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Freedom in the World 2009 - India

Capital: New Delhi

Population: 1,149,300,000

Political Rights Score: 2

Civil Liberties Score: 3

Status: Free

Explanatory Note

The numerical ratings and status listed above do not reflect conditions in Indian-controlled Kashmir, which is examined in a separate report.

Overview

With elections expected in early 2009, the ruling Congress Party-led coalition faced several challenges in 2008, including a state electoral defeat in Karnataka, rapidly escalating inflation, and the rising popularity of Uttar Pradesh chief minister Mayawati and her Bahujan Samaj Party. The peace dialogue with Pakistan continued for most of the year, despite bombings attributed to Islamist militants in May, September, and October that killed dozens of civilians in Jaipur, Delhi, and Assam. However, relations deteriorated after 10 heavily armed Islamist militants – apparently arriving from Pakistan by sea – attacked civilian targets in Mumbai in November, killing 171 people. Also during the year, religious violence in Orissa caused several deaths and displaced thousands, and ongoing Maoist and separatist violence contributed to lawlessness and human rights violations in a number of other states.

India achieved independence from Britain in 1947, as predominantly Muslim portions of British India split off to form Pakistan. The centrist, secular Congress Party ruled at the federal level for nearly all of the first 50 years of independence. From the mid-1990s onward, however, the Hindu nationalist Bharatiya Janata Party (BJP) was a major factor in Parliament, leading governments on several occasions. In addition, the pattern shifted from single-party to coalition governments, typically involving large numbers of parties and an increasingly important role for parties based in a single state.

The period after 1990 was also a time of major economic reform, with the Congress government initiating a shift toward market-oriented policies following a balance-of-payments crisis in 1991. In December 1992, Hindu fundamentalists supported by major figures in the BJP destroyed a 16th-century mosque in the northern town of Ayodhya, and some 2,000 people, mainly Muslims, subsequently died in riots and police gunfire.

The incident highlighted the clash between the BJP's traditional promotion of what it regarded as Hindu cultural interests and the need to moderate its program in order to win elections and govern.

BJP leader Atal Behari Vajpayee's formation of a coalition government in 1998 marked the arrival of the party as a regular contender for national leadership. The government fell after a regional party defected, but the BJP won reelection in 1999 as the lead partner in the 22-party National Democratic Alliance. In February 2002, 59 people were killed in Gujarat when a fire broke out on a train carrying members of a Hindu extremist group. A Muslim mob was initially blamed for the fire. In the anti-Muslim riots and pogroms that followed throughout Gujarat, an estimated 2,000 people were killed and 100,000 were displaced. The violence was orchestrated by Hindu nationalist groups, but had the tacit support of the BJP-led state government. An official commission initially deemed the original fire an accident, although the latest commission report, released in 2008, found the train was intentionally set on fire.

The BJP, though bolstered by state electoral victories and economic growth, was unexpectedly defeated after calling early national elections in 2004. It won only 137 out of 545 seats in the lower house of Parliament, and its allies also performed poorly. The Congress Party formed a new coalition government with a number of regional parties, but Congress leader Sonia Gandhi decided to hand the premiership to former finance minister Manmohan Singh.

The new Congress-led United Progressive Alliance (UPA) government agreed to reverse several of the previous government's policies, including controversial antiterrorism legislation and the injection of Hindu nationalist ideology into state-run schools. However, the UPA faced internal rifts and opposition from the Communist Party of India-Marxist (CPI-M), one of its leftist allies, on economic issues such as privatization and labor law reform. The government's push to expand affirmative-action programs also met with criticism, and protests broke out in April 2008 when the Supreme Court approved plans to reserve 49.5 percent of the student slots at colleges and universities for members of lower castes, doubling the previous percentage. Existing policies also reserved 27 percent of government jobs for such groups.

Congress in 2008 faced rising inflation and several political challenges as it prepared for elections due by May 2009. The BJP won state elections Karnataka in May, its first success in southern India, after using recent terrorist attacks to criticize Congress's 2004 decision to repeal the previous BJP government's antiterrorism legislation. The Bahujan Samaj Party (BSP) also gained attention in 2008 as a vocal critic of the government. BSP leader Mayawati, the chief minister of Uttar Pradesh state, was considered a contender for the premiership. Congress briefly lost its parliamentary majority in June when Communist parties left the ruling coalition; the majority was restored following a hasty deal with the Samajwadi Party. While the government survived a narrow confidence vote in July and successfully passed a controversial nuclear deal with the United States, the achievement was marred by allegations of bribery. The vote came after two days of rancorous parliamentary debate closely followed by the Indian public.

