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Freedom in the World 2011 - Kashmir [Pakistan]

Capital: N/A

Population: 5,100,000

Political Rights Score: 6 *

Civil Liberties Score: 5 *

Status: Not Free

Overview

Conditions in Pakistani-administered Kashmir were stable in 2010, although political infighting in Azad Kashmir led to the resignation of the prime minister in July. Nationalist groups' demands for greater autonomy remained unfulfilled, and ongoing talks between India and Pakistan yielded little substantive progress on the Kashmir dispute. The territory continued to suffer from sectarian strife and limits on freedoms of expression and association, among other human rights abuses.

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. In the 1996 polls, the Azad Kashmir People's Party (AKPP) won a majority in the legislative assembly after the rival Muslim Conference (MC) party mounted a boycott due to fraud allegations. The MC won the 2001 elections, 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, 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. The next two prime ministers resigned to avoid no-confidence motions in December 2009 and July 2010, as factional struggles

within the ruling MC continued. Raja Farooq Haider, who stepped down as premier in July, alleged that the federal authorities had a hand in destabilizing the Azad Kashmir government. After his resignation, Sardar Ateeq was unanimously elected as the new prime minister.

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 2008 Islamabad began implementing structural reforms that yielded modest improvements while leaving most authority in federal hands. The August 2009 Gilgit-Baltistan Empowerment and Self-Governance Order (GBESGO), which renamed the region and replaced the Northern Areas Legal Framework Order (LFO) of 1994, 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), which was 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 the region's chief minister. Doctor and social worker Shama Khalid was appointed as governor in March 2010, but her tenure was cut short in September when she died of cancer; Wazir Baig, speaker of the GBLA, served as an acting replacement through year's end.

Despite periodic talks and high-level meetings between India and Pakistan, little progress has been made toward a comprehensive resolution of the Kashmir dispute. Negotiations resumed in mid-2009 after a breakdown stemming from a November 2008 terrorist attack on the Indian city of Mumbai, and continued during 2010. In July 2010, the Azad Kashmir leadership objected to the exclusion of Kashmiris from the bilateral talks.

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 November 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 now 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. In addition, many financial 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, limiting local involvement in decision making.

No proindependence candidates won seats in the 2009 GBLA elections. Local nationalist leaders accused federal authorities of preventing their parties from holding public gatherings, and of favoring Pakistani parties with funding and other forms of support. The leadership of the Gilgit-Baltistan Democratic Alliance, a nationalist coalition, and three of its candidates were arrested prior to a rally shortly before the elections, and several proindependence leaders boycotted the vote. Although two people were killed and some 40 injured in violence between supporters of rival candidates, the elections themselves were largely peaceful, and female voters were able to participate in most areas. Observer missions from the independent Human Rights Commission of Pakistan and the Free and Fair Election Network characterized the elections as competitive, despite procedural 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 and 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 - composed of federal officials and Kashmiri assembly members (including the Azad Kashmir president and prime minister), and chaired by the president of Pakistan - also holds a number of key executive, legislative, and judicial powers, such as the power 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 2006 legislative elections in Azad Kashmir were marred by rigging allegations, but unlike the 2001 voting they featured few instances of physical violence and harassment, possibly because of the greater international presence in the wake of a devastating 2005 earthquake in the region.

Azad Kashmir receives a large amount of financial aid from the Pakistani government, 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, and publications with a proindependence slant are unlikely to receive such permission, according to the U.S. State Department. 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. In recent years, authorities have banned a number of local newspapers and detained or otherwise harassed Kashmiri journalists. In addition to official pressure, local journalists have sometimes faced harassment and attacks from nonstate actors. The presence of foreign media and aid organizations has helped to partially open the tightly controlled information environment. In the aftermath of the earthquake, 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. Telephone and mobile-phone access was long deliberately limited, but has improved since the 2005 earthquake. However,

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 economic and societal discrimination, and are occasionally subject to violent attack. Sectarian violence has continued between Shiite Muslims, who form a majority in Gilgit-Baltistan, and the increasing number of Sunni Muslims, who have migrated to the region with the tacit support of federal authorities. An upsurge in attacks in 2009 included the April assassination of a Shiite leader in Gilgit-Baltistan, a September bomb blast in Gilgit that triggered sectarian clashes, and a December suicide bombing at a Shiite religious procession in Azad Kashmir. Another bout of sectarian violence occurred in August 2010 in Gilgit. 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 in government-run schools, as well as the right to learn local languages and scripts, both of which 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.

Freedoms of association and assembly are restricted. The constitution of Azad Kashmir forbids individuals and political parties from taking part in activities that are prejudicial to the region's accession to Pakistan. Police in recent years have regularly suppressed antigovernment demonstrations, sometimes violently, but there were no reports of deaths or lengthy detentions in 2010. Small protests continue to take place on occasion; workers demonstrated against Chinese construction companies in Skardo in September.

Nongovernmental organizations (NGOs) are generally able to operate freely. Programs run by the Aga Khan Foundation, an international development organization that focuses on members of the Ismaili sect of Shia Islam, have faced harassment and violence by Sunni extremist groups in the past, though no such attacks have been reported in recent years. The situation for labor rights in Pakistani-controlled Kashmir is similar to that in Pakistan, but with even fewer protections for workers. Unions and professional associations have routinely been banned by the authorities.

Under the GBESGO, the chairman of the new 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. In 2009, local judges went on a hunger strike to protest the lack of an independent judiciary in the territory.

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 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. A long-standing dispute over the 2006 appointment of Mohammad Reaz Akhtar Chaudhry as chief justice of the Azad Kashmir Supreme Court culminated in a confrontation between the prime minister and the president in April 2010, when the former attempted to sack Chaudhry for misconduct and appoint his rival, Syed Manzoor Hussain Gillani, to the post. Both men ultimately resigned in May, and senior judge Khwaja Shahad Ahmed was subsequently appointed as acting chief justice.

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, including those backed by the Pakistani military, operate from bases in Pakistani-administered Kashmir. Groups that once focused on attacks in Indian-administered Kashmir are reportedly expanding their influence and activities in Pakistani Kashmir, including the establishment of new religious schools. They have also increased cooperation with militants based in Pakistan's tribal areas, such as the Tehrik-i-Taliban Pakistan (TTP). In Pakistani Kashmir's first suicide attack, a bomber from the tribal areas targeted army barracks in June 2009, killing two soldiers and injuring three; the TTP claimed responsibility. Although the government claimed to have raided and sealed off the Muzaffarabad headquarters of Lashkar-e-Taiba, also known as the Jamaat-ud-Dawa, other reports indicated that the militant group continued to operate training camps in the region. Tension between pro-Pakistan Islamist groups and proindependence Kashmiri groups - as well as some local residents - has reportedly increased in recent years and has led to a rise in attacks against local Shiites.

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 earthquake-related assistance schemes. An estimated 90 percent of the housing destroyed by the 2005 quake, which killed at least 88,000 people and left several million homeless, had been rebuilt by mid-2009, but reconstruction of education and health facilities has lagged, according to local authorities. 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. 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.

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.

** Countries are ranked on a scale of 1-7, with 1 representing the highest level of freedom and 7 representing the lowest level of freedom.*

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