
Pakistan's Relations with Azad Kashmir



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In visible contrast to the growing body of scholarship on India's relations with Kashmir, ties between Pakistan and Azad (free) Kashmir have received scant scholarly attention. This intellectual 'silence' is partly a function of the small size of the area comprising Azad Kashmir, the marked absence of violence in the internal politics of the territory under Pakistani control, and largely due to the predominantly status-quo bias of the 'partition literature'. Yet, the significance of Pakistan-Kashmir ties can hardly be exaggerated. Symbolically, as noted by Victoria Schofield, 'And so long as Azad Jammu and Kashmir existed', Pakistan could convincingly argue that 'an alternative formula other than integration within the Indian Union presented itself to the Kashmiri's across the ceasefire line.'⁽¹⁾

Apart from keeping the possibility of an 'internal settlement' of the Kashmir question open, Pakistan's relations with Azad Kashmir are a critical component of Islamabad's overall security strategy vis-à-vis India and lie at the heart of Pakistan's Islamic identity. As such they have become the most vital source of recurring India-Pakistan crises. Pakistan's perceived inability to stem the flow of 'terrorist activity' from across the Line of Control (LoC) that divides Azad Kashmir from Indian-held Kashmir lay at the core of the May-June 2002 'compound crisis'⁽²⁾ which very nearly provoked a catastrophic war between the nuclear-armed adversaries. The crisis was defused through direct American diplomatic intervention.

This paper looks at the nature, evolution and dynamics of

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Pakistan's relations with Azad Kashmir in the dual context of Pakistan's Kashmir policy and the impact this policy has had on India-Pakistan ties. The central argument of this paper is that while Pakistan's relations with Azad Kashmir display many features of inter-state inequality associated with the notion of dependent development, these ties are qualitatively different⁽³⁾ from a situation of 'internal colonialism' that characterises New Delhi's rule over Occupied Kashmir.⁽⁴⁾ Due to paucity of statistical data no empirical examination of the different dimensions of the structure of ties between Pakistan and Azad Kashmir will be made.⁽⁵⁾

I. Azad Kashmir: Historical antecedents

Lying between longitude 73-75 and latitude 33-36, Azad Jammu and Kashmir (henceforth AJK) has an area of 5,134 sq. miles. According to the 1981 census the total population of AJK was 1.980 million, which is estimated to have grown to over 2.726 million in 1993.⁽⁶⁾ The population is 100 per cent Muslim and 90 per cent rural. Density of population is 205 persons per sq km. Only 13 per cent of the total area is under cultivation and about 43 per cent is covered with forest.⁽⁷⁾

Since 1974 AJK has had a parliamentary form of government. The President is the head of the State, while the Prime Minister, supported by a Council of Ministers, is the Chief Executive. The Legislative Assembly consists of 48 Members, of whom 40 are elected by direct franchise while eight — 3 male and 5 female — are elected by the members of the Assembly. The State has its own Supreme Court and the High Court. AJK is divided into two Divisions, i.e. Muzaffarabad and Mirpur and five administrative districts, namely Muzaffarabad, Poonch, Bagh, Mirpur and Kotli. The State's capital is Muzaffarabad. AJK also has a broad-based local bodies system. There are 182 Union Councils, 12 Town Committees, 30 Markaz (Centre) Councils, 2 Municipal Corporations and 5 Municipal Committees with 17 subdivisions/tehsils and 1,646 villages.

- a. The Interim Constitution of the AJK (1974) lays down the following functions to the Government of Pakistan:
- b. The responsibilities of the Government of Pakistan under

- the UNCIP* resolutions;
- c. The defence and security of AJK;
 - d. The current coin or the issue of any bills, notes or other paper currency;
 - e. The external affairs of AJK including foreign relations and foreign trade. ⁽⁸⁾

The modern state of Jammu and Kashmir evolved from the Dogra heartland in Jammu, home to many different ethnic groups and a diverse set of cultures. In 1834, Ladakh was conquered and incorporated into the state. Baltistan was conquered and annexed by the Dogras in 1840. The Valley of Kashmir was acquired in 1846 when the British sold it to the Sikh ruler Gulab Singh for a sum of Rs. 7,500,000 in appreciation of his neutrality during the first Anglo-Sikh war. Attempts to capture Gilgit were made from Baltistan in 1850-1890, but control was not established there. In 1935 Gilgit was leased to the British for 60 years, and in 1947 the British terminated the lease. Poonch joined the state in 1936 as the result of a judicial settlement. Aksai Chin came under Chinese control in 1962.

Dogra rule over the state of Jammu and Kashmir was 'hated' by the Muslims who constituted the majority of the population and 'were discriminated against in every way.' The first signs of Muslim organisation and assertion came in the field of education. In 1905, the Mirwaiz of Kashmir, the spiritual leader of the Kashmiri Muslims, founded an educational forum, which sought to provide schooling for poor Muslims and fund those who wished to study abroad. The beneficiaries of this reform effort included people such as Sheikh Mohammad Abdullah, Ghulam Abbas, Mirza Aslam Beg, G.M. Sadiq.

