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Freedom in the World - Kashmir [India] (2007)

Population:
11,400,000

Capital:
N/A

Political Rights Score: 5
Civil Liberties Score: 5
Status: Partly Free

Overview

Meaningful progress on a solution to the conflict over Kashmir, which has killed at least 45,000 civilians, soldiers, and militants since 1989, remained elusive throughout 2006. However, the November 2003 reciprocal cease-fire between Indian and Pakistani troops was largely upheld during the year, the two national governments held several rounds of talks, and New Delhi also engaged in discussions with local separatist groups in Indian-administered Kashmir. Although attacks targeting Hindu civilians and other minorities took place on a number of occasions, the overall level of violence fell during 2006, continuing a four-year trend.

After centuries of rule by Afghan, Sikh, and local strongmen, the British seized control of Kashmir in 1846 and sold it to the Hindu maharajah of the neighboring principality of Jammu. The maharajah later incorporated Ladakh and other surrounding areas into what became the new princely state of Jammu and Kashmir. During the partition of British India into the new nations of India and Pakistan in 1947, Maharajah Hari Singh attempted to preserve Jammu and Kashmir's independence. However, after Pakistani tribesmen invaded, the maharajah agreed to Jammu and Kashmir's accession to India in return for promises of autonomy and eventual self-determination.

Within months of gaining their independence, India and Pakistan went to war in Kashmir. A UN-brokered cease-fire in January 1949 established the present-day boundaries, which gave Pakistan control of roughly one-third of Jammu and Kashmir, including the far northern and western areas. India retained most of the Kashmir Valley along with predominantly Hindu Jammu and Buddhist-majority Ladakh.

Under Article 370 of India's constitution and a 1952 accord, the territory received substantial autonomy. However, New Delhi began annulling the autonomy guarantees in 1953, and in 1957, India formally annexed the part of Jammu and Kashmir under its control. Seeking strategic roads and passes, China seized a portion of Kashmir in 1959. India and Pakistan fought a second, inconclusive war over the territory in 1965. Under the 1972 Simla accord, New Delhi and Islamabad agreed to respect the Line of Control (LOC) dividing the region, and to resolve Kashmir's status through negotiation.

The armed insurgency against Indian rule gathered momentum after 1987, when

the pro-India National Conference Party won state elections that were marred by widespread fraud and violence, and authorities began arresting members of a new Muslim-based, opposition coalition. Militant groups with links to political parties assassinated several National Conference politicians and attacked government targets in the Kashmir Valley. The militants included the Jammu and Kashmir Liberation Front (JKLF) and other pro-independence groups consisting largely of indigenous Kashmiris, as well as Pakistani-backed Islamist groups seeking to bring Kashmir under Islamabad's control.

As the violence escalated, New Delhi placed Jammu and Kashmir under federal rule in 1990 and attempted to quell the mass uprising by force. By the mid-1990s, the Indian army had greatly weakened the JKLF, which abandoned its armed struggle in 1994. The armed insurgency has since been dominated by Pakistani-backed extremist groups, which include in their ranks many non-Kashmiri fighters from elsewhere in the Muslim world. Although opposition parties joined together to form the All Parties Hurriyat Conference (APHC) in 1993, they boycotted the 1996 state elections, and the National Conference was able to form a government under parliament leader Farooq Abdullah.

In August 2000, Hizbul Mujahideen, the largest armed group in Kashmir, initiated dialogue with the Indian government, but talks broke down when India refused to include Pakistan in the discussions. A summit held in 2001 failed to resolve the two countries' long-standing differences over Kashmir. Militants stepped up their attacks in the aftermath of the summit, with an increasing focus on targeting Hindu civilians in the southern districts of the state. In addition, a leading moderate separatist politician, Abdul Ghani Lone, was assassinated in May 2002, probably by a hard-line militant group.

Seeking legitimacy for the electoral process, New Delhi encouraged all political parties to participate in the fall 2002 state elections, but was unsuccessful in persuading the APHC to contest the polls. However, in a surprise result, the ruling National Conference lost 29 of its 57 assembly seats, while the Congress Party and the People's Democratic Party (PDP) made significant gains, winning 16 and 20 seats, respectively. In November, the two parties formed a coalition government headed by the PDP's Mufti Mohammad Sayeed. The new government promised to address human rights violations, corruption, and economic development, and urged the central government to hold peace talks with separatist political groups. In October 2005, Sayeed stepped down as chief minister in keeping with the 2002 power-sharing agreement with Congress, under which the two parties agreed to swap the post every three years. Congress leader Ghulam Nabi Azad, previously urban development minister, was named as Sayeed's replacement.

