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Freedom in the World 2017 - India

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Freedom Status: Free

Aggregate Score: 77/100 (0 = Least Free, 100 = Most Free)

Freedom Rating: 2.5/7 (1 = Most Free, 7 = Least Free)

Political Rights: 2/7 (1 = Most Free, 7 = Least Free)

Civil Liberties: 3/7 (1 = Most Free, 7 = Least 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.

Quick Facts

Population: 1,328,900,000

Capital: New Delhi

GDP/capita: \$1,598

Press Freedom Status: Partly Free

Net Freedom Status: Partly Free

OVERVIEW

India maintains a robust electoral democracy with a competitive multiparty system at federal and state levels. However, politics (and business) are beset by corruption. The constitution guarantees freedom of expression and the news media are vibrant, even as speech and reportage deemed seditious or harmful to religious sentiment is routinely censored and punished. 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 and have been the victims of violent attacks.

Key Developments

- Vigilante cow-protection groups associated with nationalist Hindu organizations engaged in a number of assaults on Dalits and Muslims. Prime Minister Narendra Modi has been criticized for failing to promptly condemn the attacks.

- In February, the arrest of student protesters in Delhi on sedition charges raised concerns about freedom of expression on university campuses.
- The government passed two major economic reforms in 2016 – the Goods and Services Tax bill and a demonetization policy – aimed at reducing corruption.
- Tens of millions of public sector workers went on strike for 24 hours in September to demand the establishment of a monthly minimum wage.

Executive Summary

State elections in early 2016 brought mixed news for Prime Minister Modi's incumbent Bharatiya Janata Party (BJP), which secured a legislative majority in the northeastern state of Assam for the first time, but failed to make significant inroads among voters in the south. In two of the most consequential economic reforms since economic liberalization in 1991, the government passed a major overhaul of its taxation regime and withdrew the two most common currency bills from circulation; the reforms were aimed at combatting corruption.

In February, sedition cases were initiated against student activists in connection with a protest marking the state execution of a Kashmiri separatist who was hanged in 2013 following a terrorism conviction. Separately, a professor at the University of Mysore was arrested in June in connection with a speech the previous year in which he allegedly insulted a Hindu deity. The events had a chilling effect among Indian intellectuals.

Meanwhile, threats to freedom of expression – including intimidation of and attacks against journalists and users of online social media – continued. There is increasing concern about the harassment of bloggers and social-media users by Hindu nationalists.

POLITICAL RIGHTS AND CIVIL LIBERTIES

Political Rights 35 / 40

A. Electoral Process 12 / 12

- A1. Is the head of government or other chief national authority elected through free and fair elections?
- A2. Are the national legislative representatives elected through free and fair elections?
- A3. Are the electoral laws and framework fair?

Elections in India are generally 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, is chosen for a five-year term by state and national lawmakers. Current president Pranab Mukherjee, a former cabinet minister and veteran Congress Party leader, was elected in 2012.

In the 2014 Lok Sabha elections, the BJP won 282 seats and its National Democratic Alliance (NDA) coalition won 336 seats, ensuring a stable majority for the new government; turnout was 66 percent. The incumbent Congress Party and its United Progressive Alliance (UPA), headed by Rahul Gandhi, won just 44 and 60 seats, respectively. Modi, a three-term chief minister from the

western state of Gujarat, was sworn in as prime minister. The elections, conducted with electronic voting machines, were broadly free and fair.

The Congress Party and its allies still controlled the Rajya Sabha in 2016; the BJP-led alliance held only 72 (out of 250) seats. The BJP controls the governments of 8 of India's 29 states and is a governing coalition partner in an additional 5 states.

Elections were held for five state governments in 2016. In West Bengal, postelection violence carried out by activists from several parties marred the contest. Notably, the BJP became the governing party in the northeastern state of Assam for the first time, but failed to make significant inroads with voters in the south. Across all states, the 2016 polls were generally regarded as free and fair.

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 open to the rise and fall of these competing parties or groupings?

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

B3. Are the people's political choices free from domination by the military, foreign powers, totalitarian parties, religious hierarchies, economic oligarchies, or any other powerful group?

B4. Do cultural, ethnic, religious, or other minority groups have full political rights and electoral opportunities?

India hosts a dynamic multiparty system. Recent elections have tended to result in ruling coalitions involving large numbers of parties. In 2014, the two main national parties won only about 50 percent of the vote combined. Nonetheless, the disproportionate 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. It also relegated the Congress Party to its weakest position to date. Support for Congress appeared to weaken further in 2016, prompting many to question its future electoral prospects.

Political participation is affected to a certain degree by insurgent violence in some areas, and ongoing practical disadvantages for marginalized segments of the population. Nevertheless, women, religious and ethnic minorities, and the poor vote in large numbers. There is some political representation for historically marginalized groups. 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. The current BJP government includes just 2 Muslim ministers out of 75, the lowest number since independence. Two states – Haryana and Rajasthan – have instituted educational requirements for candidates in local elections. It is widely thought that this stipulation disproportionately prevents members of lower castes, and particularly women, from standing for elective office.

