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Freedom in the World 2019 - India

Free

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Overview:

India maintains a robust electoral democracy with a competitive multiparty system at federal and state levels, though politics are beset by corruption. The constitution guarantees freedom of expression and the news media are vibrant. However, harassment and violence against journalists has increased under the administration of Prime Minister Narendra Modi and his right-leaning, Hindu nationalist Bharatiya Janata party (BJP), as have religiously motivated attacks against non-Hindus. India’s minority groups—notably Muslims, scheduled castes (Dalits), and scheduled tribes (Adivasis)—enjoy legal equality and sometimes benefit from affirmative action programs. However, they remain economically and socially marginalized.

Key Developments:

Key Developments in 2018:

- The performance of the ruling BJP was mixed across several state elections held during the year, raising questions about whether it can maintain its dominance in upcoming national elections set for 2019.
- In July, the citizenship status of four million residents of Assam State was thrown in doubt after their names were excluded from a draft of the National Register of Citizens (NRC). Those affected, largely Bengali-speaking Muslims, must produce documentation that they or their ancestors came to the state before Bangladesh became independent in 1971. Accessing such documentation may not be feasible for those living in poor communities wracked by illiteracy and displacement.
- In September, India’s Supreme Court determined that a colonial-era law could no longer be interpreted to criminalize consensual homosexual acts.
- Violent attacks continued against minorities alleged to be involved in the mistreatment of cows.

Political Rights and Civil Liberties:

POLITICAL RIGHTS: 35 / 40

A. ELECTORAL PROCESS: 12 / 12

A1. Was the current head of government or other chief national authority elected through free and fair elections? 4 / 4

Executive elections and selection procedures are generally regarded as free and fair. Executive power is vested in a prime minister, who is elected by members of the majority party in the Lok Sabha (House of the People), and a cabinet. Modi was sworn in as prime minister after the victory of the BJP and its NDA coalition in 2014 Lok Sabha elections. He succeeded Manmohan Singh of the Indian National Congress (known simply as Congress), who had been in office since 2004.

The president, who plays a largely symbolic role, is chosen for a five-year term by state and national lawmakers. Current president Ram Nath Kovind, a member of the lowest-caste Dalit community and a veteran BJP politician, was elected in 2017.

A2. Were the current national legislative representatives elected through free and fair elections? 4 / 4

Members of the lower house of Parliament, the 545-seat Lok Sabha, are directly elected in single-member constituencies 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.

The most recent Lok Sabha elections were held in 2014. The BJP won 282 seats and its NDA coalition won 336 seats, ensuring a stable majority for the new government. Voter turnout was 66 percent. Prime Minister Narendra Modi, a three-term chief minister from the western state of Gujarat, was sworn in as prime minister. The elections were broadly free and fair.

A3. Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies? 4 / 4

Elections for the central and state governments are overseen by the independent Election Commission of India. The head of the commission is appointed by the president and serves a fixed six-year term. The commission is generally respected and thought to function without undue political interference, although its impartiality and competence have been called into question, with critics saying it has selected election dates that favor the BJP. In 2018, officials with both BJP and Congress shared on social media the date of a regional election before the commission had announced it. The party officials said they had learned the dates from media reports, but the incident nevertheless prompting criticism of the commission, which pledged an investigation.

B. POLITICAL PLURALISM AND PARTICIPATION: 14 / 16

B1. 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? 4 / 4

Political life is vibrant. Citizens are generally able to form political parties and assert party membership or their own candidacies without interference. However, the opaque financing of political parties—notably through electoral bonds that allow donors to obscure their identities—remains a source of concern.

B2. Is there a realistic opportunity for the opposition to increase its support or gain power through elections? 4 / 4

India hosts a dynamic multiparty system. Alternation of power between parties is common at the central and state levels. In the 2014 Lok Sabha elections, the two main national parties won only about 50 percent of the vote combined. However, the translation of votes to seats put the BJP in the clear majority in the lower house, marking the first time a single party won a majority of seats in the Lok Sabha since 1984. February 2018 state assembly elections brought the BJP to power in three northeastern states. However, Congress posted strong performances in three key states in elections later in the year, casting doubt on the dominance of the BJP in the run-up to 2019 national elections.

B3. Are the people's political choices free from domination by the military, foreign powers, religious hierarchies, economic oligarchies, or any other powerful group that is not democratically accountable? 3 / 4

Political participation, while generally free, is hampered by insurgent violence in some areas. Indian society is heavily hierarchical, and conservative religious, caste, and gender norms can influence voting. Separately, in some areas political actors have harnessed polarizing topics, frequently involving religion, to inflame communal tensions with the goal of driving voters to support one party or another without giving full consideration to that party's positions.

