



TRANSITION PLAN

FOR

PROVISIONAL CONSTITUTIONAL PROVINCE

OF GILGIT-BALTISTAN

Introduction

Gilgit-Baltistan (**GB**) is spread over a mountainous area of 72,400 sq. Km and is almost 5 times larger than Azad Jammu & Kashmir (**AJK**) and makes up 9% of Pakistan's land mass. According to the official Census of 2017, its population is almost 1.5 million souls, although the census figures to the extent of GB have not yet been released officially by the Pakistan Bureau of Statistics, Islamabad. Gilgit-Baltistan is home to the world's three mightiest mountain Ranges, the Hindu Kush, Karakorum and the Himalayas. It also offers the most feasible land link for South Asia to China and the Central Asian States (**CARs**).

As far back as the eye of history can penetrate, humanity has dwelled in the lofty mountain valleys of Gilgit-Baltistan. Historically Gilgit-Baltistan, which largely comprised of small princedoms, remained virtually disconnected from rest of the world until the middle of 19th Century when Sikh invaders entered the area which was followed by joint rule of both the Dogra Dynasty of Kashmir as well as the British.

However, the partition of Indian subcontinent in 1947 triggered a successful armed struggle in GB which culminated in its liberation from the Dogra yoke. Immediately after liberation the people of GB acceded to Pakistan, but the area has remained deprived of full-fledged constitutional status till now, due to the unresolved Kashmir issue. Nevertheless, the process of political reforms which started in 1970, has continued in GB ever since. From time to time, politico-administrative packages were introduced in GB, but these piecemeal interventions have largely always fallen short of the expectations of the local population. The latest in this series is the Government of Gilgit-Baltistan, Order, 2018. This Presidential Order, which is in field presently, envisages the status of almost a complete province to Gilgit-Baltistan, save only constitutional recognition. The people of GB have since been demanding complete constitutional integration into Pakistan.

On November 1, 2021, exactly 74 years after GB's independence and voluntary accession with Pakistan, Prime Minister Imran Khan announced his government's decision to grant GB the status of a full province, but with a proviso that this status shall be considered as provisional, until the issue of Kashmir is resolved. The basis for this proviso is to remain consistent with Pakistan's existing stance on Kashmir. The decision of Pakistan to integrate and mainstream GB in the national life through constitutional amendments is most welcomed in GB.

This transition plan is drawn up by a team of experts under the guidance of the political leadership of GB. The area has all the ingredients to become a successful economic area at the crossroads of Asia. It is the responsibility of all the stakeholders, especially the federal government, to realize this potential through short, medium and long-term planning and investments in the region's natural resources, infrastructure, institutions and public services.

The primary objective of this transition plan is to ensure sustainable transformation of GB into a provisional province. The current fiscal requirement calculated in this transition plan is an estimated PKR 500 billion over ten years. This amount needs to be invested in creating revenue generating assets, such as hydropower projects and other economic infrastructure. Although, the economic plunk of the transition plan, by necessity, recommends continuing and enhancing existing subsidies, in the long term, a viable GB government will need fiscal autonomy to be effective and bring about sustainable economic growth. By all assessments, hydropower, mines, minerals and tourism development can generate much needed economic activity and revenue for the government.

Other elements of this transition plan include legal, administrative, and constitutional provisions, including modalities of representation in the highest organs of the state with attendant rights and privileges, and how to make a smooth transition from an administrative, to a constitutional province. The document is divided into four chapters, each focusing on a specific area of transition, including fiscal, legal, services and miscellaneous.

The integration of GB into Pakistan's mainstream, through the proposed constitutional amendment, will be a landmark achievement and the highest water mark for the people of GB since their accession to Pakistan. This transition Plan, if implemented concurrently to the passing of the constitutional amendment bill in the national Parliament, will go a long way in appropriately realizing the objectives of the entire exercise for the benefit of the people of GB in particular and Pakistan in general.



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Preamble

The Chief Minister Gilgit-Baltistan vide Notification No. SO(I&C)-3(9)/2021 dated 18th February 2022, constituted a committee to draft a **Transition Plan** to provide the roadmap for transformation of GB into a Provisional Constitutional Province under the proposed Constitutional amendments.

The Committee held several meetings and after in-depth deliberations has proposed the Transition Plan. The Plan is comprised of 4 Chapters. Chapter-I deals with Financial matters, Chapter-II deals with Legal and Judicial matters, Chapter – III deals with Services and Administrative matters and Chapter-IV deals with Miscellaneous matters.

Chapter - I

1. Financial Reforms

It is submitted that the share of a provinces in financial resources is ascertained/determined through National Finance Commission Award. Currently the Financial Resources are distributed between the Federation and Provinces on the ratio of 42.5% and 57.5% under the 7th National Finance Commission Award. The share of provinces is further distributed among the provinces based on the formula of 7th NFC award. Before promulgation of the ***Gilgit-Baltistan Self Governance & Empowerment Order, 2009*** the expenditure was met out from the budgetary allocations of Federal Government, however after enforcement of the said order budget/expenditure of Gilgit-Baltistan has been transferred to Grant-in-Aid without devising any mechanism for calculation of any rational budget allocations and also for proportionate increase in fourth coming financial years.

Presently, an amount is intimated to the Government of Gilgit-Baltistan before start of a Financial Year through Indicative Budget Ceiling (IBC) against Regular, Development and Subsidy on Purchase of Wheat, and the Government of Gilgit-Baltistan has to run its official business and development projects within the limited allocated budget accordingly.

Previous five (05) years Grant-in-Aid allocation for Gilgit-Baltistan from Federal Government is tabulated below;

S #	Financial Year	Allocation				Increase (%)
		Regular	Dev.	Wheat Subsidy	Total	
1	2017-2018	27.000	14.156	6.045	47.201	--
2	2018-2019	29.500	14.156	6.045	49.701	5.30%
3	2019-20	31.000	12.125	6.045	49.170	-1.07%
4	2020-21	32.000	13.000	6.000	51.000	3.72%
5	2021-22	47.000	16.000	8.000	71.000	39.22%

1.1. National Finance Commission

The National Finance Commission is established by the constitution which lays down the foundation of equal distribution of revenues between the Federal and Provincial Governments of Pakistan. The President of Pakistan constitutes the National Finance Commission under Article 160(1) of the 1973 Constitution. The existing composition consists of the Minister of Finance of the Federal Government, the Ministers of Finance of the Provincial Governments, and such other persons as may be appointed by the President after consultation with the Governors of the Provinces. In order to grant Provisional Province of GB representation in the NEC, amendment in Article-160(1) of the 1973 Constitution 1973 will be required.

