

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	403
Land:	Indien
Kilde:	Freedom House
Titel:	Freedom in the World 2021 – Indian Kashmir
Udgivet:	3. marts 2021
Optaget på baggrundsmaterialet:	13. april 2021



Indian Kashmir*

NOT FREE

28
/100

<u>Political Rights</u>	8 /40
<u>Civil Liberties</u>	20 /60

LAST YEAR'S SCORE & STATUS
49 /100 Partly Free

Global freedom statuses are calculated on a weighted scale. [See the methodology.](#)

** Indicates a territory as opposed to an independent country.*



Status Change

Indian Kashmir's status declined from Partly Free to Not Free due to the Indian government's abrupt revocation of the region's autonomy, the

postponement or elimination of legislative elections, and a security crackdown that sharply curtailed civil liberties and included mass arrests of local politicians and activists.

Overview

Control of Kashmir has been divided between India and Pakistan since 1948, and Indian-administered Kashmir long enjoyed substantial autonomy under India's constitution. However, the region's autonomous status was revoked in 2019, and what had been the state of Jammu and Kashmir was reconstituted as two union territories under the direct control of the Indian central government. The move stripped residents of many of their previous political rights. Civil liberties were also curtailed to quell public opposition to the reorganization. Indian security forces are frequently accused of human rights violations, but few are punished. Separatist and jihadist militants continue to wage a protracted insurgency.

Key Developments in 2019

- In August, the Indian government abruptly revoked elements of the Indian constitution that had provided substantial autonomy for the Muslim-majority state of Jammu and Kashmir while preventing outsiders from acquiring property there. Ladakh, a traditionally Buddhist area, was split off from Jammu and Kashmir, and both were downgraded from state to union territory, meaning they would be governed by centrally appointed officials.
- Communications, internet access, and freedom of assembly were severely restricted following the August action. Thousands of Kashmiris—including politicians, students, journalists, and academics—were detained, often preemptively and without charge.
- Many public services, such as communications and transportation, and large parts of the economy ceased to function during the crisis. The security situation remained volatile at year's end; at least 276 civilians, security personnel, and militants were killed in insurgent-related violence in 2019.

Political Rights

A. Electoral Process

A1 0-4 pts

Was the current head of government or other chief national authority elected through free and fair elections?

0 / 4

Prior to 2019, the state of Jammu and Kashmir enjoyed special autonomy under Article 370 of the Indian constitution. A chief minister—typically the head of the largest party in the state legislature’s lower house—was entrusted with executive power. This position was left vacant in June 2018, when the Hindu nationalist Bharatiya Janata Party (BJP) withdrew from a governing coalition and forced the incumbent’s resignation. The state was then governed provisionally by appointees of the central government.

Under the Jammu and Kashmir Reorganisation Act 2019, adopted by the Indian Parliament in August 2019, the region’s autonomous status was revoked, it was downgraded from a state to a union territory, and the Ladakh area was separated to form a second union territory. Executive authority in each would rest with a lieutenant governor appointed by the president of India on the advice of the Indian prime minister. In Jammu and Kashmir, the lieutenant governor would be assisted by a chief minister and cabinet responsible to an elected legislature with limited powers, though no such legislature was elected during 2019. Two former bureaucrats, Girish Chandra Murmu and Radha Krishna Mathur, were appointed in October as lieutenant governors of Jammu and Kashmir and of Ladakh, respectively.

The process by which Jammu and Kashmir’s autonomous status and statehood were revoked drew criticism and doubts about its legality. Opponents and other observers argued that the central government had improperly delayed state elections to prolong direct rule, then hastily adopted the reorganization law with little debate.

Score Change: The score declined from 3 to 0 because the region lacked an elected government following the collapse of a ruling coalition in mid-2018 and the imposition of direct rule by the Indian government, first under existing law and then through the Jammu and Kashmir Reorganisation Act, which vested executive power in appointed officials.