B4. Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities? 3 / 4

Women, religious and ethnic minorities, and the poor vote in large numbers and have opportunities to gain political representation. Twenty-two Muslims were elected to the Lok Sabha in 2014. Quotas for the chamber ensure that 84 and 47 seats are reserved for the so-called scheduled castes (Dalits) and scheduled tribes (Adivasis), respectively. There are similar quotas for these historically disadvantaged groups in state assemblies and in local bodies, as well as quotas for women representatives. However, marginalized segments of the population face practical disadvantages in achieving true political representation.

C. FUNCTIONING OF GOVERNMENT: 9 / 12

C1. Do the freely elected head of government and national legislative representatives determine the policies of the government? 4 / 4

Elected leaders have the authority to govern in practice, but political corruption has a

negative effect on government efficiency.

C2. Are safeguards against official corruption strong and effective? 2 / 4

Politicians and civil servants at all levels are regularly caught accepting bribes or engaging in other corrupt behavior. While large-scale scandals often come to light, a great deal of corruption is thought to go unnoticed and unpunished.

The Lokpal and Lokayuktas Act, which the president signed into law in 2014, creates independent government bodies tasked with receiving complaints of corruption against public servants or politicians, investigating claims, and pursuing convictions through the courts. Modi and members of his government have signaled support for the law, although implementation has been slow, and key oversight positions it mandates remain vacant.

C3. Does the government operate with openness and transparency? 3 / 4

The landmark 2005 Right to Information (RTI) Act is widely used to improve transparency and expose corrupt activities. Between 4 and 6 million requests are made under the act each year. Since the passage of the RTI Act, however, close to 80 right-to-information users and activists have been murdered, and hundreds have been assaulted or harassed, according to the National Campaign for People's Right to Information. Police stand accused of turning a blind eye to these attacks.

In 2015, the Lok Sabha adopted amendments to the 2014 Whistleblowers Protection Act. Opposition members criticized those changes, and subsequent ones, for undermining the act's effectiveness, which was already regarded as limited in scope.

CIVIL LIBERTIES: 40 / 60 (-2)

D. FREEDOM OF EXPRESSION AND BELIEF: 11 / 16 (-2)

D1. Are there free and independent media? 2 / 4 (-1)

The private media are vigorous and diverse, and investigations and scrutiny of politicians are common. Nevertheless, revelations of close relationships between politicians, business executives, and lobbyists, on one hand, and leading media personalities and owners of media outlets, on the other, have dented public confidence in the press. Authorities have used security, defamation, and hate speech laws, as well as contempt-of-court charges, to curb critical voices in the media. Hindu nationalist campaigns aimed at discouraging forms of expression deemed "antinational" have exacerbated self-censorship, and some media observers have suggested that media reporting has become less ambitious in recent years.

Journalists risk harassment, death threats, and physical violence in connection with their work. Such attacks are rarely punished and some have taken place with the complicity or active participation of police. The advocacy organization Reporters Without Borders (RSF) identified four incidents in which police attacked journalists in

March 2018 alone; each of the incidents involved journalists attempting to cover protest actions. Deadly attacks against journalists are increasing. According to the Committee to Protect Journalists (CPJ), five journalists were killed in India in connection with their work during 2018, four of whom were murdered and one of whom was shot upon becoming caught in a firefight between Maoist militants and police. Four journalists had been killed in connection with their work in 2017, and two in 2016, according to CPJ.

Score Change: The score declined from 3 to 2 because journalists face increasing pressure, harassment, and physical violence.

D2. Are individuals free to practice and express their religious faith or nonbelief in public and private? 2 / 4 (-1)

While Hindus make up about 80 percent of the population, the Indian state is formally secular, and freedom of religion is constitutionally guaranteed. However, legislation in several Hindu-majority states criminalizes religious conversions that take place as a result of "force" or "allurement," which can be broadly interpreted to prosecute proselytizers. Some states require government permission for conversion.

A number of Hindu nationalist organizations and some local media outlets promote antiminority views, a practice that critics charge has been tolerated by the government of Prime Minister Modi. The year 2018 saw continued attacks against minorities in connection with the alleged slaughter or mishandling of cows, which are held to be sacred by Hindus. The media nonprofit IndiaSpend documented 31 cow-related violent incidents in 2018. Over 120 such attacks, including lynchings, have been reported since Modi came to power, and he and the BJP have faced criticism for failing to mount an adequate response.

Score Change: The score declined from 3 to 2 due to dozens of violent incidents over the past four years in which Hindu extremists have attacked others for the alleged mistreatment or slaughter of cows.