After initial signs of improvement during the new Sayeed government's honeymoon period in early 2003, the incidence of both violence and human rights violations returned to previous levels. Nevertheless, the Indian government has shown a greater willingness to initiate dialogue with various Kashmiri groups, including the APHC. In January 2004, talks were held for the first time between Kashmiri separatists and the highest levels of the Indian government. The newly elected federal government announced in November 2004 that in response to an improved security situation, it planned to reduce troop numbers in the region; in

addition, it presented a four-year, \$5 billion development package designed to improve infrastructure, education, and tourism.

India issued travel documents to a number of separatist political leaders that allowed them to meet with Pakistan-based Kashmiri separatists in June 2005; at the meeting, APHC spokesperson and leading moderate Mirwaiz Umar Farooq said that the time had come for Kashmiri politicians to take the lead in finding a peaceful solution. The APHC's commitment to renouncing violence was reiterated in September, when an APHC delegation met with Indian Prime Minister Manmohan Singh. However, the desire of Kashmiris to become more deeply involved in the negotiating process has been hampered by an emerging split within the APHC between hard-liners, who favor a continuation of the insurgency, and moderates who favor a political solution.

Authorities in New Delhi have also attempted to improve relations with Pakistan. In November 2003, Pakistan declared a cease-fire across the LOC, which India reciprocated; the cease-fire has largely held since then. Since announcing the resumption of a "composite dialogue," including discussion of the Kashmir dispute in January 2004, the two governments have held several rounds of talks. Although little substantive progress has been made on finding a lasting solution to the conflict, the two sides have discussed a range of issues and continued to affirm their commitment to solving the Kashmir dispute through peaceful negotiations. A number of confidence-building measures, such as improved nuclear safeguards, reopened transport links, and an increased diplomatic presence, have gradually been implemented. India and Pakistan agreed in February 2005 to start a bus service across the LOC that would link the capitals of Indian and Pakistani Kashmir. After bureaucratic delays and despite threats from insurgent groups—militants attacked targets along the intended route twice before the bus's launch—the service started in April. This historic opening allowed Kashmiri civilians to reunite with family members, many of whom had been unable to see each other for decades, although due to onerous red tape relatively few Kashmiris have been able to avail themselves of this new opportunity.

In October 2005, Pakistani-administered Kashmir and parts of Indian-administered Kashmir, Afghanistan, and Pakistan were hit by an earthquake whose epicenter was near the Pakistani-Kashmir capital of Muzaffarabad. Although Indian-administered Kashmir escaped the brunt of the destruction, about 1,300 people were killed and 150,000 were rendered homeless. After several weeks of wrangling, India and Pakistan agreed to open their border at several crossing points to facilitate family contacts and improve relief efforts, and India also allowed Pakistan to fly helicopters over previously restricted airspace. However, both governments were accused of permitting territorial sensitivities to overshadow the need to cooperate on a massive relief effort in very difficult mountainous terrain.

During 2006, peace talks with Pakistan continued but progress on resolving the Kashmir dispute remained incremental. In a token gesture, India reduced troop levels in Kashmir by 3,000 men, although a much more substantive demilitarization has been discussed. Following talks between the Indian government and various separatist factions in May, the Indian prime minister announced the formation of five working groups tasked with discussing various

issues related to the conflict, including improving Srinagar–New Delhi relations, improving relations across the LOC, furthering the state's economic development, reviewing the cases of detainees, and ensuring good governance. He also reiterated the importance of cracking down on human rights abuses. In a positive development, four by-elections for the state legislature were held in April 2006 with close to a 60 percent turnout, despite militant groups' calls for a boycott. The number of fatalities continued to decrease, in a continuation of a trend dating to 2002; about 1,100 people were killed during 2006, according to the South Asia Terrorism Portal (SATP). However, violence still continues, albeit at a lower level. A spate of grenade attacks targeted tourists in the spring, while attacks on security forces, politicians, and minority groups took place throughout the year.

Political Rights and Civil Liberties

Each of India's states, including Jammu and Kashmir, is governed by an appointed governor who serves as titular head of state and by an elected bicameral legislature headed by a chief minister. India has never held a referendum on Kashmiri self-determination as called for in a 1948 UN resolution. The state's residents can nominally change the local administration through elections, which are held at least once every five years, but historically, elections have been marred by violence, coercion by security forces, and balloting irregularities. Militants commonly enforce boycotts called for by separatist political parties, threaten election officials and candidates, and kill political activists and civilians during the balloting. During the campaign period leading up to the 2002 elections for the 87-seat state assembly, more than 800 people, including over 75 political activists and candidates, were killed. However, the balloting process itself was carefully monitored by India's Election Commission, and turnout averaged just over 40 percent. Most independent observers judged the elections to be fair but not entirely free, largely because of the threat of violence. The municipal elections held in February 2005 were also largely peaceful despite some threats of violence and calls for a boycott.

