



Land Tenure and Title System in Gilgit-Baltistan

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Abstract:

Gilgit-Baltistan is an administrative unit of the Pakistan and commonly known as 'Flashpoint of Asia'. It is the hub, the crow's nest and the fulcrum of the Asia and the 'Roof of the World'. This paper discusses the land tenure and title system in Gilgit-Baltistan. Some of the area is settled and has been brought under formal systems of land administration, similar to that of Pakistan, where records-of-rights are available. Major area still remains unsettled. Owing to absence of accurate and reliable system of land records, registration and taxation, development of this region has been eclipsed by enormous proportions. While tracking history of land management, analysis of different laws/rules and assessing capacity of human resource employed in this sector, this paper suggests policy, regulatory and institutional recommendations towards developing a regime of secure tenures and titles in this region.

Keywords: Land tenure, land title, settlement, Gilgit-Baltistan.

1.1 Introduction:

Gilgit-Baltistan (GB) is an administrative unit of the Pakistan and commonly known as 'Flashpoint of Asia'. It is the hub, the crow's nest and the fulcrum of the Asia (Keay, 2003) and the 'Roof of the World'. Land tenure system in Gilgit-Baltistan (GB) is a mosaic of formal and informal patterns. Broadly it can be categorized into private land, *Khalisa land* (state land), Government land (exclusively owned by the State), *Shamilat-E-Deh* (community lands) and *Charagahs* (pastures). Although various exercises to prepare land records have been taken in hand since 1887 to bring lands in the formal fold, yet a larger part has remained unsettled till today. Major portion in the districts of Gilgit, Astore, Skardu and Khaplu has been settled while districts of Hunza, Ghizer and Diamer are still unsettled. In 1978-1979, *Nautore* Rules were introduced, by the then Ministry of Kashmir Affairs & Northern Areas, Pakistan to draw a line between the *Khalisa* and private lands. Lack of land records, weaker implementation regime and selective or targeted application of these rules which resulted into a sheer chaos. The *Khalisa* lands were distributed amongst the individuals, communities and other claimants either by court decisions, forced occupations or communal distributions. Interestingly, though in papers, *Khalisa* lands still exists in land records as state property yet its every patch has its own suitors and claimants. The situation further worsened, with the settlement operation in areas undergoing urbanization, where the delicate difference between the *Khalisa* and private land was tried to be removed. In such a situation, it has become necessary to employ some practical/legal steps to ensure secure and recorded titles which are also necessary to avoid future litigations and inter & intra community feuds in terms of grazing, cultivating and water rights. In this context, this paper suggests policy, regulatory and institutional recommendations towards developing a regime of secure tenures and titles in this region.

1.2 Historical Overview - area and its evolving system:

1.2.1 Process of Settlement and land revenue:

With a view to bringing lands in the fold of settlement for realization of land revenue in different parts of Gilgit and Baltistan regions (political agencies), process of record making was initiated in 19th century when GB was part of Kashmir State. In 1887, first settlement operation was started in Skardu. Choosing the Baltistan Agency first was probably due to its easy and direct access with Kashmir. Main features of the settlement, as described in 'Baltistan in History' (Afridi, 2005) with reference to the work done by Mr. Lawrence, the Settlement Officer, Kashmir are summarized as:

- i) The State demand was fixed for fourteen years
- ii) The payment in cash was substituted by payment in kind
- iii) The use of force in the collection of revenue was done away with
- iv) *Begar*, or forced labour in its most objectionable forms, was abolished
- v) Occupancy rights were conferred on *Zamindars* in undisputed lands;
- vi) The status of privileged holders of land was investigated, and lands in excess of the sanctioned area assessed at the ordinary rates
- vii) Waste lands were entered as *Khalisa* lands, wrongly written as *Khalsa*, (i.e. lands under government management) but preferential rights for acquisition of such land by *Asamis* (tenants) were granted;
- viii) Permanent but non-alienable hereditary rights were granted to those who accepted the first assessment, and all land was carefully evaluated on the basis of produce, previous collection and possibility of irrigation. The *Rasum* and exaction of *Jagirdars* and big landlords were abolished and the rents and liabilities of cultivators were defined.

The Second settlement was started in 1906 in Gilgit Agency which was completed in 1917, while the other four political districts i.e. Puniyal, Koh-i-Ghizer (Gupis), Ishkoman

and Yasin remained 'unsettled' and hence no record of formal land tenure existed in these areas. The Political Agent (PA) was head of Gilgit Agency with the powers of Collector under the revenue laws. The Gilgit Sub-Division area was administered by Assistant Political Agent (APA) with powers of Assistant Collector Grade-I and land revenue was realized both in cash and kind. Punial was hereditary *Jagir*. The *Raja* was under administrative jurisdiction of the PA, Gilgit but independent so far as internal administration of the 'district' was concerned. He was entitled to collect revenue and keep it as his *Jagir* money. Koh-i-Ghizer and Ishkoman districts were administered by a *Raja* each, who were not hereditary but were appointed by the Resident. The land revenue in these districts was realized by these *Rajas* and a small portion was paid to the Government. The political district of Yasin was under the administrative control of Assistant Political Officer (APO), assisted by a Naib-Tehsildar. The revenue of the district was realized by the Government and credited into the Government treasury. Astore Sub-Division was also a settled area and land revenue was collected likewise in Gilgit. Chilas Sub-Agency was not settled area. No regular revenue was levied here except in the form of royalty from different communities. The tribal areas of Darel and Tangir were also unsettled and paid annually nominal gold dust to the Government (Emeritus, 2004).

