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- To assess and examine the needs and requirements of research in Kashmir studies and dynamics of Pakistan.

- To publish articles related to Kashmir conflict, international affairs, political studies, diplomacy and public advocacy, security paradigm, defense and strategic studies, law-based approaches, peace and conflict studies, governance and economy, self-determination and other solidarity rights.

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- To devise and adopt ways and means to further the objectives of the forum as a body responsible for research in above-mentioned areas;

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Dr. Sania Muneer
Editor in Chief

Shadows of Conflict: The Economic and Political Toll of Militarization in Indian Occupied Jammu and Kashmir

Iqra Saddique
Assistant Research Associate at the Islamabad Policy Research Institute (IPRI)
Email: iqrasiddique99@gmail.com

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Shadows of Conflict: The Economic and Political Toll of Militarization in Indian Occupied Jammu and Kashmir

Iqra Saddique
Assistant Research Associate at the Islamabad Policy Research Institute (IPRI)
Email: iqrasiddique99@gmail.com

Abstract

This paper explores the multifaceted impacts of India's militarization in the Indian Illegally Occupied Jammu and Kashmir (IIOJK), particularly following the revocation of Article 370 in 2019. Framed within Patrick Wolfe's "Logic of Elimination" and the framework of settler colonialism, the study examines the systematic erosion of indigenous rights, identity, and autonomy in the region. Militarization has generated profound economic disruptions, affecting key sectors such as agriculture, tourism, and trade due to armed conflict, prolonged curfews, and large-scale land dispossession. Politically, post-2019 administrative transformations have intensified militarization, altering electoral processes, imposing demographic shifts, and downgrading the region into a Union Territory. Beyond the deployment of military forces, India has armed segments of the local population, further entrenching a militarized governance structure. The Indian Supreme Court's endorsement of the revocation of Jammu and Kashmir's special status and its mandate for local

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elections have reinforced these developments, resulting in the systematic dispossession of the local population's political autonomy, cultural identity, and fundamental human rights.

Keywords: *Militarization, settler colonialism, Logic of Elimination, Article 370, Supreme Court, civil militia, human rights.*

Introduction

The relationship between the Indian state and the State of Jammu and Kashmir is that of Patrick Wolfe's "Logic of Elimination". The theory of the *Logic of Elimination* is part of theorisation about settler colonialism which explicates that settler colonialism is not an event but a structure of power through which the people and culture of a land are systematically erased. This erasure is ensured not only through the genocide of native people but also through various other means of assimilation. Resultantly, the original population is successfully eliminated and settlers from outside replace it [1]. Developments in Jammu and Kashmir (JK) over the past four years point in the direction of settler colonialism and the *Logic of Elimination* employed by the Indian government to exterminate the rights and identity of Jammu and Kashmir JK.

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[1] Patrick Wolfe, "Settler Colonialism and the Elimination of the Native," *Journal of Genocide Research* 8, no. 4 (December 1, 2006): 387–409, doi:10.1080/14623520601056240.

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After August 2019, India illegally occupied the state of Jammu and Kashmir. It not only militarised the physical spaces—both public and private—but also confiscated the virtual spaces by cracking down on internet and media outlets. Since the independence of India to the rise of armed resistance in Kashmir, India has been administering the occupation of Kashmir by promising it a special status, local government, and democracy but at the same time suppressing the dissent voices. After the spaces for peaceful and non-violent political protests were closed, an armed struggle rose in Kashmir after 1988. During the 'administrative occupation' leading up to the armed resistance, the special status of Kashmir was not respected, elections were manipulated and integrationist efforts were continuously made—imposing a Governor and Chief Minister. Excessive militarisation in the post-1988 era did not suspend law, rather new laws and legal justifications were created to operate with impunity and institutionalise the violence[2]. After the Indian state failed to create a pro-India lobby in Kashmir through electoral manipulations (administrative occupation), it increased militarisation through extra-legal and extrajudicial means which was later cemented with legal codification and constitutional changes.

Militarisation refers to the supply and equipment of a place and organization with soldiers and military resources. It also refers to an

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[2] Khalid Wasim Hassan, "From Administration to Occupation: The Re-Production and Subversion of Public Spaces in Kashmir," in *Gendering Security and Insecurity* (Routledge, 2020), 142–57.

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action, idea, or identity that has an excessive military character, e.g. militarised masculinity. Militarisation, for the course of this paper, refers to the excessive deployment of the Indian military in the Indian Illegally Occupied Jammu and Kashmir (IIOJK) that outnumbers the civilian population, especially in the Kashmir valley. Besides physical militarisation, this paper discusses the non-military and bureaucratic means of dispossession that are equally militarised in nature. Years of violence and militarisation in Kashmir have made people lose their cultivable lands, houses, jobs, businesses and, most of all, their lives and peace. Studies show that rates of psychological distress are high among the residents of Kashmir; women, particularly, are more adversely affected due to domestic violence and their weak socio-economic position [3]. For the sake of brevity and clarity, this paper will focus on the economic and political impacts of militarisation in IIOJK through a settler-colonial perspective, largely the *Logic of Elimination*.

Wolfe's Logic of Elimination

The *Logic of Elimination* falls within the ambit of the theory of settler colonialism. In an era of multicultural liberalism, settler-colonists have gone beyond imperial colonization where the aim of the dominant actor was to exploit the people and resources of the subject territory. According to Lorenzo Veracini, settler-colonists employ the

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[3] Neelam Iqbal, "War, Violence and the Mental Health Crisis in Kashmir," *Medact*, March 8, 2019, https://www.medact.org/2019/blogs/war-violence-and-the-mental-health-crisis-in-kashmir/.

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Logic of Elimination to acquire territorial gains, extinguish the political autonomy of the colonised people, and assimilate their culture and identity [4]. India's efforts to achieve normalcy in the State of Jammu and Kashmir resemble the acts as prescribed by the *Logic of Elimination*.

To quell the movement for freedom in Kashmir, India enacted the Disrupted Areas Act (DAA) and the Armed Forces Special Powers Act (AFSPA) in 1990. Prior to that India attempted to administer occupation of Kashmir through electoral processes. Afterwards, it increased its imperial military presence in Kashmir to seize land forcefully. Currently, India is using its state bureaucracy to encroach on land, dispossess people of their property, and inhabitate outside settlers in Kashmir to dilute their identity.

To marginalise and eliminate the people and culture of the land, settler colonials often use violent and illegal methods of dispossession. These methods of dispossession are eventually integrated into law. In Wolfe's pivotal perspective, the principal driving force for the removal of Indigenous peoples in settler colonialism is the pursuit of territorial expansion, with territoriality identified as the distinct and essential element of settler colonialism [5]. India's military occupation of Kashmir extends beyond three decades. In 2020, India introduced

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[4] Abe Silberstein, "A Logic of Elimination," *Jewish Currents*, January 11, 2022, https://jewishcurrents.org/a-logic-of-elimination.

[5] Maansi Shah, "Encroachers on Their Own Land: India's Transition from Military-Imperialism to Settler Colonialism in Kashmir," *Radical Housing Journal* 5, no. 1 (July 21, 2023): 150, doi:10.54825/FICF3563.

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its new domicile law which allowed people residing in Kashmir for 15 years to become permanent residents. Those appearing in secondary and higher secondary exams and having studied in Kashmir for 7 years were also made eligible for residency [6]. This Domicile law, like many other such acts, reflects the postulates of settler colonialism.

Complementing Wolfe's *Logic of Elimination* is the idea of "State of Exception" promulgated by Giorgio Agamben. Agamben explains that states use legal frameworks to assert their sovereignty in an area and to rule the population within its bounds. When a state is threatened by some rebellious elements in the populations, it resorts to coercive means and those methods are justified through a legal framework. State uses violence under exceptional circumstances but it becomes the *State of Exception* when violence becomes the law. Wartime authority of the military is brought to the public sphere, and the constitution is suspended 'without ceasing to be in force' [7]. The *State of Exception* becomes the new law and it is appropriated by the judicial, executive, and legislative branches of the state; judicial decisions are replaced by sovereign unaccountability [8]. The difference between the *Logic of Elimination* and the *State of Exception* is that

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[6] "Demographic Flooding': India Introduces New Kashmir Domicile Law," *Al Jazeera*, accessed October 30, 2023, https://www.aljazeera.com/news/2020/4/1/demographic-flooding-india-introduces-new-kashmir-domicile-law.
[7] Giorgio Agamben, *State of Exception* (University of Chicago Press, 2008), 46.
[8] Ibid., 45–46.

the former refers to an outside settler colonial while the latter focuses on the exceptional use of violence within a state to quash dissent. If one were to employ the lens of the *State of Exception* to study militarisation in Kashmir, it would be to accept that Kashmir is a part of the Indian state.

Militarization and Its Economic Fallout in Indian-Administered Jammu and Kashmir (IIOJK)

All armed conflicts cause damage and destruction to lives and property but a unilateral occupation leaves the occupied territory paralysed for decades to come, that too when the occupation is only temporary and transformative. In the case of Kashmir, over three decades of armed struggle have persisted with thousands of lives lost and immense damage to the local economy. Against the backdrop of a standoff between Kashmir's armed fighters and Indian forces, the region experiences days and months of curfews and lockdowns. A suspected outburst may also lead to weeks of blockade. Between these curfews and lockdowns are brief periods of negative peace where little economic activity generates currency.

The exchange of armed violence between the Indian forces and the Kashmiri fighters led to adverse effects on the economy, environment, and ecology. Due to the clashes between the two parties, trade is disrupted, and commerce, agriculture, tourism, and mining are also discontinued. This has always led to a reduction in revenues,

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employment, equality, and foreign direct investment.[9] What the Indian government calls counterterrorist measures, lead to poverty, political instability and unrest. In the given milieu, India deploys excessive military in the region that not only consumes public funds but also occupies land, uses local resources, and resides there. Many Indian officers and soldiers remain stationed in Jammu and Kashmir for years. Their families live there and go to hotels and hospitals there. Their children are educated in local schools, they also have a network of specialised army schools, known as the Goodwill Schools [10]. Under the new domicile law introduced in Kashmir, Federal government servants living in Kashmir for 15 years or their wards studying in local schools for seven years would be given domiciles of Kashmir.

The actual number of Indian Armed Forces deployed in IIOJK is not known and the figures that usually make rounds in news are contested. Different types of armed personnel that are deployed in Jammu and Kashmir include the regular Indian army, Rashtriya Rifles, Central Armed Police Forces, State Police Forces, Intelligence agencies, Border Security Forces, Indo-Tibet Border Police, JK Police and JK Armed Police [11]. Besides these, India also backs many civilian armed

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[9] V. Pattammal, "Economic Impact of Terrorism in Jammu & Kashmir," *Electronic Journal of Social and Strategic Studies* 02, no. 02 (2021): 259–69, doi:10.47362/EJSSS.2021.2216.

[10] "Army Goodwill Schools in Kashmir Equip Gen-Next to Face the World : The Tribune India," accessed November 30, 2023, https://www.tribuneindia.com/news/schools/army-goodwill-schools-in-kashmir-equip-gen-next-to-face-the-world-365566.

[11] Ajai Shukla, "How Many Soldiers in Kashmir?," July 13, 2018, https://www.ajaishukla.com/2018/07/how-many-soldiers-in-kashmir.html.

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groups inside Kashmir to undermine the armed resistance and counter those heads on,

After the revocation of Article 370 and 35a, the state of Jammu and Kashmir was under complete lockdown for months (214 days). The past decade, in particular, has seen huge losses to local businesses due to the 2014 floods, 2016 uprising, 2019 lockdown, and COVID shutdowns. The local economy of Jammu and Kashmir is largely dependent on agriculture, handicrafts, horticulture, tourism, and trade from the mentioned sectors. In the year 2018-2019, the gross state domestic product (GSDP) of Jammu and Kashmir was 14.9% which fell to 3.46% in 2020-2021. The net state domestic product (NSDP) growth rate gas reduced from 9.16% to 0.53% during the same period [12]. Due to lockdowns and military deployment in IIOJK since 2019, figures for per capita have not been available. During this period, unemployment increased in both the rural and urban areas of the IIOJK.

The clampdown on the internet and virtual spaces led to losses in online businesses, information technology, start-ups, financial services and tourism. Even when the internet was restored, it was restricted to 2G service which did not help greatly with the drop in earnings [13]. Businessmen and investors from across India were

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[12] Radha Kumar, "Jammu and Kashmir: From Political to Economic Dispossession," *The India Forum*, April 3, 2023, https://www.theindiaforum.in/politics/jammu-and-kashmir-political-economic-dispossession.
[13] Ibid.

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allowed to invest in IIOJK but foreign direct investment could not be boosted. Many foreign investors visiting the region praise its scenic beauty but express concern over the unconducive environment for investment [14].

In the region of IIOJK, approximately 554 mineral blocks, each with a maximum size of ten hectares, underwent an auction process [15]. In 2020, a significant portion of mining rights in Kashmir was acquired by external companies, as many local contractors were unable to submit their applications for e-auctions due to government restrictions on communication in Kashmir.[16] Similarly, on August 12, 2019, Mukesh Ambani, the owner of Reliance Industries and India's wealthiest individual, announced the establishment of a task force dedicated to investing in J&K [17]. Giving the right to residence, investment, and government jobs to outsiders in IIOJK only led to dispossession and marginalisation of the locals.

Recurrent curfews and protests are undeniably detrimental to the state's economy. Nevertheless, the portrayal of 'normalcy' serves as a

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[14] Bilal Pandow, "Economics of Kashmir Conflict," *Pandow, Bilal A*, 2020.
[15] Azaan Javaid, "Outside Firms Enter Mining Race in J&K, Lease Earnings Touch Crores from Lakhs," February 6, 2020, https://theprint.in/india/outside-firms-enter-mining-race-in-jk-lease-earnings-touch-crores-from-lakhs/360175/.
[16] Athar Parvaiz, "In A First, Outside Companies Earn 100 Percent Mining Rights In Kashmir," *Kashmir Observer*, February 10, 2020, https://kashmirobserver.net/2020/02/10/in-a-first-outside-companies-earn-100-percent-mining-rights-in-kashmir/.
[17] Paranjoy Guha Thakurta, "Kashmir Is on Lockdown, but Modi Touts Its Investment Potential | Narendra Modi | Al Jazeera," August 16, 2019, https://www.aljazeera.com/economy/2019/8/16/kashmir-is-on-lockdown-but-modi-touts-its-investment-potential.

tool for New Delhi to further confine J&K in economic terms. The state strategically exploits the economic losses resulting from frequent protests and unrest in Kashmir to pacify the 'azadi' sentiment among the locals.

Analysing the economic impact of shutdowns challenges the state's narrative of substantial losses. Hussain (2016) sheds light on major unrest in Kashmir since June 2008, revealing discrepancies in the government's projected losses during periods of turmoil, such as the 2016 uprising and the 2010 unrest [18]. For the 2016 uprising, between July and November, over 160 billion rupees (INR) were lost due to the unrest,[19] as per the state government's projections. In 2010, the government projected losses of 210 billion rupees for a period of 85 days [20]. A meticulous examination exposes the inflated nature of the state's narrative, diverting attention from the genuine losses and exploitation suffered by J&K through its various mechanisms.

Bilal Hussain's 2010 analysis indicates that the gross state domestic product (GSDP) of approximately 380 billion rupees suggests the

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[18] Afaq Hussain and Riya Sinha, "Trading Confidence: A Compelling Case for Cross Line of Control Trade," *London/New Delhi: Conciliation Resources: BRIEF*, 2016.

[19] "J&K Suffered Rs 16,000 Crore Loss during Kashmir Unrest: Economic Survey 2016 Report | Jammu News - The Indian Express," accessed December 1, 2023, https://indianexpress.com/article/cities/jammu/jk-suffered-rs-16000-crore-loss-during-kashmir-unrest-economic-survey-2016-report-4468293/.

[20] "Valley Business Losses Mount to Rs 21,000 Cr in 85 Days - The Economic Times," accessed December 1, 2023, https://economictimes.indiatimes.com/news/politics-and-nation/valley-business-losses-mount-to-rs-21000-cr-in-85-days/articleshow/6473763.cms.

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daily production of goods and services worth 1.04 billion rupees. The impact of unrest, primarily in the Kashmir valley, consumes nearly 50 percent of the GSDP, or 0.5 billion daily. The tertiary sectors bear the brunt of the conflict, while the primary and secondary sectors, the backbone of the IIOJK economy, experience negligible impact. Contrary to the state's claims, the ongoing political turmoil results in losses of 0.2 to 0.25 billion daily, challenging the narrative of 210 billion over 80 days. [21]

Economic disruptions in IIOJK cause economic losses to Indian states as well. IIOJK's status as a consumer economy means political unrest causes substantial losses to states exporting products to J&K, affecting industries such as poultry farming in north India. The impact extends to daily imports costing around fifty million rupees. Frequent internet shutdowns further disrupt daily activities, resulting in losses totalling 40 billion between 2012 and 2017.

Undeclared internet shutdowns impede business growth, particularly in information technology and related fields. The state's order on civilian traffic restrictions to facilitate army convoy movement on specific days is expected to cause significant economic losses. The abrogation of Article 370 has profoundly affected businesses, resulting in an estimated loss of 178 billion, impacting tourism, local players, and information telecommunication companies.

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[21] Bilal Hussain, "Conflict In Economy: The Other Perspective," September 10, 2010, https://www.countercurrents.org/hussain100910.htm.

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The region of Jammu and Kashmir largely draws its revenue from farming, agriculture, and tourism. After the abrogation of article 370 and 35a, Indian government has infused huge amounts of investment in developing tourism infrastructure in Jammu and Kashmir. New hotels, roads, and associated facilities have been rapidly built in the past few years. Only recently, in February 2024, Modi inaugurated world's highest single arch railway bridge, the Chenab Bridge, in Jammu and Kashmir along with multiple other projects [22]. This bridge is said to facilitate tourism in J&K but on the other hand it would also provide India with an easy access to the region and ease in military deployment and direct control. The region initially had a low tourist turnout due to Covid 19 but in the year 2022 and afterwards the region experienced unprecedented tourist footfall [23]. However, India's effort to boost tourism in IIOJK is seen by many as weaponisation of tourism.

Indian government is said to be investing in the tourism industry in Jammu and Kashmir to normalise militarisation and human rights abuses in the region. Too much focus on tourism is displacing local population, depriving them of their lands and businesses, and

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[22] "Taller than Eiffel Tower: All You Need to Know about World's Highest Railway Bridge in J&K," *The Indian Express*, February 20, 2024, https://indianexpress.com/article/what-is/worlds-highest-railway-bridge-jammu-kashmir-chenab-modi-9170256/.

[23] Gagneet Kaur, "J&K Recorded 300% Surge in FTAs in 2023: Tourism Secy Syed Abid - ET TravelWorld," *ETTravelWorld.Com*, December 2, 2023, https://travel.economictimes.indiatimes.com/news/destination/states/jk-recorded-300-surge-in-ftas-in-2023-tourism-secy-syed-abid/105676200.

destroying the environment [24]. This semblance of normalisation reflected in tourism boost is being used to legitimise India's illegal occupation of Jammu and Kashmir. The Indian government has control over who visits Jammu and Kashmir and how long they stay there. This control is facilitated through visa issuing authority, checkpoints, and control over tourist movement within the territory of J&K. India has been advertising Jammu and Kashmir to attract tourists and create a positive image, especially after the 2023 G20 Summit in Srinagar.[25] This movement of domestic and foreign tourists in and out of J&K creates a façade of normalcy. Tourism has been a forte of the territory of Jammu and Kashmir, yet this too has been militarised for the locals.

Like the tourist surge in J&K, the GDP of the region has also seen a rapid increase in the past few years. This increase in GDP is attributed to structural reforms, investment, and business revival. Protests and dissident in J&K were forcefully silenced by imprisoning the Kashmiri leaders and quashing the armed resistance. After the unrest was put to shackles, Indian government pressed investors and companies to flow their money to J&K. Many businessmen cited their

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[24] Hashir Malik, "India's Consistent Efforts to Weaponize Tourism in Jammu and Kashmir and Normalizing Foreign Investment in IIOJK," *Https://Kiir.Org.Pk//Blogs/Indias-Consistent-Efforts-to-Weaponize-Tourism-in-Jammu-and-Kashmir-and-Normalizing-Foreign-Investment-in-Iiojk-2585*, accessed March 17, 2024, https://kiir.org.pk//blogs/indias-consistent-efforts-to-weaponize-tourism-in-jammu-and-kashmir-and-normalizing-foreign-investment-in-iiojk-2585.
[25] Ibid.

patriotic duty to support industrialisation in J&K. Indian government has been claiming that investment flow would create jobs and abate separatist tensions in the region. The conflict has kept J&K from transforming its agricultural success and handicrafts into a high-end industry [26]. The sporadic outbursts of violence continue to shatter the image of normalcy in Kashmir. All-time presence of armed forces on the streets of Srinagar belies the claims of peace and stability in Jammu and Kashmir. Violence in Kashmir has been contained and dissent has been quashed with a very strong military presence in the region. Establishment of new industries, mineral facilities and businesses would involve occupying the local land. Forced investment and tourism may boost the tourist footfall and push the GDP upward, however, restrictions on media coverage, imprisonment of Kashmiri leadership, and large military presence contradict the claims of Indian government that economic benefits would mitigate people's urge for autonomy and self-determination. Cosmetic boost to economic indicators do not suffice the accountability for human right abuses in the Jammu and Kashmir.

Political Ramifications of Militarization in Indian-Administered Jammu and Kashmir (IIOJK)

Besides economic losses, the impact of militarisation in IIOJK in the political arena is also huge. Not only the electoral bodies and

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[26] Chloe Cornish and John Reed, "India's Narendra Modi Pushes Business Revival in Troubled Kashmir," October 4, 2023, https://www.ft.com/content/5c160baf-d143-4d43-9720-87ee5f4a5b35.

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processes were overhauled but also the population density, demography, and constituencies. It has been nine years since Kashmir last held legislative assembly elections [27]. Since August 2019, IIOJK has been made a Union territory which would be federally controlled; the electoral processes have been suspended ever since.

After 1988, the support for armed resistance grew rapidly in the region of Jammu and Kashmir. In order to keep the territory under control, the military was heavily deployed in the region, especially the areas of the valley where the resistance movement was concentrated. This militarisation led to the shrinking of public and private spaces as a result of curfews, staged encounters, rapes, killings, tortures, and enforced disappearances. These tools of violence were institutionalised by giving special powers to Indian Security forces under the Special Powers Act (SPA) in 1990.[28] The state of Jammu and Kashmir was considered a 'disturbed area' where the legal apparatus operated with impunity and without accountability.

After the insurgency subsided, as a result of suppression by the Indian state, efforts were made to make electoral processes more legitimate and increase democratic space. Elections were held in Jammu and Kashmir in 2002, 2008, and 2014 to express people's confidence in the democratic process. The separatist sentiment still existed but only

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[27] Kumar, "Jammu and Kashmir."
[28] The Armed Forces (Jammu and Kashmir) Special Powers Act, 1990, 1990).

passively. The public belief in electorates and the credibility of elections strengthened due to underlying assumptions that these elections are being held without interference from external forces and that they are inclusive. Political participation increased and trust in state institutions was revitalised. Despite the establishment of legal institutions in Jammu and Kashmir over this period, the implementation of laws and operations of institutions remained largely contested [29]. In 2018, the coalition of Bharatiya Janta Party (BJP) and People's Democratic Party (PDP) was called off. Since then, the Election Commission has not been able to hold elections in Jammu and Kashmir.

After the PDP-BJP coalition broke down, the region came under the Presidential rule. A presidential order was issued in August 2019, which revoked the special status of Jammu and Kashmir and amended Article 370 of the Indian Constitution—the article that made JK's special status constitutional. On the very day, the Jammu and Kashmir Reorganisation Act was introduced in the Rajya Sabha that contained provisions to reconstitute the state of Jammu and Kashmir into centrally-administered union territories of Jammu & Kashmir and Laddakh. The bill was passed on the same day and was endorsed by Lok Sabha the next day. The president gave his assent to the bill three days later. Indian Supreme Court received various petitions against

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[29] Aijaz Ashraf Wani and Muzamil Yaqoob, "Governance and Democracy in Jammu and Kashmir: Measuring Public Trust in Formal Institutions," *Studies in Indian Politics*, October 4, 2021, 195, doi:10.1177/23210230211043080.

this decision but it failed to challenge the decision taken by the Indian government. On December 11. 2023, the Supreme Court declared that the Indian government did not overstep its authority in revoking the special status of Jammu and Kashmir [30]. The belief prevails that calling off the coalition setup paved the way for the presidential order which was been finally sanctioned by the highest court in India.

Before the Revocation of Article 370, the Indian Supreme Court was seen as a neutral entity that upheld democracy. The court took four years to hear the petitions filed against the abrogation of the special status of JK. The chief justice maintained that Article 370 was temporary and applied asymmetric federalism to the state of Jammu and Kashmir [31]. The bench upheld that the state of JK surrendered its sovereignty by signing the instrument of accession to India [32]. Indian constitution and the constitution of Jammu and Kashmir mention JK to be an integral part of the Indian Union. The court ordered that local elections in Jammu and Kashmir should be held by September 2024 so that JK attains complete statehood [33]. The act of abrogating JK's

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[30] Hannah Ellis-Petersen, "India's Supreme Court Upholds Decision to Strip Kashmir of Special Status," *The Guardian*, December 11, 2023, sec. World news, https://www.theguardian.com/world/2023/dec/11/india-supreme-court-upholds-move-to-strip-kashmir-of-special-status.

[31] Ibid.

[32] "'State of J&K Does Not Retain Any Element of Sovereignty': Key Highlights from Supreme Court's Judgment on Article 370," *The Economic Times*, December 11, 2023, https://economictimes.indiatimes.com/news/india/jk-is-not-special-its-an-integral-part-of-india-top-statements-by-the-supreme-court/articleshow/105893479.cms.

[33] "Indian Court Confirms End of Special Status for Kashmir," *Al Jazeera*, accessed December 19, 2023, https://www.aljazeera.com/news/2023/12/11/indias-top-court-upholds-end-of-special-status-for-kashmir.

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special status was a militarised one and its endorsement by the Supreme Court is equally an act of militarisation for the people of Kashmir.

The decision to integrate Jammu and Kashmir into the Indian Union becomes questionable upon observing the situation within JK. In order to enforce the decision of August 2019, numerous stringent measures were undertaken; major political leaders were put under house arrest, movement of people was restricted, the internet was shut down, the military was deployed in huge numbers, and a crackdown was imposed for indefinite periods [34]. The Indian government twisted the legal apparatus astutely to execute the abrogation of Article 370 in a manner that would look infallible, at least on paper [35]. Elections were deferred on the pretext of security risks and instability in the region. The Reorganisation Act required to conduct the delimitation of constituencies which was finally done in 2022 [36]. This delimitation was another act of militarisation that restricted the political space for the people of Jammu and Kashmir.

The new delimitation added one seat for the valley and six seats for Jammu; these new constituencies have led to a demand for expanding the seats in the JK Legislative Assembly. Jammu has a Hindu majority that is favourable for the ruling BJP government in India. In

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[34] Ellis-Petersen, "India's Supreme Court Upholds Decision to Strip Kashmir of Special Status."
[35] Parth Deshmukh, "The De-Operationalization of Article 370 of the Indian Constitution," *Minn. J. Int'l L.* 31 (2022): 259.
[36] Kumar, "Jammu and Kashmir."

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November 2022, fresh electoral rolls were announced by the JK administration. This added 750,000 new voters allowing even the short-term residents to exercise voting rights [37]. In 2023, an amendment to the 2019 JK Reorganisation Act was proposed with the aim of incorporating Scheduled Tribes, Displaced Persons from the Pakistani side of Kashmir, and Kashmiri migrants in the legislative assembly [38]. This would allow people, who previously migrated from Kashmir due to security issues, to have representation in the legislative assembly.

Besides introducing new domiciles and voters to the region of Jammu and Kashmir, people are also put at risk of losing their property. The Presidential order of 2019 superseded all the previous Presidential orders. As per the Presidential Order of 1954, Article 35A was introduced to JK's constitution that barred people from outside the state from retaining immovable property in JK and having any voting rights. The Presidential Order of 1954 stands void in the aftermath of developments taking place in August 2019. The new rules allow non-residents and outsiders to buy non-agricultural lands. A land bank was set up to accept investments from across India instead of investments only from the locals. Nomads living in the forests were excluded.

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[37] Ibid.
[38] Dalip Singh, "J&K Reorganisation Bill Introduced in LS, Seeks to Increase Assembly Seats to 114 from 107," *BusinessLine*, July 27, 2023, https://www.thehindubusinessline.com/news/national/jk-reorganisation-bill-introduced-in-ls-seeks-to-increase-assembly-seats-to-114-from-107/article67124214.ece.

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Land leases were not renewed and those pieces of land were put to auction. Occupation of local land by outsiders would discourage businessmen from JK because they do not have enough capital to compete with big businessmen from across India [39]. These demographic changes dilute the cultural and political identity of the residents of Jammu and Kashmir.

People in Jammu and Kashmir face economic and political dispossession alongside administrative dispossession. Numerous teachers, engineers, and local workers from hospitals were dismissed from their government jobs because they participated in 'anti-national activities'[40]. The Reorganisation Act of 2019 required stringent security measures in the face of potential unrest. Huge military deployment curbed people's political right to protest and resistance. The military uses coercive methods to enforce curfews and restrict mobility and assembly in public places. Military bunkers occupy a significant amount of land in Jammu and Kashmir. These bunkers act as functional military posts and are placed at important entry points. These bunkers are strategically placed and at some important junctures, they are made into permanent cemented structures. These bunkers have been in use for decades now. They were used as temporary interrogation centres; locals, especially women, remained restricted to their homes to avoid unnecessary suspicion,

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[39] Kumar, "Jammu and Kashmir."
[40] Ibid.

interrogation, and harassment [41]. The deployment of the military is not restricted to bunkers only, personnel are stationed at hotels, educational buildings, and in permanent abodes constructed in the vicinity of government offices.

India's *Logic of Elimination* and settler colonialism in the state of Jammu and Kashmir is furthered not only by militarising political and civilian spaces but also by arming the locals. In 1995, locals in the Jammu district of Rajouri and Poonch were armed in the face of the violent struggle for freedom. The armed group was given training by Indian paramilitary forces and they were called the Village Defence Committee (VDC). Most of the members of this committee were Hindu even in the Muslim-majority areas. No data supported any effective steps taken by VDCs to counter militancy. On the contrary, there were reports of killing, rioting, and rapes by these VDC members. Rarely, any First Information Report (FIR) against the VDCs ended up in conviction. Only recently, in 2023, the VDCs have been reincarnated into Village Defence Guards (VDGs) that have been given .303 rifles and other self-loading rifles. Many a Hindu woman have also joined VDGs and the Lieutenant Governor has promised to provide them more guns [42]. These local armed groups

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[41] Hassan, "From Administration to Occupation: The Re-Production and Subversion of Public Spaces in Kashmir."

[42] Sajid Raina, "As J&K Govt Reactivates A Controversial Civilian Militia, Local Hindus In An Isolated Village Feel Safer," April 5, 2023, https://article-14.com/post/as-j-k-govt-reactivates-a-controversial-civilian-militia-local-hindus-in-an-isolated-village-feel-safer--642cd92d7f8f0.

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have been previously exploited by politicians to terrorise people and vote for certain candidates. In 2014, the BJP clean swept polls in the Jammu region which is a Hindu-majority area [43]. This physical militarisation of spaces in Jammu and Kashmir has translated into aggressive political and administrative changes that are equally militarised in nature and are now backed by the Supreme Court of India.

After the abrogation of Special status, the state of Jammu and Kashmir was unilaterally declared a union territory by the Indian government. After the verdict of the Supreme Court to uphold the government's decision, JK would now be forced to complete its transition from union territory to statehood. Union territories have different status and rights as compared to the states of India. Indian Constitution does not define India as a federation of states but as a Union of states where ruling power is distributed between the central government and the state. Union territories do not have a government of their own, they are governed by the central government. The central government appoints a Lieutenant Governor to the union territory who serves as the administrator and representative of the President. Delhi is an exceptional union territory besides Puducherry to have a government and elected legislature. These two union territories enjoy partial statehood granted under a special amendment

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[43] Ibid.

to the Indian Constitution [44]. Once JK attained the status of statehood, it would be like any other state of the Indian Union.

Jammu and Kashmir is currently governed by a Lieutenant Governor who is a representative of the Indian President. A Lieutenant Governor has the same powers in a Union Territory as the President. However, the discretionary powers of Governors are far larger and they can use their discretion to select candidates for chief ministerial candidate. In India. Governors and Lieutenant Governors have comparable powers. Governors and Lieutenant Governors can report to the President about the failure of constitutional machinery and refuse to sign bills approved by the assembly [45]. Jammu and Kashmir, under the authority of the Lieutenant Governor, is completely at the behest of the Indian government. Even if it is made into a complete state as per the Supreme Court verdict, it would have no special autonomy like before.

Revoking JK's special status and reorganisation act was a very belligerent and militarised mover by the Indian government that diluted the demography of Jammu and Kashmir. Now, the locals have to lose their jobs and businesses to other competitors from the outside.

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[44] "What Is Union Territory and How It's Different from State," *Business Insider*, January 2, 2023, https://www.businessinsider.in/india/news/india-news-difference-between-states-and-union-territories/articleshow/71831006.cms.

[45] Sruthi Radhakrishnan, "The Hindu Explains: The Powers of Governors and Lt. Governors," *The Hindu*, June 25, 2018, sec. India, https://www.thehindu.com/news/national/the-hindu-explains-the-powers-of-governors-and-lt-governors/article24253871.ece.

Their representation in government and political bodies would be diluted. Not only this, excessive military deployment and formation of civil militia militarise social and political arenas in Jammu and Kashmir. There are restrictions on movement and expression not just in the physical sphere but also in virtual platforms. These developments make postulates of settler colonialism and the *Logic of Elimination* all the more applicable to the region of Jammu and Kashmir

Conclusion

India's militarization of Jammu and Kashmir has been characterized by the deployment of armed forces, the revocation of the region's special autonomy, and its forced transition to Union Territory status through a Supreme Court ruling. These actions underscore India's strategy to integrate Jammu and Kashmir into its territorial and political framework by eroding the region's identity, autonomy, and cultural distinctiveness, particularly targeting Kashmiri Muslims. Militarization has profoundly affected the region's economy and politics. Prolonged military presence, coupled with restrictions on mobility and internet access, has devastated local businesses, undermined investor confidence, and perpetuated economic instability. The systematic displacement of locals has facilitated the occupation of land, jobs, scholarships, and political representation by outsiders, exacerbating economic disenfranchisement. Politically, the Indian Supreme Court's endorsement of these moves, including the

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directive to hold local elections, signals an effort to solidify the region's integration into India. These measures further institutionalize political disenfranchisement and alienation, deepening the disconnect between the local population and the Indian state. Framed within Patrick Wolfe's concept of the "Logic of Elimination," this paper demonstrates how India's militarized governance in Jammu and Kashmir extends beyond physical occupation to include economic marginalization and political subjugation. The militarization of IIOJK represents a systematic project of settler colonialism, aimed at dismantling the region's autonomy and indigenous identity. This study underscores the urgent need to recognize and address the multifaceted consequences of militarization in Jammu and Kashmir, which continue to undermine the fundamental rights and freedoms of its people.

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The Burden of Dual Roles: Power Dynamics and Constitutional Interpretation in Superior Judiciary of Pakistan & AJK

Syed Murad Ali Shah
Assistant Professor in the Department of Law at the University of Azad Jammu & Kashmir, Muzaffarabad.
Syed Muhammad Farrukh Bukhari
Assistant Professor in the Department of Law at the University of Azad Jammu & Kashmir, Muzaffarabad.
Khawaja Noor Ul Ain (Corresponding Author)
LLM scholar at the Department of Law, University of Azad Jammu & Kashmir
Email: noorkhawaja146@gmail.com

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Assistant Professor in the Department of Law at the University of Azad Jammu & Kashmir, Muzaffarabad.

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Khawaja Noor Ul Ain (Corresponding Author)
LLM scholar at the Department of Law, University of Azad Jammu & Kashmir
Email: noorkhawaja146@gmail.com

Abstract

The absence of separate constitutional courts in Pakistan and Azad Jammu & Kashmir (AJ&K) imposes a significant burden on the superior judiciary, requiring judges to engage in both statutory and constitutional interpretation. Pakistan recently established constitutional benches to bridge this loophole, but this constructive initiative has not been extended to AJ&K. The distinct legal processes necessitate different approaches and considerations, yet the dual role of judges diminishes the overall effectiveness of the judiciary. Additionally, conflicts of interest arise from the judges' involvement in supreme judicial councils, complicating the impartial enforcement

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of judicial conduct standards. Furthermore, the principle of natural justice is often undermined in contempt of court proceedings, where judges act as both complainants and adjudicators. The constitutional frameworks of both regions confer extensive powers on the superior judiciary, amplifying their responsibilities and intensifying judicial pressures. This study employs a descriptive and analytical methodology to critically examine the scope and challenges of judicial authority in Pakistan and AJ&K. It proposes the establishment of specialized constitutional courts to exclusively address constitutional matters, alongside recommendations for enhancing the fairness, efficiency, and impartiality of the superior judiciary.

