

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	234
Land:	Pakistan
Kilde:	Freedom in the World 2012
Titel:	Pakistani Kashmir
Udgivet:	7. september 2012
Optaget på baggrundsmaterialet:	17. december 2012

Title	Freedom in the World 2012 - Pakistani Kashmir
Publisher	Freedom House
Country	Pakistan
Publication Date	7 September 2012
Cite as	Freedom House, <i>Freedom in the World 2012 - Pakistani Kashmir</i> , 7 September 2012, available at: http://www.unhcr.org/refworld/docid/504dad7421.html [accessed 10 December 2012]
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Freedom in the World 2012 - Pakistani Kashmir

2012 Scores

Status: Not Free

Freedom Rating: 5.5

Civil Liberties: 5

Political Rights: 6

Overview

In Gilgit-Baltistan, nationalist groups' demands for greater autonomy remained unfulfilled in 2011, and there was an increase in demonstrations as well as harassment and targeted killings of Shiites and political activists during the year. Meanwhile, June elections in Azad Kashmir produced a new government led by the Azad Kashmir People's Party. As ongoing talks between India and Pakistan yielded little substantive progress on the Kashmir dispute, China expanded its military presence and involvement in development projects in the region.

When British India was partitioned into India and Pakistan in 1947, the Hindu maharajah of Jammu and Kashmir tried to maintain his principality's independence, but he eventually ceded it to India in return for autonomy and future self-determination. Within months, India and Pakistan went to war over the territory. Following a UN-brokered ceasefire in 1949, Pakistan refused to withdraw troops from the roughly one-third of Jammu and Kashmir that it had occupied, but unlike India, it never formally annexed its portion. The Karachi Agreement of April 1949 divided Pakistani-administered Kashmir into two distinct entities – Azad (Free) Kashmir and the Northern Areas. Pakistan retained direct administrative control over the Northern Areas, while Azad Kashmir was given a degree of nominal self-government.

A legislative assembly for Azad Kashmir was set up in 1970, and the 1974 interim constitution established a parliamentary system headed by a president and a prime minister. However, the political process was disrupted for long periods by military rule in Pakistan as a whole. Even when elections were held, Islamabad's influence over the voting and governance in general remained strong, and few observers considered the region's elections to be free or fair. The opposition Muslim Conference (MC) party won the 2001 elections, defeating the Azad Kashmir People's Party (AKPP), but within weeks Pakistani leader General Pervez Musharraf installed his own choice of president. In 2006, the MC again won a majority of the 41 directly elected seats in the legislature, and MC candidate Raja Zulfikar Khan emerged as president. MC leader Sardar Attique Ahmed Khan became prime minister after receiving Musharraf's nomination, though he was eventually deposed in a 2009 no-confidence vote. Political instability and factional struggles

led to a succession of several prime ministers in 2009 and 2010, with some alleging that the federal authorities had a hand in the turmoil.

In June 2011 legislative elections, the AKPP won 20 of 41 seats, followed by the Pakistan Muslim League-Nawaz (PML-N) with nine seats and the MC with five. AKPP leader Chaudhry Abdul Majid became prime minister in July, and Sardar Muhammad Yaqoob Khan was installed as president in August.

Meanwhile, in the Northern Areas, the lack of political representation fueled demands for both formal inclusion within Pakistan and self-determination. In 1999, the Pakistani Supreme Court directed the administration to act within six months to give the Northern Areas an elected government with an independent judiciary, and to extend fundamental rights to the region's residents. The Pakistani government then announced a package that provided for an appellate court as well as an expanded and renamed Northern Areas Legislative Council (NALC). Elections to the NALC were held in 2004, but the body had few real fiscal or legislative powers. The court of appeals was established in 2005.

