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Freedom in the World 2010 - Kashmir [Pakistan]

Capital: N/A

Population: 5,113,000

Political Rights Score: 6 *

Civil Liberties Score: 5 *

Status: Not Free

Trend Arrow ↑

Pakistani Kashmir received an upward trend arrow due to largely peaceful elections for the reformed Gilgit-Baltistan Legislative Assembly in November.

Overview

Conditions in Pakistani-administered Kashmir improved in 2009 due to reforms affecting the Northern Areas, which were renamed Gilgit-Baltistan, and elections for that region's new legislative assembly in November. Nevertheless, nationalist groups' demands for representation in Pakistan's Parliament remained unfulfilled. Substantive progress on the dispute over Kashmir between India and Pakistan largely stalled in 2009, following November 2008 terrorist attacks in Mumbai, India, by a Pakistan-based militant group, although bilateral talks between the two countries did resume in June.

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. As part of a UN-brokered ceasefire in 1949 that established the present-day boundaries, Pakistan gained control of roughly one-third of Jammu and Kashmir, 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 and 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.

Meanwhile, the lack of political representation in the Northern Areas 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 October 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 representation, and in 2008 the Pakistani government began implementing structural reforms that yielded modest improvements while leaving most authority in federal hands. Islamabad approved the Gilgit-Baltistan Empowerment and Self Governance Order (GBESGO) in August 2009, officially renaming the Northern Areas as Gilgit-Baltistan and introducing a number of administrative, political, and judicial changes. The new order, which replaced the Northern Areas Legal Framework Order (LFO) of 1994, provided for a more powerful legislative body, the Gilgit-Baltistan Legislative Assembly (GBLA), with the authority to choose a chief minister and pass 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.

In November elections for the GBLA, the Pakistan People's Party (PPP), which governed 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 Gilgit-Baltistan chapter of the PPP, was nominated by his party to become the region's chief minister.

Despite periodic talks and high-level meetings between India and Pakistan, little progress has been made toward a comprehensive resolution of the Kashmir dispute. The process stalled after Pakistani militants were deemed responsible for a November 2008 terrorist attack on the Indian city of Mumbai, and India called on Pakistan to arrest the attack's organizers. A number of suspects were arrested in February 2009, and in November the Pakistani government charged seven, including alleged mastermind Zaki-ur-Rehman Lakhvi, a leader of the militant group Lashkar-e-Taiba (LeT). The main objectives of the group, founded in the early 1990s, was to end Indian rule in Kashmir and re-establish Muslim rule throughout the Indian subcontinent.

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, continues to be directly administered by the Pakistani government, meaning its status still falls short of compliance with a 1999 Supreme Court ruling on the issue. The region is not included in the Pakistani constitution and has no constitution of its own, meaning there is no fundamental guarantee of civil rights, democratic representation, or separation of

powers.

Under the August 2009 GBESGO, the political structure now includes the 33-member GBLA and a chief minister, as well as a 12-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 six Pakistani parliamentarians appointed by the governor, while the GBLA 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 local nationalist coalition, the Gilgit-Baltistan Democratic Alliance (GBDA), fielded 10 candidates in the November GBLA elections, while the Balawaristan National Front (BNF) ran two, but none of these proindependence candidates won seats. GBDA leaders accused federal authorities of preventing nationalist parties from holding rallies and public gatherings, and of favoring Pakistani parties with funding and other forms of support. The leadership of the GBDA and three of its candidates were arrested prior to a nationalist 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 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, and chaired by the prime minister of Pakistan – also holds some executive, legislative, and judicial powers. 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, especially following the earthquake, but successive administrations have been tainted by corruption and incompetence. Aid agencies have also been accused of misusing funds meant for rebuilding schools and hospitals. 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 recently benefited from improvements in accountability at the federal level and the transfer of some budgetary powers to the GBLA in 2009. Pakistani-controlled Kashmir was not rated separately in Transparency International's 2009 Corruption Perceptions Index.