A peace dialogue that began after India and Pakistan came close to war in 2002 continued for most of 2008 despite a series of terrorist attacks attributed to Islamist militants. However, bilateral relations were seriously jeopardized in November when 10 well-armed gunmen – apparently arriving by sea from Pakistan – assaulted hotels and other targets in Mumbai, killing 171 people. The peace process had previously been threatened but not thrown off course by terrorist violence, most notably a series of July 2006 train bombings in Mumbai that killed over 200 people. Many in India, including some in government, have blamed such attacks on Pakistani intelligence services. The bombings in 2008 struck locations including Delhi in May, Jaipur in September, and Assam in October. The Islamist group Indian Mujahideen claimed responsibility for the Delhi and Jaipur attacks, but security officials speculated that several terrorist groups – including Bangladesh-based Harkat-ul-Jihad-al-Islami, the Student's Islamic Movement of India, or Pakistan-based Lashkar-e-Toiba – could be responsible.

Political Rights and Civil Liberties

India is an electoral democracy. Members of the lower house of Parliament, the 545-seat Lok Sabha (House of the People), are directly elected for five-year terms (except for two appointed members representing Indians of European descent). The Lok Sabha determines the leadership and composition of the government. Most members of the 250-seat upper house, the Rajya Sabha (Council of States), are elected by the state legislatures to serve staggered six-year terms; up to 12 members are appointed. Executive power is vested in a prime minister and cabinet. The president, who plays a largely symbolic role as head of state, is chosen for a five-year term by state and national lawmakers.

Under the supervision of the Election Commission of India (ECI), recent elections have generally been free and fair. The 2004 national polls featured a decline in election-related violence, though some fraud and other minor irregularities occurred in Bihar despite the nationwide introduction of electronic voting machines. Violence has also declined during recent state-level elections. Badly maintained voter lists and the intimidation of voters in some areas continue to be matters of concern.

A wide range of political parties operate freely. Due to the rising popularity of regional and caste-based parties, coalition governments have become the norm.

Government effectiveness and accountability are undermined by pervasive criminality in politics, decrepit state institutions, and widespread corruption. India was ranked 85 out of 180 countries surveyed in Transparency International's 2008 Corruption Perceptions Index. The electoral system depends on "black money" obtained through tax evasion and other means. Politicians and civil servants are regularly caught accepting bribes or engaging in other corrupt behavior. During the debate on the vote of confidence in September 2008, BJP members of Parliament brandished bundles of cash that were allegedly exchanged for votes. The BJP has claimed that a news channel has evidence of the bribery; tapes were given to Parliament speaker Somnath Chatterjee for investigation. A number of candidates with criminal records have been elected, particularly in the state legislatures. Despite laws requiring candidates to declare their financial assets, criminal records, and educational backgrounds, those with links to organized crime or whose election victories were at least in part dependent on unreported money continue to serve as lawmakers, as do a number who face serious criminal charges. The 2005 Right to Information Act has reportedly improved transparency, although many information requests are still denied because of poor record-keeping by government agencies. Those who try to expose bureaucratic corruption often receive threats or are otherwise penalized in terms of career prospects.

The predominantly private media remain vigorous, although journalists face a number of constraints. The constitution protects freedom of speech and expression but does not explicitly mention media freedom. The government occasionally uses its power under the Official Secrets Act (OSA) to censor security-related articles. Authorities have also on occasion used other security laws, criminal defamation legislation, and contempt-of-court charges to curb critical voices, though a 2006 amendment to the Contempt of Courts Act introduced truth as a defense. Hate-speech laws have also been used against the press. In June 2008, three journalists from the *Andhra Jyoti*, a Hyderabad daily, were arrested under a law prohibiting insults to lower castes; there was allegedly little evidence of insult in the article in question, and the three were released on bail.

Journalists remain subject to intimidation. On a number of occasions during 2008, reporters were attacked, threatened, or detained by local authorities, right-wing groups, or insurgents. Members of the press are particularly vulnerable in rural areas and insurgency-racked states such as Chhattisgarh, Kashmir, Assam, and Manipur. In January 2008, a television station in Gujarat was ransacked by Hindu fundamentalists after it short-listed an artist known for controversial paintings of Hindu deities for a national service award. In April, Mohammed Muslimuddin, a reporter for the daily *Asomiya Pratidin* in Assam, was attacked and killed near his home, reportedly for his work covering drug crimes. In November, Konsam Rishikanta, an editor with the *Imphal*

Free Press, was found murdered in Imphal, Manipur's capital. Also in November, Jagajit Saikia, a correspondent for the Assamese language daily *Amar Asom* was murdered outside the paper's offices. No arrests were made in either case.