Following Maharaja Hari Singh's succession to the throne in 1925, simmering Muslim resentment against their subjugation reached new heights. In 1929, Ghulam Abbas, from Jammu, reorganised the Anjuman-i-Islam into the Young Men's Muslim Association of Jammu, to work for the betterment of Muslims. In Srinagar, the Reading Room Party led by Muhammad Yusuf, Prem Nath Bazaz, Sheikh Mohammad Abdullah came into being to fight against Hari Singh's oppressive rule. The massacre of 21 Kashmiri

* UNCIP: United Nations Commission for India and Pakistan

protestors by Dogra police in the Abdul Qadir incident in Srinagar on 13 July 1931 further intensified Kashmiri opposition to the Maharaja's autocratic rule.

In 1932 All Jammu and Kashmir Muslim Conference was formed by Sheikh Abdullah to give an institutional voice to Muslim demands for better treatment. The Jammu and Kashmir Muslim Conference contested the 35 seats open to them under the 1932 Constitutional Act and won 16. However, dissatisfied with the limited focus of the Muslim politics centred on demands for better pay and jobs and deeply influenced by the socialist thinking of the Indian National Congress and Jawaharlal Nehru who had fought for the rights of the princely states under the aegis of the States' Peoples' Congress, a wing of the Congress party, Sheikh Abdullah distanced himself from the All Jammu and Kashmir Muslim Conference. In 1939, he changed its name to National Conference and moved closer to the rising Congress party leader, Jawaharlal Nehru, who promised a secular and socialist India.

Sheikh Abdullah's growing ideological and political affinity with the Indian National Congress made the policy platform of the National Conference 'meaningless to Muslims' especially those of 'ethnic Punjabi stock from Mirpur and Poonch' who found his advocacy of land-redistribution threatening to their feudal interests. Paralleling National Conference's strategic drift towards the Indian National Congress, the weakened Muslim Conference led by the Mirwaiz of Kashmir, Mohammad Yusuf Shah, started up a close and important association with the All India Muslim League which, led by Mohammad Ali Jinnah, passed a historic resolution in Lahore in 1940 calling for the creation of independent states in 'those areas where Muslims were in the majority.'⁹ In 1943, the Muslim Conference invited Mohammad Ali Jinnah to Kashmir to chair its annual meeting. Without hiding his 'dislike of Abdullah' Jinnah asserted that the 'Muslim Conference represented the will of the people.'

In sharp contrast to Jinnah, Nehru praised Sheikh Abdullah as an undisputed leader of the Kashmiri people. Speaking at the annual session of the National Conference at Sopore, where he was invited as a guest speaker, Nehru said, 'Dogra government forced you to lead a subhuman existence. Thanks to Sheikh Sahib's efforts you have once again attained human dignity. In Kashmir,

wherever I have gone, I have heard the resounding slogan of ‘Long live the Lion of Kashmir.’”(10)

The growing links between the National Conference and the Indian National Congress on the one hand, and the Muslim Conference and the All India Muslim League on the other also reflected the profound differences in the stand both the Congress party and the Muslim League adopted towards the princely states. Nehru and the Congress had defined their position on the Indian states in August 1935: ‘The Indian National Congress recognizes that the people in Indian states have an inherent right of Swaraj (Independence) no less than the people of British India. It has accordingly declared itself in favour of establishment of representative responsible Government in the States.’ On the contrary, Mohammed Ali Jinnah and the Muslim League made it clear that they did not wish to interfere with the internal affairs of the princely states which was a ‘matter primarily to be resolved between the rulers and the peoples of the states.’(11)

In 1946, Sheikh Abdullah launched his ‘Quit Kashmir’ movement to protest the autocratic Dogra rule. The Muslim Conference boycotted the campaign at the behest of the All India Muslim League, which charged that he had launched the agitation in order to salvage his sagging popularity on account of his pro-India stance. Sheikh Abdullah was arrested in 1946 after he attempted to visit Nehru in New Delhi. To demonstrate his solidarity with his incarcerated friend, Nehru attempted to visit Kashmir in July 1946 with the intention of defending Abdullah at his trial. After waiting for several hours to gain entry, he was taken into protective custody, before being released. This episode further solidified bonds of personal friendship between Sheikh Abdullah and the future prime minister of India.

At the time of the partition of British India in 1947, the State of Jammu and Kashmir was one of the 562 princely states asked by the British to join either Pakistan or India in accordance with the principles of geographical contiguity and self-determination or to remain independent.(12)

Although the State of Jammu and Kashmir had a Muslim majority (77% in the census of 1941) and shared a long border with the new state of Pakistan, the Maharaja refused to opt for Pakistan. His stance stemmed from the agitation by his

predominantly Muslims subjects against his brutal rule, ongoing since the early 1930s on the one hand and the aggressive lobbying campaign launched by the Indian National Congress to seek Jammu and Kashmir's integration with India.