1.2.2 Introduction of Nautore Rules:

The *nautore* rules were first introduced by Resident of Kashmir vide memorandum No. 4629/66 dated 17th October, 1936 with the premise to bring under cultivation the barren/*Khalisa* lands with the aim to instil prosperity in the region and improve productivity of the lands. Preference, in allotment was given to poor segment of communities and availability of water was made a pre-requisite for such allotments. These rules have been regularly amended since then to respond to changing circumstances.

The Gilgit Sub-Division Nautore Rules 1942: Under the stipulations of these rules, the then Political Agent, Gilgit (Collector) was empowered to make grants of Government lands in the Gilgit Sub-Division as *Nautore* (break land for cultivation) to *Bonafide* inhabitants of the Gilgit Agency who might have rendered meritorious services to the Government or to other deserving persons retiring from Government service. Contours of these rules are summarized as:

- i. ***Criterion for allotment:*** There are two categories for grant of proprietary rights in *nautore* lands, so allotted, under these rules:
- ii. ***Grant of proprietary rights:*** The assessment and recovery of land revenue on all *Nautores* made since the last settlement of the Gilgit Sub-Division, the mutations of which have been attested up to or the mutations of which the entered and pending in the 16th October 1942, shall be abolished with effect from Rabi 1943. The holder of all such *Nautores* shall, however, continue to enjoy proprietary rights to the lands thus broken.
- iii. ***Grant of occupancy rights leading to proprietary rights:*** The holders of *Nautores* broken after 10th October, 1942 or the mutations of which are not entered and pending on the 16th October, 1942 shall be granted occupancy rights in *Nautores* thus broken and no *Malkana* shall be recovered from them. If the holders of a *nautore* in occupancy rights wishes to acquire proprietary rights, he shall apply accordingly and if his claim is admitted the *nautore* shall be assessed to full *Part Deh* rates from Rabi of the agricultural year, following that which application for proprietary rights is made.
- iv. ***Procedure for allotment:*** Any person wishing to break a *nautore* after 16th October, 1942 shall apply to this effect to the Assistant Collector 1st Class, Gilgit who after due enquiry or upon the report of the Tehsildar Gilgit, or Naib Tehsildar, Gilgit may sanction the application if he is satisfied that

the breaking of *nautore* by the applicant in no way interferes with the rights of the Government or any other *zamindar* (landowner).

- v. ***Enquiry for allotments:*** This preliminary enquiry should be confirmed to the following points:-
- i. Notice having been given to the villagers interested, their objection, if any to be recorded. (The statement of interested *Zamindars* saying they have no objections should also be recorded)
 - ii. Are there any objections on part of the Government?
 - iii. Is the supply of water sufficient to preclude future disputes or allegations of shortages?
 - iv. The applicant should be made to indicate the approximate boundary of the area he proposes to break. The *Patwari* will make on the enquiry papers a rough sketch of the area pointed and calculate roughly the area by pacing.
- vi. ***Availability of water – a must thing:*** The Collector, Gilgit may on the personal enquiry and report of the Assistant Collector 1stClass prohibit the breaking of *Nautores* in any specified area where he considers that the supply of water is insufficient to irrigate the further extension of cultivation in that area.
- vii. ***2.c.v) Dispute resolution mechanism:*** Any order passed by the Collector (under rule 4 of these rules) shall not preclude the applicant or any objector, from suing to establish his rights in a competent Court.
- viii. ***Conditions for securing tenure:*** The mutations of a *nautore* sanctioned under rule 4 shall be entered and attested when the whole area originally pointed out by the *nautore* broken during the preliminary enquiry has been broken and cultivated. The papers of the enquiry under rule 4 shall be called for when the mutation of a *nautore* is attested. Any objection then

raised which would have been put forward at the preliminary enquiry may be held invalid by the attesting officer if he deems fit.

- ix. ***Cancellation of tenure and fines:*** Upon failure to cultivate after a period of three years (from the date on which an application to break a *cultivate* was sanctioned) the applicant has failed to cultivate the land may be resumed by the Assistant Collector 1st Class and granted to another application under rule 4. A landowner who breaks a *nautore* without permission under Rule 6 may be ejected, without compensation, if valid objections to his breaking the *nautore* are raised or if there are no objections to his retaining the land, a fine which may not exceed Rs. 10/- may be imposed on him.

The Baltistan Nautore Rules 1965-66: On the analogy of rules made for Gilgit area, same rules were also issued for Baltistan Agency vide No. REL.MISC.HC-NTF-30/65-66 by the Government of Pakistan. The main work was entrusted to Collector in this region too. Salient features are as mentioned below:

- x. ***Criterion for allotment:*** All *Nautores* granted, lands broken or mutations attested before the date of commencement of these rules shall be deemed to have been granted, broken or attested under these rules provided that the Collector Baltistan, may review any mutation of *nautore* attested before the commencement of these rules and order its cancellation if he is satisfied that the holder of *nautore* has failed to break and cultivate the land.
- xi. ***Procedure for allotment:*** Any person wishing to break a *nautore* afar the commencement of these rules shall apply to the Assistant Collector, 1stGrade Baltistan, indicating the approximate area and its boundaries, he proposes to break and the Assistant Collector, after due enquiry or upon the report of the Tehsildar or Naib-Tehsildar, Baltistan, made after

preliminary inquiry may sanction that the breaking of the *nautore* by the applicant in no way causes any infringement or interference with the rights of the Government or any other *zamindar*.

