

The Upheaval in AJK Judiciary

Report of an HRCP Fact-Finding Mission

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CONTENTS

Map of Azad Jammu and Kashmir	3
Brief Introduction	5
Legal Framework.....	9
Judicial Saga of the State of Azad Jammu and Kashmir	11
Conclusions and Recommendations.....	25

Annexures

Annex I: Judicial System of Azad Jammu and Kashmir ...	28
Annex II: Appointments to Superior Courts of Azad Jammu and Kashmir.....	29
Annex III: AJK Council – Role in Appointment and Accountability of Judges	32
Annex IV: Chronology of Events	36
Annex V: List of People Interviewed.....	41

Brief Introduction

The Human Rights Commission of Pakistan (HRCP) has been following the judicial crisis brewing in Azad Jammu and Kashmir (AJK) for the last few years.

The appointment of Justice Reaz Akhtar Chaudhry as Chief Justice of the AJK Supreme Court in October 2006 had sparked a controversy as he was not only junior to Justice Manzoor Hussain Gillani of the AJK Supreme Court, but had merely spent 25 days as a judge of the apex court when he was given the top judicial slot.

A number of petitions were filed in the AJK High Court and the Supreme Court of Pakistan by lawyers and members of AJK superior judiciary, challenging appointment of judges to superior courts in AJK.

Several lawyers alleged that appointments of judges to the AJK superior courts have been made mainly on political considerations, partly because the AJK Chief Election Commissioner, who oversees the elections in AJK, is designated from among superior court judges of AJK.

They hold that the crisis of judiciary in AJK has emerged following a split within the ruling Muslim Conference (MC), with the AJK Prime Minister and the Speaker of the Legislative Assembly on one side and the President and the MC chief on the other. The crisis intensified when the AJK Prime Minister sent a reference of misconduct against AJK Chief Justice Reaz Chaudhry to the Acting President on April 3, which was duly sent to the senior-most judge of the Supreme Court, Justice Gillani, and the Supreme Judicial Council convened the same day and issued a notice to Chief Justice Chaudhry and restrained him from performing his duties.

The AJK President, who was on a foreign visit, rushed back

to Muzaffarabad, the AJK capital, and withdrew the reference, reinstated Chief Justice Chaudhry, constituted another Supreme Judicial Council and, without the advice of the AJK Prime Minister, and sent a reference to the newly constituted body against the members of the Supreme Judicial Council that had proceeded against Chief Justice Chaudhry.

It was in this context that with two chief Justices – one acting, and one non-functional – and two Supreme Judicial Councils, the AJK judiciary plunged into a full-blown crisis. The predominant majority of members of the bar associations in AJK supported the filing of a reference against Chief Justice Chaudhry. Issues relating to the interpretations of the AJK Constitution as well as matters of propriety, conduct and the exercise of discretion by members of the superior judiciary came into focus. The controversy also exposed the inherent contradictions within the constitutional/legal setup of AJK.

A fact-finding mission of the Commission visited AJK (Muzaffarabad) from April 23 to 25, 2010 and the AJK district of Mirpur and Pakistan's capital Islamabad from April 30 to May 1 to ascertain the facts and interview lawyers and other members of civil society. The mission was headed by Advocate Kamran Arif, HRCF Council member. The terms of reference of the mission were as follows:

- a) Whether the appointments of judges to the superior courts in AJK were being made on merit?
- b) To what extent are international standards, including those prescribed in the 1985 United Nations Basic Principles on the Independence of the Judiciary, being observed in Azad Jammu and Kashmir?
- c) To recommend legal and policy reforms/changes, if needed.

On May 10, 2010, after the HRCF mission had returned from Azad Jammu and Kashmir, the Chief Justice of AJK Supreme Court (SC), Justice Reaz Akhtar Chaudhry and the senior most judge of the SC, Justice Manzoor Hussain Gillani both resigned as judges. HRCF believes that their departure will not remove the root causes of tension within the political and judicial systems of AJK. These must be addressed so that the

7 - The Upheaval in AJK Judiciary

citizens of AJK can enjoy basic human rights, build a democratic political system and the rule of law is strengthened. An independent judiciary is key to sustaining any form of democratic transition and is instrumental in guaranteeing basic rights of the people. HRCP apprehends that denial of rights to the people of AJK will deepen the crisis. Pakistan's transition to a democratic system affords an opportunity and obliges the Government of Pakistan to respect democratic values in AJK.

Legal Framework

The Constitution of Pakistan (Article 257) acknowledges the status of Jammu and Kashmir, stating that when the people of the State of Jammu and Kashmir decide to accede to Pakistan, the relationship between the two shall be determined in accordance with the wishes of the people of the State. The Azad Jammu and Kashmir Interim Constitution Act, 1974 provides for a parliamentary form of government based on a system of adult franchise.¹ However, the AJK Interim Constitution gives essential powers to the Chief Executive of Pakistan, for example, laws cannot be enacted by the AJK Legislative Assembly regarding defence, security, currency, external affairs, foreign trade, foreign aid and several other items enumerated in the Third Schedule of the AJK Interim Constitution.² Section 56 of the Interim Constitution gives the Government of Pakistan powers to take “such action as it may consider necessary or expedient for the effective discharge of” responsibilities granted to Pakistan.

These provisions have often been used by the Government of Pakistan to dismiss and install governments in AJK.

The Azad Jammu and Kashmir Council, commonly known as AJK Council or Kashmir Council, has wide-ranging powers, including the authority to appoint and dismiss judges of the

¹ Adult franchise was introduced in AJK in 1970.

² These include regulation of migration from or into AJK and admission into and expulsion from AJK, post, telegraph, telephones, mineral resources, nuclear energy, aircraft, copyright, insurance, stock exchange, corporations including banking, highways, census, police, railways, natural gas and oil, electricity, newspapers, tax on income other than from agricultural land, jurisdiction and powers of all courts with respect to items under this list, etc.

superior courts in AJK and appointment of the Chief Election Commissioner. The Kashmir Council consists of the Prime Minister of Pakistan, the President of AJK, five members nominated by the Prime Minister of Pakistan from amongst Federal Ministers and members of parliament, Prime Minister of AJK or his representative, and six Kashmiri members elected by the AJK Legislative Assembly. The Prime Minister of Pakistan is the Chairman and the AJK President the Vice-Chairman of the Kashmir Council. The Government of Pakistan issued a memorandum dated June 24, 1970, in which the Cabinet Division directed that as far as the affairs of AJK are concerned, the region will for all practical purposes be treated like any other province of the country.³

Section 42 of the AJK Interim Constitution prescribes the method for appointment of judges to the superior courts. The Chief Justice of the AJK Supreme Court is appointed by the AJK President on the advice of the Kashmir Council. Other judges of the Supreme Court are appointed by the President on the advice of the Kashmir Council after consultation with the Chief Justice of the AJK Supreme Court. A similar formula applies to the appointment of judges to the High Court. Under the AJK Constitution, the President is bound by the advice of the AJK Prime Minister and can only act upon that advice.

