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Austrian Centre for Country of Origin  
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# Pakistan-administered Kashmir (Azad Kashmir and Gilgit-Baltistan)

## COI Compilation

### 7 May 2012



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REPUBLIK ÖSTERREICH  
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This report serves the specific purpose of collating legally relevant information on conditions in countries of origin pertinent to the assessment of claims for asylum. It is not intended to be a general report on human rights conditions. The report is prepared on the basis of publicly available information, studies and commentaries within a specified time frame. All sources are cited and fully referenced.

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## List of Abbreviations

AJK, AJ&K - (Pakistan-controlled) Azad Jammu & Kashmir  
APHC - All Parties Hurriyat Conference  
APNA - All Parties National Alliance  
CBM - confidence-building measures  
GB - Gilgit-Baltistan  
GBC - Gilgit-Baltistan Council  
GBDA - Gilgit Baltistan Democratic Alliance  
GBESGO - Gilgit-Baltistan Empowerment and Self-Governance Order  
GBLA - Gilgit-Baltistan Legislative Assembly  
GBUM Gilgit Baltistan United Movement  
HM - Hizbul Mujahideen  
ISI - Inter-Services Intelligence  
J&K - Jammu and Kashmir  
JKLF - Jammu and Kashmir Liberation Front  
JKNAP - Jammu Kashmir National Awami Party  
JKNLF - Jammu Kashmir National Liberation Front  
JKNSF - Jammu Kashmir National Students Federation  
JKPF - Jammu Kashmir Plebiscite Front  
JKPNP - Jammu Kashmir People's National Party  
JKSLF - Jammu Kashmir Students Liberation Front  
JuD - Jamaat-ud-Dawa  
JuF - Jamaat ul-Furqan  
JUIF, JUI-F - Jamiat Ulema-e-Islam Fazal u Rehman  
KA&NA - Kashmir Affairs & Northern Areas  
KP - Khyber Pakhtunkhwa  
Kul - Khuddam ul-Islam  
LeT - Lashkar-e-Taiba  
LoC - Line of Control  
MQM - Mutahida Qaumi Movement  
NALC - Northern Areas Legislative Council  
PAJK - Pakistan-administered Jammu and Kashmir  
PaK, PAK - Pakistan-administered Kashmir  
PML-N - Pakistan Muslim League Nawaz  
PML-Q - Pakistan Muslim League Quaid-e-Azam  
PoK, POK - Pakistan-occupied Kashmir  
PPP - Pakistan Peoples Party  
TJ - Tehreek-e-Jafaria  
UNMOGIP - UN Military Observer Group in India and Pakistan

## Kashmir Region



The area designated „Northern Areas“ on this map is referred to as “Gilgit-Baltistan” as of 2009.

Source:

- The University of Texas at Austin, University of Texas Libraries: The Disputed Area of Kashmir, 2003

[http://www.lib.utexas.edu/maps/middle\\_east\\_and\\_asia/kashmir\\_disputed\\_2003.jpg](http://www.lib.utexas.edu/maps/middle_east_and_asia/kashmir_disputed_2003.jpg)

# 1 Background Information

## 1.1 Government structures and political system

Gilgit-Baltistan (formerly known as the “Northern Areas”) and Azad Jammu & Kashmir (AJK, also Azad Kashmir or “Free Kashmir”) form the part of Kashmir that is located on the Pakistani side of the line of demarcation drawn between Pakistan and India (“Line of Control”). Both Gilgit-Baltistan and Azad Kashmir are controlled by Pakistan but not officially regarded as being part of Pakistani territory. Gilgit-Baltistan obtained partial autonomy in September 2009 after having previously been ruled by the central government in Islamabad. Azad Kashmir likewise enjoys autonomy but is financially dependent on the central government (German Foreign Office, March 2012). The political systems of Gilgit-Baltistan and Azad Kashmir are described as being different from those of the rest of Pakistan and both areas have no representation in the national parliament (USDOS, 8 April 2011, section 3).

### *1.1.1 Azad Kashmir (AJK Legislative Assembly, Prime Minister, President)*

Azad Kashmir has a constitution and an elected government of its own. However, its independent status is described by the International Crisis Group (ICG) as being “only nominal” (ICG, 3 June 2010, p. 7).

A further report by the ICG, dated May 2012, states:

“The AJK Council, headed by Pakistan’s prime minister, formally has the power to override laws passed by AJK’s elected legislature, and the AJK judiciary cannot review its decisions. However, though the Council is ostensibly all-powerful, it has very little authority in practice, because the military exercises almost complete control over the territory.” (ICG, 3 May 2012, p. 19-20)

The US Department of State (USDOS) notes with regard to legislative and government structures in Azad Kashmir:

“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 legislators 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).” (USDOS, 8 April 2011, section 3)

The Azad Kashmir Legislative Assembly consists of 41 elected members and eight co-opted members, of whom five represent women, and one member from each of the following groups: Ullema-e-Din or Mushaikh (religious scholars), technocrats and other professionals, and persons from Jammu and Kashmir residing abroad. Since 1975, the Prime Minister, who is the chief executive of Azad Kashmir, has been elected by the members of the Legislative Assembly. The President is the constitutional head under the Interim Constitution Act of 1974 (Legislative Assembly of Azad Jammu & Kashmir, undated a).



Jane's Information group, a US publishing group specialized in military issues, notes in its *Sentinel Security Risk Assessment* for Pakistan, dated April 2011:

"AJK is still governed by the 1974 interim constitution (the constitution is designated interim by the Assembly as AJK is not yet independent) that allows for limited self-government through a president, prime minister and state council, although in reality power ultimately rests with the central government in Islamabad." (Jane's, 26 April 2011)

### *1.1.2 Gilgit-Baltistan (Gilgit-Baltistan Legislative Assembly, Chief Minister, Governor)*

An April 2012 report published on the South Asia Terrorism Portal (SATP) outlines the administrative divisions of Gilgit-Baltistan as follows:

"Ruled under the Gilgit-Baltistan (Empowerment and Self-Governance) Order 2009, passed on September 9, 2009, GB is administratively divided into two divisions, Gilgit and Baltistan. These, in turn, are divided into seven Districts, including the five in Gilgit – Gilgit, Ghizer, Diamer, Astore, and Hunza-Nagar; and two in Baltistan – Skardu and Ghanche." (SATP, 9 April 2012)

Under the Gilgit-Baltistan Empowerment and Self-Governance Order (GBESGO), signed in September 2009 by Pakistan's President Asif Ali Zardari, those parts of the country hitherto known as the Northern Areas were renamed Gilgit-Baltistan and "afforded attributes of a province" although its residents still lack representation in the national parliament, as noted by the US Department of State (USDOS, 8 April 2011, section 3). The GBESGO of 2009 instituted a separate judiciary, legislature, and election commission for the region of Gilgit-Baltistan (USDOS, 8 April 2011, section 1e).

The Human Rights Commission of Pakistan (HRCP) states in a January 2010 report that on 30 August 2009, the federal government approved a reform package for the Northern Areas which were renamed Gilgit-Baltistan (GB). On 7 September 2009, President Zardari signed the GBESGO which aimed to introduce administrative, political, financial and judicial reforms in Gilgit-Baltistan and replaced the Northern Areas Legal Framework Order (LFO) of 1994. The GBESGO of 2009 provides for the offices of Chief Minister and Governor of Gilgit-Baltistan, whose respective roles are described as being "similar to those of their counterparts under the Constitution of Pakistan. The HRCP further adds that the prime minister of Pakistan, who acts as chairman of the Gilgit-Baltistan Council, becomes the region's de facto president, since under Article 34 of the 2009 Order, the chairman is granted the "power to pardon and relieve" sentences awarded by any court (HRCP, January 2010, p. 3-4).

The August 2011 Freedom House (FH) report *Freedom in the World* on Pakistan-administered Kashmir notes that the Gilgit-Baltistan Empowerment and Self-Governance Order (GBESGO) of 2009 provided for a more powerful legislative body, i.e. the Gilgit-Baltistan Legislative Assembly (GBLA), which has the authority to choose the chief minister and introduce legislation on 61 subjects. The current political structure of Gilgit-Baltistan, as defined under the GBESGO, is described in the report as follows:

"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." (FH, 18 August 2011)

In contrast to this, as regards the selection of Chief Ministers in GB, the Institute for Gilgit Baltistan Studies (IGBS), a US-based exile group committed to achieving de-militarization and autonomy in Gilgit-Baltistan, notes in an article dated August 2011 that "the chief ministers of Gilgit-Baltistan are selected by the president of Pakistan and therefore not answerable to the local people" (IGBS, 30 August 2011).

In February 2012, Gilgit-Baltistan Chief Minister Mehdi Shah announced that the region would be divided into three divisions, the first of which should include Gilgit, Hunza-Nagar and Ghizer districts, while Astore and Diamer districts would be included in the second division. Baltistan would comprise the third division (Express Tribune, 1 February 2012).

## **1.2 Formal relation and distribution of powers between Pakistan's federal government and the government structures in Azad Kashmir and Gilgit-Baltistan**

### *1.2.1 Azad Kashmir*

A Fact-Finding Mission report by the Human Rights Commission of Pakistan, published in April/May 2010, provides the following overview of power relations between Azad Kashmir and the federal government:

"The Constitution of Pakistan (Article 257) acknowledges the status of Jammu and Kashmir, stating that when the people of the State of Jammu and Kashmir decide to accede to Pakistan, the relationship between the two shall be determined in accordance with the wishes of the people of the State. The Azad Jammu and Kashmir Interim Constitution Act, 1974 provides for a parliamentary form of government based on a system of adult franchise. However, the AJK Interim Constitution gives essential powers to the Chief Executive of Pakistan, for example, laws cannot be enacted by the AJK Legislative Assembly regarding defence, security, currency, external affairs, foreign trade, foreign aid and several other items enumerated in the Third Schedule of the AJK Interim Constitution. Section 56 of the Interim Constitution gives the Government of Pakistan powers to take 'such action as it may consider necessary or expedient for the effective discharge of' responsibilities granted to Pakistan.

These provisions have often been used by the Government of Pakistan to dismiss and install governments in AJK.

The Azad Jammu and Kashmir Council, commonly known as AJK Council or Kashmir Council, has wide-ranging powers, including the authority to appoint and dismiss judges of the superior courts in AJK and appointment of the Chief Election Commissioner. The Kashmir Council consists of the Prime Minister of Pakistan, the President of AJK, five members nominated by the Prime Minister of Pakistan from amongst Federal Ministers and members of parliament, Prime Minister of AJK or his representative, and six Kashmiri members elected by the AJK Legislative Assembly. The Prime Minister of Pakistan is the Chairman and the AJK President the Vice- Chairman of the Kashmir Council. The Government of Pakistan issued a memorandum dated June 24, 1970, in which the Cabinet Division directed that as far as the affairs of AJK are concerned, the region will for all practical purposes be treated like any other province of the country." (HRCP, April-May 2010, p. 9-10)

The above-quoted International Crisis Group (ICG) report of June 2010 notes that Pakistan officially maintains that Azad Kashmir is "not intrinsically part of its territory and that its constitutional status is provisional, dependent upon a final settlement of the territorial dispute with India". As the territory lacks international legal status, Pakistan has "a free hand in controlling its foreign affairs". ICG further observes that the Azad Jammu and Kashmir (AJK) Council, which is headed by Pakistan's prime minister, "ostensibly controls decision-making" in the territory. Meanwhile, the federal Ministry of Kashmir Affairs & Northern Areas & States & Frontier Regions (now Ministry of Kashmir Affairs and Gilgit Baltistan) exercises supervisory control. The AJK Council is empowered to override laws passed by the AJK assembly and its decisions are not subject to judicial review, even by AJK's Supreme Court. Furthermore, the central government in Islamabad is able to dismiss legislature from Muzaffarabad, the capital of Azad Kashmir (ICG, 3 June 2010, p. 7).

Dawn, a Pakistani daily newspaper, states in an article published February 2010:

"Constitutionally, Azad Kashmir is not a part of Pakistan. But neither is it an independent state. For its entire 62-year history, it has depended on Pakistan for its economic and political survival. It does not even issue its own postage stamps. Because Islamabad has always exercised its claim on the entire state of Jammu and Kashmir, Azad Kashmir is not counted as a fifth province of Pakistan. But for all practical purposes, Muzaffarabad lives under Islamabad's shadow." (Dawn, 15 February 2010)

The US Department of State (USDOS) similarly notes that "the federal government exercises considerable control over the structures of government and electoral politics" of Azad Kashmir since "[i]ts approval is required to pass legislation" and the federal minister for Kashmir maintains "significant influence over daily administration and the budget". The Kashmir Council, which is composed of both federal officials and members of the AJK assembly and headed by the federal prime minister, is described as also having "some executive, legislative, and judicial powers". Further, the military maintains a "guiding role on issues of politics and governance". (USDOS, 8 April 2011, Section 3).

Jane's Information Group notes in April 2011 that the federal government exercises political control over Azad Kashmir through the AJK Council, which is a legislative body and the de facto upper house to the AJK Legislative Assembly. The Council's main role is "to act as a conduit between the federal government of Pakistan and the administration in PAK [Pakistan-Administered Kashmir]". It is chaired by the prime minister of Pakistan with the vice-chairman being the president of Azad Kashmir (Jane's, 26 April 2011).

The main role and composition of the AJK Council is described in more detail in the following report by the Associated Press of Pakistan (APP):

„The AJK Council is a constitutional body established under section 21 of the Azad Jammu and Kashmir Interim Constitution Act, 1974 and serves as the highest linking forum between Pakistan and Azad Jammu and Kashmir with following composition. Prime Minister Gilani is chairman of the council while the AJK President is its vice-chairman. Ministers for KA&NA [Kashmir Affairs & Northern Areas], Interior, Foreign Affairs, Education, Information and Media Development and the AJK Prime Minister or a person nominated by him are its members, while six other members are elected by the AJK Legislative Assembly.“ (APP, 21 April 2011)

While the AJK Council has been assigned specified areas of activities, some functions concerning the region such as defence, security, foreign affairs and foreign trade, currency and coins are responsibilities of the Central Government of Pakistan (Legislative Assembly of Azad Jammu & Kashmir, undated a).

### *1.2.2 Gilgit-Baltistan*

A January 2010 report by the Human Rights Commission of Pakistan (HRCP) comprises the following observations with regard to the status of Gilgit-Baltistan vis à vis the central government, as regulated in the Gilgit-Baltistan Empowerment and Self-Governance Order (GBESGO) of 2009:

“The Gilgit-Baltistan (Empowerment and Self-Governance) Order, 2009 generally fell short of the people's expectations. The people of Gilgit-Baltistan had expected that the region would either be made the fifth province of Pakistan or get an autonomous status or an interim constitutional set-up on the pattern of Azad Jammu and Kashmir. The Order has brought little meaningful change at any level as, through various devices, the final authority on all important matters is the federal government. Most of the political parties criticised the Order as a mere eyewash, while the Pakistan People's Party (PPP) Gilgit-Baltistan chapter President Syed Mehdi Shah strongly defended it, claiming that it had given identity to the people of Gilgit-Baltistan. He credited constitutional reforms for bringing all major political parties to Gilgit-Baltistan in a big way.“ (HRCP, January 2010, p. 6-7)

The Freedom House (FH) August 2011 report on Pakistan-administered Kashmir observes that Gilgit-Baltistan is still directly administered by the federal government. Since “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". While the federal government maintained that the GBESGO of 2009 established full autonomy, nationalist groups stated that GB's governor is appointed by the president of Pakistan and would still constitute "ultimate authority" which "could not be overruled by the new assembly". As reported further by FH, numerous subjects were "excluded from the assembly's purview" (FH, 18 August 2011).

In an article published by the Indian weekly Sunday Guardian November 2011, political scientist Monika Chansoria presents the following views with regard to power relations between Gilgit-Baltistan and the federal government:

"In an apparent bid to resolve the politico-constitutional impasse of the region, Pakistan's federal government unanimously approved and passed the Gilgit-Baltistan Empowerment and Self-Governance Ordinance in 2009. This ad hoc ordinance promulgated by President Asif Ali Zardari paved way for alterations in terms of nomenclature, with Northern Areas being referred to as Gilgit-Baltistan in the future. The Northern Areas Legislative Council (NALC) was replaced by the Gilgit-Baltistan Legislative Assembly (GBLA), the region's elected legislature, with no tangible powers at hand. The Council, whose chairman is the Prime Minister of Pakistan and members are appointees of the government wield the real authority. While the 'self-governance reforms package' announced the grant of 'full

internal political autonomy' to the region, it lacked parliamentary backing. Although provision for a local administration headed by a Chief Minister has been made, both the Chief Minister and the Legislative Assembly essentially essay the role of being rubber stamps. Besides, the executive authority continues to rest with the federal agencies – in form of the governor of Gilgit-Baltistan, appointed by the President of Pakistan, based on the advice of the Prime Minister. More significantly, the ordinance has failed to resolve the politico-constitutional stalemate of the region. It needs to be recalled here that Pakistan's Supreme Court declared Gilgit-Baltistan as part of the former state of Jammu & Kashmir and not a part of Pakistan. Later, in September 1994, the Supreme Court held that since the Gilgit-Baltistan region was not part of Pakistan, the judicial matters pertaining to it were considered to be outside the purview of the Pakistani courts. This resulted in people belonging to Gilgit-Baltistan being denied the right to appeal or for that matter, even access to Pakistan's apex court. The new judicial structure has created chief courts; however, the decision of appointing judges continues to rest with the chairman of the Council, i.e., the Prime Minister of Pakistan. This has led to a palpable sense of cynicism among the native population vis-à-vis denial of their fundamental right to seek justice." (Sunday Guardian, 27 November 2011)

### **1.3 Overview of the main political parties**

As noted by BBC in a February 2011 report, many pro-independence groups have emerged in Kashmir over the past few decades. These groups are viewed with suspicion by Pakistan's security establishment and local laws do not allow pro-independence politics. Those pro-independence groups who took up arms now "appear to have been quashed" by the Pakistani government (BBC, 24 February 2011). Pro-independence groups currently play a marginal role within the armed struggle (as opposed to groups favouring Kashmir's accession to Pakistan),

most notably as a result of “ethnic Kashmiris’ rejection of violence as a means to achieve their objectives”, as stated by the Center for Strategic and International Studies (CSIS, September 2011, p. 178). In an overview published in May 2011, the New Delhi-based Institute for Defence Studies and Analyses (IDSA) mentions several groups which espouse self-determination or independence of Kashmir: the All Parties National Alliance (APNA), which is a “conglomerate of 12 small pro-independence Kashmiri groups”, as well as the Jammu and Kashmir Liberation Front (JKLF) and the Gilgit Baltistan United Movement (GBUM) (IDSA, May 2011, p. 24).

Quoting various sources, a query response by the Immigration and Refugee Board of Canada (IRB) lists several Kashmir groups as having a pro-independence agenda: the Jammu and Kashmir Liberation Front (JKLF), the United Kashmir People's National Party, the All-Parties Hurriyet [or Hurriyat] Conference, and the Gilgit-Baltistan Democratic Alliance, an umbrella organization described as representing non-violent groups including the Balawaristan National Front, Gilgit-Baltistan United Movement, Karakoram National Movement, Gilgit-Baltistan Laddakh Democratic Movement, and the Bolor Research Forum (IRB, 30 November 2011 b).

### *1.3.1 Azad Kashmir*

According to the undated Website of the Government of Azad Jammu & Kashmir (AJK), its Prime Minister, Chaudhry Abdul Majid, is affiliated with the Pakistan Peoples Party (PPP) (Government of Azad Jammu & Kashmir, undated a). As noted by Radio Pakistan in March 2012, AJK has a PPP government with Chaudhry Abdul Majid as Prime minister (Radio Pakistan, 25 March 2012).

#### *The Jammu and Kashmir Liberation Front (JKLF)*

A report by the Center for Strategic and International Studies (CSIS) provides the following overview:

“The Jammu and Kashmir Liberation Front (JKLF) was one of the largest and most organized indigenous militant groups, and is credited with beginning the insurgency. By 1994 however, the JLF had renounced violent armed struggle, announcing its intention to peacefully advocate for a separate Kashmiri state. Declining ethnic Kashmiri support for violence, increasingly competent Indian security forces, and the internal marginalization of pro-independence groups to pro-Pakistani groups facilitated this shift.” (CSIS, September 2011, p. 178)

As noted by the BBC, the JKLF is a secular pro-independence group (BBC, 24 February 2011) whose influence is believed to have waned (BBC, 14 September 2010).

The group was initially supported by Pakistan and its fighters were trained in Pakistan-administered Kashmir by the Pakistani military. In the early 1990s, Pakistani authorities abandoned the JKLF and introduced a pro-Pakistan Islamic group of Kashmiri fighters, Hizbul Mujahideen (HM), with a mandate to fight both the Indian forces and the JKLF, according to analysts. This led many JKLF fighters to lay down their arms (BBC, 24 February 2011). The JKLF is described by the CSIS as being “one of the most vocal critics of pro-Pakistani groups,

particularly the LeT [Lashkar-e-Taiba] and its JuD [Jamaat-ud-Dawa] political arm", having accused them of "'subverting the indigenous movement' from a legitimate nationalist struggle into an Islamic movement" (CSIS, September 2011, p. 178).

As noted in an August 2011 Al Jazeera article authored by Sumantra Bose, Professor of International Politics at the London School of Economics and Political Science (LSE), the Jammu and Kashmir Liberation Front (JKLF) believes in a sovereign Kashmir, independent from both India and Pakistan, and uses a tricolour flag. Referring to the period between 1990 and 1994, the peak years of the armed struggle for Kashmiri independence during which 5,119 people were killed, Bose states that the toll taken by the Indian counter-insurgency campaign was "gravely exacerbated by disunity and infighting in the insurgent ranks". The two largest insurgent groups, JKLF and Hizb-ul Mujahideen (HM), represented conflicting visions of Kashmiri 'self-determination': While the JKLF's slogan was *Kashmir banega khudmukhtar* ['Kashmir will be sovereign'], the HM's was *Kashmir banega Pakistan* ["Kashmir will be part of Pakistan"]. The author notes that starting from 1991, the Pakistani Inter-Services Intelligence (ISI), which had been providing weapons and training to the Kashmir insurgency since the late 1980s, "cut off aid to the JKLF and engineered splits and defections in the pro-independence camp while building up the HM" in a strategy to bring the Kashmir insurrection under Pakistani control. The HM subsequently led a campaign of killing pro-independence fighters and prominent political and religious figures who espoused independence. The mid-1990s, however, saw a "severe backlash" against the HM and Pakistan, in view of the fact that since the 1940s until today, pro-Pakistan views have been "the preserve of a small, though dedicated, minority", with pro-independence sentiments being dominant among the Kashmir Valley's population. By 1996, when public disillusionment with the prospects of armed uprisings became widespread, many former insurgents belonging to the JKLF laid down their arms or were "seeking protection from and vengeance against HM, through active cooperation with the Indian counter-insurgency apparatus." (Al Jazeera, 2 August 2011 b)

An Al Jazeera report of August 2011 provides the following overview of the JKLF and its leadership:

"The Jammu Kashmir Liberation Front (JKLF) was founded in the 1960s with the ambition of forming an independent state of Kashmir through the reunification of Indian-administered Kashmir with Pakistan-administered Kashmir. The JKLF enjoyed much support in the valley during the 1980s and is largely credited for leading the insurrection that began in 1989. The organisation announced a unilateral ceasefire in 1993 and gave up armed struggle as a means to achieve its political goals.

After 1993, the JKLF was transformed from an underground guerrilla organisation into a political organisation committed to fighting for Kashmir's independence through non-violent means. This change was largely attributed to the end of Pakistani material and moral support to the JKLF after the organisation refused to support Kashmir's accession to Pakistan and continued its advocacy for an independent and united Kashmir

By the mid-1990s there was a division within the organisation when ideological disagreements led to a split along Pakistani and Indian-administered lines. The leader of

the Indian-administered wing, Yasin Malik, wanted to halt all militant activities but the leadership of the Pakistan-administered wing refused to renounce violence. This rift would break up the organisation.

The JKLF in Pakistan-administered Kashmir is headed by its president, Sardar Saghir. Amanullah Khan, one of the oldest living and foremost ideologues of the JKLF, continues to function as its chief patron. The faction remains committed to the creation of a greater and independent Kashmir through peaceful means.

Yasin Malik remains the head of the JKLF in Indian-administered Kashmir. Under Malik, the JKLF remains a key Kashmiri nationalist party in the region. The party supports the inclusion of Kashmiris as a principal party in India-Pakistan peace negotiations on Kashmir." (Al-Jazeera, 2 August 2011 a)

As regards offices of the JKLF, relevant information was found in only one of the sources consulted: In an interview published by Current News, an Indian weekly, Shabir Choudhry, one of the founders of the JKLF, mentions that the group's head office was shifted from Britain, where it had been founded, to Muzaffarabad in 1987:

„JKLF was formed in Birmingham, England in 1977, and I was among its founders. The JKLF believed in a united and independent Jammu and Kashmir free from both countries, and of course from China as well. The JKLF head office was shifted from Britain to Muzaffarabad when Amanullah Khan was expelled from Britain in 1987." (Current News, 22 November 2011)

The following sources refer to activities of the JKLF and other political opposition groups in recent years:

As reported by the Associated Press of Pakistan (APP) news agency on 11 February 2011, a joint procession was held in Mirpur (Azad Kashmir) to commemorate the 27<sup>th</sup> anniversary of the death of Kashmir pro-independence leader Muhammad Maqbool Butt. The organisations that took part in what is described as a "mammoth rally" were the Jammu Kashmir National Liberation Front (JKNLF), the Jammu Kashmir Plebiscite Front (JKPF), the Jammu Kashmir Liberation Front (JKLF), the Jammu Kashmir National Students Federation (JKNSF), the Jammu Kashmir National Awami Party (JKNAP) and the Jammu Kashmir Students Liberation Front (JKSLF) (APP, 11 February 2011).

Geo News, a Pakistani news channel, reports on 6 July 2010 that the JKLF and the All Parties Hurriyat Conference [APHC] are holding a rally in Islamabad in protest of what is referred to by Geo News as "Indian tyrannies and serious human rights violations" in Indian-administered Kashmir (Geo News, 6 July 2010).

On 8 November 2010, the BBC reports about a large rally held by the JKLF in central Muzaffarabad (BBC, 8 November 2010).

The Express Tribune reports on 24 October 2010:



"Hundreds of pro-independence Kashmiris staged a protest sit-in at the Line of Control (LoC) against Indian repression in Indian Kashmir. Carrying party flags, banners and placards and shouting pro-freedom slogans, nearly 1,000 Jammu Kashmir Liberation Front (JKLF) supporters, led by its chairman Sardar Saghir, marched to the LoC from Kotli district and gathered at Sari Khoi Ratta where they staged the sit-in. A senior JKLF leader and its founder, Amanullah Khan, could not participate because of his illness but he will participate in the Muzaffarabad-Chakothi march on October 27 march. Since June this year, the JKLF has initiated a series of sit-ins on the LoC in front of Indian bunkers to protest the killings of innocent Kashmiris. The JKLF leaders said that the 'Go India Go' movement started on both sides of the LoC and they said they wanted independence on both sides of the Line of Control." (Express Tribune, 24 October 2010)

The Indian Express daily newspaper reports on 1 October 2010:

"At a massive public meeting in Muzaffarabad, which followed three such rallies across Pakistan occupied Kashmir, Jamat-ud-Dawa Wednesday put the world on notice: solve the Kashmir dispute or face a fresh armed struggle that can spill beyond the borders of Kashmir. [...] The rally was organised by Tehreek-e-Azadi-e-Kashmir (the movement for the freedom of Kashmir), an alliance of political organisations in Pakistan campaigning for secession of Kashmir from India. The rally was attended by Hurriyat leaders Syed Yousaf Nasim and Ghulam Mohammad Safi, convenor of Hurriyat's PoK chapter, JuD PoK chief Abdul Aziz Alvi, Jamaat-e-Islami leader Shaikh Aqeel-ur-Rehman, JKLF's Rafiq Dar, Jamiat Ulema-e-Islam's Mahmoodul Hassan Ashraf, Rana Shamshad Salfi, Saifullah Khalid and Abdul Aziz Madni." (Indian Express, 1 October 2010)

### *Jammu Kashmir People's National Party (JKPNP)*

A January 2011 query response by the Immigration and Refugee Board of Canada (IRB) refers as follows to the *Jammu Kashmir People's National Party* (JKPNP) and its members, quoting several sources:

„According to its website, the Jammu Kashmir People's National Party (JKPNP) is a revolutionary organization founded in April 1985 to restore Kashmir's independence from India and Pakistan and to establish a 'Sovereign Socialist Kashmir' (JKPNP n.d.a.). The JKPNP also calls itself an 'internationalist party' that stands in solidarity with oppressed people around the world (ibid.). [...]

In correspondence sent to the Research Directorate on 8 January 2011, a retired professor of sociology at the University of Birmingham in Great Britain, who is also a member of the JKPNP, explained that the JKPNP is a secular party founded on 'socialist' principles and that its symbol is a red flag with stars and stripes (8 Jan. 2011). [...]

The retired professor from the University of Birmingham provided the following information about party members:

JKPNP was founded in Pakistan Occupied Kashmir, in 1985. Its power base is in educated professionals in education, students, and lawyers. Since its foundation, it has been working

to help workers from trade unions, students organisations and women and peasant organisations in POK.

Its membership is spread across the globe wherever there is a presence of sizeable Kashmiri communities. In addition to its strong organizational power base inside Pakistan Occupied Jammu Kashmir, including Gilgit and Baltistan (the so-called Pakistan's Northern Territories), it has a very sizeable zonal organisation in the UK, United States of America, Middle East and with membership/sympathizers in Canada (Professor 8 Jan. 2011).

According to the JKPNP website, Zulfiqar Ahmed, Amin Baig, Habib-ur-Rehman and Imran Shan are the Zonal Secretary General, District President, Central Spokesperson, and Central Assistant Secretary General, respectively, of the JKPNP (JKPNP n.d.b). In a document published on the JKPNP website, Qurban Ali is the founding president of the JKPNP (ibid. n.d.c). The JKPNP's website also indicates that Nazir Nazish signed an article on 3 April 2010 as the Director of the International Committee of the JKPNP (ibid. 3 Apr. 2010). A letter published on the site and dated 30 March 2010 bears the signature of Tahir Bostan as President of the JKPNP, United Kingdom zone (ibid. 30 Mar. 2010). In a report published in June 1997, Amnesty International (AI) called Shaukat Ali Kashmiri the Secretary General of the JKPNP (AI June 1997, 12)." (IRB, 27 January 2011)

### *1.3.2 Gilgit-Baltistan*

As reported by Dawn in a December 2010 article, Gilgit-Baltistan has a coalition government led by the Pakistan Peoples Party (PPP) which includes the Jamiat Ulema-e-Islam Fazal u Rehman (JUIF). Gilgit-Baltistan's incumbent Chief Minister, Syed Mehdi Shah, is a member of the Pakistan Peoples Party (Radio Pakistan, 28 February 2012; Pamir Times, 19 November 2009).

In an article published by the Institute for Gilgit Baltistan Studies (IGBS) in January 2011, the All Parties National Alliance (APNA) is described as a conglomerate of 14 political parties of Pakistan-administered Kashmir and Gilgit Baltistan. It demands withdrawal of Pakistani forces and citizens from the Gilgit-Baltistan and the reinstatement of State Subject Rule in the region (IGBS, 3 January 2011).

An overview of party positions in the Gilgit-Baltistan Legislative Assembly (GBLA) following the elections of November 2009, published by the Forum of Federations, an international governance organization founded by the Government of Canada, lists a number of local and national political parties which contested in the elections:

The Pakistan People's Party (PPP) "emerged as largest single party" in the GBLA elections, winning 14 seats in the assembly. As noted by the Forum of Federations, the PPP was "a pioneer in introducing party based elections in the region" and "has two members from Gilgit Baltistan in its Central Executive Committee (CEC) at national level."

