



Pakistan Occupied Kashmir : Changing the Discourse

PoK Project
Report
MAY 2011

**IDSA PoK Project Report
May 2011**

PAKISTAN OCCUPIED KASHMIR: CHANGING THE DISCOURSE



**Institute for Defence Studies and Analyses
New Delhi**

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ISBN: 81-86019-90-1

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First Published: May 2011
Price: Rs. 175/-
Published by: Institute for Defence Studies and Analyses
No.1, Development Enclave, Rao Tula Ram Marg,
Delhi Cantt., New Delhi - 110 010
Tel. (91-11) 2671-7983
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E-mail: idsa@vsnl.com
Website: <http://www.idsa.in>

Cover &
Layout by: Geeta Kumari

Printed at: M/s A. M. Offsetters
A-57, Sector-10, Noida-201 301 (U.P.)
Mob.: 09810888667
E-mail: amoffsetters@gmail.com

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ACKNOWLEDGEMENTS

As part of the ongoing IDSA research project on Pakistan occupied Kashmir (PoK) a Round Table was organised at IDSA on August 19, 2010. The meeting was chaired by Professor Riyaz Punjabi, Vice Chancellor of the University of Kashmir, Srinagar, and was attended, amongst others, by Ambassador Satish Chandra, Ambassador Rajiv Sikri, Dr Arvind Gupta, Professor K Warikoo, Professor P Stobdan, R. Banerji, Captain Alok Bansal, P. K. Upadhyay, Sushant Sareen, Dr A K Behuria and Dr Priyanka Singh. This project report is based on the proceedings of this Round Table and, it also has significant inputs from the *POK News Digest*, IDSA's monthly newsletter on developments in PoK. The deliberations brought out the key facts relating to the history of PoK and analysed the prevailing political situation in the region.

ABBREVIATIONS

AJK	Azad Jammu & Kashmir
APHC	All Parties Hurriyat Conference
BNF	Balawaristan National Front
CBM	Confidence Building Measures
CDP	Community Development Programme
GBDA	Gilgit-Baltistan Democratic Alliance
GBUM	Gilgit Baltistan United Movement
ISI	Inter Services Intelligence
JIAJK	Jamaat-e-Islami Azad Jammu & Kashmir
KAGB	Kashmir Affairs and Gilgit Baltistan
KKH	Karakoram Highway
KNM	Karakoram National Movement
LoC	Line of Control
GBLA	Gilgit Baltistan Legislative Assembly
NLI	Northern Light Infantry
POGB	Pakistan occupied Gilgit Baltistan
PoK	Pakistan occupied Kashmir
PPP	Pakistan Peoples' Party
UJC	United Jihad Council

BRIEF BACKGROUND

Pakistan occupied Kashmir (PoK) consists of the so called 'Azad Jammu and Kashmir (AJK)' and 'Gilgit-Baltistan' (referred to as the 'Northern Areas'¹ till August 2009). PoK is part of the state of Jammu and Kashmir (J&K), and hence an integral part of India. It has been under the illegitimate control of Pakistan since October 22, 1947 when tribal *lashkars* supported by Pakistan invaded the princely state of J&K and soon afterwards the ruler of the state acceded to India. India succeeded in repulsing the invaders from the valley; but, when the Indian army sought to clear the state of these *lashkars*, it was confronted with regulars from the Pakistan army. The matter was referred by India to the United Nations in the hope of a fair and legitimate solution, which would put an end to external aggression and armed confrontation between the two states.

In the subsequent period, Indian hopes of fair play were shattered when some of the major powers in the UN Security Council sought to equate an aggressor state (Pakistan) with the victim of aggression (India). The UN proposals of April 21, 1948 and August 13, 1948 were diluted considerably by March 14, 1949, clearly disregarding the Indian viewpoint.² From this time onward, India took exception to the approach taken by the Security Council on the Kashmir issue. It felt that it could never expect justice from the UN body in the prevailing climate of Cold War rivalry.³ India went ahead with its policy of ascertaining the will of the people of J&K through democratic means. In September 1951, the people of J&K elected a Constituent Assembly (interestingly, all the members were elected unopposed) which went on to ratify

PoK is part of the state of Jammu and Kashmir (J&K), and hence an integral part of India.

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1. According to the Pakistani argument, the people of the 'Northern Areas' had revolted against the Maharaja of Kashmir on the eve of the lapse of British paramountcy in (June 1947) and opted to join Pakistan. Hence, these areas were no longer part of Maharaja's kingdom. However, the popular perception in Gilgit-Baltistan today is that the region was illegally annexed by force and the consent of the people was never sought in the entire process.
 2. While the earlier two resolutions said that India would withdraw bulk of its forces only after withdrawal of tribesmen and Pakistani troops from the areas occupied by Pakistan, the latter resolutions sought to accommodate Pakistani concerns and asked both the countries to withdraw their forces within five months.
 3. In fact, India's refusal to join forces with any of the power blocs and its insistence on the policy of non-alignment irritated the West in direct contrast to Pakistan's enthusiasm to join the West's battle against communism.

accession of the state to India on February 15, 1954. Finally, the assembly drafted a constitution for the state which was adopted on November 17, 1956 and came into force subsequently on January 26, 1957. Contrary to the adverse position taken by the UN Security Council on this process, vide its resolutions of January 24, 1957⁴, India held it as

India has continued to maintain that PoK is a legitimate part of the Indian Union.

free, fair, democratic and legitimate, and regarded the UN resolutions (related to troops pull out and holding of plebiscite as mentioned earlier) irrelevant and inoperative in view of the prolonged Pakistani non-compliance of the UN resolutions.⁵

In sum, one part of the state of Jammu and Kashmir continues to be under illegal occupation of Pakistan while the other part remains with India after accession. India has continued to maintain that PoK is a legitimate part of the Indian Union.

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4. This resolution held that such an exercise “would not constitute a disposition of the State in accordance” “with the will of the people expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations”.
 5. The subsequent UN Security Council resolution of 14 February 1957 (put to vote on 20 February 1957) based on the proposal of the Pakistani representative “for the use of a temporary United Nations force in connexion with demilitarization” was vetoed by the former Union of Soviet Socialist Republics (USSR). This confirmed India's suspicion that there was a deliberate attempt in the UN Security Council to disregard India's legitimate position on Kashmir. It has since looked away from the UN and focussed on consolidating democratic rule in the state.

WHY PoK IS IMPORTANT?

Because of its location, PoK is of immense strategic importance. It shares borders with several countries Pakistan, the Wakhan Corridor of Afghanistan and Tajikistan to the west and the Xinjiang province of the People's Republic of China to the north. Ever since the Karakoram highway (KKH) was built to connect Pakistan with China via PoK, the geopolitical significance of PoK has increased manifold. If PoK were under Indian control, the geopolitics of the subcontinent and its global fall out would have been very different from what it is today. This is because PoK is a gateway to Central Asian republics and to their expanding markets. Hypothetically speaking, access to Afghanistan via the Wakhan Corridor bordering PoK would have given the allied forces a viable option for transporting supplies for NATO forces.

Growing Chinese investment and presence in PoK and its involvement especially in the infrastructure development in the area further underscore the strategic value of PoK. China seeks strategic depth in PoK to extend its influence in the region. In addition, PoK is rich in natural resources and these resources have been subjected to reckless exploitation by Pakistan over the years.

Until very recently, the international discourse on Kashmir had been shaped by Pakistan's portrayal of India as an occupying force in Kashmir committing atrocities on the Kashmiris. In comparison, Pakistan has consistently presented a false picture of PoK as an independent entity. However, the ground reality in PoK became known to the outside world only after the earthquake of October 2005 when international donors and NGOs went there for relief and rehabilitation. They found that the situation there was far from normal and the region sorely lacked basic support structures and amenities. More significantly, the Pakistan state's apathy towards the quake victims came as a rude shock to outsiders who prompted international bodies to take note of all-that-was-not-well within PoK for the past six decades. Apart from the enhanced Chinese presence, PoK is also increasingly coming under the influence of the jihadi ideology. It is, therefore, important to analyse the socio-political and economic situation in PoK and suggest some policy options for India.

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PoK SINCE 1947

The Situation in 'Azad Jammu and Kashmir' (AJK)

After accession, the Indian part of J&K followed the democratic path as per Article 370⁶ of the Indian constitution while the area under Pakistani occupation was bifurcated into two- 'Azad Jammu and Kashmir' (AJK) and the 'Northern Areas', which consisted of Gilgit-Baltistan. The leaders of AJK surrendered the Northern Areas to

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Pakistan under the Karachi Agreement of April 28, 1949.⁷

Framework for Administration⁸

The 'Azad Jammu and Kashmir' government established in PoK, on October 24, 1947, worked like a 'war council'. The Rules of Business (RoB) were framed in order to run the administration of AJK under which the President of AJK was the repository of all executive and legislative powers. Usually, the person holding the confidence of the Working Committee of the Muslim Conference was nominated as the President of AJK.

Interestingly, an office of 'Supreme Head' was created above the President in the central government of Pakistan who finally approved all executive and legislative action by the AJK government. The post was abolished in 1952.