D3. Is there academic freedom, and is the educational system free from extensive political indoctrination? 3 / 4

Academic freedom is generally robust, though intimidation of professors, students, and institutions over political and religious issues has been increasing. The student wing of the Hindu nationalist organization Rashtriya Swayamsevak Sangh (RSS), from which the ruling BJP is widely regarded to have grown, has engaged in violent tactics on campuses across the country, including attacks on students and professors.

D4. Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution? 4 / 4

Private discussion in India is generally open and free. However, a nationwide Central Monitoring System launched in 2013 is meant to enable authorities to intercept any digital communication in real time without judicial oversight. Colonial-era laws continue to be used to curb expression. In October 2018, three students were arrested for sedition after allegedly promoting "anti-India" slogans.

In 2017, the Supreme Court declared privacy to be a fundamental right protected by the Constitution. In September 2018, a court ruling on India's extensive national identification system, known as Aadhaar, imposed limits on its use. The decision notably voided a section that had allowed private entities to require people to prove their identity through Aadhaar.

E. ASSOCIATIONAL AND ORGANIZATIONAL RIGHTS: 10 / 12

E1. Is there freedom of assembly? 4 / 4

While there are some restrictions on freedoms of assembly and association—such as a provision of the criminal procedure code empowering authorities to restrict free assembly and impose curfews whenever "immediate prevention or speedy remedy" is required—peaceful protest events take place regularly. However, in recent years, central and state governments have frequently suspended mobile internet services to curb collective action by citizens.

E2. Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights- and governance-related work? 3 / 4

A wide variety of nongovernmental organizations (NGOs) operate, but they continue to face threats, legal harassment, excessive police force, and occasionally lethal violence. Under certain circumstances, the Foreign Contributions Regulation Act (FCRA) permits the federal government to deny NGOs access to foreign funding, and authorities have been accused of abusing this power to target political opponents. Since 2011, the government has blocked more than 19,000 NGOs from receiving foreign financing under the FCRA's provisions.

In August 2018, a number of left-wing activists critical of Modi's administration saw their homes and offices raided by police on grounds that they were linked with banned Maoist groups. Rights groups denounced the crackdown as an unjustified attack on government critics. Later, in October, government financial crimes units conducted separate raids of offices of Greenpeace India and Amnesty International India, and froze their financial accounts. Amnesty International later reported that it was the target of an online smear campaign that some progovernment media outlets took part in.

E3. Is there freedom for trade unions and similar professional or labor organizations? 3 / 4

Although workers in the formal economy regularly exercise their rights to bargain collectively and strike, the Essential Services Maintenance Act has enabled the government to ban certain strikes.

F. RULE OF LAW: 9 / 16

F1. Is there an independent judiciary? 3 / 4

The judiciary is independent of the executive branch. However, the lower levels of the judiciary have been rife with corruption, and most citizens have great difficulty securing justice through the courts.

F2. Does due process prevail in civil and criminal matters? 2 / 4

Due process rights are not guaranteed. Citizens face substantial obstacles in the pursuit of justice, including demands for bribes and difficulty getting the police to file a First Information Report, which is necessary to trigger an investigation of an alleged crime. Corruption within the police force remains a problem. The justice system is severely backlogged and understaffed, leading to lengthy pretrial detention for suspects, many of whom remain in jail longer than the duration of any sentence they might receive if convicted.

F3. Is there protection from the illegitimate use of physical force and freedom from war and insurgencies? 2 / 4

Reports of torture, abuse, and rape by law enforcement and security officials persisted in 2018. A bill intended to prevent torture remains pending. Abuses against prisoners, particularly minorities and members of the lower castes, by prison staff are common. Official data released to the Indian parliament showed that approximately 1,680 deaths occurred in judicial or police custody between April 2017 and the end of February 2018.

Security forces battling regional insurgencies continue to be implicated in extrajudicial killings, rape, torture, arbitrary detention, kidnappings, and destruction of homes. While the criminal procedure code requires that the government approve the prosecution of security forces members, approval is rarely granted, leading to impunity. A number of security laws allow detention without charge or based on vaguely worded offenses.

The Maoist insurgency in the east-central hills region of India continues, although the annual number of casualties linked with it has decreased since its peak in 2010. Among other abuses, the rebels have allegedly imposed illegal taxes, seized food and places of shelter, and engaged in abduction and forced recruitment of children and adults. Local civilians and journalists who are perceived to be progovernment have been targeted. Tens of thousands of civilians have been displaced by the violence and live in government-run camps.

