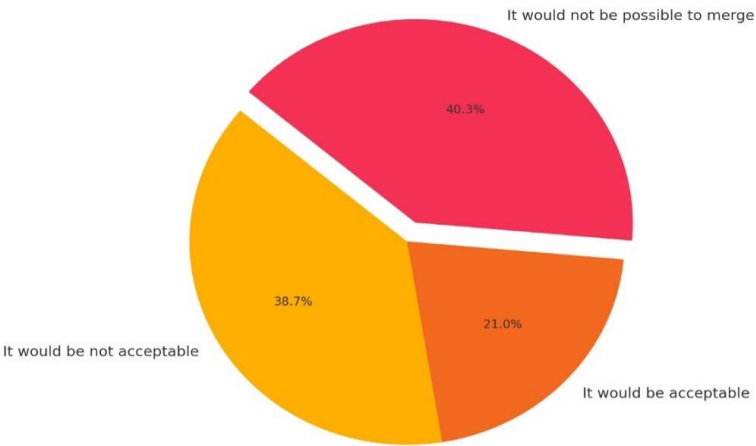
Recommendation for GB to Be an Independent State



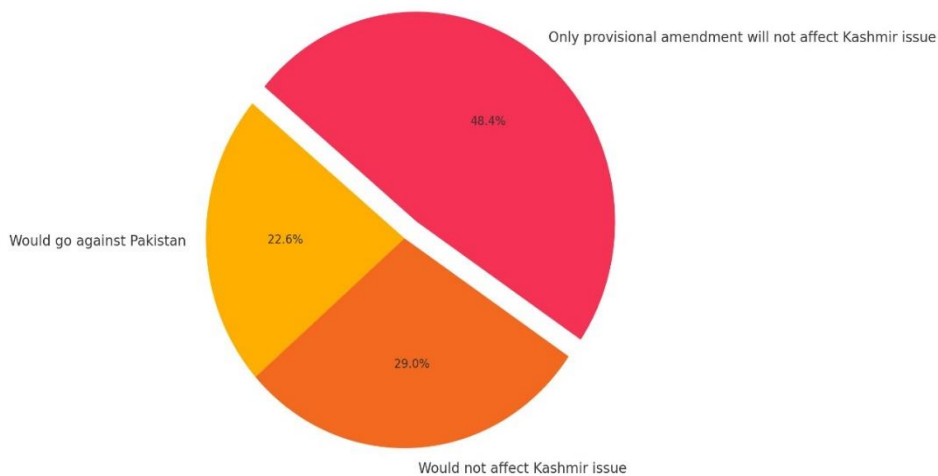
Willingness to Wait for Rights Till the Solution of Kashmir Issue



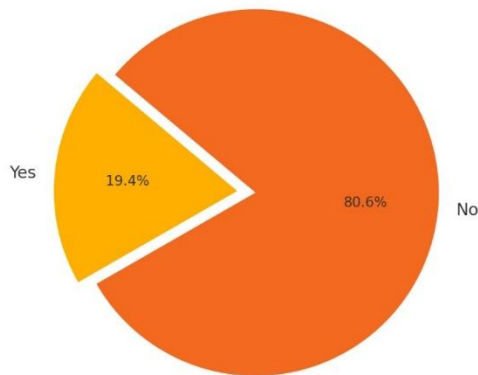
Opinions on GB Being Part of Kashmir (AJ&K) After Resolution



Impact of Bringing GB into Constitutional Framework on Kashmir Issue



Satisfaction with the Appointment Procedure in GB Judiciary and High Officials



In view of the persistent challenges surrounding the constitutional status of Gilgit-Baltistan (GB), the following recommendations aim to address the grievances of its people by resolving legal, political, and administrative ambiguities while safeguarding their interests and

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ensuring equitable representation in Pakistan's governance framework.

To respect the sensitivities surrounding the Kashmir dispute, a constitutional amendment should be introduced to grant GB provisional provincial status within Pakistan. This could involve amendments to Articles 51 and 57 of the Constitution, enabling GB to have representation in Pakistan's Parliament and key constitutional bodies such as the National Finance Commission (NFC), Council of Common Interests (CCI), and National Economic Council (NEC). Care should be taken to ensure these amendments do not alter the preamble or Article 1 of the Constitution, which delineates Pakistan's territorial boundaries in line with United Nations resolutions. This provisional arrangement would empower the people of GB to participate in national decision-making processes while maintaining the legal status quo of the Kashmir issue.

In scenarios where GB continues to be administered through a presidential order, it is imperative to strengthen the autonomy of local institutions, particularly the GB Legislative Assembly. Legislative authority should be devolved to the Assembly to ensure that decisions directly affecting the people of GB align with their customs, preferences, and socio-economic priorities. The Assembly should have exclusive jurisdiction over matters such as education, health, local economic development, and natural resource management. Moreover, the Assembly, composed of elected representatives, should be the primary body accountable to the people of GB, minimizing undue influence from federal authorities.

Alternatively, GB could adopt a governance framework similar to Azad Jammu and Kashmir (AJK), granting it substantial self-governance while the federal government retains authority over critical areas like foreign affairs, defense, currency, and international

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trade. Such an arrangement would strike a balance between regional autonomy and the strategic interests of the federal government, enabling GB to exercise control over its internal matters.