In 1948, some rudimentary judicial structure was created for running the judicial administration and some laws of former Jammu and Kashmir State were adopted for use. The RoB were revised in 1952 and sought to define both executive as well as

6. See appendices for detailed provisions of the Art.

7. The agreement was signed as per the text between Pakistan and Azad Kashmir Governments. Mushtaq Ahmed Gurmani, Minister without Portfolio, Government of Pakistan represented the Pakistan government while Sardar Mohammed Ibrahim Khan, the president of Azad Kashmir and Choudhry Ghulam Abbas, Head of All Jammu and Kashmir Muslim Conference, represented the government of Azad Kashmir. This agreement was signed exactly three months before the ceasefire agreement between India and Pakistan which delineated the ceasefire line that divided Jammu and Kashmir.

8. The website of the AJK government (<http://www.ajk.gov.pk/>) provides a detailed history of the evolution of the administrative structure in AJK.

legislative authority. The RoB was revised further in 1957 and this ad hoc system continued till 1960. This office was, however, abolished in 1952 and, thereafter, the President was the Executive Head, who was assisted by some Ministers.

In 1960, after the onset of military rule in Pakistan, the post of President was subjected to election through the “votes of basic democrats”, a system which was also introduced in the rest of Pakistan by Ayub Khan. Another body known as 'AJK State Council' was introduced which was to be elected by the basic democrats. This Council consisted of 12 members elected by the people of AJK, whereas another 12 members were elected by the refugees of Jammu and Kashmir State settled outside AJK, in Pakistan.

In 1974, the parliamentary system was introduced in AJK under the AJK Interim Constitution Act, 1974.

In 1964, this system was replaced by the AJK Government Act, 1964. Under this Act, the provision for the State Council was amended; eight of the State Councillors were to be elected by the basic democrats. In 1965, the provision was made for nomination of two members by the President from amongst the refugees settled in Pakistan. The Chairman of the Council was to be nominated by the Chief Advisor (usually a representative of the central government) under the Act, from amongst the council members. The Chairman had to act as the ex-officio President of AJK.

Further, according to the Azad Jammu and Kashmir Government Act, 1968, eight members were elected and four members were to be nominated by the Chief Advisor from amongst the refugees settled in Pakistan to the State Council. However, the Chairman of the Council, elected by the Councillors, was also the ex-officio President. In 1969, a caretaker government was inducted into office. In the elections to the above positions, limited people from AJK had the right to franchise.

In 1970, major constitutional changes were introduced in AJK. The system of adult franchise was adopted through the Azad Jammu and Kashmir Act, 1970. A democratic setup was introduced in AJK. For the first time, the Legislative Assembly as well as President of AJK were also elected on the basis of adult franchise by the people of AJK, and the refugees of the State of Jammu and Kashmir settled in Pakistan. The Assembly consisted of 24 elected members and one co-opted female member. The presidential system worked for about four years, after which in 1974, the parliamentary system was introduced in AJK under the AJK Interim Constitution Act, 1974. This has undergone about 11 amendments so far.

Initially, the Assembly consisted of 40 members, elected on the basis of adult franchise and two co-opted female members. The Assembly now consists of 41 elected Members and eight co-opted members (five females, one member from Ullema-e-Din

or Mushaikh, one from amongst AJK technocrats and other professionals, and one from amongst Jammu and Kashmir nationals (state subjects) residing abroad.

Since 1975, the Prime Minister has been elected by the members of the Legislative Assembly. He is the Chief Executive of the state, whereas the President is the constitutional head. Besides, the Executive and the Legislature, a full-fledged Judiciary was also introduced through this Act. The Supreme Court, High Court and subordinate courts are now present, in addition to many other courts, established under various laws.

All these changes in PoK administrative and constitutional structures were made through executive decrees by the Pakistan government. These were not based on any

Changes in PoK administrative and constitutional structures were made through executive decrees by the Pakistan government. These were not based on any recommendations or representations made by any representative body of the people. The AJK government enjoys only nominal powers and it functions under strict control of the Pakistani state.

recommendations or representations made by any representative body of the people. Their prime object was to introduce a pattern of administration in the AJK which would be similar to the one prevailing in Pakistan with the exception, that AJK would have a Council, with Prime Minister of Pakistan as the Chairman, six elected members, three ex-officio members including President AJK (Vice-Chairman of the Council), the Prime Minister of AJK or his nominee, Federal Minister for Kashmir Affairs, and five Members to be nominated by the Prime Minister of

Pakistan from amongst the Federal Ministers and Members of the Parliament. The Council remains a constitutional body and has extensive powers under the third schedule of the 1974 Act. The Council has exclusive power to legislate on Defence, Security, Foreign Affairs and Foreign Trade, Currency and Coins and matters related to UNCIP resolutions, which are the responsibilities of the Government of Pakistan.

The AJK Council Secretariat is also responsible for the collection of income tax from the territory of AJK. The AJK Council Board of Revenue and its attached department, the Commissionerate of Income Tax with its offices in all the seven districts of Azad Kashmir undertake the collection of income tax. Eighty per cent of the collected income tax is released to the AJK Government while the balance goes to the Council's Consolidated Funds.

In sum, the AJK government enjoys only nominal powers and it functions under strict control of the Pakistani state. The Ministry of Kashmir and Northern Areas (now renamed as Gilgit-Baltistan) is the de facto body which controls by remote, the affairs of

the AJK government. The politics of the state, for all practical purposes, is entirely at the mercy of the central government.

Nominal Independence

The administration of AJK was nominally under an elected government while the real power rested with the government of Pakistan. The first government led by Sardar M. Ibrahim Khan was dismissed in 1953 as were subsequent governments led by Khan Abdul Qayyum Khan, Colonel Sher Ali and

AJK is under the direct rule of the federal government of Pakistan even though it is called 'Azad' or independent.

Mirwaiz Yusuf Shah, between 1953 and 1962. Following popular protests against Pakistani control in Poonch and Mirpur, the Pakistan government imposed Martial Law in AJK in 1955. After imposition of military rule in Pakistan in 1958, the first elected government headed by K.H. Khursheed (one time secretary of Mohammad Ali Jinnah) under Ayub Khan's basic democracy system, was also dismissed in 1964. Even after the 1974 Interim Act, the ground situation remains the same. Various elected AJK governments, have been forced to take the lead from the central governments in Islamabad, both civilian and military, which have treated the government of AJK with absolute contempt.⁹

Every government in Islamabad has tried to install a government of its own choice in AJK in total disregard of democratic principles. The Pakistan Army which has an overwhelming presence in AJK, exercises a *de facto* control over the affairs of the political parties in AJK and the administration of the state. The situation is not very different today, even after sixty years of illegal occupation. Interestingly, in 1963, Pakistan ceded about 5,130 sq kms of PoK territory (known as the Trans-Karakoram Tract) to China, in spite of strong protests by India.

AJK is under the direct rule of the federal government of Pakistan even though it is called 'Azad' or independent. The rudimentary political structure in place in AJK is anything but representative and democratic. It excludes political groups who oppose the idea of accession to Pakistan. The people wielding power in AJK, even when selected by a sham electoral process, hardly exercise any authority and are merely

9. Some observers from PoK acknowledge in their writings that the “Indian Government has given people all their fundamental human rights and in spite of that they are in a state of confrontation against the government. But the people of this region (Northern Areas) are far behind the rest of the world in matters of fundamental human rights, justice and economic development” (Amir Humza Qureshi, “Revolt Brewing in the so-called Northern Areas of Pakistan Occupied Kashmir” available at <http://www.jammu-kashmir.com/insights/insight980201.html> (accessed on November 11, 2010).

puppets of Pakistan. They have no independent policy and no right to raise issues pertaining to the overall welfare of the people. Its bureaucratic structure is dependent very heavily on Pakistani officials loaned to the AJK government.

The continuing subjugation by Pakistan over the decades has led to an acute sense of alienation amongst the people. The growing discontent has led groups to demand freedom from Pakistani control and abolition of the Interim Constitution.

The continuing subjugation by Pakistan over the decades has led to an acute sense of alienation amongst the people. It is worthwhile to mention the case of Mirpuris who were forced to flee their homeland when hundreds of villages were inundated following the construction of the Mangla Dam. The construction took place despite large-scale protests. The growing discontent has led groups to demand freedom from Pakistani control and abolition of the Interim Constitution.

In March 2010, the AJK Supreme Court challenged the authority of the Pakistan Supreme Court on the issue of the “unconstitutional appointment of AJK chief justice”. A bench comprising chief justice of AJK Supreme Court, Riaz Akhtar Chaudhry passed an order which stated: “The Supreme Court of Pakistan has no jurisdiction to entertain any petition regarding appointment of judges of superior courts of AJK. Such kind of petition does not come within the jurisdiction and sphere of Supreme Court of Pakistan”.¹⁰ The order further stated that:

The Supreme Court of Pakistan has no authority to extend its jurisdiction to the area of Azad Jammu and Kashmir because the territories of Pakistan have been defined in Article 1 of the Constitution of Islamic Republic of Pakistan. The Supreme Court of Pakistan cannot go beyond the territories defined in Article 1 of the Constitution of Islamic Republic of Pakistan.