Separately, in India's seven northeastern states, more than 40 insurgent factions—seeking either greater autonomy or complete independence for their ethnic or tribal groups—continue to attack security forces and engage in intertribal violence. Such fighters have been implicated in bombings, killings, abductions, and rapes of civilians, and they operate extensive extortion networks.

F4. Do laws, policies, and practices guarantee equal treatment of various segments of the population? 2 / 4

The constitution bars discrimination based on caste, and laws set aside quotas in education and government jobs for historically underprivileged scheduled tribes, Dalits, and groups categorized by the government as "other backward classes." However, members of the lower castes and minorities face routine discrimination and violence, and the criminal justice system fails to provide equal protection to marginalized groups. Many Dalits are denied access to land, are abused by landlords and police, and work in miserable conditions.

In parts of the country, particularly in rural areas, informal community councils issue edicts concerning social customs. Their decisions sometimes result in violence or persecution aimed at those perceived to have transgressed social norms, especially women and members of the lower castes.

The citizenship status of millions of mostly Muslim residents in the state of Assam was thrown in doubt in 2018, after a draft of Assam's NRC released in July failed to include their names. Those affected, largely Bengali-speaking Muslims, must produce documentation that they or their ancestors came to the state before Bangladesh became independent in 1971. Accessing such documentation may not be feasible for many poor communities wracked by illiteracy and displacement. While government officials have claimed that Assam's NRC was being updated to identify Bangladeshis living in India illegally, the government of Bangladesh has not accepted that this population is Bangladeshi, and is unlikely to accept them if India attempts to deport them. Separately, proposed changes to a key citizenship law that would expedite citizenship status for "persecuted minorities" in neighboring countries appear to involve the unequal treatment of religious groups.

In September 2018, the Supreme Court ruled that the use of Section 377 of the Indian Penal Code to ban homosexual intercourse was unconstitutional. However, discrimination continues against LGBT (lesbian, gay, bisexual, and transgender) individuals, including violence and harassment in some cases.

G. PERSONAL AUTONOMY AND INDIVIDUAL RIGHTS: 10 / 16

G1. Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education? 3 / 4

Article 19 of the constitution grants citizens the right to reside and settle in any part of the territory of India. However, freedom of movement is hampered in some parts of the country by insurgent violence or communal tensions.

G2. Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors? 3 / 4

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.

While many states have laws to prevent transfers of tribal land to nontribal groups, the practice is reportedly widespread, particularly with respect to the mining and timber industries. Muslim personal laws and traditional Hindu practices discriminate against women in terms of property rights.

G3. 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

Rape, harassment, and other transgressions against women are serious problems, and lower-caste and tribal women are especially vulnerable. Mass demonstrations after the fatal gang rape of a woman on a Delhi bus in 2012 prompted the government to enact significant legal reforms. However, egregious new rape cases have continued to prompt outrage. In what is widely seen as a positive development, the #MeToo movement rose to prominence in India in 2018. Women came forward to express their experiences with sexual harassment and assault, and to accuse high-profile entertainers, journalists, and political leaders of committing sexual harassment and assault; the movement notably prompted in the resignation of MJ Akbar, the minister of state for external affairs. Despite criminalization and hundreds of convictions each year, dowry demands continue. A 2006 law banned dowry-related harassment, widened the definition of domestic violence to include emotional or verbal abuse, and criminalized spousal sexual violence. However, reports indicate that enforcement is poor.

Muslim personal laws and traditional Hindu practices discriminate against women in terms of inheritance and adoption. The Muslim divorce custom of "triple talaq," by which a Muslim man can unilaterally divorce his wife by saying "talaq" three times, was ruled to be unconstitutional by the Supreme Court in 2017. After failing to pass legislation through Parliament to ban the custom, the government issued a temporary ordinance in September 2018 criminalizing the practice and mandating prison terms for perpetrators. The malign neglect of female children after birth remains a concern, as does the banned use of prenatal sex-determination tests to selectively abort female fetuses.

G4. Do individuals enjoy equality of opportunity and freedom from economic exploitation? 2 / 4

India's growing economy has created new avenues for economic opportunity, though serious inequalities also persist.

The constitution bans human trafficking, and bonded labor is illegal, but the practice is fairly common. Estimates of the number of affected workers range from 20 to 50 million. The government passed a controversial law in 2016 allowing children below the age of 14 to engage in "home-based work," as well as other occupations between the ages of 14 and 18. Children are not permitted to work in potentially hazardous industries, though the law is routinely flouted. There have been reports of complicity by law enforcement officials in human trafficking.

Explanatory Note:

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

ecoi.net summary:

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