The Pakistan Muslim League Quaid-e-Azam (PML-Q), formed by leaders of the Pakistan Muslim League who defected during the rule of Pervez Musharraf as well as some former leaders of the now-defunct Shia political party Tehreek-e-Jafaria (TJ), attained two general seats and one of the seats reserved for women in the GBLA.

The Pakistan Muslim League Nawaz (PML-N) won two seats in the GBLA and has representation from Gilgit-Baltistan in its national Central Executive Committee and, as stated by the Forum of Federations, enjoys support in some of the areas of GB such as Gilgit and Diamer districts.

The Jamiat Ulema-e-Islam Fazal u Rehman (JUIF) is supported by local Sunni Muslim residents particularly in Diamer district.

The Mutahida Qaumi Movement (MQM) is mentioned as "a new addition in the politics of Gilgit Baltistan". It won one seat in the GBLA and is supported by people from Gilgit-Baltistan residing in Karachi and the local youth in GB.

The Gilgit Baltistan Democratic Alliance (GBDA) is described as an alliance of nationalist parties including the Karakorum National Movement and the Balawaristan National Front (Hamed Group).

The Balawaristan National Front (Naji), the only nationalist party to demand total autonomy for Gilgit-Baltistan, lost all seats in the GBLA elections. Further local and national parties that contested in the November 2009 elections without winning seats were Tehreek-e-Insaaf, the Awami National Party and Jamaat-e-Islami (Forum of Federations Project, December 2009, p. 11-12).

## 1.4 The judicial system

### 1.4.1 Azad Kashmir

The US Department of State notes in its *Country Report on Human Rights Practices 2010* of April 2011:

"Azad Kashmir has a court system independent of the country's judiciary" (USDOS, 8 April 2011, Section 1e)

In its fact-finding mission report from April-May 2010, the Human Rights Commission of Pakistan (HRCP) added a chart with the Judicial System of Azad Jammu and Kashmir explaining:

"The Supreme Court is the highest court of appeal of Azad Jammu and Kashmir and has jurisdiction to hear and determine appeals from judgements, decrees, final orders or sentences of the AJK High Court. Unlike the Supreme Court of Pakistan, the AJK Supreme Court does not have original jurisdiction. The number of judges in the AJK Supreme Court has been fixed at three by the AJK Interim Constitution Act, 1974." (HRCP, April-May 2010, Annex 1, p. 28)

The Website of the Legislative Assembly of AJK states that the region has an "independent Judiciary" including the Supreme Court, a High Court and subordinate courts and "many other Courts, established under various laws." (Legislative Assembly of Azad Jammu & Kashmir, undated a)

The Freedom House (FH) report *Freedom in the World 2011* on Pakistan-administered Kashmir, dated August 2011, provides the following details:

"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." (FH, 18 August 2011)

Little specific information could be found as to the type of law applied in Azad Kashmir. The undated website of the Law Office of Jeremy D. Morley, a US-based lawyer specialized in international family law, notes that the bare *talaq* divorce, an element of traditional Islamic law which entails an oral pronouncement by the husband (a triple declaration using the words "I divorce thee") leading to instant dissolution of a marriage, is the only form of divorce recognized in Azad Kashmir. According to Morley, in all other parts of Pakistan, the "Muslim Family Laws Ordinance 1961 (MFLO) lays down formal requirements for the recognition of divorce" (Morley, undated).

In an April/May 2010 report, the Human Rights Commission of Pakistan (HRCP) provides the following brief overview of the justice system of Azad Kashmir:

"The Supreme Court is the highest court of appeal of Azad Jammu and Kashmir and has jurisdiction to hear and determine appeals from judgements, decrees, final orders or sentences of the AJK High Court. Unlike the Supreme Court of Pakistan, the AJK Supreme Court does not have original jurisdiction. The number of judges in the AJK Supreme Court has been fixed at three by the AJK Interim Constitution Act, 1974." (HRCP, April-May 2010, p. 28)

#### *1.4.2 Gilgit-Baltistan*

The US Department of State (USDOS) *Country Report on Human Rights Practices 2010* of April 2011 notes that Gilgit-Baltistan has a separate judicial system and legislature instituted by the Gilgit-Baltistan Empowerment and Self-Governance Order (GBESGO) 2009, whereas previously the laws of Pakistan were extended to Gilgit-Baltistan at the discretion of the federal Ministry for Kashmir and Gilgit-Baltistan. The Gilgit-Baltistan Chief Court, however, "did not have all the powers of a high court". (USDOS, 8 April 2011, Section 1e)

Freedom House (FH) describes the judiciary of Gilgit-Baltistan as follows:

"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." (FH, 18 August 2011)

An article published on the Institute for Gilgit-Baltistan Studies website provides the following comment regarding the Gilgit-Baltistan court system:

"Up until 2009, a judicial commissioner, who was a political figure nominated by Minister of Kashmir and Gilgit-Baltistan Affairs, exercised judicial powers in Gilgit-Baltistan. When President Zardari announced Gilgit-Baltistan order, the post of commissioner was dropped. However, the new judicial structure still lacks the offices of High and Supreme Courts. While the existing Shariah, military, district and session courts will continue to function, new offices like appellate and chief courts have been created to function as apex courts. Since all senior judges appointed to these courts will come from Pakistan, natives fail to see these institutions safeguarding their rights. The number of judges in the Chief court has been increased from three to five, but without strengthening their capacity and authority. All these judges will be appointed on contractual basis for the tenure of three years and revision to their jobs will depend on political favoritism and manoeuvring. Natives lack the right of appeal and the right to access the apex courts like the High and Supreme Courts of Pakistan or AJK to seek justice. Further, final approving authority regarding judicial matters will sit in Islamabad thus introducing an element of political biasness." (IGBS, undated a)

## **1.5 Characteristics of government and state institutions in Kashmir**

In its report Freedom in the World 2011, Freedom House (FH) provides the following regarding government accountability in Azad Kashmir:

"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." (FH, 18 August 2011)

As regards Azad Kashmir, the News International, a Pakistani daily newspaper, quotes Tariq Khokhar, inspector general of the Azad Kashmir police as saying that the performance of the Azad Kashmir police forces has improved after their salaries have been doubled, resulting in a reduced crime rate (News International, 3 March 2012).

As for Gilgit-Baltistan, the US Institute of Peace (USIP) notes the following structural changes concerning its police forces since 2009:

"Since the promulgation of the Gilgit-Baltistan Empowerment and Self-Governance Order of 2009, the police in that region now fall under the direct supervision of the government

of Gilgit-Baltistan. Also, a new force named the Karakoram Security Force is being raised (by recruiting 1,500 employees) to manage the highways in the area." (USIP, February 2011, p. 6)

## **1.6 Role of the military in the governance of Kashmir**

The International Crisis Group (ICG) states that civilian governments (whether at the centre or in Muzaffarabad) wield limited influence or authority on issues regarding Azad Kashmir when compared with the control exerted by the military:

"In reality, given the military's control over AJK and Kashmir policy more generally, civilian governments, whether at the centre or in Muzaffarabad, have little influence or authority, According to Human Rights Watch, the army's Murree corps commander 'is known to summon the Azad Kashmir prime minister, president and other government officials regularly to outline the military's views on all political and governance issues in the territory'. A Kashmiri journalist stressed: 'Changes in government don't change anything for us: the army rules here'. With Muzaffarabad dependent on Islamabad's authorisation, political debate is sterile, and political parties largely sidestep questions of AJK's autonomy. 'Our leaders never speak out. When asked what they want, they turn to Pakistan and say 'you know best'', said a senior Kashmiri civil servant. Pakistan's civil and military bureaucracy rewards such compliance by granting privileges and distributing funds. AJK's political elites owe their success not to their ability to respond to public needs, but to their preferential access to federal funds, which are then channelled to their own baraderi (ethnic and kinship groups) and other allies." (ICG, 3 June 2010, p. 7)

The Institute for Defence Studies and Analyses (IDSA), an Indian think tank specialised in defence and security issues, notes an "ever-growing influence of the army and the ISI" in Azad Kashmir which can be "seen in the appointment of institutional heads like the chief election commissioner, judges, etc., who have a direct influence on the electoral processes." (IDSA, 13 September 2011).

The following comments are provided by Selig Harrison in an article published in the New York Times (NYT) in August 2010:

"Gilgit and Baltistan are in effect under military rule. Democratic activists there want a legislature and other institutions without restrictions like the ones imposed on Free Kashmir, where the elected legislature controls only 4 out of 56 subjects covered in the state constitution. The rest are under the jurisdiction of a 'Kashmir Council' appointed by the president of Pakistan." (NYT, 26 August 2010)

## **1.7 Governance of the border between Pakistan-administered Kashmir and India-administered Kashmir ("Line of Control")**

The Economist notes that the Line of Control (LoC), described as being "by and large [...] the de-facto international frontier within Kashmir", is accepted by both Pakistan and India" (Economist, 8 February 2012).

An article by Al Jazeera provides the following brief overview regarding the LoC:

"The Line of Control (LOC) runs 742km (460 miles) dividing Indian- and Pakistan-controlled Kashmir, and acts as part of the de facto border between the two countries. The military frontline, which runs through inhospitable terrain, has separated hundreds of families and even divided villages and mountains. [...]"

The LOC is rooted in the ceasefire lines drawn up after the first India-Pakistan war in 1947-8. It was formally established in 1972, after a third war between India and Pakistan in 1971." (Reuters, 20 October 2008)

Information with regard to the role of the UN Military Observer Group in India and Pakistan (UNMOGIP) in monitoring the observance of the ceasefire along the LoC is provided on the undated website of UNMOGIP:

"In July 1972, India and Pakistan signed an agreement defining a Line of Control in Kashmir which, with minor deviations, followed the same course as the ceasefire line established by the Karachi Agreement in 1949 [which established a ceasefire line to be supervised by UN military observers]. India took the position that the mandate of UNMOGIP had lapsed, since it related specifically to the ceasefire line under the Karachi Agreement. Pakistan, however, did not accept this position.

Given the disagreement between the two parties over UNMOGIP's mandate and functions, the Secretary-General's position has been that UNMOGIP could be terminated only by a decision of the Security Council. In the absence of such an agreement, UNMOGIP has been maintained with the same arrangements as established following December 1971 ceasefire. The tasks of UNMOGIP have been to observe, to the extent possible, developments pertaining to the strict observance of the ceasefire of 17 December 1971 and to report thereon to the Secretary-General.

The military authorities of Pakistan have continued to lodge complaints with UNMOGIP about ceasefire violations. The military authorities of India have lodged no complaints since January 1972 and have restricted the activities of the UN observers on the Indian side of the Line of Control. They have, however, continued to provide accommodation, transport and other facilities to UNMOGIP." (UNMOGIP, undated)

### *1.7.1 Ability of civilians to move across the Line of Control*

Based on an opinion poll conducted in the autumn of 2009 among local residents on both sides of the LoC, a report published by Chatham House in May 2010 notes:

"The LoC is an almost complete barrier to movement. 8% of the respondents claimed to have friends or family living on the other side of the LoC but only 1% of the total population had visited in the last five years. Less than 5% knew anyone who had crossed the LoC in the last five years." (Chatham House, May 2010, p. 20)

A July 2011 report by the US Institute for Peace (USIP) (authors: P. R. Chari, D. Suba Chandran, and Shaheen Akhtar) provides the following overview of civilian movement and interaction across the LoC:

"The first cross-LoC CBM (confidence-building measure) between India and Pakistan - historic for J&K [Indian-controlled Jammu and Kashmir] - was the inauguration of the bus service between Srinagar and Muzaffarabad in 2005. Later, this move was followed by the establishment of bus service between Poonch and Rawalakot. Both these bus services met the needs and aspirations of divided families living along the LoC, the majority of whom live in the erstwhile Poonch princely state and are dispersed over Nowshera, Rajouri, and Poonch districts on the Indian side, and Rawalakot and Bhimber on the Pakistani side. While the number of divided families in the Kashmir Valley is fewer, there are large numbers of divided families in the Kargil and Skardu districts. The Gilgit, Skardu, Leh, and Kargil regions are important, because they constitute the largest subregion of Kashmir. Outside the Kargil district, divided families are spread throughout Ladakh. For example, there are families in Leh town with family connections on the other side. The family and business linkages of several families who traded along the famous Silk Route in the southern sector extend to Gilgit and Kashgar in the north and Yarkand in the east. Turtuk region, in particular, has families more recently divided, as it was captured by India during the 1971 war. In Jammu region, there are many divided families outside the districts of Rajouri and Poonch; in the Nowshera tehsil (administrative division within a district), there are families with familial links in Mirpur. There is a direct road between Mirpur and Nowshera, which was opened shortly after the earthquake in 2005. Unfortunately, despite repeated requests for more, cross-LoC interactions among divided families, which the two bus services were designed to address, are primarily helping those in select districts in the Kashmir Valley—Rajouri and Poonch on the Indian side and Muzaffarabad, Mirpur, and Rawalakot on the Pakistani side. There is a need to enlarge this service and the regions that are connected across the LoC. More important, the Shia Muslims of the Kargil-Skardu region and the Buddhists in Ladakh continue to have links with each other. People in Ladakh, Kargil, Skardu, and Gilgit have a Balti identity and feel that while divided families of the Kashmiri and Pahari Muslims have the opportunity to meet each other, the Baltis, especially Shia Muslims of the Kargil- Skardu regions, have been denied this opportunity." (USIP, July 2011, p. 3)

As reported by the Pakistani newspaper Express Tribune in April 2011, the intra-Kashmir bus service between Muzaffarabad and Srinagar began on 7 April 2005 as a confidence-building measure between India and Pakistan. Initially started as a bi-weekly service, in August 2008 it began travelling at weekly intervals. Another bus service was established on 6 June 2006, between Rawalakot in Pakistan and Poonch in India. The article further provides the following information regarding the number of persons having so far crossed the LoC through the Muzaffarad-Srinagar and Rawalakot-Poonch routes in both directions as well as the number of applications for travel permits that have been received and granted:

"Through the Muzaffarad-Srinagar route, 4,000 Kashmiris from Pakistan have crossed over into India in the past six years while 2,400 Indians have come to Pakistan. Through the Rawalakot-Poonch route, 3,000 Kashmiris travelled from Pakistan to India and 3,378 Kashmiris came into Pakistan from India. Over 12,000 applications for a travel permit have been received at the central office of the Cross LoC Trade and Travel Center. Of these, 9,000 have been sent to Indian Kashmir for clearance and 5,000 have been



cleared. From India, the office has received 5,738 applications and 2,971 have been cleared." (Express Tribune, 16 April 2011)

Agence France-Presse (AFP) news agency reports in July 2010:

"Hundreds of Kashmiri nationalists on Tuesday rallied against restrictions on their travel to the Indian-administered side of the disputed Himalayan territory. The demonstration gathered close to the Line of Control (LoC), which separates the Indian and Pakistani parts of Kashmir, but were stopped from massing at the border for security reasons, an AFP reporter at the scene said. The protesters say they should be allowed to roam freely between both parts of Kashmir if they hold a valid nationality certificate, but authorities said their policy was to allow only those with relatives on the other side to cross." (AFP, 20 July 2010)

## 2 Main Political Developments

This chapter includes information on the November 2009 elections and the main political developments since January 2010.

### 2.1 Talks and confidence-building measures between Pakistan and India in relation to Kashmir; ceasefire violations

#### *2.1.1 Negotiations between Pakistan and India and confidence-building measures*

Freedom House (FH) notes in its report *Freedom in the World 2011* that negotiations between India and Pakistan resumed in mid-2009 after a breakdown following the 2008 Mumbai terrorist attacks and continued through 2010. According to FH, “[d]espite periodic talks and high-level meetings between India and Pakistan, little progress has been made toward a comprehensive resolution of the Kashmir dispute” and “[i]n July 2010, the Azad Kashmir leadership objected to the exclusion of Kashmiris from the bilateral talks.” (FH, 18 August 2011)

As reported by Voice of America (VOA) in July 2011, since the Mumbai terror attacks of November 2008, which were blamed by India on Pakistan, trade across the Line of Control (LoC) became “dormant”, with vehicles merely permitted to cross on two days per week (VOA, 24 June 2011).

In its September 2011 report, the Center for Strategic and International Studies (CSIS) provides an overview of peace negotiations and confidence-building measures agreed upon between Pakistan and India since 2004 as well as security developments in the region:

“In June 2004, India and Pakistan engaged in their most wide-ranging and comprehensive peace negotiations, and since, violence has registered a dramatic decrease. In 2010, for example, only 36 civilians were killed in militant violence, compared to 1,067 in 2001. Matters in Kashmir however remain tense [...].

This may have been borne out in part by the fact that the beginning of Indian and Pakistani talks were followed by a dramatic decrease in infiltrations across the LoC decreasing from 2,417 incidences in 2001 to 342 by 2008 - although the number increased to 489 in 2010 [...]. Progress towards cross-border cooperation marked the period, including the resumption of a bus service between Srinagar and Muzzafarabad in April 2005 for the first time in nearly six decades. The Indian and Pakistani militaries have set up crisis ‘hot lines’ to manage conflict, regular flag meetings to discuss ceasefire violations, and in October 2005, the opening of five major border crossings for humanitarian relief after the 2005 earthquake. In January-March 2011, attacks registered a further 45% decline relative to the same period the previous year, according to the J&K police chief. [...] Rapprochement alone has not secured increased peace. Other factors facilitating a decline in violence have included significant pressure on the Musharraf government by the United States, the 700-kilometers of fencing along the LoC, and a pronounced decrease in Kashmiri support for violent militancy.” (CSIS, September 2011, p. 175)

As noted by the US Institute for Peace (USIP) in its July 2011 report, two cross-border confidence-building measures have been in place since 2005, namely the bus services and trade links (USIP, July 2011, p. 3).

For information on the first cross-LoC confidence-building measure, the establishment of bus services between Srinagar and Muzaffarabad (April 2005) and Poonch-Rawalakot (June 2006), please see chapter 1.7.1. ("Ability of civilians to move across the Line of Control").

The second major confidence-building measure, the opening of trade between (India-administered) Jammu & Kashmir (J&K) and (Pakistan-administered) Azad Jammu Kashmir (AJK) beginning in October 2008, is detailed as follows:

"The second major cross-LoC confidence-building measure is trade between J&K and AJK, which began in October 2008. Trucks carry specified goods from a basket of twenty-one items along the same routes on which the buses ply. Initially, the agreement called for a fortnightly movement of trucks, but, a few months after the inauguration of trade, the modalities were revised. A weekly exchange was introduced. Like the bus service, the truck service also has serious limitations. Though the business community is happy about the opening up of the LoC for the movement of goods, significant irritants remain. Contrary to popular expectations, the trade basket and quantity of goods remain small. In addition, the trade is restricted to the geographical limits of Kashmir and is not permitted via Kashmir to other parts of India and Pakistan; the popular expectation, especially in the Kashmir Valley, was that opening the LoC for trade would allow businessmen to trade in different goods - from carpets to apples - all the way to the Gulf countries via Karachi." (USIP, July 2011, p. 3)

BBC further adds that a rail service across the LoC was also introduced in October 2008 (BBC, 14 September 2010).

In an article published in August 2011, the New York Times (NYT) notes a decrease in tensions in the Kashmir valley while talks between Pakistan and India resumed after a two-year interruption following the 2008 Mumbai attacks. On 27 July 2011, the two countries announced a series of new measures aimed at easing restrictions at the Line of Control:

"A détente between India and Pakistan has helped cool tensions in the region, officials here say. Talks between the nations had been on hold for two years after militants from Pakistan attacked the city of Mumbai, formerly Bombay, killing more than 160 people. The talks resumed this year in earnest, and on July 27 the two countries announced a series of measures aimed at easing restrictions at the Line of Control, the de facto border between the parts of Kashmir each country controls." (NYT, 9 August 2011)

The Guardian newspaper reports that Hina Rabbani Khar and SM Krishna, the foreign ministers of Pakistan and India, agreed to ease travel restrictions and double the number of days the LoC would be open for trade. Pakistan further agreed to grant India the most favoured nation status while India announced to lower its tariff duties (Guardian, 2 August 2011).

The Nation, a Pakistani newspaper, further details:

"New CBMs include increase in trade days from 2 to 4 in a week, Introduction of Travel Permit for 6 months with multiple Entries to be issued within a maximum time period of 45 days, Facilitation of regular Meetings of Chamber of Commerce and Industry from both sides, Strengthening of Telecommunication Facilities for cross LOC Trade and Provision of adequate facilities at Trade Facilitation Centres on both sides." (Nation, 28 July 2011)

A joint statement by the foreign ministers of Pakistan and India regarding new measures decided on 27 July 2011 with respect to cross-LoC trade and travel is published on the website of the Embassy of Pakistan in Berlin:

"Cross-LoC Trade:

- i) List of 21 products of permissible items for Cross-LoC trade will be respected by both sides. The Working Group will review the trading list with a view to further specifying permissible items to facilitate intra-Jammu & Kashmir Cross-LoC trade.
- ii) Both sides will provide adequate facilities at the trade facilitation centres on each side.
- iii) The number of trading days stand enhanced from 2 to 4 days per week. Truck movements shall take place on Tuesdays, Wednesdays, Thursdays and Fridays, both on Srinagar-Muzaffarabad and Poonch-Rawalakot routes.
- iv) The Designated Authorities will resolve operational issues concerning cross-LoC trade through regular interaction.
- v) Regular meetings between the Chambers of Commerce and traders of both sides will be facilitated.
- vi) Existing telephone communication facilities should be strengthened.
- vii) The meetings of the Designated Authorities will be held alternately at the Terminal of the Crossing Points on both sides of the LoC every quarter or as and when deemed necessary.

Cross-LoC Travel

- i) Cross-LoC travel would be expanded on both sides of the LoC to include visits for tourism and religious pilgrimage. In this regard, the modalities will be worked out by both sides.
- ii) Facilities including waiting area, terminal and clearing procedures at the operational crossing points will be streamlined by both sides for smooth Cross-LoC travel.
- iii) The Cross-LoC bus service between Srinagar-Muzaffarabad and Poonch-Rawalakot routes will henceforth run on every Monday.

iv) Application forms and requisite documentation in respect of travel across LoC will be exchanged by email between Designated Authorities of both sides. Such email transfer of application forms will be backed up by hard copies.

v) Both sides will expedite the processing time for applications, which shall not be more than 45 days.

vi) Six month multiple entry cross-LoC travel permits will be allowed by the Designated Authorities after completion of the required formalities at an early date.

vii) Coordination meetings between the Designated Authorities will be held at the Terminals alternately on both sides of the LoC every quarter or as and when deemed necessary.

It was agreed that the Joint Working Group will henceforth meet on a bi-annual basis to review existing arrangements and suggest additional measures for Cross-LoC travel and trade." (Embassy of Pakistan in Berlin, 27 July 2011)

### *2.1.2 Ceasefire violations*

The Travel.State.Gov website of the US Department of State (USDOS) notes that "[w]hile direct military hostilities between India and Pakistan across the Line of Control (LOC) are infrequent, militant groups engaged in a long-running insurgency on the Indian side of the LOC have bases and supporters operating from the Pakistani side." (USDOS, 31 October 2011)

The Center for Strategic and International Studies (CSIS) states in its September 2011 report:

"Indian capabilities have increased at border-control and counterinsurgency and it is now estimated that only 15-20% of infiltrators are able to get across the border. However since 2008, the ceasefire has come under pressure. Pakistani initiated attacks across the LoC with mortars and small arms fire sporadically resumed, largely in the Poonch and Rajouri districts, and on July 28, 2008, Pakistani troops crossed the LoC for the first time since 1999." (CSIS, September 2011, p. 175-176)

According to a November 2011 article by the Times of India, Pakistan committed 45 ceasefire violations since the beginning of the year:

"Pakistan has violated ceasefire along the Line of Control (LoC) in Jammu and Kashmir 45 times this year - the maximum in the last three years - when troops from its side indulged in 'unprovoked' firing. The LoC had seen such violation 44 times last year as compared to 28 in 2009. Though Indian side had responded by counter-firing on many occasions, the increasing number of firing from across the border has caused concern within India security establishments." (Times of India, 30 November 2011)

As reported by the BBC, in September 2011 three Pakistani soldiers were killed by Indian forces in firing across the LoC. India accused Pakistan of opening fire first (BBC, 5 January 2012).

The news agency Press Trust of India notes four ceasefire violations in the month of December 2011:

"Violating the ceasefire yet again, Pakistani troops fired at a Border Security Force (BSF) patrol party leaving a jawan injured in the northernmost Indian state's Samba district. [...] This is the fourth ceasefire violation by Pakistani troops along the Line of Control (LoC) in Jammu and Kashmir this month. On December 22, Pakistani troops targeted Indian posts with over 700 rounds of small arms fire to give cover fire to a group of infiltrating militants along the LoC in Nangi Tikri-Krishna Gati area of Poonch district. On December 14, troops foiled an infiltration bid by a group of 4-5 militants along LoC in Tarkundi forest belt of Bhimbergali sector in Poonch district. Pakistanis troops resorted to small arms firing and rocket attacks on Indian Posts in Krishnagati sub-sector along LoC in Poonch district on December 5. Pakistan troops had also fired at Indian posts in Kupwara district on 4 December." (PTI, 31 December 2011)

Media articles report on several ceasefire violations (shootouts and infiltration attempts) across the LoC since January 2012 (PTI, 4 January 2012; PTI, 4 January 2012; Kashmir Times, 19 March 2012; IANS, 22 March 2012).

## **2.2 Elections in Gilgit-Baltistan, November 2009**

An election observation report published by the Human Rights Commission of Pakistan (HRCP) in January 2010 contains the following detailed account and evaluation of the GBLA elections held on 12 November 2009:

"On September 22, the Election Commission of Pakistan announced the schedule for the Gilgit-Baltistan elections, fixing the polling date as November 12, 2009. Mr. Rahim Nawaz Durrani took oath as the chief election commissioner of Gilgit-Baltistan on October 20, just 23 days before the polling date. The voting age was reduced from 21 years to 18 years through an amendment to Section 6(1) (b) of the Electoral Rolls Act, 1975. This necessitated extensive changes to voters' lists in a very short span of time. Gilgit-Baltistan does not have a Political Parties Act, and the region's Election Commission accepted all parties registered as political parties elsewhere in Pakistan and later, on the advice of the Election Commission of Pakistan, considered the Political Parties Act applicable mutatis mutandis, which allowed local parties such as the Baloristan National Front to contest the elections as a political party. The Gilgit-Baltistan Legislative Assembly (Elections) Order, 1975 governs all aspects of the elections and is in all material respects similar to Pakistan's Representation of Peoples Act, 1976. The Order did not increase the number of directly-elected members in the Gilgit-Baltistan Legislative Assembly, and so no fresh delimitation of constituencies was needed." (HRCP, January 2010, p. 5)

"Out of a total of 24 constituencies, elections were held in 23 constituencies in the seven districts of Gilgit-Baltistan – Astore, Diamer, Ghanche, Ghizer, Gilgit, Hunza-Nagar, and Skardu – on November 12. Polling was postponed in one constituency, GBLA-19 (Ghizer-I), on account of a candidate's death. According to EC statistics, 387 candidates filed nomination papers and nominations of 359 were accepted after scrutiny. After retirement of candidates and withdrawal of nomination papers, 264 candidates remained in the field,

of which 99 represented different political parties and 165 were contesting as independents. The total number of eligible voters was 717,286 – 384,909 male and 332,377 female. Of the 1,022 polling stations in the region, 119 were categorised as ‘very sensitive’ and 153 as ‘sensitive’ polling stations. As many as 3,021 polling staff oversaw the elections in the 1,022 polling stations.” (HRCP, January 2010, p. 7)

“The main difficulty for the EC was making all administrative arrangements for holding the elections in a very short period. This obviously resulted in a heap of inaccuracies in the electoral rolls, inadequacy of the polling stations – and the polling booths therein – insufficient polling staff and the severe lack of security arrangements. [...]

The errors in the voters’ lists, including deletions or shifting of votes from one polling station to another, affected nearly 20 percent of total voters. The duplications in the voters’ list were mostly serialwise i.e. names of all voters from one polling station were included in the list for other polling stations collectively. In just one such example, at Nomal polling station No. 50 at Faizabad (GBLA-1, Gilgit-I), it was observed that 129 votes (from serial No. 3023 to 3152) had been shifted to two other polling stations, one, Batot, a few kilometres away and the other, Gur, in a different constituency (GBLA-3). Such flaws mainly showed negligence and lack of oversight in preparation of electoral rolls rather than deliberate attempts at systematic rigging by any one group or party.” (HRCP, January 2010, p. 8-9)

“There were allegations of general government interference and influence during the election campaign. The role of the acting governor was seen as partisan and, as one candidate put it, ‘being the sole administrative authority of the region the entire administration is dancing on his directions.’ There were allegations that the PPP candidates had managed to get individuals of their choice appointed as polling staff, and while there was a ban on postings and transfers of civil servants, PPP candidate could manage transfers on back dates.” (HRCP, January 2010, p. 14)

“In Diamer district, women generally do not vote. Most of the major political parties stated that there is no ‘tradition’ of women voting in the district. Women in Diamer and some other parts of Gilgit-Baltistan are prevented from voting by virtue of illegal agreements among candidates. This is in contrast with the practice in some other parts of Gilgit-Baltistan where votes are polled in combined polling stations for men and women.” (HRCP, January 2010, p. 15)

“Apart from the PML-Q, no major political party awarded a ticket to a female candidate. The PML-Q fielded a woman candidate on a general seat, while another contested the election as an independent candidate. Both had been elected on reserved seats in the 2004 elections.” (HRCP, January 2010, p. 15-16)

“Though the people came to the polling stations in large numbers, that did not translate into a heavy polling largely on account of inadequate arrangements. It was observed that many people left after waiting at the polling stations for hours as the day wore on and the weather became colder. Scores of voters were disallowed from casting their vote on

account of flaws in the electoral rolls. At a number of polling stations the voters in the queues were not able to poll their votes by the end of polling time because of slow polling process or stoppages, some deliberate by the candidates' agents. Polling stations where the number of voters per booth was around 500 seemed more manageable. [...]

The government did not provide adequate number of law enforcement personnel required for effective security of polling stations and the voters and for denying the hooligans entry into the polling stations, at times with weapons, who harassed voters and the polling staff at will." (HRCP, January 2010, p. 17)

"A systematic mechanism for complaint resolution was missing. Even two months after the elections, the Commission did not have statistics on the number of complaints it had received, the subject matter of the complaints, or the identity of complainant candidates or parties. [...] The CEC informed HRCP that around 50 percent of the complaints were regarding administrative mismanagement, which had been forwarded to the relevant authorities. He said all the remaining complaints had been addressed. The government has established a special election tribunal to resolve electoral disputes. Mr. Sarwar Khan Durrani has been appointed as the judge for the tribunal which has been functioning since January 15, 2010. Candidates have filed eight writ petitions – five from Gilgit district, two from Diamer district and one from Ghizer district." (HRCP, January 2010, p. 19-20)

"While the relatively peaceful conclusion of the Gilgit-Baltistan elections and the enthusiastic turnout of voters are to be appreciated, the electoral exercise was marred by flaws caused by haste in holding the polls and inadequate preparations. Besides, the pre-poll climate had been considerably vitiated by government efforts to lure voters with relief and development packages. The polling process may have been free to a large extent, the campaign leading up to the election was not fair. Systematic exclusion of women from voting in some areas and lack of official action or penalty for the culprits was disappointing, as was the fact that out of the 99 candidates put up by the political parties, there was only one woman. The Election Commission machinery worked under severe time constraints and without adequate security." (HRCP, January 2010, p. 21)

Freedom House (FH) reports in August 2011:

„No pro-independence 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." (FH, 18 August 2011)



The GBLA election results are reported by AAJ News, a Pakistani television channel, as follows:

“The maiden elections for Gilgit-Baltistan Legislative Assembly under the newly introduced package were held on Thursday in the seven districts of Gilgit-Baltistan amid tightened security arrangements, wherein PPP has emerged as winning majority seats of the Assembly. According to initial but unofficial results, PPP has bagged 11 seats followed by PML-N, PML-Q with two seats each while two independent candidates have also returned successful. MQM and JUI-F have also bagged one seat each for the first time in the history of the Gilgit-Baltistan. Heavy contingents of law enforcement agencies including army, paramilitary forces and police were deployed across Gilgit-Baltistan to avoid any untoward incident during the voting. However, reports of violence and killing of three people were received from different parts of the area till filing of the report.” (AAJ News, 13 November 2009)

The US Department of State (USDOS) reports in its Human Rights Report on Pakistan dated April 2011:

„The first elections in Gilgit Baltistan were held in November 2009 for a 24-member legislative assembly, with the PPP winning the majority of the votes. Syed Mehdi Shah of the PPP was chosen as the first-ever chief minister, replacing direct rule by the federal government. According to a preelection analysis by FAFEN, government interference, weak administration, procedural irregularities, and erroneous voter lists affected the election results. Although the election was largely peaceful, two persons were killed and at least 40 were injured in several incidents of violence. On March 23, Shama Khalid took the oath as governor of Gilgit-Baltistan, becoming the country's second-ever female governor of a province; however, she died from cancer on September 15.” (USDOS, 8 April 2011, section 3)

Freedom House (FH) states in its report *Freedom in the World 2011*:

“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.” (FH, 18 August 2011)

### **2.3 Elections in Azad Kashmir, 26 June 2011**

A July 2011 report published by the AfPak Channel, a joint project of the New America Foundation and Foreign Policy magazine, provides the following observations and analysis on the Azad Kashmir Legislative Assembly elections held on 26 June 2011:

“Twenty-five political parties, including the local branches of the ruling Pakistan Peoples Party (PPP), Muslim Conference (a local party credited for leading the revolt against the

princely ruler of Jammu and Kashmir in 1947), Pakistan Muslim League - Nawaz (PML-N), Muttahida Qaumi Movement (MQM), the Islamist Jamaat-e-Islami, contested the elections. PML-N leader and namesake Nawaz Sharif led his party's campaign, while Pakistan's prime minister Yousaf Raza Gilani was the face of the PPP. The electoral battle was far from smooth, as violence claimed three lives and scores of political agents and workers were injured during the process. According to the unofficial results, of 34 seats contested, the PPP won 19, the PML-N nine, the Muslim Conference four, while two independent candidates managed to work their way in as well. [...]