The AJK Supreme Judicial Council deals with the accountability of judges. The Chairman of the Kashmir Council (Prime Minister of Pakistan) or the AJK President can send a reference against a judge to the SJC. After inquiring into the allegations the SJC reports to the Chairman of the Kashmir Council.

Section 21 (14) of the AJK Interim Constitution provides that the words "Prime Minister of Pakistan" shall be deemed to include the person who may be performing the functions of the Chief Executive of Pakistan. Thus it took care of long periods of military rule in Pakistan.

The Chief Election Commissioner of AJK is appointed by the AJK President on the advice of the Kashmir Council.

³ Memorandum No. 8/9/70/ (Coord.1), PLD 2006 Lahore 465, Mst Naseem Akhtar versus DG Immigration and others.

Judicial Saga of the State of Azad Jammu and Kashmir

1. On September 26, 2006, Justice Reaz Akhtar Chaudhry, former Chief Justice of the AJK High Court was elevated to the Supreme Court. Twenty-five days later he was appointed Chief Justice of the AJK Supreme Court, superseding Justice Manzoor Hussain Gillani, who was elevated to the AJK Supreme Court two years earlier – in August 2004. Justice Gillani had also served as Chief Justice of AJK High Court (2001-2004) before his elevation to the Supreme Court.

2. On September 28, 2006, Justice Sardar Muhammad Nawaz Khan was appointed acting Chief Justice of the AJK High Court. For as long as CJ Chaudhry remained in office, Justice Sardar Nawaz Khan was not confirmed as Chief Justice of the AJK High Court. He remained acting Chief Justice of the AJK High Court for almost three and a half years.

3. In January 2007, advocates Rafiullah Sultani and Muhammad Yunis Tahir were appointed as judges of the AJK High Court. AJK lawyers complained that the appointment was not legal as only Justice Chaudhry, the AJK Supreme Court chief justice at the time, was consulted. Justice Sardar Muhammad Nawaz Khan, the Acting CJ of the AJK High Court was not consulted. Eight advocates filed a writ petition in the AJK High Court on March 21, 2007, praying that the notification appointing Justice Sultani and Justice Tahir to the AJK High Court be declared void. In their petition the petitioners alleged that the two newly appointed judges had close links with Chief Justice Chaudhry and that they hosted special dinners and receptions for Chief Justice Chaudhry. The media carried events and statements eulogizing the AJK

CJ.⁴ The AJK Advocate General made some preliminary objections to the writ petition filed in March 2007 and refuted some assertions. The AJK government asserted that prior to the appointment of the two judges both Chief Justices were consulted; Justice Chaudhry when he was CJ of the AJK High Court and again Justice Chaudhry as CJ of the AJK Supreme Court. The AJK High Court eventually nullified the appointment of Justice Sultani and Justice Tahir as judges of the AJK High Court on April 30, 2010.

4. Chief Justice Chaudhry set up a monitoring cell in the AJK Supreme Court on November 19, 2006, under Section 42-A of the AJK Interim Constitution and assumed what amounted to original jurisdiction under that section and argued that the Supreme Court required to have those powers for “doing complete justice”.⁵ Unlike the Supreme Court of Pakistan, the AJK Supreme Court does not have original jurisdiction and therefore Justice Chaudhry’s detractors argued that the jurisdiction he had assumed to himself was beyond the scope of the AJK Interim Constitution. Members of the bar made serious allegations of misuse of this acquired jurisdiction through the monitoring cell. The matter was subsequently taken up by the AJK Supreme Judicial Council and its findings reveal that a number of scandalous judgments were delivered by CJ Chaudhry under this acquired jurisdiction.

5. On March 27, 2007, another set of lawyers filed another petition in the AJK High Court challenging the appointment of Justice Chaudhry as Chief Justice of the AJK Supreme Court.⁶ This prompted a sharp reaction from the Supreme Court, which ordered the confiscation of both petitions challenging appointments of judges. A contempt notice was issued to the Registrar of the AJK High Court and police raided the premises of the High Court on the orders of

⁴ Shaukat Aziz and others versus Azad Government and others. AJK High Court.

⁵ Section 42-A, AJK Interim Constitution Act, 1974.

⁶ Sardar Karam Dad Khan and others versus Chairman Azad Jammu and Kashmir Council and others. Writ Petition No. 362/2010, AJK High Court.

the AJK Supreme Court. The AJK Supreme Court directed the registrar of the High Court to submit the record of the two petitions to the Supreme Court and the files remained in the possession of Justice Chaudhry, then CJ of the AJK Supreme Court, until a reference was filed against him in April 2010.

6. The controversy refused to subside. Three constitutional petitions were filed in the Supreme Court of Pakistan in 2009 – by 17 lawyers,⁷ Justice Manzoor Hussain Gillani of the AJK Supreme Court and Justice Sardar Muhammad Nawaz Khan, acting Chief Justice of the AJK High Court.

7. Lawyers of the AJK bar alleged that CJ Chaudhry abused his office and harassed and intimidated lawyers and judges in cahoots with the bureaucracy of AJK. The petitioners said that they had approached the Supreme Court of Pakistan out of desperation. The petition raised serious allegations regarding the manner of appointment of Justice Chaudhry to head the AJK Supreme Court. The petitioners alleged that the decision was made by then President of Pakistan General (r) Pervez Musharraf on the behest of the political group elected in the 2006 general elections for the AJK Legislative Assembly. They claimed that the ruling political group in AJK had met President Musharraf on the day the order was conveyed to the Prime Minister of Pakistan. The matter was also taken up in the AJK Legislative Assembly where the law minister, Sardar Abdul Rashid Abbasi, stated that the appointment was not made by the AJK Government but by the Kashmir Council. Former AJK prime minister Sardar Attique Khan also made similar statements.

8. Justice Sardar Muhammad Nawaz Khan, acting Chief Justice of the AJK High Court, filed a constitutional petition in the Supreme Court of Pakistan. In his petition, he also leveled serious charges of corrupt practices against the Musharraf regime in collaboration with Chief Justice Chaudhry. He alleged that a post fell vacant in the AJK Supreme Court on January 19, 2005. The then AJK Supreme Court Chief

⁷ Tabassam Sadiq and others versus Government of Pakistan and others. Supreme Court of Pakistan.

