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2015 Scores

Status: Free

Freedom Rating (1 = best, 7 = worst): 2.5

Civil Liberties (1 = best, 7 = worst): 3

Political Rights (1 = best, 7 = worst): 2

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

India held parliamentary (Lok Sabha) elections in nine phases from April 7 to May 12, 2014, with a turnout of some 554 million voters, or 66 percent. Narendra Modi, a three-term chief minister from the western state of Gujarat, led his right-leaning Bharatiya Janata Party (BJP) and its National Democratic Alliance (NDA) coalition to a decisive victory over the ruling United Progressive Alliance (UPA), headed by Congress Party standard-bearer Rahul Gandhi. The BJP's success marked the first time a single party won a majority of seats in the Lok Sabha since 1984. Modi formed a government as prime minister on May 26.

Modi had been a controversial figure due to his performance as chief minister during the 2002 Gujarat riots, in which more than 1,000 Muslims were killed. A Hindu nationalist, he was accused of complicity in the bloodshed, and some feared communal violence during the 2014 election campaign. There was evidence of a BJP strategy of communal polarization in Uttar Pradesh and Assam states in 2013 and 2014, respectively; divisive speeches by politicians including Modi and his Uttar Pradesh campaign chief Amit Shah, who was promoted to national BJP party president after the elections, were blamed for fueling or capitalizing on deadly communal clashes. Also during the year, censorship of books and social media was a growing concern.

POLITICAL RIGHTS AND CIVIL LIBERTIES

Political Rights: 35 / 40 (+1)

A. Electoral Process: 12 / 12 (+1)

Under the supervision of the Election Commission of India, elections have generally been free and fair. Members of the lower house of Parliament, the 545-seat Lok Sabha (House of the People), 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. Most members of the less powerful 250-seat upper house, the Rajya Sabha (Council of States), are elected by state legislatures using a proportional-representation system 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 but possesses some important powers, is chosen for a five-year term by state and national lawmakers.

In the 2014 Lok Sabha elections, the BJP won 282 seats and its NDA coalition won 336, ensuring a stable majority for the new government. The incumbent Congress Party and its UPA coalition won just 44 and 60 seats, respectively. Modi was sworn in as prime minister, succeeding Manmohan Singh of Congress, who had been in office since 2004. The power transfer was peaceful, as had been the case since independence.

The elections, conducted with electronic voting machines, were broadly free and fair. However, there were some complaints of violence or "booth capturing" – in which party cadres take control of a polling station and stuff ballots – in West Bengal, Bihar, and areas of insurgency such as Chhattisgarh, Odisha, Jharkhand, and states in the northeast. Where complaints of booth capturing or other technical issues were found to hold merit, the Election Commission carried out repeat polling.

At the state level, assembly elections were held concurrently with the parliamentary elections in Andhra Pradesh, Telangana, Arunachal Pradesh, Odisha, and Sikkim. State elections were held in Haryana and Maharashtra in October, and in Jharkhand in November and December. These were conducted by the federal Election Commission and were generally seen as free and fair.

B. Political Pluralism and Participation: 14 / 16

India hosts a dynamic multiparty system. The Congress Party ruled at the federal level for nearly all of the first 50 years of independence, but the BJP became a major factor in Parliament in the 1990s and led a governing coalition from 1998 to 2004. Also during the 1990s, a pattern of single-party governments gave way to ruling coalitions involving large numbers of parties. The change stemmed in part from the rise of new parties that held power and legislative seats in a single state or region. In 2014, the two main national parties won only about 50 percent of the vote combined.

Political participation is affected to a certain degree by insurgent violence in some areas, powerful economic interests, and ongoing practical disadvantages for some marginalized segments of the population. Nevertheless, women, religious and ethnic minorities, and the poor vote in large numbers. There is some representation for historically marginalized groups. The new BJP government included one Muslim cabinet minister, for minority affairs, and only one of 151 ministers in BJP-ruled states following the spring elections was a Muslim. Twenty-two Muslims were elected to the Lok Sabha. Quotas for the chamber ensure that 84 and 47 seats are reserved for the so-called scheduled castes and scheduled tribes, respectively.

C. Functioning of Government: 9 / 12

Political corruption has a negative effect on government efficiency and economic performance. India was ranked 85 out of 175 countries and territories surveyed in Transparency International's 2014 Corruption Perceptions Index. Though politicians and civil servants at all levels are regularly caught accepting bribes or engaging in other corrupt behavior, a great deal of corruption goes

unnoticed and unpunished. This is particularly the case in the energy and construction sectors and in state infrastructure projects more broadly.