In actual practice [...] no political party that openly advocates independence for PAJK [Pakistan-administered Jammu and Kashmir] can participate in the elections. Part 2 of section 7 of the 1974 PAJK constitution says that 'no person or political party in Azad Jammu and Kashmir shall be permitted to propagate against or take part in activities prejudicial or detrimental to the ideology of the state's accession to Pakistan.' Under section 5 (2) (vii) of the PAJK Legislative Assembly Election Ordinance 1970, 'a person will be disqualified for propagating any opinion or action in any manner prejudicial to the ideology of Pakistan, the ideology of state's [sic] accession to Pakistan, or the sovereignty and integrity of Pakistan.' Thus, without signing a sworn statement of allegiance to Jammu and Kashmir's accession to Pakistan and thus renouncing the region's independence, nobody is allowed to take part in the PAJK legislative assembly elections.

Notwithstanding the integrationist provisions within the PAJK constitution, Pakistani political parties have always taken a nuanced public stand in the region's politics, though intervention of the federal government was quite obvious at frequent occasions in the power struggle within the region. The present election is an important watershed in the region's political history, as the electoral process converted the region into a virtual playground of Pakistani politics. Though the PPP has been an important political player in the region for more than two decades, these elections marked the entry into the local politics of the PML-N, which had traditionally supported the Muslim Conference. [...]

The PAJK election will ultimately have several important implications. The entry of more political parties in the region has since increased competition, which in turn may prove to be better for the electorate. In the past, most of the critical decisions regarding the region were taken by the federal government, which then defended these decisions under the guise of 'national interests' which placed the policies above question. Potentially, now with a greater participation of Pakistani political parties in PAJK, there will be greater federal government accountability in the region, and a greater need to both explain government actions and more directly provide for the local people.

The election also demolishes the decades-old myth perpetuated in Pakistan that PAJK is a separate country. It has become an extension of Pakistan's polity, a fact that will almost certainly re-shape the narrative of the Pakistani political elite on PAJK - something that will in turn have implications on the broader Jammu and Kashmir issue. Pro-independence groups, particularly in southern PAJK (which incidentally garner extensive support from the diaspora), and regional political groups will continue to oppose the full-scale

participation of Pakistani political parties in PAJK governance, which may cause increased friction in the future.” (AfPak Channel, 7 July 2011)

Dawn newspaper provides the following coverage of the situation on election day:

“Voting took place in 37 out of 41 electoral constituencies including 29 of AJK and 8 out of all 12 meant for Pakistan-based Jammu & Kashmir refugees in a partially peaceful and smooth manner, officials said.

Elections were postponed in three constituencies including LA-30 (Jammu-I) and LA-36 (Kashmir valley-I) due to worsening law and order situation in Karachi and in LA-41 (Kashmir valley-6) following challenging of voters list related to Khyber PakhtunKhawa province in the court of law.

Similarly, polling in electoral constituency of LA-37 (Kashmir valley) in Lahore was postponed following violent clashes between the workers of PPP and PML-N at the beginning of polling on Sunday morning, AJK Elections Commission sources told APP when contacted. [...]

The voters were seen moving to the polling stations on their own, however, female voters, in some constituencies, were seen moving through the vehicles belonging to various candidates. Para-military troops were posted at the sensitive polling stations in all the electoral constituencies to assist the civil administration and police to maintain law and order situation. A thumping majority of a total of 30,39,926 [based on the South Asian Numbering system, meaning 3,039,926] eligible registered voters (both male and female) moved to 4351 polling stations to exercise their right of vote to elect their representatives for AJK Legislative Assembly, the AJK Election Commission sources said.

Strict security measures were adopted by local administrations in all the electoral constituencies to deal with any untoward incident effectively. Over 700 polling stations were declared sensitive where extra para-military troops were deployed to assist the local police for dealing with any eventuality. The polling agents of various candidates and polling staff deployed at various polling stations while talking to APP expressed their complete satisfaction over the voting process.” (Dawn, 27 June 2011)

A Geo TV report published on 27 June 2011 presents the following preliminary election results:

“Pakistan People’s Party has already won simple majority attaining the position of forming a government for which efforts are on foot, following Azad Jammu and Kashmir (AJK) elections’ unofficial results for thirty six seats made available thus far, Geo News reported. There are forty one seats in the AJK Legislative Assembly, but the elections on four seats were postponed. According to unofficial results of the elections held on the seats, PPP won 19 seats, Muslim League-N 9, Muslim Conference 3, and 2 independent candidates succeeded in winning the seats.” (Geo TV, 27 June 2011)

A July 2011 article by the Daily Times, a Pakistani newspaper, notes with regard to the occupancy of the reserved seats of the Azad Kashmir Legislative Assembly following the elections:

„Pakistan People’s Party (PPP) Azad Jammu Kashmir (AJK), on Sunday, won six out of eight reserved seats in the elections for AJK’s Legislative Assembly, raising its strength to 29 in the House of 49. [...]

PPP secured six seats, three for women and one each for ulema mashaikh (religious scholars), technocrats and overseas Kashmiris, while Pakistan Muslim League-Nawaz (PML-N) and the Muslim Conference won one woman seat each.

Those who were elected on five reserved seats for women included PPP’s Shazia Akbar, Sadaf Sheikh and Shaheen Dar, Fauzia Ashraf of PML-N and Meher-u-Nisa of Muslim Conference, whose victory was facilitated by two votes of PPP.

Sardar Abid Hussain Abid, Pir Attiqur Rehman and Raja Wajid of PPP were elected on the seats of technocrats, ulema mashaikh and overseas Kashmiris respectively with the majority vote of 25.” (Daily Times, 25 July 2011)

According to the Nation newspaper (Pakistan), Ch Abdul Majeed was elected Prime Minister of Azad Jammu & Kashmir in a voting in the new Azad Kashmir Legislative Assembly on 26 July 2011, obtaining 35 votes against 11 secured by his only rival candidate, Raja Farooq Haider Khan (PML-N) (Nation, 27 July 2011).

As reported on New Kerala news website on 25 June 2011 quoting official figures, some 12,000 armed forces personnel and 15,000 policemen have been deployed for the Azad Kashmir elections (New Kerala, 25 June 2011).

## **2.4 Demands for separatism**

The Christian Science Monitor (CSM) gives the following overview with regard to demands for autonomy in Gilgit-Baltistan:

„In an effort to meet long-simmering demands for greater autonomy, Pakistan’s Pakistan People’s Party-led government granted this region limited autonomy, including their own elected assembly in 2009. At the time it was hailed as a great success and potential model for the rest of the disputed region by commentators in Pakistan. Now, three years later, many in this region say they aren’t seeing enough change.

„We don’t control any of our own income generating ministries – tourism, forestry, water and power, gems, or commerce and works,’ says Nawaz Khan Naji, founder and president of the Balawaristan National Front. [...] Autonomy is an illusion, he says, because Gilgit-Baltistan has not been formally recognized as a province in Pakistan’s constitution. It is governed according to a ‚colonial system’ by Islamabad-appointed bureaucrats under a council headed by Pakistani Prime Minister Yusuf Raza Gilani. Naji’s party goes further than the Labour Party and demands outright independence.

The territory, known for its towering mountains (including K2) and beautiful lakes, was ceded to Pakistan on Nov. 1, 1947, following a three-month struggle against the Hindu Maharaja of Kashmir who at the time controlled the entire state of Kashmir.

But the Pakistani government chose to govern both Gilgit-Baltistan and Azad Jammu and Kashmir (AJK) directly rather than grant them provincial status in the hope that one day a referendum would be carried out across both Pakistani and Indian Kashmir so that the territory could choose to join either Pakistan or India.

That ambiguous status has led to resentment. While pro-independence sentiments are limited here – especially compared with Indian Kashmir, which underwent a Pakistan-backed rebellion in the 1980s and 1990s – calls for greater autonomy are more widespread. Pro-independence activists and journalists routinely face harassment and intimidation as well as jail time, say human rights activists.” (CSM, 28 November 2011)

For further information on groups and movements espousing self-determination or independence of Kashmir, see chapter 1.3 („Overview of the main political parties”).

### 3 Security Situation

This chapter contains information on security-related developments since January 2010.

#### 3.1 Level of militarization and insurgency in Pakistan-administered Kashmir

##### 3.1.1 Militarization

International Crisis Group (ICG), in a May 2012 report, states that both Azad Kashmir and (Indian-administered) Jammu and Kashmir remain "heavily militarized" (ICG, 3 May 2012, p. 18). As noted by *The Economist*, "huge numbers" of Indian and Pakistani troops are stationed in Kashmir as both countries claim to be the "rightful authority for the rest of Kashmir" (*Economist*, 8 February 2012). Freedom House (FH) states that "[a] large number of Pakistani military personnel are stationed in Gilgit-Baltistan, particularly at times of potential unrest, such as the 2009 elections." (FH, 18 August 2011). The Indo-Asian News Service (IANS) quotes Senger Sering, a Gilgit-Baltistan activist based in the United States, as saying that the area is highly militarized and the Pakistan Army controls „everything“ (IANS, 22 February 2012). Several sources further refer to the Line of Control as being heavily militarized (WSJ, 23 October 2011; *Al Arabiya*, 4 February 2011; AFP, 30 March 2012).

In a December 2009 article, the Asian Human Rights Commission (AHRC) notes that the Pakistani intelligence agencies "operate heavily" in Azad Kashmir and that Muzaffarabad "hosts at least five ISI centres alongside the other intelligence agencies of the state, most notably the Military Intelligence (MI) (AHRC, 11 December 2009).

##### 3.1.2 Insurgency

In its September 2011 report, the Center for Strategic and International Studies (CSIS) reports on developments regarding pro-independence and pro-Pakistani Kashmiri militant groups and the role of the Pakistani state:

"Kashmiri militant groups are divided into two broad groupings; the pro-Pakistan groups, which favor secession to Pakistan, and the pro-independence groups that favor secession from both India and Pakistan. Their character has changed considerably since the start of the insurgency.

At present, the pro-independence groups have largely been marginalized within the armed struggle, and pro-Pakistani groups including the Lashkar-e-Taiba (LeT), Jaish-e-Mohammad (JeM), Hizbul Mujahideen (HM), Harkat-ul-Mujahideen (HUM), Harkat-ul-Jihad-al-Islami (HuJI) have a near monopoly on organized militant violence. The 'pro-Pakistan' label itself comes with problems these days, as many of these groups that traditionally grew and operated with state support, have either splintered or defected whole-scale to join the ranks of the Punjabi Taliban, and have moved fighters, resources and infrastructure into the FATA. Their consequent involvement in many high-profile terrorist attacks inside Pakistan has implications on their current relationship with Pakistani intelligence agencies, notably the ISI. [...]

Pro-Pakistani groups largely monopolize the armed struggle. Their presence began to be felt soon after the violence began in 1988-89, when the ISI after having been caught

unawares moved to gain greater strategic control over Kashmiri militancy. It introduced several pro-Pakistani groups into the theater, first the Hizbul Mujahideen in mid-1989, and later various others including the Harkat-ul-Mujahideen (HuM) Lashkar-e-Taiba (LeT), Jaish-e-Mohammad (JeM) and the Harkat-ul-Jihad-e-Islami (HuJI). The trend began in earnest in 1994, when Pakistan established the United Jihad Council to coordinate the activities of 13 militant groups including the HuM and the LeT.

Many of these groups drew their cadres from non-Kashmiri groups, including other Pakistani ethnicities, and were more amenable to the incorporation of foreign fighters. By 1993, the Economist estimated about 300-400 foreign fighters inside Kashmir, whereas the Director General of the Indian Border Security Force estimated 2,300. A decade later, in 2003 Indian government officials claimed that over 75% of militants in Kashmir were foreign-fighters. [...]

Indian counterinsurgency capabilities have improved. By 1999 only about 4-5 of the original 13 members of the United Jihad Council were still militarily effective, and the Hizbul Mujahideen (HM), once the most preeminent group in Kashmir, is believed to have substantially weakened by 1998. Today it has only about 500 active militants in its ranks, and has increasingly relied upon IED attacks instead of direct-fire engagements in a reflection of its weakened position. Intra-militant competition has also resulted in a weakening of unity. Part of the HM's current weakness is a result of its attempts to insert itself into the political process and declare a unilateral ceasefire in 2000, a move regarded as betrayal by hardliners, many of who make up other competing militant groups.

Militant dynamics have also changed since 2004, and some analysts today such as Shuja Nawaz firmly believe that the ISI 'has certainly lost control' of Kashmir militant groups. Historically speaking, virtually all Kashmiri groups grew out of the Soviet jihad, and some formed links to al-Qaeda. Today, several Kashmiri militant groups, in particular the HuJI and the JeM are believed to have either splintered or defected whole-scale to form the Punjabi Taliban, and assist tribal militants in their terrorist attacks across Pakistan. [...]

Despite these trends, at present, Pakistan is believed to continue to retain influence over the Kashmiri insurgency. In October 2010, Indian intelligence alleged that Syed Salahuddin, chief of the HM, visited three training camps in Azad Kashmir to help resurrect the insurgency, while accompanied by ISI officials. Pakistan also exerts a strong influence on the extent to which Kashmiri separatist leaders can engage in reconciliation measures with New Delhi." (CSIS, September 2011, p. 178-181)

A March 2012 article published by Mid Day, an Indian newspaper, states:

„In the recent years, many Taliban who escaped from Swat and adjoining areas have found shelter among Sunni extremists in Gilgit. More than 300 suspected terrorists were expelled from Gilgit in October 2008, highlighting fears that the Taliban has a strong presence in the region. The massacre of Shia pilgrims in Kohistan in February this year, while they were on their way back to Gilgit-Baltistan, points to the dangers of Talibanisation. At least 16 Shias were identified, forced to disembark from the bus and

brutally shot to death in Kohistan by the Sunni extremist group, Jundallah." (Midday, 27 March 2012)

A March 2010 BBC article notes that since 2009 militant activity has been on the rise in the Kashmir region and, as evidence suggests, militant groups are operating "under the protection of Pakistan's intelligence establishment" as training camps are being set up in Pakistan-administered Kashmir (BBC, 3 March 2010).

Freedom House (FH) notes with regard to the activities of insurgent groups in 2010:

"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." (FH, 18 August 2011)

The BBC states in a September 2011 article that according to local residents in the Neelum Valley (Azad Kashmir), there has been an increased militant presence in the area as "Pakistan-based militants are flocking to the area and crossing into Indian-administered Kashmir to launch attacks there" (BBC, 15 September 2011).

The New York Times (NYT) reports in a July 2011 article based on accounts of "a prominent former militant commander" that the ISI still supports Pakistani militant groups including some that have turned against the government as the military intends to keep them as "tools" against India. According to the commander, the military used a strategy of divide and rule, encouraging splits in the militant groups so as to weaken and control them. Although the military has lost control of many "firebrand" fighters and has little influence over the foreign fighters in the tribal areas affiliated with Al Qaeda (some of whom openly oppose the government), it was reluctant to move against them. The commander is cited as saying that there are between 12,000 and 14,000 fully trained Kashmiri fighters scattered through various camps in Pakistan (NYT, 3 July 2011).

In an article published by the Times of India in October 2010, the Indian Army Chief Gen V K Singh is quoted as saying that 42 terror camps are run in Pakistan-administered Kashmir as a strategic tool against India:

"Anti-India terrorist infrastructure in Pakistan is intact and currently 42 terror camps, including new ones in Pak-occupied Kashmir, are being run, Army Chief Gen V K Singh



disclosed on Thursday. Now even women are being trained to wage Pakistan's proxy war against India, he said in an interview. Gen Singh said infiltration has gone up recently and around 600 terrorists are waiting at 'launch pads' in PoK along the Line of Control and international border to sneak into India. Pakistan has 'invested heavily in the proxy war against India' and there has been 'no substantial effort' by it to act against terror groups which operate from its soil and are used as a 'strategic tool' by that country." (Times of India, 21 October 2010)

In January 2012, a "top Army Commander" is quoted by the Indian daily The Hindu talking about militants in terrorist training camps in Pakistan:

"A top Army Commander today said nearly 2,500 militants were camping in terrorist training camps in Pakistan and Pakistan-occupied Kashmir. Some 300 ultras were also camping in launching pads in Pakistan and PoK, General Officer Commanding-in-Chief, Northern Command, Lt Gen K T Parnaik told reporters here. "Camps in PoK and Pakistan have 2,000 to 2,500 terrorists as per our own sources. However, in launching pads (along the borderline with Pakistan) they are around 300 or so," he said. On the security situation in Jammu and Kashmir, the Army Commander said it was good. "Violence parameters have been down in 2011. Last year was a fruitful year. We had a fair amount of peace in the State," he said." (The Hindu, 15 January 2012)

In a December 2010 Al Jazeera report based on leaked diplomatic cables citing the head of the Indian army, there are 22 militant training camps in Pakistan-administered Kashmir (Al Jazeera, 11 December 2010).

In a November 2010 article, the BBC quotes Pakistan's Interior Minister as saying that militant groups have been brought under control and that „there is no such policy of training Kashmiri militants to be sent across [to Indian-administered Kashmir]“, while admitting that „some non-state groups“ may still be operating. According to a member of the JKLF, however, Pakistani intelligence agencies continue to support and finance militant groups who maintain training camps in Pakistan-administered Kashmir (BBC, 8 November 2010).

### **3.2 Agents of violence**

As reported by Freedom House (FH) in August 2011, Pakistan's Inter-Services Intelligence (ISI) agency engages in "extensive surveillance" of pro-independence groups (FH, 18 August 2011).

The USDOS indicates that persons who do not support the territory's accession to Pakistan are not only excluded from the political process, government employment, and educational institutions but "also subject to surveillance, harassment, and sometimes imprisonment by security services" (USDOS, 8 April 2011, Section 3).

The Immigration and Refugee Board of Canada (IRB) mentions several 2011 reports of arrests and abuse in detention of pro-independence activists by security forces in Pakistan-administered Kashmir, notably the ISI (IRB, 30 November 2011 b).

According to a lawyer and pro-independence activist cited in a February 2011 BBC article, pro-Pakistan groups such as Lashkar-e-Taiba and Jaish-e-Mohammad maintain offices and camps in several parts of Pakistan-administered Kashmir and persons who oppose them are “threatened, beaten up and arrested” (BBC, 24 February 2011).

As reported by Freedom House (FH), tensions between pro-Pakistan groups and pro-independence groups have led to increased attacks against Shiites (FH, 18 August 2011).

The Center for Strategic and International Studies (CSIS) reports that leaders of the All-Parties Hurriyet Conference, a coalition of Kashmiri separatist parties, have found themselves in the “crosshairs” of militant gunmen backed by Pakistan (CSIS, September 2011, p. 181).

### **3.3 Terrorist attacks and anti-terrorist operations**

The Human Rights Commission of Pakistan (HRCP) *State of Human Rights in 2011* report mentions that 24 terrorist attacks were reported in Gilgit-Baltistan during 2011:

“In all, at least 1,887 incidents of attack by militants, nationalist insurgents and sectarian-related violence were recorded. These claimed the lives of 2,307 people and injuries to 4,341 others across Pakistan. As many as 643 terrorist attacks were reported in FATA, the highest for any region in the country, followed by Balochistan (615), Khyber Pakhtunkhwa (497) Sindh (75, including 56 in Karachi), Punjab (28), Gilgit Baltistan (24) and Islamabad (3).” (HRCP, March 2012, p. 56)

Agence France-Presse (AFP) reports on 28 February 2012 that in Kohistan district of Khyber-Pakhtunkhwa province, 18 Shia Muslim men who were travelling on buses from Rawalpindi to the town of Gilgit were shot dead by gunmen wearing military fatigues. Some of the victims were from Gilgit. As reported by AFP, a local MP linked the ambush to the murder of two Sunni Muslims in Gilgit which had occurred a few days earlier (AFP, 28 February 2012). According to a March 2012 article by Mid Day newspaper, the perpetrators of the bus attack belonged to Jundallah, a Sunni extremist group (Mid Day, 27 March 2012).

Pakistan Today newspaper reports in March 2012 that Section 144 of the Code of Criminal Procedure (CrPC) has been imposed in the aftermath of the 28 February 2012 attack in Kohistan, empowering a district administration to issue orders placing a ban on activity for a specific period of time. Security forces have arrested six persons and started search operation against the perpetrators. The article further reports that protesters clashed with security forces, resulting in two persons sustaining injuries due to firing by the security personnel (Pakistan Today, 5 March 2012).

For further information on sectarian violence in Pakistan-administered Kashmir, please see chapter 4.5 (“Human rights abuses by the armed forces and non-state armed groups”).

As reported by AFP, a failed suicide bombing attempt occurred in Rawalakot district in Azad Kashmir on 12 September 2010 (AFP, 12 September 2010).

In a January 2010 article, the News International newspaper (Pakistan) provides an account of several suicide bombings that took place in Azad Kashmir between June 2009 and January 2010:

"In the first ever incident of suicide bombing in Azad Kashmir on June 26, 2009, four soldiers were killed and three wounded when the bomber blew himself up near an Army vehicle in Muzaffarabad. [...] In the second incident of suicide bombing on November 21, 2009, three suspected militants blew themselves up after the police gave a chase and surrounded them in a mountainous area of Muzaffarabad. All the three seemed to be Pashtuns. In third such incident on December 28, 2009, a suicide bomber blew himself up amid a Muharram procession, killing 10 people, including three policemen. The investigators say the procession was targeted by the Lashkar-e-Jhangvi, a component of the Lashkar-e-Zil. In the fourth such incident on January 6, 2010, a bomber blew himself up outside a military installation in the Tararkhel town of the Sudhnoti district of Azad Kashmir, killing four soldiers of the Pakistan Army. The investigators say the bomber was a member of the Harkat-ul-Jihad al-Islami (Azad Kashmir chapter), a component of the Lashkar-e-Zil." (News International, 11 January 2010)

### **3.4 Level and type of human rights violations**

#### *3.4.1 Extrajudicial killings, arbitrary arrest, detention, disappearances, torture*

For reports on extrajudicial killings, arrest, detention, disappearances and torture containing references to elements linked to the armed forces or military intelligence please refer to chapter 4.5 of this compilation ("Human Rights abuses by the armed forces and non-state armed groups"). As regards information pertaining to opposition political activist, please see chapter 8.2 ("Treatment of supporters of political opposition parties").

On 11 August 2011, police shot dead two male protesters (a father and his son) in Hunza in Gilgit-Baltistan on 11 August 2011 who were demonstrating in order to highlight delays in payment of compensation to families displaced by a landslide in Attabad in early 2010 (Express Tribune, 15 September 2011; HRCP, March 2012, p. 119). The killings were followed by riots directed against a police station. Police later conducted house raids and arrested 17 men allegedly involved in the riots (Express Tribune, 21 August 2011) while the Human Rights Commission of Pakistan (HRCP) indicates that "[a]t least 33 people" were arrested (HRCP, March 2012, p. 314). According to the Institute for Gilgit Baltistan Studies (IGBS), the detained youth were later charged for sedition and terrorism and taken to an unknown location by secret service agents (IGBS, 24 August 2011). The situation in the Hunza valley is also addressed by the World Environment and Resources Council (WERC) in an intervention at the UN Human Rights Council (HRC), stating that there have been "incidents of gang rape" and "accounts of extra-judicial murders, enforced disappearances and arbitrary detentions" as a result of "police and paramilitary action" in the Hunza valley. WERC further notes that two journalists were "arrested and tortured" in August 2011 for exposing the incidents (HRC, 28 September 2011).

The US Department of State (USDOS) indicates that politically motivated disappearances continued in Pakistan during 2010, with disappearances being reported in “nearly all areas of the country” (USDOS, 8 April 2011, section 1b).

According to an account provided to Pakistan’s Supreme Court by the Commission on Missing Persons on 12 July 2011, a total of 228 unresolved cases of disappearances were on its list, including five cases from Azad Kashmir (HRCP, March 2012, p. 22-23). A February 2011 article by Dawn quotes the chairperson of the non-government organisation Defence of Human Rights Pakistan, Amna Masood Janjua, as mentioning that during 2011 there were 95 new reported cases of missing persons, including two from Azad Kashmir (Dawn, 14 February 2012).

### *3.4.2 Civilian casualties*

Among the sources consulted within time constraints, no information specific could be found on this issue. Please see chapter 4.5 that covers “human rights abuses by the armed forces and non-state armed groups”.

### *3.4.3 Extortion, exploitation, land confiscation, arbitrary taxation, forced relocation, human trafficking*

The US Department of State (USDOS) indicates with regard to Pakistan in general that in 2010 “[p]olice and prison officials frequently used the threat of abuse to extort money from prisoners and their families” and further notes that “[c]orruption was pervasive in politics and government and various politicians and public office holders faced allegations of corruption, including bribery, extortion, cronyism, nepotism, patronage, graft, and embezzlement” (USDOS, 8 April 2011, section 1d).

According to a video report published on YouTube by a user called “The Kashmir News”, Pakistani intelligence agencies “openly” engage in the “abduction and extortion of young men” in Pakistan-administered Kashmir. The report quotes a leading cleric in Azad Kashmir as saying that “[a]gencies pick them up [...] and after a few days tell their families that the person is with us and we will leave him after you give money”, adding that “[a]gencies keep the kidnapped ones with them for seven to eight years.” (Kashmir News, 9 August 2011)

Among the sources consulted, no relevant information was found with regard to the prevalence of exploitation, land confiscations, arbitrary taxation, forced relocations and human trafficking in Pakistan-administered Kashmir.

## 4 Security forces, military, armed groups

### 4.1 Security forces in Pakistan-administered Kashmir

#### 4.1.1 Police

The US Institute for Peace (USIP), in a report of February 2011, distinguishes two sets of law enforcement organizations in Pakistan: those organisations operating under the federal government, and the provincial and regional police organizations. The federal law enforcement agencies comprise 18 organisations which, according to the USIP, can be grouped into the following four broad categories:

*The Forces of the Ministry of the Interior* comprise the Islamabad Police and the Federal Investigation Agency (FIA) as well as five paramilitary organizations: the Pakistan Rangers (Sindh and Punjab), the Pakistan Maritime Security Agency, the Frontier Corps (KPP and Balochistan), and the Frontier Constabulary (FC) and the Northern Areas Scouts (Gilgit-Baltistan) (USIP, February 2011, p. 4). For details regarding paramilitary forces operating in Pakistan-administered Kashmir, see chapter 4.1.3 below (“Paramilitary forces”).

*Police planning and management organizations under the Ministry of the Interior* include the National Police Bureau, the National Police Management Board, the National Police Foundation, the National Public Safety Commission and the National Counter-Terrorism Authority (NACTA).

*Other Federal organizations* outside the direct control of the Ministry of the Interior include the National Highways and Motorway Police (Ministry of Communications), the Pakistan Railways Police (Ministry of Railways), the Airport Security Force (Ministry of Defense), and the Anti-Narcotics Force (Ministry of Narcotics Control).

*Intelligence organizations* include the Intelligence Bureau (IB), a civilian agency, and Inter-Services Intelligence (ISI), led by a serving army lieutenant general, as the two major intelligence agencies in Pakistan. Both have regional and provincial offices throughout Pakistan (USIP, February 2011, p. 4-5). For more details on intelligence organisations, see chapter 4.1.4. (“Intelligence services”).

On the provincial and regional levels, Pakistan has four provincial police organizations and regional police organizations for Gilgit-Baltistan and Azad Kashmir. All of those are organised along similar lines and abide by the same set of laws and rules as Pakistan’s four provincial police organisations. Thus the procedural criminal laws (the Penal Code, the Code of Criminal Procedure and the Qanun-e-Shahadat Order) are uniformly applicable to all parts of the country with the exception of the Federally Administered Tribal Areas (FATA). According to numbers provided in the USIP report, Gilgit-Baltistan (with a population of 2 million) has 26 police stations with a police strength of 4,662. In Azad Kashmir (with a population of 5 million) there are 42 police stations and the number of staff is indicated as being 8,373 (USIP, February 2011, p. 6).

An overview of the Gilgit-Baltistan police is provided in the May 2010 Human Rights Commission of Pakistan (HRCP) report:

"The Gilgit-Baltistan Police was constituted in 1972 under an executive order by the federal government. Due to the special circumstances of Gilgit-Baltistan's legal status, its police has to date been supervised and managed by the Ministry of Kashmir Affairs and Northern Areas. However, after the promulgation of the Gilgit-Baltistan (Empowerment and Self-Governance) Order, 2009, the police in that region now fall under the direct supervision of the government of Gilgit-Baltistan. Although the Police Act, 1861, is still in force in Gilgit-Baltistan, investigation duties have been separated from watch and ward. The police continue to work under the Punjab Police Rules of 1934. The top hierarchy of the Gilgit-Baltistan Police are appointed from the Police Service of Pakistan and the junior ranks are recruited from the local population. The total sanctioned strength of the Gilgit-Baltistan Police is 4,662 personnel." (HRCP, May 2010, p. 48-49)

In the aftermath of the 3 April 2012 sectarian violence in Gilgit-Baltistan, the Express Tribune (Pakistan) quotes a PML-N member in Gilgit-Baltistan as noting the presence of armed forces, rangers and intelligence agencies' personnel (Express Tribune, 5 April 2012).

In an article published by the Dardistan Times, Gilgit-Baltistan Chief Minister Mehdi Shah is quoted as saying that while incentives for the local police have been increased and their salaries nearly doubled, their performance remains "zero" (Dardistan Times, 20 January 2011).

#### *4.1.2 Armed forces*

The US Department of State (USDOS) notes in its April 2011 *Country Report on Human Rights Practices 2010*.