Such a juridical position reflects the frustration of the people of AJK with regard to continuous Pakistani interference in the affairs of AJK.

10. “AJK SC challenges Pakistan SC in a new constitutional row”, *The Statesman*, March 24, 2010 at <http://www.thestatesmen.net/news/ajk-sc-challenges-pakistan-sc-in-a-new-constitutional-row/> (accessed on October 27, 2010).

The Situation in Gilgit-Baltistan

As has been stated earlier, the other part of PoK, i.e. Gilgit-Baltistan, came under direct rule of the central government of Pakistan after the Karachi Agreement and was termed 'Northern Areas'. However, the region did not find mention in the constitution of Pakistan. The people of the area did not enjoy the constitutionally guaranteed fundamental rights that people in the rest of Pakistan did. They were ruled directly by a joint secretary in the Ministry of Kashmir Affairs and Northern Areas (KANA) Affairs (now Ministry of Kashmir Affairs and Gilgit Baltistan).¹¹

The real power continued to be wielded by the joint secretary to the government of Pakistan in the Ministry of Kashmir and 'Northern Areas' (KANA) and the 'Northern Areas' continued to be the governed as a colony of Pakistan.

Interestingly, in March 1993, on being petitioned about the status of the Northern Areas, the AJK High Court in its verdict took serious note of the unrepresentative and arbitrary administrative system and denial of fundamental rights in the 'Northern Areas'. It directed the AJK government to immediately assume charge of the region and asked the government of Pakistan to assist the AJK government in this task. The Pakistan government appealed against this judgment in the Supreme Court, which in its verdict on 14 September 1994, stated that: "the Northern Areas are part of Jammu & Kashmir state but are not part of "Azad Kashmir" as defined in the "Azad Kashmir" Interim Constitution Act, 1974". The administrative arrangement underwent some change subsequently and a rudimentary system of representative governance was introduced in the Northern Areas in October 1994 by the formation of the Northern Areas Executive Council, with 26 members which had advisory powers but no legislative authority.

The real power continued to be wielded by the joint secretary to the government of Pakistan in the Ministry of Kashmir and 'Northern Areas' (KANA) and the 'Northern Areas' continued to be the governed as a colony of Pakistan. This situation continued till May 28, 1999, when the Pakistan Supreme Court took note of the "dictatorial and colonial system at work in Gilgit and Baltistan", and directed the Pakistani government to act within six months to put in place an elected government with an independent judiciary in the Northern Areas and to extend fundamental rights to the people of the region. The Pakistan government announced a package that provided for an appellate

11. The details about Ministry of Kashmir Affairs and Gilgit-Baltistan can be obtained from <http://www.kana.gov.pk/> (accessed on November 11, 2010).

court and an expanded and renamed Northern Areas Legislative Council (NALC). Elections to the NALC were held in November 1999, but the body had few real fiscal and legislative powers. The calls for reforms continued. The Musharraf government granted a few more legislative and financial powers in November 2000. The annual budgetary allocation was raised from Rs 60 million to Rs 1 billion. However, the bureaucratic stranglehold over the power structure continued.

Self Governance Order 2009: Empowerment or Eyewash?

'Northern Areas' was renamed 'Gilgit-Baltistan' under the Gilgit-Baltistan Empowerment and Self Governance Order of August 2009 to satisfy the long standing demand of political parties and people for autonomy. However, this package does not meet the genuine demands of the people of the region, who have rejected this as being

'Northern Areas' was renamed 'Gilgit-Baltistan' under the Gilgit-Baltistan Empowerment and Self Governance Order of August 2009. This package does not meet the genuine demands of the people of the region, who have rejected this as being inadequate.

inadequate. The new leadership emerging in the region regards Pakistan's presence in Gilgit-Baltistan as illegal and argues that Pakistan's, "unilateral decision to impose herself on the land and people of Gilgit-Baltistan is a clear violation of the resolutions of the UNCIP on Jammu & Kashmir". The Gilgit Baltistan United Movement (GBUM) termed this package an 'eyewash'. Manzoor Hussain Parwana, chairman of the GBUM, which is demanding total independence from Pakistan, in his reaction to the package noted: "The so-called provincial set-up is

fraudulent and a blackmailing offer of the government, which aims to conceal the political atrocities and brutal colonial control on the people in the occupied region".¹²

The Pakistan media commented that other than recognising the identity of the people of the region through a change in nomenclature, "rest of the package [was] a pack of gimmickry". It was described more as a "symbolic gesture of empathy towards the people rather than a real change in the governance structure of the area".¹³ It was not meant to address the concerns of politically and economically deprived people of PoK. The elections that followed were a cosmetic exercise. In reality, the Legislative Assembly and the council will have to function under the strict control of Ministry of Kashmir Affairs and Gilgit-Baltistan (the successor of KANA) in Islamabad.

12. Quoted by Iqbal Khattak, "New frontiers", *Himal*, October 2009", available at http://www.himalmag.com/New-frontiers_nw3563.html (accessed on November 20, 2010).

13. Abbas Ali, "A powerless legislature for Gilgit-Baltistan", *Dawn*, September 13, 2009. (accessed on November 20, 2010).

International NGOs have reported gross irregularities in the electoral process in Gilgit-Baltistan. Pakistan's dual policy on Kashmir has also been evident from its hesitation in declaring Gilgit-Baltistan to be one of its provinces, in spite of the reform package. Pakistan has tried its best to keep Gilgit-Baltistan apart from the Kashmir issue. However, it has not yet felt confident enough to claim it as an integral part of Pakistan because that will weaken its case on J&K.

The reform package best reflects Pakistan's ambivalence towards Gilgit-Baltistan. A dispassionate analysis of the situation has been made by some Western observers who rightly point out that the, "region is not included in the Pakistani constitution and has no constitution of its own, meaning there is no fundamental guarantee of civil rights, democratic representation, or separation of powers".¹⁴ The discourse on Kashmir, with its focus on AJK and the Kashmir valley, has been carefully constructed by Pakistan over the years to keep Gilgit-Baltistan off the radar of the international community in order to cover up its ambivalence and injustice towards the region.

Gilgit-Baltistan is not included in the Pakistani constitution and has no constitution of its own, meaning there is no fundamental guarantee of civil rights, democratic representation, or separation of powers.

Demographic change in Gilgit-Baltistan

The demographic composition of the Gilgit-Baltistan region of the PoK, has undergone a sea change since 1947 as a result of a deliberate strategy of the Pakistani government to turn the original inhabitants of the region (mostly Shia) into a minority. The issue of the large scale migration of Pakhtuns into PoK has not been given its due attention by India and the international community. It is important to note here that India has confined the sale and purchase of land and property within J&K to the people of the state. The Northern Light Infantry (NLI) deployed in the Kargil war by Pakistan, was originally made up of recruits from the region but has of late been increasingly staffed by non-locals, as the local Shias are not trusted anymore. This shows the level of prejudice against the very people belonging to the place. Moreover, as a UNHCR report states, that the "appropriation of land in the Northern Areas by non-Kashmiri migrants from elsewhere in Pakistan, with the tacit encouragement of the federal government and army, has led to dwindling economic opportunities for the local

14. Freedom House, Freedom in the World 2010 - Kashmir [Pakistan], June 24, 2010, available at <http://www.unhcr.org/refworld/docid/4c231240c.html> (accessed on October 20, 2010).

population and an increase in sectarian tension between the majority Shia Muslims and a growing number of Sunnis.”¹⁵

Sectarian violence

Sectarian divide has plagued PoK for long and much of this has to do with the Pakistan state which has time and again played the sectarian card to fulfil its sinister designs in PoK. The sectarian divide in PoK is well-documented in an ICG report entitled, “The State of Sectarianism in Pakistan” published in April 2005 which states that the Shias in the region were “alienated by state's continued sponsorship of Sunni orthodoxy.”¹⁶ The report reveals how Zia manipulated sectarianism to settle political scores with the PPP¹⁷ which was suspected to have some hold over the local population. Anti Shia riots engineered by the Zia regime in 1988 engulfed Gilgit-Baltistan and

Sectarian divide has plagued PoK for long and much of this has to do with the Pakistan state which has time and again played the sectarian card to fulfil its sinister designs in PoK. Sectarian elements from neighbouring provinces actively patronised by the state have unleashed a reign of terror in the region from time to time.

according to the report, claimed 700 lives. Sectarian elements from neighbouring provinces actively patronised by the state have unleashed a reign of terror in the region from time to time. They looted and burnt villages and did not even spare the livestock in their state-sponsored rampage.

Another ICG report published in April 2007 titled, “Discord in Northern Areas,” while describing the origin of sectarian strife in PoK declares that “state and non state actors have manipulated the divisions there since the 1980s, sowing the seeds of sectarian discord”.

