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[Home](#) > Pakistani Kashmir \*

## Pakistani Kashmir \*

**Country:**

Pakistani Kashmir \*

**Year:**

2016

**Freedom Status:**

Not Free

**Political Rights:**

6

**Civil Liberties:**

5

**Aggregate Score:**

28

**Freedom Rating:**

5.5

**Overview:**

Tensions along the Line of Control (LoC) remained high during 2015, with repeated exchanges of artillery fire between Indian and Pakistani forces causing casualties and disrupting civilian life in the border areas.

As political parties in Azad Jammu and Kashmir (AJK) prepared for legislative elections scheduled for 2016, the Pakistan Muslim League–Nawaz (PML-N), the ruling party in Pakistan, won assembly elections held in Gilgit-Baltistan (GB) in June and nominated a new chief minister for that region. Also during the year, the prospect of the China-Pakistan Economic Corridor (CPEC)—a massive transport and energy infrastructure project—passing through GB provoked a new round of debate on the area’s ambiguous constitutional status.

**Political Rights and Civil Liberties:****Political Rights: 9 / 40 [Key]****A. Electoral Process: 4 / 12**

Pakistan seized control of both AJK and GB following the partition of British India in 1947. Pakistan never formally incorporated either territory, leaving them neither sovereign nor

provinces 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.”

AJK operates under an interim constitution enacted in 1974. A president, elected by the Legislative Assembly, serves as head of state, while the elected prime minister is the chief executive. An AJK Council is based in Pakistan’s capital, Islamabad, consisting of both Kashmiri and Pakistani officials and chaired by the Pakistani prime minister. The council holds a number of key executive, legislative, and judicial powers, such as control over the appointment of 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. In June 2015, a committee of the Legislative Assembly published recommendations for a reform of the interim constitution that would transfer most of the AJK Council’s powers to the elected AJK government in Muzaffarabad. The proposal remained under discussion at year’s end.

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. The nonresident elections are more vulnerable to manipulation by federal Pakistani authorities, and the party in office at the federal level tends to win these seats. Electoral politics in AJK track those in Pakistan, but with a lag stemming from their different election calendars. Thus the Azad Kashmir Peoples’ Party (AKPP) continued to run the AJK government in 2015 after its federal affiliate, the Pakistan People’s Party (PPP), lost out to the PML-N at the federal level in 2013.

In the 2011 legislative elections, the AKPP won 20 of the 41 seats, followed by the 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.

The next elections were scheduled for 2016. In December, the AJK government accused the AJK Council of attempting to influence the outcome by distributing federal development funds to legislators on a partisan basis. Meanwhile, the AJK government resisted the AJK Council’s pressure to appoint the latter’s choice for chief election commissioner, leading to a legal dispute that was unresolved at year’s end.

GB is governed under the 2009 Gilgit-Baltistan Empowerment and Self-Governance Order (GBESGO), which can only be amended by the Pakistani government. The political structure includes a 33-member GB Legislative Assembly (GBLA) based in Gilgit and a 15-member Gilgit-Baltistan Council (GBC), headed by the Pakistani prime minister and vice-chaired by a federally appointed governor, which meets in Islamabad. 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. The GBLA has the authority to choose the chief minister and introduce legislation on 61 subjects. Ultimate authority rests with the governor, who is the signing authority for legislation passed by the assembly. The governor has significant power over judicial appointments, and his decisions cannot be overruled by the GBLA. The federally dominated GBC retains control over strategically important subjects and key fiscal matters. A majority of high-level positions in the local administration are reserved under the GBESGO for Pakistani bureaucrats.

In February 2015, the PML-N government in Islamabad appointed its federal minister for Kashmir Affairs and Gilgit-Baltistan, Chaudhry Muhammad Barjis Tahir, as governor of GB. The appointment generated some controversy because of the new governor's lack of ties to the area and claims that it was a partisan appointment. In June, elections were held for the GBLA, with security provided by the Pakistan army. In keeping with the well-established pattern of victory by the party in power in Islamabad, the PML-N took 15 of the 24 directly elected seats. No other party won more than two seats, including the previously governing PPP. One notable race pitted a jailed left-wing activist, Baba Jan Hunzai, against the PML-N's Mir Ghazanfar Ali Khan, scion of the ruling family of the former princely state of Hunza. Baba Jan ultimately placed second behind Mir Ghazanfar.

In the wake of the elections, Hafiz Hafeezur Rehman of the PML-N became chief minister. In November, the federal government installed Mir Ghazanfar as governor, replacing the unpopular Barjis Tahir, who remained a federal minister.

## **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. Activists accused of opposition to Pakistani rule have been subject to surveillance, harassment, and sometimes imprisonment. Among other cases during 2015, a group of 19 people were charged with sedition in February for their remarks at a conference on GB's status, and eight nationalist political activists were charged in June for protesting against the GBLA elections.