"The armed forces are responsible for external security. At times during the year they also were assigned domestic security responsibilities." (USDOS, 8 April 2011, section 1d)

Jane's Information Group indicates the total strength of Pakistan's armed forces as 590,000 (520,000 Army, 45,000 Air Force and 25,000 Navy personnel). Apart from the regular forces, there are 500,000 reservists intended as individual replacements and reinforcements. According to Jane's, reservists receive only "minimal" training for a triennial three week period but are drawn from recent regular service-leavers, who "remain liable for service to the age of 45 and have readily-employable skills." (Jane's, 10 August 2011)

Jane's further notes:

"The army is large, well trained, reasonably well equipped and senior leadership is of a high quality, although there is some evidence of dilution due to 'rank creep'. There is no evidence of religious extremism among senior officers, largely due to tight monitoring of promotion and selection boards by successive army chiefs, although it appears there may be some extremists in junior ranks." (Jane's, 10 August 2011)

An overview of Pakistan's army is given on the undated website Pakistan Defence, a US-based portal providing information and news coverage on the Pakistan Armed Forces:

"Pakistan army is the biggest force in its defense mechanism. There are 651,000 personnel employed in the army with 500,000 personnel in the reserve force. The present General of the Army is General Ashwaq Pervez Kayani. [...]

There are two main branches in the Pakistan Army – Services and Arms, the Services wing consists of Army Services Corps, Corps of Military Police, Military Intelligence Corps, Electrical and Mechanical Engineers, Army Ordnance Corps, Pakistan Army Medical Corps, Army Dental Corps, Remount Veterinary and Farms Corps, Army Education Corps, JAG Corps and Army Clerical Corps. The Arms wing consists of the Armored Corps division, artillery, infantry, air defense, engineers, aviation, signals, chemical corps and airborne division. [...]

Originally, the Pakistani army consisted predominantly of Punjab regiment. However, as of now, the army is equipped with a number of regiments that fight in various formations. Important regiments in the army are Punjab regiment, Frontier Force Regiment, Baloch regiment, Azad Kashmir Regiment, Sind Regiment and Northern Light infantry. Besides these, there are a number of cavalry regiments under Pakistani Armored Corps. A special force is formed for the protection of the President called The President's Bodyguard. [...]

The headquarters of the Pakistani army is at Rawalpindi in Punjab state. The army has thirteen corps divisions, each located in a different part of the country. Each of these Corps, in turn, has a number of armored brigades, artillery brigades, Infantry brigades and anti-tank brigades. The Corps are headquartered at Mangla Cantonment, Multan, Lahore, Gujranwala, Bahawalpur, Karachi, Rawalpindi, Peshawar and Quetta. The air defense command forces and army strategic forces command have their headquarters at Rawalpindi." (Pakistan Defence, undated)

#### *4.1.3 Paramilitary forces*

According to the USIP and a joint report by the Human Rights Commission of Pakistan (HRCP) and the Commonwealth Human Rights Initiative (CHRI), the Northern Areas Scouts perform the function of providing internal security along the border areas of Gilgit-Baltistan. They assist local police forces in law-and-order duties and may be called in aid of the civil administration in times of emergency. The Northern Area Scouts are led by a serving army brigadier and coordinate closely with military deployed in the area. Its total number of employees is indicated as being 3,679 (USIP, February 2011, p. 16, HRCP/CHRI, May 2010, p. 49).

#### *4.1.4 Intelligence services*

The February 2011 report by the US Institute for Peace contains general information on Pakistan's main intelligence agencies, the Intelligence Bureau (IB) and the Inter-Services Intelligence (ISI):

##### *Intelligence Bureau (IB)*

The responsibilities of the Intelligence Bureau (IB), which is a civilian agency, include gathering intelligence (including for counterterrorism purposes) within Pakistan and "disseminating it through the Ministry of Interior to political leadership and various police organizations." Its

director general is either a serving police officer (typically the case during periods of civilian rule), or a serving major general from the army (often the case during military rule). As indicated by the USIP, the number of IB employees supporting police work is around 2,000 (USIP, February 2011, p. 17).

### *Inter-Services Intelligence (ISI)*

Inter-Services Intelligence (ISI) was created in 1948 “to co-ordinate intelligence between the different branches of the Pakistani military” and constitutes “the largest of Pakistan's three intelligence agencies” although “its exact budget and the size of its payroll are classified” (Al Jazeera, 1 February 2012). The ISI only partly deals with law enforcement issues. Its internal wing, the Counter Terrorism Centre, focuses on intelligence gathering and analysis and provides intelligence assessments to the government. The ISI is responsible for sharing relevant information with police organizations through the federal government. As indicated by USIP, the agency’s director-general is a serving lieutenant general of the Pakistan Army who directly reports to the prime minister of Pakistan but also sits in meetings of the army corps commanders and reports to the Chief of Army Staff (USIP, February 2011, p. 17). Al Jazeera notes that the director of the ISI is “appointed by the army chief of staff” while the prime minister merely confirms the decision, and that many Pakistanis see the agency as being “accountable only to itself and to the powerful military, not the civilian government in Islamabad”. Al Jazeera reports that according to estimates by analysts, the ISI has “more than 10,000” employees as well as “a network of tens of thousands of informants and assets” in and outside Pakistan (Al Jazeera, 1 February 2012). The USIP states that approximately 3,500 ISI employees are involved in work linked to police work and counterterrorism (USIP, February 2011, p. 17).

## **4.2 Non-state armed groups**

The Freedom House (FH) *Freedom in the World 2011* report on Pakistan-administered Kashmir provides the following overview:

“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.” (FH, 18 August 2011)

The Center for Strategic and International Studies (CSIS) September 2011 report states that the pro-Pakistani Kashmiri militant groups currently “largely monopolize the armed struggle”, whereas the pro-independence groups have been marginalised. These pro-Pakistani outfits, which were introduced by the ISI in the late 1980s and early 1990s, include Harkat-ul-



Mujahideen (HuM) Lashkar-e-Taiba (LeT), Jaish-e-Mohammad (JeM) and Harkat-ul-Jihad-e-Islami (HuJI). As indicated by CSIS, „[m]any of these groups drew their cadres from non-Kashmiri groups, including other Pakistani ethnicities, and were also “more amenable to the incorporation of foreign fighters” who shifted the insurgency from “a secular nationalist struggle” to “a religious struggle increasingly informed by jihadist Deobandi tenets”. The CSIS reports that currently “most militant groups are believed to maintain camps inside Pakistani administered Kashmir” (CSIS, September 2011, p. 178-179). While it is reported that Pakistan’s government denies any involvement with these groups’ activities, several sources point to alleged links between certain elements of the government, notably the ISI, and militant outfits in Kashmir (CSIS, September 2011, p. 175; BBC, 24 February 2011, BBC, 8 November 2010). As reported by the CSIS, there is “considerable evidence” suggesting that the government has “provided extensive training, weapons, funding and sanctuary” to such groups. The same source indicates that “Pakistan is believed to continue to retain influence over the Kashmiri insurgency” (CSIS, September 2011, p. 175). As noted by the CSIS, however, “the ‘pro-Pakistan’ label itself comes with problems these days, as many of these groups that traditionally grew and operated with state support, have either splintered or defected whole-scale to join the ranks of the Punjabi Taliban, and have moved fighters, resources and infrastructure into the FATA. Their consequent involvement in many high-profile terrorist attacks inside Pakistan has implications on their current relationship with Pakistani intelligence agencies, notably the ISI.” (CSIS, September 2011, p. 178).

#### *4.2.1 Hizbul Mujahideen*

Hizbul Mujahideen (HM) was formed in 1989 (Al Jazeera, 3 April 2012) with a mandate to fight Indian forces and the pro-independence Jammu and Kashmir Liberation Front (JKLF) (BBC, 24 February 2011) and is led by Syed Salahuddin, alias Maulvi Yousuf Shah (Jane’s, 26 April 2011). As stated by Al Jazeera, HM “is credited with bringing an Islamic ideology to the dynamic”. Its members are “mostly ethnic Kashmiris from Indian-administered Kashmir”. The group, based in Pakistan-administered Kashmir and described as being “at its core pro-Pakistan”, is deemed to be the “largest guerrilla organisation active in Indian-administered Kashmir” (Al Jazeera, 3 April 2012). According to Jane’s Information Group, HM constitutes the militant wing of the Jamaat-e-Islami political party in Pakistan (Jane’s, 26 April 2011) while the Jamestown Foundation (JF) recounts that Jamaat, described as a religiously conservative movement to which HM indeed maintained “ideological and organisational links” until 1997, publicly distanced itself from HM in November 1997 (JF, 4 February 2010). An April 2011 article by the Kashmir Monitor quotes Indian Home Secretary G.K. Pillai as saying that Hizbul Mujahideen (HM), the largest Kashmiri group, has been “almost” vanquished while the “threat” of revival of militancy remains present, as there are still “hundreds” of its people in Pakistan-administered Kashmir (Kashmir Monitor, 10 April 2011).

#### *4.2.2 Lashkar-e-Taiba*

Lashkar-e-Taiba (LeT) (“Army of the Righteous”) was founded in 1989 and consists of mostly “radically religious Pakistanis” of Sunni faith (Al Jazeera, 3 April 2012; Jane’s, 26 April 2011). Hafiz Muhammad Saeed is indicated as being the leader of LeT, whereas Saeed himself denies having connections with LeT and maintains that he is instead the head of Jama'at-ud-Da'wah (JuD) (Al Jazeera, 3 April 2012). The National Counterterrorism Center (NCTC), a US

government organisation, refers to JuD as the LeT's "front organization" through which it coordinates its charitable activities (NCTC, undated). The NCTC recounts that since 1993, LeT has conducted numerous attacks against Indian troops and civilian targets in (Indian-administered) Jammu and Kashmir state, as well as several high-profile attacks in other parts of India (NCTC, undated). In 2002, the Government of Pakistan banned the LeT and froze its assets. LeT was said to have trained ten of the gunmen involved in the November 2008 Mumbai attacks (Al Jazeera, 3 April 2012). The Jamestown Foundation further notes that "LeT sent hundreds of its trained recruits into Indian-administered Kashmir during 2009". As contended by the Jamestown Foundation (JF), high infiltration levels in this region "created a lot of tension" between India and Pakistan (JF, 4 February 2010). The activities of LeT are reported to be "largely confined to Indian-administered Kashmir (Al Jazeera, 3 April 2012). The NCTC notes that the exact size of LeT is unknown, but estimates that "the group probably has several thousand members, predominantly Pakistani nationals seeking a united Kashmir under Pakistani rule" (NCTC, undated).

#### 4.2.3 *Jaish-e-Mohammad*

Jaish-e-Mohammad (JeM) ("Army of Mohammad") is a Pakistan-based militant group founded in 2000 by Maulana Masood Azhar (Al Jazeera, 3 April 2012). JeM seeks to unite Kashmir with Pakistan (NCTC, undated) and has been involved, amongst others, "in a series of suicide bombings within Indian-administered Kashmir" and is further said to be implicated in sectarian violence within Pakistan directed against Shia Muslims and Christians. The group was formally banned in Pakistan in January 2002 (Al Jazeera, 3 April 2012). As observed by the NCTC, by 2003 JeM had splintered into two groups, Khuddam ul-Islam (Kul) (headed by Azhar) and Jamaat ul-Furqan (JuF) (led by Abdul Jabbar), both of which were banned in Pakistan in November 2003. In 2008, JeM, which remained active despite the ban on its activities, "began shifting its focus from Kashmir to Afghanistan". Sources differ with regard to the number of the group's supporters. The NCTC states that JeM has "at least several hundred armed supporters located in Pakistan, India's southern Kashmir and Doda regions, and in the Kashmir Valley", while a Pakistani security source quoted by Reuters "estimates its active ranks at about 5,000, with about 1,500-2,000 fighters". The same source notes that most JeM members have "gone into hiding or have split into factions" (Reuters, 5 May 2011). As regards the JeM's composition, its members are reported as being "mostly Pakistanis and Kashmiris, but also include Afghans and Arab veterans of the Afghan war against the Soviets" (NCTC, undated).

BBC quotes pro-independence activists as saying that, as Kashmiri fighters became increasingly disillusioned in the mid-1990s, the Pakistani security services "started to raise Pakistani groups such as Lashkar-e-Taiba and Jaish-e-Mohammad to keep the conflict going in Indian Kashmir". Both groups are reported to maintain "offices and camps in several parts of Pakistani Kashmir" (BBC, 24 February 2011).

#### 4.2.4 *Harkat-ul-Mujahideen*

Harakat-ul-Mujahideen (HuM) ("Movement of Holy Warriors") is described by Jane's Information Group as being a militant group founded in 1985 and formerly known as Harakat-ul-Ansar (HuA). As noted by Jane's, until 1999, HuM was one of the largest Pakistan-based jihadist groups fighting in Indian-administered Kashmir but has since "lost manpower and is

much less active” and there are unconfirmed reports suggesting that the group “may be regrouping”. The same source reports that the US Department of State (USDOS) “identifies Maulana Sadaatullah Khan as HuM’s leader” (Jane’s, 26 April 2011). According to Al Jazeera, HuM has at least one operational training camp, located in Muzaffarabad, and “[a] large number of the young recruits to the group come from Karachi.” (Al Jazeera, 3 April 2012)

#### 4.2.5 *Tehrik ul-Mujahideen*

Tehrik ul-Mujahideen (TuM) is a sectarian (Salafist) militant group founded in 1990 which was allowed by ISI to set up training camps in Pakistan (JF, 4 February 2010; SATP, undated). In the late 1990s, *Markazi Jamiat Ahle Hadith* (“Assembly of the Way of the Followers”), an Islamist political party, adopted TuM as its armed wing (JF, 4 February 2010).

#### 4.2.6 *Hizb ul-Momineen*

Hizb ul-Momineen is a Shia group with links to ISI. Led by Syed Ijaz as of February 2010, the group has engaged in little militant activity in recent years, as reported by the Jamestown Foundation (JF). According to the JF, “[t]he most important role of the Hizb ul-Momineen has been to save the Kashmir jihad from drifting into Shi’a-Sunni sectarian conflict when the ISI asked the movement to claim responsibility for the assassination of pro-Indian Shiites who were actually being killed by Sunni jihadis. This was done to prevent India from stirring sectarian tensions by claiming that Sunnis were killing Shi’a in Kashmir.” (JF, 4 February 2010)

#### 4.2.7 *Harakat ul-Jihad al-Islami*

Information with regard to *Harakat ul-Jihad al-Islami* (HuJI) is provided by the Jamestown Foundation (JF):

“The Harakat ul-Jihad al-Islami (HuJI), a Deobandi group of Afghan jihad veterans led by Qari “Saifullah” Akhtar, was the first external group to join the jihad in Kashmir, though its role was initially limited. By 1993, the Kashmiri groups, including Hizb ul-Mujahideen, started showing weakness. The Indian army’s strategy of crushing the militancy by punishing militants’ families worked to a great extent and neutralized a large number of the Kashmiri militants. This is when the ISI started pushing Pakistani militants into the Kashmir theatre of jihad. A group calling itself Harakat ul-Mujahideen under the leadership of Maulana Fazlur Rehman Khalil split from HuJI in 1991. As Kashmir opened up for the Pakistani and international mujahideen, the HuJI groups reunited under the name of Harkat ul-Ansar, under the leadership of Maulana Saadatullah. Harakat ul-Ansar pushed as many mujahideen as possible from Pakistan and other Muslim countries to Kashmir and became the principal player on the jihadi scene. It raised its profile by launching several high-profile operations such as Operation Charar Sharif, Operation al-Hadid and Operation al-Faran. The latter two targeted Western nationals and brought Harakat ul-Ansar onto the center stage of international jihad in 1994. It split once more into its former groups under Western pressure.” (JF, 4 February 2010)

### 4.3 **Forced recruitment by government forces and non-state armed groups**

As noted by Clayton Hartjen and S. Priyadarsini in their 2012 book *The Global Victimization of Children*, “children as young as 10 are reported to be used by Pakistan-based militants in Jammu and Kashmir as messengers and couriers, but some have also been used to throw

grenades and plant bombs". The authors add that "[s]everal boys have been killed in individual clashes with police or security forces while acting in this capacity." (Hartjen/Priyadarsini, 2012, p. 106).

In an article published in April 2011, the Kashmir Monitor quotes Indian Home Secretary G.K. Pillai as noting a decrease in recruitment of Kashmiri youth by militant groups (Kashmir Monitor, 10 April 2011).

According to Daily Gazette, a US newspaper, Lashkar-e-Taiba (LeT) has used "national disasters" such as the 2010 floods as an opportunity for recruitment of new members (Daily Gazette, 3 April 2011).

In November 2010, the BBC reports of a 25-year-old former university student in Muzaffarabad who joined a militant group after attending sermons given by preachers. He is quoted as saying that he "went to a training camp with hundreds of others for three months" and could now be assigned various duties which include the recruitment of new members or being sent "across into Indian-held Kashmir for jihad" (BBC, 8 November 2010).

The Daily Excelsior, an Indian newspaper, reports that two LeT militants, prior to being killed by Indian security forces in Doda district (Indian-administered Kashmir) in May 2010, "were trying to strengthen their cadre with local recruitment in the absence of any fresh arrival from across the border" (Daily Excelsior, 20 May 2010).

#### *4.3.1 Forcible recruitment by the Inter-Services Intelligence for fighting in Indian-controlled Jammu and Kashmir*

The Statesman, an Indian daily, reports in September 2011 of the arrest of six Kashmiri youths from Rajouri district of Jammu province (Indian-administered Kashmir) who had been "lured" by Lashkar e-Taiba with money. As reported, they were intending to cross over to Pakistan-administered Kashmir "for arms training". The arrested youth are seen as "an indicator that Pakistan and the ISI is continuously trying to recruit young Kashmiris" into the militant groups (Statesman, 25 September 2011).

While no further information was found on forced recruitment by the ISI for fighting in Indian-controlled Jammu and Kashmir, sources report on the treatment by intelligence agencies of persons who refused to join or tried to leave forces involved in such militant activity:

The Asian Legal Resource Center (ALRC) reports in August 2010 with regard to Pakistan-administered Kashmir that "[p]ersons are arrested and disappeared if they refuse[d] to join or try to leave the forces engaged in the 'Jihad' inside Indian-held Kashmir", adding that "[a] significant number of cases point to the ISI's involvement in these disappearances" (ALRC, 27 August 2010).

The Asian Human Rights Commission (AHRC) states in its 2010 annual report:

"The country's notorious Inter Services Intelligence (ISI) has allegedly been involved in orchestrating the disappearance of dozens of persons that they had trained as Jihadis in Pakistani held Kashmir, Azad Kashmir. The intelligence agencies particularly, the Inter Services Intelligence (ISI), is accused of training and sending people inside Indian held Kashmir for the Jihad or providing information of militants working inside other parts of Kashmir. The family members of the disappeared people are also stating that when people who worked for intelligence agencies leave the Jihad and return to their normal lives they are nabbed by the ISI and shifted to unknown places as punishment for not working in the interests of national security. There are also reports that some missing persons, who were sent to collect information from Indian Kashmir, were also hired for smuggling liquor and other Indian items when they come back to Pakistani Kashmir after completing their assignments." (AHRC, 9 December 2010, p. 45-46)

"During the last six months of 2009 the AHRC has documented cases of disappearances in Kashmir according to which the whereabouts of 15 people arrested by the security forces are not known. They were arrested by security persons in plain clothe from different parts of the Tehsil Kotli along the Indian borders. Among them are six persons who were trained in the camp at Solna village, Kotli and had left the holy war. [...] [T]o date no one has been released. The political parties, particularly the United Kashmir Peoples National Party (UKPNP), claim that the people were previously trained for holy war for across the border." (AHRC, 9 December 2010, p. 45-46)

#### **4.4 Treatment of military deserters**

Among the sources consulted within time constraint no information could be found with regard to the treatment of military deserters in Pakistan-administered Kashmir.

#### **4.5 Human rights abuses by the armed forces and non-state armed groups**

Amnesty International (AI) mentions Pakistan in a report on human rights violations in the name of national security or countering terrorism published in April 2011:

"In Pakistan, enforced disappearances were rare before September 2001. Since then, hundreds, if not thousands, of people have been arbitrarily detained and held in secret detention. The victims have been denied access to lawyers, families and courts, and are at high risk of torture and other ill-treatment." (AI, 6 April 2011, p. 6)

In its August 2010 report, the Asian Legal Resource Centre (ALRC) notes with regard to the implication of intelligence agencies in disappearances in Pakistan-administered Kashmir:

"Reports indicate that dozens of people are missing after their arrest by the intelligence agencies operating in Pakistani-held Kashmir - Azad Kashmir. Persons are arrested and disappeared if they refuse to join or try to leave the forces engaged in the 'Jihad' inside Indian-held Kashmir or don't provide information to the intelligence agencies about the movements of people across the border control line. A significant number of cases point to the ISI's involvement in these disappearances." (ALRC, 27 August 2010)

Sources report on the following incidents:

In May 2011, a Muzaffarabad resident was kidnapped from his home by ISI officials and subsequently killed. As reported by the Balawaristan National Front (BNF), he was held in the "torture cells of the ISI". As stated in the article, the local police demanded 60,000 rupees from the family of the deceased in exchange for his release (BNF, 23 May 2011).

As reported by the Institute for Gilgit Baltistan Studies (IGBS) in July 2011, security forces abducted a leading politician opposing what the IGBS refers to as "Pakistan's unilateral occupation" of Kashmir (IGBS, 31 July 2011).

A February 2012 Dawn article indicates that according to local residents, a male resident of Muzaffarabad was abducted by intelligence agents in October 2011 for unknown reasons and has since been missing (Dawn, 18 February 2012).

An August 2010 report by the Asian Legal Resource Centre (ALRC) lists a number of cases of disappearance in Pakistan-administered Kashmir with alleged involvement of intelligence outfits in the years 2009 and 2010:

"For example, family members of Altaf, Qadeer, Qasim and Mushtaq, residents of a refugee camp at Solna area, Kotli, who were disappeared in late 2009 after their arrest by Pakistan's security forces, were reportedly told by the local ISI office that they were being held by the ISI and would be released soon. They remain missing to date.

Jehangir, son of Sabir and a resident of Charhoi, Kotli sub district, was arrested by intelligence officers in March 2009, and remains missing.

Amjad, son of Mohammad Khan, resident of Leepa tehsil, Muzaffarabad district, was a soldier in the Pakistan army but was arrested in September 2009 by the ISI and remains missing. It is alleged that he was working in favour of families of disappeared persons.

Mohammad Aslam, son of Jan Mohammad, resident of Cherhoi, Kotli sub district, was arrested in July 2009, allegedly by the ISI, and has been missing since then.

Akram, son of Abdullah, resident of Khoi Ratta, Kotli district, who previously provided information from Indian-occupied Kashmir to the Pakistani security forces, has been missing for seven months after he stopped volunteering information.

Masood, resident of Khoi Ratta, Kotli district, who had previously fought as a Mujahid, has been missing since May 2009 after his arrest by plain-clothed ISI personnel.

Mr. Kabir Hasan Shah, resident of Sandok, Neelum district, was disappeared in October 2009, allegedly by the ISI, and subjected to torture for three months by the ISI for using their telephone lines, before being released in the second week of January 2010.

Mr. Naveed Ahmed Khan was arrested and disappeared in November 2009, allegedly by the ISI, having been accused of taking photos of Jihadi training camps in Pallandi, Sudhanti district. He was held and interrogated by the ISI for over two months before being released on January 19, 2010 for lack of evidence.

A Pakistani soldier, Mr. Mohammad Iqbal Awan, was arrested and disappeared for five years and repeatedly subjected to torture by the ISI on false charges of working for the Indian intelligence agencies' Research and Analysis Wing (RAW) in Pakistani-held Kashmir. He lost his teeth, his spine was fractured, his legs were burnt, his head was seriously injured and he now can't walk without assistance. He was cleared of all charges in a court martial at the Kharian cantonment, Punjab province." (ALRC, 27 August 2010)

The Asian Human Rights Commission (AHRC) in September 2010 reports on the death of 24-year-old Azad Kashmir resident Asim Zakir in a car explosion. Earlier in the year, Zakir, who had left a Madrassa that was involved in training students for Jihad, was abducted, tortured and pressured to resume his Madrassa education and participate in Jihad. According to the AHRC report, the ISI released him from incommunicado detention after ten days but continued to receive threats "from the ISI and some Jihadi elements". As reported by the AHRC, the police alleged that the explosion which killed him was the result of "a bomb that Zakir was carrying and which he was planning to use against a target. After this incident, police arrested Zakir's brother and one of his friends, who were both transferred to ISI custody with their whereabouts unknown (AHRC, 13 September 2010).

A December 2009 AHRC article reports on the illegal arrest, detention and torture of four young men in Muzaffarabad by the ISI. One of the arrested men was allegedly taken as a hostage so as to force his uncle to repay a debt to a money lender who is a relative of an ISI official involved in the arrest. The three other men are friends of the detainee and were arrested as they inquired about him at the local police station (AHRC, 11 December 2009).

Among the sources consulted within time constraint, little information could be found with regard to human rights violations linked to specific non-state armed groups. However, the August 2011 Freedom House (FH) report notes that "[t]ension 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." (FH, 18 August 2011).

Please also refer to chapter 7.2.6 ("Shia") for reports on sectarian violence in Gilgit-Baltistan and to chapter 3 ("Security Situation").

## 5 Rule of Law, Administration of Justice

### 5.1 Access to legal remedies, impunity

Freedom House (FH) indicates in its August 2011 report that impunity for abuses committed by security forces such as arbitrary detention and torture (including several reported cases of death in custody) “remains the norm” (FH, 18 August 2011).

The AHRC states in its 2010 annual report that “the military remains above the law and able to enjoy impunity for past and ongoing human rights abuses.” (AHRC, 9 December 2010, p. 46)

The AJK Police Department Website advises that in case of illegal detention, “[t]he matter should be brought to the notice of the concerned court or a petition can be moved in the Honorable AJ&K High Court” and adds that “[t]he remedy can also be sought by bringing the matter in the notice of senior police officers”. Similar advice (addressing complaints to senior police officers, applying to the Judiciary for assistance) is provided with regard to cases of police harassment (AJK Police, undated).

The US Department of State (USDOS) notes that “[p]olice effectiveness varied greatly by district, ranging from reasonably good to ineffective” and that “[f]requent failure to punish abuses created a climate of impunity”. As reported by the USDOS, “[t]he court system remained the only mechanism available to investigate abuses by security forces” (USDOS, 8 April 2011, section 1d.). As regards the judiciary in Gilgit-Baltistan, Freedom House (FH) points out that it is “largely subservient to the executive” (as judges are appointed by the chairman of the GB Council “on the advice of the governor” and judicial appointments are based on three-year contracts subject to discretionary renewal by the government) and that, in addition, it “is not empowered to hear cases concerning fundamental rights or cases against the executive” (FH, 18 August 2011).

As indicated by the International Crisis Group (ICG) with regard to Pakistan in general, “[c]orruption, intimidation and external interference in trials, including by the military’s intelligence agencies, compromise cases before they even come to court” and that “[m]ilitants and other major criminals are regularly released on bail, or their trials persist for years even as they plan operations from prison” (ICG, 6 December 2010).

The Institute for Gilgit Baltistan Studies (IGBS) notes with regard to the August 2011 Hunza incident in which two protesters were killed by law enforcement agents (see also chapter 3.4.1 on “extrajudicial killings, arbitrary arrest, detention, disappearances, torture”) that the “government has failed to arrest” those responsible (IGBS, 20 November 2011). This is corroborated by the Human Rights Commission of Pakistan which notes in its annual report 2011 that “[t]he policemen accused of the killings were yet to be arrested” but many political and civil society activists were held in a crackdown against the protesters (HRCP, March 2012, p. 314).

The following reports refer to the Pakistani judiciary’s efforts to resolve cases of disappearance:



AI reports in September 2011:

"In March 2010, the Pakistan government established the Commission of Inquiry on Enforced Disappearances to trace the disappeared, in view of the heavy case load of the Supreme Court. A second Commission was set up in March 2011 to take forward the work of the Commission of Inquiry. Of the several hundred cases that have come before both commissions, 224 people have been traced. However, disappearances continue unabated.

The Commission of Inquiry has been criticized by human rights groups and victims' families for several deficiencies, including lack of staffing capacity to investigate the high volume of cases, failure to give equal priority to all cases that come before it, and failure to trace individuals who disappeared during the Musharraf era. It has also failed to adequately investigate the security forces and intelligence agencies, which are frequently accused of involvement in disappearances. To date no security or intelligence official implicated in a disappearance case has been prosecuted." (AI, September 2011, p. 5)

The Human Rights Commission of Pakistan (HRCP), covering the year 2011, reports on efforts by Pakistan's judiciary (Supreme Court and high courts) and the Commission on Missing Persons to investigate cases of disappearance (including some cases from Azad Kashmir):

"The Supreme Court (SC) continued hearing the cases of involuntary disappearance throughout the year. [...]

On July 12 the SC was given an account of the work done by the Commission on Missing Persons set up in 2011 on the recommendation of the three-member judicial commission of 2010. The secretary of the new commission said the whereabouts of 83 persons had been traced after December 31, 2010. He said the commission had 138 cases of disappearance on its roster in January 2011 and another 198 were added to the list till June 2011. Out of the 336 cases 108 had been disposed of (83 traced, 20 excluded from the category of enforced disappearance, and 5 cases dropped as families could not furnish the required information). Thus on July 12 the number of cases before the commission was 228. The largest number 71 belonged to Khyber-Pakhtunkhwa, 49 to Sindh, 44 to Punjab, 41 to Balochistan, 6 to FATA, and five each to Islamabad and Azad Kashmir. [...]

While the SC remained seized of the cases of involuntary disappearance throughout the year several cases were also heard by high courts." (HRCP, March 2012, p. 21-23)

As reported by the Asian Human Rights Commission (AHRC), seven disappearance cases from Azad Kashmir are represented by the NGO Defence of Human Rights in Supreme Court (AHRC, 10 December 2011, p. 49).

## **5.2 Due process, arrest and detention procedures**

A Human Rights Watch (HRW) report on Azad Kashmir published in 2006 addresses lack of "respect for international due process and fair trial standards" in the region (HRW, September 2006, p. 52).

For information regarding secret detention, torture and lack of due process in cases allegedly linked to activities of military intelligence agencies, please refer to chapter 4.5 of this compilation (“Human rights abuses by the armed forces and non-state armed groups”).

The following sources elaborate on the issue of due process in Pakistan in general:

An International Crisis Group (ICG) report outlines the legal framework of arrest, detention and trial procedures in Pakistan, notably the role of the “parallel systems” of law applicable in the Federally Administered Tribal Areas (FATA) and Khyber Pakhtunkhwa (KPK) province:

“The conditions of Pakistan’s prisons should be examined in the context of a criminal justice system that protects the powerful, victimises politically and economically marginalised citizens and has a declining writ over large parts of the country. The Pakistan Penal Code (PPC), Evidence Act and Criminal Procedure Code (CrPC) form the foundation of that system. All three codes are outdated. There are also numerous special laws such as the Anti-Terrorism Act (ATA), 1997 and the National Accountability Ordinance, 1999. Moreover, parallel legal systems prevail in large parts of the country. The Frontier Crimes Regulations (FCR) of 1901, an oppressive colonial-era legal framework, governs the Federally Administered Tribal Areas (FATA). Khyber Pakhtunkhwa’s (KPK) Provincially Administered Tribal Areas (PATA) is governed by Sharia (Islamic law) under the Nizam-e-Adl (2009). While the regular system has failed, these parallel systems are instruments of brutal and discriminatory justice, leaving thousands of detainees with little, if any, recourse to challenge their imprisonment. Religious laws have also warped the penal system, both swelling prison populations by encouraging false cases and vigilante justice and enabling criminals to evade justice by, for example, allowing murder to be settled out of court. Sentencing, too, has increasingly deviated from international norms and constitutional protections.” (ICG, 12 October 2011, p. 2)

Arrest, detention and trial procedures in Pakistan are described by the US Department of State (USDOS) as follows:

“A First Information Report (FIR) is the legal basis for any arrest. For certain crimes the police may initiate an FIR. Police ability to initiate an FIR is limited. Often a different party must file the FIR, depending on the type of crime, not whether there is reasonable proof of a crime. An FIR allows police to detain a suspect for 24 hours, after which a magistrate can order detention for an additional 14 days if police show that such detention is material to their investigation. In practice some authorities did not observe these limits on detention. There were reports that authorities filed FIRs without supporting evidence to harass or intimidate detainees or did not file them when adequate evidence was provided unless the complainant paid a bribe. [...] Police routinely did not seek a magistrate’s approval for investigative detention and often held detainees without charge until a court challenged the detention. [...] When requested, magistrates approved investigative detention without determining its cause. In cases of insufficient evidence, police and magistrates sometimes colluded to issue new FIRs, thereby extending detention beyond the 14-day period. Courts appointed attorneys for indigents only in capital cases. Individuals frequently had to pay bribes to visit a prisoner. [...]