1.2. Share under National Finance Commission Award

Following is the multi-indicator-based share for 7th NFC Award:

S. No	Indicators	% Weightage
1	Population	82
2	Poverty/backwardness	10.3
3	Revenue Collection/ generation	5
4	Inverse population density	2.7
	Total	100

The share of each province is calculated based on the ratio of above weightage formula. After grant of the Provisional Provincial status to the Gilgit-Baltistan, its budgetary allocation shall be made from the Provincial Share of NFC based on the above indicators of 7th NFC Award. On the analogy of some other provinces, GB must also be granted a dedicated **Climate Change share** from the NFC over and above its otherwise due share.

1.3. Financial Arrangements between Federal Government & AJK Government

Financial resources to the Government of Azad Jammu & Kashmir are provided through documented agreements initially in 1992 with a fixed annual grant and in 2018 with a variable grant from the Federal Divisible Pool. However, no such documented arrangement has been made with the Government of Gilgit-Baltistan.

1.4. National Economic Council

The President of Pakistan constitutes the National Economic Council under Article 156(1) of the 1973 Constitution. The existing composition consists of the Prime Minister who shall be the

chairman of the council, the Chief Ministers of four Provinces and one member from each Province to be nominated by the Chief Minister of the respective Province who shall be the members along with four other members to be nominated by the Prime Minister from time to time.

In order to grant Provisional Province of GB representation in the NEC, amendment in Article-156(1) of the 1973 Constitution 1973 will be required.

1.5.Challenges for the Gilgit-Baltistan

Following are the main challenges for the Government of Gilgit-Baltistan to overcome poverty, ensure development, provide food security, health services, basic education and professional education to its people:

- Less holding of cultivable land (only 1.65% of GB is habitable) and most areas fall under the single cropping zone.
- Under privileged/scattered population
- Nominal per capita income
- Lack of basic amenities
- Disaster prone area
- Extreme weather conditions
- Lack of technical & professional education
- Nonexistence of private sector/industry
- Energy crisis
- Lack of infrastructure & communication facilities

1.6. Proposed Comprehensive Package of Rs. 500. Billion for Ten Years for Provisional Province of GB

To compensate the deprivation of seventy five years and to bring about sustainable development in Gilgit-Baltistan, the following financial package is proposed over a period of ten years with a committed allocation of resources during the period:

(Rs. in Billion)		
S. No	Description	Demand
1	Repair/Maintenance of Existing infrastructure (Road Network, Bridges, Buildings, Water Supplies, Drainage Systems, Power Supply Systems, Transport System)	50
2	Establishment of mandatory institutions	10

3	Strengthening of Existing Setup	10
4	Strengthening of Autonomous Bodies	5
5	Improvement of Existing Tourism Infrastructure/ Archaeological Sites	5
6	Soft Loans for Tourism Sector Development	10
7	Capacity Building of Human Resource	5
8	Construction of small and medium size dams	380
9	Provision of soft-loans for development of cottage industry	10
10	Stipends for higher and professional education (domestic/ abroad)	5
11	Soft loans for Agriculture and Dairy Development	5
12	Forest Generation, Wildlife and Environmental Protection	5
	Total	500

1.7. Proposed Financial Concessions and Allocation of Additional Financial Resources

The Government of Gilgit-Baltistan is seeking the following financial concessions and shares for financial arrangements of newly proposed Provisional Province of Gilgit-Baltistan.

- Exemption from all direct taxes up to full-fledged provincial status (needs constitutional amendment).
- Continuation of existing Subsidy on Purchase of Wheat and Petroleum.
- Grant on subsidy on Gas to be supplied from Air Mix Plants being constructed in Gilgit-Baltistan.
- Establishment of Special Economic & Industrial Zones.
- Special Incentives to attract Private Sector Investors.
- Provision of water user charges in addition to share of GB under NFC Award
- Provision of Royalty on Hydro Power Generation.
- Protection/provision of adequate share under Federal PSDP.
- Transfer of PTDC assets and properties to GB Government.
- Transfer of Contributions of Pension, Benevolent Fund and Group Insurance of GB Govt. Employees from Federal Government to Gilgit-Baltistan Government (amount will mutually be worked out through AG-GB and Finance Division, Islamabad).
- Transfer of Funds kept in Gilgit-Baltistan Council Account to Gilgit-Baltistan Administrative Account # 1 of the GB Consolidated Fund Account.

1.8. Proposed Amendments in the Constitution 1973

To strengthen newly Proposed Provisional Province of Gilgit-Baltistan in terms of financial matters and provide representation in the forums of National Finance Commission Award, National Economic Council (NEC) and Council of Common Interest (CCI) the following Articles of the 1973 Constitution are required to be amended:

1) Proposed amendment in Article 156(1):

- ***“and Provisional Province of Gilgit-Baltistan”*** may be inserted after the word ***“Province”*** appeared in Article 156(1) (b)
- ***“four”*** may be replaced with the word ***“five”*** in the Article 156(1)(c)

2) Proposed amendment in Article 160(1):

- ***“and Gilgit-Baltistan Government”*** may be inserted after the word ***“Governments”*** appeared in line 5 of Article 160(1)
- ***“and Gilgit-Baltistan Government”*** may be inserted after the word ***“Provinces”*** appeared at the end of Article 160(1)

3) Proposed amendment in Article 160(2):

- The word ***“the distribution between the Federation and the Provinces of the net proceeds of the taxes mentioned in class (3);”*** appeared at Article 160(2)(a) may be replaced with ***“the distribution between the Federation, Provinces and Provisional Province of Gilgit-Baltistan of the net proceeds of the taxes mentioned in class (3);”***
- ***“and Gilgit-Baltistan Government”*** may be inserted at the end of the Article 160(2)(b)
- ***“and Gilgit-Baltistan Government”*** may be inserted after the word of ***“Governments”*** in Article 160(2)(c)