Justice, Khawaja Muhammad Saeed, recommended the name of Justice Chaudhry to be appointed as a judge of the Supreme Court, and the senior most judge in the AJK High Court (the petitioner) to be appointed Chief Justice of the AJK High Court. According to the petitioner, Justice Saeed, the outgoing AJK CJ, categorically stated that if Justice Chaudhry wanted to remain CJ of the AJK High Court the judge next in seniority should be elevated to the AJK Supreme Court. Both recommendations were transmitted to the AJK President, as well as Prime Minister of Pakistan Mr. Shaukat Aziz. The proposal, it was alleged, was kept pending, until the conclusion of the 2006 general elections in AJK. Justice Chaudhry was holding two posts at the time – Chief Justice of the AJK High Court and Acting Chief Election Commissioner of AJK. The petitioner alleged that after installing a government in AJK of the choice of President Musharraf, the Prime Minister of Pakistan advised the appointment of the petitioner as judge of the Supreme Court in the second week of September 2006. However, the file was immediately withdrawn by some officials of the central government. The petitioner was appointed Acting Chief Justice of the AJK High Court, while Justice Chaudhry was elevated to the Supreme Court of AJK. The petitioner prayed that the Kashmir Council Chairman (Prime Minister of Pakistan) be directed to act upon the advice of the predecessor of AJK Supreme Court CJ Chaudhry (Justice Khawaja Muhammad Saeed) and appoint the petitioner as permanent Chief Justice of the AJK High Court.

The petitioner also alleged that the AJK Chief Secretary, Mr Khalid Sultan and Mr Feaz Akhtar Chaudhry, secretary services of the Government of AJK and brother of Justice Chaudhry, engineered adverse reports against the petitioner, which were sent to the Prime Minister of Pakistan.

Some portions of the petition are reproduced below:

- The Prime Minister of Pakistan had played a questionable role in handling the affairs of AJK.
- The events since 2006, including the unconstitutional appointment of the incumbent Chief Justice AJK instead of the deserving and senior most judge, Justice Manzoor

15 - The Upheaval in AJK Judiciary

Gillani, clearly speak a lot about the nonchalant attitude of the Government of Pakistan, particularly the Prime Minister of Pakistan, who due to his failure of duty has destroyed the venerable institution of judiciary by arbitrarily appointing the Chief Justice of the AJK Supreme Court and by not appointing a permanent Chief Justice of the AJK High Court.

- Advising the appointment of the Chief Justice of the AJK High Court is the sole duty/function of the Prime Minister of Pakistan, as Chairman of AJK Council, who has failed [in performing that duty] and is continuously failing to discharge the same in accordance with the constitution of AJK, UN resolutions and his obligations under the constitution of Pakistan.
- That the judiciary of the Azad Jammu and Kashmir cannot be made slave of political pressures exerted by the Government of Pakistan to achieve ulterior designs in promoting their favorites contrary to established principles of merit and seniority.

Justice Gillani - who was superseded by Justice Chaudhry as the AJK Supreme Court Chief Justice - also filed a constitutional petition in the Supreme Court of Pakistan praying that the appointment of Justice Chaudhry be declared illegal and that the Prime Minister of Pakistan be directed to issue fresh advice on the principle of seniority. The petitioner also claimed compensation for violation of his legitimate constitutional right and for suffering mental agony and torture. The irony is that while judges and lawyers of AJK were approaching the Supreme Court of Pakistan to uphold the principle of legitimate expectancy of seniority, the same was being overlooked by the Supreme Court of Pakistan itself.

Some portions of the petition filed by Justice Gillani are reproduced below:

- It is the Government of Pakistan which makes the decision with respect to the said appointment, the AJK Council is only a device. This fact was clearly stated by the law minister of the AJK on the floor of the Legislative Assembly on January 10, 2007, according to whom the

appointment was not made by the Government of AJK but Pakistan and the Government of AJK had absolutely no role to play in the entire process. Thus, the Government of Pakistan, as custodian of rights of the people of Pakistan, was required to act in all fairness of things by adhering to the provisions of the Constitution, constitutional conventions and principles of law as settled by this honourable court.

- That the petitioner, who had gone on long leave as a protest was harassed, intimidated and pressurised to resign, deprived of lawful entitlement of staff, security and protocol. His kith and kin in the service were victimized. A malicious campaign of character assassination was unleashed against him with the connivance of the central government officers and the incumbent Chief Justice [of AJK], but the petitioner kept on bearing it as judge so that a symbol of resistance against injustice remains pricking the conscience of those who witnessed and protested against it.

9. As soon as these petitions were heard by the Supreme Court of Pakistan, two lawyers, Mujahid Hussain Naqvi and Muhammad Maqbool War, filed a petition directly in the Supreme Court of AJK, challenging the authority of the Supreme Court of Pakistan over matters relating to the appointment of judges to the superior courts of AJK.⁸ Despite the fact that the AJK Supreme Court does not have original jurisdiction, this petition was entertained. Later, it emerged during the proceedings of the AJK Supreme Judicial Council that both lawyer petitioners had been generously rewarded by Chief Justice Chaudhry.

10. Chief Justice Chaudhry constituted a three-member bench headed by himself to hear the petition.⁹ The bench issued orders restraining, amongst others, the Chairman of

⁸ Sardar Muhammad Sayab Khalid and others versus Federation/Government of Pakistan. AJK Supreme Court.

⁹ Justice Manzoor Hussain Gillani's petition was taken up in March 2010 by the Supreme Court of Pakistan. It was still pending when this report went to press.

Kashmir Council and President of AJK, from reviewing their decision regarding the appointment of AJK CJ Chaudhry. The judgment also made the following observations:

- The Supreme Court of Pakistan has no jurisdiction to entertain any such kind of petition. The learned counsel further argued that if the petition filed before the Supreme Court of Pakistan [is] accepted or admitted, then it will damage the Kashmir cause and it will be [a] violation of Article 257 of the Constitution of Islamic Republic of Pakistan and all sacrifices rendered by [the] poor people of Kashmir will be destroyed and there will remain no difference between Occupied Kashmir and the liberated part of Kashmir.
- So we should not hesitate from protecting the Constitution, the institutions of Azad Jammu and Kashmir and the State of Azad Jammu and Kashmir. If we deviate from our responsibilities, then history will never forgive us and will also not forgive those who filed [the] petition [in the Supreme Court of Pakistan] under Article 184 [of the Pakistan Constitution] for quenching their thirst of personal interests. It will also not forgive those, who want to spoil the State and all the institutions of Azad Jammu and Kashmir for petty gains. If we remain silent at this stage, then we have to be answerable before Almighty Allah and the poor nation and it will be treachery with the sacrifices of people, who have lost their lives, parents, properties and honours for the sake of freedom of Kashmir. The lachrymose maledictions of such people will ruin us. If the petition is admitted by the Supreme Court of Pakistan at this stage or some direction is issued, then the Kashmir cause will be pushed into such a quagmire the result of which will be total debacle and ravage of the stand on the Kashmir issue.

11. In October 2009, there was a change in the AJK government and Raja Farooq Haider was sworn in as the 9th prime minister of AJK. The change of government deprived CJ Chaudhry of political support from the Prime Minister's office. Lawyers interviewed by the HRCP fact-finding team confirmed that the incumbent AJK Prime Minister was

backing Justice Gillani of the AJK Supreme Court and lawyers were approached by the office of the Prime Minister to represent Justice Gillani. The AJK President, however, remained firmly behind Chief Justice Chaudhry and his office approached lawyers to represent and support CJ Chaudhry.