Economic Exploitation

PoK is rich in resources. It has vast deposits of precious and semi-precious stones, including world's best rubies and high quality marble. It also has abundant water resources. The Indus and its tributaries flowing through PoK offer huge potential for generation of hydro-electric power with an identified capacity of around 15,000

15. See Freedom House, Freedom in the World 2008 - Kashmir [Pakistan], July 2, 2008, available at <http://www.unhcr.org/refworld/docid/487ca21a2a.html> (accessed on November 28, 2010).

16. The full report is available at [http://www.crisisgroup.org/~media/Files/asia/south-asia/pakistan/095_the_state_of_sectarianism_in_pakistan.ashx](http://www.crisisgroup.org/~/media/Files/asia/south-asia/pakistan/095_the_state_of_sectarianism_in_pakistan.ashx) (accessed on October 20, 2010).

17. It is also useful to note that PPP came to power in Gilgit Baltistan after the 2009 elections.

megawatts in the hydropower generation sector alone. The water resources of PoK partially explain China's growing interest in this region despite India's opposition.

Pakistan has been draining PoK of its resources over decades and it is ironic that no benefits from these projects accrue to the local people. The controversial Diamer-Bhasha Dam project is one example of this neglect. The dam will be built at Diamer in Gilgit-Baltistan, but the power plant will be situated in Khyber-Pakhtunkhwa.¹⁸ The dam has been opposed by local people on the grounds that it will inundate vast tracts of arable land and will have an adverse impact on the local environment. There is also a conflict between Khyber-Pakhtunkhwa and PoK over the sharing of royalty as the power plants are located in the former.

Pakistan has been draining PoK of its resources over decades and it is ironic that no benefits from these projects accrue to the local people.

18. For details see, Alok Bansal and Priyanka Singh, "Bhasha Dam: A Tomb Stone of Gilgit-Baltistan's Aspirations", January 31, 2009, IDSA Web Comment, at <http://www.idsa.in/node/802/92> (accessed on October 20, 2010).

INCREASING INTERNATIONAL ATTENTION

Ever since the illegal occupation of PoK in 1947, Pakistan has tried its best not to expose the region to national and international media. Hence, there is not much authentic information about the region in the public domain. There is indeed a great deal of ferment and resistance in PoK against Pakistan policy in this region. PoK has, of late, caught the attention of the international community because of the efforts of a

Some international organisations have evinced an interest in the region and brought out reports on the prevailing socio-economic and political situation in PoK.

rising number of activists and nationalist groups¹⁹, who are disseminating information regarding Pakistan's highhanded approach towards the people of the region. Notwithstanding the restraints imposed on political activities in PoK, the rise of nationalist movements in PoK have given the local people some relief. These nationalists have exposed the oppression of Pakistani state and authorities in PoK. In recent years the Gilgit-Baltistan diaspora in the West, especially in the United

States, has quite actively been taking up the problems and issues relating to their place of origin.

Human Rights Violations

The debate on the "human rights in Kashmir" is unfairly focused on the Indian state of J&K. Pakistan has ensured - quite successfully - through its relentless propaganda that the human rights situation in the Indian J&K is always under the international scanner. The proponents of human rights worldwide have largely ignored the atrocities in PoK committed by the Pakistani state. PoK is fundamentally backward and comprises areas with little or nothing in terms of infrastructural development. The entire region presents a dismal picture of deprivation both in socio-economic and political terms.

PoK is neither a province of Pakistan (the constitution of Pakistan is silent on its territorial status) nor an independent entity even though it has the trappings of a state such as, a political structure, institutions and a separate flag. Despite the paraphernalia of sovereignty, the reins of actual power, discretion and authority rest with the

19. For a list of the nationalist groups and political parties active in PoK, please refer to the Fact Sheet given in Annexure III.

government of Pakistan. Political offices in PoK function at the pleasure of the federal government and frequent changes of prime ministers in the so called 'AJK' clearly prove this point. The people of AJK hardly have any avenue to express their legitimate grievances. Their political aspirations are fast being throttled and in the absence of basic political rights, people are largely dejected and alienated.

Reports of the HRW, ICG and HRCP

Until the 2005 earthquake, the region hardly attracted any international attention. Pakistan ignored the plight of the people and continued with its policy of neglect and domination. However, it is possible that the situation may have changed since the earthquake. Some international organisations have evinced an interest in the region and brought out reports on the prevailing socio-economic and political situation in PoK. For example, the Human

Rights Watch Report titled, *“With Friends like these....Human Rights Violations in Azad Kashmir”* published in the year 2006 gave an account of the unprecedented violations of human rights in PoK. It also laid down a set of recommendations for the government of Pakistan and the international agencies that were operating in AJK in the aftermath of the 2005 earthquake. The report had concrete suggestions for Pakistan, the international donors and agencies in PoK and the militant groups operating therein. These include:

- ◆ Release all individuals imprisoned or detained and withdraw immediately all criminal cases against anyone, including Kashmiri nationalists, for the peaceful expression of their political views, including that Azad Kashmir should be independent;
- ◆ End the practice of arbitrary arrest and detention, other forms of harassment, and torture and other ill-treatment of persons exercising their right to freedom of expression, including those who peacefully oppose Kashmir's accession to Pakistan or demand greater autonomy for the territory;
- ◆ Repeal constitutional curbs on freedom of association, expression and assembly in Azad Kashmir so that the constitution and Azad Kashmir law are consistent with international human rights standards;
- ◆ Prosecute to the full extent of the law and in accordance with international standards those members of the armed forces, its intelligence agencies, government officials and police personnel implicated in serious violations of human rights, including arbitrary arrests and torture;

The Gilgit-Baltistan diaspora in the West, especially in the United States, has quite actively been taking up the problems and issues relating to their place of origin.

- ◆ Respect press freedom and allow full independent coverage of both past and ongoing events in Azad Kashmir. Remove formal and informal prohibitions on news gathering and reporting by the Azad Kashmir and Pakistani media, and accord all journalists full freedom of movement. End the practice of banning books and literature;
- ◆ Ensure that human rights organisations have freedom of movement throughout Azad Kashmir and allow them to carry out investigations.
- ◆ The militant groups to “cease threatening civilians who do not cooperate with or support the activities of militant groups”;
- ◆ The International donors to “use every available opportunity to press for an end to impunity for perpetrators of serious human rights abuses, including members of the military, intelligence agencies, police and militant groups”.²⁰

Pakistan's Inter-Services Intelligence (ISI) operates throughout AJK and engages in the extensive surveillance of pro-independence groups and the media.

The International Crisis Group's report on Gilgit-Baltistan (then known as Northern Areas) Baroness Emma Nicholson's report to the EU and various articles published on the UNPO (Unrepresented Nations and Peoples Organization) website also reveal the grim situation in PoK.

The Human Rights Commission of Pakistan (HRC) in its reports has also indicated that Pakistan's Inter-Services Intelligence (ISI) operates throughout AJK and engages in the extensive surveillance of pro-independence groups and the media. Arbitrary arrests and detentions are commonplace. In some instances, those detained by the ISI, the police, or the security forces are tortured, and several cases of death in custody have been reported. Impunity for acts of torture and other mistreatment of civilians by the military and intelligence services remains the norm.²¹ While the Pakistani authorities have readily provided support to armed militants fighting in India, they have been less tolerant of groups that espouse Kashmiri self-determination, including primarily the All Parties National Alliance (APNA), a conglomerate of 12 small pro-independence Kashmiri groups. Nationalist and pro-independence groups such as the Jammu and Kashmir Liberation Front (JKLF), the Gilgit Baltistan United Movement (GBUM), and others, continue to agitate for increased political representation.

20. “With Friends Like these...”, *Human Rights Violations in Azad Kashmir*, Human Rights Watch, Volume 18, no. 12 (C), September 2006. Available at <http://www.hrw.org/reports/2006/pakistan0906/> (accessed on September 7, 2010).

21. See n. 8.

Emma Nicholson's Report: Significant Observations

Baroness Emma Nicholson's report titled, *"Kashmir: Present Situation and Future Prospects"*²² which was adopted by the European Union on May 24, 2007 provides a valuable account of the reality of the state and society in the PoK. According to the report, the local administration is dysfunctional and the Pakistani state and military have total control over the region. The report also states that the so called 'AJK' is not a sovereign entity and its prime minister and president have to owe allegiance to the federal government of Pakistan to survive in office. The EU report also brings China into the picture by noting that the Trans Karakoram Tract, formerly a part of the princely state of J&K is now under Chinese control.

In the so called Azad Kashmir, Pakistan has "consistently failed to fulfil its obligations to introduce meaningful and representative democratic structures".

Emma Nicholson's report was compiled in the aftermath of the 2005 earthquake and has drawn some important conclusions using the post-earthquake response of the state as a benchmark. The report makes some pertinent remarks on the state of affairs in PoK and calls for appropriate action by all the concerned parties. It notes amongst other things that:

- ◆ The miserable state of socio-economic-political problems was accentuated by the earthquake of 2005 and the "minimal basic rights" which rested with the population were "decimated, compounding a situation notable for a lack of democracy and the existence of oppressive and unjust laws, especially those applicable to women";
- ◆ The natural calamity was a blow to an "already weakened democratic base" in PoK and therefore the calls for conducting a plebiscite were unjustified keeping in view the "needs of the local people" and hence "damaging to their interests";
- ◆ In the so called Azad Kashmir, says the report, Pakistan has "consistently failed to fulfil its obligations to introduce meaningful and representative democratic structures";
- ◆ AJK is governed through the Ministry of Kashmir Affairs in Islamabad, that Pakistan officials dominate the Kashmir Council and that the Chief Secretary, the

22. The full report is available at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A6-2007-0158+0+DOC+PDF+V0//EN> (accessed on October 19, 2010).