The district coordination officer may recommend preventive detention for as long as 90 days to the provincial home department and, with the approval of the Home Department, can extend it for an additional 90 days. The law stipulates that detainees must be brought to trial within 30 days of their arrest. Under both the Hudood Ordinance and standard criminal codes, there are bailable and nonbailable offenses. The Hudood Ordinance was a law enacted in 1979 by the then military ruler Zia-ul-Haq to implement Islamic Sharia law by enforcing punishments mentioned in the Qur'an and Sunnah for zina (extramarital sex), qazf (false accusation of zina), offense against property (theft), and prohibition (the drinking of alcohol).

Bail pending trial is required for bailable offenses and permitted at a court's discretion for nonbailable offenses with sentences of less than 10 years. Judges sometimes denied bail at the request of police or the community or upon payment of bribes. In some cases trials did not start until six months after the FIR, and in some cases individuals remained in pretrial detention for periods longer than the maximum sentence for the crime with which they were charged. In detention facilities, individuals frequently had to pay bribes to visit a prisoner. SHARP estimated that approximately 55 percent of the prison population was awaiting trial. This situation remained unchanged due to lack of change in the judicial system. The high number of inmates awaiting trial remained a large burden on the country's jails. In some cases detainees were informed promptly of charges brought against them." (USDOS, 8 April 2011, section 1d)

The USDOS notes with regard to the independence and effectiveness of judicial systems in Pakistan:

"The law provides for an independent judiciary; in practice the judiciary was often subject to external influences, such as fear of reprisal in terrorism cases. In nonpolitical cases, the media and the public generally considered the high court and the Supreme Court credible. There were extensive case backlogs in the lower and superior courts, as well as other problems that undermined the right to effective remedy and the right to a fair and public hearing. [...]

Informal justice systems that lack the legal protections of institutionalized justice systems continued, especially in rural areas, and often resulted in human rights violations. Lower courts remained corrupt, inefficient, and subject to pressure from prominent wealthy, religious, and political figures. The politicized nature of judicial promotions increased the government's control over the court system. Unfilled judgeships and inefficient court procedures continued to result in severe backlogs at both the trial and appellate levels." (USDOS, 8 April 2011, section 1e)

### **5.3 Prison conditions**

The International Crisis Group (ICG) describes Pakistan's prison system as being "corrupt and dysfunctional", stating that prisons are overpopulated, understaffed and poorly managed and equipped (ICG, 12 October 2011, p. i). This is corroborated by the Human Rights Commission of Pakistan (HRCP) and the US Department of State (USDOS), pointing also to a prevalence of prisoner abuse, torture, weak accountability mechanisms (HRCP, March 2012, p. 60),

prolonged detention periods and prevailing inadequacy of sanitation, ventilation, temperature, lighting, and access to potable water in many facilities (USDOS, 8 April 2011, section 1c). According to the HRCP, the healthcare facilities in prisons remained “woefully inadequate” with mental health facilities being “almost non-existent” (HRCP, March 2012, p. 62-63).

The numbers of detainees held in prisons in Gilgit-Baltistan are indicated in the Human Rights Commission of Pakistan (HRCP) Annual Report 2011 as follows:

“In five prisons in Gilgit Baltistan, there were 277 inmates against the sanctioned capacity of 1,340, but in two jails the prisoners’ number was still over 50 percent more than the capacity.” (HRCP, March 2012, p. 62)

Several riots in prisons across Pakistan were reported in 2011. The HRCP report mentions Gilgit as one of the places which saw “more serious” prison riot activity (HRCP, March 2012, p. 60-61).

The US Department of State (USDOS) states with regard to the prevalence of torture in Pakistan:

“The law prohibits torture and other cruel, inhuman, or degrading treatment, but there were reports that security forces, including intelligence services, tortured and abused individuals in custody. During the year the NGO SHARP reported 4,069 cases of torture by police, of which 2,690 allegedly occurred in Punjab alone. During the year a significant increase in the total number of torture and rape cases was observed, almost double the number compared with 2009. [...] Observers noted the underreporting of torture throughout the country.” (USDOS, 8 April 2011, section 1c)

Sources indicate that the International Committee of the Red Cross (ICRC) conducts independent monitoring in civil prisons in both Gilgit-Baltistan and Azad Kashmir (ICG, 12 October 2011, p. 27; USDOS, 8 April 2011, section 1c)

The Human Rights Commission of Pakistan (HRCP) states in its April 2011 report:

“The harsh conditions of detention in Pakistani prisons remained unchanged during the year under review. Overcrowding, poor healthcare facilities, corruption, torture and a failure to consider alternatives to custodial detention remained the biggest challenges. [...] Overcrowding added to the problems of both prisoners and jail staff. According to statistics provided by prison authorities from the four provinces at the end of 2010, there were 91 jails and juvenile detention centers in Pakistan with an authorised capacity to hold 42,617 prisoners. However, the actual number of people detained in these prisons was 75,586 as on December 31. [...] The number of prisoners in 55 of the country’s 91 prisons exceeded the sanctioned capacity, and 27 prisons had more than twice the number of prisoners than the authorised capacity. Despite the prisons bursting at the seams with detainees, an overwhelming number of the prisoners were jailed not as a result of court decisions but pending or during trial. [...]

In almost all prisons across the country, medical care for detainees remained lacking, often on account of insufficient allocation of funds. No systematic mechanism was in place for screening of detainees for communicable diseases or for vaccination. Throughout the year, media reports highlighted the incidence of HIV/AIDS and hepatitis among the prison population. Almost no attention was paid to the detainees' mental health." (HRCP, April 2011, p. 92-94)

For information regarding the treatment of persons allegedly held in secret detention facilities operated by military intelligence agencies, please refer to chapter 4.5 of this compilation ("Human rights abuses by the armed forces and non-state armed groups").

#### **5.4 Witness protection mechanisms**

Several sources note that in Pakistan there are no mechanisms for witness protection: The implications of a lack of witness protections for persons addressing the Commission of Inquiry or the later Commission on Missing Persons are described by Amnesty International (AI) as follows:

"There are no witness protection mechanisms in place, and relatives are often required to give information at the Commission in front of representatives of the same agencies they accuse of involvement in the disappearances of their loved ones." (AI, September 2011, p. 7)

The Asian Human Rights Commission (AHRC) observes with regard to torture that the absence of witness protection and the fact that "main perpetrators" of torture are members of the police or armed forces discourages victims from lodging complaints (AHRC, 24 June 2011).

The Economic Times (India) also notes that there is no provision for judge or witness protection in Pakistan (Economic Times, 12 December 2011).

## 6 Ethnicity, citizenship and nationality

### 6.1 Domestic legal framework and policies on citizenship, nationality and the protection of ethnic minorities

#### 6.1.1 *Domestic legal framework and policies on citizenship, nationality*

The Pakistan Citizenship Act, 1951, contains two articles with reference to persons who are “subjects of the State of Jammu and Kashmir”:

“8 (2) A subject of the State of Jammu and Kashmir who, being under the protection of a Pakistan passport, is resident in the United Kingdom or such other country as the Federal Government may, by notification in the official Gazette, specify in this behalf, shall, without prejudice to his rights and status as a subject of that State, be deemed to be, and to have been, a citizen of Pakistan.” (Pakistan Citizenship Act, 1951, 13 April 1951, Article 8 (2))

“14-B. Certain persons to be citizens of Pakistan.

A person who being a subject of the State of Jammu and Kashmir, has migrated to Pakistan with the intention of residing therein until such time as the relationship between Pakistan and that State is finally determined, shall, without prejudice to his status as such subject, be a citizen of Pakistan.” (Pakistan Citizenship Act, 1951, 13 April 1951, Article 14-B)

The Azad Jammu and Kashmir Interim Constitution Act, 1974, defines “State Subject” as follows:

“‘State Subject’ means a person for the time being residing in Azad Jammu and Kashmir or Pakistan who is a State Subject, as defined in the late Government of the State of Jammu and Kashmir Notification No I-L/84, dated the 20th April, 1927 as amended from time to time; [...]” (Azad Jammu and Kashmir Interim Constitution Act, 1974, section 2 (1))

The text of the State Subject Definition Notification, 1927, can be accessed via the following link:

- State Subject Definition Notification, Legal Document No 44, No I-L/84, 20 April 1927  
<http://www.kashmir-information.com/LegalDocs/44.html>

The text of the Pakistan Citizenship Act, 1951 can be accessed via the following link:

- Pakistan Citizenship Act, 1951 [Act No. II of 1951], 13 April 1951 (available at Max-Planck-Institut für ausländisches öffentliches Recht und Völkerrecht)  
[http://www.mpil.de/shared/data/pdf/pakistan\\_citizenship\\_act\\_1951.pdf](http://www.mpil.de/shared/data/pdf/pakistan_citizenship_act_1951.pdf)

As reported by the Pakistani daily the News International in May 2011, Pakistan considers the inhabitants of Gilgit-Baltistan as its citizens:

“Interestingly enough, although the state of Pakistan has consistently refused to recognise the region of Gilgit-Baltistan as a part of Pakistan, it nonetheless considers its inhabitants citizens of Pakistan, as is evidenced by the application of the Citizenship Act to the region. This constitutional position, or lack thereof, arose as a result of the well-known UN resolution which demanded a free and fair plebiscite for the Kashmiri people as a part of

a ceasefire arrangement. This resolution has given rise to a persisting uncertainty about the status of Gilgit-Baltistan, with it being widely believed that the Pakistani government allowed and supported the demarcation of Gilgit-Baltistan as a part of Kashmir (and therefore a disputed area) in order to use it as a bargaining chip in the settlement of the dispute." (News International, 18 May 2011)

In a query response dating from 1994, the Immigration and Refugee Board of Canada (IRB) provides information on the citizenship of Kashmiris given by a representative of the High Commission for the Islamic Republic of Pakistan in Ottawa:

"Pakistan considers Kashmiris living in Indian and Pakistani controlled areas to be neither Pakistani nor Indian. Pakistan and the international community recognize Kashmiris living in these areas to be citizens of the former state of Jammu and Kashmir. However, Pakistan maintains that Kashmiris can opt for Indian or Pakistani citizenship if they wish to do so. Pakistan has no special citizenship programme for Kashmiris wanting to acquire Pakistani citizenship. Being born in Kashmir does not automatically entitle Kashmiris to Pakistani citizenship. Kashmiri applicants for Pakistani citizenship are treated like other applicants." (IRB, 1 August 1994)

An August 2010 article by the British weekly magazine *New Statesman* relates to the reluctance of Pakistan to offer citizenship to migrants displaced from Indian-administered Kashmir. The article refers to independent analysts, who argue that the migrants are hostages to the political disputes between the two countries: "They see Pakistan's reluctance to offer citizenship to the displaced people as a direct result of its insistence on holding a plebiscite to determine the future of the entire population of Kashmir, as envisaged in a 1948 UN Security Council resolution." (*New Statesman*, 23 August 2010)

### *6.1.2 Domestic legal framework and policies on the protection of ethnic minorities*

Articles 26 and 251 of the Constitution of the Islamic Republic of Pakistan contain provisions concerning non-discrimination in respect of access to public places and on the national language:

"26. Non-discrimination in respect of access to public places.

(1) In respect of access to places of public entertainment or resort not intended for religious purposes only, there shall be no discrimination against any citizen on the ground only of race, religion, caste, sex, residence or place of birth." (Constitution of the Islamic Republic of Pakistan, 1973, amended as of 1 January 2011, article 26)

"251. National language.

(1) The National language of Pakistan is Urdu, and arrangements shall be made for its being used for official and other purposes within fifteen years from the commencing day.

(2) Subject to clause (1), the English language may be used for official purposes until arrangements are made for its replacement by Urdu.

(3) Without prejudice to the status of the National language, a Provincial Assembly may by law prescribe measures for the leaching, promotion and use of a Provincial language in addition to the National language." (Constitution of the Islamic Republic of Pakistan, 1973, amended as of 1 January 2011, article 251)

Sections 4 (16) and 4 (17) of the Azad Jammu and Kashmir Interim Constitution of 1974 contain provisions against discrimination in respect of access to public places and in service:

"16. Non- discrimination in respect of access to public places,- In respect of access to places of public entertainment or resort, not intended for religious purposes only, there shall be no discrimination against any state subject on the ground only of race, religion, caste, sex or place of birth, but nothing herein shall be deemed to prevent the making of any special provision for women.

17. Safeguard against discrimination in service.- No State Subject otherwise qualified for appointment in the service of Azad Jammu and Kashmir shall be discriminated against in respect of any such appointment on the ground only of race, religion, caste or sex; Provided that, in the interest of the said service, specified posts or services may be reserved for members of either sex." (Azad Jammu and Kashmir Interim Constitution Act, 1974, sections. 4 (16) and 4(17))

## 6.2 Background information

A report of the Institute for Defence Studies and Analyses (IDSA) lists Gujjars, Jats, Mughal, Rajputs, Sudhan, Awan, Qureshi, Pashtuns, Shins, Ladakhi and Baltis as ethnic groups in the region of Azad Jammu and Kashmir; for the region of Gilgit-Baltistan, IDSA lists Shin, Balti, Puriki, Ladakhi, Wakhi, Yashkun, Tibetan, Mongol, Tatar, Mon, Pashtun, Khowar, Dom, Gujjar, Rajput and Kashmiri as ethnic groups (IDSA, May 2011, p. 47). The official website of the government of Gilgit Baltistan refers to Shina as the basic language of the region "spoken by most of the original settlers" and lists Brushaski, Wakhi, Khowar and Balti as other key languages spoken in Gilgit. Urdu and English are named as official languages, Pushto and Punjabi as other languages (Government of Gilgit Baltistan, undated).

The Institute for Gilgit Baltistan Studies (IGBS) describes the ethnic composition of Gilgit Baltistan on its website as follows:

"Gilgit-Baltistan is often called the melting pot of civilizations. Warriors, preachers, traders and explorers claiming Tibetan, Mongol, Indian and Scythian ancestry arrived here centuries ago and called the valleys of the Karakoram, Himalaya , Hindukush and Ladakh mountain ranges their homeland. The racial blending occurred over the time eventually created ethnic identities like Shin, Balti, Puriki, Ladakhi, Wakhi, Yashkun, Burushu, Mon, Khowar, Dom, Gujjar and Kashmiri.

The first to arrive were the Mons from north India and the Scythians from Central Asia . They were followed by the Tibetans and another Indian race called Darada or Dards. When Gilgit-Baltistan became part of the Princely State of Jammu & Kashmir in the eighteenth century, Gujjars, Mughals and Kashmiris made this region their home. In 1947, geo-political alignments once again changed when Pakistan occupied Gilgit-Baltistan. The



circumstances encouraged Pakistani Pashtuns, Punjabis and Hindkowals to migrate and dominate regional commercial and business activities. Owing to the dispute over the Kashmir State, the United Nations Security Council resolutions of 1948 and 1949 directed Pakistan to withdraw its citizens from Gilgit-Baltistan. However, Pakistani citizens have not only failed to withdraw but have increased their numbers exponentially. Today, they live in the urban centers of Gilgit and Skardo. One may say that both Pakistani settlers and the natives have chosen to remain segregated and confined to their defined neighborhoods.

Gilgit region has accommodated different ethnic communities over thousand of years of its history; however, today the Dardic community dominates the ethnic mosaic. Anthropologists call Shins, Yashkuns, Khowars and Kashmiris as Dards. The Dards, comprising of Shin and Yashkun, primarily live in Diamer, Astore and Gilgit districts, whereas Khowars are confined to the Ghizer district and Kashmiris to the Gilgit, Skardo and Shigar urban centers. The Burushus and Wakhis are concentrated in Ghizer and Hunza-Nagar districts. On the other hand, Gujjars are pastoral people who roam in different parts of Gilgit-Baltistan. Closure of the Line of Control has disrupted their movement to the Kashmir Valley and other parts of north India.

Shins also live in Indian Kashmir and Ladakh as well as Pakistani occupied Muzaffarabad and Shinaki-Kohistan districts of Jammu & Kashmir. Likewise, Wakhis have extended community residing in Xinjiang, Afghanistan and Tajikistan while the Khowars form a predominant group in Chitral.

Baltistan is home to the ancient Tibetan groups called Baltis, Purikis and Ladakhis. Shins, which make up approximately seven percent of the population, primarily live in the valleys of Skardo and Rongdo districts along the northern rim of the Himalayas. The anthropologists assert that even before the Tibetans arrived, Scythians and Mons had lived in Baltistan and the mixture of these three races has led to formation of Arghons, the Balti word for a mixed race. Abbas Kazmi, a local anthropologist, has stated in his articles that more than sixty percent of the people of Baltistan claim Tibetan ancestry. Further, extended Ladakhi and Puriki communities also reside in Astore and Muzaffarabad districts. Likewise, Baltis are also found in Indian Kashmir and Ladakh." (IGBS, undated b)

### **6.3 Status and treatment of members of minority ethnic groups**

A report by Human Rights Watch (HRW) from September 2006 describes the tribal clans (biradari) of Azad Kashmir, mentioning the Gujjars as the largest group, the Sudhans and the Rajputs as the most influential ones, and the Mirpuri Jats as a group that has gained economic wealth and influence through remittances from the UK in recent decades:

"The people of Azad Kashmir are almost entirely Muslim. However, Islam or its sects are not the principal arbiters of identity in Azad Kashmir. The people of Azad Kashmir comprise not only diverse tribal clans (biradari) but are culturally and linguistically markedly different from the Kashmiris of the central valley of Jammu and Kashmir state in India. Cultural practice in Azad Kashmir has more in common with the Punjab than with the Kashmir valley.

The territory is far from ethnically homogenous. The biradari is the overriding determinant of identity and power relationships within the Azad Kashmiri socio-political landscape. While the Gujjars, numbering close to eight hundred thousand, are possibly the largest such group, historically the two most influential biradaris have been the Sudhans from the southeast (concentrated in Bagh district and Rawalakot subdivision of Poonch district) and the Rajputs who are spread out across the territory. Sudhans and Rajputs number, respectively, a little over and a little under half a million. Almost all of Azad Kashmir's politicians and leaders come from one of these two groups.

Azad Kashmir is also home to approximately three hundred thousand Mirpuri Jats hailing from the southern part of the territory. Though the Mirpuris are the closest geographical and cultural relatives of the Potohari Punjabis, in recent decades they have chosen to define themselves increasingly as Kashmiris. Mirpuris have migrated to the United Kingdom (U.K.) in large numbers and constitute the overwhelming 'Kashmiri presence' in that country. The Mirpuri Jats have gained in influence in Azad Kashmir in recent decades largely through the clout that major remittances from Britain have bought them. Mirpuri economic clout has paid political dividends, helping propel barrister Sultan Mehmood Chaudhry to power as the first Mirpuri leader of Azad Kashmir in 1996. Kashmir expert Alexander Evans writes:

The Mirpuri Jats, looked down upon by Rajputs and Sudhans, gained power in the 1990s largely because of their wealth... Valley Kashmiris view Mirpuris with much the same condescension as their Punjabi counterparts, but they also consider Mirpuris part of the former princely state of Jammu and Kashmir. They remain Kashmir state subjects – even if not ethnically Kashmiri as Valley Kashmiris would understand it... [O]n the Pakistani side, the south-east (Sudhan heartland) and south (Mirpur) dominate, while the north (both Muzaffarabad and the Neelum) is less influential... But Rajputs and Sudhans remain important brokers in local politics – not least as Gujjars tend to follow the lead of local Rajput and Sudhan leaders. There are also a number of other small tribes and sub-tribes." (HRW, September 2006, p. 12-14)

The HRW report also mentions refugees from Jammu and Kashmir state in India who are culturally and linguistically distinct from the peoples of Azad Kashmir; they report discrimination allegedly motivated by their critical views towards a unified Kashmir under Pakistani control:

"According to the Azad Kashmir Rehabilitation Department, there are 29,932 registered refugees who crossed over from Jammu and Kashmir state in India in 1989-91. Analysts suggest that there may be approximately another five thousand unregistered individuals, some of whom are former militants. Some of the refugees live in communities across Azad Kashmir, while others were housed, prior to the October 2005 earthquake, in refugee camps exclusively devoted to them (preearthquake figures indicated that there were 2,720 refugees in Manakpayan camp and 1,508 in Ambore camp, two of the largest such camps; current figures are difficult to ascertain). The refugees were fleeing heightened conflict in Jammu and Kashmir state and serious human rights abuses by Indian security forces. [...] [T]he government of Pakistan and the Azad Kashmir authorities welcomed

these refugees at the time with some fanfare. But many refugees have found life in Azad Kashmir to be difficult and are critical of the Pakistani government and its policies in Kashmir. Most of the refugees are secular nationalists and [...] culturally and linguistically distinct from the peoples of Azad Kashmir. A primary motive for the discrimination they report would appear to be that many of them do not share the vision of a unified Kashmir under Pakistani control. Some have experienced abuse including arbitrary arrest and ill-treatment for seeking to exercise their rights." (HRW, September 2006, p. 62)

The Institute of Peace and Conflict Studies (IPCS), a think tank based in India, describes the Gujjar population in an analysis dated February 2007 as a victim of the division of Kashmir and the subsequent conflicts and as dominated by other communities:

"In Pakistan Occupied Kashmir (POK), after the Pahari Punjabi-speaking Muslims, Gujjars form the second largest ethnic group. The establishment of communications between the two parts of the former state reveals that Gujjars in POK are on the verge of losing their identity. [...] A sizeable Gujjar population lives in POK, particularly in Mirpur, Bhimber, Kotli, Plandri, Rawala Kote, Bagh and Muzaffarabad districts. [...] The 1947 division of J&K across the Pir Panchal region; conflicts with Pakistan in 1965 and 1971; shelling and firing from across the LoC and militancy-related activities have made this community the main victim. About 17,000 Gujjar families have crossed the LoC and migrated to POK, leaving their blood relations on the Indian side. They survived with limited sources of income. On the other hand, Gujjars already living in POK were already economically poorer compared to other communities. This community was, therefore, not able to compete with other ethnic groups that controlled the administration, trade and agriculture. No doubt the religious affinity attracted migrants but religion is no longer a binding factor. Economic ties and social uplift are considered vital for the future prosperity of the community. The Gujjar minority in POK remains dominated by other communities." (IPCS, 19 February 2007)

The IPCS lists accounts of Gujjar visitors from Pakistan-administered Kashmir to India-administered Kashmir who complain about their situation in relation to their societal status:

"People-to-people contacts were established after 7 November 2005 with families residing in Poonch and Rajouri. Most Gujjars who visited Poonch and Rajouri narrated the hard realities of their situation in POK. [...] Mohammad Rauf, another Gujjar who visited Poonch from Trar Khar, is surprised to see communal harmony, brotherhood and composite culture between Hindus, Muslims and Sikhs on the Indian side but professes dismay that in POK, even within the Muslim community, the Gujjars are not considered at par with the original inhabitants and landlords. [...] On the Pakistani side, there is no such institution, governmental or otherwise, working towards promoting the Gojri language. Gojri writers of the Pakistani side, like Rana Fazal Rajourivi, have got their works published through the J&K Cultural Academy in India. Another visitor, Choudhary Mohammad Bashir - born in Surankote, a migrant across the LoC in 1965 and now working as a District Qazi in Kotli District - feels isolated in POK because Gujjars feel inhibited about speaking in their mother tongue and practicing their customs. Unlike in Jammu and Kashmir, Gujjars in POK do not use their surname 'Choudhary' as it earns the derision of others. The ethnic,

cultural and linguistic identity of Gujjars has increasingly been diluted, and this can be attributed to a state-sponsored hatred against the Gujjar tribe. Apart from economic disparities, one of the main concerns of the Gujjars in POK is the marriage of their children since they are considered social outcasts. A majority of the Gujjar visitors from POK have been making appeals to the government and have sought the support of civil society to allow them to have nuptial relations with Gujjars in Jammu and Kashmir. If this is not allowed, the Gujjar tribe in POK may well face extinction." (IPCS, 19 February 2007)

The US Department of State (USDOS) mentions in its human rights report of April 2011 that in Pakistan "systematic discrimination against national, ethnic, and racial minorities was widely acknowledged privately, but insufficient data existed for accurate reporting on these forms of discrimination." (USDOS, 8 April 2011, Section 6)

#### **6.4 Situation of individuals without citizenship**

Among the sources consulted within time constraint, no information could be found with regard to the situation of individuals in Pakistan-administered Kashmir without citizenship.

#### **6.5 Situation of Kashmiris displaced from Indian-administered Kashmir**

A June 2004 report of the International Crisis Group mentions the number of 17,000 Kashmiri refugees in Azad Jammu and Kashmir (ICG, 24 June 2004), referring to an article in National Geographic News (National Geographic News, 13 March 2003). In the 2007 edition of its annual World Refugee Surveys, which were produced until 2009, the US Committee for Refugees and Immigrants (USCRI) also refers to a figure of "some 17,000 displaced Kashmiris" that "remained in a refugee-like situation on the Pakistani side of the line of demarcation between Pakistan and India" (USCRI, 11 July 2007). In the 2004 edition of the World Refugee Survey, USCRI wrote that some of the 17,000 refugees from Indian controlled Kashmir have been in Pakistan since 1947. They live in 17 camps in Azad Jammu and Kashmir, where they are assisted by local authorities (USCRI, 25 May 2004). In its World Refugee Survey 2000, USCRI gave a detailed description of the situation of Kashmiris from Indian controlled Kashmir who had entered Pakistan or Azad Jammu and Kashmir:

"Kashmiris who entered Pakistan or Pakistan-controlled Kashmir from Indian controlled Kashmir before 1971 were offered land, assistance, and citizenship by Pakistan. However, the more than 15,000 refugees from Indian Kashmir who fled to Pakistan after 1971 were living in camps in Pakistani-controlled Kashmir, known as Azad and Jammu Kashmir. Because Pakistan did not recognize Indian sovereignty over any part of Kashmir, it officially considered the refugees to be internally displaced persons. Therefore the International Committee of the Red Cross (ICRC), not UNHCR, assisted this population. The Azad and Jammu Kashmir authorities also assisted them.

In May, conflict erupted between India and Pakistan along the border between the two Kashmirs (see India). The conflict left dozens dead and displaced tens of thousands within both India and Pakistan. According to the U.S. Department of State, as many as 14,000 persons from Indian-controlled Kashmir crossed into Azad and Jammu Kashmir. It remained unclear whether the refugees returned home after the hostilities subsided." (USCRI, 1 June 2000)

In an August 2010 article, the British weekly magazine *New Statesman* reports on living conditions of people who migrated from Indian-administered Kashmir at Manak Piyon migrant camp in Muzaffarabad. The article mentions discrimination by local Kashmiris and the lack of citizenship papers or ID cards:

"On a sunny Friday afternoon at Manak Piyon migrant camp for refugees in Muzaffarabad, the capital of Pakistan-administered Kashmir, Rizwan Ahmed, an ex-jihadi, sits in a classroom overlooking the River Neelum and holds forth among a group of elders. "Nobody wants to take responsibility for us. It's like we don't exist," says the bearded schoolteacher with a prosthetic leg, who, at the age of 37, is already regarded as something of a community leader. "We want to go back, but the governments of India and Pakistan won't allow us. They are violating our fundamental rights." His audience murmurs in agreement. They belong to a group of people who migrated from Indian-administered Kashmir, fleeing torture and killings during the insurgency of the late 1980s and early 1990s. Some, including Ahmed, openly admit that they fought against the Indian military. [...] Now, 20 years on, most of the 35,000 people who fled continue to live in makeshift camps and say they face discrimination at the hands of local Kashmiris. As second, third and even fourth generations are born in the camps, up to 40 per cent of the refugees lack the citizenship papers or ID cards that would entitle them to go to college or get government jobs. Unemployment rates in the community are even higher than the estimated 35-40 per cent for the region as a whole. [...]

Rana Altaf was just five years old when, in the spring of 1993, he and his family were forced to flee their village in the Kupwara district of Indian-administered Kashmir. During the insurgency against the Indian authorities in the early 1990s, thousands of young men, including Rana's father and uncle, were arrested, beaten and tortured. Fearing for their lives, they eventually crossed the Line of Control, trekking on foot for three days across treacherous, snowy terrain. The threat of Indian landmines, designed to deter Pakistan-based militants, loomed large. The group was 60-strong. "We knew that if we turned back, we faced certain death. They would have shot us," recalls Rana's father, Abdul Rasheed. He says he was arrested three times and interrogated by a man who threatened to have him killed if he didn't give the names of militants hiding in his village. He insists he had nothing to do with the armed struggle, in which an estimated 84,000 civilians lost their lives. [...] Seventeen years on, the family lives in a makeshift shanty house on the outskirts of Muzaffarabad. Though they count themselves lucky to be alive, the family's dream of a welcoming Pakistan was short-lived. "We're grateful to Pakistan, but we're always made to feel different. The people here don't like us, they don't mix with us and it's hard to get a job," says Rana, who has not yet received Pakistani citizenship or an identity card. Rana's mother, Sobia, complains that the family struggles for food each month as the men of the family find informal work only occasionally. Almost all the migrants continue to live in camps and subsist on government handouts of 1,500 rupees (£11) a month per person.

At Rana's residence, three families cram into two rooms and live on government welfare cheques. Not one of them possesses a Pakistani ID card. [...] Ahmed finally got his identity card seven years ago, after a long struggle with an unrelenting bureaucracy. Some

members of the community petitioned the high court in 2005 for citizenship rights, but the court's ruling extended only as far as a few dozen individual cases. Other migrants were granted citizenship in 2006 in the run-up to the state elections, in what they see as a cynical ploy by politicians to garner votes." (New Statesman, 23 August 2010)

The Centre for Dialogue and Reconciliation (CDR) reports from the first Intra-Jammu Kashmir dialogue, held in Srinagar in July 2005 with 46 participants from both the Pakistan-administered and the India-administered Kashmir. Participants from Azad Jammu and Kashmir (AJK) are quoted with figures on refugee camps and displaced persons:

"Participants from AJK said that there are about 19 refugee camps and about 24,574 displaced persons on their side. The biggest camp had 2,227 people while other camps were smaller. Around 10,000 people are also living with their relatives. One participant, a migrant himself, described the mental trauma and agony suffered by the migrants. Separation and inability to visit relatives has caused deep anguish. He also complained that the migrants of the 1990s are not allowed to travel on the Srinagar-Muzaffarabad bus. They have relatives in the Valley." (CDR, December 2009, p. 25)

In a report of Assed Baig for the London Progressive Journal in January 2009, the author describes a visit to a small refugee camp in Kotli district in Azad Kashmir:

"In Pakistani-administered Kashmir this small refugee camp is home to some 600 people who have fled Indian-administered Kashmir, 16km from the line of control. [...] Over the years the tents in the refugee camp have been replaced by small houses and even a mosque and a small State run school teaching children up to the age of ten. [...] The Pakistani government has provided some help for these people. Vehicles were provided for refugees to bring them to the camp. Small pieces of land were allocated for each family so that they might pitch up a tent. Each family receives 1000 rupees a month, approximately ten pounds. People told me that they are in debt, and it has been four months since they have received anything from the Pakistani government. There are thousands of refugees scattered throughout this region, victims of the conflict in Kashmir." (London Progressive Journal, 30 January 2009)

In its Freedom in the World 2008 report, Freedom House (FH) speaks of roughly 1.5 million refugees from Indian-administered Kashmir, living in relief camps and elsewhere in Azad Kashmir and throughout Pakistan:

"Several hundred families displaced by shelling between Indian and Pakistani forces around the LOC prior to the 2003 ceasefire remain unable to return to their homes and have largely been excluded from earthquake-related assistance schemes. In addition, the Azad Kashmir government 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." (FH, 2 July 2008)

## 6.6 Citizenship and identity documentation

The Pakistan Citizenship Rules, 1952, contain provisions on issuing a certificate of citizenship (Pakistan Citizenship Rules, 1952, 6 February 1951).

