

**CABINET DIVISION NOTIFICATION DATED MAY 11, 1971, DECLARES AJK TO BE TREATED LIKE A PROVINCE OF PAKISTAN. AJK IS SUBJECTED TO ALL THE OBLIGATION OF A PROVINCE BUT RIGHTS OF PROVINCE ARE NOT GIVEN.../. ARJK STRIVES FOR IT.**

**CABINET DIVISION**

D.O. No. 8/9/70-Coord. I.

Government of Pakistan

Rawalpindi, May 11, 1971.

My Dear Secretary,

I invite your attention to the Cabinet Division Office Memorandum No. 8/9/80 (Coord.I) dated the 24<sup>th</sup> June, 1970 in which the following instructions pertaining to the Affairs of Azad Kashmir were conveyed for observance by all Ministries and Departments of the Central Governments:

- (i) "Although Azad Kashmir is not a part of Pakistan within the meaning of Article 1(2) of the Constitution, it should for all practical be treated like any other province ....."
- (ii) "Azad Kashmir should be brought into the main stream of the general administration (of the country). For this purpose the leaders and officials of that Government should be invited at appropriate level to attend inter-ministerial meetings in which the problems of that area are coming up for discussion."
- (iii) .....
- (iv) The Ministries and senior officials of the Central Government particularly those belonging to the Ministries of Finance, Agriculture, Education, Health, Commerce and Industries should visit the Azad Kashmir territories at suitable intervals with a view to acquainting themselves with its problems on the spot, and for having personal discussions with the President and other officials of that Government.

While considering the reports of the organizations Committees and of the Special Team on the programmes and priorities of the Fourth 5 years Plan, for Azad Kashmir, the President, in the weekly meeting of 28<sup>th</sup> April 1971 was pleased to observe once again that the problems of the administration and development of Azad Kashmir should no longer be looked upon as the exclusive concern of Kashmir Affairs Division and every Ministry in the field of its special responsibility should look upon and deal with Azad Kashmir as if it were another administrative unit of the country. A formal decision was also taken to the effect that while the Kashmir Affairs Division would continue to deal with the political problems of Azad Kashmir and matters relating to the settlement of the Kashmir dispute for all purposes the Central Ministries should exercise the same powers and play the same role in regard to the Affairs of Azad Kashmir as they were doing in their respective fields in relation to other administrative units of the country, (Kashmir Affairs Division of course retaining the overall role of coordinators assigned to it under

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the Rules of Business). It was particularly stressed that there should be more frequent consultations with Azad Kashmir Government on policy matters in the field of development and more frequent visits to Azad Kashmir by senior officers of the Central Government. All with a view, to mounting, without in any way interfering with the day to day administration of Azad Kashmir which was recognised as the role concern of the Azad Kashmir Government itself, a concerned attack on its development problems and to being about a speedy improvement in the economic conditions of its people.

3. I am to bring these instructions and decision once again to your notice for guidance and necessary action.

Sd/-  
(Ghulam Ishaq Khan)  
HQA, S. PK. GSP  
Cabinet Secretary."

**CABINET DIVISION**

Government of Pakistan  
Rawalpindi, May 11, 1971.

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**HQA, S. PK. GSP**  
**Cabinet Secretary**



