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Platform & Workflow by: [Open Journal Systems](#)<https://doi.org/10.5281/zenodo.17525299>**Slavery of the State of Jammu & Kashmir and the Defecto Governance of Azad Kashmir in Its Historical Perspective****Muhammad Ashraf**

Advocate Supreme Court

ashrafqureshi83@gmail.com**ABSTRACT**

Under this research, the State of Jammu and Kashmir as a whole is discussed with brief history that how it has been governed by different tribes under different ways of methodologies, which depicts the importance and culture of this historical state already existed from an memorable period. The civilization and culture of the Kashmiri people in its historical perspective have been given a touch in this chapter. In continuance of historical perspective, the constitutional crises based relationship of Azad Jammu and Kashmir territory with Pakistan has also been discussed in a brief way under different circumstances which were and are being faced by the people of Azad Jammu and Kashmir and the people of Pakistan too. The territory of Azad Jammu and Kashmir District-wise have been discussed by throwing a light on the culture, civilizations and nature of the people residing therein. There are three parts of this research paper. In first part, the history of the State of Jammu and Kashmir have been discussed from its ancient Hindu period till the period of the partition of Indian subcontinent 1947. The regimes of Sikhs, Afghans, Mughals etc. have been discussed shortly in order to know that how the people of this State have been treated and governed under multiple cultures and civilizations. The second part of this research solely focused on the territory of Azad Jammu and Kashmir, which is the nucleus of this thesis. The Culture, languages, employment sources etc. of the people of this area have been expressed in District-wise. And the last part of this research deals with the Constitutional relationship of Pakistan and Azad Kashmir in its historical perspective particularly from 1947 to till now that how the people of Azad Jammu and Kashmir are being governed by the Federal Government of Pakistan while performing its functions under UNO resolutions. What different mechanism have been adopted by the Federal Government of Pakistan from 1947 to till now with regard to the good governance in Azad Jammu and Kashmir under different treaties and agreements.

Keywords: *Slavery, State of Jammu & Kashmir, Defecto Governance, Azad Kashmir, Historical Perspective.*

1.1 BRIEF HISTORY OF THE STATE

During the British East India Company's administration and the British Raj in India (1846–1952), Jammu and Kashmir was a princely state, with the official name of the Princely State of Kashmir and Jammu. After the First Anglo-Sikh War, the Sikh areas that had been part of the princely state were returned to the Sikhs.¹ The city was likely established in the thirteenth century B.C. by Raja Jamboo Lochan. On one of his hunting excursions, the Raja saw a tiger

¹ Ian Copland, *The Princes of India in the Endgame of Empire, 1917–1947* (Cambridge: Cambridge University Press, 1997), 45, hardcover, accessed June 19, 2023. Retrieved From: <https://www.cambridge.org/core/books/princes-of-india-in-the-endgame-of-empire/1917-1947/123456789>.

and a goat drinking water sharing in the one and same pond.² In a short way, the history of the State of Jammu and Kashmir can be searched for through different ages of different families, who have governed it." After consulting many books on the topic, the following survey of history in a brief way can be made:

1.2 ANCIENT HINDUISM PERIOD

The authentic book on the history *Raj-Turrangni*, the study of which reveals that Indians governed the Kashmir for four thousand years. In the early first millennium AD, Kashmir was an essential religious hub, first as a Hindu stronghold and then a Buddhist one; by the ninth century, a new religious tradition known as Kashmir Shaivism had emerged in the area.³ The Gonand Ist. (2450 BC) was the first ruler, who made the basis for government in Kashmir. Budh ruler Ashoke's period is 231 to 272 BC, in which the Kashmir State extended to Hinduism, Barma, Kabel, Kandhar, Turkistan and China. The famous ruler, a tyrannical and oppressive ruler of Hun nation Sardar Mehr Gill took the administration of Kashmir State in the year 528 and boldly governed it. During his period, Mangoles attacked the Kashmir, but was brutally defeated. After this brutal ruler, Taja Perver Seen became the ruler in the year 580, he converted Srinagar in the name of Perwerpur. After this many other Hindu rulers governed the Kashmir, in which Raja Lilita Deeta is famous, who remained as ruler of the State from 725 to 753.⁴ He was a great ruler, who extended the State to Punjab, Kabal, Kandhar, Tibet and Turkistan. After Lilita Deeta, a woman was the famous ruler but lastly this period ended. During her regime from 1300 to 1319, a Tatar ruler Zawelcho attacked the Kashmir, and destroyed the State entirely. When Zawelcho returned back, a minister of Sahodio namely Prince Ranchen, became Muslim due to the preachings of Mystic Sharif-u-Din Bulbul Shah and renamed as Sultan Sadder-u-Din, who governed the Kashmir for the years 1320 to 1323.

1.3 THE PERIOD OF MUSLIM SULTANATE

After the death of Sultan Sadder-u-Din in 1323, Raja Sahdev's brother Owadin Dev became the ruler. After this a Muslim Minister Shahmeer who belonged the Hazara Swat became the ruler. He was the first regular Muslim ruler of the Kashmir and laid the foundation of empire of Shahmeeri's family. He died after 3 years. About 216 years Shahmeeri family remained in government. They developed the educational and literary set up of the State and specifically the great member of this family Shahab ud Din conquered Tibbet, Lasgar, Tripstan, Samarqand, Bakhara, Qandhar, Kabul, Punjab, Sindh, Baluchistan and Rajputana and included these region in the State of Jammu & Kashmir.⁵ During this period Syed Ali Hamdani, the main figure, with his companions extended the Islamic light to each and every corners of Kashmir. Chak family's predecessor namely Linker Chak, who came from Fardastan and was an employee of Raja Sehdev and from Chak family Shrewk Minister Ghazi Chak became the ruler of Kashmir and conquered the area of the State in 1555. Eight rulers of Chak family remained

² "History," History | District Jammu | India, accessed August 3, 2023. Retrieved From: <https://jammu.nic.in/history/>.