Modi is a controversial figure given his role as chief minister during the 2002 Gujarat riots, an outbreak of communal violence in which more than 1,000 Muslims were killed, and in which he has been accused of complicity. There was evidence of a BJP strategy of communal polarization in the states of Uttar Pradesh and Assam in 2013 and 2014 during the parliamentary election campaign. There are reports that the BJP has been employing a similar strategy of communal polarization to rouse support in the lead-up to 2017 state elections in Uttar Pradesh. Notably, BJP politicians, including the national party president, have insinuated that Hindus were forced to flee

the town of Kairana in the western part of the state due to intimidation by Muslim gangs. Whether such an exodus actually occurred is disputed.

C. Functioning of Government 9 / 12

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

C2. Is the government free from pervasive corruption?

C3. Is the government accountable to the electorate between elections, and does it operate with openness and transparency?

Elected leaders have the authority to govern in practice, and civilian control of the military is codified in the constitution. However, political corruption has a negative effect on government efficiency and economic performance. 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. However, the passage of the Goods and Services Tax bill in August 2016 constituted a major legislative accomplishment, and is expected to limit tax evasion and reduce opportunities for graft in interstate commerce. In November, the government announced the demonetization of 500- and 1,000-rupee notes in a bid to reduce the incidence of "black money," or untaxed money earned on the black market.

The Lokpal and Lokayuktas Act, which the president signed 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, but two years on, there is little evidence that it is being effectively implemented.

The 2005 Right to Information (RTI) Act is widely used to improve transparency and expose corrupt activities, though there are questions about its enforcement. Since the enactment of the RTI Act, at least 56 right-to-information users and activists have been murdered, and more than 311 have been assaulted or harassed. In 2015, the Lok Sabha adopted amendments to the 2014 Whistleblowers Protection Act. Opposition members criticized the changes for diluting the effectiveness of the act, which was already regarded as limited in scope. Debate on the amendments in the Rajya Sabha is still pending.

Civil Liberties 42 / 60

D. Freedom of Expression and Belief 13 / 16

D1. Are there free and independent media and other forms of cultural expression?

D2. Are religious institutions and communities free to practice their faith and express themselves in public and private?

D3. Is there academic freedom, and is the educational system free of extensive political indoctrination?

D4. Is there open and free private discussion?

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 and some leading media personalities and owners of media outlets have dented public confidence in the press. In October, a prominent television station declined to air an interview with a major opposition-party politician and former finance minister, apparently because he had been critical of the Modi government's "surgical strikes" on Pakistani targets across the

Line of Control (LOC) demarcating the Indian- and Pakistani-held parts of Kashmir. Separately, in July, three Chinese journalists were denied visa renewals by the Indian government and expelled from the country; a Chinese state-owned newspaper suggested that this was punishment for China's objection to India joining the Nuclear Suppliers Group.

Journalists risk harassment and sometimes, physical violence. In 2016, at least two journalists were killed in connection with their work, and three others were killed under circumstances where the motive remained unclear, according to the Committee to Protect Journalists. There is increasing concern about harassment of bloggers and social-media users by Hindu nationalists.

Internet access is largely unrestricted, though officials periodically implement overly broad blocks on supposedly offensive content to prevent communal or political unrest. The 2000 Information Technology Act criminalizes the sending of offensive messages by computer, and this has been interpreted to allow for censorship of critical commentary on political parties and specific politicians. The authorities have also used security laws, criminal defamation legislation, hate-speech laws, and contempt-of-court charges to curb critical voices on both social media and traditional media platforms.

Hindus make up about 80 percent of the population. The Indian state is formally secular. 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.

An array of Hindu nationalist organizations and some local media outlets promote antiminority views, a practice that critics charge is tolerated or even encouraged by the Hindu nationalist government of Prime Minister Modi. Like the year before it, 2016 saw a series of attacks on minorities tied to the alleged slaughter or mishandling of cows (animals held to be sacred by Hindus). Ruling-party politicians have called for the release of those charged with the lynching of a Muslim man in 2015, demanding instead that the victim's family be prosecuted for cow slaughter. Self-styled *gau rakshaks* (cow protectors) have engaged in vigilante violence against Dalit communities in Gujarat and Karnataka. Modi has been criticized for failing to promptly condemn the perpetrators of such attacks.

Academic freedom is generally robust, though intimidation of professors, students, and institutions over political and religious issues has been increasing. In February 2016, Kanhaiya Kumar, a student leader at Jawaharlal Nehru University in New Delhi, was remanded in custody on charges of sedition for having led protests on the anniversary of the 2013 execution of Mohammad Afzal Guru, who had been convicted of involvement in a 2001 terrorist attack on the parliament. The arrest sparked a wave of protests, intensified by a video apparently showing Kumar being beaten en route to court. At least two more students were later accused of sedition over involvement with the protest, but were released on bail after turning themselves in. Separately, a professor at the University of Mysore was arrested in June 2016 for a speech the previous year that allegedly insulted a Hindu deity. The events have had a chilling effect among Indian intellectuals.