تعمیر پاکستان - انسانی آزادی - معاشرتی عدل - معاشی ترقی



## پاکستان مسلم لیگ (ن) آزاد جموں و کشمیر

### منشور 2011

☆ جمہوری اداروں کا احیاء: - آزاد جموں و کشمیر کے عوام نے آزاد خطہ میں جمہوری اداروں کے قیام کے لئے طویل اور کٹھن جدوجہد کی ہے جس کے نتیجے میں یہ ادارے وجود میں آئے لیکن پاکستان میں پہنچا پارٹی اور پرویز مشرف کی حکومتوں اور آزاد کشمیر میں ان کے حاشیہ برداروں نے جمہوری اداروں کی روح کو پامال کرنے میں کوئی کسر نہیں اٹھارہی۔ پہنچا پارٹی اور پرویز مشرف کے ادارہ حکومت میں تحریک آزادی کشمیر کے جس کیمپ اور ریاست جموں و کشمیر کی نمائندہ انقلابی حکومت کے انتظامی، مالیاتی و عدالتی اختیارات بتدریج وزارت امور کشمیر اور آزاد جموں و کشمیر کونسل کو منتقل کرتے ہوئے آزاد جموں و کشمیر حکومت کی حیثیت کو میوٹا بنی کے درجے تک پہنچا دیا گیا اس لئے ضرورت اس امر کی ہے کہ ان اداروں کو نئے سرے سے منظم و مربوط کیا جائے اور آزاد جموں و کشمیر میں ایک بااختیار، ذمہ دار، مالیاتی ڈسپن کی پابند اور کرپشن سے پاک حکومت کا قیام عمل میں لایا جائے جو کشمیری عوام کے نظریات اور الحاق پاکستان کی دائمی ہو۔ پاکستان مسلم لیگ (ن) کی یہ ترجیح اول ہے

جمہوری آئینی اداروں کے احیاء کے لیے اقدامات:

☆ آزاد جموں و کشمیر عبوری آئین ایکٹ 1974 میں ترمیم کے ذریعہ کونسل لیجسلیٹو لسٹ (Legislative list) میں ترمیم کر کے مقامی نوعیت کے تمام اداروں کو فیڈرل لیجسلیٹو لسٹ کی روح کے مطابق آزاد کشمیر حکومت کی تحویل میں دیا جائے گا۔

☆ وفاقی نوعیت کے تمام معاملات جو اس وقت کونسل لسٹ میں ہیں کو آزاد کشمیر عبوری آئین ایکٹ کی دفعہ (3) اور کابینہ ڈویژن حکومت پاکستان کے نوٹیفیکیشن مورخہ 11.05.1971 کی روح کے مطابق براہ راست مملکت پاکستان کے سپرد کرنا تاکہ عملی شتم کر کے معاملات براہ راست متعلقہ مرکزی وزارتوں سے منسلک ہو کر یکسو ہو سکیں جو اس وقت حکومت آزاد جموں و کشمیر، آزاد جموں و کشمیر کونسل، وزارت امور کشمیر سے ہوتے ہوئے دیگر متعلقہ وزارتوں کی منظوری کے لیے بھیجے جاتے ہیں۔ اس طرح ذمہ داری اور جواب دہی یقینی بنائی جائیگی۔

☆ پاکستان قومی جوڈیشل کمیشن کی طرز پر آزاد جموں و کشمیر میں جوڈیشل کمیشن مقرر کر کے اعلیٰ عدلیہ، الیکشن کمیشن، احتساب بیورو اور شریعت کورٹ کے جملہ معاملات جوڈیشل کمیشن کی سفارش کے مطابق روپوش لائے جائیں گے۔

☆ سپریم کورٹ آزاد جموں و کشمیر کو بنیادی اختیارات (Original Jurisdiction) تفویض کیئے جائیں گے۔

☆ آزاد کشمیر کو مرکزی اداروں نیشنل فننس کمیشن، نیشنل اکانومک کونسل، کونسل آف کامن انٹرسٹ، ارسا، پانی کے حقوق، بجلی کی آمدن کے منافع میں حقوق اور ان اداروں میں نمائندگی حاصل کرنا ہماری جماعت کی ترجیح اول رہے گی تاکہ اپنا شخص بحال رکھتے ہوئے قومی دھارے میں شامل ہو کر ان تمام حقوق سے مستفید ہو سکیں جو پاکستان کے باقی صوبوں کو حاصل ہیں۔

☆ ماحتہ عدلیہ میں اصلاحات:

ماحتہ عدلیہ ریاست میں قانونی انصاف فراہم کرنے کی بنیادی اکائی ہے پاکستان مسلم لیگ (ن) کی خواہش اور کوشش

