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FREEDOM HOUSE

Freedom in the World - India (2007)

Population:
1,121,800,000

Capital:
New Delhi

Political Rights Score: 2
Civil Liberties Score: 3
Status: Free

Overview

Leftist parties and coalitions led by the ruling Congress Party performed well in several state elections in 2006, while the opposition Hindu nationalist Bharatiya Janata Party remained marginalized as a political force at the national level. The peace dialogue with Pakistan continued during the year, but was shaken by July bombings on a number of trains in Mumbai, which killed almost 200 commuters. Owing to the sustained efforts of local activists and lawyers and of the Supreme Court and the National Human Rights Commission, some progress was made on prosecution of the 2002 communal violence in Gujarat with the February 2006 announcement that nine suspects in the Best Bakery had been convicted. During the year, the continued spread of the Maoist insurgent movement led to increased violence and human rights violations in a number of states in India's tribal belt, particularly Chhattisgarh.

India achieved independence in 1947 with the partition of British India into a predominantly Hindu India, under Prime Minister Jawaharlal Nehru, and a predominantly Muslim Pakistan. The centrist, secular Congress Party ruled at the federal level for much of the first five decades of independence. From the mid-1990s onward, however, the political balance changed. The Hindu nationalist Bharatiya Janata Party (BJP) soon became a major factor in Parliament and a regular contender for power, leading governments on several occasions. In addition, the pattern shifted from single-party to coalition governments, typically involving large numbers of parties and an increasingly important role for parties based in a single state.

The period since 1990 has also been a time of major economic reform, with the Congress government initiating a shift toward market-oriented policies following balance-of-payments crisis in 1991. In December 1992, Hindu fundamentalists supported by major figures in the BJP destroyed a sixteenth-century mosque in the northern town of Ayodhya, and some 2,000 people, mainly Muslims, subsequently died in riots and police gunfire. This incident highlighted the dilemma that has plagued the BJP: on the one hand, its traditional program strongly favored a vigorous promotion of what the party regarded as Hindu cultural interests; on the other, the party recognized that it needed to moderate its program in order to win elections and govern.

BJP leader Atal Behari Vajpayee's formation of a government in 1998 marked the

arrival of the party as a regular contender for national leadership. His government fell after a regional party defected, but it won reelection in 1999 as the lead partner in the 22-party National Democratic Alliance. In February 2002, 59 people were killed in Godhra, Gujarat, when a fire broke out on a train carrying members of a Hindu extremist group. A Muslim mob was initially blamed for the fire (an official commission has since deemed it an accident), and in the anti-Muslim riot and pogroms that followed throughout Gujarat, an estimated 2,000 people were killed and 100,000 were left homeless and dispossessed. The violence was orchestrated by Hindu nationalist groups, who organized transportation and provisions for the mobs and provided printed records of Muslim-owned property. Evidence that the BJP-led state government was complicit in the carnage prompted calls for Gujarat chief minister Narendra Modi's dismissal. Although the central government tried to distance itself from these events, Modi retained the support of the party leadership and won state elections held later that year.

The rehabilitation of those displaced by the violence, as well as the prosecution of those responsible for murder, rape, and destruction of property, made little headway after the riots. Witnesses in the few cases brought to trial have faced threats and intimidation by local authorities and Hindu nationalist sympathizers, but have lawyers and activists working on witnesses' behalf. On several occasions, the Supreme Court attempted to correct the Gujarat government's abysmal prosecution record. In March 2004, it ordered that witnesses be given protection by national forces rather than by Gujarat state police; in April that year, it ordered that the high-profile Best Bakery case, in which 14 people were burned to death inside a bakery in Vadodara, be retried outside of Gujarat; and in August 2004, it directed the state government to review more than 2,000 closed riot cases and reexamine acquittals to determine the possibility of filing appeals. As a result, a number of cases are currently under review or are being retried in other states; in February 2006, the nine defendants in the Best Bakery case were convicted, and during the year disciplinary action was taken against some 40 police officers for their role in the riots.