12. The President of AJK, Raja Zulqarnain Khan, was on a foreign visit when the Acting President of AJK, on advice from AJK Prime Minister Raja Farooq Haider, filed a reference against Chief Justice Chaudhry on April 3, 2010 with the AJK Supreme Judicial Council. Under the law, the reference was sent to the senior most judge of the AJK Supreme Court – who happened to be Justice Gillani. Unlike the Constitution of Pakistan, the AJK Interim Constitution clearly states that if at any time the Supreme Judicial Council (SJC) is inquiring into the conduct of a judge who is a member of the SJC, or a member of the SJC is absent or is unable to act due to illness or any other cause, the judge next in seniority will be appointed as a member of the SJC.¹⁰ AJK also has an official code of conduct for judges of the superior courts.¹¹

An ad-hoc judge of the AJK Supreme Court was also removed by the Acting President on the same day and the AJK Advocate General, Muhammad Ibrahim Zia, was appointed as an ad-hoc judge of the Supreme Court and made a member of the SJC constituted to hear the reference against CJ Chaudhry.

It is obvious that battle lines had been drawn between former judges Chaudhry and Gillani as well as between the President and Prime Minister of AJK. To have former Justice Gillani head the hearing of a reference against Chief Justice Chaudhry was akin to condemning the accused before he was even heard. The Gillani-headed SJC passed an immediate order restraining Chief Justice Chaudhry from performing his functions as head of the AJK Supreme Court.

¹⁰ Section 42-E(8) of the AJK Interim Constitution Act, 1974.

¹¹ The Code of Conduct for Judges of Superior Courts, framed by the Supreme Judicial Council under Section 42-E(7) of the AJK Interim Constitution Act, 1974.

13. The AJK president cut short his foreign visit and returned to Muzaffarabad on April 3, 2010. On the very next day, he ordered the withdrawal of the reference against Chief Justice Chaudhry, reinstated him as the AJK Chief Justice and sent a reference of misconduct against Justice Gillani and other members of the Gillani-headed SJC to Chief Justice Chaudhry. The President took that action without the advice of the AJK Prime Minister.

14. Meanwhile, the SJC headed by Justice Gillani convened the proceedings in Court Room No. 1, in the Supreme Court premises. Media including television channels were given unprecedented access. CJ Chaudhry refused to join the proceedings. The SJC headed by Justice Chaudhry held its proceedings in a rest house in Mirpur. Justice Gillani did not appear before the council.

The reference against CJ Chaudhry sought inquiry on six grounds:

- a) Keeping the record of a writ petition filed in the [AJK] High Court against the learned judge in his possession for more than two years without taking any action on the part of the learned judge.
- b) Keeping the record of a writ petition filed against two learned judges of the AJK High Court in possession for more than two years without taking any proceedings, constitutes abuse of office, mala-fide action and misconduct on part of the learned judge.
- c) Usurping/assuming and exercising jurisdiction under Section 42-A of the Constitution [i.e. establishment of a monitoring cell in the AJK Supreme Court] by the learned judge in his capacity as Chief Justice of Supreme Court, which jurisdiction does not vest in the Supreme Court under the Constitution or law, amounts to violation/subversion of the Constitution and misconduct on part of the learned judge. Constituting a bench in the matter in which he was personally interested, headed by him,

authoring order and issuing process against the [AJK] President and Chairman AJK Council is mala-fide and misconduct on the part of the learned judge.

- d) The learned judge has committed blasphemy while attributing “wrongdoings” to the prophets and has committed grave misconduct.
- e) The learned judge has committed gross violation of the rules and misconduct while extending benefits to the petitioners of the application filed under Section 42-A referred to in Para 3 above by re-employing the father-in-law of Mr. Maqbool War Advocate, a hardly matriculate retired officer (retired in BPS-18) and bestowing on him charge of Registrar of the Supreme Court (a BPS-22 assignment); appointing Mr. War’s nephew as protocol officer in BPS-18 in violation and disregard of rules; extending to Mr. Mujahid Hussain Naqvi a monetary benefit worth more than 10 million rupees.

Assuming/usurping and exercising jurisdiction by the learned judge as Chief Justice of Supreme Court in the shape of “Monitoring Cell” which is not available to the Supreme Court under the Constitution or any other law, amounts to violation/subversion of the Constitution, mala-fide act and misconduct on the part of the learned judge.

15. The SJC headed by Justice Gillani completed its findings on April 12, 2010 and sent them to the Kashmir Council Chairman. Under the AJK Interim Constitution, if, after an inquiry, the SJC is of the opinion that a judge should be removed from office, the Kashmir Council Chairman “shall” advise the President to act accordingly.¹²

16. The report of the reference is revealing. Chief Justice Chaudhry was found guilty of misconduct on all six charges.

17. In a judgment which was overturned by Chief Justice Chaudhry in review, he had observed: “Even the Holy

¹² Section 42-E of the AJK Interim Constitution, 1974.

Prophets and the pious persons whenever found that some error was committed by them, they immediately sought forgiveness and refuge from God and reviewed their wrongdoings."¹³ The review petition was entertained even though it was barred by the statute of limitation because it was filed six years after the period of limitation for filing a review had ended and lawyers allege it was another judgment favoring the CJ's cronies. Both sides obtained a number of *fatwas* (religious edicts) regarding the controversy of the alleged blasphemy. The SJC headed by Justice Gillani came to the conclusion that blasphemy was committed and that the former CJ should be prosecuted for that. However, the president supported the *fatwas* exonerating CJ Chaudhry.

The findings of the SJC headed by Justice Gillani were that Justice Chaudhry extended favors to lawyers who filed petitions on his behalf. The petitioners of Constitutional Petition 1 of 2010, challenging the petitions filed in the Supreme Court of Pakistan, were generously rewarded. The petitioners in this case were advocates Mujahid Hussain Naqvi and Muhammad Maqbool War. The father-in-law of advocate War was reemployed after his retirement and was appointed as registrar of the Supreme Court, although he lacked academic qualifications for the position. Mr. War's nephew was appointed as protocol officer of the AJK Supreme Court, even though the rules did not provide for any such post.

Advocate Naqvi was also rewarded. It was his review petition that earned CJ Chaudhry the wrath of lawyers who went to the extent of accusing him of blasphemy. Naqvi was dismissed from government service in 1998. His case finally turned up at the Supreme Court. The former CJ AJK decided in favour of Mr Naqvi, while the main case remained pending. As a consequence the judgment fetched the petitioner 10 million rupees.