## **Proposals for enhanced autonomy and empowerment of Azad Jammu and Kashmir and Gilgit-Baltistan**

Dear Sir

The resolutions of the UN Security Council and UNCIP which call for a plebiscite under UN auspices for a settlement of the Jammu and Kashmir issue do not stipulate or visualise any particular system of governance for the territories comprising the State pending its final disposition in accordance with the UN resolutions. The Constitution of Pakistan also does not contain any specific provisions on the governance of the liberated territories of Jammu and Kashmir (i.e. Azad Jammu and Kashmir and Gilgit-Baltistan) during the period till the holding of the plebiscite. The only reference in the Constitution to Jammu and Kashmir is Article 257, which is about the relationship with the State *after* it accedes to Pakistan.

In the absence of any provisions in the UN resolutions and the Constitution of Pakistan on the system of governance for AJK and Gilgit-Baltistan, the matter has been left largely to the discretion of the Pakistan Government. Because of its obligations under the UN resolutions, Pakistan has been very careful not to take any constitutional, legal and administrative steps in relation to the liberated territories which could affect the final disposition of the state in accordance with those resolutions. As a result, their governance has been regulated largely through legal and administrative measures of an interim and *ad hoc* nature.

Over the years, this has produced a growing democratic deficit in AJK and Gilgit-Baltistan. While the rest of Pakistan has made intermittent progress towards greater democracy and provincial autonomy, the two liberated territories have not benefited from these advances. To a very large extent, they are still administered by the Government of Pakistan and the local bureaucracy appointed by it. Directly or indirectly, the Federal Government virtually exercises all authority vested in the Azad Jammu and Kashmir Council and the Gilgit-Baltistan Council, without the effective participation of the chosen representatives of the liberated territories and without being answerable even to the Parliament of Pakistan or to any other elected body in the country. Even subjects of a local nature over which the Governments and Legislative Assemblies of AJK and Gilgit-Baltistan have full authority are largely controlled by the top bureaucracy appointed by the Federal Government.

Because of this lack of accountability, there is a growing sense of resentment which has led to a demand for the abolition of the AJK Council and other changes in the governance structure of these territories to promote democracy and enhanced autonomy. In Gilgit-Baltistan, the Legislative Assembly has passed a resolution demanding that Gilgit-Baltistan be made a constituent province of Pakistan.

The Pakistan Government has in the past deferred taking steps to address this issue, mainly because of its determination not to do anything that could be seen as detracting, howsoever remotely or obliquely, from its obligations and commitments under the UN resolutions on Kashmir.

The Association for the Rights of the People of Jammu and Kashmir (ARJK) has carried out an in-depth study on this subject and held intensive formal and informal discussions with legal experts, political analysts and other sections of the civil society in Pakistan and in AJK and Gilgit-Baltistan with a view to finding a way to strengthen democracy and provincial autonomy in the liberated territories without compromising Pakistan's stand on Kashmir. Following these consultations, the ARJK is of the considered view that this objective can be achieved by (a) enshrining Pakistan's commitment to the UN resolutions on Kashmir in the Constitution of Pakistan; (b) giving the powers of a Province to AJK and Gilgit-Baltistan but without making them constituent units of the Federation; and (c) stating explicitly that this is an interim step and does not affect Pakistan's obligations under the UN resolutions.

To this end, the Association has prepared a draft of proposed amendments in the Constitution of Pakistan, the Azad Jammu and Kashmir Interim Constitution Act and the Gilgit-Baltistan Governance Order. These amendments safeguard Pakistan's position on the Kashmir issue, are in keeping with the spirit of the 18th Amendments to the Constitution of Pakistan and seek to fulfil the democratic aspirations of the people of the liberated territories and their desire for enhanced autonomy and empowerment.

The main features of the proposed amendments are given below.

### **Main features of proposed amendments in the Azad Jammu & Kashmir Interim Constitution Act, 1974**

1. Abolition of the AJ&K Council and the vesting of powers over federal matters, including those presently exercised by the Council, in the Parliament and the Government of Pakistan in accordance with the spirit of the 18th Amendment to the Constitution of Pakistan.
2. Election of members of the Legislative Assembly representing refugee state subjects by the directly elected members of the Assembly.