Faced with an armed revolt by Muslims from Poonch in June 1947, the Maharaja retaliated with brutal force. He further ordered his rebellious subjects to hand over their weapons. 'Feeling distinctly vulnerable, the Poonchis looked for another source of arms and found they were readily available from NWFP.'⁽¹³⁾

The revolt then spread to other areas of Jammu and Kashmir. In an attempt to stabilise the situation, the Maharaja signed a standstill agreement with the new state of Pakistan. The situation deteriorated during August and September of 1947 as the Kashmiri Muslims openly revolted. In this armed insurrection they were joined by their fellow Muslim tribesmen from the Northwest Frontier Province in Pakistan who were incited by the communal riots and clashes in the neighbouring Punjab and stories of Hindu and Sikh attacks on Muslim villages in Jammu where there was a large non-Muslim population. By late October 1947, the rebellion, now led by the tribesmen, succeeded in capturing several towns. A large number of civilians were massacred and the rebels advanced within four miles of the capital, Srinagar.⁽¹⁴⁾

To forestall his imminent overthrow by the advancing rebel troops, the Maharaja requested military aid from India on October 24. The uprising caused considerable interest in Pakistan where Mohammad Ali Jinnah and his Prime Minister Liaquat Ali Khan hoped that it might force the Maharaja to opt for Pakistan. Sensing that Kashmir was ready for the taking, Nehru sent V.P. Menon to Srinagar on October 25 where he reportedly told the 'Maharaja that if he did not sign the Instrument of Accession there and then Delhi would be unable to send Indian troops to help him.'⁽¹⁵⁾ Faced with the ultimatum, the embattled Maharaja acceded to the Indian Union. The Indian Government accepted the Maharaja's accession, while stipulating that this accession of Kashmir to India should be ratified ultimately by popular consultation. India's military intervention on behalf of the besieged Maharaja led to the first India-Pakistan war over Kashmir. The fighting was still continuing when India took the Kashmir dispute to the United Nations, calling

for the world body's intervention in the matter.

After their first war over Kashmir in 1947-48, India and Pakistan signed a cease-fire agreement on 1 January 1949. India and Pakistan went to war over Kashmir again in 1965 and the resulting line of control divided Jammu and Kashmir into four political units:

(1) Ladakh and Jammu and Kashmir Valley (Indian-occupied Kashmir or occupied Kashmir from a Pakistani viewpoint); (2) Azad Kashmir (Pakistan-occupied Kashmir from an Indian viewpoint); (3) the Northern Areas, administered by Pakistan; and (4) Aksai Chin, controlled by China.

The Northern Areas administered by Pakistan (Gilgit, Baltistan, and Diamont Districts) has an area of 27,800 square miles (82,010 square kilometres). The Karakorum Mountains surround the Northern Areas, with 28 peaks of more than 20,000 feet (6,100 metres). Within these mountains are a number of important passes: Chaleli, Mintka, Kilik, Shamshal, Shandour, Karambar, Thougre, Burril, and Durhit.

The Northern Areas has a population of about 650,000 people, who live in 645 villages and towns perched along narrow valleys. Some people live at 11,000 feet (3,350 metres) and climb in the summer to 14,000 feet (4,265 metres) with their sheep and goats.⁽¹⁶⁾

India, however, does not recognise the Northern Areas as part of Pakistan. It argues that it was part of Jammu and Kashmir State by virtue of the Maharaja's decision to accede in favour of India.

II. Evolution of Pakistan-Azad Kashmir ties

The Government of Azad Kashmir was established at Pulandri in the Jammu district, on 24 October 1947 under the aegis of the working committee of the All Jammu and Kashmir Muslim Conference. Sardar Mohammad Ibrahim Khan, a 32-year old Suddhan, who had organised an army of about '50,000' during the Poonch rebellion, was confirmed as President of this new entity. The Azad Kashmir government defined its objective as the liberation of Jammu and Kashmir from the Dogra dynasty and then the Indian authorities. In a bid to assert its legality, on 3 November the Azad Kashmir Government requested international recognition

as a State from the UN General Assembly. Its international legal status, however, never went beyond what the United Nations Commission for India and Pakistan (UNCIP) described as a 'territory to be administered by the local authorities under surveillance of the Commission.'⁽¹⁷⁾

In March 1949, the AJK Government concluded a power-sharing treaty with the Government of Pakistan. According to this Treaty matters pertaining to defence, foreign affairs, negotiations with UNCIP, publicity in foreign countries and in Pakistan, responsibilities for relief and rehabilitation of refugees, the plebiscite, activities related to procurement of food, civil supplies, transport and refugee camps, and medical aid were to be dealt with by Pakistan. Additionally, the affairs of Gilgit, and Ladakh (Baltistan), previously under a political agent, became the responsibility of the Pakistan government.⁽¹⁸⁾ All the other matters fell within the purview of the Azad Kashmir administration.