A2 0-4 pts

Were the current national legislative representatives elected through free and fair elections?	0 / 4
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Until the passage of the Jammu and Kashmir Reorganisation Act in August 2019, the region had a bicameral legislature. The lower chamber, the Legislative Assembly, was composed of 87 members directly elected for six-year terms to single-member districts. The upper chamber, called the Legislative Council, comprised 28 indirectly elected members and eight members nominated by the governor. The 2014 elections were broadly free and fair, with reduced levels of voter intimidation, harassment, and violence compared to past elections. The state legislature was dissolved by the governor in late 2018, ending attempts by local parties to form a new governing majority, but central authorities then extended direct rule and postponed new state elections through the summer of 2019, when the Reorganisation Act rendered them moot.

Under the arrangements adopted in 2019, the new union territory of Jammu and Kashmir would have a unicameral legislature with limited powers and at least 83 elected members. (As in the old assembly, another 24 seats associated with constituencies in Pakistani-controlled Kashmir would be left vacant.) However, elections were not expected until 2021, following the demarcation of constituencies. The new union territory of Ladakh was set to be administered solely by the lieutenant governor, with no legislature of its own.

Municipal (urban) elections were held in 2018 for the first time in 13 years, though the polls were marred by opposition party boycotts and threats of violence, and turnout was low. Panchayat (rural council) elections later that year featured high turnout in some constituencies. Local elections to

Block Development Councils in October 2019 were extensively boycotted by local mainstream political parties.

Score Change: The score declined from 3 to 0 because no legislative elections were held in 2019 following the dissolution of the Legislative Assembly in late 2018, and because the Jammu and Kashmir Reorganisation Act stipulated that the new union territory of Ladakh would have no legislature.

A3 0-4 pts

Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies?	2 / 4
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The legal framework governing elections prior to 2019 was broadly perceived as fair. While intimidation of election workers and electoral authorities by militant groups sometimes interfered with the orderly implementation of electoral laws and regulations, the process was overseen by the Election Commission of India, a respected and largely independent body.

The Indian Parliament adopted the Jammu and Kashmir Reorganisation Act swiftly and without significant input from Kashmiris, fundamentally altering the electoral system and effectively stripping residents of substantial voting power.

Score Change: The score declined from 3 to 2 due to the central government's abrupt imposition of the Jammu and Kashmir Reorganisation Act, which transformed the electoral framework and reduced residents' political rights without meaningful consultation or public discussion.

B. Political Pluralism and Participation

B1 0-4 pts

Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings?

1 / 4

Until 2019, a competitive multiparty system had operated in the region. While new political parties had to register with the Election Commission, parties were generally able to form freely, and there were mechanisms by which independent candidates could stand for office. Notable impediments to normal party politics included militant violence, intimidation, and separatist boycotts.

Political activities were almost completely suspended after August 2019, as security forces detained thousands of party members and activists without charge, including the leaders of mainstream Kashmiri parties and the local branch of India's opposition Congress party. Former chief ministers and incumbent lawmakers were among those detained.

Score Change: The score declined from 2 to 1 due to the detention of dozens of Kashmiri political leaders and many other politicians and party activists beginning in August, when the region's reorganization was announced.

B2 0-4 pts

Is there a realistic opportunity for the opposition to increase its support or gain power through elections?

1 / 4

For more than a decade, state-level power had rotated between the two largest Kashmiri parties: the People's Democratic Party (PDP) and the Jammu and Kashmir National Conference (JKNC). The Hindu nationalist BJP, which currently governs in New Delhi, has made significant electoral inroads in recent years; it participated in a coalition government with the PDP from 2015 to 2018.

However, the postponement of state elections through mid-2019, the reorganization of the region in August, and the related mass detentions effectively reduced the ability of opposition groups to compete and enter government in Jammu and Kashmir for the foreseeable future. The new union territory of Ladakh had a centrally appointed executive and no legislature, meaning no local rotations of power through elections would be possible.

Score Change: The score declined from 3 to 1 because in addition to the mass arrests of opposition politicians, there were no immediate plans to hold overdue legislative elections for Jammu and Kashmir, and Ladakh would no longer hold elections for its executive or legislative leadership.