³ Kalhana. *Rajatarangini: The River of Kings*. Translated by R. S. Pandit. New Delhi: Sahitya Akademi, 1990, 45.

⁴ Malik, Nisar A., and Abdul Majid. "Kashmir: In Historical Perspective." *Journal of the Punjab University Historical Society* 29, no. 2 (2016): 1–10.

⁵ Ghulam Abbass, *Kashmakish*, fiction (Rawalpindi: Ferozsons Publishers Ltd., January 1, 1950), 33, <https://www.ferozsons.com/kashmakish>.

in government from 1555 to 1586.⁶ They were the follower of Shia sect. They being members of Kashmir Ulema deputation under the leadership of Shiekh Hamza Makhdoom met with Mughal Emperor Akbar Azam and requested him to accede the State with his states. Under this agreement it was provided that the people of both the states will be free in religion and they will not be made slave and Kashmiris will be given the internal sovereignty and consequently in 1585 the Mughal army under the command of Raja Bhagwan Das entered into Kashmir valley and defeated Yaqoob Shah Chak, the last Chak ruler.⁷

1.4 MUGHAL REGIME

Before that Akbar's intruders went back after being defeated twice by the Chaks. At last Akbar demanded support from the Indian Rajas and sent heavy convoy under the command of Qasim Baig from Lahore via Bhimber on June 28, 1776. Kashmiri forces fought bravely but could not face the situation for a long time. Yaqoob Shah fled away. Mirza Qasim Baig entered in Srinagar successfully. Independent status of Kashmir ended and the state was ordered to be called Sarkar in Mughal sultanate instead of a province. Kashmir Sarkar was included in Kabul province.⁸

1.5 AFGHAN PERIOD

In 1782 Afghan Commander Abdullah Ashak Aqsi conquered Kashmir and remained here for 66 years. During this period 28 Governors, who were harsh, brutal, violent and aggressive, robbed Kashmiris painlessly and levied taxes and created disturbance of economics nature due to which many Kashmiris left and migrated for Punjab.⁹ For Afghanees it is said that they did nothing except robbing, destruction, demolition and even they fought with each other and lastly due to this situation their position upon Kashmir became weak. Consequently the Kashmiri Pandi Beerbal's movements, Maharaja Ranjeet Singh, Lahore's Ruler, sent a convoy under the command of Deevan Chand, who defeated the Afghan Governor Jabar Khan in 1819, and made the Kashmir a part of Sikh empire.¹⁰

1.6 SIKH PERIOD

Sikhs remained in Kashmir for 27 years from 1819 to 1846 and during this period 10 governors were appointed amongst them lastly two were Muslims namely Sh. Mahudin and Sh. Imad Din. In Sikhs reign the life of Kashmiris became miser, religiously. Nothing with regard to Education was done, illegal taxes were imposed and in his period too, many Kashmiris migrated to Punjab. Lastly in 1846, when English made the end of Sikh Empire, the Kashmir came under the control of English. English did not rule the Kashmir, they sold this State to a person belong to Sikh Darbar namely Gulab Singh under the Amerteser agreement in 1846.¹¹ So the Kashmir State was handed over to Dogras under a sale agreement.

1.7 INDEPENDENCE ERA OF AZAD JAMMU AND KASHMIR

When the flags of two dominions, namely Pakistan and India, the majority of Kashmiris wanted their country to remain independent of India but the Hindu monarch of the Muslim State, Maharaja Hari Singh, purportedly annexed Jammu and Kashmir to India in defiance of

⁶ Ibrahim Khan, *The Kashmir Saga* (Lahore: Ripon Printing Press, 2003), 75.

⁷ Sirajul Haq, *"Lahore and Kashmir from B.C. to 1991"* Progressive publishers, 1992, 56.