- xii. ***Enquiry for allotment:*** The enquiry shall be confined to the following points:
- a) Whether the interested villagers and landowner to whom notice was given have any objection? (The statements of the person to whom notice was given shall be recorded).
 - b) Whether there is any objection from the point of view of Government?
 - c) Whether the supply of water is sufficient to preclude future disputes or allegations of shortage?
 - d) Whether there is any possibility of the land being required for Government purposes in the near future.
 - e) Whether there is any possibility of any interference with monuments, places of worship, camping grounds, and picnic spots graveyards, channels, through fares, roads, and Government or public plantations.
 - f) ***Customary rights to be taken into consideration:*** The Tehsildar or the Naib-Tehsildar shall also take in to account the entries in customary rights (*Wajeb-ul-Araz*) of the concerned village as prepared by the settlement Authorities and be guided by the rules embodied in the *Wajeb-ul-Araz*.
 - g) ***Availability of water – a must thing:*** The Collector, Baltistan, may prohibit the breaking of *nautore* in any specified area where he considers that the supply of water is insufficient to irrigate the *Bandobasti* land or where the land is required for Government purpose or for any other reason breaking of *nautore* is inadvisable.

- h) ***Dispute Resolution Mechanism:*** An order passed under rule 6 of these rules shall not preclude the applicant or any objector from suing to establish his rights in a competent Court of Law.
- i) ***Conditions for securing tenure:*** The mutation of the *nautore* or which, the breaking is sanctioned under rule 6 shall be entered and attested when the whole area has been broken and cultivated. The record of the preliminary enquiry under that rule shall be called for when the mutation of *nautore* is attested. Any objection then raised which could have been put forward at the enquiry may be disallowed by the attesting officer if he deems fit to do so for sufficient reasons.
- j) ***Cancellation of tenure and fines:*** If, after a period of three years from the date on which an application to break a *nautore* was sanctioned, the applicant has failed to cultivate the *nautore*, the land may be resumed by the Collector, Baltistan and granted to any other applicant under rule 6. Whoever breaks a *nautore* in contravention of rule 6 or breaks *nautore* in an area prohibited by Political Agent, Baltistan under rule 11 shall be liable to the penalties specified in section 133 (2) of the Jammu and Kashmir Regulation No. 1 of 1966 *Bikrimi* as in force in Baltistan.

The Northern Areas Nautore Rules 1978-80: With a view to consolidating and bringing uniformity in different *Nautore* Rules, the NA *Nautore* Rules 1978 were introduced by the Government of Pakistan vide No. LA(Res)9(1)/76 (Notification) dated 12.06.1978 with amendments inserted vide No. G-1(7)/78(KA/NAD) dated 05.08.1980. These rules, first time ever, defined the term '*nautore*' for both settled and unsettled areas, given elaborate procedure for allotment of *nautore/Khalisa* lands by specifying concerned authorities, prescribed ceilings for lands to be allotted and provided detailed dispute resolution mechanism. These rules are still in vogue in Gilgit-Baltistan.

- xiii. **Definition of nautore lands:** The term “Nautore Land” refers to Government *Khalisa* land and *Berune* line land.
- xiv. **Nautore in Settled Areas:** *Nautore* in areas where settlement records had been prepared shall include all such areas which had been shown as “*Khata Khalisa*” during the settlement in the year 1916-18 but had not been included in Government Land Allotment Rules of the year 1975.
- xv. **Nautore in Un-Settled Areas:** While in the unsettled areas of former States, political District and Agency of Chilas and Darel/ Tangir it shall include, the area, which had never been under the possession of anybody nor had been allotted to any community or a *zamindar*. Also it shall include all such “*Berune Line*” area outside the boundary of a village whether in a settled or unsettled area.
- xvi. **Criterion for allotment:** All *nautore* allotments (broken lands) outside the municipal or town area boundary of Headquarter of a District or Sub-Division, and the mutations of which have been attested or the mutations of which have been entered or pending on 22nd April, 1975, prior to the order to repeal of such *nautore* lands, vide Notification No. Reg. HC.Ntf-8/75 dated 22.04.1975 under Para 15 of the said notification shall be treated as sanctioned except that the Collector of the concerned District may have a right to cancel any such mutation through review order, if he had reason to believe that the land in question had not been broken and was lying barren.
- xvii. **Procedure for allotment:** A person desirous of obtaining allotment of *nautore* land may submit his application to the Collector on the prescribed format. The Collector, on receipt of an application under rule 10, shall scrutinize it and if necessary, make an enquiry taking into consideration the *Wajeb-ul-Araz* of the locality where the land applied for is situated and

in case of unsettled areas the local tradition and the "*Rivaj*" (*customary practice*) prevail in such locality. Other directions for allotment of land are as follows:

- i. The holders of Government land after 16.10.1972 or the mutations of which are either pending or attested illegally in contravention of any ban imposed by the "commissioner" or after the repeal order mentioned at Para 5, shall be treated as cancelled.
 - ii. The Collector of District shall have the right to examine the validity of all such mutations which had been attested before enforcement of these Rules and he may direct the Assistant Collector 1st Class to conduct an inquiry in all such cases where, the mutations had been attested in contravention of Baltistan *Nautore* Rules 1965 and Gilgit Sub-Division *Nautore* Rules of 1942 so that a list of all such cases with name of defaulters should be prepared and furnished to him by Assistant Collector for further action as deemed fit.
 - iii. All mutations entered, prior to the enforcement of these Rules, should in no case be attested unless the Tehsildar (Assistant Collector 2nd Class) had personally inspected the site and verified that the entire area allotted had been broken and brought under cultivation and that the sanction had been obtained from the competent authority.
- xviii. ***Enquiry for allotment:*** The Collector, while making scrutiny or enquiry under sub-rule (1), shall, inter alia, cover the following points, namely:
- i. That the breaking of a *nautore* land by the applicant would in no way interfere with the rights and interests of the Government or the *zamindars* of the locality or the general public;

