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2014 Scores

Status: Not Free

Freedom Rating (1 = best, 7 = worst): 5.5

Civil Liberties (1 = best, 7 = worst): 5

Political Rights (1 = best, 7 = worst): 6

OVERVIEW

The Pakistani-controlled territories of Azad Jammu and Kashmir (AJK) and Gilgit-Baltistan (GB) continued to suffer from political and sectarian tensions in 2013. A prominent proindependence activist in AJK was assassinated in May, and supporters blamed the Pakistani government for the crime.

Separately, a series of attacks on Shiite Muslim communities in Pakistan during the year killed a number of GB residents, leading to protests in GB itself, and deadly sectarian clashes struck the territory in December. In June, Islamist extremists killed a group of foreign tourists preparing to climb a mountain in GB.

AJK women living near the frontier with Indian-controlled Kashmir mounted protests against militant activity that had triggered cross-border shelling. Other protests during the year focused on issues including teacher salaries, power outages, and demands for royalties from hydroelectric projects in the region.

POLITICAL RIGHTS AND CIVIL LIBERTIES

Political Rights: 8 / 40

A. Electoral Process: 3 / 12

Pakistan seized control of both AJK and GB following the partition of British India in 1947. The former enjoys nominal self-government, while Pakistan assumed direct administration of the latter. Pakistan never formally incorporated either territory, leaving them neither sovereign nor a province of Pakistan. Instead the relationship has been determined by various provisional

arrangements pending a final settlement of the dispute with India. Article 1 of the constitution of Pakistan, which defines the territories of the country, obliquely refers to these areas as "such States and territories as are or may be included in Pakistan, whether by accession or otherwise."

Pakistan has governed AJK through different acts promulgated in 1960, 1964, 1968, and 1970. Under the 1970 act, AJK was given a rudimentary constitution with a presidential system. In 1974 the elected AJK legislature enacted a new interim constitution approved by the government of Pakistan, this time with a parliamentary system. A president, elected by the Legislative Assembly, serves as head of state, while the prime minister is the chief executive. There is also an AJK Council based in Pakistan's capital, Islamabad. It consists of both Kashmiri and Pakistani officials and holds a number of key executive, legislative, and judicial powers, such as the authority to appoint superior judges and the chief election commissioner. The constitution can theoretically be amended by a majority of the total membership of the Legislative Assembly and the Council in a joint sitting.

Of the AJK Legislative Assembly's 49 seats, 41 are filled through direct elections: 29 with constituencies based in the territory 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. The system disproportionately favors nonresident refugees over AJK residents, and the nonresident elections are more vulnerable to manipulation by the federal authorities; the party in office at the federal level invariably wins these seats. In the 2011 legislative elections, the Azad Kashmir Peoples' Party (AKPP) – affiliated with Pakistan's then ruling Pakistan People's Party (PPP) – won 20 of the 41 seats, followed by the Pakistan Muslim League-Nawaz (PML-N) with nine seats and the Muslim Conference (MC) party with five. AKPP leader Chaudhry Abdul Majid became prime minister, and Sardar Muhammad Yaqoob Khan was installed as president. The elections were marred by allegations of rigging and vote buying, as well as some violence and harassment, with at least three election-related killings reported.

GB was until recently governed under the Frontier Crimes Regulation (FCR) of 1901 and the Legal Framework Order of 1994. They were replaced in 2009 by the Gilgit-Baltistan Empowerment and Self-Governance Order (GBESGO), which can only be amended by the Pakistani government. The political structure under the GBESGO includes the 33-member GB Legislative Assembly (GBLA), as well as the 15-member Gilgit-Baltistan Council (GBC), headed by the Pakistani prime minister and vice-chaired by a 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. It has the authority to choose the chief minister and introduce legislation on 61 subjects. Ultimate authority rests with the governor, who has significant power 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.

In November 2009 elections for the GBLA, the PPP won 12 of the 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.

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 violence erupted 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 PPP.

B. Political Pluralism and Participation: 4 / 16

The interim constitution of AJK bans political parties that do not endorse the territory's eventual accession to Pakistan, and government employees must declare loyalty to the cause of accession. Similar rules prevail in GB, meaning nationalist leaders and parties are denied access to the political process and public employment. Those who oppose Pakistani rule are also subject to surveillance, harassment, and sometimes imprisonment.

Historically, it has been the norm for the party in office at the federal level to form the local governments in AJK and GB. If there were a change at the federal level, a transition would be effected in the local assemblies through cross voting and party switching. This has been a source of considerable political corruption. However, in 2013, after a PML-N government replaced the PPP in Pakistan, the new federal ruling party stopped the local units from undertaking a full-fledged political coup. Nevertheless, the federal government continues to exercise control over the AJK and GB political processes. PML-N candidates won by-elections that were held to fill empty seats in the local assemblies.