Keywords: *Pakistan, Azad Jammu & Kashmir, Constitutional Courts, Contempt of Court, Judicial Ethics, Constitutional Interpretation, Statutory Interpretation.*

Introduction

The interpretation of statutes and constitutions involves distinct legal methodologies. Statutory interpretation relies on the jurisprudence of a country's legal system, while constitutional interpretation draws upon broader principles, including constitutional conventions, the historical basis of state creation, and the popular will of the people.[1] In Pakistan and Azad Jammu & Kashmir (AJ&K), superior courts

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[1] Wojciech Sadurski, *Rights Before Courts: A Study of Constitutional Courts in Post-Communist States of Central and Eastern Europe* (Dordrecht: Springer, 2008).

bear the dual responsibility of interpreting statutes and constitutions, often within a single judgment. This dual role creates systemic inefficiencies, undermines the delivery of justice, and raises questions about judicial consistency.

One significant challenge stemming from this dual role is the frequent overruling of precedents by superior courts.[2] While intended to achieve equitable outcomes in specific cases, this practice weakens the doctrine of *stare decisis*, a fundamental principle of legal stability. Multiple instances of precedents being overturned more than once have caused confusion within the legal system and diminished public trust.[3] Additionally, superior courts often face a disproportionate burden from political and constitutional disputes, further delaying the resolution of routine cases.[4] The backlog in the Supreme Court, largely due to politically sensitive cases,[5] forces ordinary litigants to wait years—sometimes decades—for justice. Establishing specialized constitutional courts could address these challenges by relieving superior courts of political and constitutional matters, enabling them to focus on routine cases and ensuring timely justice for the public. Such reforms have been endorsed by prominent legal

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[2] Qaisar Abbas, "Conflicting Judgments of High Courts: The Principle of Legal Certainty and the Ends of Justice," *Pakistan Law Journal* (2009): 253-264.

[3] Muhammad Munir, "Are Judges the Makers or Discoverers of the Law? Theories of Adjudication and Stare Decisis with Special Reference to Case Law in Pakistan," *Annual Journal of International Islamic University Islamabad* 21 (2013): 7-40.

[4] Muhammad Mohtasim, "Constitutional Cases in 2022-23 and Their Impact on Political Landscape of Pakistan," *Journal of Law & Social Studies (JLSS)* 6, no. 3 (2022): 295-308.

[5] Ibid.

figures like Justice Qazi Faez Isa, who advocate for judicial specialization to improve efficiency and public trust.[6] Another pressing concern is the inefficiency of the Supreme Judicial Council (SJC), which oversees judicial conduct. Burdened by excessive workload and insufficient resources, the SJC struggles to enforce judicial ethics effectively, often compromising the principle of natural justice—*nemo judex in causa sua* ("no one can be a judge in their own cause"). An independent and impartial accountability body is essential to ensure transparency, uphold ethical standards, and reduce the administrative burden on superior courts.

This research critically examines the dual functions of superior courts in Pakistan and AJ&K, the systemic issues stemming from their dual role, and the implications for justice delivery. By advocating for constitutional courts, enhanced judicial accountability, and modern research practices, this study aims to address delays, inefficiencies, and systemic weaknesses, ensuring fair and timely justice for all citizens.

Literature Review

The topic of establishing separate constitutional courts in Pakistan and Azad Jammu & Kashmir (AJ&K) has received limited attention in academic discourse, with existing literature offering fragmented insights. Foundational works such as *Constitutional Development in*

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[6] Asif Mahmood, "Justice System and the 'F Grade'," Daily 92, July 6, 2024.

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Azad Jammu and Kashmir[7] and *The Constitution of Azad Jammu and Kashmir*[8] by Syed Manzoor ul Hassan Gillani, and *The Constitution of the Islamic Republic of Pakistan*[9] by M. Mahmood and "The Constitution of the Islamic Republic of Pakistan", by Muhammad Abdul Basit,[10] provide essential overviews of constitutional frameworks. However, these texts do not specifically address the need for or implications of creating a distinct constitutional court in either jurisdiction. This absence of focused scholarship underscores the necessity of further research to bridge this critical gap.

In the broader international context, Tom Ginsburg's article, *Building Reputation in Constitutional Courts: Political and Judicial Audiences*,[11] provides a nuanced perspective on the dual audiences of constitutional courts—political and judicial. Ginsburg highlights the inherent political dimension of constitutional courts, particularly in civil law systems, where they are inserted as "special courts" within the judicial hierarchy. He identifies potential conflicts between constitutional courts and supreme courts, especially when the latter

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[7] Syed Manzoor Hussain Gillani, The Constitutional Development in Azad Jammu and Kashmir (Muzaffarabad: Government Printing Press, 1988).
[8] Syed Manzoor Hussain Gillani, The Constitution of Azad Jammu and Kashmir (Islamabad: National Book Foundation, 2008).
[9] M. Mahmood, The Constitution of Islamic Republic of Pakistan, 1973 (Lahore: Al-Qanoon Publishers, 2004).
[10] Muhammad Abdul Basit, The Constitution of the Islamic Republic of Pakistan (Rawalpindi: Federal Law House, 2013).
[11] Tom Ginsburg, "Building Reputation in Constitutional Courts: Political and Judicial Audiences" (USA: University of Chicago Law School), accessed May 4, 2024,
https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=2441&context=journal_articles.

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challenge the authority of the former. These conflicts, often exacerbated in systems with overlapping jurisdiction, can result in legal incoherence, institutional rivalry, and systemic gridlock, necessitating clearer delineation of judicial roles.

Lech Garlicki, in his article *Constitutional Courts versus Supreme Courts*,[12] examines the prevalence of constitutional courts in Western Europe and emerging democracies in Eastern Europe. Garlicki argues that while these courts have significantly enhanced democracy and the rule of law, they have also introduced challenges related to the distribution of judicial power. As constitutional law permeates broader legal structures, the interaction between constitutional courts and ordinary courts becomes more complex, leading to jurisdictional overlap and operational inefficiencies. His analysis underscores the importance of coordination mechanisms to resolve these challenges and optimize the judiciary's functionality.

Despite these contributions, the specific context of Pakistan and AJ&K remains underexplored. The need for specialized constitutional courts in these regions, given their unique legal, political, and social dynamics, remains largely unexamined in the literature. This study aims to fill this lacuna by critically analyzing the interplay between the Interim Constitution of AJ&K and the Constitution of Pakistan, assessing the operational inefficiencies of

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[12] Lech Garlicki, "Constitutional courts versus Supreme Courts," *International Journal of Constitutional Law* 5, no. 1 (2007): 44, accessed December 30, 2024, https://academic.oup.com/icon/article/5/1/44/722508.

the existing judicial system, and exploring the feasibility and potential benefits of establishing constitutional courts in these jurisdictions.

By integrating international perspectives with localized analysis, this research aspires to advance the discourse on judicial reform, offering a comparative framework to enhance judicial efficiency, address jurisdictional conflicts, and improve the overall delivery of justice.

Research Methodology

This study adopts a descriptive and analytical methodology to critically examine the judicial systems of Pakistan and Azad Jammu & Kashmir (AJ&K), focusing on the dual role of superior courts in interpreting statutes and constitutional provisions. Primary data will be gathered from constitutional texts, judicial regulations, and legislative instruments from both regions, providing the foundation for analysis. Secondary sources, including peer-reviewed articles, books, academic reports, and case law, will offer theoretical insights and comparative perspectives on constitutional courts and judicial efficiency. The study employs a comparative research approach, drawing on international models, particularly in civil law jurisdictions, to identify best practices and challenges. Additionally, qualitative analysis will assess the impact of current judicial practices on ordinary citizens, specifically addressing delays and inefficiencies in justice delivery. Combining both qualitative research methods and literature review, this methodology aims to provide an evidence-based evaluation of the existing judicial structures in Pakistan and

AJ&K, offering recommendations for reform and the establishment of specialized constitutional courts to improve judicial efficiency and access to justice.

Constitutional and Statutory Interpretation Vis-a-Vis Superior Courts

The concept of interpretation, derived from the Latin "interpretaria," refers to the process of ascribing meaning to something, often legal texts such as statutes and constitutions. In the legal context, it involves examining laws to determine their true intent, often by analyzing their language, implications, and the subjects they govern. Blackstone, a prominent legal theorist, emphasized that discerning legislative intent is the most equitable approach in this process.[13] Courts employ established standards of interpretation to resolve uncertainties, ensuring objectivity and consistency in the application of law.[14]

In both Pakistan and Azad Jammu & Kashmir (AJ&K), the absence of specialized constitutional courts means that superior courts are tasked with interpreting both statutes and constitutional provisions simultaneously.[15] This dual responsibility places significant pressure on the judiciary, as they must not only evaluate whether particular statutes are consistent with the constitution but also engage in the

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[13] Priya, L M Lakshmi, "Difference Between Interpretation and Construction," *iPleaders Blog*, accessed December 30, 2024, https://blog.ipleaders.in/difference-between-interpretation-and-construction/.
[14] Ibid.
[15] Justice (R) Tanvir Ahmad Khan, "Judicial System of Pakistan" (Punjab Judicial Academy, Lahore).

complex task of interpreting fundamental rights and freedoms embedded within the constitutional framework.[16] The courts are required to reconcile the legislative intent of statutes with constitutional protections, which often involves navigating intricate legal complexities. This convergence of statutory interpretation and constitutional adjudication necessitates careful judicial analysis to maintain a balance between legislative authority and the safeguarding of constitutional rights. However, this dual responsibility can lead to significant challenges, including the overburdening of the judiciary, inconsistent rulings, and delays in the resolution of cases, particularly when the courts are required to address both legislative and constitutional matters within a single judgment. Therefore, the convergence of powers within the superior judiciary underscores the need for structural reforms, including the potential establishment of specialized constitutional courts to streamline the process and improve the efficiency and fairness of judicial interpretation.[17]

Constitutional Interpretation and Constitutionalism

At its core, a constitution establishes the fundamental rules that organize and delineate the powers of the legislative, executive, and judicial branches of government. While every state has a constitution, constitutionalism goes beyond merely the existence of a constitution; it emphasizes the critical role of these rules in limiting government

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[16] Amr Ibn Munir, "Pakistan's Basic Structure Conundrum," available at SSRN 4674801 (2023).

[17] Ibid.

power. These limitations typically manifest as civil rights safeguards, such as the right to freedom of expression, association, equality, and due process, all of which serve to curtail governmental authority and protect individual freedoms.[18] Constitutionalism holds that governmental power must operate within a framework of constraints, which includes adhering to constitutional limitations and respecting the rule of law. Importantly, constitutionalism supports the judiciary's role in interpreting legislation to ensure that the government remains accountable and operates within these established limits.[19] While constitutionalism does not always insist on a strict separation of powers, it underscores the necessity for judicial interpretation to ensure that the government remains within constitutional bounds, thus upholding the rights and freedoms enshrined in the constitution.[20] In this sense, interpretation is crucial to the application of constitutional principles and the maintenance of constitutional limits in governance.

In contrast, constitutional conventions refer to the unwritten customs, norms, and practices that guide constitutional governance, which may not be codified within the formal written constitution but are nonetheless considered binding.[21] These conventions evolve over time through consistent political behavior and practice, often reflecting the political culture and social expectations of a country.

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[18] Wil Waluchow and Dimitrios Kyritsis, "Constitutionalism" (2001).

[19] Jaconelli Joseph, "The nature of constitutional convention." Legal Studies 19, no. 1 (1999): 24-46.

[20] Ibid.

[21] N.W. Barber, "Laws and Constitutional Conventions," *Law Quarterly Review* (2009).

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While they are not legally enforceable in the same way as written constitutional provisions, true constitutional conventions are critical in regulating the relationships and interactions between governmental bodies and political parties.[22] These conventions are a key aspect of how political governance is carried out, ensuring that constitutional norms are followed even in the absence of explicit legal mandates.[23] Thus, both constitutionalism and constitutional conventions play vital roles in the interpretation and application of a constitution, impacting how the limits of government power are understood and maintained within a dynamic and evolving political system.

Simultaneous Interpretation: Constitution and Statutes

Constitutional interpretation and statutory interpretation, while both aimed at elucidating legal texts, differ significantly in their methodologies and considerations. Constitutional interpretation often deals with abstract principles, reflecting the foundational values and norms that govern a state.[24] Scholars argue that constitutional norms are more general and flexible, considering broader political, social, and historical contexts. Constitutional interpretation thus adopts a dynamic approach, evolving with changing societal conditions and evolving legal frameworks. Key theories, such as originalism and living constitutionalism, offer differing views on how to interpret

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[22] Please see note 17.
[23] Walter E. Dellinger, "The Recurring Question of the 'Limited' Constitutional Convention," *The Yale Law Journal* 88, no. 8 (1979): 1623-1640.
[24] Please see note 16.

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constitutional meanings, highlighting its adaptability to societal needs and the underlying values of the populace.[25]

In contrast, statutory interpretation is more focused on the specific legislative intent behind written laws, aiming to apply statutes efficiently within the confines of established norms and frameworks.[26] The core goal of statutory interpretation is to decipher the precise meaning of legislative texts, based on their wording and the intent of lawmakers. Statutory interpretation methods include using tools such as contextual interpretation, legislative history, and the mischief rule, ensuring clarity and alignment with legislative purpose.[27]

In both Pakistan and Azad Jammu & Kashmir (AJ&K), statutory interpretation is deeply influenced by Islamic legal principles, with the Qur'an and Sunnah serving as primary sources, alongside modern legal texts such as constitutions, case law, and social norms.[28] The Supreme Court in both regions plays a crucial role in interpreting statutes, ensuring they conform to legislative intent, and reconciling modern legal requirements with Islamic law. This interpretive process includes techniques such as ijtihad (independent reasoning) and

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[25] Please see note 16.

[26] Ernst Freund, "Interpretation of Statutes," *University of Pennsylvania Law Review* 65 (1916): 207.

[27] Ibid.

[28] Naseem Razi, "Interpretive Policy of the Supreme Court of Pakistan: A Critical Analysis from the Perspective of Islamic Interpretive System," *Studies* 2, no. 4 (2013).

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purposeful interpretation, ensuring that legal rulings reflect both contemporary needs and traditional values.[29]

Overall, both constitutional and statutory interpretation involve complex processes of determining meaning and intent, with constitutional interpretation adopting a more adaptive, dynamic approach, and statutory interpretation focusing on clarifying legislative intent and applying the law in practical, specific contexts.

Legal Interpretation: Navigating Potential Obstacles

Legal interpretation, particularly when involving the simultaneous interpretation of statutes and constitutional provisions, presents numerous challenges. One of the primary hurdles is the need for extensive legal research to fully comprehend complex legal texts, including laws, regulations, precedents, and legal concepts.[30] This requires not only deep expertise in the legal field but also proficiency in language interpretation to accurately convey legal terms and their nuances. The task of legal interpreters is multifaceted, involving thorough analysis of relevant legal frameworks to ensure the accurate and contextually appropriate interpretation of legal materials.[31]

Additionally, interpreters must navigate the challenge of balancing legal precision with the need to effectively communicate the

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[29] Ibid.

[30] Oliver Wendell Holmes, "Theory of Legal Interpretation," *Harvard Law Review* 12 (1898): 417.

[31] Frank H. Easterbrook, "Legal Interpretation and the Power of the Judiciary," *Harvard Journal of Law & Public Policy* 7 (1984): 87.

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arguments and perspectives of legal counsel in a clear and objective manner. This requires not only a strong understanding of the law but also the ability to present legal arguments effectively and without bias. However, even with rigorous research and competent interpretation, discrepancies in interpretation across different courts or interpreters can lead to inconsistent rulings, potentially eroding public trust in the judicial system and undermining its integrity.

Despite these challenges, the central aim of legal interpretation remains to uphold judicial consistency. Consistency is essential in ensuring that the legal system is fair, impartial, and reliable, providing a foundation for trust and stability in the rule of law. Addressing the complexities and inconsistencies inherent in legal interpretation is crucial to preserving the integrity and effectiveness of the justice system.

Framework of Superior Courts in Pakistan and AJ&K

The highest courts in both Pakistan and Azad Jammu and Kashmir (AJ&K) are the Supreme Courts, which wield significant authority over the lower courts and high courts within their respective jurisdictions. In Pakistan, the judiciary consists of five high courts, each situated in the capitals of the four provinces and one in Islamabad, the federal capital. On the other hand, AJ&K's legal system operates with a single high court located in its capital,

Muzaffarabad.[32] Despite their differing structures, both the Supreme Courts in Pakistan and AJ&K hold expansive powers that allow them to adjudicate a wide range of legal matters.

However, this considerable authority also brings a heavy burden. The lack of a specialized constitutional court in both regions means that the superior courts are tasked with interpreting both statutes and constitutional provisions. This dual responsibility significantly contributes to the overburdening of these courts, as judges are required to assess and rule on a vast array of complex legal issues. The scope of their responsibilities extends beyond the routine judicial duties, demanding a careful, thorough analysis of each case, whether related to statutory law or constitutional interpretation.

This overextension of judicial responsibilities, particularly the simultaneous interpretation of statutes and constitutional provisions, results in a heavy caseload that slows the delivery of justice and complicates decision-making. The absence of a distinct constitutional court to handle constitutional matters exacerbates the workload of the superior courts, which must navigate both routine legal issues and broader constitutional questions. The pressure on the superior judiciary in both regions underscores the need for structural reforms to streamline the judicial process and address the challenges posed by the current system.

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[32] High Court of AJ&K, accessed December 30, 2024, https://ajkhighcourt.gok.pk/.

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Judicial Cases Stream: Patterns and Pendency Evaluation

The 2nd Quarterly Report of Supreme Court of Pakistan exhibits that the courts has witnessed a substantial increase in the number of cases it handled from December 2023 to March 2024. 5,427 new cases were filed, while only 3,974 cases were disposed of by March 2024. By March 2024, despite attempts to manage the workload, the overall number of 57,115 pending cases was recorded, representing a troubling 1,453 increase.[33] In contrast, the High Court of AJ&K had disposed of 10,439 cases by the end of 2023; yet 16,139 cases were still pending as of January 2024.[34]

Power Dynamics and Jurisdiction of the Superior Courts

The Supreme Courts of Pakistan and Azad Jammu and Kashmir (AJ&K) are central to their respective legal systems, holding considerable authority within their jurisdictions. Notably, AJ&K distinguishes itself by having its own Supreme Court,[35] making it unique among Pakistan's administrative regions. The High Courts of both AJ&K and Pakistan exercise original writ and appellate jurisdiction, as defined by their constitutions and procedural laws, allowing them to address a broad spectrum of legal issues. These

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[33] *Supreme Court of Pakistan, 2nd Quarterly Report* (17 December 2023 to 31 March 2024), accessed January 6, 2025,
https://www.supremecourt.gov.pk/downloads_judgements/all_downloads/SCP_ Quarterly_Report_ 19072024.pdf.

[34] *Annual Report by the High Court of AJ&K at 11th Judicial Conference* (held on 15th January 2024).

[35] Justice Syed Manzoor Hussain Gilani, The Constitution of Azad Jammu and Kashmir (Islamabad, National Book Foundation, 1st Edi. 2008).

courts hold the power to set legal precedents, impacting the interpretation and application of laws in their territories. They are also entrusted with overseeing fundamental rights and contempt of court matters, ensuring the protection of constitutional principles. Additionally, the High Courts of both regions are responsible for supervising lower courts, ensuring consistency and adherence to legal standards. This extensive authority, while essential for maintaining judicial integrity, also places a significant workload on the superior courts, highlighting the need for potential reforms to improve efficiency in the judicial process.[36]

Domain of Superior Courts: Pakistan and AJ&K

The Constitution of Pakistan, 1973, confers both original and appellate jurisdictions on the Supreme Court under Articles 184 and 185.[37] Original jurisdiction is granted in matters involving fundamental rights and disputes between governments, while Article 185 governs appeals from decisions made by the High Court. The Court also has advisory jurisdiction under Article 186, allowing it to provide legal counsel on matters referred by the President.

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[36] Ibid.
[37] The Constitution of the Islamic Republic of Pakistan, 1973, National Assembly of Pakistan, Islamabad, February 28, 2012, accessed January 6, 2025, https://na.gov.pk/uploads/documents/1333523681_951.pdf.

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In contrast, the interim constitution of AJ&K grants the Supreme Court of AJ&K distinct powers. Specifically, under Article 42(10),[38] the Court can accept appeals relating solely to decisions, rulings, judgments, or final orders issued by the AJ&K High Court. Article 42(12) further provides the Supreme Court with discretionary authority to grant appeals, reinforcing its appellate role. Additionally, under Article 46-A, the Supreme Court of AJ&K holds advisory jurisdiction, which is its only original jurisdictional power. This allows the Court to issue informed legal opinions on matters presented to it. However, the Supreme Court of AJ&K lacks original jurisdiction, unlike the Supreme Court of Pakistan, focusing primarily on appellate functions.

While the Supreme Court of Pakistan enjoys broad jurisdictional authority, including original, appellate, and advisory jurisdictions, the Supreme Court of AJ&K is limited to appellate and advisory jurisdictions, as defined by its interim constitution. Unlike its Pakistani counterpart, the AJ&K Supreme Court cannot create new jurisdictional powers.

Both the High Courts of Pakistan and AJ&K are vested with appellate and writ jurisdictions under their respective constitutions. The AJ&K High Court, under Article 44 of the interim constitution, handles civil and criminal cases, and its writ jurisdiction is similar to that of

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[38] The Azad Jammu and Kashmir Interim Constitution, 1974, [31st August, 1974], Azad Jammu and Kashmir Legislative Assembly, accessed January 6, 2025, https://ajkassembly.gok.pk/wp-content/uploads/2022/04/Act-1974.pdf.

Pakistan's High Court, as outlined in Article 199 of the Constitution of Pakistan. However, the AJ&K High Court has the added advantage of not being restricted by territorial boundaries, allowing it to examine policies implemented by the Pakistani government concerning Azad Jammu and Kashmir. This territorial difference sets the AJ&K High Court apart from the High Courts in Pakistan's provinces.

Authority Vested in the Superior Courts

Article 199 of the Constitution of Pakistan[39] grants the judiciary the mandate to protect fundamental rights, while Article 184(3) empowers the Supreme Court of Pakistan to act suo moto in cases involving public concern related to constitutional rights.[40] Under Article 184(3), the Supreme Court can intervene in matters of public importance without the need for a formal complaint. This allows the Court to address violations of fundamental rights proactively, without infringing upon the jurisdiction granted to the High Courts under Article 199.[41] The Supreme Court of Pakistan holds exclusive authority to initiate suo moto proceedings.[42]

Further, Article 204 grants both the Supreme Court and High Courts the power to address cases of contempt. According to Article 189, the rulings of the Supreme Court set precedents that are binding on all

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[39] Please see note 23.
[40] Muhammad Aslam Waseem, "Impact of Judicial Activism in Pakistan," *Pakistan Study Centre* 9, no. 1 (2019): 267-295.
[41] Please see note 23.
[42] Mohsin Saleem Ullah, "Constitutionality of Suo Motu," *The Express Tribune* (2023).

subordinate courts within Pakistan's jurisdiction. Similarly, Article 201 provides High Courts with the authority to establish precedents that must be followed by lower courts. Article 203 further empowers the High Courts to supervise lower courts within their territories.[43]

In contrast, the interim constitution of AJ&K grants the superior judiciary the authority to manage contempt of court matters under Article 45, with the power to punish individuals who disrupt proceedings or cast doubts on ongoing cases. Article 42-B similarly mandates that the rulings of the Supreme Court of AJ&K are binding on all lower courts. Subordinate courts must follow the decisions of the High Court under Article 44-B, while Article 46 gives the High Court oversight over all lower courts within its jurisdiction.[44]

Despite the extensive powers vested in the superior courts of Pakistan and AJ&K, the absence of specialized constitutional courts in both regions leads to significant delays in case adjudication. The overwhelming caseload, which includes a wide range of cases from general legal matters to complex constitutional issues, burdens the judiciary. Furthermore, the dual legal systems in Pakistan and AJ&K complicate judicial responsibilities, as judges must adhere to the doctrine of *stare decisis*, maintain consistency with earlier rulings, and simultaneously interpret complex statutes and constitutional provisions.[45] The lack of specialized constitutional courts forces

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[43] Ibid.
[44] Please see note 24.
[45] Please see note 3.

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judges to balance the demands of standard legal matters with constitutional interpretations, exacerbating delays and impeding the efficient delivery of justice. This not only impairs judicial efficiency but also undermines the effectiveness of the justice system in both regions.

Contempt of Court

In both Pakistan and AJ&K, freedom of speech and expression, including freedom of the press,[46] is a fundamental right, subject to certain limitations, with contempt of court being one such restriction. Contempt laws, originating from English Common Law, are designed to protect the dignity of the courts and uphold the integrity of legal proceedings.[47] These laws are classified into two main categories: one for ensuring respect for the dignity of the court, and another for addressing violations of court orders related to private rights.[48]

Under Article 204 of the Constitution of Pakistan and Article 45 of the AJ&K Interim Constitution, the Supreme Courts and High Courts are empowered to punish individuals for contempt of court, which includes behaviors such as interfering with court orders, obstructing proceedings, scandalizing the court or its judges, and endangering ongoing cases. These powers are reinforced by national legislation:

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[46] Nazir Ahmed, "Law of Contempt of Court," Journal of Law & Society 22 (2000): 71.

[47] Arthur L. Goodhart, "Newspapers and Contempt of Court in English Law," *Harvard Law Review* 48 (1934): 885.

[48] Joseph H. Beale Jr., "Contempt of Court: Criminal and Civil," *Harvard Law Review* 21 (1907): 161.

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the Contempt of Court Act, 2012[49] in Pakistan and the Contempt of Courts Act, 1993[50] in AJ&K. These courts, as courts of record, can swiftly punish those who disrupt the administration of justice, thus ensuring the efficient functioning of the legal system.

The primary aim of contempt laws is to maintain public trust in the legal system by safeguarding the authority and dignity of the judiciary. They prevent actions that could undermine the legitimacy of court decisions and damage public confidence in the fairness of judicial processes. However, these laws can sometimes conflict with the principle of natural justice, as illustrated by high-profile cases in Pakistan and AJ&K. For instance, Pakistan's Supreme Court convicted a sitting prime minister for contempt for failing to disclose Swiss bank accounts,[51] leading to his resignation. Similarly, in AJ&K, Prime Minister Sardar Tanveer Ilyas Khan[52] was excluded from the legislative assembly for contempt by the AJ&K High Court, [53] which barred him from holding public office for two years. These

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[49] Senate of Pakistan, accessed January 6, 2025, https://senate.gov.pk/uploads/documents/1347362846_193.pdf.
[50] *Azad Government of the State of Jammu and Kashmir, Law and Parliamentary Affairs Secretariat*, Muzaffarabad, June 26, 1993, in *Volume IX: 1989-1993*, 343, accessed January 6, 2025, https://law.gok.pk/wp-content/uploads/2023/05/The-Contempt-of-Court-Act-1993-ACT-XXVII-of-1993.pdf.
[51] Criminal Original Petition No. 06 of 2012 in Suo Motu Case No. 04 of 2010, accessed January 6, 2025, https://na.gov.pk/en/print.php?content.php&id=123.
[52] Tariq Naqash, "AJK PM Sardar Tanveer Ilyas Disqualified by High Court for Contempt," *DAWN* (2023).
[53] Robkar-e-Adalat vs. Sardar Tanveer Ilyas Khan, accessed January 6, 2025, https://ajkhighcourt.gok.pk/judgment_files/DOC-20230411-Final.pdf.

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cases highlight the potential conflict of interest when courts act as both the judge and enforcer in contempt matters.

Given the challenges of impartiality and possible conflicts of interest, it is recommended that a separate institution be tasked with handling contempt cases, with the relevant court serving as the prosecution. This would enhance transparency, fairness, and the perception of justice in contempt proceedings, aligning with the principles of natural justice.

Judicial Transparency and Natural Justice Mechanism

The fundamental conflict of interest in contempt of court proceedings arises when judges preside over cases in which they themselves are the aggrieved party. This scenario directly violates the natural justice principle that "No one can be a judge in their own cause." Notably, in cases like *Suo Motu Case No. 04 of 2010*[54] and *Robkar-e-Adalat vs. Sardar Tanveer Ilyas Khan*,[55] sitting prime ministers were sentenced for contempt of court, with the courts acting as both the complainant and the adjudicator. This creates concerns about fairness and impartiality, as the court may be influenced by its stake in the outcome. Additionally, symbolic penalties, while intended to uphold the court's authority, may be perceived as either insufficient or arbitrary.

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[54] Please see note 20.
[55] Please see note 21.

Both Pakistan and AJ&K[56] have established Supreme Judicial Councils under their respective constitutions to maintain judicial standards. These councils comprise the Chief Justice of the Supreme Court, the next two most senior Supreme Court Judges, and the two most senior Chief Justices of High Courts.[57] Their role is to investigate allegations of judicial misconduct or incompetence involving Supreme Court or High Court judges. Following investigations, they provide their findings to the Chairman of the Council or the President, who can initiate further actions based on these recommendations. The Council is tasked with overseeing judges' behavior, drafting a code of conduct, and investigating any violations.[58]

A key distinction between the two legal systems is the decision-making authority of the Council. While the Chairman of the AJ&K Council and the President are obligated to respect the Council's decision to remove a judge, the President of Pakistan is not bound by the Council's opinion.[59] Additionally, in Pakistan, the Council has the authority to initiate proceedings against a judge, while in AJ&K, the Chairman or President must first request such actions based on the Council's recommendations.[60] The Council, in both regions, regulates

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[56] Please see notes 6 & 7.
[57] Yiling Chen and Hashmat Ullah Khan, "Supreme Judicial Council: Functions, Prospects, and Challenges," *Human Nature Journal of Social Sciences* 3, no. 1 (2022): 1-6.
[58] Ibid.
[59] Syed Manzoor Hussain Gilani, *The Constitutional Development in Azad Jammu and Kashmir* (Government Printing Press, 1st edn, 1988).
[60] Ibid.

its investigative procedures and holds judges accountable to a Code of Conduct, ensuring that judges act impartially, avoid conflicts of interest, and refrain from political involvement. Violations of these ethical standards significantly undermine public trust in the judiciary.

Reforms to Improve Judicial Efficiency

To enhance the judicial systems in Pakistan and AJ&K, it is essential to reconsider the functions and structure of the judicial councils and explore the establishment of separate Constitutional Courts. The current structure, where judges serve both on judicial councils and in apex courts, raises concerns about impartiality and public trust. Judges involved in both interpreting legislation and overseeing contempt proceedings may unintentionally compromise their neutrality, potentially violating the core principle of natural justice.

A recent case involving Justice (retired) Mazahir Ali Akbar Naqvi[61] highlights that such concerns do not always materialize. In this instance, the Supreme Judicial Council (SJC) found that Justice Naqvi had breached the Code of Conduct and oath of office by accepting unaccounted gifts, leading to his removal from office.[62] However, this

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[61] *Complaints No. 586, 589, 592, 595, 596, 597, 600, 601, and 609 of 2023/SJC*, accessed January 6, 2025,
https://www.supremecourt.gov.pk/downloads_judgements/complaint_586_202
3_sjc_04032024.pdf.
[62] Haseeb Bhatti, "Ex-SC Judge Mazahar Naqvi 'Guilty of Misconduct,' Should've Been Sacked: Supreme Judicial Council," *DAWN*, March 7, 2024, accessed January 6, 2025, https://www.dawn.com/news/1819845.

case underscores the need for further reforms to improve the judicial system.

One key recommendation is the creation of separate Constitutional Courts tasked specifically with interpreting constitutional issues. This separation would reduce conflicts of interest and enhance the legitimacy of the judicial system. A dedicated court for constitutional matters would allow for a more focused and specific approach to constitutional interpretation, expediting judicial processes while ensuring greater transparency and accountability.[63]

Moreover, assigning distinct responsibilities for implementing the judicial code of conduct would reinforce the credibility of the system. By creating specialized courts with clear mandates, judges' independence can be better safeguarded, ensuring they remain free from undue influence.

Ultimately, the establishment of separate constitutional courts and clear oversight mechanisms is crucial for upholding judicial independence, preserving natural justice, and fostering public confidence in the judiciary. These reforms are necessary to build a just, accountable, and efficient legal system that serves the interests of both Pakistan and AJ&K.

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[63] Francisco Ramos, "The Establishment of Constitutional Courts: A Study of 128 Democratic Constitutions," *Review of Law & Economics* 2, no. 1 (2006): 103-135.

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Conclusion

The higher judiciary in Pakistan and AJ&K wields significant jurisdiction and supervises the lower courts, with both regions' superior courts sharing comparable authority despite structural differences. These courts possess original, appellate, advisory, and writ jurisdictions, allowing them to interpret statutes and constitutional provisions. However, the absence of distinct constitutional courts in both regions results in challenges for the superior judiciary. The need to interpret both statutes and constitutional matters simultaneously places considerable strain on the courts, leading to overburdened workloads, time constraints, and a deficiency in legal research.

Additionally, both constitutions grant the higher judiciary the authority to address contempt matters. However, the practice of courts acting as both the complainant and the prosecution in contempt cases undermines the principle of natural justice. When judges are tasked with enforcing the code of conduct while hearing misconduct cases, concerns about judicial impartiality and accountability arise. This practice raises fundamental questions regarding fairness and the impartial administration of justice.

To preserve the integrity of the judicial system and uphold its commitment to natural justice, structural reforms are essential. The creation of distinct constitutional courts and clearer separation of duties in contempt cases would enhance judicial effectiveness,

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accountability, and impartiality. By addressing these concerns, the judicial systems in Pakistan and AJ&K can be strengthened, ensuring greater transparency, equity, and adherence to the principles of justice.

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Representation of Emotions in the Literature: A Study of the 1947 India Partition

Muhammad Ali Shahzad

Researcher, Sustainable Development Study Centre (SDSC), GC University Lahore
Email: ali-gcu@gcu.edu.pk

Ayyaz Gull

Assistant Professor, Institute of Global and Historical Studies
GC University Lahore.
Email: gullayyaz@gcu.edu.pk

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Muhammad Ali Shahzad
Researcher, Sustainable Development Study Centre (SDSC), GC University Lahore
Email: ali-gcu@gcu.edu.pk

Ayyaz Gull
Assistant Professor, Institute of Global and Historical Studies
GC University Lahore.
Email: gullayyaz@gcu.edu.pk

Abstract

This research paper explores the emotional landscapes depicted in the literary narratives surrounding the Partition of India in 1947 and their profound influence on individuals' lives. Partition literature vividly encapsulates a spectrum of emotions, including love, sorrow, despair, hatred, and anger, offering a poignant reflection of the communal violence and human suffering of the era. Emotions such as hatred and anger are particularly emphasized, exposing the stark brutality of communal unrest. Many authors, deeply affected by these traumatic events, infused their personal experiences and emotional struggles into their fictional works, creating narratives that resonate with authenticity and emotional depth. This study highlights the

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representation of emotions like hatred and anger in Partition literature, demonstrating how these works not only bear witness to historical realities but also evoke a complex range of emotions in their readers, fostering a deeper understanding of the human condition during one of history's most tumultuous periods.

Keywords: Emotions, Hate, Anger, Emotionology, Partition Literature, Partition of India 1947.

Introduction

The Partition of India in 1947 was a transformative event that profoundly impacted both Muslim and non-Muslim communities[1], evoking intense emotions such as hate[2] and anger.[3] This upheaval, marked by widespread communal violence and mass displacement, left an indelible mark on the collective psyche of the affected populations. Writers and scholars, many of whom experienced these events firsthand, have captured these emotions in their works, employing symbolic characters and narratives to articulate the emotional dimensions of the partition.

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[1] Here both Muslim and Non-Muslim communities means the communities of India who had faced communal violence and migrated towards the two newly establish countries India and Pakistan in result of Partition of India 1947.

[2] According to Merriam-Webster "hate is a powerful hostility, aversion, dislike, loathing, or sense of antipathy deriving from a sense of fear, anger, or injury". Gretchen M. Reevy, Yvette Malamud Ozer, and Yuri Ito. *Encyclopedia of Emotion*. (California: Greenwood, 2010), 302-303.

[3] According to Gretchen "anger is one of our most passionate emotions, and potentially one of the dangerous" Reevy, *Encyclopedia of Emotion,* 61-63.

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Partition literature reveals the intricate relationship between personal experiences and literary expression, highlighting themes of human friendship, honor killings, pools of blood, and oppressive tyranny. The emotions of the time are vividly reflected in the works of notable authors such as Khushwant Singh[4] (1915-2014), Naseem Hijazi[5] (1914-1996), Chaman Nahal[6] (1927-2013), Saadat Hassan Manto[7] (1912-1955), and Quadrat Ullah Shahab[8] (1917-1986).

Their contributions have shaped the genre, offering invaluable insights into the emotional[9] realities of the partition era.

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[4]Khushwant Singh was an Indian author, lawyer, diplomat, journalist and politician. His experience in the Partition of India 1947 inspired him to write Train to Pakistan in 1956.

[5] Sharif Hussain, who used the pseudonym Naseem Hijazi was an Urdu novelist. He wrote the novel *Khaak aur Khoon*, which details the violence caused by religious tensions between Muslims, Sikhs, and Hindus at the time of the partition of British India and the Independence of Pakistan in 1947.