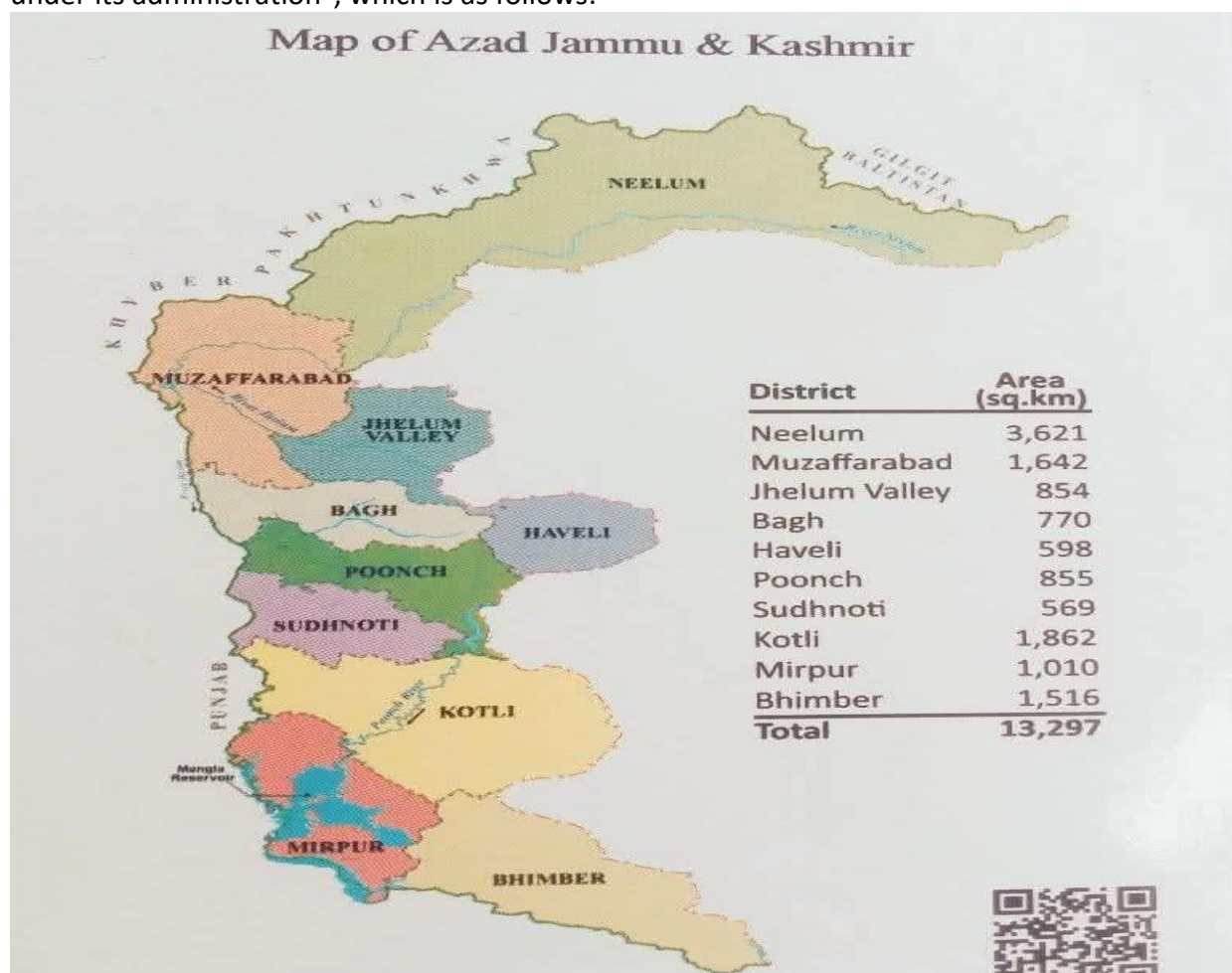
⁸ Khan Ibrahim, *Free Kashmir*, Karachi Central Printing Press, 1992, pg. 23.

⁹ Victoria Schofield, *Kashmir in the Crossfire* (London: I.B. Tauris, 1996), 19, hardcover edition, accessed June 19, 2022 Retrieved From: <https://www.ibtauris.com/kashmir-in-the-crossfire>.

¹⁰ K1. K. Mohan, *Kashmir under the Loharas*, A.D. 1003-1171, 44.

¹¹ *ibid*

the Partition Plan. In reaction, people of Azad Jammu and Kashmir emancipated themselves from Dogra authorities by getting liberty of Azad Jammu and Kashmir territory and established an interim government on October 24, 1947, with its headquarters in Pallandri. This government had previously functioned as a War Council, whose primary mission had been to fight for the liberation of the whole State. In the wake of the United Nations (UN) resolution to end hostilities and resolve Kashmir's status through a popular vote, the War Council assumed executive powers and is now the Azad Government of the State of Jammu and Kashmir, operating under the Azad Jammu and Kashmir Interim Constitution of 1974. Now coming to Azad Kashmir territory. "Azad Jammu and Kashmir" is defined in the Azad Jammu and Kashmir Interim Constitution Act, 1974 as "the territories of the State of Jammu and Kashmir which have been liberated by the people of that State and are for the time being under the administration of Government and such other territories as may hereafter come under its administration", which is as follows: -



1.8 DISTRICT BHIMBER

Bhimber is the historical place of Azad Kashmir. This is situated at a distance of 50kms and 28 miles from Mirpur and Gujrat (Pakistan) respectively. Jammu and Sirinagar are at a distance of 7Km and 150 miles from Bhimber and Mirpur respectively.

After 1947, Bhimber was a Tehsil of District Mirpur but in 1996, it was recognized as a District by the Government of Azad Jammu and Kashmir. Now it has three Tehsils namely Bhimber, Smahani and Burnala. The tourists places of Bhimber are Chhumb, Putni and Samahani Vallies. Samahani being a beautiful valley having historical treasures the Bogser fort and Seris sadabad.

The residents of this District are hardworkers, who have their main source of income from agriculture. The soil land of the Bhimber is fertile and plane and every sort of farming can be made and this is the only District of Azad Kashmir, where the wheat and rice is excessively produced.

In Bhimber Jatts, Rajputs, Gujer, Mughal and Jaral tribes people are living. This area was liberated in October 1947 under the leadership of Brig. Habi-ur-Rehman from the Dogra army. Bhimber, the historical city of Azad Kashmir having mountain range of 500 to 600 feet height on its east, west and north side. It is now on developing way and has the structure of an industrial area. Many industries are under progress and having the facilities of health, education communication etc.