Buoyed by victories in several key state elections as well as high levels of economic growth, the BJP government called early national elections in the spring of 2004. However, in a surprise result, it was defeated—final results gave the BJP only 137 seats out of 545 in the lower house of Parliament, and its allies also performed poorly. Consequently, the Congress Party was able to form a coalition government with a large collection of regional parties, though its majority depended on additional parliamentary support from a group of leftist parties. In further surprise, Congress leader Sonia Gandhi declined the position of prime minister and instead appointed former finance minister Manmohan Singh to the post. However, in an unusual power-sharing arrangement, she retained the party leadership and wields considerable influence over official policy.

In the postelection period, the new Congress-led United Progressive Alliance (UPA) government agreed to a Common Minimum Program that promised a renewed focus on effective governance, a social-democratic budget, and the reversal of several policies initiated by the previous government, including the repeal of controversial antiterrorism legislation and the removal from state-run schools of textbooks that had been imbued with Hindu nationalist ideology. However, the U

found it difficult to implement some of its economic policies because of tensions among its disparate coalition partners and opposition from the Communist Party India–Marxist (CPI-M), one of its leftist allies, to issues such as the privatization of public sector assets and labor law reform.

As a political force in opposition, the BJP remained weak and plagued by infighting over issues of party leadership and ideology. A coalition in which the BJP was a junior partner won the key November 2005 Bihar state elections, and the BJP took control of Karnataka state in February 2006 after a Congress-led coalition collapsed, marking its first major success outside north India. However, it performed poorly in state elections held in April and May 2006; the Left Front made strong gains in its own traditional strongholds of Kerala and West Bengal, while Congress managed to hold onto power in Tamil Nadu and Assam in coalition deals with regional parties. The growing popularity of regional and caste-based parties, coupled with the Left Front's renewed strength, continued to hinder Congress's ability to reestablish itself as a national force and implement key economic reforms. The government also faced widespread protests in May 2006 over proposals to expand existing public sector affirmative-action programs to cover private sector jobs and educational institutions.

A peace dialogue between India and Pakistan continued in 2006 despite new violence linked to Pakistan-based militant groups. Bilateral relations had sharply worsened in December 2001 following an attack on the Indian Parliament building by members of Lashkar-e-Taiba (LeT), a Pakistan-based, Islamist militant group. The two countries came close to war in 2002, but sustained diplomatic pressure from the United States and others led to some easing of tensions between the neighbors. They instituted a ceasefire in November 2003 and initiated formal talks in January 2004 on eight baskets of issues, including the disputed territory of Kashmir. Follow-up discussions continued on a regular basis, and periodic meetings of the two national leaders made it evident that they wished to continue the dialogue. A number of confidence-building measures, such as improved nuclear safeguards, reopened transport links, and an increased diplomatic presence, were gradually implemented, with direct rail links recommencing in January 2006. The Indian government continued to shy away from negotiating directly on the status of Kashmir, but reduced its troop levels in the territory by 3,000 men during the year.

In the most serious 2006 violence, a series of coordinated bomb blasts on commuter trains in Mumbai on July 11, 2006, killed over 200 people and injured more than 700 others, making it the worst terrorist attack on Indian soil since 1993. Police investigations following the attacks, which included the temporary detention of hundreds of suspects, indicated the involvement of LeT as well as local groups such as the banned Students' Islamic Movement of India. The bombings were a setback for the peace process, with India suspending a planned round of discussions, but in contrast to the aftermath of previous attacks, the official response was measured, and there were few instances of retaliation or rioting against India's Muslim population. Also in 2006, India's relations with Bangladesh became increasingly strained, with India accusing its neighbor of sheltering various insurgent and Islamist groups who used its territory as a base from which to infiltrate and attack India.

Political Rights and Civil Liberties

India is an electoral democracy. The 1950 constitution provides for a lower house of Parliament, the 545-seat Lok Sabha (House of the People), whose members are directly elected for five-year terms (except for two appointed seats for Indians of European descent). The Lok Sabha determines the leadership and composition of the government. Members of the 245-seat upper house, the Rajya Sabha (Council of States), are either elected by the state legislatures or nominated by the president, and serve staggered six-year terms. Executive power is vested in a prime minister and a cabinet. The president, who serves as head of state, is chosen for a five-year term by state and national lawmakers.