Those who participate in the political process face continued threats and violence from militant groups, who target senior politicians as well as party activists. In a high-profile assassination, Education Minister Ghulam Nabi Lone was killed in October 2005. Insurgents attacked activists of the Communist Party of India (Marxist) in Soporan district in January 2006, killing three people. In April, according to the SATP, unidentified terrorists shot dead Mohammed Afzal, a municipal councilor from Sopore who had run as a Congress-backed independent candidate in the 2005 municipal elections. Just after the elections, two newly elected councilors were killed, and several others resigned after receiving threats.

Although Jammu and Kashmir was returned to local rule in 1996, many viewed the National Conference Party government as corrupt, incompetent, and unaccountable to the wishes and needs of Kashmiris. An International Crisis Group report noted that official corruption is "widespread," and corruption cases are seldom prosecuted. Much corrupt behavior and illegal economic activity can be traced directly to political leaders and parties and to militant groups. The new state government made a commitment to address issues of corruption and governance; however, progress in improving both has been slow, and government opacity

remains a major concern. Indian-controlled Kashmir was not ranked separately in Transparency International's 2006 Corruption Perceptions Index.

Primarily because of pressure from militants, conditions for the media remain difficult, and many journalists practice some level of self-censorship. Militant groups regularly threaten and sometimes kidnap, torture, or kill journalists. In February 2006, staff at the *Greater Kashmir* newspaper received threats from members of a breakaway JKLF faction who felt that the paper was not providing them with adequate coverage; the gunmen also ransacked the popular newspaper's offices and damaged equipment. A correspondent for a national daily was abducted and almost killed by militants in June. Journalists are occasionally also harassed or detained by the authorities. Reporter Abdul Rouf and his wife were detained without charge in late November and were accused in December of harboring militants at their home; they remained under arrest at year's end, although they reportedly denied the charges. Photojournalist Maqbool Sahil has been detained since September 2004 under the Public Safety Act, charged with possessing official secrets and spying for Pakistan. In both cases, security services have disregarded judicial orders to free the accused.

Though it is generally not used, India's 1971 Newspapers Incitements to Offense Act (in effect only in Jammu and Kashmir) gives district magistrates the authority to censor publications in certain circumstances. Pressure to self-censor has also been reported at smaller media outlets that rely on state government advertising for the majority of their revenue. Despite these restrictions, however, newspapers do report on controversial issues such as alleged human rights abuses by security forces. Authorities generally do not restrict foreign journalists' access to the state or to separatist leaders, according to the U.S. State Department's 2006 human rights report. Internet access is unrestricted. Threats from extremist militants forced some cable television operators to temporarily suspend services in May 2006, and the offices of one operator were bombed in October.

Freedom to worship and academic freedom are generally respected by Indian and local authorities. In 2003, for the first time in over a decade, the state government granted permission to separatist groups seeking to organize a procession to mark the prophet Muhammad's birthday; permission was granted again in subsequent years, according to the U.S. State Department's 2006 International Religious Freedom Report. However, Islamist militant groups do target Hindu and Sikh temples or villages for attack; a number of such incidents, in which dozens of civilians were killed, occurred during the year. In a rare case of Muslim-Buddhist tension, the alleged desecration of a Koran sparked a violent altercation between members of the two communities in Leh in February 2006, leaving a number of people injured.

Freedoms of assembly and association are occasionally restricted. Although local and national civil rights groups are permitted to operate, the Indian government has banned some international groups from visiting the state. Several human rights activists have been killed since 1989, and the few individuals and groups that continue to do human rights work are sometimes unable to travel freely within the state or are subject to harassment from both security forces and pro-government militias. The APHC, an umbrella group of 23 secessionist political

parties, is allowed to operate, although its leaders are frequently subjected to short-term preventative arrest, and its requests for permits for public gatherings are routinely denied. Senior JKLF leader Javed Ahmad Mir was taken into preventative custody several times during 2006, once after taking part in a protest against human rights abuses in Srinagar. Until 2005, the Indian government had also denied permission for APHC leaders to travel to Pakistan. Politically motivated strikes, protest marches, and antigovernment demonstrations take place on a regular basis, although some are forcibly broken up by the authorities.