Inspector-General of Police, the Accountant-General and the Finance Secretary are all from Pakistan; The report disapproves of the provision in the 1974 Interim Constitution which forbids any political activity that is not in accordance with the doctrine of Jammu and Kashmir as part of Pakistan and obliges any candidate for a parliamentary seat in AJK to sign a declaration of loyalty to that effect;

- ◆ “Bad as the situation is in AJK, it is infinitely worse in Gilgit and Baltistan; the people are kept in poverty, illiteracy and backwardness”.

“Bad as the situation is in AJK, it is infinitely worse in Gilgit and Baltistan; the people are kept in poverty, illiteracy and backwardness”.

In addition, the report commends the political process in Jammu & Kashmir and “compliments India on its efforts for the socio-economic development of Jammu and Kashmir through special packages for the state and its emphasis on job creation and measures to promote tourism in Jammu and Kashmir”.²³

23. Baroness Emma Nicholson, “Report on Kashmir: present situation and future prospects”, April 25, 2007.

MILITANT TRAINING CAMPS AND JIHADI INFLUENCE

Since the 1990s, PoK has been a hub of jihadi militancy, a fact that has recently been corroborated once again by the 26/11 attacks in Mumbai. The confessions of the lone survivor of the attack, Ajmal Kasab and David Headley²⁴ (who was also involved in the attack) provide sufficient evidence that the perpetrators of the Mumbai attack received training in a militant camp in Muzaffarabad before landing in Mumbai via Karachi. There have been reports that Al Qaeda was strengthening its presence in PoK, and much speculation in the media that Osama Bin Laden was once hiding in the vicinity of Muzaffarabad- the capital of the so called AJK.²⁵

Terrorist groups such as the Lashkar-e-Taiba developed strong linkages with the local population after the 2005 earthquake because of the extensive relief they provided to the people under the guise of Jamaat-ud-Dawa.

Terrorist groups such as the Lashkar-e-Taiba developed strong linkages with the local population after the 2005 earthquake because of the extensive relief they provided to the people under the guise of Jamaat-ud-Dawa, a self proclaimed 'social welfare organisation', which has since been banned in Pakistan. The victims of the earthquake who were left to fend for themselves were provided much solace by these terror groups at least in the critical phase of the relief work. The spurt of arrests in Muzaffarabad and the adjoining areas after the Mumbai incident are a pointer to the existence of terror camps and militant activities in PoK. The militants have found it easy to operate there because of the poor socio-economic and political development of the region.

Following the 2005 earthquake, AJK received the attention of the international relief agencies. The large-scale arrival of international NGO workers forced the Pakistani government to shift Jihadi camps and establishments to interior areas. This brought

24. David Coleman Headley is a Chicago based Pakistani American who was involved in the Mumbai attack. According to his own confessions, he had received training from LeT to scout several locations in Mumbai during the preparation for the attack. He was later apprehended by US for his linkage terrorist plot to attack Denmark.

25. Osama in PoK, US may give PaK proof, *Hindustan Times*, February 1, 2002, at <http://www.hvk.org/articles/0202/9.html> (accessed on November 14, 2009).

about a slight reduction in their militant activities against India, particularly in J&K. Around the same time, serious rifts had been developing between the Musharraf regime and the overall Jihadi network due to the American pressure on Pakistan and

Militant groups that have traditionally focused on attacks in Indian-administered Kashmir are reportedly expanding their influence and activities in Pakistani Kashmir, including the establishment of new madrassas (religious schools) in the area.

large-scale misappropriation of funds provided to them by the ISI. In 2006, there was a confrontation between the leadership of the Jihadi groups in PoK and the top authorities of ISI and the Musharraf regime. The leaders of practically all Jihadi groups sat on a hunger strike at the Muzaffarabad office of the ISI. They warned the government of Pakistan to go to the people over the abandonment of the traditional Pak policy on Kashmir by the Musharraf administration. The subsequent breakdown in links between the Jihadi groups and the Pakistani establishment due to developments in FATA had their impact

on PoK also where pro-Taliban militant groups carried out many attacks on Pakistani army establishments. However, recently under General Kayani, a rapprochement of sorts has been achieved with a section of the of LeT and the Hizbul Mujahideen and anti-India Jihadi activities are resurfacing in PoK.

In 2010, the report by Freedom House brought out by the UN High Commissioner for Refugees (UNHCR), stated²⁶:

A number of Islamist militant groups, including those that receive patronage from the Pakistani military, operate from bases in Pakistani-administered Kashmir. Militant groups that have traditionally focused on attacks in Indian-administered Kashmir are reportedly expanding their influence and activities in Pakistani Kashmir, including the establishment of new madrassas (religious schools) in the area. They have also increased cooperation with other militants based in Pakistan's tribal areas, such as the Tehrik-i-Taliban Pakistan (TTP)..... In August, the Pakistani government banned 25 militant groups operating within the country, including those focused on Kashmir. Although the government claimed to have raided and sealed off the Muzaffarabad headquarters of the LeT, also known as the Jamaat-ud-Dawa, other reports indicated that the group continued to operate training camps in the region. Tension between Islamist pro-Pakistan groups and pro-independence Kashmiri groups as well as some local residents has reportedly increased in recent years.

26. Freedom House, Freedom in the World 2010 - Kashmir [Pakistan], June 24, 2010, available at <http://www.unhcr.org/refworld/docid/4c231240c.html> (accessed on November 28, 2010).

Several suicide attacks on Pakistani security forces have been reported in the media since June 2009. There have been references to a new militant outfit, Lashkar-e-Zil (LeZ) operating out of the area. LeZ is supposedly an amalgamation of several militant outfits including Tehrik-e-Taliban, Pakistan (TTP) led by Commander Hakimullah Mehsud, the Azad Kashmir chapter of the Harkat-ul-Jihad al-Islami (HUJI) led by Commander Ilyas Kashmiri, and the Lashkar-e-Jhangvi (LeJ) led by its jailed leader Akram Lahori.²⁷ The situation in the PoK is expected to worsen further as the Pakistan military is under pressure to clamp down on militant outfits.

The situation in the PoK is expected to worsen further as the Pakistan military is under pressure to clamp down on militant outfits.

27. Amir Mir, "Lashkar-e-Zil behind Azad Kashmir suicide hits", *The News*, January 11, 2010. According to this report there were four incidents of suicide attacks in Azad Kashmir between June 26, 2009 and January 6, 2010, which killed 20 people, 10 of them security forces personnel and 10 civilians.

GROWING CHINESE PRESENCE

The Karakoram Highway (KKH) connecting Pakistan with China and built in 1978 with Chinese assistance runs through PoK. The KKH is about 1280 kms long and connects Havelian rail-head near Abbotabad in the Khyber-Pakhtunkhwa province of

Pakistan has ignored the resentment of the people of Gilgit-Baltistan against increasing Chinese penetration into their area. The people of PoK had registered their protest when Pakistan ceded the Trans Karakoram Tract to China in 1963.

Pakistan with Kashgar, in the Xinjiang region of China. The Pakistani section of the KKH is about 800 kms long and much of it (about 580 kms) runs through the Gilgit-Baltistan region of the PoK. China has taken special care to repair, renovate and upgrade it from time to time. The highway allegedly has been used for the clandestine transfer of nuclear material from China to Pakistan. That this has multiple strategic implications for regional security, especially that of India, has been underscored by many experts.²⁸

China has also been undertaking many developmental projects in PoK. Chinese companies are working on a number of hydel projects in Pakistan, including Neelum-Jhelum, Gomal Zam and the raising of the height of the Mangla dam in PoK. During Zardari's visit to China in August 2009, both the countries signed MoUs on cooperation for development of hydel, thermal and solar energy projects, and for promotion of river fisheries and related technologies by cooperation between the Indus River Fresh Water Fisheries Research Institute and the Pearl River Fishery Research Institute of Guangzhou. It is believed that the Zhejiang Design Institute of Water Conservancy and Hydroelectric Power (Zhejiang province) has already carried out feasibility studies for building small and medium-sized dams in PoK. The media in Pakistan has reported that such deals between China and Pakistan are not transparent and often Chinese companies are awarded contracts without open bidding, "contrary to relevant government rules and regulations as well as basic norms of transparency".²⁹ Therefore, it is difficult to have a clear idea of the nature and extent of Chinese involvement in PoK

28. For details please refer to B Raman's writings on the subject such as, "Gilgit & Baltistan, China & North Korea", *South Asia Analysis Group, Paper no. 289*, August 7, 2001, "Unrest in Gilgit Baltistan", *South Asia Analysis Group, Paper no. 1241*, February 3, 2009, "Gilgit Baltistan: The A Q Khan Proliferation Highway",---Part VIII, *South Asia Analysis Group, Paper no. 3405*, September 22, 2009 (accessed on September 30, 2010).