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; India does not have a privacy law to protect citizens in case of abuse.

E. Associational and Organizational Rights 10 / 12

E1. Is there freedom of assembly, demonstration, and open public discussion?

E2. Is there freedom for nongovernmental organizations?

E3. Are there free trade unions and peasant organizations or equivalents, and is there effective collective bargaining? Are there free professional and other private organizations?

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 in the country on human rights and other topics. Under certain circumstances, the Foreign Contributions Regulation Act (FCRA) permits the federal government to deny nongovernmental organizations (NGOs) access to foreign funding. The government has been accused of abusing this power to target political opponents. In April 2015, the authorities canceled the FCRA licenses of some 9,000 charities for failing to declare details about foreign donations. In June 2016, the Home Affairs ministry withdrew FCRA registration from the Sabrang Trust, an NGO that has advocated for the victims of the 2002 riots in Gujarat. The Trust had received funding from the Ford Foundation, which, as a result of this relationship, had been placed on a government watch-list for a number of months; the designation required the foundation to seek specific clearance from the Home Ministry before funding individuals or organizations.

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. Tens of millions of public sector workers went on strike countrywide for 24 hours on September 2016 to demand a monthly minimum wage.

F. Rule of Law 9 / 16

F1. Is there an independent judiciary?

F2. Does the rule of law prevail in civil and criminal matters? Are police under direct civilian control?

F3. Is there protection from political terror, unjustified imprisonment, exile, or torture, whether by groups that support or oppose the system? Is there freedom from war and insurgencies?

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

The judiciary is independent of the executive branch. Judges have displayed considerable activism in response to public-interest litigation matters. However, 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 longer than the duration of any sentence they might receive if convicted.

Police torture, abuse, and corruption are entrenched in the law enforcement system. Citizens frequently face substantial obstacles, including demands for bribes, and 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. In the country's largest state of Uttar Pradesh, 428 deaths occurred in police or judicial custody between October 2015 and September 2016, according to 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. The NHRC nevertheless makes a contribution to accountability by submitting reports to international bodies such as the UN Human Rights Council, often contradicting the government's account of its own 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 that the government approve the prosecution of security force members; 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 the east-central hills region of India is of serious concern, although the annual number of casualties has decreased since its peak in 2010. 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 pro-government 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 numerous bombings, killings, abductions, and rapes of civilians, and they operate extensive extortion networks. The number of deaths related to the northeastern insurgencies decreased from 273 in 2015 to 165 in 2016, according to the South Asia Terrorism Portal, which monitors such violence.

The criminal justice system fails to provide equal protection to marginalized groups. Muslims, who make up about 14 percent of the population, are underrepresented in the security forces as well as in the foreign and intelligence services. 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 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 continue to face routine discrimination and violence. Many Dalits are denied access to land and other public amenities, are abused by landlords and police, and work in miserable conditions.

The penal code forbids "intercourse against the order of nature." Discrimination against LGBT (lesbian, gay, bisexual, and transgender) people continues, including violence and harassment in some cases, though the Supreme Court recognized transgender people as a third gender in 2014. In June 2016, the Indian government opted to abstain on a vote at the UN Human Rights Council in which a resolution was being passed to establish a special office for addressing LGBT discrimination worldwide.

G. Personal Autonomy and Individual Rights 10 / 16

- G1. Do individuals enjoy freedom of travel or choice of residence, employment, or institution of higher education?
- G2. Do individuals have the right to own property and establish private businesses? Is private business activity unduly influenced by government officials, the security forces, political parties/organizations, or organized crime?
- G3. Are there personal social freedoms, including gender equality, choice of marriage partners, and size of family?
- G4. Is there equality of opportunity and the absence of economic exploitation?

Freedom of movement is hampered in some parts of the country by insurgent violence or communal tensions, though violence from insurgencies has decreased in recent years. 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.

There is some degree of female representation in government. Modi's cabinet includes seven female ministers. For the bulk of the year, chief ministers in the states of Tamil Nadu, Jammu and Kashmir, Rajasthan, and West Bengal were women. Female quotas are in place for elected positions in India's three-tier local government system.

Rape, harassment, and other transgressions against women are serious problems, and lower-caste and tribal women are particularly 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 cases emerged in 2016, including the July gang rape of a mother and 14-year-old daughter in Uttar Pradesh, leading to calls for further action. Despite criminalization and hundreds of convictions each year, dowry demands persist. 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. Statistics suggest that murders and suicides associated with dowry disputes are on the rise in parts of the country.

Muslim personal laws and traditional Hindu practices discriminate against women in terms of inheritance, adoption, and property rights. The Muslim divorce custom of "triple talaq," by which a Muslim man can unilaterally divorce his wife by saying "talaq" three times, faced a constitutional challenge in 2016. The Modi government has come out against the practice, but others maintain that it is a religious freedom that should remain constitutionally guarded. 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. The government passed a controversial law in July 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 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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