Internet access is largely unrestricted, although some states have proposed legislation that would require the registration of customers at internet cafes. Under Indian internet crime law, the legal burden is on website operators to demonstrate their innocence. In August 2008, a Google subsidiary was ordered to reveal the identity of a blogger who posted comments critical of Gremach, a construction company. Potentially inflammatory books and films are occasionally banned or censored.

Freedom of religion is constitutionally guaranteed and generally respected in India, which is officially secular but features a sizeable Hindu majority. Violence against religious minorities remains a problem in certain states, and prosecution of the culprits has been inadequate. Members of the so-called Sangh Parivar, a group of Hindu nationalist organizations including the BJP, and some local media outlets promote antiminority propaganda. In December 2007, dozens of churches and Christian homes in Orissa were destroyed by Hindu militants, and violence resumed in August 2008 following the murder of a Hindu preacher. While police reported that Maoists were responsible for the killing, Hindu extremists blamed Christians. In the following months an estimated 30 Christians were killed and 3,000 homes destroyed in Kandhamal, the state's most violent district. Legislation in several states criminalizes religious conversions that take place as a result of "force" or "allurement." Academic freedom is generally respected but occasionally threatened by intimidation of and attacks on professors and institutions.

There are some restrictions on freedoms of assembly and association. Section 144 of the criminal procedure code empowers state authorities to declare a state of emergency, restrict free assembly, and impose curfews; officials occasionally use Section 144 to prevent demonstrations. Police and hired thugs sometimes beat, arbitrarily detain, or otherwise harass villagers and members of nongovernmental organizations (NGOs) who protest forced relocation from the sites of development projects. In what some commentators saw as an effort to maintain strengthening relations with China, the government discouraged Tibetan protests against the 2008 Beijing Olympic Games. In March, more than 100 Tibetans were detained while marching toward the Chinese border. According to Tibetan sources, the protesters refused to sign a bond stating that they would not protest for six months. Also that month, some 80 protesters were arrested in Delhi during a demonstration outside the Chinese embassy.

Human rights organizations generally operate freely. However, they have expressed concern about threats, legal harassment, the use of excessive force by police, and occasionally lethal violence. In Gujarat, advocates for justice following the 2002 communal riots have faced harassment, including police or tax investigations and threatening telephone calls, according to Human Rights Watch. There were also several reports of attacks against Christian nongovernmental organizations (NGOs) in Orissa in 2008. The work of rights activists may be hindered by a 2001 Home Ministry order that requires organizations to obtain clearance before holding international conferences or workshops if the subject matter is "political, semi-political, communal, or religious in nature or is related to human rights," although this prohibition is often ignored. Foreign monitors are occasionally denied visas to conduct research trips in India on human rights issues.

Workers in the formal economy regularly exercise their rights to bargain collectively and strike. However, the Essential Services Maintenance Act enables the government to ban strikes in certain industries and limits the right of public servants to strike. Estimates of the number of child laborers vary widely, from 12 million to 55 million. Many work in the informal sector in hazardous conditions, and some are bonded laborers. Children younger than 14 are banned from working as domestic servants or at hotels, restaurants, or roadside food stalls, although in practice the law is routinely flouted.

The judiciary is independent of the executive branch. Judges have displayed

unprecedented activism in response to public-interest litigation on official corruption, environmental issues, and other matters, and this expanded role has received considerable public support. However, in recent years, judges have initiated several contempt-of-court cases against activists and journalists, raising questions about their misuse of the law to intimidate those who expose judicial corruption or question verdicts. Contempt-of-court laws were reformed in 2006 to make truth a defense with respect to allegations against judges, provided the information is in the public and national interest.

The judiciary, particularly at the lower levels, is reportedly rife with corruption, and most citizens have great difficulty securing justice through the courts. The court system is severely backlogged and understaffed – there are currently 38 million civil and criminal cases pending – which results in lengthy pretrial detention for a large number of suspects, to the point where many remain in jail beyond the duration of the maximum sentence for the crime with which they are charged. Despite legal reforms in recent years, the criminal justice system still generally fails to provide equal protection to minorities, lower castes, and tribal members. Muslims are underrepresented in the security forces, with only 29,000 serving in the 1.1 million-strong army even though they comprise an estimated 14.5 percent of the population, according to the *Christian Science Monitor*. Muslims are also underrepresented in "influential" or "sensitive" areas of government such as the foreign and intelligence services.