29. Kamran Khan, "Secret \$2.2 bn Pakistan Steel deal without bids", *The News*, August 18, 2009 (originally available at http://thenews.com.pk/top_story_detail.asp?Id=23922 (accessed August 20, 2009), now quoted available at <http://paktribune.com/news/print.php?id=218208> (accessed on September 29, 2010).

in particular. It is well known that China's objective is to gain direct access to the Gulf through PoK by constructing highways, railways and ports.

Pakistan has ignored the resentment of the people of Gilgit-Baltistan against increasing Chinese penetration into their area. The people of PoK had registered their protest when Pakistan ceded the Trans Karakoram Tract to China in 1963. The people of the region fear that if the current pace of Chinese penetration is sustained then China may completely take over Gilgit Baltistan by the year 2020. Besides, there is even a suspicion that the Sunni majority state of Pakistan along with China may exterminate the Shia minority in Gilgit Baltistan in order to silence all opposition to their policies in future.³⁰ This is not an alarmist proposition and such prospects have been hinted at in a *New York Times* article written by Selig Harrison. The article states that at least 7000-11000 Chinese troops have been stationed in the Gilgit Baltistan region of the PoK. IDSA's monthly newsletter *PoK News Digest* has also highlighted the rising presence of Chinese in Gilgit Baltistan time and again.

China has a strategic intent to dominate PoK in general and Gilgit Baltistan in particular. This area is contiguous to its own Xinjiang province where Muslim separatist feelings are strong. Along with Tibet, Xinjiang has become a particularly large belt of instability for China. Therefore, the Chinese authorities seem to be preparing themselves to take over strict control over Gilgit Baltistan, should the central authority in Pakistan becomes ineffective.

China has also been undertaking many developmental projects in PoK. The Zhejiang Design Institute of Water Conservancy and Hydroelectric Power (Zhejiang province) has already carried out feasibility studies for building small and medium-sized dams in PoK.

China, of late, is projecting the status of J&K as a disputed territory. In 2008, the Chinese government started issuing stapled visas to people travelling to China from J&K. In September 2010, China denied a visa to Lt General B S Jaswal, the GoC of the Indian army's northern command, for official talks in Beijing on the grounds that he was commanding troops in a disputed area. In this context, the Chinese plans for the development of Xinjiang, which demonstrate its increasing interest in the area, is likely to have considerable impact on Gilgit Baltistan in particular and the issue of Jammu and Kashmir in general. Enhanced Chinese presence in PoK also has security implications for India. Thus, there is need to sensitise international public opinion about Chinese forays into PoK.

30. Interaction with a delegation from PoK at IDSA in 2009.

CROSS LoC TRANSPORT & TRADE

The Delhi-Lahore bus service was started to during the Vajpayee government as a confidence building measure. However, a series of setbacks such as the Kargil War and the attack on the Indian Parliament led to the suspension of the bus service which was later resumed in 2006. The bus services from SrinagarMuzaffarabad and Poonch-Rawalkote were inaugurated on April 7, 2006 and June 20, 2006 respectively.

Cross LoC trade³¹ between J&K and PoK began amidst a lot of fanfare on October 21, 2008. However, trading activities have been interrupted on several occasions because

On completing two years in October 2010, the total volume of cross LoC trade of imported goods was 26,443 tonnes.

of the lack of proper support structures like banking channels and communication. Despite hurdles, however, trade across the LoC continues in basic items like pulses, dry fruits and footwear. On completing two years in October 2010, the total volume of cross LoC trade of imported goods was 26,443 tonnes and more than 7,400 trucks loaded with goods crossed the 'Aman Sethu' (peace bridge), which connects J&K with PoK at Kaman post. Initially,

restricted to only 21 items, the list has been extended to include 33 items by the two countries.³² According to media reports goods worth Rs 2.94 billion have been traded on the Srinagar-Muzaffarabad route ever since trade began between the two sides of Kashmir.³³ Later reports estimated that cross-LoC trade through the Chakan-Da-Bagh-Taitrinote entry point along the Poonch-Rawlakot route touched Rs 69.5 million in one week in late November 2010.³⁴ J&K government has requested the central government for opening of more trading points including Tatapani, Balnoi, R.S. Pura-Sialkot, Keran-Bimbergali and Kargil-Skardu.

31. See for detailed discussion on the subject, Smruti S. Pattanaik and Arpita Anant, "Cross-LoC Confidence Building Measures between India and Pakistan: A Giant Leap or a Small Step towards Peace?", IDSA Issue Brief, February 12, 2010. Available at http://www.idsa.in/issuebrief/Cross-LoCCBMbetweenIndiaandPakistan_120210.

32. "JK-PoK biz worth reaches Rs 300 cr in 2 years of trade", *Indian Express*, October 21, 2010.

33. PTI news on September 9, 2010.

34. The fact that the trade has huge potential can be gauged from the fact that only 39 out of designated 50 trucks (25 from each side) exchanged side on this occasion. See report on <http://www.brecorder.com/news/business-and-economy/pakistan/1127780:news.html> (accessed on January 5, 2011).

The cross LoC trade offers an opportunity for India to develop its soft power approach towards people in PoK who have been living under the unlawful control of Pakistan over the years. Such initiatives could be crucial in forging ties between people on both sides. The cross-LoC exchange has also raised the hopes of the Kashmiris of being able to live together in harmony with their brethren across the border. The cross-LoC trade and bus service are a modest beginning towards integrating Kashmiris on both sides. If India succeeds in blunting the edge of separatist politics in J&K through democratic means and ensures clean, transparent and responsive governance in J&K, it can lead to a domino effect in PoK.

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PoK AND INDIA: A CASE OF NEGLECT

The brief review of the developments in PoK in this report highlights the harsh realities of misrule and neglect in the region. The popular resentment against Pakistan is increasing day by day. The growing footprint of China in the region adds yet another strategic dimension to the discourse on PoK. These realities are certain to impinge on India's long-term security interests and therefore it is incumbent upon Indian policy makers to adopt a proactive approach towards PoK which is an integral part of India.

There is hardly any effort in India to clearly define its objective on PoK which is regarded as an integral part of its territory. India should reassert its claim on PoK as per the 1994 parliamentary resolution.

India should not only rethink its approach but also try and mobilise international opinion against bad governance and unlawful occupation of PoK by Pakistan since 1947.

The demographic map of PoK has changed significantly since its occupation by Pakistan in 1947. Moreover, Chinese and jihadi influences are on the rise. Against this backdrop, India's response to the developments in PoK, which is legally its own territory, has been rather lukewarm. India's stand on PoK has always

been defensive. It should try to reshape international opinion on Kashmir which has not so far understood the Indian stand clearly. Thanks to Pakistani propaganda, there is too much focus on the Kashmir valley (7 per cent of the total area of J&K and 15 per cent of the area under Indian administration) while the rest of state, including PoK, Jammu and Ladakh, hardly receive any critical attention. This approach must change. There is a view, within India, that the political status of other regions should be raised to counter the rising profile of the separatists in the valley.

There is hardly any effort in India to clearly define its objective on PoK which is regarded as an integral part of its territory. India should reassert its claim on PoK as per the 1994 Parliamentary Resolution. There is a greater need for India to clearly define its strategic objectives with regard to PoK and also elucidate how it intends to fulfil those objectives. This requires that government/policy makers and analysts should spell out their objectives on PoK more clearly, which could then inform the academic debates on Kashmir in India. The Parliamentary Resolution of February 22, 1994, which outlines India's approach to the state of Jammu and Kashmir should serve as a guideline:

- ♦ The state of Jammu & Kashmir has been, is and shall be an integral part of India and any attempts to separate it from the rest of the country will be resisted by all necessary means;

- ♦ India has the will and capacity to firmly counter all designs against its unity, sovereignty and territorial integrity; and demands that -
- ♦ Pakistan must vacate the areas of the Indian state of Jammu and Kashmir, which they have occupied through aggression; and resolves that -
- ♦ All attempts to interfere in the internal affairs of India will be met resolutely.³⁵

There is a view amongst some analysts in India that the PoK should be renamed 'West Jammu and Kashmir' to underscore the fact that it is a part of the state of J&K and hence an integral part of India. There is, however, no unanimity on the change of nomenclature because of the overall sensitivity of the Kashmir issue.

India also needs to take note of the changes taking place in PoK and make a serious concerted effort to shape and orient the debate on Kashmir in its favour. India should aggressively disseminate facts and figures on J&K which is far better governed than PoK. The overwhelming participation of the people of J&K in the general and state elections bears testimony to this. In fact, despite the call of the separatists in J&K to boycott the elections, the people of the valley (including those of separatist orientation) have also participated in the electoral process in large numbers. It is difficult to believe that Pakistan would ever allow such an open, transparent and inclusive process in PoK where it has adopted an iron-hand policy forcing the nationalist leaders advocating total independence to flee their homeland and seek refuge in Western countries.