The text of the Pakistan Citizenship Rules, 1952, can be accessed via the following link:

- Pakistan Citizenship Rules, 1952, 6 February 1951  
<http://www.unhcr.org/refworld/docid/3ae6b4fc1c.html>

The website of the Directorate General of Immigration & Passports of the Pakistani Ministry of Interior lists the following kinds of applications for certificates of citizenship:

“Application for a certificate of Citizenship of Pakistan at the commencement of Pakistan Citizenship Act ,1951 (II of 1951) .

Application for a certificate of Citizenship of Pakistan after the commencement of Pakistan Citizenship Act, 1951 (I of 1951).

Application for citizenship of Pakistan from a person born in Pakistan who having migrated to India after 1st March 1947 has returned to it under the permit for resettlement or permanent return.

Application for Registration as a citizen of Pakistan by a person of Indo-Pakistan origin residing abroad

Application for a certificate of registration as a citizen of Pakistan by naturalization.

Application by a married women for a certificate of Citizenship of Pakistan by registration.

Application for registration Minor as a Citizen of Pakistan.

Application for a certificate of Domicile in Pakistan.

Application for a certificate of Citizenship from a person whose citizenship is in doubt.

Application for registration as a citizen of Pakistan by a British subject (or a Commonwealth Citizen).

Application for registration of the birth of a child of a citizen of Pakistan born in a country outside Pakistan.

Form of statement for annual registration by a citizen of Pakistan resident abroad.

Application for copy of (citizenship or domicile certificate) or its replacement with changed particulars.

Form of Declaration of Renunciation of Citizenship under Section 14-A of the Pakistan Citizenship Act, 1951.” (Government of Pakistan, Directorate General of Immigration & Passports, Ministry of Interior, undated a)

### *6.6.1 Administrative procedures; obstacles in obtaining national identity documents*

The following pre-requisite documents are listed on the website of the Directorate General of Immigration & Passports for applying for a Passport:

“Original Bank Challan (receipt) with appropriate fee deposits.  
Original Computerised National Identity Card (CNIC) issued by NADRA with its 2-  
photocopies.

OLD Passport with its photocopy, if issued.

NOC in case of a Government Servant.

Foreign Passport along with its photocopy, for Dual-Nationality holders only.”  
(Government of Pakistan, Directorate General of Immigration & Passports, Ministry of  
Interior, undated b)

The website also lists Regional Passport Offices in Sindh, Punjab, Khyber Pakhtunkhwa, Baluchistan and Azad Jammu Kashmir where Machine Readable Passports are issued (Government of Pakistan, Directorate General of Immigration & Passports, Ministry of Interior, undated c).

On the website of the National Database and Registration Authority (NADRA), information on various ID cards and certificates can be found:

“CNIC (Computerized National Identity Card) is the core product of NADRA issued to a valid/legitimate citizen of Pakistan. It is a blend of state-of-the-art technology and well-defined business rules to guarantee its authenticity and validity. Every genuine, 18 Years and above, citizen of Pakistan is eligible for CNIC. [...]

A CNIC applicant is required to produce the following documents at the time of application: Birth Certificate or Old NIC or Matriculation Certificate or CNICs of immediate/blood relatives; Citizenship certificate issued by MOI” (NADRA, undated a)

“FRC: Family Registration Certificates are documents issued to nationals of Pakistan highlighting the family tree structure of the applicant. [...]

Following are the documentation requirements for FRC: CNIC numbers of all family members, CRC numbers of all family members” (NADRA, undated b)

“CRC: Child Registration Certificates is a registration document used to register minors under the age of 18 years. [...]

Following are the basic documentation requirements for CRC: No Documents are required for applicants below the age of 10 years; Birth or School Certificate is required for applicants over the age of 10 years” (NADRA, undated c)

The Asian Human Rights Commission (AHRC) reports of a case of the refused renewal of a Pakistani passport to a political pro-independence party leader from Azad Kashmir:



"The Asian Human Rights Commission [...] has received information that the Pakistan Embassy in Bern, Switzerland, has refused the renewal of passports to a Pakistani family allegedly on the instructions of intelligence officials of Pakistan. One official from the embassy privately told the family that intelligence agencies have objections on granting the renewal of Passports. The request from the federal minister of Interior to the authorities to issue the passports was not entertained. The embassy's officials have confiscated the passports after taking the fee for the renewal of the passports. The renewal applications were pending before the Pakistani embassy since March 2010. The family belongs to a prominent political leader of the Pakistan side of Kashmir and living in asylum in Switzerland. [...] Sardar Shaukat Kashmiri is the Chairman of United Kashmir Peoples National Party (UKPNP) which is striving for the independent of whole Kashmir from India and Pakistan. Sardar was arrested by the intelligence agencies of Pakistan, first, in 1992 and second time in 1998, and was kept in incommunicado in military torture cells for many months. He was severely tortured and forced to denounce the independence of whole Kashmir. He was offered by the ISI to work for Jihad and he would get prominence at international level. He left Pakistan in 1999 and applied asylum. He got asylum status in 2000." (AHRC, 27 August 2010)

An August 2010 article by the British weekly magazine *New Statesman* mentions a long struggle of a person from Indian-administered Kashmir in order to get a Pakistani ID card, a high court ruling in this regard and the granting of citizenship to other individuals of that group:

"At Rana's residence, three families cram into two rooms and live on government welfare cheques. Not one of them possesses a Pakistani ID card. [...] Ahmed finally got his identity card seven years ago, after a long struggle with an unrelenting bureaucracy. Some members of the community petitioned the high court in 2005 for citizenship rights, but the court's ruling extended only as far as a few dozen individual cases. Other migrants were granted citizenship in 2006 in the run-up to the state elections, in what they see as a cynical ploy by politicians to garner votes." (*New Statesman*, 23 August 2010)

## 7 Freedom of Religion

### 7.1 Domestic legal framework (Constitution and legislation)

The US Department of State (USDOS) states in its International Religious Freedom Report published in September 2011 with regard to the constitution and legislation of Pakistan:

"The constitution and other laws and policies restricted religious freedom and, in practice, the government enforced these restrictions. The constitution establishes Islam as the state religion, and it requires that laws be consistent with Islam. The constitution states that 'subject to law, public order, and morality, every citizen shall have the right to profess, practice, and propagate his religion;' in practice, however, the government limited freedom of religion. Freedom of speech was also constitutionally 'subject to any reasonable restrictions imposed by law in the interest of the glory of Islam.'" (USDOS, 13 September 2011)

The Azad Jammu and Kashmir Interim Constitution Act of 1974 similarly stipulates that "Islam shall be the State religion of Azad Jammu and Kashmir" (Azad Jammu and Kashmir Interim Constitution Act, 1974, section 3). Section 4 (4)(10) of the Interim Constitution of Azad Jammu and Kashmir contains provisions on freedom of religion resembling those of the constitution of Pakistan:

"Subject to law, public order and morality -

(a) Every state subject has the right to profess and practice his religion; and

(b) every religious denomination and every sect thereof has the right to establish, maintain and manage its places of worship: Provided that nothing contained in subparagraphs (a) and (b) shall be so construed as to abridge the authority to promulgate laws which may prescribe prohibition or penalty for conversion from Islam or the act of converting or the attempt of converting a Muslim to some other religion." (Azad Jammu and Kashmir Interim Constitution Act, 1974, section. 4 (4)(10))

Both the constitution of Pakistan and the Interim Constitution of Azad Jammu and Kashmir provide that the respective presidents and prime ministers have to be Muslims (Constitution of the Islamic Republic of Pakistan, 1973, amended as of 1 January 2011, article 41 (2) and article 91 (3); Azad Jammu and Kashmir Interim Constitution Act, 1974, section. 5 (4)(a) and section 13 (2)).

The USDOS report on religious freedom mentions the blasphemy laws contained in sections 295 (a), (b), and (c) of the penal code of Pakistan and the provisions of the Anti-Terrorism Act related to incitement of religious hatred:

"Freedom of speech was subject to 'reasonable' restrictions in the interest of the 'glory of Islam,' as stipulated in sections 295 (a), (b), and (c) of the penal code. The consequences for contravening the country's blasphemy laws were death for defiling Islam or its prophets; life imprisonment for defiling, damaging, or desecrating the Qur'an; and 10 years' imprisonment for insulting 'another's religious feelings.' Some individuals brought

charges under these laws to settle personal scores or to intimidate vulnerable Muslims, sectarian opponents, and religious minorities. Under the Anti-Terrorism Act (ATA), any action, including speech, intended to incite religious hatred was punishable by up to seven years' imprisonment." (USDOS, 13 September 2011, Section II)

As reported by the Pakistani newspaper Express Tribune, the anti-blasphemy law which was introduced in Pakistan in 1986, was adopted by Pakistan-administered Kashmir in 1993. The website of the Department of Law, Justice & Parliamentary Affairs of the government of Azad Jammu & Kashmir lists the Penal Code as one of the Laws adopted in AJK in 1948 (Government of Azad Jammu & Kashmir, undated b). On the website of the Legislative Assembly of Azad Jammu and Kashmir, seven amendments of the Penal Code are listed under the laws adopted by the assembly, one of them in 1993 (Legislative Assembly of Azad Jammu and Kashmir, last entry: 2011).

The Express Tribune also reports about a man in Kashmir who received a life sentence under the blasphemy laws by a local court in Muzaffarabad for burning the Quran (Express Tribune, 15 March 2012).

A Report of the UK Parliamentary Human Rights Group (PHRG) mission to Pakistan from January 2007 contains the following table with a summary of blasphemy laws and penalties under the Pakistan Penal Code (PPC) (PHRG, January 2007, p. 10):

PPC	Description	Penalty
298a	Use of derogatory remarks etc., in respect of holy personages	Three years' imprisonment, or fine, or both
298b	Misuse of epithets, descriptions and titles etc., reserved for certain holy personages or places, by Ahmadis	Three years' imprisonment and fine
298c	An Ahmadi, calling himself a Muslim, or preaching or propagating his faith, or outraging the religious feelings of Muslims, or posing himself as a Muslim	Three years' imprisonment and fine
295	Injuring or defiling places of worship, with intent to insult the religion of any class	Up to two years' imprisonment or fine, or both
295a	Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs	Up to 10 years' imprisonment, or fine, or both
295b	Defiling, etc., of Holy Quran	Imprisonment for life
295c	Use of derogatory remarks, etc; in respect of the Holy Prophet	Death and fine

Further details on the Pakistani blasphemy laws can be found in a special report Freedom House (FH, October 2010).

Apart from the blasphemy laws, the USDOS also mentions the anti-Ahmadi provisions of law as discriminatory legislation fostering religious intolerance, violence and intimidation in Pakistan:

"The government rarely investigated or prosecuted the perpetrators of increased extremist attacks on minorities and the majority promoting tolerance, which deepened the climate of impunity. Despite the government's steps to protect religious minorities, societal intolerance and violence against minorities and Muslims promoting tolerance increased, and abuses under the blasphemy laws continued. The government did not take adequate measures to prevent these incidents or undertake reform measures to prevent the abuse of the blasphemy laws. Toward the end of the reporting period the public discourse regarding the blasphemy laws became increasingly heated, which contributed to the government's reluctance to address the issue. [...] Discriminatory legislation, such as the blasphemy laws and the anti-Ahmadi provisions of law, and the government's failure or delay in addressing religious hostility by societal actors fostered religious intolerance, acts of violence, and intimidation against religious minorities and Muslims alike. The country's blasphemy laws continued to be used as a legal weapon against religious minorities and other Muslims." (USDOS, 13 September 2011)

## 7.2 Treatment of members of religious groups

According to the data given by the September 2011 USDOS report on Religious Freedom, 95 per cent of the 174 million inhabitants of Pakistan are Muslim, three quarters of them Sunni and one quarter Shia. Other groups include Hindus, Christians, Parsis/Zoroastrians, Bahais, Sikhs, Buddhists, Ahmadis and others (USDOS, 13 September 2011, Section I). As for the Pakistan-administered parts of Kashmir, a 2011 report of the Institute for Defence Studies and Analyses (IDSA) lists Sunni, Ahlehadith, Shia, Nurbakhshi, Christians, Qadianis and Hindus as religious groups in the region of Azad Jammu and Kashmir; for the region of Gilgit-Baltistan, IDSA lists Shia (Twelvers), Nurbakhshi (Twelvers), Ismaili, Sunni and Ahlehadith as religious groups (IDSA, May 2011, p. 47). In a "Flashpoint on Kashmir", BBC News presents figures based on Indian and Pakistani Government Censuses, according to which 99 per cent of the population in the Northern Areas and in Azad Jammu and Kashmir are Muslim (BBC News, last updated 19 May 2011).

The Center for Strategic and International Studies (CSIS) lists four broad categories of Sunnis in Pakistan:

"Sectarian, ethnic, and regional groups are another major source of Pakistan's problems. Pakistan's religious groups have played a role in politics since the inception of the state and have often benefited from periods of strong state support. While they pursue distinct agendas in terms of religious and civil goals, most share the same fundamental objective—to increase the role of Islam in all aspects of the state. Religion has always been central to Pakistan's identity as a secular nation founded on the basis of Islam. 96% of Pakistanis are Muslim, most of whom are Sunnis, divided into four broad categories, the Barelvis, Deobandis, Ahle-Hadith, and the revivalist Jamaat-e-Islami (JI) movement. A recent Gallup poll released in late May 2011 showed 67% of Pakistanis favored an increased Islamization of society, and 31% wanted such steps to happen 'at once.'" (CSIS, September 2011, p. 23)

The USDOS reports on widespread societal discrimination against religious minorities and on societal violence against such groups:

"Reports of societal abuses or discrimination based on religious affiliation, belief, or practice continued, and there were increased reports of human rights and religious freedom activists and members of minorities going into hiding due to a climate of intolerance and fear, especially after the arrest of Aasia Bibi and the controversy surrounding the blasphemy laws. Relations between religious communities remained tense. Societal discrimination against religious minorities was widespread, and societal violence against such groups occurred. Nongovernmental actors, including violent extremist groups and individuals, targeted religious congregations. Acts of violence and intimidation against religious minorities by extremists increased and exacerbated existing sectarian tensions. Extremists in some parts of the country demanded that all citizens follow a strict version of Islam and threatened brutal consequences if they did not abide by it. [...] Issues involving the blasphemy law also generated extremist responses. In general society was deeply polarized regarding proposals to amend the blasphemy laws, and some religious leaders used incendiary rhetoric to convince much of the population that any attempt to amend the laws was an attack on the sanctity of Islam. More moderate voices argued the law was being misused, but those arguments were drowned out by the more emotional and extremist elements and the fear of violent retaliation from those elements. The prospect of President Zardari issuing a pardon for Aasia Bibi also generated a highly controversial debate." (USDOS, 13 September 2011)

The report continues that police often refused to prevent violence and harassment or refused to charge persons who committed such offenses:

"During the reporting period there were reports of societal abuses or discrimination based on religious affiliation, belief, or practice. Citizens continuously used blasphemy laws to harass religious minorities and vulnerable Muslims and to settle personal scores or business rivalries. Relations among religious communities remained tense. Violence against religious minorities and between Muslim sects continued. Most believed a small minority was responsible for attacks; however, discriminatory laws and the teaching of religious intolerance created a permissive environment for such attacks. Police often refused to prevent violence and harassment or refused to charge persons who committed such offenses. Conversion to minority religious beliefs generally took place in secret to avoid societal backlash." (USDOS, 13 September 2011, Section III)

The Freedom House special report on the impact of blasphemy laws on human rights from October 2010 mentions that after the Ahmadis, Christians are most affected by blasphemy laws in Pakistan, the report emphasises that almost half of the blasphemy cases affected Muslims:

"[T]he ratio of Muslims to non-Muslims among blasphemy defendants illustrates the extent to which these laws are used to persecute religious minorities. Pakistan's minister for minority affairs, Shahbaz Bhatti, has publicly argued that 'the blasphemy law is being used to terrorize minorities in Pakistan.' Ahmadis are the most affected, followed by Christians.

However, Muslims are not exempt. Almost half of all blasphemy cases lodged over the last two decades have been against Muslims, including both Sunnis and Shiites. [...] Shiite Muslims are a religious minority in their own right, and they have faced periodic attacks

by Sunni extremists. However, the use of blasphemy laws against Sunni and Shiite Muslims does not appear to be based on sectarian differences so much as personal disputes." (FH, October 2010, p. 77)

A report by the Jinnah Institute of 2011 mentions that Pakistan's blasphemy laws disproportionately affect Hindus, Christians and Ahmadis:

"Pakistan's blasphemy laws disproportionately affect Hindus, Christians and Ahmadis. Hindus have been arrested and abused in recent years due to their religious identity. They have also been subject to violence by Muslim radicals. For example, in 2005 and 2006, there were a number of noted kidnappings of Hindu girls who were then forced to convert to Islam and marry Muslim men. Also noted were kidnappings of successful Hindu businessmen who were held for ransom." (Jinnah Institute, 2011, p. 34)

### *7.2.1 Ahmadi*

The USDOS quotes the figure of 600,000 Ahmadis in Pakistan and mentions that the community faces discrimination by state and society:

"The number of Ahmadis living in the country, according to Jamaat-e-Ahmadiyya, is 600,000, although it is difficult to establish an accurate estimate because Ahmadis, who are legally prohibited from identifying themselves as Muslims, generally choose not to identify themselves as non-Muslims." (USDOS, 13 September 2011, Section III)

"The Ahmadiyya community continued to face governmental and societal discrimination and legal bars to the practice of its religious beliefs." (USDOS, 13 September 2011)

In its report on the State of Human Rights in Pakistan in 2010, the Asian Human Rights Commission (AHRC) gives a detailed account of the situation of Ahmadis in Pakistan:

"The Ahmadi Muslims do not have the right to vote under the eighth amendment of the 1973 Constitution and have no freedom to practice their faith, belief, practice or worship. [...] The Pakistan Penal Code contains legal provisions that institutionalize explicit discrimination against the Ahmadi sect, including Section 298-C, which stipulates that 'any person of the Qadiani group or the Lahori group (who call themselves 'Ahmadis' or by any other name), who directly or indirectly, poses himself as a Muslim, or calls, or refers to, his faith as Islam, or preaches or propagates his faith, or invites others to accept his faith, by words, either spoken or written, or by visible representations, or in any manner whatsoever outrages the religious feelings of Muslims shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.' [...]

The blasphemy laws are also widely used against the Ahmadis, with about 340 out of the 964 persons alleged under blasphemy laws from 1986 to August 2009 being members of the sect, according to a NCJP report. At present more than one thousand Ahmadis are estimated to be in Pakistan's jails on charges of blasphemy." (AHRC, 9 December 2010, p. 89-91)

The latest AHRC report on the State of Human Rights in Pakistan published in December 2011 mentions hate crimes against the Ahmadiyya community:

"In the hate crimes against the Ahmadiyya community more than 111 Ahmadis have been killed in target killings since 1984 when an ordinance against Ahmadis were issued by a military dictator. In May last year, more than 88 people were killed in Lahore, the provincial capital of Punjab, when gunmen opened fire at two separate places of worship and, one year on, no progress has been made by investigators. The religious minority group of Ahmadis is under constant threat of religious hate crimes and no serious efforts have been initiated by the government to provide protection the community." (AHRC, 10 December 2011, p. 45)

A report of the Asian Human Rights Commission (AHRC) dated February 2010 notes that the provincial governments in Azad Kashmir openly supported the Muslim fundamentalist leaders in their anti-Ahmadiyya campaign:

"The year 2009 was one of the worst for Ahmadis (a religious minority community) in Pakistan. Eleven Ahmadis were murdered for their faith. Since the promulgation of the anti-Ahmadiyya law in 1984, there has never been a year when less than 11 Ahmadis were killed. Apart from this, numerous attempts have been made on the lives of Ahmadis by their opponents who felt encouraged by the jaundiced attitude of the authorities against Ahmadis.

The federal government maintained its posture as if in continual denial of the human rights and freedom of religion of Ahmadis. The provincial governments, particularly in the Punjab and Azad Kashmir openly supported the Mullas (Muslim fundamentalist leaders) in their anti-Ahmadiyya campaign.

[...] The Central Police Office of Azad Kashmir issued an office circular dated March 5, 2009 on the subject of Suppression of Ahmadiyyat. A prominent sectarian leader Mr. Pir Atiqur Rahman has been appointed Minister of Auqaf (Religious Trusts) of Azad Kashmir government.

Seventy-four Ahmadis were booked during the year under anti-Ahmadiyya and religious laws on spurious grounds. These laws carry penalties of death and long-term imprisonments. A woman school teacher, Ms Bushra Naheed was booked on March 5, 2009 under section PPC 295-A, which is section of law that deals with deliberate and malicious act to outrage religious feelings of any class by insulting the religion or religious beliefs. The charge is triable in an anti-terrorist court, and it is punishable by ten years imprisonment. The lady was only accused of speaking harshly to a woman worker." (AHRC, 3 February 2010)

In another report, dated November 2011, the AHRC describes the case of a member of the Ahmadiyya sect, Dr. Shah Muhammad Javed, a resident of Kotli in Azad Kashmir, who has been missing together with his son since October 2011:

"The police say that since he is from Ahmadiyya sect he has obviously been abducted by Muslim fundamentalists and it will be impossible to find him. A family member complained

to the Asian Human Rights Commission that the police were showing the least possible interest to search for the father and son. The car was found in Dina, Jehlum, more than 100 kilometers away from his home. The place is close to the area from where the body of a prominent journalist, Mr. Saleem Shazad's car was found after his abduction and disappearance in the month of May. The roads leading to Jehlum are all covered by law enforcement agencies as the area is one of the biggest Cantonment areas of Pakistan. At every 20 kilometers there are check posts of the military or police.

The family members fear that he would be killed along with his son if quick efforts were not adopted. No group has yet claimed his abduction but it is obvious that religious fundamentalist groups, including main stream political parties are driving strong movements to crush the Ahmadiyya sect as it is basically against their belief of Prophet Muhammad (PBUH) as the last prophet of Islam. Punjab province has become a strong hold of such fundamentalist groups who do not tolerate the Ahmadis, their mosques, their educational institutions and bar the students from the professional colleges. It is also alleged that the provincial government was also holding such conferences where the Ahmadis are declared as infidel and liable to be killed." (AHRC, 3 November 2011)

On its website *persecution.org*, the Ahmadiyya Muslim Community provides annual reports on the persecution of Ahmadis in Pakistan. The last report for the year 2010 contains a detailed chapter on "suppression of Ahmadis in Azad Kashmir" (Ahmadiyya Muslim Community, 31 December 2010, p. 19-24)

### *7.2.2 Christian*

An article published in the Dawn in August 2002 mentions a small Christian community in the Shaukat Lines district of the Azad Kashmir capital Muzaffarabad:

"Muzaffarabad, Aug 10: AJK police have taken special measures to protect the small Christian community in Azad Kashmir in the wake of two terrorist attacks in the neighbouring towns of Murree and Taxila, and suicide by three attackers allegedly involved in one of the incidents, a senior police officer said on Saturday. Deputy inspector-general of the AJK police Sheikh Tahir Qayyum told Dawn he had ordered maintenance of strict security around a shanty dwelling of the Christians in the state capital to prevent any untoward incident.

Some 60 Christians, most of them labourers, are living along the right bank of River Neelum in Shaukat Lines locality of the AJK capital, which is home to army offices and installations. The DIG said the police had been alarmed about their security after the attacks on Christians in the two neighbouring Pakistani towns in the past one week.

The DIG said that the Christians had converted a small house in their dwelling into their Church where they worship every Sunday. Father Ilyas, an employee of the United Nations Military Observers Mission in Muzaffarabad conducted the services, he said." (Dawn, 11 August 2002)



According to another article published in the Express Tribune in April 2012, the Christian community in Azad Jammu and Kashmir “celebrated Easter with religious fervour and devotion”. The article mentions a Christian religious centre in Mangla village in Mirpur district and quote Christian leaders as saying that “the community will stand side by side with the Muslim majority in all confronting challenges, including eradication of extremism and economic prosperity”. They are also quoted as expressing “satisfaction over communal harmony among the local people” and “enjoying freedom to practice their religion in AJK.” (Express Tribune, 9 April 2012)

In the online Christian church directory CH.URCH.ES, the “Church N' Diocese of Azad Kashmir” located at St. Mary's Cathedral, Muzaffarabad, Azad Kashmir can be found. As a contact person, “Rt. Rev. Elias Sardar Raja (Bishop of Azad Kashmir)” is named (CH.URCH.ES, undated)

The US Department of State (USDOS) mentions Christians as one of the groups whose members reported governmental and societal discrimination in Pakistan (USDOS, 13 September 2011).

### *7.2.3 Hindu*

The Daily Excelsior, a daily published in Indian-administered Jammu And Kashmir, describes the town Kotli in AJK as dominated by Hindu and Sikh families at the time of partition in 1947, with about 4,000 Hindus residing there. Subsequently, the Hindu and Sikh population was forced to cross to the Indian side of the Line of control:

“At the time of partition in 1947, There were about 700 houses in Kotli town apart from a established Bazaar of an ancient time. Most of the houses were single storeyed buildings made of mud and boulders while some pacca houses were also existing in the town. Kotli was a tehsil headquarter of district Mirpur. There was also an old Baradari situated at the edge of Poonch river constructed with bricks and lime. There were three Hindu temples and a Dharamshala, two mosques and number of water mills. Kotli was a Mandi of food grain and wool products. The climate of the town was a bit hotter than Poonch town. The town was dominated by Hindu and Sikh families. There were about 4000 Hindus in Kotli town at the time of partition. Mostly they were traders. There was a complete communal harmony between Hindu and Muslims in Kotli town. The habitants were participating in the religious and social functions of each other. However during the turmoil of 1947 the Hindu and Sikh population of Kotli town and surrounding villages was forced to migrated on this side of LOC and they never got opportunity to go back in their native areas. Presently the migrants of Kotli have been settled in Nowshera, Jhangar and Jammu area, but their sentiments are still with with Kotli. With the opening of Poonch-Rawalakote road, the migrants of Kotli have again started dreaming of visiting Kotli, the land of their dreams.” (Daily Excelsior, 13 March 2011)

The website AJK Live describes the city of Mirpur in Azad Kashmir as having remnants of a Sikh gurdwara and a Hindu mandir which is “a glimpse of pre-independence times when there were many faiths co-existing in Kashmir as a whole, but however after partition the Hindus, Buddhists and Sikhs fled to India” (AJK Live, undated).

According to the USDOS report, Hindus in Pakistan are among the groups that reported governmental and societal discrimination in the country (USDOS, 13 September 2011).

#### *7.2.4 Sikh*

The US Department of State (USDOS) refers to figures of the Pakistani Ministry for Minorities, which speaks of 30,000 Sikh adherents in Pakistan (USDOS, 13 September 2011, Section I). The two sources mentioned above in the chapter 7.2.3 on Hindus report that the Sikhs of Kotli and Mirpur in AJK fled to India after the partition in 1947 (Daily Excelsior, 13 March 2011; AJK Live, undated).

The Indian Post reports in September 2011 that Indian Sikhs faced problems when visiting historical places of worship (gurudwaras) in Pakistan. At a visit of former AJK Prime Minister Sultan Mehmood Chaudhary in Srinagar (Indian-administered Kashmir), the Sikh community wanted Chaudhary to take up the issue with the Pakistan government for a more liberal policy and a free passage for Sikhs visiting gurudwaras. Nulchi (Muzaffarabad), Gurudwara Chattipatshai (Kathai), Gurudwara Dumdama Sahib (Mirpur) and Gurudwara Guru Nanak (Askardu) are named as important places for the Sikh community (Indian Post, 21 September 2011).

According to the USDOS report, Sikhs in Pakistan are among the groups that reported governmental and societal discrimination in the country (USDOS, 13 September 2011).

#### *7.2.5 Baha'i*

Among the sources consulted within time constraint, little information could be found with regard to the Baha'i community in Pakistan-administered Kashmir:

According to the 2011 USDOS report on religious freedom, the Baha'i "stated that their numbers are growing, claiming 30,000 adherents" in Pakistan (USDOS, 13 September 2011, Section I). On the website of the Baha'i Pakistan National Community it is mentioned that in 1989, the "first local Assembly was elected in Muzaffarabad, the capital city of Azad Kashmir and was registered with the Government". According to the website, a Baha'i centre was built in Muzaffarabad in 1990 and a graveyard was purchased near the city (Baha'i Pakistan National Community, undated). The National Baha'i Centre in Muzaffarabad is also mentioned in a report from 1991 on Baha'i activities in support of the International Literacy Year (Baha'i International Community, 4-8 February 1991).

#### *7.2.6 Shia*

Sajjad Haider, editor-in-chief of the Kashmiri daily Kashmir Observer based in Srinagar (Indian-administered Kashmir), writes in a 2009 paper that 98 per cent of the population in Baltistan and 60 per cent of the population in Gilgit are Shia:

"Although there has been no official census on sectarian lines in Kashmir, a conservative estimate puts the Shia population of the whole of erstwhile Kashmir state at around 1.5 million. A rough estimate puts the Shia population of Indian controlled Jammu and Kashmir state at around one million, 10 percent of the total population. Shias are a majority in the

northern areas of Gilgit-Baltistan currently under Pakistani federal control. Ninety-eight percent in Baltistan and 60 percent in Gilgit and adjoining areas are Shia even though successive governments in Islamabad have attempted to alter the demographic composition of the region to suit their long term political interests." (Haider, 2009)

A report of the Asian Human Rights Commission (AHRC) of July 2009 mentions that "the lower plate of Muzaffarabad is predominately comprised of Shiites." (AHRC, 9 July 2009)

The following sources report on sectarian violence targeting Shiites in Azad Jammu and Kashmir and Gilgit-Baltistan:

The USDOS states in its September 2011 report on religious freedom:

"In December 2009 a suicide bomber attacked a Shia religious procession in Muzaffarabad, Azad Jammu and Kashmir, killing eight persons and injuring 80. There has been no attribution of responsibility for the attack." (USDOS, 13 September 2011, Section II)

Sectarian issues in Gilgit-Balistan are characterized by the Human Rights Commission of Pakistan (HRCP) annual report for 2011 as follows:

"Sectarian streaks were more closely intertwined with politics in Gilgit Baltistan than in many other parts of Pakistan and it was difficult to always distinguish the motives as occasional violence flared there." (HRCP, March 2012, p. 151)

The Asian Human Rights Commission (AHRC) reports in February 2012:

"In the recent target killings of Shias, the majority of the incidents were recorded in those areas which come under high security regions or under the control of the military and its Para-Military troops like, Balochistan, Kurram agency-close to the Afghan border and Gilgit Baltistan area close to the China border. In all those areas there are military check posts within short distances to monitor the activities of terrorists and no civilians, including the government officials, can move without their identification papers. However, on this occasion the killers and terrorists from banned organizations are free to move their convoys armed with sophisticated ammunition and stop vehicles for hours at a time to complete their nefarious designs. [...]

During the first two months of 2012 more than 100 Shias were killed in different parts of the country including the Gilgit Baltistan incident. Among them 34 in Khanpur, Punjab province, 49 in Parachinar, Khyber Pakhtunkha province and 18 in Gilgit. [...] After the incident of February 28, no doubt remains that the security forces were involved covertly or overtly in the sectarian target killing. No doubt has been left on the issues of target killings, the Pakistani spy agencies ISI and military intelligence (MI) has played a vital role along with the militant organisations from the rear to run the target killings. The target killings of Shias in Gilgit shows a great failure of the law enforcement on the area, even after killing a large number of people the militants were able to escape

as is common in almost all the events of target killings and the perpetrators of such organised crime remain untouched." (AHRC, 29 February 2012)

The India-based Institute for Defence Studies and Analyses (IDSA) provides the following overview on sectarian violence in Gilgit-Baltistan:

"Unlike Pakistan which is Sunni-dominated, Gilgit Baltistan is a majority Shia area with a minority Sunni population. The area has been affected by sectarian violence since the 1980s. In recent years the Shia-Sunni divide has widened due to the increasing hostility of Sunni sectarian groups all over Pakistan. There is a great deal of unrest amongst the Shia population of the region who fear the outbreak of large scale violence in the region anytime. A Pakistan-based news organisation has discovered that a huge quantity of illegal arms and ammunition has been dumped in GB, and that these have been allowed to enter the region unhindered through security check posts manned by Pakistani personnel. Target killings have also become routine in this region where the law and order situation is dismal." (IDSA, 28 March 2012)

A report published on the South Asia Terrorism Portal (SATP) (author: Ajit Kumar Singh, Institute for Conflict Management) states:

"Though Islamabad has succeeded in substantially re-engineering the regional demography, Shias, accounting for 39 percent of the inhabitants, still dominate the region. Other denominations include 27 per cent Sunni, 18 per cent Ismaili and 16 per cent Nurbakhshi. By January 2001, the old population ratio of 1:4 non-locals to locals had already been changed to 3:4 non-locals to locals. No estimates of the current ratio are available, but it is expected to have been altered further to the disadvantage of the locals.