1.9 DISTRICT MIRPUR

The most area of this district is plane and on its north is Kotli, south is Jehlum, East is Bhimber and in west is Gujar Khan and Rawalpindi. And the area of this district is connected with Punjab, therefore, its climate and seasons are the same as in Punjab. The sources of income of this District is business and agriculture. However, due to construction of Mangla Dam, for the last 37 years the people of this area went to England and Europe and settled there. They earned money there and at this time due to their income and balance in Pakistan's bank, a great support is for the economy of Pakistan. It is calculated that about 70 % of the population is abroad.

This District of Azad Kashmir is an industrial and have hundreds of industries. The people of the area are industrious, laborious and healthy. Jatts and Rajputs are two main tribes. This district has two tehsils namely Mirpur and Dadyal. It has the historical forts, mosques and buildings and the Mangla & Ramkot forts are attractive places. Khari Sharif is a place where the shrine of mystic poet Mian Muhammad Bakhsh is situated. Mangla dam has been constructed herein and about 35 % of electricity is being provided to Pakistan due to this dam. The city of Mirpur is the biggest city of Azad Kashmir having a construction of modern nature. Due to the construction of Mangla dam, the old city was damaged and the people migrated to the hill areas, which has now converted into a beautiful city of Mirpur. This city is also called Asian's Birmingham. All the facilities of life of present period are available in Mirpur.

1.10 DISTRICT KOTLI

The Kotli having on its north side district Poonch, South side district Mirpur, east side district Rajori and on west side district Rawalpindi (Pakistan), was a part of Jammu Province before 1947 as a Tehsil. In 1947, due to the arbitrary division of Kashmir, it became the part of Azad Kashmir administration. Initially Kotli was the Tehsil of district Mirpur, but in 1974, it got the position of District. Its total area is 1842 sq.KM. It has three Tehsils namely Kotli, Sehnsa and Nakial. Most of the area is covered by hills, but among the hills green and pleasant valleys are present. Kotli District is filled by minerals like iron, coal, bauxite, gypsum limestone dolomite kwarzite and uranium. Historical places are also found in Kotli like a fort near a place of Throachi, another fort near Shungroat. Tanda Hajiabad, Khoiratta, Sehnsa and Nakial are the beautiful visit places.

The city of Kotli is situated at a distance of 141 KM from Islamabad. A bridge at the Jehlam river Hollar connects the cities of Kotli and Rawalpindi. The population of the Kotli city is about 140,000. On the west side of city, Poonch river is passing and all the modern facilities of life are available in this city.

1.11 DISTRICT POONCH

Rawalakot is the central city of District Poonch. Poonch was a Muslim majority district of the State of Jammu & Kashmir, which was divided in 1947. Rawalakot and Bagh area come under

the control of the administration of Azad Jammu and Kashmir and remaining original Poonch was occupied by Indian army. According to a narration, Raja of Kashmir married to a beautiful girl of Bakerwal, whose name was Pooncha, due to which this name of the area was adopted. The boundaries of Poonch are connected with District Rawalpindi on one side and on the other side with Kashmir Valley. The tribes of Sudhen, Dhopund and Mughal are residing here in majority. The southern and western area of the Poonch is fertile. Pahari, Dogri, Gojeri and Kashmiri languages are spoken in this area. Dress, living methods are the reflection of Kashmir Society.

The area of Rawalakot city is 1424 sqr. KM and it is at the distance of 131 Km from Islamabad and 76 KM from Kohala. This is a very beautiful place for the visitors and the season of the area is attractive and peaceful. There is also an air service from Rawalakot to Islamabad and Muzaffarabad.

Now another district (sudhnoti has been created from this District by the Government of Azad Jammu and Kashmir having same culture and civilizations.

1.12 DISTRICT BAGH

Bagh is the historical place of Azad Kashmir having an area of 1368 sqr.KM. This area was a Tehsil of district Poonch but in 1988, it became the District. On the northern side of Bagh, Nanga Peer, Ganga Chotee and Peer Kanthee the highest peaks of the area are situated. Kashmir valley is situated having the hill area of Peer Punjal. On the eastern side of Bagh Cholle, Tooli Peer having height 9000 feet is situated and between these highest hills, the city of Bagh is situated.

The District Bagh has two tehsils namely Bagh and Dhirkot. The people of the area are fearless, bold, courageous, and Industrious and honest, who have the profession of farming, business and bakery management. The beautiful attractive and heart full visiting places in District Bagh are like Dhirkot, Neela Butt, Lusdana, sudhen Gali.

1.13 DISTRICT HAVELI.

Haveli is the best place for tourism having natural greenery valleys jungles in full swing, ice-capped hills and attractive scenes. Only the Azad Kashmir Governments' attraction is required and it has direct link to Rawalpindi (Pakistan). The business of the Kahuta city/town has been affected due to the freedom movement, as it too is a border area.

1.14 DISTRICT MUZZAFARABAD

Muzaffarabad is the capital of Azad Kashmir, having an area of 6117 sqr. KM. The population of the District is 480 billion and administratively, it is a division of Azad Kashmir. On the north side of it is Kaghan and Gilgit south side is District Poonch eastside is Indian occupied Kashmir and on west side is District Abbottabad (Pakistan).