In 1948, the Pakistan government created the Ministry for Kashmir Affairs (MKA), headed by a joint secretary and placed it under the general guidance of the federal Ministry of Home Affairs. In addition to supervising the foreign and financial arrangement of Azad Kashmir, the MKA was also to 'assist in the appointment of leaders of Azad Kashmir.'⁽¹⁹⁾ In 1952 the government of Pakistan promulgated new 'Rules of Business' which vested full powers in the joint secretary, MKA, rather than the Muslim Conference party.⁽²⁰⁾ Both Sardar Mohammad Ibrahim and Ghulam Abbas criticised the MKA as an infringement of the rights of the people of Azad Jammu and Kashmir to freely choose their own government and 'sought assurances that [it] would not over-ride popular sentiment within Azad Kashmir.'⁽²¹⁾

Despite assurances by the Pakistan government that it would not 'shadowing the government in Muzaffarabad' the confidence of the Muslim Conference in the former's 'integrity' remained very low. In May 1954, Sardar Ibrahim publicly protested against bribery, corruption and embezzlement as well as accusing the minister of Kashmir affairs in Pakistan of proposing to 'colonize' Azad Kashmir.⁽²²⁾

Pakistan's assumption of the direct administrative control over the Northern Areas (Gilgit, Baltistan, Diamont Districts) on the assumption that they never formed part of the disputed territory

of the State of Jammu and Kashmir further angered Muzaffarabad which viewed this move as a continuation of the British colonial policy of divide and rule.

In 1955, following the publication of the Kashmir Government Act, the Pakistani authorities placed Poonch and parts of Mirpur under martial law after an outbreak of widespread disturbances.

In April 1957, riot police broke up the meeting of the Muslim Conference, following Sardar Ibrahim's call for some form of direct action in favour of a 'united and independent' Kashmir.

This growing disaffection of the Muslim Conference toward Pakistan led to the formation in 1958 of the Kashmir Liberation Movement (KLM) with K.H. Khurshid as acting secretary. The KLM was a non-violent body which repeatedly challenged the Pakistani control over Azad Kashmir by attempting to cross the cease-fire line. KLM's activities led to the arrest of Ghulam Abbas and further widened the gulf of distrust between the old guard of the Muslim Conference and the Pakistani authorities.

In 1961, the military regime of Ayub Khan implemented the system of indirect elections in Azad Kashmir. This was done in clear violation of the Pakistan government's earlier assurances that the provisions of 'Basic Democracies' ordinance would not be extended to Azad Kashmir. Through this system 2,400 'basic democrats' elected K.H. Khurshid as the new head of government in Muzaffarabad.

Facing splits in its ranks caused by differences over its exact response to events within Pakistan, the Muslim Conference under the leadership of Sardar Abdul Qayyum Khan organised fresh crossings of the cease-fire line and set up groups of armed volunteers to liberate Indian-held Kashmir, not 'for Pakistan but for a separate Kashmiri state.' Such activity provoked clashes with the Pakistan authorities, which attempted to contain such agitation in view of the sensitivities of the border areas.

These strains in Pakistan's relations with Azad Kashmir did not deter Muzaffarabad from either becoming 'dependent on Pakistan for its economic survival' or as an 'adjunct to Pakistani politics, at times used as a launching pad for initiatives into the valley, at others, a poor relation, which because of Pakistan's claim

to the whole of the State of Jammu and Kashmir, the Pakistani government never found itself in a position to acknowledge as a province of Pakistan.'⁽²³⁾

In 1987-88, Pakistan provided more than 2.1 billion rupees to Azad Kashmir's Rs 2.5 billion budget. In 1989-90 Pakistan provided 1.94 billion to Azad Kashmir's 2.76 billion budget.

In 1964 General Ayub appointed a Kashmir Public Committee with foreign secretary Aziz Ahmed as its chairman to keep the Kashmir situation under review.⁽²⁴⁾ The Kashmir Committee then prepared two plans, one to encourage sabotage activities across the cease-fire line and the other to provide 'all-out support for guerillas to be inducted into Kashmir.' Both these tasks were assigned to 'HQ 12 Division located at Murree.'⁽²⁵⁾ In mid-February 1965, the Kashmir Committee prepared Operation Gibraltar which was personally approved by Ayub on May 13.⁽²⁶⁾ The principal aim of the Operation was to 'disrupt the situation in the Srinagar Valley and create conditions whereby the emboldened local populace would rise against the Indian Army of occupation using weapons provided by Pakistan.'⁽²⁷⁾ The Kashmir Cell trained some '7000' guerrillas who, led by Pakistan army officers, crossed the Cease-Fire Line in August and launched their attack.⁽²⁸⁾ The anticipated Kashmiri revolt, however, never materialised.⁽²⁹⁾ Operation Gibraltar turned into a military disaster for Pakistan as India launched a counter-military offensive along the ceasefire line, which allowed the Indian military to 'cut off the militant's supply lines, leaving the infiltrators short of material and completely isolated.'⁽³⁰⁾ Swift Indian military response endangered the security of Azad Kashmir as many forward Pakistani posts including Hajipir Pass fell to the Indian army on 29 August 1965.⁽³¹⁾ By September 10, the Indian army 'virtually held a line from Uri to Poonch.'⁽³²⁾

Operation Gibraltar's manifest failure to achieve its stated aims of 'defreezing Kashmir problem', 'weakening India's resolve' and to 'bring her to a conference table without provoking a general war'⁽³³⁾ caused profound disillusionment in Pakistan and Azad Kashmir. Contrary to its objectives, Operation Gibraltar not only triggered a full-scale India-Pakistan war but also underscored Pakistan's inability to fight a 'thousand year' war with India over Kashmir. In the wake of the 1965 War it became quite evident that