B3 0-4 pts

Are the people's political choices free from domination by forces that are external to the political sphere, or by political forces that employ extrapolitical means?

0 / 4

The activities of separatist militants and a heavy Indian security presence have long impaired the ability of people in certain areas to participate freely in political processes. In August 2019, tens of thousands of additional Indian troops were deployed to the region to quash any public expressions of opposition to the Reorganisation Act. The deployment was accompanied by reports of intimidation and violence against civilians, and more than 5,000 people were arrested.

Score Change: The score declined from 2 to 0 due to the Indian government's imposition of direct rule and its use of overwhelming military force to suppress political dissent by the local population.

B4 0-4 pts

Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities?

2 / 4

The former state constitution granted all permanent residents over 18 the right to vote in state assembly elections. However, refugees from Pakistan were not entitled to permanent residency rights and could not vote in state elections. They were able to vote in Indian parliamentary elections. While Kashmir had a female chief minister until early 2018, women were generally underrepresented in politics. It was not entirely clear in 2019 how the region's new political arrangements would affect women and minorities.

C. Functioning of Government

C1 0-4 pts

Do the freely elected head of government and national legislative representatives determine the policies of the government?

0 / 4

India has never held a referendum on allowing Kashmiri self-determination, as called for in a 1948 UN resolution. Jammu and Kashmir long enjoyed substantial autonomy under India's constitution, but by the end of 2019 it was ruled directly by the central government through an appointed lieutenant governor, as was the newly separated territory of Ladakh. There are legal provisions for an elected legislature in Jammu and Kashmir, although its powers will ultimately be limited, and no legislature was in place during the year. Many laws that had been passed by the state government were subject to repeal or amendment under the new system, and more laws passed by the Indian Parliament now apply to Jammu and Kashmir. In the future, the union territory will not be permitted to formulate its own laws regarding policing and public order.

Score Change: The score declined from 2 to 0 because the region was deprived of any locally elected leadership during the year, leaving all authority in the hands of the Indian government, centrally appointed officials, and military commanders.

C2 0-4 pts

Are safeguards against official corruption strong and effective?

1 / 4

Corruption is widespread. A 2011 law established an anticorruption commission with far-reaching investigatory powers. The panel has processed more than a thousand complaints since the first commissioners were appointed in 2013, and it has filed a handful of bribery charges against public officials. However, few corruption cases result in convictions. A survey conducted by the Indian think tank CMS in 2017 found that 84 percent of respondents believed corruption in the region to be increasing.

C3 0-4 pts

Does the government operate with openness and transparency?

1 / 4

The administration generally operates with opacity. The changes in the administrative status of the region in 2019, coupled with severe restrictions on press freedom, have further impeded transparency.

Civil Liberties

D. Freedom of Expression and Belief

D1 0-4 pts

Are there free and independent media?

1 / 4

Until mid-2019, print media were thriving in Jammu and Kashmir. Online media had proliferated, providing new platforms for news and information. The announcement of the region's changed administrative status was accompanied by a severe clampdown on the activities of local and foreign journalists. The authorities imposed lengthy shutdowns of internet and telephone service; by late in the year, landline phone service and some mobile service had been restored, but internet access was still blocked.

Journalist Qazi Shibli, a website editor who had been posting on Twitter about Indian troop movements, was arrested in July, shortly before the revocation of autonomy; he remained in detention at year's end. At least two other journalists were briefly detained by the government in August. There were also reports of journalists being beaten by police and other security forces in connection with their work. Protracted curfews and restrictions on movement made it difficult for most newspapers to operate during the second half of the year. They eventually began to resume publication, but they reportedly faced pressure to toe the Indian government line.

Score Change: The score declined from 2 to 1 because the authorities imposed severe restrictions on the media sector in the months after the revocation of the region's autonomy, including a communications blackout, detentions of journalists, and curfews that disrupted newspaper production.