[6] Chaman Nahal was an Indian born writer of English literature. He was widely considered as one of the best exponents of Indian writing in English and is known for his work, Azadi, which is set on India's Independence and its partition.

[7] Saadat Hassan Manto was a colonial Indian and Pakistani writer. His writings are mainly in the Urdu language, he produced 22 collections of short stories, a novel, five series of radio plays, three collections of essays and two collections of personal sketches. His best short stories are held in high esteem by writers and critics. Manto was known to write about the hard truths of society that no one dared to talk about. He is best known for his stories about the partition of India, which he opposed, immediately following independence in 1947.

[8] Quadrat Ullah Shahab was an eminent Urdu writer and civil servant from Pakistan. Shahab published in English and Urdu languages for contemporary newspapers and magazines of Pakistan Writers' Guild, founded at Karachi in January 1959. Shahab's essay "Maaji" poetically outlines the simplicity of his mother and the relationship that his parents shared, detailing migration, governorship, family dynamics and death in a short chapter. He is best known for his autobiography Shahab Nama.

[9] This term is borrowed from the work of Peter N. Stearns, in his works; Peter N. Stearns, and Carol Z. Stearns. "Emotionology: Clarifying the history of emotions

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This research paper is divided into three sections. The first section examines the dynamic interplay between history, emotions, and literature, establishing a theoretical framework for understanding the emotional dimensions of historical events. The second section focuses on the concept of "emotionology"[10] in partition literature, analyzing how emotions such as hatred and anger are represented. The final section provides a detailed analysis of specific novels, including *"Train to Pakistan[11]," "Khaak our Khoon[12]," and "Azadi[13]."*. These works are explored within the context of the history of emotions, shedding light on how negative emotions were portrayed and experienced by both Muslim and non-Muslim communities. Through this exploration, the paper aims to deepen our understanding of how literature serves as a medium for documenting and interpreting the emotional impact of historical tragedies.

History, Emotions and Literature

Emotions, a blend of neurobiological and psychological processes, are intricately influenced by literature, which shapes both individual

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and emotional standards." This is a common thread in his many books. For detail see, Peter N. Stearns, *American Cool: Constructing a Twentieth-Century Emotional Style* (New York: University Press, 1994).

[10] This term is borrowed from the work of Peter N. Stearns, in his works; Peter N. Stearns, and Carol Z. Stearns. "Emotionology: Clarifying the history of emotions and emotional standards." This is a common thread in his many books. For detail see, Peter N. Stearns, *American Cool: Constructing a Twentieth-Century Emotional Style* (New York: University Press, 1994).

[11] Khushwant Singh, *Train to Pakistan*, (Delhi: Penguin Books, First published in 1956).

[12] Written in Urdu language and title *Khaak aur Khoon* means *Soil and Blood.*

[13] Written in English language and title *Azadi* means *Freedom.*

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neural responses and societal emotional frameworks. Characters' emotions, as depicted in literature, resonate with readers, engaging their minds through elements such as narrative points of view, character development, word choice, and tone. Understanding how literature presents emotions is critical because it profoundly influences societal emotions and perceptions. As scholars note, "The personal experiences of fictional characters or narrators, as well as the emotional contents of literary works, affect readers. They make us feel for, with, or against the characters, eliciting emotional reactions to the world created by the text."[14] Partition literature, in particular, elicits a broad spectrum of emotions—pity, grief, fear, hatred, and anger—through its vivid portrayals of the brutal events surrounding the Partition of India in 1947. These texts transform readers' emotional states, immersing them in the human cost of communal violence and displacement.

The relationship between history and literature is deeply intertwined, with emotions serving as a crucial link. While literature often draws from historical events, it also influences history by shaping societal understanding and emotional engagement with the past. To fully comprehend literature from any historical period, one must consider the historical context that frames it. History and literature function as

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[14] Pirjo Lyytikäinen, "How to Study Emotion Effects in Literature: Written Emotions in Edgar Allan   Poe's "The Fall of the House of Usher"" In *Writing Emotions: Theoretical Concepts and Selected   Case Studies in Literature*, ed. by Jandl Ingeborg, Knaller Susanne, Schönfellner Sabine, and Tockner Gudrun, (Bielefeld: Transcript Verlag, 2017), 247-64.

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complementary records of the past, albeit through distinct methodologies. History unravels the forces that drive societal change, while literature offers access to implicit meanings through interpersonal relations and emotional experiences. As one scholar articulates, "History identifies the forces that bring about changes and unravels their dynamics. Literature makes these implicit meanings accessible through the medium of interpersonal relations and emotional experiences."[15]

Literature is rooted in imagination, while history relies on evidence. Partition literature, although grounded in historical realities, integrates creative elements and assumptions to offer nuanced portrayals of events. Historical accounts of the Partition—documenting ethnic cleansing, communal violence, and mass migration—are supported by empirical evidence, whereas partition literature captures the emotional and imaginative essence of these events. By blending imaginative narratives with historical contexts, partition literature provides a multidimensional perspective, enriching our understanding of history and its emotional legacy.

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[15] K. N. Panikkar, "Literature as history of social change." *Social Scientist* 40, no. 3/4 (2012): 3-15. For detail see Angeliki Spiropoulou, and Hayden White. "History and Literature: An Interview with Hayden White" *Synthesis: an Anglophone Journal of Comparative Literary Studies* 8 (2015):118-124.

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Representation of Emotions in Partition Literature

The emotional impact of the Partition of India in 1947 transcended socio-religious boundaries, leaving a profound mark on the collective psyche of the region. Partition literature, as a reflection of society's lived experiences, portrays a rich spectrum of emotions, including happiness, love, fear, grief, hatred, and anger. Writers, as the voices of their nations and communities, articulate the "emotionology" of the era, capturing the emotional essence of this tumultuous time. This body of literature spans various genres, including novels, short stories, plays, poetry, memoirs, and essays, and is composed in diverse languages such as Hindi, Urdu, English, Punjabi, and Sindhi.[16] Fiction from this period serves multiple emotional functions, addressing the progression of feelings from initial shock, hatred, anger, fear, and grief, to eventual acceptance and healing. Through their works, authors provide insights into the emotional experiences of both victims and perpetrators of communal violence, contributing to a literary tradition that continues to resonate with readers and scholars alike.

The communal violence accompanying the Partition obliterated the emotional stability of millions, a devastation that found powerful

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[16] Qurratulain Hyder, *Aag Ka Darya (River of Fire)* (1959), Salman Rushdie, *Midnight's Children* (1980), Bhisham Sahni, *Tamas* (1987), Jhumpa Lahiri, *Interpreter of Maladies* (1999), Shauna Singh Baldwin, *What the Body Remembers* (2001), Rohinton Mistry, *A Fine Balance,* (2001), Krishna Baldev Vaid, *The Broken Mirror* (2014).

expression in the works of contemporary novelists. These writers, deeply affected by the brutal events, channelled their inner turmoil into narratives brimming with emotions such as love, sacrifice, fear, grief, hatred, anger, and revenge. Partition literature strives to capture the breadth of human experience, documenting the emotional journeys of ordinary individuals amid extraordinary circumstances.

The trauma of Partition remains ingrained in the collective consciousness of writers from both India and Pakistan, continuing to shape their creative endeavors. Through vivid and often harrowing depictions, Partition fiction skillfully portrays the emotions of both communities, particularly the hatred and anger fueled by the violence. By employing diverse characters and perspectives, these works offer nuanced insights into the emotional realities of one of the most defining events in South Asian history.

Hate and Anger Represented in Partition Literature: Novels

Novels recounting the Partition of India in 1947 explore the emotional landscapes of both Muslim and non-Muslim communities as depicted by authors from Pakistan and India. These narratives examine themes such as communal harmony, violence, migration, and abduction, evoking emotions like fear, grief, hatred, and anger. Through works like *Train to Pakistan*, *Khaak aur Khoon*, and *Azadi*, diverse perspectives on the Partition are presented, with a particular focus on the portrayal of hate and anger.

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Train to Pakistan

In *Train to Pakistan*,[17] the author vividly captures the emotional and social turbulence experienced by both Muslim and non-Muslim communities during the partition of India in 1947. The novel provides a direct portrayal of the pre-partition era, effectively presenting the events and the complex dynamics that influenced these communities. Divided into four sections—"Dacoity," "Kalyuga," "Mano Majra," and "Karma"—the narrative traces the emotional journey of the people in Mano Majra, a fictional village. In each of these sections, the shifting emotional landscapes of the villagers are explored, highlighting the transition from fear and grief to hate and anger.

In "Dacoity," the pre-partition emotions are presented, setting the stage for the communal unrest that would follow. "Kalyuga" delves into the fear and grief that unsettled the social fabric of the village, ushering in an era of destruction. The third section, "Mano Majra," depicts the breakdown of inter-community harmony, as fear transforms into hate and anger. Finally, "Karma" illustrates the culmination of these emotions in the form of organized communal violence. The novel's strength lies in how it conveys the emotional turmoil—fear, grief, hate, and anger—that permeates the narrative.

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[17] Khushwant Singh, *Train to Pakistan*, (Delhi: Penguin Books, First published in 1956).

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The narrative also highlights the complex dynamics of communal violence, specifically the animosity between Muslims and non-Muslims. The arrival of a 'ghost train' from Pakistan, carrying the bodies of Sikh victims, deeply disrupts the peace in the village, instilling fear and grief in the non-Muslim community. This event amplifies the existing sentiments of hate and anger, particularly towards the Muslim population. The author portrays the Muslim characters as being responsible for the ensuing violence, capturing the widespread belief that the Muslim community, by seeking a separate homeland, had precipitated the violence.

A poignant example of this growing animosity is found in the character of Iqbal,[18] a social worker who becomes a target of suspicion and hatred. Iqbal, who had arrived in Mano Majra after the murder of a local moneylender, is wrongfully arrested and imprisoned based solely on his Muslim-sounding name, despite having no connection to the crime. Both the police and Magistrate Hukam Chand[19] accuse him of being an instigator of the violence, despite his lack of involvement. Iqbal's character exemplifies the prejudice and discrimination faced by the Muslim community during the partition. The narrative clearly illustrates how Muslims were unjustly blamed for the violence, even when they had no direct role in the events.

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[18] Iqbal a social worker who is from city with western education and awareness.

[19] Hukam Chand, magistrate and Deputy Commissioner of the district.

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The novel subtly portrays the Sikh and Hindu communities in a biased light, reflecting the author's attitudes towards the Muslim population. The growing resentment towards Muslims is linked to their demand for a separate homeland, which posed a challenge to the Hindu majority. Muslim characters, particularly those who aligned themselves with the Muslim League, are depicted as antagonistic figures. For instance, the conversation between Magistrate Hukam Chand and a police officer reflects the deep-seated animosity towards the Muslim League, painting them as the primary instigators of the violence.

"The Sikhs retaliated by attacking a Muslim refugee train and sending it across the border with over a thousand corpses? They wrote on the engine "Gift to Pakistan!" The sub-inspector looked down thoughtfully and answered: 'They say that is the only way to stop killings on the other side. Man for man, woman for woman, child for child.'[20]

The novel vividly portrays the complicity of state institutions in the violence that erupted during the partition. In one particularly disturbing passage, the police sub-inspector reflects on the retaliatory violence carried out by the Sikhs, where they attacked a Muslim refugee train, sending it back across the border with over a thousand corpses. This chilling exchange highlights the justification given for

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[20] Singh, *Train to Pakistan,* 28-29.

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such brutality—that it was necessary to stop killings on the other side. The author's narrative emphasizes how such violence was not only perpetrated by individuals but also sanctioned and perpetuated by those in power.

The portrayal of the Muslim community in the novel also reflects a sense of weakness and disintegration. The Muslim characters, particularly Imam Bakhsh[21] are shown to be disconnected and unaware of each other's actions, reflecting the social and familial breakdown within the community. The lack of communication and the absence of strong familial bonds further accentuate the vulnerability of the Muslim population during this turbulent period.

The emotional landscape of Mano Majra undergoes a significant transformation with the arrival of the 'ghost train' and the subsequent events. The once harmonious village is torn apart by fear and suspicion, and the emotions of the villagers shift from love and sympathy to hatred and anger. This transition is vividly illustrated through the character of Jugga, whose anger is palpable as he stares at the police station bars, feeling the weight of injustice. The villagers, once united in their loyalty to one another, are now divided by their emotions, with the call to relocate the Muslims to a refugee camp reflecting the growing sense of distrust and animosity.

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[21] The leader of the Muslim community, who is presented as a 'blind man'.

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"…..Jugga kept staring through the bars as if he had not heard. He turned pale with anger. All the blood drained from his face. His hands tightened around the iron bars."[22]

The character of Malli plays a central role in further exacerbating the communal tensions. Malli, along with his cohorts, spreads the rumor that Sultana Dacoit, who fled to Pakistan after the murder of the moneylender, was responsible for the violence. His actions incite further hostility, and the villagers resolve to act against the Muslim community in retaliation. This decision culminates in the traumatic assault on a refugee train, a brutal act that further fuels the anger and hatred between the communities.

"Muslims to go? Quite emphatically not! Loyalty to a fellow villager was above all other considerations. Despite the words they had used, no one had the nerve to suggest throwing them out, even in a purely Sikh gathering. The mood of the assembly changed from anger to bewilderment."[23]

As the narrative progresses, the emotions of the villagers shift towards organized violence. The speech delivered by one of the Sikh characters, calling for the killing of Muslims in retaliation for every atrocity committed by the other side, exemplifies the escalation of emotions from fear and grief to outright hatred. The author illustrates

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[22] Singh, *Train to Pakistan,* 72.
[23] Singh, *Train to Pakistan,* 79.

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how the emotional landscape of Mano Majra becomes increasingly charged, culminating in violent acts of arson, looting, and murder.

"'But, Sardar Sahib,' said the lambardar falteringly, 'do tell us what we can do.' 'That is better,' answered the lad. 'Now we can talk. Listen and listen very carefully.'……. 'For each Hindu or Sikh, they kill, kill two Mussulmans. For each woman they abduct or rape, abduct two. For each home, they loot, loot two. For each trainload of the dead they send over, send two across. For each road convoy that is attacked, attack two. That will stop the killing on the other side. It will teach them that we also play this game of killing and looting.'"[24]

Ultimately, the novel ends with Jugga Singh's heroic act of sacrifice, as he shields Muslim refugees from the wrath of the Sikh community. His actions, driven by love for Nooran[25], whom he cares for deeply, illustrate the complex emotional journey of the characters. In the end, *Train to Pakistan* stands as one of the most significant works in Indian literature, capturing the evolution of emotion and the horrors of communal violence during the partition of India in 1947.

Khaak aur Khoon

Khaak aur Khoon"[26] is a monumental literary work that captures the profound emotional transformation during the partition of India in

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[24] Singh, *Train to Pakistan*, 93.
[25] Nooran lover of Juggat Singh.
[26] Naseem Hijazi, *Khaak aur Khoon,* (Lahore: Qoumi Kitab Khaana, 1993).

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1947, particularly focusing on the experiences of Muslims in Gurdaspur, a village that found itself within India's borders after the partition. The novel[27] intricately weaves the journey of Saleem, the son of a Tahsildar, through the shifting emotions of love, sympathy, fear, hate, and anger, amidst the violent and traumatic upheaval caused by the partition.

The narrative is divided into four parts, each reflecting a significant stage in the emotional and social evolution of the characters and their communities. The first part introduces Saleem's childhood in a village where Muslims, Sikhs, and Hindus coexisted peacefully. However, as the political landscape of colonial India began to change, tensions escalated, and the emotional harmony that once existed started to unravel. The second part delves into the rise of nationalism and the political machinations surrounding the partition, sowing seeds of division between communities.

In the third part, the story shifts to the tragic eruption of communal violence—marked by massacres, genocides, abductions, and forced migrations. Saleem, now an adult, becomes a central figure in orchestrating the rescue of Muslims trapped in the violence, trying to

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[27] Characters: The main character of the novel is Chaudhary Rehmat Ali who has a leading and very influential role in the village. Other main Muslim Characters are Ali Akbar Afzal, Saleem, Majeed, Dawood, Dr. Shoukat, Arshad, and Asma. The characters of Sikh communities are class fellows of Saleem and Majeed i.e. Mahinder Singh, Balwant Singh, Shair Singh friend of Afzal (uncle of Saleem and father of Majeed), Indher Singh, Charan Singh, and Hari Singh. The Hindu characters are Saith Ramlal and Ramchand.

facilitate their journey to Pakistan. However, despite his heroic efforts, he fails to protect his own family from the wrath of the Sikh militants, who, with the support of the military and other external forces, carry out brutal acts of violence.

The final section of the novel transitions to the Kashmir conflict, where Saleem's deeds continue to echo as he fights for his personal survival while trying to help others in the midst of a war-like environment. His story is one of perseverance, courage, and sacrifice, despite the overwhelming odds stacked against him.

The novel poignantly depicts the atrocities inflicted upon the Muslim community, specifically highlighting the role of the Sikh and Hindu communities in perpetrating violence. Characters like Charan Singh, supported by Hindu moneylenders, fan the flames of hatred, leading to widespread massacres and the disarming of Muslims in Gurdaspur. As the violence escalates, emotions of fear, grief, and hatred intensify, especially after the news that Gurdaspur would remain in India. The announcement shifts the community's feelings from initial happiness to deep fear and grief, particularly among Muslims, who now face the imminent threat of violence.

Saith Ramlal and Ramchand play pivotal roles in inciting the Sikh community's rage, using religious fervor to stoke anger toward the Muslim community, while rallying support for the violent assaults on Muslims.

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"Saith Ramchand said: My Sikh brothers! You are the loins of Punjab. Don't let down the name of Guru Gobind Singh. You should not be happy with some districts of Punjab that you have now. My brothers! Muslims got their Pakistan. But Khalistan is yet to be. Congress has taken some districts for you…….. Now, the Police are yours, the Army is yours and the Government is also yours. Now the responsibility is yours to do the work that you have to do…. If you don't attack Chaudhary Rehmat Ali's village then some other 'Jatha' (mob) will take away the 'doolies' (women)."[28]

The author captures the calculated nature of the violence, where leaders like Saith Ramchand mobilize the Sikh populace, invoking historical grievances and a desire for revenge against Muslims. This manipulation of religious sentiment culminates in the organized

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[28] Hijazi, *Khaak aur Khoon*, 357-360.

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violence against Muslim villages, as Sikh mobs, aided by the police and military, attack and loot Muslim homes.

Through vivid and harrowing descriptions of the atrocities, including the martyrdom of Saleem's family and the forced migration of Muslims, the author illustrates the deep emotional turmoil experienced by the victims of the violence. The horrors of abduction, rape, and mass murder are starkly depicted, as the Muslim women of the village, including Saleem's beloved Asma, bravely recite the Kalma to protect themselves from the Sikh attackers. The emotional intensity is palpable throughout, as the characters wrestle with their fear, grief, anger, and the harsh reality of their new lives in the aftermath of the violence.

Despite the overwhelming challenges, Saleem emerges as a beacon of hope. His dedication to saving the lives of others, even at the cost of his own family's safety, highlights his heroic character. Saleem's decision to protect Muslim refugees, particularly women and children, illustrates his unwavering commitment to humanity and the fight against communal hatred. His efforts to keep hope alive, even in the face of relentless brutality, make him a symbol of resilience and courage.

The novel also portrays the destruction wrought by the ideological and religious divisions fostered by the partition. As communal violence spreads throughout Punjab, the region becomes engulfed in

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a bloodbath that sees not only the death of innocent civilians but also the tearing apart of communities that once thrived in peace. The conflict is further exacerbated by the involvement of external political and military forces, who aid the violence, resulting in a catastrophic breakdown of society.

> "This tragedy was not only for Gurdaspur, its nearby districts 'Kangra, Hoshiarpur, and Amritsar' were also under the same fire. Gurdaspur was awarded to India only for the sake of Kashmir, if it was done by Nehru and Mountbatten then Muslims of Hoshiarpr could take shelter on the bank of the Beas River. But the unfair decision of Mountbatten closed of survival of the Muslim community."[29]

The inclusion of Gurdaspur in India, driven by political decisions made by Nehru and Mountbatten, deepens the grief and fear felt by the Muslim population, who now find themselves trapped in a land where they are no longer welcome. The novel's emotional depth is conveyed through the personal stories of those who suffer from the

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[29] Hijazi, *Khaak aur Khoon*, 520.

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decisions of politicians, as well as the social and religious fabric that is torn apart.

Khaak aur Khoon offers an unflinching portrayal of the emotional devastation wrought by the partition. It explores the evolution of emotions within various communities—love, sympathy, fear, grief, hate, and anger—and shows how they fuel the tragic events of the partition. Through Saleem's journey, the novel captures the human cost of religious and political strife, and provides a profound commentary on the destructive power of hate and the possibility of redemption in the face of overwhelming adversity. The reader is immersed in the emotional upheaval of the partition, experiencing the pain, suffering, and heroism of those caught in its wake.

Azadi

"Azadi,"[30] a novel[31] by Chaman Nahal, intricately explores the emotional turmoil surrounding the partition of India in 1947, presenting a detailed portrayal of the evolving dynamics of intercommunal relations and the shift from peace and love to hate, fear, and anger. The novel is set in the pre-partition town of Sialkot, where various religious communities coexisted harmoniously,

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[30] Chaman Nahal, *Azadi*, (Boston: Houghton Mifflin, 1975).

[31] Chracters: The main characters of the novel are, Lalaji and his wife Prabharani, their children Arun, Madhu, and younger daughter Bibi Amar Vati, her husband Gangu Mull: their son Suraj Prakash, and daughter-in-law Sunanda Bala, Chaudhari Barkat Ali, his son Munir and daughter Nur.

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participating in each other's religious events and living in mutual respect. However, with the announcement of the partition, the emotional fabric of the village is shattered, leading to a transformation in the communities' perceptions and interactions.

The central character, Lala Kashi Ram, embodies the human experience of this emotional shift. His feelings evolve throughout the narrative, reflecting the disillusionment that many faced during this tumultuous period.

> "Like any other Indian, he had a prejudice against the British (he spoke them as Angrez-the English). He hated them for what they had done to his country and wanted Azadi"[32]

Nahal powerfully portrays his anger toward the British for their role in colonial rule, as well as his disappointment with Nehru and the political leadership responsible for the division of Punjab.

> "What stupid thing was he talking about? Was he Nehru? The drawl was the same, the emotion in the words was the same, and the disjointed, queer Hindu syntax was his alone, but what

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[32] Nahal, *Azadi*, 18.

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had happened to his akal, his mind?

Have partition if there is no other way,

have it that way- we're willing to make

sacrifices."[33]

The protagonist's evolving feelings of frustration, fear, and grief are deeply tied to the socio-political changes that rip apart longstanding relationships among Hindus, Muslims, and Sikhs.

The novel brings forth a vivid account of how the announcement of the partition led to violent reactions from the communities. The Muslims in Sialkot celebrated, while the Hindus and Sikhs grew increasingly fearful and hostile. The partition divided families and neighborhoods, resulting in communal violence and large-scale displacements. Nahal deftly illustrates the resulting shift in emotions as these communities turn against each other with increasing intensity.

Through his characters, such as Captain Rehmat Ullah Khan, who perpetrates abduction and violence, Nahal highlights the personal and collective impact of the partition. The novel paints a horrific picture of the atrocities, including rape, murder, and ethnic cleansing, that occurred as a result of the incited hatred. Women, particularly from the Sikh and Hindu communities, became the primary targets of this

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[33] Nahal, *Azadi*, 56-57.

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violence, symbolizing the dishonor and vengeance inflicted upon the opposing group.

> "The rape was followed by other atrocities, chopping off the breasts, and even death. Many of the pregnant women had their wombs torn open. The survivors were retained for repeated rapes and humiliations until they were parcelled out to decrepit wrecks – the aged, the leftovers who couldn't find a wife, or those Muslims who wanted an additional wife."[34]

The emotional landscape of the novel includes moments of human compassion, despite the violence. Characters like Chaudhri Barakat Ali, who opposes the violence and expresses concern for the safety of others, represent the few instances of solidarity and humanity amidst the rage and destruction. Nahal explores the complexity of human emotion, where hatred and anger coexist with moments of empathy and forgiveness.

> "He caught hold of Ghani by the neck with both his hands. Chaudhri Barakat Ali shook him as if he were a reed. His

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[34] Nahal, *Azadi*, 293.

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> powerful head was bent low on Ghani's
> face and one could see the anger
> flashing in his eyes. 'you shaitan - you
> shaitan - you blot on the name of
> Islam'."[35]

Through letters and exchanges, the novel also portrays the poignant personal losses caused by partition. The love story between Nur and Arun symbolizes the tragic rupture of relationships, as communal tensions drive them apart. The letter Nur sends to Arun, expressing sorrow and longing, encapsulates the grief and fear that pervaded the lives of those torn from their homes and loved ones.

> "I'm weeping when I write this to you,
> will I ever see you again? God alone
> knows why people are so full of hate. I
> wish they were not to part souls that
> love each other. But I'll think of you till
> the day of my death. May Allah protect
> you, Khuda Hafiz."[36]

The novel also offers a critique of the political leadership of the time, illustrating how the decisions of leaders like Nehru and Mountbatten had far-reaching emotional consequences on the lives of ordinary

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[35] Nahal, *Azadi*, 185.
[36] Nahal, *Azadi*, 266.

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people. Lalaji's reflections on the communal violence and his ultimate realization that both communities are equally guilty of perpetuating hatred and violence emphasize the cyclical nature of conflict.

In the aftermath of the partition, the characters, especially Lalaji, grapple with the realization that both Muslims and Hindus were complicit in the atrocities. His reflection, "I have ceased to hate … I can't hate the Muslims anymore… we are all equally guilty… We have sinned as much. We need their forgiveness," is a powerful acknowledgment of the shared responsibility in the brutality that occurred during this period.

"Azadi" not only examines the physical violence but also delves into the emotional violence that defines the partition, making it a poignant exploration of how hate and anger, once ignited, can transform the human experience. The novel captures the complex interplay between love and hate, empathy and anger, and loss and survival, offering a profound reflection on the emotional devastation caused by the partition of India in 1947.

Conclusion

Partition literature stands as a powerful and emotional testament to the devastation wrought by the 1947 partition of India. It encapsulates the profound emotional and psychological toll experienced by individuals in the wake of this monumental upheaval. Writers, through their vivid storytelling, have brought to life the anger, fear,

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hate, and grief that consumed communities, leading to unimaginable acts of violence, ethnic cleansing, and the brutal abduction and rape of women. These literary works not only reflect the traumatic realities of the time but also offer a means of processing and expressing the collective sorrow and disillusionment felt by those affected by the partition.

The works of writers like Khushwant Singh ("Train to Pakistan"), Naseem Hijazi ("Khaak aur Khoon"), and Chaman Nahal ("Azadi") have made an indelible impact on readers, transporting them to the era of partition and helping them connect emotionally with the stories of those who lived through it. The depiction of atrocities, such as the abduction and rape of women, serves as a poignant symbol of the devastating hatred and violence that tore apart communities. These acts highlight the horrors of communal violence while also shedding light on the intricate psychological and emotional dynamics that underpinned these events.

However, partition literature is not limited to depictions of violence. It also explores the full spectrum of human emotions, from love and sympathy to grief, friendship, and sacrifice. It offers a multifaceted exploration of the human condition during a time of unimaginable strife, illustrating both the cruelty and the compassion that existed amidst the chaos. These diverse emotional expressions invite readers to understand the complexity of human experience during one of history's most painful periods.

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The continued study of partition literature offers immense potential for gaining deeper insights into the psychological legacy of this traumatic event. By analyzing the emotional and psychological impact of partition on both individuals and societies, scholars can continue to explore how the experiences of partition reverberate through contemporary culture and consciousness. The enduring legacy of partition literature remains a powerful tool for understanding the complexities of identity, community, and the lasting effects of violence on generations. Through its portrayal of suffering, resilience, and human connection, partition literature continues to serve as a vital cultural and historical resource.

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Afghanistan's Ethnic Divide: The Taliban's Struggle for Legitimacy and Stability

Raja Adnan Razzaq
Associate Professor, School of Peace and Counter-Terrorism Studies, Minhaj University Lahore, adnanrazzaq.his@mul.edu.pk

Waseem Almas
Lecturer, School of Peace and Counter-Terrorism Studies, Minhaj University Lahore. PhD scholar at the Department of Political Science MUL, waseem.pct@mul.edu.pk

Ismail Ahmad
Lecturer, School of Peace and Counter-Terrorism Studies, Minhaj University Lahore. PhD scholar at the Department of Peace and Conflict Studies, National Defence University Islamabad, ismail.pct@mul.edu.pk

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Raja Adnan Razzaq
Associate Professor, School of Peace and Counter-Terrorism Studies, Minhaj University Lahore, adnanrazzaq.his@mul.edu.pk

Waseem Almas
Lecturer, School of Peace and Counter-Terrorism Studies, Minhaj University Lahore. PhD scholar at the Department of Political Science MUL, waseem.pct@mul.edu.pk

Ismail Ahmad
Lecturer, School of Peace and Counter-Terrorism Studies, Minhaj University Lahore. PhD scholar at the Department of Peace and Conflict Studies, National Defence University Islamabad ismail.pct@mul.edu.pk

Abstract

Afghanistan's rich ethnic diversity has historically been a double-edged sword, contributing to both cultural richness and internal discord. This study explores the persistent ethnic tensions within Afghanistan, focusing on the historical and contemporary dynamics between the Pashtuns—the largest ethnic group—and non-Pashtun communities. The Taliban, predominantly rooted in the Pashtun population, has historically sought to consolidate political dominance, often at the expense of non-Pashtun representation. The 2021 fall of Kabul to the Taliban intensified these tensions, creating a political and social vacuum that ethnic-based insurgent groups have sought to exploit, potentially deepening ethnic discord and

threatening national stability. Grounded in Edward Azar's Protracted Social Conflict Theory, this research examines the nexus between ethnic conflict and the multifaceted challenges faced by the Taliban government. Azar's framework provides critical insights into the root causes, dynamics, and consequences of ethnic conflict, highlighting its profound implications for governance, social cohesion, and the Taliban's ability to address the complexities of a divided nation. This study not only advances the understanding of Afghanistan's ethnic dynamics but also underscores the broader implications for conflict management and state-building in deeply divided societies.

Keywords: *Ethnic conflict, Protracted Social Conflict Theory, Governance, Taliban, Afghanistan.*

Introduction

Afghanistan, unlike many nation-states, is characterized by its profound ethnic diversity, which has long been both a cultural hallmark and a source of protracted conflict. Among the myriad tensions that shape Afghanistan's socio-political landscape, the most significant and enduring is the division between the Pashtuns, the largest ethnic group, and non-Pashtun communities, including Tajiks, Uzbeks, and Hazaras.[1] Historically, Pashtun political dominance has been met with resistance from non-Pashtun groups, a pattern that

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[1] Thomas Barfield, *Afghanistan: A Cultural and Political History* (Princeton, NJ: Princeton University Press, 2010), 23–25.

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persists in contemporary governance. The Taliban, an entity predominantly rooted in the Pashtun population, has a legacy of seeking control over national power structures, exacerbating resistance and deepening ethnic divisions.[2]

The fall of Kabul to the Taliban in 2021 marked a turning point, plunging Afghanistan into a political and social vacuum. This void has been exploited by regional warlords and ethnic insurgents, further complicating the Taliban's ability to establish a stable and functional government. The departure of U.S. forces, which had previously supported an inclusive government, removed a significant stabilizing factor, leaving Afghanistan vulnerable to renewed ethnic-based conflicts.[3] Over the past two years, Afghans have faced widespread violations of their basic rights, including the denial of equal opportunities, limited access to education and healthcare, and pervasive insecurity. The Taliban's inability to form an inclusive government or introduce a constitution has deepened the crisis. [4] Key ethnic groups remain excluded from governance, with only two non-Pashtuns among the thirty-three members of the Taliban's cabinet. Furthermore, the absence of women and technocrats in the

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[2] Ahmed Rashid, *Taliban: Militant Islam, Oil, and Fundamentalism in Central Asia*, 3rd ed. (New Haven, CT: Yale University Press, 2022), 291–293.

[3] Carter Malkasian, *The American War in Afghanistan: A History* (New York: Oxford University Press, 2021), 453–455.

[4] Antonio Giustozzi, *The Taliban at War, 2001–2021* (London: Hurst & Company, 2021), 274–276.

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administration has compounded governance deficiencies, institutional ambiguity, and the rapid erosion of public trust.

This situation is further exacerbated by the ongoing presence of more than a dozen militant groups actively resisting Taliban hegemony.[5] The National Resistance Front (NRF), founded by non-Pashtun communities, continues to challenge the Taliban, echoing the resistance movements of the 1990s. During that period, the Taliban established control over Afghanistan by eliminating regional warlords, yet this only intensified opposition from non-Pashtun factions. The NRF, with the support of U.S. forces, later established a more inclusive government following the events of 9/11, demonstrating the potential for alternative governance structures in Afghanistan.

Ethnic conflict in Afghanistan remains a deeply entrenched and complex issue that has hindered peace, integration, and development for decades. The tension between Pashtuns and other ethnic groups such as Tajiks, Uzbeks, and Hazaras has consistently undermined efforts to build a cohesive state.[6] The present study aims to examine the genesis of ethnic conflict in Afghanistan and its nexus with the challenges faced by the Taliban government, including issues of

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[5] Louis Dupree, *Afghanistan* (Princeton, NJ: Princeton University Press, 1973), 47–49.

[6] Neamatollah Nojumi, *The Rise of the Taliban in Afghanistan: Mass Mobilization, Civil War, and the Future of the Region* (New York: Palgrave Macmillan, 2002), 45–46.

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security, governance, legitimacy, and institutional deformation. Utilizing Edward Azar's Protracted Social Conflict Theory as an analytical framework, this study provides a comprehensive analysis of Afghanistan's ongoing ethnic conflict and its implications for the country's stability and governance. By situating Afghanistan's ethnic dynamics within Azar's theoretical lens, this research seeks to contribute to a nuanced understanding of the enduring challenges confronting the Taliban and their impact on Afghanistan's broader socio-political trajectory.

Literature Review

The evolving socio-political dynamics of Afghanistan, particularly in the context of ethnic conflict, have been the subject of extensive scholarly examination. However, a review of the literature reveals significant gaps in addressing the implications of ethnic tensions for the Taliban's governance post-2021.

The *Special Inspector General for Afghanistan Reconstruction (SIGAR)* report evaluates two decades of U.S. reconstruction efforts in Afghanistan, highlighting the inefficiencies in implementation, monitoring, and inter-agency coordination. While comprehensive in critiquing the U.S. approach, the report fails to address the ethnic fault lines exacerbated by the Taliban's resurgence and the resulting

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challenges faced by their government.[7]   Similarly, Tomas, in summarizing the *Congressional Research Service* report, focuses on the humanitarian crises triggered by drought, the COVID-19 pandemic, and U.S. sanctions on the Taliban.[8]   Although the report raises concerns about the resurgence of Al-Qaeda, it overlooks the ethnic resistance from non-Pashtun groups and the political ramifications of this resistance on Taliban rule.

Mir critiques the Biden administration's withdrawal strategy, identifying three major concerns: the Taliban's toppling of an elected government, Afghanistan's continued status as a haven for extremist groups, and the potential for cross-border militancy.[9] However, Mir's analysis omits the implications of the Taliban's rejection of an inclusive government and the subsequent ethnic conflicts that have intensified under their rule.

Coll, in *Directorate S*, provides a detailed narrative of U.S. involvement in Afghanistan from 2001 to 2016, emphasizing the fraught relationships between the U.S., its allies, and Pakistan's intelligence agency (ISI). While illuminating the pre-withdrawal dynamics, Coll's work lacks coverage of post-withdrawal ethnic

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[7] Special Inspector General for Afghanistan Reconstruction, *Quarterly Report to the United States Con=ess*, (January 30, 2021), 25-30.

[8] C. Thomas, *Afghanistan: Background and US Policy in Brief*, Congressional Research Service, (2018), 33.

[9] Asfandyar Mir, "The Terror Threat from Afghanistan Post the Taliban Takeover," *Combatting Terrorism Center at West Point* 14, no. 7 (September 2021): 13, 22–24, https://ctc.usma.edu/wp-content/uploads/2021/09/CTC-SENTINEL-072021.pdf.

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challenges and their impact on Taliban governance.[10] Similarly, Malkasian, in *The American War in Afghanistan*, offers a comprehensive account of the U.S. military presence from 2001 to 2021, including the peace talks leading to withdrawal.[11] However, the book fails to explore the post-withdrawal ethnic power struggles or their influence on Afghanistan's political trajectory.

Husain, in *No-Win War*, examines the geopolitical nexus of U.S., Pakistan, and Afghanistan relations, providing insights into the region's shifting dynamics post-9/11. Although Husain adeptly explores domestic political developments and their interplay with U.S. foreign policy, the ongoing ethnic clashes and their implications for the Taliban government remain unaddressed.[12] Ward, in his critique of Western media narratives, exposes the misleading portrayal of U.S. nation-building efforts in Afghanistan. However, his analysis does not foresee the Taliban's resurgence or the ethnic resistance that followed their return to power.[13]

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[10] Steve Coll, *Directorate S: The CIA and America's Secret War in Afghanistan and Pakistan*, vol. 2 (New York: Penguin Press, 2018), 97–120, https://doi.org/10.1080/09592318.2021.1870464.

