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Freedom in the World 2008 - Kashmir [India]

Capital: N/A

Population: 11,700,000

Political Rights Score: 5

Civil Liberties Score: 4

Status: Partly Free

Ratings Change ↑

Indian-controlled Kashmir's civil liberties rating improved from 5 to 4 due to the withdrawal of troops from schools and hospitals, a tentative effort to prosecute abuses by security forces, and an overall decrease in violence.

Overview

Meaningful progress on a solution to the conflict over Kashmir, which has killed at least 45,000 people since 1989, remained elusive in 2007, though the 2003 ceasefire between Indian and Pakistani troops was largely upheld. There were a number of attacks on Hindu civilians and other minorities during the year, but the overall level of violence declined, continuing a five-year trend. In addition, thousands of troops were withdrawn from schools and hospitals, and some steps were taken to prosecute security personnel responsible for fake "encounter" killings. Nevertheless, deaths in custody were reported during the year, and impunity generally remained the norm.

For centuries, Kashmir was ruled by Afghan, Sikh, and local strongmen. In 1846, the British seized control and sold the territory to the Hindu maharajah of the neighboring principality of Jammu, who later incorporated surrounding areas into the new princely state of Jammu and Kashmir. When British India was partitioned into India and Pakistan in 1947, Maharajah Hari Singh tried to maintain Jammu and Kashmir's independence, but eventually ceded it to India in return for autonomy and future self-determination.

Within months, India and Pakistan went to war over Kashmir. As part of a UN-brokered ceasefire in 1949 that established the present-day boundaries, Pakistan gained control of roughly one-third of Jammu and Kashmir. India retained most of the Kashmir Valley, along with Jammu and Ladakh. Under Article 370 of India's constitution and a 1952 accord, the territory received substantial autonomy, but India annulled such guarantees in 1957 and formally annexed the portion of Jammu and Kashmir under its control. Since then, the territory has largely been governed as other Indian states, by an elected state legislature headed by a chief minister. 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. Another round of fighting broke out between the two countries in 1999, when they engaged in a 73-day military conflict in Kargil.

In 1987, the pro-India National Conference (NC) party won state elections marred by widespread fraud, violence, and arrests of members of a new, Muslim-based opposition coalition, leading to widespread unrest. An armed insurgency against Indian rule gathered momentum after 1989, when militant groups linked to political parties assassinated several NC politicians and attacked government targets in the Kashmir Valley. The militants included the Jammu and Kashmir Liberation Front (JKLF) and other proindependence groups consisting largely of 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 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 NC was able to form a government under party leader Farooq Abdullah. In 2000, Hizbul Mujahideen, the largest armed group in Kashmir, initiated a dialogue with the Indian government. However, after the talks broke down and a summit held in 2001 failed to resolve India and Pakistan's differences over Kashmir, militants again stepped up their attacks.

New Delhi encouraged all political parties to participate in the 2002 state elections, but was unsuccessful in persuading the APHC. However, in a surprise result, the ruling NC 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. In October 2005, Sayeed stepped down as chief minister as part of the coalition agreement, and Congress leader Ghulam Nabi Azad was named as his replacement.

Though fighting continued, the number of casualties from militant attacks or actions by security forces steadily declined after the 2002 elections, as relations between the Indian government and moderate Kashmiri separatist groups improved. In 2004, talks were held for the first time between Kashmiri separatists and the highest levels of the Indian government. India enabled several separatist political leaders to travel to Pakistan and meet with Pakistan-based separatists in June 2005. At this gathering and a later meeting with Indian prime minister Manmohan Singh in September 2005, the moderate APHC leaders reiterated their renunciation of violence and called for Kashmiris to become more deeply involved in the negotiating process. However, the latter desire was 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. This split worsened in 2007, as militants launched a grenade attack against the headquarters of the moderate bloc in January and the two factions clashed in the streets of Srinagar in August.