3. All judicial appointments at the high level to be made through the Judicial Commission.
4. Supreme Court to be vested with original jurisdiction.
5. Addition of three new fundamental rights (right to information, right to education and right to protection against double punishment and self-incrimination) in the list of fundamental rights.
6. Council of Islamic Ideology and Shariat Court to be given constitutional protection.
7. A Caretaker Government to be appointed before election to the Assembly.
8. Acquisition of immovable property for purposes of Federal Government to be subject to final settlement of the Kashmir issue.
9. The President may ask the Prime Minister to obtain a vote of confidence, if he appears to have lost the confidence of the Assembly.
10. Number of Ministers not to exceed eleven percent of the total membership of the Assembly.
11. In the absence of the President and the Speaker, the Chief Justice of Azad Jammu and Kashmir to act as President.
12. Prime Minister to be empowered to appoint two Advisers with the right to speak on the floor of the Assembly.

The rest are minor amendments to make them compatible with the major amendments.

#### **Main features of proposed amendments in the Gilgit-Baltistan Governance Order 2009**

1. Abolition of the Gilgit-Baltistan Council and the vesting of powers over federal matters, including those presently exercised by the Council, in the Parliament and the Government of Pakistan in accordance with the spirit of the 18th Amendment to the Constitution of Pakistan.
2. The Gilgit-Baltistan Assembly to ratify and to be empowered to amend the Governance Order 2009 with two-thirds majority.
3. Pay, privileges and tenure of Judges of the superior courts of Gilgit-Baltistan to be equal to their counterparts of Azad Jammu and Kashmir and Pakistan.
4. Addition of three new fundamental rights (right to information, right to education and right to protection against double punishment and self-incrimination) in the list of fundamental rights.
5. The Governor may ask the Chief Minister to obtain a vote of confidence, if he appears to have lost the confidence of the Assembly.
6. A Caretaker Government to be appointed before each election to the Assembly.
7. Number of Ministers not to exceed eleven percent of the total membership of the Assembly.
8. Chief Minister to be empowered to appoint two Advisers with the right to speak on the floor of the Assembly.
9. In the absence of the Governor and the Speaker, the Chief Justice of the Supreme Appellate Court of Gilgit-Baltistan to act as Governor.

The rest are minor amendments to make them compatible with the major amendments.

#### **Main features of proposed amendments in the Constitution of Pakistan in relation to Azad Jammu and Kashmir and Gilgit-Baltistan**

1. An article to be added in the Principles of Policy stating that the State shall make all endeavours at the international level for the settlement of Kashmir issue in accordance with the UN resolutions.
2. Pending settlement of the Kashmir issue, Azad Jammu and Kashmir and Gilgit-Baltistan to be given the powers and rights enjoyed by the Provinces, but without making them Provinces.
3. For this purpose, the President of Pakistan to be empowered to extend the relevant provisions of the Constitution of Pakistan to Azad Jammu and Kashmir and to Gilgit-Baltistan, with the

concurrence of the Governments of the two liberated territories, so as to enable them to have seats in the Parliament of Pakistan to be filled through indirect elections by the respective Assemblies of these territories, to get representation in the Council of Common Interests, National Economic Council and National Finance Commission, and to get royalty and a share of net profit on the generation of hydro-electricity and natural gas.

We would very much appreciate receiving your views on the proposals made above.

Yours sincerely,

**Justice (Rtd.)**  
**Syed Manzoor Hussain Gilani**  
Chairman  
Association for the Rights of the People  
of Jammu & Kashmir.(ARJK)  
Web: [www.arjk.org](http://www.arjk.org)  
Email: [info@arjk.org](mailto:info@arjk.org)  
Face book:manzoor.gillani14@gmail.com  
Email: [manzoorgillani@hotmail.com](mailto:manzoorgillani@hotmail.com)  
1- SHOUKAT LINES MUZAFFARABAD, AJK.