C. Functioning of Government: 3 / 16

The federal authorities have direct control over matters including defense and foreign affairs, and indirect control over many other areas of governance through the AJK Council and GBC. The areas of responsibility left to the local authorities are consequently limited. Even on those issues, effective authority is exercised by senior civil servants appointed by the federal government, such as the chief secretary, finance secretary, inspector general of police, accountant general, development commissioner, and health secretary.

Accountability and transparency are hampered by the two territories' lack of representation in the federal government. Because Pakistan maintains that their final status cannot be decided until a UN-sponsored plebiscite is held for the whole disputed region, the two units are left in constitutional limbo and do not enjoy the same rights as other provinces. They do not have seats in the Pakistan Parliament or in constitutional bodies established for consultation and coordination between the federal government and the provinces, such as the Council of Common Interests, the National Economic Council, and the National Finance Commission. AJK and GB do not have representation in Indus River System Authority and do not receive a share in the profits from hydroelectric projects located in their territory.

AJK 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.

Discretionary Political Rights Question B: -2 / 0

The pre-1947 princely state of Jammu and Kashmir barred outsiders from seeking permanent residence or naturalization. In the 1970s, this rule was abolished in GB, opening it up to immigration from different parts of Pakistan. The Sunni Muslim share of the population has since increased significantly. State agencies are suspected of deliberately engineering a demographic change in the sparsely populated Shiite-majority region. Under the 2009 GBESGO, the settlers were given formal citizenship rights in GB. The pre-1947 restrictions on acquiring citizenship are still in place in AJK.

Civil Liberties: 21 / 60

D. Freedom of Expression and Belief: 6 / 16

AJK and GB are subject to laws that curb freedom of expression, particularly related to the political status of the region. Media houses need permission from the AJK Council and the federal Ministry of Kashmir Affairs and Gilgit-Baltistan to operate. Though a wide range of media are present and active, censorship of political content, both direct and indirect, is common. Self-censorship is also prevalent as a means of avoiding state harassment. A number of local dailies have faced bans. In GB there have been reports of journalists being fired if they refuse to toe the government line. The government is known to withdraw advertisements, which are a source of revenue for media houses, from outlets seen as too critical. In May 2013, the Skardu Press Club in GB was closed by the district administration, prompting protests by members of the group. Journalists have been targeted by nonstate actors as well. However, after the 2005 earthquake in the region, the media became somewhat more open, with a focus on local news and humanitarian emergencies and efforts. AJK and GB have access to the internet, with the same restrictions as in Pakistan. Usage is largely limited to urban areas.

Pakistan is an Islamic republic and has numerous restrictions on religious freedoms, including blasphemy laws, that are also enforced in AJK and GB. In recent years, sectarian violence predominantly targeting the Shiite community has increased. Sectarian tensions are sharper in GB, a Shiite-majority region. A series of large-scale attacks on Shiite communities throughout Pakistan in 2013 killed some residents of GB, leading to protests and strikes in the region. Sectarian clashes in December left three people dead and several others injured. A 2012 code of conduct enacted by the GBLA aimed to curb sectarian violence by banning prayer leaders from issuing edicts against other sects, but it has not been effectively enforced.

Educational opportunities in the region are limited. Academics are not free of political indoctrination. Any expression of views contradicting the official line on the region's status can invite censure and even legal action. Student union activity has long been under state surveillance for signs of nationalist political views. Local languages and scripts are not taught in government schools. In many areas of GB, there are no schools for girls. Government teachers are paid very low wages. AJK benefits from higher overall literacy rates and better education facilities than those in GB.

E. Associational and Organizational Rights: 5 / 16

There are restrictions on freedom of assembly and association. The AJK interim constitution bans activities that are prejudicial to AJK's accession to Pakistan. Nationalist groups are subject to persecution. Sardar Arif Shahid, a Kashmiri nationalist leader and chair of the All Parties National Alliance (APNA), was shot and killed by unidentified assailants in May 2013. His supporters alleged that it was a targeted killing by the state. Shahid had been prohibited from traveling abroad since 2009. The police had also registered a case against him for publishing a magazine that allegedly contained anti-Pakistan material.

Custodial torture and intimidation of independence supporters and other activists have been reported. In GB, a nascent free Balwaristan movement, seeking independence for GB and neighboring areas under Chinese control, has been crushed ruthlessly.

However, despite the restrictions, demonstrations and protests on various topics remain common, especially in AJK. The harsh curbs on assembly are limited mostly to issues that concern the region's status vis-à-vis Pakistan.

Humanitarian nongovernmental organizations (NGOs) operate freely. The Aga Khan Foundation sponsors several development projects in GB. After the 2005 earthquake, a large number of organizations from across the world were granted access to AJK. However, NGOs working on political or human rights face intense government scrutiny and, in some cases, harassment.