India is a mature democracy that has held regular and reasonably free elections since independence. A large number of regional and national parties participate, and sitting governments are thrown out of office with increasing regularity. Under the supervision of the vigilant Election Commission of India (ECI), recent elections have generally been free and fair. The last elections, held in spring 2004, saw a decline in levels of election-related violence, but some vote fraud and other minor irregularities occurred in Bihar despite the introduction of electronic voting machines throughout the country. The February 2005 state elections held in Bihar and Jharkhand were marred by more widespread violence, but a rerun November Bihar election was relatively free of violence and irregularities, as were elections held in Kerala and West Bengal in the spring of 2006. Badly maintained voter lists and the intimidation of voters in some areas continue to be matters of concern.

A wide range of political parties operate freely, and there are no restrictions on peaceful political activism. However, despite the vibrancy of the Indian political system, effective and accountable rule continues to be undermined by political infighting, pervasive criminality in politics, decrepit state institutions, and widespread corruption. India was ranked 70 out of 163 countries surveyed in Transparency International's 2006 Corruption Perceptions Index. The electoral system depends on black money obtained through tax evasion and other means. Politicians and civil servants are regularly caught accepting bribes or engaging in other corrupt behavior. In one recent major incident, 11 members of Parliament (MPs) were forced to resign after being filmed taking cash in return for asking specific questions in Lok Sabha sessions. Moreover, a number of candidates with criminal records have been elected, particularly in the state legislatures. In 2002 the ECI was able to implement a Supreme Court directive requiring candidates seeking election to declare their financial assets, criminal records, and education backgrounds. However, those with links to organized crime, as well as those whose election victories were dependent on unreported money, continue to serve as lawmakers, as do a number of MPs who face serious criminal charges.

India's private press continues to be vigorous and is by far the freest in South Asia, although journalists face a number of constraints. The constitution protects freedom of speech and of expression but does not explicitly mention media freedom. In recent years, the government has occasionally used its power under the Official Secrets Act (OSA) to censor security-related articles. In 2005, the International Federation of Journalists welcomed the passage of a Right to Information Bill and called for the scrapping of the OSA. Intimidation of journalists

by a variety of actors continues. On a number of occasions during 2006, reporters were attacked or threatened by police, right-wing groups, insurgents, officials, or criminals, and two journalists were killed. Members of the press are particularly vulnerable in rural areas and insurgency-racked states such as Chhattisgarh, Kashmir, Assam, and Manipur. The broadcast media are predominantly in private hands, but the state-controlled All India Radio enjoys a dominant position, and its news coverage favors the government. Internet access is unrestricted, although some states have proposed legislation that would require the registration of customers at internet cafés, and an official attempt to block certain web pages led inadvertently to a temporary ban on access to thousands of blogs in July 2006. Potentially inflammatory books and films are occasionally banned or censored by the national or state governments.

The right to practice one's religion freely is constitutionally guaranteed and generally respected in this officially secular but Hindu-majority country. However, violence against religious minorities, including attacks on clergy and the destruction of churches and mosques, remains a problem, and prosecution of those involved in such attacks has been inadequate. Members of the *sangh parivar*, a group of Hindu nationalist organizations including the BJP, and some local media outlets promote antiminority propaganda. Legislation on the books in several states, including Orissa, Madhya Pradesh, and Gujarat, criminalizes religious conversions that take place as a result of "force" or "allurement," and the Rajasthan state assembly attempted to pass similar legislation in 2006 that did not enter into law due to the governor's refusal to endorse it. These laws have been opposed by human rights activists and religious groups, who argue that the statutes' vague provisions could be misused.

The promotion of Hindu nationalist ideology by the former BJP government also affected the educational system. Textbooks rewritten to favor a Hindu extremist version of history were introduced in late 2002, despite protests from academics, minority leaders, and advocates of secular values. The new Congress-led government pledged to reverse the "saffronization" of education and, in March 2005, released new textbooks based on those replaced in 2002. However, continuing problems with textbooks in some states led the federal government to propose the creation of a National Textbook Council that would monitor textbooks used in all public and private schools, according to the U.S. State Department's 2006 International Religious Freedom Report. Academic freedom is also occasionally threatened by intimidation of and attacks on professors and institutions. In February 2005, a professor in Bangalore was assaulted by student activists, apparently as a result of his support for proposed talks between the government and Maoist rebels known as Naxalites.