[11] Carter Malkasian, *The American War in Afghanistan: A History* (Oxford: Oxford University Press, 2021), 9–17, https://doi.org/10.1093/oso/9780197550779.001.0001.

[12] Zahid Husain, *No Win War: The Paradox of US-Pakistan Relations in Afghanistan* (Oxford: Oxford University Press, 2021), 67–103, https://doi.org/9780190704193.

[13] Ward Wilson, *Obama's War* (New York: Simon & Schuster, 2010), 63–77, https://doi.org/10.1163/2468-1733_shafr_sim26004004.

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Gall, in *The Wrong Enemy*, focuses on Pakistan's controversial role in the Afghan conflict, particularly the ISI's support for militant groups. While the book offers valuable insights into the political and security dilemmas of the war on terror, it neglects the ethnic power struggles between Pashtuns and non-Pashtun minorities, as well as their implications for Taliban rule terror.[14] Gurcan, in his exploration of NATO and U.S. strategies in Afghanistan, addresses rural combat dynamics, the strategic significance of Afghanistan's geography, and counterinsurgency strategies. However, his work does not consider the ethnic crisis or its repercussions for the Taliban's post-withdrawal governance.[15]

Finally, Coll's *Ghost Wars* offers an intricate analysis of the CIA's covert operations in Afghanistan from 1979 to the rise of the Taliban and the death of Osama Bin Laden. Despite its extensive historical coverage, the book does not explore the long-term consequences of these conflicts for Afghanistan's governance post-2021.[16]

This literature review highlights a critical gap: while significant attention has been given to U.S. and NATO strategies, peacebuilding

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[14] C. Gall, *The Wrong Enemy: America in Afghanistan 2001–2014* (London: Informa UK Limited, 2015), 167–182, https://doi.org/10.1080/03068374.2015.1037633.
[15] M. Gurcan, *What Went Wrong in Afghanistan? Understanding Counterinsurgency Efforts in Tribalized Rural and Muslim Environments* (Helion and Company, 2016), 35–50, https://doi.org/9781911096009.
[16] Steve Coll, *Directorate S: The CIA and America's Secret War in Afghanistan and Pakistan*, vol. 2 (New York: Penguin Press, 2018), 97–120, https://doi.org/10.1080/09592318.2021.1870464.

efforts, and geopolitical dynamics, insufficient focus has been placed on the role of ethnic conflict in shaping Afghanistan's governance challenges under the Taliban. This study seeks to address this gap by examining the nexus of ethnic conflict and governance issues through the lens of Edward Azar's Protracted Social Conflict Theory.

Theoretical Framework

This study employs Edward Azar's Protracted Social Conflict (PSC) theory to examine the intersection of ethnic conflict[17] and the challenges faced by the Taliban in Afghanistan post-U.S. withdrawal. On August 15, 2021, the Taliban seized Kabul and reestablished their rule, reaffirming a legacy of dominance rooted in the Pashtun population.[18] However, Afghanistan's multi-ethnic composition—featuring significant non-Pashtun groups such as Tajiks, Uzbeks, and Hazaras—has fueled resistance to the Taliban's exclusionary governance. Following the withdrawal of U.S. forces, the country has been mired in a complex struggle involving the Taliban, former warlords, and newly resurgent militant groups with strong ethnic affiliations. This volatile landscape has transformed ethnic tensions into a persistent source of instability, creating profound governance and security challenges for the Taliban regime.

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[17] Edward E. Azar, *The Management of Protracted Social Conflicts: Theory and Cases* (Hampshire: Dartmouth, 1990), 5–6.
[18] Kathy Gannon, "US Completes Withdrawal from Afghanistan, Marking End of 20-Year War," *Associated Press*, August 30, 2021,
 https://apnews.com/article/afghanistan-us-withdrawal.

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Azar's PSC theory provides a robust framework for understanding the dynamics of such conflicts. He identifies four critical factors that lead to protracted social conflict: multi-communal societies, the deprivation of basic human needs, political domination by a single group, and systemic failures in domestic governance. In ethnically diverse societies, historical rivalries or colonial-era divisions often lead to the dominance of one group over others. When this dominance is coupled with unequal access to resources and opportunities, grievances escalate. Azar argues that such marginalization fosters resentment and resistance, particularly when political power remains concentrated within a single ethnic identity group. Furthermore, weak political[19] and economic systems exacerbate these tensions, making conflict more likely and persistent. The outcomes of PSC, as theorized by Azar, align closely with the challenges faced by the Taliban today: legitimacy crises, deteriorating security, institutional decay, and governance failures.[20] The Taliban, predominantly Pashtun, have failed to establish an inclusive government, marginalizing non-Pashtun ethnic groups and intensifying ethnic divides. These dynamics have entrenched societal discord, leading to governance paralysis and widespread instability. Azar's framework elucidates the roots and consequences of this ethnic conflict, offering a comprehensive lens to understand the Taliban's ongoing struggle to

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[19] Edward E. Azar, *The Management of Protracted Social Conflicts: Theory and Cases* (Hampshire: Dartmouth, 1990), 16.
[20] Oliver Ramsbotham, Tom Woodhouse, and Hugh Miall, *Contemporary Conflict Resolution: The Prevention, Management and Transformation of Deadly Conflicts*, 4th ed. (Cambridge: Polity Press, 2016), 92.

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maintain control and address the multifaceted challenges of governing a deeply divided nation.

Ethnic Conflict Factors Exacerbating Taliban Challenges

Edward Azar identified several factors that contribute to ethnic conflict within a society, particularly where a single group dominates national power and excludes other ethnicities from participation in governance. Afghanistan exemplifies all these factors, which play a pivotal role in intensifying the challenges faced by the Taliban interim government on multiple fronts.

Multi-Communal Society

Edward Azar emphasized that multi-communal societies, particularly those shaped by colonial powers employing divide-and-rule policies, are predisposed to ethnic conflict. Such tensions arise when colonial authorities favor one ethnic group over others[21] fostering inequality and resentment. Afghanistan, historically a buffer state between British India and Russia, exemplifies this dynamic. The Treaty of Gandamak, signed by Amir Yaqub Khan in 1879,[22] designated Afghanistan as a protectorate of British India until 1919. In 1880, Abdur Rahman was installed as King by British India due to his pro-

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[21] Edward E. Azar, *The Management of Protracted Social Conflicts: Theory and Cases* (Hampshire: Dartmouth, 1990), 35–37.
[22] David L. Asher, *Afghanistan: The Buffer State and Its Struggle for Sovereignty* (London: I.B. Tauris, 2017), 56–58.

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British stance and willingness to serve colonial interests.[23] Under his rule, Pashtun dominance was aggressively reinforced, with other ethnic groups systematically marginalized to secure British objectives. By the late 19th century, Amir Abdur Rahman had established a highly centralized authority, often employing brutal force to suppress minority groups and ensure Pashtun hegemony. His policies incited 40 uprisings from minority communities, highlighting the volatility of a centralized and ethnically exclusive government.[24]

The United States has also played a critical role in the resurgence of Pashtun-dominated Taliban rule in contemporary Afghanistan. The Doha Peace Agreement facilitated the Taliban's return to power, solidifying their position as custodians of modern-day Afghanistan. However, the Taliban's refusal to establish an inclusive government has reignited resistance from non-Pashtun ethnic groups, transforming Afghanistan once again into a battleground for competing ethnic interests. In underdeveloped states, multi-communal societies often succumb to ethnic conflict when dominant global powers empower a single group to govern at the expense of others. Afghanistan's historical and contemporary experiences underscore this recurring pattern, with external influences exacerbating internal divisions.

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[23] Pierre J. de la Garde, *Afghanistan: A Geopolitical History* (New York: Palgrave Macmillan, 2010), 101.

[24] F. Boni, "Afghanistan 2022: Life Under the Taliban," *Asia Maior* 33 (2022): 411–423, https://www.asiamaior.org/?p=1756.

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Political Power Dominated by One Identity Group

Since the formation of modern Afghanistan in the 18th century, Pashtuns have consistently dominated the country's political landscape, a status that has often provoked opposition from other ethnic groups. The Pashtun hegemony faced significant challenges with the rise of the People's Democratic Party of Afghanistan (PDPA) in 1978, which led to the Soviet war.[25] In 1996, after the Taliban captured Kabul, the Northern Alliance—comprising leaders from non-Pashtun ethnic groups, including ousted president Burhanuddin Rabbani, Ahmad Shah Masood, Abdul Rashid Dostum, and Yunus Khalis—was formed to resist the Taliban's rule and defend their respective regions.

The Taliban, a predominantly Pashtun movement, established its government following two decades of resistance against NATO forces. Despite its return to power, the current Taliban government remains exclusionary, heavily dominated by Pashtun leadership. This has led to widespread resentment among other ethnic groups, particularly the Tajiks, Uzbeks, and Hazaras, who have condemned the Taliban's exclusion of minorities from key political and governing structures. The Taliban's continued emphasis on Pashtun dominance

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[25] Barnett R. Rubin, *The Fragmentation of Afghanistan: State Formation and Collapse in the International System* (New Haven, CT: Yale University Press, 2002), 96–97.

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perpetuates the ethnic divisions within Afghanistan, exacerbating the challenges it faces in achieving national cohesion and legitimacy. [26]

Dissatisfaction of Basic Rights

Edward Azar identified the denial of access to political institutions and the lack of recognition for communal groups as critical factors contributing to ethnic conflict in diverse societies. He argued that for ethnic minorities, access to political institutions and the recognition of their rights are fundamental needs, and when these are denied, conflict is inevitable.

Since the fall of Kabul to the Taliban, ethnic minorities in Afghanistan have faced severe deprivation of their basic rights. The Taliban's current cabinet includes only two members from minority ethnic groups out of a total of thirty-three, highlighting the government's failure to incorporate a diverse range of political voices. The exclusion of non-Pashtun groups from meaningful political participation, coupled with the denial of their representation in governance, has left these communities feeling marginalized and oppressed. As Azar's theory suggests, the failure to satisfy the

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[26] J. Worley, *Power on the Periphery: Analysis of Afghanistan's Subnational Powerbrokers' Role in Stability from 2010–2021* (PhD diss., Harvard University, 2023).

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political rights of ethnic groups fosters resentment, setting the stage for deeper ethnic conflict and further destabilizing Afghan society.[27]

Failure of Domestic Political and Economic System

Following the fall of Kabul, the Taliban government dissolved the 2004 Constitution and ended Afghanistan's brief period of democratic evolution. Afghanistan is now governed by a theocratic, authoritarian regime led by the Taliban, which seized power through force and ousted the government of Ashraf Ghani. One of the major challenges faced by the Taliban is the absence of a clear political or economic roadmap for the country's future. The Taliban government has thus far failed to implement a constitution, leaving the country without a coherent legal framework for governance.

Moreover, the imposition of international sanctions and the freezing of Afghanistan's foreign reserves by the United States has severely crippled the country's economy. This has led to widespread poverty, high unemployment, food shortages, and significant human rights violations. The economic progress achieved by the previous democratic governments over two decades has been rapidly reversed by the Taliban's policies, exacerbating the challenges of governance and deepening the country's economic crisis. The failure to establish a functioning political and economic system has contributed to

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[27] A. Moorehead, "Human Rights in Afghanistan Following Taliban Takeover," in *Harvard Model Congress*, 2023.

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widespread disillusionment and instability, which further complicates the Taliban's efforts to maintain control over the country.[28]

Challenges Facing the Taliban Government

The absence of a democratic government represents one of the most significant challenges for the newly emerged Taliban regime. The Taliban's refusal to initiate an inclusive government has led to widespread rejection from minority groups, who view the Taliban's rule as exclusionary and oppressive. This lack of political inclusivity has undermined the legitimacy of the Taliban government, as leaders from minority ethnic groups, such as Tajiks, Uzbeks, and Hazaras, remain unwilling to recognize the Taliban's authority.[29]

The swift collapse of the Ghani government and the Taliban's subsequent takeover created an unprecedented crisis, one for which neither the former government nor the international community was prepared. The United States and its allies failed to devise a contingency plan for the rapid deterioration of the situation, leaving a power vacuum that has intensified the challenges for the new regime. These challenges include the lack of international recognition, severe economic instability, the exclusion of minority ethnic groups from governance, and the mounting humanitarian crisis. As the Taliban

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[28] A. Watkins, "The Taliban One Year On," *CTC Sentinel* 15 (2022): 1–15.
[29] Antonio Giustozzi, *The Taliban at War: 2001–2018* (New York: Oxford University Press, 2019), 185.

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struggles to navigate these complexities, its ability to govern effectively and stabilize the country remains highly uncertain.

Legitimacy Challenge

Security recognition and legitimacy from the national and international community is one of the most difficult challenges faced by the Taliban government. Afghan nation, who felt relief in the last twenty years came to an end once again. The country is pushed to ethnic conflicts with the denial of other ethnic groups to be part of

government. Taliban even failed to get recognition from Afghan nation and the neighboring countries.[30]

The Taliban's act of changing country' name from Islamic Republic of Afghanistan to Islamic Emirate of Afghanistan was condemned and criticized by the whole nation. Moreover, Taliban ignored the public demand of keeping the tri color of the national flag instead they changed the flag color. Public was further infuriated with the dissolution of 2004 democratic constitution.[31]

The interim government of Taliban is composed on 33 ministers and few deputies. No constitutional or political structure is yet prescribed by Taliban government. There is complete uncertainty regarding the

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[30] P. H. Sahill, "Dwelling in an All-Male World: A Critical Analysis of the Taliban Discourse on Afghan Women," *Women's Studies International Forum* 98 (May 2023): 102748, Pergamon.

[31] J. B. Murtazashvili, "The Collapse of Afghanistan," *Journal of Democracy* 33, no. 1 (2022): 40–54.

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understanding of division of power among different institutions.[32] After US withdrawal, Taliban again came up with old faces and old political ideology. Seventeen out of thirty three Taliban's government interim ministers are globaly declared terrorist from UN Security Council and CIA. Supreme Leader and Interior Minister of Taliban had bounties on their heads from CIA.

The Constitution of 2004, which recognized 14 ethnic groups has been dissolve by Taliban immediately after coming into power. Taliban act of rejecting the formation of the inclusive government is denial to the recognition of communal existence of other ethnic groups in the country. Afghanistan despite of its multi ethnic nature, occupied by single Pushtoon ethnic group resulted in severe resistance from other ethnic groups. No ethnic group including Tajik, Uzbak and Hazaras has recognized Taliban ruling yet.[33]

Taliban came up with few new faces but with old ruling structure and ideology. They adopted the same pattern of ruling as they implemented in the 1990s.[34] Lack of inclusiveness in their nature, Taliban government faces severe criticism from other ethnic groups. Member from non Pashtoon groups, women, nomads and technocrats were denied to have representation in the interim government.

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[32] Borhan Osman, "The Taliban's Interim Government: Structure and Challenges," *Afghan Analysis* (October 2021), https://www.afghananalysis.org/taliban-interim-government.

[33] T. Wangchuk, *The Elements of Intervention: The Illegal Taliban Government* (2023).

[34] Michael Semple, *The Taliban: Politics, Religion, and the State in Afghanistan* (New Haven, CT: Yale University Press, 2018), 105.

Moreover, Taliban are outdated in their policies. They dissolved the parliament representing fourteen ethnic groups of the country.[35] They dissolved election commission and banned fifty seven political parties from any political activities. They revoked the policy of education for women and declared prohibition on the women education. They also placed ban on women jobs.

Both in capital and in many provinces Taliban showed no tolerance and killed many former officials and beaten to death many international and local journalist for criticism and raising voice against their tyranny. With such rigid behavior by Taliban authorities, severe anguish resulted among common civilians which can have long lasting effects on their future ruling legitimacy. The former Taliban's Justice Minister Noorudin Turabi who has given the portfolio of prisons nowadays has declared that soon the Taliban government would start the punishment of amputation.[36]

In early October 2023 Taliban government closed its embassy in India due to India's non diplomatic approach toward Taliban ruling. Pakistan's interim government has given the ultimatum of November 2023 to Afghan citizen to return to their country otherwise to face harsh consequences. Tajikistan has hosted all former war lords who

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[35] Huma Yusuf, "The Taliban's Retreat on Women's Rights: A Step Backward for Afghanistan," *Foreign Affairs*, August 18, 2021, https://www.foreignaffairs.com/articles/afghanistan/2021-08-18/talibans-retreat-womens-rights.
[36] S. Shafqat, "Pakistan in 2021: End of the Innings for Imran Khan?," *Asian Survey* 62, no. 1 (2022): 173–184.

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are the biggest opponents to Taliban and provided them with diplomatic support to their narrative of National Resistance Front. Recently Tajikistan arranged a meeting of 40 former war lords presided by Ahmad Masoood son of former NRF leader Ahmad Shah Masood in order to formulate strategy for removal of Taliban government. All of the immediate neighboring countries to Afghanistan are not ready to recognize the Taliban due to their authoritarian nature of ruling.[37]

Pakistan share ethnic, religious, historical and territorial vast boundary with neighboring Afghanistan. Peace in Pakistan highly depends on a stable government in Afghanistan. But Taliban has little control over ISIS and TTP who are using Afghan soil for attacking neighboring countries. Moreover, Taliban victory encouraged TTP, which resulted surge in TTP's resurgence and militant activities in Pakistan. After US withdrawal, Afghanistan become safe haven for TTP. Afghan Taliban has closed ties with TTP and remained together in fighting against NATO forces in pre US withdrawal period.[38] Reorganization from close neighbors is crucial for Afghanistan, and if TTP continues to undermine Pakistan's internal stability and break

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[37] Paweł Dałek, "Why Do Neighboring Powers Help? India, China, Russia, and Their Approaches to Development in 2001–2021 Afghanistan," *Stosunki Międzynarodowe–International Relations* 3 (2023): 9.

[38] Z. S. Ahmed, *The Taliban-Led Afghanistan and Transnational Crimes: National and Regional Responses*, in *Global Approaches on State Fragility & Organized Crime* (2023): 225.

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the law, Pakistan will find it very challenging to accept the Taliban's newly established state.

Propagating opposing trends to Taliban by the youngsters of Afghanistan on social media against their oppressive ruling and specially against their decision of declaring Black Abaya compulsory in educational institutes resulted campaign of " # do not touch my clothes", in which the native Afghans and outside world at large are posting their picture wearing traditional Afghan clothes in educational institutes.[39] Hundreds of media journalist were incarcerated by Taliban and their whereabouts are still unknown to anyone.[40] Afghan Taliban are facing severe criticism on social media for their failure of tackling economic crisis, governing problems, health issues, security challenges and education policies.

Reemergence of Taliban resulted reversal of US twenty years efforts of developing political infrastructure and democratic culture in Afghanistan. Diverse Afghan society had been transformed into inclusive pattern of ruling with the installment of Karzyi government by US after 9/11. Present Taliban ruling is not inclusive in nature, rather it is Pashtoon dominated government and the rest of ethnic

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[39] Sami Yousafzai, "Afghan Women Launch #DoNotTouchMyClothes Campaign to Protest Taliban's Black Abaya Rule," *The New York Times*, October 10, 2022, https://www.nytimes.com/2022/10/10/world/asia/afghanistan-abaya-protest-social-media.html
[40] A. Shahzada, "War and Disabilities are Mirrors Facing Each Other in Afghanistan," *Law and Social Policy Review* 1, no. 1 (2023): 85–88.

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groups have no share in it.[41] On the announcement of the interim government nominations of ministers, Gulam Isazi a permanent representative of Ashraf Ghani to United Nations tweeted that 17 out of 33 of Taliban cabinet members are on US sanction list. It seems very difficult as no signs of positive gestures from international community is yet to be noted for the recognition of Taliban government.

Institutional Deformity

Taliban government is composed of three segments, including Military Wing headed by Taliban deceased leader Mulla Omer's son Mulla Yaqoob, Political Branch is headed by Mullah Abdul Ghani Baradir and third segment is Haqani Wing having close links with Pakistan's ISI holding the Ministry of Interior in the interim government.[42]

Severe differences have been surfaced on division of power among political and military wing of Taliban interim government. Mulla Ghani Baradar, a senior Taliban leader and a former head of Taliban delegation for negotiation on US withdrawal from Afghanistan has serious reservation on making military wing the fountain of power in

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[41] S. Price, "Collateral Benefits and the International Community," *The Mediation of Sustainability: Development Goals, Social Movements, and Public Dissent* (2023): 51.

[42] "Afghanistan in 2023: Taliban Internal Power Struggles and Militancy," *Brookings Institution*, accessed January 6, 2025, https://www.brookings.edu/articles/afghanistan-in-2023-taliban-internal-power-struggles-and-militancy/.

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the government.[43] Mulla Baradar believed that the political wing should be given more power, credit and admiration should be given to the political wing for their long-term successful negotiations and discussions with the international community to ensure the peaceful withdrawal of forces composed of US and NATO soldiers. Mulla Abdul Ghani Baradar was dissatisfied with the interim government's composition since it prioritized the security branch over the political branch.

Prominent leaders of military wing in the interim government including Mulla Abdul Qayum Zakir, Mulla Muhammad Yaqoob and Muhammad Ibrahim Sadder and Mullah Muhammad Fazel Malzoom rejected the idea of inclusive government and denied the adaptation of such governmental structure that might reduce the dominant role of military in the country.[44] They believed that inclusive government might sabotage the unity and strength of Mujahideen. The military leaders opposed the idea of welcoming non Pushtooon leaders who had played the US design of ousting Taliban government in 1990's.

There are differences among Haqani and military leadership on the option of inclusive government. Haqani leadership wants inclusive governing pattern and had good relations with former democratic leadership of minorities including former President Hamid Karzye,

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[43] Abdul Sayed, "Divisions in Taliban Leadership: Mullah Ghani Baradar's Reservations on Military Control," *The New York Times*, September 15, 2021, https://www.nytimes.com/2021/09/15/world/asia/taliban-leadership-divisions-ghani-baradar.html.
[44] Ibid

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former Ex Chief Executive Abduallah Abduallah and Senate Chairman Abdul Hadi Muslimyar are the reason of crisis or division in Taliban leadership.Thus, in the initial weeks, the Taliban assigned the most reliable individuals to the most important ministries in order to maintain military wing control over the key ministries.[45]

Severe differences surfaced between Western and Eastern Pushtoons on the domination of political and military power by Western Pushtoon in the interim government. The Eastern Pushtoons have rejected Western dominance. The Haqani group belong to Eastern Pushtoon in interim government while the rest of Pashtoon leader belong to Western Afghanistan.[46]

The Haqani leadership claims of greater sacrifice while defeating US through disastrous role played by Hakani Mujahideen and their suicide squad. Hakani group is lobbying against military and political wing for grabbing more power and demanded more prominent role in the present interim governments.[47]

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[45] Michael Semple, *The Taliban: War, Religion, and the New Order in Afghanistan* (New Haven, CT: Yale University Press, 2018), 183–185.

[46] International Crisis Group, "Afghanistan's Security Challenges under the Taliban," *International Crisis Group*, accessed January 6, 2025, https://www.crisisgroup.org/asia/south-asia/afghanistan/afghanistans-security-challenges-under-taliban.

[47] United Nations Security Council, "Report of the Secretary-General on the Situation in Afghanistan," S/2022/419, April 2022, https://documents.un.org/access.nsf/get?DS=S%2F2022%2F419&Lang=E&OpenAgent=.

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There is a greater diversion among Taliban leadership on the division of power among political and military wing. Political wing of Taliban leadership has claimed of having practical understanding of domestic and international realities due to their stature built in a prolong engagement with international leadership of different nations during peace talk deliberation in Qatar. Whereas, the political wing is of the view that they should have been made influential in matters related to state building.[48]

Security Challenges

Afghanistan is a multi ethnic country mostly ruled by Pushtoons having severe opposition from other ethnicities all the times.[49] Once again ethnic crisis emerged after the reemerging of Taliban as a victorious force after US withdrawal. Islamic State of Khurasan is the opposing militant group, fighting against Taliban in Afghanistan and is consider very detrimental to the hegemony and internal security of the country. The proximity has been rising between non Pushtoon groups and ISK due to failure on the part of Taliban regarding their basic needs.[50] The surge in ISK control upon the Southern Districts of Nagarhar province is detrimental to Taliban ruling in the region.

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[48] Michael Semple, *The Taliban: Afghanistan's Uncertain Future* (New York: Oxford University Press, 2021), 115–117.

[49] Thomas Barfield, *Afghanistan: A Cultural and Political History* (Princeton, NJ: Princeton University Press, 2010), 45–47.

[50] Ahmed Rashid, *Taliban: Militant Islam, Oil, and Fundamentalism in Central Asia*, 3rd ed. (New Haven, CT: Yale University Press, 2022), 275–277.

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for legitimacy and stability

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The reemergence of Taliban as a victorious entity ousted Ashraf Ghani government which resulted the resurgence of opposing forces against Taliban in Afghanistan. National Resistance Front is one the powerful opposing group to Taliban lead by Ahmad Masood, son of deceased Ahmad Shah Masood. The NRF is composed of Sunni Tajik, Sunni Uzbek, Sunni Pushtoon and Shia Tajik and Hazaras ethnicities. The supporting force of NRF is diverse in both rural and urban areas of Northern Afghanistan and specifically in Hirat, Mizar Sharif and Kabul etc. Its surging strength is vital threat to Taliban's hegemony in Afghanistan.[51]

The NRF announced significant strikes against the Talibhan government in the spring of 2022. In January 2022, the NRF also attempted to assassinate Punjshair Security Chief Abdul Hamid Khorasani using a lethal explosive device. NRF is not only a terrorist organization, but also a political opponent of the Taliban administration, with strong ties to foreign politicians, organizations, and intelligence agencies. NRF is the combination of various ethnic groups who are opposing the Taliban in every national and international venue in order to re-ally former friends against the Taliban. Ahmad Shah Masood is working hard to obtain the support of anti-Taliban countries in order to gain military and political power

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[51] Alex Strick van Linschoten and Felix Kuehn, *The Taliban's War on the Afghan Government* (London: Hurst & Company, 2021), 178–180.

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and economic assistance to demolish the Taliaban rule in Northern Afghanistan.

Another vital challenge to Taliban is their failure to integrate the former militia and Afghan National Defense and Security forces which is a serious threat to internal security of the country. Taliban failed while integrating the former Afghan forces trained by US and NATO through modern means and weapons. Taliban has not yet initiated any rehabilitation gesture for the former Afghan forces. Though the former forces has surrendered but lack of rehabilitation approach from Taliban may lead them to earn money to fulfill the needs of livelihood through inappropriate means by joining ISIS, Al Qaida or any other terrorist organization.[52] They might become tools in the hands of foreign conspirators to oust Taliban again and Afghanistan might become breeding ground of ethnic conflicts and civil wars.

After Taliban's takeover of Kabul, Northern Afghanistan specially Fanjshair Valley has become breeding ground of anti Taliban sentiments. Liberation Front of Afghanistan emerged as anti Taliban terrorist organization having vital objective to oust Taliban ruling.[53] LFA believed Taliban are the illegitimate rulers of Afghanistan and has declared war against their unjust rule.

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[52] Antonio Giustozzi, *The Taliban at War: 1994–2012* (New York: Columbia University Press, 2012), 118–120.

[53] Ali Ahmad, *The Rise of Anti-Taliban Movements in Northern Afghanistan* (Kabul: Afghanistan Studies Press, 2022), 122–124.

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Abdul Rashid Dostum, a former war lord's son Yar Mohammad Dostam has formed anti Taliban group namely Wolf Unit has declared war against the Taliban.[54] He claimed huge support from the people of Afghanistan's Jowzjan province, and it is worth noting that he also led the defense of the same province's main city, Sheberghan, during the Taliban invasion in summer 2021, before being forced to retire and flee to a neighboring country.

After the fall of Kabul into the hands of Taliban resulted the formation of National Front for Free Afghanistan in Kapisa province of the country. This is an anti Taliban group who has declared war against Taliban since 2021.[55] It is important to disclose that this group is backed by massive support from native people of the province.[56] This group has secured support from both Pushto and Dari language speakers.

Turkistan Freedom Tiger is another anti-Taliban force that has stayed more active than other resistant groups, hitting Taliban checkpoints and convoys numerous times after the US withdrawal, causing massive damage to the Taliban.[57]

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[54] Mohammed Iqbal, *Dostum's Return: The Wolf Unit and the Fight Against the Taliban* (London: Routledge, 2023), 110–113.
[55] Sara Faiz, *The National Front for Free Afghanistan: Resistance and Struggle Against Taliban* (Kabul: Afghan Resistance Studies, 2021), 87–90.
[56] Ibid
[57] Khadija Noor, *Ethnic Militancy and Resistance: The Case of Turkistan Freedom Tiger in Post-Taliban Afghanistan* (Peshawar: Peshawar University Press, 2022), 134–136.

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Al-Qaida and Tehreek-e-Taliban are a serious challenge for internal as well as for regional security. These terrorist groups are serious challenge for interim government of Taliban as TTP's intrusion and involvement in massive terrorist activities in Pakistan compelled Pakistan to adopt harsh policies against Afghanistan.[58] Tension between Taliban and Pakistan government over TTP is growing day by day.[59] Pakistan ultimatum regarding ousting of Afghan citizens is the outcome of terrorist organization enjoying safe haven in Afghanistan.

Governance Challenges

Taliban is facing governence challenges on various fronts. They revoked the former democratic setup but failed to provide alternative structure for governing. Educated and professional people feel severe threats to their lives under Taliban leadership. Thousands of professionals have fled to Europe and neighboring countries after Taliban occupation of Kabul in 2021.[60] The exodus of professional in large numbers is serious setback for interim government of Taliban.[61]

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[58] Agha Zia, *The Role of Al-Qaida and Tehreek-e-Taliban in Afghan Conflict: Implications for Regional Security* (Islamabad: Strategic Studies Institute, 2023), 45–47.

[59] Y. Y. Mehlman and J. H. Hess, "A Comparative Analysis of the Afghan Taliban and the Tehrik-e Taliban Pakistan Ideologies Following the 2021 Takeover of Afghanistan," *Global Security & Intelligence Studies* 7, no. 2 (2022).

[60] Barnett R. Rubin, *The Fragmentation of Afghanistan: State Formation and Collapse in the International System* (New Haven, CT: Yale University Press, 2002), 325–326.

[61] A. Herlambang, "The Fate of Internally Displaced Persons of Afghanistan in the Wake of the Afghanistan Conflict," *Central European Management Journal* 31, no. 3 (2023): 1–9.

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Lack of professionals has made it quite impossible to ensure balance policies and smooth governance of state institutions.

The pivotal concern right now for Taliban is how to manage fiscal and financial management system of the country. Lack of governing structure is the biggest issue facing by the Taliban right now, having no taxation system, or any professional staff in the institutions. All the professional staff working in pre US withdrawal had either left the country or have adopted other means for earning which has resulted in a governing gap in the country.[62]

In previous two decades, America used to provide 80% of the annual budget of Afghanistan. With Taliban's takeover of Kabul, rapid decline occurred in import and exports. All foreign investors have withdrew their investment and no national as well as international companies are ready to invest in Afghanistan which is severely devastating for governing machinery of the country.Economic insecurity, poverty and food scarcity has reached to high level due to lack of proper governing structure in the country.[63]

Taliban government is still entangled to comprehend the power sharing issues between different stakeholders and have not yet started to focus on the governing issues. Almost three years has been passed

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[62] Thomas H. Johnson and M. Chris Mason, *The Afghanistan-Pakistan Border: The Great Game and Beyond* (Washington, D.C.: The Brookings Institution Press, 2012), 102–104.
[63] M. Y. A. Kadir and S. Nurhaliza, "State Responsibility of Afghanistan Under Taliban Regime," *Jurnal Media Hukum* 30, no. 1 (2023): 1–20.

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and Taliban core attention is still on power sharing issue rather than governing issue.[64] If proper governing cycle is not restored on immediate basis, it will have worse repercussions for the country.[65]

Might is right concept is very common nowadays in Afghanistan. There is no proper judicial system in Afghanistan. Despite giving general amnesty, Taliban military executed former leaders of opposing ethnic groups.[66]

Comprehending Human rights issues are far beyond the understanding of Taliban government. Rigid interpretation of Islamic teaching is the point of contradiction between Taliban and western society.[67] A generation has been sprout in the last two decades, believing in Western culture as a path toward progress in democracy and domestic life. Today, Afghanistan is totally different from the one left by Taliban in 2001.[68] The modern Afghanistan is not ready to accept the orthodox and conservative approach of Taliban interm government. It is impossible to mould the modern mindset in

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[64] M. F. Khan, A. Hassan, and A. Raza, "Humanitarian Crisis in Afghanistan: Changing Global Dynamics and Pakistan's Policy Choices," *Asian Journal of Comparative Politics* (2023): 20578911221148520.

[65] Vanda Felbab-Brown, *The Taliban's Return to Power and the Challenges of Governance* (Washington, D.C.: Brookings Institution Press, 2022), 72.

[66] A. Baczko, *The Taliban Courts in Afghanistan: Waging War by Law* (Oxford: Oxford University Press, 2023).

[67] Ayesha Siddiqa, *Military Inc.: Inside Pakistan's Military Economy* (London: Pluto Press, 2007), 50.

[68] F. Yousaf and M. Jabarkhail, "Afghanistan's Future Under the Taliban Regime: Engagement or Isolation?," *Journal of Policing, Intelligence and Counter Terrorism* 17, no. 1 (2022): 117–134.

conservative way, people are reacting against the orthodox ruling of the Taliban.

Taliban is reacting very harshly against minorities' protests, which is making the situation even worse in the country.[69] Ban on female education and revoking the liberty of jobs for female has resulted in severe hate among citizens for Taliban. The most dominated trends on social media is showing frustration among citizens specially in educated citizens against Taliban ruling.[70] With the emergence of Taliban victorious against all opposing groups open new chapter for people to envisage their future, few would have imagined that the new setup will bring prosperity, peace and progress.

Conclusion

Afghanistan, with its deeply rooted ethnic diversity, has experienced significant challenges in the wake of the Taliban's resurgence to power in 2021. The multi-ethnic nature of the country has exacerbated tensions between the Pashtun-dominated Taliban and minority ethnic communities. The Taliban's failure to implement policies addressing the needs and rights of minority groups has played a central role in heightening ethnic divisions and creating significant barriers to

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[69] Antonio Giustozzi, *Killing the Camel: Afghanistan and the Impact of Taliban Policies* (London: Hurst & Company, 2015), 214–216.

[70] I. Islam and S. M. Mostofa, "State Fragility, Violent Extremism, and Future of Afghanistan," in *Dynamics of Violent Extremism in South Asia: Nexus between State Fragility and Extremism*, ed. [Editor's Name] (Singapore: Springer Nature Singapore, 2023), 173–189.

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governance. By adopting a centralized form of governance that excludes key ethnic groups, the Taliban has reversed the progress made in political inclusivity, leading to widespread resentment among non-Pashtun communities.

The exclusionary nature of the interim Taliban government, which is predominantly Pashtun, has resulted in severe social, economic, and political challenges. Minorities have been systematically denied access to political institutions, resulting in a deprivation of their basic rights, including access to healthcare, education, and employment opportunities. The lack of a constitution and the failure to ensure equitable power distribution have further entrenched governance issues and institutional dysfunction. This lack of inclusivity has not only deepened domestic ethnic conflict but also damaged the legitimacy of the Taliban government, both nationally and internationally. Additionally, Afghanistan's ongoing humanitarian crisis, exacerbated by years of conflict, natural disasters, and the collapse of the economy, further complicates the Taliban's ability to govern effectively.

In order to overcome these multifaceted challenges, the Taliban must take significant steps toward fostering inclusivity and ensuring the fundamental rights of all citizens, regardless of gender or ethnicity. Adopting a more inclusive and balanced approach to governance, grounded in a constitution that respects the will of the people, will be essential for restoring peace and stability in Afghanistan. By doing

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so, the Taliban could potentially gain greater recognition and legitimacy from both domestic ethnic groups and the international community, while also addressing the country's dire humanitarian needs. A shift toward a more moderate political system, which respects individual rights and the rule of law, is crucial to achieving long-term peace and prosperity for the Afghan people.

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

Maraj Alam
Advocate High Court, LLM, College of Law GC University Faisalabad.
Advocate High Court
Email: marajqadir06@gmail.com

Muhammad Usman
Advocate High Court, LLM, College of Law GC University Faisalabad.
Email: muhammadusman82643@gmail.com

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

Maraj Alam
Advocate High Court, LLM, College of Law GC University Faisalabad.
Advocate High Court
Email: marajqadir06@gmail.com

Muhammad Usman
Advocate High Court, LLM, College of Law GC University Faisalabad.
Email:muhammadusman82643@gmail.com

Abstract

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

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

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

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

Introduction

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

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

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

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

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[2]M. M. Asghar, Yasmin Roofi, Sarfaraz Batool and Muhammad Rauf, "Sectarian Diversity in Gilgit-Baltistan and Role of Successive Governments in Resolving the Conflict and Improving Harmony within the Region," PalArch's Journal of Archaeology of Egypt (2020).
https://scholar.google.com/citations?view_op=view_citation&hl=en&user=IX_u OvUAAAAJ&citation_for_view=IX_uOvUAAAAJ:3fE2CSJIrl8C

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

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

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

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

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

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

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residents, addressing their longstanding grievances and ensuring constitutional and socio-political stability.[4]

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

Historical development in the Status Quo of Gilgit-Baltistan

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

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

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[4]Review of *State Subject Rule*. 1927. https://www.satp.org/satporgtp/countries/india/states/jandk/documents/actsandordinances/State_Subject_Rules.htm.