According to the findings of the SJC headed by Justice Gillani, the jurisdiction acquired by the Supreme Court under

¹³ Mujahid Hussain Naqvi versus Azad Government and others, PLJ 2007 SC (AJK) 163.

the Monitoring Cell was roundly abused. Hundreds of files were maintained in the name of Monitoring Cell, which were taken in possession by the SJC headed by Justice Gillani. These files, according to the SJC headed by Justice Gillani, were not entered in any register, neither were they taken up under any provision of law. Their perusal revealed that government officers were summoned, admonished and made to agree to carry out oral orders issued by Chief Justice Chaudhry. Lawyers and members of the public produced several purported stay orders before the SJC headed by Justice Gillani, through which benefits and favors were showered but there was no record of them on the files. In a typical example, an order captioned, "Chaudhry Muhammad Siddique versus Deputy Commissioner" dated March 06, 2008, directed the Deputy Commissioner Mirpur to hand over 18 kanals of land owned by WAPDA to Muhammad Siddique. The SJC headed by Justice Gillani reported that in several cases Chief Justice Chaudhry had obliged his family members, friends and decided cases in favour of his cronies.

There were allegations of bypassing rules to promote the children of CJ Chaudhry. His son was appointed as District Food Controller on an ad-hoc basis. Rules required at least a 2nd Division in the prescribed academic qualification for the post. CJ Chaudhry's son had passed his exam in the 3rd Division. He was also exempted from taking a written examination. Justice Chaudhry's daughter's examination papers were ordered to be sent to the Chief Justice "for perusal". Her marks were later increased.

18. The Supreme Judicial Council headed by Justice Chaudhry allegedly convened at a rest house in Mirpur on April 22 and proceeded against the respondent judges on an ex-parte basis, recorded no evidence and compiled its findings and recommendations and submitted them to the AJK Council Chairman.

The Kashmir Council Chairman (Prime Minister of Pakistan) had before him two reports from two different Supreme Judicial Councils from AJK, one headed by Justice Gillani which had the support of the Government of AJK and of the predominant majority of the public and lawyers and the other

headed by Chief Justice Chaudhry. The legal status of the second SJC was in doubt and it had not conducted any apparent proceedings, but had the support of the Pakistan People's Party (PPP) AJK. Rejecting the first SJC's findings was likely to lead to chaos and expansion in protests, while rejecting the findings of the second SJC risked upsetting leaders of the PPP in AJK.

The Kashmir Council Chairman chose a third option. He forced both Chief Justice Chaudhry and Justice Gillani to resign, rendering reports of both SJs redundant.

19. On April 30, the AJK High Court nullified the appointments of Justice Rafiullah Sultani and Justice Mohammad Yunis Tahir (challenged in the petition titled Shaukat Aziz and others Vs Azad Government and others).

A number of political activists lamented that candidates and political parties in AJK continue to be disqualified from contesting elections as the AJK Interim Constitution bars a person or political party from acting or propagating against the ideology of the State's accession to Pakistan. This gives wide powers for rigging. A number of petitions as well as interviews with people including lawyers and members of civil society gave numerous examples of how intelligence agencies control elections and appointments in AJK. It is widely alleged that the decision to appoint CJ Chaudhry was made by the security establishment in Pakistan.

20. Justice Chaudhry and Justice Gillani are no longer part of the AJK superior judiciary. The AJK High Court finally disposed off the petition against CJ Chaudhry on April 7, 2010.

But interference in the appointment of judges in AJK has not ended. Lawyers in AJK have ended their protests but surely the issue was not about the appointment of one individual but graver issues are at stake in AJK. The Human Rights Commission of Pakistan can only hope that institutional changes rather than the change of a few faces will be adopted as a policy in AJK and by the Government of Pakistan.

Conclusions and Recommendations

This report makes the following recommendations for constructively addressing the situation in Azad Jammu and Kashmir. The recommended measures are limited to the mandate of the mission and are only the first few steps towards a genuine transition to a democratic system and extending rights to the people of the State of Azad Jammu and Kashmir.

- i. The people and the government of the State of Azad Jammu and Kashmir do not enjoy autonomy and many of the basic rights that are fundamental in building a democratic culture and political system. After the passage of the 18th Constitutional Amendment in Pakistan, provincial autonomy is far better recognized in Pakistan, and the same should extend to Azad Jammu and Kashmir as promised through a memorandum of 1970, where, for all practical purposes, the affairs of Azad Jammu and Kashmir were to be generally carried out in the same manner as any other province of Pakistan. New political developments in Pakistan and increasing awareness of rights in the region makes it even more crucial that policy and legal reform be introduced in Azad Jammu and Kashmir.
- ii. The embarrassing controversy over the appointment of judges reveals the constant manipulation of the judiciary in AJK by the executive in AJK and various institutions in Pakistan through the Kashmir Council. As a consequence of this interference, the judiciary in AJK is politicized. This must end in order to strengthen the justice system in Azad Jammu and Kashmir. It is therefore critical that all appointments and promotions of judges of the superior courts in Azad Jammu and Kashmir are made on merit, through a proper consultative process and without

capricious interference from the executive authorities established through the constitutional framework of Azad Jammu and Kashmir.

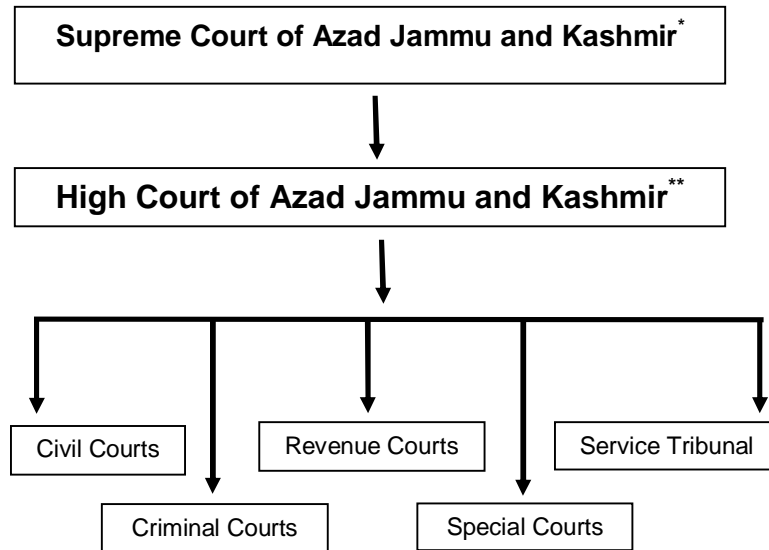
- iii. The HRCF mission was informed that judges of superior courts have been used to cover up irregularities during and post elections. This has also been alleged in some petitions filed against the appointment of the former Chief Justice of the Azad Jammu and Kashmir Supreme Court. There appears to be weight in these allegations. In order to remove serious doubts cast on the election process, the appointment of the Chief Election Commissioner should be made in consultation with the AJK Prime Minister, leader of the Opposition and the Chief Justice of AJK Supreme Court. A serving judge should not head the Election Commission. These measures will need legislative and policy changes.
- iv. The AJK Election Commission should be made a permanent and autonomous body.
- v. Given the sensitive legal status of AJK, it may not be advisable to seek assistance of international bodies to observe the electoral process in Azad Jammu and Kashmir. However, the people of AJK cannot be deprived of civil society activism because of a long unresolved dispute. To bridge this gap, civil society of Pakistan, in particular, bar associations should monitor general elections of AJK.
- vi. The bar associations of AJK have admirably challenged the arbitrariness of judicial appointments. However, they should have received more support from bar associations of Pakistan. AJK bar associations should be encouraged to hold events in AJK on relevant legal issues including on the independence of the judiciary in order to strengthen their links with civil society in Pakistan.
- vii. HRCF was astonished at the allegation of blasphemy made against the former Chief Justice of AJK Supreme Court. The allegation was based on a sentence he wrote in one of his judgments. Even though the backs of the legal fraternity were pushed to the wall, such dangerous allegations against judges can become a terrifying trend if