Nationalist and proindependence groups in the Northern Areas continued to agitate for increased political rights, and in August 2009 Islamabad issued the Gilgit-Baltistan Empowerment and Self-Governance Order (GBESGO), which renamed the region and replaced the Northern Areas Legal Framework Order (LFO) of 1994. It provided for a somewhat more powerful legislative body, the Gilgit-Baltistan Legislative Assembly (GBLA), with the authority to choose a chief minister and introduce legislation on 61 subjects. While the government argued that the GBESGO established full internal autonomy, nationalist groups noted that a governor appointed by the Pakistani president would still be the ultimate authority and could not be overruled by the new assembly. Moreover, many subjects were excluded from the assembly's purview.

In November 2009 elections for the GBLA, the Pakistan People's Party (PPP), the ruling party at the federal level, won 12 of 24 directly elected seats; 10 of the remainder were divided among four other parties and four independents, and voting for two seats was postponed. Syed Mehdi Shah, head of the PPP's Gilgit-Baltistan chapter, became chief minister. Following the death of Governor Shama Khalid from cancer in September 2010, Pir Karam Ali Shah, a member of the GBLA, was appointed as governor in January 2011. In a by-election held in April, Nawaz Khan Naji, leader of the Balawaristan National Front (BNF), became the first member of the GBLA from a separatist party, defeating PPP and PML-N candidates by a large margin.

Despite periodic talks between India and Pakistan, little progress has been made toward a comprehensive resolution of the Kashmir dispute. Negotiations continued during 2011 without any significant breakthroughs. In recent years there has been an expanding Chinese military and economic presence in Gilgit-Baltistan, including troops involved in large-scale development and construction projects in the region. Some locals have expressed concerns that the increasingly close relationship between Pakistan and China could pose a risk to peace and stability in the area.

Political Rights and Civil Liberties

The political rights of the residents of Pakistani-administered Kashmir remain severely limited, despite a number of improvements tied to the end of military rule and the election of a civilian government at the federal level in 2008, and elections for the new GBLA in 2009. Neither Gilgit-Baltistan nor Azad Kashmir has representation in Pakistan's Parliament.

Gilgit-Baltistan, previously known as the Northern Areas, is still directly administered by the Pakistani government, meaning its status falls short of compliance with a 1999 Supreme Court ruling on the issue. Because the region is not included in the Pakistani constitution and has no constitution of its own, its people have no fundamental guarantee of civil rights, democratic representation, or separation of powers.

Under the August 2009 GBESGO, Gilgit-Baltistan's political structure includes the 33-member GBLA and a chief minister, as well as a 15-member Gilgit-Baltistan Council (GBC) headed by the Pakistani prime minister and vice-chaired by the federally appointed governor. The GBC consists of six members of the GBLA and nine Pakistani Parliament members appointed by the governor.

The GBLA in turn is composed of 24 directly elected members, six seats reserved for women, and three seats reserved for technocrats; the reserved seats are filled through a vote by the elected members. Ultimate authority rests in the hands of the governor, who has significant powers over judicial appointments and whose decisions cannot be overruled by the GBLA. Many fiscal powers remain with the GBC rather than the elected assembly. A majority of high-level positions in the local administration are reserved under the GBESGO for Pakistani bureaucrats.

No proindependence candidates won seats in the 2009 GBLA elections. Local nationalist leaders accused the authorities of preventing their parties from holding public gatherings, and a number of nationalist leaders and candidates were arrested during the campaign period. Although two people were killed and some 40 injured in violence between supporters of rival candidates, the elections themselves were largely peaceful. Independent observer missions characterized the elections as competitive, despite flaws including an inaccurate voter list, allegations of rigging and interference, and misuse of state resources to benefit the ruling PPP.

Azad Kashmir has an interim constitution, an elected unicameral assembly, a prime minister, and a president who is elected by the assembly. Both the president and the legislature serve five-year terms. Of the 49 assembly seats, 41 are filled through direct elections: 29 with constituencies based in Azad Kashmir and 12 representing Kashmiri "refugees" throughout Pakistan. Another eight are reserved seats: five for women and one each for representatives of overseas Kashmiris, technocrats, and religious leaders. However, Pakistan exercises considerable control over the structures of government and electoral politics. Islamabad's approval is required to pass legislation, and the federal minister for Kashmir affairs handles daily administration and controls the budget. The Kashmir Council – chaired by the president of Pakistan and composed of federal officials, Kashmiri assembly members, and the Azad Kashmir president and prime minister – also holds a number of key executive, legislative, and judicial powers, such as the authority to appoint superior judges and the chief election commissioner. The Pakistani military retains a guiding role on issues of politics and governance.