- ii. that the notice of and application for allotment of *nautore* land has been given to the *Khewatdars* (*share-holders*) of the *Halqa* and their objections, if any, or statements of the *Khewatdars* that they have no objection have been recorded;
 - iii. That the supply of water is sufficient to preclude future disputes or allegations of shortage of water; and
 - iv. That the *nautore* land applied for will not damage or disturb any monuments camping grounds, places of archaeological and historical interests, public parks, grave yards, canal, thoroughfares, plantation, gazing areas and other places of public utility.
- xix. ***Ceiling for allotment viz authorities concerned:*** Ceiling for allotment of *nautore* lands was fixed as 'up to ten *Kanals* within three miles of urban areas that is municipal/town limits and up to fifty *Kanals*, beyond these limits shall be made by the Commissioner on the recommendation of the Collector, provided that allotment within municipal and town limits shall be made under separate schemes approved by the Government in this regard.
- xx. ***Allotment to private individuals:*** In addition to government servants, land allotment to private individuals to be made subject to the condition that it does not disturb the requirements of various public agencies including the Ministry of Defence (MoD).
- xxi. ***Price of the lands:*** All the lands so allotted under these rules shall be made subject to recovery of price of the allotted Land at the prevailing market price of similar land in the vicinity to be determined by the Collector subject to the approval of the Commissioner; provided that one fourth of the price shall be recovered before the delivery of possession and the rest in three equal annual instalments.

- xxii. ***Conferment of proprietary rights to secure tenure:*** The mutation of *nautore* land shall be entered and attested and proprietary rights conferred on the allottee subject to fulfilment of following conditions:
- i. the whole area originally pointed out by him during the scrutiny or enquiry made under rule 11 has been broken and cultivated by him;
 - ii. the papers of scrutiny or enquiry made under rule 11 have been called for; and
 - iii. the land has been assessed to full *Part Deh* rates from Rabi of the agricultural year.
 - iv. in all cases prior to the enforcement of these Rules the *nautore* lands allotted and mutated under section-6 Tenancy Act or Act Mazarian Jammu & Kashmir State the proprietary rights should be granted to such *Zamindars* provided they pay the land revenue according to *Parta Deh* after assessment up to the day of Land Revenue Remission order dated 10.11.1975.
- xxiii. ***Caveat to above rules:*** All such lands where the *Zamindars* had not been vested with proprietary rights, but the mutation under Section-6. Act Mazarian under rule 16 above had been attested with occupancy rights shall be liable to be ejected from such land if and when such land was required by the Government for any Government purposes except that such land owners shall get compensation for breaking of waste land and improvements made therein. This rule shall also apply to all lands mutated or owned as *Tabi Marzi Sarkar Tehzmini, Haq Maurusi, Jagir, Maufi* and *Mehtari* lands except lands mutated as *Malikiat* or with the proprietary rights.
- xxiv. ***Cancellation of nautore lands so allotted:*** Such lands shall be liable to be cancelled in the following cases:

- a) where an allottee, after a period of two years from the date of allotment, has failed to cultivate the *nautore* land; the commissioner may cancel the allotment and resume the land for allotment to any other person.
 - b) in case of default in payment of the price and the Government land, in case of default, forfeit the whole or part of any payment which may have been received from the allottee.
- xxv. ***Ejection from the nautore lands:*** Any person, other than an allottee under rule 12, breaking any *nautore* land may be ejected without compensation under the orders of the Commissioner.
- xxvi. ***Availability of water – a must thing:*** The Collector of District may on the personal enquiry and report of the Assistant Collector 1st Class prohibit the breaking of *nautore* in any specified area when he considers that supply of water is insufficient to support further extension of cultivation in that area.
- xxvii. ***Dispute Resolution mechanism:*** Any person aggrieved by an allotment order of the Commissioner under rule 12 may, within ninety days of such order;
- a) Prefer an appeal to the Government;
 - b) If no appeal is preferred under clause (a) apply for review to the Commissioner.
 - c) Any order passed by the Government in appeal or, as the case may be, the Commissioner in review, shall be final.

1.2.3 Analysis of Nautore Rules/ Policies:

From the perspective of policy interventions, as envisaged by the Government of Pakistan, for improvement in the ratio of cultivable lands in this region, *nautore* rules

could be termed as a half success and half failure. Although these rules have certainly triggered the incentives to raise the level of development and improvements of lands by the allottees, yet much of lands remained barren due to prolonged litigations between the individuals/ communities and the government. Absence of inventory of such lands, majorly due to unsettled fabric, gave people luxury to divide much of the *Khalisa* lands amongst themselves; under the customary practice commonly known as '*Hisa Raseedi*'. Some estimates do evince that almost half of *Khalisa* lands in districts of Gilgit and Hunza were distributed in this fashion. In Hunza and Ghizer districts even a negligible headway towards implementation of *nautore* rules was ever reported. In Chilas Sub-Division, district Diamer, the decisions of lands so allotted under these rules were challenged in the court by the Botokhel tribes. They contended that government cannot allot their tribal lands on the pretext of *nautore* rules. Anyhow, the Government of Pakistan discontinued allotments of lands under *nautore* rules vide letter No: 22(4)/86-NA-I dated 02-11-1986, by directing that 'the Administrator Northern Areas is requested that allotment of *nautore* land in the northern areas may be stopped till further orders', as the entire process was eclipsed by nepotism, discretion and corruption. Having stopped this policy by banning allotments, not introducing clear cut policy interventions and weaker writ of the state functionaries to safeguard *Khalisa* lands gave the people leverage to divide such lands amongst themselves, and that too on their own motion. Sequel to division of *Khalisa* lands, owing to weaker implementation conduits, the Government of Gilgit-Baltistan withdrew from its claim, in a case being adjudicated in competent court of law, over *Harpan Dass* (*Khalisa* land as per *Nautore* Rules, 1978-80) in Chilas. *Prima facie* it was an appeasement measure despite the fact that these lands were required for construction of Model Village for the affectees of Diamer Basha Dam. This withdrawal has adversely affected the spirit of *nautore* and *Khalisa* lands which were originally meant to be allotted to poor segments of the society and were to be cultivated for poverty alleviation.