New Delhi has also attempted to improve relations with Pakistan. Talks between the two countries over the ultimate status of Kashmir, as well as other confidence-building measures, have occurred regularly since a ceasefire was instituted in November 2003. In April 2005, a bus service across the LOC was launched, linking the capitals of Indian and Pakistani Kashmir (PoK) and allowing Kashmiri civilians to reunite with family members. Nevertheless, due to onerous red tape, only several thousand Kashmiris have been able to avail themselves of this new opportunity. In 2007, talks and periodic high-level meetings continued – including the first trade delegation from PoK to Jammu and Kashmir in March – but little progress was made toward a comprehensive resolution to the dispute.

The number of fatalities decreased for the fifth consecutive year in 2007. According to the South Asia Terrorism Portal, about 777 people were killed during the year, crossing the threshold from a high-intensity conflict to a low-intensity one. Of those killed, 164 were civilians, half the amount from the previous year. Nevertheless, incidents of violence still occurred, including grenade attacks targeting public places and other attacks directed at security forces, politicians, and minority groups.

Given the reduction in violence and in infiltrations across the LOC following the completion of a security fence, demilitarization was a key topic of political discussion during the year. In April 2007, the Congress party faced a crisis when the PDP threatened to withdraw from the state's ruling coalition unless troop levels were reduced and the Armed Forces Special Powers Act (AFSPA) was repealed. In response, the central government set up three committees to examine the matter. In November, following the committees' recommendations, India relocated thousands of troops from over 80 schools, hospitals, and other private and civic property to other parts of the state, but avoided a more substantive demilitarization. In another positive development, the drop in violence resulted in an increase in normal political activities, with parties across the political spectrum

holding dozens of rallies.

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 an elected bicameral legislature headed by a chief minister. Members of the lower house or state assembly are directly elected, while the upper house has a combination of members elected by the state assembly and nominated by the governor. India has never held a referendum allowing 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 balloting. In 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 most independent observers judged the polls to be fair but not entirely free, largely because of the threat of violence. Municipal elections held in February 2005 were also largely peaceful, while four by-elections for the state legislature held in April 2006 yielded close to a 60 percent turnout, despite militant groups' calls for a boycott.

The political violence includes high-profile assassinations, such as that of Education Minister Ghulam Nabi Lone in 2005. In April 2007, unidentified gunmen murdered a Congress party district president. Later that month, police reportedly foiled two plots to assassinate Chief Minister Ghulam Nabi Azad. In June, NC president Omar Abdallah emerged unscathed from a grenade attack that injured 20 others at a rally.

Although Jammu and Kashmir was returned to local rule in 1996, many viewed the government as corrupt, incompetent, and unaccountable to the wishes and needs of Kashmiris. A 2005 survey by Transparency International found that Jammu and Kashmir was India's second-most-corrupt state. Since then, the government appears to have been making additional efforts to fight corruption, though it remains widespread. In 2006, a revision of the Prevention of Corruption Act was passed, and in 2007 the government approved for prosecution 68 cases submitted by the anticorruption State Vigilance Organization (SVO). Nevertheless, convictions are rare and several whistleblowers have reported harassment after filing complaints. Indian-controlled Kashmir was not ranked separately on Transparency International's 2007 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 March 2007, cable operators across Kashmir suspended broadcasts of four popular English entertainment channels whose programming the militants denounced as obscene. Journalists are also occasionally harassed or detained by the authorities. In October 2007, Indian security personnel detained and interrogated Majid Hyderi, a senior correspondent for the *Great Kashmir* newspaper. Photojournalist Maqbool Sahil has also been detained since September 2004 under the Public Safety Act, despite repeated court decisions calling for his release.

Though it is generally not used, India's 1971 Newspapers Incitements to Offenses Act (in effect only in Jammu and Kashmir) gives district magistrates the authority to censor publications in certain circumstances. Pressure to self-censor has been reported at smaller media outlets that rely on state government advertising for the majority of their revenue. Despite these restrictions, newspapers report on controversial issues such as alleged human rights abuses by security forces. The authorities generally allow foreign journalists to travel freely, meet regularly with separatist leaders, and file reports on a range of issues, including government abuses.