AJK is subject to labor laws similar to those in Pakistan, though with fewer protections for workers. Unions and professional organizations are frequently barred. Labor laws and activities are at a very nascent stage of development in GB. In 2013 there were frequent demonstrations by teachers and nurses demanding better working conditions and salaries.

F. Rule of Law: 4 / 16

AJK has a multi-tiered, dual judicial system with a Supreme Court, High Courts, and district courts. Islamic judges handle criminal cases involving Sharia (Islamic law), while regular judges deal with other criminal and civil cases. The president of AJK, in consultation with the AJK Council, appoints the chief justice of the Supreme Court. Other judges of the superior courts are appointed by the AJK president on the advice of the council, after consultation with the chief justice. Under the constitution the president is bound by the advice of the prime minister. The judicial appointments are therefore easily susceptible to manipulation by the executive in AJK and by federal institutions through the AJK Council. This has led to a politicized judiciary. Charges of nepotism, favoritism, and corruption are common, as are delays in judicial proceedings, due in part to unfilled vacancies in the courts.

GB has a Supreme Appellate Court and a GB Chief Court. The chief judge and judges of the Supreme Appellate Court are appointed on a contractual basis by the prime minister of Pakistan in his capacity as chairman of the GBC, on the recommendation of the governor. Though the 2009 GBESGO is silent about the role of the Ministry of Kashmir Affairs and Gilgit-Baltistan, all appointments to the top judiciary have been routed through the ministry in practice. The process of appointments is consequently lengthy and gives disproportionate influence to the federal government. There have been instances in which the ministry has not honored the recommendations of the local government in a timely manner, leading to delays and dysfunction in the courts. Some areas in GB have parallel or informal judicial systems, including those operated by religious authorities.

The federal government, army, and intelligence agencies have a considerable presence in AJK and GB, and surveillance of political activities is the norm. Arbitrary arrests, torture, and deaths in custody at the hands of security forces have been reported.

Extremist groups devoted largely to attacks on Indian-administered Jammu and Kashmir operate from the region and have links with similar factions based in Pakistan and Afghanistan. Internecine tension between pro-Pakistan and nationalist Kashmiri militant groups is common. In 2013, in a widely reported campaign, women in the Neelum Valley came together to demand an end to militant activity in the area, as it was leading to renewed firing between Indian and Pakistani troops across the Line of Control (LoC), endangering local residents.

The militant groups have been able to expand their influence in both AJK and GB. The Tehrik-e-Taliban Pakistan (TTP) and its affiliates have frequently targeted the Shiite population. In June 2013, the TTP killed a group of 10 foreign mountaineers and their Pakistani guide in the Nanga Parbat base camp. In another attack in August, the militants killed security officials who were investigating the crime. TTP claimed that the attack on foreigners was in retaliation for the killing of their leader, Waliur Rehman, in a U.S. drone strike in Pakistan's tribal areas. A number of foreign climbing expeditions were canceled as a result.

G. Personal Autonomy and Individual Rights: 6 / 16

The citizens of AJK and GB have Pakistani national identity cards and passports. They are internationally recognized as Pakistani nationals. However, there are reports of passports being denied or not renewed for citizens suspected of questioning Pakistani control over the region. Pakistan has been reluctant to offer citizenship to migrants displaced from Indian-administered

Jammu and Kashmir. Many of these refugees have been subjected to abuse and arbitrary arrest for demanding their rights.

The pre-1947 state subject law, which bars outsiders from seeking permanent residency and is still in effect in AJK, allows only legal residents to own property. Procedures for establishing private enterprises are onerous.

The status of women varies between AJK and GB. Instances of violence against women and honor killings are rarer in the former. At least 12 honor crimes in GB were reported in the media in 2013. Though the law prohibits discrimination on the basis of sex, treatment is unequal in practice. While women are legally permitted to marry without the consent of their family, they frequently face societal censure if they do so. Many women are victims of forced marriages. Inheritance laws are skewed heavily against women, who in most cases receive far less than their rightful share. In remote areas of GB there have been instances in which Islamist militants target women who work outside the home.

AJK and GB are economically dependent on federal assistance. The Pakistani government exercises full control over decisions on how the natural resources of the region are used. GB is rich in minerals, and AJK has abundant water. Four large hydropower projects that supply electricity to the rest of Pakistan have been undertaken in AJK. Nevertheless, the region faces persistent electricity cuts. In 2013, this led to recurrent protests in AJK. In May, more than 50 people were injured when protesters clashed with police. Residents have been demanding royalty payments as well as an uninterrupted power supply. The hydropower projects have displaced a number of people who are still awaiting their resettlement compensation packages.

Pakistan has signed agreements with China for investment in mineral exploration and infrastructure development in GB. Local residents resent the Chinese presence, as the workers are seen to be taking away jobs and revenue from the exploitation of the region's resources. There have been instances of attacks on Chinese nationals.

Scoring Key: X / Y (Z)

X = Score Received

Y = Best Possible Score

Z = Change from Previous Year

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