1.2.4 Subsequent Settlements in various districts:

After allotment of barren lands under *Nautore* Rules, the major activity was land re-settlement of Gilgit from 1998-2002. It was aimed to correct the record and prepare a fresh inventory of *Khalisa* lands but due to bad planning, ill-trained revenue staff, lack of will and sectarian induced nepotism-cum-corruption further exacerbated the condition of land titles and tenures. Mafias came into play and *Khalisa* lands were got shown as private or community lands in revenue record. According to an estimate 65000 *Kanals* of lands were *malafidely* entered in the name of private individuals/communities. *Shamilat Deh* was entered as private lands and *vice versa*. So despite good intentions of securing titles, the effort pushed the whole system into further quagmire; throwing the system into another regime of forged revenue record, more litigations and inter-communal rifts.

1.3 Different kinds of lands in Gilgit-Baltistan:

The standard definitions and categories of land in GB are following:

1.3.1 Private Land:

In Gilgit-Baltistan, private lands are taken as lands in which some individual or families enjoy exclusive rights of use. In settled areas, such rights are recognized by an entry in Records-of-Rights/ subsequent periodical records. It could have been acquired as hereditary, by sale, gift or otherwise. A good proof of such a title can be *Fard* (copy of entry in periodical record) or mutation. In unsettled areas these rights are being regulated by customary rules and possession.

1.3.2 Khalisa Land:

These are government lands which have either been entered as *Khalisa* land in revenue record in settled areas or in the unsettled areas of former States, political District and Agency of Chilas and Darel/ Tangir it includes areas which had never been under the possession of anybody or had not been allotted to any community or a *zamindar*. It also

includes all such “*Berune Line*” area outside the boundary of a village whether in a settled or unsettled area.

1.3.3 Community Land:

Customary land is land whose allocation and use is governed by traditional tribal laws. A feature of customary land is the wide variation in customs within a country, let alone between countries (AusAID, 2001). A community, as a whole, gets rights in such lands. Any use, whatsoever, is subject to general approval of all or at least nominated representatives of that community. While designing any intervention in such lands, active engagement of entire community is required. If not properly taken on board, serious opposition may emerge from within the community and thwart the prospects of any development for poor segments of the society. It has been a customary rule, in GB, that all segments of community get equitable share in the rights related to common lands. From a pro-poor perspective of development, it would be a challenge how to target poor portion of that community. Any planning, without involving and convincing ‘the haves’ to focus on ‘the have nots’ may undermine the pro-poor aspect of development. With a promise of the equitable distribution of dividends, all segments may be brought together for a greater good. While ensuring security of tenure and title for such community lands it is necessary to understand that although such rights do find a mention in the land records yet targeting the poorest households and securing them legal titles remains a challenging prospect.

1.3.4 Pasture Land:

These are range lands and included in the category of *Khalisa* lands with some grazing and right of usage to neighbouring communities. To a pasture more than one community do have grazing rights. The management of these pastures is carried out by the Departments of Agriculture and Forest in Gilgit-Baltistan.

1.4 Legal and Institutional Framework:

The prevailing legal system is a patchwork and not a result of consistent evolution as it happened in other provinces of Pakistan. Capacity of system and consistency of application are both questionable.

- a. **Legal framework:** The system of land tenures and titles in Gilgit-Baltistan is governed by Land Revenue Act 1967, Land Revenue Rules 1968, Land Acquisition Act 1894, and other laws enumerated in list of extended laws in Gilgit-Baltistan.
- b. **Land Records System:** Land records are prepared, updated and regulated under the guidelines and legal stipulations as provided in Douei's Settlement Manual, Land Records Manual, Land Revenue Act 1967 and Land Revenue Rules 1968.
- c. **Dispute Resolution Mechanism:** For this purpose, there are three kinds of streams available in Gilgit-Baltistan;
 - i. **Jirga System:** Matters pertaining to land disputes, ownership claims and grazing rights are referred to local *Jirga*; whose constitution and level depends upon the severity of problem *viz* area, tribal fabric and sensitivity.
 - ii. **Civil Courts:** Most of the ownership cases are decided by the civil courts.
 - iii. **Revenue Courts:** These courts are established under the Land Revenue Act, 1967. But unfortunately revenue courts could not be made functional in Gilgit-Baltistan as per the spirit of the Act/ as established in other parts of the country. Causes which may be attributed to its ineffectiveness are lack of revenue record, unsettled areas and untrained presiding officers etc.

Table 1: Comparison of appellant forums available

	Civil Courts	Revenue Courts in GB	Revenue Courts in Punjab
<i>Court of first hearing/institution of cases</i>	Civil Judge	District Collector	Naib Tehsildar/ Tehsildar
<i>First appellant forum</i>	Additional Civil Judge	↓	Assistant Commissioner
<i>Second appellant forum</i>	District & sessions Judge		District Collector
<i>Third appellant forum</i>	Chief Court of GB		Commissioner
<i>Final appellant forum</i>	Supreme Appellant Court of GB	Chief Secretary/ Revenue Commissioner through Law Department	Board of Revenue (BOR)

Rules/customs related to development of new irrigated lands: There are no specific rules for the development of new irrigated lands either community or *Khalisa* but, broadly, two models of developing new irrigation lands are being followed in Gilgit-Baltistan:

Agha Khan Rural Support Programme Model: The experience of AKRSP; especially in the unsettled districts of Hunza and Ghizer is unparalleled. For the irrigation projects they first mobilize the concerned communities and get them ready for development of irrigation channel. Community share is must. The onus to provide land without glitches and disputes rests with the community and after having assurance to this regard AKRSP agrees for irrigation projects in that area on need basis. In a way, AKRSP only works on 'free from encumbrances' lands to avoid inter-community disputes and other issues.