not effectively discouraged. The AJK Supreme Judicial Council also cited this allegation as one of the grounds for removal of Justice Chaudhry, former Chief Justice of the AJK Supreme Court, and concluded that blasphemy had indeed been committed. Such allegations debase the principles of fair play and the rule of law – the very principle the lawyers professed they were promoting while challenging the arbitrary appointment of the Chief Justice Chaudhry. There can be no independence for the judiciary if judges are not protected against sanctions for expressing themselves through their judgments. According to the 1985 UN Basic Principles on the Independence of Judiciary, judges are guaranteed freedom of expression and personal immunity for improper acts or omissions in the exercise of their judicial functions. Judges are, though, expected to conduct themselves in such a manner as to preserve the dignity of their office and the impartiality and independence of the judiciary.

- viii. The powers shared between the authorities in AJK and the AJK Council, chaired by the Prime Minister of Pakistan, should be rationalized on democratic principles, notwithstanding the peculiar status of AJK. HRCP accepts that the sensitive legal status of AJK and its security concerns will pose a huge challenge in carrying out reforms. These factors are important and could remain central while carrying out reforms, but they should not be used as a justification to undermine basic human rights standards.
- ix. AJK bar associations are encouraged to initiate the process for legal and judicial reform. It can start by making recommendations regarding the method of appointment of judges to the superior courts. Bar associations must build consensus within the legal fraternity and propose options for non-arbitrary methods of appointing judges to superior courts. Advocacy around such shared proposals will yield better long-term results.

Annex I

Judicial System of Azad Jammu and Kashmir



* The Supreme Court is the highest court of appeal of Azad Jammu and Kashmir and has jurisdiction to hear and determine appeals from judgements, decrees, final orders or sentences of the AJK High Court. Unlike the Supreme Court of Pakistan, the AJK Supreme Court does not have original jurisdiction. The number of judges in the AJK Supreme Court has been fixed at three by the AJK Interim Constitution Act, 1974.

** The AJK High Court has appellate as well as original (writ) jurisdiction, just like the High Courts of Pakistan.

Annex II

**Appointments to Superior Courts of Azad
Jammu and Kashmir**

AJK Supreme Court¹⁴

The AJK Constitution has fixed the number of judges in the Supreme Court at three, including the Chief Justice of AJK.

The AJK Chief Justice shall be appointed by the President on the advice of the AJK Council.

Each of the other judges of the AJK Supreme Court shall be appointed by the President on the advice of the Council after consultation with the AJK Chief Justice.

A judge of the AJK Supreme Court shall hold office until he attains the age of 65 years, unless he resigns earlier or is removed from office in accordance with law.

Ad-Hoc Judges¹⁵

If at any time it is not possible for want of quorum of judges of the Supreme Court to hold or continue any sitting of the Court, or for any other reason it is necessary to increase temporarily the number of Judges of the Supreme Court, the AJK Chief Justice may, in writing.

- a) With the approval of the AJK President, request a person who has held the office of a judge of that court, the Supreme Court of Pakistan or the Judicial Board or has held the office of Judge of the High Court for a minimum period of three years and since

¹⁴ Section 42, Azad Jammu and Kashmir Interim Constitution Act, 1974.

¹⁵ Section 42 (8-A) (c), Azad Jammu and Kashmir Interim Constitution Act, 1974.

whose ceasing to hold that office three years have not elapsed; or

- b) With the approval of the President and except in the case of Chief Justice, with the consent of the Chief Justice of High Court, require a judge of that court who has held office as such judge for a minimum period of three years; or
- c) With the approval of the President, request any person qualified for appointment as judge of the Supreme Court, to attend sittings of the Supreme Court as an ad-hoc judge for such period as may be necessary and while so attending an ad-hoc judge shall have the same power and jurisdiction as a judge of the Supreme Court.

AJK High Court¹⁶

A judge of the High Court shall be appointed by the AJK President on the advice of the AJK Council and after consultation:

- (a) with the AJK Chief Justice; and
- (b) except where the appointment is that of Chief Justice, with the Chief Justice of the High Court.

The Chief Justice or a Judge of the High Court shall hold office until he attains the age of 62 years unless he resigns earlier or is removed from office in accordance with law.

The President may appoint a retired judge of any High Court of Pakistan to be the Chief Justice or a Judge of the High Court for a period not exceeding three years and such person shall hold office until he attains the age of 65 years.

Additional Judges

If at any time any Judge of the High Court is absent or is unable to perform his functions due to illness or some other cause, the President may appoint a person qualified for

¹⁶ Section 43, Azad Jammu and Kashmir Interim Constitution Act, 1974.

31 - *The Upheaval in AJK Judiciary*

appointment as a Judge of the High Court to be an Additional Judge of the High Court for the period for which the Judge is absent or unable to perform his functions.

Acting Chief Justice¹⁷

At any time when:

- a) the office of Chief Justice of High Court is vacant; or
- b) the Chief Justice of High Court is absent or is unable to perform the functions of his office due to any other cause, the President shall appoint the senior most of the other Judges of the High Court to act as Chief Justice.

¹⁷ Section 43-A, Azad Jammu and Kashmir Interim Constitution Act, 1974.

Annex III

**AJK Council – Role in Appointment and
Accountability of Judges**

Composition¹⁸

The Azad Jammu and Kashmir Council consists of:

- a. The Prime Minister of Pakistan,¹⁹ who is chairman of the Council;
- b. The President, who is vice-chairman of the Council;
- c. Five Members to be nominated by the Prime Minister of Pakistan from time to time from amongst Federal Minister and members of Parliament;
- d. The Prime Minister of Azad Jammu and Kashmir or a person nominated by him;
- e. Six members to be elected by the Assembly from amongst state subjects in accordance with the system of proportional representation by means of the single transferable vote;
- f. Pakistan's Federal Minister of State for Kashmir Affairs and Northern Affairs (as ex-officio member of the Council).
- g. A member of the Council elected by the Assembly

¹⁸ Section 21, Azad Jammu and Kashmir Interim Constitution Act, 1974.