There are some restrictions on freedoms of assembly and association. Section 144 of the criminal procedure code empowers state-level authorities to declare a state of emergency, restrict free assembly, and impose curfews, and officials occasionally use Section 144 to prevent demonstrations. Police and hired thugs also occasionally beat, arbitrarily detain, or otherwise harass villagers and members of nongovernmental organizations (NGOs) who protest forced relocations from the sites of development projects. During 2006, Amnesty International documented several instances in which police used excessive force against

demonstrators, particularly in the context of ongoing protests against the Narmada Dam project.

Human rights organizations generally operate freely. However, rights groups have expressed concern over the intimidation of human rights defenders by officials and other actors, with tactics including threats, legal harassment, the use of excessive force by police, and occasionally lethal violence. In Gujarat, individuals and organizations that have taken an active role in pushing for justice following the 2002 riots have faced harassment from state authorities, including targeted investigations by tax authorities or the police, as well as threatening telephone calls, according to Human Rights Watch. The work of rights activists may also be hindered by a 2001 Home Ministry order that requires organizations to obtain clearance before holding international conferences or workshops if the subject matter is "political, semi-political, communal, or religious in nature or is related to human rights." Foreign monitors are occasionally denied visas to conduct research trips in India on human rights-related issues.

Workers in the formal economy regularly exercise their rights to bargain collectively and strike. However, the Essential Services Maintenance Act enables the government to ban strikes in certain key industries and limits the right of public servants to strike. Estimates of the number of child laborers vary widely, from 12 million to 55 million. Many work in the informal sector in hazardous conditions, and some are bonded laborers. In October 2006, new legislation came into force that banned children younger than 14 from working as domestic servants or in the hospitality sector at hotels, restaurants, or roadside food stalls.

The judiciary is independent of the executive. Judges have exercised unprecedented activism in response to public-interest litigation over official corruption, environmental issues, and other matters. However, in recent years, courts have initiated several contempt-of-court cases against activists and journalists, raising questions about their misuse of the law to intimidate those who expose the behavior of corrupt judges or who question their verdicts. Contempt court laws, which did not accept the truth of allegations against judges as a defense, were reformed in 2006 by an amendment that makes truth a defense, provided it is in the public and national interest.

The judiciary is reportedly rife with corruption, and access to effective justice by most citizens except the elites, particularly at the lower levels, is extremely difficult to achieve. The court system is severely backlogged and understaffed—there are currently more than 30 million civil and criminal cases pending—which results in the lengthy pretrial detention of a large number of people. The Indian criminal justice system also fails to provide equal protection under the law to minorities, *dalits* (untouchables), and people from other lower castes and underprivileged groups, such as tribal members. Muslims are underrepresented in the police force and army, with only 29,000 serving in the 1.1 million-strong army even though Muslims comprise an estimated 13 percent of the population, according to the *Christian Science Monitor*.

Particularly in rural India, parallel justice is often dispensed by caste *panchayats* (informal councils) or Muslim religious leaders, who issue edicts concerning

marriage, divorce, and other social customs. In the worst cases, such edicts result in violence or persecution against those who are perceived to have transgressed social norms, particularly women and members of the lower castes.

Police often torture or otherwise ill-treat suspects to extract confessions or bribe. Custodial rape of female detainees continues to be a problem, as does routine abuse of ordinary prisoners, particularly minorities and members of the lower castes. The National Human Rights Commission (NHRC), whose profile has grown since its creation in 1993, is headed by a retired Supreme Court judge and handles roughly 75,000 complaints each year. However, while it monitors abuses, initiates investigations, and makes independent assessments, its recommendations are often not implemented and it has few enforcement powers. In addition, the commission has no jurisdiction over the armed forces, which severely hampers its effectiveness.