Government Model: Although this model is not much different from the AKRSP', yet the process followed is different. In government sector, the process starts with the approval of PC-I and projects are approved by the competent forum and funds are provided by the government itself.

- i. **Settled districts:** Having approved the projects, land disputes relating to water and irrigation rights of concerned communities are settled in collaboration with Revenue Agency. Social mobilization is the key in getting all stakeholders on board. A complete plan along-with land records are prepared after community's approval and made part of the written agreement; duly authenticated by the Assistant Commissioner of concerned Sub-Division.
- ii. **Unsettled districts:** In unsettled areas, communities are motivated and only after their written consent projects for irrigation of barren lands are approved. Agreement between the Department and respective communities is registered informally by the concerned Assistant Commissioner.

1.5 Main issues and challenges:

In Gilgit-Baltistan, informal conduits are given precedence over formal structures of land economy. Over a period of time, issues relating to lands have become intractable. The problem in land administration started in 1974, when 'the Government of Pakistan remitted the land revenue in the region, thus foregoing the revenue income from the region' (Emeritus, 2004). With no land revenue to be assessed and collected, revenue field staff became lethargic and they stopped maintaining/ updating land records (which are primarily maintained or updated for revenue collection). Eventually this system became mostly redundant at the cost of record keeping. Without authentic and up-to-date record, concept of *Khalisa* lands became irrelevant; primarily because unsettled texture and subsequent weakening of implementation of the *Nautore* Rules

1978-80 provided unwarranted space to individuals and communities to lodge claims over the *Khalisa* lands. Withdrawal of government's claim over *Harpan Dass* in Chilas sub-Division has proved to be a death nail. Now *Khalisa* land, in virtual terms, exists in papers. This is unhealthy development because neither the individuals/ communities have resources and paraphernalia to cultivate these barren lands nor the government considers bringing such areas under command owing to this ownership fumble. Undefined boundaries of *Dasses* and pastures have given rise to prolonged litigations. If it is to be described in language of sets then main litigating parties are community *vs.* community, individual *vs.* community, the government *vs.* community and individuals *vs.* the government. Use of the antique gadgetry for land management and record keeping, and that too coupled with ill trained human resource, have played havoc with land records in settled districts of Gilgit, Skardu and Astore. Situation in unsettled districts is even worse due to unavailability of records where custom or *Rivaj* for utilization of lands should have been incorporated in land records. This phenomenon has given rise to prism-like interpretations of each custom, easement and grazing rights. Unlike other settled parts of Pakistan, institutional set of revenue court, as envisaged in the Land Revenue Act, 1967 for provision of speedy and reliable dispute resolution mechanism is also a weak link in Gilgit-Baltistan. It is also a matter of observance that for last three decades, there is a hiatus in policy making by the Government of Pakistan for efficient utilization of lands. Even after attaining a status equal to a province after promulgation of Gigit-Baltistan (Empowerment of Self-Governance) Order, 2009 no substantive legislation has been made in this regard resulting in a poor legal regime for security of land tenures in this area.

1.6 Recommendations

The recommendations can be categorised into policy level, regulatory level and institutional level.

1.6.1 Policy Level:

- a. ***Allotment of lands to landless persons on temporary cultivation:*** Taking a leaf from colonization of land introduced by the British rulers of sub-continent for Punjab and substantially in line with the existing *nautore* rules, a clear policy be formulated for allotment of *Khalisa* lands to the landless persons. Steps also need to be incorporated for the new developed irrigated land for ensuring equitable access of newly developed lands to needy segment of the society/community.
- b. ***Policy with incentives:*** The chances of acceptability and success of any policy to cultivate barren lands depend on the appropriateness of incentives. According to guidelines given in the Colonization of Government Lands (Punjab) Act, 1912, Section 30 describes procedure for grant of proprietary rights to the tenants after fulfilment of terms and conditions of the policy. Section 30 (A) also protects the rights of alienation in respect of rule of succession to certain proprietary rights acquired by a female. While designing any fresh policy, the Government of GB should entail a promise of allotment to the landowners who are in possession of *Khalisa* lands. At least, they may be taken as first right/ preference in such allotments if they fulfil the criterion of equitable distribution of dividends in a certain community.
- c. ***Policy with legislative cover:*** With the promulgation of Gilgit-Baltistan (Empowerment and Self-Governance) Order 2009, this area has attained a province like status. To lend the proposed policy interventions credibility and legal backing, required legislation may be taken in hand and passed by the GB Legislative Assembly. The debate on the proposed legislation will go a long way towards service delivery, community mobilization and

building ownership of such policy amongst the main stakeholders and masses.

- d. ***Policy for availability of water:*** Different from *nautore* rules wherein availability of water was a pre-condition for allotment of land for cultivation, a policy in conjunction with the Agriculture Department (Irrigation is part of this department in GB) be formulated with primary focus to ensure availability of water to barren lands. Such a policy may envisage role and share of communities for designing interventions for water supply. Give water, grow more and alleviate poverty.