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Not very long ago (in 2006), students from Gilgit Baltistan in PoK demanded reservation of seats in top Indian institutions like the IITs and IIMs.³⁶ This should not be very difficult for the Indian government to implement since it already has 25 seats reserved for members from PoK in the Jammu & Kashmir Legislative Assembly.³⁷

35. Indian Parliamentary Resolution on Jammu & Kashmir, February 22, 1994. *Parliamentary Debates: Official report*, Volume 170, Issue 2, 1994, p. 237.

36. "PoK students want seats in IIM/IITs!", May 23, 2006 at <http://www.rediff.com/news/2006/may/23sheela.htm> (accessed on October 28, 2010).

37. "Delimitation adds seats to PoK quota", *The Times of India*, July 7, 2006 at <http://timesofindia.indiatimes.com/india/Delimitation-adds-seats-to-PoK-quota/articleshow/1712043.cms> (accessed on August 25, 2008).

Another point worth noting here is that separatists in Jammu and Kashmir lack popular support which explains their hesitation to participate in the electoral process. The separatist ideology backed by Pakistan to create unrest in the valley, therefore, stands rejected and nullified.

The current spate of political violence in the Kashmir valley cannot be interpreted as a rejection of the democratic process in the state. The disaffection in the valley may have been a result of the inability of the present government to fulfil popular aspirations. However, the remedy lies in ensuring a more transparent and responsive democratic process in the state and the government of India is trying its best to generate a national consensus to resolve the internal crisis. The fact remains that such popular grievances are exploited by Pakistani agencies to perpetuate the uncertainty which aggravates the situation further. The people of the valley have often fallen prey to such machinations. However, saner voices have emphasised the need to seek a peaceful solution to the crisis. The government of India is also taking steps to address these popular grievances in a democratic manner. An all-party team has already visited the valley and met with a wide cross-section of the people from the state including some of the separatist leaders. A group of interlocutors has been appointed to take into account all shades of opinion from all the three regions of the state. This is a clear demonstration of the seriousness on the part of the government of India to solve the problems of the state. It is hoped that the situation will soon return to normal and that democracy will ultimately prevail.

RECOMMENDATIONS

Keeping the above facts in view, the following recommendations are being made:

1. In accordance with the Parliamentary Resolution on Kashmir 1994, India should openly claim its rightful position on PoK in international fora and denounce Pakistan's illegal occupation of the territory by aggression in 1947.
2. India should also bring to the notice of the world the gross human rights violations in PoK and expose the policies of the Pakistani state towards AJK and Gilgit-Baltistan. India should publicize widely the lack of democracy in the political processes underway in PoK to counter Pakistan's false propaganda in the Kashmir valley.
3. The discourse on autonomy in J&K needs to be analysed in the context of what is taking place across the LoC in PoK. In J&K, the raging debate on autonomy and self rule shows that there is freedom of thought and expression and people can openly agree/disagree with the governments they choose. However, this is hardly the case in PoK where the term 'Azadi' does not go beyond the name Azad Kashmir.
4. The Indian government should come out with a 'White Paper' on PoK to convey a clear and explicit message to Pakistan that it is in illegal occupation of the region. Notably, at the international level many people are watching India's moves in the light of rising presence of China and militant activities in PoK.
5. A similar message needs to be conveyed to China which is seeking to fulfil its strategic objectives by involving itself in developmental projects in PoK. China's role in PoK is totally unjustified in line with China's stand that Kashmir is a disputed territory. China should be made to explain as to why it is engaging itself in developmental works in a region, that is claimed by India, without its consent.

6. PoK has a lot of strategic significance for India: it is the gateway to Central Asia through the Wakhan Corridor and at the same time it has rich water resources. Thus, there is greater need for India to take a more proactive approach on PoK, not only because it is a part of its territory but because of the high strategic stakes.
7. There should be more conferences and publication of factual reports on PoK to revisit the entire issue. Indian strategic analysts should build future scenarios on PoK. For instance, IDSA is in the process of bringing out a compilation of key documents on PoK which could be a ready reckoner for issues relating to PoK.
8. Indian government should provide scholarships to students from PoK and engage the people in PoK including the diaspora especially those based in the West. It may also consider filling up the seats reserved for the people in PoK in the J&K Assembly through representatives from the diaspora.
9. The people of PoK should be regarded as citizens of India and special documents should be issued to them in this regard. They may be allowed to visit India after proper check of their antecedents.
10. India must engage the new emerging political leadership in PoK which is disillusioned with Pakistan's approach towards the people of PoK and demanding genuine representative and popular system of governance for them. India needs to be responsive to the pro-India political actors in PoK and nurture them, rather than adopt a defensive approach towards them.

APPENDICES

READINGS

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CHRONOLOGY OF SIGNIFICANT DEVELOPMENTS IN POK DURING 2009-2010

June 26, 2009- Suicide bomb attack in Muzaffarabad killing two soldiers of the AJK regiment

August 23, 2009- Pakistan and China signed a Memorandum of Understanding for construction of Bunji dam in Astore District

August 29, 2009- Gilgit Baltistan Self Governance and Empowerment Package 2009 introduced. Northern Areas was renamed as Gilgit Baltistan

September 11, 2009- India protested against the proposed 7,000 MW Bunji hydroelectric project being built in the Pakistan occupied Kashmir with Chinese assistance

October 27, 2009- India's External Affairs Minister says Chinese participation in PoK projects is illegal

November 12, 2009- First ever elections were held in Gilgit Baltistan

November 17, 2009- Coalition of NGOs in Pakistan state that elections in Gilgit Baltistan were full of irregularities

December 13, 2009- Pakistan government seals JuD offices in PoK after it is listed as a terrorist organization

December 16, 2009- European Parliament passes a novel resolution opposing the governance package

December 27, 2009- 10 killed, 81 hurt in Muzaffarabad as a suicide bomber attacks a Muharram procession.

January 4, 2010- A massive landslide resulted in the formation of an artificial lake in Hunza.

January 6, 2010- Three soldiers killed, 11 hurt in suicide attack in PoK

January 20, 2010- International Council Jammu Kashmir National Awami Party (IC JKNAP) leaders demanded that Pakistani state must immediately move out its troops from populated areas of PoK as soon as possible

February 4, 2010- JuD holds a terror conclave in Muzaffarabad

February 11, 2010- India's Home Minister says AJK is part of Indian Territory
March 13, 2010- United States refuses to fund Diamer Bhasha Dam

March 13, 2010- United States refuses to fund Diamer Bhasha Dam

April 27, 2010- Nationalist banished from Gilgit Baltistan to deter them from carrying out protests against the Karachi Agreement on April 28, 2010

July 2, 2010- World Bank refuses to fund the Diamer Bhasha Dam

August 26, 2010- New York Times published an article on the presence of 11,000 PLA soldiers in Gilgit Baltistan, written by Selig Harrison

FACT SHEET ON PAKISTAN OCCUPIED KASHMIR

Total area of Jammu and Kashmir	222,236 sq kms
Area of under illegal Pakistani occupation (PoK = AJK + Gilgit Baltistan)	78114 sq kilometres
Area of J&K under Chinese occupation <i>Area ceded to China by Pakistan</i>	42,685 sq kms 5,130 sq kms
Area under Pakistan and China	120,799 sq kms
Area with India	101437 sq kms

Administrative Divisions: Two, namely Mirpur-Muzaffarabad (referred to as Azad Jammu & Kashmir or AJK by Pakistan) and Federally Administered Gilgit-Baltistan (FAGB).

Area ceded to China by Pakistan: 5130 sq. kilometres (Area of Shaksgam Valley)

(Source: Jammu & Kashmir Government website at <http://www.jammukashmir.nic.in/>, accessed on March 14, 2011)

Azad Jammu and Kashmir (AJK)

Area: 13,297 square km

Population: 2.973 million (1998 population census),

Male, 1.850 million; Female, 1.832 million

Capital: Muzaffarabad

Kashmir (Muzaffarabad Division) comprises of 3 districts: Bagh, Muzaffarabad and Neelum, Hattian

Jammu (Mirpur Division) comprising of 5 districts: Bhimber, Kotli, Mirpur, Sudhnati/Pallandari and Rawalakot/Poonch, Haveli

President: Raja Zulqarnain Khan

Prime Minister: Sardar Attique Ahmed Khan

AJK Council: Total 12 members

AJK Legislative Assembly: Total seats are 49

Ethnic Groups: Gujjars, Jats, Mughal, Rajputs, Sudhan, Awan, Qureshi, Pashtuns, Shins, Ladakhi, Baltis etc.