The judiciary was able to function more effectively in 2006, according to the U.S. State Department's human rights report, but judges, witnesses, and the families of defendants remain subject to threats and intimidation from militants. In addition, the government frequently disregards judicial orders quashing detentions, and security forces refuse to obey court orders. Many judicial abuses are facilitated by the 1978 Public Safety Act and other broadly drawn laws that allow authorities to detain people for up to two years without charge or trial. Although detentions under the security laws are nonrenewable, authorities frequently re-arrest suspects and impose new detentions; sources estimate that several hundred people are held in preventative detention under such legislation at any given time.

In a positive step, the draconian 2002 Prevention of Terrorism Act was repealed by the new Indian government in September 2004. However, two other broadly written laws—the Armed Forces Special Powers Act and the Disturbed Areas Act—allow Indian forces to search homes and arrest suspects without a warrant, shoot suspects on sight, and destroy homes or buildings believed to house militants or arms. Moreover, the Special Powers Act requires New Delhi to approve any prosecution of Indian forces. Impunity is the norm, and efforts to bring soldiers to justice have been rare, but disciplinary action is occasionally meted out to members of the police and security forces, and in a few cases criminal charges have been filed. In April 2006, the national Central Bureau of Investigation indicted five army officers for the March 2000 extrajudicial killing of five villagers at Pathribal. While the state human rights commission (HRC) examines some complaints (it has received hundreds since its inception, mostly regarding prison release, custodial deaths, and alleged harassment by security forces), it is hampered by inadequate resources and infrastructure. In addition, it cannot directly investigate abuses by the army or other federal security forces, or take action against those found to have committed violations. In August 2006, the chairperson of the HRC resigned, citing concern that the state government was not sufficiently serious about human rights issues.

In a continuing cycle of violence, hundreds of militants, security force personnel, and civilians are killed each year, although the number continued to decline during 2006; the SATP reported that 349 civilians, 168 security force personnel, and 59 militants were killed during the year, for a total of 1,116. Approximately 600,000 Indian security personnel based in Kashmir, including soldiers, federal paramilitary troops, and the police, carry out arbitrary arrests and detentions, torture, "disappearances," and custodial killings of suspected militants and alleged civilian sympathizers. As part of the counterinsurgency effort, the government has organized and armed pro-government militias composed of former militants. Members of these groups act with impunity and have reportedly carried out a wide

range of human rights abuses against pro-Pakistani militants and civilians. According to Amnesty International's 2006 report, the level of violations has slightly decreased, but at least 6 deaths in custody, 38 enforced disappearances (including several juveniles), and 22 extrajudicial killings were reported during the year. Local human rights groups estimate that at least 8,000 people have "disappeared" during the course of the insurgency.

Of particular concern is the continuing problem of custodial killings, in which police and security forces kill militants or civilians held in custody and then claim that they were "encounter" deaths, meaning they were killed during firefights. The practice is exacerbated by the fact that security force personnel are often rewarded—with either cash or a promotion—for producing a dead "militant," and holding militants in custody is considered a security risk.

Armed with increasingly sophisticated and powerful weapons, and relying to a greater degree on the deployment of suicide squads, militant groups backed by Pakistan continue to kill pro-India politicians, public employees, suspected informers, members of rival factions, soldiers, and civilians. The roughly 1,400 active militants also engage in kidnapping, rape, extortion, and other forms of intimidation. Violence targeting Pandits, or Kashmiri Hindus, is part of a pattern dating to 1990 that has forced several hundred thousand Hindus to flee the region; many continue to reside in refugee camps near Jammu. On April 30 and May 1, 2006, militants killed at least 35 Hindus living in Udhampur and Doda districts. Other religious and ethnic minorities such as Sikhs and Gujjars have also been targeted. Until a cease-fire was declared in November 2003, shelling by Indian and Pakistani troops along the LOC killed numerous civilians, displaced thousands more, and disrupted schools and the local economy. An extensive September 20 report by Human Rights Watch documented patterns of abuse carried out by all sides, and pointed out that widespread impunity for such abuse has only helped perpetuate the conflict.

As in other parts of India, women face some societal discrimination as well as domestic violence and other forms of abuse. Female civilians continue to be subjected to harassment, intimidation, and violent attack, including rape and murder, at the hands of both the security forces and militant groups. In recent years, women and girls have also been targeted by Islamist groups and pressure to adopt more conservative styles of dress or stop attending school, but there were no reported instances of this in 2006. In May, protesters led by Asiya Andrabi, head of the separatist women's group Dukhtaran-e-Millat, demonstrated after news reports surfaced of a prostitution ring that catered to local and Indian politicians and law enforcement personnel; some alleged that the ring had official sanction and was also used to gain information regarding militant activities. Andrabi had previously campaigned against adultery and alcohol consumption in the state.