Particularly in rural India, caste *panchayats* (informal councils) or Muslim religious leaders often issue edicts concerning marriage, divorce, and other social customs. While these bodies play a role in relieving the overburdened official courts, their edicts sometimes result in violence or persecution aimed at those perceived to have transgressed social norms, especially women and members of the lower castes.

Police often torture or abuse suspects to extract confessions or bribes. Custodial rape of female detainees continues to be a problem, as does routine abuse of ordinary prisoners, particularly minorities and members of the lower castes. The Asian Centre for Human Rights reported in 2008 that 7,468 people have died in custody over the past five years, nearly all as a result of torture. The National Human Rights Commission (NHRC), created in 1993, is headed by a retired Supreme Court judge and handles roughly 80,000 complaints each year. However, while it monitors abuses, initiates investigations, makes independent assessments, and conducts training sessions for the police and others, its recommendations are often not implemented and it has few enforcement powers. The commission also lacks jurisdiction over the armed forces, which severely hampers its effectiveness.

Reports by the NHRC, Human Rights Watch, and other groups allege that the Gujarat state government instructed police not to intervene during the 2002 communal violence, and that police have since been reluctant to register complaints against or arrest those accused of murder, rape, or complicity in the rioting. The rehabilitation of displaced victims and the prosecution of the perpetrators has consequently made little progress, as witnesses and victims' advocates have faced intimidation by local authorities and Hindu nationalists. After the state's justice system was deemed to be biased, the Supreme Court stepped in on several occasions to order retrials or reviews of previously closed cases, though police later refused to reopen most, citing a lack of available witnesses. In 2006, a Mumbai special court sentenced nine people to life imprisonment for their role in the Best Bakery massacre, and 13 people were convicted in 2008 for their roles in the riots, with 11 receiving life sentences. However, the majority of victims appear unlikely to see justice.

Security forces continue to be implicated in disappearances, extrajudicial killings, rape, torture, arbitrary detention, and destruction of homes, especially in the context of ongoing insurgencies in Kashmir, the tribal belt, and several northeastern states. The Armed Forces Special Powers Act (AFSPA) and the Disturbed Areas Act remain in effect in a number of states, granting security forces broad powers of arrest and detention. A government-appointed review panel unanimously recommended that AFSPA be repealed in 2005, and the United Nations called for its repeal in 2007, but the government has not yet complied. Security forces also continue to hold suspects under the National Security

Act, which authorizes detention without charge for up to one year, as well as the Unlawful Activities Prevention Act. In response to spiraling Naxalite-related violence, the Chhattisgarh state government passed the Special Public Protection Act in 2006, with broad language allowing three-year detentions for "unlawful activities" and criminalizing the provision of support to the Naxalites, even if under duress. Binayak Sen, a doctor and member of a local human rights organization, was arrested under the act in 2007 for allegedly passing on letters from an imprisoned Naxalite leader. His trial began in April 2008, but he still remained in jail at year's end. The criminal procedure code requires the central or relevant state government to approve prosecution of security force members, but such approval is rarely granted, leading to impunity for security forces implicated in human rights abuses.

In India's seven northeastern states, more than 40 insurgent factions – seeking either greater autonomy or complete independence for their ethnic or tribal groups – attack security forces and engage in intertribal violence. The rebels have been implicated in numerous bombings, killings, abductions, and rapes of civilians, and they also operate extensive extortion networks. More than 700 troops, militants, and civilians were killed in these northeastern states in 2008, according to the South Asia Terrorism Portal (SATP), with Manipur and Assam registering the highest levels of violence. In June 2008, seven people were killed and 35 injured in an explosion in Assam, and several other attacks were reported during the year. Tens of thousands of civilians have been displaced, and many live in squalid camps.

The recent spread and influence of the Naxalites is cause for serious concern. There are an estimated 10,000 armed fighters supported by 40,000 cadre members, organized into a number of groups that since late 2004 have been loosely allied as the Communist Party of India (Maoist). The *Economist* has reported that they operate in 170 of India's 602 districts, controlling some rural areas outright. Focusing on the tribal areas in states such as Andhra Pradesh, Orissa, Bihar, Chhattisgarh, and Jharkhand, their stated aim is to establish a Communist state on behalf of marginalized groups, including tribal peoples, lower castes, and the landless poor. According to a 2008 Human Rights Watch report, they have imposed illegal taxes; requisitioned food and shelter from villagers; engaged in abduction and forced recruitment, including recruitment of child soldiers; hampered aid deliveries; and planted land mines that have caused several civilian casualties.