4) Proposed amendment in Article 160:

- The word ***“and Provisional Province of Gilgit-Baltistan”*** may be inserted after the word ***“Province”*** where appeared in Article 160(3A), Article 160(3B), Article 160(4), Article 160(5), Article 160(6), and Article 160(7).
- 5) Proposed amendment in Article 161:
- The word ***“and Provisional Province of Gilgit-Baltistan”*** may be inserted after the word ***“Province or Provinces”*** where appeared in Article 161.
- 6) Proposed amendment in Article 163:
- The word ***“and Provincial Assembly of Gilgit-Baltistan”*** may be inserted after the word ***“Provincial Assembly”*** where appeared in Article 163.
- 7) Proposed amendment in Article 164:
- The word ***“and Provisional Province of Gilgit-Baltistan”*** may be inserted after the word ***“Province”*** where appeared in Article 164.
- 8) Proposed amendment in Article 165 and Article 167:
- The word ***“and Provisional Province of Gilgit-Baltistan”*** and ***“Provincial Assembly of Gilgit-Baltistan”*** may be inserted after the words ***“Province”*** or ***“Provincial Assembly”*** where appeared in Article 165 and Article 167.
- 9) Proposed amendment in Article 235:
- The word ***“and Provisional Province of Gilgit-Baltistan”*** may be inserted after the words ***“Province”*** or ***“Provinces”*** where appeared in Article 235.
- 10) Proposed amendment in Article 250:
- The word ***“and Provisional Province of Gilgit-Baltistan”*** and ***“Provincial Assembly of Gilgit-Baltistan”*** may be inserted after the words ***“Province”*** or ***“Provincial Assembly”*** where appeared in Article 250.

Chapter– II

2. Legal and Judicial Matters

2.1.Historical Background

The Prime Minister of Islamic Republic of Pakistan had constituted a Committee, headed by Minister for Kashmir Affairs & Gilgit-Baltistan, to prepare recommendations to give Provisional Constitutional status to Gilgit-Baltistan in light of UN Resolutions and principal stance of Pakistan on Kashmir Issue. On the other hand, the Gilgit-Baltistan Assembly passed a unanimous Resolution for giving Gilgit-Baltistan Provisional Constitutional Provincial Status. Accordingly, the Chief Minister Gilgit-Baltistan had also constituted a Committee, which was represented by various Political Parties to propose constitutional, administrative and governance reforms in Gilgit-Baltistan. After due consultation with all stakeholders, the Government of Gilgit-Baltistan submitted a consolidated recommendation for amendment in the Constitution of Islamic Republic of Pakistan. In response to that the Federal Government submitted a draft constitutional amendment bill which is under discussion by the Government of Gilgit-Baltistan.

The Supreme Court in its Judgment dated 17th January, 2019 after perusing of the historical background of different administrative reforms under taken by the Federal Government in Gilgit-Baltistan and also examining the UN Resolutions on Kashmir Issue has decided the matter. In para-29(iii) of the Judgment the Supreme Court of Pakistan has held that ***“if the Order so promulgated is repealed or substituted by an act of Parliament the validity thereof, if challenged, shall be examined on the touch stone of the Constitution”***. The above para of the Judgment has given ample powers to the Federal Government to introduce any reforms in Gilgit-Baltistan through Constitutional Amendment. The Gilgit-Baltistan Bar Council has filed an Implementation Petition before the Supreme Appellate Court GB to implement the Judgment of Supreme Court of Pakistan and the Hon’ble Court has issued directions to the Federal Government to implement the Judgment and adjourned the case for next date of hearing. Moreover, the Federal Government has to implement the Order of Supreme Appellate Court or can file appeal before the Supreme Court of Pakistan. In addition to the above in para 29(iii) of the Judgment passed by the Hon’ble Supreme Court of Pakistan, there is no legal bar on the Government of Pakistan to introduce reforms in Gilgit-Baltistan by making amendments in the Constitution of Pakistan. Once an amendment has

been made for giving Provisional status to Gilgit-Baltistan, any aggrieved person can file a petition under Article-184(3) of the Constitution of Pakistan before the Supreme Court of Pakistan.

2.2. Tax Regime of Federal Government

The following laws deal with the issue of Taxation through which the Federal Government can levy taxes:

1. The Custom Act
2. The Federal Excise Duty Act
3. The Federal Sales Tax Act
4. The Income Tax Ordinance, 2001
5. Federal Finance Bill

The Gilgit-Baltistan Council had adapted the *“Gilgit-Baltistan Council Income Tax (Adaptation) Act, 2012”* on 21st March, 2012 vide which taxes were collected from GB at the rate of 50% discount from the citizen of Gilgit-Baltistan as compared to the citizen of Pakistan. After adaptation of the said Ordinance the GB Council through its Inland Revenue Office established at Gilgit started collection of taxes due to which people started protests throughout the region and there was apprehension of law & order situation due to which the Council vide Notification dated 4th January, 2018 has restrained the department of Inland Revenue from collection of all taxes. It is further added that the Federal Government vide Notification dated 23rd July, 2018 has exempted the Chitral, Deer, Swat etc from all the Sales Taxes including tax chargeable under Section 13 of the Sales Tax, 1990. The Federal Government has also exempted the FATA and PATA from the Sales Taxes under Sales Tax 1990 after making FATA as part of Constitution. Similarly, the Constitution of Pakistan has been amended on 4th June 2018 by the Parliament and the FATA have been made part of the province of KP by making amendments in relevant articles of Constitution which deal with the provincial matters. The above laws expressly mention that the Federal Government can impose Taxes throughout Pakistan as and when required unless and until not exempted by the Constitution through insertion of a special saving Article in the Constitution.