D2 0-4 pts

Are individuals free to practice and express their religious faith or nonbelief in public and private?	2 / 4
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Freedom of worship is generally respected by the authorities. However, communal violence between Muslims and Hindus periodically flares up, and many have been injured and killed as a result. A ban on Shiite Muslims' Muharram processions, which take place during a period of mourning at the Islamic new year, has been upheld for decades.

D3 0-4 pts

Is there academic freedom, and is the educational system free from extensive political indoctrination?	1 / 4
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Academic freedom is often circumscribed. Authorities monitor the research produced at Kashmiri universities, and a combination of censorship and self-censorship discourages students and professors from pursuing sensitive topics of inquiry. Colleges, universities, and schools

were shuttered for most of the second half of 2019 due to unrest and the orders of the Indian government.

Score Change: The score declined from 2 to 1 because academic institutions largely remained closed after the revocation of autonomy in August and had not resumed full operations at year's end.

D4 0-4 pts

Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution?	2 / 4
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While private discussion has sometimes been robust, fear of reprisals by government or militant forces can serve as a deterrent to uninhibited speech. The mass arrests of politicians, activists, protesters, and others after the revocation of autonomy in August 2019 were apparently aimed at curbing free expression and likely had a chilling effect on ordinary residents.

Score Change: The score declined from 3 to 2 due to the general crackdown on dissent and discussion in the second half of 2019, which included widespread arrests.

E. Associational and Organizational Rights

E1 0-4 pts

Is there freedom of assembly?	0 / 4
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Freedom of assembly is frequently restricted during times of unrest. The authorities often reject requests for permits for public gatherings submitted by the separatist All Parties Hurriyat Conference (APHC). Separatist leaders are frequently arrested prior to planned demonstrations, and violent clashes between protesters and security

forces are not uncommon. A curfew was imposed throughout the region for 53 consecutive days from mid-July to late August 2019 and remained in place in a number of areas thereafter. The shutdown of phone and internet services also served to prevent the planning of protests.

Score Change: The score declined from 1 to 0 due to harsh restrictions on assembly that were imposed for several weeks beginning in July, including curfews and a communications blackout.

E2 0-4 pts

Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights– and governance-related work?	1 / 4
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Although local and national civil rights groups are generally permitted to operate, they are sometimes harassed by security forces. The separatist APHC is technically allowed to function, but its leaders are frequently subjected to short-term detention. In February 2019, the central government imposed a five-year ban on the group Jamaat-e-Islami (Jammu and Kashmir) and arrested its top leadership, claiming that it was engaged in separatist activities. Many of the arrests that followed the revocation of autonomy in August 2019 targeted independence advocates, human rights lawyers, and other civic activists. Efforts by civil society to monitor human rights violations during the crackdown were hampered by the suspension of internet and telephone services.

Score Change: The score declined from 2 to 1 due to mass arrests of civic activists and restrictions on communication that disrupted attempts by human rights workers to document abuses by security forces.

E3 0-4 pts

Is there freedom for trade unions and similar professional or labor organizations?	2 / 4
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Although workers have the right to form unions and engage in collective bargaining under Indian law, union rights are inconsistently upheld in practice.

F. Rule of Law

F1 0-4 pts

Is there an independent judiciary?	1 / 4
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Courts are politicized and act as an extension of Indian executive and military authority. The government and security forces frequently disregard court orders.

F2 0-4 pts

Does due process prevail in civil and criminal matters?	1 / 4
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Due process rights, including access to a timely trial, are hampered in part by large backlogs of cases and intermittent lawyers' strikes. In addition, broadly written legislation, such as the unpopular Armed Forces Special Powers Act (AFSPA) and the Disturbed Areas Act, allow security forces to search homes and arrest suspects without a warrant, shoot suspects on sight, and destroy buildings believed to house militants or arms. Under the AFSPA, prosecutions of security personnel cannot proceed without the approval of the central government, which is rarely granted. Following the 2019 reorganization of the region, the central government now has the sole authority to declare an area "disturbed" under the AFSPA, which activates enhanced powers for security forces. The Public Safety Act allows detention without charge or trial for up to two years, though 2012 amendments barred the detention of minors. The law was used to jail mainstream political leaders and others in 2019. Many of the year's detainees were held in parts of India outside Kashmir.