Those who do not support Azad Kashmir's accession to Pakistan are barred from the political process, government employment, and educational institutions. They are also subject to surveillance, harassment, and sometimes imprisonment by Pakistani security services. The 2011 legislative elections in Azad Kashmir were marred by allegations of rigging and vote buying, as well as some violence and harassment, with at least three election-related killings reported. Following the elections, the PML-N accused the ruling PPP of fraud and misappropriation of development funds to buy votes.

Azad Kashmir receives a large amount of financial aid from Islamabad, but successive administrations have been tainted by corruption and incompetence. Aid agencies have also been accused of misusing funds. A lack of official accountability has been identified as a key factor in the poor socioeconomic condition of both Azad Kashmir and Gilgit-Baltistan. However, the region has benefited from improvements in accountability at the federal level and the transfer of some budgetary powers to the GBLA in 2009.

The Pakistani government uses the constitution and other laws to curb freedom of speech on a variety of subjects, including the status of Kashmir and sectarian violence. Media owners cannot publish in Azad Kashmir without permission from the Kashmir Council and the Ministry of Kashmir Affairs. Several dailies and weeklies operate in Gilgit-Baltistan, mostly under the auspices of the K-2 publishing house, and provide some scrutiny of official affairs. However, authorities have banned a number of local newspapers and detained or otherwise harassed journalists in recent years. In August 2011, security agents raided the offices of the K-2 newspaper, damaging equipment, harassing staff, and arresting two journalists. Also during the year, two prominent Gilgit-Baltistan journalists were jailed for contempt of court after collaborating on an article that alleged nepotism in judicial appointments. Local journalists have sometimes faced harassment and attacks from nonstate actors. In the aftermath of a devastating 2005 earthquake in the region, local press freedom organizations set up private radio stations that focus on news and humanitarian information, contributing to greater media diversity. Internet access is not usually restricted but remains confined to urban centers. Both phone and internet services in Gilgit-Baltistan are under the control of the Pakistani military, which has unfettered powers of surveillance.

Pakistan is an Islamic republic, and there are numerous official restrictions on religious freedom. Religious minorities also face unofficial discrimination, and are occasionally subject to violent attack. Since 2009 there has been an upsurge in sectarian violence between Shiite Muslims, who form a majority in Gilgit-Baltistan, and Sunni Muslims who have migrated to the region with the tacit support of federal authorities. A rise in sectarian killings, mostly targeting Shiites, was reported in Gilgit city late in 2011. Many such incidents have allegedly been instigated or encouraged by Pakistani security services.

Academic freedom and opportunities are limited. Local groups continue to call for the right to learn Shiite and Sufi teachings, as well as local languages and scripts, in government-run schools. Such practices are discouraged by the Pakistani authorities. Many areas do not have schools for girls, and in September 2010 the only university in Gilgit-Baltistan was closed due to lack of funds. The university resumed its operations in 2011 after its financial problems were resolved.

Freedoms of association and assembly are restricted. The constitution of Azad Kashmir forbids individuals and groups from engaging in activities that are prejudicial to the region's accession to Pakistan. In July 2011, Manzoor Parwana, chairman of the proindependence Gilgit-Baltistan United Movement (GBUM), was arrested and charged with sedition for a recent speech, and was barred from leaving the country. Police in recent years have regularly suppressed antigovernment demonstrations and protests concerning economic hardship and displacement, sometimes violently. In August 2011, police fired on a protest rally demanding compensation for displacement due to flooding in the Hunza Valley, killing two people. Following the incident, several dozen other protesters and political activists were detained under sedition and antiterrorism provisions; a number alleged that they were tortured in custody.