Ethnic ties and tribal loyalties conventionally surpassed sectarian identities in GB, with people engaging in many inter-ethnic and inter-tribe marriages. Indeed, GB remained immune to any manifestation of sectarianism till 1974, when Islamabad initiated a number of divisive measures to create a wedge between various denominations. In one such measure, Islamabad banned the annual Muharram procession in Gilgit in 1974, expecting sectarian clashes and a resultant divide. Clashes did occur, and were the beginning of repeated cycle of sectarian strife in the region. An extended controversy over the alteration of school curricula, with increasing emphasis on Sunni practices, provoked one of the longest periods of violence in GB. Despite this sustained, state-orchestrated, mischief, however, no permanent sectarian divide between local communities has resulted. Contrary to frequent official projections, there is no tension between local Shias and Sunnis, but rather a deliberate effort from the outside, part of a long-drawn campaign, to sustain tensions in the region.

Violence has, consequently, been predictable and recurrent in the region. According to a May 2011 Pakistan Institute of Legislature and Transparency report 'since 1998 to December 2010, 117 sectarian cases (of murder) have been registered, 74 were challaned, 15 cancelled, 10 remained untraced, and 15 are pending investigation. This tally does not include attempted murder which has so far numbered 170. Perhaps a thousand people were killed during the 1990s.' Other reports suggest that there have been more than 600

killings over last five years. One unofficial estimate earlier suggested that over 30,000 Gilgit residents have fled the city and its suburbs since 2000, in the wake of orchestrated incidents of sectarian strife, followed by discriminatory and repressive action by the state Forces. Aziz Ali Dad, in an article on December 22, 2011, observed that Gilgit city and its suburbs were experiencing a new element of violence in the shape of target killings, which have virtually turned Gilgit into a 'no go' area. Every week, Dad claimed, several people fell prey to target killings." (SATP, 9 April 2012)

On 3 April 2012, two separate deadly sectarian incidents occurred according to AFP in the towns of Gilgit and Chilas, both located in Gilgit-Baltistan (AFP, 3 April 2012).

The above-quoted April 2012 report published by the South Asia Terrorism Portal (SATP) provides the following consolidated coverage of the April 2012 sectarian violence and casualties in Gilgit-Baltistan:

"Gilgit-Baltistan (GB) has been an area of enduring darkness and oppression since its occupation in 1948, in the wake of India's bloody Partition, and is, again, reeling under a renewed cycle of acute violence. The current troubles commenced with the killing of 18 Shias in the Kohistan area of neighboring Khyber Pakhtunkhwa (KP) on February 28, 2012, and took an uglier turn on April 3, 2012. At least 24 people have died and several others have been injured, in incidents across GB, since the morning of April 3 (till the time of writing). Unconfirmed reports put the number of dead at more than 250. Giving his account of the escalation, GB Police officer Basharat Ali noted that the violence within the region commenced on April 3, when five persons were killed in Gilgit city in clashes between the Police and protesting cadres and sympathizers of the recently banned Sunni formation, Ahle Sunnat Wal Jamaat (ASWJ), a reincarnation of the banned Sipah-e-Sahaba Pakistan (SSP). The outfit had called for a strike in Gilgit, to press the Government to release its 'deputy secretary general', Maulana Ataullah Sadiq, who was arrested on March 28, 2012, in connection with firing on a Shia procession on March 4, 2012. The March 4 procession had been organized to protest against the February 28, 2012, Kohistan killings. On April 3, angry protesters burnt tyres and forced shopkeepers to shut down their shops. Meanwhile, an unidentified person hurled a grenade at the protesting ASWJ cadres, killing at least seven protestors. Subsequently, mosques in the Kashroot area of Gilgit made announcements to retaliate against the Shias in the Diamer District of GB and the Kohistan District of KP. Unsurprisingly, 12 Shias were killed when unidentified assailants opened fire on buses on Karakoram Highway (KKH) near Gonar Farm in Chilas, headquarter of Diamer District, on April 3. According to eye witnesses, miscreants also set ablaze four buses. In a number of attacks on public transports, some 300 passengers were reported missing, and their whereabouts are yet to be ascertained. Fresh lashkars (armed groups) were reported to have embarked from the Chilas, Diamer and Kohistan areas towards Gilgit and its outskirts, to take the 'revenge' for the grenade attack on the ASWJ protestors, but were prevented from entering the town by locals in the outlying villages. Curfew was imposed in Gilgit and its adjoining areas on April 3, 2012, and the Army was out on the streets to control the law and order situation. All transport, including flights, into GB, have been suspended, already resulting in an acute

shortage of essential commodities, including food and medicines, in a region that depends overwhelmingly on supplies from outside.” (SATP, 9 April 2012)

In related incidents in the aftermath of the violence in Gilgit and Chilas, two Shiites from Gilgit-Baltistan were shot dead in Quetta on 3 April and another was killed in Karachi on 6 April 2012, SATP states in the same report (SATP, 9 April 2012).

On 17 April 2012, the Express Tribune reports on arrests in connection with the killings in Kohistan, Chilas and Gilgit and on the sealing of the two main Sunni and Shia mosques in Gilgit in an attempt to stem sectarian violence:

“The alleged mastermind and three others suspects wanted in the Kohistan, Chilas and Gilgit killings were arrested by law enforcement agencies on Monday, official sources in the Gilgit-Baltistan Police told The Express Tribune. Over 450 personnel of law enforcement agencies – army, Northern Scouts, Gilgit Scouts, Rangers and FC – led by major and captain level officers took the wanted men into custody after five days talks with a jirga in Chilas. The forces had besieged the madrassah run by the main accused, Qari Muzamil Shah. The local jirga intervened and persuaded the wanted cleric to surrender. His other accomplices arrested were identified as Sher Ghazi, Shamsul Haq, Nisar, the official requesting anonymity said.

[...] The two main Sunnis and Shias mosques in Gilgit were sealed in an effort to stem sectarian violence. ‘The two central mosques of Shia and Sunni sects have been sealed for an indefinite period,’ a senior administration official said. The closure of mosques were part of the overall steps being taken to stem sectarian strife that has brought life in the region to a standstill, he said, adding that the fate of both the mosques would be decided in due course. [...] With a curfew still imposed and cellular phones jammed, the security forces, led by the army, are still patrolling roads to bring back normalcy to the city that fell into sectarian violence early this month.” (Express Tribune, 17 April 2012)

### *7.2.7 Sufi / Barelvi*

Among the sources consulted within time constraint, no information could be found with regard to Sufis or Barelvis in Pakistan-administered Kashmir. The following sources refer to Sufis or Barelvis in Pakistan:

The Center for Strategic and International Studies (CSIS) report of September 2011 states that the Barelvis comprise between 80-85% of Pakistani Muslims. Their Sufi tenets are disdained by other groups like the Deobandis:

“There are important religious differences that divide Pakistan’s many religious groups. The Deobandis and Ahle-Hadiths for example share a disdain for the shrine idolatry and the Sufi tenets of Pakistan’s majority Barelvis, who comprise between 80-85% of Pakistani Muslims. Over time, ‘these divergent Sunni religious organizations have evolved over time into pressure groups, political parties, and extremist organizations.’ Deobandi groups are generally perceived to be the primary drivers of extremist violence in Pakistan today, but

various groups including factions within Barelvi organizations, have had long associations with militants, from the times of the Soviet jihad." (CSIS, September 2011, p. 24)

The CSIS reports about killings of Barelvis and attacks on Sufi shrines in Pakistan:

"The Barelvi madrassas, while popularized as the most moderate, are not free of their share of radical militant elements. Most connected to Sufi traditions, the Barelvis are large and organized, but are not trained for war like their Deobandi and Ahle-Hadith counterparts. They fight largely to dilute Deobandis and Ahle-Hadith control of Sunni mosques and urban spaces to raise funds and followers. In recent years, they have found themselves in the cross hairs of Deobandi militant groups and have suffered severe blows as a result.

In 2006, 47 Barelvis, including the entire leadership structure of their militant wing, the Sunni Tehreek, was decapitated in a suicide bombing in Karachi's Nishtar Park. The attack was blamed on militants from the LeJ and the SSP. On June 12, 2009, Sarfraz Naeemi, a prominent Barelvi cleric, was killed by a Taliban suicide bomber in retaliation for his outspokenness against Taliban extremism, and attacks on Sufi shrines in the rest of Pakistan are now not uncommon.

Barelvis in Karachi have grown increasingly agitated in response to these attacks against their leaders, renewing worries of sectarian violence. In April 2010, Barelvis in Karachi burnt effigies of Mufti Naeem, the chief cleric at the Deobandi Jamia Binoria, and chanted slogans equating all Deobandis with the Taliban. More recently in the aftermath of the several incidences of Islamist rage such as the assassination of Punjab governor Salmaan Taseer, the release of CIA-contractor Raymond Davis or the killing of Osama Bin Laden, they have jointly protested with the Deobandis. It is uncertain if this solidarity on the street will hold." (CSIS, September 2011, p. 131-132)

The USDOS states in its September 2011 report on religious freedom:

"Extremists also targeted violence against Muslims advocating for tolerance and pluralism, including followers of Sufism and other moderate forms of Islam. Several attacks were directed at Sufi and Shia gatherings and religious sites, resulting in numerous deaths and extensive damage." (USDOS, 13 September 2011)

### **7.3 Religious laws or edicts banning specific jobs, professions or livelihood activities**

Among the sources consulted within time constraints, no information could be found on this issue.

## 8 Freedom of Expression and Association

### 8.1 Domestic legal framework

#### 8.1.1 Freedom of Expression

Article 19 of the Constitution of the Islamic Republic of Pakistan contains the following provisions with regard to freedom of speech and expression:

“19. Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, [commission of] or incitement to an offence.” (Constitution of the Islamic Republic of Pakistan, 1973, amended as of 1 January 2011, article 19)

Section 4 (4)(9) of the Azad Jammu and Kashmir Interim Constitution Act of 1974 provides the following with regard to freedom of speech:

“9. Freedom of Speech.- Every State subject shall have the right to freedom of speech and expression, subject to any reasonable restrictions imposed by law in the interest of the security of Azad Jammu and Kashmir, friendly relations with Pakistan, public order, decency or morality, or in relation to contempt of Court, defamation or incitement to an offence.” (Azad Jammu and Kashmir Interim Constitution Act, 1974, section. 4 (4)(9))

The US Department of State (USDOS) indicates that “[c]itizens generally were free to criticize the government publicly or privately without reprisal” while being “restricted when criticizing the military” (USDOS, 8 April 2011, section 2a).

The Freedom House (FH) report *Freedom of the Press 2011* mentions the following legal restrictions on freedom of speech:

“The constitution and other legislation, such as the Official Secrets Act, authorize the government to curb freedom of speech on subjects including the constitution, the armed forces, the judiciary, and religion. Harsh blasphemy laws have occasionally been used to suppress the media. Under the 2004 Defamation Act, offenders can face minimum fines of 100,000 rupees (\$1,700) and prison sentences of up to five years; however, this legislation has not yet been used to convict journalists. In 2010, broadly defined contempt laws were increasingly used by the judiciary to curb reporting on particular cases or judges, with a number of print and television outlets threatened with judicial contempt charges during the year.” (FH, 2 May 2011).

The text of the Official Secrets Act of 1923 can be accessed via the following link:

- Official Secrets Act, 1923 (1 Act No. XIX of 1923)  
<http://www.intermedia.org.pk/mrc/medialawdocs/OfficialSecretAct.pdf>

The criminal offense of “defamation” is defined in section 499 of the Pakistan Penal Code of 1860:



"499. Defamation: Whoever by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said except in the cases hereinafter excepted, to defame that person." (Penal Code, 6 October 1860, section 499)

The Penal Code provides for ten cases of exception following the core provisions of section 499. Quotation of these exceptions has been omitted here; their text can be accessed via the following link:

- Pakistan Penal Code (Act XLV of 1860), 6 October 1860, amended as of 2006  
<http://www.pakistani.org/pakistan/legislation/1860/actXLVof1860.html>

The Defamation Ordinance of 2002 and the Defamation Act of 2004 (amending the Defamation Ordinance 2002 and the Pakistan Penal Code, section 500) are accessible through the following links:

- Defamation Ordinance, 2002  
<http://www.intermedia.org.pk/mrc/medialawdocs/defamation-law.pdf>
- Defamation Act, 2004 (amends the Defamation Ordinance 2002 and the Pakistan Penal Code)  
<http://www.pakistanpressfoundation.org/governance/27493>

Section 500 of the Pakistan Penal Code, as amended by the Defamation Act of 2004, provides that "the originator of the defamatory imputation shall be punished with imprisonment of either description for a term which may extend to five years, or with fine which shall not be less than rupees one hundred thousand, or with both." (Pakistan Penal Code, 6 October 1860, section 500, as amended by the Defamation Act of 2004).

As reported by Freedom House (FH) in its report *Freedom of the Press 2011*, the Pakistan Electronic Media Regulatory Authority (PEMRA) has "occasionally used its power to halt broadcasts and shut media offices". Although ordinances issued in late 2007 as part of the imposition of martial law that placed additional restrictions on print and broadcast media were formally nullified in April 2010, other PEMRA regulation still remain in force (FH, 2 May 2011).

The PEMRA Ordinance 2002 as amended in 2007 and PEMRA Rules 2009 are accessible via the following links:

- Pakistan Electronic Media Regulatory Authority Ordinance 2002 as amended by the Pakistan Electronic Media Regulatory Authority (amendment) Act, 2007 (Act No.II of 2007)  
[http://www.pemra.gov.pk/pemra/images/docs/legislation/Ordinance\\_2002.pdf](http://www.pemra.gov.pk/pemra/images/docs/legislation/Ordinance_2002.pdf)
- Pakistan Electronic Media Regulatory Authority Rules, 2009  
[http://www.pemra.gov.pk/pemra/images/docs/legislation/PEMRA\\_Rules\\_2009.pdf](http://www.pemra.gov.pk/pemra/images/docs/legislation/PEMRA_Rules_2009.pdf)

For legal provisions specifically pertaining to the expression of views with religious implications, please refer to chapter 7 on religious freedom which contains information on blasphemy laws.

The Anti Terrorism Act (ATA) of 1997 contains the following provisions in its sections 8 and 9:

"8. prohibition of acts intended or likely to stir up sectarian hatred.- A person who:-

(a) uses threatening, abusive or insulting words or behavior; or

(b) displays, publishes or distributes any written material which is threatening, abusive or insulting: or words or behavior; or

(c) distributes or shows or plays a recording or visual images or sounds which are threatening, abusive or insulting: or

(d) has in his possession written material or a recording or visual images or sounds which are threatening, abusive or insulting with a view to their being displayed or published by himself or another, Shall be guilty of an offence if:--

i. he intends thereby to stir up sectarian hatred; or

ii. having regard to all the circumstances, sectarian hatred is likely to be stirred up thereby.

9. Punishment for offence under section 8.- Whoever contravenes [...] any provision of section 8 shall be punished with rigorous imprisonment for a term which may extend to seven years, or with fine, or with both. [...]" (ATA, 1997, section 8 and 9)

Freedom House (FH), in its report on Pakistan-administered Kashmir, maintains that „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" (FH, 18 August 2011).

### *8.1.2 Freedom of Assembly and Association*

The Constitution of the Islamic Republic of Pakistan provides with regard to freedom of assembly and association:

"16. Freedom of assembly.

Every citizen shall have the right to assemble peacefully and without arms, subject to any reasonable restrictions imposed by law in the interest of public order.

17. Freedom of association

(1) Every citizen shall have the right to form associations or unions, subject to any reasonable restrictions imposed by law in the interest of sovereignty or integrity of Pakistan, public order or morality.

(2) Every citizen, not being in the service of Pakistan, shall have the right to form or be a member of a political party, subject to any reasonable restrictions imposed by law in the interest of the sovereignty or integrity of Pakistan and such law shall provide that where the Federal Government declares that any political party has been formed or is operating in a manner prejudicial to the sovereignty or integrity of Pakistan, the Federal Government

shall, within fifteen days of such declaration, refer the matter to the Supreme Court whose decision on such reference shall be final.

(3) Every political party shall account for the source of its funds in accordance with law.” (Constitution of the Islamic Republic of Pakistan, 1973, amended as of 1 January 2011, article 16 and 17)

Section 4 (4)(7) of the Azad Jammu and Kashmir Interim Constitution Act 1974 comprises the following provisions with regard to freedom of association:

“7. Freedom of association.

(1) Subject to this Act, every State subject shall have the right to form association or unions, subject to any reasonable restrictions imposed by law in the interest of morality or public order.

(2) No person or political party in Azad Jammu and Kashmir shall be permitted to propagate against, or take part in activities prejudicial or detrimental to, the ideology of the State’s accession to Pakistan.” (Azad Jammu and Interim Constitution Act, 1974, section 4 (4)(7))

The Pakistan Penal Code of 1860 contains provisions regarding “unlawful assembly” (sections 141 through 145) and “rioting” (sections 146 and 147):

“141. Unlawful assembly: An assembly of five or more persons is designated an ‘unlawful assembly’ if the common object of the persons composing that assembly is:-

First: To overawe by criminal force, or show of criminal force, the Federal or any Provincial Government or Legislature, or any public servant in the exercise of the lawful power of such public servant; or

Second: To resist the execution of any law, or of any legal process, or

Third: To commit any mischief or criminal trespass, or other offence; or

Fourth: By means of criminal force, or show of criminal force, to any person to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or

Fifth: By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do. [...]

142. Being member of unlawful assembly: Whoever being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of any unlawful assembly.

143. Punishment: Whoever is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both. [...]

145. Joining or continuing in unlawful assembly, knowing it has been commanded to disperse:

Whoever joins or continues in an unlawful assembly, knowing that such unlawful assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

146. Rioting:

Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

147. Punishment for rioting: Whoever is guilty of rioting, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both." (Pakistan Penal Code, 6 October 1860, sections 141-147)

Section 11 F of the Anti Terrorism Act (ATA) of 1997 comprises provisions regarding involvement with a "Prescribed Organization":

"11-F. Membership, support and meetings relating to a Prescribed Organization.

1. A person is guilty of an offence if he belongs or professes to belong to a prescribed organization.
2. A person is guilty of an offence under sub-section (1) shall be liable of conviction to a term not exceeding six months imprisonment and a fine.
3. A person commits an offence if he,
  - a. Solicits or invites support for a prescribed organization, and the support is not, restricted to, the provision of money of other property; or
  - b. Arranges, manages or assists in managing, or addressing a meeting which he know is—
    - i. To support a prescribed organization;
    - ii. To further the activities of a prescribed organization; or
    - iii. To be addressed by a person who belongs or professes to belong to a prescribed organization.
4. A person commit an offence if he addresses a meeting, or delivers a sermon to a religious gathering, by any means whether verbal, written, electronic, digital or otherwise,

and the purpose of his address or sermon, is to encourage support for a prescribed organization or to further its activities.

5. A person commits an offence if he solicits, collects, or raises funds for a prescribed organization.

6. A person guilty of an offence under sub-sections (3), (4) and (5) shall be liable on conviction to a term of imprisonment not less than one year and not more than five and a fine." (Anti Terrorism Act, 1997, section 11-F)

The ATA of 1997 was adopted by the Azad Jammu and Kashmir cabinet in August 2002, as reported by Dawn (Dawn, 7 August 2002).

The Pakistan "*Political Parties Act*" (repealed and substituted by the *Political Parties Order* of 2002) legalizes the formation of political parties in those part of the country where it applies (Atlantic Council, February 2011, p. 6). Section 1 (2) of the Political Parties Order of 28 June 2002 (amended as of 6 October 2002) constitutes that it "extends to the whole of Pakistan, excluding Federally Administered Tribal areas" (Political Parties Order 2002, 28 June 2002, section 1 (2)). Political Parties Order 2002 regulates the formation of political parties in its section 3 and the dissolution of parties in section 15:

"3. Formation of political parties, etc.-

(1) Subject to the provisions to this Order, it shall be lawful for any body of individuals or association of citizens to form, organise, continue or set-up a political party.

(2) A political party shall have a distinct identity of its structures at the national, provincial and local levels, wherever applicable.

(3) Every political party shall have a distinct name. (Political Parties Order 2002, 28 June 2002, section 3 (1))

(4) Notwithstanding anything contained in sub-section (1), a political party shall not –

(a) Propagate any opinion, or act in a manner prejudicial to the fundamental principles enshrined in the Constitution of the Islamic Republic of Pakistan; or

(b) undermine the sovereignty or integrity of Pakistan, public order or public morality or indulge in terrorism; or

(c) promote sectarian, regional or provincial hatred or, animosity; or

(d) bear a name as a militant group or section or assign appointment titles to its leaders or office-bearers which connote leadership of armed groups; or

(e) impart any military or para-military training to its members or other persons; or

(f) be formed, organise, set up or convened as a foreign-aided political party [...]

## 15. Dissolution of a political party.-

(1) Where the Federal Government is satisfied that a political party is a foreign-aided party or has been formed or is operating in a manner prejudicial to the sovereignty or integrity of Pakistan or is indulging in terrorism, it shall make such declaration by a notification in the official Gazette.

(2) Within fifteen days of making a declaration under clause (1), the Federal Government shall refer the matter to the Supreme Court whose decision on such reference shall be final.

(3) Where the Supreme Court upholds the declaration made against a political party under clause (1), such party shall stand dissolved forthwith." (Political Parties Order, 28 June 2002, sections 3 and 15).

While no specific information could be found with respect to the application of the Political Parties Order 2002 in Azad Kashmir, a newsletter published by the Institute for Gilgit-Baltistan Studies (IGBS) in December 2011 quotes a GB politician or political activist as contending that since the Political Parties Act [sic] "does not cover Gilgit-Baltistan", national Pakistani parties' activities in the region are "illegal" (IGBS, 10 December 2011).

The AJK Legislative Assembly website lists the *Azad Jammu and Kashmir Political Parties Act of 1986* (amended 1991) as a legislative act passed by the Assembly (Legislative Assembly of Azad Jammu & Kashmir, undated b). The text of this act and information regarding its application could not be found in the sources consulted within time constraints (Legislative Assembly of Azad Jammu & Kashmir, undated b).

## 8.2 Treatment of members and supporters of political opposition parties

Freedom House (FH) reports on the situation in Pakistan-administered Kashmir regarding freedoms of association and assembly:

"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 [...]. 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." (FH, 18 August 2011)

The International Crisis Group (ICG) provides the following overview of the situation of political parties opposed to Jammu and Kashmir's accession to Pakistan:

"The ban on political parties that do not support Jammu and Kashmir's accession to Pakistan has in effect silenced all kinds of dissent, including demands for greater transparency and accountability. Pro-independence parties, such as Amanullah Khan's Jammu and Kashmir Liberation Front (JKLF), may attempt to retain popular support by stressing Kashmiri rights and denouncing abuses by Indian security forces on the other side of the LOC, but they cannot participate in elections. Those who condemn Islamabad's political impositions are threatened, denied travel documents and even jailed and tortured." (ICG, 3 June 2010, p. 8)

According to the US Department of State, persons who do not support Azad's Kashmir's accession to Pakistan are "barred from the political process, government employment, and educational institutions" and further "subject to surveillance, harassment, and sometimes imprisonment by security services." (USDOS, 8 April 2011, section 3). This is corroborated by the ICG which adds that all key administrative positions in Azad Kashmir are held by Pakistani civil servants (ICG, 3 June 2010, p. 8, footnote 53).

The BBC reports in February 2011 of the recent detention of three residents of Pakistan-administered Kashmir including one member of the United Kashmir Peoples National Party (PNP). They were given no reason for their arrest and "punished and interrogated" by the ISI. As reported by the PNP activist, they were held in a "torture cell" and whipped with lashes (BBC, 24 February 2011). Freedom House (FH) similarly notes that the ISI "arbitrarily arrests" and detains people, and that, in some instances, it has tortured those detained with several cases of death in custody having been reported. As stated by FH, "[i]mpunity for such abuses remains the norm" (FH, 18 August 2011). The Institute for Gilgit-Baltistan Studies (IGBS) reports on "enforced disappearances" of pro-independence youths (IGBS, 30 August 2011). According to a lawyer and pro-independence activist interviewed by the BBC, "hundreds of pro-independence activists and former militants are currently missing, and are presumed to be held by the ISI". The BBC adds that "[t]he authorities in Muzaffarabad do not dispute this claim, but justify such action on the grounds that local laws do not allow pro-independence politics." The Prime Minister of Pakistan-administered Kashmir is quoted as saying that innocent people may have been arrested and intelligence services may have made mistakes, but "the imperatives of national defence sometimes necessitate such arrests." (BBC, 24 February 2011).

The Balawaristan National Front (BNF), a pro-independence party in Gilgit-Baltistan, reports in July 2011 that the chairman of the opposition Gilgit Baltistan United Movement (GBUM) was arrested after giving a speech. (BNF, 4 August 2011). An article published by the Indo-Asian News Service (IANS) on 5 November 2009 states that according to a report by Abdul Hamid Khan, chairperson of the Balawaristan National Front (BNF), hundreds of leaders and workers of the Gilgit-Baltistan Democratic Alliance (GBDA) (an alliance of pro-independence political parties of Gilgit-Baltistan including the BNF) were arrested in Gilgit-Baltistan and "sent off" to Islamabad ahead of the 12 November 2009 Gilgit-Baltistan assembly elections. Khan is quoted as saying that the purpose of these detentions and expulsions was to prevent GBDA candidates from campaigning. According to the BNF leader, the central government had given all the facilities and funds to pro-Pakistan parties running in then election and the ISI has

threatened student groups with “dire consequences” and warned that nationalist candidates would not be allowed in the elections (IANS, 5 November 2009).

As reported by Dawn in April 2010, eleven supporters of the All Parties National Alliance (APNA) were taken into custody by authorities in Gilgit-Baltistan and banished from the region for a three-month period in an attempt to forestall a planned protest demonstration (Dawn, 28 April 2010).

The Asian Human Rights Commission (AHRC) states in its annual report for 2011 that Dr. Rizwan, a pro-independence political activist in Muzaffarabad, was arrested by the ISI and while no case was registered against him, he was kept in “torture cells” and killed by intelligence officers. The local police had demanded a sum of 60.000 rupees from the family of the deceased in exchange for his release. While the family was making arrangements for this money, they learned of his death (AHRC, 10 December 2011, p. 10).

The AHRC recounts the case of Manzoor Hussain Parwana, chairman of the Gilgit Baltistan United Movement (GBUM) who was “arrested by Pakistan Rangers, FC [Frontier Constabulary] and Gilgit City Police commandos” on 28 July 2011 after giving a speech at the convention of the Balawaristan National Students Organization (BNSO). As noted by AHCR, Manzoor had previously reported on the activities of intelligence agencies. He was reportedly been taken to the ISI Centre at Sonikote Gilgit “where he was interrogated and tortured” by the ISI (AHRC, 10 December 2011, p. 11).

While no further information could be found with regard to the treatment of opposition activists, a February 2011 article by Dawn reports on the killing of Mir Nawaz Khan, a senior Gilgit-Baltistan politician affiliated with the Pakistan People’s Party (PPP), by unidentified gunmen in Gilgit on 26 February 2011 (Dawn, 27 February 2011).

### *8.2.1 Treatment of members of the Jammu Kashmir Liberation Front (JKLF)*

The Centre for Strategic and International Studies (CSIS) reports in September 2011:

“The JKLF is one of the most vocal critics of pro-Pakistani groups, particularly the LeT and its JuD political arm. In September 2010, it accused them of ‘subverting the indigenous movement’ from a legitimate nationalist struggle into an Islamic movement, and today, despite retaining a presence inside Pakistan-administered Kashmir, pro-independence leaders and militants have found themselves under increasing pressure and subjected to a campaign of arrests and torture by the ISI.” (CSIS, September 2011, p. 178)

The CSIS further reports on the following incident:

„And most recently, in April 2011, Maulvi Shoukat Ahmad Shah, a leading moderate separatist leader, believed to be close to JKLF leaders, was killed in an explosion in Srinagar. Shah had been criticized by hardliners for meeting with Indian state officials and for criticizing the practice of stone throwing against Indian security forces.” (CSIS, September 2011, p. 181-182)



The February 2011 BBC article on former Kashmiri fighters notes:

"In 2004, former Kashmiri fighters tried to organise a group they called the 'Real Warriors' which opposed the activities of the pro-Pakistani militant groups.

But it soon became defunct when, according to one group member, some of its leaders were picked up by the ISI and others were threatened with incarceration." (BBC, 24 February 2011)

### **8.3 Treatment of civil society, human rights and political activists**

Freedom House (FH) states with regard to the situation of NGO workers and members of trade unions and professional associations in Pakistan-administered 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 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." (FH, 18 August 2011)

The chairperson of the Gilgit-Baltistan United Movement (GBUM), Manzoor Parwana, is quoted by the Institute for Gilgit Baltistan Studies (IGBS) as saying with regard to this region that "[b]arring workers of Pakistan People's Party, all other political activists and social workers face harassment from government agencies." (IGBS, 20 November 2011).

The Institute for Gilgit Baltistan Studies (IGBS) notes in a November 2011 report that after the protests following the August 2011 Hunza incident in which two protesters were killed by law enforcement agents, a local political leader as well as other activists were arrested, and that political activists associated with the Gilgit-Baltistan United Movement (GBUM) are "being harassed and face political revenge." (IGBS, 20 November 2011). The Human Rights Commission of Pakistan (HRCP) notes with regard to the same events that there have been "reports of mistreatment of some of the arrested political and civil society activists in police custody" (HRCP, March 2012, p. 119).

Further documents reporting on these events have been included in chapter 3.4.1 of this compilation ("Extrajudicial killings, arbitrary arrest, detention, disappearances, torture").

The Human Rights Commission of Pakistan (HRCP) reports in its annual report for the year 2010:

„On February 26, a group of students from Gojal held a protest demonstration outside Gilgit-Baltistan Secretariat over lack of health facilities and scarcity of wheat flour in the area. The police baton-charged the protesters and briefly detained two of them." (HRCP, April 2011, p. 158)

On 25 October 2011, Ghulam Mustafa Mughal, chief justice of the AJK High Court was wounded in an attack by an unidentified gunman in Muzaffarabad, Radio Free Europe/Radio Liberty (RFE/RL) reports (RFE/RL, 25 October 2011).

#### **8.4 Treatment of journalists and other media professionals**

The Freedom House (FH) August 2011 report states with regard to the level of government control over media in Pakistan-administered Kashmir:

“Media owners cannot publish in Azad Kashmir without permission from the Kashmir Council and the Ministry of Kashmir Affairs, and publications with a pro-independence 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 non-state 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.” (FH, 18 August 2011)

“Pakistan’s Inter-Services Intelligence Directorate reportedly engages in extensive surveillance - particularly of pro-independence 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.” (FH, 18 August 2011)

In a June 2011 article published by The Hoot, a website run by the Media Foundation, a New Delhi-based NGO with the aim of promoting media freedom, states that “[t]he publication of newspapers was systematically discouraged in Pakistan administered Kashmir over many decades”. A senior journalist in Muzaffarabad is quoted as saying that there were no newspapers in Pakistan-administered Kashmir until the late 1990s. The Hoot notes that currently 32 local newspapers are produced in Pakistan administered Kashmir, all of which are in Urdu and “follow a different procedure of title registration than the mainland Pakistani newspapers” as registration requests must “be filed before the local Deputy Commissioner but final approval is given by the Kashmir Council based in Islamabad and not by the Ministry of Information and Broadcasting” (The Hoot, 14 June 2011).