Freedom of worship and academic freedom are generally respected by Indian and local authorities. Since 2003, the state government has granted permission to separatist groups to organize a procession marking the prophet Muhammad's birthday. However, Islamist militants attack Hindu and Sikh temples or villages; in July 2007, grenade attacks on Hindu pilgrims en route to the Amarnath shrine killed one person and injured dozens of others.

Freedoms of assembly and association are occasionally restricted. Although local and national civil rights groups are permitted to operate, they sometimes encounter harassment by security forces. The APHC, an umbrella group of 23 secessionist political parties, is allowed to operate, but its leaders are frequently subjected to short-term preventative detention, and its requests for permits

for public gatherings are often denied. In April 2007, several leaders of the hard-line APHC faction were placed under house arrest to prevent them from leading demonstrations over allegations of a mosque demolition. Politically motivated shutdowns, protest marches, and antigovernment demonstrations take place on a regular basis, though some are forcibly broken up by the authorities. In July 2007, the Associated Press reported that a 16-year-old was killed when police opened fire on a protest against alleged human rights abuses by Indian troops. Labor rights are similar to conditions in the rest of India, with most rights being broadly upheld.

The judicial system functioned more effectively and began to normalize in 2007, according to the U.S. State Department's human rights report. Nevertheless, judges, witnesses, and the families of defendants remain subject to threats and intimidation from militants. In addition, the government and security forces frequently disregard court orders, including those quashing detentions. Two broadly written laws – the AFSPA and the Disturbed Areas Act – allow Indian forces to search homes and arrest suspects without a warrant, shoot suspects on sight, and destroy buildings believed to house militants or arms. In a widely criticized decision in May 2007, India's Supreme Court dismissed a petition filed by the widow of a custodial killing victim who had been arrested under the AFSPA. According to local rights groups, the decision in *Masooda Parveen v. Union of India* set a dangerous precedent, reversing previous rulings requiring the armed forces to involve civilian police in operations and thus removing an important safeguard for detainees. Despite repeated calls from local officials and an April 2007 recommendation by a prime minister-appointed working group to repeal the AFSPA, the government had not done so by year's end.

In a continuing cycle of violence, hundreds of militants, security personnel, and civilians are killed each year, although the number continued to decline in 2007. The SATP reported that 164 civilians, 121 security personnel, and 492 militants were killed during the year. The total of 777 was a significant decrease from the previous year's death toll of 1,116. Approximately 600,000 Indian security personnel based in Kashmir 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 progovernment 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 human rights groups, 60 people have reportedly disappeared since 2006, though only nine disappearances were recorded in 2007. Eighteen cases of extrajudicial killing were also reported during the year. Local human rights groups estimate that at least 8,000 people have "disappeared" since the insurgency began. Of particular concern is the continuing problem of killings in which security forces kill militants or civilians in their custody and then claim that they were "encounter" deaths, meaning they occurred during firefights. The practice is exacerbated by the fact that security 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. In February 2007, police unearthed the bodies of five men who had been victims of such fabricated encounter killings. Also in February, there were reports of two other custodial killings that were unrelated to the conflict.

Impunity for rights abuses by Indian armed forces has been the norm, in part because under the AFSPA, New Delhi is required to approve any prosecutions. However, several prosecutions were launched in 2007. The discovery of apparent victims of fake encounter killings in February 2007 prompted an unusually thorough investigation, and at least 18 policemen were charged, including a number of senior officers and a former superintendent. In another positive development, the state government appointed a commission of inquiry in April to probe custodial killings and fake encounter deaths. Nevertheless, impunity surrounding thousands of other cases continued, and rights groups expressed doubts as to whether the latest investigations represented a genuine change in policy. While the state human rights commission examines several dozen complaints a year (it has received hundreds since its inception), it is hampered by inadequate resources and infrastructure. In addition, it cannot directly investigate abuses by the army or other federal security forces, nor can it take action against those found to have committed violations.

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. According to the U.S. State Department, entire families of Pandits were killed in several attacks by insurgents throughout 2007. Other religious and ethnic minorities such as Sikhs and Gujjars have also been targeted.

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 pressured to adopt more conservative styles of dress or stop attending school, but there were no reported instances of this in 2007.

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