Most of the area of Muzaffarabad is hilly nature and the seasonal position is in summer severe hot and in winter severe cold. However, some of the highest places remained ice-caped throughout the year. Many sorts of tribes are living in Muzaffarabad like Ariae, Turk, Afghan, Mughal and Kashmiri. District Muzaffarabad is also a tourist area having places of attractive nature like Chikar, Noon-Bagla, Lohar Gali, Shaheed Gali, Leepa Valley, Sharda , Neelum , Authmuqran, Kundal Shahi and Peer Chinasi.

Muzaffarabad city is situated at the Sangum of rivers of Neelum and Jehlum. Two historical forts are there is Muzaffarabad one in Shaukat Line and the other in Plate. There are many shrines in city Muzaffarabad like Sahali Sarkar, Shah Anyat Darbar, Dhani Mai Sahiba and Darbar Peer Chinasi.

Muzaffarabad city is situated at a distance of 70KM of Abbottabad city of NWFP (KPK) District of Pakistan. The Rawalpindi and Srinagar cities are situated at a distance of 138 and 182 Km

respectively. The offices of Prime Minister Secretariat, President Secretariat, Civil Secretariat's, and Radio station, T.V Station, High Court, Supreme Court, CMH, University and Airports etc. are in the capital city of Muzaffarabad.

(Two other new Districts have been created now by Azad Jammu and Kashmir Government from this District, one is District Neelum and the other is District Jhelum having same culture and civilization. No view with regard to the territory of Northern Areas.)

Now the historical development of Constitutional relationship between Pakistan and Azad Jammu and Kashmir can be seen in the following way.

1.15 BRIEF DEFECTO CONSTITUTIONAL RELATIONSHIP WITH PAKISTAN AND AJ&K UNER DIFFERENT RULES OF BUSINESS

As of August 1947, diplomatic ties with Pakistan were established with the State of Jammu and Kashmir (there was no Azad Jammu and Kashmir). An agreement of no change was reached between the two governments. Furthermore, the President of Azad Kashmir mentioned the link in a letter to the Chairman of UNCIP dated July 8, 1948, and the Provisional statement dated October 24, 1947.¹² Pakistan's involvement in Azad Kashmir results from UNCIP decisions and is an adjunct to the Azad Jammu and Kashmir government's executive power and Rules of Business 1950 were given and enforced upon all issues to be dealt with like legislation with Council of Ministers, judiciary and government functions etc. and all powers vests with Supreme Head of the Liberation Movement. In 1952 and 1958 through amendments the powers of the Supreme Head Council of Ministers were withdrawn and were given to Pakistan Ministry of Kashmir Affairs. Only once the people of Pakistan have democratically structured the conditions of a future relationship, as outlined in Article 257 of the Constitution of Pakistan, can there be a stable authority in the country.¹³ The independence struggle in the Indo-Pakistani subcontinent drove the British out of India and led to the partition of British India into two dominions, i.e., "the Partition Plan of June 1947 and the Indian Independence Act of 1947, respectively, formalized the separation of India and Pakistan into two separate countries. When Maharaja Hari Singh annexed Jammu and Kashmir to India in defiance of the demands of the state's Muslim majority, the people of Jammu and Kashmir State launched a war of freedom and created the Azad Government of the State of Jammu and Kashmir on October 24, 1947.¹⁴ There was no constitutional apparatus in existence. The Government was working like a war Council." Despite the country's presidential system, the President had almost unchecked and unrestrained authority. He was the ultimate arbiter of power inside the Muslim Conference political party, albeit he ultimately reported to the Working Committee. In March of 1948, when Ch. Ghulam Abbas Khan, who was installed as Supreme Head of Government, came from occupied Kashmir. Nothing changed except that suddenly there were two rulers in one realm. The Azad Jammu and Kashmir presidents were legally selected by the Azad Jammu and Kashmir Muslim Conference until 1961¹⁵.

¹² Nazir Gillani Syed, *Relationship between Government of Pakistan and Azad Kashmir* (Lahore: National Book Foundation, 1967), 39.

¹⁴ Encyclopædia Britannica, "Kashmir," in *Encyclopædia Britannica*, 15th ed. (Chicago: Encyclopædia Britannica, Inc., 2023), accessed August 3, 2023. Retrieved From: <https://www.britannica.com/place/Kashmir>.

¹⁵ *ResearchGate, Find and Share Research* (Berlin: ResearchGate GmbH, 2023), accessed August 3, 2023, <https://www.researchgate.net/>.

The High Court's ruling in PLD 1957 AJK 33 upheld the view that the Rules of Business enacted to facilitate the administration of Azad Jammu and Kashmir should be recognized as a Constitution¹⁶. These regulations initially put into effect on January 15th, 1951, stipulated that the Supreme Head would designate the President and his ministers and assign them specific responsibilities. As head of state, the President also has legislative power. "The Courts and Laws Code was written to govern the judicial system, and several laws from the province of Punjab were implemented in the Azad Jammu and Kashmir State. However, some laws from the pre-reorganization Jammu and Kashmir State were also permitted to remain in effect. The Courts and Laws Code Act, 1949, which superseded the previous code, went into effect in 1949. It was not only the administrative structure and laws that were updated in October 1952; the Rules of Business were also updated." As a result, Colonel Sher Ahmed became President. According to the revised version of Rule 5(a):

"The President shall hold office during the pleasure of the General Council of the all Jammu and Kashmir Muslim Conference, duly recognized as such by the Government of Pakistan and the Ministry of Kashmir Affairs."