Naxalite-related violence killed more than 400 security personnel and civilians during 2007, according to the SATP. Particularly after the 2005 launch of the anti-Maoist Salwa Judum campaign in Chhattisgarh, local civilians who are perceived to be progovernment have been targeted by the Naxalites. The government, often working with the Salwa Judum, has routinely raided suspected Naxalite-controlled villages in recent years, with attacks continuing through 2008, often targeting civilians. A 2008 Human Rights Watch report documented a pattern of beatings and murders by security forces in the area. Around 50,000 civilians have been displaced by Naxalite-related violence and live in government-run camps.

The constitution bars discrimination based on caste, and laws set aside generous quotas in education and government jobs for the so-called scheduled tribes, scheduled castes (Dalits), and other backward classes (OBCs). In addition, women and religious and ethnic minorities are represented in national and local government; in 2004, Manmohan Singh became India's first Sikh prime minister, and in 2008 the BSP, formed chiefly to represent Dalits, won an absolute majority in Uttar Pradesh, India's most populous state. However, members of the lower castes and minorities continue to face routine unofficial discrimination and violence. The worst abuse is experienced by the country's 160 million Dalits, who are often denied access to land and other public amenities, abused by landlords and police, punished by village councils or members of the upper castes for alleged social transgressions, and forced to work in miserable conditions. A government proposal to reserve an extra 27 percent of places in universities and technical institutes for OBCs – taking the total portion of reserved slots to 49.5 percent – was approved in 2008. The move sparked widespread protests by critics who felt that the quality of India's universities would be compromised, and that the policy should concentrate on improving opportunities at lower levels of the educational system. In 2006, the

government-initiated Sachar Committee report – which found that Indian Muslims were disproportionately more likely to be poor and illiterate, and less likely to have access to government employment, medical care, or loans – spurred debate over the necessity of providing official assistance for Muslims. In August 2008, the state of Kerala announced plans to implement recommendations based on the committee's findings.

Tension between different ethnic groups over land, jobs, or resources occasionally flares into violent confrontation, and sporadic Hindu-Muslim violence remains a concern. Other forms of discrimination against Muslims are sometimes excused in the context of ongoing tensions with Pakistan and the global campaign against terrorism. Tens of thousands of displaced people live in makeshift camps in various areas of the country, including Gujarat, due to past or ongoing violence. Although India hosts several hundred thousand refugees from neighboring countries, it has no federal refugee law, and the treatment of displaced persons varies widely, according to Refugees International.

Property rights are somewhat tenuous for tribal groups and other marginalized communities, and members of these groups are often denied adequate resettlement opportunities and compensation when their lands are seized for development projects. In 2007, there was increased violence associated with a planned special economic zone in Nandigram, West Bengal, that led to the acquisition of farmland. More than 30 people were killed, hundreds were injured, and more than 10,000 people lost their homes in 2007 amid clashes between supporters of the state's ruling CPI-M party and farmers trying to block the land appropriations. The two sides clashed again in May 2008, leading to several injuries.

Each year, several thousand women are killed or driven to suicide, and countless others are abused or deserted by husbands, in the context of domestic disputes. Despite the criminalization of dowry demands and hundreds of convictions each year, the practice continues. Rape and other violence against women are serious problems, and lower-caste and tribal women are particularly vulnerable. Muslim women and girls were subjected to horrific sexual violence during the 2002 communal riots in Gujarat, and there have been few official attempts to rehabilitate survivors or to prosecute their attackers, according to Amnesty International. The Protection of Women from Domestic Violence Act, which took effect in October 2006, banned dowry-related harassment, widened the definition of violence to include emotional or verbal abuse, and criminalized spousal rape. So-called honor killings, in which women are murdered by relatives for perceived sexual or moral indiscretions, remain a problem, especially in the northwestern states of Punjab and Haryana.

Muslim personal-status laws and traditional Hindu practices discriminate against women in terms of inheritance, adoption, and property rights. The malign neglect of female children after birth remains a concern. Sex-determination tests are increasingly used during pregnancy, after which female fetuses are more likely to be aborted, despite a prohibition on tests being conducted for this purpose. The trend, coupled with the practice of female infanticide by those who cannot afford the tests and a tendency to provide less food and healthcare to daughters than sons, has contributed to a significant imbalance in the male-female birth ratios in a number of states. In March 2008 the government announced an award of nearly \$3,000 for families who raise female children. Laws banning homosexual behavior have led to harassment of gay men and the NGOs that work with them, according to Human Rights Watch. A high-profile campaign is currently challenging these colonial-era laws through the courts. The trafficking of women and children to, from, and within India – primarily for prostitution and forced labor – continues to be a significant problem.