Historically, it has been the norm for the party in office at the federal level to form the local governments in AJK and GB. When a change occurred 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. In 2013, after a PML-N government replaced the PPP in Pakistan, the new ruling party at the federal level stopped the local units from undertaking a full-fledged political coup. However, the PML-N government's decision to replace the GB governor in early 2015 was criticized as a bid to ensure the party's victory in the GBLA elections, and federal authorities were similarly accused of preparing to rig the 2016 AJK Legislative Assembly elections in favor of the PML-N.

## **C. Functioning of Government: 3 / 12**

The two territories lack representation in the Pakistan Parliament and in constitutional bodies established for consultation and coordination between the federal government and the provinces, severely limiting transparency and accountability. In effect, the Pakistan prime minister, the minister for Kashmir Affairs and Gilgit-Baltistan, and through them the federal civil service exercise full control over the operation of government in both territories. Federal intelligence agencies are also deployed in the territories and wield considerable power over local elected representatives and officials.

The territories lack any meaningful fiscal autonomy, as federally sanctioned taxes are imposed on both, and they receive a share of the resulting funds from the federal government in the form of grants. The territories' local representatives are excluded from the Pakistani bodies that negotiate interprovincial resource allocation, the National Finance Commission and the Council of Common Interest.

In August 2015, the newly elected GBLA passed a resolution demanding the status of a constitutional province. The federal government subsequently established a reform committee, headed by a senior adviser to the prime minister, to consider upgrading the constitutional status of GB. The development was triggered in part by the launch of the CPEC mega-project; Beijing reportedly raised legal concerns about investing in projects that would run through disputed territory. No decision on the matter was made by year's end.

### **Discretionary Political Rights Question B: -2 / 0**

The Sunni Muslim share of the population in GB has increased significantly in the decades since a pre-1947 rule was abolished to allow immigration from different parts of Pakistan. State agencies are suspected of deliberately engineering a demographic change in the sparsely populated Shiite-majority region. Under the 2009 GBESGO, settlers were given formal citizenship rights in GB. The pre-1947 restrictions on acquiring citizenship are still in place in AJK.

## **Civil Liberties: 19 / 60 (-1)**

### **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 regions. Media houses need permission from the AJK Council and the federal Ministry of Kashmir Affairs and Gilgit-Baltistan to operate. In October 2015, three cable television channels in Muzaffarabad were closed down for allegedly operating without a license; AJK authorities described the move as part of its implementation of Pakistan's National Action Plan against terrorism. A court challenge against the closures was pending at year's end.

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. AJK and GB have access to the internet, with the same restrictions as in Pakistan. Usage is more common in 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. Sectarian tensions are sharper in GB, a Shiite-majority region.

Educational opportunities in the territories are limited. Academics are not free from political indoctrination. Any expression of views contradicting the official line on the regions' 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.

### **E. Associational and Organizational Rights: 4 / 12**

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. Nevertheless, demonstrations and protests remain common, especially in AJK. The harsh curbs on assembly are limited mostly to issues that concern the regions' status vis-à-vis Pakistan.

Humanitarian nongovernmental organizations (NGOs) are subject to strict registration requirements and thus operate at the pleasure of the authorities. However, NGOs working on political or human rights issues face more intrusive 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.

### **F. Rule of Law: 3 / 16 (-1)**

AJK has a multitiered, dual judicial system with a Supreme Court, a High Court, 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, making judicial appointments 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 other 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 some 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, especially targeting independence supporters and other activists. In GB, a small and nonviolent free-Balawaristan movement, which sought independence for GB and neighboring areas under Chinese control, has been crushed ruthlessly.

Extremist groups devoted largely to attacks on Indian-administered Jammu and Kashmir operate from AJK and GB and have links with similar factions based in Pakistan and Afghanistan. Internecine tension between pro-Pakistan and nationalist Kashmiri militant groups is common.

In the wake of a major terrorist attack on a school in Peshawar in December 2014, Pakistani authorities increased pressure on Afghan refugees to return to their country. In April 2015, police in AJK announced that they would expel some 11,000 Afghan refugees from the territory. They invoked Pakistan's National Action Plan against terrorism, but failed to specify a link between the affected refugees and terrorist activity. Refugees, many of whom had lived in AJK for decades, subsequently complained of harassment, forced evictions, and arbitrary closure of businesses.

## **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 is still in effect in AJK and bars outsiders from seeking permanent residency, allows only legal residents to own property. Procedures for establishing private enterprises are onerous.

Instances of violence against women and so-called honor killings are rarer in AJK than in GB, which features greater cultural diversity and a wide range of local practices with respect to women's rights. Honor killings have been reported in GB's Sunni-majority Diamer district, and women in Diamer's Tangir Valley apparently did not participate in the

2015 elections. Although the law prohibits discrimination on the basis of sex, treatment is unequal in practice. Women are legally permitted to marry without the consent of their family, but 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. While school enrollment is lower for girls than for boys in GB, the gap has narrowed in recent years.

Laws against sex trafficking are not actively enforced in AJK or GB, though some cases of labor trafficking have been prosecuted.

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.

### **Scoring Key: X / Y (Z)**

**X = Score Received**

**Y = Best Possible Score**

**Z = Change from Previous Year**

### **Full Methodology**

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