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

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

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[6] Singh 1995,p.30,New Delhi

[7] FM Hussain, the northern gate of India, p. 150

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

[9] Pushpam, Akshat , and Ramesh Kumar. Review of *Strategic Importance of
Gilgit - Baltistan in India's
NeighborhoodForeignPolicy*. *ResearchGate*,(October), 2021.
https://www.researchgate.net/publication/363611069_Strategic_Importance_of_G
ilgit_-Baltistan

[10] ICG,Asia Report 31, 11 2007 p. 3

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

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

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

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

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

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

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

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[13] Javaid Shaheen Sardar, and Rehman Ali. "Indigenous Peoples and Ethnic Minorities of Pakistan: Constitutional." *Taylor & Francis*. Taylor & Francis, February 1, 2013.
https://www.taylorfrancis.com/books/mono/10.4324/9780203824344/indigenous-peoples-ethnic-minorities-pakistan-shaheen-sardar-ali-javaid-rehman
[14] UNSC Resolution 38, 39, 47, 51 (1948), 229th, 230th, 286th, 312th meetings of the Security Council.

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

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

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[15] Karachi Agreement between Pakistan and Azad Jammu and Kashmir (AJK), 1949.

[16] Singh, Priyanka. *Gilgit Baltistan: Between Hope and Despair - IDSA*. Institute for Defence Studies and Analyses, 2013. Last modified 2013. https://www.idsa.in/monograph/GilgitBaltistan_psingh

[17] Hermann Kreutzmann, "Kashmir and the Northern Areas of Pakistan: Boundary-Making along Contested Frontiers," Erdkunde 62, no. 3 (2008). https://www.erdkunde.uni-bonn.de/article/view/2611

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representatives in the Majlis-i-Shura (National Assembly) were granted observer status only.[18]

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

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

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[18] Jamil Nagri and Tariq Naqash, "Almost' Pakistan: Gilgit-Baltistan in a Constitutional Limbo," Dawn, 2015, https://www.dawn.com/news/1198967.
[19] Parliament. Northern Areas Legal Framework Order 1994.

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Assembly, and the ability to amend the Legal Framework Order was eliminated. [20]

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

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

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[20] Parliament. Empowerment and Self-Governance Order 2009
[21] PLD 2019 Supreme Court of Pakistan PARA 18.

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1947	Frontier Crimes Regulations (FCR) implemented
1949	Karachi Agreement GB administration to federal government.
1950	Ministry of Kashmir Affairs and NA created Affairs of NA handed 0ver to the Ministry of Kashmir Affairs and NA (KANA).
1952	Political Resident was Appointed who have excessive legislative, judicial and administrative powers over NA.
1967	Political Agents appointed KANA and inherit powers of the High Court and Revenue Commissi0ner to the Resident and app0inted two Political Agents for two divisions.
1970	Established Advisory Council for Northern Areas Council included 21 members headed by resident as chairman.
1975	The Advisory Council for NA was replaced by Northern Areas Council Framework Order 1975, Jagirdari nizam and FCR was abolished.
1977-1988	Zia-ul-Haq's rule dividing the Northern Regions into three districts. Declared martial zone and representation in Majlis-i-Shora as observer status.
1988	Prime Minister Benazir Bhutt0 reforms in GB by replacing two advisors with the NA Council.

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

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

Ambiguity in current status of Gilgit Baltistan

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

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

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

[23] Ehsan Mehmood Khan, "Constitutional Status Of Gilgit- Baltistan: An Issue of Human Security,"
https://margallapapers.ndu.edu.pk/site/issue/download/12/128

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

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

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[24] Ibid

[25] Government of Gilgit-Baltistan Order, 2018. n.d. Vol. section 60(3,4). https://gilgitbaltistan.gov.pk/storage/downloads/J5bZOpu8knGg1TJybOLGj DqZsJfCvW-metaR0IgT3JkZXIgMjAxOC5wZGY=-.pdf.

[26] AJ&K Interim Constitution, 1974. n.d. Vol. section 33 ,34. https://ajkassembly.gok.pk/wp-content/uploads/2022/04/Act-1974.pdf.

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

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

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[27] Ibid

[28] In the judicial system of GB, the appointment of judges, even at the apex courts we have seen practically is based on religious base always in ratio rather than merit. An interesting provision in the 2018 order states that the Chief Justice of the Supreme Appellate Court(SAC) must be a retired judge from the Supreme Court of Pakistan or a retired Chief Justice from the High Court of the Islamic Republic of Pakistan, as specified in section 75(7) of the 0rder. Unfortunately the citizens cannot be judges in other provinces due to disputed status of territory but people of other provinces can be a chief justice in disputed territory without any hurdle, Instead of that the Chief Justice and judges of the SAC is appointed based on seniority basic from chief court as in other courts of Pakistan, under the Constitution of Pakistan. These controversial clauses in the GB governance order of 2018 have faced strong opposition from the people, as they are deemed unacceptable. See, Parliament. Gilgit-Baltistan Governance Order 2018. Vol. PART. XI-THE JUDICATURE section 75.

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

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

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[29] Pakistan. 1954. The Pakistan Citizenship Act, 1951. Act No. II of 1951.
[30] Yasir Abbas, "Governance of Gilgit Baltistan: Issues and Solutions" (Research Society of International Law, October 2022). https://rsilpak.org/2022 /governance-of-gilgit-baltistan-issues-and-solutions/
[31]Tariq Naqash, "AJ&K Govt Opposes Moves to Convert GB into Province," Dawn, 2016. https://www.dawn.com/news/1232018

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Pakistan. Secondly the people of Kashmir living abroad are considered as pure citizens of Pakistan. [32]

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

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[32] *Citizenship Act*. 1951. Vol. section 8 and 14-B.
[33] Hyder, Wajiha. 2018. "The Award and the G-B Problem | Special Report
https://www.thenews.com.pk/tns/detail/566553-award-g-b-problem.
[34] Ibid
[35]Khan, Naimat Ullah. 2019. "Vertical Distribution of Divisible Pool of NFC
Award for Azad Jammu Kashmir (AJK)
and Gilgit-Baltistan (GB)." December 31, 2019.

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Decisions of Apex courts on GB status

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

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https://www.researchgate.net/publication/341105864_Vertical_Distribution_of_Divisible_Pool_of_NF   C_Award_for_Azad_Jammu_Kashmir_AJK_and_Gilgit-Baltistan_GB

[36] Al-Jehad Trust Case Paragraph 16 Supreme Court (PLD 1999,1379). http://nasirlawsite.com/historic/aljihad.htm

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through on these recommendations, citing various reasons over the years.[37]

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

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[37] Ibid

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

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

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

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[39] Review of *GB Constitutional Status Case.* 2019.
https://www.supremecourt.gov.pk/downloads_judgements/Const.P._50_2018.pdf
[40] 1993. AJK High Court.

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Jammu and Kashmir, it is not a part of AJK. Therefore, the federal government was not obligated to follow the direction to transfer administrative control of GB to AJK. This legal conflict highlights the complex and contradictory nature of GB's status, as various judicial bodies and political actors present divergent views on its future and its relationship with both Pakistan and AJK.[41]
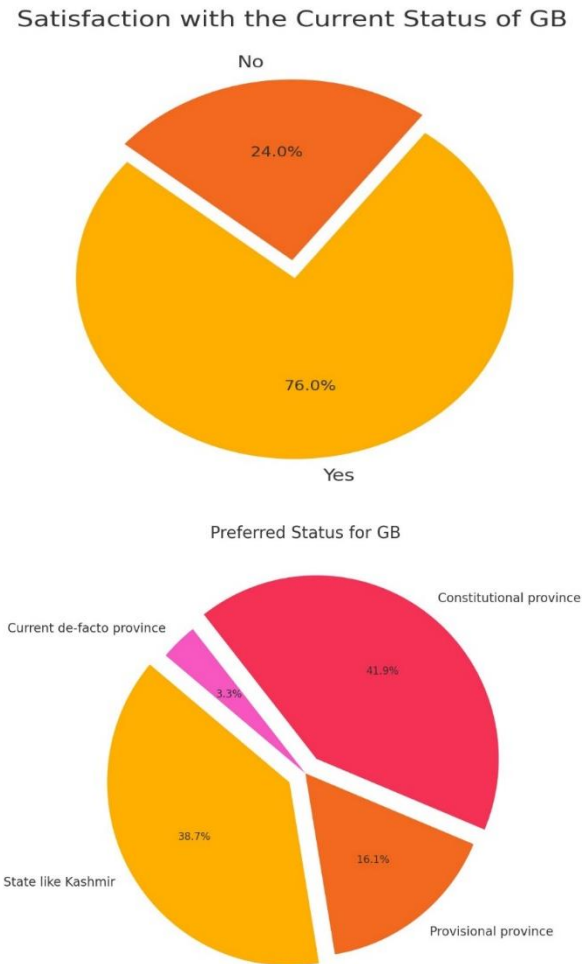
The decisions of the Apex courts of Pakistan and AJK reveal the ongoing ambiguity surrounding the constitutional status of Gilgit-Baltistan. Despite clear judicial rulings affirming the rights of the people of GB and calling for their integration into Pakistan's constitutional framework, political and legal obstacles persist, preventing any meaningful change. The failure to implement these rulings has left the people of GB in a state of uncertainty, with no clear path toward achieving the political and constitutional rights they have long been promised. As the legal and political discourse surrounding GB continues, it remains to be seen whether the federal government will take concrete steps to resolve the region's ambiguous status in accordance with the directives of the Apex courts. [42]

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[41] Samuel, Northern Area, jackboot pp 147-67
[42] Gilgit-Baltistan Tribune, History & Dispute http://gbtribune .blogspot.in/ p/ historydispute.htm

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Public Survey about GB Status Quo

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

Satisfaction with the Current Status of GB

Preferred Status for GB

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Opinion on Reforms (Order 2018) for Future Legal and Constitutional Development of GB
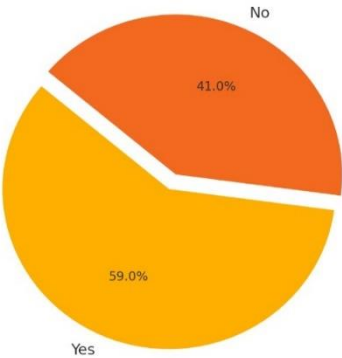
Satisfaction with the Power of GB Assembly

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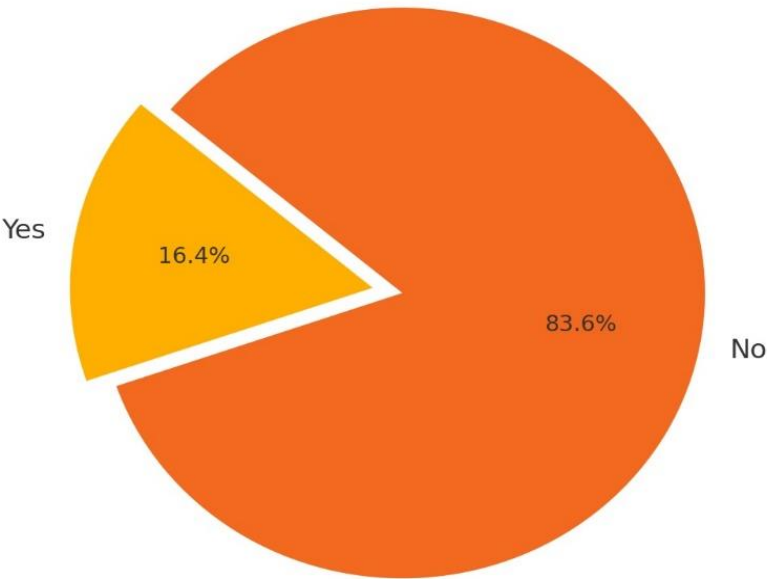
Preference for GB Representatives in Parliament and Constitutional Bodies
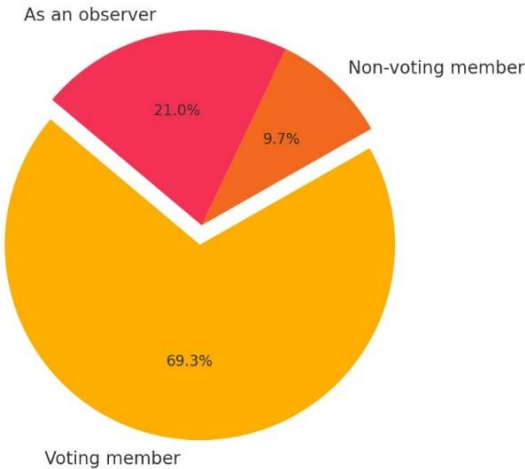
Recommendation for GB to Be an Independent State

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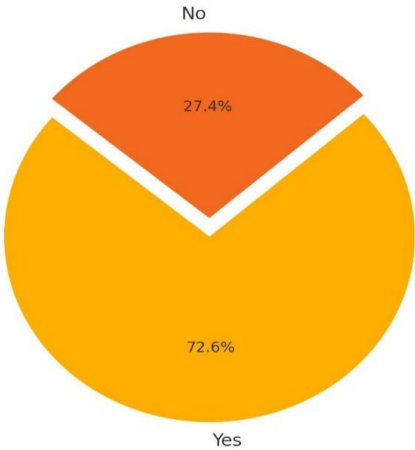
Willingness to Wait for Rights Till the Solution of Kashmir Issue

No 67.2%

Yes 32.8%
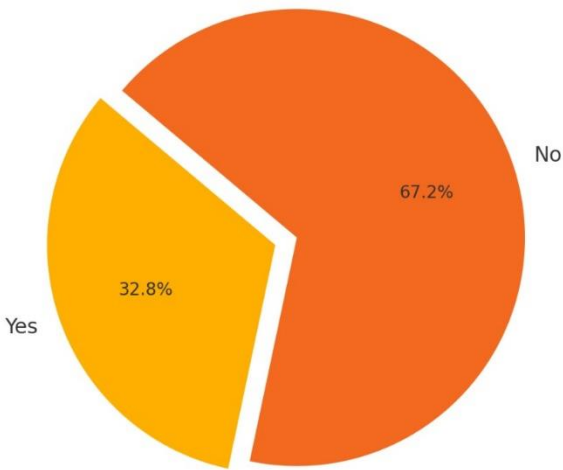
Opinions on GB Being Part of Kashmir (AJ&K) After Resolution

It would not be possible to merge 40.3%

It would be acceptable 21.0%

It would be not acceptable 38.7%

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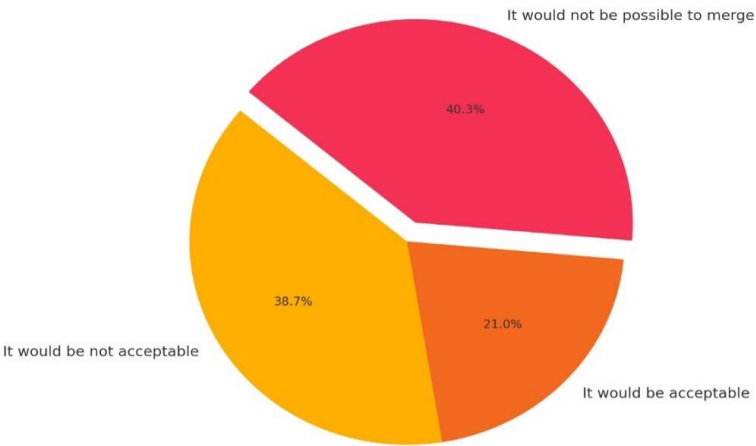
Impact of Bringing GB into Constitutional Framework on Kashmir Issue
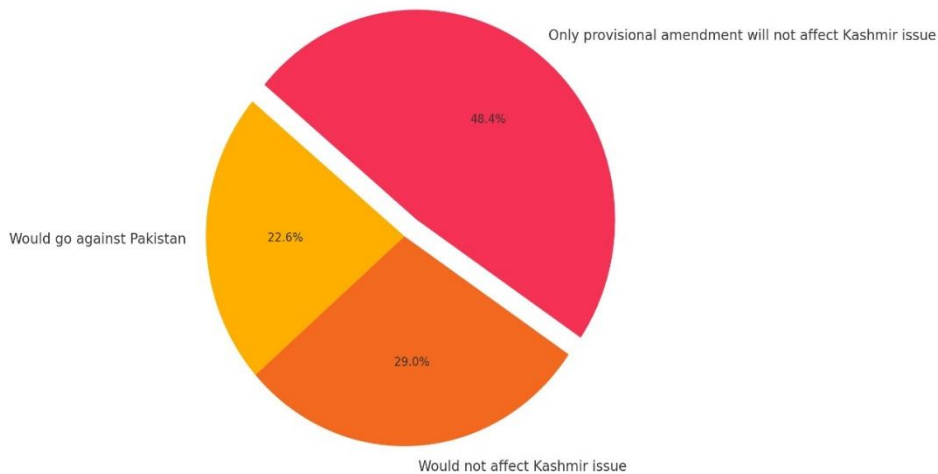
Satisfaction with the Appointment Procedure in GB Judiciary and High Officials
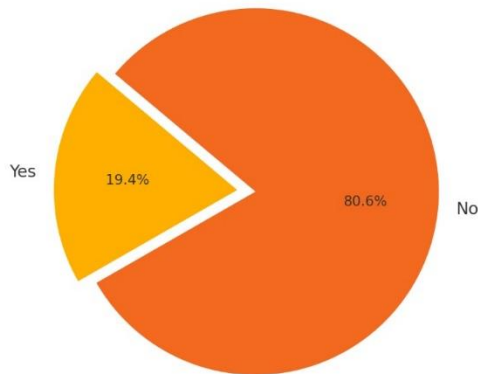
In view of the persistent challenges surrounding the constitutional status of Gilgit-Baltistan (GB), the following recommendations aim to address the grievances of its people by resolving legal, political, and administrative ambiguities while safeguarding their interests and

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ensuring equitable representation in Pakistan's governance framework.

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

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

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

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

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

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

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

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

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

Conclusion

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

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

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

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

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

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

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

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

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

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Modernization vs Preparedness: Indian Armed Forces in a transforming Military Landscape

Abdul Basit
Associate Research Officer at the Centre for International Strategic Studies AJK

Syeda Tahreem Bukhari
Associate Director CISS AJK

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Modernization vs Preparedness: Indian Armed Forces in a transforming Military Landscape

Abdul Basit
Associate Research Officer at the Centre for International Strategic Studies AJK

Syeda Tahreem Bukhari
Associate Director CISS AJK

Abstract

The Indian government's efforts in military modernization are shaped by a complex geopolitical environment, influenced by doctrinal shifts such as the Sunderji Doctrine, the Cold Start Doctrine, the Joint Armed Forces Doctrine, and the Land Warfare Doctrine, which collectively reflect India's commitment to offensive realism. These shifts contribute significantly to regional security dynamics, particularly in light of India's strategy of preparing for a potential two-front war. Under Prime Minister Modi's leadership, India's offensive military strategy has been reinforced by policies such as the Defense Procurement Procedure and the Make in India initiative, aimed at structural transformation within the defense sector. However, these initiatives have had limited impact on improving the operational preparedness of the military. This paper critically examines the challenges facing India's defense sector, including

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dissatisfaction within the armed forces over inadequate defense budgets, political sensitivities, the implications of the Russia-Ukraine conflict on defense partnerships, concerns over obsolete weaponry, and the readiness of the armed forces. These challenges raise crucial questions about whether the Indian armed forces can effectively perform in a high-stakes conflict, even if the military modernization goals are fully realized.

Keywords*: Military Modernization, India, Offensive Realism, Sunderji Doctrine, Cold Start Doctrine, Defense Procurement Procedure, Geopolitics.*

Introduction

The Indian government views military modernization as a key component of national security and a means to enhance the capabilities and readiness of the armed forces. Military modernization drive started on the pretext of emerging geo-strategic environment. Owing to its offensive approach, India aims to get itself prepared for a two front war. The Indian government has outlined its vision for military modernization in several key policy documents, such as the Defense Procurement Procedure (DPP), the Defense Production Policy, and the Defense Production and Export Promotion Policy. According to these documents, the objective of Indian military modernization is to ensure that the armed forces are equipped with the latest weapons, equipment, technology, and are capable of fulfilling the country's defense needs in a rapidly changing security

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environment. The Indian government emphasizes the importance of indigenous defense production and the development of a robust defense industrial base in order to reduce dependence on foreign suppliers and increase self-reliance. The Indian government's approach to military modernization is guided by the principle of Make in India drive started in September 2014[1] with aim to promote the development of a strong domestic defense industry and encourage the participation of private sector companies in the defense production sector. Later on, re-designated as "*Atma Nirbhar Bharat*" in May 2020 amid Russia-Ukraine war.[2] The Covid-19 and Russia-Ukraine war has affected the economy worldwide that has implications for India too as Russia is one of the major defence partners of India. India's strive for military modernization has implications for South Asian region as it creates security dilemma in the neighboring states. The purpose of this research is to evaluate Indian ambitions for military modernization drive. This research highlights how lack of commitment, obsoleteness of Indian weapons, Russia-Ukraine war, and Indian economic potential have implications for India to achieve their objectives. Moreover, the modernization drive by India

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[1] PMINDIA , *PM launches 'Make in India' global initiative*, (India, 2014), https://www.pmindia.gov.in/en/news_updates/pm-launches-make-in-india-global-initiative/.

[2] Sumana Nandy, "PM Modi's Push for Atmanirbhar Bharat with Reference to Russia-Ukraine War in Victory Speech," *India Today*, March 10, 2022, https://www.indiatoday.in/india/story/pm-modi-push-for-atmanirbhar-bharat-with-reference-to-russia-ukraine-war-in-victory-speech-1923951-2022-03-10.

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highlights its offensive approach towards South Asian region in pursuit of becoming regional hegemon.

Devious Warfare (*Kutayuddha*)

Indian Military Modernization drive can be better explained under the concept of Kutayuddha (Devious Warfare) forwarded by Chanakaya Kautilya in his famous book Arthashastra. The concept of Kutayuddha is based on self-aggrandizement and professing the neighbors with lens of hostility.[3] It particularly targets Pakistan and China; the neighbors of India who are taken as enemy. Indian self-aggrandizement is to pursue hegemonic ambitions and prepare itself for two front war. To achieve the target it is working on devious warfare through military modernization drive. As per Kautilya, Kutayuddha refers to form of warfare where deceitful tactics including conspiracy, spells, charms, and other lethal weapons were used against the enemy.[4] India's subsequent false flag operations against Pakistan such as Balakot strike, surgical strikes 2016, and the Brahmos Missile incident appear to be inspired by Kutayuddha in which striking the adversary in stealth and silence is considered as an honorable method.

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[3] Col Harjeet Singh, "The Kautilya Arthaśāstra a Military Perspective," *Manekshaw Papers*, no. 38 (2013), https://www.claws.in/static/MP38_The-Kautilya-Arthasastra-A-Military-Perspective.pdf.

[4] Sandeep Balakrishna, "The Hindu Code of War Ethics and Jihad," The Dharma Dispatch, last modified October 6, 2018, https://www.dharmadispatch.in/culture/the-hindu-code-of-war-ethics-and-jihad.

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Doctrinal Shifts in Indian Military Modernization Drive

The defeat in 1962 war was the first to draw Indian attention towards modernization and expansion of its military. Later on during the 1980s the Indian military General Sunderji came up with the first military doctrine. In accordance to this doctrine seven defensive 'holding corps' with relatively limited offensive power, were deployed near Pakistan's border while Indian Army retained its offensive capabilities in the 'Strike Corps' made up of mechanized infantry. Since then, India has remained in the process of doctrinal transformation, the Sundarji doctrine, Cold Start Doctrine, Joint Doctrine (Indian Armed Forces), and Land Warfare doctrine all aim at launching an offensive against Pakistan. To supplement India's ambitious aims in the region, India has frequently introduced innovative war-fighting doctrines. The Indian military's aggressive approach towards the region reflects India's adherence to the principles of offensive realism. Indian military modernization proceeded with the doctrinal shift from Sunderji's Doctrine of deeper thrusts to the Cold Start Doctrine, which India continuously denied until openly announced in 2020 by the Chief of Army Staff. Indian Armed forces in the pursuance of its military modernization geared up with subsequent doctrines, Joint Armed Forces Doctrine in 2017 followed by Indian Army Land Warfare Doctrine in 2018.[5]

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[5] Joy Mitra, "India's Land Warfare Doctrine 2018: Hoping for the Best, Preparing for the Worst," *The Diplomat*, January 3, 2019,

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Joint Doctrine of Indian Armed Forces 2017

Joint Doctrine of Indian Armed Forces (JDIAF) 2017 essentially acts as the bedrock for coaction of the three services of the Indian military. The doctrine grounded on a continental view of threats approach. It further focuses on the impending conflict environment varying from nuclear to all other sources of conflict.[6] The defining premise of this doctrine is establishing an offensive mode against prime foes, China and Pakistan. The very features of the JDIAF depict a typical Hindutva mindset inspired by Modi led BJP regime, eyeing hostility with the immediate neighbors. The Kautaliya's *Arthshastra* provides empirical substantiation of creating animosity against the neighbors by employing *Kutayuddha* (devious warfare) as a preferred mode of warfare for self-aggrandizement.[7] The doctrine has also endeavored to further deepen the nuclear arms race in the South Asia by modifying the concept of credible minimum deterrence to credible deterrence. It also brazenly vows to militarize space and other battle domains such as cyber warfare.

The concept of Theatre Command is part of JDIAF, introduced by Gen. Bipin Rawat Chief of Defence Staff in January 2020. It

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https://thediplomat.com/2019/01/indias-land-warfare-doctrine-2018-hoping-for-the-best-preparing-for-the-worst/.

[6] Ankit Panda, "India's 2017 Joint Armed Forces Doctrine: First Takeaways," *The Diplomat*, April 28, 2017, https://thediplomat.com/2017/04/indias-2017-joint-armed-forces-doctrine-first-takeaways/.

[7] Col Harjeet Singh, "The Kautilya Arthaśāstra a Military Perspective," *Manekshaw Papers*, no. 38 (2013), https://www.claws.in/static/MP38_The-Kautilya-Arthasastra-A-Military-Perspective.pdf.

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conceptualizes the phenomenon to integrate the potential of the three war domains (army, air force, and navy) of the Indian armed forces. The idea of theatre command aims to utilize the resources of either domain of warfare with specific units placed under the Theatre Commander who will be an officer from either the Army, Navy, or Air force. The string of reforms process initiated take account of the establishment of a new department of military affairs under MOD and the appointment of the Chief of Defense Staff. Moreover, it aims to restructure military operational setup into theatre command embracing Integrated Battle Groups. The concept of IBGs is to assimilate the energies of the three domains of warfare (Land, Air & Sea) for Operational, Intelligence, and Logistic support.[8] As India is integrating three forces of different domains together, working along each other would endure cooperation challenges for the forces from three domains. It might create mess and haphazardness in Indian forces.

Land Warfare Doctrine 2018

The Land Warfare Doctrine (LWD) 2018 is an extension of the Indian military strategy based on a wide range of threats. The striking features of this doctrine can be summarized into three groups: the multi-front environment, hybrid warfare (contact or non-contact

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[8] Maj Gen JKS Parihar, "Integrated Battle Groups in Armed Forces: Gain and Concern," *The Daily Guardian*, January 16, 2023, https://thedailyguardian.com/integrated-battle-groups-in-armed-forces-gain-and-concern/.

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confrontation) and the introduction of new technologies in the battle. The doctrine pursues the aims of a quick, swift, and forceful limited war alongside agile forces and Integrated Battled Groups to carry out limited incursions below the nuclear threshold of Pakistan. The doctrine pigeonholes the Pakistani border for the swift damages imposition. These aggressive doctrines are going to threaten the already volatile stability of South Asia region.[9]

Indian Military Modernization

To supervise military modernization drive, Gen. Bipin Rawat was appointed as the first Chief of Defence Staff of the Indian armed forces on January 01, 2020. His charter of duty was the creation of theatre command within the next three years. Gen. Narvane succeeded him as Chief of Army Staff with having an ample experience of doctrines and war concepts. The seat of Chief of Defence Staff remained vacant for nine months after the death of Gen. Bipin Rwat.[10] It depicts lack of commitment towards Indian military modernization drive. Till January 2023, on the completion of the defined time period to form theater command, there was nothing significant to showcase. However, under phase-I India has now

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[9]Yasir Hussain, "India's Pakistan-Specific Land Warfare Doctrine: An Overview," *South Asian Voices*, March 15, 2019, https://southasianvoices.org/indias-pakistan-specific-land-warfare-doctrine-an-overview/.

[10] "New Chief Of Defence Staff (CDS) Is Lt General Anil Chauhan (Retired)," *NDTV*, September 28, 2022, https://www.ndtv.com/india-news/lt-general-anil-chauhan-retired-is-named-chief-of-defence-staff-nine-months-after-bipin-rawats-death-3385802.

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carved out two Integrated Battle Groups from nine Corps against Pakistan, while in phase-II, on eastern border five IBGs created from 17 Mountain Strike Corps against China.[11]

India has announced the creation of three Integrated Theatre Commands that would be functional by 2025. However, defense analysts, retired and serving military commanders have differing views on the creation of ITCs. Former Chief of Army Staff General Naravane emphasized about the clearly articulated National Security Strategy is pertinent for the formation of theaterisation. He further suggested the formation of Higher Defense Organization (HDO) to connect government with Integrated Theater Command. After the establishment of HDO and NSS, India could start thinking about theaterisation.[12] Though Naravane was the one who frequently endorsed the need of theaterisation and boasted the progress India is making in process of theaterisation. While, his successor COAS General Manoj Pande in same occasion took a contrary stance to that of Naravane. He highlighted the readiness of Army towards theaterisation and supportive of efforts towards creating Integrated Theater Commands. Though the majority supported General Naravane's top-down strategy for establishing costly joint service

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[11] Rajat Pandit, "New government to decide on Army's integrated battle group plan," *The Times of India*, June 10, 2024, https://timesofindia.indiatimes.com/india/new-government-to-decide-on-armys-integrated-battle-group-plan/articleshow/110854869.cms.

[12] Rahul Bedi, "Why General Naravane's Criticism of Approach To Integrated Theatre Commands Is Significant," *The Wire*, January 6, 2023, https://thewire.in/security/general-naravane-theaterisation-criticism-significance.

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commands that would permanently change the makeup of the armed forces. It appears that the administration chose the ITCs without conducting enough research, consultation, or laying the groundwork for them. Moreover, the matter of the operational control over the theatre command is also posing concerns among the tri-services. There are also apprehensions regarding assets division among the theatre commands. Such as, IAF has only 21 operational squadrons while the requirement is of 42 forcing it to struggle in its fulfilling of Station command's operational hardware requirement. Army would have more operational superiority amid its presence in all domains of war. It appears to be collectively hobbled by hierarchical inter and intra services rivalries, conflicts of interest as well as personal choices. Competing interests make it difficult to resolve this critical concern swiftly. The recent halt in the instituting of ITC by the Chief of Defence staff General Anil Chauhan substantiates the presence of tug of war surrounding the overall operational control of the proposed formations.[13] The measures taken by Modi government under the modernization drive has further complicated the process. As per new rules, Defence Secretary leading Department of Defence would be serving as a linchpin for inter-departmental co-ordination. Chief Defence Staff, being senior to the Defence Secretary has to report to him. The rank consciousness has created a clash between the two. It

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[13] "What's Holding Back the Military's Plan to Institute Integrated Theatre Commands?," *The Wire*, https://thewire.in/government/whats-holding-back-integrated-theatre-commands-plan.

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is noted that the meetings called by Defence Secretary are not attended by CDS, preferred to send his representative.[14]

Russia-Ukraine War Implications for Indian Military Modernization Drive
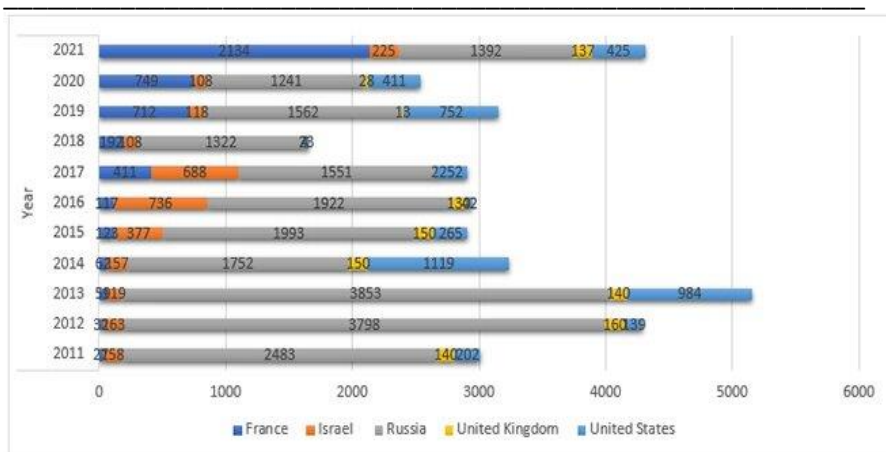
Indian Military Modernization drive used to be heavily dependent on Russia due to their defence ties and strategic alignments that started from the Cold War era. Their partnership deepened particularly after Sino-Soviet ideological clash. Russia later on proved to be an ideal defence partner of India due to the affordable pricing, requisite training, supply of up-dated technological systems, platforms for joint-production and transfer of technology.[15] Resultantly their defence equipment to be nearly 70 percent of being Soviet origin.[16]

India is the largest importer of Russia defence supplies along with France, Israel, UK and the United States. The imports of India from Russia remain high relative to other major exporters to India.

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[14] Dr. Ladhu R. Choudhary, "India's Military Modernization Efforts Under Prime Minister Modi," *South Asian Voices*, May 22, 2024, https://www.stimson.org/2024/indias-military-modernization-efforts-under-prime-minister-modi/.

[15] Aditi Malhotra, "Russia-Ukraine War: Military Modernization and Operational Challenges for India," South Asian Voices," *South Asian Voices*, May 17, 2022, https://southasianvoices.org/russia-ukraine-war-military-modernization-and-operational-challenges-for-india/.

[16] Dipanjan Roy Chaudhury, "More than 60-70% of India Armed Forces Equipped with Russian Origin Weapons: Indian Envoy," *The Economic Times*, July 11, 2020, https://economictimes.indiatimes.com/news/defence/more-than-60-70-of-india-armed-forces-equipped-with-russian-origin-weapons-indian-envoy/articleshow/76903811.cms.

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Source: SIPRI Arms Transfer Database, figures in millions of dollars[17]

The chart above discloses that from 2011-2021, Russia had the largest share in India's defence imports with no other country exceeding it except France in 2021 at US $2.1 billion. The US in 2014 exceeded Russia by US$1.1, while Russia managed to supply over US $1billion. India's reliance on Russia resulted in their defence equipment to be nearly 70 percent of being Soviet origin.[18]

With the change in geo-strategic environment, there is possibility of long term implications of Russia-Ukraine war on the defense ties between Russia and India. The priority for Russia in coming years

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[17] Kartik Bommakanti and Sameer Patil, "Explained: India's arms imports from Russia," *Observer Research Foundation*, May 17, 2022, https://www.orfonline.org/expert-speak/indias-arms-imports-from-russia.

[18] Dipanjan Roy Chaudhury, "More than 60-70% of India Armed Forces Equipped with Russian Origin Weapons: Indian Envoy," *The Economic Times*, July 11, 2020, https://economictimes.indiatimes.com/news/defence/more-than-60-70-of-india-armed-forces-equipped-with-russian-origin-weapons-indian-envoy/articleshow/76903811.cms.

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would be to overcome the losses.[19] Without taking into account the outcome of war, Russia would be less privileged as an arms supplier. As the sanctions imposed on banking system and ban on semi-conductors in Russia would deter its ability to deliver a continuous supply of critical defence equipment, spares and essential support in co-production.[20] It would negatively affect India's arms purchases from Russia. Moreover, the recent official statement by Indian Air Force confirmed that Russia cannot fulfill its commitment of delivery of weapons because of ongoing war with Ukraine.[21] The modernization drive of India might affected adversely, as it would not be able to get the desired weapons delivered from Russia.

The Obsolete Indian Weapons

More than half of Indian defence equipment is of Russia origin. The bleak performance and hefty losses of Russia defence equipment in Russia-Ukraine war raised questions on the quality of their defence equipment. As their equipment were not practiced in battle fields for some time, in Ukraine war there are reports of destruction of many

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[19] Carlos Coelho, "Why Is Russia Losing So Much Military Equipment In Ukraine?," *Radio Free Europe*, May 13, 2022, https://www.rferl.org/a/russia-ukraine-war-military-equipment-losses/31847839.html.