¹⁹ According to Section 21 (14) of AJK Interim Constitution Act, 1974, the words 'The Prime Minister of Pakistan' wherever occurring in Section 21 "shall be deemed to include the person for the time being exercising the powers and performing the functions of the Chief Executive of Pakistan".

holds office for a term of five years from the day he enters upon his office, or until his successor enters upon his office, whichever event is later.

- h. The executive authority of the Council extend to all matters with respect to which the Council has power to make laws and is exercised, in the name of the Council, by the Chairman who may act either directly or through the Secretariat of the Council of which a Federal Minister nominated by the Chairman from amongst the members of the Council and not more than three advisors appointed by the Chairman shall be in-charge.
- i. The Council may specify matters in respect of which its authority shall be exercisable by the Vice-Chairman of the Council, subject to such conditions as the Council may specify.
- j. The Council is authorised to make rules for regulating its procedure and the conduct of its business, and shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings of the council shall not be invalid on the ground that a person who was not entitled to do so sat, voted or otherwise took part in the proceedings.

Role in Appointment²⁰ and Accountability²¹
of Judges

- The President is bound to appoint the AJK Chief Justice on the advice of the Council.
- Each of the other judges of the AJK Supreme Court shall be appointed by the President on the advice of the Council after consultation with the AJK Chief Justice.

If the chairman of the AJK Council or the President is of the opinion that a judge of the Supreme Court or of the High Court:

- a) is incapable of properly performing the duties of his office on account of physical or mental incapacity; or
- b) may have been guilty of misconduct, the Chairman or the President, as the case may be, shall direct the Supreme Judicial Council to inquire into the matter.

If, after inquiring into the matter, the Supreme Judicial Council reports to the Chairman of the AJK Council that it is of the opinion:

- a) that the judge is incapable of performing the duties of his office or has been guilty of misconduct, and
- b) that he should be removed from office, the Chairman shall advise the President to remove the Judge from his office and the President shall pass orders accordingly.

²⁰ Sections 42 and 43, Azad Jammu and Kashmir Interim Constitution Act, 1974.

²¹ Section 42-E, Azad Jammu and Kashmir Interim Constitution Act, 1974.

Legislative Authority²²

Both the Azad Jammu and Kashmir Council and the AJK Legislative Assembly have the power to make laws:

- a. for the territories of Azad Jammu and Kashmir;
- b. for all state subjects wherever they may be; and
- c. for all officers of the Council or as the case may be, the Government, wherever they may be.

However, neither the Council nor the Assembly have the power to make any law concerning.

- a. the responsibilities of the Government of Pakistan under the UNCIP Resolutions;
- b. the defence and security of Azad Jammu and Kashmir;
- c. the current coin or the issue of any bills, notes or other paper currency; or
- d. the external affairs of Azad Jammu and Kashmir including foreign trade and foreign aid.
- e. Any law repugnant to the teachings and requirements of Islam as set out in the Holy Quran and Sunnah.

Subject to the exceptions mentioned above:

- a. the Council has exclusive power to make laws with respect to any matter in the Council Legislative list set out in the Third Schedule of the AJK Interim Constitution Act, 1974.
- b. the Assembly has, and the Council does not, have power to make laws with respect to any matter not enumerated in the Council Legislative list.

²² Section 21, Azad Jammu and Kashmir Interim Constitution Act, 1974.

Annex IV

Chronology of Events

- May 5, 1991:** Justice Manzoor Hussain Gillani appointed judge of the AJK High Court.
- May 4, 2001:** Justice Gillani appointed Chief Justice of the AJK High Court.
- August 2004:** Justice Gillani elevated to the AJK Supreme Court.
- Sep 26, 2006:** Justice Riaz Akhtar Chaudhry, Chief Justice of the AJK High Court AJK elevated to the Supreme Court of AJK.
- Sep 28, 2006:** Justice Sardar Muhammad Nawaz Khan appointed Acting Chief Justice of the AJK High Court.
- Oct 21, 2006:** Justice Reaz Akhtar Chaudhry appointed Chief Justice of the AJK Supreme Court, 25 days after his elevation to the Supreme Court.
- Nov 19, 2006:** Chief Justice Chaudhry sets up a Monitoring Cell at the AJK Supreme Court through an executive order to “ensure that no injustice should be done to any State Subject”.
- Jan 23, 2007:** Justice Rafiullah Sultani and Justice Mohammad Yunis Tahir appointed to the AJK High Court.
- Mar 21, 2007:** Appointment of Justice Sultani and Justice Tahir challenged before the AJK High Court of AJK (in Shaukat Aziz and others Vs Azad Government and others) on the ground that their appointments were not made in

consultation with the AJK Chief Justice.

Mar 27, 2007: Appointment of AJK Chief Justice Reaz Akhtar Chaudhry challenged before the AJK High Court (in Sardar Karam Dad Khan and others Vs Chairman Azad Jammu and Kashmir Council and others).

Mar 27, 2007: The AJK Supreme Court initiates contempt of court proceedings against the AJK High Court Registrar for entertaining writ petitions against the Chief Justice and judges of the AJK Supreme Court.

Mar 28, 2007: The AJK Supreme Court orders that the original file of the writ petition titled Sardar Karam Dad Khan and others Vs. Chairman Azad Jammu and Kashmir Council and others be “given in possession of the Registrar of this Court, who shall keep the same until further orders. Original file of writ petition titled Shaukat Aziz and others Vs Azad Government and others also taken into possession.

May 5, 2007: Chief Justice Chaudhry and Justice Khawaja Shahad Ahmed of the AJK Supreme Court deliver judgement in Mujahid Hussain Naqvi Vs Azad Government and others [PLJ 2007 SC (AJK) 163], a review petition barred by the statute of limitation because it was filed seven years after the period of limitation ended. The judgement gave rise to allegations of favouritism.

October 2007: Justice Gillani challenges before the Supreme Court of Pakistan the legality of the AJK Council Chairman’s advice to the AJK President regarding the appointment of Justice Chaudhry as the AJK Chief Justice. 17 lawyers also filed a petition in the Supreme Court of Pakistan Tabassam Sadiq and others versus Government of Pakistan

and others, alleging that CJ Chaudhry had abused his office and harassed and intimidated lawyers and judges in cahoots with the bureaucracy of the AJK. They also raise allegations regarding the manner of appointment of Chief Justice Chaudhry to head the AJK Supreme Court. Justice Sardar Muhammad Nawaz Khan, acting Chief Justice of the AJK High Court, also filed a constitutional Petition in the Supreme Court of Pakistan with the prayer that the AJK Council Chairman (Prime Minister of Pakistan) be directed to act upon the advice of the predecessor of Chief Justice Chaudhry and appoint Justice Khan as permanent Chief Justice of the AJK High Court.