Pakistan 'could not realistically expect New Delhi to give ground on Kashmir or expect the rest of the world to exert itself after Pakistan had tried and failed to resolve the issue through the use of force.'⁽³⁴⁾

Having lost their hopes for Kashmir's liberation from New Delhi's oppressive rule, leaders of the political parties in Azad Kashmir turned inward and began agitating for a fully sovereign status. In 1968, Amanullah Khan led a procession of the All Parties Kashmir Committee in Karachi representing various political parties including the Plebiscite Front and the Liberation League. Other Azad Kashmiri leaders such as Sardar Abdul Qayyum, Sardar Ibrahim and K.H. Khurshid joined forces and demanded 'Azad Kashmir should be recognized as the sovereign government successor of Maharaja Hari Singh for the whole of the state.' In 1969, the Pakistan People's Party, founded by Zulfikar Ali Bhutto in October 1967, set up its branch in Muzaffarabad. This development marked the beginning of party politics in Azad Kashmir.⁽³⁵⁾

Faced with the rising tide of Kashmiri nationalism, Islamabad announced a new constitutional set-up for Azad Kashmir. Under the 1970 Kashmir Government Act a 25-member Legislative Assembly, elected by full adult suffrage, was set up. Sardar Abdul Qayyum won the first presidential elections in October 1970, which according to one analyst proved the point that Kashmiris 'were not a bunch of mountain dwelling simple folk who live on Pakistan's bounty but a dynamic people even capable of giving a lead to Pakistan despite having clipped our wings in the 1949 Karachi Agreement.'⁽³⁶⁾ The introduction of electoral politics in Azad Kashmir, while removing the biggest source of unease between Islamabad and Muzaffarabad, did not, however, lead to complete harmony of views.

Following Pakistan's dismemberment in the 1971 India-Pakistan War, Islamabad signed the Simla Agreement with India in July 1972. The Agreement was 'devoid of any reference to the UN's mediation and peacekeeping roles in Kashmir.' Further, 'it said nothing of the UN resolutions that had enabled the original ceasefire; and there was no mention of the role that UNMOGIP... might play in delimiting the new line in policing it.'⁽³⁷⁾ These omissions, coupled with the conversion of the Cease-fire Line into

Line of Control (LoC), as a result of which the Indian and Pakistani forces deployed in Kashmir became 'eyeball-to-eyeball' created an impression in Azad Kashmir that Pakistan was either no longer able or, worse, willing to stand up for the rights of the Kashmiri people. These negative Kashmiri perceptions were reinforced by Islamabad's decision to put Gilgit and Pakistan-administered Baltistan under Islamabad's direct control. The incorporation of the former princely state of Hunza into the detached Northern Territories in 1974 further undermined hopes of a special relationship spawned by the Kashmir Government Act promulgated the same year.

Despite Muzaffarabad's public protestations, Islamabad continued the process of political integration of the Northern Areas into Pakistan. In 1977, they were included in Martial Law Zone-E by General Ziaul Haq when he assumed power in a military coup on July 5. In April 1982 he nominated three members of the Federal Majlis-e-Shura from the Northern Areas and publicly stated that while 'Kashmir has been a disputed issue, but so far as the Northern Areas are concerned, we do not accept them as disputed.' In July, 1982 General Zia declared that the northern regions of Gilgit, Hunza and Skardu were an integral part of Pakistan.⁽³⁸⁾ In 1984, special units of the Indian army occupied three key passes (Sia, Bilafond La, Gyong La) in the Saltoro range dominating approaches onto the massive Siachin Glacier. Pakistan army's efforts to get the area vacated proved futile due to extraordinary hazards of altitude and climate.⁽³⁹⁾ Indian military incursion into Siachin further strengthened Zia regime's resolve to accelerate the process of integration of Northern Areas into Pakistan.

These moves by the military regime provoked a strong reaction in Azad Kashmir. On 4 May 1984, four of the major political parties (Jammu and Kashmir Muslim Conference, Azad Kashmir People's Party, Jammu and Kashmir Mahaz-e-Raiy Shumari – Plebiscite Front – and Azad Muslim Conference) sent a jointly signed letter to Zia explaining their position on the issue of Northern Areas. While claiming that Northern Areas had belonged to Azad Kashmir, they charged that Zia's statements 'were depriving around 6 to 7 hundred thousands inhabitants of the area of their right to vote in the plebiscite, which will be a great loss to

Kashmir and to Pakistan.’⁽⁴⁰⁾

Ignoring Muzaffarabad’s assertions, Islamabad announced a ‘reform package’ for the Northern Areas on April 1994, the implementation of which turned this contested territory into a de facto fifth province of Pakistan.⁽⁴¹⁾ To further extend Islamabad’s administrative and legal writ to the Northern Areas, the federal government, for the first time, decided to appoint a chief secretary and four secretaries in the area.