[20] Jeanne Whalen, "Sanctions Forcing Russia to Use Appliance Parts in Military Gear, U.S. Says," *Washington Post*, May 12, 2022, https://www.washingtonpost.com/technology/2022/05/11/russia-sanctions-effect-military/.

[21] Krishn Kaushik, "Russia cannot meet arms delivery commitments because of war, Indian Air Force says," *Reuters*, March 23, 2023, xx, https://www.reuters.com/world/india/russia-cannot-meet-arms-delivery-commitments-because-war-indian-air-force-says-2023-03-23/#:~:text=India-,Russia%20cannot%20meet%20arms%20delivery%20co

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Russian T-90 main battle tanks with Man pads and knocking down Su-30 fighter jet.[22] Accidents happen in all the air forces around the world, but frequency of such incidents in India happened quite often. In January 2023, their Sukhoi-30 (made in Russia) and Mirage 2000 crashed in eastern India during routine exercise.[23] In another incident, two Indian air force fighter jets crashed, colliding in the mid-air during exercise. This incident happened when the Indian government is enroute to its modernization drive. Their Cheetah helicopter also came down resulting in death of pilot. From 2018 to 2023 in a span of just five years 50 aviation crashes have been reported, among them the majority of them were of Russian origin. An indigenous Dhruv advanced light helicopter got crashed in May 2023 just at the age of six months raising concerns about the durability of the indigenous production of the military goods. Since the induction of the idea, the Indian military has commenced the intensification of the purchase of local defense products. However, Hindustan Aeronautics Limited has a very squat production rate with only eight Tejas Jets or roughly a half squadron annually. Recently the production rate of Tejas jets is doubled.[24] These Tejas are not ready to survive in the event of war in

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[22] "Ukraine Shoots Down Russian Su-34 Fighter Jet, Says Air Force Commander," *Radio Free Europe*, February 27, 2024,
https://www.rferl.org/a/ukraine-shoots-down-russia-su034-jet/32837137.html.
[23] "IAF's Sukhoi-30, Mirage 2000 Aircraft Crash in Madhya Pradesh; One Pilot Killed," *The Times of India*, January 28, 2023,
https://timesofindia.indiatimes.com/india/sukhoi-30-mirage-2000-aircraft-crashes-in-madhya-pradesh-morena/articleshow/97392771.cms.
[24] Swarajya , "HAL Doubles LCA Tejas Production Capacity, Sukhoi SU-30 MKI Repair And Overhaul Capability Enhanced," *Swarajya*, July 18, 2019,

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contested air space. These concerns were raised by Indian Air Force to the Indian government, though these are less expensive than international competitors.[25]

Indian Air force and Navy is still dependent on light helicopters designed in France, among which 80% have already outlived their life span of more than 30 years. Single-engine choppers have to be grounded by 2026 with no prospects of domestic production till 2030.[26] General Bipin Rawat, Chief of Defence was in Russian-made Mi-17 it crashed resulting in his death along with 13 others while carrying him to an air force base.[27] India's Cheetah and Chetak helicopters are also obsolete from long time and required to be replace by their indigenous Light Utility Helicopter and it is going to take a long time to develop. The Russian made Mi-8 and Mi-26 helicopters need replacement for being old vintage.[28] The meager performance of

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https://swarajyamag.com/insta/hal-doubles-lca-tejas-production-capacity-sukhoi-su-30-mki-repair-and-overhaul-capability-enhanced.

[25] Rahul Bhatia, "Why the Indian Air Force's Modernization Process Has Stumbled," *Carnegie India*, April 4, 2022, https://carnegieendowment.org/posts/2022/04/why-the-indian-air-forces-modernization-process-has-stumbled?lang=en.

[26] Laxman Behera, "High on Revenue, Low on Capital: India's Defence Budget 2023-24," *Observer Research Foundation*, no. 614 (February 2023)

[27] "Two Indian military jets crash, one pilot killed," *Arab News*, January 28, 2023, https://www.arabnews.com/node/2240421/world.

[28] Debalina Goshal, "India's Modernisation Challenge," *Asian Military Review*, March 13, 2019, https://www.asianmilitaryreview.com/2019/03/indias-modernisation-challenge/.

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Russia defence systems would be taken into account in future defence deals with Russia.[29]

Several incidents also raise serious concerns regarding the Indian command and control system. The most worrisome development was the accidental fire of their Brahmos cruise missile into Pakistani territory. This was attributed to "technical malfunction" nevertheless; the ground realities do not corroborate the official explanation of Indian government. It raises concerns about the operational safety procedures in India that has deployed its offensive strike missiles in launch-ready position.[30] Recently, in March 2023, during military exercises that took place in Pokhran, three missiles were misfired due to some technical glitch.[31] It raises questions on Indian command and control system.

Indian Navy vessels are also facing series of such accidents over the years resulting in a huge loss. The INS Brahmaputra capsizing at dockyard on July 2024 is another pearl in string of naval accidents. According to 2017 report by Comptroller and Audit General, the Indian Navy reported 38 incidents involving ships and submarines

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[29] Aditi Malhotra, "Russia-Ukraine War: Military Modernization and Operational Challenges for India," *South Asian Voices*, May 17, 2022, https://southasianvoices.org/russia-ukraine-war-military-modernization-and-operational-challenges-for-india/.

[30] Daryl G. Kimball, "India Accidentally Fires Missile Into Pakistan," *Arms Control Association*, April 2022, https://www.armscontrol.org/act/2022-04/news/india-accidentally-fires-missile-pakistan.

[31] Priya Raghuvanshi, "3 missiles misfire during an Army exercise in Jaisalmer, probe ordered," *Business Today*, March 25, 2023, https://www.businesstoday.in/latest/trends/story/3-missiles-misfire-during-an-army-exercise-in-jaisalmer-probe-ordered-374798-2023-03-25.

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between 2007 and 2016. According to the survey, which examined a number of naval mishaps over a nine-year span, fire, explosions, or water caused 39% of them. Thirty-three soldiers, including six officers, lost their lives because of these incidents. Moreover, sixteen percent of the mishaps involved ships making contact with the seabed, sixteen percent involved collisions, and the remaining twenty-nine percent involved a variety of mishaps such unintentional stranding, gas leaks, and equipment damage. The report criticized the safety procedures of the navy, blaming material failure and personnel mistake for numerous incidents. Despite expert recommendations and corrective steps being offered by many audit findings and recommendations, Indian navy failed to avoid such incidents from happening. Furthermore, these are the peacetime military losses raising question on their capacity to stand in a battlefield.

As per IISS Military Balance report 2024, India has sixteen operational submarines comprising four German Shishumar-class, five Indo-French Kalvari-class, and seven Russian Sindhughosh-class vessels.[32] Out of these submarines Russian Sindhughosh and German Shishumar class submarines are vintage of early 80s and late 90s. Out of those operational submarines two have suffered peacetime military losses. These aging fleets contribute to more accidents. The incidents so far faced by Indian navy raised question on its naval preparedness.

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[32] International Institute for Strategic Studies, *The Military Balance 2024*, (International Institute for Strategic Studies, 2024), https://www.iiss.org/en/publications/the-military-balance/.

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The naval mishaps faced by Indian navy questioned the professionalism of its naval officers as most of these peacetime military losses reveals the sheer negligence responsible behind those incidents. The navy with record of violating Standard Operating Procedures would it be able to survive in a contested ocean. This also shattered the claims of being a net security provider. Since Indian Navy has a significant role in the operationalization of ITCs, the current Naval preparedness suggests it to be at odds.

India's Economic Potential

Owing to COVID-19, the economy of India contracted by 6.6 percent, with GDP growth by 8.7% it has recovered notably in 2022.[33] However the progress has lessened, in spite of that India's economy is in spot light owing to bleak global economy outlook tattered by the aftermath of pandemic, Russo-Ukraine war and subsequent price hike in essential merchandises like fuel, food and fertilizers. Economic Survey 2022-23 data depicted that Indian economy was perhaps growing at 7 percent in fiscal year 2023 making India 5th major economy. Furthermore, it also highlighted that in 2023-2024 there was an increase in economy of India from 6 to 6.8% with 6.5% GDP growth.[34]

The high deficit financing on budget front, which the government of India applied as soon the COVID pandemic blowout in 2020 to push-

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[33] Ministry of Finance, Government of India, *Economic Survey 2022-23*.
[34] Ministry of Finance, Government of India, *Economic Survey 2022-23*, p. 23.

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major monetary activity, resulted in price hike. It ruined the tolerance level of ±4 percent set by the Reserve Bank of India. In April-December 2022, the consumer price index reached 6.8%.[35] The ascendant track announced by the Finance Minister for fiscal consolidation in her early budgets, has tapered the government's overall borrowings from 6.4 percent in 2022-23 to 5.9 percent of GDP in 2023-24.[36] The Indian economic muscles are not strong enough to pursue modernization drive.[37]

Indian Defence Budget

India is bidding to boost the economy with huge infrastructure investments, in 2023-24 defence budget there was 13 percent increase that was an additional INR 683.7 billion amount. It would be remarkable particularly when GDP is expected to grow by 10.5%. Nonetheless, the additional allocations failed to satisfy the defence establishment, owing to the resource restraints it has been facing for some time. As in the past six years, Indian Ministry of Defence, has continuously fallen short of the predicted resource requirements by

[35] Government of India, *Economic Survey*, (2023), https://www.indiabudget.gov.in/budget2023-24/economicsurvey/index.php.

[36] Press Information Bureau , "Highlights Of The Union Budget 2023-24," Press Information Bureau, last modified February 1, 2023, https://pib.gov.in/PressReleasePage.aspx?PRID=1895315.

[37] Sudhi Ranjan Sen, "India Military Sees Tiny Budget Rise Despite Modernization Plan," *Bloomberg*, February 1, 2022, https://www.bloomberg.com/news/articles/2022-02-01/india-military-sees-tiny-budget-rise-despite-modernization-plan.
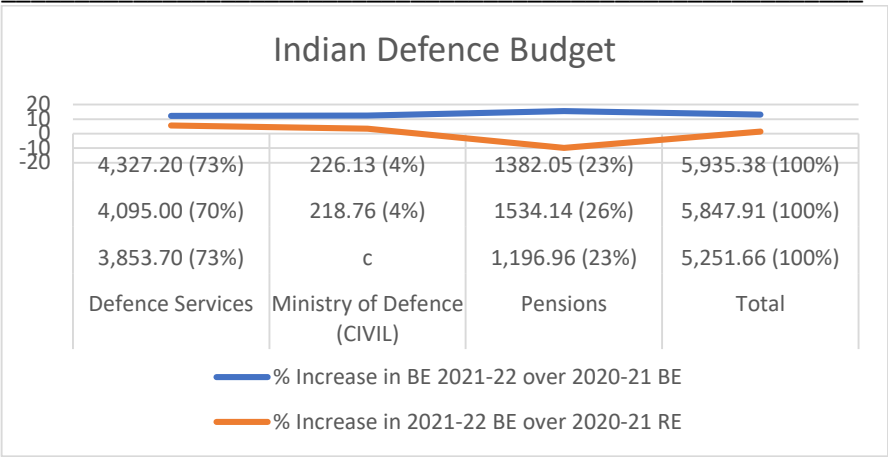
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over INR 100 billion, or 17 to 23%.[38] The dissatisfaction carried over to the new budget year because the increased money supplied in the current budget does not completely address the shortages of the previous budget.[39] The budget for 2024-25 fiscal year, highlights further increase of 4.7 percent in the defence budget that is 6,21,541INR.[40] by The effort to modernize the armed forces would suffer as a result of the additional procurement budget allocations not addressing the gaps in the prior budget. Specified that the supplementary allocations for procurement have not filled the deficiencies in the preceding budget, this would have negative consequences on the modernization initiative of the Indian armed forces. Furthermore, the growing geopolitical challenges on Indo-China border and the Indian Ocean, 4.7 percent increase in the budget would not be suffice to meet the challenges.

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[38] Ministry of Defence, *Demands for Grants (2022-2023)*, (Lok Sabha Secretariat, 2022), https://loksabhadocs.nic.in/lsscommittee/Defence/17_Defence_27.pdf.

[39] Laxman Behera, "High on Revenue, Low on Capital: India's Defence Budget 2023-24," *Observer Research Foundation*, no. 614 (February 2023) https://www.orfonline.org/wp-content/uploads/2023/02/ORF_IssueBrief_614_Defence-Budget.pdf.

[40] Laxman Kumar Behera, "Examining India's Interim Defence Budget 2024-'25," *Observer Research Foundation*, February 2024, xx, https://www.orfonline.org/research/examining-indias-interim-defence-budget-2024-25.

Indian Defence Budget			
4,327.20 (73%)	226.13 (4%)	1382.05 (23%)	5,935.38 (100%)
4,095.00 (70%)	218.76 (4%)	1534.14 (26%)	5,847.91 (100%)
3,853.70 (73%)	c	1,196.96 (23%)	5,251.66 (100%)
Defence Services	Ministry of Defence (CIVIL)	Pensions	Total

━━━ % Increase in BE 2021-22 over 2020-21 BE

━━━ % Increase in 2021-22 BE over 2020-21 RE

Source: The data is based on Indian Budget 2023-24[41]

BE and RE represent Budget Estimates and Revised Estimates, respectively; Percentage figures in parentheses show the respective shares in Indian MoD's total.
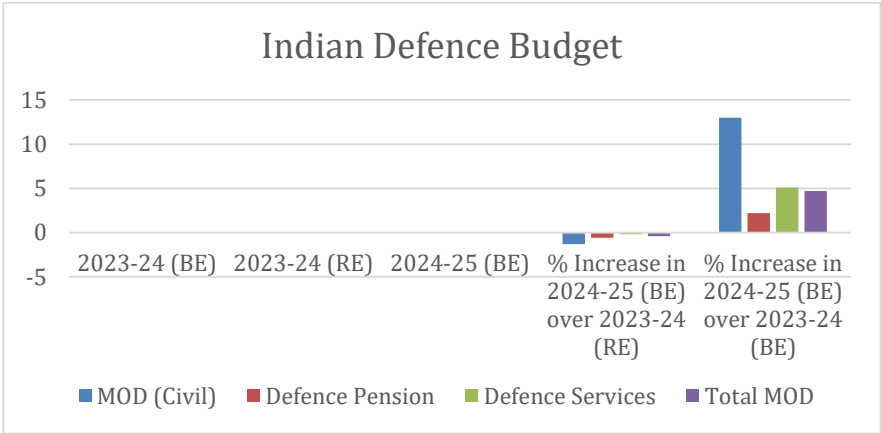
Source: The data is based on Indian Budget 2024-25[42]

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[41] "India Budget | Ministry of Finance | Government of India," accessed March 13, 2023, https://www.indiabudget.gov.in/.

[42] *India Budget*, (Government of India, 2024), https://www.indiabudget.gov.in/.

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Although Indian MoD's most recent budget is 4.7%, more than the year before, the rise in the most recent allocations is 6,21,541 INR when compared to the RE for 2022–23, which was 13%. (INR 596.25 billion). Defence Services, Defence Pension, and Ministry of Defence (Civil) are the three main components of Indian Defence Budget. These components have made upward adjustment contributions in revised estimate (RE) budget. The significant increases are the result of increases in pensionary benefits and non-salary revenue expenditures of the defence services. The modification of pensionary benefits under the One Rank One Pension Scheme, is a major factor in the mid-year revisions of the pension, which alone account for 57% (INR 337.18 billion) of the overall Indian Defence budget increases. The unexpected and significant increase in the allocation of pension resulted in an evident jump in its part in the Indian Ministry of Defence's revised budget to 26%, before decreasing to 23% in the new budget. espite the substantial increases in the revised estimates, they fall short of the MoD's predicted needs. As was previously indicated, the MoD has been experiencing a persistent lack of resources to achieve its budgeted expenditures. Increasing the interim allotment by 4.7% would not solve the problems. The increase in defence budget is not going to meet the demand to achieve military modernization.[43]

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[43] Laxman Kumar Behera, "Examining India's Interim Defence Budget 2024-'25," *Observer Research Foundation*, February 2024, xx, https://www.orfonline.org/research/examining-indias-interim-defence-budget-2024-25.
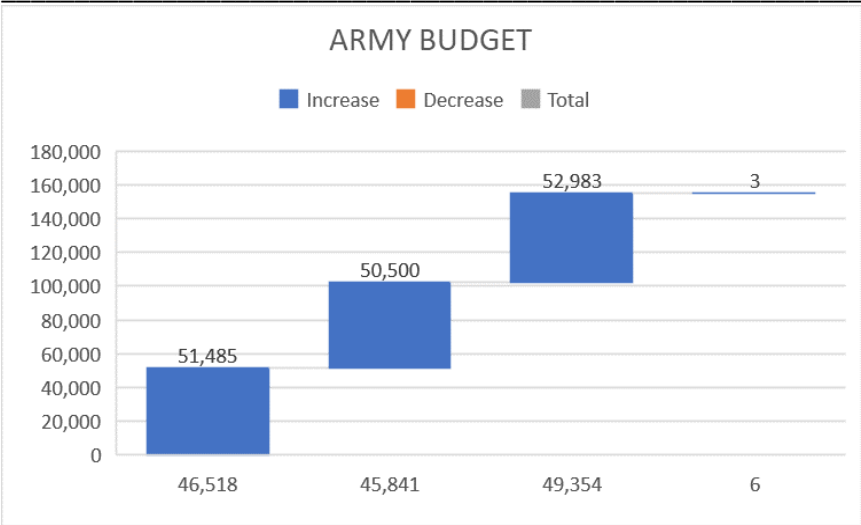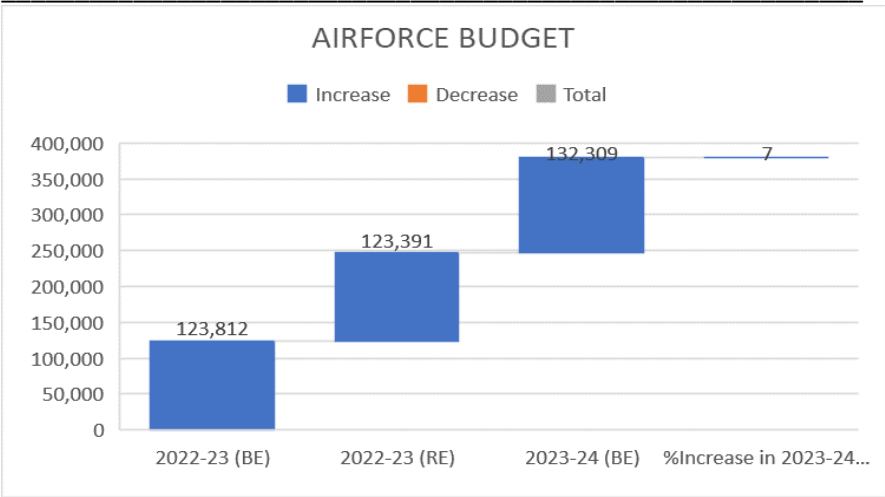
Source: *The data is based on Indian Budget 2023-2024[44]*
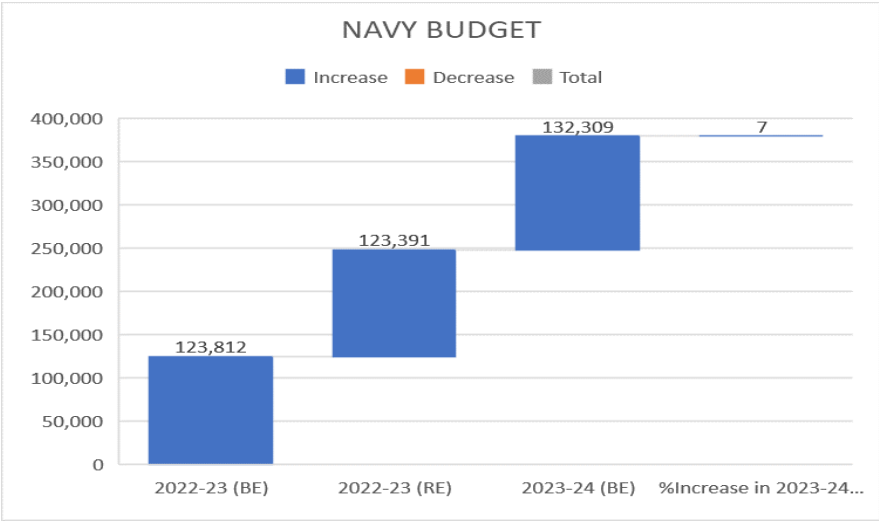
Source: *The data is based on Indian Budget 2023-2024[45]*

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[44] "India Budget | Ministry of Finance | Government of India," accessed April 1, 2023, https://www.indiabudget.gov.in/.
[45] "India Budget | Ministry of Finance | Government of India."

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Approximate figures

Source: *The Data is based on Indian Budget 2023-24[46]*

All three services saw double-digit increases in the 2023–24 budget. However, the rise is subdued at a total of 7% when it comes to modernization or capital acquisition. The other two services' budgets, with the exception of the Army, have seen single-digit growth. This surge in budget is not reasonable in pursuing Indian military modernization drive. The Indian economic muscles are not strong enough to meet the demands of modernization goals and there is dissatisfaction in Indian Military.[47] In 2024-25 budget, the distribution between the armed forces is not mentioned.

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[46] "India Budget | Ministry of Finance | Government of India."
[47] Sudhi Ranjan Sen, "India Military Sees Tiny Budget Rise Despite Modernization Plan," *Bloomberg*, February 1, 2022,
 https://www.bloomberg.com/news/articles/2022-02-01/india-military-sees-tiny-budget-rise-despite-modernization-plan.

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To reduce defense expenditures, India has announced Agniveer scheme.[48] While, there is resentment among youth regarding this scheme owing to the lack of monetary benefits. The youth registered their protests via blocking roads, burning trains and ransacking public property to get the scheme rolled back.[49] Indian Army has made fewer recruitment since COVID-19 resultantly 1.55 lac posts are vacant in three forces of Indian army which is expected to further increase in future.[50]

Conclusion

India's military modernization journey is driven by a complex interaction of geopolitical, economic, and strategic factors, positioning the nation at a critical crossroads in its pursuit of enhanced national security. Central to this effort is the understanding that a technologically advanced military is essential for safeguarding India's sovereignty and asserting its influence in a multipolar world. The introduction of doctrines such as the Joint Armed Forces Doctrine (JDIAF) and the Indian Land Warfare Doctrine (LWD) reflects India's commitment to modernizing its military and recalibrating

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[48] Government of India , *Agnipath Yojana*, (2024),
https://www.mygov.in/campaigns/agniveer/.
[49] Hanan Zaffar, "'We have been cheated': India's youth reject new army jobs scheme," *AlJazeera*, June 20, 2022,
https://www.aljazeera.com/news/2022/6/20/we-have-been-cheated-indias-youth-reject-new-army-jobs-scheme.
[50] "Over 1.55 Lakh Posts Vacant in Three Forces, Maximum in Army, Says Govt," *The Economic Times*, March 27, 2023,
https://economictimes.indiatimes.com/news/defence/over-1-55-lakh-posts-vacant-in-three-forces-maximum-in-army-says-govt/articleshow/99039745.cms.

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strategies to meet contemporary security challenges. The establishment of the Theatre Command within the JDIAF highlights a significant shift toward a more integrated and synergized approach to warfare across land, air, and sea, reinforcing India's broader strategic vision.

However, India's defense strategy has traditionally been reliant on its partnership with Russia, which has provided cost-effective military technology and collaborative production opportunities. The ongoing Russia-Ukraine conflict has added uncertainty to this relationship, forcing India to reassess its defense partnerships and explore alternative sources of military technology. This evolving geopolitical dynamic, combined with India's emphasis on strategic autonomy, complicates its defense procurement strategy and calls for a careful balance between traditional alliances and emerging partnerships. Concurrently, the economic challenges exacerbated by the post-COVID-19 landscape have further strained India's defense budget, limiting the resources available for modernization and capital acquisition. Despite some increases in defense allocations, the budgetary constraints persist, posing obstacles to the pace and scope of India's military transformation.

Despite the progress in indigenization and technology transfer under initiatives like "Atmanirbhar Bharat," significant hurdles remain in developing sophisticated military platforms. India continues to face challenges in producing advanced systems such as twin-engine fighter jets and diesel-electric submarines, which necessitate ongoing

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reliance on foreign technology. Additionally, concerns about the preparedness of India's armed forces, particularly the failures in command and control systems evidenced by missile incidents and losses in the Navy and Air Force, raise critical questions about the effectiveness of India's modernization efforts. As India navigates these challenges, its military modernization trajectory will have broad implications for regional security dynamics and global power structures. The success of India's defense strategy will hinge on its ability to balance modernization with economic constraints and geopolitical realities, ultimately determining its role in the international security landscape.

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Constructing Threats: The Securitization of Kashmir's Right to Self-Determination

Khansa Shah

Graduate International Relations, The University of Azad Jammu and Kashmir, Muzaffarabad.Email:khansashah774@yahoo.com

Muarraf Yousaf

Graduate International Relations, National Defense University, Islamabad.Email: muarraf.my@gmail.com

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Khansa Shah
Graduate International Relations, The University of Azad Jammu and Kashmir, Muzaffarabad.Email:khansashah774@yahoo.com

Muarraf Yousaf
Graduate International Relations, National Defense University, Islamabad.Email: muarraf.my@gmail.com

Abstract

Since gaining independence, India has employed various tactics to suppress the Kashmiri struggle for self-determination and freedom. This study critically examines India's strategies and policies aimed at undermining the indigenous movement, using the lens of securitization theory. It explores how India, through securitizing actors, has constructed the threat perception of terrorism, extremism, and national security concerns as justifications for imposing severe and often inhumane measures in the contested region. The research contends that India has strategically securitized the legitimate demand for Kashmir's right to self-determination, enabling the implementation of draconian laws and the unprecedented militarization of the territory. These actions have led to widespread political repression and human rights violations. The study further argues that India's vision of 'Akhand Bharat', rooted in the ultra-nationalist Hindutva ideology, is intertwined with its pursuit of

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strategic autonomy. The securitization of the Kashmir conflict has bolstered India's regional influence, but it has also had serious implications for regional security and peace. This interpretive study, following a post-positivist framework, deconstructs the security narratives by analyzing the discursive construction and securitization of the Kashmir conflict.

Keywords: *Draconian Laws, Occupied Kashmir, Securitization Theory, Right to Self-determination, Human Rights Violations.*

Introduction

The Kashmir conflict, a longstanding territorial dispute between India and Pakistan, has remained a critical flashpoint since 1947. This conflict, centered on the region of Jammu and Kashmir, referred to by Pakistan as Occupied Kashmir (OK), has been fueled by political[1] and ideological[2] differences. Despite numerous attempts at resolution, beginning with the early intervention of the UN with UN-Resolution 47 of ceasefire, the Tashkent agreement 1966, Simla Agreement

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[1] India and Pakistan have conflicting aspirations for regional dominance in South Asia, which leads to political tensions between them. Historical distrust, especially over the Partition's geographical split and the current struggle in Kashmir, is the primary cause of these divisions.

[2] Ideologically India and Pakistan are divided over aspirations of a secular state in the beginning to shaping into a Hindu state under the BJP regime and creating an Islamic identity or homeland for Muslims of the subcontinent respectively. Their government is still shaped by these opposing beliefs, exacerbating their tensions.

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1972, Agra Sumit 2001, Confidence Building measures including Lahore Bus Service and notably ceasefire agreement of 2003 to composite dialogues from 2004-2008 and Back Channel diplomacy[3], the conflict has reached a stalemate, with both nuclear-armed neighbors entrenched in their respective positions. The primary impediment to a resolution lies in the deep-seated ideological divide between India and Pakistan. While India has demonstrated rapid geopolitical and economic growth over the last decade, from 7.4 % GDP in 2014 to 8.2% in 2024[4], ligning itself with regional, extra-regional, and international powers to assert its foreign policy goals, Pakistan has struggled with domestic challenges, including economic instability and political discord. These dynamics have hindered efforts at compromise and reconciliation, thereby marginalizing the aspirations of the Kashmiri people for self-determination.[5]

Although the United Nations Security Council (UNSC) has passed numerous resolutions addressing the Kashmir dispute, significant progress has been thwarted by vetoes from India's allies, particularly

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[3] Center for Preventive Action. "Conflict between India and Pakistan." *Global Conflict Tracker*. Council on Foreign Relations. April 9, 2024. https://www.cfr.org/global-conflict-tracker/conflict/conflict-between-india-and-pakistan.

[4] G. Goel, "India's GDP Growth In Last 10 Years In 5 Phases [Review of India's GDP Growth In Last 10 Years In 5 Phases]," *Good Returns*, August 23, 2024, https://www.goodreturns.in/classroom/india-s-gdp-growth-in-last-10-years-in-5-phases-1365103.html.

[5] Hussain, Ijaz. 1998. *Kashmir Dispute*.

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the Soviet Union during the Cold War. Meanwhile, the situation in Kashmir has deteriorated further under the Hindu nationalist Bharatiya Janata Party (BJP) government, led by Prime Minister Narendra Modi.[6] India's recent policies in Occupied Kashmir, including extrajudicial killings, enforced disappearances, mass detentions, and the suppression of dissent, have intensified human rights violations. Utilizing counterterrorism constitutional mechanisms including AFSPA (Armed Forces Special Powers Act 1990, and PSA (Public Safety Act 1978), he BJP-led government has systematically targeted peaceful protesters, journalists, students, and human rights defenders, undermining democratic institutions and the Kashmiri struggle for self-determination.[7]

The rise of the BJP has been accompanied by the ascendance of Hindutva ideology, which seeks to redefine India as a Hindu state.[8] Chandranath Basu first used the term "Hindutva" in 1892 to describe the state of being Hindu. In 1923, Vinayak Damodar Savarkar, highlighting Hinduism as an ethnic, cultural, and political identity apart from religious dogma, characterized it as a political philosophy.

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[6] Ward, Alex. "India's Risky Kashmir Power Grab, Explained." *Vox*, August 8, 2019. https://www.vox.com/2019/8/5/20754813/india-kashmir-article-370-modi-hindu-muslim.

[7] Shamshad, Muhammad. "Institutionalized Impunity: A Case of Aggression and Atrocities of BJP Towards the Kashmiris." *ResearchGate*, January 2024. https://www.researchgate.net/publication/377188537_Institutionalized_Impunity_A_Case_of_Aggression_and_Atrocities_of_BJP_towards_the_Kashmiris.

[8] Ramachandran, Sudha. "Hindutva Violence in India: Trends and Implications." *Counter Terrorist Trends and Analyses* 12, no. 4 (2020): 15–20. https://www.jstor.org/stable/26918077.

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He maintained that, in contrast to non-Hindus whose sacred territories were outside, Hindus considered India to be both a "fatherland" and a "holy land." Later, this idea impacted Hindu nationalist organizations like the BJP and RSS.[9]

This ideological shift has had profound implications, not only for religious minorities in India but also for the socio-political fabric of Occupied Kashmir. The state of emergency imposed in the region, characterized by pervasive militarization, demographic engineering, and cultural assimilation, has eroded basic human rights.[10] Reports of hate crimes against Muslims and other minorities have surged, with Kashmiri Muslims disproportionately bearing the brunt of these policies. Genocide Watch has raised the alarm over the systematic dehumanization and targeting of Kashmiris, identifying the execution of all ten stages of genocide, from classification to denial.[11]

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[9] Middle East Eye. 2024. "What Is Hindutva and Why Does It Matter?" *Middle East Eye*, 2024. https://www.middleeasteye.net/explainers/what-hindutva-india-rss-bjp-modi.

[10] Muhammad Ali Baig, "Issue Brief on 'Two Years of Tyranny: Indian Illegally Occupied Jammu and Kashmir after August 5, 2019,'" *Institute of Strategic Studies Islamabad*, December 17, 2021, https://issi.org.pk/issue-brief-on-two-years-of-tyranny-indian-illegally-occupied-jammu-and-kashmir-after-august-5-2019/.

[11] Duschinski, Haley, and Shrimoyee Nandini Ghosh. 2017. "Constituting the Occupation: Preventive Detention and Permanent Emergency in Kashmir." *The Journal of Legal Pluralism and Unofficial Law* 49 (3): 314–37. https://doi.org/10.1080/07329113.2017.1347850.

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Under the pretext of countering terrorism and safeguarding national sovereignty, the Modi government has securitized the Kashmiri struggle for self-determination.[12] This securitization has legitimized controversial measures, including settler colonialism, land reforms favoring external investments, heavy militarization, and the imposition of religious nationalism. These actions, framed as responses to security threats, are designed to erode Kashmir's distinct cultural identity and integrate the region into India's territorial and ideological framework.[13] The securitization process aligns with India's broader regional aspirations and significantly affects regional stability and Indo-Pak relations.

Despite a growing body of research on securitization theory in the context of Indian policies, [14] there remains a gap in understanding the specific mechanisms and narratives employed by the Modi government to securitize Kashmir's right to self-determination.[15]

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[12] Basu, Deepankar. 2021. "Majoritarian Politics and Hate Crimes Against Religious Minorities: Evidence From India, 2009–2018." *Ideas.Repec.Org.* https://ideas.repec.org/a/eee/wdevel/v146y2021ics0305750x21001522.html.

[13] Swk. 2023. "India's 10 Steps to Settler Colonialism in Kashmir I Stand With Kashmir." Stand With Kashmir. August 23, 2023. https://standwithkashmir.org/indias-10-steps-to-settler-colonialism-in-kashmir/.

[14] Cheema, Pervaiz Iqbal, and Khurshid Khan. 2017. "Modi's Kashmir Policy: The Probable Consequence for the Security of South Asia." Strategic Studies 37 (3): 1–21. https://doi.org/10.53532/ss.037.03.00206 .

[15] Pakistan, Hammad Sarfraz | Express Tribune. 2021. "KASHMIR IS on the BRINK of GENOCIDE, WARNS AMERICAN SCHOLAR." Genocidewatch. February 5, 2021. https://www.genocidewatch.com/single-post/kashmir-is-on-the-brink-of-genocide-warns-american-scholar.

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This study addresses this gap by examining the patterns and procedures through which the Indian government has legitimized its actions in Occupied Kashmir.[16] Drawing on the Copenhagen School of Security's securitization theory, this research argues that India's portrayal of the Kashmiri struggle as a security threat is a political construct designed to justify its policies. Employing an interpretive qualitative methodology, the study explores the relationship between human rights violations and the securitization of Kashmir's right to self-determination, providing a nuanced understanding of the narratives and implications of this securitization process.

This study contributes to the broader discourse on human rights, securitization, and regional stability by critically analyzing the Modi regime's Kashmir policy. It highlights the implications of these policies for the Kashmiri people, Indo-Pak relations, and regional peace, offering insights into the intersection of domestic governance, international diplomacy, and human rights in one of the world's most volatile regions.

Research Questions

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[16] Pakistan, Hammad Sarfraz | Express Tribune. 2021. "KASHMIR IS on the BRINK of GENOCIDE, WARNS AMERICAN SCHOLAR." Genocidewatch. February 5, 2021. https://www.genocidewatch.com/single-post/kashmir-is-on-the-brink-of-genocide-warns-american-scholar.

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1.   What are the key tactics/mechanisms being utilized by India and how securitization theory best explains India's endeavors to control the legitimate and just struggle of Kashmiris?

2.   How and to what extent India has been successful in securitizing Kashmir's indigenous movement for its right to self-determination and freedom?

Research Argument

India has securitized Kashmir's legitimate movement for self-determination by framing it as terrorism and a threat to national security. This securitization serves to advance the broader socio-economic and political interests of the Indian state, including its aspiration for regional dominance. To achieve this, New Delhi has systematically employed draconian laws and oppressive measures aimed at containing and controlling the Kashmiri struggle. The securitization of the indigenous movement has led to widespread human rights violations, the marginalization of the Kashmiri population, and their disenfranchisement. This has resulted in the alienation of Kashmiris, fostering a pervasive sense of estrangement within their own homeland.

Theoretical Framework

The Kashmir conflict offers a significant context to apply the Copenhagen School's **securitization theory**, which asserts that issues

are transformed into security concerns through a performative speech act, whereby an actor declares an existential threat to a referent object, justifying extraordinary measures.[17]
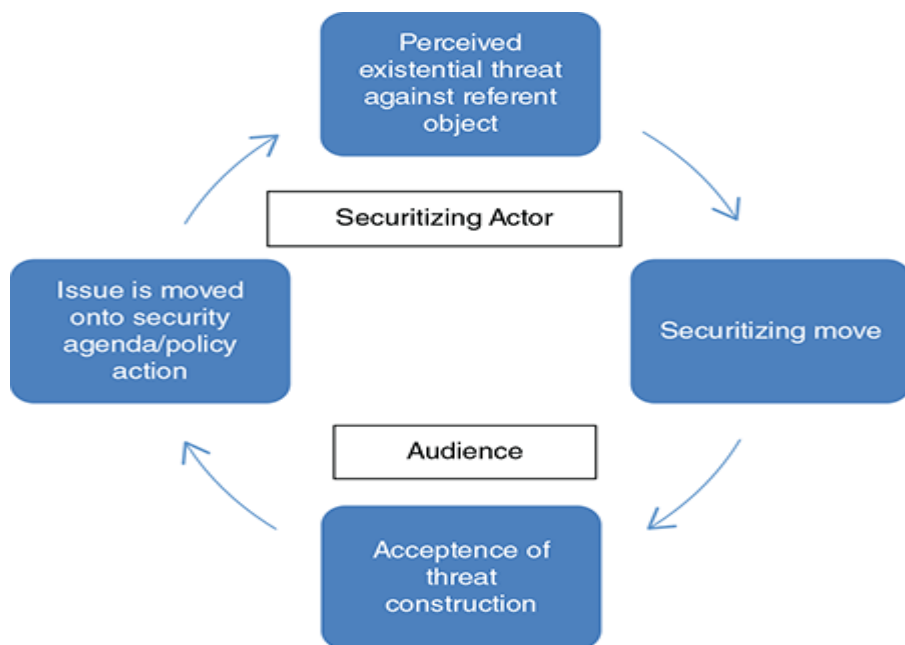

Figure 1.1: Variables of securitization theory[18]

In the case of Kashmir, the Indian state has employed securitization to frame the region's indigenous movement for self-determination as

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[17] Stritzel, Holger. 2012. "Securitization, Power, Intertextuality: Discourse Theory and the Translations of Organized Crime." Security Dialogue 43 (6): 549–67. https://doi.org/10.1177/0967010612463953.
[18] Watson, Scott D. 2012. "'Framing' the Copenhagen School: Integrating the Literature on Threat Construction." *Millennium: Journal of International Studies* 40 (2): 279–301. https://doi.org/10.1177/0305829811425889.