## 9 Sexual orientation

### 9.1 Domestic legal framework

The Constitution of the Islamic Republic of Pakistan does not contain specific provisions with regard to homosexuality (BBC, 4 July 2011; Pink News, 4 July 2011). However, sources indicate that homosexual acts are “considered illegal” (BBC, 4 July 2011) or constitute “a criminal offense” (USDOS, 8 April 2011, section 6). Under the Sharia laws introduced in Pakistan in 1990, they “can draw punishments of whipping, imprisonment or even death” (BBC, 4 July 2011). As noted by the US Department of State (USDOS), [t]here are no laws to protect against discrimination on the basis of sexual orientation” (USDOS, 8 April 2011, section 6).

A November 2011 query response by the Immigration and Refugee Board of Canada (IRB) quotes the following statements from a member of the Women Employees Welfare Association (WEWA), a Lahore-based organization working on gender equality and sexual minority rights:

“According to the WEWA representative, ‘discrimination’ by the state of Pakistan against sexual minorities is ‘encoded, institutionalized and enforced’ (WEWA 28 Oct. 2011). This is done through ‘discriminatory legal provisions that criminalize homosexuality’ and ‘lack of expressed constitutional provisions on non-discrimination on the basis of sexual orientation’ (ibid.)” (IRB, 30 November 2011 a)

The USDOS notes with reference to Pakistan that “in practice, the government rarely prosecuted cases” while, on the other hand, “[g]ays and lesbians rarely revealed their sexual orientation” (USDOS, 8 April 2011, section 6).

The 2010 edition of the Spartacus International Gay Guide, a guidebook for male homosexual travellers, states with regard to the legal framework pertaining to homosexual activity and the situation of LGBT persons in Pakistan:

“Homosexual activity is illegal, punishable according to Islamic Laws which were re-introduced in 1990 and according to paragraph 377 with life in prison, corporal punishment of 100 lashes or even death by stoning. Despite the strict laws of Islam regarding moral standards, gay men, transvestites and transsexuals live relatively undisturbed from the police. On the other hand they cannot expect much protection from the authorities.” (Spartacus, 2010, p. 670)

Section 377 of the Penal Code of 1860 provides with regard to what is termed “unnatural offenses”:

“377. Unnatural offences:

Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which shall not be less than two years nor more than ten years, and shall also be liable to fine.

Explanation: Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section." (Penal Code, 6 October 1860)

## **9.2 Treatment of LGBTIQ persons**

Among the sources consulted within time constraints, no information could be found on the situation of LGBTIQ persons in Pakistan-administered Kashmir:

## 10 Women and children

### 10.1 Domestic legal framework

#### 10.1.1 Women

The Constitution of the Islamic Republic of Pakistan of 1973, amended as of 1 January 2011, contains the following provisions regarding the rights of women and children:

"25. Equality of Citizens:

(1) All citizens are equal before law and are entitled to equal protection of law

(2) There shall be no discrimination on the basis of sex.

(3) Nothing in this Article shall prevent the State from making any special provision for the protection of women and children." (Constitution of the Islamic Republic of Pakistan, 1973, amended as of 1 January 2011, article 25)

The Azad Jammu and Kashmir Interim Constitution Act, 1974, has a similar provision as regards the equality of "state subjects", however, it does not contain an explicit general prohibition of discrimination on the basis of sex:

"15. Equality of state subjects.- all state subjects are equal before law and are entitled to equal protection of law.

16. Non- discrimination in respect of access to public places,- In respect of access to places of public entertainment or resort, not intended for religious purposes only, there shall be no discrimination against any state subject on the ground only of race, religion, caste, sex or place of birth, but nothing herein shall be deemed to prevent the making of any special provision for women.

17. Safeguard against discrimination in service.- No State Subject otherwise qualified for appointment in the service of Azad Jammu and Kashmir shall be discriminated against in respect of any such appointment on the ground only of race, religion, caste or sex; Provided that, in the interest of the said service, specified posts or services may be reserved for members of either sex." (Azad Jammu and Kashmir Interim Constitution Act, 1974, section 4 (4)(15)- 4(4)(17))

The US Department of State (USDOS) *Country Report on Human Rights Practices 2010* describes the legal situation of women in Pakistan as follows:

"The law prohibits discrimination on the basis of sex, but in practice this provision was not enforced. Women faced discrimination in family law, property law, and the judicial system. Family law provides protection for women in cases of divorce, including requirements for maintenance, and lays out clear guidelines for custody of minor children and their maintenance. However, many women were unaware of these legal protections or unable to obtain legal counsel to enforce them. Divorced women often were left with no means of support as their families ostracized them. Women are legally free to marry without family

consent, but women who did so were often ostracized or faced becoming the victims of honor crimes. The country's inheritance law also clearly discriminates against women. Female children are entitled to one-half the inheritance of male children. Wives inherit one-eighth of their husband's estate. In practice women often received far less than their legal entitlement." (USDOS, 8 April 2011, section 6)

As regards legal provisions concerning rape, the report observes that "[r]ape, other than by one's spouse, is a criminal offense, with punishment that ranges from a minimum of 10 to 25 years in prison and a fine to the death penalty. The penalty for gang rape is either death or life imprisonment, but sentences were often less severe. Although rape was frequent, prosecutions were rare." (USDOS, 8 April 2011, section 6).

The above-mentioned provisions regarding rape are comprised in sections 375 and 376 of the Pakistan Penal Code of 1860:

"375. Rape:- A man is said to commit rape who has sexual intercourse with a woman under circumstances falling under any of the five following descriptions,

- (i) against her will.
- (ii) (without her consent
- (iii) with her consent, when the consent has been obtained by putting her in fear of death or of hurt,
- (iv) with her consent, when the man knows that he is not married to her and that the consent is given because she believes that the man is another person to whom she is or believes herself to be married; or
- (v) With or without her consent when she is under sixteen years of age.

Explanation: Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

376. Punishment for rape

(1) Whoever commits rape shall be punished with death or imprisonment of either description for a term which shall not be less than ten years or more than twenty-five years and shall also be liable to fine.

(2) When rape is committed by two or more persons in furtherance of common intention of all, each of such persons shall be punished with death or imprisonment for life."  
(Pakistan Penal Code, 6 October 1860)

The USDOS reports as follows on the complaint procedures in cases of rape, as established under the 2006 Women's Protection Act (WPA):

"The 2006 WPA brought the crime of rape under the jurisdiction of criminal rather than Islamic courts. Previously, under the rape provision of the Hudood Ordinance, a woman

was compelled to produce four male witnesses to corroborate her charge. Under the WPA police are not allowed to arrest or hold a woman overnight at a police station without a civil court judge's consent. A provision in the WPA also modified the complaint procedure in rape cases. Instead of a FIR, it requires a complaint to be made directly to a sessions court. After recording the victim's statement, the sessions court judge officially lodges a complaint, after which police can then make any arrests. While this procedure was meant to eliminate problems relating to social norms that make it difficult for women to go to the police, NGOs reported that this created other barriers for rape victims who did not have money or access to the courts." (USDOS, 8 April 2011, section 6)

The USDOS further reports on a February 2009 ruling by a Federal Shariat Court that "invalidated a 25-year-old legal provision allowing a man accused of rape to question the credibility of the victim by offering evidence that she was 'of generally immoral character'". (USDOS, 8 April 2011, section 6).

While it is noted in the USDOS April 2011 human rights report that "[t]here is no specific law against domestic violence", a February 2012 article by the Express Tribune informs that a bill criminalizing domestic violence has been passed by Pakistan's Senate:

„Pakistan's Senate on Monday passed a bill that makes violence against women and children an offence carrying jail terms and fines, state media said. The law was already passed unanimously in the National Assembly, the lower house of parliament, in August 2009. It will come into effect after President Asif Ali Zardari signs it into legislation. Those found guilty of beating women or children will face a minimum six months behind bars and a fine of at least 100,000 rupees (\$1,100). Besides children and women, the bill also provides protection to the adopted, employed and domestic associates in a household. The law classifies domestic violence as acts of physical, sexual or mental assault, force, criminal intimidation, harassment, hurt, confinement and deprivation of economic or financial resources. Previously, if a man beat her wife or children, police could not arrest him and it was considered a domestic affair." (Express Tribune, 20 February 2012)

Further legal aspects pertaining to the treatment of women are addressed in the USDOS April 2011 report as follows:

"The practice of buying and selling brides also continued in rural areas, although prohibited by law.

Women also faced legal and economic discrimination. The law prohibits discrimination on the basis of sex, but in practice this provision was not enforced. Women faced discrimination in family law, property law, and the judicial system. Family law provides protection for women in cases of divorce, including requirements for maintenance, and lays out clear guidelines for custody of minor children and their maintenance. However, many women were unaware of these legal protections or unable to obtain legal counsel to enforce them. Divorced women often were left with no means of support as their families ostracized them. Women are legally free to marry without family consent, but women who did so were often ostracized or faced becoming the victims of honor crimes.

The country's inheritance law also clearly discriminates against women. Female children are entitled to one-half the inheritance of male children. Wives inherit one-eighth of their husband's estate. In practice women often received far less than their legal entitlement." (USDOS, 8 April 2011, section 6)

### 10.1.2 Children

The website of the Office of the (United Nations) High Commissioner for Human Rights provides the following information regarding the adoption of the UN Convention on the Rights of the Child (UNCRC) by Pakistan:

„Pakistan signed the UN Convention on the Rights of the Child (UNCRC) on 20 September 1990 and it was ratified on 12 November 1990. It entered into force on 12 December 1990. At the time of ratification, Pakistan made a reservation that the provisions of the UNCRC would be interpreted according to the principles of Islamic Laws and values, although this reservation was subsequently withdrawn. On 26 September 2001, Pakistan signed the Optional Protocol to the UNCRC on the Sale of Children, Child Prostitution and Child Pornography, and Optional Protocol on Involvement of Children in Armed Conflict. These have yet to be ratified." (OHCHR, undated)

The UN Committee on the Rights of the Child (CRC), in its *Concluding Observations* on Pakistan dating from October 2009, notes with regard to the definition of a child and the minimum age of criminal responsibility in Pakistan:

"The Committee reiterates its previous concern (see CRC/C/15/Add.217) about legal inconsistencies concerning the definition of a child at federal, provincial and territorial levels and between secular and sharia law. It notes in particular the difference between the minimum legal age for marriage of boys (18 years) and that of girls (16 years) and the definition of a girl child contained in the Zina and Hadood Ordinances (1979) (until 16 years or puberty)." (CRC, 15 October 2009, p. 6)

"The minimum age of criminal responsibility continues to remain very low (7 years)" (CRC, 15 October 2009, p. 24)

The age of criminal responsibility is defined in sections 82 and 83 of the Pakistan Penal Code of 1860 (amended as of 2006):

"82. Act of a child under seven years of age:

Nothing is an offence, which is done by a child under seven years of age.

83. Act of a child above seven and under twelve of immature understanding:

Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion." (Pakistan Penal Code, 6 October 1860, amended as of 2006, sections 82-83)



The US Department of State (USDOS) notes with regard to further national legal provisions pertaining to children:

"The 18th Amendment to the constitution mandates that the government provide free and compulsory education to all children between the ages of five and 16. In practice government schools often charged parents for the cost of books, uniforms, and other materials. [...]

Despite the Child Marriage Restraint Act, which prohibits child marriage, child marriages occurred. The act sets the legal age of marriage at 18 for men and 16 for women and prescribes punishment and fines, ranging from imprisonment up to a month, 1,000 rupees (approximately \$12), or both. In practice the penalties were too low to have any deterrent effect. [...]

The penal code defines statutory rape as sexual intercourse with a female younger than 16. The punishment for rape is death or imprisonment for 10 to 25 years and a fine. Gang rape is punishable by death or life imprisonment. Child pornography is illegal under obscenity laws. [...]

Many young girls and women were victims of forced marriages arranged by their families. Forced marriage was made a criminal offense in 2007; while many cases were filed, prosecution remained a problem." (USDOS, 8 April 2011, section 6)

"National legislation protects children from exploitation in the workplace; however, enforcement of child labor laws was weak, and child labor, including forced or bonded labor, remained a serious, pervasive problem.

The law limits a child's workday to seven hours, including a one-hour break after three hours of labor, and sets permissible times of day for work and time off. No child is allowed to work overtime or at night, and a child should have one day off per week. In addition, the law requires employers to keep a register of children working for them for labor inspectors to verify. These prohibitions and regulations do not apply to family businesses or government schools.

The law protects all children younger than 18 from exploitation and defines exploitative entertainment as all activities related to human sports or sexual practices and other abusive practices. Parents who exploit their children are also liable under the law. The law makes bonded labor by children punishable by up to five years in prison and 50,000 rupees (\$590) in fines. The law prohibits the employment of children younger than 14 in factories, mines, railways, rag picking, port areas, fireworks, and other hazardous occupations and regulates their work conditions. The government considers four occupations and 34 processes illegal for children, including street vending, surgical instrument manufacturing, deep sea fishing, leather manufacturing, brick making, production of soccer balls, and carpet weaving.

Enforcement was a serious problem. According to the HRCP and SPARC, there were 10 million to 11.5 million child laborers, many of them in agriculture and domestic work." (USDOS, 8 April 2011, section 7d)

The CIA World Factbook notes on age requirement regarding military service:

"Military service age and obligation:

17-23 years of age for voluntary military service; soldiers cannot be deployed for combat until age 18" (CIA World Factbook, 13 April 2012)

As reported by the Express Tribune in November 2010, the Azad Jammu and Kashmir government has initiated a process of framing legislation with respect to child protection, stating that "[t]he Child Protection Bill, once prepared, will be placed before the AJK Commission for Child Welfare and Development, which will give it final touches before submitting it to cabinet and state legislature for approval. After bill is approved, the state will be responsible for ensuring that every child has equal and unhindered access to education, health and other rights." (Express Tribune, 12 November 2010).

A February 2012 Radio Pakistan report mentions that "[t]he cabinet" of Azad Kashmir has "approved the AJK child protection act 2012." (Radio Pakistan, 1 February 2012)

## 10.2 Situation of women

Freedom House (FH) reports on the situation of women in Pakistan-administered Kashmir as follows:

"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." (FH, 18 August 2011)

The Nation newspaper reports in a February 2011 article:

"Interior Minister Rehman Malik, in his written reply, on Wednesday informed the Senate that 11,789 cases of violence against women were registered in the country during last two years. According to data produced during question-hour session, 8,433 cases of violence against women were registered alone in Punjab in the years 2009-10, 1,656 cases were filed in Khyber Pakhtunkhwa and 680 in Sindh while the number of such cases in Balochistan was 333. The data revealed that 272 cases were registered in Islamabad, 362 in Azad Jammu and Kashmir and 62 in Gilgit-Baltistan during the said period." (Nation, 3 February 2011)

An article by the Express Tribune mentions that according to sources, violence against women and children were “rampant” in Gilgit-Baltistan (Express Tribune, 6 November 2010).

A March 2012 article on the news website E Pakistan News reports on the health situation of women in Gilgit-Baltistan:

“Presently, malnutrition, anemia (about 70-80%), high prevalence of Maternal Mortality Rate (MMR) (i.e. 350-450/100000 live birth), lack of prenatal, natal, antenatal and postnatal care, high fertility rate (4.6 children per women-NIPS 2008), early-age marriages, endogamy and psychological problems are main health issues of women of Gilgit Baltistan. These issues affect not only the women’s health badly but also children’s health at large.” (E Pakistan News, 12 March 2012)

Among the sources consulted within time constraints no further specific information could be found with regard to the situation of women in Pakistan-administered Kashmir.

### **10.3 Situation of children**

As reported by the Human Rights Commission of Pakistan (HRCP), in 2011 there were four militant attacks on schools in Gilgit-Baltistan, out of a total of 135 such incidents countrywide mainly targeting girls’ schools (HRCP, March 2012, p. 178).

Among the sources consulted within time constraints no specific information could be found with regard to child labour in Pakistan-administered Kashmir.

For information regarding the recruitment of children in this region, please see chapter 4.3 (“Forced recruitment by government forces and non-state armed groups”).

The Express Tribune reports in December 2011 that in comparison with other parts of Pakistan, Azad Kashmir, “apparently had a lead in child protection mechanism with its Child Welfare Department actively involving stakeholders in various projects”. The article further quotes AJK Social Welfare Secretary Farhat Mir as saying that Azad Kashmir has a higher literacy rate than other regions (Express Tribune, 24 December 2011).

On a website named “Jammu Kashmir Dot TV”, in a video report uploaded in October 2010 the following statements are made:

“The poverty-stricken people of Pakistan occupied Gilgit-Baltistan lead miserable lives and do not have access to basic needs like education and health facilities. The region, with an estimated population of 2 million people, has only 12 high schools and two regional colleges, with no post graduate facilities. The literacy rate is 33 per cent, with especially poor educational indicators for girls and women.” (Jammu & Kashmir TV, 7 October 2010)

No information could be found as to the reliability of the contents of this website.

An April 2012 article by the Express Tribune quotes the police Inspector General of Gilgit-Baltistan as maintaining that there are “few job opportunities” yet “a high literacy rate” among the resident youth in Gilgit-Baltistan (Express Tribune, 7 April 2012), while a report by

the Institute for Defence Studies and Analyses (India) describes the condition of both the education and health services in Gilgit-Baltistan as “abysmal”, specifying that “[t]he area does not have any university or professional college and adult literacy is reported at 14 per cent among males and 3.5 per cent among females.” (IDSA, 28 March 2012)

## 10.4 Honour killings

The Human Rights Commission of Pakistan (HRCP) annual report for the year 2011 states with regard to the numbers of “honour” killings in Pakistan:

“Throughout the year, women were callously killed in the name of ‘honour’ when they went against family wishes in any way, or even on the basis of suspicion that they did so. Women were sometimes killed in the name of ‘honour’ over property disputes and inheritance rights. According to media monitoring and field reports from HRCP volunteers, at least 943 women were killed in the name of honour, of which 93 were minors. The purported reasons given for this were illicit relations in 595 cases and the demand to marry of their own choice in 219 cases. The murderers were mostly brothers and husbands, in 180 cases the murderer being a brother and in 226 cases being the husband of the victim. The majority of cases (557) were of married women. Before being killed, at least 19 women were raped, 12 of them gang raped, and the means used were mostly firearms but also blunt weapons and strangulation. Among the honour killing victims were seven Christian and two Hindu women. Only 20 women killed in the name of honour were reported to have been provided medical aid before they died.” (HRCP, March 2012, p. 167)

As reported by the US Department of State (USDOS) in its human rights country report for 2010, the practice of “karo-kari” (a form of premeditated honor killing that occurs once a tribal court or jirga determines that adultery or some other “crime of honor” has occurred) “continued across the country”. The report mentions penalties for “karo-kari” and other forms of honour killings have been increased under the Criminal Law (Amendment) Act of 2005 (USDOS, 8 April 2011).

“The practice of ‘karo-kari,’ which occurred in Sindh Province, continued across the country. Karo-kari is a form of premeditated honor killing that occurs if a tribal court or jirga determines that adultery or some other “crime of honor” occurred. Karo-kari means “black male” (karo) and “black female” (kari), metaphoric terms for someone who has dishonored the family or is an adulterer and adulteress. Once a woman is labeled as a kari, male family members have the self-authorized justification to kill her and any coaccused karo to restore family honor. In many cases the karo is not killed or is able to flee.

The Criminal Law (Amendment) Act of 2005 increased penalties for karo-kari and other forms of honor killing. However, human rights groups criticized the act because it allows the victim or the victim's heirs to negotiate physical or monetary restitution with the perpetrator in exchange for dropping charges, known as ‘qisas’ and ‘diyat.’ [...]

Many young girls and women were victims of forced marriages arranged by their families. Forced marriage was made a criminal offense in 2007; while many cases were filed, prosecution remained a problem.” (USDOS, 8 April 2011, section 6).

The HRCP reports on the case of a young woman in Gilgit who committed suicide following what her brother later described as a “minor domestic dispute” (HRCP, March 2012, p. 169).

### **10.5 Trafficking in persons**

Among the sources consulted within time constraints no relevant information was found on human trafficking with reference to Pakistan-administered Kashmir.

## 11 Freedom of Movement

### 11.1 Freedom to move within Kashmir, freedom to move from Pakistani-administered Kashmir to Pakistan

Article 15 of the Constitution of the Islamic Republic of Pakistan contains the following provision pertaining to freedom of movement:

“Every citizen shall have the right to remain in, and, subject to any reasonable restriction imposed by law in the public interest, enter and move freely throughout Pakistan and to reside and settle in any part thereof.” (Constitution of the Islamic Republic of Pakistan, 1973, amended as of 1 January 2011, article 15)

The US Department of State (USDOS) Country Report on Human Rights Practices 2010 notes that “the law provides for freedom of movement within the country” while the government limited this right in practice (USDOS, 8 April 2011, section 2d).

Freedom House (FH), in its report Freedom in the World on Pakistan-administered Kashmir, notes that “[u]nder the colonial-era Frontier Crimes Regulations, residents are required to report to local police stations once a month” (FH, 18 August 2011).

On 3 April 2012, following sectarian clashes in Gilgit, the Pakistani military imposed a curfew in the town, suspended mobile phone services and closed the Karakorum Highway to traffic, as noted by the German Foreign Office (German Foreign Office, 4 May 2012). As reported by the Express Tribune, the curfew was lifted on 28 April, and the mobile services were also restored (Express Tribune, 29 April 2012).

As regards movement across the Line of Control (LoC), please see chapter 1.7.1. (“Ability of civilians to move across the Line of Control”).

Among the sources consulted within time constraints no information could be found regarding the freedom to move from Pakistani-administered Kashmir to Pakistan.

### 11.2 Imposition of travel restrictions for certain groups and in certain areas, including documentation needed for international travel

As noted by the US Department of State (USDOS), the law in Pakistan provides “for uninhibited foreign travel, emigration, and repatriation” while the government limited this right in practice. The report further notes the following with regard to the prohibition from foreign travel for persons listed on the Exit Control List (ECL):

“Persons on the Exit Control List (ECL) were prohibited from foreign travel. Although the ECL was intended to prevent those with pending criminal cases from traveling abroad, no judicial action was required for the Ministry of Interior to add a name to the ECL. The ECL sometimes was used to harass human rights activists or leaders of nationalist parties. Those on the list had the right to appeal to the courts for removal of their names. [...] Government employees and students must obtain ‘no objection certificates’ from the

government before traveling abroad. This requirement rarely was enforced for students.” (USDOS, 8 April 2011, section 2d)

A February 2012 article by the Express Tribune reports on the following case pertaining to Gilgit-Baltistan:

“The Federal Investigation Agency (FIA) had stopped Balawaristan National Front (BNF) chief, Abdul Hamid’s wife Zaibul Nigar at Benazir Bhutto International Airport last week when she was about to leave for Bangkok. She was later informed that her name had been put on the Exit Control List (ECL). Khan, who has taken political asylum in Belgium, has been demanding that G-B to be declared a separate state under the United Nations resolutions. Talking to The Express Tribune, G-B High Court Bar Association President Ehsan Ali termed FIA’s action as a sheer violation of human rights. ‘She is a housewife and not a political figure. Stopping her from leaving the country is against the constitution,’ he said. ‘It seems that the government is using different tactics to harass a nationalist leader,’ he added.” (Express Tribune, 12 February 2012)

The International Crisis Group (ICG) states:

“Those who condemn Islamabad’s political impositions are threatened, denied travel documents and even jailed and tortured.” (ICG, 3 June 2010, p. 8)

Among the sources consulted within time constraints no further information could be found on this matter.

## 12 Further human rights considerations

### 12.1 Exit and entry procedures: exit from and return to Pakistan and to Kashmir

The US Department of State (USDOS) *Country Report on Human Rights Practices 2010* notes with regard to exit and re-entry:

"Government employees and students must obtain 'no objection certificates' from the government before traveling abroad. This requirement rarely was enforced for students. [...] There were no reports of restrictions on emigration or prohibition against repatriation." (USDOS, 8 April 2011, section 2d)

The German Foreign Office COI report on Pakistan, published in July 2011, notes that persons (former asylum-seekers) returning to Pakistan must be in possession of a valid Pakistani passport or a so-called "emergency passport" issued at a Pakistani embassy or consulate (German Foreign Office, 1 July 2011, p. 25).

The UK Border Agency (UKBA) notes the following with reference to a January 2011 e-mail response from an official at the British High Commission in Islamabad:

"An email response from an official at the British High Commission in Islamabad, dated 29 January 2009, stated that, in theory, Pakistani passport holders would have their passports stamped at all ports and legal border crossings when entering and exiting the country. However, since corruption is a problem, it would be possible for an individual to avoid having their passport stamped by, for example, paying a bribe to the relevant official. The Foreign and Commonwealth Office (FCO) official further stated that, as far as they were aware, and aside from the reasons stated above, there would be no exceptions when a passport would not be stamped." (UKBA, 29 September 2011, p. 244)

A November 2007 query response published by the Immigration and Refugee Board of Canada (IRB) contains the following information provided by a Karachi-based lawyer with regard to border security measures:

"A Karachi-based lawyer provided the following information regarding border security measures in 31 October 2007 correspondence to the Research Directorate. There are strict measures adopted by border authorities regarding Pakistanis exiting Pakistan via international flights. After proceeding through Customs, Pakistanis who are leaving Pakistan will appear before an immigration officer who will ask various questions. The immigration officer will verify in the computer system that there are no restrictions against the person in question and will then stamp the traveller's passport with an exit stamp if everything seems in order. The traveller will then proceed to either an army officer or another officer under the supervision of an army officer who will ask questions, check the passport and, if everything is in order, the traveller will proceed to the departure lounge. With regard to border authorities at land borders, the lawyer states that 'equally strict measures' are adopted, although they may vary from one border to another." (IRB, 19 November 2007)



The website of the Government of Pakistan's Federal Investigation Agency (FIA) provides the following information undated regarding its "Personal Identification Secure Comparison and Evaluation System" (PISCES) aimed to identify travellers at entry and exit points:

"PISCES Project provides Immigration officials and law enforcement agencies with a tracking system to capture vital information of travelers and allows them to identify and, if necessary detain individuals of interest. Establishment of Country-wide Network and retrieval of desired information using fastest communication channels by the authorized persons only. [...] Presently flow of passengers to and from Pakistan in volume is five million travelers per annum. The project has made the immigration staff capable of keeping full record of all incoming and outgoing passengers, which will be used for detection of any suspect and may also be used for other numerous uses regarding making policy for immigration." (FIA, undated)

## 12.2 Treatment of persons returning from abroad

The German Foreign Office states in its July 2011 COI report on Pakistan that it is not aware of any cases of persons who have been subjected to state repression as a result of their political activities in exile (German Foreign Office, 1 July 2011, p. 18). The same source further maintains that persons returned to Pakistan are not expected to face any consequences merely as a result of having applied for asylum abroad, other than being questioned by the authorities (German Foreign Office, 1 July 2011, p. 25).

An older response to information request (RIR) by the Immigration and Refugee Board of Canada (IRB), dated 26 June 2003, provides the following information based on correspondence with a London-based barrister and advocate of the Supreme Court and High Courts of Pakistan:

"According to the barrister, FIA 'does not interview all nationals returning to Pakistan. It detains and interviews those persons who are alleged to have violated any law in respect of travel/visit to a foreign country, e.g. traveled on fake travel documents or entered a country without [a] valid visa, etc.' (Barrister at Law 12 June 2003)." (IRB, 26 June 2003)

The RIR further quotes information provided by the UN High Commissioner for Refugees (UNHCR) in correspondence with the IRB regarding the same subject:

"FIA only interviews those nationals who are wanted by the government or involved in any criminal, unlawful or anti-state activities. It depends upon the nature of the offence and whether the person concerned had departed due to fear of arrest for preventing any legal action lodged against him for commission of any culpable offence like murder, treason, drug trafficking, loan default or to be a proclaimed offender, etc. Then, a person is normally arrested and handed over to [the] Federal Investigation Agency (FIA) to be dealt [with] according to [the] law for [the] respective offence. In case[s] [where] a person was just an illegal migrant, etc. and has [a] return visa/ticket or [is] not found guilty of being involved in any kind of anti- government activities, political activities, or any crime[,] he/she is released after a formal investigation and there is no serious consequences for him (UN 11 June 2003)." (IRB, 26 June 2003)

Among the sources consulted within time constraints no further information could be found on the treatment of person returning to Pakistan or Pakistan-administered Kashmir after having resided abroad (including asylum-seekers).

One source reports on a Gilgit-Baltistan pro-independence activist detained upon return from a journey to Dubai:

Asian News International (ANI), an Indian news agency, recounts the case of Mirza Wajahat Hassan Khan, a pro-independence activist from Gilgit-Baltistan and chairman of the All parties National Alliance (APNA), who was abducted by ISI personnel on his return from Dubai in November 2010 and detained for several weeks without being presented to a court. The article notes that Mirza Wajahat Hassan Khan had previously been imprisoned “many times [...] for speaking about rights of Gilgit Baltistan” (ANI, 18 December 2010).

### 12.3 Internal displacement

The Freedom House (FH) *Freedom in the World 2011* report states:

“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.” (FH, 18 August 2011)

Among the sources consulted within time constraints no documents published since 2010 could be found with regard to internal displacement in Pakistan-administered Kashmir.

A May 2008 report by the Internal Displacement Monitoring Centre (IDMC) provides the following information based on other sources:

“During the Kargil conflict in Kashmir between India and Pakistan in 1999, hundreds of families were forced to leave their homes along the Line of Control (LoC) to escape cross-border shelling. These families sought shelter in IDP camps or with relatives, and many were also affected by the October 2005 earthquake that killed 75,000 people and made 3.5 million homeless. Although many earthquake-affected families have returned to their area of origin, helped by a government scheme to offer homeowners more than \$3,000 in building assistance, those displaced by the conflict have not received the same assistance. Consequently, almost a decade on, hundreds of families still live in IDP camps in Pakistan-administered Kashmir. In some cases the land has been occupied by the army and mined, and some IDPs have been refused permission to return to their land due to its proximity to the LoC (IRIN, 27 November 2007). An estimated 17,000 displaced Kashmiris remain in refugee-like conditions on the Pakistani side of the LoC (USCRI, World Survey 2007). In August it was reported that the government was considering issuing identity cards similar

to those issued to Afghan refugees to individuals who had fled Indian-controlled Kashmir after 1990 (HRCR, 1 April 2008)." (IDMC, 15 May 2008)

The US Committee for Refugees and Immigrants (USCRI) World Refugee Survey 2004, published May 2004, states:

"Pakistan continued to host some 17,000 refugees from Indian controlled Kashmir, some of who have been in Pakistan since 1947. In addition to the refugees, an estimated 2,000 Kashmiris have been internally displaced in Pakistan since the late 1990s; a majority of who live in one of two camps for displaced people in Azad and Jammu Kashmir. The remainder lives in a makeshift camp in the Northern Territories. Outside of these settlements, an unknown number of other Kashmiris are also internally displaced, but because they live with relatives and friends, they are not readily identifiable - although some press reports indicate the number is as high as 1.5 million. The Pakistani government provides short-term life saving assistance, but it is sporadic and insufficient. Continued shelling across the line of control during 2003 until the November ceasefire, and landmines which hampered cultivation and other livelihoods, have prevented substantial return." (USCRI, 25 May 2004)

#### **12.4 Housing, land and property rights**

Among the sources consulted within time constraints no information could be found with regard to Housing, land and property rights.

### 13 Sources (all sources accessed 7 May 2012)

- AAJ News: PPP leads GB election results, 13 November 2009  
<http://www.aaj.tv/2009/11/ppp-leads-gb-election-results/>
- AFP - Agence France-Presse: Kashmiris rally against travel restrictions, 20 July 2010 (available on Google.com)  
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