1.6.2 Regulatory Level:

- a. ***Strict observance of time-frame for disposal of land cases:*** In Gilgit-Baltistan, disposal of the cases pertaining to boundary disputes, ownership over *Dasses* and pastures; and grazing rights is objectionably slow. Whatever the forum is; whether the civil court, the revenue court or the *Jirga*, there should be clear cut policy for quick disposal. Quality training of presiding officers/ supporting staff of these courts is highly recommended.
- b. ***Updating of revenue record:*** Due to ill planned settlements and consequently non-preparation of *Jamabandies* (periodical records), the state of affairs with revenue record is abysmally poor. For instance, in district Gilgit, there are certain *Jamabandies* which have not been updated for last twenty years. The flipside of this non-updating is that there is no exact information about land tenures. Up-to-date record, in light of the Sections 31 and 32 of Land Revenue Rules, 1968, be prepared. It will not only provide definite but reliable information about the status of land records but will also serve as basic data for computerization of land record/ assessment of various taxes.

- c. ***Settlement of unsettled lands to ensure secure titles:*** As already mentioned, save Gilgit, Astore and Skardu, rest of districts in Gilgit-Baltistan are unsettled. In order to bring these districts in the fold of planned development, settlement/ availability of land record is inevitable. Tenure as well as title security can only be ensured once authentic land records are available; so 'settling' a district should not be an option rather a mandatory activity. To achieve synergy in record keeping, newly prepared record can directly be digitized and saved in MIS for transparency and further Business Process Re-engineering purposes.
- d. ***Steps in modernizing land settlement:*** Having employed obsolete gadgetry and techniques, decades of perseverance and dedication are required in settlement of a single district – and that too not without a multitude of aberrations. Use of GIS based land records Management Information Systems (MIS) with state-of-the-art technological paraphernalia is required. Gradual disassociation of existing revenue team (that symbolizes the inertia factor) in this activity be replaced with well-trained IT-cum-revenue savvy staff but in a staggered manner.
- e. ***Steps in modernizing record keeping system:*** Commonly known as *Latha* (land map on a white cloth made with indelible ink) serves as beacon for finding coordinates of a particular patch of a land in a *Mauza*. This cloth sheet is mostly found moth-eaten and contains outdated information about the location of land. Policy intervention is required to computerize land records duly linked with GIS based digitized cadastre.
- f. ***Registration of lands instead of mutations only:*** The concept of mutation of land is more linked with entry in the records of rights/ periodical record for the purpose of book-keeping for revenue collection. It does not confer a certain land title to a land owner. *viz* mutations, registration of lands

provides a definitive land proof of titles. Registration of sale deeds is also mandatory under Section-17 of Registration Act, 1912, but in Gilgit-Baltistan, stipulation of registration of sale deeds is not being followed by the Revenue Agency; giving rise to fake mutations, forgery and tampering of revenue record on a larger scale. Directions may be issued from the office of the Revenue Commissioner to follow registration – mutation sequence.

1.6.3 Institutional Level:

a. Addressing the dichotomies/ anomalies in land Revenue Administration in GB: Prior to semi-provincial type set up in Gilgit-Baltistan, powers relating to land matters rested with the Resident, Commissioner and Chief Secretary. After promulgation of Gilgit-Baltistan (Empowerment and Self-Governance) Order 2009, a sort of unbundling of revenue administration has taken place. As there is no Board of Revenue, so in GB Rules of Business 2009, functions relating to land administration were divided amongst various departments but major functions were assigned to the Revenue, Usher, Zakat, Excise and Taxation and Cooperative Department (Schedule-I of GB Rules of Business 2009). The entry 5 of Schedule-II of same rules enumerates the functions of the only Revenue stream as:

1. Assessment and collection of land revenue.
2. *Shamilat-E-Deh* matters.
3. Revenue field staff, District and Divisional Establishment matters connected with their recruitment, training, pay allowances, promotions, leave, posting and transfers
4. Compulsory acquisition of land, land acquisition act and rules made thereafter

5. Registration of deeds and documentations including registration fees.
6. Settlement and re-settlement
7. Transfer of property act.
8. Stamp & Court Fees, Judicial & non-judicial under Court Fees act.
9. Boundary Disputes.

In practice, this department exists only in name and various functions as enumerated above are being dealt by different departments or in some cases by 'no one'. This is also a big impediment for formulation and implementation of any policy reform in land administration in GB. Following matrix explains the actual handling of revenue matters on provincial level as:

Table 2: Handling of revenue matters on provincial level

	<i>Law & Prosecution</i>	<i>Home and Prisons Deptt.</i>	<i>Finance and Revenue Department</i>	<i>Services & General Administration Deptt.</i>
<i>Assessment and collection of revenue</i>	-	-	-	-
<i>Shamilat-E-Deh cases</i>	Yes	-	-	-
<i>Establishment/ HR</i>	-	-	-	Yes
<i>Land acquisition</i>	Yes	-	-	-
<i>Registration of deeds</i>	Yes	-	-	-
<i>Settlement and resettlement</i>	Yes	-	-	-
<i>Revenue Courts</i>	Yes	-	-	-
<i>Finances</i>	-	-	Yes	-
<i>Boundary Disputes</i>	-	Yes	-	-

Keeping in view the above, it is proposed that instead of many departments to control all aspects of land administration, the Board of Revenue be established at the HQs in GB.

b. Rules vs Laws: Other than laws extended in Gilgit-Baltistan (Land Revenue Act 1967, Land Revenue Rules 1968 and Land Acquisition Act 1894) no legislation over the security of tenure and title had been ever made for Gilgit-Baltistan. Substantive stipulation for regulation of *Khalisa* lands and its policy for optimal utilization of barren lands were given in the Gilgit Sub-Division *Nautore* Rules 1942, the Baltistan *Nautore* Rules 1965 and the Northern Areas *Nautore* Rules 1978-80. Either the laws were extended or rules were framed by the Government of Pakistan. The implement-ability and legal backing of 'rules' is weaker as compared to piece of legislation duly authenticated/ ratified by the Assembly. According to Fourth Schedule (Assembly Legislative List) of GB (Empowerment and self-Governance) Order, 2009, GBLA is mandated to legislate on land matters; especially security of tenure and titles, as shown hereunder;

“4. Land, that is to say, rights in or over land; land tenures, including the relation of landlord and tenant, and the collection of rents; transfer, alienation and devolution of agricultural land; land improvement and agricultural loans; colonization.