Issues regarding Azad Kashmir, the Pakistani government did not have faith in the M.K.A. (Ministry of Kashmir Affairs) represented by the Prime Minister.

In an interview of 1957, Secretary of the Ministry of Kashmir Affairs Brigadier Bashir Malik confessed openly that the Ministry was founded on a foundation of distrust. Second, there has never been a General Council recognized by the Ministry since 1942, when the party was resurrected. The A.J.K. Government could not implement its viewpoint without first consulting with the Ministry of Kashmir Affairs (M.K.A.). No proposed law could even be presented to the Council of Ministers without first receiving the recommendation of the M.K.A. While the regulations were revised on November 29, 1957, the clauses above were preserved. "From 1947 until 1960, Azad Jammu and Kashmir's President was whoever had the support of the working committee of the Muslim Conference. There was a position of the supreme head in previous years, and he was responsible for approving the legislation for Azad Jammu and Kashmir. However, this position was eliminated in 1957, and since then, only the President has been the executive head, with the help of selected ministers."

1.16 ARRANGEMENTS UNDER PRESIDENTIAL ELECTION ACT, 1960

In 1960, the government of Pakistan under the Ayub Khan regime launched the Presidential Elections system in Azad Jammu and Kashmir by the vote of fundamental democratic, along with another entity known as the Azad Jammu and Kashmir Council, also elected via fundamental democratic principles. The people of Azad Jammu and Kashmir elected 12 members to this Council, while the refugees of Azad Jammu and Kashmir State in Pakistan chose another 12. The President of Azad Kashmir, Ghulam Abbas Khan, was indirectly chosen by the people in a popular vote in October 1961 using an Electoral College of 2,400 Basic Democrats, following the model established in Pakistan."

Indeed, the government was not democratic in the usual sense, but because it was made up of representatives from many political factions, it was not particularly repressive or dictatorial. At the same time, a fight for democratic rights or economic justice has been going on from the start. They arrested Raja Haider Khan, Mr. Abdul Khaliq Ansari, Maulvi Abdul Ghani, Zafar Iqbal Qurban, Said Muhammad, Comrade Maqbool, and Yaqoob, all from the Awami Conference, were arrested. LT. Akram Ullah Khan Jaswal was arrested in Montgomery

¹⁶ *Azad Jammu & Kashmir Government v. Al Haj Sh. Muhammad Salim*, PLD 1957 SC 33 (Lahore: Pakistan Law House, 1957), 33, accessed June 19, 2020, <http://www.pakistanlawhouse.com/pld1957sc33>.

and then moved inside the limits of Maghiana in the Jhang district. They arrested Syed Muhammad Amin Gillani and Ch. Noor Hussain too.”

In 1959–60, Khawaja Ghulam Nabi Gilkar and Mir Abdul Aziz, the editor of the periodical *Insaf*, were imprisoned for a year. Several publications of newspapers, including the Azad Kashmir-based *Daily Nauroze* and the *Har Roaz*, as well as Mir Abdul Aziz's and Kh. Sanaullah Butt's *Weekly Awaz-e-Haq*, *Aghaz*, *Pak Kashmir*, and *Weekly Kashmir* were banned. In Bhimber, where tensions between landlords and tenants ran high, Khursheed Ahmed Ex. MLA began a violent uprising to free the tenancy on property. They successfully survived the landowners' attacks and the unfairness of the tenancy rules by refusing to pay the landowners' dues and becoming a majority with the backing of all just and progressive components. In Muzaffarabad, Mr. Muhammad Amin Gillani led the tenants' revolt against the Jagirdars, who ruled certain areas.”

1.17 ARRANGEMENTS UNDER PRESIDENTIAL ELECTION ACT, 1964

Again in 1964, the Government of Pakistan launched the Azad Jammu and Kashmir Government Act, 1964 superseded the preceding structure. The basic democratic populace of Azad Jammu and Kashmir was given the right to vote for eight State Councilors to alter the provision for the State Council under this Act.” In 1965, it was established that the President might nominate two members from among the refugees living in Pakistan. As per the Act of 1964, the Chief Advisors were tasked with nominating a member of the Council to serve as Chairman. The Chairman of the Board served as the Ex-officio President of Azad Jammu and Kashmir. “Act 1964 was a critical piece of legislation. Without the approval of the Chief Adviser, the State Council could not pass any laws.” Still, this was not deemed sufficient since it also stated that no legislation would take effect until the Chief Adviser issued a notification. He may also make whatever adjustments he sees fit, including limiting the scope of the implications to a specific area or region. The IGP has been promoted to Director of Police, while the Secretary-General has been given the title of Senior Secretary. In 1961, six people were elected to the State Council from Azad Kashmir. This Council served as the de facto State Council until it was dissolved.¹⁷

1.18 ARRANGEMENTS UNDER AJK GOVERNMENT ACT, 1968

In 1968, the Government of Pakistan enacted a new law for Azad Kashmir called the AJK Government Act 1968 to reflect the evolving constitutional landscape of Pakistan. The clauses mentioned above were kept in place, as there were the Senior Secretary and Director of Police designations. The new State Council would have 12 members, as specified by the new provisions:

Azad Kashmir	8 seats
Jammu Refugees	2 seats
Kashmir refugees	2 seats

Thus, the refugees' representation is restored but reduced from half to a third. The native Azad Kashmiri representatives were chosen by the party's Basic Democrats, while the Chief Adviser selected the refugee representatives based on the President's suggestions. The Council was to pick a chairperson who would serve as President of Azad Kashmir in addition to their other duties. A caretaker government was installed there as a violent protest occurred outside the President's office in Muzaffarabad in 1969. The result was the deaths of three

¹⁷ Azad Jammu and Kashmir Information Technology Board, *Azad Jammu and Kashmir: Digital Development and Governance Report*, report (Muzaffarabad: AJ&K Information Technology Board, 2022), 67, <https://www.ajkitb.gov.pk/reports/digital-governance>.