To underscore Azad Kashmir’s opposition to Islamabad’s moves to absorb the Northern Areas into the administrative structure of Pakistan, the full bench of the Azad Kashmir High Court held in a ruling on 18 March 1993 that ‘Northern Areas (Gilgit and Baltistan) are part of Azad Kashmir, historically and constitutionally’ and further pronounced that ‘The Azad Kashmir government should establish administrative and legal institutions in these areas.’ Islamabad challenged this decision in the Supreme Court in Muzaffarabad. Announcing its decision on 14 September 1994 the AJK Supreme Court said: ‘No doubt, that Northern Areas are part of the state of Jammu and Kashmir – but not of Azad Kashmir. Therefore the government need not take administrative control of these areas.’ The Supreme Court of Pakistan in its verdict of 28 May 1999 pronounced, ‘Northern Areas were constitutional part of the State of Jammu and Kashmir.’⁽⁴²⁾ It called upon the government of Pakistan to ‘ensure that basic human rights and other political and administrative institutions are provided in the areas within six months. However, the action should not adversely affect Pakistan’s stand concerning the Kashmir dispute.’

Pursuant to the Supreme Court’s decision, Islamabad prepared a constitutional reform package, which was announced by Gen Abdul Majeed Malik (Retd) during his visit to the area on 2 October 1999. The package envisaged replacing the existing Northern Area Council with a Legislative Council and called for the holding of elections for the council and local bodies. Despite the takeover of power by the Army on 12 October 1999 these elections were held as proposed by the deposed Nawaz Sharif government. On 7 July 2000 the military government announced another package of reforms under which the Northern Area Council was renamed ‘Northern Area Legislative Council’ comprising 29 members. Five seats were reserved for women —

one elected indirectly from each district. While empowered to 'legislate in 40' items, the Council cannot approve development schemes which remain the prerogative of the Federal Government.

These latest moves by Islamabad to 'empower' the people of Northern Areas and to improve their depressed economic conditions continue to evoke anxiety and opposition in Azad Kashmir. Muzaffarabad sees these administrative and political initiatives not only as a blatant violation of the sovereignty of AJK but also an effort by Islamabad to 'truncate' the size of the disputed territory of the State of Jammu and Kashmir.

NOTES AND REFERENCES

The author is also a Visiting Professor at the Centre for International Security and Cooperation (CISAC), Stanford University. He would like to thank Ambassador Teresita Schaffer for her very helpful comments on an earlier draft of the paper. He also gratefully acknowledges the financial support provided by the CISAC in the writing of this paper.

1. Victoria Schofield, *Kashmir in the Crossfire* (New York: I.B. Tauris, 1996), p. 183.
2. Stephen Cohen, *The Compound Crisis of May 2002* (Unpublished paper) (Washington.: The Brookings Institution, 2003).
3. While noting that there is a good number of issues, such as Azad Kashmiris' exclusion from international agreements, the suspicion in Pakistan that many Kashmiri Muslims would prefer an independent Kashmir over their accession to Pakistan, Azad Kashmiris' resentment against interference by the Ministry of Kashmir Affairs and the utter dependence of the Azad Kashmir government upon Islamabad for financial support which is a continuing source of disaffection between Islamabad and Muzaffarabad, Leo Rose, nevertheless, concludes that 'Pakistan's influence and control in Azad Kashmir is exerted primarily through the State's political units and leaders as well as the government...What we hear about (occasionally)...are instances of Azad Kashmir kowtowing to Islamabad. What rarely ever gets reported are the equally numerous occasions that the Pakistan government has to make concessions to Muzaffarabad.' Leo E. Rose, 'The Politics of Azad Kashmir,' in Raju G.C. Thomas, ed., *Perspectives on Kashmir: The Roots of Conflict in South Asia* (Boulder: Westview, 1992), p.244.
4. In his recent analysis of the causal impact of the prevailing socio-economic conditions on the ongoing insurgency in the Indian-held Kashmir, Siddhartha Prakash states: '...it is clear that the alienation of the Kashmiri people has been driven by sheer disillusionment in the state. Their ideals and aspirations have been thwarted by a series of rent-seeking governments, as well as the misguided policies of the Centre.

Therefore, a genuine solution to the conflict depends on restoring Kashmir's confidence in a democratic and secular India with the creation of job opportunities (within the state and in other parts of the country), a clean administration and political freedom. The first step in that direction is to hold a plebiscite to enable the people of Jammu & Kashmir and Ladakh to determine their future either as part of India or Pakistan, or as a separate nation.' (pp.332-333). Siddhartha Prakash, 'The Political Economy of Kashmir since 1947,' *Contemporary South Asia* (2000) Vol. 9, No. 3, pp. 317-337.