Nongovernmental organizations (NGOs) that work on humanitarian issues are generally able to operate freely, while those focused on political or human rights issues face more scrutiny and occasional harassment. The situation for labor rights is similar to that in Pakistan, but with even fewer protections for workers. Unions and professional associations have routinely been banned by the authorities.

The chairman of the GBC appoints Gilgit-Baltistan's chief judge and other judges on the advice of the governor. All judicial appointments in Gilgit-Baltistan are based on three-year contracts subject to discretionary renewal by the bureaucracy, leaving the judiciary largely subservient to the executive. In addition, the judiciary is not empowered to hear cases concerning fundamental rights or cases against the executive. Meanwhile, as the 1999 Supreme Court ruling has not yet been fully implemented, cases concerning Gilgit-Baltistan are considered outside the jurisdiction of the Supreme Court of Pakistan.

Azad Kashmir has its own system of local magistrates and high courts, whose heads are appointed by the president of Azad Kashmir in consultation with the Kashmir Council and the prime minister of Pakistan. Appeals are adjudicated by the Supreme Court of Pakistan. There are also Islamic judges who handle criminal cases concerning Islamic law. Disputes over the politicization of judicial appointments remain a concern, according to a detailed 2010 report by the Human Rights Commission of Pakistan. In February 2011, the Azad Jammu and Kashmir Bar Council called for the establishment of a judicial commission to handle appointments to the Azad Kashmir superior judiciary, noting that favoritism and delays in appointments hindered the courts' ability to function effectively and independently. The High Court had been virtually nonfunctional for the prior 14 months due to unfilled vacancies.

Pakistan's Inter-Services Intelligence Directorate reportedly engages in extensive surveillance – particularly of proindependence groups and the press – as well as arbitrary arrests and detentions. In some instances, those detained by the security forces are tortured, and several cases of death in custody have been reported. Impunity for such abuses remains the norm. Under the colonial-era Frontier Crimes Regulations, residents are required to report to local police stations once a month. A large number of Pakistani military personnel are stationed in Gilgit-Baltistan, particularly at times of potential unrest, such as the 2009 elections.

Islamist militant groups operate from bases in Pakistani-administered Kashmir. Groups that once

focused on attacks in Indian-administered Kashmir are reportedly expanding their local influence and activities, including the establishment of religious schools. They have also increased cooperation with militants based in Pakistan's tribal areas. Tension between pro-Pakistan Islamist groups and proindependence Kashmiri groups – as well as some local residents – has reportedly grown in recent years, contributing to the rise in attacks against local Shiites.

Since the 1970s, the Pakistani government has encouraged the settlement of Pakistanis in Gilgit-Baltistan in an effort to shift the demographic and ethnic balance in the region. Under the GBESGO, many of these settlers were given formal citizenship rights in Gilgit-Baltistan.

Several hundred families displaced by shelling between Indian and Pakistani forces prior to a 2003 ceasefire remain unable to return to their homes and have largely been excluded from assistance schemes launched after the 2005 earthquake. The Azad Kashmir government manages camps for refugees from Indian-administered Kashmir, the bulk of whom arrived after the situation on the Indian side worsened in 1989. Many more of the refugees (roughly 1.5 million) live elsewhere in Azad Kashmir and Pakistan. A bus service linking the capitals of Indian and Pakistani Kashmir was launched in 2005, allowing some civilians to reunite with family members. A second intra-Kashmir bus route was launched in 2006, and limited trade across the Line of Control resumed in 2008 for the first time in over 60 years.

The status of women in Pakistani-administered Kashmir is similar to that of women in Pakistan. While honor killings and rape reportedly occur less frequently than in Pakistan, domestic violence, forced marriage, and other forms of abuse are issues of concern. Women are also at risk of molestation and attack by Pakistani troops, and such attacks often go unpunished. Women are not granted equal rights under the law, and their educational opportunities and choice of marriage partners remain circumscribed. As in some parts of Pakistan, suspected Islamists occasionally mount attacks against NGOs that employ women and on their female employees.

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