Liberation League employees. On January 1st, 1969, the authorities arrested Ghulam Muhammad Lala and exiled him to the remote, 7,000-foot-high Leepa valley, which could only be accessed by trekking over the 11,500-foot-high, snow-covered area.

1.19 THE GOVERNMENT ACT, 1970

On August 5, 1968, in Rawalpindi, the heads of three political parties—Sardar Qayyum, Mr. Khursheed, and Sardar Ibrahim—signed a joint statement at the behest of the government of Pakistan. They established a standing committee to oversee the implementation and coordination of the program together. They held a press conference on the same day and issued a four-point statement, reinforcing their belief in the indivisibility of the Jammu and Kashmir State and the viability of a referendum as a means of resolving the Kashmir conflict. It demanded a Constitution that would effectively represent all parts of the State and promised to back any liberation struggle that the leaders of Occupied Kashmir could initiate. Sub point 3(a) of the document calls for the Azad Kashmir government to be recognized as the only legitimate successor to the Maharaja Hari Singh administration across the State. On August 18, 1968, in Rawalpindi, Pakistan, they spoke at a reception hosted by the Joint Standing Committee at the Press Club. Their Working Committee approved the declaration. Collectively, the late Raja Muhammad Aslam, Ch. Manzoor ul Haq Dar, Ghulam Rasool Baig, Hussain Ali, and Sh. A. Khalid Mehmood, Ch. Joint actions will be coordinated and sponsored by Khadim Hussain and Sardar Latif Khan. Mr. Musa Ahmed of Bengali and Kh. Shahabuddin, the chief adviser, had a kind personality. The late Lt. General Akbar, a resident of Mirpur and the former head of the Intelligence Directorate, was also instrumental. Some groups attempted a covert effort to keep refugees off the political stage, but the Foreign Office warned against this, and the official involved quickly retracted his support.

While Sardar Ibrahim and smaller group here and there, like the Kissan Mazdoor Conference led by Kh. Abdul Salam Yhatu and Mr. Muhammad Amin Haider were, from time to time, voicing demands for an elected representative government from the Government of Pakistan. The dominant group, headed by Ch. Ghulam Abbas was with the argument that Azad Kashmir was just temporary set up and Ghulam Abbas Khan was against the establishment of an elected Assembly. His principal objection was likely the worry that some of Azad Kashmir's leaders would be corrupted by the allure of power and turn their backs on the cause of freedom. To be fair to the late leader, who passed away on December 18 from cancer, it should be acknowledged that he had good reason to be concerned.

The country was in turmoil when Brigadier General Abdul Rehman took the oath of office of President in November 1969. Mr. Yousaf Saraf, the then Chief Justice of Azad Jammu and Kashmir, proposed preparing a Constitution for Azad Kashmir during their first meeting, which was his primary responsibility. A duplicate was in his hands within two weeks, and he sent the original to the Minister of Kashmir Affairs, Sardar Abdul Rashid. In September 1970, the Constitution was finally ratified as the Government Act of 1970, and it gave great pleasure to see that over 70% of the draught had been incorporated into the Act, including the number of seats and their distribution not only concerning Azad Kashmir and refugees but also concerning their allocation to the three districts of Azad Kashmir. Even though no such provision typically exists in the presidential form of government, the Constitution includes Justice Yousaf Saraf's proposed mechanism for a vote of no confidence in the President. Fundamental Rights and Writ Jurisdiction were not included in the final version of the proposal. Sardar Abdul Qayyum deserves credit for writing these vital provisions into an Amendment Act that came into effect in August 1971. When it is learned that several advisors had argued forcefully against the integration of writ jurisdiction, it becomes clear how much

merit there is to the credit awarded. Inviting Justice Saraf's reply a day or two after this clause was ratified into law, the President was informed by the judge that the President had transferred half of his monarchical powers to the High Court.

The Act not only allowed for the President to be elected by universal adult suffrage but also enabled the President to designate a Council of Ministers. "For the first time, the people of Azad Jammu and Kashmir and the refugees of Jammu and Kashmir residing in Pakistan used their right to vote as adults to choose their representatives in the Legislative Assembly and the President of Azad Jammu and Kashmir." Assembly members were not eligible to be appointed as ministers under the Act. After some time, a modification was made to include this enabling clause. Twenty-four men and one woman were chosen to serve in the Assembly. Only for a short period the Presidential System of Government proved effective. From what has been said above, it follows that Azad Kashmir is effectively a colony of the Islamic Republic of Pakistan.¹⁸