GB's government must be actively involved in discussions and decision-making processes related to significant national projects, such as the China-Pakistan Economic Corridor (CPEC), the Diamer-Basha Dam, and policies on tourism, natural resources, and environmental management. Members of the GB Legislative Assembly, being directly elected by the people, are best positioned to represent regional interests and ensure that these projects align with the socio-economic aspirations of the local population.

GB currently operates as a tax-free zone. However, if granted provisional representation in Pakistan's Parliament, the federal government should consider introducing a tax system in the region. The inclusion of GB in national decision-making bodies would justify taxation, as the people of GB would have a voice in fiscal policies affecting their contributions and expenditures. The implementation of such a system must be gradual, transparent, and designed to build public trust while ensuring revenues are reinvested into the development of the region.

To address questions regarding GB's constitutional status, a referendum should be held under the supervision of neutral international observers. This democratic process would provide the people of GB with an opportunity to express their views on their future governance. A referendum would strengthen trust between GB's residents, the federal government, and international stakeholders. Additionally, it would bolster confidence in projects like CPEC, ensuring sustainable development in the region.

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To ensure equitable recruitment in civil services, a Gilgit-Baltistan Service Commission (GBSC) should be established. Modeled on provincial service commissions such as the Punjab Public Service Commission (PPSC) or Sindh Public Service Commission (SPSC), the GBSC would prioritize local candidates and align recruitment with the region's socio-economic and administrative needs. This initiative would create greater opportunities for GB's residents to join the public sector, contributing to the region's governance and overall development.

These recommendations provide a structured and inclusive framework for addressing the constitutional, political, and administrative challenges faced by Gilgit-Baltistan. By granting provisional provincial status, enhancing legislative autonomy, or adopting a governance model akin to AJK, Pakistan can ensure that GB's people have a meaningful role in shaping their future. Implementing these measures would foster equitable governance, strengthen national unity, and contribute to the broader goal of resolving the longstanding issues surrounding GB's status within the country.

## **Conclusion**

The constitutional ambiguity surrounding Gilgit-Baltistan (GB) has persisted for decades, deeply rooted in the region's historical and geopolitical entanglements, particularly its connection to the unresolved Kashmir dispute. This liminal status is exacerbated by the unimplemented United Nations-mandated plebiscite, which remains unenforced due to a lack of international mechanisms. Legal scholars, such as Barrister Aitzaz Ahsan, have argued that Pakistan should consider integrating GB into its constitutional framework, separate from the Kashmir issue, to guarantee the region's political rights and address longstanding grievances. However, despite such



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recommendations, successive governments in Pakistan have lacked the political will to take meaningful action, often relegating promises of reform to electoral rhetoric with little tangible progress.

Granting GB comprehensive political representation could unlock substantial opportunities for the region's development, leveraging its rich potential in agriculture, tourism, and other economic sectors. Enhanced representation and resource allocation would promote equitable growth and improve the quality of life for GB's residents. However, progress is frequently hindered by resistance from the Azad Jammu and Kashmir (AJK) government, which has historically opposed measures aimed at advancing GB's constitutional rights. This resistance, combined with the federal government's inertia, perpetuates the region's marginalized status and inhibits the establishment of a stable governance framework.

The international significance of GB has grown with projects such as the China-Pakistan Economic Corridor (CPEC). Strategic stakeholders, including China, have increasingly emphasized the need for a clearly defined constitutional status for the region to ensure the protection of foreign investments and Pakistan's sovereignty. In this context, a well-structured governance framework for GB is not only a national priority but also an international imperative, aligning with economic and geopolitical stability.

International precedents offer potential models for resolving GB's constitutional status. For instance, Puerto Rico, a territory associated with the United States under the Treaty of Paris, provides valuable insights. While Puerto Ricans cannot vote in U.S. presidential elections, they participate in primary elections and are represented by a non-voting delegate in the U.S. House of Representatives. Puerto Rico governs itself under its constitution, with certain rights reserved for the federal government. This model demonstrates how a region

can achieve a degree of political representation and self-governance while remaining tied to a broader national framework.

Another illustrative case is Transnistria (or Gagauzia), a region with significant autonomy within Moldova. Transnistria retains control over local governance while delegating specific national responsibilities to the central government. This arrangement highlights how regional autonomy and federal oversight can coexist to accommodate diverse political and administrative needs.

These examples suggest that a flexible and pragmatic solution for GB is achievable, one that balances its aspirations for self-governance with Pakistan's national interests and the unresolved Kashmir dispute. By adopting a similar framework, Pakistan could grant GB enhanced political representation in the National Assembly and Senate, coupled with greater administrative autonomy. Such a solution would ensure GB's residents have a meaningful voice in the country's decision-making processes while preserving its unique status.

Implementing these measures would contribute to a more stable and prosperous future for GB, addressing its residents' longstanding grievances and fostering a stronger integration within Pakistan's national framework. This approach would not only advance the well-being of the region's population but also bolster Pakistan's position on the international stage, ensuring the alignment of regional governance with both domestic and global priorities.

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