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 several local newspapers and detained or otherwise harassed Kashmiri journalists. After three local journalists were charged with contempt of court against the chief justice of the Azad Kashmir Supreme Court in July 2009, police prevented the media from covering the case by barring all observers from the court premises. In addition to official pressure, local journalists have sometimes faced harassment and attacks from nonstate actors. Internet access is not usually restricted but remains confined to urban centers. Deliberately limited telephone and mobile-telephone access has been expanded since the 2005 earthquake. The presence of foreign media and aid organizations has also helped to partially open the tightly controlled information environment.

Pakistan is an Islamic republic, and there are numerous restrictions on religious freedom. Religious minorities also face unofficial economic and societal discrimination, and are occasionally subject to violent attack. Sectarian strife continues between Shiite Muslims, who form a majority in Gilgit-Baltistan, and the increasing number of Sunni Muslims, who are tacitly encouraged by the federal authorities to migrate to the Kashmir region from elsewhere in Pakistan. In 2009, groups such as the New Delhi-based Institute for Defence Studies and Analyses noted an upsurge of sectarian violence, with the number of killings exceeding the combined total from the previous two years. In April, Shiite leader Asad Zaidi, deputy speaker of the NALC, was assassinated. In September, a bomb blast in Gilgit precipitated sectarian violence in which about 12 people died.

Freedoms of association and assembly are limited. 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 2009. During a February political standoff between the ruling PPP and its main rival in Pakistan, hundreds of people demonstrated in Muzaffarabad, the capital of Azad Kashmir.

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, but no such attacks were reported in 2009. The situation for labor rights in Pakistani-controlled Kashmir is similar to that in Pakistan.

Pakistani laws apply in Gilgit-Baltistan at the executive's approval, according to the U.S. State Department's human rights report. The judiciary is not empowered to hear cases concerning fundamental rights or cases against the executive. 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. Meanwhile, cases concerning Gilgit-Baltistan are considered outside the jurisdiction of the Supreme Court of Pakistan. Judicial reforms in the GBESGO provide for the appointment of the chief judge and of other judges by the chairman of the new Gilgit Baltistan Council "on the advice of the governor." Other judges would also be appointed by the chairman.

Azad Kashmir has its own system of local magistrates and high courts, whose heads are appointed by the president of Azad Kashmir. Appeals are adjudicated by the Supreme Court of Pakistan. There are also Islamic judges who handle criminal cases concerning Islamic law. In April 2007, local lawyers protested the appointment of Justice Mohammad Reaz Akhtar Chaudhry as chief justice to the Azad Kashmir Supreme Court over the court's most senior judge, arguing that it violated constitutional conventions and rules of seniority. The newspaper *Dawn* later reported that the court rejected the lawyers' petition on the issue.

Pakistan's Inter-Services Intelligence Directorate reportedly operates throughout Azad

Kashmir and Gilgit-Baltistan and 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 mistreatment of civilians by the military and intelligence services remains the norm. The territory also continues to be governed by the colonial-era Frontier Crimes Regulations, under which residents are required to report to local police stations once a month.

A number of Islamist militant groups, including those that receive patronage from the Pakistani military, operate from bases in Pakistani-administered Kashmir. Militant groups that have traditionally focused on attacks in Indian-administered Kashmir are reportedly expanding their influence and activities in Pakistani Kashmir, including the establishment of new madrassas (religious schools) in the area. They have also increased cooperation with other 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 an army barracks in June 2009, killing two soldiers and injuring three; the TTP claimed responsibility. In August, the Pakistani government banned 25 militant groups operating within the country, including those focused on Kashmir. Although the government claimed to have raided and sealed off the Muzaffarabad headquarters of the LeT, also known as the Jamaat-ud-Dawa, other reports indicated that the group continued to operate training camps in the region. Tension between Islamist pro-Pakistan groups and proindependence Kashmiri groups – as well as some local residents – has reportedly increased in recent years.

Several hundred families displaced from the Line of Control (LOC) area 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 continued to proceed at a much slower pace, according to local authorities. The Azad Kashmir government also manages relief 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 throughout Pakistan. A bus service across the LOC was launched in 2005, linking the capitals of Indian and Pakistani Kashmir and allowing some Kashmiri civilians to reunite with family members.

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 continue to be issues of concern. 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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