Domestic and international pressure has led to legislation to address corruption. Following years of large-scale civic mobilization by Anna Hazare and other activists, Parliament passed the Lok Pal and Lokayuktas Act, which the president signed in January 2014. The law creates independent government bodies tasked with receiving complaints of corruption against public servants or politicians, investigating the claims, and pursuing convictions through the courts. At the federal level, the new institution is called Lok Pal, and the law requires states to set up their own anticorruption bodies called Lokayuktas within one year. The act builds on prior legislation such as the 2005 Right to Information Act, which is widely used to improve transparency and expose corrupt activities. However, there are questions about its enforcement. Since 2008 at least 29 right to information activists have been murdered and 164 have been assaulted or harassed.

Civil Liberties: 43 / 60

D. Freedom of Expression and Belief: 13 / 16

The private media are vigorous and diverse. Investigations and scrutiny of politicians make the news media one of the most important components of India's democracy. Nevertheless, revelations of close relationships between politicians, business executives, lobbyists, and some leading media personalities have dented public confidence in the press in recent years. In the period surrounding the 2014 Lok Sabha elections, large media owners reportedly put pressure on journalists in order to avoid the political consequences of publishing critical stories on major parties and politicians. While the state continues to dominate the radio and private stations are not allowed to air news content, the television and print sectors have expanded considerably over the past decade, with many new outlets targeting specific regional or linguistic audiences.

Internet access is largely unrestricted, though officials periodically implement overbroad blocks on supposedly offensive content to prevent unrest. Section 66A of the 2000 Information Technology Act criminalizes the sending of offensive messages by computer, and this has been interpreted in a way that allows for censorship of critical commentary on political parties and specific politicians. For example, in the month after the 2014 elections, at least 18 people were reportedly arrested and questioned for anti-Modi posts on online forums such as Twitter and Facebook; such measures had no obvious chilling effect among the broader population. A nationwide Central Monitoring System launched in 2013 will allow authorities to intercept any digital communication in real time. The surveillance does not require judicial oversight, and India does not have a privacy law to protect citizens in case of abuse.

The government has used security laws, criminal defamation legislation, hate-speech laws, and contempt-of-court charges to curb critical voices on social media as well as traditional media platforms. Hindu groups have also mobilized to suppress books that are critical of Hindu or Hindu nationalism. The most prominent example in 2014 was a publisher's withdrawal – in response to a lawsuit – of U.S. academic Wendy Doniger's book *The Hindus: An Alternative History*. Attempts of this kind appear to be on the rise.

Freedom of religion is constitutionally guaranteed and generally respected in practice. 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. Hindus make up more than 80 percent of the population, but the state is secular. An array of Hindu nationalist organizations and some local media outlets promote antiminority views.

Academic freedom is generally robust, though intimidation of professors and institutions over political and religious issues sometimes occurs. Scholars and activists accused of sympathizing with Maoist insurgents have faced pressure from authorities and alleged torture by police.

E. Associational and Organizational Rights: 11 / 12

There are some restrictions on freedoms of assembly and association. Section 144 of the criminal procedure code empowers the authorities to restrict free assembly and impose curfews whenever "immediate prevention or speedy remedy" is required. State laws based on this standard are often abused to limit the holding of meetings and assemblies. Nevertheless, protest events take place regularly.

Human rights organizations operate freely, but they continue to face threats, legal harassment, excessive police force, and occasionally lethal violence. While India is home to a strong civil society sector and academic community, foreign monitors and journalists are at times denied visas to conduct research trips in the country on human rights and other topics. Under certain circumstances, the Foreign Contributions (Regulation) Act permits the federal government to deny nongovernmental organizations access to foreign funding. The government has been accused of abusing this power to target political opponents.

While 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

The judiciary is independent of the executive branch. Judges have displayed considerable activism in response to public interest litigation matters. However, in recent years some judges have initiated contempt-of-court cases against activists and journalists 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 lower levels of the judiciary in particular have been rife with corruption, and most citizens have great difficulty securing justice through the courts. The system is severely backlogged and understaffed, leading to lengthy pretrial detention for a large number of suspects, many of whom remain in jail beyond the duration of any sentence they might receive if convicted. Two-thirds of the country's approximately 412,000 prisoners were on or awaiting trial at the end of 2013.