5. However, it is worth noting since 1947 when Pakistan gained control over AJ&K, the latter has done very well in the field of education. Literacy rate in AJ&K is higher than its average in Pakistan. In 1947, there were only 286 educational institutions in AJ&K with only 300 students in attendance at all levels. By 1986, the number of educational institutions had increased to 4096 and 92% of the boys and 49% of the girls were attending primary schools. By 1995 97% of the boys and 82% of the girls were receiving primary education. Similarly, despite Pakistan's control over the banking sector, there are more bank branches per capita in Mirpur than in Karachi, the commercial and financial centre of Pakistan. See *Pakistan: An Official Handbook 1988* (Islamabad: Directorate General of Films and Publications, Ministry of Information and Broadcasting, Government of Pakistan, 1989), pp.521-527.
6. *Pakistan: An Official Handbook, 1995*, (Islamabad: Directorate General of Films and Publications, Ministry of Information and Broadcasting, Government of Pakistan, 1996), p.270.
7. Ibid.
8. *The Azad Jammu and Kashmir Interim Constitution Act 1974* (Amended up to date May 1997. (Muzaffargarh: Azad Govt. of the State of Jammu & Kashmir, Law Justice and Parliamentary Affairs, Deptt., May 1997).
9. Following Dr. Iqbal, the influential poet-philosopher, who in his presidential address to the All India Muslim League in 1930 had called for the creation of a separate Muslim state comprising the Punjab, Sind, the North-West Frontier Province (NWFP), Chaudhry Rehmat Ali, a Muslim student at Cambridge in 1933, proposed that this new Muslim state should be named Pakistan (land of the pure). Acronomically, 'P' stood for Punjab, 'A' for Afghans (in fact the Pushtuns of the NWFP), 'K' for Kashmir, 'S' for Sindh, and 'tan' for Balochistan). The inclusion of the predominantly Muslim state of Jammu and Kashmir in the new entity to be called Pakistan was indicative of the fact that 'there was already a body of opinion which believed that the princely state should become part of Pakistan, if and when it could be achieved. After... the partition of the subcontinent took place this opinion held fast.' Victoria Schofield, *Kashmir in Conflict: India, Pakistan and the Unfinished War* (London,: I.B. Tauris, 2000), p.21.
10. Tavleen Singh, *Kashmir: A Tragedy of Errors* (New Delhi: Penguin Books, 1996), p. xvi.

11. Ibid. p. 23.
12. There is an unending controversy over the role played by Mountbatten, Britain's last viceroy in India, in the events leading to the partition of the subcontinent in 1947. Some scholars accuse him of rigging the final boundary award in favour of India while others defend him as a fair and 'impartial' man who did his best to deal with a very trying situation. For a good discussion of these contending viewpoints see Robert G. Wirsing, *India, Pakistan and The Kashmir Dispute: On Regional Conflict and Its Resolution* (New York: St. Martin's Press, 1994), (Part-I) pp.11-38. Regardless of Mountbatten's intentions, the fact remains 'if Gurdaspur in Punjab had been awarded to Pakistan, and not India, by the Boundary Commission, Kashmir could not possibly have come to India.' Tavleen Singh, *Kashmir...*, op.cit., p.xvii.
13. Owen Bennett Jones, *Pakistan: Eye of the Storm* (New Haven: Yale University Press, 2002), p. 63.
14. Mushtaqur Rahman, *Divided Kashmir: Old Problems, New Opportunities for India, Pakistan and the Kashmiri People* (Boulder, Co.: Lynne Rienner Publishers, p. 2.
15. Jones..., op.cit., p. 66.
16. Mushtaqur Rahman, *Divided Kashmir...*, op.cit., p. 18.
17. Leo Rose, 'The Politics of Azad Kashmir,' op.cit. p. 236.
18. This important agreement, which continued to govern ties between Azad Kashmir and the Government of Pakistan until 1970, had the following clauses (text):

Matters within the purview of the Government of Pakistan.

Defence (as modified under....); Foreign policy of Azad Kashmir; Negotiations with the United Nations Commission for India and Pakistan; Publicity in foreign countries and in Pakistan; Co-ordination and arrangement of relief and rehabilitation of refugees; Co-ordination of publicity in connection with plebiscite. All activities within Pakistan regarding Kashmir such as procurement of food, civil supplies running of refugee camps and medical aid; All affairs of Gilgit - Ladakh under the control of Political Agent.

B. Matters within the purview of Azad Kashmir Government.

Policy with regard to administration of AK territory; General supervision of administration in AK territory; Publicity with regard to the activities of the Azad Kashmir Government and administration; Advice to the honorable Minister without Portfolio with regard to negotiations with United Nations Commission for India and Pakistan; Development of economic resources of AK territory.

C. Matters within the purview of the Muslim Conference.

Publicity with regard to plebiscite in the AK territory; Field

work and publicity in the Indian occupied area of the State; Organization of political activities in the AK territory and the Indian occupied area of the State; Preliminary arrangements in connection with the plebiscite; Organization for contesting the plebiscite; Political work and publicity among the Kashmiri refugees in Pakistan; Advise the honorable minister without Portfolio with regard to the negotiations with the United Nations Commission for India and Pakistan.