- Mar 15, 2010:** A three-member bench of the AJK Supreme Court consisting of Chief Justice Chaudhry, Justice Khawaja Shahad Ahmad and Justice Mohammad Azam Khan in Sardar Mohammad Sayab Khalid and others Vs Federation / Government of Pakistan and others (Original Petition No 1 of 2010 issued processes against the Kashmir Council Chairman (Prime Minister of Pakistan) and the President of AJK, against the provisions of the Azad Jammu and Kashmir Interim Constitution Act, 1974.
- Apr 3, 2010:** AJK Prime Minister Farooq Haider sends a reference against Chief Justice Chaudhry to the Acting President of AJK.
- Apr 3, 2010:** The Acting AJK President forwards the reference (reference No 1 of 2010) to Senior Judge of the AJK Supreme Court under Section 42-E of the Azad Jammu and Kashmir Interim Constitution Act, 1974, to inquire into the conduct of Chief Justice Chaudhry.

- Apr 3, 2010:** The Acting President removes Justice Azam Khan, an ad-hoc judge of the AJK Supreme Court.
- Apr 3, 2010:** On the advice of the AJK Prime Minister, the Acting President appoints then AJK Advocate General Muhammad Ibrahim Zia as ad-hoc judge of the AJK Supreme Court.
- Apr 3, 2010:** The Supreme Judicial Council, comprising Justice Gillani, Acting Chief Justice of the AJK Supreme Court, Justice Ibrahim Zia, ad-hoc judge of the AJK Supreme Court, and Justice Ghulam Mustafa Mughal, Chief Justice of the AJK High Court, issue notices to Chief Justice Chaudhry (respondent) for April 7.
- Apr 3, 2010:** On an application accompanying the reference, the Supreme Judicial Council restrains Chief Justice Chaudhry from performing his duties as the AJK Chief Justice.
- Apr 3, 2010:** The AJK President, who was on a foreign visit, returns to Muzaffarabad, the capital of AJK.
- Apr 4, 2010:** The AJK President: withdraws the reference against Chief Justice Chaudhry; orders Justice Chaudhry's reinstatement as the AJK Chief Justice; sends a reference for misconduct against Justice Gillani, Justice Zia and Justice Mughal to Chief Justice Chaudhry.
- Apr 4, 2010:** The AJK President constitutes another Supreme Judicial Council, consisting of Chief Justice Chaudhry, Justice Shahad of the AJK High Court and Justice Yunis Tahir of the AJK High Court.
- Apr 4, 2010:** The Supreme Judicial Council (headed by Justice Chaudhry) convenes in Mirpur and

issues notices to Justice Gillani, Justice Zia and Justice Mughal for April 22.

- Apr 7, 2010:** The Supreme Judicial Council (headed by Justice Gillani) convenes in Court Room No 1 of the AJK Supreme Court, where the media is given unprecedented access. Justice Chaudhry does not join the proceedings and is proceeded against ex-parte.
- Apr 8-11, 2010:** The Supreme Judicial Council (headed by Justice Gillani) records evidence and hears arguments in the reference in four days of open court hearings.
- Apr 12, 2010:** The Supreme Judicial Council (headed by Justice Gillani) completes its proceedings and sends its findings and recommendations to the Azad Jammu and Kashmir Council Chairman.
- Apr 22, 2010:** The Supreme Judicial Council (headed by Justice Chaudhry) allegedly convenes at a rest house in Mirpur and proceeds against the respondent judges on an ex-parte basis, records no evidence and compiles its findings and recommendations and sends them to the AJK Council Chairman.
- Apr 30, 2010:** The AJK High Court cancels the appointment of Justice Rafiullah Sultani and Justice Mohammad Yunis Tahir (challenged in Shaukat Aziz and others Vs Azad Government and others).
- May 2010:** Justice Reaz Akhtar Chaudhry, Chief Justice of the AJK Supreme Court, and Justice Manzoor Hussain Gillani, the senior most judge of the AJK Supreme Court, both resign as judges.

Annex V

List of People Interviewed

Lawyers²³

1. Syed Shahid Bahar, President, Muzaffarabad Bar Association.
2. Zafar Mehmood Advocate
3. Sardar Karam Dad Khan Advocate
4. Raja Ibrar Hussain Advocate, former Advocate General of AJK.
5. Raza Ali Khan Advocate, Secretary General Supreme Court Bar Association AJK and Member AJK Bar Council.
6. Chaudhry Mohammad Mumtaz Advocate, President Supreme Court Bar Association AJK.
7. Arshad Gillani Advocate, Member AJK Bar Council.
8. Sher Zaman Advocate, Member AJK Bar Council.
9. Chaudhry Shaukat Aziz Advocate.
10. Abdur Rasheed Abbassi Advocate, Minister for Law, Government of Azad Jammu and Kashmir.
11. Raja Haneef Advocate.
12. Tabbassum Aftab Alvi Advocate
13. Shamshad Hussain Khan Advocate, Member AJK Bar Council.
14. Raja Fazal Hussain Rabbani, Additional Advocate General, AJK.
15. Riaz Ahmad, Additional Registrar, AJK Supreme Court.
16. Chaudhry Mohammad Mumtaz Advocate, Vice-Chair, AJK Bar Council.

²³ Several lawyers that the HRCP mission talked to in Islamabad did not want their names disclosed.

The HRCF team also met Justice Reaz Akhtar Chaudhry, Chief Justice of the AJK Supreme Court, at his residence in Mirpur, Azad Jammu and Kashmir.

Journalists

1. Ibrar Haider, Editor daily *Mashriq*, Muzaffarabad and Coordinator South Asia Free Media Association, Azad Kashmir
2. Raja Iftikhar Ahmad, Bureau Chief, daily *Jang*, Muzaffarabad.
3. Shujaat Raja, correspondent for Al-Jazeera TV.
4. Asif Raza Mir, Aaj TV.

Political leaders

1. Sardar Ateequr Rehman, President Muslim Conference, former Prime Minister of AJK.
2. Chaudry Majeed, President of Pakistan People's Party. AJK. (On telephone)
3. Zahid Ameen, former Vice-President of (National) Muslim Conference.
4. Anwarul Haq, Chairman Public Accounts Committee, Peoples Muslim League. (On telephone)
5. Hafeez Awan, Member Legislative Assembly, Pakistan People's Party. (On telephone)
6. Sardar Khalid Ibrahim Khan, President, Jammu Kashmir People's Party.

Justice Reaz Akhtar Chaudhry and Justice Manzoor Hussain Gillani – who were, until early May 2010, Chief Justice and senior-most judge of the Azad Jammu and Kashmir Supreme Court, respectively – are no longer part of the AJK superior judiciary. Both have resigned after prolonged wrangling in the AJK superior courts and the State establishment.

But interference in the appointment of judges in AJK has not ended. Lawyers in AJK have ended their protests but surely the issue was not about the appointment of one individual but graver issues are at stake in AJK. The Human Rights Commission of Pakistan can only hope that institutional changes rather than the change of a few faces will be adopted as a policy in AJK and by the Government of Pakistan.



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