Police torture, abuse, and corruption are entrenched in the law enforcement system. The police also suffer long shifts and understaffing in relation to the size of the population. Citizens frequently face substantial obstacles, including demands for bribes, in getting the police to file a First Information Report, which is necessary to trigger an investigation of an alleged crime. 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. According to the Working Group on Human Rights in India and the United Nations, 14,231 people died in police custody between 2001 and 2010, and approximately 1.8 million people are victims of police torture every year. This is likely an underestimate, since it only includes cases registered with the National Human Rights Commission (NHRC).

The NHRC is headed by a retired Supreme Court judge and handles roughly 8,000 complaints each year. 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, one of the principal agents of abuse in several parts of the country, further hampering its effectiveness. The NHRC nevertheless makes a substantial contribution to

accountability by submitting reports to international bodies such as the UN Human Rights Council, often contradicting the government's account of its performance.

Security forces operating in the context of regional insurgencies continue to be implicated in extrajudicial killings, rape, torture, arbitrary detention, kidnappings, and destruction of homes. The criminal procedure code requires the government to approve the prosecution of security force members, but approval is rarely granted, leading to impunity. The Armed Forces Special Powers Act grants security forces broad authority to arrest, detain, and use force against suspects in restive areas; civil society organizations and multiple UN human rights bodies have called for the act to be repealed. A number of other security laws allow detention without charge or based on vaguely worded offenses.

The Maoist insurgency in several parts of India is of serious concern. Deaths related to this left-wing extremism peaked in 2010 with 1,180 across India. The South Asia Terrorism Portal (SATP) documented 314 related fatalities – including 128 civilians – in 2014. Among other abuses, the rebels have allegedly imposed illegal taxes, seized food and 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 by the Maoists. Security forces responding to the threat, including paramilitary troops and police, have also been accused of serious human rights abuses. 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 – attack security forces and engage in intertribal violence. Such fighters have been implicated in numerous bombings, killings, abductions, and rapes of civilians, and they operate extensive extortion networks. The number of deaths related to the northeastern insurgencies increased from 252 in 2013 to 465 in 2014, according to the SATP. Recent levels represent a substantial reduction compared with the more than 1,000 killed in 2007 and 2008.

The criminal justice system fails to provide equal protection to marginalized groups. Muslims, who make up 13 percent of the population, are underrepresented in the security forces as well as in the foreign and intelligence services. Particularly in rural India, informal 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 constitution bars discrimination based on caste, and laws set aside quotas in education, government jobs, and seats in elective offices for historically underprivileged scheduled tribes, scheduled castes (Dalits), and groups categorized by the government as "other backward classes." However, members of the lower castes and minorities continue to face routine discrimination and violence. Dalits are often denied access to land and other public amenities, are abused by landlords and police, and work in miserable conditions.

A landmark 2009 decision by the Delhi High Court decriminalized consensual sex between adult men in private. However, a panel of the Supreme Court reversed that ruling in December 2013, finding that an act of Parliament would be required to change the code. Attempts to secure a reconsideration by the Supreme Court made little progress in 2014. Widespread discrimination against LGBT (lesbian, gay, bisexual, and transgender) people continues in practice, including violence and harassment in some cases, though the Supreme Court recognized transgender people as a third gender in April 2014.

G. Personal Autonomy and Individual Rights: 10 / 16

Freedom of movement is hampered in some parts of the country by insurgent violence or communal tensions. 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. A 2013 law provided increased rights to people threatened with displacement for industrial and infrastructure projects, but critics said it included arbitrary rules and went too far in restricting development, and the Modi government was considering amendments in late 2014.

Female chief ministers head a number of states, and the Congress Party is led by a woman: Sonia Gandhi.

Rape, harassment, and other transgressions against women are serious problems, and lower-caste and tribal women are particularly vulnerable. The fatal gang rape of a woman on a Delhi bus in December 2012 caused mass demonstrations and prompted the government to enact significant legal reforms, but egregious cases continued to emerge in 2014, leading to calls for further action. Despite criminalization and hundreds of convictions each year, dowry demands continue. According to India's most recent National Family Health Survey report, covering the years 2005 and 2006, 37 percent of married women between ages 15 and 49 have experienced physical or sexual violence at the hands of their husbands. A 2014 study indicated that the risk is especially high for women who are more educated or earn more than their husbands. A 2006 law banned dowry-related harassment, widened the definition of domestic violence to include emotional or verbal abuse, and criminalized spousal rape. However, reports indicate that enforcement is poor.

Muslim personal 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, as does the banned but growing use of prenatal sex-determination tests to selectively abort female fetuses.

Article 23 of 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. Children are also banned from working in potentially hazardous industries, though in practice the law is routinely flouted.

Scoring Key: X / Y (Z)

X = Score Received

Y = Best Possible Score

Z = Change from Previous Year

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