19. Vernon Hewitt, *Toward the Future? Jammu and Kashmir in the 21st Century* (London: Cambridge, 2001), p. 110.
20. Rose, 'The Politics of Azad Kashmir,' op.cit., p. 238.
21. Hewitt, op.cit., p.111.
22. Victoria Schofield, *Kashmir in Conflict...*, op.cit; p. 91.
23. Victoria Schofield, *ibid.*
24. Other members of the Committee were Secretary Defense, Director Intelligence Bureau, Chief of the General Staff and the Director Military Operations. General K.M. Arif, *Khaki Shadows: Pakistan 1947-1997* (Karachi: Oxford University Press, 2001), p. 47. Also see Sherbaz Khan Mazari, *Journey to Disillusionment* (Karachi: Oxford University Press, 1999), p. 128.
25. *Ibid.*
26. *Ibid.* p. 48.
27. Sherbaz Khan Mazari, *Journey to...*, op.cit., p.128.
28. *Ibid.*, p.129. According to General K.M. Arif, Operation Gibraltar envisaged that '[s]mall groups' should be 'inducted in the Indian-held Kashmir (IHK) on a broad front to destroy or damage military targets — bridges, ammunition and supply dumps, formation headquarters, lines of communications, military convoys — to create panic, arouse hatred against the occupation power and encourage the oppressed people to rise in revolt. The aim was to take advantage of the anti-India feelings nursed by Kashmiris. The infiltrators carried arms and explosives and a limited quantity of rations with them. Thereafter they planned to live off the land and rely on local hospitality,' *Ibid.* p. 49
29. Brian Cloughley attributes this failure on the part of the inhabitants of the Valley to take up arms against their 'Hind master' as a function of their perceived interests, which 'lay more in tourists, woodcrafts, and papier mache than in aspiring to political freedom.' *A History of the Pakistan Army: Wars and Insurrections*, 2nd edition, (Karachi: Oxford University Press, 1999), p. 69. General Arif gives the following assessment of the conceptual and operational flaws besetting Operation Gibraltar.
 - The operation was conceived on faulty political assessment and flawed assumptions
 - The people of Kashmir had not been consulted or taken into prior confidence. They did not rise in a war of liberation fearing brutal

- reprisals by the Indian military forces
 - The planning time was excessively telescoped and the plan was implemented prematurely
 - Excessive secrecy prevented the flow of essential information to all concerned on a need to know basis
 - Intelligence failure
 - Lack of inter-service and inter-arm coordination
 - Inadequate training for the specialize operation
 - Inadequate attention to the diplomatic and psychological fields
 - The Pakistan Army possessed limited and mostly theoretical expertise in launching a guerrilla operation or combating it. The prescribed institutions were bypassed and operational planning violated the prescribed channels. Some of the planning errors might have been corrected had the relevant institutions been consulted. K.M. Arif, *Ibid.*, p. 50.
30. Jones, *Pakistan: Eye of the storm* (2002), p. 77.
31. General Arif, *Khaki Shadows...*, op.cit. p.54.
32. Iffat Malik, *Kashmir: Ethnic Conflict, International Dispute* (Karachi: Oxford University Press, 2002), p. 122.
33. The 29 August Directive from President Ayub Khan, General Mohammad Musa, Commander-in-Chief, Pakistan Army, defined 'Political Aim for Struggle in Kashmir' as follows: '...to take such action as will defreeze Kashmir problem, weaken India's resolve and bring her to a conference table without provoking a general war. However the element of escalation is always present in such struggles. So, whilst confining our action to the Kashmir area we must not be unmindful that India may in desperation involve us in a general war or violate Pakistan territory where we are weak. We must therefore be prepared for such contingency.
2. To expect quick results in this struggle, when India has much larger forces than us, would be unrealistic. Therefore, our action should be such that can be sustained over a long period.
3. 'As a general rule Hindu morale would not stand more than a couple of hard blows delivered at the right time and place. Such opportunities should therefore be sought and exploited.' As quoted in Brian Cloughley, *A History of the Pakistan Army: Wars and Insurrection* (Karachi: Oxford University Press, 1999). pp.70-71.
34. Dennis Kux, *The United States and Pakistan 1947-2000: Disenchanted Allies* (Washington, D.C.: Woodrow Wilson Center Press, 2001), p. 164.
35. Patricia Ellis and Zafar Khan, 'Partition and Kashmir: Implications for the Region and the Diaspora,' in Ian Talbot and Gurharpal Singh, *Regions and Partition: Bengal, Punjab and the Partition of the Subcontinent* (London: Oxford University Press, 2001), p. 278.
36. Quoted in *Ibid.*, p.276.
37. Robert G. Wirsing, *India, Pakistan and the Kashmir Dispute: On Regional Conflict And Its Resolution* (New York: St Martin's Press,

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- 1994), p. 69.
38. Iffat Malik, *Kashmir...*, op.cit.; p. 219.
 39. Robert G. Wirsing, 'Kashmir Conflict: The New Phase,' in Charles H. Kennedy, ed., *Pakistan: 1992* (Boulder: Westview Press, 1993), p. 138.
 40. *Northern Areas – Facts, Problems, Recommendations* (Islamabad: Institute of Policy Studies, October 2000), p. 18.
 41. The package proposed following measures: a) the membership of the existing Northern Area Council should be enhanced from 18 to 26 and members should be elected on the basis of adult franchise; b) Federal Minister of Kashmir Affairs will be the Chief Executive of the Council with a Deputy Chief Executive to be elected by the Council; c) three to five members of the Council will be taken as Advisors to the Chief Executive with the status of provincial ministers; d) the post of the Judicial Commissioner will be abolished and a 3-member Chief Court will be constituted under the Chairmanship of a retired judge.
 42. *Northern Areas-Facts...*, op.cit., p. 21.