2.3. Relevant Article of the Constitution under which Taxes can be imposed.

The Constitution of the Pakistan has different Articles which defines the powers and functions of all the institutions. The Constitution also provides different Article under which the Parliament

can make legislation by invoking those Articles. Under **Article 165A** the Majlis-e-Shoora (Parliament) has the power to make law to provide for levy and recovery of taxes. Article 50 of the Constitution defines the Majlis-e-Shoora (Parliament) which is consisting of the President of Pakistan, the National Assembly and the Senate of Pakistan. All the Laws which deals taxation and exemption can be made under Article 165A, hence unless and until a specific provision for exemption of Gilgit-Baltistan from Taxation till settlement of Kashmir Dispute is inserted then all the taxes will automatically be applicable in the territory of Gilgit-Baltistan, hence a special provision by amending the relevant Article of the Constitution for exemption of taxes is required to be inserted

2.4. Continuation of existing Laws

Article 279 of the Constitution protects the laws in term of continuation unless and until repealed or amended by another legislation. The relevant Article is reproduced as under:

Article 279. Notwithstanding anything contained in the Constitution all taxes and fees levied under any law in force immediately before commencing day shall be continued to be levied until they are varied or abolished by Act of appropriate legislation.

The basic scheme of the above Article is that all the laws/acts and even ordinances will remain in operation unless and until revoked, repealed, or expired being time bound laws etc. Hence, if a special provision pertaining to Gilgit-Baltistan regarding applicability of Taxation Laws is not inserted in the Constitution then the existing laws will be applicable in the territory of Gilgit-Baltistan and all the taxes can be collected accordingly. In view of the above an amendment in the relevant Articles of the Constitution for exemption of taxation till settlement of Kashmir Dispute under UN Resolutions is advisable.

2.5. Tenure or GB Assembly

The General principle of Law as mentioned in the Constitution as well as in the Government of Gilgit-Baltistan Order, 2018 is that the Assembly has five years term. Both the National and Provincial Assemblies including the Gilgit-Baltistan Assembly are having their term for five years. The existing GB Assembly had taken their oath on 19th November, 2020 and their term of office will become ceased on 19th November, 2025. However, in case of GB becoming as Provisional Province then the five years term of the Assembly cannot automatically be extended unless and until a specific saving Article has been inserted in the Constitution. Article 232(6) of the

Constitution read with Article 106 of the Government of GB Order, 2018 provides the mechanism and procedure vide which the tenure of Assembly can be extended. However, if GB becomes Provisional Province then the existing Members of Gilgit-Baltistan Assembly cannot claim benefits under Article 106 of Government of GB Order, 2018 due to the reason that the Government of GB Order, 2018 will become repealed. Hence, a special amendment in Article 232 of the Constitution will be required by inserting a new Article as Article 232A to secure the five year term of the GB Assembly. The rationale behind protection of the term of the GB Assembly is the importance of Kashmir issue, CPEC, security and other issues relating to Diamer-Basha and Dassu Dams as well as to smoothly implement the Transition Plan. The other rationale for protection of the term of GB Assembly is that the mandate of the people of GB who have elected the existing Members for a term of five years hence the Federal Government has to honor the mandate of the public at large.

2.6.Insertion of New Article in Article 232 as Article 232 A

The existing Gilgit-Baltistan Assembly will complete its term on 19th November, 2025, however can be ceased in 2023, in case of Gilgit-Baltistan becomes provisional province. Hence due to the importance of Kashmir Issue, CPEC, the Diamer-Basha and Dassu Dams, to smoothly implement the transition plan and also giving honor to the public mandate as well as the special status of the area, the tenure of Gilgit-Baltistan Assembly is hereby extended from 2023 up to 19th November, 2025.

Provided that the Elections of National Assembly and Senate will be conducted with the General Elections of Pakistan to complete the composition of Majlis-e-Shoora (Parliament) which are to be held in the year 2023.

Provided further that the Senators from Gilgit-Baltistan will be elected by the Members of the existing Gilgit-Baltistan Assembly and the Members of National Assembly will be directly elected by the people of Gilgit-Baltistan.

2.7.Exemption from Taxes and saving of Deeds, Agreements and Contracts

Article-279 of the Constitution needs to be amended by inserting two new Articles as Article-279A and 279B by inserting the following is required:

Article-279A No direct Taxes shall be levied/imposed in the territory of Gilgit-Baltistan till final settlement of Kashmir Dispute under UN Resolutions and Gilgit-Baltistan becoming a full-fledged Constitutional Province like other provinces”

Provided that the subsidies of wheat, oil and Gas which are being provided by the Federal Government shall also remain intact till settlement of Kashmir Dispute and Gilgit-Baltistan becoming a full-fledge Constitutional province.

Provided further that the budgetary requirement of Gilgit-Baltistan will be met from NFC Award or through Grant-in-Aid as the case may be in consultation with the Gilgit-Baltistan Government.

Article-279 B (Saving of Deeds, Agreements and Contracts)

The Accession Deed signed between the people of Diamer District (Sub-Divisions Darel-Tangir and Chilas) with the Government of Pakistan in the year 1952 and also endorsed by the Supreme Appellate Court in its Judgment given in case No. SMC-18/2009, dated 16-04-2011 is hereby protected having legal force.

Provided further that all other similar deeds, agreements and contracts signed between people of other areas of Gilgit-Baltistan with the Government of Pakistan are also hereby protected having legal force.

2.8. Views of Supreme Appellate Court, Chief Court and Chief Election Commissioner GB

In the meeting of the Transition Committee, it was decided that Law Department will seek written recommendations from Registrar Supreme Appellate Court, Chief Election Commissioner and Gilgit-Baltistan Chief Court respectively regarding the assets, and the future of employees including the Hon’ble two Judges of Supreme Appellate Court, hence, written opinion was sought from all the concerned quarters.

2.9.Views of the Chief Election Commissioner

The Chief Election Commissioner vide letter dated 22nd February, 2022, submitted the following recommendations:

- i. The employees of Election Commission Gilgit-Baltistan are presently at the strength of Gilgit-Baltistan Government therefore willingness may be obtained

from the employees either they want to stay/remain with Election Commission of Pakistan or to go with Government of Gilgit-Baltistan on the same pay and scale.