Religious Groups: Sunni, Ahlehadith, Shia, Nurbakhshi, Christians, Qadianis, Hindus

Languages: Punjabi, Hindko, Pahari, Kashmiri, Balti, Puriki, Shina

Political Parties and Groups: United Jammu and Kashmir Peoples' National Party, AJK Muslim Conference, International Kashmir Alliance, JK National Party, Jammu & Kashmir Liberation Front (Amanullah), Peoples United Action Committee, All Parties National Alliance (APNA)

(Source: Azad Jammu & Kashmir Government website at <http://www.ajk.gov.pk/>, accessed on March 14, 2011)

Gilgit-Baltistan

Area: 72,496 sq. kilometers

Population: 870,347 (1998 population census)

Capital: Gilgit

Districts: Seven

Baltistan Region (part of Ladakh) is divided into Ghanche and Skardu districts

Gilgit Region is divided into Astore, Diamer, Ghizer, Hunza-Nagar and Gilgit districts

Ethnic Groups: Shin, Balti, Puriki, Ladakhi, Wakhi, Yashkun, Tibetan, Mongol, Tatar, Mon, Pashtun, Khowar, Dom, Gujjar, Rajput and Kashmiri

Religious Groups: Shia (Twelvers), Nurbakhshi (Twelvers), Ismaili, Sunni, and Ahlehadith

Languages: Shina, Balti, Wakhi, Khowar, Gujjari, Burushaski, Puriki, Kashmiri, Pashto

Gilgit-Baltistan Council: Total 15 members

Gilgit-Baltistan Legislative Council: 24 members directly elected

Governor of G-B: Pir Karam Ali Shah

Chief Minister G-B: Syed Mehdi Shah of Skardu district.

Chief Secretary of G-B: Saif Ullah Chattha

Political Parties and Groups: Balwaristan National Front (BNF), Gilgit-Baltistan Thinkers Forum, Gilgit-Baltistan, United Movement (GBUM), Baltistan National Movement, Karakoram National Movement, Gilgit Baltistan Democratic Alliance (GBDA), Gilgit Baltistan National Alliance (GBNA), All Parties National Alliance (APNA)

(Source: Jammu & Kashmir Government website at <http://www.gilgitbaltistan.gov.pk/>, & website of the Balwaristan National Front, <http://www.balawaristan.net/>, accessed on March 14, 2011)

THE CONSTITUTION OF INDIA

PART XXI

¹[370. (1) Notwithstanding anything in this Constitution, -

- (a) the provisions of article 238 shall not apply in relation to the State of Jammu and Kashmir;
- (b) the power of Parliament to make laws for the said State shall be limited to -
 - (i) those matters in the Union List and the Concurrent List which, in consultation with the Government of the State, are declared by the President to correspond to matters specified in the Instrument of Accession governing the accession of the State to the Dominion of India as the matters with respect to which the Dominion Legislature may make laws for that State; and
 - (ii) such other matters in the said Lists as, with the concurrence of the Government of the State, the President may by order specify.

Explanation.- For the purposes of this article, the Government of the State means the person for the time being recognised by the President as the Maharaja of Jammu and Kashmir acting on the advice of the Council of Ministers for the time being in office under the Maharaja's Proclamation dated the fifth day of March, 1948;

- (c) the provisions of article 1 and of this article shall apply in relation to that State;
- (d) such of the other provisions of this Constitution shall apply in relation to that State subject to such exceptions and modifications as the President may by order² specify:

Provided that no such order which relates to the matters specified in the Instrument of Accession of the State referred to in paragraph (i) of sub-clause (b) shall be issued except in consultation with the Government of the State:

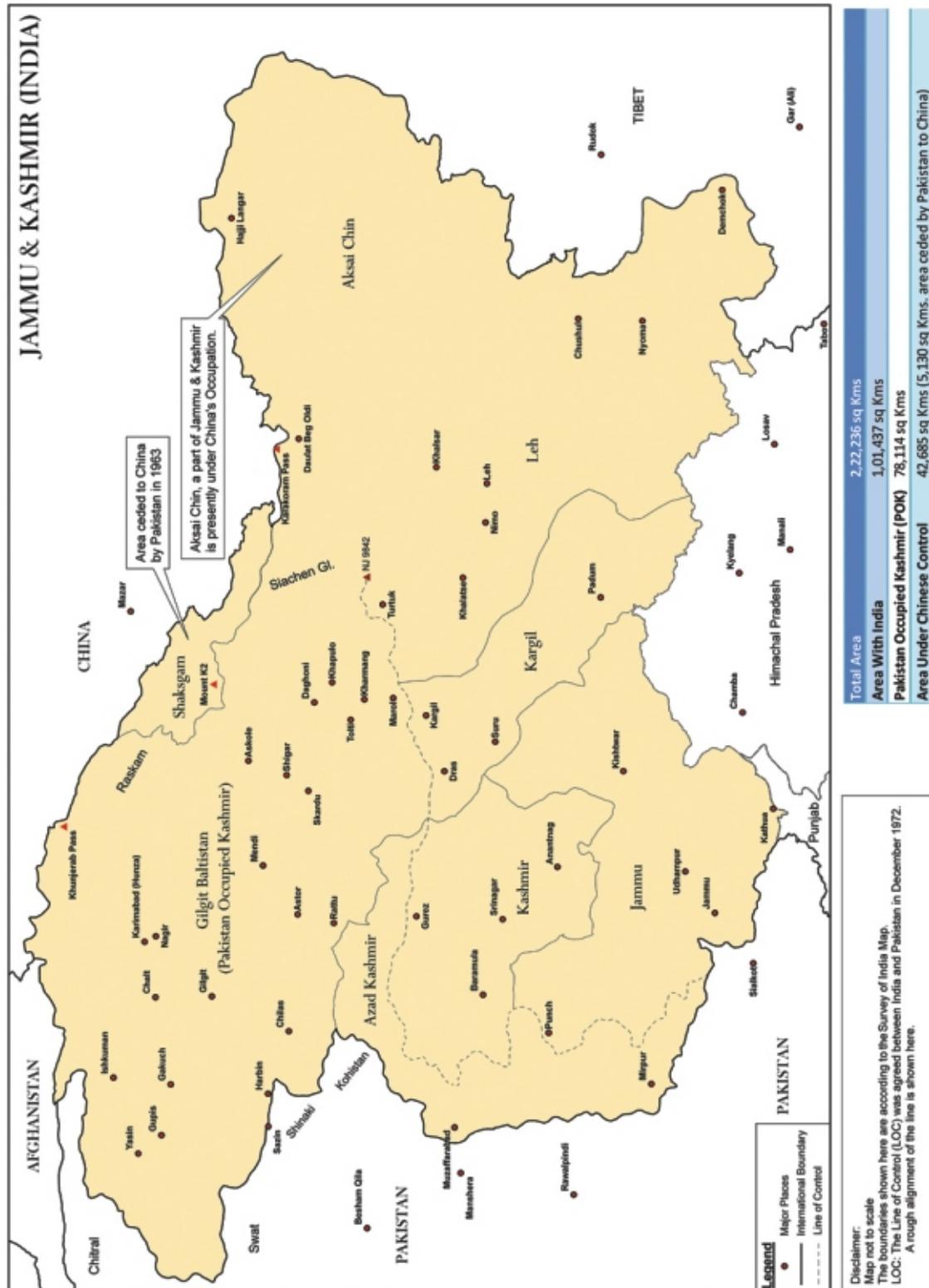
1. In exercise of the powers conferred by this article the President, on the recommendation of the Constituent Assembly of the State of Jammu and Kashmir, declared that, as from the 17th day of November, 1952, the said art. 370 shall be operative with the modification that for the Explanation in cl. (1) thereof, the following Explanation is substituted, namely:-
“Explanation.-For the purposes of this article, the Government of the State means the person for the time being recognised by the President on the recommendation of the Legislative Assembly of the State as the *Sadar-I-Riyasat of Jammu and Kashmir, acting on the advice of the Council of Ministers of the State for the time being in office.”. (Ministry of Law Order No. C.O. 44, dated the 15th November, 1952). *Now “Governor”.². See the Constitution (Application to Jammu and Kashmir) Order, 1954 (C.O. 48) as amended from time to time, in Appendix I.

Provided further that no such order which relates to matters other than those referred to in the last preceding proviso shall be issued except with the concurrence of that Government.

(2) If the concurrence of the Government of the State referred to in paragraph (ii) of sub-clause (b) of clause (1) or in the second proviso to sub-clause (d) of that clause be given before the Constituent Assembly for the purpose of framing the Constitution of the State is convened, it shall be placed before such Assembly for such decision as it may take thereon.

(3) Notwithstanding anything in the foregoing provisions of this article, the President may, by public notification, declare that this article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify:

Provided that the recommendation of the Constituent Assembly of the State referred to in clause (2) shall be necessary before the President issues such a notification.



IDSA PoK PROJECT

IDSA's PoK (Pakistan occupied Kashmir) Research Project started in October 2009. It tracks developments in PoK and conduct in- depth research on the region which is an integral part of India and currently under illegal occupation of Pakistan.

The project seeks to collect and disseminate information on PoK on a regular basis and produce a reliable database on the subject. It intends to inform the public opinion and create awareness on a crucial issue which has been largely ignored. As part of this project, IDSA has been bringing out a monthly newsletter, PoK Digest, since June 2008 which has become popular within the strategic community in India and abroad. It can be accessed at <http://www.idsa.in/poknewsdigest>. Apart from this, conferences, workshops and round tables are being conducted on developments in PoK on a regular basis.

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