Reports by the NHRC, Human Rights Watch, and a number of other groups allege that police in Gujarat were given orders by the state government not to intervene during the communal violence that engulfed the state in 2002, and that police have since been reluctant to register complaints against or arrest those accused of murder, rape, or complicity in the rioting. After the state's legal machinery was deemed to be biased, the Supreme Court in 2004 ordered two cases, including the Best Bakery case, to be retried in other states, and also ordered the review of more than 2,000 closed complaints and 200 acquittals. While the majority of the retrials and reviews were still ongoing at year's end, in February 2006 a Mumbai special court sentenced nine people to life imprisonment for their role in the Best Bakery massacre. Also during the year, almost 1,600 cases were reopened, and disciplinary action was taken against more than 40 police officials involved in the communal violence, according to Amnesty International. The vast majority of victims, however, are still waiting for justice.

Police, army, and paramilitary forces continue to be implicated in disappearances, extrajudicial killing, rape, torture, arbitrary detention, and destruction of homes, particularly in the context of insurgencies in Kashmir, the tribal belt, and several northeastern states. The Armed Forces Special Powers Act (AFSPA) and the Disturbed Areas Act remain in effect in a number of states, granting security forces broad powers of arrest and detention. Security forces also continue to hold suspects under the broadly drawn National Security Act, which authorizes detention without charge for up to one year. The criminal procedure code requires the central or relevant state government to approve prosecution of security force members, but such approval is rarely granted, leading to impunity for security forces implicated in human rights abuses. After the alleged custodial rape and killing of a civilian in 2004, antigovernment protests erupted in the northeastern state of Manipur, with protesters demanding that AFSPA be lifted. The government appointed a committee to review AFSPA later that year, but by the end of 2006, had yet to act on the panel's unanimous June 2005 recommendation that the law be repealed. In response to spiraling Naxalite-related violence, the Chhattisgarh state government passed the Special Public Protection Act in March 2006, but its broad provisions—allowing detentions of up to three years for “unlawful activities” and criminalizing provision of support to the Naxalites, even if under duress—were criticized by Human Rights Watch.

In 2002, the controversial Prevention of Terrorism Act (POTA) widened the definition of terrorism, banned a number of terrorist organizations, increased the state's powers of investigation, and allowed for up to 90 days of preventive detention without charge. The act was used in a number of states to detain political opponents, members of minority groups (including tribal members, dalit Muslims, and others), and other ordinary citizens, as well as terrorist suspects. Both Indian and international NGOs have documented that it was overwhelmingly used against Muslims. In a positive step, the new Congress-led government repealed POTA in 2004 and ordered a review of all cases in which a suspect was held under the act. However, more than a year after the repeal, not all cases have been fully reviewed, according to Amnesty International's 2005 report.

In India's seven northeastern states, more than 40 insurgent groups, who seek either greater autonomy or complete independence for their ethnic or tribal groups, sporadically attack security forces and engage in intertribal violence. The rebel groups have been implicated in numerous bombings, killings, abductions, rapes of civilians, and also operate extensive extortion networks. More than 600 hundred troops, militants, and civilians were killed in 2006, with the states of Manipur and Assam registering the highest levels of violence. A series of explosions in Assam in June left six people dead and more than 70 wounded. Meanwhile, tens of thousands of civilians have been displaced, and many live in squalid conditions in camps and are unable to return to their homes.

The recent spread and influence of the Naxalites is cause for serious concern. There are an estimated 10,000 armed fighters supported by a further 40,000 cadre members, and are organized into a number of groups that have since late 2004 been loosely allied as the Communist Party of India (Maoist). The *Economist* reported that they now have a presence in half of India's 28 states, operating in 170 of India's 602 districts and controlling some rural areas outright. Focusing on the tribal areas in states such as Andhra Pradesh, Orissa, Bihar, Chhattisgarh, and Jharkhand, their stated aim is to establish a Communist state on behalf of marginalized groups, including tribal peoples, lower castes, and the landless poor. According to Human Rights Watch, they have imposed illegal taxes; requisitioned food and shelter from villagers; engaged in forced recruitment, extortion, and abduction; and hampered the delivery of aid to the isolated rural areas whose inhabitants they claim to represent.

Naxalite-related violence, including land-mine blasts and bombings, politically motivated assassinations, and other attacks, killed more than 400 police officers, politicians, landlords, and villagers during 2006. Particularly after the June 2005 launch of the anti-Maoist Salwa Judum campaign in Chhattisgarh, local civilians who are perceived to be progovernment have been targeted. Dozens of villagers were killed or injured in a land-mine blast in February 2006 when returning from a Salwa Judum meeting, and in April, Naxalites kidnapped 52 villagers, including more than 20 women; they were interrogated and beaten, and while most were eventually released, 15 were hacked to death. Nearly 50,000 civilians have been displaced by armed clashes between Naxalites and security forces, and live in temporary government-run camps.