- ii. Although the Chief Election Commissioner Office GB will be merged with the Election Commission of Pakistan, however the Provincial Election Commission has to conduct Elections in Gilgit-Baltistan Assembly and the Local Government, hence the assets be placed at the disposal of Election Commission of Pakistan.
- iii. At present, the Gilgit-Baltistan Government is providing budget to the Election Commission of Gilgit-Baltistan hence the same may be continued as usual till proper handing and taking of Election Commission of Pakistan. The letter of Chief Election Commissioner is attached vide **Annex-A**.

It is proposed that a final decision on the above recommendations of Chief Election Commissioner Gilgit-Baltistan shall be made after the proposed constitutional amendments between the Government of Gilgit-Baltistan and the Chief Election Commissioner Office through mutual agreement.

2.10. Views of the Supreme Appellate Court Gilgit-Baltistan

The Registrar Supreme Appellate Court has submitted his written reservations/recommendations vide which he has raised legal questions which are required to be addressed by the Federal Government. Copy of letter of Registrar Supreme Appellate Court GB is attached vide **Annex-B** for consideration of Federal Government.

2.11. Views of the Gilgit-Baltistan Chief Court

Views of the Registrar Chief Court GB have been annexed as **Annex-C** to this plan.

2.12. Enrollment of Advocates of GB in Supreme Court of Pakistan

It is imperative to ensure that Advocates of Gilgit-Baltistan, having licenses of Supreme Appellate Court GB, may also be deemed to have been enrolled in Supreme Court of Pakistan.

Chapter-III

3. Services and Administrative Matters

Gilgit-Baltistan has a provincial civil service established in 1998 and comprising of the District Management service (DMS) and the Office Management service (OMS). GB shares a percentage of its schedule posts with the All Pakistan Service (APS) under the exiting mechanisms given in the Gilgit-Baltistan Order, 2018. As the proposed Provisional Constitutional Province status will also demand a lot of effort and hard work from the Provincial Civil Service, it is imperative that the Gilgit-Baltistan civil service and its growth is properly safe-guarded and ensured in the process of transition of GB from an administrative to a Provisional Constitutional Province.

3.1. Provision in 1973 Constitution with respect to the Civil Service

Article-240 of the Constitution of Pakistan, 1973 deals with the civil service at Federal and Provincial level and the same is reproduced as under for ready reference:

“Article-240: Subject to the Constitution, the appointments to and the conditions of service of persons in the service of Pakistan shall be determined: -

- a) in the case of the services of the Federation, posts in connection with the affairs of the Federation and All-Pakistan Services, by or under Act of *[Majlis-e-Shoora (Parliament)]; and
- b) in the case of the services of a Province and posts in connection with the affairs of a Province, by or under Act of the Provincial Assembly”.

3.2. Existing Vacancy Sharing Formula between Federal Government and Provinces

The Federal Civil Services and the Provincial Civil Services are governed by the above Article of the Constitution. The Federal Services drive their strength / legal justification for their posting in provinces from the Civil Service of Pakistan (Composition of Cadre) Rules, 1954 based on an agreement between Federal Government and the Provinces. Rule 7 (1) of the Civil Service of Pakistan (Composition of Cadre) Rules, 1954 is reproduced for ready reference:

Rule 7(1): The sanctioned posts in the respective provincial sub-cadre of the schedule as specified below shall be reserved for the Officers of the PAS **as per agreed** posts-sharing Arrangement

BS-17	BS-18	BS-19	BS-20	BS-21
25%	40%	50%	60%	65%

3.3. Vacancy sharing of Federal Government in Azad Jammu & Kashmir Government

The Government of AJK does not share any post in Government of AJK in BS-17, BS-18 and BS-19 & BS-20 except three lent posts i.e Chief Secretary, IGP and ACS (Development).

3.4. Vacancy sharing arrangement between Federal Government and Government of GB

The vacancy sharing arrangement between Federal Government and the Government of Gilgit-Baltistan is not covered under the Cadre and Composition Rules 1954 rather different arrangements have been made from time to time.

Prior to promulgation of the Gilgit-Baltistan (Self Governance & Empowerment) Order, 2009, the Chief Secretary, IGP, Secretary Home, Secretary Finance and Secretary P&DD were used to be posted from the Federal Government although there was no specified share of Federal Government Officers in BS-17, BS-18 and BS-19. As per Article-81 (3) read with Schedule-V of the Gilgit-Baltistan (Self Governance and Empowerment) Order, 2009, following share was specified in GB Government for Federal Services without consultation of the GB Assembly/Government:

Govt. of Gilgit-Baltistan	APUG/DMG/APS	BS-17	BS-18	BS-19	BS-20	BS-21
		25%	40%	50%	60%	65%

This vacancy sharing percentage was imposed arbitrarily by the Federal government drawing inference from the agreement signed between federation and Provinces as part of the Civil Service of Pakistan (Composition of Cadre) Rules, 1954, of which GB was not a party.

3.5. Current Vacancy Sharing between Federal Government and GB Government.

In 2018, the Gilgit-Baltistan (Self Governance and Empowerment) Order, 2009 was replaced with the Government of Gilgit-Baltistan Order, 2018. Article – 96 (3) of the 2018 Order deals with the issue of Services and vacancy sharing and the same reproduced in the following:

Article 96(3): Notwithstanding anything contained in this sub-sections(1) and (2) the position or vacancy sharing formula between the Government of Gilgit-Baltistan and the Government of Pakistan i.e Gilgit-Baltistan Civil Service and All Pakistan Service(PAS),shall be specified in the Fourth schedule. **However, if any alteration is required in the Vacancy sharing formula given in the Fourth Schedule, in future, the Government of Gilgit-Baltistan and the Federal Government shall through an agreement do so and all such alterations shall have force of law”.**

It is pertinent to mention here that since GB government was consulted in 2018, it proposed reduction in quota of Federal services in GB Civil Service Schedule posts. Accordingly, the vacancy sharing in GB Government as per provisions of above Article read with Schedule-IV of GB Government Order 2018 is as under:

Govt. of Gilgit-Baltistan	APUG/DMG/APS	BS-17	BS-18	BS-19	BS-20	BS-21
		18%	30%	40%	50%	60%

For the settlement of vacancy sharing formula between Federal Government and Government of Gilgit-Baltistan, a proviso needs to be inserted in Article-240 of the Constitution of Pakistan stating that the Government of Gilgit-Baltistan and the Federal Government shall through an agreement decide the vacancy sharing formula between All Pakistan Service (PAS/PSP) and the Gilgit-Baltistan Civil Service for distribution of the scheduled posts in the Government of Gilgit-Baltistan, as had been enshrined in Article-96 of Government of Gilgit-Baltistan Order, 2018.