5. Land revenue, including the assessment and collection of revenue, the maintenance of land records, survey for revenue purpose and records of rights and alienation of revenues.

7. Compulsory acquisition or requisitioning of property.

31. Taxes on agricultural income and on the value of agricultural land.
33. Duties in respect of succession to agricultural land.
34. Estate Duty in respect of agricultural land.
35. Taxes on lands and buildings.”

Although in the GB (Empowerment and self-Governance) Order, 2009, the GB Legislative Assembly was given powers to legislate over land matters yet not a single piece of legislation in this regard was either adopted or passed in five years. Given this scenario, it is recommended that any policy made with regard to regulation of *Khalisa* land, efficient utilization of barren lands, enhancement of productivity through agricultural development, security of tenures and titles, equitable access to barren lands by deserving segments of society, computerization of land records and MIS and further Business Process Re-engineering (BPR) may be given a legal cover in the shape of ‘Act of the Parliament’ (GBLA).

- c. ***Adoption of the Colonization of Government Lands (Punjab) Act, 1912, with all its amendments in Punjab:*** As against *Nautore* Rules in Gilgit-Baltistan, the Colonization of Government Lands (Punjab) Act, 1912, with all its amendments in Punjab be adopted to ensure legal cover and use in the colonization and administration of *Khalisa* lands in the GB. Policies and schemes for *nautore* may be formulated and implemented keeping in view the geography, area variations and regional idiosyncrasies. This Act may be given preference over the *Nautore* rules owing to its binding conduits, practicability, tested fabric and success rate in colonizing canal districts in Punjab. The act of adoptability with required amendments based on local needs be adopted by the GB Legislative Assembly.

- d. ***Preparation of Directory of State Land/ Khalisa Sarkar:*** As lack of reliable data proved an impediment for the implementation of various *nautore* rules in GB, it is recommended that an accurate and authentic directory of *Khalisa* lands be prepared using modern means and gadgetry. Intervention of GIS and decision support system so designed will not only indicate exactitude in data but also help to further improve systems to monitor utilization of lands allotted and amount of cost of land to be recovered.
- e. ***Establishment of Board of Revenue, Gilgit-Baltistan:*** The erstwhile Financial Commissioner in Punjab was replaced by the Board of Revenue through the Board of Revenue Act, 1957. The purpose of constitution of this board was;
- i. to provide superintendence and control of Revenue Officers and Revenue Courts;
 - ii. the Board exercises appellate and revisional jurisdiction and is the highest court of appeal and revision in revenue cases in the Province.
 - iii. the Board shall be the controlling authority in all matters connected with the administration of land, collection of land revenue, preparation of land records and other related matters.

In Gilgit-Baltistan, such a dedicated Board be constituted without further loss of time to set policy relating to land matters, security of tenures and titles, provision of appellate forum for revenue cases and setting policy guidelines for disposal and efficient utilization of *Khalisa* lands. To ensure economies of scale, it is also proposed that the nomenclature of Revenue, Usher, *Zakat*, and Cooperative Department be changed to BOR given the task of reforming land administration in GB.

f. *Establishment of a PMU for Settlement and Computerization of land records:*

Without settlement of unsettled districts (preparation of land records and documentation of land tenures and titles) and re-settlement of settled districts (correction of records to enhance transparency and security of land tenures and titles), no policy for cultivating barren lands can be successful. For this purpose, a dedicated Project Management Unit (PMU) with its field offices at district level be established. Main areas to be addressed by this PMU should include;

- i. GIS based land settlement operations and cadastre
- ii. Land Records MIS to ensure security of tenure and titles
- iii. Business Process Re-engineering (BPR) for improvement of services delivery by the Revenue Agency

1.7 Conclusion:

As Gilgit-Baltistan is opening up for development and economic progress, that too with rapid speed, provision of secure land tenures and titles is of paramount importance. Establishment of Board of Revenue in Gilgit-Baltistan, computerization of land records, GIS based land settlement coupled with Land Records Management Information System (LRMIS) and legal amendments in existing laws is necessary for ensuring a secure regime for land tenures and titles is required.

References

- [1] Afridi, B. G. (2005). *Baltistan in History*. Arbab Road Peshawar: Emjay Books International.
- [2] AusAID. (2001). *Undertaking Land Administration Projects: Sustainability, Affordability, Operational, Efficiency and Good Practice Guidelines (Quality Assurance Series No. 26 July 2001) Performance Information and Assessment Section*. GPO Box 887, Canberra ACT 260: AusAID.
- [3] Emeritus, P. (2004). *History of Northern Areas of Pakistan*. House No.6, St 31, F-8/1, PO Box 1230 Islamabad: National Institute of Historical and Cultural Research.
- [4] Keay, J. (2003). *The Gilgit Game – The Explorer of the Western Himalayas (1865-95)*. 5-Bangalore Town, Sharae Faisal, PO Box 13033, Karachi 75350, Pakistan: Oxford University Press.