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a national security threat, equating it with terrorism and insurgency.[19] This framing has been instrumental in enabling the Indian government to adopt emergency politics and implement measures that would otherwise face scrutiny under democratic norms. By constructing the Kashmiri struggle as an existential threat to India's territorial integrity and sovereignty,[20] the Indian government has legitimized extreme actions, including heavy militarization, suspension of civil liberties, and the enactment of oppressive laws like the Armed Forces (Special Powers) Act (AFSPA). The securitization theory's emphasis on the performative power of language explains how India's narrative has redefined political resistance as a threat requiring immediate and extraordinary responses.[21]

The theory's focus on social and political interaction, where security concerns are framed and internalized by audiences, highlights the Indian government's strategic use of rhetoric to gain public and institutional support for its actions in Kashmir. For instance, India has repeatedly invoked the rhetoric of counterterrorism to justify its legislative and military measures in the region, such as the abrogation of Article 370, which revoked Kashmir's special constitutional status.

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[19] Charrett, Catherine. 2009. "A Critical Application of Securitization Theory: Overcoming the Normative Dilemma of Writing Security." *SSRN Electronic Journal*. https://doi.org/10.2139/ssrn.1884149.

[20] Rychnovsk, Dagmar. 2014. "Securitization and the Power of Threat Framing." *Questa Soft.* 2014. https://www.ceeol.com/search/article-detail?id=106821.

[21] Eroukhmanoff, Clara. 2020. "Securitisation Theory: An Introduction." *E-International Relations.* May 7, 2020. https://www.e-ir.info/2018/01/14/securitisation-theory-an-introduction/.

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These actions, framed as necessary to combat terrorism and promote national security, have effectively marginalized the indigenous population and delegitimized their demands for self-determination. The securitization process, as described by the theory, allows state actors to transcend normal political constraints by presenting these measures as critical for survival, thereby silencing dissent and suppressing political dialogue in Kashmir. This has profound implications for democratic principles and human rights, as securitization enables the state to operate with unchecked authority under the pretext of safeguarding national security.

In Kashmir, securitization theory also reveals how the process of framing threats reshapes societal dynamics.[22] By casting the Kashmiri population as a potential threat, securitization not only justifies military and legislative measures but also normalizes the erosion of individual freedoms and socio-political rights.[23] The theory's insight into the constructed nature of security threats underscores how the Indian state has used rhetoric and exceptional actions to reframe Kashmir's political struggle as an existential danger, thus mobilizing resources and public opinion to support its policies. However, this securitized approach exacerbates the alienation and disenfranchisement of Kashmiris, creating a sense of occupation and

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[22] Wæver, Ole. 2015. "The Theory Act: Responsibility and Exactitude as Seen From Securitization." *International Relations* 29 (1): 121–27. https://doi.org/10.1177/0047117814526606d.

[23] Krause, Keith, and Michael C. Williams. 2002. *Critical Security Studies*. Routledge eBooks. https://doi.org/10.4324/9780203501764.

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perpetuating cycles of violence and resistance. The application of securitization theory in this context underscores the role of discourse in shaping security policies and highlights the critical need for reevaluating such narratives to address the root causes of conflict and pave the way for a peaceful resolution.[24]

India's Securitization of the Kashmir Conflict

Barry Buzan's securitization theory defines securitization as a discursive process whereby issues are framed as existential threats, necessitating extraordinary measures and justifying actions that deviate from normative political processes. In the context of the Kashmir conflict, India has systematically securitized the region by constructing it as a security threat due to alleged terrorism and separatist activities, which it portrays as a challenge to national sovereignty. This securitization process has enabled the Indian state to implement emergency regulations, deploy a significant military presence, and impose severe restrictions on civil liberties, all under the guise of safeguarding national security.

Securitization theory is particularly apt for analyzing the Kashmir conflict as it explicates how security risks are socially constructed and how extraordinary measures are legitimized. Unlike realist or liberal frameworks, which prioritize power politics and cooperation

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[24] Graff, Richard. 2006. "Securitization Demystified." *The Journal of Real Estate Portfolio Management* 12 (3): 233–48.
https://doi.org/10.1080/10835547.2006.12089749.

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respectively, securitization theory critically interrogates the constructed narratives that underpin security policies. Realist perspectives emphasize the primacy of state sovereignty and power dynamics but often overlook the cultural, historical, and identity-based dimensions of the conflict. Liberal theories, focusing on diplomacy and dialogue, fail to account for how securitization is used as a tool to suppress opposition and consolidate control. By emphasizing subjectivity and interpretation, securitization theory reveals the constructed meanings that frame the Kashmiri struggle for self-determination as an existential threat, enabling the Indian state to justify repressive actions.

India has framed the Kashmiri struggle for self-determination as a fundamental threat to its national security, citing the risk of secession and threats to territorial integrity. This securitization intensified following the rise of armed resistance in the late 1980s, when the Indian state began equating the Kashmiri movement with domestic and international terrorism. By linking the conflict to global narratives of terrorism, India has garnered both domestic and international support for its securitization policies. The deployment of military and paramilitary forces in Kashmir has been framed as a necessary response to this alleged security threat, with laws such as the Armed Forces Special Powers Act (AFSPA) granting security forces sweeping powers, including the authority to use lethal force and make

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arrests without due process. Such measures are justified by framing the Kashmiri conflict as a battle for national survival.[25]

The abrogation of Article 370 in 2019, which stripped Jammu and Kashmir of its special constitutional autonomy, is a prime example of India's securitization strategy.[26] This move was rationalized as a measure to integrate the region fully into the Indian Union, ostensibly to protect national unity and counter separatism. The Indian state further externalized the conflict by emphasizing Pakistan's alleged role in financing terrorism and cross-border insurgency in Kashmir,[27] framing the issue as a regional and global security concern. This externalization underscores the potential for conflict escalation between two nuclear-armed states, reinforcing the justification for extraordinary measures. Domestically, the Hindutva ideology of the ruling Bharatiya Janata Party (BJP) has further entrenched the securitization narrative, framing Kashmiri Muslims as anti-national elements and portraying their aspirations for self-determination as existential threats to India's cultural and national identity.

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[25] Sabzar Ahmad Bhat, "The Kashmir Conflict and Human Rights," *Race & Class* 61, no. 1 (2019): 77–86, https://doi.org/10.1177/0306396819850988.

[26] Shumaila Farooq and Saima Gul, "From Pulwama to Indian Revocation of Article 370 in Indian Held Kashmir: Policy Implications on the Geopolitics of South Asia," *Global Legal Studies Review* V (Winter 2020): 8–14, https://doi.org/10.31703/glsr.2020(v-i).02.

[27] Shergojri, Bilal Ahmad. 2020. "Dynamics of the Indo-Pakistan Conflict: Kashmir or Terrorism?" January 1, 2020. https://www.pakistan-horizon.piia.org.pk/index.php/pakistan-horizon/article/view/131.

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Cultural narratives, such as those derived from the Indian epic *Mahabharata*, have also been mobilized in support of securitization. Drawing on themes of righteous war (*dharma yuddha*), Indian authorities have framed their actions in Kashmir as a moral imperative to protect the nation's integrity and values.[28] This invocation of mythology fosters a binary of "us versus them," reinforcing the perception that the Kashmiri struggle is a threat to India's identity and way of life. The Hindutva-driven rhetoric portrays Kashmiri Muslims as separatists or terrorists, thereby legitimizing the militarization of the region and the suppression of dissent.

Specific incidents, such as the 2016 Pathankot attack, exemplify how securitization is operationalized. The Indian state attributed the attack to Pakistani-backed terrorist groups, using the incident to strengthen its narrative of Kashmir as a hub of transnational terrorism.[29] This securitized framing justified India's intensified military presence in the region and bolstered its diplomatic efforts to pressure Pakistan on counter-terrorism grounds. By linking external events to the Kashmiri conflict, the Indian state has strategically reinforced its securitization

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[28] Mishra, Deepanjali. 2019. "Cultural Diplomacy of the Mahabharata: A Case Study of Its Application With Special Reference to Modern India." *Prabandhan: Indian Journal of Management* 12 (7): 49. https://doi.org/10.17010/pijom/2019/v12i7/145585.
[29] Azam, Adeela. "Indian Foreign Policy Towards Pakistan During Modi Era: Assessing the Role of Ideology - Hindu Nationalism." *BTTN Journal* 1, no. 1 (2022): 17–35. https://doi.org/10.61732/bj.v1i1.9.

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narrative, further marginalizing Kashmiri demands for self-determination.

Securitization theory provides a comprehensive lens for analyzing how the Kashmir conflict has been constructed and sustained as a security issue. This approach highlights how the Modi government has utilized securitization to pursue domestic political objectives, including consolidating nationalist support, and international aims, such as framing India as a responsible actor combating terrorism. However, this securitization has profound implications for human rights, civil liberties, and prospects for conflict resolution. By framing Kashmiri aspirations as existential threats, the Indian state has normalized repressive measures and escalated violence in the region, perpetuating cycles of alienation and resistance. The securitization of Kashmir underscores the urgent need for critical engagement with such narratives to foster dialogue and address the root causes of the conflict. Without such efforts, the securitization of Kashmir risks entrenching a protracted conflict with devastating consequences for regional and global stability.

Methodology

This study adopts a qualitative research design rooted in the post-positivist paradigm to investigate the nexus between human rights violations and the securitization of Kashmir's right to self-determination. Guided by an interpretive approach, the research seeks

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to unravel the intricate meanings and perceptions underlying India's securitization narrative. By prioritizing hermeneutics and an emic perspective, the study endeavors to understand the context of securitization from the vantage points of both the Indian state and the Kashmiri populace. The post-positivist framework, chosen for its ability to surpass the limitations of positivist approaches, integrates subjective and objective dimensions.[30] This paradigm emphasizes how ideas, norms, ideologies, and discourses shape security and threat perceptions, enabling the deconstruction of India's portrayal of the Kashmiri self-determination movement as a security threat to legitimize extraordinary measures, including repressive laws and military actions.

The interpretive method facilitates a comprehensive analysis of the political, historical, cultural, and social factors informing the securitization of Kashmir. It examines how dominant actors—particularly the Indian government and its armed forces—frame self-determination struggles through rhetoric and language to normalize the use of extraordinary security measures. The study also assesses the implications of these narratives for regional stability, human rights, and the broader conflict dynamics. The research draws on a wide range of academic and non-academic sources, including scholarly papers, books, reports, journals, newspapers, and official

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[30] Anne B. Ryan, "Post-Positivist Approaches to Research," *Academia.edu*, January 2016, https://www.academia.edu/20535849/Post_Positivist_Approaches_to_Research.

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publications from states and international organizations. This diverse dataset provides a robust foundation for critically analyzing the securitization process and its repercussions, consistent with the interpretive and exploratory character of the research.

Analyzing Specific Draconian Laws: AFSPA, UAPA, AND PSA

In Occupied Kashmir, examples of human rights violations include torture, extrajudicial killings, rape, cordon and search operations, forced disappearances, and other acts of violence that have been deadly or otherwise harmful. Decades-long abuses of this nature still exist and pose a threat to national security. Human rights violations are now routine for the majority of Kashmiris who were there when the insurgency first began and for those who were young throughout the 1990s and early 2000s and now these inhumane practices are banked upon by using force of law. According to the widely accepted narrative that has developed in recent years, Kashmiri citizens have been detained as both physical and symbolic prisoners of the state after being determined to pose a danger to the state's stability as per the so-called security narrative created by the Modi-led regime[31]. This study, however, aims to explore the specific above-mentioned three draconian laws (PSA, UAPA, AFSPA) drafted and implemented by the illegal settler regime of India.

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[31] John Braithwaite and Bina D'Costa, "Recognising Cascades in India and Kashmir," in *Cascades of Violence: War, Crime and Peacebuilding Across South Asia*, 177–270 (ANU Press, 2018), http://www.jstor.org/stable/j.ctt22h6r7h.

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A person may be held without charge for two years under the guise of maintaining public order under the Jammu & Kashmir Public Safety Act, 1978, which gives the State government this authority. The Act fell short of the accepted standards of justice, including equality before the law, the right of the accused to appear before a magistrate within 24 hours of their arrest, a fair trial in public, access to counsel, cross-examining of the witnesses, an appeal process for convictions, and protection from being tried retroactively, among other standards. Even the Act's rules have constantly been broken, albeit they were already poor. The grounds for the prisoners' detention are not disclosed to them, and they are held in custody for a lot longer than what is allowed under the Act. Meeting with their families and counselors is forbidden. The 1990 amendment expanded its scope of operation outside of the State, allowing the State apparatus to retain the inmates in India's jails outside of the State. Any legal actions brought against officials for actions "done in good faith" are likewise prohibited by Section 22 of the Act[32]. The legislation, which was subjected to amendments in 1987 and 1990, has frequently been applied to both political rivals and defenseless Kashmiris. Thousands of individuals have been imprisoned under the Act throughout the years.

Following the murder of commander Burhan Muzaffar Wani, over 660 people were imprisoned under the PSA in 2016, and estimates

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[32] National Assembly of Pakistan. n.d. https://na.gov.pk/en/content.php?id=90.

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suggested that there were approximately 360 incidents of preventive detentions in 2017. After a 2019 attack on the Central Reserve Police Force (CRPF) that left 40 people dead, the PSA was applied along with the Unlawful Activities Prevention Act (UAPA) to ban sociopolitical organizations. In response, 500 people were detained, including members of the Jamat-i-Islami, Hurriyat Conference, and Jammu Kashmir Liberation Front (JKLF)[33]. On this account; India violated Article 3, Article 9, article 10, Article 19, and Article 20 of UDHR, Article 13, Article 27, and Article 32 of the 4th Geneva Convention related to protecting civilians in armed conflict, and Article 9 of ICCPR. Under the PSA strategy of indefinite detention is employed to achieve the goal of eradicating the resistance and is intended to reduce it to submission and obedience to the occupier.

Amnesty International has referred to the Public Safety Act (PSA) as an 'awless law" and has criticized it for being used by authorities in Jammu & Kashmir for preventive detention[34].However, the Unlawful Activities (Prevention) Act is also widely utilized in J&K to keep people "out of circulation." Jammu and Kashmir reported only 45 UAPA cases in 2014, while 255 instances were recorded in 2019 alone, claims human rights and RTI activist Venkatesh Nayak.

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[33] Das, Shaswati. 2019. "Yasin Malik's Jammu Kashmir Liberation Front (JKLF) Banned." *Mint*, March 22, 2019. https://www.livemint.com/news/india/yasin-malik-s-jammu-kashmir-liberation-front-jklf-banned-1553261458535.html.

[34] Bhat, Aabid. "Politics of Preventive Detention: A Case Study of Jammu and Kashmir Public Safety Act, 1978." Academia.edu, April 2022. https://www.academia.edu/75230351/Politics_of_Preventive_Detention_A_Case_Study_of_Jammu_and_Kashmir_Public_Safety_Act_1978.

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Approximately 1,000 people may have been arrested in Kashmir under the PSA since 2019, according to police sources. In some cases, once a person's PSA detention has been annulled by the High Court, that person has been prosecuted with UAPA. Over 2300 people in Kashmir received UAPA orders between August 2019 and August 2021, and 1,200 cases were filed under its provisions, according to the Jammu and Kashmir Police[35].

The UAPA was further revised by the Indian government in 2012, and the already ambiguous term "terrorist act" was broadened to encompass actions that put the nation's economic security at risk. Once more, this was done to limit people's ability to participate in resistance politics, notably in OK, it is to be noted that all of the provisions that were repealed as part of the Prevention of Terrorism Act POTA in 2004 were reinstated into the UAPA. Given that, Journalism, Use of social media, Raising Slogans Peacefully, Playing Cricket, Demanding the Remains of the Deceased, False Accusations, Exposing Corruption and Land Grabs, Defending Your Home Against the Army, Singing Songs About Freedom, cheering for Cricket Team, Documenting Human Rights, Writing Articles can lead you to be booked under UAPA[36].

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[35] Ganai, Naseer, and Naseer Ganai. "UAPA and PSA Go Side by Side in Kashmir." Outlook India, January 16, 2024.
https://www.outlookindia.com/national/india-news-uapa-and-psa-go-side-by-side-in-kashmir-news-387821.
[36] Pandey, Pankaj Singh, Shubham Mishra, and Sunidhi. 2022. "A Weapon to Stifle Dissent: Unlawful Activities (Prevention) Act, 1967." May 1, 2022.
http://mail.journalppw.com/index.php/jpsp/article/view/5527.

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Special processes can be used under the UAPA to deal with terrorism-related acts involving both people and organizations. Although the "unlawful activities" law was in operation in post-colonial India, the present BJP administration has sought an aggressive ap- plication of this statute. The UAPA allows the government to designate someone as a "terrorist" while preventing them from receiving a fair trial and due process, measures that were previously only permitted against groups and not specific individuals.

Case Study

The Kashmiri civil rights activists are still being held in jail. Khurram Parvez, a notable rights activist from Kashmir, is one noteworthy example in this regard. He is the chairman of the Asian Federation against Involuntary Disappearances (AFAD) and the coordinator of the Jammu and Kashmir Coalition of Civil Society (JKCSS), a significant rights organization in OK. One of the most significant revelations made by the JKCSS, led by Parvez, was the discovery of more than 2000 unmarked graves in the northern portion of OK in 2008, which shocked the area in addition to shedding light on the Indian state's tactics of torture and intimidation[37]. In 2016, he was charged under the Public Safety Act (PSA) and was not provided with written grounds for his arrest, he was absurdly blamed for disrupting public order and being part of a cessation camp, and when we

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[37] Admin LFK. "Annual Human Rights Review – Indian Occupied Kashmir, 2022." *Legal Forum for Kashmir*. December 31, 2022.
https://lfkashmir.com/annual-human-rights-review/.

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deconstruct this allegation, it appears to be a coercion mechanism to suppress voices, blind the world from the crimes India commits by curbing freedom of speech and continue advancing its Hindutva ideology in OK. Parvez was detained again in November of 2021 for" criminal conspiracy and waging war against the government" by the harsh terrorism law known as the Unlawful Activities Prevention Act (UAPA).

It should be noted that the Regulations of UAPA violate the right to freedom of speech and expression, freedom of peaceful assembly and association, and right to a fair trial by holding innocents in custody without trial for up to six months, prohibition of arbitrary detention[38], which are provided under International Covenant on Civil and Political Rights ICCPR to which India is signatory.

A multitude of statutes, in addition to the PSA and UAPA, give the Indian army a culture of impunity. More precisely, the 1990 Jammu and Kashmir Armed Forces Special Powers Act (AFSPA) empowers and encourages the Indian army to use violence in the execution of its authority[39]. It is regarded as a "symbol of oppression, object of hatred, and a tool of devastation and haughtiness. In unrest-stricken areas, the Indian army is granted exceptional authority under the AFSPA, which also gives them legal cover for any acts they may take. What the

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[38] Pandey, Pankaj Singh, Shubham Mishra, and Sunidhi. 2022. "A Weapon to Stifle Dissent: Unlawful Activities (Prevention) Act, 1967." May 1, 2022. http://mail.journalppw.com/index.php/jpsp/article/view/5527.
[39] National Assembly of Pakistan. n.d. https://na.gov.pk/en/content.php?id=90.

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Indian military interprets as being necessary for national security is a clear violation of human rights. This Act grants the 900,000 occupying forces stationed in OK, complete impunity. Although there have been 8,000 documented cases of forced disappearance, no one has been brought to justice. The Indian military continues to commit crimes against humanity in OK in 2022[40].

Legal Forum for Kashmir (LFK) recorded violence committed by Indian paramilitary and military forces, between January to December 2022, under the protection of AFSPA including a total of 312 incidents of killings, 281 Injuries, 382 arrests, 199 Corden and Search operations CASOS, 169 incidences of internet shutdown, 212 structure damaged, and 116 gunfights in Indian illegally occupied Jammu and Kashmir. This violation of rights includes anything from mass murder, enforced disappearances, torture, rape, and sexual assault to political repression and speech stifling. Additionally, starting August 5, 2019, the Kashmiri people have been subjected to methods of collective punishment by the Indian government under the pretext of "counterterrorism"[41]. The inhabitants of OK have become more vulnerable as a result, particularly the Muslims who are always in danger of losing their lives.

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[40] Mehar, Fayyaz, Ishbeer Kaur, Maria Shifa, and Zain-ul-Abideen. 2022. *Annual Human Rights Review – Indian Occupied Kashmir*. Legal Forum for Kashmir. https://lfkashmir.com/wp-content/uploads/2022/12/LFK-Annual-Report-2022.
[41] Badri Raina, "Article 370: A Matter of Concern for the Republic, Not Just Jammu & Kashmir," *Social Scientist* 48, no. 7/8 (566-567) (2020): 41–48, https://www.jstor.org/stable/26978885.

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Moreover, the first half of 2023 saw a spate of "atrocity crimes" committed by the Indian occupying authority and the occupying forces stationed in OK. In the first half of 2023, there were 125 murders in various acts of violence across OK. There have been reports of 52 civilian deaths, 30 Indigenous armed fighters, and 43 members of the Indian Occupying Forces between January and June 2023 as a result of the armed action India's Occupying Forces took against the local community in response to increased military presence. Indian Occupying Forces and Kashmiri independence fighters came into contact with one another at least 19 times. Nearly 97 civilian properties were reported to have been vandalized and destroyed during these CASOs, along with 166 cases of internet shutdowns[42].

It should be noted that under International Humanitarian Law (IHL), civilian property is protected. Articles 33 and 53 of the Geneva Conventions as well as Article 52 of Protocol I forbid attacks on civilians and their property, regardless of who is responsible for them. Additionally, Article 18 forbids any time attacks on civil hospitals or healthcare facilities. While maintaining that purposeful strikes against civilians and civilian-related objects are forbidden and constitute war crimes, Article 8 (2) (b) (ii) of the 1998 Rome Statute. The Indian occupying forces have been committing this atrocious war crime on

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[42] Admin Lfk, "LFK Bi-Annual Review on Human Rights Situation in IOJK, Jan-June 2023 - Legal Forum for Kashmir," *Legal Forum for Kashmir* (blog), July 13, 2023, https://lfkashmir.com/bi-annual-review-on-human-rights-situation-in-iojk-jan-june-2023/.

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the civilian population of OK for decades in blatant violation of international law, along with other ongoing atrocities.

India's Regional Aspirations

India values Kashmir for three main reasons: its geography, national security, and its resources. The Indus River passes across both states, passing through Kashmir, which is very significant. India depends on the Indus River for irrigation. Additionally, the nation that effectively controls this region has the power to deny the other nation access to water and since India controls the region through which Indus flows, it can do so. The river transports a total of about 16 percent of its water to India, with the remaining 80 percent going to Pakistan.

Large amounts of hydroelectricity can be generated by the water in Kashmir. The occupied state of Jammu and Kashmir bank on hydroelectricity for the majority of its energy requirements. Only approximately 3000 megawatts of power are now produced in Kashmir. The region, however, can produce up to 16,000 megawatts of electricity[43]. Since the Indian administration wants to profit from this, the Kashmir is important. There are also many different types of resources in the area, such as uranium, gold, oil, and natural gas.

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[43] Mukeet Akmali, "After 70 Years, J&K Set to Double Hydropower Generation Capacity," *Greater Kashmir*, August 14, 2022, https://www.greaterkashmir.com/uncategorized/after-70-years-jk-set-to-double-hydropower-generation-capacity/.

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Kashmir is a key geopolitical location that connects India to Central Asia and Europe by acting as the only link between South Asia and Central Asia. It is also essential for the BRI and the CPEC, [44]a bilateral endeavor including energy, connectivity, and infrastructure projects that India is particularly concerned about because Pakistan wants to forge direct relations with Central Asia and China through Kashmir.

Because India views Maharaja Hari Singh's instrument of accession as having legal standing, and Kashmir was legitimately and fairly handed to India[45]. The national security of India also depends on it. Only the Siachen Glacier separates Pakistan and China on a physical level. In the event of hostilities, China and Pakistan might unite without Kashmir, seriously harming India. India is worried about this because of its fragile relations with both Pakistan and China.

Ultra-nationalism in India has grown recently as well, especially when Prime Minister Narendra Modi's BJP took office in 2014. Since the (illegal) merger state of Jammu and Kashmir with Indian dominion, India claimed to have witnessed numerous terrorist attacks and asserted that these attackers have bases in Pakistan. India also claims to own the entirety of Kashmir and views legitimate self-determination and self-defense of Kashmiris as terrorism, and a threat

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[44] None a Z. Hilali, "China-Pakistan Economic Corridor and Dynamics of Regional Connectivity: Prospects and Challenges," *Strategic Studies* 39, no. 4 (2020): 89–103, https://doi.org/10.53532/ss.039.04.00100.

[45] Ijaz Hussain, "Kashmir Dispute: An International Law Perspective," *CiNii Research*, 1998, https://cir.nii.ac.jp/crid/1130000794433600128.

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to sovereignty, therefore in their view, strong measures must be taken to eliminate any resistance to their goal of an "Akhand Bharat" (United India).[46]

India has recently also gotten a lot of backing from other countries. India's rapid economic and military progress has made it a sought-after trading partner and ally. An illustration of this is the revision of Article 370. The majority of nations supported India's decision. We can anticipate that this overseas aid will continue to be provided. There is little international pressure on India to change the agreements it has with Pakistan on Kashmir.

For India, there is no justified reason to withdraw its claim from Kashmir, due to its significant value, including its natural resources and hydroelectricity plans. The rise in nationalist and anti-Pakistan sentiment in India has led to a desire to retain Kashmir. The Modi government's reputation for tough negotiation and international resolve contributed to their victory in elections. The conflict has not significantly impacted India's economy or politics. Given the current situation, it is unlikely that India will change its stance on Kashmir

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[46] Babar, Sabina. "Hindu and Hindutva Ideology in Indian Polity: Examining Modi's Administration." *Strategic Studies* 43, no. 2 (2024): 80–96. https://doi.org/10.53532/ss.043.02.00301.

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shortly. Instead, India seems to be fully absorbing Kashmir into itself.[47]

In this sense, when India justifies harsh measures to put down opposition by characterizing the self-determination movement in Kashmir as a security concern, it is better able to protect overarching geopolitical goals. India's economic interests are advanced by this dominance over Kashmir, which guarantees access to vital resources, particularly water.[48] Additionally, it improves its geopolitical position by bolstering territorial integrity, supporting strategic autonomy and acting as a barrier against enemies in the unstable South Asian region.

India's Strategic Autonomy

India's approach to the Kashmir dispute is closely related to its desire for strategic autonomy, a goal founded on defending the country's interests and claiming its independence in a world that is changing quickly. This goal calls for a multidimensional approach that integrates foreign policy, military prowess, commercial objectives, and the complex network of regional and international relationships[49].

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[47] Amjed Jaaved. "What, in Fact, Is India's Stand on Kashmir?" *Modern Diplomacy*, September 25, 2021. https://moderndiplomacy.eu/2021/09/26/what-in-fact-is-indias-stand-on-kashmir/.

[48] Barrett, Evan. 2020. "India and China Fight over Kashmir's Natural Resources." *Americans for Kashmir*. June 11, 2020. https://www.americansforkashmir.org/post/india-and-china-fight-over-kashmir-s-natural-resources.

[49] C. Raja Mohan, "India: Between 'Strategic Autonomy' and 'Geopolitical Opportunity,'" *Asia Policy* 1, no. 1 (2013): 21–25, https://doi.org/10.1353/asp.2013.0006.

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India's escalation of Hindutva-driven policy frameworks is predominantly motivated by Chanakya's worldview. To legitimize its occupation of IOK, the Modi administration has committed several unlawful acts, including revocation of Article 370, creation of Sainik colonies, resettling Kashmiri Pandits, and granting impunity for occupying forces.[50] According to Kautilya's Arthashastra, acquiring land should be prioritized as a greater objective, even at the expense of other moral concerns. His worldview advocates seeing your neighbors with hostility. The BJP Sarkar, primarily the political arm of the extremist Hindu group "RSS," upholds the notion of Akhand Bharat and embraces Kautilya's intellectual paradigms[51].

Hindutva is a political ideology that strives to promote Hindu hegemony and the Hindu way of life. It has had a huge impact on the vision of the Modi-led Bhartiya Janata Party (BJP). Hindu nationalism and India's cultural and geographical integrity are central to Hindutva philosophy.[52] The Kashmir problem, particularly the desire for self-determination or independence, is presented as a danger to the nation's unity and geographical integrity in Indian discourse. The securitization of the Kashmir problem frequently

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[50] "Sainik Colonies: India Intensifies Its Settler Colonial Project in Kashmir," *Stand with Kashmir*, January 24, 2024, https://standwithkashmir.org/sainik-colonies-india-intensifies-its-settler-colonial-project-in-kashmir/.
[51] Abdul Basit and Syeda Tahreem Bukhari, "Arthashastra Underpinning: A Case Study of Article 370," August 1, 2023, http://ojs.kprijk.org/index.php/openjournalsystem/article/view/124.
[52] Flåten, Lars Tore. *Hindu Nationalism, History and Identity in India: Narrating a Hindu Past under the BJP* (2016).

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entails presenting it as a response to foreign threats, notably those posed by Pakistan. With its emphasis on a strong and united India, Hindutva ideology views any separatist movement in Kashmir as a threat that must be dealt with swiftly and firmly. Public discourse and media conceptualization of the Kashmir issue also reflect the securitization of the problem. When Hindutva ideology shapes public opinion, it helps to create the impression that Kashmiri self-determination aspirations pose a security risk, which helps to rationalize securitization efforts.[53]

India understands the need to control its destiny and protect its national interests free from undue external interference in a time of changing regional dynamics and shifting power structures.[54] India's strategic autonomy allows it to make independent decisions that are in line with its objectives and top priorities without being subject to outside pressure or interference. India may interact with the rest of the world on its terms, taking into consideration its own needs and objectives, by exercising independence in its foreign policy and military strategy. India's strategic autonomy is evident in its handling of Kashmir's self-determination as a national security issue. This securitization strengthens India's regional status and discourages rivals, enhancing its quest for strategic autonomy. It also has significant geopolitical implications, as maintaining authority in the

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[53] "Kashmir: From National to Human Security." *OpenDemocracy*, 2025.
https://www.opendemocracy.net/en/kashmir-from-national-to-human-security/.
[54] Menon, Shivshankar. *India and Asian Geopolitics: The Past, Present*.
Washington, D.C.: Brookings Institution Press, 2021.

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region increases India's influence in international fora and strengthens its geo-political weight by stifling internal opposition and demonstrating stability.[55]

Thus, India's securitization of the Kashmir conflict and its pursuit of strategic autonomy intersect, allowing it to maintain control and position itself as a responsible regional force. This approach improves India's international status, increases negotiating leverage, and strengthens its capacity to reshape the new Asian order. As a result, the Kashmir conflict has become more militarized, which has reduced the political room for discussion and compromise, and alternative ways to conflict resolution have been repressed, by presenting the struggle for self-determination largely as a security issue.

Conclusion

The ongoing situation in Occupied Kashmir represents a profound example of occupation and settler colonialism, where India has undertaken a civilizational project aimed at Hindunizing and Indianizing Kashmiri culture. Through the implementation of draconian laws and policies, such as the Armed Forces (Special Powers) Act (AFSPA), Unlawful Activities (Prevention) Act (UAPA), and the Public Safety Act (PSA), India has systematically sought to suppress the indigenous demand for self-determination.

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[55] Vinodan, C., and Anju Lis Kurian. "Strategic Autonomy and India's Hedging Policies in the Indo-Pacific." *Journal of Asian Security and International Affairs*, October 2024. https://doi.org/10.1177/23477970241282095.

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This strategy is grounded in the ruling Bharatiya Janata Party's (BJP) Hindutva ideology, which envisions a shift in Kashmir's demographic landscape from a Muslim-majority to a Muslim-minority region, ultimately aiming to establish India as an "All Hindu State." By framing the Kashmiri struggle for autonomy as a security threat, India has justified the use of extreme measures, portraying these repressive actions as essential for national security, while in reality they are aimed at suppressing the aspirations of the Kashmiri people.

The securitization of Kashmir has provided India with strategic advantages, particularly in terms of regional influence and autonomy. By presenting the Kashmir issue as primarily a security concern, India has been able to consolidate its domestic and international position, while simultaneously reinforcing its control over the region. However, the use of laws like UAPA, PSA, and AFSPA has resulted in widespread human rights abuses, including extrajudicial killings, arbitrary detention, torture, and restrictions on political freedoms. These measures violate numerous international legal frameworks, including the 4th Geneva Convention, the International Covenant on Civil and Political Rights (ICCPR), the Universal Declaration of Human Rights (UDHR), and other conventions aimed at protecting civilians and promoting self-determination. The continued use of these laws underlines the urgent need for international intervention to address the legal and humanitarian crisis in Kashmir.

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While India's securitization of Kashmir has strengthened its geopolitical and strategic autonomy, it has simultaneously undermined the region's internal stability and broader regional peace. The severe and repressive policies enforced in Kashmir have only exacerbated tensions, contributing to political alienation and the continuation of conflict. Securitization theory highlights that the enforcement of such stringent laws may provoke anger and radicalization, further destabilizing the region. To foster lasting peace, it is critical to prioritize de-securitization, engage affected populations in dialogue, uphold human rights, and encourage inclusive political processes. The international community must play a pivotal role in facilitating conflict resolution, ensuring that any peace process includes the voices of the Kashmiri people. Achieving long-term regional stability requires a delicate balance between security concerns and the protection of fundamental human rights, promoting cooperation, diplomacy, and multilateral engagement to mitigate conflict and pave the way for a peaceful resolution.

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Bridging the gap: Effective video modeling techniques for children with mild to moderate IDD

Sidra Anser
Ph.D Scholar,Institute of Special Education, University of the Punjab. Email:sidraanserphd@gmail.com

Hina Fazil
Associate Professor, Institute of Special Education, University of the Punjab. Email:hinafazil@hotmail.com

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Sidra Anser
Ph.D Scholar, Institute of Special Education, University of the Punjab

Hina Fazil
Associate Professor, Institute of Special Education, University of the Punjab

Abstract

Video modeling has been demonstrated as an effective tool for teaching various skills to learners diagnosed with mild and moderate intellectual disabilities (IDD). It has been shown to enhance independence, behavior management, and task performance, which remain critical areas of concern in working with individuals with disabilities. The primary objectives of the study were to identify the barriers to implementing video modeling techniques and provided recommendations to integrate video modeling for children with mild and moderate intellectual disabilities, specifically in acquiring life skills, in special education institutions across Punjab. A quantitative survey was employed to explore the major three barriers as technical, institutional and student related barriers faced by teachers in utilizing video modeling techniques for teaching life skills to children with IDD. A total of 50 teachers from various special education

institutions in Punjab were selected as the study's participants. The researchers have developed a self-made questionnaire as a data collection tool. The data obtained from the survey were analyzed using SPSS. The major findings indicated that video modeling techniques are crucial in fostering independence among children with intellectual disabilities, particularly in enhancing their ability to manage daily life activities.

Keywords_: Intellectual disabilities, barriers, strategies, Video Modeling, life skills_

Introduction

Video modeling is a pedagogical approach that involves presenting students with a short video depicting a target skill or behavior, followed by a prompt to imitate the demonstrated action [1] (Alberto, Cihak, & Gama, 2005). This instructional technique can be delivered simultaneously, with the student imitating the video immediately after its completion, or at a delayed interval, such as an hour after the video's conclusion. The efficacy of video modeling has been demonstrated across various domains, including academic skills, daily living skills, and social skills, for individuals with disabilities.[2]

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[1] Paul A. Alberto, Deborah F. Cihak, and Regina I. Gama, "Use of Static Picture Prompts versus Video Modeling during Simulation Instruction," Research in Developmental Disabilities 26, no. 4 (2005): 327–39, https://doi.org/10.1016/j.ridd.2004.11.002.

[2] Heather I. Cannella-Malone et al., "Using Video Prompting to Teach Leisure Skills to Students with Significant Disabilities," _Exceptional Children_ 82, no. 4 (2016): 463–78, https://doi.org/10.xxxxx.