3.6. Creation of BS-20 and BS-21 Scheduled Posts

Presently, the post of Chief Secretary (BS-21) is the highest post in Government of Gilgit-Baltistan which falls under the quota of Federal Government. The post of Chief Secretary may be upgraded to BS-22 and made tenable with BS-22/BS-21. Presently, there are 21 posts of Administrative Secretaries in Gilgit-Baltistan out of which, 11 post of Secretaries are in BS-20 whereas, remaining 10 posts are in BS-19. Therefore, it is required that the remaining 10 posts of Secretaries may also be created in BS-20 and the existing BS-19 posts be re-designated as Additional Secretaries. Similarly, as a starting point at least 10 posts of BS-21 may be created in the province to bring it at par with the other provinces of Pakistan.

Corresponding posts of BS-21 in other provinces are as under: -

Punjab	Sindh	Baluchistan	KP	AJK
33	25	12	20	7*

*As AJK shares only 3 posts with the Federal Government, it has 06 of the above 07 BS-21 posts for promotion of AJK Civil Service Officers.

Similarly, the post of Registrar and Additional Registrar of the to be established High Court Gilgit-Baltistan shall also be included in the scheduled posts to enable cadre officers to be posted against them on the analogies of Supreme Court of Pakistan and High Courts of other provinces.

3.7. Increase quota in Federal Services/Ministries.

In 2020, the combined 4% quota in Federal Services of GB/FATA was separated and Gilgit-Baltistan was allotted only 1% quota. This happened as a result of merger of FATA into KP and the Government of Gilgit-Baltistan was asked to provide its comments with regards to the segregation/separation of GB quota in Federal Services. The GB Government had requested to maintain the quota at least 2% to give the youth of GB ample opportunities of employment. However, the comments of GB Government were not accorded due consideration and it was reduced to 1%, which is extremely low.

In order to give the people of GB a sense of belonging in the Federation and to facilitate its transition from an administrative to a provisional constitution province, it is proposed that the 1% quota in the Federal Services / Ministries may be enhanced to at least 2% for the next 5 years.

Similarly, it has also been observed that the carry forward posts for GB in the Federal Services / Ministries are presently not being calculated on the basis of 4% combined quota between GB and FATA as these posts pertain to the period when the quota of both these areas was combined. At present, the quota in carry forward posts by FPSC and other organizations is being calculated on the basis of 2020 quota separation between GB and FATA and thereby imposing it retrospectively which is injustice with Gilgit-Baltistan and must be addressed.

In addition to above, it is proposed that BS-19 and BS-20 posts in the Prime Minister Office, Ministry of KA&GB, Ministry of P&D & Reforms and the Ministry of Finance Islamabad may be created for posting of GB Civil Service Officers against them for a period of 10 years to facilitate the transition of GB into a Provisional Constitutional Province.

3.8. Creation of Posts

A case of GB Government for creation of 13169 posts during FY 2019-20 & FY 2020-21 is under process at the Federal Finance Division. Out of which only 3913 posts have been created which is quite insufficient to overcome the shortage of HR in existing structure. In order to meet the shortfall of HR in wake of GB becoming Provisional Constitutional Province, it is strongly proposed that the remaining posts may also be created immediately by the Federal Finance Division.

3.9. Jobs in the Federal Government Organizations

In the past a total of 4% job quota in federal government civil service and departments/ organizations was jointly enjoyed by GB and FATA. However, owing to this joint quota, people of GB have been significantly ignored in jobs from BS-1 to BS-14 in various federal government departments/organizations as majority of these posts went to persons holding FATA domicile. A text book example in hand is the case of Islamabad Police and Federal Secretariat. To obviate this issue, it is proposed that 3000 posts in federal government organizations from BS-01 to BS-15 may be created for eligible candidates from GB.

3.10. Induction in Pakistan Administrative Service

Very recently induction in Pakistan Administrative Service (PAS) in BS-19 from provincial civil service including GB has been initiated by amending the Civil Service of Pakistan (Composition of Cadre) Rules, 1954 wherein one officer can get inducted every year in to the said service from GB. The presence of GB domiciled officers in PAS is insignificant. In order to obviate the issue and for better constitutional integration of the area into national mainstream, it is proposed that 3 officers in BS-19 per year for a minimum period of five years may be inducted in PAS.

3.11. International Scholarships

Under the Aghaz-e-huqooq Baluchistan Package, 600 international and local scholarships in Masters and PhD programs were announced to Baluch students in order to bring our Baluch brothers at par with other parts of the country. GB is also one of the poor region of the country. Hence it is proposed that 200 international (PhD and Masters) and 300 local scholarships in higher education may be announced for the students of GB.

3.12. Establishment of Branch Offices of Federal Government Departments/ Organizations in GB

A large number of Federal Government Organizations/departments are functional in provincial capitals. It is proposed that the same may be established in GB within a period of two years of the provisional provincial status.

Chapter –IV

4. Miscellaneous

4.1. Continuation of Pak-China Protocol Agreement 1985

Under the Pak-China Protocol Agreement 1985, GB has been empowered to enter into direct relationship with the Xinjiang province of China including travelling of GB residents to Xinjiang on locally issued border pass. This special arrangement has provided some relief to the people of GB who earn a decent livelihood from the cross border business. It is proposed that this facility may be kept intact and Government of Pakistan may undertake to further strengthen it.