The constitution bars discrimination based on caste, and laws set aside quotas in

education and government jobs for members of the so-called scheduled tribes, scheduled castes (dalits), and other backward castes (OBCs). In addition, women and religious and ethnic minorities are represented in national and local government, and in 2004 Manmohan Singh, a Sikh, became India's first prime minister from a minority group. However, members of the lower castes as well as religious and ethnic minorities continue to face routine unofficial discrimination and violence. The worst abuse is experienced by the country's 160 million dalits, who are often denied access to land and other public amenities, abused by landlords and police, punished by village councils or members of the upper castes for alleged social transgressions, and forced to work in miserable conditions. However, a government proposal to reserve an extra 27 percent of places in universities and technical institutes for OBCs—which when combined with existing reservations would take the total number of reserved slots to 49.5 percent—triggered widespread protests in May 2006, with critics alleging that many reserved places would remain vacant and that official policy should concentrate on improving opportunities at lower levels of the educational system. In November 2006, findings of the government-initiated Sachar Committee report, which found that Indian Muslims were disproportionately more likely to be poor, illiterate, and less likely to have access to government employment, medical care, or loans, spurred debate over the necessity of providing proactive official assistance for Muslims.

Tension between different ethnic groups over land, jobs, or resources occasionally flares into violent confrontation, and sporadic Hindu-Muslim violence remains a concern. Riots erupted in early May 2006 in Vadodara, Gujarat, after authorities demolished an ancient Muslim shrine, leaving six people dead, and more than 30 others were injured in communal violence in Ahmedabad later that month. In July 2005, ethnic Assamese began a drive to evict hundreds of Muslims from some districts in northern Assam, claiming that they were in fact migrants from Bangladesh. Other forms of discrimination against Muslims are sometimes excused in the context of ongoing tensions with Pakistan as well as the global campaign against terrorism. Although India hosts several hundred thousand refugees from neighboring states (mostly Tibetans, minority groups from Burma, and Sri Lanka Tamils), it has no federal refugee law, and the treatment of displaced persons varies widely, according to Refugees International.

Property rights are somewhat tenuous for tribal groups and other marginalized communities, and members of these groups are often denied adequate resettlement opportunities and compensation when their lands are seized by the state for development projects. In recent years, financial distress and high levels of indebtedness in some rural areas have led to rising suicide rates, with more than 17,000 farmers killing themselves in 2003, according to the *New York Times*.

Each year, several thousand women are burned to death, driven to suicide, or otherwise killed, and countless others are harassed, beaten, or deserted by husbands, in the context of domestic disputes that sometimes include dowry-related issues. Despite the fact that making demands for dowry is illegal and that hundreds of people are convicted each year for the crime, the practice continues. Rape and other violence against women are serious problems, with lower-caste and tribal women being particularly vulnerable to attacks. Muslim women and girls were subjected to horrific sexual violence during the communal riots that engulfed

Gujarat in 2002, and there have been few official attempts to provide rehabilitation for surviving victims or to prosecute their attackers, according to Amnesty International. In October 2006, the Protection of Women from Domestic Violence Act, which bans dowry-related harassment, widens the definition of violence to include emotional or verbal abuse, and criminalizes spousal rape, took effect.

Muslim personal status laws as well as traditional Hindu practices discriminate against women in terms of inheritance and property rights, as well as adoption. The malign neglect of female children after birth remains a concern. There has been an increasing use of sex-determination tests during pregnancy, after which female fetuses are more likely to be aborted, despite a prohibition against tests being conducted for this purpose. The trend, coupled with the practice of female infanticide by those who cannot afford the tests, has contributed to a significant imbalance in the male-female birth ratios in a number of states, particularly in the northwest. The criminalization of homosexual behavior has led to harassment of gay men as well as the NGOs who work with them, according to Human Rights Watch. NGOs are currently challenging this discriminatory, colonial-era legislative framework in the Indian court system.