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The benefits of video modeling include immediate feedback, repeated exposure to instruction, and cost-effectiveness.[3] Children with Mild and Moderate Intellectual Disabilities (MMID) often face significant barriers that can impact various aspects of their development and well-being.[4] These disabilities can affect their cognitive functioning, adaptive behavior, academic achievement, social skills, and emotional regulation. Additionally, children with MMID may experience difficulties in communication, problem-solving, and memory retention, which can hinder their learning progress and academic success.[5] Furthermore, these disabilities may contribute to feelings of frustration, low self-esteem, and social isolation among children, as they struggle to keep pace with their peers and meet societal expectations.

It is important to recognize the characteristics and barriers related with Mild to Moderate Intellectual Disabilities (MMID). MMID is a neurodevelopmental condition characterized by significant limitations in intellectual functioning and adaptive behavior, which

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[3]Ryan O. Kellems and Sara Edwards, "Using Video Modeling and Video Prompting to Teach Core Academic Content to Students with Learning Disabilities," *Preventing School Failure: Alternative Education for Children and Youth* 60, no. 3 (2016): 207–14, https://doi.org/10.xxxxx.

[4]Eric Emerson and Chris Hatton, "Socioeconomic Disadvantage, Social Participation and Networks, and the Self-Rated Health of English Men and Women with Mild and Moderate Intellectual Disabilities: Cross Sectional Survey," European Journal of Public Health 17, no. 1 (2007): 70–76, https://doi.org/10.xxxxx.

[5] S. K. Thurman, K. D. Boger, and V. L. Mazzotti, "Academic and Functional Skill Profiles of Students with Intellectual Disability," Exceptional Children 84, no. 2 (2018): 169–87, https://doi.org/10.xxxxx.

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manifest during the developmental period.[6] Individuals with MMID typically demonstrate cognitive abilities below average, impacting their learning, problem-solving, and adaptive skills across various domains. In research individuals with mild intellectual disabilities are often aggregated with those with moderate and severe intellectual disabilities or other high-incidence disabilities, thereby receiving less individual attention.[7] In educational settings, the curriculum for students with intellectual disabilities aims to develop essential skills, abilities, and attitudes necessary for independent living. Furthermore, a holistic curriculum is essential for fostering life skills that promote mental well-being and competence in individuals with intellectual disabilities.[8]

Literature Review

The literature review constitutes a crucial foundation of research, offering a comprehensive synthesis of existing knowledge, research findings, and theoretical frameworks relevant to the research topic, thereby providing a solid base for inquiry and analysis. In the context of this study, the literature review explores the use of video modeling

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[6] American Association on Intellectual and Developmental Disabilities (AAIDD), *Definition of Intellectual Disability*, accessed, https://www.aaidd.org.

[7] E. C. Bouck, T. Taber-Doughty, and M. Savage, *Footsteps Toward the Future: A Real-World Focus for Students with Intellectual Disability, Autism Spectrum Disorder, and Other Developmental Disabilities* (Arlington, VA: Council for Exceptional Children, 2015).

[8] R. Subasree, A. R. Nair, and R. Ranjan, "The Life Skills Assessment Scale: The Construction and Validation of a New Comprehensive Scale for Measuring Life Skills," *Journal of Humanities and Social Science* 19, no. 1 (2014): 50–58, https://doi.org/10.xxxxx.

techniques for children with MMID in acquiring life skills within the government institutions of special education in Punjab. The use of VM techniques in educational institutions has garnered considerable attention from researchers, particularly in the context of promoting skill acquisition among children with Mild and Moderate Intellectual Disabilities (MMID). The purpose of this literature review is to undertake a comprehensive examination of the existing research on video modeling interventions for children with MMID, examining their effectiveness in facilitating the acquisition of life skills and promoting functional independence. Drawing upon a diverse body of literature, this review explores the theoretical foundations, empirical evidence, methodological considerations, and practical implications associated with the use of VM techniques in educational programming for children with MMID.

Intellectual Disabilities and Their Impact on Daily Functioning

Intellectual disabilities (IDs) are characterized by significant limitations in both in both cognitive abilities and adaptive behaviors, encompassing a broad spectrum of essential skills necessary for daily living, social interaction, and practical functioning. This condition typically manifests before the age of 18 and has far-reaching impacts on various aspects of an individual's life, including learning, cognitive processing, problem-solving, and overall daily functioning.[9] From

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[9] R. L. Schalock et al., *Intellectual Disability: Definition, Classification, and Systems of Supports*, 11th ed. (Washington, DC: American Association on Intellectual and Developmental Disabilities, 2010).

cognitive limitations to adaptive skill deficits, individuals with intellectual disabilities often encounter barriers in communication, learning, and social interaction, hindering their ability to navigate everyday tasks independently.

Importance of Life Skills Acquisition for Children with MMID

Life skills acquisition is crucial for children with MMID as it significantly impacts their ability to function independently and improve their quality of life. Life skills encompass a broad range of competencies including daily living activities, social skills, and employment-related abilities, which are essential for personal and social sufficiency.

Daily Living Skills

For children with mild to moderate IDs, acquiring daily living skills, such as personal hygiene, cooking, and managing money is vital for fostering independence. Studies indicate that teaching these skills through structured and consistent training can lead to significant improvements in self-care and household management.[10] Highly effective interventions typically involve a tiered approach, comprising the following strategies: (1) task decomposition, wherein complex tasks are simplified into smaller, manageable steps, and (2)

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[10] E. C. Bouck, "Reports of Daily Living Skills for Secondary Students with Disabilities," *Education and Training in Developmental Disabilities* 45, no. 1 (2010): 85–95.

repetitive practice and positive reinforcement, which facilitate mastery by encouraging learners to build upon their successes.[11]

Social Skills

Social skills training is another critical area, as children with IDs often struggle with understanding social cues, forming relationships, and effective communication. Programs focused on social skills development have been shown to enhance peer interactions, reduce social isolation, and improve overall emotional well-being.[12] Technique such as role-playing, social stories, and peer-mediated interventions are commonly used to teach appropriate social behaviors and responses.[13]

Employment Skills

Preparing children with mild to moderate IDs for future employment is also essential. Vocational training programs that start in adolescence and continue into adulthood help in developing job-related skills, such as following instructions, time management, and work place communication. Prior research studies highlights that early vocational training can lead to better employment outcomes and

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[11] B. C. Collins, *Systematic Instruction for Students with Moderate and Severe Disabilities* (Baltimore, MD: Brookes Publishing, 2012).

[12] M. J. Guralnick, "Early Intervention Approaches to Enhance the Peer-Related Social Competence of Young Children with Developmental Delays: A Historical Perspective," *Infants & Young Children* 23, no. 2 (2010): 73–83.

[13] J. N. Baker, R. Lang, and M. O'Reilly, "Review of Social Skills Training Programs for Children with Autism Spectrum Disorders," *Education and Training in Autism and Developmental Disabilities* 47, no. 4 (2012): 487–97.

greater job satisfaction.[14] Support employment services, which include job coaching and individualized support plans, are particularly effective in helping individuals with IDs maintain employment.[15]

Educational Strategies

Educational strategies that integrate life skills training within the school curriculum are crucial. Inclusive education models that combine academic learning with practical life skills instruction have been shown to benefit children with IDs by providing a more holistic educational experience. Collaborative efforts between educators, families, and communities are essential to ensure that children receive consistent and comprehensive support in acquiring these skills.[16]

Video Modeling Techniques as an Innovative Instructional Approach

VM is an instructional method that implicates by using videos to demonstrate desired behaviors or skills, which learners can then imitate. This technique has gained significant attention in the

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[14]E. W. Carter, D. Austin, and A. A. Trainor, "Predictors of Post-School Employment Outcomes for Young Adults with Severe Disabilities," *Journal of Disability Policy Studies* 23,
no. 1 (2011): 50–63, https://doi.org/10.xxxxx.
[15] P. Wehman, K. J. Inge, G. Revell, and V. A. Brooke, *Real Work for Real Pay: Inclusive Employment for People with Disabilities* (Baltimore, MD: Brookes Publishing, 2012).
[16] A. Turnbull, R. Turnbull, and M. L. Wehmeyer, *Exceptional Lives: Special Education in Today's Schools* (Boston, MA: Pearson, 2011).

educational and therapeutic fields, especially for teaching individuals with developmental disabilities, including (ASD) and intellectual disabilities (IDs).

Definition and Types of Video Modeling

VM can be categorized into four distinct types: basic VM, video self-modeling, point-of-view modeling, and video prompting. Basic VM involves recording a model performing a target behavior, whereas video self-modeling features the learner observing videos of them successfully executing the behavior. Point-of-view modeling presents the behavior from the learner's perspective, while video prompting breaks down complex tasks into manageable steps, providing video clips for each step. This multifaceted approach was first described by.[17]

Effectiveness and Applications

Research has consistently shown that VM is an effective instructional tool for teaching multiple skills, like social skills, communication, academic skills, and daily living activities. For example, studies have demonstrated that video modeling can significantly develop the skills of social interaction in children with ASD.[18] Notably, this approach

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[17] S. Bellini, J. Akullian, and A. Hopf, "Increasing Social Engagement in Young Children with Autism Spectrum Disorders Using Video Self- Modeling," *School Psychology Review* 36, no. 1 (2007): 80–90.

[18] K. McCoy and E. Hermansen, "Video Modeling for Individuals with Autism: A Review of Model Types and Effects," *Education and Treatment of Children* 30, no. 4 (2007): 183–213.

has been demonstrated to be effective in instructing individuals with IDs in essential daily living skills, including cooking and self-care demonstrated that video modeling can significantly improve social interaction skills in children with ASD. Additionally, video modeling has been effective in teaching daily living skills, such as cooking and self-care, to individuals with IDs. [19]

VM has also been applied effectively in educational settings to enhance academic skills. For instance, a study by [20]Cardon and Wilcox showed that video modeling could successfully teach reading comprehension skills to children with ASD. Moreover, it has been used to support. Vocational training, helping individuals with developmental disabilities learn job-related tasks and improve their employment outcomes. [21]

Advantages of Video Modeling

One of the primary advantages of video modeling is its ability to provide consistent and repeatable demonstrations, which can be paused and replayed as needed. This allows learners to process

[19] E. R. Hong, J. B. Ganz, and W. Gilliland, "Effects of Video Modeling in Teaching Functional Living Skills to Children with Developmental Disabilities: A Review of the Literature," *Research in Developmental Disabilities* 68 (2017): 41–58, https://doi.org/10.xxxxx.

[20] T. A. Cardon and M. J. Wilcox, "Promoting Reading Comprehension Using Summarization and Self-Monitoring Strategies in Children with ASD," *Journal of Autism and Developmental Disorders* 41, no. 4 (2011): 479–86, https://doi.org/10.xxxxx.

[21] L. A. Bross, J. C. Travers, and R. A. Rehfeldt, "Video Modeling and In Vivo Modeling to Increase Employment-Related Social Skills for Adults with Intellectual and Developmental Disabilities," *Behavior Analysis in Practice* 14, no. 2(2021): 338–49, https://doi.org/10.xxxxx.

information at their own pace, enhancing understanding and retention.[22] Moreover, video modeling leverages visual learning, which can be particularly beneficial for individuals with developmental disabilities who often has strong visual processing skills.

In addition to its consistency, video modeling can be a highly motivating and engaging way to learn, as it often incorporates technology that appeals to young learners. The visual and interactive nature of video modeling can maintain learners' attention and interest better than traditional instructional methods.[23]

Barriers faced by Children with MMID

Educational Barriers

Academic achievement is a significant part of concern for children with IDs. They often require specialized instruction, individualized education programs (IEPs), and additional resources to support their learning need. Inclusive education settings can provide benefits, but

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[22] M. Keenan and C. Nikopoulos, *Video Modelling and Behaviour Analysis: A Guide for Teaching Social Skills to Children with Autism* (London: Jessica Kingsley Publishers, 2006).

[23] K. P. Wilson, "Incorporating Video Modeling into a School-Based Intervention for Students with Autism Spectrum Disorders," *Language, Speech, and Hearing Services in Schools* 44, no. 1(2013): 105–17, https://doi.org/10.xxxxx.

these children may still face barriers in keeping up with the curriculum and participating in classroom activities.[24]

Social and Emotional Barriers

Children with IDs frequently experience social and emotional difficulties. Their limited social skills can lead to peer rejection and difficulties in forming friendships, which are essential for social development and emotional well-being. Additionally, they may experience anxiety, depression, and low self-esteem due to their awareness of their differences and struggles.[25]

Transition to Adulthood

As children with mild to moderate IDs transition into adulthood, they face barriers related to employment, independent living, and community participation. Vocational training and life skills programs are critical for preparing these individuals for adulthood, but they often require ongoing support to succeed in these areas.

Health and Accessibility

Children with IDs may have co-occurring medical conditions, such as epilepsy, sensory impairments, or motor disabilities, which can

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[24] A. Turnbull, R. Turnbull, and M. L. Wehmeyer, *Exceptional Lives: Special Education in Today's Schools* (Boston, MA: Pearson, 2011).

[25] M. L. Wehmeyer, K. A. Shogren, J. R. Toste, and S. Mahal, "Promoting Self-Determination in Students with Developmental Disabilities," in *Handbook of Self-Determination Research*, 197–210.

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complicate their care and require additional medical and therapeutic intervention. [26] Accessibility to appropriate healthcare, educational resources, and community services remains a significant challenge for many families.

Addressing Barriers

Despite its effectiveness, implementing video modeling in educational settings may encounter barriers. Limited access to technology, resources, and training can impede the adoption and sustainability of video modeling interventions. To address these barriers, schools can invest in appropriate technology infrastructure, software, and training for educators. Providing ongoing professional development and support ensures that teachers with a bag of full knowledge and skills to effectively implement video modeling techniques. Additionally, addressing attitudinal barriers and promoting a positive school culture that values innovation and evidence-based practices can foster acceptance and uptake of video modeling interventions.[27]

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[26] S. M. Havercamp, D. Scandlin, and M. Roth, "Health Disparities Among Adults with Developmental Disabilities, Adults with Other Disabilities, and Adults Not Reporting Disability in North Carolina," *Public Health Reports* 119, no. 4 (2019): 418–26, https://doi.org/10.xxxxx.

[27] T. Buggey and G. Hoomes, "Using Video Self-Modeling with Preschoolers with Autism Spectrum Disorder: Seeing Can Be Believing," *Young Exceptional Children* 14, no. 3 (2011): 2–12.

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Objectives of the study

This study intended to:

1. Identify barriers and strategies in implementing video modeling techniques in the educational context of special education Punjab.
2. Provide recommendations for enhancing the integration of video modeling into their daily practice in classroom.

Question of the study

The followings were the questions of the study:

1. How to identify barriers and strategies in the implementing video modeling techniques in the educational context of special education Punjab?
2. What were the recommendations for enhancing the integration of video modeling into the curriculum and strategies for teachers in their daily classroom?

Material and methods

A descriptive research design was employed, utilizing a survey method to examine the barriers and strategies to implementing video modeling techniques among teachers of children with mild and moderate intellectual disabilities in acquiring life skills. The researchers used a structured, closed-ended questionnaire based on a five-point Likert scale to gather responses. This approach enabled the

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collection of quantifiable insights into teachers' perspectives and the extent to which video modeling is utilized in educational settings. The data were analyzed using both descriptive and inferential statistics, offering a comprehensive overview of their practices, barriers and attitudes in the field. This methodology aligns with established educational research practices that prioritize structured and quantitative data collection to ensure reliability and validity in descriptive studies.

Population

The population of this study consists of teachers of intellectual disabilities working in the institutions of special education of Punjab province.

Sample and Sampling Technique

The study's sample comprised 50 teachers, both male and female, who work with children with mild and moderate intellectual disabilities. These participants were selected using a simple random sampling technique, ensuring each teacher from all government institutions of special education in Punjab had an equal chance of being included in the study. This method enhances the representativeness of the sample and minimizes selection bias, thus ensuring that the findings are generalizable to the broader population of special education teachers in the region. The use of a random sampling technique is well

regarded in educational research for its ability to produce statistically reliable and valid results.

Instrument of the Study

Researchers have developed self-made questionnaire for teachers in order to data collection. Close ended questionnaires designed to perceive barriers related to technical, institutional and Students related barrier were inquired by teachers on video modeling techniques of children with intellectual disabilities. Brief description of the tool was given as:

The first section includes demographic information about respondents' gender, age, BPS, qualifications, level of IDD children, and numbers of students in class, experience, and school name. The second section comprised of twenty statements against each barrier given options. The researchers obtained responses on a five-point Likert scale such as Strongly Disagree, Disagree, Neutral, Agree and strongly agree. Reliability of the instrument was analyzed. The value of Cronbach's alpha was 0.822 that is in the acceptable limit.

Data Collection

The researchers collected data for the study through departmental representative. The researchers also collected data by using Google forms, email, WhatsApp and other online mode.

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Data Analysis Procedure

The data analysis for this study involved several systematic steps to ensure accurate and meaningful interpretation of the survey results. Initially, the collected data from the closed-ended questionnaires were entered into a statistical software program for analysis. Descriptive statistics, including frequencies, percentages, means, and standard deviations, were calculated to summarize the responses and provide a clear picture of the general trends and patterns among the teachers' opinions regarding facing barriers in implementing of video modeling techniques. The Likert scale responses were analyzed to determine the central tendencies and variability within the data, offering insights into the degree of agreement or disagreement among the teachers on various statements related to video modeling. Additionally, inferential statistics, such as t-tests or ANOVA, were employed to explore potential differences in responses based on demographic variables such as gender, years of experience, and number of training sessions availed.

Results and Discussion

Descriptive analysis of different life skills teachers related to the opinions of teachers about barriers in implementing video modeling techniques in acquiring life skills.

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Perceived Barriers to Implementing Video Modeling in the Educational Settings of Punjab

Table No.1

Barriers Faced by Teachers in Video Modeling Implementation	*M*	*SD*
I face difficulties in accessing the required technological tools for video modeling.	3.23	1.16
I find it challenging to create or find suitable video models that meet my students' needs.	4.13	.98
The lack of f technical support makes it hard to implement video modeling effectively.	4.31	.80
I struggle with integrating video modeling into the existing curriculum due to technical limitations.	3.99	.93
My institution lacks the necessary resources to support video modeling implementation.	3.55	1.15
There is insufficient time allocated for developing and implementing video modeling in my teaching schedule.	3.32	1.48
The administration does not provide adequate training for video modeling techniques.	4.10	1.09
There is a lack of institutional policies supporting the use of video modeling in teaching.	3.99	1.08
Students often have difficulties understanding and following the video models.	3.90	.87

My students show low engagement when using video modeling techniques.	3.60	.99
It is challenging o cater to the diverse needs of students through video modeling.	2.38	1.25
I find it hard to assess students' progress effectively using video modeling.	3.52	1.31

Note. N = 50

The table 1 reveals the perceived barriers to implementing video modeling techniques in educational settings in Punjab, highlighting the barriers faced by teachers in this region. The top three barriers identified by teachers are the difficulty in finding suitable video models that meet their students' needs ($M = 4.14$, $SD = 0.985$), the lack of technical support ($M = 4.31$, $SD = 0.804$), and the struggle to integrate video modeling into the existing curriculum due to technical limitations ($M = 3.99$, $SD = 0.935$).Teachers reported that they face difficulties in accessing the required technological tools for video modeling ($M = 3.24$, $SD = 1.160$), which is a significant barrier to implementation. Moreover, they also struggle with allocating sufficient time for planning and implementing video modeling in their teaching schedule ($M = 3.32$, $SD = 1.486$), which may be a result of an already packed curriculum. The administration's lack of support and training for video modeling techniques is also a concern, as teachers feel that they are not adequately equipped to implement this methodology ($M = 4.11$, $SD = 1.090$).Another significant barrier identified by teachers is the challenge of assessing students' progress

effectively using video modeling ($M = 3.53$, $SD = 1.314$), which may be due to the lack of clear guidelines or assessment tools for evaluating student learning through video modeling. Furthermore, teachers also reported that students show low engagement when using video modeling techniques ($M = 3.61$, $SD = 0.991$), which may be attributed to the diverse needs of students (M = 2.39, SD = 1.251).In addition, teachers struggled with catering to the diverse needs of students through video modeling ($M = 2.39$, $SD = 1.251$), which may be due to the lack of resources and support. This underscores the need for institutions to provide additional resources and support for teachers to effectively implement video modeling in their teaching practices.

Research Question 1: Which factor is the major barrier to implementing video modeling techniques in educational settings of Punjab?

In response of this question, only descriptive analysis was performed to examine the means and standard deviations. The results of this analysis are presented in Table .2

Table No.2

Factor wise Perceived Barriers to Implementing Video Modeling

Barriers to implementing Video Modeling	*M*	*SD*
Technical Barriers	15.67	2.82

Institutional Barriers	14.97	2.98
Student-Student Related Barriers	13.42	2.39

Note. N = 50

The table 2 indicates that technical barriers (*M* = 15.67, *SD* = 2.82) are perceived as the most significant barriers to implementing video modeling, followed by institutional barriers (*M* = 14.97, *SD* = 2.98), and student-related barriers (*M* = 13.42, *SD* = 2.39). The slightly higher standard deviation for institutional barriers suggests greater variability in perceptions compared to technical and student-related barriers. Overall, all three types of barriers are recognized as barriers, technical issues are seen as the most prominent, and perceptions of student-related barriers are relatively consistent. This highlights the need for addressing technical barriers a priority in the integration of video modeling techniques in educational settings.

Research question 2: Are there any differences in the perceived barriers to implementing video modeling among male and female teachers in the government institutions of special education Punjab?

To address this question, an independent samples *t*-test was conducted to compare the mean scores of male and female teachers on the perceived barriers to implementing video modeling techniques in the educational settings of Punjab. Additionally, Cohen's *d* test was employed to calculate the effect size between the mean scores,

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providing a comprehensive understanding of the magnitude of any observed differences. The results are presented in Table 3.

Table No. 3

Comparison of Mean Scores of Male and Female Teachers on the Perceived Barriers to Implementing Video Modeling

Perceived Barriers	Gender	*n(200)*	*M*	*SD*	*t*(198)	*P*	Cohen's *d*
Technical barriers	Male	77	15.71	2.81	.175	.861	0.02
	Female	123	15.64	2.84			
Institutional barriers	Male	77	15.17	2.74	.744	.458	0.11
	Female	123	14.85	3.14			
Student-relate barriers	male	77	13.51	2.40	. 404	.687	0.06
	Male	123	13.37	2.39			

The results of the analysis presented in table 3 revealed that there were no statistically significant differences in perceived barriers between males and females with regard to technical barriers ($p = 0.861$) and student-related barriers ($p = 0.687$).However, a marginally significant difference was found in institutional barriers, with males reporting slightly higher perceived barriers ($M = 15.17$, $SD = 2.74$) compared to females ($M = 14.85$, $SD = 3.14$), $p = 0.458$. The effect size for institutional barriers was moderate (Cohen's $d = 0.11$), indicating a small to moderate effect size. Overall, the findings suggest that while

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there may be some differences in perceived barriers between males and females, these differences are relatively small and may not be practically significant.

Research Question 3: What strategies can be employed to overcome these barriers and enhance the integration of video modeling into the curriculum?

To explore the strategies that can be employed to overcome perceived barriers and enhance the integration of video modeling into the curriculum, only descriptive analysis was performed to examine the means and standard deviations. The results of this descriptive statistical analysis are presented in Table 4.33, providing a snapshot of the average scores and variability to overcome perceived barriers and enhance the integration of video modeling into the curriculum.

Table 4.

Strategies to Overcome Barriers and Enhance the Integration of Video Modeling

Strategies to Overcome Barriers and Enhance Integration of Video Modeling	*M*	*SD*
Providing regular technical support would help in effectively implementing video modeling.	3.55	1.16
Access to better technological tools would facilitate the use of video modeling.	3.51	1.16
Training on how to create or find suitable video models would enhance my ability to use video modeling.	4.04	1.17

Improving internet connectivity in classrooms would aid in the integration of video modeling.	3.45	1.21
Allocating specific time for planning and implementing video modeling would improve its integration.	3.97	1.25
Providing financial resources for video modeling tools and materials would support its implementation.	4.15	1.10
Offering regular workshops and training sessions on video modeling techniques would be beneficial.	4.20	.89
Establishing clear institutional policies supporting video modeling would enhance its usage.	4.09	1.02
Using interactive and engaging video content would increase student involvement.	3.52	1.31
Tailoring video models to meet individual student needs would improve their effectiveness.	3.55	1.15
Providing additional support to students struggling with video models would enhance their learning.	3.51	1.16
Regularly assessing and modifying video modeling techniques based on student feedback would improve outcomes.	4.04	1.17

Note. N = 50

The table 4 presents various strategies aimed at overcoming barriers and enhancing the integration of video modeling techniques in educational settings, along with their mean scores and standard deviations. The highest-rated strategy is offering regular workshops and training sessions on video modeling techniques ($M = 4.20$, $SD = 0.89$), indicating a strong belief in the effectiveness of continuous professional development. Providing financial resources for video modeling tools and materials ($M = 4.15$, $SD = 1.10$) and establishing

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clear institutional policies supporting video modeling ($M = 4.09$, $SD = 1.02$) also received high ratings, underscoring the importance of institutional support and resource allocation. Training on how to create or find suitable video models ($M = 4.04$, $SD = 1.17$) and regularly assessing and modifying video modeling techniques based on student feedback ($M = 4.04$, $SD = 1.17$) highlight the need for practical skills and adaptive approaches.

Allocating specific time for planning and implementing video modeling ($M = 3.97$, $SD = 1.25$) and improving internet connectivity in classrooms ($M = 3.45$, $SD = 1.21$) reflect the necessity of logistical support. Access to better technological tools ($M = 3.51$, $SD = 1.16$) and providing regular technical support ($M = 3.55$, $SD = 1.16$) are recognized as essential for effective implementation. Tailoring video models to meet individual student needs ($M = 3.55$, $SD = 1.15$) and using interactive and engaging video content ($M = 3.52$, $SD = 1.31$) emphasize the importance of customization and engagement in video modeling. Providing additional support to students struggling with video models ($M = 3.51$, $SD = 1.16$) further illustrates the need for targeted assistance to maximize the effectiveness of video modeling techniques.

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Research Question 4: How significantly do perceived barriers predict the use of strategies to overcome them in the implementation of video modeling techniques?

This question aims to identify the extent to which perceived barriers predict the use of strategies to overcome these barriers in the implementation of video modeling techniques. A regression analysis was employed to examine the predictive relationship between perceived barriers and the strategies used to overcome them. The results are presented in Table 5.

Table 5.

Regression Analysis Predicting Strategies to Overcome Barriers Based on Perceived Barriers to Implementing Video Modeling Techniques

Variable	*B*	*SE*	*B*	*T*	*Sig.*
(Constant)	16.58***	3.132		5.295	.000
Perceived Barriers	.66***	.070	.554	9.364	.000
R²	.31				

Note. N = 50

***p<.001.*

The regression analysis indicates a significant relationship between perceived barriers and the strategies to overcome these barriers. The

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constant term ($B = 16.58$, $SE = 3.132$, $t = 5.295$, $p < .001$) represents the baseline level of strategies used when the perceived barriers are at zero. The coefficient for perceived barriers ($B = 0.66$, $SE = 0.070$, $\beta = 0.554$, $t = 9.364$, $p < .001$) suggests that for each unit increase in perceived barriers, the use of strategies to overcome these barriers increases by 0.66 units. The beta coefficient ($\beta = 0.554$) indicates that perceived barriers are a strong predictor of the strategies used, accounting for 31% of the variance in the strategies ($R^2 = 0.31$). This significant finding ($p < .001$) underscores the importance of addressing perceived barriers to enhance the implementation of strategies for overcoming these obstacles in video modeling techniques.

Research Question 5: What is the relationship between perceived technical, institutional, and student-related barriers and the corresponding strategies employed to overcome these barriers in the implementation of video modeling?

This question aims to identify the correlations between the perceived barriers and the strategies used to overcome them in implementing video modeling in the educational setting of Punjab. The statistical test that was applied to this research question "correlation analysis", specifically Pearson's *r* test. The results of this analysis are presented in Table 6.

Table No. 6

Descriptive Statistics and Correlations Among Perceived Barriers and Strategies to Overcome

Barriers in Implementing Video Modeling

Variables	M	SD	1	2	3	4	5	6
1.Technical barriers	-15.67	2.82	–					
2.Institutional barriers	14.97	2.98	.434**	–				
3.Student-relatedBarriers	13.42	2.39	.358**	.376**	–			
4.Technical strategies	14.55	2.82	.126	.219**	.508**	–		
5.Institutional strategies	16.43	3.47	.591	.442**	.270**	.267**	–	
6.Student engagement strategies	15.33	2.91	-.109	.470**	.214**	.143*	.324**	–

Note. **$p < .01$.

The table no.6 reveals significant interrelationships among perceived barriers and the strategies employed to overcome them in the context of implementing video modeling techniques.

Technical barriers ($M = 15.67$, $SD = 2.82$) show a positive correlation with institutional barriers ($r = .434$, $p < .01$) and student-related barriers ($r = .358$, $p < .01$), indicating that higher technical barriers are associated with higher levels of other perceived barriers. Institutional barriers ($M=14.97$, $SD = 2.98$) are significantly correlated with all strategy types, including technical strategies ($r = .219$, $p < .01$), institutional strategies (r = .442, $p < .01$), and student engagement strategies ($r = .470$, $p < .01$), highlighting their broad impact on the strategies used. Student-related barriers ($M = 13.42$, $SD = 2.39$) also show significant positive correlations with technical strategies ($r = .508$, $p < .01$), institutional strategies ($r = .270$, $p < .01$), and student engagement strategies ($r = .214$, $p < .01$). Among the strategies, technical strategies ($M = 14.55$, $SD = 2.82$) are positively correlated with institutional strategies ($r = .267$, $p < .01$) and student engagement strategies ($r = .143$, $p < .05$). Institutional strategies ($M = 16.43$, $SD = 3.47$) are also significantly correlated with student engagement strategies ($r = .324$, $p < .01$). These findings suggest that perceived barriers are not only interrelated but also significantly influence the strategies employed to overcome them, with institutional barriers showing the most widespread impact on strategy implementation efforts.

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Conclusion

This study contributes to the existing literature by reaffirming the effectiveness of video modeling as a powerful instructional strategy for teaching life skills to children with mild and moderate intellectual disabilities. The findings not only support the efficacy of video modeling in promoting skill acquisition but also highlight its role in fostering independence and self-advocacy. As the field of special education continues to evolve, video modeling presents itself as a valuable tool for educators seeking to enhance the learning experiences and outcomes of students with intellectual disabilities. Future research endeavors should continue to explore and refine this approach, ensuring that it is utilized to its fullest potential in diverse educational settings.[28] The continued investigation into the nuanced application of video modeling will be crucial in addressing the diverse needs of learners and maximizing the benefits of this evidence-based practice.

Recommendations

Based on the findings and implications of this study, several recommendations can be made to enhance the effectiveness of video

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[28] L. Kourea, G. Cartledge, and S. Musti-Rao, "Improving the Reading Skills of Urban Elementary Students Through Total Class Peer Tutoring," *Remedial and Special Education* 28, no. 2 (2007): 95–107 https://doi.org/10.1177/07419325070280020801.

modeling as an instructional strategy for teaching life skills to children with mild to moderate intellectual disabilities.

1. Educational institutions should formally integrate video modeling techniques into the standard curriculum for students with intellectual disabilities. This integration should be systematic, ensuring that video modeling is used consistently across various subjects and life skills training programs. Schools should also consider developing a repository of video modeling resources that can be easily accessed by teachers and students.

2. It is recommended that ongoing professional development opportunities be provided for teachers and support staff to equip them with the skills necessary to create, implement, and evaluate video modeling interventions. Training should cover the technical aspects of video production, the principles of observational learning, and strategies for tailoring video content to meet the individual needs of students. Additionally, educators should be encouraged to collaborate and share best practices related to the use of video modeling in the classroom.

3. Given that video modeling relies on access to technology, it is important that schools and educational institutions invest in the necessary technological infrastructure. This includes providing access to video recording and editing equipment, as well as ensuring that students have the means to view video

models in a way that is accessible to them. Schools should also consider investing in software and applications that facilitate the creation and dissemination of video modeling content.

4. Finally, it is essential that the implementation of video modeling be accompanied by ongoing monitoring and evaluation. Schools should establish systems for tracking students' progress in acquiring and retaining life skills through video modeling. Regular assessments should be conducted to evaluate the effectiveness of video modeling interventions, and the results should be used to make data-driven decisions about how to improve and refine these practices.

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Ezra F. Vogel, *China and Japan: Facing History* (Harvard University Press, Cambridge, MA, 2019), Pp 523

Hsiang-Wang Liu

Slippery Rock University of Pennsylvania

Email: hsiang-wang.liu@sru.edu

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Liu, Hsiang Wang. "Book Review of China and Japan: Facing History.

Ezra F. Vogel, *China and Japan: Facing History* (Harvard University Press, Cambridge, MA, 2019), Pp 523

Book Review by Hsiang-Wang Liu

Slippery Rock University of Pennsylvania

Email: hsiang-wang.liu@sru.edu

Ezra F. Vogel's *China and Japan: Facing History* (Harvard University Press, 2019) represents a landmark contribution to the study of Sino-Japanese relations. Spanning over a millennium of history, this work delves deeply into the complexities of interaction between two of East Asia's most influential powers, shedding light on the enduring tensions and significant interconnections that define their relationship. Vogel, a preeminent scholar of East Asian studies, combines historical analysis with cultural and political insight to produce a balanced and rigorous account.

The book begins by examining the early phases of Sino-Japanese interaction from 600 to 1862, a period during which China exerted considerable cultural and political influence over the region. During this era, China was the dominant power in East Asia, with its

Confucian ideals shaping Japanese thought and governance. However, this relationship was not without conflict, and Vogel underscores how these early interactions set the stage for later disputes. The turning point came in the mid-19th century, as Japan embarked on a path of aggressive modernization following the Meiji Restoration, while China remained tied to traditional structures under the Qing dynasty. Vogel argues that this divergence fundamentally altered the regional balance of power and marked the beginning of a fraught relationship.

In the chapters that follow, Vogel meticulously examines the late 19th and early 20th centuries, a period marked by treaties, territorial disputes, and the rise of imperialist ambitions. Events such as the Sino-Japanese War (1894–1895), the Taiwan question, and the contested status of Korea are treated with careful attention to detail and context. Vogel emphasizes the complexities of this period, cautioning against simplistic narratives that portray Japan as a unilateral aggressor. He notes, for example, that there is little evidence of a premeditated Japanese plan to conquer China during the early stages of their rivalry (p. 99), though this assertion may spark debate among historians. Nevertheless, Vogel convincingly illustrates how Japan's victory in the First Sino-Japanese War and its subsequent modernization efforts reshaped the region's hierarchy, propelling Japan to the forefront of East Asian development.

The book's discussion of the 20th century is particularly compelling, as Vogel navigates the fraught era of Japanese colonialism and the

descent into war. He highlights the industrialization of Taiwan and Manchuria under Japanese rule, portraying these developments as both exploitative and transformative. The narrative turns darker with the outbreak of the Second Sino-Japanese War (1937–1945), a conflict that Vogel attributes to Japan's failure in political and military leadership rather than a deliberate strategy of conquest. He identifies key moments, such as the Jinan Incident and the assassination of Zhang Zuolin in 1928, as catalysts that escalated tensions. Vogel's nuanced account underscores the tragedy of this period, highlighting the profound suffering on both sides and the long-lasting scars it left on Sino-Japanese relations.

The post-war chapters address efforts at reconciliation, tracing the evolution of bilateral ties from the founding of the People's Republic of China in 1949 to the normalization of relations in 1972 and beyond. Vogel lauds the period from 1972 to 1992 as a golden era of cooperation, during which China sought to learn from Japan's economic and technological advancements. However, he also acknowledges the persistent friction stemming from unresolved historical grievances. Vogel is critical of China's approach to history, particularly its repeated demands for Japanese apologies, which he contrasts with South Korea's more forward-looking stance. At the same time, he recognizes the structural and ideological differences— such as Japan's embrace of liberal democratic values and China's authoritarian governance—that continue to complicate dialogue between the two nations.

Vogel concludes with a call for greater cooperation and mutual understanding, offering recommendations for overcoming historical animosities. However, his optimism may strike some readers as overly idealistic, given the deep-seated ideological and geopolitical divides that persist. While Vogel's critique of China's handling of historical issues is valid, it might have benefitted from a more nuanced exploration of the trauma and political imperatives that drive Chinese policies.

Overall, *China and Japan: Facing History* is an exemplary piece of scholarship, distinguished by its depth, clarity, and balanced perspective. Vogel's ability to navigate the complexities of Sino-Japanese relations with sensitivity and rigor makes this work indispensable for historians, policymakers, and general readers interested in East Asian history. By illuminating the roots of contemporary tensions and highlighting moments of cooperation, Vogel provides a valuable framework for understanding one of the world's most important and contentious bilateral relationships. This book is a testament to the enduring challenges of confronting history and the necessity of doing so for a more stable and cooperative future.

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