4.2. Shandoor Dispute with KP

Lt. Col. A.G. Durand fixed the boundaries of Gilgit and Chitral in 1892 according to the universally acknowledged principle of watershed which is also the basis for fixation of boundaries between Pakistan, Afghanistan, China, India, Iran and USSR. According to the aforementioned principle of watershed, Panji Lashat, the last village of Kohi-Ghizer, is boundary between Chitral and Gilgit-Baltistan. It is imperative that the boundary dispute of Shandur between GB and KP must be resolved on the basis of geographical and historical records.

4.3.Share in Federal Flood Commission

GB is disaster prone area as it witnesses floods in nullahs and rivers, flash floods, avalanches and GLOF and flash floods besides being situated at the juncture of earthquake zones. Only Rs. 15.00 Million is allocated each year by the Federal Flood Commission (FFC) which is minuscule given the quantum of the natural disasters the area faces every year. GB Government has already taken up the issue with the FFC for increasing the share of GB from 1% to 7% and it was principally agreed to increase the share from 1% to 4% but the same could not be materialized. In the given situation, it is proposed that the share of the GB may be increased in the first case to 7% and if the same is not possible the agreed upon share of 4% may be approved.

4.4. Development Projects in Power Sector

Due to financial constraints, the Government of GB cannot conceive and execute large hydropower schemes due to which the region faces severe power shortage in harsh winters. This leads to cutting of trees and forest area coupled with environmental pollution and diseases. Therefore, it is

proposed that the following three projects may be executed by the Federal Government on within a period of three years commencing after grant of provisional province status:

- i. KIU Hydropower project at Gilgit with estimated generation capacity of 100MW and estimated cost of Rs. 60.00billion;
- ii. Phander Hydropower project at Phander, District Ghizer with estimated generation capacity of 80MW and estimated cost of Rs. 35.00billion
- iii. Regional Grid Phase-II with an estimated cost of Rs. 40.00billion.

4.5. Environmental Cess

It is believed that once the area is given provisional constitutional status, the area will witness a huge investment in the tourism, hydropower, minerals and mining sector besides the passage of Gawadar port bound vehicles from China in the backdrop of CPEC. This will be beneficial on the one hand for the people of GB while on the other hand, it will pose severe challenges to the pristine environment. Therefore, the GB Government will impose environmental cess on the Gawadar bound vehicles and Government of Pakistan shall extend every possible support in materialization of the same.

4.6. Net Hydel Profit (NHP) / Water User Charges

GB has immense potential in hydro-power production and as per a reserved estimation more 40000 MW of hydro power can be generated from the area. It is proposed that GB shall get the same share of net profits from the bulk generation of power as is admissible to other provinces of Pakistan.

Besides, the Diamer-Basha Dam is under construction which shall be completed in due course of time. A huge area of Diamer District will be inundated. However, as per Article 161(2) the net profits shall be given to the Province in which the hydro-electric station is situated and the same is reproduced for ready reference:

161(2). The net profits earned by the Federal Government, or any undertaking established or administered by the Federal Government from the bulk generation of power at a hydro-electric station shall be paid to the Province in which the hydro-electric station is situated.

This Article does not address the issue of the DBD case as a huge area of Diamer District will be inundated and no such additional monetary benefits shall accrue to GB. Therefore, it is proposed that the Article 161(2) of the Constitution of Pakistan, 1973 may be amended to the affect that the issue of inundation of Diamer District may be accounted for and accordingly net profits may be made admissible to GB due to the inundation.

4.7. Continuation of Seats in Medical/Engineering and other Professional Colleges and Universities etc.

GB is devoid of professional colleges including medical, engineering, agriculture, veterinary, forest etc. To address this issue, seats are reserved in the various professional colleges and universities run and operated by provincial and federal governments. Similarly, seats are reserved in different universities of provinces and federal government for higher education. It is proposed that after grant of provisional constitutional status, the Federal Government shall ensure to continue the same and as and when need arises, the same shall be enhanced.

Annexes

Views of Election Commissioner Gilgit-Baltistan (Annex-A)



Election Commission Secretariat Gilgit-Baltistan

No. ELC-Admin-5(1)/2019-20
Gilgit, dated the 22nd February, 2022.

To,

1. The Secretary,
Services and General Administration Department,
Gilgit-Baltistan.
- ✓ 2. The Secretary,
Law & Prosecution Department,
Gilgit-Baltistan.

SUB: TRANSITIONAL PLAN.

I am directed to refer to the subject cited above.

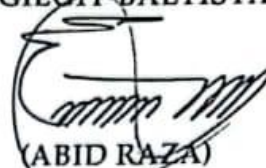
In this connection it is stated that the Government of Pakistan has decided to grant provisional provincial status to Gilgit-Baltistan through various constitutional amendments in the Constitution of the Islamic Republic of Pakistan.

In this backdrop Election Commission Gilgit-Baltistan deem it pertinent to put forward following points which are needed to be addressed before the execution of transitional plan.

- i. The Honorable Chief Election Commissioner Gilgit-Baltistan is going to be the fifth member of Election Commission of Pakistan once Gilgit-Baltistan becomes Provisional Province. However, the employees of Election Commission Gilgit-Baltistan are at the strength of the Government of Gilgit-Baltistan, therefore, willing may kindly be taken from them either they want to stay/remain with Election Commission of Pakistan or willing to go with the Gilgit-Baltistan Government in the same pay scale.
- ii. In every province of Pakistan Election Commission of Pakistan has setup office for the Provincial Election Commissioner. After the integration of Gilgit-Baltistan in Pakistan as Provisional Province, Election Commission of Pakistan would also setup its Provincial office in Gilgit-Baltistan. To do so Election Commission of Pakistan may require assets of Election Commission Gilgit-Baltistan. Therefore it is requested that the assets of Election Commission Gilgit-Baltistan may be placed at the disposal of Election Commission of Pakistan.

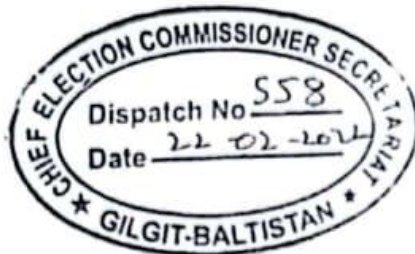
- iii. Election Commissioner Gilgit-Baltistan was established as a special institution and its budgetary needs were catered to by the Government of Gilgit-Baltistan. However, after the amalgamation of Gilgit-Baltistan in Pakistan, Election Commission of Pakistan will establish its own office in Gilgit-Baltistan. Till the completion of transitional plan and takeover of Election Commission of Pakistan, the budget may be issued by the Gilgit-Baltistan Government.