Score Change: The score declined from 2 to 1 due to the prolonged arbitrary detention of thousands of people following the revocation of autonomy.

F3 0-4 pts

Is there protection from the illegitimate use of physical force and freedom from war and insurgencies?

1 / 4

After several years of relative stability, security deteriorated sharply following the 2016 killing of Burhan Muzaffar Wani, a popular separatist militant leader. The situation remained volatile in 2019, with at least 276 civilians, security personnel, and militants reportedly killed in conflict-related violence over the course of the year.

Indian security personnel have continued to engage in torture, forced disappearances, and custodial killings of suspected militants and their alleged civilian sympathizers, and they generally enjoy impunity for such abuses. In July 2019, the Office of the UN High Commissioner for Human Rights (OHCHR) released a report highlighting human rights violations in the Kashmir region over the previous year, updating a similar 2018 document; the report condemned excessive and extrajudicial violence committed by Indian security forces, and criticized the Indian government's refusal to investigate reported violations.

Militant groups have killed pro-India politicians, public employees, suspected informers, members of rival factions, soldiers, and civilians. The militants also engage in kidnapping, extortion, and other forms of intimidation. The OHCHR report detailed severe rights violations committed by active militant groups. In February 2019, more than 40 Indian security personnel were killed by a suicide bomber in Pulwama; it was the worst attack of its kind in several decades. Jaish-e-Mohammed, a militant group based in Pakistan, claimed responsibility. Among other types of incidents, militants targeted and killed a number of migrant workers who had come to Jammu and Kashmir from other Indian states.

F4 0-4 pts

Do laws, policies, and practices guarantee equal treatment of various segments of the population?

1 / 4

A pattern of violence targeting Pandits, or Kashmiri Hindus, has forced several hundred thousand Hindus to flee their homes in the region over the years, and many continue to reside in refugee camps. Other religious and ethnic minorities, such as Sikhs and Gurjars, have been targeted in the past, but such reports have become less frequent. Women face societal discrimination. They are also subject to harassment, intimidation, and violent attacks, including rape and murder, at the hands of both the security forces and militants. Gay, transgender, and other LGBT+ minorities are generally marginalized.

G. Personal Autonomy and Individual Rights

G1 0-4 pts

Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education?

1 / 4

Freedom of movement has been curtailed by both local and central authorities. Strict curfews were imposed throughout Kashmir in 2019 surrounding the removal of the state's autonomous status in August. Even when curfews are not in force, internal movement is disrupted by roadblocks, checkpoints, and periodic protest-related impediments. Public transport services were suspended for large parts of 2019. Kashmir residents face delays of up to two years to obtain and renew passports due to heightened levels of scrutiny.

Score Change: The score declined from 2 to 1 due to severe curfews and other restrictions on movement that were imposed during the summer and were only gradually lifted as the year drew to a close.

G2 0-4 pts

Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors?

2 / 4

Property rights are undermined by displacement and military activity related to the conflict, and the regulatory environment constrains the establishment and operation of new businesses. Following the revocation of autonomy in 2019, people who were not permanent residents of Jammu and Kashmir would be allowed to acquire property there, which had not been permitted previously. However, it remained unclear how the new rules would be implemented in practice.

G3 0-4 pts

Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance?

2 / 4

Many women face domestic violence and other forms of abuse. There have been reports of women being killed in dowry disputes, and conservative social customs limit the choice of marriage partners for individuals.

G4 0-4 pts

Do individuals enjoy equality of opportunity and freedom from economic exploitation?

2 / 4

Certain social groups are subject to economic marginalization, though some are also eligible to benefit from affirmative-action policies in areas such as employment and education. Child labor is reportedly prevalent in the region, and the government has taken few steps to combat it.

On Indian Kashmir

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Country Facts

Global Freedom Score

27 / 100 Not Free***Other Years***

2021

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