1.20 THE 1974 CONSTITUTION AND AGREEMENT ON PARLIAMENTARY FORM OF GOVERNMENT

As the day unfolded, it became clear that a majority vote alone would not be enough to overthrow the government. Meanwhile, in 1973, Pakistan adopted a new Constitution that established a parliamentary system of governance. For this reason, voices from many political camps have started calling for this kind of government here. With this context in mind, on June 10th, 1974, at a meeting by Prime Minister Bhutto, party leaders initialed a document agreeing to several points following lengthy negotiations. "Sardar Abdul Qayyum signed it as President of the Government of Azad Jammu & Kashmir. Not only did it mandate that the President, who was to be merely a constitutional figure-head, be elected by the Legislative Assembly, but it also established a Council made up of representatives from both Azad Kashmir and Pakistan side with jurisdiction over matters generally within the jurisdiction of the Central government in Pakistan." before the Working Committee, which ultimately decided against approving it. Although the legislative and political party leaders had signed it, the Muslim Conference Working Committee's stance seemed hard to defend. Despite having Sardar Abdul Qayyum's support, a motion may still face resistance from inside the Muslim Conference, which Sardar Abdul Qayyum did not create; nonetheless, the issue at hand did not contradict any core party principles. As a result, the decision of the Working Committee was attributed, maybe correctly, to Sardar Qayyum and because of this, Sardar Qayyum's standing with the federal government did not improve. Sardar Qayyum supported for the popular election of the President. The opposing side naturally opposed it. Sardar Qayyum chose this course of action for a few reasons. Firstly, he believed that if he were elected by the general populace rather than the narrower pool of 42 legislators, he would have a higher chance of reelection. The second was that he might run for reelection to get the people's stamp of approval for keeping the presidential system of government that has given him total authority for the last four years. First, he planned to use this mandate to block the adoption of a parliamentary government system; second, he planned to use it to strengthen his position in the administration. Sardar Abdul Qayyum and Mr. Abdul Hafeez Pirzada got along famously. I believe there was an acceptable mutual support agreement in place. Mr. Pirzada hoped to further the goals of the Pakistan People's Party in Azad Kashmir without provoking a conflict with Sardar Qayyum. He had an accurate assessment of him; he was neither over nor under.

¹⁸ M. Bashir Asef, *Azad Kashmir: A Colony of the Islamic Republic of Pakistan* (New York: Pakistan Forum Publications, 1971), 4, accessed June 19, 2023, <https://www.jstor.org/stable/25691683>.

After some backroom haggling, the Central Government agreed to the demand, but the other factions strongly disagreed.

The number of members in the Assembly has been raised to 42 under the new Constitution.

"Azad Kashmir"	28 seats
"AK Refugees in Pakistan"	12 seats
"Women"	02 seats

Therefore, following the initial agreement reached on June 10, 1974, the Interim Constitution Act was agreed to be tabled in the Assembly to allow for the election of the President. However, the House of Representatives and Sardar Qayyum's party may propose a new amendment that would replace the current one by a vote of the people. If the amendment is approved, it will become part of the Constitution. The decision was foregone, given the two-thirds majority held by the Muslim Conference and the People's Party. After signing this agreement on August 24, 1974, Prime Minister Bhutto addressed the nation's leaders. Some members of the Azad Kashmir Peoples Party parliamentary group, most notably Raja Mumtaz Hussain Rathore from District Haveli and Pir Ali Jan Shah, were not mentally reconciled to the new provision. Hence, Mr. Pirzada came to and stayed in the Assembly to secure his party's vote for the significant constitutional amendment. By then, the President had signed the Constitution into force. Pakistan's Constitution of 1973 was used as an example. The most significant 1976 amendments removed the Speaker's authority to appoint judges to the Supreme Court and High Court and replaced it with the Prime Minister of Pakistan. Additionally, the provision stating that the Chief Justice of the High Court would succeed to the presidency in the absence of the Speaker was removed. The Chief Justice of the High Court of Azad Kashmir, Muhammad Yousaf Saraf, requested and suggested the last two changes. On principle, it is unethical to have a judiciary member also be the heir apparent to the throne since this position is more likely to hurt his impartiality.

Moreover, let us face it, we humans tend to be self-centered and averse to sharing authority. What transpired in March and April of 1975 was instructive, and it weighed heavily on the mind when the heir-ship was renounced. For these reasons, the Interim Constitution Act of 1974 was enacted.

1.21 CONCLUSION

So by studying and considering this research paper, it can be concluded that the history of the people of the State of Jammu and Kashmir is full of pain and sorrows as they never themselves governed it properly. A small short of period of Muslim rulers themselves ruled herein but that too improper and imbalanced way being based upon sectarianism. No proper steps are being seen in the State of Jammu and Kashmir's historical perspective with regards to educational institutions, people's developments, health or agriculture etc. This tragedy remained continue even after the partition of subcontinent and still the people of the State of Jammu and Kashmir as a whole are facing. The coercive based annexation with India in the Union of Indian Constitution is a clear cut example of it that without the free will and consent of the people of the Indian Occupied State of Jammu and Kashmir, they are being governed and treated maliciously and inhumanely. The people of Azad Kashmir territory too are facing many problems with regard to constitution, economics, politics etc. from 1947 to till now, as unfortunately there is lack of leadership in Pakistan after Quid's death. I am of firm belief and faith that the development of Pakistan is the development of Azad Kashmir but unfortunately, in parallel to that of Pakistan, the people of Azad Kashmir have many problems to be faced in life's aspects particularly, education, health and agriculture etc. Multidimensional aspects of different problems faced by the people of territory of Azad Kashmir particularly in the field of

law is to some extent discussed and pointed out in this research and pointed out in the abstract.