"BY ORDER OF THE HONORABLE CHIEF
ELECTION COMMISSIONER GILGIT-BALTISTAN"



(ABID RAZA)
Provincial Election Commissioner
Gilgit-Baltistan

Copy to PS to the Honorable Chief Election Commissioner GB



Suggestion from Registrar Supreme Appellate Court GB before Transitional Plan Committee.

1. This suggestion may be treated purely on behalf of Registrar on administrative side and should not be treated as judicial verdict of SAC. Any suggestion herein if contrary to any judgment shall have no effect and should not be treated as judicial verdict or judicial concession.
2. As requested by Secretary Law GB on behalf of the Committee, the following suggestions are placed for consideration of the Committee on behalf of Registrar SAC GB.
3. According to Judgment of Hon'ble Supreme Court in Civil Aviation case dated 17th January 2019 all the issues pertaining to Superior judiciary of GB including SAC have been settled. This judgment is still in field and no deviation, whatsoever, can be made or proposed in any draft or in any meeting of any committee contrary to this judgment.
4. According to this judgment, the present court shall continue to function, and the services of existing Chief Judge and Judge of this Court are protected. Their terms and conditions including pay, perks, pension, and other allied benefits are also protected. (Article 82 (4) and 82 (9) GB Governance Reforms 2019 annexed with the judgment of Civil Aviation case Supra).
5. The SAC while implementing the judgment of Hon'ble Supreme Court in Civil Aviation case in petition of one Mr. Shaukat Ali Advocate v Federation and others (CMA 332/2021) has also passed many orders ordering the Federation to implement the judgment of Civil Aviation case in general and to the extent of term of office till superannuation and pension/allied benefits of Chief Judge and Judges of SAC in particular.
6. According to Civil Aviation Judgment this court shall continue to function hence the services of staff of this court is also protected.
7. This office is therefore of the view that according to these judgments and orders services of sitting Chief Judge, Judge (till superannuation) along with their remuneration including pension and allied benefits are protected. Similarly services of staff of SAC are also protected till superannuation with remuneration.
8. Whatever be the mode of legislation (Order, Act, Constitutional) conferring Provisional Provincial Status or retaining present status the spirit of the judgment of Supreme Court of Pakistan in Civil Aviation Case and orders of SAC in implementation proceedings of the said judgment mentioned above shall have to be honored and cannot be deviated.
9. It may be added that apart from judgments/orders above mentioned when GB is being given Provisional Provincial Status and not full Provincial Status then continuation of Supreme Appellate Court in Provisional Province is must till it is made a regular province. The continuation of Supreme Appellate Court would provide justice at doorsteps to people of GB , at least, in Provisional Period. Being Provisional Province it will still remain a special area and there is no harm in continuation of SAC rather would be in the interest of people of GB.

10. Whatever is stated above is the constitutional/ legal and principled stand of this office. And without giving any concession on this stance this office would like to bring the following facts into the notice of this committee that how the Supreme Appellate Court has been dealt with in the proposed Constitutional Draft Dated 4-02-2022 which is not only contrary to Civil Aviation Judgment but against all well known principles of drafting a Constitutional Document. The services of staff of all other institutions including Chief Election Commissioner, GB Council have been saved despite there being no CEC in a Provisional Province and no GB council in Provisional Province. But the services of Chief Judge, Judge and staff of SAC have not been saved. Not only this the word "cease" has been used for SAC in Explanation II to proposed Article 175. The term "cease" as interpreted by the Hon'ble Supreme Court of Pakistan in cases reported as **PLD 1988 SC 287 & PLD 1990 SC 865** followed consistently by many later judgments clearly held that term "cease" is not synonymous to "repeal" and when something is ceased by Constitution then nothing would survive which in normal course are saved under Article 264 of the Constitution. Even a saving clause cannot protect whatever is ceased expressly by the Constitution. Hence protection of saving clause in Order 2018 in the form of Article 264-A shall save only those entities, actions etc. which have not been ceased expressly by the Constitution (like staff of GB Council which is not ceased by the Constitution) Which means that not only Judges and staff are abolished forever but the cases decided and pending shall also not be saved and shall be deemed to have been burnt permanently. After using word "cease" nothing is left then how this committee contrary to decision of not only Civil Aviation but under normal situations can decide about assets as the greatest asset of a Court are decisions given, punishments awarded, acquittals made and above all cases pending.

11. Without prejudice to above stance and subject to judicial determination and in case of merger into Supreme Court of Pakistan in any future legislation the spirit of judgment of Hon'ble Supreme Court in Civil Aviation Case be honored by protecting the services of Chief Judge and Judge including staff till superannuation by also protecting their tenure and pension and other allied benefits.


Registrar SAC GB

5. Amendment of Article 175 of the Constitution.- In the Constitution, in Article 175, the clause (1), the existing *Explanation* shall be substituted with the following namely,-

“Explanation I.—Unless the context otherwise requires, the words “High Court” wherever occurring in the Constitution shall include the “Islamabad High Court” and the “Gilgit-Baltistan High Court”

Explanation II.—The jurisdiction of the Supreme Court of Pakistan shall extend to the Provisional Province of Gilgit-Baltistan, the Gilgit-Baltistan Supreme Appellate Court shall cease to function and the Gilgit-Baltistan Chief Court shall be called the Gilgit-Baltistan High Court, which shall be deemed to have been established by the order of the President.

Explanation III.—The Chief Judge and Judges holding office as Chief Judge and Judges of the Gilgit-Baltistan Chief Court at the commencement date of the Constitution (Twenty Sixth) Amendment Act, 2022 shall be deemed to be Chief Justice and Judges of the Gilgit-Baltistan High Court respectively under the Constitution and shall have the same terms and conditions of service as Chief Justice and Judges of the High Court under the Constitution.”